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FOREWORD

This compilation of statutes and materials pertaining to nuclear regulatory legislation through the 109th Congress, 1st Session, has been prepared by the Office of the General Counsel, U.S. Nuclear Regulatory Commission, with the assistance of staff, for use as an internal resource document. The compilation is not to 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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TENURE OF COMMISSIONERS

AEC COMMISSIONERS, 1946-1975

	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 De Wolf 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. Tapev	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.

NRC COMMISSIONERS, 1975-Present

	From	To	Remarks
William A. Anders, Chairman	Jan. 19, 1975	Apr. 20, 1976	Resigned
Marcus A. Rowden	Jan. 19, 1975	Apr. 20, 1976	
Chairman	Apr. 21, 1976	June 30, 1977	Term Expired
Edward A. Mason	Jan. 19, 1975	Jan. 15, 1977	Resigned
Victor Gilinksy	Jan. 19, 1975	June 30, 1984	Term Expired[2]
Richard T. Kennedy	Jan. 19, 1975	June 30, 1980	Term Expired
Joseph M. Hendrie, Chairman	Aug. 9, 1977	Dec. 7, 1979[3]	
Commissioner	Dec. 8, 1979	Mar. 2, 1981	
Chairman	Mar. 3, 1981[4]	June 30, 1981	Term Expired
Peter A. Bradford	Aug. 15, 1977	Mar. 12, 1982	Resigned
John F. Ahearne	July 31, 1978	Dec. 7, 1979	
Chairman	Dec. 7, 1979[5]	Mar. 2, 1981	
Commissioner	Mar. 3, 1981[6]	June 30, 1983	Term Expired
Nunzio J. Palladino, Chairman	July 1, 1981	June 30, 1986	Term Expired
Thomas M. Roberts	Aug. 3, 1981	June 30, 1990[7]	Term Expired
James K. Asselstine	May 17, 1982	June 30, 1987[8]	Term Expired
Frederick M. Bernthal	Aug. 5, 1983	June 30, 1988	Term Expired
Lando W. Zech, Jr.	July 5, 1984	June 30, 1986[9]	Term Expired
Chairman	July 1, 1986	June 30, 1989	Term Expired
Kenneth M. Carr	Aug. 14, 1986	June 30, 1989	
Chairman	July 1, 1989	June 30, 1991	Term Expired
Kenneth Rogers	Aug. 7, 1987	June 30, 1997[10]	Term Expired
James R. Curtiss	Oct. 20, 1988	June 30, 1993	Term Expired
Forrest J. Remick	Dec. 1, 1989	June 30, 1994	Term Expired
Ivan Selin, Chairman	July 1, 1991	June 30, 1995[11]	Resigned
E. Gail de Planque	Dec. 16, 1991	June 30, 1995	Term Expired
Shirley A. Jackson	May 2, 1995	June 30, 1995	
Chairman	July 1, 1995	June 30, 1999	Term Expired

[2]Victor Gilinsky served two terms.

[3]On Dec. 7, 1979, Joseph M. Hendrie vacated the Chairmanship but remained as a Commissioner.

[4]On Mar. 3, 1981, Joseph M. Hendrie resumed the Chairmanship.

[5]On Dec. 7, 1979, John F. Ahearne assumed the Chairmanship.

[6]On Mar. 3, 1981, John F. Ahearne vacated the Chairmanship but remained as a Commissioner.

[7]First term expired on June 30, 1985; Thomas Roberts took Oath of Office for second term on July 12, 1985.

[8]James K. Asselstine completed Peter A. Bradford's term and was appointed to full five-year term.

[9]On June 28, 1984, Lando W. Zech, Jr. was nominated by the President. He received a recess appointment on July 3, 1984, and took office on July 5, 1984. On January 3, 1985, the President resubmitted the nomination to the 99th Congress for a full five-year appointment. The Senate subsequently confirmed the nomination and he took office for the full five-year term on March 6, 1985. On July 1, 1986, Lando W. Zech, Jr. assumed the Chairmanship.

[10]Kenneth C. Rogers served as Commissioner from Aug. 7, 1987 to June 30, 1992 was reappointed as Commissioner from July 1, 1992 to June 30, 1997.

[11]Ivan Selin resigned June 30, 1995.

NRC COMMISSIONERS, 1975-Present

	From	To	Remarks
Greta J. Dicus	February 15, 1996	June 30, 1998	Term Expired
	October 27, 1998	June 30, 1999[1]	
Chairman	July 1, 1999	October 29, 1999[2]	Term Expired
Commissioner	October 29, 1999	June 30, 2003[3]	Term Expired
Nils J. Diaz	August 23, 1996	June 30, 2001	Term Expired
Nils J. Diaz	October 4, 2001	June 30, 2006	Term Expired
Chairman	April 1, 2003[4]	June 30, 2006	Term Expired
Edward McGaffigan, Jr.	August 28, 1996	June 30, 2000	Term Expired
Edward McGaffigan, Jr.	July 1, 2000	June 30, 2005	Term Expired
Edward McGaffigan, Jr.	October 12, 2005	June 30, 2010[5]	Term Expires
Jeffrey S. Merrifield	October 23, 1998	June 30, 2002	Term Expired
Jeffrey S. Merrifield	August 5, 2002	June 30, 2007	Term Expires
Richard A. Meserve, Chairman	October 29, 1999	June 30, 2004[6]	Term Expired
Gregory B. Jaczko	January 21, 2005	Recess Appointment[7]	
Gregory B. Jaczko	May 26, 2006	June 30, 2008	Term Expires
Peter B. Lyons	January 25, 2005	Recess Appointment[8]	
Peter B. Lyons	June 28, 2006	June 30, 2009	Term Expires
Dale E. Klein, Chairman	July 1, 2006	June 30, 2011	Term Expires

NOMINATED, NOT CONFIRMED

Dan Berkovitz, 1995
Robert Sussman, 1995
Albert Carnesale, 1980
Kent Hanson, 1977
George Murphy, 1976

* * * * * * * * * * *

[1]Greta J. Dicus was re-nominated to a new 5 year term as Commissioner on May 22, 1998. Her nomination was confirmed by the Senate on October 21, 1998.

[2]Greta J. Dicus assumed the Chairmanship on July 1, 1999.

[3]On October 29, 1999, Greta J. Dicus vacated the Chairmanship but remained as a Commissioner.

[4]On April 1, 2003, Nils J. Diaz assumed the Chairmanship.

[5]Office vacant July 1, 2005 through October 11, 2005.

[6]On March 31, 2003, Richard A. Meserve resigned.

[7]On January 19, 2005, President Bush recess appointed Gregory B. Jaczko for two years (end of Senate's session, late 2006).

[8]On January 19, 2005, President Bush recess appointed Peter B. Lyons for two years (end of Senate's session, late 2006).

NRC APPROPRIATIONS

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CONSOLIDATED APPROPRIATIONS ACT, 2005

Public Law 108–447 **118 Stat. 2961**

December 8, 2004

An Act

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 of 1954, as amended, including official representation expenses (not to exceed $15,000), and purchase of promotional items for use in the recruitment of individuals for employment, $662,777,000, to remain available until expended: *Provided*, That of the amount appropriated herein, $69,050,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $534,354,000 in fiscal year 2005 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 USC 3302, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2005 so as to result in a final fiscal year 2005 appropriation estimated at not more than $128,423,000.

* * * *

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $7,518,000, to remain available until expended: *Provided*, That revenues from licensing fees, inspection services, and other services and collections estimated at $6,766,200 in fiscal year 2005 shall be retained and be available until expended, for necessary salaries and expenses in this account notwithstanding 31 USC 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2005 so as to result in a final fiscal year 2005 appropriation estimated at not more than $751,800.

h h h

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2004

Public Law 108–137 **117 Stat. 1867**

December 1, 2003

An Act

making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes.

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

Energy and Water Development Appropriation Act, 2004.

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2004, 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 of 1954, as amended, including official representation expenses (not to exceed $15,000), and purchase of promotional items for use in the recruitment of individuals for employment, $618,800,000, to remain available until expended: *Provided*, That of the amount appropriated herein, $33,100,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $538,844,000 in fiscal year 2004 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 USC 3302, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2004 so as to result in a final fiscal year 2004 appropriation estimated at not more than $79,956,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $7,300,000, to remain available until expended: *Provided,* That revenues from licensing fees, inspection services, and other services and collections estimated at $6,716,000 in fiscal year 2004 shall be retained and be available until expended, for necessary salaries and expenses in this account notwithstanding 31 USC 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2004 so as to result in a final fiscal year 2004 appropriation estimated at not more than $584,000.

h h h

February 20, 2003

* * * * *

CONSOLIDATION APPROPRIATIONS RESOLUTION, 2003

* * * * *

DIVISION D – ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, 2003

* * * * *

Joint Resolution

making appropriations for energy and water development for the fiscal year ending September 30, 2003, and for other purposes.

Energy and Water Development Appropriation Act, 2004.

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2003, for energy and water development, and for other purposes, namely:

* * * * *

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 of 1954, as amended, including official representation expenses (not to exceed $15,000), and purchase of promotional items for use in the recruitment of individuals for employment, $578,184,000, to remain available until expended: *Provided*, That of the amount appropriated herein, $24,900,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $520,087,000 in fiscal year 2003 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 USC 3302, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2003 so as to result in a final fiscal year 2003 appropriation estimated at not more than $58,097,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $6,800,000, to remain available until expended: *Provided,* That revenues from licensing fees, inspection services, and other services and collections estimated at $6,392,000 in fiscal year 2003 shall be retained and be available until expended, for necessary salaries and expenses in this account notwithstanding 31 USC 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2003 so as to result in a final fiscal year 2003 appropriation estimated at not more than $408,000.

h h h

Public Law 107–66 **115 Stat. 486**

November 12, 2001

An Act

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 of 1954, as amended, including official representation expenses (not to exceed $15,000), and purchase of promotional items for use in the recruitment of individuals for employment, $516,900,000, to remain available until expended: *Provided*, That of the amount appropriated herein, $23,650,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $473,520,000 in fiscal year 2002 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 USC 3302, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2002 so as to result in a final fiscal year 2002 appropriation estimated at not more than $43,380,000: *Provided further*, That, notwithstanding any other provision of law, no funds made available under this or any other Act may be expended by the Commission to implement or enforce any part of 10 CFR Part 35, as adopted by the Commission on October 23, 2000, with respect to diagnostic nuclear medicine, except those parts which establish training and experience requirements for persons seeking licensing as authorized users, until such time as the Commission has reexamined 10 CFR Part 35 and provided a report to the Congress which explains why the burden imposed by 10 CFR Part 35 could not be further reduced.

* * * *

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $6,180,000, to remain available until expended: *Provided*, That revenues from licensing fees, inspection services, and other services and collections estimated at $5,933,000 in fiscal year 2002 shall be retained and be available until expended, for necessary salaries and expenses in this account notwithstanding 31 USC 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2002 so as to result in a final fiscal year 2002 appropriation estimated at not more than $247,000.

* * * *

Formerly Utilized Sites Remedial Action Program

For expenses necessary to clean up contamination from sites throughout the United States resulting from work performed as part of the Nation's early atomic energy program, $140,000,000, to remain available until expended.

h h h

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT– APPROPRIATIONS

Public Law 106-377 **114 Stat. 1441**

October 27, 2000

An Act

making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2001, 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, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed $15,000), $481,900,000, to remain available until expended: *Provided*, That of the amount appropriated herein, $21,600,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $447,958,000 in fiscal year 2001 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 USC 3302, and shall remain available until expended: *Provided further*, That $3,200,000 of the funds herein appropriated for regulatory reviews and assistance to other Federal agencies and States shall be excluded from license fee revenues, notwithstanding 42 USC 2214: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2001 so as to result in a final fiscal year 2001 appropriation estimated at not more than $33,942,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $5,500,000, to remain available until expended: *Provided,* That revenues from licensing fees, inspection services, and other services and collections estimated at $5,390,000 in fiscal year 2001 shall be retained and be

available until expended, for necessary salaries and expenses in this account notwithstanding 31 USC 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2001 so as to result in a final fiscal year 2001 appropriation estimated at not more than $110,000.

* * * *

Formerly Utilized Sites Remedial Action Program

For expenses necessary to clean up contamination from sites throughout the United States resulting from work performed as part of the Nation's early atomic energy program, $140,000,000, to remain available until expended.

h h h

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2001.

Public Law 106-246 **114 Stat. 511**

July 13, 2000

An Act

making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2001, and for other purposes.

* * * *

Sec. 211. No funds appropriated to the Nuclear Regulatory Commission for fiscal years 2000 and 2001 may be used to relocate, or to plan or prepare for the relocation of, the functions or personnel of the Technical Training Center from its location at Chattanooga, Tennessee.

h h h

NRC APPROPRIATIONS

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2000

Public Law 106-60 **113 Stat. 483**

September 29, 1999

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

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 of 1954, as amended, including official representation

expenses (not to exceed $15,000), $465,000,000, to remain available until expended: *Provided*, That of the amount appropriated herein, $19,150,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $442,000,000 in fiscal year 2000 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 USC 3302, and shall remain available until expended: *Provided further*, That $3,850,000 of the funds herein appropriated for regulatory reviews and other assistance provided to the Department of Energy and other Federal agencies shall be excluded from license fee revenues, notwithstanding 42 USC 2214: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2000 so as to result in a final fiscal year 2000 appropriation estimated at not more than $23,000,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $5,000,000, to remain available until expended: *Provided,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2000 so as to result in a final fiscal year 2000 appropriation estimated at not more than $0.

* * * *

Formerly Utilized Sites Remedial Action Program

For expenses necessary to clean up contamination from sites throughout the United States resulting from work performed as part of the Nation's early atomic energy program, $150,000,000, to remain available until expended.

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ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

Public Law 105-245 **112 Stat. 1855**

October 7, 1998

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

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 of 1954, as amended, including official representation expenses (not to exceed $15,000), $465,000,000, to remain available until expended: *Provided*, That of the amount appropriated herein, $17,000,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other

services and collections estimated at $444,800,000 in fiscal year 1999 shall be retained and used for necessary salaries *and expen*ses in this account, notwithstanding 31 USC 3302, and shall remain available until expended: *Provided further*, That $3,200,000 of the funds herein appropriated for regulatory reviews and other assistance provided to the Department of Energy and other Federal agencies shall be excluded from license fee revenues, notwithstanding 42 USC 2214: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation estimated at no more than $20,200.00.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,800,000, to remain available until expended: *Provided*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation estimated at not more than $0.

42 USC 5852.

Sec. 506. (a) Funds appropriated for "Nuclear Regulatory Commission–Salaries and Expenses" shall be available to the Commission for the following additional purposes:

(1) Employment of aliens.

(2) Services authorized by section 3109 of Title 5, United States Code.

(3) Publication and dissemination of atomic information.

(4) Purchase, repair, and cleaning of uniforms.

(5) Reimbursements to the General Services Administration for security guard services.

(6) Hire of passenger motor vehicles and aircraft.

(7) Transfers of funds to other agencies of the Federal Government for the performance of the work for which such funds are appropriated, and such transferred funds may be merged with the appropriations to which they are transferred.

(8) Transfers to the Office of Inspector General of the Commission, not to exceed an additional amount equal to 5 percent of the amount otherwise appropriated to the Office for the fiscal year. Notice of such transfers shall be submitted to the Committees on Appropriations.

(b) Funds appropriated for "Nuclear Regulatory Commission–Office of Inspector General" shall be available to the Office for the additional purposes described in paragraphs (2) and (7) of subsection (a).

(c) Moneys received by the Commission for the cooperative nuclear research program, services rendered to State governments, foreign governments, and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954 (42 USC 2169) may be retained and used for salaries and expenses associated with those activities, notwithstanding 31 USC 3302, and shall remain available until expended.

(d) Notwithstanding section 663(c)(2)(D) of Public Law 104-208, and to facilitate targeted workforce downsizing and restructuring, the chairman of the Nuclear Regulatory Commission may use funds appropriated in this Act to exercise the authority provided by section 663 of that Act with respect to employees who voluntarily separate from the date of enactment of this Act through December 31, 2000. All of the requirements in section 663 of Public Law 104-208, except for section 663(c)(2)(D), apply to the exercise of authority under this section.

Applicability.

(e) Subsections (a), (b), and (c) of this section shall apply to fiscal year 1999 and each succeeding fiscal year.

* * * *

Formerly Utilized Sites Remedial Action Program

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to clean up contaminated sites throughout the United States where work was performed as part of the Nation's early atomic energy program, $140,000,000, to remain available until expended: *Provided,* That the response actions by the United States Army Corps of Engineers under this program shall consist of the following functions and activities to be performed at eligible sites where remediation has not been completed: sampling and assessment of contaminated areas, characterization of site conditions, determination of the nature and extent of contamination, selection of the necessary and appropriate response actions as the lead Federal agency, preparation of designation reports, cleanup and closeout of sites, and any other functions determined by the Chief of Engineers as necessary for remediation: *Provided further,* That response actions by the United States Army Corps of Engineers under this program shall be subject to the administrative, procedural, and regulatory provisions of the Comprehensive Environmental Response, Compensation and Liability Act (42 USC 9601 et seq.), and the National Oil and hazardous Substances pollution Contingency Plan, 40 CFR, Chapter 1, Part 300: *Provided further,* That, except as stated herein, these provisions do not alter, curtail or limit the authorities, functions or responsibilities of other agencies under the Atomic Energy Act (42 USC 2011 et seq.): *Provided further,* That any sums recovered under CERCLA for the response actions, or recovered from a contractor, insurer, surety, or other person to reimburse the United States Army Corps of Engineers for any expenditures for response actions, shall be credited to the account used to fund response actions on eligible sites, and will be available for the response action costs for any eligible site: *Provided further,* That the Secretary of Energy may exercise the authority of 42 USC 2208 to make payments in lieu of taxes for federally-owned property where Formerly Utilized Sites Remedial Action Program activities are conducted, regardless of which Federal agency has acquired the property and notwithstanding references to the “the activities of the Commission” in 42 USC 2208: *Provided further,* That the unexpended balances of prior appropriations provided for these activities in this Act or any previous Energy and Water Development Appropriations Act may be transferred to and merged with this appropriation account, and thereafter, may be accounted for as one fund for the same time period as originally enacted.

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ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1998

October 13, 1997

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

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 of 1954, as amended, including the employment of aliens; services authorized by 5 USC 3109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $468,000,000, to remain available until expended: *Provided,* That of the amount appropriated herein, $15,000,000 shall be derived from the Nuclear Waste Fund: *Provided further,* 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: *Provided further,* That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to State governments, foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act may be retained and used for salaries and expenses associated with those activities, notwithstanding 31 USC 3302, and shall remain available until expended: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections estimated at $450,000,000 in fiscal year 1998 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 USC 3302, and shall remain available until expended: *Provided further,* That $3,000,000 of the funds herein appropriated for regulatory reviews and other assistance provided to the Department of Energy and other Federal agencies shall be excluded from license fee revenues, notwithstanding 42 USC 2214: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1998 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to State governments, foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1998 appropriation estimated at not more than $18,000,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by 5 USC 3109, $4,800,000, to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided,* That notice of such transfers shall be given to the Committees on Appropriations of the House of Representatives and Senate: *Provided further,* 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: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 USC 3302, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1998 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1998 appropriation estimated at not more that $0.

* * * *

Formerly Utilized Sites Remedial Action Program

For expenses necessary to administer and execute the Formerly Utilized Sites Remedial Action Program to clean up contaminated sites throughout the United States where work was performed as part of the Nation's early atomic energy program, $140,000,000, to remain available until expended: *Provided,* That the unexpended balances of prior appropriations provided for these activities in this Act or any previous Energy and Water Development Appropriations Act may be transferred to and merged with this appropriation account, and thereafter, may be accounted for as one fund for the same time period as originally enacted.

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ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1997

Public Law 104-206 **110 Stat. 3000**

September 30, 1996

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

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 of 1954, as amended, including the employment of aliens; services authorized by 5 USC 3109; publication and dissemination

of atomic information; purchase, repair, and cleaning of uniforms; official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $471,800,000, to remain available until expended: *Provided,* That of the amount appropriated herein, $11,000,000 shall be derived from the Nuclear Waste Fund: *Provided further,* 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, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act may be retained and used for salaries and expenses associated with those activities, notwithstanding 31 USC 3302, and shall remain available until expended: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections estimated at $457,300,000 in fiscal year 1997 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 USC 3302, and shall remain available until expended: *Provided further,* That the funds herein appropriated for regulatory reviews and other activities pertaining to waste stored at the Hanford site, Washington, shall be excluded from licensee fee revenues, notwithstanding 42 USC 2214: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1997 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1997 appropriation estimated at not more than $14,500,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

Notice.

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by 5 USC 3109, $5,000,000, to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided*, That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further,* 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: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 USC 3302, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received

during fiscal year 1997 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1997 appropriation estimated at not more than $0.

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ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1996

Public Law 104-46 **109 Stat. 417**

November 13, 1995

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

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 of 1954, as amended, including the employment of aliens; services authorized by section 3109 of Title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $468,300,000, to remain available until expended, of which $11,000,000 shall be derived from the Nuclear Waste Fund: *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, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding 31 USC 3302, and shall remain available until expended: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections estimated at $457,300,000 in fiscal year 1996 shall be retained and used for necessary salaries and expenses int his account, notwithstanding 31 USC 3302, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1996 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1996 appropriation estimated at not more than $11,000,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

Notice.

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by section 3109 of Title 5, United States Code, $5,000,000, to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided*, That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further,* 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: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 USC 3302, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1996 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1996 appropriation estimated at not more than $0.

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ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1995

Public Law 103-316 **108 Stat. 1721**

August 26, 1994

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

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 of 1954, as amended, including the employment of aliens; services authorized by section 3109 of Title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $520,501,000, to remain available until expended, of which $22,000,000 shall be derived from the Nuclear Waste Fund: *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, services rendered to foreign governments and international organizations, and the material and information access authorization

programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $498,501,000 in fiscal year 1995 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1995 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1995 appropriation estimated at not more than $22,000,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by section 3109 of Title 5, United States Code, $5,080,000, to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: Provided, That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further*, 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: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1995 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1995 appropriation estimated at not more than $0.

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NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(Including Transfer of Funds)

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 of 1954, as amended, including the employment of aliens; services authorized by section 3109 of Title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $542,900,000, to remain available until expended, of which $22,000,000 shall be derived from the Nuclear Waste Fund: *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, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections estimated at $520,900,000 in fiscal year 1994 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1994 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1994 appropriation estimated at not more than $22,000,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by section 3109 of Title 5, United States Code, $4,800,000 to remain available until expended; and in addition, an

amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided,* That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further*, 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: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1994 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1994 appropriation estimated at not more than $0.

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ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1993

Public Law 102-377 **106 Stat. 1340**

October 2, 1992

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES (1993)

(INCLUDING TRANSFER OF FUNDS)

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 of 1954, as amended, including the employment of aliens; services authorized by section 3109 of Title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $535,415,000, to remain available until expended, of which $21,100,000 shall be derived from the Nuclear Waste Fund: *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, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections

estimated at $514,315,000 in fiscal year 1993 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1993 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program. services rendered to foreign governments and international organizations. and the material and information access authorization programs, so as to result in a final fiscal year 1993 appropriation estimated at not more than $21,100.000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by section 3109 of Title 5, United States Code, $4,585,000 to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided,* That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further*, 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: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1993 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1993 appropriation estimated at not more than $0.

5 USC 504 note

Sec. 502 None of the funds in this Act or subsequent Energy and Water Development Appropriations Acts shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in such Acts.

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Public Law 102-104 **105 Stat. 534**

August 17, 1991

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

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 of 1954, as amended, including the employment of aliens; services authorized by section 3109 of Title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $508,810,000, to remain available until expended, of which $19,962,000 shall be derived from the Nuclear Waste Fund: *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, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections estimated at $488,848,000 in fiscal year 1992 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1992 from licensing fees, inspection services, and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1992 appropriation estimated at not more than $19,962,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by section 3109 of Title 5, United States Code, $3,690,000, to remain available until expended; and in addition, an

amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided,* That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further,* 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: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1992 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1992 appropriation estimated at not more than $0.

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ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1991

Public Law 101-514 **104 Stat. 2074**

November 5, 1990

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

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 section 3109 of Title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $461,320,000, to remain available until expended, of which $19,650,000 shall be derived from the Nuclear Waste Fund: *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, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections

estimated at $153,450,000 in fiscal year 1991 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1991 from licensing fees, inspection services and other services and collections, and from the Nuclear Waste Fund, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1991 appropriation estimated at not more than $307,870,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by 5 USC 3109, $3,680,000, to remain available until expended; and in addition, not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided*, That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further,* 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.

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ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1990

Public Law 101-101 **103 Stat. 641**

September 29, 1989

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 section 3109 of Title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $442,100,000, to remain available until expended, of which $23,195,000 shall be derived from the Nuclear Waste Fund: *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, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections estimated at $146,850,000 in fiscal year 1990 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1990 from licensing fees, inspection services and other services and collections, and from the Nuclear Waste Fund, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1990 appropriation estimated at not more than $295,250,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by 5 USC 3109, $2,900,000, to remain available until expended; and in addition, not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided*, That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further,* 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.

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ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1989

Public Law 100-371 **102 Stat. 857**

July 19, 1988

An Act

Making appropriations for energy and water development for the fiscal year ending September 30, 1989, and for other purposes.

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

Energy and Water Development Appropriation Act, 1989.

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1989, 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 section 3109 of Title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $420,000,000, 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, services rendered to foreign governments and international organizations, and the material and information access authorization programs including criminal history checks under section 149 of the Atomic Energy Act, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections estimated at $189,000,000 in fiscal year 1989 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of Title 31, United States code, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1989 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments

and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1989 appropriation estimated at not more than $231,000,000.

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. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reduction", or the provision of Public Law 99-177 or Public Law 100-119.
Sec. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of Title 5, United States Code, 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. 505. 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. 509. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1989."

h h h

ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, 1988

Public Law 100-202 **101 Stat. 1329**

December 22, 1987

JOINT RESOLUTION

Making further continuing appropriations for the fiscal year 1988, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

2 USC 902 note.

Sec. 1. Because the spending levels included in this Resolution achieve the deficit reduction targets of the Economic Summit, sequestration is no longer necessary. Therefore:

(a) Upon the enactment of this Resolution the orders issued by the President on October 20, 1987, and November 20, 1987, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, are hereby rescinded.

(b) Any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequesterable resource that has been reduced or sequestered by such orders is hereby restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

The following sums are hereby 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 1988, and for other purposes, namely:

Sec. 101. (d) Such amounts, as may be necessary for programs, projects or activities provided for in the Energy and Water Development Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

An Act

Energy and Water Development Appropriation Act, 1988.

Making appropriations for energy and water development for the fiscal year ending September 30, 1988, and for other purposes.

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 section 3109 of Title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $392,800,000, 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, services rendered to foreign governments and international organizations, and the material and information access authorization programs including criminal history checks under section 149 of the Atomic Energy Act, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections estimated at $196,400,000 in fiscal year 1988 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of Title 31, United States Code, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during

fiscal year 1988 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1988 appropriation estimated at not more than $196,400,000.

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. This prohibition bars payment to a party intervening in an administrative proceeding for expenses incurred in appealing an administrative decision to the courts.

Sec. 503. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reduction", or the provision of Public Law 99-177 or Public Law 100-119.

Sec. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of Title 5, United States Code, 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. 505. 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. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

Sec. 507. None of the funds appropriated in this Act for Power Marketing Administrations or the Tennessee Valley Authority, and none of the funds authorized to be expended by this or any previous Act from the Bonneville Power Administration Fund or the Tennessee Valley Authority Fund, may be used to pay the costs of procuring extra high voltage (EHV) power equipment unless contract awards are made for EHV equipment manufactured in the United States when such agencies determine that there are one or more manufacturers of domestic end product offering a product that meets the technical requirements of such agencies at a price not exceeding 130 percentum of the bid or offering price of the most competitive foreign bidder: *Provided,* That such agencies shall determine the incremental costs associated with implementing this section and defer or offset such incremental costs against otherwise existing repayment obligations: *Provided further,* That this section shall not apply to any procurement initiated prior to October 1, 1985, or to the acquisition of

spare parts or accessory equipment necessary for the efficient operation and maintenance of existing equipment and available only from the manufacturer of the original equipment: *Provided further,* That this section shall not apply to procurement of domestic end product as defined in 48 CFR section 25.101: *Provided further,* That this section shall not apply to EHV power equipment produced or manufactured in a country whose government has completed negotiations with the United States to extend the GATT Government Procurement Code, or a bilateral equivalent, to EHV power equipment, or which otherwise offers fair competitive opportunities in public procurements to United States manufacturers of such equipment.

Sec. 508. None of the funds in this Act may be used to construct or enter into an agreement to construct additional hydropower units at Denison Dam–Lake Texoma.

Sec. 509. In honor of Ernest Frederick Hollings, the building located at 83 Meeting Street in Charleston, South Carolina, shall hereafter be known and designated as the "Hollings Judicial Center", *Provided further,* That the lock and dam on the Tombigbee River in Pickens Country, Alabama, commonly known as the Aliceville Lock and Dam, and the resource management and visitor center at Aliceville Lake on the Tennessee-Tombigbee Waterway, shall hereafter be known and designated as the "Tom Bevill Lock and Dam" and the "Tom Bevill Resource Management and Visitor Center at Aliceville Lake on the Tennessee-Tombigbee Waterway", respectively. Any reference in a law, map, regulation, document, or paper of the United States to such lock and dam and any reference in a law, map, regulation, document, or paper of the United States to such resource management and visitor center shall be held to be a reference to the "Tom Bevill Lock and Dam" and the "Tom Bevill Resource Management and Visitor Center at Aliceville Lake on the Tennessee-Tombigbee Waterway", respectively.

This Act may be cited as the "Energy and Water Development Appropriation Act, 1988."

h h h

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1987

Public Law 99-591 **100 Stat. 3341**

October 30, 1986

JOINT RESOLUTION

Making continuing appropriations for the fiscal year 1987, 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 hereby 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 organization units of the Government for the fiscal year 1987, and for other purposes, namely:

Sec. 101.(e) Such amounts as may be necessary for programs, projects or activities provided for in the Energy and Water Development Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

An Act

Making appropriations for energy and water development for the fiscal year ending September 30, 1987, and for other purposes.

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 section 3109 of Title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official representation expenses (not to exceed $8,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $401,000,000, 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 and information access authorization programs including criminal history checks under section 149 of the Atomic Energy Act, as amended, 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.

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. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reductions" or the provisions of Public Law 99-177.

Sec. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of Title 5, United States Code, 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. 505. None of the funds appropriated in the Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

Sec. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

Sec. 507. None of the funds appropriated in this Act shall be used to pay the salary of the Administrator of a Power Marketing Administration or the Board of Directors of the Tennessee Valley Authority, and none of the funds authorized to be expended by this or any previous Act from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, may be used to pay the salary of the Administrator of the Bonneville Power Administration, unless such Administrators or Directors award contracts for the procurement of extra high voltage (EHV) power equipment manufactured in the United States when such agencies determine that there are one or more manufacturers of domestic end product offering a product that meets the technical requirements of such agencies at a price not exceeding 130 percentum of the bid or offering price of the most competitive foreign bidder: *Provided,* That such agencies shall determine the incremental costs associated with implementing this section and defer or offset such incremental costs against otherwise existing repayment obligations: *Provided further,* That this section shall not apply to any procurement initiated prior to October 1, 1985, or to the acquisition of spare parts or accessory equipment necessary for the efficient operation and maintenance of existing equipment and available only from the manufacturer of the original equipment: *Provided further,* That this section shall not apply to procurement of domestic end product as defined in 48 CFR section 25.101: *Provided further,* That this section shall not apply to EHV power equipment produced or manufactured in a country whose government has completed negotiations with the United States to extend the GATT Government Procurement Code, or a bilateral equivalent, to EHV power equipment, or which otherwise offers fair competitive opportunities in public procurements to United States manufacturers of such equipment.

Sec. 508. None of the funds in this Act may be used to construct or enter into an agreement to construct additional hydropower units at Denison Dam–Lake Texoma.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1987."

h h h

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1987

Public Law 99-500 **100 Stat. 1783**

October 18, 1986

JOINT RESOLUTION

Making continuing appropriations for the fiscal year 1987, 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 hereby 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 1987, and for other purposes, namely:

Sec. 101. (e) Such amounts as may be necessary for programs, projects or activities provided for in the Energy and Water Development Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

An Act

Making appropriations for energy and water development for the fiscal year ending September 30, 1987, and for other purposes.

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 section 3109 of Title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official representation expenses (not to exceed $8,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $401,000,000, 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 and information access authorization programs including criminal history checks under section 149 of the Atomic Energy Act, as amended, 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.

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. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reductions", or the provisions of 99-177.

Sec. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of Title 5, United States Code, 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. 505. 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. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

Sec. 507. None of the funds appropriated in this Act shall be used to pay the salary of the Administrator of a Power Marketing Administration or the Board of Directors of the Tennessee Valley Authority, and none of the funds authorized to be expended by this or any previous Act from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, may be used to pay the salary of the Administrator of the Bonneville Power Administration, unless such Administrators or Directors award contracts for the procurement of extra high voltage (EHV) power equipment manufactured in the United States when such agencies determine that there are one or more manufacturers of domestic end product offering a product that meets the technical requirements of such agencies at a price not exceeding 130 percentum of the bid or offering price of the most competitive foreign bidder: *Provided,* That such agencies shall determine the incremental costs associated with implementing this section and defer or offset such incremental costs against otherwise existing repayment obligations: *Provided further,* That this section shall not apply to any procurement initiated prior to October 1, 1985, or to the acquisition of spare parts or accessory equipment necessary for the efficient operation and maintenance of existing equipment and available only from the manufacturer of the original equipment: *Provided further,* That this section shall not apply to procurements of domestic end product as defined in 48 CFR section 25.101: *Provided further,* That this section shall not apply to EHV power equipment produced or manufactured in a country whose government has completed negotiations

with the United States to extend the GATT Government Procurement Code, or a bilateral equivalent, to EHV power equipment, or which otherwise offers fair competitive opportunities in public procurements to United States manufacturers of such equipment.

Sec. 508. None of the funds in this Act may be used to construct or enter into an agreement to construct additional hydropower units at Denison Dam–Lake Texoma.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1987."

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Note: When the President signed H.J. Res. 738 on October 18, 1986, it was assigned Public Law No. 99-500. The following statement was issued by the President in conjunction with his signing of Public Law 99-591:

On October 17, 1986, I was presented by the Congress with an enrolled resolution designated H.J. Res. 738, a joint resolution making continuing appropriations for the fiscal year 1987, and for other purposes. I signed this measure into law on October 18, 1986. I have since learned that H.J. Res. 738 was not properly enrolled, in that a small number of paragraphs of text were omitted due to clerical error.

The provisions I signed into law on October 18 remain the law of the land. The Supreme Court has held that transmission errors of this sort do not in any way vitiate the legal effect of a President's signature. Accordingly, that which was signed became law.

H. J. Res. 738 has since been properly enrolled and has been presented to me for signature. My signing of H.J. Res. 738 today will enable the provisions previously omitted to become law as well.

h h h

APPROPRIATIONS ACT, 1986

Public Law 99-141 **99 Stat. 564**

November 1, 1985

An Act

Making appropriations for energy and water development for the fiscal year ending September 30, 1986, 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, for the fiscal year ending September 30, 1986, 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, including the employment of aliens; services authorized by 5 USC 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, $418,000,000, 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.

h h h

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1985

Public Law 98-360 **98 Stat. 403**

July 16, 1984

An Act

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

42 USC 2011 note.
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 USC 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 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.

h h h

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1984

Public Law 98-50 **97 Stat. 247**

July 14, 1983

An Act

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

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

Energy and Water Development Appropriation Act, 1984.

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:

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

31 USC 3302.
42 USC 5801 note.
96 Stat. 948.

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 USC 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 USC 484, and shall remain available until expended.

h h h

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1983

Public Law 97-377 **96 Stat. 1830**

December 21, 1982

JOINT RESOLUTION

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 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:

Post, p. 1909.

(g) Notwithstanding section 102(c) of this joint resolution, the following amounts are provided for fiscal year 1983:

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.

h h h

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1982

Public Law 97-88 **95 Stat. 1135**

December 4, 1981

An Act

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

TITLE IV–INDEPENDENT AGENCIES

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

42 USC 2014.
42 USC 5801 note.
94 Stat. 785.

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 USC 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 USC 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 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 regulatory 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.

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 USC 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 USC 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."

h h h

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1981

Public Law 96-367 **94 Stat. 1344**

October 1, 1980

An Act

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

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

Energy and Water Development. Appropriation Act, 1981.

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 USC 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 USC 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 USC 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 USC 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."

h h h

SUPPLEMENTAL APPROPRIATIONS AND RESCISSION ACT, 1980

Public Law 96-304 **94 Stat. 872**

July 8, 1980

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.

5 USC 5884 note. Career appointees.

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 USC 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 for 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 USC 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.

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

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.

h h h

ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, 1980

Public Law 96-69 **93 Stat. 449**

September 25, 1979

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 USC 3100; 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 USC 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.

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.

h h h

APPROPRIATIONS ACT, 1979

Public Law 95-482 **92 Stat. 1603**

October 18, 1978

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]

SECOND SUPPLEMENTAL APPROPRIATIONS ACT, 1978

Public Law 95-355 **92 Stat. 538**

September 8, 1978

An Act

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

Second Supplemental Appropriations Act, 1978.

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:

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

[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 USC 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 USC 484), and shall remain available until expended.

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.

h h h

PUBLIC WORKS FOR WATER AND POWER DEVELOPMENT AND ENERGY RESEARCH APPROPRIATION ACT, 1978

Public Law 95-96 **91 Stat. 807**

August 7, 1977

An Act

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

42 USC 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 USC 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; $281,423,000, 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 USC 484), and shall remain available until expended.

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.

Short Title.

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

h h h

SUPPLEMENTAL APPROPRIATIONS ACT, 1997

Public Law 95-26 **91 Stat. 112**

May 4, 1977

An Act

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.

h h h

PUBLIC WORKS FOR WATER AND POWER DEVELOPMENT AND ENERGY RESEARCH APPROPRIATION ACT, 1977

Public Law 94-355 **90 Stat. 889**

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.

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

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

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 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 USC 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 USC 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 USC 484), and shall remain available until expended.

h h h

PUBLIC WORKS FOR WATER AND POWER DEVELOPMENT AND ENERGY RESEARCH APPROPRIATION ACT, 1976

Public Law 94-180 **89 Stat. 1035**

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.

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

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

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 USC 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 USC 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.

40 USC 490. 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 percentum 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.

Short Title.

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

h h h

SECOND SUPPLEMENTAL APPROPRIATIONS ACT, 1975

Public Law 94-32 **89 Stat. 173**

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 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 USC 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;

NUCLEAR REGULATORY COMMISSION

"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 percentum 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.
42 USC 2000c.
Busing.

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.

42 USC 2000c.
Busing.

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.

TABULATION OF NRC APPROPRIATIONS THROUGH FISCAL YEAR 2005

Appropriation	Amount Requested ($million)	Date of Request	Amount Allowed by House ($Million)	Amount Allowed by Senate ($Million)	Amount Appropriated ($Million)	Difference Between Request and Appropriation (Percent)	Date Enacted	Public Law
Fiscal Year 1976: Regular	$219,935	Feb. 3, 1975	$202,500	$215,423	$215,423	-2.1	Dec. 26, 1975	94-180
Fiscal Year 1977: Regular	249,430	Jan. 21, 1976	244,430	244,430	244,430	-2	July 12, 1976	94-355
Fiscal Year 1978: Regular	292,250	Jan. 17, 1977	277,696	285,150	281,423	-3.7	Aug. 7, 1977	95-96
Fiscal Year 1979: Regular	330,670	Jan. 23, 1978	321,487	328,287	322,301	-2.5	Oct. 18, 1978	95-482
Fiscal Year 1978: Supplemental	5,350	Jan. 23, 1978	3,600	3,000v	3,600	-33	Sept. 8, 1978	95-355
Fiscal Year 1979: Regular	330,670	Jan. 23, 1978	321,487	328,287	322,301	-2.5	Oct. 18, 1978	95-482
Fiscal Year 1980: Regular	373,000	Jan. 22, 1979	358,340	363,340	363,340	-2.6	Sept. 25, 1979	96-69
Fiscal Year 1980: Supplemental	49,200	Dec. 10, 1979	31,950	31,950	31,950	-35	July 8, 1980	96-304
Fiscal Year 1981: Regular	468,490	Jan. 28, 1980	437,220	452,520	447,520	-4.5	Oct. 1, 1980	96-367
Fiscal Year 1982: Regular	500,700	Jan. 19, 1981	477,534	465,700	465,700	-7	Dec. 4, 1981	97-88
Fiscal Year 1983: Regular	479,500	Feb. 8, 1982	462,504	462,504	462,504	-3.5	Dec. 21, 1982	97-377
Fiscal Year 1984: Regular	466,800	Jan. 31, 1983	465,800	466,800	465,800	-0.2	July 14, 1983	98-50
Fiscal Year 1985: Regular	468,200	Jan. 1984	438,200	458,200	448,200	-4.3	July 16, 1984	98-360
Fiscal Year 1986: Regular	429,000	Feb. 4, 1985	403,671	429,000	418,000	-2.6	Nov. 1, 1985	99-141
Fiscal Year 1987: Regular	405,000	Feb. 5, 1985	405,000	391,000	401,000	-1	Oct. 30, 1986	99-591
Fiscal Year 1988: Regular	428,000	Jan. 5, 1987	417,800	417,800	392,800	-8.2	Dec. 22, 1987	100-202
Fiscal Year 1989: Regular	450,000	Feb. 18, 1988	420,000	430,000	420,000	-6.7	July 19, 1988	100-371
Fiscal Year 1990; Regular	472,100	Jan. 9, 1989	442,100	442,100	442,100	-6.4	Sept. 29, 1989	101-101*
Fiscal Year 1991, Regular	471,320	Jan. 29, 1990	471,320	471,320	461,320	-2.1	Nov. 5, 1990	101-514*
Fiscal Year 1992: Regular	508,810	July 30, 1991	508,810	508,810	508,810	0	Aug. 17, 1991	102-104*
Fiscal Year 1993: Regular	545,415	June 11, 1992	535,415	535,415	535,415	-1.8	Oct. 2, 1992	102-377*
Fiscal Year 1994: Regular	542,900	June 17, 1993	542,490	535,415	535,415	-1.4	Oct. 28, 1993	103-126*
Fiscal Year 1995 Regular	540,501	May 26, 1994	540,501	540,501	540,501	0	Aug. 26, 1994	103-316*
Fiscal Year 1996; Regular	520,501	June 20, 1995	468,300	474,300	468,300	-10	Nov. 13, 1995	104-46*
Fiscal Year 1997; Regular	475,300	July 16, 1996	471,800	471,800	471,800	-0.7	Sept. 30, 1996	104-206*
Fiscal Year 1998; Regular	468,000	July 21, 1997	462,700	476,500	468,000	0	Oct. 13, 1997	105-62*
Fiscal Year 1999; Regular	488,640		462,700	466,000	465,000	-4.8	Oct. 7, 1998	105-245*
Fiscal Year 2000; Regular	465,400	May 4, 1999	455,400	465,400	465,000	-0.1	Sept. 29, 1999	106-60*
Fiscal Year 2001; Regular	481,900	June 23, 2000	481,900	481,900	481,900	0	Oct. 27, 2000	106-377
Fiscal Year 2002; Regular	516,900	June 26, 2001	516,900	506,900	516,900	0	Nov. 12, 2001	107-66

TABULATION OF NRC APPROPRIATIONS THROUGH FISCAL YEAR 2005

Appropriation	Amount Requested ($million)	Date of Request	Amount Allowed by House ($Million)	Amount Allowed by Senate ($Million)	Amount Appropriated ($Million)	Difference Between Request and Appropriation (Percent)	Date Enacted	Public Law
Fiscal Year 2003	578,184,000		578,184,000	578,184,000	578,184,000	0	Feb 20, 2003	108-7
Fiscal Year 2004	618,800,000		618,800,000	618,800,000	618,800,000	0	Dec 01, 2003	108-137
Fiscal Year 2005	662,777,000		662,777,000	662,777,000	662,777,000	0	Dec 08, 2004	108-447
*Office of Inspector General								
Fiscal Year 1990	2,900		2,900		2,900	0	Sept. 29, 1989	101-101
Fiscal Year 1991	3,680		3,680	3,680	3,680	0	Nov. 5, 1990	101-514
Fiscal Year 1992	3,690		3,690	3,690	3,690	0	Aug. 17, 1991	102-104
Fiscal Year 1993	4,585		4,585	4,585	4,585	0	Oct. 2, 1992	102-377
Fiscal Year 1994	4,800		4,800	4,800	4,800	0	Oct. 28, 1993	103-126
Fiscal Year 1995	5,080		5,080	5,080	5,080	0	Aug. 26, 1994	103-316
Fiscal Year 1996	5,000		5,000	5,000	5,000	0	Nov. 13, 1995	104-46
Fiscal Year 1997	5,000		5,000	5,000	5,000	0	Sept. 30, 1996	104-206
Fiscal Year 1998	4,800		4,800	4,800	4,800	0	Oct. 13, 1997	105-62
Fiscal Year 1999			4,800	4,800	4,800	--	Oct. 7, 1998	105-245
Fiscal Year 2000			6,000	5,000	5,000	--	Sept. 29, 1999	106-60
Fiscal Year 2001	5,500		5,500	5,500	5,500	0	Oct. 27, 2000	106-377
Fiscal Year 2002	6,180		6,180	5,500	6,180	0	Nov. 12, 2001	107-66
Fiscal Year 2003	6,800,000,000		6,800,000,000	6,800,000,000	6,800,000,000	0	Feb. 20, 2003	108-7
Fiscal Year 2004	7,300,000		7,300,000	7,300,000	7,300,000	0	Dec. 01, 2003	108-137
Fiscal Year 2005	7,518,000		7,518,000	7,518,000	7,518,000	0	Dec. 08, 2004	108-447

NRC AUTHORIZATIONS

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NRC AUTHORIZATION ACT FOR FISCAL YEAR 1984-1985

Public Law 98-553 **98 Stat. 2825**

October 30, 1984

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.

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

TITLE I– AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 1984 AND 1985

42 USC 2017.
42 USC 5875.

Sec. 101. There are hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 and section 305 of the Energy Reorganization Act of 1974, for the fiscal years 1984 and 1985 to remain available until expended, $466,800,000 for fiscal year 1984 and $460,000,000 for fiscal year 1985.

Sec. 102. (a) The sums authorized to be appropriated in this Act for fiscal years 1984 and 1985 shall be allocated as follows:

(1) not more than $91,490,000 for fiscal year 1984 and $87,140,000 for fiscal year 1985, may be used for "Nuclear Reactor Regulation", of which an amount not be exceed $1,000,000 is authorized each such fiscal year to be used to accelerate the effort in gas-cooled thermal reactor pre-application review;

(2) not more than $70,910,000 for fiscal year 1984 and $74,770,000 for fiscal year 1985, may be used for "Inspection and Enforcement";

(3) not more than $36,280,000 for fiscal year 1984 and $35,710,000 for fiscal year 1985, may be used for "Nuclear Material Safety and Safeguards";

(4) not more than $199,740,000 for fiscal year 1984 and $193,290,000 for fiscal year 1985, may be used for "Nuclear Regulatory Research", of which an amount not to exceed $2,600,000 is authorized each such fiscal year to be used to accelerate the effort in gas-cooled thermal reactor safety research;

(5) not more than $27,520,000 for fiscal year 1984 and $27,470,000 for fiscal year 1985, may be used for "Program Technical Support";

(6) not more than $40,860,000 for fiscal year 1984 and $41,620,000 for fiscal year 1985, may be used for "Program Direction and Administration."

Grants.

(b) The Nuclear Regulatory Commission may use not more than 1 per centum of the amounts authorized to be appropriated under paragraph 102(a)(4) to exercise its authority under section 31a. of the Atomic Energy Act of 1954 (42 USC 2051(a)) to enter into grants and cooperative agreements with universities pursuant to such paragraph. Grants made by the Commission shall be made in accordance with the Federal Grant and

Cooperative Agreement Act of 1977 (41 USC 501 et seq.) and other applicable law.

(c) Any amount appropriated for a fiscal year to the Nuclear Regulatory Commission pursuant to any paragraph of subsection 102(a) for purposes of the program referred to in such paragraph, may be reallocated by the Commission for use in a program referred to in any other paragraph of such subsection, or for use in any other activity within a program, except that the amount available from appropriations for such fiscal year for use in any program or specified activity may not, as a result of reallocations made under this subsection, be increased or reduced by more than $500,000 unless–

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

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

31 USC 3302.

Sec. 103. Moneys received by the Nuclear Regulatory Commission for the cooperative nuclear research program and the material access authorization program may be retained and used for salaries and expenses associated with such programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 USC 484), and shall remain available until expended.

Sec 104. From amounts appropriated to the Nuclear Regulatory Commission pursuant to this Title, the Commission may transfer to other agencies of the Federal Government sums for salaries and expenses for the performance by such agencies of activities for which such appropriations of the Commission are made. Any sums so transferred may be merged with the appropriation of the agency to which such sums are transferred.

Sec. 105. Notwithstanding any other provisions of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

Report.
Prohibition.

Sec 106. (a) No funds authorized to be appropriated under this Act may be used to carry out any policy or program for the decentralization or regionalization of any Nuclear Regulatory Commission authorities regarding commercial nuclear power plant licensing until sixty legislative days after the date on which the Commission submits to the Congress a report evaluating the effect of such policy or program on nuclear reactor safety: *Provided, however,* That the prohibition contained in this subsection shall not apply to any personnel assigned to the field, or to activities in which they were engaged, on or before September 22, 1983. The report shall include–

(1) a detailed description of the authorities to be transferred, the reason for such transfer, and an assessment of the effect of such transfer on nuclear reactor safety;

(2) an analysis of all comments submitted to the Commission regarding the effect on nuclear reactor safety which would result from carrying out the policy or program proposed by the Commission; and

(3) an evaluation of the results, including the advantages and disadvantages, of the pilot program conducted under subsection (b).

(b) Notwithstanding the prohibition contained in subsection (a), the Commission is authorized to conduct a pilot program for the purpose of evaluating the concept of delegating authority to regional offices for issuance of specific types of operating reactor licensing actions and for the purpose of addressing the issues identified in paragraphs (a)(1)-(3) of this section.

Sec. 107. (a) Of the amounts authorized to be appropriated under this Act for the fiscal years 1984 and 1985, such sums as may be necessary are authorized to be used by the Nuclear Regulatory Commission for–

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

(2) a full and complete analysis of–

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

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

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

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

Provided, however, That no funds shall be available under this Act for the acquisition and installation of any equipment for the collection and transmission to the Commission of data from licensed nuclear reactors during abnormal conditions at such reactors, or for the analysis of such equipment, unless such acquisition and analysis includes, as one of the alternatives considered, a fully automated electronic nuclear data link. The small test prototype referred to in paragraph (1) may be used by the Commission in carrying out the study and analysis under paragraph (2). Such analysis shall include a cost-benefit analysis of each alternative examined under subparagraph (C).

Sec. 108. Of the amounts authorized to be appropriated under this Act, the Nuclear Regulatory Commission may use such sums as may be necessary, in the absence of a State or local emergency preparedness plan which has been approved by the Federal Emergency Management Agency, to issue an operating license (including a temporary operating license under section 192 of the Atomic Energy Act of 1954, as amended) for a nuclear power reactor, if it determines that there exists a State, local, or utility plan which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned.

42 USC 2133.
42 USC 2134.

Sec 109. Notwithstanding the second sentence of section 103d. and the second sentence of section 104d. of the Atomic Energy Act of 1954, as amended, the Nuclear Regulatory Commission is hereby authorized to transfer Facility Operating License numbered R-81 to a United States entity or corporation owned or controlled by a foreign corporation if the Commission–

(1) finds that such transfer would not be inimical to the common defense and security or to the health and safety of the public; and

(2) includes in such license, as transferred, such conditions as the Commission deems necessary to ensure that such foreign corporation cannot direct the actions of the licensee in ways that would be inimical to the common defense and security or the health and safety of the public.

Approved October 30, 1984.

NRC AUTHORIZATION ACT FOR FISCAL YEAR 1982-1983

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NRC AUTHORIZATION ACT FOR FISCAL YEAR 1982-1983

Public Law 97-415 96 Stat. 2067

Jan. 4, 1983

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.

Nuclear Regulatory Commission.

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

Sec. 1. AUTHORIZATION OF APPROPRIATIONS

Appropriations.

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

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

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

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

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

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

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

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

In the event of a termination of the fast breeder reactor plant project, any unused amount appropriated pursuant to this paragraph for fast breeder reactor safety research may be used generally for "Nuclear Regulatory Research".

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

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

Grants and cooperative agreements.

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

Reallocated funds.

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

Notification of congressional committees.

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

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

Sec. 2. AUTHORITY TO RETAIN CERTAIN AMOUNTS RECEIVED

Ante, p. 948.
31 USC 3302.

Moneys received by the Nuclear Regulatory Commission for the cooperative nuclear research program and the material access authorization program may be retained and used for salaries and expenses associated with such programs, notwithstanding the provisions of

section 3617 of the Revised Statutes (31 USC 484), and shall remain available until expended.

Sec. 3. AUTHORITY TO TRANSFER CERTAIN AMOUNTS TO OTHER AGENCIES

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

Sec. 4. LIMITATION ON SPENDING AUTHORITY

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

Sec. 5. AUTHORITY TO ISSUE LICENSES IN ABSENCE OF EMERGENCY PREPAREDNESS PLANS

Post, p. 2071.

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

Sec. 6. NUCLEAR SAFETY GOALS

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

Sec. 7. LOSS-OF-FLUID TEST FACILITY

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

Sec. 8. NUCLEAR DATA LINK

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

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

Study and analysis.

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

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

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

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

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

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

Report to Congress.

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

Commission action; notification of congressional committees.

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

Sec. 9. INTERIM CONSOLIDATION OF OFFICES

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

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

Sec. 10. THREE MILE ISLAND

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

42 USC 2011 note.

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

42 USC 5877 note.

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

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

Sec. 11. TEMPORARY OPERATING LICENSES

Section 192 of the Atomic Energy Act of 1954 (42 USC 2242) is amended to read as follows:

Sec. 192. TEMPORARY OPERATING LICENSE.–

42 USC 2133.
42 USC 2134.
Post, p. 2073.

a. In any proceeding upon an application for an operating license for a utilization facility required to be licensed under section 103 or 104 b. of this Act, in which a hearing is otherwise required pursuant to section 189a., the applicant may petition the Commission for a temporary operating license for such facility authorizing fuel loading, testing, and operation at a specific power level to be determined by the Commission,

Initial petition.

pending final action by the Commission on the application. The initial petition for a temporary operating license for each such facility, and any temporary operating license issued for such facility based upon the initial petition, shall be limited to power levels not to exceed 5 percent of rated full thermal power. Following issuance by the Commission of the temporary operating license for each such facility, the licensee may file petitions with the Commission to amend the license to allow facility operation in staged increases at specific power levels, to be determined by the Commission, exceeding 5 percent of rated full thermal power. The initial petition for a temporary operating license for each such facility may be filed at any time after the filing of: (1) the report of the Advisory Committee on Reactor Safeguards required by section 192b.; (2) the filing of the initial Safety Evaluation Report by the Nuclear Regulatory Commission staff and the Nuclear Regulatory Commission staff's first supplement to the report prepared in response to the report of the Advisory Committee on Reactor Safeguards for the facility; (3) the Nuclear Regulatory Commission staff's final detailed statement on the environmental impact of the facility prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 USC 4332(2)(C)); and (4) a State, local, or utility emergency preparedness plan for the facility. Petitions for the issuance of a temporary operating

Affidavits.

license, or for an amendment to such a license allowing operation at a specific power level greater than that authorized in the initial temporary operating license, shall be accompanied by an affidavit or affidavits setting forth the specific facts upon which the petitioner relies to justify

Publication in Federal Register.

issuance of the temporary operating license or the amendment thereto. The Commission shall publish notice of each such petition in the Federal Register and in such trade or news publications as the Commission deems appropriate to give reasonable notice to persons who might have a potential interest in the grant of such temporary operating license or

amendment thereto. Any person may file affidavits or statements in support of, or in opposition to, the petition within thirty days after the publication of such notice in the Federal Register.

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

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

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

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

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

Final order, transmittal to congressional committees.

Judicial review.

28 USC 2341 *et seq.*

Post, p. 2073.

Hearing.

c. Any hearing on the application for the final operating license for a facility required pursuant to section 189a. shall be concluded as promptly as practicable. The Commission shall suspend the temporary operating license if it finds that the applicant is not prosecuting the application for the final operating license with due diligence. Issuance of a temporary operating license under subsection b. of this section shall be without prejudice to the right of any party to raise any issue in a hearing required pursuant to section 189a.; and failure to assert any ground for denial or limitation of a temporary operating license shall not bar the assertion of such ground in connection with the issuance of a subsequent final operating license. Any party to a hearing required pursuant to section 189a. on the final operating license for a facility for which a temporary operating license has been issued under subsection b., and any member of the Atomic Safety and Licensing Board conducting such hearing, shall promptly notify the Commission of any information indicating that the terms and conditions of the temporary operating license

Infra.

are not being met, or that such terms and conditions are not sufficient to comply with the provisions of paragraph (2) of subsection b.

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

Expiration date.

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

Sec. 12. OPERATING LICENSE AMENDMENT HEARINGS

(a) Section 189a. of the Atomic Energy Act of 1954 (42 USC 2239(a)) is amended–

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

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

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

Notice of publication.

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

Regulations establishing standards, criteria, and procedures.

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

42 USC 2239 note.

(b) The authority of the Nuclear Regulatory Commission, under the provisions of the amendment made by subsection (a), to issue and to make immediately effective any amendment to an operating license shall take effect upon the promulgation by the Commission of the regulations required in such provisions.

Sec. 13. QUALITY ASSURANCE

42 USC 5841 note.
Resident inspector program.

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

Commercial nuclear power plant construction, study.

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

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

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

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

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

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

Independent inspector.

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

(c) For purposes of–

42 USC 2011 note.

(1) determining the best means of assuring that commercial nuclear powerplants are constructed in accordance with the applicable safety requirements in effect pursuant to the Atomic Energy Act of 1954; and

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

Pilot program.

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

Study results, submittal to Congress.

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

Sec. 14. LIMITATION ON USE OF SPECIAL NUCLEAR MATERIAL

Section 57 of the Atomic Energy Act of 1954 (42 USC 2077) is amended by adding at the end thereof the following new subsection:

42 USC 2014.
42 USC 2133.
42 USC 2134.

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

Sec. 15. RESIDENT INSPECTORS

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

Report to Congress.

Not later than 90 days after the date of the enactment of this Act, the Commission shall submit to the Congress a report setting forth the findings of the Commission as a result of such study, together with a legislative proposal (including any supporting data or information)

relating to any assistance for resident inspectors determined by the Commission to be appropriate.

Sec. 16. SABOTAGE OF NUCLEAR FACILITIES OR FUEL

Section 236 of the Atomic Energy Act of 1954 (42 USC 2284) is amended to read as follows:

Sec. 236. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.–

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

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

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

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

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

Penalties.

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

Sec. 17. DEPARTMENT OF ENERGY INFORMATION

95 Stat. 1169.

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

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

Judicial review.

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

Quarterly report.

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

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

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

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

Sec. 18. STANDARDS AND REQUIREMENTS UNDER SECTION 275

42 USC 2022.

(a) Section 275 of the Atomic Energy Act of 1954 is amended–

(1) by striking in subsection a. "one year after the date of enactment of this section" and substituting "October 1, 1982" and by

42 USC 7911.

adding the following at the end thereof: After October 1, 1982, if the Administrator has not promulgated standards in final form under this subsection, any action of the Secretary of Energy under Title I of the Uranium Mill tailings Radiation Control Act of 1978 which is required to comply with, or be taken in accordance with, the standards proposed by the Administrator under this subsection until such time as the Administrator promulgates such standards in final form.;

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

Promulgation authority.

(3) by adding the following at the end of subsection b.(1): "If the Administrator fails to promulgate standards in final form under this subsection by October 1, 1983, the authority of the Administrator to promulgate such standards shall terminate, and the Commission may take actions under this Act without regard to any provision of this Act requiring such actions to comply with, or be taken in accordance with, standards promulgated by the Administrator. In any such case, the Commission shall promulgate, and from time to time revise, any such standards of general application which the Commission deems necessary to carry out its responsibilities in the conduct of its licensing activities under this Act. Requirements established by the Commission under this Act with respect to byproduct material as defined in section 11e.(2) shall conform to such standards. Any requirements

42 USC 2014.

adopted by the Commission respecting such byproduct material before promulgation by the Commission of such standards shall b 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 11e.(2) pending promulgation by the Commission of any such standard of general application.;

Uranium mill licensing requirement regulations. Implementation and enforcement.

(4) by adding the following new subsection at the end thereof:

f. (1) Prior to January 1, 1983, the Commission shall not implement or enforce the provisions of the Uranium Mill Licensing Requirements published as final rules at 45 Federal Register 65521 to 65538 on October 3, 1980 (hereinafter referred to as the "October 3 regulations"). After December 31, 1982, the Commission is authorized to implement and enforce the provisions of such October 3 regulations (and any subsequent modifications or additions to such regulations which may be adopted by the Commission), except as otherwise provided in paragraphs (2) and (3) of this subsection.

Review, public comment, and suspension.

(2) Following the proposal by the Administrator of standards under subsection b., the Commission shall review the October 3 regulations, and, not later than 90 days after the date of such proposal, suspend

implementation and enforcement of any provision of such regulations which the Commission determines after notice and opportunity for public comment to require a major action or major commitment by licensees which would be unnecessary if–

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

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

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

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

42 USC 2114.

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

Remedial action.
42 USC 7918.

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

Ante, p. 2077
Post, p. 2080.

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

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

Sec. 19. AGREEMENT STATES

42 USC 2014.
42 USC 2021.

(a) Section 274o. of the Atomic Energy Act of 1954 is amended by adding the following at the end thereof: "In adopting requirements pursuant to paragraph (2) of this subsection with respect to sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 11e.(2), the State may adopt alternatives (including, where appropriate, site-specific alternatives) to the requirements adopted and enforced by the Commission for the same purpose if, after notice and opportunity for public hearing, the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level

which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275. Such alternative State requirements may take into account local or regional conditions, including geology, topography, hydrology and meteorology.

42 USC 2022.

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

42 USC 2021 note.

42 USC 2021.

Sec. 20. AMENDMENT TO SECTION 84

Section 84 of the Atomic Energy Act of 1954 is amended by adding the following at the end thereof:

42 USC 2014.

c. In the case of sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 11e.(2), a licensee may propose alternatives to specific requirements adopted and enforced by the Commission under this Act. Such alternative proposals may take into account local or regional conditions, including geology, topography, hydrology and meteorology.

42 USC 2114. Alternative proposals by licensees.

42 USC 2022.

The Commission may treat such alternatives as satisfying Commission requirements if the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275.

Sec. 21. EDGEMONT

42 USC 7912.

Section 102(e) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding the following at the end thereof:

42 USC 7911.

(3) the Secretary shall designate as a processing site within the meaning of section 101(6) any real property, or improvements thereon, in Edgemont, South Dakota, that–

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

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

42 USC 7917.

In making the designation under this paragraph, the Secretary shall consult with the Administrator, the Commission and the State of South Dakota. The provisions of this Title shall apply to the site so designated in the same manner and to the same extent as to the sites designated under subsection (a) except that, in applying such provisions to such site, any reference in this Title to the date of the enactment of this Act shall be

treated as a reference to the date of the enactment of this paragraph and in determining the State share under section 107 of the costs of remedial action, there shall be credited to the State, expenditures made by the State prior to the date of the enactment of this paragraph which the Secretary determines would have been made by the State or the United States in carrying out the requirements of this Title.

Sec. 22. ADDITIONAL AMENDMENTS TO SECTIONS 84 AND 275

42 USC 2114.

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

Ante, p. 2077.

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

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

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

Sec. 23. URANIUM SUPPLY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 170B. URANIUM SUPPLY–

42 USC 2210b.
42 USC 2231.
Report to Congress and President.

a. The Secretary of Energy shall monitor and for the years 1983 to 1992 report annually to the Congress and to the President a determination of the viability of the domestic uranium mining and milling industry and shall establish by rule, after public notice and in accordance with the requirements of section181 of this Act, within 9 months of enactment of this section, specific criteria which shall be assessed in the annual reports on the domestic uranium industry's viability. The Secretary of Energy is authorized to issue regulations providing for the collection of such information as the Secretary of Energy deems necessary to carry out the monitoring and reporting requirements of this section.

Regulations.

Proprietary information, disclosure.

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

Criteria.

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

(1) an assessment of whether executed contracts or options for source material or special nuclear material will result in greater than $37^{1\,2}$ percent of actual or projected domestic uranium requirements for any two-consecutive-year period being supplied by source material or special nuclear material from foreign sources;

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

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

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

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

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

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

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

Imported material, impact on domestic industry and national security.

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

e. (1) If, during the period 1982 to 1992, the Secretary of Energy determines that executed contracts or options for source material or special nuclear material from foreign sources for use in utilization facilities within or under the jurisdiction of the United States represent greater than 37-1/2 percent of actual or projected domestic uranium requirements for any two-consecutive-year period, or if the Secretary of Energy shall request the Secretary of Commerce to initiate under section 232 of the Trade Expansion Act of 1962 (19 USC 1862) an investigation to determine the effects on the national security of imports of source material and special nuclear material. The Secretary of Energy shall cooperate fully with the Secretary of Commerce in carrying out such an investigation and shall make available to the Secretary of Commerce he findings that lead to this request an such other information that will assist the Secretary of Commerce in the conduct of the investigation.

Investigations.

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

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

Approved January 4, 1983.

NRC AUTHORIZATION ACT FOR FISCAL YEAR 1980

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NRC AUTHORIZATION ACT FOR FISCAL YEAR 1980

Public Law 96-295 **94 Stat. 780**

June 30, 1980

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.

Nuclear Regulatory Commission.

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

TITLE I–AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1980

Appropriation authorization.

Sec. 101. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 USC 2017) and section 305 of the Energy Reorganization Act of 1974 (42 USC 5875), for the fiscal year 1980, the sum of $426,821,000, to remain available until expended. Of such total amount authorized to be appropriated:

(1) not more than $66,510,000, may be used for "Nuclear Reactor Regulation", of which an amount not to exceed $1,000,000 is authorized to accelerate the effort in gas-cooled thermal reactor preapplication review;

(2) not more than $42,440,000, may be used for "Inspection and Enforcement"; of the total amount appropriated for this purpose $4,684,000 shall be available for support for 146 additional inspectors for the Resident Inspector program;

(3) not more than $15,953,000, may be used for "Standards Development";

(4) not more than $32,380,000, may be used for "Nuclear Material Safety and Safeguards"; of the total amount appropriated for this purpose–

(A) not less than $60,000 shall be available only for the employment by the Commission of two qualified individuals to be assigned by the Commission for implementation of the United States International Atomic Energy Agency Safeguards Treaty, following ratification of such treaty by the United States Senate;

(B) not less than $180,000 and six additional positions shall be included in the Division of Safeguards for the regulatory improvements of material control and accounting safeguards and the development of improved regulatory requirements for safeguarding the transportation of spent fuel; and

(C) not less than $9,675,000 shall be available for Nuclear Waste Disposal and Management activities, including support for five additional positions in the Division of Waste Management for implementation of the Uranium Mill Tailings Radiation Control Act of 1978 (Public Law 95-604; 42 USC 7901 and following);

(5) not more than $213,005,000, may be used for "Nuclear Regulatory Research", of which–

(A) an amount not to exceed $3,700,000 shall be available to accelerate the effort in gas-cooled thermal reactor safety research;

(B) an amount not to exceed $4,400,000 shall be available for implementation of the Improved Safety Systems Research plan required by section 205(f) of the Energy Reorganization Act of 1974.

42 USC 5845.

(C) an amount not to exceed $6,700,000 shall be available for Nuclear Waste Research activities;

(6) not more than $18,125,000, may be used for "Program Technical Support"; of the total amount appropriated for this purpose, $4,238,000 shall be available to the Office of State Programs, including support for eight additional positions for training and assistance to State and local governments in radiological emergency response planning and operations and for review of State plans; and

(7) not more than $38,408,000 may be used for "Program Direction and Administration"; of the total amount appropriated for this purpose, $400,000 shall be available for support of eight additional positions in the Division of contracts, Office of Administration.

(b) No amount appropriated to the Nuclear Regulatory Commission pursuant to subsection (a) may be used for any purpose in excess of the amount expressly authorized to be appropriated therefore by paragraphs (1) through (7) of such subsection if such excess amount is greater than $500,000, nor may the amount available from any appropriation for any purpose specified in such paragraphs be reduced by more than $500,000, unless–

(1) a period of 45 calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) has passed after the receipt by the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs of the House of representatives and the Committee on Environment and Public works of the Senate of notice given by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or

(2) each such Committee has, before the expiration of such period, transmitted to the Commission a written notification that there is no objection to the proposed action.

(c) No amount authorized to appropriated by this Act may be used by the Nuclear Regulatory Commission to enter into any contract providing funds in excess of $50,000 encompassing research, study, or technical assistance on domestic safeguards matters except as directed by the Commission, by majority vote, following receipt by the Commission of a recommendation from the Executive Director for Operations supporting the need for such contract.

(d) No amount authorized to be appropriated by this Act may be used by the Nuclear Regulatory Commission to–

(1) place any new work or substantial modification to existing work with another Federal agency, or

(2) contract for research services or modify such contract in an amount greater than $500,000 unless such placement of work, contract or modification is approved by a Senior Contract Review Board, to be appointed by the Commission within sixty days of the date of enactment of this Act. Such Board shall be accountable to and under the direction of the Commission. If the amount of such placement, contract, or modification is $1,000,000 or more, approval thereof shall be by majority vote of the Commission. Prior to affording any approval in accordance with the subsection, the reviewing body designated hereunder shall determine that the placement, contract, or modification contains a detailed description of work to be performed, and that alternative methods of obtaining performance including competitive procurement have been considered.

Sec. 102. During the fiscal year 1980, moneys received by the Nuclear Regulatory Commission for the cooperative nuclear 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 USC 484). Such moneys shall remain available until expended.

Transfers of sums.

Sec. 103. During the fiscal year 1980, transfers of sums from salaries and expenses of the Nuclear Regulatory Commission may be made to other agencies of the United States Government for the performance of the work for which the appropriation is made, and in such cases of the sums to transferred may be merged with the appropriation to which transferred.

Sec. 104. Notwithstanding any other provision of this Act, no authority to make payments hereunder shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

Sec. 105. No amount authorized to be appropriated pursuant to this Act may be used to grant any license, permit or other authorization, or permission to any person for the transportation to, or the interim, long-term, or permanent storage of, spent nuclear fuel or high-level

l radioactive waste on any territory or insular possession of the United States or the Trust Territory of the Pacific Islands unless–

(1) the President submits to the Congress a report on the transfer at least 30 days before such transfer and on a day during which–

(A) both Houses of the Congress are in session, or

(B) either or both Houses are not in session because of an adjournment of three days or less to a day certain; or

(2) the President determines that an emergency situation exists with respect to such transfer and that it is in the national interest to make such transfer and the President notifies the Speaker of the House of Representatives and the President of the Senate as soon as possible of such transfer.

The provisions of this section shall not apply to the cleanup and rehabilitation of Bikini and Eniwetok Atolls.

42 USC 2133.
42 USC 2134.

Sec. 106. Of the amounts authorized to be appropriated pursuant to this Act, the Nuclear Regulatory Commission is authorized and directed to use such sums as may be necessary to develop a plan for agency response to accidents at a utilization facility licensed under section 103 or section 104(b) of the Atomic Energy Act of 1954. The plan required to be

developed by this section shall be forwarded to the Congress on or before September 30, 1980.

Sec. 107. No funds appropriated pursuant to this Act may be used for the purpose of providing for the licensing or approval of any disposal of nuclear wastes in the oceans.

Regulations.

Sec. 108. (a) Of the amounts authorized to be appropriated pursuant to this Act, the Nuclear Regulatory Commission is authorized and directed to use such sums as may be necessary to develop and promulgate regulations establishing demographic requirements for the siting of utilization facilities. Such regulations shall be promulgated by the Commission after notice and opportunity for hearing in accordance with section 553 of Title 5 of the United States Code. For purposes of this section, the term "utilization facility" means a facility licensed under section 103 or 104(b) of the Atomic Energy Act of 1954.

Notice and hearing.

Utilization facility.

42 USC 2133.

42 USC 2134.

(b) The regulations promulgated pursuant to this section shall provide that no construction permit may be issued for a utilization facility to which this section applies after the date of such promulgation unless the facility complies with the requirements set forth in such regulations, except that regulations promulgated under this section shall not apply to any facility for which an application for a construction permit was filed on or before October 1, 1979.

(c) The regulations promulgated pursuant to this section shall specify demographic criteria for facility siting, including maximum population density and population distribution for zones surrounding the facility without regard to any design, engineering, or other differences among such facilities.

(d) The regulations promulgated pursuant to this section shall take into account the feasibility of all actions outside the facility which may be necessary to protect public health and safety in the event of any accidental release of radioactive material from the facility which may endanger public health or safety. For purposes of this subsection, the term "accidental release" includes, but is not limited to, each potential accidental release of radioactive material which is required by the Commission to be taken into account for purposes of facility design.

Accidental release.

Information and recommendations.

(e) The Commission shall provide information and recommendations to State and local land use planning authorities having jurisdiction over the zones established under the regulations promulgated pursuant to this section and over areas beyond the zones which may be affected by a radiological emergency. The information and recommendations provided under this subsection shall be designed to assist such authorities in making State and local land use decisions which may affect emergency planning in relation to utilization facilities.

(f) Nothing in this section shall be construed to provide that the Commission shall have any authority to preempt any State requirement relating to land use or respecting the siting of any utilization facility, except that no State or local land use or facility siting requirement relating to the same aspect of facility siting as a requirement established pursuant to this section shall have any force and effort unless such State or local requirement is identical to, or more stringent than, the requirement promulgated pursuant to this section.

Sec. 109. (a) Funds authorized to be appropriated pursuant to this Act may be used by the Nuclear Regulatory Commission to conduct

proceedings, and take other actions, with respect to the issuance of an operating license for a utilization facility only if the Commission determines that–

(1) there exists a State or local emergency preparedness plan which–

(A) provides for responding to accidents at the facility concerned, and

(B) as it applies to the facility concerned only, complies with the Commission's guidelines for such plans, or

(2) in the absence of a plan which satisfies the requirements of paragraph (1), there exists a State, local, or utility plan which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned.

A determination by the Commission under paragraph (1) may be made only in consultation with the Director of the Federal Emergency Management Agency. If, in any proceeding for the issuance of an operating license for a utilization facility to which this subsection applies, the Commission determines that there exists a reasonable assurance that public health and safety is endangered by operation of the facility, the Commission shall identify the risk to public health and safety and provide the applicant with a detailed statement of the reasons for such determination. For purposes of this section, the term "utilization facility" means a facility required to be licensed under section 103 or 104(b) of the Atomic Energy Act of 1954.

Utilization facility.

42 USC 2133.
42 USC 2134.

(b) Of the amounts authorized to be appropriated under section 101(a), such sums as may be necessary shall be used by the Nuclear Regulatory Commission to–

Rules.

(1) establish by rule–

(A) standards for State radiological emergency response plans, developed in consultation with the Director of the Federal Emergency Management Agency, and other appropriate agencies, which provide for the response to a radiological emergency involving any utilization facility,

(B) a requirement that–

(i) the Commission will issue operating licenses for utilization facilities only if the Commission determines that–

(I) there exists a State or local radiological emergency response plan which provides for responding to any radiological emergency at the facility concerned and which complies with the Commission's standards for such plans under subparagraph (A), or

(II) in the absence of a plan which satisfies the requirements of subclause (I), there exists a State, local, or utility plan which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned, and

(ii) any determination by the Commission under subclause (I) may be made only in consultation with the Director of the Federal Emergency Management Agency and other appropriate agencies, and

(C) a mechanism to encourage and assist States to comply as expeditiously as practicable with the standards promulgated under subparagraph (A) of this paragraph,

Review of plans.

(2) review all plans and other preparations respecting such an emergency which have been made by each State in which there is located a utilization facility or in which construction of such a facility has been commenced and by each State which may be affected (as determined by the Commission) by any such emergency,

Report to congressional committees.

(3) assess the adequacy of the plans and other preparations reviewed under paragraph (2) and the ability of the States involved to carry out emergency evacuations during an emergency referred to in paragraph (1) and submit a report of such assessment to the appropriate committees of the Congress within 6 months of the date of the enactment of this Act.

(4) identify which, if any, of the States described in paragraph (2) do not have adequate plans and preparations for such an emergency and notify the Governor and other appropriate authorities in each such State of the respects in which such plans and preparations, if any, do not conform to the guidelines promulgated under paragraph (1), and

(5) submit a report to Congress containing (A) the results of its actions under preceding paragraphs and (B) its recommendations respecting any additional Federal statutory authority which the Commission deems necessary to provide that adequate plans and preparations for such radiological emergencies are in effect for each State described in paragraph (2).

(c) In carrying out its review and assessment under subsection (b)(2) and (3) and in submitting its report under subsection (a)(5), the Commission shall include a review and assessment, with respect to each utilization facility and each site for which a construction permit has been issued for such a facility, of the emergency response capability of State and local authorities and of the owner or operator (or proposed owner or operator) of such facility. Such review and assessment shall include a determination by the Commission of the maximum zone in the vicinity of each such facility for which evacuation of individuals is feasible at various different times corresponding to the representative warning times for various different types of accidents.

42 USC 2133.
42 USC 2134.

Sec. 110. (a) Of the amounts authorized to be appropriated pursuant to section 101(a), such sums as may be necessary shall be used by the Nuclear Regulatory Commission to develop, submit to the Congress, and implement, as soon as practicable after notice and opportunity for public comment, a comprehensive plan for the systematic safety evaluation of all currently operating utilization facilities required to be licensed under section 103 or section 104(b) of the Atomic Energy Act of 1954.

(b) The plan referred to in subsection (a) shall include–

(1) the identification of each current rule and regulation compliance with which the Commission specifically determines to be of particular significance to the protection of the public health and safety;

(2) a determination by the Commission of the extent to which each operating facility complies with each rule and regulation identified under paragraph (2) of this subsection, including an indication of where such compliance was achieved by use of Division 1 regulatory

guides and staff technical positions and where compliance was achieved by equivalent means;

(3) a list of the generic safety issues set forth in NUREG 0410 (including categories A, B, C, and D) for which technical solutions have been developed;

(4) a determination by the Commission of which technical solutions for generic safety issues identified in paragraph (3) of this subsection should be incorporated into the Commission's rules and regulations; and

(5) a schedule for developing a technical solution to those generic safety issues listed in NUREG 0410 which have not yet been technically resolved.

(c) Not later than 90 days from the date of enactment of this Act, the Commission shall report to the Congress on the status of efforts to carry out subsection (a).

TITLE II–AMENDMENTS TO THE ATOMIC ENERGY ACT OF 1954

42 USC 2133.

Sec. 201. (a) Section 103 of the Atomic Energy Act of 1954 is amended by adding at the end thereof the following new subsection:

42 USC 2134.

f. Each license issued for a utilization facility under this section or section 104b. shall require as a condition thereof that in case of any accident which could result in an unplanned release of quantities of fission products in excess of allowable limits for normal operation established by the Commission, the licensee shall immediately so notify the Commission. Violation of the condition prescribed by this subsection may, in the

42 USC 2237.

Commission's discretion, constitute grounds for license revocation. In In accordance with section 187 of this Act, the Commission shall promptly amend each license for a utilization facility issued under this section or section 104b. which is in effect on the date of enactment of this subsection to include the provisions required under this subsection.

Sec. 202 (a) Chapter 18 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

42 USC 2283.

Sec. 235. Protection of Nuclear Inspectors.–

a. Whoever kills any person who performs any inspections which–

(1) are related to any activity or facility licensed by the Commission, and

42 USC 2133.
42 USC 2134.

(2) are carried out to satisfy requirements under this Act or under any other Federal law governing the safety of utilization facilities required to be licensed under section 103 or 104b., or the safety of radioactive materials, shall be punished as provided under section 1111 and 1112 of Title 18, United States Code. The preceding sentence shall be applicable only if such person is killed while engaged in the performance of such inspection duties or on account of the performance of such duties.

b. Whoever forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person who performs inspections as described under subsection a. of this section, while such person is engaged in such inspection duties or on account of the performance of such duties, shall be punished as provided under section 111 of Title 18, United States Code.

(b) The table of contents for Chapter 18 of the Atomic Energy Act of 1954 is amended by adding the following new item at the end thereof:

Sec. 235. Protection of nuclear inspectors.

42 USC 2273. **Sec. 203.** Section 223 of the Atomic Energy Act of 1954 is amended by striking out "Whoever" and substituting:

a. Whoever

and by adding at the end thereof the following:

b. Any individual director, officer, or employee of a firm constructing, or supplying the components of any utilization facility required to be licensed under section 103 or 104 b. of this Act who by act or omission, in connection with such construction or supply, knowingly and willfully violates or causes to be violated, any section of this Act, any rule, regulation, or order issued thereunder, or any license condition, which violation results, or if undetected could have resulted, in a significant impairment of a basic component of such a facility shall, upon conviction, be subject to a fine of not more than $25,000 for each day of violation, or to imprisonment not to exceed two years, or both. If the conviction is for a violation committed after a first conviction under this subsection, punishment shall be a fine of not more than $50,000 per day of violation, or imprisonment for not more than two years, or both. For the purposes of this subsection, the term `basic component' means a facility structure, system, component or part thereof necessary to assure–

Basic component.

(1) the integrity of the reactor coolant pressure boundary,

(2) the capability to shut-down the facility and maintain it in a safe shut-down condition, or

(3) the capability to prevent or mitigate the consequences of accidents which could result in an unplanned offsite release of quantities of fission products in excess of the limits established by the Commission.

42 USC 2133. 42 USC 2134. The provisions of this subsection shall be prominently posted at each site where a utilization facility required to be licensed under section 103 or 104b. of this Act is under construction and on the premises of each plant where components for such a facility are fabricated.

42 USC 2284. **Sec. 204.** (a) The Atomic Energy Act of 1954 is amended by adding the following new section after section 234:

Sec. 236. Sabotage of Nuclear Facilities or Fuel.–

Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to–

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

(2) any nuclear waste storage facility licensed under this Act,

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

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

(b) The table of contents for such Act is amended by inserting the following new item after the item relating to section 234:

42 USC 2021. Sec. 236. Sabotage of nuclear facilities or fuel.

Sec. 205. Section 274j. of the Atomic Energy Act of 1954 is amended by inserting "(1)" after "j." and by adding the following at the end thereof:

(2) The Commission, upon its own motion or upon request of the Governor of any State, may, after notifying the Governor, temporarily suspend all or part of its agreement with the State without notice or hearing if, in the judgment of the Commission:

(A) an emergency situation exists with respect to any material covered by such an agreement creating danger which requires immediate action to protect the health or safety of persons either within or outside the State, and

(B) the State has failed to take steps necessary to contain or eliminate the cause of the danger within a reasonable time after the situation arose.

A temporary suspension under this paragraph shall remain in effect only for such time as the emergency situation exists and shall authorize the Commission to exercise its authority only to the extent necessary to contain or eliminate the danger.

42 USC 2282.

Sec. 206. The first sentence of section 234a. of the Atomic Energy Act of 1954 is amended by striking all that follows "exceed" the first time it appears and inserting in lieu thereof the following: $100,000 for each such violation.

Sec. 207 (a)(1) The Atomic Energy Act of 1954 is amended by inserting the following new section immediately after section 146:

42 USC 2167.
Regulations.

Sec. 147. Safeguards Information.–

a. In addition to any other authority or requirement regarding protection from disclosure of information, and subject to subsection (b)(3) of section 552 of Title 5 of the United States Code, the Commission shall prescribe such regulations, after notice and opportunity for public comment, or issue such orders, as necessary to prohibit the unauthorized disclosure of safeguards information which specifically identifies a licensee's or applicant's detailed–

(1) control and accounting procedures or security measures (including security plans, procedures, and equipment) for the physical protection of special nuclear material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security;

(2) security measures (including security plans, procedures, and equipment) for the physical protection of source material or byproduct material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security; or

(3) security measures (including security plans, procedures, and equipment) for the physical protection of and the location of certain plant equipment vital to the safety of production or utilization facilities involving nuclear materials covered by paragraphs (1) and (2)

if the unauthorized disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility. The Commission shall exercise the authority of this subsection–

(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security, and

(B) upon a determination that the unauthorized disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility.

Nothing in this Act shall authorize the Commission to prohibit the public disclosure of information pertaining to the routes and quantities of shipments of source material, by-product material, high-level nuclear waste, or irradiated nuclear reactor fuel. Any person, whether or not a licensee of the Commission, who violates any regulation adopted under this section shall be subject to the civil monetary penalties of section 234 of this Act. Nothing in this section shall be construed to authorize the withholding of information from the duly authorized committees of the Congress.

42 USC 2282.

42 USC 2273.

b. For the purposes of section 223 of this Act, any regulations or orders prescribed or issued by the Commission under this section shall also be deemed to be prescribed or issued under section 161b. of this Act.

c. Any determination by the Commission concerning the applicability of this section shall be subject to judicial review pursuant to sub-section (a)(4)(B) of section 552 of Title 5 of the United States Code.

d. Upon prescribing or issuing any regulation or order under subsection a. of this section, the Commission shall submit to Congress a report that:

(1) specifically identifies the type of information the Commission intends to protect from disclosure under the regulation or order;

(2) specifically states the Commission's justification for determining that unauthorized disclosure of the information to be protected from disclosure under the regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility, as specified under subsection (a) of this section; and

(3) provides justification, including proposed alternative regulations or orders, that the regulation or order applies only the minimum restrictions needed to protect the health and safety of the public or the common defense and security.

e. In addition to the reports required under subsection d. of this section, the Commission shall submit to Congress on a quarterly basis a report detailing the Commission's application during that period of every regulation or order prescribed or issued under this section. In particular, the report shall:

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

(2) specifically state the Commission's justification for determining that unauthorized disclosure of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion or sabotage of such material or such facility, as specified under subsection a. of this section; and

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

(2) The table of contents for such Act is amended by inserting the following new item after the item relating to section 146:

"Sec. 147. Safeguards Information."

42 USC 2231.

(b) Section 181 of the Atomic Energy Act of 1954 is amended–

(1) by striking out "or defense information" the first time it appears and substituting ", defense information, or safeguards information protected from disclosure under the authority of section 147"; and

(2) by striking out "or defense information" in each other place it appears in such section and substituting ", defense information, or such safeguards information,".

TITLE III– OTHER PROVISIONS

42 USC 5841 note. Regulations. State.

Sec. 301. (a) The Nuclear Regulatory Commission, within 90 days of enactment of this Act, shall promulgate regulations providing for timely notification to the Governor of any State prior to the transport of nuclear waste, including spent nuclear fuel, to, through, or across the boundaries of such State. Such notification requirement shall not apply to nuclear waste in such quantities and of such types as the Commission specifically determines do not pose a potentially significant hazard to the health and safety of the public.

(b) As used in this section, the term "State" includes the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

42 USC 2016 note. Contract authorization. Report.

Sec. 302. The Nuclear Regulatory Commission is authorized and directed to enter into a contract for an independent review of the Commission's management structure, processes, procedures, and operations. The review shall include an assessment of the effectiveness of all levels of agency management in carrying out the Commission's statutory responsibilities, in developing and implementing policies and programs, and in using the personnel and funding available to it. The contract shall provide for submission of a report of the findings and recommendations of the review to the Commission not later than one year from the date of enactment of this Act, and the Commission shall promptly transmit such report to the Congress.

42 USC 2016.

Sec. 303. The Nuclear Regulatory Commission shall include in its annual report to Congress under section 251 of the Atomic Energy Act of 1954 a statement of–

(1) the direct and indirect costs to the Commission for the issuance of any license or permit and for the inspection of any facility; and

(2) the fees paid to the Commission for the issuance of any license or permit and for the inspection of any facility.

National Contingency Plan, publication.

Sec. 304. On or before September 30, 1980, the President shall prepare and publish a National Contingency Plan to provide for expeditious, efficient, and coordinated action by appropriate Federal agencies to protect the public health and safety in the case of accidents at

any utilization facility licensed under section 103 or 104b. of the Atomic Energy Act of 1954.

42 USC 2133.
42 USC 2134.
42 USC 5842 note.

Sec. 305. (a) As expeditiously as practicable, the Nuclear Regulatory Commission shall establish a mechanism for instantaneous and uninterrupted verbal communication between each utilization facility licensed to operate under section 103 or 104b. of the Atomic Energy Act of 1954 on the date of enactment of this Act, or thereafter, and

(1) Commission headquarters, and

(2) the appropriate Commission regional office.

Study, transmittal to Congress.

(b) Within ninety days after the date of the enactment of this Act, the Commission shall prepare and transmit to the Congress a study of alternate plans for instantaneous and otherwise timely transmission to the Commission of data indicating the status of principal system parameters at utilization facilities licensed to operate under section 103 or section 104 b. of the Atomic Energy Act of 1954. For each alternative, the study shall present procedures for transmitting and analyzing such data and a Commission statement regarding the advantages, disadvantages and desirability.

Investigation and study.

Sec. 306. (a) The Nuclear Regulatory Commission is authorized and directed to undertake a comprehensive investigation and study of the impediments to expeditious and reliable communication among Commission headquarters, the Commission regional office, Commission representatives at the facility site, senior management officials and operator personnel of the licensee, and the Governor of Pennsylvania and other State officials, in the thirty day period immediately following the accident of March 28, 1979, at unit two of the Three Mile Island Nuclear Station in Pennsylvania. Such investigation and study shall include, but not be limited to, a determination of the need for improved communications procedures and the need for advanced communications technology.

Plan, development.
Report to Congress.

(b) The Commission shall report to the Congress by September 30, 1980, on the findings of the investigation and study required by subsection (a), including recommendations on administrative or legislative measures necessary to facilitate expeditious and reliable communications in case of an accident which could result in an unplanned release of quantities of fission products in excess of the allowable limits for normal operation established by the Commission at a utilization facility licensed under section 103 or 104b. of the Atomic Energy Act of 1954.

42 USC 2133.
42 USC 2134.

The Commission shall implement, as soon as practicable, each such recommendation not requiring legislative enactment, and shall incorporate the recommendation in the plan for agency response promulgated pursuant to section 304 of this Act.

42 USC 2137 note.
42 USC 2137.

Sec. 307. (a) The Commission is authorized and directed to prepare a plan for improving the technical capability of licensee personnel to safely operate utilization facilities licensed under section 103 or 104 b. of the Atomic Energy Act of 1954. In proposing such plan, the Commission shall consider the feasibility of requiring standard mandatory training programs for nuclear facility operators, including classroom study, apprenticeships at the facility, and emergency simulator training. Such plan shall include specific criteria for more intensive training and retraining of operator personnel licensed under section 107 of the Atomic Energy Act of 1954, and for the licensing of such personnel, to assure–

(1) conformity with all conditions and requirements of the operating license;

(2) early identification of accidents, events, or event sequences which may significantly increase the likelihood of an accident; and

(3) effective response to any such event or sequence. Such plan shall include provision for Commission review and approval of the qualifications of personnel conducting any required training and retraining program. The plan shall also include requirements for the renewal of operator licenses including, to the extent practicable, requirements that the operator–

(A) has been actively and extensively engaged in the duties listed in such license,

(B) has discharged such duties safely to the satisfaction of the Commission,

(C) is capable of continuing such duties, and

(D) has participated in a requalification training program.

Plan, transmittal to Congress.

Such plan shall include criteria for suspending or revoking operator licenses. In addition, the Commission shall also consider the feasibility of requiring such licensed operator to pass a requalification test every six months including–

(i) written questions, and

(ii) emergency simulator exams.

The Commission shall transmit to the Congress the plan required by this subsection within six months after the date of the enactment o this Act, and shall implement as expeditiously as practicable each element thereof not requiring legislative enactment.

42 USC 2137.

(b) The Nuclear Regulatory Commission is authorized and directed to undertake a study of the feasibility and value of licensing, under section 107 of the Atomic Energy Act of 1954, plant managers of utilization facilities and senior licensee officers responsible for operation of such facilities. The Commission shall report to the Congress within six months of the date of enactment of this Act on the findings and recommendations of the study required by this subsection, and shall expeditiously implement each such recommendation not requiring legislative enactment.

Report to Congress. Study.

42 USC 2051 note.

Sec. 308. (a) In the conduct of the study required by section 5(d) of the Nuclear Regulatory Commission Authorization Act for Fiscal Year 1979 (Public Law 95-601), the Nuclear Regulatory Commission and the Environmental Protection Agency, in consultation with the Secretary of Health and Human Services, shall evaluate the feasibility of epidemiological research on the health effects of low-level ionizing radiation exposure to licensee, contractor, and subcontractor employees as a result of–

(1) the accident of March 28, 1979, at unit two of the Three Mile Island Nuclear Station in Pennsylvania;

(2) efforts to stabilize such facility or reduce or prevent radioactive unplanned offsite releases in excess of allowable limits for normal operation established by the Commission; or

(3) efforts to decontaminate, decommission, or repair such facility.

The report required by such section 5(d) shall include the results of the evaluation required under this subsection.

42 USC 2051 note.

(b) Section 5(d) of the Nuclear Regulatory Commission Authorization Act for Fiscal Year 1979 (Public Law 95-601), is amended by striking "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

Approved June 30, 1980

NRC AUTHORIZATION ACT FOR FISCAL YEAR 1979

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NRC AUTHORIZATION ACT FOR FISCAL YEAR 1979

November 6, 1978

An Act

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

Nuclear Regulatory Commission.

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

Appropriation authorization, 1978.

Sec. 1. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954, as amended (42 USC 2017), and section 305 of the Energy Reorganization Act of 1974, as amended (42 USC 5875), for the fiscal year 1979, to remain available until expended $333,007,000. Of such total amount authorized to be appropriated:

(1) Not more than $47,162,000 may be used for "Nuclear Reactor Regulation"; of the total amount appropriated for this purpose, $2,080,000 shall be available for Advanced Reactors;

(2) Not more than $38,760,000 may be used for "Inspection and Enforcement";

(3) Not more than $14,945,000 may be used for "Standards Development"; of the total amount appropriated for this purpose, $650,000 shall be available for Low-Level Radiation activities, including those described in section 5 of this Act;

(4) Not more than $27,240,000 may be used for "Nuclear Material Safety and Safeguards"; of the total amount appropriated for this purpose, $8,127,000 shall be available for Nuclear Waste Disposal and Management activities;

42 USC 5845.

(5) Not more than $163,470,000 may be used for "Nuclear Regulatory Research"; of the total amount appropriated for this purpose, $1,500,000 shall be available for the implementation of the Improved Safety Systems Research plan required by section 205(f) of the Energy Reorganization Act of 1974, as amended, $4,448,000 shall be available for Nuclear Waste research activities, and $18,333,000 shall be available for Advanced Reactor Research, including an authorization of $3,900,000 to accelerate the effort in gas-cooled thermal reactor safety research.

(6) Not more than $13,480,000 may be used for "Program Technical Support";

(7) Not more than $27,950,000 may be used for "Program Direction and Administration"; of the total amount appropriated for this purpose, $225,000 shall be available for equal employment opportunity activities, including support of four positions in the Office of Equal Employment Opportunity.

Safeguard research contracts, limitation.

(b)(1) Not more than $14,285,000 of the aggregate amount authorized to be appropriated under paragraphs (1) through (7) of subsection (a)

may be used for contracts encompassing research, studies, and technical assistance on domestic safeguards matters.

(2) Of the aggregate amount authorized to be appropriated under paragraphs (1) through (7) of subsection (a), $1,000,000 shall be available for studies and analysis of alternative fuel cycles (including studies and analysis relating to licensing and safety, safeguards, and environmental aspects).

(c)(1) No amount appropriated pursuant to subsection (a) for purposes of subparagraphs (1) through (7) of such subsection, may be used for any function of the Commission in excess of the amount expressly authorized to be appropriated for functions referred to in such paragraphs, if such excess amount is in excess of $500,000, nor may the amount available from any appropriation for any function referred to in subparagraphs be reduced by more than $500,000 unless

(i) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die) has passed after the receipt by the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate of notice given by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or

(ii) each such committee before the expiration of such period has transmitted to the Commission, written notice stating in substance that such committee has no objection to the proposed action.

(2) Of the amounts authorized to be appropriated for the purposes set forth in paragraphs (1) through (7) of subsection (a) of this section, the amounts available for Advanced Reactors, Low-Level Radiation, Nuclear Waste Disposal and Management, Improved Safety Systems, Research, and Nuclear Waste Research, or that specified in subsection (b)(2) of this section for Alternative Fuel Cycle activities shall not be reprogrammed, unless–

(i) a period of ninety calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die) has passed after the receipt by the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce of the House of representatives and the Committee on Environment and Public Works of the Senate of notice given by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or

(ii) each such committee before the expiration of such period has transmitted to the Commission, written notice stating in substance that such committee has no objection to the proposed action.

Safeguard research contracts, limitation.

(d) No amount authorized to be appropriated by this Act may be used by the Commission to enter into any contract, providing funds in excess of $20,000 encompassing research, study, or technical assistance on domestic safeguards matters except as directed by the Commission, by majority vote, following receipt by the Commission of a recommendation from the Executive Director for Operations supporting the need for such contract.

Sec. 2. Moneys received by the Commission for the cooperative nuclear 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 USC 484), and shall remain available until expended.

Funds, transfers.

Sec. 3. Transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

42 USC 5849.

Sec. 4. (a) Subsection (b) of section 209 of the Energy Reorganization Act of 1974, as amended, is amended by adding at the end thereof the following sentence: "Notwithstanding the preceding sentence, each such director shall keep the Executive Director fully and currently informed concerning the content of all such direct communications with the Commission."

Equal employment opportunity, report.

(b) Section 209 of the Energy Reorganization Act of 1974, as amended, is amended by adding a new subsection (c) to read as follows and redesignating existing subsection (c) accordingly:

(c) The Executive Director shall report to the Commission at semi-annual public meetings on the problems, progress, and status of the Commission's equal employment opportunity efforts."

42 USC 2051 note.

Radiation, health effects studies, consultation.

Sec. 5. (a) The Commission and the Environmental Protection Agency in consultation with the Secretary of Health, Education, and Welfare, are authorized and directed to conduct preliminary planning and design studies for epidemiological research on the health effects of low-level ionizing radiation. In the conduct of such studies, the Commission and the Environmental Protection Agency shall consult with appropriate scientific organizations and Federal and State agencies.

Memorandum, submittal to Congress.

(b) Within thirty days after the date of enactment of this section, the Commission and the Environmental Protection Agency shall submit to the Congress a memorandum of understanding to delineate their responsibilities in the conduct of the planning studies authorized by subsection (a) of this section.

Reports to Congress, consultations.

(c) On or before April 1, 1979, the Commission and the Environmental Protection Agency shall submit a report to the Congress containing an assessment of the capabilities and research needs of such agencies in the area of health effects of low-level ionizing radiation.

(d) On or before September 30, 1979, the Commission and the Environmental Protection Agency, in consultation with the Secretary of Health, Education, and Welfare, shall submit a report to the Congress which includes a study of options for Federal epidemiological research on the health effects of low-level ionizing radiations, with evaluations of the feasibility of such options. Such report shall be consistent with the findings of the assessment required by subsection (c) of this section.

(e) In carrying out the activities specified in subsections (c) and (d) such agencies shall:

Cooperation. (i) cooperate with appropriate scientific organizations and agencies involved in related research, and

Copies. (ii) furnish copies of the reports required by those subsections to the organizations and agencies referred to in subsection (e)(i).

Annual status report. **Sec. 6.** Section 209 of the Energy Reorganization Act of 1974 is amended by adding the following new subsection at the end thereof:

(d) The Executive Director shall prepare and forward to the Commission an annual report (for the fiscal year 1978 and each succeeding fiscal year) on the status of the Commission's programs concerning domestic safeguards matters including an assessment of the effectiveness and adequacy of safeguards at facilities and activities licensed by the Commission. The Commission shall forward to the Report to Congress. Congress a report under this section prior to February 1, 1979, as a separate document, and prior to February 1 of each succeeding year as a separate chapter of the Commission's annual report (required under section 307(c) of the Energy Reorganization Act of 1974) following the fiscal year to which such report applies.

42 USC 5841 note. **Sec. 7.** The Commission is authorized and directed to undertake a Review. comprehensive review of the existing process for selection and training of members of the Atomic Safety and Licensing Boards, including, but not limited to, the selection criteria, including qualifications, the selection Report to Congress. procedures, and the training programs for Board members. The Commission shall report to the Congress on the findings of such review by January 1, 1979, and shall revise such selection and training process as appropriate, based on such findings.

42 USC 2210a. **Sec. 8** (a) Chapter 14 of the Atomic Energy Act of 1954 is amended Disclosure rules. by adding the following new section at the end thereof:

Sec. 170A. Conflicts of Interest Relating to Contracts and Other Arrangements.–

a. The Commission shall, by rule, require any person proposing to enter into a contract, agreement, or other arrangement, whether by competitive bid or negotiation, under this Act or any other law administered by it for the conduct of research, development, evaluation activities, or for technical and management support services, to provide the Commission, prior to entering into any such contract, agreement, or arrangement, with all relevant information, as determined by the Commission, bearing on whether that person has a possible conflict of interest with respect to–

(1) being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons, or

(2) being given an unfair competitive advantage. Such person shall insure, in accordance with regulations prescribed by the Commission, compliance with this section by any subcontractor (other than a supply subcontractor) of such person in the case of any subcontract for more than $10,000.

b. The Commission shall not enter into any such contract agreement or arrangement unless it finds, after evaluating all

information provided under subsection a. and any other information otherwise available to the Commission that–

(1) it is unlikely that a conflict of interest would exist, or

(2) such conflict has been avoided after appropriate conditions have been included in such contract, agreement, or arrangement; except that if the Commission determines that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Commission may enter into such contract, agreement, or arrangement, if the Commission determines that it is in the best interests of the United States to do so and includes appropriate conditions in such contract, agreement, or arrangement to mitigate such conflict.

Publication.

c. The Commission shall publish rules for the implementation of this section, in accordance with section 553 of Title 5, United States Code (without regard to subsection (a)(2) thereof) as soon as practicable after the date of the enactment of this section, but in no event later than 120 days after such date.

(b) The table of contents for such Chapter 14 is amended by adding the following new item at the end thereof:

Sec. 170A. Conflicts of interest relating to contracts and other arrangements.

42 USC 2153 note. Monitoring and assistance, reports to Congress.

Sec. 9. The Commission shall monitor and assist, as requested, the International Fuel Cycle Evaluation and the studies and evaluations of the various nuclear fuel cycle systems by the Department of Energy in progress as of the date of enactment, and report to the Congress semiannually through calendar year 1980 and annually through calendar year 1982 on the status of domestic and international evaluations of nuclear fuel cycle systems. This report shall include, but not be limited to, a summary of the information developed by and available to the Commission on the health, safety and safeguards implications of the leading fuel cycle technologies.

Sec. 10. Title II of the Energy Reorganization Act of 1974, as amended, is amended by adding at the end thereof a new section to read as follows:

EMPLOYEE PROTECTION

42 USC 5851.

Sec. 210. (a) No employer, including a Commission licensee, an applicant for a Commission license, or a contractor or a subcontractor of a Commission licensee or applicant, may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)–

42 USC 2011 note.

(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act or the Atomic Energy Act of 1954, as amended, or a proceeding for the administration or enforcement of any requirement imposed under this act or the Atomic Energy Act of 1954, as amended;

(2) testified or is about to testify in any such proceeding or;

(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other manner in such a

proceeding or in any other action to carry out the purposes of this Act or the Atomic Energy Act of 1954, as amended.

Complaint, filing and notification.

(b)(1) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, within thirty days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the `Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint and the Commission.

Investigation and notification.

(2)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within thirty days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph.

Order.

Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint.

Notice and hearing. Settlement.

An order of the Secretary shall be made on the record after notice and opportunity for public hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

Relief.

(B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, and the Secretary may order such person to provide compensatory damages to the complainant. If an order is issued under this paragraph, the Secretary, at the request of the complainant shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

Review.

(c)(1) Any person adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order.

5 USC 701 *et seq.*

Review shall conform to Chapter 7 of Title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order. (2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any criminal or other civil proceeding.

Jurisdiction.

(d) Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including, but not limited to, injunctive relief, compensatory, and exemplary damages.

(e)(1) Any person on whose, behalf an order was issued under paragraph (2) of subsection (b) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

Litigative costs.

(2) The court, in issuing any final order under 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.

(f) Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of Title 28 of the United States Code.

(g) Subsection (a) shall not apply with respect to any employee who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirements of this Act or of the Atomic Energy Act of 1954, as amended.

42 USC 2011 note.
42 USC 2205a.
Report to Congress.

Sec. 11. The Commission shall report to the Congress on January 1, 1979, and annually thereafter on the use of contractors, consultants, and the National Laboratories by the Commission. Such report shall include, for each contract issued, in progress or completed during fiscal year 1978, information on the bidding procedure, nature of the work, amount and duration of the contract, progress of work, relation to previous contracts, and the relation between the amount of the contract and the amount actually spent.

42 USC 5842 note.
Authority extension, study.

Sec. 12. (a) The Commission, in cooperation with the Department of Energy, is authorized and directed to conduct a study of extending the Commission's licensing or regulatory authority to include categories of existing and future Federal radioactive waste storage and disposal activities not presently subject to such authority.

Cooperation.

(b) Each Federal agency, subject to the provisions of existing law, shall cooperate with the Commission in the conduct of the study. Such cooperation shall include providing access to existing facilities and sites and providing any information needed to conduct the study which the agency may have or be reasonably able to acquire.

Report to Congress.

(c) On or before March 1, 1979, the Commission shall submit a report to the Congress containing the results of the study, the Report shall include a complete listing and inventory of all radioactive waste storage and disposal activities now being conducted or planned by Federal agencies.

Sec. 13. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

42 USC 2021a. Waste storage or disposal facility planning, notification.

Sec. 14. (a) Any person, agency, or other entity proposing to develop a storage or disposal facility, including a test disposal facility, for high-level radioactive wastes, non-high-level radioactive wastes including transuranium contaminated wastes, or irradiated nuclear reactor fuel, shall notify the Commission as early as possible after the commencement of planning for a particular proposed facility. The Commission shall in turn notify the Governor and the State legislature of the State of proposed sites whenever the Commission has knowledge of such proposal.

State participation, report.

(b) The Commission is authorized and directed to prepare a report on means for improving the opportunities for State participation in the process for siting, licensing, and developing nuclear waste storage or disposal facilities. Such report shall include detailed consideration of a program to provide grants through the Commission to any State, and the advisability of such a program, for the purpose of conducting an independent State review of any proposal to develop a nuclear waste storage or disposal facility identified in subsection (a) within such State. On or before March 1, 1979, the Commission shall submit the report to the Congress including recommendations for improving the opportunities for State participation together with any necessary legislative proposals.

Submittal with legislative recommendations to Congress

Approved November 6, 1978.

NRC AUTHORIZATION ACT FOR FISCAL YEAR 1978

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NRC AUTHORIZATION ACT FOR FISCAL YEAR 1978

Public Law 95-209 **91 Stat. 1481.**

December 13, 1977

An Act

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

Nuclear Regulatory Commission. Appropriation authorization, 1978.

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

Sec. 1. AUTHORIZATION

(a) There is authorized to be appropriated to the Nuclear Regulatory Commission (hereafter in this act referred to as the "Commission") to carry out its functions and authorities under the Atomic Energy Act of 1954 (42 USC 2017) and the Energy Reorganization Act of 1974 (42 USC 5875) for the fiscal year 1978 to remain available until expended $297,740,000 to be allocated as follows:

(1) For "Nuclear Reactor Regulation", not more than $41,480,000;

(2) For "Standards Development", not more than $12,130,000;

(3) For "Inspection and Enforcement", not more than $33,050,000;

(4) For "Nuclear Materials Safety and Safeguards", not more than $22,090,000;

(5) For "Nuclear Regulatory Research", $148,900,000;

(6) For "Program Technical Support", 10,180,000; of which an amount not to exceed $600,000 is authorized for a fellowship program pursuant to section 5 of this Act.

(7) For "Program Direction and Administration", not more than $29,910,000.

Reallocation.

(b) Of the total amount authorized under section 1(a), the Commissioners may, by majority vote, reallocate among program activities specified in subsection (a) or pursuant to the authority granted in subsection (d) an amount not exceeding $10,000,000 except that the amount transferred from any of the major program activities specified in subsection (a) shall not exceed 15 per centum of the amount so specified. Prior to any reallocation of an amount in accordance with the provisions of this subsection, where such amount is in excess of $500,000, the Commission shall inform the appropriate congressional committees. Such reallocation may be made notwithstanding the limitations of subsection (a).

Safeguard research contract statement publication.

(c) No amount authorized to be appropriated for contracts for research, studies, and technical assistance on domestic safeguard matters under subsection (a) including any amount reallocated under subsection (b) may be used for such contracts and no amount authorized to be appropriated under this subsection may be used by the Office of Nuclear Regulatory Research for such contracts until a statement supporting the need for such research, study, or technical assistance has been prepared and published by the Commission.

(d) No amount authorized to be appropriated for contracts for regulatory research related to advanced reactor safety under this Act may

be used for such contracts except as directed by the Commission, following consideration by the Commission of any recommendation that may be made by the ACRS regarding the proposed research.

(e) In the event that the license application is withdrawn or funding for the continuation of the Clinch River Breeder Reactor project is not authorized or appropriated, the total authorization in subsection (a) shall be reduced by $2,700,000.

(f) In the event that further construction of the facility at Barnwell, South Carolina, for the purpose of providing plutonium to be used as fuel is canceled or deferred, the total authorization in subsection (a) shall be reduced by $2,100,000.

Sec. 2. COMMISSION PERSONNEL

Quarterly report to Congress.

Section 201 of Title II of the Energy Reorganization Act of 1974 is amended by adding the following new subsection at the end thereof:

42 USC 5841.

(h) The Commission shall prepare and submit to the Congress a quarterly report which documents, for grades GS-11 or above:

(1) the number of minority and women candidates hired, by grade level;

(2) the number of minority and women employees promoted, by grade level;

(3) the procedures followed by the Commission in preparing job descriptions, informing potential applicants, and selecting from candidates the persons to be employed in positions at grade GS-11 or above; and

(4) other steps taken to meet provisions of the Equal Employment Act.

42 USC 2000e.

The first quarterly report shall be submitted to the Congress not later than January 31, 1978, and subsequent reports shall be submitted prior to the end of one calendar month after the end of each calendar quarter thereafter.

Sec. 3. UNRESOLVED SAFETY ISSUES

Title II of the Energy Reorganization Act of 1974, is amended by adding the following new section at the end thereof:

UNRESOLVED SAFETY ISSUES PLAN

42 USC 5850.

Sec. 210. The Commission shall develop a plan providing for the specification and analysis of unresolved safety issues relating to nuclear reactors and shall take such action as may be necessary to implement corrective measures with respect to such issues. Such plan shall be submitted to the Congress on or before January 1, 1978 and progress reports shall be included in the annual report of the Commission thereafter.

Submittal to Congress.
Progress reports.

Sec. 4. IMPROVED SAFETY SYSTEMS RESEARCH

42 USC 5845.

(a) Section 205 of the Energy Reorganization Act of 1974 is amended by adding the following new subsection at the end thereof:

Long-term plan development.

(f) The Commission shall develop a long-term plan for projects for the development of new or improved safety systems for nuclear power plants.

Sec. 5. REACTOR SAFETY RESEARCH STUDY

42 USC 2039.
Annual report to Congress.

Section 29 of the Atomic Energy Act of 1954 is amended by adding the following at the end thereof: In addition to its other duties under this section, the committee, making use of all available sources, shall undertake a study of reactor safety research and prepare and submit

annually to the Congress a report containing the results of such study. The first such report shall be submitted to the Congress not later than December 31, 1977.

Sec. 6. ACRS FELLOWSHIP PROGRAM

42 USC 2040. Establishment.

To assist the Advisory Committee on Reactor Safeguards in carrying out its function, the committee shall establish a fellowship program under which persons having appropriate engineering or scientific expertise are assigned particular tasks relating to the functions of the committee. Such fellowship shall be for 2-year periods and the recipients of such fellowships shall be selected pursuant to such criteria as may be established by the committee.

Sec. 7. ORGANIZATIONAL CONFLICTS OF INTEREST

42 USC 2201 note. Guidelines.

The Commission shall by December 31, 1977, promulgate guidelines to be applied by the Commission in determining whether an organization proposing to enter into a contractual arrangement with the Commission has a conflict of interest which might impair the contractor's judgment or otherwise give the contractor an unfair competitive advantage.

Sec. 8. COOPERATIVE RESEARCH FUNDING

Salaries and expenses.

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 USC 484), and shall remain available until expended. Funds may be obligated for purposes stated in this section only to the extent provided in appropriation Acts.

Sec. 9. TRANSFER OF FUNDS

Transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which transferred.

Sec. 10. APPROPRIATIONS

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

Approved December 13, 1977

NRC AUTHORIZATION ACT FOR FISCAL YEAR 1977

Public Law 94-291 90 Stat. 523

May 22, 1976

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.

Nuclear Regulatory Commission.

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

42 USC 2017. 42 USC 5875. Appropriation authorization.

Sec. 101. There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended; for salaries and expenses, $274,300,000 to remain available until expended.

Moneys for research programs, use.

Sec. 102. 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 USC 484), and shall remain available until expended. Funds may be obligated for purposes stated in this section only to the extent provided in appropriation Acts.

Transfer of sums.

Sec. 103. Transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

AMENDMENTS TO PRIOR YEAR ACT

89 Stat. 413.

Sec. 104. (a) Title I of Public Law 94-79 is amended by adding section 102 to read as follows: Moneys received by the Commission for the cooperative nuclear research program may be retained and used for salaries and expenses associated with that program, notwithstanding the provisions of section 3617 of the Revised Statutes (31 USC 484), and shall remain available until expended. Funds may be obligated for purposes stated in this section only to the extent provided in appropriation Acts.

(b) Section 101 of Public Law 94-79 is amended by adding the phase "and shall remain available until expended" after the words "September 30, 1976."

Approved May 22, 1976

NRC AUTHORIZATION ACT FOR FISCAL YEAR 1976

Public Law 94-79 89 Stat. 413

August 9, 1975

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, and for other purposes.

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

TITLE I

42 USC 2017. Appropriation authorization. Nuclear Regulatory Commission.

Sec. 101. There is authorized to be appropriated to the Nuclear Regulatory Commission to carry out the provisions of section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974: $222,935,000 for fiscal year 1976 and $52,750,000 for the period from July 1, 1976 through September 30, 1976 and shall remain available until expended.[1]

42 USC 5875.

Sec. 102. Moneys received by the Commission for the cooperative nuclear research program may be retained and used for salaries and expenses associated with that program, notwithstanding the provisions of section 3617 of the Revised Statutes (31 USC 484), and shall remain available until expended. Funds may be obligated for purposes stated in this section only to the extent provided in appropriations Acts.[2]

TITLE II

42 USC 5841.

Sec. 201. Section 201(a) of the Energy Reorganization Act of 1974 is amended

(1) by inserting "(l)" immediately after section 201(a); and

42 USC 5801 note. Commission chairman, functions.

(2) The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (a) the appointment and supervision of personnel employed under the commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman, and except as otherwise provided in the Energy Reorganization Act of 1974), (b) the distribution of business among such personnel and among administrative units of the Commission, and (c) the use and expenditure of funds.

(3) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

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[1]Public Law 94-291 (90 STAT. 523) (1976) section 104(b) amended section 101 by adding the phrase "and shall remain available until expended" after September 30, 1976.

[2]Public Law 94-291 (90 STAT. 523) (1976) section 104(a) added section 102.

(4) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(5) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

42 USC 5841 note. Plutonium shipments, restrictions.

The Nuclear Regulatory Commission shall not license any shipments by air transport of plutonium in any form, whether exports, imports or domestic shipments: *Provided, however,* That any plutonium in any form contained in a medical device designed for individual human application is not subject to this restriction. This restriction shall be in force until the Nuclear Regulatory Commission has certified to the Joint Committee on Atomic Energy of the Congress that a safe container has been developed and tested which will not rupture under crash and blast-testing equivalent to the crash and explosion of a high-flying aircraft.

42 USC 5841. Term of office.

Sec. 202. Subsection 201(c) of the Energy Reorganization Act of 1974 is amended by deleting the period at the end of the subsection and adding the following text: and except that 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.

Sec. 203. Section 201(c) is amended to include the following: For the purpose of determining the expiration date of the terms of office of the five members first appointed to the Nuclear Regulatory Commission, each such term shall be deemed to have begun July 1, 1975.[3]

Approved August 9, 1975

[3]Public Law 94-291 (90 STAT.523)(1976) section 104(a) added section 102.

NRC FISCAL YEAR 1975 SUPPLEMENTAL AUTHORIZATION ACT

Public Law 94-18 **89 Stat. 80**

April 25, 1975

An Act

To authorize supplemental appropriations to the Nuclear Regulatory Commission for fiscal year 1975.

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

42 USC 2017.
42 USC 5875.
Nuclear Regulatory Commission Appropriation Authorization.

That there is authorized to be appropriated to the Nuclear Regulatory Commission to carry out the provisions of section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, $50,200,000 for fiscal year 1975.

Approved April 25, 1975

AEC FISCAL YEAR 1975 SUPPLEMENTAL AUTHORIZATION ACT

Public Law 93-576 — 88 Stat. 1878

December 21, 1974

An Act

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.

Atomic Energy Commission. Appropriation increase.

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

Ante, p. 116.

That section 101(a) of Public Law 93-276 is hereby amended by striking therefrom the figure "$2,551,533,000" and substituting the figure "$2,580,733,000".

Sec. 2. Section 101(b) of Public Law 93-276 is hereby amended by striking from subsection (11) capital equipment the figure "$208,850,000" and substituting the figure "$224,900,000".

Safeguards program.

Sec. 3. From the increase of the sums authorized to be appropriated by this Act $23,000,000 shall be allotted to, and made available only for the Safeguards Program, with regard to the safeguarding of special nuclear materials from diversion from its intended uses, and for research and development of safeguards techniques and related activities involved in handling nuclear material.

Approved December 31, 1974

AEC AUTHORIZATION ACT FOR FISCAL YEAR 1975

Public Law 93-276 **77 Stat. 88**

May 10, 1974

An Act

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.

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

Appropriation authorization. Atomic Energy Commission. 42 USC 2017. **77 Stat. 88.**

Sec. 101. There is hereby authorized to be appropriated to the Atomic Energy Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954, as amended:

(a) For "Operating expenses", $2,580,733,000[4] not to exceed $132,200,000 in operating costs for the high energy physics program category.

88 Stat. 115. **88 Stat. 116.**

(b) For "Plant and capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following:

(1) NUCLEAR MATERIALS.–

Project 75-1a, additional facilities, high-level waste handling and storage, Savannah River, South Carolina, $30,000,000.

Project 75-1-b, replacement ventilation air filter, H chemical separations area, Savannah River, South Carolina, $6,000,000.

Project 75-1-c, new waste calcining facility, Idaho Chemical Processing Plant, National Reactor Testing Station, Idaho, $20,000,000.

Project 75-1-d, waste management effluent control, Richland, Washington, $3,500,000.

Project 75-1-e, retooling of component preparation laboratories, multiple sites, $4,500,000.

Project 75-1-f, atmospheric pollution control facilities, stoker fired boilers, Savannah River, South Carolina, $7,500,000.

(2) NUCLEAR MATERIALS.–

Project 75-2-a, additional cooling tower capacity, gaseous diffusion plant, Portsmouth, Ohio, $2,200,000.

(3) WEAPONS.–

Project 75-3-a, weapons production, development, and test installations, $10,000,000.

Project 75-3-b, high energy laser facility, Los Alamos Scientific Laboratory, New Mexico, $22,600,000.

Project 75-3-c, TRIDENT production facilities, various locations, $22,200,000.

[4]Public Law 93-576 (88 Stat. 1878) (1974), section 1, increased this figure from the previously authorized $2,551,533,000.

Project 75-3-d, consolidation of final assembly plants, Pantex, Amarillo, Texas, $4,500,000.

Project 75-3-e, addition to building 350 for safeguards analytical laboratory, Argonne National Laboratory, Illinois, $3,500,000.

(4) WEAPONS.–

Project 75-4-a, technical support relocation, Los Alamos Scientific Laboratory, New Mexico, $2,800,000.

(5) CIVILIAN REACTOR RESEARCH AND DEVELOPMENT.–

Project 75-5-a, transient test facility, Santa Susana, California, $4,000,000.

Project 75-5-b, advanced test reactor control system upgrading, National Reactor Testing Station, Idaho, $2,400,000.

Project 75-5-c, test reactor area water recycle and pollution control facilities, National Reactor Testing Station, Idaho, $1,000,000.

Project 75-5-d, modifications to reactors, $4,000,000.

Project 75-5-e, high temperature gas reactor fuel re-processing facility, National Reactor Testing Station, Idaho, $10,100,000.

Project 75-5-f, high temperature gas reactor fuel refabrication pilot plant, Oak Ridge National Laboratory, Tennessee, $3,000,000.

Project 75-5-g, molten salt breeder reactor (preliminary planning preparatory to possible future demonstration project), $1,500,000.

88 Stat. 116.
88 Stat. 117.

(6) PHYSICAL RESEARCH.–

Project 75-6-a, accelerator and reactor improvements and modifications, $3,000,000.

Project 75-6-b, heavy ion research facilities, various locations, $19,200,000.

Project 75-6-c, positron-electron joint project, Lawrence Berkeley Laboratory and Stanford Linear Accelerator Center, $900,000.

(7) BIOMEDICAL AND ENVIRONMENTAL RESEARCH AND SAFETY.–

Project 75-7-a, upgrading of laboratory facilities, Oak Ridge National Laboratory, Tennessee, $2,100,000.

Project 75-7-b, environmental research laboratory, Savannah River, South Carolina, $2,000,000.

Project 75-7-c, intermediate-level waste management facilities, Oak Ridge National Laboratory, Tennessee, $9,500,000.

Project 75-7-d, modifications and additions to biomedical and environmental research facilities, $2,850,000.

(8) BIOMEDICAL AND ENVIRONMENTAL RESEARCH AND SAFETY.–

Project 75-8-a, environmental sciences laboratory, Oak Ridge National Laboratory, Tennessee, $8,800,000.

(9) GENERAL PLANT PROJECTS.–$55,650,000.

(10) CONSTRUCTION PLANNING AND DESIGN.– $2,000,000.

(11) CAPITAL EQUIPMENT.–Acquisition and fabrication of capital equipment not related to construction, $224,900,000.[5]

(12) REACTOR SAFETY RESEARCH.–

Project 75-12-a, reactor safety facilities modifications, $1,000,000.

(13) APPLIED ENERGY TECHNOLOGY.–

Project 75-13-a, hydrothermal pilot plant, $1,000,000.

Sec. 102. Limitations.–(a) The Commission is authorized to start any project set forth in subsection 101(b)(1), (3), (5), (6), (7), (12), and (13) only if the currently estimated cost of that project does not exceed by more than 25 per centum the estimated cost set forth for that project.

(b) The Commission is authorized to start any project set forth in subsection 101(b) (2), (4), (8), and (10) only if the currently estimated cost of that project does not exceed by more than 10 per centum the estimated cost set forth for that project.

(c) The Commission is authorized to start any project under subsection 101(b)(9) only if it is in accordance with the following:

(1) The maximum currently estimated cost of any project shall be $500,000 and the maximum currently estimated cost of any building included in such project shall be $100,000: *Provided,* That the building cost limitation may be exceeded if the Commission determines that it is necessary in the interest of efficiency and economy.

(2) The total cost of all projects undertaken under subsection 101(b)(9) shall not exceed the estimated cost set forth in that subsection by more than 10 per centum.

42 USC 2017.
77 Stat. 88.

(d) The total cost of any project undertaken under subsection 101(b) (1), (3), (5), (6), (7), (12), and (13) shall not exceed the estimated cost set forth for that project by more than 25 per centum, unless and until additional appropriations are authorized under section 261 of the Atomic Energy Act of 1954, as amended, provided that this subsection will not apply to any project with an estimated cost less than $5,000,000.

42 USC 2017.
77 Stat. 88.
88 Stat. 118.

(e) The total cost of any project undertaken under subsection 101(b) (2), (4), (8), (9), and (10) shall not exceed the estimated cost set forth for that project by more than 10 per centum, unless and until additional appropriations are authorized under section 261 of the Atomic Energy Act of 1954, as amended, provided that this subsection will not apply to any project with an estimated cost less than $5,000,000.

Construction design services.

Sec. 103. The Commission is authorized to perform construction design services for any Commission construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Commission, and (2) the Commission determines that the project is of such urgency that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

69 Stat. 471.

Sec. 104. Any moneys received by the Commission (except sums received from the disposal of property under the Atomic Energy Community Act of 1955, as amended (42 USC 2301)), may be retained by the Commission and credited to its "Operating expenses" appropriation notwithstanding the provisions of section 3617 of the Revised Statutes (31 USC 484).

[5]Public Law 93-576 (88 Stat. 1878) (1978) (1974), section 2, increased this figure from the previously authorized $208,850,000.

Transfer of sums.

Sec. 105. Transfers of sums from the "Operating expenses" appropriation may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

Transfer of amounts.

Sec. 106. When so specified in an appropriation Act, transfers of amounts between "Operating expenses" and "Plant and capital equipment" may be made as provided in such appropriation Act.

80 Stat. 162.

Sec. 107. AMENDMENT OF PRIOR YEAR ACTS.–

81 Stat. 126.

(a) Section 101 of Public Law 89-428, as amended, if further amended by striking from subsection (b)(3) project 67-3-a, fast flux test facility, the figure "$87,500,000", and substituting therefor the figure "$420,000,000".

87 Stat. 145.

(b) Section 101 of Public Law 91-273, as amended, is further amended by striking from subsection (b)(1), project 71-1-f, process equipment modifications, gaseous diffusion plants, the figure "$172,100,000" and substituting therefor the figure "$295,100,000".

84 Stat. 300.
87 Stat. 145.

(c) Section 106 of Public Law 91-273, as amended, is further amended by striking from subsection (a) the figure "$2,000,000" and substituting therefor the figure "3,000,000", and by adding thereto the following new subsection (c):

(c) The Commission is hereby authorized to agree, by modification to the definitive cooperative arrangement reflecting such changes therein as it deems appropriate for such purpose, to the following:

31 USC 665.

(1) to execute and deliver to the other parties to the AEC definitive contract, the special undertaking of indemnification specified in said contract, which undertakings shall be subject to availability of appropriations to the Atomic Energy Commission (or any other Federal agency to which the Commission's pertinent functions might be transferred at some future time) and to the provisions of section 3679 of the Revised Statutes, as amended; and

(2) to acquire ownership and custody of the property constituting the Liquid Metal Fast Breeder Reactor power plant or parts thereof, and to use, decommission, and dispose of said property, as provided for in the AEC definitive contract.

86 Stat. 223.

(d) Section 101 of Public Law 92-314, as amended, is amended by striking from subsection (b)(4), project 73-4-b, land acquisition, Rocky Flats, Colorado, the figure "$8,000,000" and substituting therefor the figure "$11,400,000".

87 Stat. 143.
88 Stat. 119.

(e) Section 101 of Public Law 93-60 is amended by

(1) striking from subsection (b)(1), project 74-1-a, additional facilities, high level waste storage, Savannah River, South Carolina, the figure "$14,000,000" and substituting therefor the figure "$17,500,000",

(2) striking from subsection (b)(1), project 74-1-g, cascade uprating program, gaseous diffusion plants, the words "(partial AE and limited component procurement only)" and further striking the figure "$6,000,000" and substituting therefore the figure "$183,100,000", and

(3) striking from subsection (b)(2), project 74-2-d, national security and resources study center, the words "(AE only), site undesignated" and substituting therefor the words "Los Alamos Scientific Laboratory, New Mexico" and further striking the figure "$350,000" and substituting therefor the figure "$4,600,000".

83 Stat. 46.

Sec. 108. RESCISSION.–

86 Stat. 225.

(a) Public Law 91-44, as amended, is further amended by rescinding therefrom authorization for a project, except for funds heretofore obligated, as follows:

Project 70-1-b, bedrock waste storage (AE and site selection drilling only), Savannah River, South Carolina, $4,300,000.

85 Stat. 304.

(b) Public Law 92-84, as amended, is further amended by rescinding therefrom authorization for a project, except for funds heretofore obligated, as follows:

Project 72-3-b, national radioactive waste repository, site undetermined, $3,500,000.

86 Stat. 224.

(c) Public Law 92-314, as amended, is further amended by rescinding therefrom authorization for a project, except for funds heretofore obligated, as follows:

Project 73-6-c, accelerator improvements, Cambridge Electron Accelerator, Massachusetts, $75,000.

TITLE II

69 Stat. 947.
42 USC 2187.

Sec. 201. Section 157b.(3) of the Atomic Energy Act of 1954, as amended, is amended by striking out "upon the recommendation of" and inserting in lieu thereof "after consultation with".

Approved May 10, 1974

Public Law 93-158 **87 Stat. 627**

November 26, 1973

An Act

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.

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

That section 101(a) of Public Law 93-60 is hereby amended by striking therefrom the figure "$1,740,750,000" and substituting the figure "$1,751,450,000."

Sec. 2. Section 101(b) of Public Law 93-60 is hereby amended by adding to subsection (b)(1) the following words: Project 74-1-i, additional waste concentration and salt cake storage facilities, Richland, Washington, $30,000,000.

Approved November 26, 1973

A. CHIEF FINANCIAL OFFICERS ACT OF 1990

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B. REPORTS CONSOLIDATION ACT OF 2000

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A. CHIEF FINANCIAL OFFICERS ACT OF 1990

Public Law 101-576 **104 Stat. 2838**

Nov. 15, 1990

An Act

To amend Title 31, United States Code, to improve the general and financial management of the Federal Government.

Chief Financial Officers Act of 1990.

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

TITLE I–GENERAL PROVISIONS

Sec. 101. SHORT TITLE.

31 USC 501 note.

This Act may be cited as the "Chief Financial Officers Act of 1990."

Sec. 102. FINDINGS AND PURPOSES.

31 USC 501 note.

(a) FINDINGS.–The Congress finds the following:

(1) General management functions of the Office of Management and Budget need to be significantly enhanced to improve the efficiency and effectiveness of the Federal Government.

(2) Financial management functions of the Office of Management and Budget need to be significantly enhanced to provide overall direction and leadership in the development of a modern Federal financial management structure and associated systems.

(3) Billions of dollars are lost each year through fraud, waste, abuse, and mismanagement among the hundreds of programs in the Federal Government.

(4) These losses could he significantly decreased by improved management, including improved central coordination of internal controls and financial accounting.

(5) The Federal Government is in great need of fundamental reform in financial management requirements and practices as financial management systems are obsolete and inefficient, and do not provide complete, consistent, reliable, and timely information.

(6) Current financial reporting practices of the Federal Government do not accurately disclose the current and probable future cost of operating and investment decisions, including the future need for cash or other resources, do not permit adequate comparison of actual costs among executive agencies, and do not provide the timely information required for efficient management of programs.

(b) PURPOSES.–The purposes of this Act are the following:

(1) Bring more effective general and financial management practices to the Federal Government through statutory provisions which would establish in the office of Management and Budget a Deputy Director for Management, establish an Office of Federal Financial Management headed by a Controller, and designate a Chief Financial Officer in each executive department and in each major executive agency in the Federal Government.

(2) Provide for improvement, in each agency of the Federal Government, of systems of accounting, financial management, and

internal controls to assure the issuance of reliable financial information and to deter fraud, waste, and abuse of Government resources.

(3) Provide for the production of complete, reliable, timely, and consistent financial information for use by the executive branch of the Government and the Congress in the financing, management, and evaluation of Federal programs.

TITLE II–ESTABLISHMENT OF CHIEF FINANCIAL OFFICERS

Sec. 201. DEPUTY DIRECTOR FOR MANAGEMENT.

Section 502 of Title 31, United States Code, as amended by this Act, is amended–

(1) by redesignating subsections (c), (d), and (e), as amended by this section, as subsections (d), (e), and (f); and

(2) by inserting after subsection (b) the following:

(c) The Office has a Deputy Director for Management appointed by the President, by and with the advice and consent of the Senate. The Deputy Director for Management shall be the chief official responsible for financial management in the United States Government.

Sec. 202. FUNCTIONS OF DEPUTY DIRECTOR FOR MANAGEMENT.

(a) CLERICAL AMENDMENTS.–Sections 503 and 504 of Title 31, United States Code, are redesignated in order as sections 505 and 506, respectively.

(b) FUNCTIONS OF DEPUTY DIRECTOR FOR MANAGEMENT.–Subchapter I of Chapter 5 of Title 31, United States Code, is amended by inserting after section 502 the following:

§503. Functions of Deputy Director for Management

(a) Subject to the direction and approval of the Director, the Deputy Director for Management shall establish government-wide financial management policies for executive agencies and shall perform the following financial management functions:

(1) Perform all functions of the Director, including all functions delegated by the President to the Director, relating to financial management.

(2) Provide overall direction and leadership to the executive branch on financial management matters by establishing financial management policies and requirements, and by monitoring the establishment and operation of Federal Government financial management systems.

(3) Review agency budget requests for financial management systems and operations, and advise the Director on the resources required to develop and effectively operate and maintain Federal Government financial management systems and to correct major deficiencies in such systems.

(4) Review and, where appropriate, recommend to the Director changes to the budget and legislative proposals of agencies to ensure that they are in accordance with financial management plans of the Office of Management and Budget.

(5) Monitor the financial execution of the budget in relation to actual expenditures, including timely performance reports.

(6) Oversee, periodically review, and make recommendations to heads of agencies on the administrative structure of agencies with respect to their financial management activities.

(7) Develop and maintain qualification standards for agency Chief Financial Officers and for agency Deputy Chief Financial Officers appointed under sections 901 and 903, respectively.

(8) Provide advice to agency heads with respect to the selection of agency Chief Financial Officers and Deputy Chief Financial Officers.

(9) Provide advice to agencies regarding the qualifications, recruitment, performance, and retention of other financial management personnel.

(10) Assess the overall adequacy of the professional qualifications and capabilities of financial management staffs throughout the Government and make recommendations on ways to correct problems which impair the capacity of those staffs.

(11) Settle differences that arise among agencies regarding the implementation of financial management policies.

(12) Chair the Chief Financial Officers Council established by section 302 of the Chief Financial Officers Act of 1990.

(13) Communicate with the financial officers of State and local governments, and foster the exchange with those officers of information concerning financial management standards, techniques, and processes.

(14) Issue such other policies and directives as may he necessary to carry out this section, and perform any other function prescribed by the Director.

(b) Subject to the direction and approval of the Director, the Deputy Director for Management shall establish general management policies for executive agencies and perform the following general management functions:

(1) Coordinate and supervise the general management functions of the Office of Management and Budget.

(2) Perform all functions of the Director, including all functions delegated by the President to the Director, relating to–

(A) managerial systems, including the systematic measurement of performance;

(B) procurement policy;

(C) grant, cooperative agreement, and assistance management;

(D) information and statistical policy;

(E) property management;

(F) human resources management;

(G) regulatory affairs; and

(H) other management functions, including organizational studies, long-range planning, program evaluation, productivity improvement, and experimentation and demonstration programs.

(3) Provide complete, reliable, and timely information to the President, the Congress, and the public regarding the management activities of the executive branch.

(4) Facilitate actions by the Congress and the executive branch to improve the management of Federal Government operations and to remove impediments to effective administration.

(5) Provide leadership in management innovation, through

(A) experimentation, testing, and demonstration programs; and

(B) the adoption of modern management concepts and technologies.

(6) Work with State and local governments to improve and strengthen intergovernmental relations, and provide assistance to such governments with respect to intergovernmental programs and cooperative arrangements.

(7) Review and, where appropriate, recommend to the Director changes to the budget and legislative proposals of agencies to ensure that they respond to program evaluations by, and are in accordance with general management plans of, the Office of Management and Budget.

(8) Provide advice to agencies on the qualification, recruitment, performance, and retention of managerial personnel.

(9) perform any other functions prescribed by the Director.

Sec. 203. OFFICE OF FEDERAL FINANCIAL MANAGEMENT.

(a) ESTABLISHMENT.–Subchapter I of Chapter 5 of Title 31, United States Code, as amended by this Act, is amended by inserting after section 503 (as added by section 202 of this Act) the following:

§504. Office of Federal Financial Management

(a) There is established in the Office of Management and Budget an office to be known as the "Office of Federal Financial Management." The Office of Federal Financial Management, under the direction and control of the Deputy Director for Management of the Office of Management and Budget, shall carry out the financial management functions listed in section 503(a) of this Title.

(b) There shall be at the head of the Office of Federal Financial Management a Controller, who shall be appointed by the President, by and with the advice and consent of the Senate. The Controller shall be appointed from among individuals who possess–

(1) demonstrated ability and practical experience in accounting, financial management, and financial systems; and

(2) extensive practical experience in financial management in large governmental or business entities.

(c) The Controller of the Office of Federal Financial Management shall be the deputy and principal advisor to the Deputy Director for Management in the performance by the Deputy Director for Management of functions described in section 503(a).

(b) STATEMENT OF APPROPRIATIONS IN BUDGET.–Section 1105(a) of Title 31, United States Code, is amended by adding at the end the following:

(28) a separate statement of the amount of appropriations requested for the Office of Federal Financial Management.

(c) CLERICAL AMENDMENT.–The table of contents at the beginning of Chapter 5 of Title 31, United States Code, is amended by striking the items relating to sections 503 and 504 and inserting the following:

503. Functions of Deputy Director for Management.
504. Office of Federal Financial Management.
505. Office of Information and Regulatory Affairs.
506. Office of Federal Procurement Policy.

Sec. 204. DUTIES AND FUNCTIONS OF THE DEPARTMENT OF THE TREASURY.

31 USC 501 note.

Nothing in this Act shall be construed to interfere with the exercise of the functions, duties, and responsibilities of the Department of the Treasury, as in effect immediately before the enactment of this Act.

Sec. 205. AGENCY CHIEF FINANCIAL OFFICERS.

(a) IN GENERAL.–Subtitle I of Title 31, United States Code, is amended by adding at the end the following new chapter:

CHAPTER 9–AGENCY CHIEF FINANCIAL OFFICERS

§901. Establishment of agency Chief Financial Officers

31 USC 901

(a) There shall be within each agency described in subsection (b) an agency Chief Financial Officer. Each agency Chief Financial Officer shall–

(1) for those agencies described in subsection (b)(1)–

(A) be appointed by the President, by and with the advice and consent of the Senate; or

(B) be designated by the President, in consultation with the head of the agency, from among officials of the agency who are required by law to be so appointed;

(2) for those agencies described in subsection (b)(2)–

(A) be appointed by the head of the agency;

(B) be in the competitive service or the senior executive service; and

(C) be career appointees; and

(3) be appointed or designated, as applicable, from among individuals who possess demonstrated ability in general management of, and knowledge of and extensive practical experience in financial management practices in large governmental or business entities.

(b)(1) The agencies referred to in subsection (a)(1) are the following:

(A) The Department of Agriculture.
(B) The Department of Commerce.
(C) The Department of Defense.
(D) The Department of Education.
(E) The Department of Energy.
(F) The Department of Health and Human Services.
(G) The Department of Housing and Urban Development.
(H) The Department of the Interior.
(I) The Department of Justice.
(J) The Department of Labor.
(K) The Department of State.
(L) The Department of Transportation.
(M) The Department of the Treasury.
(N) The Department of Veterans Affairs.
(O) The Environmental Protection Agency.
(P) The National Aeronautics and Space Administration.

(2) The agencies referred to in subsection (a)(2) are the following:

(A) The Agency for International Development.
(B) The Federal Emergency Management Agency.
(C) The General Services Administration.
(D) The National Science Foundation.
(E) The Nuclear Regulatory Commission.
(F) The Office of Personnel Management.

(G) The Small Business Administration.

(H) The Social Security Administration.

(c)(1) There shall be within the Executive Office of the President a Chief Financial Officer, who shall be designated or appointed by the President from among individuals meeting the standards described in subsection (a)(3). The position of Chief Financial Officer established under this paragraph may be so established in any Office (including the Office of Administration) of the Executive Office of the President.

(2) The Chief Financial Officer designated or appointed under this subsection shall, to the extent that the President determines appropriate and in the interest of the United States, have the same authority and perform the same functions as apply in the case of a Chief Financial Officer of an agency described in subsection (b).

(3) The President shall submit to Congress notification with respect to any provision of section 902 that the President determines shall not apply to a Chief Financial Officer designated or appointed under this subsection.

(4) The President may designate an employee of the Executive Office of the President (other than the Chief Financial Officer), who shall be deemed "the head of the agency" for purposes of carrying out section 902, with respect to the Executive Office of the President.[1]

§902. Authority and functions of agency Chief Financial Officers

(a) An agency Chief Financial Officer shall–

(1) report directly to the head of the agency regarding financial management matters;

(2) oversee all financial management activities relating to the programs and operations of the agency;

(3) develop and maintain an integrated agency accounting and financial management system, including financial reporting and internal controls, which–

(A) complies with applicable accounting principles, standards, and requirements, and internal control standards;

(B) complies with such policies and requirements as may be prescribed by the Director of the Office of Management and Budget;

(C) complies with any other requirements applicable to such systems; and

(D) provides for–

(i) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of agency management;

(ii) the development and reporting of cost information;

(iii) the integration of accounting and budgeting information; and

(iv) the systematic measurement of performance;

(4) make recommendations to the head of the agency regarding the selection of the Deputy Chief Financial Officer of the agency;

(5) direct, manage, and provide policy guidance and oversight of agency financial management personnel, activities, and operations, including–

[1]Amended Public Law 103-296, section 108(j)(1), (108 Stat. 1488), Aug 15, 1994; Public Law 106-58, Title VI, section 638(a), (113 Stat. 475), September 29, 1999.

(A) the preparation and annual revision of an agency plan to–

(i) implement the 5-year financial management plan prepared by the Director of the Office of Management and Budget under section 3512(a)(3) of this Title; and

(ii) comply with the requirements established under section 3515 and subsections (e) and (f) of section 3521 of this Title;

(B) the development of agency financial management budgets;

(C) the recruitment, selection, and training of personnel to carry out agency financial management functions;

(D) the approval and management of agency financial management systems design or enhancement projects;

(E) the implementation of agency asset management systems, including systems for cash management, credit management, debt collection, and property and inventory management and control;

Reports.

(6) prepare and transmit, by not later than 60 days after the submission of the audit report required by section 3521(f) of this Title, an annual report to the agency head and the Director of the Office of Management and Budget, which shall include–

(A) a description and analysis of the status of financial management of the agency;

(B) the annual financial statements prepared under section 3515 of this Title;

(C) the audit report transmitted to the head of the agency under section 3521(f) of this Title;

(D) a summary of the reports on internal accounting and administrative control systems submitted to the President and the Congress under the amendments made by the Federal Managers' Financial Integrity Act of 1982 (Public Law 97-255); and

(E) other information the head of the agency considers appropriate to fully inform the President and the Congress concerning the financial management of the agency;

Reports.

(7) monitor the financial execution of the budget of the agency in relation to actual expenditures, and prepare and submit to the head of the agency timely performance reports; and

(8) review, on a biennial basis, the fees, royalties, rents, and other charges imposed by the agency for services and things of value it provides, and make recommendations on revising those charges to reflect costs incurred by it in providing those services and things of value.

(b)(1) In addition to the authority otherwise provided by this section, each agency Chief Financial Officer–

(A) subject to paragraph (2), shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which are the property of the agency or which are available to the agency, and which relate to programs and operations with respect to which that agency Chief Financial Officer has responsibilities under this section;

(B) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal, State, or local governmental entity; and

(C) to the extent and in such amounts as may be provided in advance by appropriations Acts, may–

(i) enter into contracts and other arrangements with public agencies and with private persons for the preparation of financial statements, studies, analyses, and other services; and

(ii) make such payments as may be necessary to carry out the provisions of this section.

(2) Except as provided in paragraph (1)(B), this subsection does not provide to an agency Chief Financial Officer any access greater than permitted under any other law to records, reports, audits, reviews, documents, papers, recommendations, or other material of any Office of Inspector General established under the Inspector General Act of 1978 (5 USC App.).

§903. Establishment of agency Deputy Chief Financial Officers

(a) There shall be within each agency described in section 901(b) an agency Deputy Chief Financial Officer, who shall report directly to the agency Chief Financial Officer on financial management matters. The position of agency Deputy Chief Financial Officer shall be a career reserved position in the Senior Executive Service.

(b) Consistent with qualification standards developed by, and in consultation with, the agency Chief Financial Officer and the Director of the Office of Management and Budget, the head of each agency shall appoint as Deputy Chief Financial Officer an individual with demonstrated ability and experience in accounting, budget execution, financial and management analysis, and systems development, and not less than 6 years practical experience in financial management at large governmental entities.

(b) CLERICAL AMENDMENT.–The table of chapters at the beginning of subtitle I of Title 31, United States Code, is amended by adding at the end the following:

"9. Agency Chief Financial Officers.....901."

31 USC 901 note.

(c) CHIEF FINANCIAL OFFICERS OF DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(1) DESIGNATION.–The Secretary of Veterans Affairs and the Secretary of Housing and Urban Development may each designate as the agency Chief Financial Officer of that department for purposes of section 901 of Title 31, United States Code, as amended by this section, the officer designated, respectively, under section 4(c) of the Department of Veterans Affairs Act (38 USC 201 note) and section 4(e) of the Department of Housing and Urban Development Act (42 USC 3533(e)), as in effect before the effective date of this Act.

(2) CONFORMING AMENDMENT.–Section 4(c) of the Department of Veterans Affairs Act (38 USC 201 note) and section 4(e) of the Department of Housing and Urban Development Act (42 USC 3533(e)), as added by section 121 of Public Law 101-235, are repealed.

Sec. 206. TRANSFER OF FUNCTIONS AND PERSONNEL OF AGENCY CHIEF FINANCIAL OFFICERS.

31 USC 901 note.

(a) AGENCY REVIEWS OF FINANCIAL MANAGEMENT ACTIVITIES.–Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall

require each agency listed in subsection (b) of section 901 of Title 31, United States Code, as amended by this Act, to conduct a review of its financial management activities for the purpose of consolidating its accounting, budgeting, and other financial management activities under the agency Chief Financial Officer appointed under subsection (a) of that section for the agency.

(b) REORGANIZATION PROPOSAL.–Not later than 120 days after the issuance of requirements under subsection (a) and subject to all laws vesting functions in particular officers and employees of the United States, the head of each agency shall submit to the Director of the Office of Management and Budget a proposal for reorganizing the agency for the purposes of this Act. Such proposal shall include–

(1) a description of all functions, powers, duties, personnel, property, or records which the agency Chief Financial Officer is proposed to have authority over, including those relating to functions that are not related to financial management activities; and

(2) a detailed outline of the administrative structure of the office of the agency Chief Financial Officer, including a description of the responsibility and authority of financial management personnel and resources in agencies or other subdivisions as appropriate to that agency.

(c) REVIEW AND APPROVAL OF PROPOSAL.–Not later than 60 days after receiving a proposal from the head of an agency under subsection (b), the Director of the Office of Management and Budget shall approve or disapprove the proposal and notify the head of the agency of that approval or disapproval. The Director shall approve each proposal which establishes an agency Chief Financial Officer in conformance with section 901 of Title 31, United States Code, as added by this Act, and which establishes a financial management structure reasonably tailored to the functions of the agency. Upon approving or disapproving a proposal of an agency under this section, the Director shall transmit to the head of the agency a written notice of that approval or disapproval.

(d) IMPLEMENTATION OF PROPOSAL.–Upon receiving written notice of approval of a proposal under this section from the Director of the Office of Management and Budget, the head of an agency shall implement that proposal.

Sec. 207. COMPENSATION.

(a) COMPENSATION, LEVEL II.–Section 5313 of Title 5, United States Code, is amended by adding at the end the following:

"Deputy Director for Management, Office of Management and Budget."

(b) COMPENSATION, LEVEL III.–Section 5314 of Title 5, United States Code, is amended by adding at the end the following:

"Controller, Office of Federal Financial Management, Office of Management and Budget."

(c) COMPENSATION, LEVEL IV.–Section 5315 of Title 5, United States Code, is amended by adding at the end the following:

Chief Financial Officer, Department of Agriculture.
Chief Financial Officer, Department of Commerce.
Chief Financial Officer, Department of Defense.
Chief Financial Officer, Department of Education.
Chief Financial Officer, Department of Energy.
Chief Financial Officer, Department of Health and Human Services.

Chief Financial Officer, Department of Housing and Urban Development.
Chief Financial Officer, Department of the Interior.
Chief Financial Officer, Department of Justice.
Chief Financial Officer, Department of Labor.
Chief Financial Officer, Department of State.
Chief Financial Officer, Department of Transportation.
Chief Financial Officer, Department of the Treasury.
Chief Financial Officer, Department of Veterans Affairs.
Chief Financial Officer, Environmental Protection Agency.
Chief Financial Officer, National Aeronautics and Space Administration.

TITLE III–ENHANCEMENT OF FEDERAL FINANCIAL MANAGEMENT ACTIVITIES

Sec. 301. FINANCIAL MANAGEMENT STATUS REPORT; 5-YEAR PLAN OF DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET.

(a) IN GENERAL.–Section 3512 of Title 31, United States Code, is amended by striking the heading thereof, redesignating subsections (a) through (f) in order as subsections (b) through (g), and by inserting before such subsection (b), as so redesignated, the following:

§3512. Executive agency accounting and other financial management reports and plans

(a)(1) The Director of the Office of Management and Budget shall prepare and submit to the appropriate committees of the Congress a financial management status report and a government-wide 5-year financial management plan.

(2) A financial management status report under this subsection shall include–

(A) a description and analysis of the status of financial management in the executive branch;

(B) a summary of the most recently completed financial statements–

(i) of Federal agencies under section 3515 of this Title; and

(ii) of Government corporations;

(C) a summary of the most recently completed financial statement audits and reports

(i) of Federal agencies under section 3521 (e) and (f) of this Title; and

(ii) of Government corporations;

(D) a summary of reports on internal accounting and administrative control systems submitted to the President and the Congress under the amendments made by the Federal Managers' Financial Integrity Act of 1982 (Public Law 97-255); and

(E) any other information the Director considers appropriate to fully inform the Congress regarding the financial management of the Federal Government.

(3)(A) A government-wide 5-year financial management plan under this subsection shall describe the activities the Director, the Deputy Director for Management, the Controller of the Office of Federal Financial Management, and agency Chief Financial Officers

shall conduct over the next 5 fiscal years to improve the financial management of the Federal Government.

(B) Each government-wide 5-year financial management plan prepared under this subsection shall–

(i) describe the existing financial management structure and any changes needed to establish an integrated financial management system;

(ii) be consistent with applicable accounting principles, standards, and requirements;

(iii) provide a strategy for developing and integrating individual agency accounting, financial information, and other financial management systems to ensure adequacy, consistency, and timeliness of financial information;

(iv) identify and make proposals to eliminate duplicative and unnecessary systems, including encouraging agencies to share systems which have sufficient capacity to perform the functions needed;

(v) identify projects to bring existing systems into compliance with the applicable standards and requirements;

(vi) contain milestones for equipment acquisitions and other actions necessary to implement the 5-year plan consistent with the requirements of this section;

(vii) identify financial management personnel needs and actions to ensure those needs are met;

(viii) include a plan for ensuring the annual audit of financial statements of executive agencies pursuant to section 3521(h) of this Title; and

(ix) estimate the costs of implementing the government-wide 5-year plan.

(4)(A) Not later than 15 months after the date of the enactment of this subsection, the Director of the Office of Management and Budget shall submit the first financial management status report and government-wide 5-year financial management plan under this subsection to the appropriate committees of the Congress.

(B)(i) Not later than January 31 of each year thereafter, the Director of the Office of Management and Budget shall submit to the appropriate committees of the Congress a financial management status report and a revised government-wide 5-year financial management plan to cover the succeeding 5 fiscal years, including a report on the accomplishments of the executive branch in implementing the plan during the preceding fiscal year

(ii) The Director shall include with each revised government-wide 5-year financial management plan a description of any substantive changes in the financial statement audit plan required by paragraph (3)(B)(viii), progress made by executive agencies implementing the audit plan, and any improvements in Federal Government financial management related to preparation and audit of financial statements of executive agencies.

(5) Not later than 30 days after receiving each annual report under section 902(a)(6) of this Title, the Director shall transmit to the Chairman of the Committee on Government Operations of the House

of Representatives and the Chairman of the Committee on Governmental Affairs of the Senate a final copy of that report and any comments on the report by the Director.

(b) CLERICAL AMENDMENT.–The table of contents at the beginning of Chapter 35 of Title 31, United States Code, is amended by striking the item relating to section 3512 and inserting the following:

3512. Executive agency accounting and other financial management reports and plans.

Sec. 302. CHIEF FINANCIAL OFFICERS COUNCIL.

31 USC 901 note.

(a) ESTABLISHMENT.–There is established a Chief Financial Officers Council, consisting of–

(1) the Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the council;

(2) the Controller of the Office of Federal Financial Management of the Office of Management and Budget;

(3) the Fiscal Assistant Secretary of Treasury; and

(4) each of the agency Chief Financial Officers appointed under section 901 of Title 31, United States Code, as amended by this Act.

(b) FUNCTIONS.–The Chief Financial Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as consolidation and modernization of financial systems, improved quality of financial information, financial data and information standards, internal controls, legislation affecting financial operations and organizations, and any other financial management matter.

Sec. 303. FINANCIAL STATEMENTS OF AGENCIES.

(a) PREPARATION OF FINANCIAL STATEMENTS.–

(1) IN GENERAL–Subchapter II of Chapter 35 of Title 31, United States Code, is amended by adding at the end the following:

§3515. Financial statements of agencies

(a) Not later than March 1 of 1997 and each year thereafter, the head of each executive agency identified in section 901(b) of this Title shall prepare and submit to the Congress and the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

(b) Each audited financial statement of an executive agency under this section shall reflect–

(1) the overall financial position of the offices, bureaus, and activities covered by the statement, including assets and liabilities thereof; and

(2) results of operations of those offices, bureaus, and activities.

(c) The Director of the Office of Management and Budget shall identify components of executive agencies that shall be required to have audited financial statements meeting the requirements of subsection (b).

(d) The Director of the Office of Management and Budget shall prescribe the form and content of the financial statements of executive

agencies under this section, consistent with applicable accounting and financial reporting principles, standards, and requirements.[2]

§3516. Reports Consolidation

(a)(1) With the concurrence of the Director of the Office of Management and Budget, the head of an executive agency may adjust the frequency and due dates of, and consolidate into an annual report to the President, the Director of the Office of Management and Budget, and Congress any statutorily required reports described in paragraph (2). Such a consolidated report shall be submitted to the President, the Director of the Office of Management and Budget, and to appropriate committees and subcommittees of Congress not later than 150 days after the end of the agency's fiscal year.

(2) The following reports may be consolidated into the report referred to in paragraph (1):

(A) Any report by an agency to Congress, the Office of Management and Budget, or the President under section 1116 of this Chapter.

(B) The following agency-specific reports:

(i) The biennial financial management improvement plan by the Secretary of Defense under section 2222 of Title 10.

(ii) The annual report of the Attorney General under section 522 of Title 28.

(C) Any other statutorily required report pertaining to an agency's financial or performance management if the head of the agency–

(i) determines that inclusion of that report will enhance the usefulness of the reported information to decision makers; and

(ii) consults in advance of inclusion of that report with the committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives and any other committee of Congress having jurisdiction with respect to the report proposed for inclusion.

(b) A report under subsection (a) that incorporates the agency's program performance report under section 1116 shall be referred to as a performance and accountability report.

(c) A report under subsection (a) that does not incorporate the agency's program performance report under section 1116 shall contain a summary of the most significant portions of the agency's program performance report, including the agency's success in achieving key performance goals for the applicable year.

(d) A report under subsection (a) shall include a statement prepared by the agency's inspector general that summarizes what the inspector general considers to be the most serious management and performance challenges facing the agency and briefly assesses the agency's progress in addressing those challenges. The inspector general shall provide such statement to the agency head at least 30 days before the due date of the report under subsection (a). The agency head may comment on the inspector general's statement, but may not modify the statement.

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[2]Public Law 101-576, Title III, section 303(a)(1), (104 Stat. 2849; November 15, 1990; Public Law 103-356, Title IV, section 405(a), (108 Stat. 3415), October 13, 1994; Public Law 106-531, section 4(a), (114 Stat. 2539), November 22, 2000.

(e) A report under subsection (a) shall include a transmittal letter from the agency head containing, in addition to any other content, an assessment by the agency head of the completeness and reliability of the performance and financial data used in the report. The assessment shall describe any material inadequacies in the completeness and reliability of the data, and the actions the agency can take and is taking to resolve such inadequacies.[3]

Sec. 304. FINANCIAL AUDITS OF AGENCIES.
section3521

(a) Each account of an agency shall be audited administratively before being submitted to the Comptroller General and the Controller of the Office of Federal Financial Management. The head of each agency shall prescribe regulations for conducting the audit and designate a place at which the audit is to be conducted. However, a disbursing official of an executive agency may not administratively audit vouchers for which the official is responsible. With the consent of the Comptroller General, the head of the agency may waive any part of an audit.

(b) The head of an agency may prescribe a statistical sampling procedure to audit vouchers of the agency when the head of the agency decides economies will result from using the procedure. The Comptroller General–

(1) may prescribe the maximum amount of a voucher that may be audited under this subsection; and

(2) in reviewing the accounting system of the agency, shall evaluate the adequacy and effectiveness of the procedure.

(c) A disbursing or certifying official acting in good faith under subsection (b) of this section is not liable for a payment or certification of a voucher not audited specifically because of the procedure prescribed under subsection (b) if the official and the head of the agency carry out diligently collection action the Comptroller General prescribes.

(d) Subsections (b) and (c) of this section do not–

(1) affect the liability, or authorize the relief, of a payee, beneficiary, or recipient of an illegal, improper, or incorrect payment; or

(2) relieve a disbursing or certifying official, the head of an agency, or the Comptroller General of responsibility in carrying out collection action against a payee, beneficiary, or recipient.

(e) Each financial statement prepared under section 3515 by an agency shall be audited in accordance with applicable generally accepted government auditing standards–

(1) in the case of an agency having an Inspector General appointed under the Inspector General Act of 1978 (5 USC App.), by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

(2) in any other case, by an independent external auditor, as determined by the head of the agency.

(f) For each audited financial statement required under subsection (a) of section 3515 of this Title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be

[3]Added November 22, 2000, Public Law 106-531, section 3(a), 114 Stat. 2537.

prepared in accordance with generally accepted government auditing standards.

(g) The Comptroller General of the United States–

(1) may review any audit of a financial statement conducted under this subsection by an Inspector General or an external auditor;

Reports.

(2) shall report to the Congress, the Director of the Office of Management and Budget, and the head of the agency which prepared the statement, regarding the results of the review and make any recommendation the Comptroller General considers appropriate; and

(3) may audit a financial statement prepared under section 3515 of this Title at the discretion of the Comptroller General or at the request of a committee of the Congress.

An audit the Comptroller General performs under this subsection shall be in lieu of the audit otherwise required by subsection (e) of this section. Prior to performing such audit, the Comptroller General shall consult with the Inspector General of the agency which prepared the statement.

(h) Each financial statement prepared by an executive agency for a fiscal year after fiscal year 1991 shall be audited in accordance with this section and the plan required by section 3512(a)(3)(B)(viii) of this Title.[4]

Sec. 305. FINANCIAL AUDITS OF GOVERNMENT CORPORATIONS.

Section 9105 of Title 31, United States Code, is amended to read as follows:

§9105. Audits

(a)(1) The financial statements of Government corporations shall be audited by the Inspector General of the corporation appointed under the Inspector General Act of 1978 (5 USC App.) or by an independent external auditor, as determined by the Inspector General or, if there is no Inspector General, by the head of the corporation.

(2) Audits under this section shall be conducted in accordance with applicable generally accepted government auditing standards.

Reports.

(3) Upon completion of the audit required by this subsection, the person who audits the statement shall submit a report on the audit to the head of the Government corporation, to the Chairman of the Committee on Government Operations of the House of Representatives, and to the Chairman of the Committee on Governmental Affairs of the Senate.

(4) The Comptroller General of the United States–

(A) may review any audit of a financial statement conducted under this subsection by an Inspector General or an external auditor;

Reports.

(B) shall report to the Congress, the Director of the Office of Management and Budget, and the head of the Government corporation which prepared the statement, regarding the results of the review and make any recommendation the Comptroller General of the United States considers appropriate; and

(C) may audit a financial statement of a Government corporation at the discretion of the Comptroller General or at the

[4]As amended, Public Law 101-576, Title III, section 304(a), November 15, 1990, 104 Stat. 2852; Public Law 103-356, Title IV, section 405(b), October 13, 1994, 108 Stat. 3416; Public Law 104-208, Div. A Title I, section 101(f) [Title VIII, section 805(a)], September 30, 1996, 110 Stat. 3009-392; Public Law 106-531, section 4(b), November 22, 2000, 114 Stat. 2539.

request of a committee of the Congress. An audit the Comptroller General performs under this paragraph shall be in lieu of the audit otherwise required by paragraph (1) of this subsection. Prior to performing such audit, the Comptroller General shall consult with the Inspector General of the agency which prepared the statement.

(5) A Government corporation shall reimburse the Comptroller General of the United States for the full cost of any audit conducted by the Comptroller General under this subsection, as determined by the Comptroller General. All reimbursements received under this paragraph by the Comptroller General of the United States shall be deposited in the Treasury as miscellaneous receipts.

(b) Upon request of the Comptroller General of the United States, a Government corporation shall provide to the Comptroller General of the United States all books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Government corporation and its auditor that the Comptroller General of the United States considers necessary to the performance of any audit or review under this section.

(c) Activities of the Comptroller General of the United States under this section are in lieu of any audit of the financial transactions of a Government corporation that the Comptroller General is required to make under any other law.

Sec. 306. MANAGEMENT REPORTS OF GOVERNMENT CORPORATIONS.

(a) IN GENERAL.–Section 9106 of Title 31, United States Code, is amended to read as follows:

§9106. Management reports

(a)(1) A Government corporation shall submit an annual management report to the Congress not later than 180 days after the end of the Government corporation's fiscal year.

(2) A management report under this subsection shall include–

(A) a statement of financial position;

(B) a statement of operations;

(C) a statement of cash flows;

(D) a reconciliation to the budget report of the Government corporation, if applicable;

(E) a statement on internal accounting and administrative control systems by the head of the management of the corporation, consistent with the requirements for agency statements on internal accounting and administrative control systems under the amendments made by the Federal Managers' Financial Integrity Act of 1982 (Public Law 97-255);

(F) the report resulting from an audit of the financial statements of the corporation conducted under section 9105 of this Title; and

(G) any other comments and information necessary to inform the Congress about the operations and financial condition of the corporation.

(b) A Government corporation shall provide the President, the Director of the Office of Management and Budget, and the Comptroller General of the United States a copy of the management report when it is submitted to Congress.

(b) CLERICAL AMENDMENT.–The table of sections for Chapter 91 of Title 31, United States Code, is amended by striking the item relating to section 9106 and inserting the following:

9106. Management reports.

Sec. 307. ADOPTION OF CAPITAL ACCOUNTING STANDARDS.

31 USC 3511 note.

No capital accounting standard or principle, including any human capital standard or principle, shall be adopted for use in an executive department or agency until such standard has been reported to the Congress and a period of 45 days of continuous session of the Congress has expired.

Approved November 15, 1990

B. REPORTS CONSOLIDATION ACT OF 2000

Public Law 106-531 **114 Stat. 2537**

November 22, 2000

An Act

to amend Chapter 35 of Title 31, United States Code, to authorize the consolidation of certain financial and performance management reports required of Federal agencies, and for other purposes.

Sec. 1. Short Title.

Reports Consolidation Act of 2000. 31 USC 3501 note.

This Act may be cited as the "Reports Consolidation Act of 2000."

Sec. 2. Findings and Purposes.

31 USC 3516 note.

(a) FINDINGS.–Congress finds that–

(1) existing law imposes numerous financial and performance management reporting requirements on agencies;

(2) these separate requirements can cause duplication of effort on the part of agencies and result in uncoordinated reports containing information in a form that is not completely useful to Congress; and

(3) pilot projects conducted by agencies under the direction of the Office of Management and Budget demonstrate that single consolidated reports providing an analysis of verifiable financial and performance management information produce more useful reports with greater efficiency.

(b) PURPOSES.–The purposes of this Act are–

(1) to authorize and encourage the consolidation of financial and performance management reports;

(2) to provide financial and performance management information in a more meaningful and useful format for Congress, the President, and the public;

(3) to improve the quality of agency financial and performance management information; and

(4) to enhance coordination and efficiency on the part of agencies in reporting financial and performance management information.

Sec. 3. Consolidated Reports.

(a) IN GENERAL.–Chapter 35 of Title 31, United States Code, is amended by adding at the end of the following:

"section 3516. Reports Consolidation

Deadline

"(a)(1) With the concurrence of the Director of the Office of Management and Budget, the head of an executive agency may adjust the frequency and due dates of, and consolidate into an annual report to the President, the Director of the Office of Management and Budget, and Congress any statutorily required reports described in paragraph (2). Such a consolidated report shall be submitted to the President, the Director of the Office of Management and Budget, and to appropriate committees and subcommittees of Congress not later than 150 days after the end of the agency's fiscal year.

"(2) The following reports may be consolidated into the report referred to in paragraph (1):

(A) Any report by an agency to Congress, the Office of Management and Budget, or the President under section 1116, this Chapter, and Chapters 9, 33, 37, 75, and 91.

(B) The following agency-specific reports:

"(i) The biennial financial management improvement plan by the Secretary of Defense under section 2222 of Title 10.

"(ii) The annual report of the Attorney General under section 522 of Title 28.

(C) Any other statutorily required report pertaining to an agency's financial or performance management if the head of the agency–

"(i) determines that inclusion of that report will enhance the usefulness of the reported information to decision makers; and

"(ii) consults in advance of inclusion of that report with the committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and any other committee of Congress having jurisdiction with respect to the report proposed for inclusion.

"(b) A report under subsection (a) that incorporates the agency's program performance report under section 1116 shall be referred to as a performance and accountability report.

"(c) A report under subsection (a) that does not incorporate the agency's program performance report under section 1116 shall contain a summary of the most significant portions of the agency's program performance report, including the agency's success in achieving key performance goals for the applicable year.

"(d) A report under subsection (a) shall include a statement prepared by the agency's inspector general that summarizes what the inspector general considers to be the most serious management and performance challenges facing the agency and briefly assesses the agency's progress in addressing those challenges. The inspector general shall provide such statement to the agency head at least 30 days before the due date of the report under subsection (a). The agency head may comment on the inspector general's statement, but may not modify the statement.

Deadline

"(e) A report under subsection (a) shall include a transmittal letter from the agency head containing, in addition to any other content, an assessment by the agency head of the completeness and reliability of the performance and financial data used in the report. The assessment shall describe any material inadequacies in the completeness and reliability of the data, and the actions the agency can take and is taking to resolve such inadequacies.".".

Deadline.
31 USC 3516 note.

(b) SPECIAL RULE FOR FISCAL YEARS 2000 AND 2001.– Notwithstanding paragraph (1) of section 3516(a) of Title 31, United States Code (as added by subsection (a) of this section), the head of an executive agency may submit a consolidated report under such paragraph not later than 180 days after the end of that agency's fiscal year, with respect to fiscal years 2000 and 2001.

(c) TECHNICAL AND CONFORMING AMENDMENT.–The table of sections for Chapter 35 of Title 31, United States Code, is amended by inserting after the item relating to section 3515 the following:

"3516. Reports consolidation.".

Sec. 4. Amendments Relating to Audited Financial Statement.

(a) FINANCIAL STATEMENTS.–Section 3515 of Title 31, United States Code, is amended–

(1) in subsection (a); by inserting "Congress and the" before "Director"; and

(2) by striking subsections (e) through (h).

(b) ELIMINATION OF REPORT.–Section 3521(f) of Title 31, United States code is amended–

(1) in paragraph (1)–

(A) by striking "subsections (a) and (f)" and inserting "subsection (a)"; and

(B) by striking "(1)"; and

(2) by striking paragraph (2).

Sec. 5. Amendments Relating to Program Performance Reports.

(a) REPORT DUE DATE.–

(1) IN GENERAL.–Section 1116(a) of Title 31, United States Code, is amended by striking "No later than March 31, 2000, and no later than March 31 of each year thereafter," and inserting "Not later than 150 days after the end of an agency's fiscal year,".

31 USC 1116 note.

(2) SPECIAL RULE FOR FISCAL YEARS 2000 AND 2001.–Notwithstanding subsection (a) of section 1116 of Title 31, United States Code (as amended by paragraph (1) of this subsection), an agency head may submit a report under such subsection not later than 180 days after the end of that agency's fiscal year, with respect to fiscal years 2000 and 2001.

(b) INCLUSION OF INFORMATION IN FINANCIAL STATEMENT.–Section 1116(e) of Title 31, United States Code, is amended to read as follows:

"(e)(1) Except as provided in paragraph (2), each program performance report shall contain an assessment by the agency head of the completeness and reliability of the performance data included in the report. The assessment shall describe any material inadequacies in the completeness and reliability of the performance data, and the actions the agency can take and is taking to resolve such inadequacies.

"(2) If a program performance report is incorporated into a report submitted under section 3516, the requirements of section 3516(e) shall apply in lieu of paragraph (1).".

Approved November 22, 2000

INSPECTOR GENERAL ACT OF 1978, AS AMENDED

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INSPECTOR GENERAL ACT OF 1978, AS AMENDED

Public Law 95-452 **92 Stat. 1101**

October 1, 1978

5 USC Appendix

Sec. 1. SHORT TITLE

Sec. 2. PURPOSE AND ESTABLISHMENT OF OFFICES OF INSPECTOR GENERAL: DEPARTMENTS AND AGENCIES INVOLVED

In order to create independent and objective units–

(1) to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2).

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action; there is established–

(A) in each of such establishments an Office of Inspector General, subject to subparagraph (B); and

(B) in the establishment of the Department of the Treasury–

(i) an Office of Inspector General of the Department of the Treasury; and

(ii) an Office of Treasury Inspector General for Tax Administration.[1]

Sec. 3. APPOINTMENT OF INSPECTOR GENERAL. SUPERVISION: REMOVAL: POLITICAL ACTIVITIES: APPOINTMENT OF ASSISTANT INSPECTOR GENERAL FOR AUDITING AND ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS

(a) There shall be at the head of each Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. Each Inspector General shall report to and be under the general supervision of the head of the establishment involved or, to the extent such authority is delegated, the officer next in rank below such head, but shall not report to, or be subject to supervision by, any other officer of such establishment. Neither the head of the establishment nor the officer next in rank below such head shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.

(b) An Inspector General may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(c) For the purposes of section 7324 of Title 5, United States Code, no Inspector General shall be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

(d) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service–

[1]As amended Public Law 105-206, Title I, section 1103(a), 112 Stat. 705, July 22, 1998.

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations of the establishment, and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

Sec. 4. DUTIES AND RESPONSIBILITIES. REPORT OF CRIMINAL VIOLATIONS TO ATTORNEY GENERAL.

(a) It shall be the duty and responsibility of each Inspector General, with respect to the establishment within which his Office is established–

(1) to provide policy direction for and to conduct, supervise, and coordinate audits and investigations relating to the programs and operations of such establishment;

(2) to review existing and proposed legislation and regulations relating to programs and operations of such establishment and to make recommendations in the semiannual reports required by section 5(a) concerning the impact of such legislation or regulation on the economy and efficiency in the administration of programs and operations administered or financed by such establishment or the prevention and detection of fraud and abuse in such programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by such establishment for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(4) to recommend policies for, and to conduct, supervise, or coordinate relationships between such establishment and other Federal agencies, State and local governmental agencies, and nongovernment entities with respect to (A) all matters relating to the prevention and detection of fraud and abuse in, programs and operations administered or financed by such establishment, or (B) the identification and prosecution of participants in such fraud or abuse; and

(5) to keep the head of such establishment and the Congress fully and currently informed, by means of the reports required by section 5 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by such establishment, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(b)(1) in carrying out the responsibilities specified in subsection (a)(1), each Inspector General shall–

(A) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

(B) establish guidelines for determining when it shall be appropriate to use non-Federal auditors; and

(C) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).

(2) For purposes of determining compliance with paragraph (1)(A) with respect to whether internal quality controls are in place and operating and whether established audit standards, policies, and procedures are being followed by Offices of Inspector General of establishments defined under section 11(2), Offices of Inspector General of designated Federal entities defined under section 8E(a)(2), and any audit office established within a Federal entity defined under section 8E(a)(1), reviews shall be performed exclusively by an audit entity in the Federal Government, including the

General Accounting Office or the Office of Inspector General of each establishment defined under section 11(2), or the Office of Inspector General of each designed Federal entity defined under section 8E(a)(2).

(c) In carrying out the duties and responsibilities established under this Act, each Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view toward avoiding duplication and insuring effective coordination and cooperation.

(d) In carrying out the duties and responsibilities established under this Act, each Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

Sec. 5. SEMIANNUAL REPORTS; TRANSMITTAL TO CONGRESS; AVAILABILITY TO PUBLIC; IMMEDIATE REPORT ON SERIOUS OR FLAGRANT PROBLEMS; DISCLOSURE OF INFORMATION; DEFINITIONS.

(a)[2] Each Inspector General shall, not later than April 30 and October 31 of each year, prepare semiannual reports summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to–

(1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of such establishment disclosed by such activities during the reporting period;

(2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1);

(3) an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed;

(4) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;

(5) a summary of each report made to the head of the establishment under section 6(b)(2) during the reporting period;

(6) a listing, subdivided according to subject matter, of each audit report issued by the Office during the reporting period and for each audit report, where applicable, the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs) and the dollar value of recommendations that funds be put to better use;

(7) a summary of each particularly significant report;

(8) statistical tables showing the total number of audit reports and the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs), for audit reports–

(A) for which no management decision had been made by the commencement of the reporting period;

(B) which were issued during the reporting period;

(C) for which a management decision was made during the reporting period, including–

(i) the dollar value of disallowed costs; and

(ii) the dollar value of costs not disallowed; and

(D) for which no management decision has been made by the end of the reporting period;

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[2]Pub.L. 95-452, section 5, Oct. 12, 1978, 92 Stat. 1103; Pub.L. 97-252, Title XI, section 1117(c), Sept. 8, 1982, 96 Stat. 752; Pub.L. 100-504, Title I, sections 102(g), 106, Oct. 18, 1988, 102 Stat. 2521, 2525, Pub.L. 104-208, Div. A, Title I, section 101(f) [Title VIII, section 805(c)], Sept. 30, 1996, 110 Stat. 3009-393.

(9) statistical tables showing the total number of audit reports and the dollar value of recommendations that funds be put to better use by management, for audit reports–

(A) for which no management decision had been made by the commencement of the reporting period;

(B) which were issued during the reporting period;

(C) for which a management decision was made during the reporting period, including–

(i) the dollar value of recommendations that were agreed to by management; and

(ii) the dollar value of recommendations that were not agreed to by management; and

(D) for which no management decision has been made by the end of the reporting period;

(10) a summary of each audit report issued before the commencement of the reporting period for which no management decision has been made by the end of the reporting period (including the date and title of each such report), an explanation of the reasons such management decision has not been made, and a statement concerning the desired timetable for achieving a management decision on each such report;

(11) a description and explanation of the reasons for any significant revised management decision made during the reporting period;

(12) information concerning any significant management decision with which the Inspector General is in disagreement; and

(13) the information described under section 05(b) of the Federal Financial Management Improvement Act of 1996.

(b) Semiannual reports of each Inspector General shall be furnished to the head of the establishment involved not later than April 30 and October 31 of each year and shall be transmitted by such head to the appropriate committees or subcommittees of the Congress within thirty days after receipt of the report, together with a report by the head of the establishment containing–

(1) any comments such head determines appropriate;

(2) statistical tables showing the total number of audit reports and the dollar value of disallowed costs, for audit reports–

(A) for which final action had not been taken by the commencement of the reporting period;

(B) on which management decisions were made during the reporting period;

(C) for which final action was taken during the reporting period, including–

(i) the dollar value of disallowed costs that were recovered by management through collection, offset, property in lieu of cash, or otherwise; and

(ii) the dollar value of disallowed costs that were written off by management; and

(D) for which no final action has been taken by the end of the reporting period;

(3) statistical tables showing the total number of audit reports and the dollar value of recommendations that funds be put to better use by management agreed to in a management decision for audit reports–

(A) for which final action had not been taken by the commencement of the reporting period;

(B) on which management decisions were made during the reporting period;

(C) for which final action was taken during the reporting period, including–

(i) the dollar value of recommendations that were actually completed; and

(ii) the dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed; and

(D) for which no final action has been taken by the end of the reporting period; and

(4) a statement with respect to audit reports on which management decisions have been made but final action has not been taken, other than audit reports on which a management decision was made within the preceding year, containing–

(A) a list of such audit reports and the date each such report was issued;

(B) the dollar value of disallowed costs for each report;

(C) the dollar value of recommendations that funds be put to better use agreed to by management for each report; and

(D) an explanation of the reasons final action has not been taken with respect to each such audit report, except that such statement may exclude such audit reports that are under formal administrative or judicial appeal or upon which management of an establishment has agreed to pursue a legislative solution, but shall identify the number of reports in each category so excluded.

(c) Within sixty days of the transmission of the semiannual reports of each Inspector General to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost. Within 60 days after the transmission of the semiannual reports of each establishment head to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost.

(d) Each Inspector General shall report immediately to the head of the establishment involved whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of such establishment. The head of the establishment shall transmit any such report to the appropriate committees or subcommittees of Congress within seven calendar days, together with a report by the head of the establishment containing any comments such head deems appropriate.

(e)(1) Nothing in this section shall be construed to authorize the public disclosure of information which is–

(A) specifically prohibited from disclosure by any other provision of law;

(B) specifically required by Executive Order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or

(C) a part of an ongoing criminal investigation.

(2) Notwithstanding paragraph (1)(C), any report under this section may be disclosed to the public in a form which includes information with respect to a part of an ongoing criminal investigation if such information has been included in a public record.

(3) Except to the extent and in the manner provided under section 6103(f) of the Internal Revenue Code of 1986 [26 USCA section 6103(f)], nothing in this section or in any other provision of this Act shall be construed to authorize or permit the withholding of information from the Congress, or from any committee or subcommittee thereof.

(f) As used in this section–

(1) the term "questioned cost" means a cost that is questioned by the Office because of–

(A) an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds;

(B) a finding that, at the time of the audit, such cost is not supported by adequate documentation; or

(C) a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable;

(2) the term "unsupported cost" means a cost that is questioned by the Office because the Office found that, at the time of the audit, such cost is not supported by adequate documentation;

(3) the term "disallowed cost" means a questioned cost that management, in a management decision, has sustained or agreed should not be charged to the Government;

(4) the term "recommendation that funds be put to better use" means a recommendation by the Office that funds could be used more efficiently if management of an establishment took actions to implement and complete the recommendation, including–

(A) reductions in outlays;

(B) deobligation of funds from programs or operations;

(C) withdrawal of interest subsidy costs on loans or loan guarantees, insurance, or bonds;

(D) costs not incurred by implementing recommended improvements related to the operations of the establishment, a contractor or grantee;

(E) avoidance of unnecessary expenditures noted in pre-award reviews of contract or grant agreements; or

(F) any other savings which are specifically identified;

(5) the term "management decision" means the evaluation by the management of an establishment of the findings and recommendations included in an audit report and the issuance of a final decision by management concerning its response to such findings and recommendations, including actions concluded to be necessary; and

(6) the term "final action" means–

(A) the completion of all actions that the management of an establishment has concluded, in its management decision, are necessary with respect to the findings and recommendations included in an audit report; and

(B) in the event that the management of an establishment concludes no action is necessary, final action occurs when a management decision has been made.

Sec. 6. AUTHORITY OF INSPECTOR GENERAL; INFORMATION AND ASSISTANCE FROM FEDERAL AGENCIES, UNREASONABLE REFUSAL, OFFICE SPACE AND EQUIPMENT

(a) In addition to the authority otherwise provided by this Act, each Inspector General, in carrying out the provisions of this Act, is authorized–

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector General has responsibilities under this Act;

(2) to make such investigations and reports relating to the administration of the programs and operations of the applicable establishment as are in the judgment of the Inspector General, necessary or desirable;

(3) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof;

(4) to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Act, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided,* That procedures other than

subpoenas shall be used by the Inspector General to obtain documents and information from Federal agencies;

(5) to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by this Act, which oath, affirmation, or affidavit when administered or taken by or before an employee of an Office of Inspector General designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal;

(6) to have direct and prompt access to the head of the establishment involved when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act;

(7) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of Title 5, United States Code, governing appointments in the competitive service, and the provisions of Chapter 51 and subchapter III of Chapter 53 of such Title relating to classification and General Schedule pay rates;

(8) to obtain services as authorized by section 3109 of Title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of Title 5, United States Code; and

(9) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this Act.

(b)(1) Upon request of an Inspector General for information or assistance under subsection (a)(3), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (a)(1) or (a)(3) is, in the judgment of an Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the establishment involved without delay.

(c) Each head of an establishment shall provide the Office within such establishment with appropriate and adequate office space at central and field office locations of such establishment, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(d) For purposes of the provisions of Title 5, United States Code, governing the Senior Executive Service, any reference in such provisions to the "appointing authority" for a member of the Senior Executive Service or for a Senior Executive Service position shall, if such member or position is or would be within the Office of an Inspector General, be deemed to be a reference to such Inspector General.

Sec. 7. COMPLAINTS BY EMPLOYEES. DISCLOSURE OF IDENTITY; REPRISALS

(a) The Inspector General may receive and investigate complaints or information from an employee of the establishment concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety.

(b) The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee,

unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

(c) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not with respect to such authority, take or threaten to take any actions against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, unless the complaint was made for the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

Sec. 8. ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

(a) No member of the Armed Forces, active or reserve, shall be appointed Inspector General of the Department of Defense.

(b)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Secretary of Defense with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning–

(A) sensitive operational plans;

(B) intelligence matters;

(C) counterintelligence matters;

(D) ongoing criminal investigations by other administrative units of the Department of Defense related to national security; or

(E) other matters the disclosure of which would constitute a serious threat to national security.

(2) With respect to the information described in paragraph (1) the Secretary of Defense may prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena, after the Inspector General has decided to initiate, carry out or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to preserve the national security interests of the United States.

(3) If the Secretary of Defense exercises any power under paragraph (1) or (2), the Inspector General shall submit a statement concerning such exercise within thirty days to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives and to other appropriate committees or subcommittees of the Congress.

(4) The Secretary shall, within thirty days after submission of a statement under paragraph (3), transmit a statement of the reasons for the exercise of power under paragraph (1) and (2) to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives and to other appropriate committees or subcommittees.

(c) In addition to the other duties and responsibilities specified in this Act, the Inspector General of the Department of Defense shall–

(1) be the principal adviser to the Secretary of Defense for matters relating to the prevention and detection of fraud, waste, and abuse in the programs and operations of the Department;

(2) initiate, conduct, and supervise such audits and investigations in the Department of Defense (including the military departments) as the Inspector General considers appropriate;

(3) provide policy direction for audits and investigations relating to fraud, waste, and abuse and program effectiveness;

(4) investigate fraud, waste, and abuse uncovered as a result of other contract and internal audits, as the Inspector General considers appropriate;

(5) develop policy, monitor and evaluate program performance, and provide guidance with respect to all Department activities relating to criminal investigation programs;

(6) monitor and evaluate the adherence of Department auditors to internal audit, contract audit, and internal review principles, policies, and procedures;

(7) develop policy, evaluate program performance, and monitor actions taken by all components of the Department in response to contract audits, internal audits, internal review reports, and audits conducted by the Comptroller General of the United States;

(8) request assistance as needed from other audit, inspection, and investigative units of the Department of Defense (including military departments); and

(9) give particular regard to the activities of the internal audit, inspection, and investigative units of the military departments with a view toward avoiding duplication and insuring effective coordination and cooperation.

(d) Notwithstanding section 4(d), the Inspector General of the Department of Defense shall expeditiously report suspected or alleged violations of Chapter 47 of Title 10, United States Code (Uniform Code of Military Justice), to the Secretary of the military department concerned or the Secretary of Defense.

(e) For the purposes of section 7, a member of the Armed Forces shall be deemed to be an employee of the Department of Defense, except that, when the Coast Guard operates as a service of another department or agency of the Federal Government, a member of the Coast Guard shall be deemed to be an employee of such department or agency.

(f)(1) Each semiannual report prepared by the Inspector General of the Department of Defense under section 5(a) shall include information concerning the numbers and types of contract audits conducted by the Department during the reporting period. Each such report shall be transmitted by the Secretary of Defense to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Governmental Operations of the House of Representatives and to other appropriate committees or subcommittees of the Congress.

(2) Any report required to be transmitted by the Secretary of Defense to the appropriate committees or subcommittees of the congress under section 5(d) shall also be transmitted within the seven-day period specified in such section, to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives.

(g) The provisions of section 1385 of Title 18, United States Code, shall not apply to audits and investigations conducted by, under the direction of, or at the request of the Inspector General of the Department of Defense to carry out the purposes of this Act.[3]

Sec. 8A. SPECIAL PROVISIONS RELATING TO THE AGENCY FOR INTERNATIONAL DEVELOPMENT

(a) In addition to the other duties and responsibilities specified in this Act, the Inspector General of the Agency for International Development shall supervise, direct, and control all security activities relating to the programs and operations of that Agency, subject to the supervision of the Administrator of that Agency.

(b) In addition to the Assistant Inspector Generals provided for in section 3(d) of this Act, the Inspector General of the Agency for International Development shall, in accordance with applicable laws and regulations governing the civil service, appoint an Assistant Inspector General for Security who shall have the responsibility for supervising

[3]As amended, Public Law 106-65, Div. A, Title X, section 1067(17), (113 Stat. 775), Oct 5, 1999.

the performance of security activities relating to programs and operations of the Agency for International Development.

(c) In addition to the officers and employees provided for in section 6(a)(6) of this Act, members of the Foreign Service may, at the request of the Inspector General of the Agency for International Development, be assigned as employees of the Inspector General. Members of the Foreign Service so assigned shall be responsible solely to the Inspector General, and the Inspector General (or his or her designee) shall prepare the performance evaluation reports for such members.

(d) In establishing and staffing field offices pursuant to section 6(c) of this Act, the Administrator of the Agency for International Development shall not be bound by overseas personnel ceilings established under the monitoring Overseas Direct Employment policy.

(e) The Inspector General of the Agency for International Development shall be in addition to the officers provided for in section 624(a) of the Foreign Assistance Act of 1961 [22 USC 2384(a)].

(f) As used in this Act, the term "Agency for International Development" includes any successor agency primarily responsible for administering Part I of the Foreign Assistance Act of 1961, an employee of the Inter–American Foundation, and an employee of the African Development Foundation.[4]

(g), (h) Redesignated (e), (f).

Sec. 8B. SPECIAL PROVISIONS CONCERNING THE NUCLEAR REGULATORY COMMISSION

(a) The Chairman of the Commission may delegate the authority specified in the second sentence of section 3(a) to another member of the Nuclear Regulatory Commission, but shall not delegate such authority to any other officer or employee of the Commission.

(b) Notwithstanding sections 6(a)(7) and (8), the Inspector General of the Nuclear Regulatory Commission is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject to the applicable laws and regulations that govern such selections, appointments and employment, and the obtaining of such services, within the Nuclear Regulatory Commission.

Sec. 8C. SPECIAL PROVISIONS CONCERNING THE FEDERAL DEPOSIT INSURANCE CORPORATION.

(a) DELEGATION.–The Chairperson of the Federal Deposit Insurance Corporation may delegate the authority specified in the second sentence of section 3(a) to the Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation, but may not delegate such authority to any other officer or employee of the Corporation.

(b) PERSONNEL.–Notwithstanding paragraphs (7) and (8) of section 6(a), the Inspector General of the Federal Deposit Insurance Corporation may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the Federal Deposit Insurance Corporation.;

[4]As amended Public Law 105-277, Div. G, Title XIV, section 1422(b)(2), Oct 21, 1998, 112 Stat. 2681-792; Public Law 106-113, Div. B, section 1000(a)(7) [Div. A, Title II, section 205], Nov. 29, 1999, 113 Stat. 1536, 1501A-422.

Sec. 8D. SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF THE TREASURY[5]

(a)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General of the Department of the Treasury shall be under the authority, direction, and control of the Secretary of the Treasury with respect to audits or investigation, or the issuance of subpoenas, which require access to sensitive information concerning–

(A) ongoing criminal investigations or proceedings;

(B) undercover operations;

(C) the identity of confidential sources, including protected witnesses;

(D) deliberations and decisions on policy matters, including documented information used as a basis for making policy decisions, the disclosure of which could reasonably be expected to have a significant influence on the economy or market behavior;

(E) intelligence or counterintelligence matters; or

(F) other matters the disclosure of which would constitute a serious threat to national security or to the protection of any person or property authorized protection by section 3056 of Title 18, United States Code, section 202 of Title 3, United States Code, or any provision of the Presidential Protection Assistance Act of 1976 (18 USC 3056 note; Public Law 94-524),

(2) With respect to the information described under paragraph (1), the Secretary of the Treasury may prohibit the Inspector General of the Department of the Treasury from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent significant impairment to the national interests of the United States.

(3) If the Secretary of the Treasury exercise any power under paragraph (1) or (2), the Secretary of the Treasury shall notify the Inspector General of the Department of the Treasury in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committees on Governmental Affairs and Finance of the Senate and the Committees on Government Operations and Ways and Means of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

(4) The Secretary of the Treasury may not exercise any power under paragraph (1) or (2) with respect to the Treasury Inspector General for Tax Administration.

b(1) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Treasury shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the Bureau of Alcohol, Tobacco and Firearms, the Office of Internal Affairs of the United States Customs Service, and the Office of Inspections of the United States Secret Service. The head of each such office shall promptly report to the Inspector General of the Department of Treasury the significant activities being carried out by such office.

(2) The Inspector General of the Department of the Treasury shall exercise all duties and responsibilities of an Inspector General for the Department of the Treasury other than the duties and responsibilities exercised by the Treasury Inspector General for Tax Administration.

[5]As amended Public Law 105-206, Title I, section 1103(b), (e)(1), (2), July 22, 1998, 112 Stat. 705, 709.

(3) The Secretary of the Treasury shall establish procedures under which the Inspector General of the Department of the Treasury and the Treasury Inspector General for Tax Administration will–

(A) determine how audits and investigations are allocated in cases of overlapping jurisdiction; and

(B) provide for coordination, cooperation, and efficiency in the conduct of such audits and investigations.

(c) Notwithstanding subsection (b), the Inspector General of the Department of the Treasury may initiate, conduct and supervise such audits and investigations in the Department of the Treasury (including the bureaus and services referred to in subsection (b) as the Inspector General of the Department of the Treasury considers appropriate.

(d) If the Inspector General initiates an audit or investigation under subsection (c) concerning a bureau or service referred to in subsection (b), the Inspector General may provide the head of the office of such bureau or service referred to in subsection (b) with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues a notice under the preceding sentence, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General and any other audit or investigation of such matter shall cease.

(e)(1) The Inspector General shall have access to returns and return information, as defined in section 6103(b) of the Internal Revenue Code of 1986, only in accordance with the provisions of section 6103 of such Code and this Act.

(2) The Internal Revenue Service shall maintain the same system of standardized records or accountings of all requests from the Treasury Inspector General for Tax Administration for inspection or disclosure of returns and return information (including the reasons for and dates of such requests), and of returns and return information inspected or disclosed pursuant to such requests, as described under section 6103(p)(3)(A) of the Internal Revenue Code of 1986 [26 U.S.C.A. section 6103(p)(3)(A)]. Such system of standardized records or accounting shall also be available for examination in the same manner as provided under section 6103(p)(3) of the Internal Revenue Code of 1986 [26 U.S.C.A. section 6103(p)(3)].

(3) The Treasury Inspector General for Tax Administration shall be subject to the same safeguards and conditions for receiving returns and return information are as described under section 6103(p)(4) of the Internal Revenue Code of 1986 [26 U.S.C.A. section 6103(p)(4)].

(f) An audit or investigation conducted by the Inspector General of the Department of the Treasury or the Treasury Inspector General for Tax Administration shall not affect a final decision of the Secretary of the Treasury or his delegate under section 6406 of the Internal Revenue Code of 1986 [26 U.S.C.A. section 6406].

(g)(1) Any report required to be transmitted by the Secretary of the Treasury to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committees on Governmental Affairs and Finance of the Senate and the Committees on Government Reform and Oversight and Ways and Means of the House of Representatives.

(2) Any report made by the Treasury Inspector General for Tax Administration that is required to be transmitted by the Secretary of the Treasury to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under such subsection, to the Internal Revenue Service Oversight Board and the Commissioner of Internal Revenue.

(h) The Treasury Inspector General for Tax Administration shall exercise all duties and responsibilities of an Inspector General of an establishment with respect to the Department of the Treasury and the Secretary of the Treasury on all matters relating to the Internal Revenue Service. The Treasury Inspector General for Tax Administration

shall have sole authority under this Act to conduct an audit or investigation of the Internal Revenue Service Oversight Board and the Chief Counsel for the Internal Revenue Service.

(i) In addition to the requirements of the first sentence of section 3(a), the Treasury Inspector General for Tax Administration should have demonstrated ability to lead a large and complex organization.

(j) An individual appointed to the position of Treasury Inspector General for Tax Administration, the Assistant Inspector General for Auditing of the Office of the Treasury Inspector General for Tax Administration under section 3(d)(1), the Assistant Inspector General for Investigations of the Office of the Treasury Inspector General for Tax Administration under section 3(d)(2), or any position of Deputy Inspector General of the Office of the Treasury Inspector General for Tax Administration may not be an employee of the Internal Revenue Service–

(1) during the 2-year period preceding the date of appointment to such position; or

(2) during the 5-year period following the date such individual ends service in such position.

(k)(1) In addition to the duties and responsibilities exercised by an inspector general of an establishment, the Treasury Inspector General for Tax Administration–

(A) shall have the duty to enforce criminal provisions under section 7608(b)(2) of the Internal Revenue Code of 1986 [26 U.S.C.A. section 7608(b)];

(B) in addition to the functions authorized under section 7608(b)(2) of such Code [26 USCA. section 7608(b)(2)], may carry firearms;

(C) shall be responsible for protecting the Internal Revenue Service against external attempts to corrupt or threaten employees of the Internal Revenue Service, but shall not be responsible for the conducting of background checks and the providing of physical security; and

(D) may designate any employee in the Office of the Treasury Inspector General for Tax Administration to enforce such laws and perform such functions referred to under subparagraphs (A), (B), and (C).

(2)(A) In performing a law enforcement function under paragraph (1), the Treasury Inspector General for Tax Administration shall report any reasonable grounds to believe there has been a violation of Federal criminal law to the Attorney General at an appropriate time as determined by the Treasury Inspector General for Tax Administration, notwithstanding section 4(d).

(B) In the administration of section 5(d) and subsection (g)(2) of this section, the Secretary of the Treasury may transmit the required report with respect to the Treasury Inspector General for Tax Administration at an appropriate time as determined by the Secretary, if the problem, abuse, or deficiency relates to–

(i) the performance of a law enforcement function under paragraph (1); and

(ii) sensitive information concerning matters under subsection (a)(1)(A) through (F).

(3) Nothing in this subsection shall be construed to affect the authority of any other person to carry out or enforce any provisions specified in paragraph (1).

(*l*)(1) The Commissioner of Internal Revenue or the Internal Revenue Service Oversight Board may request, in writing, the Treasury Inspector General for Tax Administration to conduct an audit or investigation relating to the Internal Revenue Service. If the Treasury Inspector General for Tax Administration determines not to conduct such audit or investigation, the Inspector General shall timely provide a written explanation for such determination to the person making the request.

(2)(A) Any final report of an audit conducted by the Treasury Inspector General for Tax Administration shall be timely submitted by the Inspector General to the Commissioner of Internal Revenue and the Internal Revenue Service Oversight Board.

(B) The Treasury Inspector general for Tax Administration shall periodically submit to the Commissioner and Board a list of investigations for which a final report has been completed by the Inspector General and shall provide a copy of any such report upon request of the Commissioner or Board.

(C) This paragraph applies regardless of whether the applicable audit or investigation is requested under paragraph (1).[6]

Sec. 8E. SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF JUSTICE

(a)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Attorney General with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning–

(A) ongoing civil or criminal investigations or proceedings;

(B) undercover operations;

(C) the identity of confidential sources, including protected witnesses;

(D) intelligence or counterintelligence matters; or

(E) other matters the disclosure of which would constitute a serious threat to national security.

(2) With respect to the information described under paragraph (1), the Attorney General may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Attorney General determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent the significant impairment to the national interests of the United States.

(3) If the Attorney General exercises any power under paragraph (1) or (2), the Attorney General shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committees on Governmental Affairs and Judiciary of the Senate and the Committees on Government Operations and Judiciary of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

(b) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Justice–

(1) may initiate, conduct and supervise such audits and investigations in the Department of Justice as the Inspector General considers appropriate;

(2) shall give particular regard to the activities of the Counsel, Office of Professional Responsibility of the Department and the audit, internal investigative, and inspection units outside the Office of Inspector General with a view toward avoiding duplication and insuring effective coordination and cooperation; and

(3) shall refer to the Counsel, Office of Professional Responsibility of the Department for investigation, information or allegations relating to the conduct of an officer or employee of the Department of Justice employed in an attorney, criminal investigation of law, regulation, or order of the Department or any other applicable standard of conduct, except that no such referral shall be made if the officer or employee is employed in the Office of Professional Responsibility of the Department.

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[6]As amended Public Law 105–206, Title I, section 1103(b), (e)(1), (2), (112 Stat. 705, 709), July 22, 1998.

(c) Any report required to be transmitted by the Attorney General to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committees on the Judiciary and Governmental Affairs of the Senate and the Committees on the Judiciary and Government Operations of the House of Representatives.

Sec. 8F. SPECIAL PROVISIONS CONCERNING THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

(a) Notwithstanding the provisions of paragraphs (7) and (8) of section 6(a), it is within the exclusive jurisdiction of the Inspector General of the Corporation for National and Community Service to–

(1) appoint and determine the compensation of such officers and employees in accordance with section 195(b) of the National and Community Service Trust Act of 1993; and

(2) procure the temporary and intermittent services of and compensate such experts and consultants, in accordance with section 3109(b) of Title 5, United States Code, as may be necessary to carry out the functions, powers, and duties of the Inspector General.

(b) No later than the date on which the Chief Executive Officer of the Corporation for National and Community Service transmits any report to the Congress under subsection (a) or (b) of section 5, the Chief Executive Officer shall transmit such report to the Board of Directors of such Corporation.

(c) No later than the date on which the Chief Executive Officer of the Corporation for National and Community Service transmits a report described under section 5(b) to the Board of Directors as provided under subsection (b) of this section, the Chief Executive Officer shall also transmit any audit report which is described in the statement required under section 5(b)(4) to the Board of Directors. All such audit reports shall be placed on the agenda for review at the next scheduled meeting of the Board of Directors following such transmittal. The Chief Executive Officer of the Corporation shall be present at such meeting to provide any information relating to such audit reports.

(d) No later than the date on which the Inspector General of the Corporation for National and Community Service reports a problem, abuse, or deficiency under section 5(d) to the Chief Executive Officer of the Corporation, the Chief Executive Officer shall report such problem, abuse, or deficiency to the Board of Directors.

Sec. 8G. REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED FEDERAL ENTITIES

(a) Notwithstanding section 11 of this Act, as used in this section–

(1) the term "Federal entity" means any Government corporation (within the meaning of section 103(1) of Title 5, United States Code), any Government controlled corporation (within the meaning of section 103(2) of such Title), or any other entity in the Executive branch of the Government, or any independent regulatory agency, but does not include–

(A) an establishment (as defined under section 11(2) of this Act) or part of an establishment;

(B) a designated Federal entity (as defined under paragraph (2) of this subsection) or part of a designated Federal entity;

(C) the Executive Office of the President;

(D) the Central Intelligence Agency;

(E) the General Accounting Office; or

(F) any entity in the judicial or legislative branches of the Government, including the Administrative Office of the United States Courts and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol;

(2) the term "designated Federal entity" means Amtrak, the Appalachian Regional Commission, the Board of Governors of the Federal Reserve System, the Board for International Broadcasting, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Election Commission, the Federal Housing Finance Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Legal Services Corporation, the National Archives and Records Administration, the National Credit Union Administration, the National Endowment for the Arts, the National Endowment for the Humanities, the National Labor Relations Board, the National Science Foundation, the Panama Canal Commission, the Peace Corps, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission, the Smithsonian Institution, the United States International Trade Commission, and the United States Postal Service.

(3) the term "head of the Federal entity" means any person or persons designated by statute as the head of a Federal entity, and if no such designation exists, the chief policymaking officer or board of a Federal entity as identified in the list published pursuant to subsection (h)(1) of this section;

(4) the term "head of the designated Federal entity" means any person or persons designated by statute as the head of a designated Federal entity and if no such designation exists, the chief policymaking officer or board of a designated Federal entity as identified in the list published pursuant to subsection (h)(1) of this section, except that–

(A) with respect to the National Science Foundation, such term means the National Science Board; and

(B) with respect to the United States Postal Services, such term means the Governors (within the meaning of section 102(3) of Title 39, United States Code);

(5) the term "Office of Inspector General" means an Office of Inspector General of a designated Federal entity; and

(6) the term "Inspector General" means an Inspector General of a designated Federal entity.

(b) No later than 180 days after the date of the enactment of this section [Oct. 18, 1988], there shall be established and maintained in each designated Federal entity an Office of Inspector General. The head of the designated Federal entity shall transfer to such office the offices, units, or other components, and the functions, powers, or duties thereof, that such head determines are properly related to the functions of the Office of Inspector General and would, if so transferred to such office any program operating responsibilities.

(c) Except as provided under subsection (f) of this section, the Inspector General shall be appointed by the head of the designated Federal entity in accordance with the applicable laws and regulations governing appointments within the designated Federal entity.

(d) Each Inspector General shall report to and be under the general supervision of the head of the designated Federal entity, but shall not report to, or be subject to supervision by, any other officer or employee of such designated Federal entity. The head of the designated Federal entity shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.

(e) If an Inspector General is removed from office or is transferred to another position or location within a designated Federal entity, the head of the designated Federal entity

shall promptly communicate in writing the reasons for any such removal or transfer to both Houses of the Congress.

(f)(1) For purposes of carrying out subsection (c) with respect to the United States Postal Service, the appointment provisions of section 202(e) of Title 39, United States Code, shall be applied.

(2) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service (hereinafter in this subsection referred to as the "Inspector General") shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report the significant activities being carried out by the Postal Inspection Service to such Inspector General.

(3)(A)(i) Notwithstanding subsection (d), the Inspector General shall be under the authority, direction, and control of the Governors with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning–

(I) ongoing civil or criminal investigations or proceedings;

(II) undercover operations;

(III) the identity of confidential sources, including protected witnesses;

(IV) intelligence or counterintelligence matters; or

(V) other matters the disclosure of which would constitute a serious threat to national security.

(ii) with respect to the information described under clause (i), the Governors may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Governors determine that such prohibition is necessary to prevent the disclosure of any information described under clause (i) or to prevent the significant impairment to the national interests of the United States.

(iii) If the Governors exercise any power under clause (i) or (ii), the Governors shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

(B) In carrying out the duties and responsibilities specified in this Act, the Inspector General–

(i) may initiate, conduct and supervise such audits and investigations in the United States Postal Service as the Inspector General considers appropriate; and

(ii) shall give particular regard to the activities of the Postal Inspection Service with a view toward avoiding duplication and insuring effective coordination and cooperation.

(C) Any report required to be transmitted by the Governors to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

(3) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of either employees of the United States Postal

Service, or labor organizations representing employees of the United States Postal Service, under Chapter 12 of Title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.

(4) As used in this subsection, the term "Governors" has the meaning given such term by section 102(3) of Title 39, United States Code.

(g)(1) Sections 4,5,6 (other than subsections (a)(7) and (a)(8) thereof), and 7 of this Act shall apply to each Inspector General and Office of Inspector General of a designated Federal entity and such sections shall be applied to each designated Federal entity and head of the designated Federal entity (as defined under subsection (a)) by substituting–

(A) "designated Federal entity" for "establishment"; and

(B) "head of the designated Federal entity" for "head of the establishment."

(2) In addition to the other authorities specified in this Act, an Inspector General is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the designated Federal entity.

(3) Notwithstanding the last sentence of subsection (d) of this section, the provisions of subsection (a) of section 8C (other than the provisions of subparagraphs (A), (B), (C), and (E) of subsection (a)(1)) shall apply to the Inspector General of the Board of Governors of the Federal Reserve System and the Chairman of the Board of Governors of the Federal Reserve System in the same manner as such provisions apply to the Inspector General of the Department of the Treasury and the Secretary of the Treasury, respectively.

(h)(1) No later than April 30, 1989, and annually thereafter, the Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States, shall publish in the Federal Register a list of the Federal entities and designated Federal entities and the head of each such entity (as defined under subsection (a) of this section).

(2) Beginning on October 31, 1989, and on October 31 of each succeeding calendar year, the head of each Federal entity (as defined under subsection (a) of this section) shall prepare and transmit to the Director of the Office of Management and Budget and to each House of the Congress a report which–

(A) states whether there has been established in the Federal entity an office that meets the requirements of this section;

(B) specifies the actions taken by the Federal entity otherwise to ensure that audits are conducted of its programs and operations in accordance with the standard for audit of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States, and includes a list of each audit report completed by a Federal or non-Federal auditor during the reporting period and a summary of any particularly significant findings; and

(C) summarizes any matters relating to the personnel, programs, and operations of the Federal entity referred to prosecutive authorities, including a summary description of any preliminary investigation conducted by or at the request of the Federal entity concerning these matters, and the prosecutions and convictions which have resulted.

Sec. 8H. ADDITIONAL PROVISIONS WITH RESPECT TO INSPECTORS GENERAL OF THE INTELLIGENCE COMMUNITY

(a)(1)(A) An employee of the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Reconnaissance Office, or the National Security Agency,

or of a contractor of any of those Agencies, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the Inspector General of the Department of Defense (or designee).

(B) An employee of the Federal Bureau of Investigation, or of a contractor of the Bureau, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the Inspector General of the Department of Justice (or designee).

(C) Any other employee of, or contractor to, an executive agency, or element or unit thereof, determined by the President under section 2302(a)(2)(C)(ii) of Title 5, United States Code, to have as its principal function the conduct of foreign intelligence or counterintelligence activities, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the appropriate Inspector General (or designee) under this Act or section 17 of the Central Intelligence Agency Act of 1949 [50 USCA section 403a et seq.].

(2) If a designee of an Inspector General under this section receives a complaint or information of an employee with respect to an urgent concern, that designee shall report the complaint or information to the Inspector General within 7 calendar days of receipt.

(b) Not later than the end of the 14-calendar day period beginning on the date of receipt of an employee complaint or information under subsection (a), the Inspector General shall determine whether the complaint or information appears credible. If the Inspector General determines that the complaint or information appears credible, the Inspector General shall, before the end of such period, transmit the complaint or information to the head of the establishment.

(c) Upon receipt of a transmittal from the Inspector General under subsection (b), the head of the establishment shall, within 7 calendar days of such receipt, forward such transmittal to the intelligence committee, together with any comments the head of the establishment considers appropriate.

(d)(1) If the Inspector General does not transmit, or does not transmit in an accurate form, the complaint or information described in subsection (b), the employee (subject to paragraph (2)) may submit the complaint or information to Congress by contacting either or both of the intelligence committees directly.

(2) The employee may contact the intelligence committees directly as described in paragraph (1) only if the employee:

(A) before making such a contact, furnishes to the head of the establishment, through the Inspector General, a statement of the employee's complaint or information and notice of the employee's intent to contact the intelligence committees directly; and

(B) obtains and follows from the head of the establishment, through the Inspector General, direction on how to contact the intelligence committees in accordance with appropriate security practices.

(3) A member or employee of one of the intelligence committees who receives a complaint or information under paragraph (1) does so in that member or employee's official capacity as a member or employee of that committee.

(e) The Inspector General shall notify an employee who reports a complaint or information under this section of each action taken under this section with respect to the complaint or information. Such notice shall be provided not later than 3 days after any such action is taken.

(f) An action taken by the head of an establishment or an Inspector General under this section shall not be subject to judicial review.

(g) In this section:

(1) The term "urgent concern" means any of the following:

(A) A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operations of an intelligence activity involving classified information, but does not include differences of opinions concerning public policy matters.

(B) A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.

(C) An action, including a personnel action described in section 2302(a)(2)(A) of Title 5, constituting reprisal or threat of reprisal prohibited under section 7(c) in response to an employee's reporting an urgent concern in accordance with this action.

(2) The term "intelligence committees" means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.[7]

Sec. 8I. RULE OF CONSTRUCTION OF SPECIAL PROVISIONS

The special provisions under section 8, 8A, 8B, 8C, 8D, 8E, 8F, or 8H of this Act relate only to the establishment named in such section and no inference shall be drawn from the presence or absence of a provision in any such section with respect to an establishment not named in such section or with respect to a designated Federal entity as defined under section 8G(a).[8] [9]

Sec. 9. TRANSFER OF FUNCTIONS

(a) There shall be transferred–

(1) to the Office of Inspector General–

(A) of the Department of Agriculture, the offices of that department referred to as the "Office of Investigation" and the "Office of Audit";

(B) of the Department of Commerce, the offices of that department referred to as the "Office of Audits" and the "Investigations and Inspections Staff" and that portion of the office referred to as the "Office of Investigations and Security" which has responsibility for investigation of alleged criminal violations and program abuse;

(C) of the Department of Defense, the offices of that department referred to as the "Defense Audit Service" and the "Office of Inspector General, Defense Logistics Agency", and that portion of the office of that department referred to as the "Defense Investigative Service" which has responsibility for the investigation of alleged criminal violations;

(D) of the Department of Education, all functions of the Inspector General of Health, Education, and Welfare or of the Office of Inspector General of Health, Education, and Welfare relating to functions transferred by section 301 of the Department of Education Organization Act [20 USCA section 3441];

(E) of the Department of Energy, the Office of Inspector General (as established by section 208 of the Department of Energy Organization Act);

(F) of the Department of Health and Human Services, the Office of Inspector General (as established by Title II of Public Law 94-505);

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[7]Public Law 105-272, Title VII, section 702(b)(1), (112 Stat. 2415), Oct. 20, 1998.

[8]Public Law 105-272 (112 Stat. 2415); Oct. 20, 1998; redesignated section 8H o section 8I.

[9]Public Law 95-452, section 8I, formerly section 8F, as added Public Law 100-504, Title I, section 105, Oct. 18, 1988, 102 Stat. 2525; renumbered section 8G and amended Public Law 103-82, Title II, section 202(g)(1), (5)(B), Sept. 21, 1993, 107 Stat. 889, 890; renumbered section 8H, Public Law 104-208, Div. A, Title I, section 101(f) [Title VI, section 662(b)(3)], Sept. 30, 1996, 110 Stat. 3009-379; renumbered section 8H and amended Public Law 105-206, Title I, section 1103(e)(3), July 22, 1998, 112 Stat. 709; renumbered 8I and amended Public Law 105-272, Title VII, section 702(b), Oct. 20, 1998, 112 Stat. 2414.

(G) of the Department of Housing and Urban Development, the office of that department referred to as the "Office of Inspector General";

(H) of the Department of the Interior, the office of that department referred to as the "Office of Audit and Investigation";

(I) of the Department of Justice, the offices of that Department referred to as (i) the "Audit Staff, Justice Management Division", (ii) the "Policy and Procedures Branch, Office of the Comptroller, Immigration and Naturalization Service", the "Office of Professional Responsibility, Immigration and Naturalization Service", and the "Office of Program Inspections, Immigration and Naturalization Service", (iii) the "Office of Internal Inspection, United States Marshals Service", (iv) the "Financial Audit Section, Office of Financial Management, Bureau of Prisons" and the "Office of Inspections, Bureau of Prisons", and (v) from the Drug Enforcement Administration, that portion of the "Office of Inspections" which is engaged in internal audit activities, and that portion of the "Office of Planning and Evaluation" which is engaged in program review activities;

(J) of the Department of Labor, the office of that department referred to as the "Office of Special Investigations;

(K) of the Department of Transportation, the offices of that department referred to as the "Office of Investigations and Security" and the "Office of Audit" of the Department, the "Offices of Investigations and Security, Federal Aviation Administration", and "External Audit Divisions, Federal Aviation Administration", the "Investigations Division and the External Audit Division of the Office of Program Review and Investigation, Federal Highway Administration", and the "Office of Program Audits, Urban Mass Transportation Administration";

(L)(i) of the Department of the Treasury, the office of that department referred to as the "Office of Inspector General", and, notwithstanding any other provision of law, that portion of each of the offices of that department referred to as the "Office of Internal Affairs, Bureau of Alcohol, Tobacco, and Firearms", the "Office of Internal Affairs, United States Customs Service", and the "Office of Inspections, United States Secret Service" which is engaged in internal audit activities; and

(ii) of the Treasury Inspector General for Tax Administration, effective 180 days after the date of the enactment of the Internal Revenue Service Restructuring and Reform Act of 1998, the Office of Chief Inspector of the Internal Revenue Service;[10]

(M) of the Environmental Protection Agency, the offices of that agency referred to as the "Office of Audit" and the "Security and Inspection Division";

(N) of the Federal Emergency Management Agency, the office of that agency referred to as the "Office of Inspector General";

(O) of the General Services Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations";

(P) of the National Aeronautics and Space Administration, the offices of that agency referred to as the "Management Audit Office" and the "Office of Inspections and Security";

(Q) of the Nuclear Regulatory Commission, the office of that commission referred to as the "Office of Inspector and Auditor";

®) of the Office of Personnel Management, the offices of that agency referred to as the "Office of Inspector General", the "Insurance Audits Division,

[10]As amended, Public Law 105-206, Title I, section 1103(c)(1), (112 Stat. 708), July 22, 1998.

Retirement and Insurance Group", and the "Analysis and Evaluation Division, Administration Group";

(S) of the Railroad Retirement Board, the Office of Inspector General (as established by section 23 of the Railroad Retirement Act of 1974);

(T) of the Small Business Administration, the office of that agency referred to as the "Office of Audits and Investigations";

(U) of the Veterans' Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations";

(V) of the Corporation for National and Community Service, the Office of Inspector General of ACTION; and

(W) of the Social Security Administration, the functions of the Inspector General of the Department of Health and Human Services which are transferred to the Social Security Administration by the Social Security Independence and Program Improvements Act of 1994 (other than functions performed pursuant to section 105(a)(2) of such Act), except that such transfers shall be made in accordance with the provisions of such Act and shall not be subject to subsections (b) through (d) of this section; and

(2) such other offices or agencies, or functions, powers, or duties thereof, as the head of the establishment involved may determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this Act, except that there shall not be transferred to an Inspector General under paragraph (2) program operating responsibilities.

(b) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of which are transferred under subsection (a) are hereby transferred to the applicable Office of Inspector General.

(c) Personnel transferred pursuant to subsection (b) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

(d) In any case where all the functions, powers, and duties of any office or agency are transferred pursuant to this subsection, such office or agency shall lapse. Any person who, on the effective date of this Act [Oct. 1, 1978], held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in an Office of Inspector General to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

Sec. 10. CONFORMING AND TECHNICAL AMENDMENTS

[Section amended sections 5315 and 5316 of Title 5, Government Organization and Employees, and section 3522 of Title 42, The Public Health and Welfare, which amendments have been executed to text.]

Sec. 11. DEFINITIONS

As used in this Act[11]–

(1) the term "head of the establishment" means the Secretary of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, or the Treasury; the Attorney General; the Administrator of the Agency for International Development, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs; the Director of the Federal Emergency Management

[11](Pub.L. 104-106, Div. D, Title XLIII, section 4322(b)(1),(3), Feb. 10, 1996, 110 Stat. 677.)

Agency, the Office of Personnel Management or the United States Information Agency; the Chairman of the Nuclear Regulatory Commission or the Railroad Retirement Board; the Chairperson of the Thrift Depositor Protection Oversight Board; the Chief Executive Officer of the Corporation for National and Community Service; the Administrator of the Community Development Financial Institutions Fund; and the chief executive officer of the Resolution Trust Corporation; and the chairperson of the Federal Deposit Insurance Corporation; or the Commissioner of Social Security, Social Security Administration; or the Board of Directors of the Tennessee Valley Authority; as the case may be;[12]

(2) the term "establishment" means the Department of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, or the Treasury; the Agency for International Development, the Community Development Financial Institutions Fund, the Environmental Protection Agency, the Federal Emergency Management Agency, the General Services Administration, the National Aeronautics and Space Administration, the Nuclear Regulatory Commission, the Office of Personnel Management, the Railroad Retirement Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Small Business Administration, the United States Information Agency, the Corporation for National and Community Service, or the Veterans' Administration, or the Social Security Administration; or the Tennessee Valley Authority, as the case may be;[13]

(3) the term "Inspector General" means the Inspector General of an establishment;

(4) the term "Office" means the Office of Inspector General of an establishment; and

(5) the term "Federal agency" means an agency as defined in section 552(e) of Title 5 (including an establishment as defined in paragraph (2)), United States Code, but shall not be construed to include the General Accounting Office.

Sec. 12. EFFECTIVE DATE

The [original] provisions of this Act and the amendments [to other laws] made by this Act [see section 10 of this Act] shall take effect October 1, 1978.

PERTINENT PORTIONS OF INSPECTOR GENERAL ACT AMENDMENT OF 1988
(which did not amend Inspector General Act of 1978)

UNIFORM SALARIES FOR INSPECTORS GENERAL.

(a) UNIFORM SALARIES.–Section 5315 of Title 5, United States Code, is amended by adding at the end thereof the following new paragraphs

Inspector General, Department of Commerce.
Inspector General, Department of the Interior.
Inspector General, Department of Justice.
Inspector General, Department of the Treasury.
Inspector General, Agency for International Development.
Inspector General, Environmental Protection Agency.
Inspector General, Federal Emergency Management Agency.
Inspector General, General Services Administrator.
Inspector General, National Aeronautics and Space Administration.
Inspector General, Nuclear Regulatory Commission.

[12]As amended, Public Law 105-277, Div. G, Title XIII, section 1314(b), (112 Stat. 2681-776), Oct. 21, 1998; Public Law 106-422, section 1(b)(2), (114 Stat. 1872), Nov. 1, 2000.

[13]As amended, Public Law 105-277, Div. G, Title XIII, section 1314(b), (112 Stat. 2681-776), Oct. 21, 1998; Public Law 106-422, section 1(b)(2), (114 Stat. 1872), Nov. 1, 2000.

Inspector General, Office of Personnel Management.
Inspector General, Railroad Retirement Board.
Inspector General, Small Business Administration.

APPROPRIATION ACCOUNTS.

Section 1105(a)(25) of Title 31, United States code, is amended to read as follows:

(a) During the first 15 days of each regular session of Congress, the President shall submit a budget of the United States Government for the following fiscal year. Each budget shall include a budget message and summary and supporting information. The President shall include in each budget the following:

(25) a separate appropriation account for appropriations for each Office of Inspector General of an establishment defined under section 11(2) of the Inspector General Act of 1978.

PAYMENT AUTHORITY SUBJECT TO APPROPRIATIONS.

Any authority to make payments under this Title (Inspector General Act Amendments) shall be effective only to such extent as provided in appropriations Acts.

EFFECTIVE DATE.

This Title and the amendments made by this Title shall take effect 180 days after the date of the enactment of this Title, except that section 5(a)(6) through (12) of the Inspector General Act of 1978 (as amended by section 106(a) of this Title) and section (5)(b)(1) through (4) of the Inspector General Act of 1978 (as amended by section 106(b) of this Title) shall take effect 1 year after the date of the enactment of this Title.

INFORMATION MANAGEMENT
[Selected Portions]

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***NOTE: Subtitle III –INFORMATION TECHNOLOGY MANAGEMENT, Public Law 107–217, August 21, 2002 (116 Stat 1235)- Recodified: Information Technology Management Reform Act of 1996 (Clinger–Cohen), Public Law 104-106 (110 Stat. 679). New USC Cite: 40 USC 11101, *et seq*. (formerly 40 USC 1401 *et seq*.).**

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1. INFORMATION MANAGEMENT

Public Law 107–217 **116 Stat. 1235**

[Selected Portions]

SUBTITLE III – INFORMATION TECHNOLOGY MANAGEMENT[1]

Sec. 11101. Definitions.

In this subtitle, the following definitions apply:

(1) COMMERCIAL ITEM.–The term "commercial item" has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(2) EXECUTIVE AGENCY.–The term "executive agency" has the meaning given that term in section 4 of the Act (41 U.S.C. 403).

(3) INFORMATION RESOURCES.–The term "information resources" has the meaning given that term in section 3502 of title 44.

(4) INFORMATION RESOURCES MANAGEMENT.–The term "information resources management" has the meaning given that term in section 3502 of title 44.

(5) INFORMATION SYSTEM.–The term "information system" has the meaning given that term in section 3502 of title 44.

(6) INFORMATION TECHNOLOGY.– The term "information technology"–

(A) with respect to an executive agency means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use–

(i) of that equipment; or

(ii) of that equipment to a significant extent in the performance of a service or the furnishing of a product;

(B) includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources; but

(C) does not include any equipment acquired by a federal contractor incidental to a federal contract.

Sec. 11102. Sense of Congress.

It is the sense of Congress that, during the five-year period beginning with 1996, executive agencies should achieve each year through improvements in information resources management by the agency–

(1) at least a five percent decrease in the cost (in constant fiscal year 1996 dollars) incurred by the agency in operating and maintaining information technology; and

(2) a five percent increase in the efficiency of the agency operations.

[1]Public Law 107–217 (116 Stat. 1235) recodified provisions of Public Law 104–106 (110 Stat. 679), Information Technology Management Reform Act of 1996 (Clinger–Cohen; formerly codified at 40 USC 1401, *et. seq*.

Sec. 11103. Applicability to national security systems.

(a) DEFINITION.–

(1) NATIONAL SECURITY SYSTEM.–In this section, the term "national security system" means a telecommunications or information system operated by the Federal Government, the function, operation, or use of which–

(A) involves intelligence activities;

(B) involves cryptologic activities related to national security;

(C) involves command and control of military forces;

(D) involves equipment that is an integral part of a weapon or weapons system; or

(E) subject to paragraph (2), is critical to the direct fulfillment of military or intelligence missions.

(2) LIMITATION.– Paragraph (1)(E) does not include a system to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications).

(b) IN GENERAL.–Except as provided in subsection (c), chapter 113 of this title does not apply to national security systems.

(c) EXCEPTIONS.–

(1) IN GENERAL.–Sections 11313, 11315, and 11316 of this title apply to national security systems.

(2) CAPITAL PLANNING AND INVESTMENT CONTROL.– The heads of executive agencies shall apply sections 11302 and 11312 of this title to national security systems to the extent practicable.

(3) APPLICABILITY OF PERFORMANCE-BASED AND RESULTS-BASED MANAGEMENT TO NATIONAL SECURITY SYSTEMS.–

(A) IN GENERAL.–Subject to subparagraph (B), the heads of executive agencies shall apply section 11303 of this title to national security systems to the extent practicable.

(B) EXCEPTION.–National security systems are subject to section 11303(b)(5) of this title, except for subparagraph (B)(iv).

CHAPTER 113–RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

SUBCHAPTER I – DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

SUBCHAPTER II--EXECUTIVE AGENCIES

SUBCHAPTER I--DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

Sec. 11301. Responsibility of Director.

In fulfilling the responsibility to administer the functions assigned under chapter 35 of title 44, the Director of the Office of Management and Budget shall comply with this chapter with respect to the specific matters covered by this chapter.

Sec. 11302. Capital planning and investment control

(a) FEDERAL INFORMATION TECHNOLOGY.–The Director of the Office of Management and Budget shall perform the responsibilities set forth in this section in fulfilling the responsibilities under section 3504(h) of title 44.

(b) USE OF INFORMATION TECHNOLOGY IN FEDERAL PROGRAMS.–The Director shall promote and improve the acquisition, use, and disposal of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

(c) USE OF BUDGET PROCESS.–

(1) ANALYZING, TRACKING, AND EVALUATING CAPITAL INVESTMENTS.– As part of the budget process, the Director shall develop a process for analyzing, tracking, and evaluating the risks and results of all major capital investments made by an executive agency for information systems. The process shall cover the life of each system and shall include explicit criteria for analyzing the projected and actual costs, benefits, and risks associated with the investments.

(2) REPORT TO CONGRESS.–At the same time that the President submits the budget for a fiscal year to Congress under section 1105(a) of title 31, the Director shall submit to Congress a report on the net program performance benefits achieved as a result of major capital investments made by executive agencies for information systems and how the benefits relate to the accomplishment of the goals of the executive agencies.

(d) INFORMATION TECHNOLOGY STANDARDS.–The Director shall oversee the development and implementation of standards and guidelines pertaining to federal computer systems by the Secretary of Commerce through the National Institute of Standards and Technology under section 11331 of this title and section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3).

(e) DESIGNATION OF EXECUTIVE AGENTS FOR ACQUISITIONS.–The Director shall designate the head of one or more executive agencies, as the Director considers appropriate, as executive agent for Government-wide acquisitions of information technology.

(f) USE OF BEST PRACTICES IN ACQUISITIONS.–The Director shall encourage the heads of the executive agencies to develop and use the best practices in the acquisition of information technology.

(g) ASSESSMENT OF OTHER MODELS FOR MANAGING INFORMATION TECHNOLOGY.– On a continuing basis, the Director shall assess the experiences of executive agencies, state and local governments, international organizations, and the private sector in managing information technology.

(h) COMPARISON OF AGENCY USES OF INFORMATION TECHNOLOGY.–The Director shall compare the performances of the executive agencies in using information technology and shall disseminate the comparisons to the heads of the executive agencies.

(i) MONITORING TRAINING.–The Director shall monitor the development and implementation of training in information resources management for executive agency personnel.

(j) INFORMING CONGRESS.–The Director shall keep Congress fully informed on the extent to which the executive agencies are improving the performance of agency programs and the accomplishment of the agency missions through the use of the best practices in information resources management.

(k) COORDINATION OF POLICY DEVELOPMENT AND REVIEW.–The Director shall coordinate with the Office of Federal Procurement Policy the development and review by the Administrator of the Office of Information and Regulatory Affairs of policy associated with federal acquisition of information technology.

Sec. 11303. Performance-based and results-based management.

(a) IN GENERAL.–The Director of the Office of Management and Budget shall encourage the use of performance-based and results-based management in fulfilling the responsibilities assigned under section 3504(h) of title 44.

(b) EVALUATION OF AGENCY PROGRAMS AND INVESTMENTS.–

(1) REQUIREMENT.–The Director shall evaluate the information resources management practices of the executive agencies with respect to the performance and results of the investments made by the executive agencies in information technology.

(2) DIRECTION FOR EXECUTIVE AGENCY ACTION.–The Director shall issue to the head of each executive agency clear and concise direction that the head of each agency shall–

(A) establish effective and efficient capital planning processes for selecting, managing, and evaluating the results of all of its major investments in information systems;

(B) determine, before making an investment in a new information system–

(i) whether the function to be supported by the system should be performed by the private sector and, if so, whether any component of the executive agency performing that function should be converted from a governmental organization to a private sector organization; or

(ii) whether the function should be performed by the executive agency and, if so, whether the function should be

performed by a private sector source under contract or by executive agency personnel;

(C) analyze the missions of the executive agency and, based on the analysis, revise the executive agency's mission-related processes and administrative processes, as appropriate, before making significant investments in information technology to be used in support of those missions; and

(D) ensure that the information security policies, procedures, and practices are adequate.

(3) GUIDANCE FOR MULTIAGENCY INVESTMENTS.–The direction issued under paragraph (2) shall include guidance for undertaking efficiently and effectively interagency and Federal Government-wide investments in information technology to improve the accomplishment of missions that are common to the executive agencies.

(4) PERIODIC REVIEWS.–The Director shall implement through the budget process periodic reviews of selected information resources management activities of the executive agencies to ascertain the efficiency and effectiveness of information technology in improving the performance of the executive agency and the accomplishment of the missions of the executive agency.

(5) ENFORCEMENT OF ACCOUNTABILITY.–

(A) IN GENERAL.–The Director may take any action that the Director considers appropriate, including an action involving the budgetary process or appropriations management process, to enforce accountability of the head of an executive agency for information resources management and for the investments made by the executive agency in information technology.

(B) SPECIFIC ACTIONS.–Actions taken by the Director may include–

(i) recommending a reduction or an increase in the amount for information resources that the head of the executive agency proposes for the budget submitted to Congress under section 1105(a) of title 31;

(ii) reducing or otherwise adjusting apportionments and reapportionments of appropriations for information resources;

(iii) using other administrative controls over appropriations to restrict the availability of amounts for information resources; and

(iv) designating for the executive agency an executive agent to contract with private sector sources for the performance of information resources management or the acquisition of information technology.

SUBCHAPTER II--EXECUTIVE AGENCIES

Sec. 11311. Responsibilities

In fulfilling the responsibilities assigned under chapter 35 of title 44, the head of each executive agency shall comply with this subchapter with respect to the specific matters covered by this subchapter.

Sec. 11312. Capital planning and investment control

(a) DESIGN OF PROCESS.–In fulfilling the responsibilities assigned under section 3506(h) of title 44, the head of each executive agency shall

design and implement in the executive agency a process for maximizing the value, and assessing and managing the risks, of the information technology acquisitions of the executive agency.

(b) CONTENT OF PROCESS.–The process of an executive agency shall–

(1) provide for the selection of information technology investments to be made by the executive agency, the management of those investments, and the evaluation of the results of those investments;

(2) be integrated with the processes for making budget, financial, and program management decisions in the executive agency;

(3) include minimum criteria to be applied in considering whether to undertake a particular investment in information systems, including criteria related to the quantitatively expressed projected net, risk-adjusted return on investment and specific quantitative and qualitative criteria for comparing and prioritizing alternative information systems investment projects;

(4) identify information systems investments that would result in shared benefits or costs for other federal agencies or state or local governments;

(5) identify quantifiable measurements for determining the net benefits and risks of a proposed investment; and

(6) provide the means for senior management personnel of the executive agency to obtain timely information regarding the progress of an investment in an information system, including a system of milestones for measuring progress, on an independently verifiable basis, in terms of cost, capability of the system to meet specified requirements, timeliness, and quality.

Sec. 11313. Performance and results-based management

In fulfilling the responsibilities under section 3506(h) of title 44, the head of an executive agency shall–

(1) establish goals for improving the efficiency and effectiveness of agency operations and, as appropriate, the delivery of services to the public through the effective use of information technology;

(2) prepare an annual report, to be included in the executive agency's budget submission to Congress, on the progress in achieving the goals;

(3) ensure that performance measurements–

(A) are prescribed for information technology used by, or to be acquired for, the executive agency; and

(B) measure how well the information technology supports programs of the executive agency;

(4) where comparable processes and organizations in the public or private sectors exist, quantitatively benchmark agency process performance against those processes in terms of cost, speed, productivity, and quality of outputs and outcomes;

(5) analyze the missions of the executive agency and, based on the analysis, revise the executive agency's mission-related processes and administrative processes as appropriate before making significant investments in information technology to be used in support of the performance of those missions; and

(6) ensure that the information security policies, procedures, and practices of the executive agency are adequate.

Sec. 11314. Authority to acquire and manage information technology

(a) IN GENERAL.–The authority of the head of an executive agency to acquire information technology includes–

(1) acquiring information technology as authorized by law;

(2) making a contract that provides for multiagency acquisitions of information technology in accordance with guidance issued by the Director of the Office of Management and Budget; and

(3) if the Director finds that it would be advantageous for the Federal Government to do so, making a multiagency contract for procurement of commercial items of information technology that requires each executive agency covered by the contract, when procuring those items, to procure the items under that contract or to justify an alternative procurement of the items.

(b) FTS 2000 PROGRAM.–The Administrator of General Services shall continue to manage the FTS 2000 program, and to coordinate the follow-on to that program, for and with the advice of the heads of executive agencies.

Sec. 11315. Agency Chief Information Officer

(a) DEFINITION.–In this section, the term ``information technology architecture'', with respect to an executive agency, means an integrated framework for evolving or maintaining existing information technology and acquiring new information technology to achieve the agency's strategic goals and information resources management goals.

(b) GENERAL RESPONSIBILITIES.–The Chief Information Officer of an executive agency is responsible for–

(1) providing advice and other assistance to the head of the executive agency and other senior management personnel of the executive agency to ensure that information technology is acquired and information resources are managed for the executive agency in a manner that implements the policies and procedures of this subtitle, consistent with chapter 35 of title 44 and the priorities established by the head of the executive agency;

(2) developing, maintaining, and facilitating the implementation of a sound and integrated information technology architecture for the executive agency; and

(3) promoting the effective and efficient design and operation of all major information resources management processes for the executive agency, including improvements to work processes of the executive agency.

(c) DUTIES AND QUALIFICATIONS.–The Chief Information Officer of an agency listed in section 901(b) of title 31–

(1) has information resources management duties as that official's primary duty;

(2) monitors the performance of information technology programs of the agency, evaluates the performance of those programs on the basis of the applicable performance measurements, and advises the head of the agency regarding whether to continue, modify, or terminate a program or project; and

(3) annually, as part of the strategic planning and performance evaluation process required (subject to section 1117 of title 31) under section 306 of title 5 and sections 1105(a)(28), 1115–1117, and 9703

(as added by section 5(a) of the Government Performance and Results Act of 1993 (Public Law 103-62, 107 Stat. 289)) of title 31–

(A) assesses the requirements established for agency personnel regarding knowledge and skill in information resources management and the adequacy of those requirements for facilitating the achievement of the performance goals established for information resources management;

(B) assesses the extent to which the positions and personnel at the executive level of the agency and the positions and personnel at management level of the agency below the executive level meet those requirements;

(C) develops strategies and specific plans for hiring, training, and professional development to rectify any deficiency in meeting those requirements; and

(D) reports to the head of the agency on the progress made in improving information resources management capability.

Sec. 11316. Accountability

The head of each executive agency, in consultation with the Chief Information Officer and the Chief Financial Officer of that executive agency (or, in the case of an executive agency without a chief financial officer, any comparable official), shall establish policies and procedures to ensure that–

(1) the accounting, financial, asset management, and other information systems of the executive agency are designed, developed, maintained, and used effectively to provide financial or program performance data for financial statements of the executive agency;

(2) financial and related program performance data are provided on a reliable, consistent, and timely basis to executive agency financial management systems; and

(3) financial statements support–

(A) assessments and revisions of mission-related processes and administrative processes of the executive agency; and

(B) measurement of the performance of investments made by the agency in information systems.

Sec. 11317. Significant deviations

The head of each executive agency shall identify in the strategic information resources management plan required under section 3506(b)(2) of title 44 any major information technology acquisition program, or any phase or increment of that program, that has significantly deviated from the cost, performance, or schedule goals established for the program.

Sec. 11318. Interagency support

The head of an executive agency may use amounts available to the agency for oversight, acquisition, and procurement of information technology to support jointly with other executive agencies the activities of interagency groups that are established to advise the Director of the Office of Management and Budget in carrying out the Director's responsibilities under this chapter. The use of those amounts for that purpose is subject to requirements and limitations on uses and amounts that the Director may prescribe. The Director shall prescribe the requirements and limitations during the Director's review of the executive agency's proposed budget submitted to the Director by the head of the executive agency for purposes of section 1105 of title 31.

SUBCHAPTER III--OTHER RESPONSIBILITIES

Sec. 11331. Responsibilities regarding efficiency, security, and privacy of federal computer systems

(a) DEFINITIONS.–In this section, the terms "federal computer system" and "operator of a federal computer system" have the meanings given those terms in section 20(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(d)).

(b) STANDARDS AND GUIDELINES.–

(1) AUTHORITY TO PRESCRIBE AND DISAPPROVE OR MODIFY.–

(A) AUTHORITY TO PRESCRIBE.–On the basis of standards and guidelines developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the Act (15 U.S.C. 278g-3(a)(2), (3)), the Secretary of Commerce shall prescribe standards and guidelines pertaining to federal computer systems. The Secretary shall make those standards compulsory and binding to the extent the Secretary determines necessary to improve the efficiency of operation or security and privacy of federal computer systems.

(B) AUTHORITY TO DISAPPROVE OR MODIFY.–The President may disapprove or modify those standards and guidelines if the President determines that action to be in the public interest. The President's authority to disapprove or modify those standards and guidelines may not be delegated. Notice of disapproval or modification shall be published promptly in the Federal Register. On receiving notice of disapproval or modification, the Secretary shall immediately rescind or modify those standards or guidelines as directed by the President.

(2) EXERCISE OF AUTHORITY.–To ensure fiscal and policy consistency, the Secretary shall exercise the authority conferred by this section subject to direction by the President and in coordination with the Director of the Office of Management and Budget.

(c) APPLICATION OF MORE STRINGENT STANDARDS.–The head of a federal agency may employ standards for the cost-effective security and privacy of sensitive information in a federal computer system in or under the supervision of that agency that are more stringent than the standards the Secretary prescribes under this section if the more stringent standards contain at least the applicable standards the Secretary makes compulsory and binding.

(d) WAIVER OF STANDARDS.–

(1) AUTHORITY OF THE SECRETARY.–The Secretary may waive in writing compulsory and binding standards under subsection (b) if the Secretary determines that compliance would–

(A) adversely affect the accomplishment of the mission of an operator of a federal computer system; or

(B) cause a major adverse financial impact on the operator that is not offset by Federal Government-wide savings.

(2) DELEGATION OF WAIVER AUTHORITY.–The Secretary may delegate to the head of one or more federal agencies authority to waive those standards to the extent the Secretary determines that action to be necessary and desirable to allow for timely and effective implementation of federal computer system standards. The head of the

agency may redelegate that authority only to a chief information officer designated pursuant to section 3506 of title 44.

(3) NOTICE.–Notice of each waiver and delegation shall be transmitted promptly to Congress and published promptly in the Federal Register.

Sec. 11332. Federal computer system security training and plan

(a) DEFINITIONS.–In this section, the terms "computer system", "federal agency", "federal computer system", "operator of a federal computer system", and "sensitive information" have the meanings given those terms in section 20(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(d)).

(b) TRAINING–

(1) IN GENERAL.–Each federal agency shall provide for mandatory periodic training in computer security awareness and accepted computer security practice of all employees who are involved with the management, use, or operation of each federal computer system within or under the supervision of the agency. The training shall be–

(A) provided in accordance with the guidelines developed pursuant to section 20(a)(5) of the Act (15 U.S.C. 278g-3(a)(5)) and the regulations prescribed under paragraph (3) for federal civilian employees; or

(B) provided by an alternative training program that the head of the agency approves after determining that the alternative training program is at least as effective in accomplishing the objectives of the guidelines and regulations.

(2) TRAINING OBJECTIVES.–Training under this subsection shall be designed–

(A) to enhance employees' awareness of the threats to, and vulnerability of, computer systems; and

(B) to encourage the use of improved computer security practices.

(3) REGULATIONS.–The Director of the Office of Personnel Management shall maintain regulations that establish the procedures and scope of the training to be provided federal civilian employees under this subsection and the manner in which the training is to be carried out.

(c) PLAN.–

(1) IN GENERAL.–Consistent with standards, guidelines, policies, and regulations prescribed pursuant to section 11331 of this title, each federal agency shall maintain a plan for the security and privacy of each federal computer system the agency identifies as being within or under its supervision and as containing sensitive information. The plan must be commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to, or modification of, the information contained in the system.

(2) REVISION AND REVIEW.–The plan shall be revised annually as necessary and is subject to disapproval by the Director of the Office of Management and Budget.

(d) HANDLING OF INFORMATION NOT AFFECTED.–This section does not–

(1) constitute authority to withhold information sought pursuant to section 552 of title 5; or

(2) authorize a federal agency to limit, restrict, regulate, or control the collection, maintenance, disclosure, use, transfer, or sale of any information (regardless of the medium in which the information may be maintained) that is–

(A) privately owned information;

(B) disclosable under section 552 of title 5 or another law requiring or authorizing the public disclosure of information; or

(C) public domain information.

CHAPTER 113–RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

SUBCHAPTER 1. DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

Sec. 11301. Responsibility of Director.

40 USC 11301.

In fulfilling the responsibility to administer the functions assigned under Chapter 35 of Title 44, United States Code, the Director shall comply with this Title with respect to the specific matters covered by this Title.

Sec. 5112. Capital Planning and Investment Control.

40 USC 1412.

(a) FEDERAL INFORMATION TECHNOLOGY.–The Director shall perform the responsibilities set forth in this section in fulfilling the responsibilities under section 3504(h) of Title 44, United States Code.

Public information.

(b) USE OF INFORMATION TECHNOLOGY IN FEDERAL PROGRAMS.–The Director shall promote and be responsible for improving the acquisition, use, and disposal of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

(c) USE OF BUDGET PROCESS.–The Director shall develop, as part of the budget process, a process for analyzing, tracking, and evaluating the risks and results of all major capital investments made by an executive agency for information systems. The process shall cover the life of each system and shall include explicit criteria for analyzing the projected and actual costs, benefits, and risks associated with the investments. At the same time that the President submits the budget for a fiscal year to Congress under section 1105(a) of Title 31, United States Code, the Director shall submit to Congress a report on the net program performance benefits achieved as a result of major capital investments made by executive agencies in information systems and how the benefits relate to the accomplishment of the goals of the executive agencies.

Reports.

(d) INFORMATION TECHNOLOGY STANDARDS.–The Director shall oversee the development and implementation of standards and guidelines pertaining to Federal computer systems by the Secretary of Commerce through the National Institute of Standards and Technology under section 5131 and section 20 of the National Institute of Standards and Technology Act (15 USC 278g-3).

(e) DESIGNATION OF EXECUTIVE AGENTS FOR ACQUISITIONS.–The Director shall designate (as the Director considers

appropriate) one or more heads of executive agencies as executive agent for Government-wide acquisitions of information technology.

(f) USE OF BEST PRACTICES IN ACQUISITIONS.–The Director shall encourage the heads of the executive agencies to develop and use the best practices in the acquisition of information technology.

(g) ASSESSMENT OF OTHER MODELS FOR MANAGING INFORMATION TECHNOLOGY.–The Director shall assess, on a continuing basis, the experiences of executive agencies, State and local governments, international organizations, and the private sector in managing information technology.

(h) COMPARISON OF AGENCY USES OF INFORMATION TECHNOLOGY.–The Director shall compare the performances of the executive agencies in using information technology and shall disseminate the comparisons to the heads of the executive agencies.

(i) TRAINING.–The Director shall monitor the development and implementation of training in information resources management for executive agency personnel.

(j) INFORMING CONGRESS.–The Director shall keep Congress fully informed on the extent to which the executive agencies are improving the performance of agency programs and the accomplishment of agency missions through the use of the best practices in information resources management.

(k) PROCUREMENT POLICY AND ACQUISITIONS OF INFORMATION TECHNOLOGY.–The Director shall coordinate the development and review by the Administrator of the Office of Information and Regulatory Affairs of policy associated with Federal acquisition of information technology with the Office of Federal Procurement Policy.

Sec. 5113. Performance-Based and Results-Based Management.

40 USC 1413.

(a) IN GENERAL.–The Director shall encourage the use of performance-based and results-based management in fulfilling the responsibilities assigned under section 3504(h), of Title 44, United States Code.

(b) EVALUATION OF AGENCY PROGRAMS AND INVESTMENTS.–

(1) Requirement.–The Director shall evaluate the information resources management practices of the executive agencies with respect to the performance and results of the investments made by the executive agencies in information technology.

(2) Direction for executive agency action.–The Director shall issue to the head of each executive agency clear and concise direction that the head of such agency shall–

(A) establish effective and efficient capital planning processes for selecting, managing, and evaluating the results of all of its major investments in information systems;

(B) determine, before making an investment in a new information system–

(i) whether the function to be supported by the system should be performed by the private sector and, if so, whether any component of the executive agency performing that function should be converted from a governmental organization to a private sector organization; or

(ii) whether the function should be performed by the executive agency and, if so, whether the function should be performed by a private sector source under contract or by executive agency personnel;

(C) analyze the missions of the executive agency and, based on the analysis, revise the executive agency's mission-related processes and administrative processes, as appropriate, before making significant investments in information technology to be used in support of those missions; and

(D) ensure that the information security policies, procedures, and practices are adequate.

(3) Guidance for multiagency investments.–The direction issued under paragraph (2) shall include guidance for undertaking efficiently and effectively interagency and Government-wide investments in information technology to improve the accomplishment of missions that are common to the executive agencies.

(4) Periodic reviews.–The Director shall implement through the budget process periodic reviews of selected information resources management activities of the executive agencies in order to ascertain the efficiency and effectiveness of information technology in improving the performance of the executive agency and the accomplishment of the missions of the executive agency.

(5) Enforcement of accountability.–

(A) In general.–The Director may take any authorized action that the Director considers appropriate, including an action involving the budgetary process or appropriations management process, to enforce accountability of the head of an executive agency for information resources management and for the investments made by the executive agency in information technology.

(B) Specific actions.–Actions taken by the Director in the case of an executive agency may include–

(i) recommending a reduction or an increase in any amount for information resources that the head of the executive agency proposes for the budget submitted to Congress under section 1105(a) of Title 31, United States Code;

(ii) reducing or otherwise adjusting apportionments and reapportionments of appropriations for information resources;

(iii) using other authorized administrative controls over appropriations to restrict the availability of funds for information resources; and

(iv) designating for the executive agency an executive agent to contract with private sector sources for the performance of information resources management or the acquisition of information technology.

SUBCHAPTER II. EXECUTIVE AGENCIES

Sec. 11311. Responsibilities.

40 USC 1421.

In fulfilling the responsibilities assigned under Chapter 35 of Title 44, United States Code, the head of each executive agency shall comply with this subtitle with respect to the specific matters covered by this subtitle.

Sec. 5122. Capital Planning and Investment Control.

40 USC 1422.

(a) DESIGN OF PROCESS.–In fulfilling the responsibilities assigned under section 3506(h) of Title 44, United States Code, the head of each executive agency shall design and implement in the executive agency a process for maximizing the value and assessing and managing the risks of the information technology acquisitions of the executive agency.

(b) CONTENT OF PROCESS.–The process of an executive agency shall–

(1) provide for the selection of information technology investments to be made by the executive agency, the management of such investments, and the evaluation of the results of such investments;

(2) be integrated with the processes for making budget, financial, and program management decisions within the executive agency;

(3) include minimum criteria to be applied in considering whether to undertake a particular investment in information systems, including criteria related to the quantitatively expressed projected net, risk-adjusted return on investment and specific quantitative and qualitative criteria for comparing and prioritizing alternative information systems investment projects;

(4) provide for identifying information systems investments that would result in shared benefits or costs for other Federal agencies or State or local governments;

(5) provide for identifying for a proposed investment quantifiable measurements for determining the net benefits and risks of the investment; and

(6) provide the means for senior management personnel of the executive agency to obtain timely information regarding the progress of an investment in an information system, including a system of milestones for measuring progress, on an independently verifiable basis, in terms of cost, capability of the system to meet specified requirements, timeliness, and quality.

Sec. 5123. Performance and Results-Based Management.

40 USC 1423.

In fulfilling the responsibilities under section 3506(h) of Title 44, United States Code, the head of an executive agency shall–

(1) establish goals for improving the efficiency and effectiveness of agency operations and, as appropriate, the delivery of services to the public through the effective use of information technology;

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(2) prepare an annual report, to be included in the executive agency's budget submission to Congress, on the progress in achieving the goals;

(3) ensure that performance measurements are prescribed for information technology used by or to be acquired for, the executive agency and that the performance measurements measure how well the information technology supports programs of the executive agency;

(4) where comparable processes and organizations in the public or private sectors exist, quantitatively benchmark agency process performance against such processes in terms of cost, speed, productivity, and quality of outputs and outcomes;

(5) analyze the missions of the executive agency and, based on the analysis, revise the executive agency's mission-related processes and administrative processes as appropriate before making significant

investments in information technology that is to be used in support of the performance of those missions; and

(6) ensure that the information security policies, procedures, and practices of the executive agency are adequate.

Sec. 5124. Acquisitions of Information Technology.

40 USC 1424.

(a) IN GENERAL.–The authority of the head of an executive agency to conduct an acquisition of information technology includes the following authorities:

(1) To acquire information technology as authorized by law.

(2) To enter into a contract that provides for multiagency acquisitions of information technology in accordance with guidance issued by the Director.

(3) If the Director finds that it would be advantageous for the Federal Government to do so, to enter into a multiagency contract for procurement of commercial items of information technology that requires each executive agency covered by the contract, when procuring such items, either to procure the items under that contract or to justify an alternative procurement of the items.

(b) FTS 2000 PROGRAM.–Notwithstanding any other provision of this or any other law, the Administrator of General Services shall continue to manage the FTS 2000 program, and to coordinate the follow-on to that program, on behalf of and with the advice of the heads of executive agencies.

Sec. 5125. Agency Chief Information Officer.

40 USC 1425.

(a) DESIGNATION OF CHIEF INFORMATION OFFICERS.–Section 3506 of Title 44, United States Code, is amended–

(1) in subsection (a)–

(A) in paragraph (2)(A), by striking out "senior official" and inserting in lieu thereof "Chief Information Officer";

(B) in paragraph (2)(B)–

(i) by striking out "senior officials" in the first sentence and inserting in lieu thereof "Chief Information Officers";

(ii) by striking out "official" in the second sentence and inserting in lieu thereof "Chief Information Officer"; and

(iii) by striking out "officials" in the second sentence and inserting in lieu thereof "Chief Information Officers"; and

(C) in paragraphs (3) and (4), by striking out "senior official" each place it appears and inserting in lieu thereof "Chief Information Officer"; and

(2) in subsection (c)(1), by striking out "official" in the matter preceding subparagraph (A) and inserting in lieu thereof "Chief Information Officer.

(b) GENERAL RESPONSIBILITIES.–The Chief Information Officer of an executive agency shall be responsible for–

(1) providing advice and other assistance to the head of the executive agency and other senior management personnel of the executive agency to ensure that information technology is acquired and information resources are managed for the executive agency in a manner that implements the policies and procedures of this division, consistent with Chapter 35 of Title 44, United States Code, and the priorities established by the head of the executive agency;

(2) developing, maintaining, and facilitating the implementation of a sound and integrated information technology architecture for the executive agency; and

(3) promoting the effective and efficient design and operation of all major information resources management processes for the executive agency, including improvements to work processes of the executive agency.

(c) DUTIES AND QUALIFICATIONS.–The Chief Information Officer of an agency that is listed in section 901(b) of Title 31, United States Code, shall–

(1) have information resources management duties as that official's primary duty;

(2) monitor the performance of information technology programs of the agency, evaluate the performance of those programs on the basis of the applicable performance measurements, and advise the head of the agency regarding whether to continue, modify, or terminate a program or project; and

(3) annually, as part of the strategic planning and performance evaluation process required (subject to section 1117 of Title 31, United States Code) under section 306 of Title 5, United States Code, and sections 1105(a)(29), 1115, 1116, 1117, and 9703 of Title 31, United States Code–

(A) assess the requirements established for agency personnel regarding knowledge and skill in information resources management and the adequacy of such requirements for facilitating the achievement of the performance goals established for information resources management;

(B) assess the extent to which the positions and personnel at the executive level of the agency and the positions and personnel at management level of the agency below the executive level meet those requirements;

(C) in order to rectify any deficiency in meeting those requirements, develop strategies and specific plans for hiring, training, and professional development; and

Reports.

(D) report to the head of the agency on the progress made in improving information resources management capability.

(d) INFORMATION TECHNOLOGY ARCHITECTURE DEFINED.–In this section, the term "information technology architecture", with respect to an executive agency, means an integrated framework for evolving or maintaining existing information technology and acquiring new information technology to achieve the agency's strategic goals and information resources management goals.

(e) EXECUTIVE LEVEL IV.–Section 5315 of Title 5, United States Code, is amended by adding at the end the following:

Chief Information Officer, Department of Agriculture.
Chief Information Officer, Department of Commerce.
Chief Information Officer, Department of Defense (unless the official designated as the Chief Information Officer of the Department of Defense is an official listed under section 5312, 5313, or 5314 of this Title).
Chief Information Officer, Department of Education.
Chief Information Officer, Department of Energy.
Chief Information Officer, Department of Health and Human Services.

Chief Information Officer, Department of Housing and Urban Development.
Chief Information Officer, Department of Interior.
Chief Information Officer, Department of Justice.
Chief Information Officer, Department of Labor.
Chief Information Officer, Department of State.
Chief Information Officer, Department of Transportation.
Chief Information Officer, Department of Treasury.
Chief Information Officer, Department of Veterans Affairs.
Chief Information Officer, Environmental Protection Agency.
Chief Information Officer, National Aeronautics and Space Administration.
Chief Information Officer, Agency for International Development.
Chief Information Officer, Federal Emergency Management Agency.
Chief Information Officer, General Services Administration.
Chief Information Officer, National Science Foundation.
Chief Information Officer, Nuclear Regulatory Agency.
Chief Information Officer, Office of Personnel Management.
Chief Information Officer, Small Business Administration.

Sec. 5126. Accountability.

40 USC 1426.

The head of each executive agency, in consultation with the Chief Information Officer and the Chief Financial Officer of that executive agency (or, in the case of an executive agency without a Chief Financial Officer, any comparable official), shall establish policies and procedures that–

(1) ensure that the accounting, financial, and asset management systems and other information systems of the executive agency are designed, developed, maintained, and used effectively to provide financial or program performance data for financial statements of the executive agency;

(2) ensure that financial and related program performance data are provided on a reliable, consistent, and timely basis to executive agency financial management systems; and

(3) ensure that financial statements support–

(A) assessments and revisions of mission-related processes and administrative processes of the executive agency; and

(B) performance measurement of the performance in the case of investments made by the agency in information systems.

Sec. 5127. Significant Deviations.

40 USC 1427.

The head of an executive agency shall identify in the strategic information resources management plan required under section 3506(b)(2) of Title 44, United States Code, any major information technology acquisition program, or any phase or increment of such a program, that has significantly deviated from the cost, performance, or schedule goals established for the program.

Sec. 5128. Interagency Support.

40 USC 1428.

Funds available for an executive agency for oversight, acquisition, and procurement of information technology may be used by the head of the executive agency to support jointly with other executive agencies the activities of interagency groups that are established to advise the Director in carrying out the Director's responsibilities under this Title. The use of such funds for that purpose shall be subject to such requirements and limitations on uses and amounts as the Director may prescribe. The Director shall prescribe any such requirements and limitations during the

Director's review of the executive agency's proposed budget submitted to the Director by the head of the executive agency for purposes of section 1105 of Title 31, United States Code.

Approved February 10, 1996

2. PAPERWORK REDUCTION ACT OF 1995, AS AMENDED

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2. PAPERWORK REDUCTION ACT OF 1995, AS AMENDED

Public Law 104-13 **109 Stat. 163**

May 22, 1995

An Act

To further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes.

Information resources management. Paperwork Reduction Act of 1995. 44 USC 101 note.

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

Sec. 1. Short Title.

This Act may be cited as the "Paperwork Reduction Act of 1995."

Sec. 2. Coordination of Federal Information Policy.

Chapter 35 of Title 44, United States Code, is amended to read as follows:

CHAPTER 35–COORDINATION OF FEDERAL INFORMATION POLICY

Sec.

Sec. 3501. Purposes

The purposes of this subchapter[2] are to–

(1) minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government;

(2) ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government;

(3) coordinate, integrate, and to the extent practicable and appropriate, make uniform Federal information resources management policies and practices as a means to improve the productivity, efficiency, and effectiveness of Government programs, including the reduction of information collection burdens on the public and the improvement of service delivery to the public;

(4) improve the quality and use of Federal information to strengthen decisionmaking, accountability, and openness in Government and society;

(5) minimize the cost to the Federal Government of the creation, collection, maintenance, use, dissemination, and disposition of information;

(6) strengthen the partnership between the Federal Government and State, local, and tribal governments by minimizing the burden and maximizing the utility of information created, collected, maintained, used, disseminated, and retained by or for the Federal Government;

(7) provide for the dissemination of public information on a timely basis, on equitable terms, and in a manner that promotes the utility of the information to the public and makes effective use of information technology;

(8) ensure that the creation, collection, maintenance, use, dissemination, and disposition of information by or for the Federal Government is consistent with applicable laws, including laws relating to–

(A) privacy and confidentiality, including section 552a of Title 5;

(B) security of information, including section 11332 of title 40[3]; and

(C) access to information, including section 552 of Title 5;

(9) ensure the integrity, quality, and utility of the Federal statistical system;

(10) ensure that information technology is acquired, used, and managed to improve performance of agency missions, including the reduction of information collection burdens on the public; and

(11) improve the responsibility and accountability of the Office of Management and Budget and all other Federal agencies to Congress and to the public for implementing the information collection review process, information resources management, and related policies and guidelines established under this Chapter.

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[2]Public Law 106–398, section 1, (114 Stat. 1654), Oct. 30 2000 substituted "subchapter" for "chapter" wherever occurring.

[3]Public Law 107–217, section 3(1)(4), August 21, 2002 (116 Stat. 1301).

Sec. 3502. Definitions

As used in this subchapter–

(1) the term "agency" means 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, but does not include–

(A) the General Accounting Office;

(B) Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities;

(2) the term "burden" means time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency, including the resources expended for–

(A) reviewing instructions;

(B) acquiring, installing, and utilizing technology and systems;

(C) adjusting the existing ways to comply with any previously applicable instructions and requirements;

(D) searching data sources;

(E) completing and reviewing the collection of information; and

(F) transmitting, or otherwise disclosing the information;

(3) the term "collection of information"–

(A) means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either–

(i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States; or

(ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes; and

(B) shall not include a collection of information described under section 3518(c)(1);

(4) the term "Director" means the Director of the Office of Management and Budget;

(5) the term "independent regulatory agency" means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal

Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

(6) the term "information resources" means information and related resources, such as personnel, equipment, funds, and information technology;

(7) the term "information resources management" means the process of managing information resources to accomplish agency missions and to improve agency performance, including through the reduction of information collection burdens on the public;

(8) the term "information system" means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information;

(9) the term "information technology" has the meaning given that term in section 1101 of title 40 but does not include national security systems as defined in section 11103 of title 40[4];

(10) the term "person" means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, tribal, or local government or branch thereof, or a political subdivision of a State, territory, tribal, or local government or a branch of a political subdivision;

(11) the term "practical utility" means the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion;

(12) the term "public information" means any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public;

(13) the term "recordkeeping requirement" means a requirement imposed by or for an agency on persons to maintain specified records, including a requirement to–

(A) retain such records;

(B) notify third parties, the Federal Government, or the public of the existence of such records;

(C) disclose such records to third parties, the Federal Government, or the public; or

(D) report to third parties, the Federal Government, or the public regarding such records; and

(14) the term "penalty" includes the imposition by an agency or court of a fine or other punishment; a judgment for monetary damages or equitable relief; or the revocation, suspension, reduction, or denial of a license, privilege, right, grant, or benefit.[5]

Sec. 3503. Office of Information and Regulatory Affairs

Establishment.

(a) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the

[4]Public Law 107–217; section 3(1)(4), August 21, 2002 (116 stat. 1301).

[5]May 22, 1995, Public Law 104–13, section 2, (109 Stat. 164); February 10, 1996, Public Law 104–106, Div E, Title LVI, section 5605(a), (110 Stat. 700); November 18, 1997, Public Law 105-85, Div. A, Title X, Subtitle G, section 1073(h)(5)(A), (111 Stat. 1907).

Senate. The Director shall delegate to the Administrator the authority to administer all functions under this Chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information resources management policy.

Sec. 3504. Authority and Functions of Director

(a)(1) The Director shall oversee the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including burden reduction and service delivery to the public. In performing such oversight, the Director shall–

(A) develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and

(B) provide direction and oversee–

(i) the review and approval of the collection of information and the reduction of the information collection burden;

(ii) agency dissemination of and public access to information;

(iii) statistical activities;

(iv) records management activities;

(v) privacy, confidentiality, security, disclosure, and sharing of information; and

(vi) the acquisition and use of information technology.

(2) The authority of the Director under this subchapter shall be exercised consistent with applicable law.

(b) With respect to general information resources management policy, the Director shall–

(1) develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;

(2) foster greater sharing, dissemination, and access to public information, including through–

(A) the use of the Government Information Locator Service; and

(B) the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;

(3) initiate and review proposals for changes in legislation, regulations, and agency procedures to improve information resources management practices;

(4) oversee the development and implementation of best practices in information resources management, including training; and

(5) oversee agency integration of program and management functions with information resources management functions.

(c) With respect to the collection of information and the control of paperwork, the Director shall–

(1) review and approve proposed agency collections of information;

(2) coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of

Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement, acquisition and payment, and to reduce information collection burdens on the public;

(3) minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

(4) maximize the practical utility of and public benefit from information collected by or for the Federal Government; and

(5) establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information.

(d) With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to–

(1) apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and

(2) promote public access to public information and fulfill the purposes of this Chapter, including through the effective use of information technology.

"(e) With respect to statistical policy and coordination, the Director shall–

(1) coordinate the activities of the Federal statistical system to ensure–

(A) the efficiency and effectiveness of the system; and

(B) the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;

(2) ensure that budget proposals of agencies are consistent with system-wide priorities for maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding;

(3) develop and oversee the implementation of Government-wide policies, principles, standards, and guidelines concerning–

(A) statistical collection procedures and methods;

(B) statistical data classification;

(C) statistical information presentation and dissemination;

(D) timely release of statistical data; and

(E) such statistical data sources as may be required for the administration of Federal programs;

(4) evaluate statistical program performance and agency compliance with Government-wide policies, principles, standards and guidelines;

(5) promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;

(6) coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;

(7) appoint a chief statistician who is a trained and experienced professional statistician to carry out the functions described under this subsection;

Establishment.

(8) establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall–

(A) be headed by the chief statistician; and

(B) consist of–

(i) the heads of the major statistical programs; and

(ii) representatives of other statistical agencies under rotating membership; and

(9) provide opportunities for training in statistical policy functions to employees of the Federal Government under which–

(A) each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and

(B) all costs of the training shall be paid by the agency requesting training.

Records.

(f) With respect to records management, the Director shall–

(1) provide advice and assistance to the Archivist of the United States and the Administrator of General Services to promote coordination in the administration of Chapters 29, 31, and 33 of this Title with the information resources management policies, principles, standards, and guidelines established under this Chapter;

(2) review compliance by agencies with–

(A) the requirements of Chapters 29, 31, and 33 of this Title; and

Regulations.

(B) regulations promulgated by the Archivist of the United States and the Administrator of General Services; and

(3) oversee the application of records management policies, principles, standards, and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of information systems.

(g) With respect to privacy and security, the Director shall–

(1) develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for agencies; and

(2) oversee and coordinate compliance with sections 552 and 552a of Title 5, sections 20 and 21 of the National Institute of Standards and Technology Act (15 USC 278g–3 and 278g–4), section 11331 and 1132(b) and (c) of title 40 and subchapter II of this chapter,[6] and related information management laws.

(h) With respect to Federal information technology, the Director shall–

(1) in consultation with the Director of the National Institute of Standards and Technology and the Administrator of General Services–

(A) develop and oversee the implementation of policies, principles, standards, and guidelines for information technology functions and activities of the Federal Government, including periodic evaluations of major information systems; and

(B) oversee the development and implementation of standards under section 5131 of the Clinger-Cohen Act of 1996 (40 USC 1441);

[6]Public Law 107–347, title 3, section 305(c)(1), Dec. 17, 2002 (116 Stat. 2960).

(2) monitor the effectiveness of, and compliance with, directives issued under subtitle III of title 40,[7] and directives issued under section 110 of the Federal Property and Administrative Services Act of 1949 (40 USC 757);

(3) coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

(4) ensure, through the review of agency budget proposals, information resources management plans and other means–

(A) agency integration of information resources management plans, program plans and budgets for acquisition and use of information technology; and

(B) the efficiency and effectiveness of inter-agency information technology initiatives to improve agency performance and the accomplishment of agency missions; and

(5) promote the use of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.[8]

Sec. 3505. Assignment of Tasks and Deadlines

(a) In carrying out the functions under this subchapter, the Director shall–

(1) in consultation with agency heads, set an annual Government-wide goal for the reduction of information collection burdens by at least 10 percent during each of fiscal years 1996 and 1997 and 5 percent during each of fiscal years 1998, 1999, 2000, and 2001, and set annual agency goals to–

(A) reduce information collection burdens imposed on the public that–

(i) represent the maximum practicable opportunity in each agency; and

(ii) are consistent with improving agency management of the process for the review of collections of information established under section 3506(c); and

(B) improve information resources management in ways that increase the productivity, efficiency and effectiveness of Federal programs, including service delivery to the public;

(2) with selected agencies and non-Federal entities on a voluntary basis, conduct pilot projects to test alternative policies, practices, regulations, and procedures to fulfill the purposes of this Chapter, particularly with regard to minimizing the Federal information collection burden; and

(3) in consultation with the Administrator of General Services, the Director of the National Institute of Standards and Technology, the Archivist of the United States, and the Director of the Office of Personnel Management, develop and maintain a Government-wide

[7]Public Law 107–217, section 8(5)(c), (116 Stat. 1301), August 21, 2002.

[8]May 22, 1995, Public Law 104–13, section 2, (109 Stat. 167), February 10, 1996, November 18, 1997, Public Law 104–106, Div. E, Title LI, Subtitle D, section 513(e)(1), Title LVI, section 5605(b), (c), (110 Stat. 688, 700), Public Law 105–85, Div. A, Title X, Subtitle G, section 1073(h)(5)(B), (C), (111 Stat., 1907).

strategic plan for information resources management, that shall include–

(A) a description of the objectives and the means by which the Federal Government shall apply information resources to improve agency and program performance;

(B) plans for–

(i) reducing information burdens on the public, including reducing such burdens through the elimination of duplication and meeting shared data needs with shared resources;

(ii) enhancing public access to and dissemination of, information, using electronic and other formats; and

(iii) meeting the information technology needs of the Federal Government in accordance with the purposes of this Chapter; and

(C) a description of progress in applying information resources management to improve agency performance and the accomplishment of missions.

(b) For purposes of any pilot project conducted under subsection (a)(2), the Director may, after consultation with the agency head, waive the application of any administrative directive issued by an agency with which the project is conducted, including any directive requiring a collection of information, after giving timely notice to the public and the Congress regarding the need for such waiver.

Sec. 3506. Federal Agency Responsibilities

(a)(1) The head of each agency shall be responsible for–

(A) carrying out the agency's information resources management activities to improve agency productivity, efficiency, and effectiveness; and

(B) complying with the requirements of this Chapter and related policies established by the Director.

Reports.

(2)(A) Except as provided under subparagraph (B), the head of each agency shall designate a Chief Information Officer who shall report directly to such agency head to carry out the responsibilities of the agency under this subchapter.

Reports.

(B) The Secretary of the Department of Defense and the Secretary of each military department may each designate Chief Information Officers who shall report directly to such Secretary to carry out the responsibilities of the department under this Chapter. If more than one Chief Information Officer is designated, the respective duties of the Chief Information Officers shall be clearly delineated.

(3) The Chief Information Officer designated under paragraph (2) shall head an office responsible for ensuring agency compliance with and prompt, efficient, and effective implementation of the information policies and information resources management responsibilities established under this Chapter, including the reduction of information collection burdens on the public. The Chief Information Officer and employees of such office shall be selected with special attention to the professional qualifications required to administer the functions described under this subchapter.

(4) Each agency program official shall be responsible and accountable for information resources assigned to and supporting the

programs under such official. In consultation with the Chief Information Officer designated under paragraph (2) and the agency Chief Financial Officer (or comparable official), each agency program official shall define program information needs and develop strategies, systems, and capabilities to meet those needs.

(b) With respect to general information resources management, each agency shall–

(1) manage information resources to–

(A) reduce information collection burdens on the public;

(B) increase program efficiency and effectiveness; and

(C) improve the integrity, quality, and utility of information to all users within and outside the agency, including capabilities for ensuring dissemination of public information, public access to government information, and protections for privacy and security;

(2) in accordance with guidance by the Director, develop and maintain a strategic information resources management plan that shall describe how information resources management activities help accomplish agency missions;

(3) develop and maintain an ongoing process to–

(A) ensure that information resources management operations and decisions are integrated with organizational planning, budget, financial management, human resources management, and program decisions;

(B) in cooperation with the agency Chief Financial Officer (or comparable official), develop a full and accurate accounting of information technology expenditures, related expenses, and results; and

(C) establish goals for improving information resources management's contribution to program productivity, efficiency, and effectiveness, methods for measuring progress towards those goals, and clear roles and responsibilities for achieving those goals;

(4) in consultation with the Director, the Administrator of General Services, and the Archivist of the United States, maintain a current and complete inventory of the agency's information resources, including directories necessary to fulfill the requirements of section 3511 of this subchapter; and

(5) in consultation with the Director and the Director of the Office of Personnel Management, conduct formal training programs to educate agency program and management officials about information resources management.

(c) With respect to the collection of information and the control of paperwork, each agency shall–

(1) establish a process within the office headed by the Chief Information Officer designated under subsection (a), that is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved under this subchapter, to–

(A) review each collection of information before submission to the Director for review under this Chapter, including–

(i) an evaluation of the need for the collection of information;

(ii) a functional description of the information to be collected;
(iii) a plan for the collection of the information;
(iv) a specific, objectively supported estimate of burden;
(v) a test of the collection of information through a pilot program, if appropriate; and
(vi) a plan for the efficient and effective management and use of the information to be collected, including necessary resources;
(B) ensure that each information collection–
(i) is inventoried, displays a control number and, if appropriate, an expiration date;
(ii) indicates the collection is in accordance with the clearance requirements of section 3507; and
(iii) informs the person receiving the collection of information of–
(I) the reasons the information is being collected;
(II) the way such information is to be used;
(III) an estimate, to the extent practicable, of the burden of the collection;
(IV) whether responses to the collection of information are voluntary, required to obtain a benefit, or mandatory; and
(V) the fact that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number; and
(C) assess the information collection burden of proposed legislation affecting the agency;

Federal Register, publication.

(2)(A) except as provided under subparagraph (B) or section 3507(j), provide 60-day notice in the Federal Register, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information, to solicit comment to–
(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;
(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;
(iii) enhance the quality, utility, and clarity of the information to be collected; and
(iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology; and

Regulations.

(B) for any proposed collection of information contained in a proposed rule (to be reviewed by the Director under section 3507(d)), provide notice and comment through the notice of proposed rulemaking for the proposed rule and such notice shall have the same purposes specified under subparagraph (A)(i) through (iv); and

(3) certify (and provide a record supporting such certification, including public comments received by the agency) that each collection of information submitted to the Director for review under section 3507–

(A) is necessary for the proper performance of the functions of the agency, including that the information has practical utility;

(B) is not unnecessarily duplicative of information otherwise reasonably accessible to the agency;

(C) reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined under section 601(6) of Title 5, the use of such techniques as–

(i) establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond;

(ii) the clarification, consolidation, or simplification of compliance and reporting requirements; or

(iii) an exemption from coverage of the collection of information, or any part thereof;

(D) is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond;

(E) is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond;

(F) indicates for each recordkeeping requirement the length of time persons are required to maintain the records specified;

(G) contains the statement required under paragraph (1)(B)(iii);

(H) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public;

(I) uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and

(J) to the maximum extent practicable, uses information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public.

Public information.

(d) With respect to information dissemination, each agency shall–

(1) ensure that the public has timely and equitable access to the agency's public information, including ensuring such access through–

(A) encouraging a diversity of public and private sources for information based on government public information;

(B) in cases in which the agency provides public information maintained in electronic format, providing timely and equitable access to the underlying data (in whole or in part); and

(C) agency dissemination of public information in an efficient, effective, and economical manner;

(2) regularly solicit and consider public input on the agency's information dissemination activities;

(3) provide adequate notice when initiating, substantially modifying, or terminating significant information dissemination products; and

(4) not, except where specifically authorized by statute–

(A) establish an exclusive, restricted, or other distribution arrangement that interferes with timely and equitable availability of public information to the public;

(B) restrict or regulate the use, resale, or redissemination of public information by the public;

(C) charge fees or royalties for resale or redissemination of public information; or

(D) establish user fees for public information that exceed the cost of dissemination.

(e) With respect to statistical policy and coordination, each agency shall–

(1) ensure the relevance, accuracy, timeliness, integrity, and objectivity of information collected or created for statistical purposes;

(2) inform respondents fully and accurately about the sponsors, purposes, and uses of statistical surveys and studies;

(3) protect respondents' privacy and ensure that disclosure policies fully honor pledges of confidentiality;

(4) observe Federal standards and practices for data collection, analysis, documentation, sharing, and dissemination of information;

(5) ensure the timely publication of the results of statistical surveys and studies, including information about the quality and limitations of the surveys and studies; and

(6) make data available to statistical agencies and readily accessible to the public.

Records.

(f) With respect to records management, each agency shall implement and enforce applicable policies and procedures, including requirements for archiving information maintained in electronic format, particularly in the planning, design and operation of information systems.

Privacy.
Computer technology.

(g) With respect to privacy and security, each agency shall–

(1) implement and enforce applicable policies, procedures, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for the agency;

(2) assume responsibility and accountability for compliance with and coordinated management of sections 552 and 552a of title 5, section 11332 of title 40[9], and related information management laws; and

(3) consistent with section 11332 of title 40[10], identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

Science and technology.

(h) With respect to Federal information technology, each agency shall–

[9]Public Law 107–217, section 3(1)(7), Aug. 21, 2002 (116 stat. 1302), redesignated section of title 40 (formerly 40 USC 759 note).

[10]Public Law 107–217, section 3(1)(7), Aug. 21, 2002 (116 stat. 1302), redesignated section of title 40 (formerly 40 USC 759 note).

(1) implement and enforce applicable Government-wide and agency information technology management policies, principles, standards, and guidelines;

(2) assume responsibility and accountability for information technology investments;

(3) promote the use of information technology by the agency to improve the productivity, efficiency, and effectiveness of agency programs, including the reduction of information collection burdens on the public and improved dissemination of public information;

(4) propose changes in legislation, regulations, and agency procedures to improve information technology practices, including changes that improve the ability of the agency to use technology to reduce burden; and

(5) assume responsibility for maximizing the value and assessing and managing the risks of major information systems initiatives through a process that is–

(A) integrated with budget, financial, and program management decisions; and

(B) used to select, control, and evaluate the results of major information systems initiatives.

Sec. 3507. Public Information Collection Activities; Submission to Director; Approval and Delegation

(a) An agency shall not conduct or sponsor the collection of information unless in advance of the adoption or revision of the collection of information–

(1) the agency has–

(A) conducted the review established under section 3506(c)(1);

(B) evaluated the public comments received under section 3506(c)(2);

(C) submitted to the Director the certification required under section 3506(c)(3), the proposed collection of information, copies of pertinent statutory authority, regulations, and other related materials as the Director may specify; and

Federal Register, publication.

(D) published a notice in the Federal Register–"(i) stating that the agency has made such submission; and

(ii) setting forth–

(I) a title for the collection of information;

(II) a summary of the collection of information;

(III) a brief description of the need for the information and the proposed use of the information;

(IV) a description of the likely respondents and proposed frequency of response to the collection of information;

(V) an estimate of the burden that shall result from the collection of information; and

(VI) notice that comments may be submitted to the agency and Director;

(2) the Director has approved the proposed collection of information or approval has been inferred, under the provisions of this section; and

(3) the agency has obtained from the Director a control number to be displayed upon the collection of information.

(b) The Director shall provide at least 30 days for public comment prior to making a decision under subsection (c), (d), or (h), except as provided under subsection (j).

(c)(1) For any proposed collection of information not contained in a proposed rule, the Director shall notify the agency involved of the decision to approve or disapprove the proposed collection of information.

(2) The Director shall provide the notification under paragraph (1), within 60 days after receipt or publication of the notice under subsection (a)(1)(D), whichever is later.

(3) If the Director does not notify the agency of a denial or approval within the 60-day period described under paragraph (2)–

(A) the approval may be inferred;

(B) a control number shall be assigned without further delay; and

(C) the agency may collect the information for not more than 1 year.

Proposed rule.

(d)(1) For any proposed collection of information contained in a proposed rule–

(A) as soon as practicable, but no later than the date of publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains a collection of information and any information requested by the Director necessary to make the determination required under this subsection; and

Federal Register, publication.

(B) within 60 days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments pursuant to the standards set forth in section 3508 on the collection of information contained in the proposed rule;

Federal Register, publication.
Regulations.

(2) When a final rule is published in the Federal Register, the agency shall explain–

(A) how any collection of information contained in the final rule responds to the comments, if any, filed by the Director or the public; or

(B) the reasons such comments were rejected.

(3) If the Director has received notice and failed to comment on an agency rule within 60 days after the notice of proposed rulemaking, the Director may not disapprove any collection of information specifically contained in an agency rule.

(4) No provision in this section shall be construed to prevent the Director, in the Director's discretion–

(A) from disapproving any collection of information which was not specifically required by an agency rule;

(B) from disapproving any collection of information contained in an agency rule, if the agency failed to comply with the requirements of paragraph (1) of this subsection;

(C) from disapproving any collection of information contained in a final agency rule, if the Director finds within 60 days after the publication of the final rule that the agency's response to the Director's comments filed under paragraph (2) of this subsection was unreasonable; or

(D) from disapproving any collection of information contained in a final rule, if–

(i) the Director determines that the agency has substantially modified in the final rule the collection of information contained in the proposed rule; and

(ii) the agency has not given the Director the information required under paragraph (1) with respect to the modified collection of information, at least 60 days before the issuance of the final rule.

(5) This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.

(6) The decision by the Director to approve or not act upon a collection of information contained in an agency rule shall not be subject to judicial review.

(e)(1) Any decision by the Director under subsection (c), (d), (h), or (j) to disapprove a collection of information, or to instruct the agency to make substantive or material change to a collection of information, shall be publicly available and include an explanation of the reasons for such decision.

(2) Any written communication between the Administrator of the Office of Information and Regulatory Affairs, or any employee of the Office of Information and Regulatory Affairs, and an agency or person not employed by the Federal Government concerning a proposed collection of information shall be made available to the public.

(3) This subsection shall not require the disclosure of–

(A) any information which is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy; or

(B) any communication relating to a collection of information which is not approved under this Chapter, the disclosure of which could lead to retaliation or discrimination against the communicator.

(f)(1) An independent regulatory agency which is administered by 2 or more members of a commission, board, or similar body, may by majority vote void–

(A) any disapproval by the Director, in whole or in part, of a proposed collection of information of that agency; or

(B) an exercise of authority under subsection (d) of section 3507 concerning that agency.

(2) The agency shall certify each vote to void such disapproval or exercise to the Director, and explain the reasons for such vote. The Director shall without further delay assign a control number to such collection of information, and such vote to void the disapproval or exercise shall be valid for a period of 3 years.

(g) The Director may not approve a collection of information for a period in excess of 3 years.

(h)(1) If an agency decides to seek extension of the Director's approval granted for a currently approved collection of information, the agency shall–

(A) conduct the review established under section 3506(c), including the seeking of comment from the public on the continued need for, and burden imposed by the collection of information; and

(B) after having made a reasonable effort to seek public comment, but no later than 60 days before the expiration date of the control number assigned by the Director for the currently approved collection of information, submit the collection of information for review and approval under this section, which shall include an explanation of how the agency has used the information that it has collected.

(2) If under the provisions of this section, the Director disapproves a collection of information contained in an existing rule, or recommends or instructs the agency to make a substantive or material change to a collection of information contained in an existing rule, the Director shall–

Federal Register, publication.

(A) publish an explanation thereof in the Federal Register; and

(B) instruct the agency to undertake a rulemaking within a reasonable time limited to consideration of changes to the collection of information contained in the rule and thereafter to submit the collection of information for approval or disapproval under this subchapter.

(3) An agency may not make a substantive or material modification to a collection of information after such collection has been approved by the Director, unless the modification has been submitted to the Director for review and approval under this subchapter.

(i)(1) If the Director finds that a senior official of an agency designated under section 3506(a) is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved and has sufficient resources to carry out this responsibility effectively, the Director may, by rule in accordance with the notice and comment provisions of Chapter 5 of Title 5, United States Code, delegate to such official the authority to approve proposed collections of information in specific program areas, for specific purposes, or for all agency purposes.

(2) A delegation by the Director under this section shall not preclude the Director from reviewing individual collections of information if the Director determines that circumstances warrant such a review. The Director shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Director, any official to whom approval authority has been delegated under this section shall comply fully with the rules and regulations promulgated by the Director.

(j)(1) The agency head may request the Director to authorize a collection of information, if an agency head determines that–

(A) a collection of information–

(i) is needed prior to the expiration of time periods established under this Chapter; and

(ii) is essential to the mission of the agency; and

(B) the agency cannot reasonably comply with the provisions of this Chapter because–

(i) public harm is reasonably likely to result if normal clearance procedures are followed;

(ii) an unanticipated event has occurred; or

(iii) the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information or is

reasonably likely to cause a statutory or court ordered deadline to be missed.

(2) The Director shall approve or disapprove any such authorization request within the time requested by the agency head and, if approved, shall assign the collection of information a control number. Any collection of information conducted under this subsection may be conducted without compliance with the provisions of this subchapter for a maximum of 180 days after the date on which the Director received the request to authorize such collection.[11]

Sec. 3508. Determination of Necessity for Information; Hearing

Before approving a proposed collection of information, the Director shall determine whether the collection of information by the agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility. Before making a determination the Director may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent, if any, that the Director determines that the collection of information by an agency is unnecessary for any reason, the agency may not engage in the collection of information.

Sec. 3509. Designation of Central Collection Agency

The Director may designate a central collection agency to obtain information for two or more agencies if the Director determines that the needs of such agencies for information will be adequately served by a single collection agency, and such sharing of data is not inconsistent with applicable law. In such cases the Director shall prescribe (with reference to the collection of information) the duties and functions of the collection agency so designated and of the agencies for which it is to act as agent (including reimbursement for costs). While the designation is in effect, an agency covered by the designation may not obtain for itself information for the agency which is the duty of the collection agency to obtain. The Director may modify the designation from time to time as circumstances require. The authority to designate under this section is subject to the provisions of section 3507(f) of this subchapter.

Sec. 3510. Cooperation of Agencies in Making Information Available

(a) The Director may direct an agency to make available to another agency, or an agency may make available to another agency, information obtained by a collection of information if the disclosure is not inconsistent with applicable law.

(b)(1) If information obtained by an agency is released by that agency to another agency, all the provisions of law (including penalties) that relate to the unlawful disclosure of information apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information.

(2) The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

[11]May 22, 1995, Public Law 104–13, section 2, (109 Stat. 171); February 10, 1996, Public Law 104–106, Div. E, Title LVI, section 5605(d), (110 Stat. 700).

Sec. 3511. Establishment and Operation of Government Information Locator Service

(a) In order to assist agencies and the public in locating information and to promote information sharing and equitable access by the public, the Director shall–

(1) cause to be established and maintained a distributed agency-based electronic Government Information Locator Service (hereafter in this section referred to as the "Service"), which shall identify the major information systems, holdings, and dissemination products of each agency;

(2) require each agency to establish and maintain an agency information locator service as a component of, and to support the establishment and operation of the Service;

Establishment.

(3) in cooperation with the Archivist of the United States, the Administrator of General Services, the Public Printer, and the Librarian of Congress, establish an interagency committee to advise the Secretary of Commerce on the development of technical standards for the Service to ensure compatibility, promote information sharing, and uniform access by the public;

(4) consider public access and other user needs in the establishment and operation of the Service;

(5) ensure the security and integrity of the Service, including measures to ensure that only information which is intended to be disclosed to the public is disclosed through the Service; and

(6) periodically review the development and effectiveness of the Service and make recommendations for improvement, including other mechanisms for improving public access to Federal agency public information.

(b) This section shall not apply to operational files as defined by the Central Intelligence Agency Information Act (50 USC 431 et seq.).

Sec. 3512. Public Protection

(a) Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information that is subject to this Chapter if–

(1) the collection of information does not display a valid control number assigned by the Director in accordance with this Chapter; or

(2) the agency fails to inform the person who is to respond to required to respond to the collection of information unless it displays a valid control number.

(b) The protection provided by this section may be raised in the form of a complete defense, bar, or otherwise at any time during the agency administrative process or judicial action applicable thereto.

Sec. 3513. Director Review of Agency Activities; Reporting; Agency Response

(a) In consultation with the Administrator of General Services, the Archivist of the United States, the Director of the National Institute of Standards and Technology, and the Director of the Office of Personnel Management, the Director shall periodically review selected agency information resources management activities to ascertain the efficiency and effectiveness of such activities to improve agency performance and the accomplishment of agency missions.

(b) Each agency having an activity reviewed under subsection (a) shall, within 60 days after receipt of a report on the review, provide a written plan to the Director describing steps (including milestones) to–

(1) be taken to address information resources management problems identified in the report; and

(2) improve agency performance and the accomplishment of agency missions.

Sec. 3514. Responsiveness to Congress

(a)(1) The Director shall–

(A) keep the Congress and congressional committees fully and currently informed of the major activities under this Chapter; and

Reports.

(B) submit a report on such activities to the President of the Senate and the Speaker of the House of Representatives annually and at such other times as the Director determines necessary.

(2) The Director shall include in any such report a description of the extent to which agencies have–

(A) reduced information collection burdens on the public, including–

(i) a summary of accomplishments and planned initiatives to reduce collection of information burdens;

(ii) a list of all violations of this Chapter and of any rules, guidelines, policies, and procedures issued pursuant to this Chapter;

(iii) a list of any increase in the collection of information burden, including the authority for each such collection; and

(iv) a list of agencies that in the preceding year did not reduce information collection burdens in accordance with section 3505(a)(1), a list of the programs and statutory responsibilities of those agencies that precluded that reduction, and recommendations to assist those agencies to reduce information collection burdens in accordance with that section;

(B) improved the quality and utility of statistical information;

(C) improved public access to Government information; and

(D) improved program performance and the accomplishment of agency missions through information resources management.

(b) The preparation of any report required by this section shall be based on performance results reported by the agencies and shall not increase the collection of information burden on persons outside the Federal Government.

Sec. 3515. Administrative Powers

Upon the request of the Director, each agency (other than an independent regulatory agency) shall, to the extent practicable, make its services, personnel, and facilities available to the Director for the performance of functions under this Chapter.

Sec. 3516. Rules and Regulations

The Director shall promulgate rules, regulations, or procedures necessary to exercise the authority provided by this Chapter.

Sec. 3517. Consultation with Other Agencies and the Public

(a) In developing information resources management policies, plans, rules, regulations, procedures, and guidelines and in reviewing collections of information, the Director shall provide interested agencies and persons early and meaningful opportunity to comment.

(b) Any person may request the Director to review any collection of information conducted by or for an agency to determine, if, under this Chapter, a person shall maintain, provide, or disclose the information to or for the agency. Unless the request is frivolous, the Director shall, in coordination with the agency responsible for the collection of information–

(1) respond to the request within 60 days after receiving the request, unless such period is extended by the Director to a specified date and the person making the request is given notice of such extension; and

(2) take appropriate remedial action, if necessary.

Sec. 3518. Effect on Existing Laws and Regulations

(a) Except as otherwise provided in this subchapter, the authority of an agency under any other law to prescribe policies, rules, regulations, and procedures for Federal information resources management activities is subject to the authority of the Director under this Chapter.

(b) Nothing in this Chapter shall be deemed to affect or reduce the authority of the Secretary of Commerce or the Director of the Office of Management and Budget pursuant to Reorganization Plan No. 1 of 1977 (as amended) and Executive order, relating to telecommunications and information policy, procurement and management of telecommunications and information systems, spectrum use, and related matters.

(c)(1) Except as provided in paragraph (2), this Chapter shall not apply to the collection of information–

(A) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter;

(B) during the conduct of–

(i) a civil action to which the United States or any official or agency thereof is a party; or

(ii) an administrative action or investigation involving an agency against specific individuals or entities;

(C) by compulsory process pursuant to the Antitrust Civil Process Act and section 13 of the Federal Trade Commission Improvements Act of 1980; or

(D) during the conduct of intelligence activities as defined in section 3.4(e) of Executive Order No. 12333, issued December 4, 1981, or successor orders, or during the conduct of cryptologic activities that are communications security activities.

(2) This subchapter applies to the collection of information during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1)) undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry.

(d) Nothing in this chapter shall be interpreted as increasing or decreasing the authority conferred by section 11331 and 11332 of

title 40[12], the Secretary of Commerce, or the Director of the Office of Management and Budget.

(e) Nothing in this subchapter shall be interpreted as increasing or decreasing the authority of the President, the Office of Management and Budget or the Director thereof, under the laws of the United States, with respect to the substantive policies and programs of departments, agencies and offices, including the substantive authority of any Federal agency to enforce the civil rights laws.

Sec. 3519. Access to Information

Under the conditions and procedures prescribed in section 716 of Title 31, the Director and personnel in the Office of Information and Regulatory Affairs shall furnish such information as the Comptroller General may require for the discharge of the responsibilities of the Comptroller General. For the purpose of obtaining such information, the Comptroller General or representatives thereof shall have access to all books, documents, papers and records, regardless of form or format, of the Office.

Sec. 3520. Establishment of Task Force on Information Collection and Dissemination[13]

"a) There is established a task force to study the feasibility of streamlining requirements with respect to small business concerns regarding collection of information and strengthening dissemination of information (in this section referred to as the `task force').

"(b)(1) The Director shall determine–

"(A) subject to the minimum requirements under paragraph (2), the number of representatives to be designated under each subparagraph of that paragraph; and

"(B) the agencies to be represented under paragraph (2)(K).

"(2) After all determinations are made under paragraph (1), the members of the task force shall be designated by the head of each applicable department or agency, and include–

"(A) 1 representative of the Director, who shall convene and chair the task force;

"(B) not less than 2 representatives of the Department of Labor, including 1 representative of the Bureau of Labor Statistics and 1 representative of the Occupational Safety and Health Administration;

"(C) not less than 1 representative of the Environmental Protection Agency;

"(D) not less than 1 representative of the Department of Transportation;

"(E) not less than 1 representative of the Office of Advocacy of the Small Business Administration;

"(F) not less than 1 representative of the Internal Revenue Service;

"(G) not less than 2 representatives of the Department of Health and Human Services, including 1 representative of the Centers for Medicare and Medicaid Services;

[12]Public Law 107–217, section 3(1)(7), Aug. 21, 2002 (116 stat. 1302).

[13]Section 3520 added by Public Law 107–198, section 3, June 28, 2002 (116 stat. 730).

"(H) not less than 1 representative of the Department of Agriculture;

"(I) not less than 1 representative of the Department of the Interior;

"(J) not less than 1 representative of the General Services Administration; and

"(K) not less than 1 representative of each of 2 agencies not represented by representatives described under subparagraphs (A) through (J).

"(c) The task force shall–

"(1) identify ways to integrate the collection of information across Federal agencies and programs and examine the feasibility and desirability of requiring each agency to consolidate requirements regarding collections of information with respect to small business concerns within and across agencies, without negatively impacting the effectiveness of underlying laws and regulations regarding such collections of information, in order that each small business concern may submit all information required by the agency–

"(A) to 1 point of contact in the agency;

"(B) in a single format, such as a single electronic reporting system, with respect to the agency; and

"(C) with synchronized reporting for information submissions having the same frequency, such as synchronized quarterly, semiannual, and annual reporting dates;

"(2) examine the feasibility and benefits to small businesses of publishing a list by the Director of the collections of information applicable to small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), organized–

"(A) by North American Industry Classification System code;

"(B) by industrial sector description; or

"(C) in another manner by which small business concerns can more easily identify requirements with which those small business concerns are expected to comply;

"(3) examine the savings, including cost savings, and develop recommendations for implementing–

"(A) systems for electronic submissions of information to the Federal Government; and

"(B) interactive reporting systems, including components that provide immediate feedback to assure that data being submitted–

"(i) meet requirements of format; and

"(ii) are within the range of acceptable options for each data field;

"(4) make recommendations to improve the electronic dissemination of information collected under Federal requirements;

"(5) recommend a plan for the development of an interactive Governmentwide system, available through the Internet, to allow each small business to–

"(A) better understand which Federal requirements regarding collection of information (and, when possible, which

other Federal regulatory requirements) apply to that particular business; and

"(B) more easily comply with those Federal requirements; and

"(6) in carrying out this section, consider opportunities for the coordination–

"(A) of Federal and State reporting requirements; and

"(B) among the points of contact described under section 3506(i), such as to enable agencies to provide small business concerns with contacts for information collection requirements for other agencies.

"(d) The task force shall–

Federal Register, publication. Notice.

"(1) by publication in the Federal Register, provide notice and an opportunity for public comment on each report in draft form; and

"(2) make provision in each report for the inclusion of–

"(A) any additional or dissenting views of task force members; and

"(B) a summary of significant public comments.

Deadline. Reports.

"(e) Not later than 1 year after the date of enactment of the Small Business Paperwork Relief Act of 2002, the task force shall submit a report of its findings under subsection (c) (1), (2), and (3) to–

"(1) the Director;

"(2) the chairpersons and ranking minority members of–

"(A) the Committee on Governmental Affairs and the Committee on Small Business and Entrepreneurship of the Senate; and

"(B) the Committee on Government Reform and the Committee on Small Business of the House of Representatives; and

"(3) the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under section 30(b) of the Small Business Act (15 U.S.C. 657(b)).

Deadline. Reports.

"(f) Not later than 1 year after the date of enactment of the Small Business Paperwork Relief Act of 2002, the task force shall submit a report of its findings under subsection (c) (1), (2), and (3) to–

"(1) the Director;

"(2) the chairpersons and ranking minority members of–

"(A) the Committee on Governmental Affairs and the Committee on Small Business and Entrepreneurship of the Senate; and

"(B) the Committee on Government Reform and the Committee on Small Business of the House of Representatives; and

"(3) the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under section 30(b) of the Small Business Act (15 U.S.C. 657(b)).

Termination date.

"(g) The task force shall terminate after completion of its work.

"(h) In this section, the term `small business concern' has the meaning given under section 3 of the Small Business Act (15 U.S.C. 632).".

(b) TECHNICAL AND CONFORMING AMENDMENT.–The table of sections for chapter 35 of title 44, United States Code, is amended by striking the item relating to section 3520 and inserting the following:

"3520. Establishment of task force on information collection and dissemination.

"3521. Authorization of appropriations.".

* * * *

Sec. 3521. Authorization of Appropriations[14]

There are authorized to be appropriated to the Office of Information and Regulatory Affairs to carry out the provisions of this Chapter, and for no other purpose, $8,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, 2000, and 2001.

SUBCHAPTER II.
INFORMATION SECURITY

Sec. 3531. Purposes

The purposes of this subchapter are the following:

(1) To provide a comprehensive framework for establishing and ensuring the effectiveness of controls over information resources that support Federal operations and assets.

(2)(A) To recognize the highly networked nature of the Federal computing environment including the need for Federal Government interoperability and, in the implementation of improved security management measures, assure that opportunities for interoperability are not adversely affected.

(B) To provide effective Government–wide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities.

(3) To provide for development and maintenance of minimum controls required to protect Federal information and information systems.

(4) To provide a mechanism for improved oversight of Federal agency information security programs.[15]

Sec. 3532. Definitions.

(a) Except as provided under subsection (b), the definitions under section 3502 shall apply tot his subchapter.

(b) In this subchapter:

(1) The term "information technology" has the meaning given that therm in section 5002 of the Clinger–Cohen Act of 1996 (40 USC 1401).

(2) The term “mission critical system” means any telecommunications or information system used or operated by an

[14]Section 3521 formerly section 3520, redesignated by Public Law 107–198, section 3, June 28, 2002 (116 stat. 730).

[15]Public Law 106–398, section 1 (114 Stat. 1654); October 30, 2000.

agency or by a contractor of an agency, or other organization on behalf of an agency, that–

(A) is defined as a national security system under section 5142 of the Clinger-Cohen Act of 1996 (40 USC 1452);

(B) is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be classified in the interest of national defense or foreign policy; or

(C) processes any information, the loss, misuse, disclosure, or unauthorized access to or modification of, would have a debilitating impact on the mission of an agency.[16]

Sec. 3533. Authority and Functions of the Director

(a)(1) The Director shall establish Government–wide policies for the management of programs that–

(A) support the cost–effective security of Federal information systems by promoting security as an integral component of each agency's business operations; and

(B) include information technology architectures as defined under section 5125 of the Clinger–Cohen Act of 1996 (40 USC 1425).

(2) Policies under this subsection shall–

(A) be founded on a continuing risk management cycle that recognizes the need to–

(i) identify, assess, and understand risk; and

(ii) determine security needs commensurate with the level of risk;

(B) implement controls that adequately address the risk;

(C) promote continuing awareness of information security risk; and

(D) continually monitor and evaluate policy and control effectiveness of information security practices.

(b) The authority under subsection (a) includes the authority to–

(1) oversee and develop policies, principles, standards, and guidelines for the handling of Federal information and information resources to improve the efficiency and effectiveness of government operations, including principles, policies, and guidelines for the implementation of agency responsibilities under applicable law for ensuring the privacy, confidentiality, and security of Federal information;

(2) consistent with the standards and guidelines promulgated under section 5131 of the Clinger–Cohen Act of 1996 (40 USC 1441) and sections 5 and 6 of the Computer Security Act of 1987 (40 USC 1441 note; Public Law 100–235; 101 Stat. 1729), require Federal agencies to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency;

(3) direct the heads of agencies to–

(A) identify, use, and share best security practices;

(B) develop an agency–wide information security plan;

[16]Public Law 106–398, section 1 (114 Stat. 1654); October 30, 2000.

(C) incorporate information security principles and practices throughout the life cycles of the agency's information systems; and

(D) ensure that the agency's information security plan is practiced throughout all life cycles of the agency's information systems;

(4) oversee the development and implementation of standards and guidelines relating to security controls for Federal computer systems by the Secretary of Commerce through the National Institute of Standards and Technology under section 5131 of the Clinger–Cohen Act of 1996 (40 USC 1441) and section 20 of the National Institute of Standards and Technology Act (15 USC 278g–3);

(5) oversee and coordinate compliance with this section in a manner consistent with–

(A) sections 552 and 552a of Title 5;

(B) sections 20 and 21 of the National Institute of Standards and Technology Act (15 USC 278g–3 and 278g–4);

(C) section 5131 of the Clinger–Cohen Act of 1996 (40 USC 1441);

(D) sections 5 and 6 of the Computer Security Act of 1987 (40 USC 1441 note; Public Law 100–235; 101 Stat. 1729); and

(E) related information management laws; and

(6) take any authorized action under section 5113(b)(5) of the Clinger–Cohen Act of 1996 (40 USC 1413(b)(5)) that the Director considers appropriate, including any action involving the budgetary process or appropriations management process, to enforce accountability of the head of an agency for information resources, including the requirements of this subchapter and for the investments made by the agency in information technology, including–

(A) recommending a reduction or an increase in any amount for information resources that the head of the agency proposes for the budget submitted to Congress under section 1105(a) of Title 31;

(B) reducing or otherwise adjusting apportionments and reapportionments of appropriations for information resources; and

(C) using other authorized administrative controls over appropriations to restrict the availability of funds for information resources.

(c) The authorities of the Director under this section (other than the authority described in subsection (b)(6))–

(1) shall be delegated to the Secretary of Defense, the Director of Central Intelligence, and another agency head as designated by the President in the case of systems described under subparagraphs (A) and (B) of section 3532(b)(2);

(2) shall be delegated to the Secretary of Defense in the case of systems described under subparagraph (C) of section 3532(b)(2) that are operated by the Department of Defense, a contractor of the Department of Defense, or another entity on behalf of the Department of Defense; and

(3) in the case of all other Federal information systems, may be delegated only to the deputy Director for Management of the Office of Management and Budget.[17]

Sec. 3534. Federal Agency Responsibilities

(a) The head of each agency shall–

(1) be responsible for–

(A) adequately ensuring the integrity, confidentiality, authenticity, availability, and nonrepudiation of information and information systems supporting agency operations and assets;

(B) developing and implementing information security policies, procedures, and control techniques sufficient to afford security protections commensurate with the risk and magnitude of the harm resulting from unauthorized disclosure, disruption, modification, or destruction of information collected or maintained by or for the agency; and

(C) ensuring that the agency's information security plan is practiced throughout the life cycle of each agency system;

(2) ensure that appropriate senior agency officials are responsible for–

(A) assessing the information security risks associated with the operations and assets for programs and systems over which such officials have control;

(B) determining the levels of information security appropriate to protect such operations and assets; and

(C) periodically testing and evaluating information security controls and techniques;

(3) delegate to the agency Chief Information Officer established under section 3506, or a comparable official in an agency not covered by such section, the authority to administer all functions under this subchapter including–

(A) designating a senior agency information security official who shall report to the Chief Information Officer or a comparable official;

(B) developing and maintaining an agencywide information security program as required under subsection (b);

(C) ensuring that the agency effectively implements and maintains information security policies, procedures, and control techniques;

(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

(E) assisting senior agency officials concerning responsibilities under paragraph (2);

(4) ensure that the agency has training personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines; and

(5) ensure that the agency Chief Information Officer, in coordination with senior agency officials, periodically–

(A)(i) evaluates the effectiveness of the agency information security program, including testing control techniques; and

[17]Public Law 106–398, section 1 (114 Stat. 1654); October 30, 2000.

(ii) implements appropriate remedial actions based on that evaluation; and

(B) reports to the agency head on–

(i) the results of such tests and evaluations; and

(ii) the progress of remedial actions.

(b)(1) Each agency shall develop and implement an agencywide information security program to provide information security for the operations and assets of the agency, including operations and assets provided or managed by another agency.

(2) Each program under this subsection shall include–

(A) periodic risk assessments that consider internal and external threats to–

(i) the integrity, confidentiality, and availability of systems; and

(ii) data supporting critical operations and assets;

(B) policies and procedures that–

(i) are based on the risk assessments required under subparagraph (A) that cost–effectively reduce information security risks to an acceptable level; and

(ii) ensure compliance with–

(I) the requirements of this subchapter;

(II) policies and procedures as may be prescribed by the Director; and

(III) any other applicable requirements;

(C) security awareness training to inform personnel of–

(i) information security risks associated with the activities of personnel; and

(ii) responsibilities of personnel in complying with agency policies and procedures designed to reduce such risks;

(D) periodic management testing and evaluation of the effectiveness of information security policies and procedures;

(E) a process for ensuring remedial action to address any significant deficiencies; and

(F) procedures for detecting, reporting, and responding to security incidents, including–

(i) mitigating risks associated with such incidents before substantial damage occurs;

(ii) notifying and consulting with law enforcement officials and other offices and authorities;

(iii) notifying and consulting with an office designated by the Administrator of General Services within the General Services Administration; and

(iv) notifying and consulting with an office designated by the Secretary of Defense, the Director of Central Intelligence, and another agency head as designated by the President for incidents involving systems described under subparagraphs (A) and (B) of section 3532(b)(2).

(3) Each program under this subsection is subject to the approval of the Director and is required to be reviewed at least annually by agency program officials in consultation with the Chief Information Officer. In the case of systems described under subparagraphs (A) and (B) of section 3532(b)(2), the Director shall delegate approval

authority under this paragraph to the Secretary of Defense, the Director of Central Intelligence, and another agency head as designated by the President.

(c)(1) Each agency shall examine the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to–

(A) annual agency budgets;

(B) information resources management under subchapter I of this Chapter;

(C) performance and results based management under the Clinger–Cohen Act of 1996 (40 USC 1401 *et seq*.);

(D) program performance under sections 1105 and 1115 through 1119 of Title 31, and sections 2801 through 2805 of Title 39; and

(E) financial management under–

(i) Chapter 9 of Title 31, United States Code, and the Chief Financial Officers Act of 1990 (31 USC 501 note; Public Law 101–576) (and the amendments made by that Act);

(ii) the Federal Financial Management Improvement Act of 1996 (31 USC 3512 note) (and the amendments made by that Act); and

(iii) the internal controls conducted under section 3512 of Title 31.

(2) Any significant deficiency in a policy, procedure, or practice identified under paragraph (1) shall be reported as a material weakness in reporting required under the applicable provision of law under paragraph (1).

(d)(1) In addition to the requirements of subsection (c), each agency, in consultation with the Chief Information Officer, shall include as part of the performance plan required under section 1115 of Title 31 a description of–

(A) the time periods, and

(B) the resources, including budget, staffing, and training, which are necessary to implement the program required under subsection (b)(1).

(2) The description under paragraph (1) shall be based on the risk assessment required under subsection (b)(2)(A).[18]

Sec. 3535. Annual Independent Evaluation.

(a)(1) Each year each agency shall have performed an independent evaluation of the information security program and practices of that agency.

(2) Each evaluation by an agency under this section shall include–

(A) testing of the effectiveness of information security control techniques for an appropriate subset of the agency's information systems; and

(B) an assessment (made on the basis of the results of the testing) of the compliance with–

(i) the requirements of this subchapter; and

(ii) related information security policies, procedures, standards, and guidelines.

[18]Public Law 106–398, section 1 (114 Stat. 1654); October 30, 2000.

(3) The Inspector General or the independent evaluator performing an evaluation under this section may use an audit, evaluation, or report relating to programs or practices of the applicable agency.

(b)(1)(A) Subject to subparagraph (B), for agencies with Inspectors General appointed under the Inspector General Act of 1978 (5 USC App.) or any other law, the annual evaluation required under this section or, in the case of systems described under subparagraphs (A) and (B) of section 3532(b)(2), an audit of the annual evaluation required under this section, shall be performed by the Inspector General or by an independent evaluator, as determined by the Inspector General of the agency.

(B) For systems described under subparagraphs (A) and (B) of section 3532(b)(2), the evaluation required under this section shall be performed only by an entity designated by the Secretary of Defense, the Director of Central Intelligence, or another agency head as designated by the President.

(2) For any agency to which paragraph (1) does not apply, the head of the agency shall contract with an independent evaluator to perform the evaluation.

(c) Each year, not later than the anniversary of the date of the enactment of this subchapter [enacted Oct. 30, 2000], the applicable agency head shall submit to the Director–

(1) the results of each evaluation required under this section, other than an evaluation of a system described under subparagraph (A) or (B) of section 3532(b)(2); and

(2) the results of each audit of an evaluation required under this section of a system described under subparagraph (A) or (B) of section 3532(b)(2).

(d)(1) The Director shall submit to congress each year a report summarizing the materials received from agencies pursuant to subsection (c) in that year.

(2) Evaluations and audits of evaluations of systems under the authority and control of the Director of Central Intelligence and evaluations and audits of evaluation of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense shall be made available only to the appropriate oversight committees of Congress, in accordance with applicable laws.

(e) Agencies and evaluators shall take appropriate actions to ensure the protection of information, the disclosure of which may adversely affect information security. Such protections sh all be commensurate with the risk and comply with all applicable laws.[19]

Sec. 3536. Expiration.

This subchapter shall not be in effect after the date that is two years after the date on which this subchapter takes effect.[20]

Approved September 30, 1995

[19]Public Law 106–398, section 1 (114 Stat. 1654); October 30, 2000.
[20]Public Law 106–398, section 1 (114 Stat. 1654); October 30, 2000.

3. GOVERNMENT PAPERWORK ELIMINATION ACT

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44 USC 3504, Note

3. GOVERNMENT PAPERWORK ELIMINATION ACT

Public Law 105-277 112 Stat. 2681 - 749

DIVISION C-TITLE XVII

October 21, 1998

Sec. 1701. Short Title.

Government Paperwork Elimination Act. 44 USC 3504 note.

Government Paperwork Elimination Act, 44 USC 3504 note. This Title may be cited as the "Government Paperwork Elimination Act of 1996."

Sec. 1702. Authority of OMB to Provide for Acquisition and Use of Alternative Information Technologies by Executive Agencies.

Section 3504(a)(1)(B)(vi) of Title 44, United States Code, is amended to read as follows:

> "(vi) the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures.".

Sec. 1703. Procedures for Use and Acceptance of Electronic Signatures by Executive Agencies.

(a) IN GENERAL.–In order to fulfill the responsibility to administer the functions assigned under Chapter 35 of Title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) and the amendments made by that Act, and the provisions of this Title, the Director of the Office of Management and Budget shall, in consultation with the National Telecommunications and Information Administration and not later than 18 months after the date of enactment of this Act, develop procedures for the use and acceptance of electronic signatures by Executive agencies.

(b) REQUIREMENTS FOR PROCEDURES.–

(1) The procedures developed under subsection (a)–

(A) shall be compatible with standards and technology for electronic signatures that are generally used in commerce and industry and by State governments;

(B) may not inappropriately favor one industry or technology;

(C) shall ensure that electronic signatures are as reliable as is appropriate for the purpose in question and keep intact the information submitted;

(D) shall provide for the electronic acknowledgment of electronic forms that are successfully submitted; and

(E) shall, to the extent feasible and appropriate, require an Executive agency that anticipates receipt by electronic means of 50,000 or more submittals of a particular form to take all steps necessary to ensure that multiple methods of electronic signatures are available for the submittal of such form.

(2) The Director shall ensure the compatibility of the procedures under paragraph (1)(A) in consultation with appropriate private bodies

and State government entities that set standards for the use and acceptance of electronic signatures.

Sec. 1704. Deadline for Implementation by Executive Agencies of Procedures for Use and Acceptance of Electronic Signatures.

In order to fulfill the responsibility to administer the functions assigned under Chapter 35 of Title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) and the amendments made by that Act, and the provisions of this Title, the Director of the Office of Management and Budget shall ensure that, commencing not later than five years after the date of enactment of this Act, Executive agencies provide–

(1) for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and

(2) for the use and acceptance of electronic signatures, when practicable.

Sec. 1705. Electronic Storage and Filing of Employment Forms.

In order to fulfill the responsibility to administer the functions assigned under Chapter 35 of Title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) and the amendments made by that Act, and the provisions of this Title, the Director of the Office of Management and Budget shall, not later than 18 months after the date of enactment of this Act, develop procedures to permit private employers to store and file electronically with Executive agencies forms containing information pertaining to the employees of such employers.

Sec. 1706. Study on Use of Electronic Signatures.

(a) ONGOING STUDY REQUIRED.–In order to fulfill the responsibility to administer the functions assigned under Chapter 35 of Title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) and the amendments made by that Act, and the provisions of this Title, the Director of the Office of Management and Budget shall, in cooperation with the National Telecommunications and Information Administration, conduct an ongoing study of the use of electronic signatures under this Title on–

(1) paperwork reduction and electronic commerce;

(2) individual privacy; and

(3) the security and authenticity of transactions.

(b) REPORTS.–The Director shall submit to Congress on a periodic basis a report describing the results of the study carried out under subsection (a).

Sec. 1707. Enforceability and Legal Effect of Electronic Records.

Electronic records submitted or maintained in accordance with procedures developed under this Title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form.

Sec. 1708. Disclosure of Information.

Except as provided by law, information collected in the provision of electronic signature services for communications with an executive agency, as provided by this Title, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or

government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

Sec. 1709. Application with Internal Revenue Laws.

No provision of this Title shall apply to the Department of the Treasury or the Internal Revenue Service to the extent that such provision–

(1) involves the administration of the internal revenue laws; or

(2) conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

Sec. 1710. Definitions.

For purposes of this Title:

(1) ELECTRONIC SIGNATURE.–The term "electronic signature" means a method of signing an electronic message that–

(A) identifies and authenticates a particular person as the source of the electronic message.

(2) EXECUTIVE AGENCY.–The term "Executive agency" has the meaning given that term in section 105 of Title 5, United States Code.

Approved October 21, 1998

4. DATA QUALITY

CONSOLIDATED APPROPRIATIONS ACT, 2001

Public Law 106-554 **114 Stat. 2763A–153**

December 21, 2000

APPENDIX C
(Treasury and General Government Appropriations Act, 2001)

Sec. 515.

(a) IN GENERAL.–The Director of the Office of Management and Budget shall, by not later than September 30, 2001, and with public and Federal agency involvement, issue guidelines under sections 3504(d)(1) and 3516 of Title 44, United States Code, that provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies in fulfillment of the purposes and provisions of Chapter 35 of Title 44, United States Code, commonly referred to as the Paperwork Reduction Act.

(b) CONTENT OF GUIDELINES.–The guidelines under subsection (a) shall–

(1) apply to the sharing by Federal agencies of, and access to, information disseminated by Federal agencies; and

(2) require that each Federal agency to which the guidelines apply–

(A) issue guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by the agency, by not later than 1 year after the date of issuance of the guidelines under subsection (a);

(B) establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with the guidelines issued under subsection (a); and

(C) report periodically to the Director–

(i) the number and nature of complaints received by the agency regarding the accuracy of information disseminated by the agency; and

(ii) how such complaints were handled by the agency.

* * * *

5. ELECTRONIC RECORDS AND SIGNATURES IN COMMERCE

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5. ELECTRONIC RECORDS AND SIGNATURES IN COMMERCE

June 30, 2000

An Act
to facilitate the use of electronic records and signatures in interstate or foreign commerce

Sec. 1. Short Title

This Act may be cited as the "Electronic Signatures in Global and National Commerce Act".

TITLE I
ELECTRONIC RECORDS AND SIGNATURES IN COMMERCE

Sec. 101. General Rule of Validity

15 USC 7001.

(a) IN GENERAL.–Notwithstanding any statute, regulation, or other rule of law (other than this Title and Title II), with respect to any transaction in or affecting interstate or foreign commerce–

(1) a signature, contract, or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form; and

(2) a contract relating to such transaction may not be denied legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation.

(b) PRESERVATION OF RIGHTS AND OBLIGATIONS.–This Title does not–

(1) limit, alter, or otherwise affect any requirement imposed by a statute, regulation, or rule of law relating to the rights and obligations of persons under such statute, regulation, or rule of law other than a requirement that contracts or other records be written, signed, or in nonelectronic form; or

(2) require any person to agree to use or accept electronic records or electronic signatures, other than a governmental agency with respect to a record other than a contract to which it is a party.

(c) CONSUMER DISCLOSURES.–

(1) CONSENT TO ELECTRONIC RECORDS.–Notwithstanding subsection (a), if a statute, regulation, or other rule of law requires that information relating to a transaction or transactions in or affecting interstate or foreign commerce be provided or made available to a consumer in writing, the use of an electronic record to provide or make available (whichever is required) such information satisfies the requirement that such information be in writing if–

(A) the consumer has affirmatively consented to such use and has not withdrawn such consent;

(B) the consumer, prior to consenting, is provided with a clear and conspicuous statement–

(i) informing the consumer of (I) any right or option of the consumer to have the record provided or made available on paper or in nonelectronic form, and (II) the right of the consumer to withdraw the consent to have the record provided

or made available in an electronic form and of any conditions, consequences (which may include termination of the parties' relationship), or fees in the event of such withdrawal;

(ii) informing the consumer of whether the consent applies (I) only to the particular transaction which gave rise to the obligation to provide the record, or (II) to identified categories of records that may be provided or made available during the course of the parties' relationship;

(iii) describing the procedures the consumer must use to withdraw consent as provided in clause (i) and to update information needed to contact the consumer electronically; and

(iv) informing the consumer (I) how, after the consent, the consumer may, upon request, obtain a paper copy of an electronic record, and (II) whether any fee will be charged for such copy;

(C) the consumer–

(i) prior to consenting, is provided with a statement of the hardware and software requirements for access to and retention of the electronic records; and

(ii) consents electronically, or confirms his or her consent electronically, in a manner that reasonably demonstrates that the consumer can access information in the electronic form that will be used to provide the information that is the subject of the consent; and

(D) after the consent of a consumer in accordance with subparagraph (A), if a change in the hardware or software requirements needed to access or retain electronic records creates a material risk that the consumer will not be able to access or retain a subsequent electronic record that was the subject of the consent, the person providing the electronic record–

(i) provides the consumer with a statement of (I) the revised hardware and software requirements for access to and retention of the electronic records, and (II) the right to withdraw consent without the imposition of any fees for such withdrawal and without the imposition of any condition or consequence that was not disclosed under subparagraph (B)(i); and (ii) again complies with subparagraph (C).

(2) OTHER RIGHTS.–

(A) PRESERVATION OF CONSUMER PROTECTIONS.– Nothing in this Title affects the content or timing of any disclosure or other record required to be provided or made available to any consumer under any statute, regulation, or other rule of law.

(B) VERIFICATION OR ACKNOWLEDGMENT.–If a law that was enacted prior to this Act expressly requires a record to be provided or made available by a specified method that requires verification or acknowledgment of receipt, the record may be provided or made available electronically only if the method used provides verification or acknowledgment of receipt (whichever is required).

(3) EFFECT OF FAILURE TO OBTAIN ELECTRONIC CONSENT OR CONFIRMATION OF CONSENT.–The legal effectiveness, validity, or enforceability of any contract executed by a

consumer shall not be denied solely because of the failure to obtain electronic consent or confirmation of consent by that consumer in accordance with paragraph (1)(C)(ii).

(4) PROSPECTIVE EFFECT.–Withdrawal of consent by a consumer shall not affect the legal effectiveness, validity, or enforceability of electronic records provided or made available to that consumer in accordance with paragraph (1) prior to implementation of the consumer's withdrawal of consent. A consumer's withdrawal of consent shall be effective within a reasonable period of time after receipt of the withdrawal by the provider of the record. Failure to comply with paragraph (1)(D) may, at the election of the consumer, be treated as a withdrawal of consent for purposes of this paragraph.

(5) PRIOR CONSENT.–This subsection does not apply to any records that are provided or made available to a consumer who has consented prior to the effective date of this Title to receive such records in electronic form as permitted by any statute, regulation, or other rule of law.

(6) ORAL COMMUNICATIONS.–An oral communication or a recording of an oral communication shall not qualify as an electronic record for purposes of this subsection except as otherwise provided under applicable law.

(d) RETENTION OF CONTRACTS AND RECORDS.–

(1) ACCURACY AND ACCESSIBILITY.–If a statute, regulation, or other rule of law requires that a contract or other record relating to a transaction in or affecting interstate or foreign commerce be retained, that requirement is met by retaining an electronic record of the information in the contract or other record that–

(A) accurately reflects the information set forth in the contract or other record; and

(B) remains accessible to all persons who are entitled to access by statute, regulation, or rule of law, for the period required by such statute, regulation, or rule of law, in a form that is capable of being accurately reproduced for later reference, whether by transmission, printing, or otherwise.

(2) EXCEPTION.–A requirement to retain a contract or other record in accordance with paragraph (1) does not apply to any information whose sole purpose is to enable the contract or other record to be sent, communicated, or received.

(3) ORIGINALS.–If a statute, regulation, or other rule of law requires a contract or other record relating to a transaction in or affecting interstate or foreign commerce to be provided, available, or retained in its original form, or provides consequences if the contract or other record is not provided, available, or retained in its original form, that statute, regulation, or rule of law is satisfied by an electronic record that complies with paragraph (1).

(4) CHECKS.–If a statute, regulation, or other rule of law requires the retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with paragraph (1).

(e) ACCURACY AND ABILITY TO RETAIN CONTRACTS AND OTHER RECORDS.–Notwithstanding subsection (a), if a statute, regulation, or other rule of law requires that a contract or other record

relating to a transaction in or affecting interstate or foreign commerce be in writing, the legal effect, validity, or enforceability of an electronic record of such contract or other record may be denied if such electronic record is not in a form that is capable of being retained and accurately reproduced for later reference by all parties or persons who are entitled to retain the contract or other record.

(f) PROXIMITY.–Nothing in this Title affects the proximity required by any statute, regulation, or other rule of law with respect to any warning, notice, disclosure, or other record required to be posted, displayed, or publicly affixed.

(g) NOTARIZATION AND ACKNOWLEDGMENT.–If a statute, regulation, or other rule of law requires a signature or record relating to a transaction in or affecting interstate or foreign commerce to be notarized, acknowledged, verified, or made under oath, that requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable statute, regulation, or rule of law, is attached to or logically associated with the signature or record.

(h) ELECTRONIC AGENTS.–A contract or other record relating to a transaction in or affecting interstate or foreign commerce may not be denied legal effect, validity, or enforceability solely because its formation, creation, or delivery involved the action of one or more electronic agents so long as the action of any such electronic agent is legally attributable to the person to be bound.

Applicability.

(i) INSURANCE.–It is the specific intent of the Congress that this Title and Title II apply to the business of insurance.

(j) INSURANCE AGENTS AND BROKERS.–An insurance agent or broker acting under the direction of a party that enters into a contract by means of an electronic record or electronic signature may not be held liable for any deficiency in the electronic procedures agreed to by the parties under that contract if–

(1) the agent or broker has not engaged in negligent, reckless, or intentional tortuous conduct;

(2) the agent or broker was not involved in the development or establishment of such electronic procedures; and

(3) the agent or broker did not deviate from such procedures.

15 USC 7002.

Sec. 102. Exemption to Preemption.

(a) IN GENERAL.–A State statute, regulation, or other rule of law may modify, limit, or supersede the provisions of section 101 with respect to State law only if such statute, regulation, or rule of law–

(1) constitutes an enactment or adoption of the Uniform Electronic Transactions Act as approved and recommended for enactment in all the States by the National Conference of Commissioners on Uniform State Laws in 1999, except that any exception to the scope of such Act enacted by a State under section 3(b)(4) of such Act shall be preempted to the extent such exception is inconsistent with this Title or Title II, or would not be permitted under paragraph (2)(A)(ii) of this subsection; or

(2)(A) specifies the alternative procedures or requirements for the use or acceptance (or both) of electronic records or electronic signatures to establish the legal effect, validity, or enforceability of contracts or other records, if–

(i) such alternative procedures or requirements are consistent with this Title and Title II; and

(ii) such alternative procedures or requirements do not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification for performing the functions of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures; and

(B) if enacted or adopted after the date of the enactment of this Act, makes specific reference to this Act.

(b) EXCEPTIONS FOR ACTIONS BY STATES AS MARKET PARTICIPANTS.–Subsection (a)(2)(A)(ii) shall not apply to the statutes, regulations, or other rules of law governing procurement by any State, or any agency or instrumentality thereof.

(c) PREVENTION OF CIRCUMVENTION.–Subsection (a) does not permit a State to circumvent this Title or Title II through the imposition of nonelectronic delivery methods under section 8(b)(2) of the Uniform Electronic Transactions Act.

15 USC 7003.

Sec. 103. Specific Exceptions.

(a) EXCEPTED REQUIREMENTS.–The provisions of section 101 shall not apply to a contract or other record to the extent it is governed by–

(1) a statute, regulation, or other rule of law governing the creation and execution of wills, codicils, or testamentary trusts;

(2) a State statute, regulation, or other rule of law governing adoption, divorce, or other matters of family law; or

(3) the Uniform Commercial Code, as in effect in any State, other than sections 1-107 and 1-206 and Articles 2 and 2A.

(b) ADDITIONAL EXCEPTIONS.–The provisions of section 101 shall not apply to–

(1) court orders or notices, or official court documents (including briefs, pleadings, and other writings) required to be executed in connection with court proceedings;

(2) any notice of–

(A) the cancellation or termination of utility services (including water, heat, and power);

(B) default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual;

(C) the cancellation or termination of health insurance or benefits or life insurance benefits (excluding annuities); or

(D) recall of a product, or material failure of a product, that risks endangering health or safety; or

(3) any document required to accompany any transportation or handling of hazardous materials, pesticides, or other toxic or dangerous materials.

(c) REVIEW OF EXCEPTIONS.–

(1) EVALUATION REQUIRED.–The Secretary of Commerce, acting through the Assistant Secretary for Communications and Information, shall review the operation of the exceptions in subsections (a) and (b) to evaluate, over a period of 3 years, whether such exceptions continue to be necessary for the protection of consumers.

Within 3 years after the date of enactment of this Act, the Assistant Secretary shall submit a report to the Congress on the results of such evaluation.

Deadline. Reports.

(2) DETERMINATIONS.–If a Federal regulatory agency, with respect to matter within its jurisdiction, determines after notice and an opportunity for public comment, and publishes a finding, that one or more such exceptions are no longer necessary for the protection of consumers and eliminating such exceptions will not increase the material risk of harm to consumers, such agency may extend the application of section 101 to the exceptions identified in such finding.

Sec. 104. Applicability to Federal and State.

15 USC 7004.

(a) FILING AND ACCESS REQUIREMENTS.–Subject to subsection (c)(2), nothing in this Title limits or supersedes any requirement by a Federal regulatory agency, self-regulatory organization, or State regulatory agency that records be filed with such agency or organization in accordance with specified standards or formats.

(b) PRESERVATION OF EXISTING RULEMAKING AUTHORITY.–

(1) Use of authority to interpret.–Subject to paragraph (2) and subsection (c), a Federal regulatory agency or State regulatory agency that is responsible for rulemaking under any other statute may interpret section 101 with respect to such statute through–

(A) the issuance of regulations pursuant to a statute; or

(B) to the extent such agency is authorized by statute to issue orders or guidance, the issuance of orders or guidance of general applicability that are publicly available and published (in the Federal Register in the case of an order or guidance issued by a Federal regulatory agency).

This paragraph does not grant any Federal regulatory agency or State regulatory agency authority to issue regulations, orders, or guidance pursuant to any statute that does not authorize such issuance.

(2) Limitations on interpretation authority.–Notwithstanding paragraph (1), a Federal regulatory agency shall not adopt any regulation, order, or guidance described in paragraph (1), and a State regulatory agency is preempted by section 101 from adopting any regulation, order, or guidance described in paragraph (1), unless–

(A) such regulation, order, or guidance is consistent with section 101;

(B) such regulation, order, or guidance does not add to the requirements of such section; and

(C) such agency finds, in connection with the issuance of such regulation, order, or guidance, that–

(i) there is a substantial justification for the regulation, order, or guidance;

(ii) the methods selected to carry out that purpose–

(I) are substantially equivalent to the requirements imposed on records that are not electronic records; and

(II) will not impose unreasonable costs on the acceptance and use of electronic records; and

(iii) the methods selected to carry out that purpose do not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification for performing the functions of creating,

storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures.

(3) PERFORMANCE STANDARDS.–

(A) ACCURACY, RECORD INTEGRITY, ACCESSIBILITY.–Notwithstanding paragraph (2)(C)(iii), a Federal regulatory agency or State regulatory agency may interpret section 101(d) to specify performance standards to assure accuracy, record integrity, and accessibility of records that are required to be retained. Such performance standards may be specified in a manner that imposes a requirement in violation of paragraph (2)(C)(iii) if the requirement (i) serves an important governmental objective; and (ii) is substantially related to the achievement of that objective. Nothing in this paragraph shall be construed to grant any Federal regulatory agency or State regulatory agency authority to require use of a particular type of software or hardware in order to comply with section 101(d).

(B) PAPER OR PRINTED FORM.–Notwithstanding subsection (c)(1), a Federal regulatory agency or State regulatory agency may interpret section 101(d) to require retention of a record in a tangible printed or paper form if–

(i) there is a compelling governmental interest relating to law enforcement or national security for imposing such requirement; and (ii) imposing such requirement is essential to attaining such interest.

(4) Exceptions for actions by government as market participant.–Paragraph (2)(C)(iii) shall not apply to the statutes, regulations, or other rules of law governing procurement by the Federal or any State government, or any agency or instrumentality thereof.

(c) ADDITIONAL LIMITATIONS.–

(1) REIMPOSING PAPER PROHIBITED.–Nothing in subsection (b) (other than paragraph (3)(B) thereof) shall be construed to grant any Federal regulatory agency or State regulatory agency authority to impose or reimpose any requirement that a record be in a tangible printed or paper form.

(2) CONTINUING OBLIGATION UNDER GOVERNMENT PAPERWORK ELIMINATION ACT.–Nothing in subsection (a) or (b) relieves any Federal regulatory agency of its obligations under the Government Paperwork Elimination Act (Title XVII of Public Law 105-277).

(d) AUTHORITY TO EXEMPT FROM CONSENT PROVISION.–

(1) IN GENERAL.–A Federal regulatory agency may, with respect to matter within its jurisdiction, by regulation or order issued after notice and an opportunity for public comment, exempt without condition a specified category or type of record from the requirements relating to consent in section 101(c) if such exemption is necessary to eliminate a substantial burden on electronic commerce and will not increase the material risk of harm to consumers.

(2) PROSPECTUSES.–Within 30 days after the date of enactment of this Act, the Securities and Exchange Commission shall issue a regulation or order pursuant to paragraph (1) exempting from section 101(c) any records that are required to be provided in order to allow advertising, sales literature, or other information concerning a security issued by an investment company that is registered under the Investment Company Act of 1940, or concerning the issuer thereof, to be excluded from the definition of a prospectus under section 2(a)(10)(A) of the Securities Act of 1933.

Deadline.
Regulations.

(e) ELECTRONIC LETTERS OF AGENCY.–The Federal Communications Commission shall not hold any contract for telecommunications service or letter of agency for a preferred carrier change, that otherwise complies with the Commission's rules, to be legally ineffective, invalid, or unenforceable solely because an electronic record or electronic signature was used in its formation or authorization.

Sec. 105. Studies.

Deadlines.
15 USC 7005.
Mail.

(a) DELIVERY.–Within 12 months after the date of the enactment of this Act, the Secretary of Commerce shall conduct an inquiry regarding the effectiveness of the delivery of electronic records to consumers using electronic mail as compared with delivery of written records via the United States Postal Service and private express mail services. The Secretary shall submit a report to the Congress regarding the results of such inquiry by the conclusion of such 12-month period.

Reports.

(b) STUDY OF ELECTRONIC CONSENT.–Within 12 months after the date of the enactment of this Act, the Secretary of Commerce and the Federal Trade Commission shall submit a report to the Congress evaluating any benefits provided to consumers by the procedure required by section 101(c)(1)(C)(ii); any burdens imposed on electronic commerce by that provision; whether the benefits outweigh the burdens; whether the absence of the procedure required by section 101(c)(1)(C)(ii) would increase the incidence of fraud directed against consumers; and suggesting any revisions to the provision deemed appropriate by the Secretary and the Commission. In conducting this evaluation, the Secretary and the Commission shall solicit comment from the general public, consumer representatives, and electronic commerce businesses.

Reports.
Public information.

Sec. 106. Definitions.

15 USC 7006.

For purposes of this Title:

(1) CONSUMER.–The term "consumer" means an individual who obtains, through a transaction, products or services which are used primarily for personal, family, or household purposes, and also means the legal representative of such an individual.

(2) ELECTRONIC.–The term "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) ELECTRONIC AGENT.–The term "electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part without review or action by an individual at the time of the action or response.

(4) ELECTRONIC RECORD.–The term "electronic record" means a contract or other record created, generated, sent, communicated, received, or stored by electronic means.

(5) ELECTRONIC SIGNATURE.–The term "electronic signature" means an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.

(6) FEDERAL REGULATORY AGENCY.–The term "Federal regulatory agency" means an agency, as that term is defined in section 552(f) of Title 5, United States Code.

(7) INFORMATION.–The term "information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

(8) PERSON.–The term "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(9) RECORD.–The term "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(10) REQUIREMENT.–The term "requirement" includes a prohibition.

(11) SELF-REGULATORY ORGANIZATION.–The term "self-regulatory organization" means an organization or entity that is not a Federal regulatory agency or a State, but that is under the supervision of a Federal regulatory agency and is authorized under Federal law to adopt and administer rules applicable to its members that are enforced by such organization or entity, by a Federal regulatory agency, or by another self-regulatory organization.

(12) STATE.–The term "State" includes the District of Columbia and the territories and possessions of the United States.

(13) TRANSACTION.–The term "transaction" means an action or set of actions relating to the conduct of business, consumer, or commercial affairs between two or more persons, including any of the following types of conduct–

(A) the sale, lease, exchange, licensing, or other disposition of (i) personal property, including goods and intangibles, (ii) services, and (iii) any combination thereof; and

(B) the sale, lease, exchange, or other disposition of any interest in real property, or any combination thereof.

Sec. 107. Effective Date.

15 USC 7001 note.

(a) IN GENERAL.–Except as provided in subsection (b), this Title shall be effective on October 1, 2000.

(b) EXCEPTIONS.–

(1) RECORD RETENTION.–

(A) IN GENERAL.–Subject to subparagraph (B), this Title shall be effective on March 1, 2001, with respect to a requirement that a record be retained imposed by–

(i) a Federal statute, regulation, or other rule of law, or

(ii) a State statute, regulation, or other rule of law administered or promulgated by a State regulatory agency.

(B) DELAYED EFFECT FOR PENDING RULEMAKINGS.–If on March 1, 2001, a Federal regulatory agency or State regulatory agency has announced, proposed, or initiated, but not completed, a rulemaking proceeding to prescribe a regulation

under section 104(b)(3) with respect to a requirement described in subparagraph (A), this Title shall be effective on June 1, 2001, with respect to such requirement.

(2) CERTAIN GUARANTEED AND INSURED LOANS.–With regard to any transaction involving a loan guarantee or loan guarantee commitment (as those terms are defined in section 502 of the Federal Credit Reform Act of 1990), or involving a program listed in the Federal Credit Supplement, Budget of the United States, FY 2001, this Title applies only to such transactions entered into, and to any loan or mortgage made, insured, or guaranteed by the United States Government thereunder, on and after one year after the date of enactment of this Act.

(3) Student loans.--With respect to any records that are provided or made available to a consumer pursuant to an application for a loan, or a loan made, pursuant to Title IV of the Higher Education Act of 1965, section 101(c) of this Act shall not apply until the earlier of–

(A) such time as the Secretary of Education publishes revised promissory notes under section 432(m) of the Higher Education Act of 1965; or

(B) one year after the date of enactment of this Act.

TITLE II–TRANSFERABLE RECORDS

Sec. 201. Transferable Records.

(a) DEFINITIONS.–For purposes of this section:

(1) TRANSFERABLE RECORD.–The term "transferable record" means an electronic record that–

15 USC 7021.

(A) would be a note under Article 3 of the Uniform Commercial Code if the electronic record were in writing;

(B) the issuer of the electronic record expressly has agreed is a transferable record; and

(C) relates to a loan secured by real property.

A transferable record may be executed using an electronic signature.

(2) OTHER DEFINITIONS.–The terms "electronic record", "electronic signature", and "person" have the same meanings provided in section 106 of this Act.

(b) CONTROL.–A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(c) CONDITIONS.–A system satisfies subsection (b), and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that–

(1) a single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

(2) the authoritative copy identifies the person asserting control as–

(A) the person to which the transferable record was issued; or

(B) if the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

(3) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(d) Status as Holder.–Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in section 1-201(20) of the Uniform Commercial Code, of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under sections 3-302(a), 9-308, or revised sections 9-330 of the Uniform Commercial Code are satisfied, the rights and defenses of a holder in due course or a purchaser, respectively. Delivery, possession, and endorsement are not required to obtain or exercise any of the rights under this subsection.

(e) Obligor Rights.–Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under the Uniform Commercial Code.

(f) Proof of Control.–If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

(g) UCC References.–For purposes of this subsection, all references to the Uniform Commercial Code are to the Uniform Commercial Code as in effect in the jurisdiction the law of which governs the transferable record.

Sec. 202. Effective Date.

15 USC 7021 note.

This Title shall be effective 90 days after the date of enactment of this Act.

TITLE III–PROMOTION OF INTERNATIONAL ELECTRONIC COMMERCE

Sec. 301. Principles Governing the Use of Electronic Signatures in International Transactions.

(a) PROMOTION OF ELECTRONIC SIGNATURES.–

(1) REQUIRED ACTIONS.–The Secretary of Commerce shall promote the acceptance and use, on an international basis, of electronic signatures in accordance with the principles specified in paragraph (2) and in a manner consistent with section 101 of this Act. The Secretary of Commerce shall take all actions necessary in a manner consistent with such principles to eliminate or reduce, to the maximum extent possible, the impediments to commerce in electronic signatures, for the purpose of facilitating the development of interstate and foreign commerce.

(2) PRINCIPLES.–The principles specified in this paragraph are the following:

(A) Remove paper-based obstacles to electronic transactions by adopting relevant principles from the Model Law on Electronic Commerce adopted in 1996 by the United Nations Commission on International Trade Law.

(B) Permit parties to a transaction to determine the appropriate authentication technologies and implementation models for their transactions, with assurance that those technologies and implementation models will be recognized and enforced.

(C) Permit parties to a transaction to have the opportunity to prove in court or other proceedings that their authentication approaches and their transactions are valid.

(D) Take a nondiscriminatory approach to electronic signatures and authentication methods from other jurisdictions.

(b) CONSULTATION.–In conducting the activities required by this section, the Secretary shall consult with users and providers of electronic signature products and services and other interested persons.

(c) DEFINITIONS.–As used in this section, the terms ``electronic record'' and ``electronic signature'' have the same meanings provided in section 106 of this Act.

TITLE IV–COMMISSION ON ONLINE CHILD PROTECTION

Sec. 401. Authority to Accept Gifts.

Section 1405 of the Child Online Protection Act (47 USC 231 note) is amended by inserting after subsection (g) the following new subsection:

"(h) GIFTS, BEQUESTS, AND DEVISES.–The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real (including the use of office space) and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts or grants not used at the termination of the Commission shall be returned to the donor or grantee.".

Approved June 30, 2000.

LOW-LEVEL RADIOACTIVE WASTE POLICY AMENDMENTS ACT OF 1985

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LOW-LEVEL RADIOACTIVE WASTE POLICY AMENDMENTS ACT OF 1985

TITLE II–OMNIBUS LOW-LEVEL RADIOACTIVE WASTE INTERSTATE COMPACT CONSENT ACT

Sec. 201. Short Title.

42 USC 2021d note.

This Title may be cited as the "Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act."[1]

SUBTITLE A–GENERAL PROVISIONS

Sec. 211. Congressional Finding.

42 USC 2021d note. *Infra*.

The Congress hereby finds that each of the compacts set forth in subtitle B is in furtherance of the Low-Level Radioactive Waste Policy Act.

Sec. 212. Conditions of Consent to Compacts.

42 USC 2021d note. Effective date.

The consent of the Congress to each of the compacts set forth in subtitle B–

(1) shall become effective on the date of the enactment of this Act;

(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act, as amended; and

(3) is granted only for so long as the regional commission, committee, or board established in the compact complies with all of the provisions of such Act.

Sec. 213. Congressional Review.

42 USC 2021d note.

The Congress may alter, amend, or repeal this Act with respect to any compact set forth in subtitle B after the expiration of the 10-year period following the date of the enactment of this Act, and at such intervals thereafter as may be provided in such compact.

SUBTITLE B–CONGRESSIONAL CONSENT TO COMPACTS

Sec. 221. Northwest Interstate Compact on Low-level Radioactive Waste Management.

42 USC 2021d note. Alaska. Hawaii. Idaho. Montana. Oregon. Utah. Washington. Wyoming.

The Consent of Congress is hereby given to the states of Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming to enter into the Northwest Interstate Compact on Low-level Radioactive Waste Management, and to each and every part and article thereof. Such compact reads substantially as follows:

NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

ARTICLE I–POLICY AND PURPOSE

Health. Safety.

The party states recognize that low-level radioactive wastes are generated by essential activities and services that benefit the citizens of the states. It is further recognized that the protection of the health and safety of the citizens of the party states and the most economical management of low-level radioactive wastes can be accomplished through cooperation of the states in minimizing the amount of handling and

[1] **NOTE:** Title I of this Law Is Found in Volume I of this NUREG

transportation required to dispose of such wastes and through the cooperation of the states in providing facilities that serve the region. It is the policy of the party states to undertake the necessary cooperation to protect the health and safety of the citizens of the party states and to provide for the most economical management of low-level radioactive wastes on a continuing basis. It is the purpose of this compact to provide the means for such a cooperative effort among the party states so that the protection of the citizens of the states and the maintenance of the viability of the states' economies will be enhanced while sharing the responsibilities of radioactive low-level waste management.

ARTICLE II–DEFINITIONS

As used in this compact:

(1) "Facility" means any site, location, structure, or property used or to be used for the storage, treatment, or disposal of low-level waste, excluding federal waste facilities;

(2) "Low-level waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than ten (10) nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations;

(3) "Generator" means any person, partnership, association, corporation, or any other entity whatsoever which, as a part of its activities, produces low-level radioactive waste;

(4) "Host state" means a state in which a facility is located.

ARTICLE III–REGULATORY PRACTICES

Transportation.

Each party state hereby agrees to adopt practices which will require low-level waste shipments originating within its borders and destined for a facility within another party state to conform to the applicable packaging and transportation requirements and regulations of the host state. Such practices shall include:

(1) Maintaining an inventory of all generators within the state that have shipped or expect to ship low-level waste to facilities in another party state;

(2) Periodic unannounced inspection of the premises of such generators and the waste management activities thereon;

(3) Authorization of the containers in which such waste may be shipped, and a requirement that generators use only that type of container authorized by the state;

(4) Assurance that inspections of the carriers which transport such waste are conducted by proper authorities, and appropriate enforcement action taken for violations;

Transportation.

(5) After receiving notification from a host state that a generator within the party state is in violation of applicable packaging or transportation standards, the party state will take appropriate action to assure that such violations do not recur. Such action may include

inspection of every individual low-level waste shipment by that generator.

Each party state may impose fees upon generators and shippers to recover the cost of the inspections and other practices under this article. Nothing in this article shall be construed to limit any party state's authority to impose additional or more stringent standards on generators or carriers than those required under this article.

ARTICLE IV–REGIONAL FACILITIES

(1) Facilities located in any party state, other than facilities established or maintained by individual low-level waste generators for the management of their own low-level waste, shall accept low-level waste generated in any party state if such waste has been packaged and transported according to applicable laws and regulations.

(2) No facility located in any party state may accept low-level waste generated outside of the region comprised of the party states, except as provided in article V.

(3) Until such time as paragraph (2) of article IV takes effect, facilities located in any party state may accept low-level waste generated outside of any of the party states only if such waste is accompanied by a certificate of compliance issued by an official of the state in which such waste shipment originated. Such certificate shall be in such form as may be required by the host state, and shall contain at least the following:

(A) The generator's name and address;

(B) A description of the contents of the low-level waste container.

Regulations.

(C) A statement that the low-level waste being shipped has been inspected by the official who issued the certificate or by his agent or by a representative of the United States Nuclear Regulatory Commission, and found to have been packaged in compliance with applicable Federal regulations and such additional requirements as may be imposed by the host state;

(D) A binding agreement by the state of origin to reimburse any party state for any liability or expense incurred as a result of an accidental release of such waste during shipment or after such waste reaches the facility.

Health.
Safety.

(4) Each party state shall cooperate with the other party states in determining the appropriate site of any facility that might be required within the region comprised of the party states, in order to maximize public health and safety while minimizing the use of any one (1) party state as the host of such facilities on a permanent basis. Each party state further agrees that decisions regarding low-level waste management facilities in their region will be reached through a good faith process which takes into account the burdens borne by each of the party states as well as the benefits each has received.

Hazardous materials.
Idaho.
Oregon.
Prohibition.
Washington.

(5) The party states recognize that the issue of hazardous chemical waste management is similar in many respects to that of low-level waste management. Therefore, in consideration of the State of Washington allowing access to its low-level waste disposal facility by generators in other party states, party states such as Oregon and Idaho which host hazardous chemical waste disposal facilities will allow access to such facilities by generators within other party states. Nothing in this compact

shall be construed to prevent any party state from limiting the nature and type of hazardous chemical or low-level wastes to be accepted at facilities within its borders of from ordering the closure of such facilities, so long as such action by a host state is applied equally to all generators within the region comprised of the party states.

(6) Any host state may establish a schedule of fees and requirements related to its facility, to assure that closure, perpetual care, and maintenance and contingency requirements are met, including adequate bonding.

ARTICLE V–NORTHWEST LOW-LEVEL WASTE COMPACT COMMITTEE

The governor of each party state shall designate one (1) official of that state as the person responsible for administration of this compact. The officials so designated shall together comprise the northwest low-level waste compact committee. The committee shall meet as required to consider matters arising under this compact. The parties shall inform the committee of existing regulations concerning low-level waste management in their states, and shall afford all parties a reasonable opportunity to review and comment upon any proposed modification in such regulations. Notwithstanding any provision of article IV to the contrary, the committee may enter into arrangements with states, provinces, individual generators, or regional compact entities outside the region comprised of the party states for access to facilities on such terms and conditions as the committee may deem appropriate. However, it shall require a two-thirds (2/3) vote of all such members, including the affirmative vote of the member of any party state in which a facility affected by such arrangement is located, for the committee to enter into such arrangement.

Regulations.

ARTICLE VI–ELIGIBLE PARTIES AND EFFECTIVE DATE

(1) Each of the following states is eligible to become a party to this compact: Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming. As to any eligible party, this compact shall become effective upon enactment into law by that party, but it shall not become initially effective until enacted into law by two (2) states. Any party state may withdraw from this compact by enacting a statute repealing its approval.

Alaska. Hawaii. Idaho. Montana. Oregon. Utah. Washington.

(2) After the compact has initially taken effect pursuant to paragraph (1) of this article, any eligible party state may become a party to this compact by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1983, whichever occurs first, unless the compact has by then been enacted as a statute by that state.

Effective date. Wyoming.

(3) Paragraph (2) of article IV of this compact shall take effect on July 1, 1983, if consent is given by Congress. As provided in Public Law 96-573, Congress may withdraw its consent to the compact after every five (5) year period.

42 USC 2021b note. Effective date.

ARTICLE VII–SEVERABILITY

Provisions held invalid.

If any provision of this compact, or its application to any person or circumstances, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this compact are severable.

Sec. 222. Central Interstate Low-level Radioactive Waste Compact.

42 USC 2021d note. Arkansas. Iowa. Kansas. Louisiana. Minnesota. Missouri. Nebraska. North Dakota. Oklahoma.

The consent of Congress is hereby given to the states of Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, and Oklahoma to enter into the Central Interstate Low-Level Radioactive Waste Compact, and to each and every part and article thereof. Such compact reads substantially as follows:

CENTRAL INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT

ARTICLE I–POLICY AND PURPOSE

42 USC 2021b note. Environmental protection. Health. Safety.

The party states recognize that each state is responsible for the management of its non-federal low-level radioactive wastes. They also recognize that the Congress, by enacting the Low-Level Radioactive Waste Policy Act (Public Law 96-573) has authorized and encouraged states to enter into compacts for the efficient management of wastes. It is the policy of the party states to cooperate in the protection of the health, safety and welfare of their citizens and the environment and to provide for and encourage the economical management of low-level radioactive wastes. It is the purpose of this compact to provide the framework for such a cooperative effort; to promote the health, safety and welfare of the citizens and the environment of the region; to limit the number of facilities needed to effectively and efficiently manage low-level radioactive wastes and to encourage the reduction of the generation thereof; and to distribute the costs, benefits and obligations among the party states.

ARTICLE II–DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

a. “Commission” means the Central Interstate Low-Level Radioactive Waste Commission;

b. “disposal” means the isolation and final disposition of waste;

c. “extended care” means the care of a regional facility including necessary corrective measures subsequent to its active use for waste management until such time as the regional facility no longer poses a threat to the environment or public health;

d. “facility” means any site, location, structure or property used or to be used for the management of waste;

e. “generator” means any person who, in the course of or as incident to manufacturing, power generation, processing, medical diagnosis and treatment, biomedical research, other industrial or commercial activity, other research or mining in a party state, produces or processes waste. “Generator” does not include any person who receives waste generated outside the region for subsequent shipment to a regional facility;

f. “host state” means any party state in which a regional facility is situated or is being developed;

42 USC 2021b note.

g. “low-level radioactive waste” or “waste” means, as defined in the Low-Level Radioactive Waste Policy Act (Public Law 96-573), radioactive waste not classified as: High-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in section 11e.(2) of the Atomic Energy Act of 1954, as amended through 1978.

42 USC 2014.

h. “management of waste” means the storage, treatment or disposal of waste;

i. “notification of each party state” means transmittal of written notice to the Governor, presiding officer of each legislative body and any other persons designated by the party state’s Commission member to receive such notice;

j. “party state” means any state which is a signatory party to this compact;

k. “person” means any individual, corporation, business enterprise, or other legal entity, either public or private;

l. “region” means the area of the party states;

m. “regional facility” means a facility which is located within the region and which has been approved by the Commission for the benefit of the party States;

n. “site” means any property which is owned or leased by a generator and is contiguous to or divided only by a public or private way from the source of generation;

o. “state” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands or any other territorial possession of the United States;

p. “storage” means the holding of waste for treatment or disposal; and

q. “treatment” means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render such waste after for transport or management, amendable for recovery, convertible to another usable material, or reduced in volume.

ARTICLE III–RIGHTS AND OBLIGATIONS

a. There shall be provided within the region one or more regional facilities which together provide sufficient capacity to manage all wastes generated within the region. It shall be the duty of regional facilities to accept compatible wastes generated in and from party states, and meeting the requirements of this Act, and each party state shall have the right to have the wastes generated within its borders managed at such facility.

Regulation.

b. To the extent authorized by Federal law and host State law, a host state shall regulate and license any regional facility within its borders and ensure the extended care of such facility.

c. Rates shall be charged to any user of the regional facility, set by the operator of a regional facility and shall be fair and reasonable and be subject to the approval of the host state. Such approval shall be based upon criteria established by the Commission.

d. A host state may establish fees which shall be charged to any user of a regional facility and which shall be in addition to the rates approved pursuant to section c. of this Article, for any regional facility within its

borders. Such fees shall be reasonable and shall provide the host state with sufficient revenue to cover any costs associated with such facilities. If such fees have been reviewed and approved by the Commission and to the extent that such revenue is insufficient, all party states shall share the costs in a manner to be determined by the Commission.

Regulation. Transportation.

e. To the extent authorized by Federal law, each party state is responsible for enforcing any applicable Federal and state laws and regulations pertaining to the packaging and transportation of waste generated within or passing through its borders and shall adopt practices that will ensure that waste shipments originating within its borders and destined for a regional facility will conform to applicable packaging and transportation laws and regulations.

f. Each party state has the right to rely on the good faith performance of each other party state.

g. Unless authorized by the Commission, it shall be unlawful after January 1, 1986, for any person:

1. to deposit at a regional facility, waste not generated within the region;

2. to accept, at a regional facility, waste not generated within the region;

Exports.

3. to export from the region, waste which is generated within the region; and

4. to transport waste from the site at which it is generated, except to a regional facility.

ARTICLE IV–THE COMMISSION

Central Interstate Low-Level Radioactive Waste Commission, establishment.

a. There is hereby established the Central Interstate Low-Level Radioactive Waste Commission. The Commission shall consist of one voting member from each party state to be appointed according to the laws of each state. The appointing authority of each party state shall notify the Commission in writing of the identity of its member and any alternates. An alternate may act on behalf of the member only in the absence of such member. Each state is responsible for the expenses of its member of the Commission.

b. Each Commission member shall be entitled to one vote. Unless otherwise provided herein, no action of the Commission shall be bonding unless a majority of the total membership casts its vote in the affirmative.

c. The Commission shall elect from among its membership a chairman. The Commission shall adopt and publish, in convenient form, by-laws and policies which are not inconsistent with this compact.

d. The Commission shall meet at least once a year and shall also meet upon the call of the chairman, by petition of a majority of the membership or upon the call of a host state member.

e. The Commission may initiate any proceedings or appear as an intervenor or party in interest before any court of law, or any Federal, state or local agency, board or Commission that has jurisdiction over any matter arising under or relating to the terms of the provisions of this compact. The Commission shall determine in which proceedings it shall intervene or otherwise appear and may arrange for such expert testimony, reports, evidence or other participation in such proceedings as may be necessary to represent its views.

f. The Commission may establish such committees as it deems necessary for the purpose of advising the Commission on any and all matters pertaining to the management of waste.

Contracts.

g. The Commission may employ and compensate a staff limited only to those persons necessary to carry out its duties and functions. The Commission may also contract with and designate any person to perform necessary functions to assist the Commission. Unless otherwise required by the acceptance of a Federal grant, the staff shall serve at the Commission's pleasure irrespective of the civil service, personnel or other merit laws of any of the party states or the Federal government and shall be compensated from funds of the Commission.

h. Funding for the Commission shall be as follows:

1. The Commission shall set and approve its first annual budget as soon as practicable after its initial meeting. Party states shall equally contribute to the Commission budget on an annual basis, an amount not to exceed $25,000 until surcharges are available for that purpose. Host states shall begin imposition of the surcharges provided for in this section as soon as practicable and shall remit to the Commission funds resulting from collection of such surcharges within 60 days of their receipt; and

2. Each state hosting a regional facility shall annually levy surcharges on all users of such facilities, based on the volume and characteristics of wastes received at such facilities, the total of which:

(A) Shall be sufficient to cover the annual budget of the Commission; and

(B) shall be paid to the Commission, provided, however, that each host state collecting such surcharges may retain a portion of the collection sufficient to cover the administrative costs of collection, and that the remainder be sufficient only to cover the approved annual budget of the Commission.

Audit.
Report.

i. The Commission shall keep accurate accounts of all receipts and disbursements. An independent certified public account shall annually audit all receipts and disbursements of Commission funds and submit an audit report to the Commission. Such audit report shall be made a part of the annual report of the Commission required by this Article.

Grants.

j. The Commission may accept for any of its purposes and functions any and all donations, grants of money, equipment, supplies, materials and services, conditional or otherwise from any person and may receive, utilize and dispose of same. The nature, amount and conditions, if any,

Reports.

attendant upon any donation or grant accepted pursuant to this section, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Commission.

Prohibition.

k. (1) Except as otherwise provided herein, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act, omission, course of conduct, or on account of any casual or other relationships. Generators, transporters of waste, owners and operators of facilities shall be liable for their acts, omissions, conduct or relationships in accordance with all laws relating thereto.

Prohibitions.

(2) The Commission herein established is a legal entity separate and distinct from the party states and shall be so liable for its actions. Liabilities of the Commission shall not be deemed liabilities of the

party states. Members of the Commission shall not be personally liable for actions taken by them in their official capacity.

1. Any person or party state aggrieved by a final decision of the Commission may obtain judicial review of such decisions in the United States District Court in the District wherein the Commission maintains its headquarters by filing in such court a petition for review within 60 days after the Commission's final decision. Proceedings thereafter shall be in accordance with the rules of procedure applicable in such court.

m. The Commission shall:

1. Receive and approve the application of a non-party state to become a party state in accordance with Article VII;

Report.

2. submit an annual report, and otherwise communicate with, the Governors and the presiding officers of the legislative bodies of the party states regarding the activities of the Commission;

3. hear and negotiate disputes which may arise between the party states regarding this compact;

4. require of and obtain from the party states, and non-party states seeking to become party states, data and information necessary to the implementation of Commission and party states' responsibilities;

5. approve the development and operation of regional facilities in accordance with Article V;

Contracts.
Exports.
Imports.

6. notwithstanding any other provision of this compact, have the authority to enter into agreements with any person for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. Such authorization to import or export waste requires the approval of the Commission, including the affirmative vote of any host state which may be affected;

7. revoke the membership of a party state in accordance with Articles V and VII;

8. require all party states and other persons to perform their duties and obligations arising under this compact by an appropriate action in any forum designated in section e. of Article IV; and

9. take such action as may be necessary to perform its duties and functions as provided in this compact.

ARTICLE V–DEVELOPMENT AND OPERATION OF REGIONAL FACILITIES

a. Following the collection of sufficient data and information from the states, the Commission shall allow each party state the opportunity to volunteer as a host for a regional facility.

b. If no state volunteers or if no proposal identified by a volunteer state is deemed acceptable by the Commission, based on the criteria in section c. of this Article, then the Commission shall publicly seek applicants for the development and operation of regional facilities.

c. The Commission shall review and consider each applicant's proposal based upon the following criteria:

1. The capability of the applicant to obtain a license from the applicable authority;

2. the economic efficiency of each proposed regional facility, including the total estimated disposal and treatment costs per cubic foot of waste;

3. financial assurances;

4. accessibility to all party states; and

Health. Safety.

5. such other criteria as shall be determined by the Commission to be necessary for the selection of the best proposal, based on the health, safety and welfare of the citizens in the region and the party states.

d. The Commission shall make a preliminary selection of the proposal or proposals considered most likely to meet the criteria enumerated in section c. and the needs of the region.

e. Following notification of each party state of the results of the preliminary selection process, the Commission shall:

1. Authorize any person whose proposal has been selected to pursue licensure of the regional facility or facilities in accordance with the proposal originally submitted to the Commission or as modified with the approval of the Commission; and

2. require the appropriate state or states or the U.S. Nuclear Regulatory Commission to process all applications for permits and licenses required for the development and operation of any regional facility or facilities within a reasonable period from the time that a completed application is submitted.

f. The preliminary selection or selections made by the Commission pursuant to this Article shall become final and receive the Commission's approval as a regional facility upon the issuance of license by the licensing authority. If a proposed regional facility fails to become licensed, the Commission shall make another selection pursuant to the procedures identified in this Article.

g. The Commission may, by two-thirds affirmative vote of its membership, revoke the membership of any party state which, after notice and hearing, shall be found to have arbitrarily or capriciously denied or delayed the issuance of a license or permit to any person authorized by the Commission to apply for such license or permit. Revocation shall be in the same manner as provided for in section e. of Article VII.

ARTICLE VI–OTHER LAWS AND REGULATIONS

Prohibition.

a. Nothing in this compact shall be construed to:

1. Abrogate or limit the applicability of any act of Congress or diminish or otherwise impair the jurisdiction of any Federal agency expressly conferred thereon by the Congress;

2. prevent the application of any law which is not otherwise inconsistent with this compact;

3. prohibit or otherwise restrict the management and waste on the site where it is generated if such is otherwise lawful;

4. affect any judicial or administrative proceeding pending on the effective date of this compact;

5. alter the relations between, and the respective internal responsibilities of, the government of a party state and its subdivisions; and

Research and development.

6. affect the generation or management of waste generated by the Federal government or federal research and development activities.

Prohibition.

b. No party state shall pass or enforce any law or regulation which is inconsistent with this compact.

Regulations.

c. All laws and regulations or parts thereof of any party state which are inconsistent with this compact are hereby declared null and void for purposes of this compact. Any legal right, obligation, violation or penalty

arising under such laws or regulations prior to enactment of this compact shall not be affected.

Prohibition. Regulations.

d. No law or regulation of a party state or of any subdivision or instrumentality thereof may be applied so as to restrict or make more costly or inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.

ARTICLE VII–ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

Arkansas. Iowa. Kansas. Louisiana. Minnesota. Missouri. Nebraska. North Dakota. Oklahoma.

a. This compact shall have as initially eligible parties the states of Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota and Oklahoma. Such initial eligibility shall terminate on January 1, 1984.

b. Any state may petition the Commission for eligibility. A petitioning state shall become eligible for membership in the compact upon the unanimous approval of the Commission.

c. An eligible state shall become a member of the compact and shall be bound by it after such state has enacted the compact into law. In no event shall the compact take effect in any state until it has been entered into force as provided for in section f. of this Article.

Prohibition.

Effective date. Prohibition.

d. Any party state may withdraw from this compact by enacting a statute repeating the same. Unless permitted earlier by unanimous approval of the Commission, such withdrawal shall take effect five-years after the Governor of the withdrawing state has given notice in writing of such withdrawal to each Governor of the party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

e. Any party state which fails to comply with the terms of this compact or fulfill its obligations hereunder may, after notice and hearing have its privileges suspended or its membership in the compact revoked by the Commission. Revocation shall take effect one year from the date such party state receives written notice from the Commission of its action. The Commission may require such party state to pay to the Commission, for a period not to exceed five years from the date of notice of revocation, an amount determined by the Commission based on the anticipated fees which the generators of such party state would have paid to each regional facility and an amount equal to that which such party state would have contributed in accordance with section d. of Article III, in the event of insufficient revenues. The Commission shall use such funds to ensure the continued availability of safe and economical waste management facilities for all remaining party states. Such state shall also pay an amount equal to that which such party state would have contributed to the annual budget of the Commission if such party state would have remained a member of the compact. All legal rights established under this compact of any party state which has its membership revoked shall cease upon the effective date of revocation; however, any legal obligations of such party state arising prior to the effective date of revocation shall not cease until they have been fulfilled. Written notice of revocation of any state's membership in the company shall be transmitted immediately following the vote of the Commission, by the chairman, to the Governor of the affected party state,

Effective date.

all other Governors of the party states and the Congress of the United States.

f. This compact shall become effective after enactment by a least three eligible states and after consent has been given to it by the Congress. The Congress shall have the opportunity to withdraw such consent every five-years. Failure of the Congress to withdraw its consent affirmatively shall have the effect of renewing consent for an additional five-year period. The consent given to this compact by the Congress shall extend to any future admittance of new party states under sections b. and c. of this Article and to the power to ban the exportation of waste pursuant to Article III.

Prohibition.

g. The withdrawal of a party state from this compact under section d. of this Article or the revocation of a state's membership in this compact under section 3. of this Article shall not affect the applicability of this compact to the remaining party states.

Termination.

h. This compact shall be terminated when all party states have withdrawn pursuant to section d. of this Article.

ARTICLE VIII–PENALTIES

a. Each party state, consistent with its own law, shall prescribe and enforce penalties against any person for violation of any provision of this compact.

Regulations.

b. Each party state acknowledges that the receipt by a regional facility of waste packaged or transported in violation of applicable laws and regulations can result in sanctions which may include suspension or revocation of the violator's right of access to the regional facility.

ARTICLE IX–SEVERABILITY AND CONSTRUCTION

Provisions held invalid.

The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters. The provisions of this compact shall be liberally construed to give effect to the purpose thereof.

Sec. 223. Southeast Interstate Low-level Radioactive Waste Management Compact.

42 USC 2021d note. Alabama. Florida. Georgia. Mississippi. North Carolina. South Carolina. Tennessee. Virginia.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 USC 2021d(a)(2), the consent of the Congress is hereby given to the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia to enter into the Southeast Interstate Low-Level Radioactive Waste Management Compact. Such compact is substantially as follows:

SOUTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT

ARTICLE I–POLICY AND PURPOSE

Research and development.

There is hereby created the Southeast Interstate Low-Level Radioactive Waste Management Compact. The party states recognize and declare that each state is responsible for providing for the availability of capacity either within or outside the State for disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of defense activities of the federal government or federal research and development activities. They also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis. The party states further recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (Public Law 96-573), has provided for encouraged the development of low level radioactive waste compacts as a tool for disposal of such waste. The party states recognize that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to dispose of such waste be properly provided.

42 USC 2021b note.

It is the policy of the party states to: enter into a regional low-level radioactive waste management compact for the purpose of providing the instrument and framework for a cooperative effort; provide sufficient facilities for the proper management of low-level radioactive waste generated in the region; promote the health and safety of the region; limit the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region; encourage the reduction of the amounts of low-level waste generated in the region; distribute the costs, benefits, and obligations of successful low-level radioactive waste management equitably among the party states; and ensure the ecological and economical management of low-level radioactive wastes.

Regulations.

Implicit in the Congressional consent to this compact is the expectation by Congress and the party states that the appropriate federal agencies will actively assist the Compact Commission and the individual party states to this compact by:

1. expeditious enforcement of federal rules, regulations, and laws;

2. imposing sanctions against those found to be in violation of federal rules, regulations, and laws;

3. timely inspection of their licensees to determine their capability to adhere to such rules, regulations, and laws;

42 USC 2021b note.

4. timely provision of technical assistance to this compact in carrying out their obligations under the Low-Level Radioactive Waste Policy Act, as amended.

ARTICLE II–DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

1. "Commission" or "Compact Commission" means the Southeast Interstate Low-Level Radioactive Waste Management Commission.

2. "Facility" means a parcel of land, together with the structure, equipment, and improvements thereon or appurtenant thereto, which is

used or is being developed for the treatment, storage, or disposal of low-level radioactive waste.

3. "Generator" means any person who produces or processes low-level radioactive waste in the course of, or as an incident to, manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity. This does not include persons who provide a service to generators by arranging for the collection, transportation, storage, or disposal of wastes with respect to such waste generated outside the region.

4. "High-level waste" means irradiated reactor fuel, liquid wastes from reprocessing irradiated reactor fuel, and solids into which such liquid wastes have been converted, and other high-level radioactive waste as defined by the U.S. Nuclear Regulatory Commission.

5. "Host state" means any state in which a regional facility is situated or is being developed.

42 USC 2014.

6. "Low-level radioactive waste" or "waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in section 11e(2) of the Atomic Energy Act of 1954, or as may be further defined by Federal law or regulation.

7. "Party state" means any state which is a signatory party to this compact.

8. "Person" means any individual, corporation, business enterprise, or other legal entity (either public or private).

9. "Region ' means the collective party states.

10. 'Regional facility" means (1) a facility as defined in this article which has been designated, authorized, accepted, or approved by the Commission to receive waste or (2) the disposal facility in Barnwell County, South Carolina, owned by the State of South Carolina and as licensed for the burial of low-level radioactive waste on July 1, 1982, but in no event shall this disposal facility serve as a regional facility beyond December 31, 1992.

11. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, or any other territorial possession of the United States.

42 USC 2021.

12. "Transuranic wastes" means waste material containing transuranic elements with contamination levels as determined by the regulations of (1) the U.S. Nuclear Regulatory Commission or (2) any host state, if it is an agreement state under section 274 of the Atomic Energy Act of 1954.

13. "Waste management" means the storage, treatment, or disposal of waste.

ARTICLE III–RIGHTS AND OBLIGATIONS

Prohibition.

The rights granted to the party states by this compact are additional to the rights enjoyed by sovereign states, and nothing in this compact shall be construed to infringe upon, limit, or abridge those rights.

(A) Subject to any license issued by the U.S. Nuclear Regulatory Commission or a host state, each party state shall have the right to have all wastes generated within its borders stored, treated, or disposed of, as applicable, at regional facilities and, additionally, shall have the right of access to facilities made available to the region through

agreements entered into by the Commission pursuant to Article 4(e)(9). The right of access by a generator within a party state to any regional facility is limited by its adherence to applicable state and federal law and regulation.

(B) If no operating regional facility is located within the borders of a party state and the waste generated within its borders must therefore be stored, treated, or disposed of at a regional facility in another party state, the party state without such facilities may be required by the host state or states to establish a mechanism which provides compensation for access to the regional facility according to terms and conditions established by the host state or states and approved by a two-thirds vote of the Commission.

(C) Each party state must establish the capability to regulate, license, and ensure the maintenance and extended care of any facility within its borders. Host states are responsible for the availability, the subsequent post-closure observation and maintenance, and the extended institutional control of their regional facilities in accordance with the provisions of Article 5, section (b).

Regulations. Transportation.

(D) Each party state must establish the capability to enforce any applicable federal or state laws and regulations pertaining to the packaging and transportation of waste generated within or passing through its borders.

(E) Each party state must provide to the Commission on an annual basis any data and information necessary to the implementation of the Commission's responsibilities. Each party state shall establish the capability to obtain any data and information necessary to meet its obligation.

(F) Each party state must, to the extent authorized by federal law, require generators within its borders to use the best available waste management technologies and practices to minimize the volumes of waste requiring disposal.

ARTICLE IV–THE COMMISSION

Southeast Interstate Low-Level Radioactive Waste Management Commission, establishment.

(A) There is hereby created the Southeast Interstate Low-Level Radioactive Waste Management Commission ("Commission" or "Compact Commission"). The Commission shall consist of two voting members from each party state to be appointed according to the laws of each state. The appointing authorities of each state must notify the Commission in writing of the identity of its members and any alternates. An alternate may act on behalf of the member only in the member's absence.

(B) Each commission member is entitled to one vote. No action of the Commission shall be binding unless a majority of the total membership cast their vote in the affirmative, or unless a greater than majority vote is specifically required by any other provision of this compact.

(C) The Commission must elect from among its members a presiding officer. The Commission shall adopt and publish, in convenient form, bylaws which are consistent with this compact.

(D) The Commission must meet at least once a year and also meet upon the call of the presiding officer, by petition of a majority of the party

states, or upon the call of a host state. All meetings of the Commission must be open to the public.

(E) The Commission has the following duties and powers:

1. To receive and approve the application of a nonparty state to become an eligible state in accordance with the provisions of Article 7(b).

2. To receive and approve the application of a nonparty state to become an eligible state in accordance with the provisions of Article 7(c).

Report.

3. To submit an annual report and other communications to the Governors and to the presiding officer of each body of the legislature of the party states regarding the activities of the Commission.

Health.
Safety.

4. To develop and use procedures for determining, consistent with consideration for public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region.

5. To provide the party states with reference guidelines for establishing the criteria and procedures for evaluating alternative locations for emergency or permanent regional facilities.

6. To develop and adopt, within one year after the Commission is constituted as provided in Article 7(d) procedures and criteria for identifying a party state as a host state for a regional facility as determined pursuant to the requirements of this article. In accordance with these procedures and criteria, the Commission shall identify a host state for the development of a second regional disposal facility within three years after the Commission is constituted as provided for in Article 7(d), and shall seek to ensure that such facility is licensed and ready to operate as soon as required but in no event later than 1991.

Environmental protection.
Health.
Safety.
Transportation.

In developing criteria, the Commission must consider the following; the health, safety, and welfare of the citizens of the party states; the existence of regional facilities within each party state; the minimization of waste transportation; the volumes and types of wastes generated within each party state; and the environmental, economic, and ecological impacts on the air, land, and water resources of the party states.

Reports.
Studies.

The Commission shall conduct such hearings, require such reports, studies, evidence, and testimony, and do what is required by its approved procedures in order to identify a party state as a host state for a needed facility.

Prohibition.

7. In accordance with the procedures and criteria developed pursuant to section (e)(6) of this Article, to designate, by a two-thirds vote, a host state for the establishment of a needed regional facility. The Commission shall not exercise this authority unless the party states have failed to voluntarily pursue the development of such facility. The Commission shall have the authority to revoke the membership of a party state that willfully creates barriers to the siting of a needed regional facility.

8. To require of and obtain from party states, eligible states seeking to become party states, and nonparty states seeking to become eligible states, data and information necessary to the implementation of Commission responsibilities.

Contracts.
Imports.

9. Notwithstanding any other provision of this compact, to enter into agreements with any person, state, or similar regional body or group of states for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. The authorization to import requires a two-thirds majority vote of the Commission, including an affirmative vote of both representatives of a host state in which any affected regional facility is located. This shall be done only after an assessment of the affected facility's capability to handle such wastes.

10. To act or appear on behalf of any party state or states, only upon written request of both members of the Commission for such state or states as an intervenor or party in interest before Congress, state legislatures, any court of law, or any federal, state, or local agency, board, or commission which has jurisdiction over the management of wastes. The authority to act, intervene, or otherwise appear shall be exercised by the Commission, only after approval by a majority vote of the Commission.

11. To revoke the membership of a party state in accordance with Article 7(f).

F. The Commission may establish any advisory committees as it deems necessary for the purpose of advising the Commission on any matters pertaining to the management of low-level radioactive waste.

G. The Commission may appoint or contract for and compensate such limited staff necessary to carry out its duties and functions. The staff shall serve at the commission's pleasure irrespective of the civil service, personnel, or other merit laws of any of the party states or the federal government and shall be compensated from funds of the Commission. In selecting any staff, the Commission shall assure that the staff has adequate experience and formal training to carry out such functions as may be assigned to it by the Commission. If the Commission has a headquarters it shall be in a party state.

H. Funding for the Commission must be provided as follows:

1. Each eligible state, upon becoming a party state, shall pay twenty-five thousand dollars to the Commission which shall be used for costs of the Commission's services.

2. Each state hosting a regional disposal facility shall annually levy special fees or surcharges on all users of such facility, based upon the volume of wastes disposed of at such facilities, the total of which:

a. must be sufficient to cover the annual budget of the Commission;

b. must represent the financial commitments of all party states to the Commission;

c. must be paid to the Commission;

Provided, however, That each host state collecting such fees or surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection and that the remainder be sufficient only to cover the approved annual budgets of the Commission.

3. The Commission must set and approve its first annual budget as soon as practicable after its initial meeting. Host states for disposal facilities must begin imposition of the special fees and surcharges provided for in this section as soon as practicable after becoming party states and must remit to the Commission funds resulting from

collection of such special fees and surcharges within sixty days of their receipt.

Audit report.

I. The Commission must keep accurate accounts of all receipts and disbursements. An independent certified public accountant shall annually audit all receipts and disbursements of Commission funds and submit an audit report to the Commission. The audit report shall be made a part of the annual report of the Commission required by Article 4(e)(3).

Grants.

J. The Commission may accept for any of its purposes and functions any and all donations, grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state, or the United States, or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. The nature, amount, and condition, if any, attendant upon any donation or grant accepted pursuant to this section, together with the identity of the donor, grantor, or lender shall be detailed in the annual report to the Commission.

Report.

K. The Commission is not responsible for any costs associated with:

(1) the creation of any facility,

(2) the operation of any facility,

(3) the stabilization and closure of any facility,

(4) the post-closure observation and maintenance of any facility, or

(5) the extended institutional control, after post-closure observation and maintenance of any facility.

L. As of January 1, 1986, the management of wastes at regional facilities is restricted to wastes generated within the region, and to wastes generated within nonparty states when authorized by the Com mission pursuant to the provisions of this compact. After January 1, 1986, the Commission may prohibit the exportation of waste from the region for the purposes of management.

Exports. Prohibition.

M. 1. The Commission herein established is a legal entity separate and distinct from the party states capable of acting in its own behalf and is liable for its actions. Liabilities of the Commission shall not be deemed liabilities of the party states. Members of the Commission shall not personally be liable for action taken by them in their official capacity.

Prohibition.

2. Except as specifically provided in this compact, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act, omission, course of conduct, or on account of any casual or other relationships. Generators and transporters of wastes and owners and operators of sites shall be liable for their acts, omissions, conduct, or relationships in accordance with all laws relating thereto.

ARTICLE V–DEVELOPMENT AND OPERATION OF FACILITIES

A. Any party state which becomes a host state in which a regional facility is operated shall not be designated by the Compact Commission as a host state for an additional regional facility until each party state has fulfilled its obligation, as determined by the Commission, to have a regional facility operated within its borders.

B. A host state desiring to close a regional facility located within its borders may do so only after notifying the Commission in writing of its intention to do so and the reasons therefor. Such notification shall be

given to the Commission at least four years prior to the intended date of closure.

Health. Safety.

Notwithstanding the four-year notice requirement herein provided, a host state is not prevented from closing its facility or establishing conditions of its use and operations as necessary for the protection of the health and safety of its citizens. A host state may terminate or limit access to its regional facility if it determines that Congress has materially altered the conditions of this compact.

C. Each party state designated as a host state for a regional facility shall take appropriate steps to ensure that an application for a license to construct and operate a facility of the designated type is filed with and issued by the appropriate authority.

Prohibition.

D. No party state shall have any form of arbitrary prohibition on the treatment, storage, or disposal of low-level radioactive waste within its borders.

E. No party state shall be required to operate a regional facility for longer than a 20-year period, or to dispose of more than 32,000,000 cubic feet of low-level radioactive waste, whichever first occurs.[2]

ARTICLE VI–OTHER LAWS AND REGULATIONS

Prohibition.

A. Nothing in this compact shall be construed to:

(1) Abrogate or limit the applicability of any act of Congress or diminish or otherwise impair the jurisdiction of any federal agency expressly conferred thereon by the Congress.

42 USC 2021.

(2) Abrogate or limit the regulatory responsibility and authority of the U.S. Nuclear Regulatory Commission or of an agreement state under section 274 of the Atomic Energy Act of 1954 in which a regional facility is located.

(3) Make inapplicable to any person or circumstance any other law of a party state which is not inconsistent with this compact.

(4) Make unlawful the continued development and operation of any facility already licensed for development or operation on the date this compact becomes effective, except that any such facility shall comply with Article 3, Article 4, and Article 5 and shall be subject to any action lawfully taken pursuant thereto.

Prohibition.

(5) Prohibit any storage or treatment of waste by the generator on its own premises.

(6) Affect any judicial or administrative proceeding pending on the effective date of this compact.

(7) Alter the relations between, and the respective internal responsibilities of, the government of a party state and its subdivisions.

42 USC 2021b note. Research and development.

(8) Affect the generation, treatment, storage, or disposal of waste generated by the atomic energy defense activities of the Secretary of the United States Department of Energy or federal research and development activities as defined in Public Law 96-573.

(9) Affect the rights and powers of any party state and its political subdivisions to regulate and license any facility within its borders or to affect the rights and powers of any party state and its political

[2]Public Law 101-171 (103 Stat. 1289), November 22, 1989 added new section E.

subdivisions to tax or impose fees on the waste managed at any facility within its borders.

Prohibition. Regulation.

B. No party shall pass any law or adopt any regulation which is inconsistent with this compact. To do so may jeopardize the membership status of the party state.

Prohibition. Regulation.

C. Upon formation of the compact no law or regulation of a party state or of any subdivision or instrumentality thereof may be applied so as to restrict or make more inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.

D. Restrictions of waste management of regional facilities pursuant to Article 4 shall be enforceable as a matter of state law.

ARTICLE VII–ELIGIBLE PARTIES; WITHDRAWAL; REVOCATION; ENTRY INTO FORCE; TERMINATION

Alabama. Florida. Georgia. Mississippi. North Carolina. South Carolina. Tennessee. Virginia.

A. This compact shall have as initially eligible parties the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

B. Any state not expressly declared eligible to become a party state to this compact in section (A) of this Article may petition the Commission, once constituted, to be declared eligible. The Commission may establish such conditions as it deems necessary and appropriate to be met by a state wishing to become eligible to become a party state to this compact pursuant to such provisions of this section. Upon satisfactorily meeting the conditions and upon the affirmative vote of two-thirds of the Commission, including the affirmative vote of both representatives of a host state in which any affected regional facility is located, the petitioning state shall be eligible to become a party state to this compact and may become a party state in the manner as those states declared eligible in section (a) of this Article.

C. Each state eligible to become a party state to this compact shall be declared a party state upon enactment of this compact into law by the state and upon payment of the fees required by Article 4(H)(1). The Commission is the judge of the qualifications of the party states and of its members and of their compliance with the conditions and requirements of this compact and the laws of the party states relating to the enactment of this compact.

D. 1. The first three states eligible to become party states to this compact which enact this compact into law and appropriate the fees required by Article 4(H)(1) shall immediately, upon the appointment of their Commission members, constitute themselves as the Southeast Low-Level Radioactive Waste Management Commission; shall cause legislation to be introduced in Congress which grants the consent of Congress to this compact; and shall do those things necessary to organize the commission and implement the provisions of this compact.

2. All succeeding states eligible to become party states to this compact shall be declared party states pursuant to the provisions of section (C) of this Article.

Effective date.

3. The consent of Congress shall be required for the full implementation of this compact. The provisions of Article 5, section (D) shall not become effective until the effective date of the import ban authorized by Article 4, section (L) as approved by

Congress. Congress may by law withdraw its consent only every five years.

Prohibition.

E. No state which holds membership in any other regional compact for the management of low-level radioactive waste may be considered by the Compact Commission for eligible state status or party state status.

F. Any party state which fails to comply with the provisions of this compact or to fulfill the obligations incurred by becoming a party state to this compact may be subject to sanctions by the Commission, including suspension of its rights under this compact and revocation of its status as a party state. Any sanction shall be imposed only upon the affirmative vote of at least two-thirds of the Commission members. Revocation of party state status may take effect on the date of the meeting at which the Commission approves the resolution imposing such sanction, but in no event shall revocation take effect later than ninety days from the date of such meeting. Rights and obligations incurred by being declared a party state to this compact shall continue until the effective date of the sanction imposed or as provided in the resolution of the Commission imposing the sanction.

The Commission must, as soon as practicable after the meeting at which a resolution revoking status as a party state is approved, provide written notice of the action, along with a copy of the resolution, to the Governors, the Presidents of the Senates, and the Speakers of the Houses of Representatives of the party states, as well as chairmen of the appropriate committees of Congress.

G. Subject to the provisions of Article 7, section H., any party state may withdraw from the compact by enacting a law repealing the compact, provided that if a regional facility is located within such state, such regional facility shall remain available to the region for four years after the date the Commission receives verification in writing from the Governor of such party state of the rescission of the Compact. The Commission, upon receipt of the verification, shall as soon as practicable provide copies of such verification to the Governor, the presidents of the Senates, and the Speakers of the Houses of Representatives of the party states as well as the chairmen of the appropriate committees of the Congress.[3]

H. The right of a party state to withdraw pursuant to section G. shall terminate thirty days following the commencement of operation of the second host state disposal facility. Thereafter a party state may withdraw only with the unanimous approval of the Commission and with the consent of Congress.

South Carolina.

For purposes of this section, the low-level radioactive waste disposal facility located in Barnwell County, South Carolina shall be considered the first host state disposal facility.[4]

I. This compact may be terminated only by the affirmative action of the Congress or by rescission of all laws enacting the compact in each party state.[5]

[3]Public Law 101-171 (103 Stat. 1290) November 22, 1989 added new language to section G.
[4]Public Law 101-171 (103 Stat. 1290) November 22, 1989 added new language to section H.
[5]Public Law 101-171 (103 Stat. 1290) November 22, 1989 added new section I.

ARTICLE VIII–PENALTIES

A. Each party state, consistently with its own law, shall prescribe and enforce penalties against any person not an official of another state for violation of any provisions of this compact.

Regulation.

B. Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws and regulations can result in the imposition of sanctions by the hose state which may include suspension or revocation of the violator's right of access to the facility in the host state.

ARTICLE IX–SEVERABILITY AND CONSTRUCTION

Provisions held invalid.

The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution, of any participating state or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any State participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters. The provisions of this compact shall be liberally construed to give effect to the purposes thereof.

Sec. 224. Central Midwest Interstate Low-level Radioactive Waste Compact.

42 USC 2021d note. Illinois. Kentucky.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 USC 2021d(a)(2)), the consent of the Congress hereby is given to the States of Illinois and Kentucky to enter into the Central Midwest Interstate Low-Level Radioactive Waste Compact. Such compact is substantially as follows:

CENTRAL MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT

ARTICLE I–POLICY AND PURPOSE

There is created the Central Midwest Interstate Low-Level Radioactive Waste Compact.

42 USC 2021b note.

The states party to this compact recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (42 USC 2021), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for managing such waste. The party states also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis; and, that the safe and efficient management of low-level radioactive waste

generated within the region requires that sufficient capacity to manage such waste be properly provided.[6]

a) It is the policy of the party states to enter into a regional low-level radioactive waste management compact for the purpose of:

1) providing the instrument and the framework for a cooperative effort;

2) providing sufficient facilities for the proper management of low-level radioactive waste generated in the region;

Health. Safety.

3) protecting the health and safety of the citizens of the region;

4) limiting the number of facilities required to manage low-level radioactive waste generated in the region effectively and efficiency;

5) promoting the volume and source reduction of low-level radioactive waste generated in the region;

6) distributing the costs, benefits and obligations of successful low-level radioactive waste management equitably among the party states and among generators and other persons who use regional facilities to manage their waste;

7) ensuring the ecological and economical management of low-level radioactive waste, including the prohibition of shallow-land burial of waste; and

8) promoting the use of above-ground facilities and other disposal technologies providing greater and safer confinement of low-level radioactive waste than shallow-land burial facilities.

Regulations.

b) Implicit in the Congressional consent to this compact is the expectation by the Congress and the party states that the appropriate federal agencies will actively assist the Compact Commission and the individual party states to this compact by:

1) expeditious enforcement of federal rules, regulations and laws;

2) imposition of sanctions against those found to be in violation of federal rules, regulations and laws; and

3) timely inspection of their licensees to determine their compliance with these rules, regulations and laws.

ARTICLE II–DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

a) "Commission" means the Central Midwest Interstate Low-Level Radioactive Waste Commission.

b) "Decommissioning" means the measures taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility.

c) "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

d) "Eligible" state means either the State of Illinois or the Commonwealth of Kentucky.

e) "Extended care" means the continued observation of a facility after closure for the purpose of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and includes undertaking any action

[6]Public Law 103-439 (108 Stat. 4607) Nov. 2, 1994

or clean-up necessary to protect public health and the environment from radioactive releases from a regional facility.

f) "Facility" means a parcel of land or site, together with the structures, equipment and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage or disposal of low-level radioactive waste.

g) "Generator" means a person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing medical diagnosis and treatment, research, or other industrial or commercial activity and who, to the extent required by law, is licensed by the U. S. Nuclear Regulatory Commission or a party state, to produce or possess such waste.

h) "Host state" means any party state that is designated by the Commission to host a regional facility, provided that a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10 percent of the total volume recorded on such manifests for the region during the same year shall not be designated a host state.

i) "Institutional control" means those activities carried out by the host state to physically control access to the disposal site following transfer of control of the disposal site from the disposal site operator to the state or federal government. These activities must include, but need not be limited to, environmental monitoring, periodic surveillance, minor custodial care, and other necessary activities at the site as determined by the host state, and administration of funds to cover the costs for these activities. The period of institutional control will be determined by the host state, but institutional control may not be relied upon for more than 100 years following transfer of control of the disposal site to the state or federal government.

j) "Long-term liability" means the financial obligation to compensate any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and to provide for the costs for accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility.

42 USC 2014.

k) "Low-level radioactive waste" or "waste" means radioactive waste not classified as (1) high-level radioactive waste, (2) transuranic waste, (3) spent nuclear fuel, or (4) by-product material as defined in section 11e.(2) of the Atomic Energy Act of 1954. This definition shall apply notwithstanding any declaration by the federal government, a state or any regulatory agency that any radioactive material is exempt from any regulatory control.[7]

l) "Management plan" means the plan adopted by the Commission for the storage, transportation, treatment and disposal of waste within the region.

m) "Manifest" means a shipping document identifying the generator of waste, the volume of waste, the quantity of radionuclides in the shipment, and such other information as may be required by the appropriate regulatory agency.

[7]Public Law 103-439 (108 Stat. 4608), November 2, 1994, amended section k.

n) “Party state” means any eligible state which enacts the compact into law and pays the membership fee.

o) “Person” means any individual, corporation, business enterprise or other legal entity, either public or private, and any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity.

p) “Region” means the geographical area of the party states.

q) “Regional facility” means any facility as defined in Article II(f) that is (1) located within the region, and (2) established by a party state pursuant to designation of that state as a host state by the Commission.[8]

r) “Shallow-land burial” means a land disposal facility in which radioactive waste is disposed of in or within the upper 30 meters of the earth’s surface; however, this definition shall not include an enclosed, engineered, strongly structurally enforced and solidified bunker that extends below the earth’s surface.

s) “Site” means the geographic location of a facility.

t) “Source reduction” means those administrative practices that reduce the radionuclide levels in low-level radioactive waste or that prevent the generation of additional low-level radioactive waste.

u) “State” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territorial possession of the United States.

v) “Storage” means the temporary holding of waste for treatment or disposal.

w) “Treatment” means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport or management, amenable to recovery, convertible to another usable material or reduced in volume.

x) “Volume reduction” means those methods including, but not limited to, biological, chemical, mechanical and thermal methods used to reduce the amount of space that waste materials occupy and to put them into a form suitable for storage or disposal.

y) “Waste management” means the source and volume reduction, storage, transportation, treatment or disposal of waste.

ARTICLE III–THE COMMISSION

Central Midwest Interstate Low-Level Radioactive Waste Commission establishment.

a) There is created the Central Midwest Interstate Low-Level Radioactive Waste Commission. Upon the eligible states becoming party states, the Commission shall consist of two voting Commissioners from each state eligible to be designated a host state under Article VI(b), one voting Commissioner from any other party state, and for each regional facility, one non-voting Commissioner who is an elected official of local government and a resident of the county where that regional facility is

[8]Public Law 103-439 (108 Stat. 4608), November 2, 1994, amended section q.

located. The Governor of each party state shall notify the Commission in writing of its Commissioners and any alternates.[9]

b) Each voting Commissioner is entitled to one vote. No action of the Commission is binding unless a majority of the voting membership casts its vote in the affirmative. In addition, no agreement by the Commission under Article III(i)(1), Article III(i)(2), or Article III(i)(3) is valid unless all voting Commissioners from the party state in which the facility where waste would be sent cast their votes in the affirmative.[10]

Public information.

c) The Commission shall elect annually from among its members a chairperson. The Commission shall adopt and publish, in convenient form, by-laws and policies that are not inconsistent with this compact, including procedures that conform with the provisions of the Federal Administrative Procedure Act (5 USC ss. 500 to 559) to the greatest extent practicable in regard to notice, conduct and recording of meetings; access by the public to records; provision of information to the public; conduct of adjudicatory hearings; and issuance of decisions.

d) The Commission shall meet at least once annually and shall also meet upon the call of any voting Commissioner.[11]

e) All meetings of the Commission and its designated committees shall be open to the public with reasonable advance notice. The Commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters. However, all Commission actions and decisions shall be made in open meetings and appropriately recorded. A roll call may be required upon request of any voting Commissioner.[12]

f) The Commission may establish advisory committees for the purpose of advising the Commission on any matters pertaining to waste management, waste generation and source and volume reduction.

g) The Office of the Commission shall be in Illinois. The Commission may appoint or contract for and compensate such staff necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the Commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the Commission.[13]

Public inspection.
Records.

h) All files, records and data of the Commission shall be open to reasonable public inspection and may be copied upon payment of reasonable fees to be established where appropriate by the Commission, except for information privileged against introduction in judicial proceedings. Such fees may be waived or shall be reduced substantially for not-for-profit organizations.

i) The Commission may:

Contracts.
Prohibitions.

1) Enter into an agreement with any person to allow waste from outside the region to be disposed of at facilities in the region. However, no such agreement shall be effective unless and until ratified by a law enacted by the party state to which the waste would be sent for disposal.

[9]Public Law 103-439 (108 Stat. 4608), November 2, 1994, amended section a.
[10]Public Law 103-439 (108 Stat. 4608), November 2, 1994, amended section b.
[11]Public Law 103-439 (108 Stat. 4608), November 2, 1994, amended section d.
[12]Public Law 103-439 (108 Stat. 4608), November 2, 1994, amended section e.
[13]Public Law 103-439 (108 Stat. 4608), November 2, 1994, amended section g.

2) Enter into an agreement with any person to allow waste described in Article VII(a)(6) to be treated, stored, or disposed of at regional facilities. However, no such agreement shall be effective unless and until ratified by a law enacted by the host state of the regional facility to which the waste would be sent for treatment, storage, or disposal.

3) Enter into an agreement with any person to allow waste from outside the region to be treated or stored at facilities in the region. However, any such agreement shall be revoked as a matter of law if, within one year of the effective date of the agreement, a law is enacted ordering such revocation by the party state to which the waste would be sent for treatment or storage.

Reports.

Prohibition.

4) Approve, or enter into an agreement with any person for, the export of waste from the region.

5) Approve the disposal of waste generated within the region at a facility in the region other than a regional facility, subject to the limitations of Articles V(f) and VII(a)(6).

6) Require that waste generated within the region be treated or stored at available regional facilities, subject to the limitations of Articles V(f), VII(a)(3) and VII(a)(6).

7) Appear as an intervenor or party in interest before any court of law or any federal, state or local agency, board or commission in any matter related to waste management. In order to represent its views, the Commission may arrange for any expert testimony, reports, evidence or other participation.

8) Review the emergency closure of a regional facility, determine the appropriateness of that closure, and take whatever actions are necessary to ensure that the interests of the region are protected, provided that a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10 percent of the total volume recorded on such manifests for the region during the same year shall not be designated a host state or be required to store the region's waste. In determining the 10 percent exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste.

9) Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

10) Suspend the privileges or revoke the membership of a party state.[14]

j) The Commission shall:

Report.

1) Submit within 10 days of its execution to the governor and the appropriate officers of the legislative body of the party state in which any affected facility is located a copy of any agreement entered into by the Commission under Article III(i)(1), Article III(i)(2) or Article III(i)(3).

2) Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the Commission. The annual report shall include a description of the status of the activities taken

[14]Public Law 103-439 (108 Stat. 4609), November 2, 1994, amended section i.

pursuant to any agreement entered into by the Commission under Article III(i)(1), Article III(i)(2) or Article III(i)(3) and any violation of any provision thereof, and a description of the source, volume, activity, and current status of any waste from outside the region or waste described under Article VII(a)(6) that was treated, stored, or disposed of in the region in the previous year.

3) Hear, negotiate, and, as necessary, resolve by final decision disputes which may arise between the party states regarding this compact.

4) Adopt and amend, as appropriate, a regional management plan that plans for the establishment of needed regional facilities.

5) Adopt an annual budget.[15]

k) Funding of the budget of the Commission shall be provided as follows:

1) Each state, upon becoming a party state, shall pay $50,000 to the Commission which shall be used for the administrative costs of the Commission.

2) Each state hosting a regional facility shall levy surcharges on each user of the regional facility based upon its portion of the total volume and characteristics of wastes managed at that facility. The surcharges collected at all regional facilities shall:

A) be sufficient to cover the annual budget of the Commission; and

B) be paid to the Commission, provided, however, that each host state collecting surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection.

Audit.
Contracts.
Reports.

l) The Commission shall keep accurate accounts of all receipts and disbursements. The Commission shall contract with an independent certified public accountant to annually audit all receipts and disbursements of Commission funds and to submit an audit report to the Commission. The audit report shall be made a part of the annual report of the Commission required by this Article.

Grants.
Report.

m) The Commission may accept for any of its purposes and functions and may utilize and dispose of any donations, grants of money, equipment, supplies, materials and services from any state or the United States (or any subdivision or agency thereof), or interstate agency, or from any institution, person, firm or corporation. The nature, amount and condition, if any, attendant upon any donation or grant accepted or received by the Commission together with the identity of the donor, grantor, or lender, shall be detailed in the annual report of the Commission. The Commission shall establish guidelines for the acceptance of donations, grants, equipment, supplies, materials and services and shall review such guidelines annually.

n) The Commission is not liable for any costs associated with any of the following:

1) the licensing and construction of any facility;
2) the operation of any facility;
3) the stabilization and closure of any facility;
4) the extended care of any facility;
5) the institutional control, after extended care of any facility; or
6) the transportation of waste to any facility.

[15]Public Law 103-439 (108 Stat. 4609), November 2, 1994, amended section j.

Transportation.

o) The Commission is a legal entity separate and distinct from the party states and is liable for its actions as a separate and distinct legal entity. Commissioners are not personally liable for actions taken by them in their official capacity.[16]

p) Except as provided under Article III(n), Article III(o), Article VI(p) and Article VI(q), nothing in this compact alters liability for any action, omission, course of conduct or liability resulting from any causal or other relationships.[17]

q) Any person aggrieved by a final decision of the Commission, which adversely affects the legal rights, duties or privileges of such person, may petition a court of competent jurisdiction, within 60 days after the Commission's final decision, to obtain judicial review of said final decision.

ARTICLE IV–REGIONAL MANAGEMENT PLAN

The Commission shall adopt a regional management plan designed to ensure the safe and efficient management of waste generated within the region. In adopting a regional waste management plan the Commission shall:

Health.
Safety.

a) Adopt procedures for determining, consistent with considerations of public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region.

b) Develop and adopt policies promoting source and volume reduction of waste generated within the region.

c) Develop alternative means for the treatment, storage and disposal of waste, other than shallow-land burial or underground injection well.

d) Prepare a draft regional management plan that shall be made available in a convenient form to the public for comment. The Commission shall conduct one or more public hearings in each party state prior to the adoption of the regional management plan. The regional management plan shall include the Commission's response to public and party state comment.

ARTICLE V–RIGHTS AND OBLIGATIONS OF PARTY STATES

a) Each party state shall act in good faith in the performance of acts and courses of conduct which are intended to ensure the provision of facilities for regional availability and usage in a manner consistent with this compact.

b) Other than the provisions of Article V(f) and VII(a)(6), each party state has the right to have all wastes generated within borders managed at regional facilities. This right shall be subject to the provisions of this Compact. All party states have an equal right of access to any facility

[16]Public Law 103-439 (108 Stat. 4610), November 2, 1994, changed after the first sentence "Members of the Commission" to "Commissioners."

[17]Public Law 103-439 (108 Stat. 4610), November 2, 1994, amended section p.

outside the region made available to the region by any agreement entered into by the Commission pursuant to Article III(i)(4).[18]

Exports.

c) Party states or generators may negotiate for the right of access to a facility outside the region and may export waste outside the region subject to Commission approval under Article III(i)(4).[19]

Contracts.
Prohibition.
Regulations.
Transportation.

d) To the extent permitted by federal law, each party state may enforce any applicable federal and state laws, regulations and rules pertaining to the packaging and transportation of waste generated within or passing through its borders. Nothing in this Section shall be construed to require a party state to enter into any agreement with the U. S. Nuclear Regulatory Commission.

e) Each party state shall provide to the Commission any data and information the Commission requires to implement its responsibilities. Each party state shall establish the capability to obtain any data and information required by the Commission.

Kentucky.
Prohibition.

f) Waste originating from the Maxey Flats nuclear waste disposal site in Fleming County, Kentucky shall not be shipped to any facility in Illinois for storage, treatment or disposal. Disposition of these wastes shall be the sole responsibility of the Commonwealth of Kentucky and such waste shall not be subject to the provisions of Articles IX(b)(3) and (4) of this compact.[20]

ARTICLE VI–DEVELOPMENT AND OPERATION OF FACILITIES

a) Any party state may volunteer to become a host state, and the Commission may designate that state as a host state.

b) If all regional facilities required by the regional management plan are not developed pursuant to Article VI(a), or upon notification that an existing regional facility will be closed, the Commission may designate a party state as a host state. A party state shall not be designated as a host state for any regional facility under this Article VI(b) unless that state's total volume of waste recorded on low-level radioactive waste manifests for any year is more than 10% of the total volume recorded on such manifests for the region during the same year. In determining the 10% exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste, or waste described in Article VII(a)(6).[21]

Prohibition.

c) Each party state designated as host state is responsible for determining possible facility locations within its borders. The selection of a facility site shall not conflict with applicable federal and host state laws, regulations and rules not inconsistent with this compact and shall be based

[18]Public Law 103-439 (108 Stat. 4610), November 2, 1994, amended section b.
[19]Public Law 103-439 (108 Stat. 4610), November 2, 1994, amended section c.
[20]Public Law 103-439 (108 Stat. 4610), November 2, 1994, amended section f.
[21]Public Law 103-439 (108 Stat. 4610), November 2, 1994, amended section b.

on factors including, but not limited to, geological, environmental, engineering and economic viability of possible facility locations.[22]

d) Any party state designated as a host state may request the Commission to relieve that state of the responsibility to serve as a host state. The Commission may relieve a party state of this responsibility upon a showing by the requesting party state that no feasible potential regional facility site of the type it is designated to host exists within its borders or for other good cause shown and consistent with the purposes of this Compact.[23]

e) After a state is designated a host state by the Commission, it is responsible for the timely development and operation of a regional facility.[24]

f) To the extent permitted by federal and state law, a host state shall regulate and license any facility within its borders and ensure the extended care of that facility.[25]

g) The Commission may designate a party state as a host state while a regional facility is in operation if the Commission determines that an additional regional facility is or may be required to meet the needs of the region.[26]

h) Designation of a host state is for a period of 20 years or the life of the regional facility which is established under that designation, whichever is shorter. Upon request of a host state, the Commission may modify the period of its designation.[27]

i) A host state may establish a fee system for any regional facility within its borders. The fee system shall be reasonable and equitable. This fee system shall provide the host state with sufficient revenue to cover any costs including, but not limited to, the planning, siting, licensing, operation, pre-closure corrective action or clean-up, monitoring, inspection, decommissioning, extended care and long-term liability, associated with such facilities. This fee system may provide for payment to units of local government affected by a regional facility for costs incurred in connection with such facility. This fee system may also include reasonable revenue beyond the costs incurred for the host state, subject to approval by the Commission. The fee system shall include incentives for source or volume reduction and may be based on the hazard of the waste. A host state shall submit an annual financial audit of the operation of the regional facility to the Commission.[28]

j) A host state shall ensure that a regional facility located within its borders which is permanently closed is properly decommissioned. A host state shall also provide for the extended care of a closed or decommissioned regional facility within its borders so that the public health and safety of the state and region are ensured, unless, pursuant to the federal Nuclear Waste Policy Act of 1982, the federal government has assumed title and custody of the regional facility and the federal

42 USC 10101 note.
Health.
Safety.

[22]Public Law 103-439 (108 Stat. 4611), November 2, 1994, repealed section c and renumbered section d. to section c.

[23]Public Law 103-439 (108 Stat. 4611), November 2, 1994, amended and renumbered section "e" to section "d."

[24]Public Law 103-439 (108 Stat. 4612), November 2, 1994, renumbered section f. to e.

[25]Public Law 103-439 (108 Stat. 4612), November 2, 1994, renumbered section g. to f.

[26]Public Law 103-439 (108 Stat. 4612), November 2, 1994, renumbered section h. to g.

[27]Public Law 103-439 (108 Stat. 4612), November 2, 1994, renumbered section i. to h.

[28]Public Law 103-439 (108 Stat. 4612), November 2, 1994, renumbered section j. to i.

government thereby has assumed responsibility to provide for the extended care of such facility.[29]

Environmental protection. Health. Prohibition. Safety.

k) A host state intending to close a regional facility located within its borders shall notify the Commission in writing of its intention and the reasons. Notification shall be given to the Commission at least five years prior to the intended date of closure. This Section shall not prevent an emergency closing of a regional facility by a host state to protect its air, land and water resources and the health and safety of its citizens. However, a host state which has an emergency closing of a regional facility shall notify the Commission in writing within 3 working days of its action and shall, within 30 working days of its action, demonstrate justification for the closing.[30]

Prohibition. Transportation.

l) If a regional facility closes before an additional or new facility becomes operational, waste generated within the region may be shipped temporarily to any location agreed on by the Commission until a regional facility is operational, provided that the region's waste shall not be stored in a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year which is less than 10% of the total volume recorded on the manifests for the region during the same year. In determining the 10% exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste, or waste described in Article VII(a)(6).[31]

m) A party state which is designated as a host state by the Commission and fails to fulfill its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the Commission.[32]

n) The host state shall create an "Extended Care and Long-Term Liability Fund" and shall allocate sufficient fee revenues, received pursuant to Article VI(i), to provide for the costs of:

1) decommissioning and other procedures required for the proper closure of a regional facility;

2) monitoring, inspection and other procedures required for the proper extended care of a regional facility;

Environmental. Health. Protection.

3) undertaking any corrective action or clean-up necessary to protect human health and the environment from radioactive releases from a regional facility; and

Contracts. Gifts and property. Health. Insurance. Real property.

4) compensating any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility; the host state may allocate monies in this Fund in amounts as it deems appropriate to purchase insurance or to make other similar financial protection arrangements consistent with the purposes of this Fund; this Article VI(n) shall in no manner limit

[29]Public Law 103-439 (108 Stat. 4612), November 2, 1994, renumbered section k. to j.

[30]Public Law 103-439 (108 Stat. 4611), November 2, 1994, amended section l and renumbered it to become section k.

[31]Public Law 103-439 (108 Stat. 4611), November 2, 1994, amended section m and renumbered it to become section l.

[32]Public Law 103-439 (108 Stat. 4612), November 2, 1994, renumbered section n to m.

the financial responsibilities of the site operator under Article VI(o), the party states under Article VI(p), or any person who sends waste to a regional facility, under Article VI(q).[33]

Health.
Real property
Insurance.

o) The operator of a regional facility shall purchase an amount of property and third-party liability insurance deemed appropriate by the host state, pay the necessary periodic premiums at all times and make periodic payments to the Extended Care and Long-Term Liability Fund as set forth in Article VI(n) for such amounts as the host state reasonably determines is necessary to provide for future premiums to continue such insurance coverage, in order to pay the costs of compensating any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility. In the event of such costs resulting from radioactive releases from a regional facility, the host state should, to the maximum extent possible, seek to obtain monies from such insurance prior to using monies from the Extended Care and Long-Term Liability Fund.[34]

Contracts.
Prohibition.

p) All party states shall be liable for the cost of extended care and long-term liability in excess of monies available from the Extended Care and Long-Term Liability Fund, as set forth in Article VI(n) and from the property and third-party liability insurance as set forth in Article VI(o). A party state may meet such liability for costs by levying surcharges upon generators located in the party state. The extent of such liability shall be based on the proportionate share of the total volume of waste placed in the regional facility by generators located in each such party state. Such liability shall be joint and several among the party states with a right of contribution between the party states. However, this Section shall not apply to a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10% of the total volume recorded on such manifests for the region during the same year.[35]

q) Any person who sends waste from outside the region or waste described in Article VII(a)(6) for treatment, storage or disposal at a regional facility shall be liable for the cost of extended care and long-term liability of that regional facility in excess of the monies available from the Extended Care and Long-Term Liability Fund as set forth in Article VI(n) and from the property and third-party liability insurance as set forth in Article VI(o). The extent of the liability for the person shall be based on the proportionate share of the total volume of waste sent by that person to the regional facility.[36]

[33]Public Law 103-439 (108 Stat. 4611), November 2, 1994, amended section "o" and renumbered it to become section n.

[34]Public Law 103-439 (108 Stat. 4612, November 2, 1994, amended section p and renumbered it to become section o.

[35]Public Law 103-439 (108 Stat. 4612), November 2, 1994, amended section q and renumbered it to become section p.

[36]Public Law 103-439 (108 Stat. 4612), November 2, 1994, added a new section q.

ARTICLE VII–OTHER LAWS AND REGULATIONS

Prohibitions.

a) Nothing in this compact:

1) abrogates or limits the applicability of any act of Congress or diminishes or otherwise impairs the jurisdiction of any federal agency expressly conferred thereon by the Congress;

2) prevents the enforcement of any other law of a party state which is not inconsistent with this compact;

3) prohibits any storage or treatment of waste by the generator on its own premises;

4) affects any administrative or judicial proceeding pending on the effective date of this compact;

5) alters the relations between the respective internal responsibility of the government of a party state and its subdivisions;

Research and development.

6) establishes any right to the treatment, storage or disposal at any facility in the region or provides any authority to prohibit export from the region of waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of the decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon; or.[37]

Taxes.
Transportation.

7) affects the rights and powers of any party state or its political subdivisions, to the extent not inconsistent with this compact, to regulate and license any facility or the transportation of waste within its borders or affects the rights and powers of any state or its political subdivisions to tax or impose fees on the waste managed at any facility within its borders;

Contracts.

8) requires a party state to enter into an agreement with the U. S. Nuclear Regulatory Commission; or

9) alters or limits liability of transporters of waste and owners and operators of sites for their acts, omissions, conduct or relationships in accordance with applicable laws.

b) For purposes of this compact, all state laws or parts of laws in conflict with this compact are hereby superseded to the extent of the conflict.

Prohibition.
Regulations.

c) No law, rule, regulation, fee or surcharge of a party state, or of any of its subdivisions or instrumentalities, may be applied in a manner which discriminates against the generators of another party state.

Prohibition.

d) No person who provides a service by arranging for collection, transportation, treatment, storage or disposal of waste from outside the region shall be allowed to dispose of any waste, regardless of origin, in the region unless specifically permitted under an agreement entered into by the Commission in accordance with the requirements of Article III(i)(1).[38]

ARTICLE VIII–ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

Illinois.
Kentucky.

a) Eligible parties to this compact are the State of Illinois and Commonwealth of Kentucky. Eligibility terminates on April 15, 1985.

[37]Public Law 103-439 (108 Stat. 4613), November 2, 1994, amended section 6.
[38]Public Law 103-439 (108 Stat. 4613), November 2, 1994, amended section d.

b) An eligible state becomes a party state when the state enacts the compact into law and pays the membership fee required in Article III(k)(1).

c) The Commission is formed upon the appointment of the Commissioners and the tender of the membership fee payable to the Commission by the eligible states. The Governor of Illinois shall convene the initial meeting of the Commission. The Commission shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall take action necessary to organize the Commission and implement the provisions of this compact.[39]

d) Other than the special circumstances for withdrawal in section (f) of this Article, either party state may withdraw from this compact at any time by repealing the authorizing legislation, but no withdrawal may take effect until 5 years after the governor of the withdrawing state gives notice in writing of the withdrawal to the Commission and to the governor of the other state. Withdrawal does not affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal. Any host state which grants a disposal permit for waste generated in a withdrawing state shall void the permit when the withdrawal of that state is effective.

Effective date.

e) This compact becomes effective July 1, 1984, or at any date subsequent to July 1, 1984, upon enactment by the eligible states. However, Article IX(b) shall not take effect until the Congress has by law consented to this compact. The Congress shall have an opportunity to withdraw such consent every 5 years. Failure of the Congress affirmatively to withdraw its consent has the effect of renewing consent for an additional 5 year period. The consent given to this compact by the Congress shall extend to the power of the region to ban the shipment of waste into the region pursuant to Article III(i)(1) and to prohibit exportation of waste generated within the region under Article III(i)(4).[40]

Exports. Prohibition.

f) A state which has been designated a host state may withdraw from the compact. The option to withdraw must be exercised within 90 days of the date the governor of the designated state receives written notice of the designation. Withdrawal becomes effective immediately after notice is given in the following manner. The governor of the withdrawing state shall give notice in writing to the Commission and to the governor of each party state. A state which withdraws from the compact under this section forfeits any funds already paid pursuant to this compact. A designated host state which withdraws from the compact after 90 days and prior to fulfilling its obligations shall be assessed a sum the Commission determines to be necessary to cover the costs borne by the Commission and remaining party states as a result of that withdrawal.

Effective date.

ARTICLE IX–PENALTIES

a) Each party state shall prescribe and enforce penalties against any person who is not an official of another state for violation of any provision of this compact.

b) Unless authorized by the Commission pursuant to Article III(i), or otherwise provided in this Compact, after January 1, 1986 it is a violation of this Compact:

[39]Public Law 103-439 (108 Stat. 4613), November 2, 1994, amended section c.
[40]Public Law 103-439 (108 Stat. 4613), November 2, 1994, amended section e.

1) for any person to deposit at a facility in the region waste from outside the region;

2) for any facility in the region to accept waste from outside the region;

3) for any person to export from the region waste that is generated within the region;

4) for any person to dispose of waste at a facility other than a regional facility;

5) for any person to deposit at a regional facility waste described in Article VII(a)(6); or

6) for any regional facility to accept waste described in Article VII(a)(6).[41]

Regulation.

c) It is a violation of this compact for any person to treat or store waste at a facility other than a regional facility if such treatment or storage is prohibited by the Commission under Article III(i)(6).[42]

(d) Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws, rules or regulations may result in the imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

e) Each party state has the right to seek legal recourse against any party state which acts in violation of this compact.

ARTICLE X–SEVERABILITY AND CONSTRUCTION

Provisions held invalid.

The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or the United States, or if the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

Sec. 225. Midwest Interstate Low-level Radio Active Waste Management Compact.

42 USC 2021d note.
Iowa.
Indiana.
Michigan.
Minnesota.
Missouri.
Ohio.
Wisconsin.

The consent of Congress is hereby given to the States of Iowa, Indiana, Michigan, Minnesota, Missouri, Ohio, and Wisconsin to enter into the Midwest Interstate Compact on Low-Level Radioactive Waste Management. Such compact is as follows:

[41]Public Law 103-439 (108 Stat. 4613), November 2, 1994, amended section b.

[42]Public Law 103-439 (108 Stat. 4614), November 2, 1994, added new section c, and redesignated the old sections c and d as sections d and e, respectively.

MIDWEST INTERSTATE LOW-LEVEL RADIO ACTIVE WASTE MANAGEMENT COMPACT

ARTICLE I–POLICY AND PURPOSE

There is created the Midwest Interstate Low-Level Radioactive Waste Compact.

Research and development.

The states party to this compact recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (42 USC 2021b to 2021d), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for managing such waste. The party states acknowledge that the Congress has declared that 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 certain defense activities of the federal government or federal research and development activities. The party states also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis; and, that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

a. It is the policy of the party states to enter into a regional low-level radioactive waste management compact for the purpose of:

1. Providing the instrument and framework for a cooperative effort;

2. Providing sufficient facilities for the proper management of low-level radioactive waste generated in the region;

Health. Safety.

3. Protecting the health and safety of the citizens of the region;

4. Limiting the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region;

5. Encouraging the reduction of the amounts of low-level radioactive waste generated in the region;

6. Distributing the costs, benefits and obligations of successful low-level radioactive waste management equitably among the party states, and among generators and other persons who use regional facilities to manage their waste; and

7. Ensuring the ecological and economical management of low-level radioactive wastes.

Regulations.

b. Implicit in the Congressional consent to this compact is the expectation by the Congress and the party states that the appropriate federal agencies will actively assist the Compact Commission and the individual party states to this compact by:

1. Expeditious enforcement of federal rules, regulations and laws;

2. Imposition of sanctions against those found to be in violation of federal rules, regulations and laws; and

3. Timely inspection of their licensees to determine their compliance with these rules, regulations and laws.

ARTICLE II–DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

a. “Care” means the continued observation of a facility after closure for the purposes of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensing and regulatory requirements and including the correction of problems which are detected as a result of that observation.

b. “Commission” means the Midwest Interstate Low-Level Radioactive Waste Commission.

c. “Decommissioning” means the measures taken at the end of a facility’s operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility.

d. “Disposal” means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

e. “Eligible state” means a state qualified to be a party state to this compact as provided in Article VIII.

f. “Facility” means a parcel of land or site, together with the structures, equipment and improvements on or appurtenant to the land or site, which issued or is being developed for the treatment, storage or disposal of low-level radioactive waste.

g. “Generator” means any person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity and who, to the extent required by law, is licensed by the U. S. Nuclear Regulatory Commission or a party state, to produce or possess such waste. Generator does not include a person who provides a service by arranging for the collection, transportation, treatment, storage or disposal of wastes generated outside the region.

h. “Host state” means any state which is designated by the Commission to host a regional facility.

i. “Low-Level radioactive waste” or “waste” means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel or by-product material as defined in section 11(e)(2) of the Atomic Energy Act of 1954 (42 USC 2014).

j. “Management plan” means the plan adopted by the Commission for the storage, transportation, treatment and disposal of waste within the region.

k. “Party state” means any eligible state which enacts the compact into law.

l. “Person” means any individual, corporation, business enterprise or other legal entity either public or private and any legal successor, representative, agent or agency of that individual, corporation, business enterprise or legal entity.

m. “Region” means the area of the party states.

n. “Regional facility” means a facility which is located within the region and which is established by a party state pursuant to designation of that state as a host state by the Commission.

o. “Site” means the geographic location of a facility.

p. “State” means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, the Virgin Islands, or any other territorial possession of the United States.

q. "Storage" means the temporary holding of waste for treatment or disposal.

r. "Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport or management, amenable to recovery, convertible to another usable material, or reduced in volume.

s. "Waste management" means the storage, transportation, treatment, or disposal of waste.

ARTICLE III–THE COMMISSION

Midwest Interstate Low-Level Radioactive Waste Commission, establishment.

a. There is hereby created the Midwest Interstate Low-Level Radioactive Waste Commission. The Commission consists of one voting member from each party state. The Governor of each party state shall notify the Commission in writing of its member and any alternates. An alternate may act on behalf of the member only in that member's absence. The method for selection and the expenses of each Commission member shall be the responsibility of the member's respective state.

Prohibition.

b. Each Commission member is entitled to one vote. No action of the Commission is binding unless a majority of the total membership cast their vote in the affirmative.

c. The Commission shall elect annually from among its members a chairperson. The Commission shall adopt and publish, in convenient form, bylaws, and policies which are not inconsistent with this compact, including procedures which substantially conform with the provisions of federal law on administrative procedure compiled at 5 USC 500 to 559 in regard to notice, conduct and recording of meetings; access by the public to records; provision of information to the public; conduct of adjudicatory hearings; and issuance of decisions.

d. The Commission shall meet at least once annually and shall also meet upon the call of the chairperson or a Commission member.

e. All meetings of the commission shall be open to the public with reasonable advance notice. The Commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters. However, all Commission actions and decisions shall be made in open meetings and appropriately recorded.

f. The Commission may establish advisory committees for the purpose of advising the Commission on any matters pertaining to waste management.

Contracts.

g. The office of the Commission shall be in a party state. The Commission may appoint or contract for and compensate such limited staff necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the Commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the Commission.

h. The Commission may:

Contracts.

1. Enter into an agreement with any person, state, or group of states for the right to use regional facilities for waste generated outside of the region and for the right to use facilities outside the region for waste generated within the region. The right of any person to use a

regional facility for waste generated outside of the region requires an affirmative vote of a majority of the Commission, including the affirmative vote of the member of the host state in which any affected regional facility is located.

2. Approve the disposal of waste generated within the region at a facility other than a regional facility.

Reports.

3. Appear as an intervenor or party in interest before any court of law or any federal, state or local agency, board or commission in any matter related to waste management. In order to represent its views, the Commission may arrange for any expert testimony, reports, evidence or other participation.

4. Review the emergency closure of a regional facility, determine the appropriateness of that closure, and take whatever actions are necessary to ensure that the interests of the region are protected.

5. Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

6. Suspend the privileges or revoke the membership of a party state by a two-thirds vote of the membership in accordance with Article VIII.

i. The Commission shall:

1. Receive and act on the petition of a nonparty state to become an eligible state.

Report.

2. Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the Commission.

3. Hear, negotiate, and, as necessary, resolve by final decision disputes which may arise between the party states regarding this compact.

4. Adopt and amend, by a two-thirds vote of the membership, in accordance with the procedures and criteria developed pursuant to Article IV, a regional management plan which designates host states for the establishment of needed regional facilities.

5. Adopt an annual budget.

j. Funding of the budget of the Commission shall be provided as follows:

1. Each state, upon becoming a party state, shall pay $50,000 or $1,000 per cubic meter of waste shipped from that state in 1980, whichever is lower, to the Commission which shall be used for the administrative costs of the Commission;

2. Each state hosting a regional facility shall levy surcharges on all users of the regional facility based upon its portion of the total volume and characteristics of wastes managed at that facility. The surcharges collected at all regional facilities shall:

(a) Be sufficient to cover the annual budget of the Commission; and

(b) Represent the financial commitments of all party states to the Commission; and

(c) Be paid to the Commission, provided, however, that each host state collecting surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection, and that the remainder be sufficient only to cover the approved annual budget of the Commission.

Audit. Contracts. Report.

k. The Commission shall keep accurate accounts of all receipts and disbursements. The Commission shall contract with an independent certified public accountant to annually audit all receipts and disbursements of Commission funds, and to submit an audit report to the Commission. The audit report shall be made a part of the annual report of the Commission required by this Article.

Grants.

l. The Commission may accept for any of its purposes and functions and may utilize and dispose of any donations, grants of money, equipment, supplies, materials and services from any state or the United States (or any subdivision or agency thereof), or interstate agency, or from any institution, person, firm or corporation. The nature, amount and condition, if any, attendant upon any donation or grant accepted or received by the Commission together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Commission.

Report.

m. The Commission is not liable for any costs associated with any of the following:

1. The licensing and construction of any facility.
2. The operation of any facility,
3. The stabilization and closure of any facility,
4. The care of any facility,
5. The extended institutional control, after care of any facility, or
6. The transportation of waste to any facility.

Transportation.

n. 1. The Commission is a legal entity separate and distinct from the party states and is liable for its actions as a separate and distinct legal entity. Liabilities of the Commission are not liabilities of the party states. Members of the Commission are not personally liable for actions taken by them in their official capacity.

Prohibition.

2. Except as provided under sections m. and n.1. of this article, nothing in this compact alters liability for any act, omission, course of conduct or liability resulting from any causal or other relationships.

o. Any person aggrieved by a final decision of the Commission may obtain judicial review of such decision in any court of competent jurisdiction by filing in such court a petition for review within 60 days after the Commission's final decision.

ARTICLE IV–REGIONAL MANAGEMENT PLAN

The Commission shall adopt a regional management plan designed to ensure the safe and efficient management of waste generated within the region. In adopting a regional waste management plan the Commission shall:

Health. Safety.

a. Adopt procedures for determining, consistent with considerations for public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region.

b. Develop and consider policies promoting source reduction of waste generated within the region.

c. Develop and adopt procedures and criteria for identifying a party state as a host state for a regional facility. In developing these criteria, the Commission shall consider all the following:

Health.

1. The health, safety, and welfare of the citizens of the party states.

Safety.

2. The existence of regional facilities within each party state.

Transportation.

3. The minimization of waste transportation.

4. The volumes and types of wastes generated within each party state.

5. The environmental, economic, and ecological impacts on the air, land and water resources of the party states.

Reports.
Studies.

d. Conduct such hearings, and obtain such reports, studies, evidence and testimony required by its approved procedures prior to identifying a party state as a host state for a needed regional facility.

e. Prepare a draft management plan, including procedures, criteria and host states, including alternatives, which shall be made available in a convenient form to the public for comment. Upon the request of a party state, the Commission shall conduct a public hearing in that state prior to the adoption of the management plan. The management plan shall include the Commission's response to public and party state comment.

ARTICLE V–RIGHTS AND OBLIGATIONS OF PARTY STATES

a. Each party state shall act in good faith in the performance of acts and courses of conduct which are intended to ensure the provision of facilities for regional availability and usage in a manner consistent with this compact.

b. Each party state has the right to have all wastes generated within its borders managed at regional facilities subject to the provisions contained in Article IX.c. All party states have an equal right of access to any facility made available to the region by any agreement entered into by the Commission pursuant to Article III.

Exports.

c. Party states or generators may negotiate for the right of access to a facility outside the region and may export waste outside the region subject to Commission approval under Article III.

Prohibition.
Regulations.
Transportation.

d. To the extent permitted by federal law, each party state may enforce any applicable federal and state laws, regulations and rules pertaining to the packaging and transportation of waste generated within or passing through its borders. Nothing in this section shall be construed to require a party state to enter into any agreement with the U. S. Nuclear Regulatory Commission.

e. Each party state shall provide to the Commission any data and information the Commission requires to implement its responsibilities. Each party state shall establish the capability to obtain any data and information required by the Commission.

ARTICLE VI–DEVELOPMENT AND OPERATION OF FACILITIES

a. Any party state may volunteer to become a host state, and the Commission may designate that state as a host state upon a two-thirds vote of its members.

b. If all regional facilities required by the regional management plan are not developed pursuant to section a., or upon notification that an existing regional facility will be closed, the Commission may designate a host state.

Prohibition.

c. Each party state designated as a host state is responsible for determining possible facility locations within its borders. The selection of a facility site shall not conflict with applicable federal and host state laws,

regulations and rules not inconsistent with this compact and shall be based on factors including but not limited to geological, environmental and economic viability of possible facility locations.

d. Any party state designated as a host state may request the Commission to relieve that state of the responsibility to serve as a host state. The Commission may relieve a party state of this responsibility only upon a showing by the requesting party state that no feasible potential regional facility site of the type it is designated to host exists within its borders.

e. After a state is designated a host state by the Commission, it is responsible for the timely development and operation of a regional facility.

f. To the extent permitted by federal and state law, a host state shall regulate and license any facility within its borders and ensure the extended care of that facility.

g. The Commission may designate a party state as a host state while a regional facility is in operation if the Commission determines that an additional regional facility is or may be required to meet the needs of the region. The Commission shall make this designation following the procedures established under Article IV.

h. Designation of a host state is for a period of 20 years or the life of the regional facility which is established under that designation, whichever is longer. Upon request of a host state, the Commission may modify the period of its designation.

i. A host state may establish a fee system for any regional facility within its borders. The fee system shall be reasonable and equitable. This fee system shall provide the host state with sufficient revenue to cover any cost, including but not limited to the planning, siting, licensure, operation, decommissioning, extended care and long-term liability, associated with such facilities. This fee system may also include reasonable revenue beyond costs incurred for the host state, subject to approval by the Commission. A host state shall submit an annual financial audit of the operation of the regional facility to the Commission. The fee system may include incentives for source reduction and may be based on the hazard of the waste as well as the volume.

Audit.

Health.
Safety.

j. A host state shall ensure that a regional facility located within its borders which is permanently closed is properly decommissioned. A host state shall also provide for the care of a closed or decommissioned regional facility within its borders so that the public health and safety of the state and region are ensured.

k. A host state intending to close a regional facility located within its borders shall notify the Commission in writing of its intention and the reasons. Notification shall be given to the Commission at least five years prior to the intended date of closure. This section shall not prevent an emergency closing of a regional facility by a host state to protect its air, land and water resources and the health and safety of its citizens. However, a host state which has an emergency closing of a regional facility shall notify the Commission in writing within three working days of its action and shall, within 30 working days of its action, demonstrate justification for the closing.

Prohibition.

l. If a regional facility closes before an additional or new facility becomes operational, waste generated within the region may be shipped

temporarily to any location agreed on by the Commission until a regional facility is operational.

m. A party state which is designated as a host state by the Commission and fails to fulfill its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the Commission.

ARTICLE VII–OTHER LAWS AND REGULATIONS

Prohibitions.

a. Nothing in this compact:

1. Abrogates or limits the applicability of any act of Congress or diminishes or otherwise impairs the jurisdiction of any federal agency expressly conferred thereon by the Congress;

2. Prevents the enforcement of any other law of a party state which is not inconsistent with this compact;

3. Prohibits any storage or treatment of waste by the generator on its own premises;

4. Affects any administrative or judicial proceedings pending on the effective date of this compact;

5. Alters the relations between and the respective internal responsibility of the government of a party state and its subdivisions;

Research and development.

6. Affects the generation, treatment, storage or disposal of waste generated by the atomic energy defense activities of the Secretary of the U. S. Department of Energy or successor agencies or federal research and development activities as described in section 31 of the Atomic Energy Act of 1954 (42 USC 2051); or

Taxes. Transportation.

7. Affects the rights and powers of any party state or its political subdivisions to the extent not inconsistent with this compact, to regulate and license any facility or the transportation of waste within its borders or affects the rights and powers of any party state and its political subdivisions to tax or impose fees on the waste managed at any facility within its borders.

Contracts.

8. Requires a party state to enter into any agreement with the U. S. Nuclear Regulatory Commission.

9. Alters or limits liability of transporters of waste, owners and operators of sites for their acts, omissions, conduct or relationships in accordance with applicable laws.

b. For purposes of this compact, all state laws or parts of laws in conflict with this compact are hereby superseded to the extent of the conflict.

Prohibition. Regulations.

c. No law, rule or regulation of a party state or of any of its subdivisions or instrumentalities may be applied in a manner which discriminates against the generators of another party state.

ARTICLE VIII–ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

Delaware.
Illinois.
Indiana.
Iowa.
Kansas.
Kentucky.
Maryland.
Michigan.
Minnesota.
Missouri.
Nebraska.
North Dakota.
Ohio.
South Dakota.
Virginia.
Wisconsin.

a. Eligible parties to this compact are the states of Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Virginia and Wisconsin. Eligibility terminates on July 1, 1984.

b. Any state not eligible for membership in the compact may petition the Commission for eligibility. The Commission may establish appropriate eligibility requirements. These requirements may include but are not limited to, an eligibility fee or designation as a host state. A petitioning state becomes eligible for membership in the compact upon the approval of the Commission, including the affirmative vote of all host states. Any state becoming eligible upon the approval of the Commission becomes a member of the compact in the same manner as any state eligible for membership at the time this compact enters into force.

c. An eligible state becomes a party state when the state enacts the compact into law and pays the membership fee required in Article IIIj.1.

d. The Commission is formed upon the appointment of Commission members and the tender of the membership fee payable to the Commission by three party states. The Governor of the first state to enact this compact shall convene the initial meeting of the Commission. The Commission shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall take action necessary to organize the Commission and implement the provision of this compact.

Prohibition.

e. Any party state may withdraw from this compact by repealing the authorizing legislation but no withdrawal may take effect until five years after the governor of the withdrawing state gives notice in writing of the withdrawal to the Commission and to the governor of each party state. Withdrawal does not affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal. Any host state which grants a disposal permit for waste generated in a withdrawing state shall void the permit when the withdrawal of that state is effective.

f. Any party state which fails to comply with the terms of this compact or fails to fulfill its obligations may have its privileges suspended or its membership in the compact revoked by the Commission in accordance with Article III.h.6. Revocation takes effect one year from the date the affected party state receives written notice from the Commission of its action. All legal rights of the affected party state established under this compact cease upon the effective date of revocation but any legal obligations of that party state arising prior to revocation continue until they are fulfilled. The chairperson of the Commission shall transmit written notice of a revocation of a party states's membership in the compact immediately following the vote of the Commission to the governor of the affected party state, all other governors of the party states and the Congress of the United States.

Effective date.

g. This compact becomes effective upon enactment by at least three eligible states and consent to this compact by Congress. The Congress shall have an opportunity to withdraw such consent every five years. Failure of the Congress to affirmatively withdraw its consent has the effect of renewing consent for an additional five year period. The consent given to this compact by the Congress shall extend to any future

admittance of new party states under sections b. and c. of this article and to the power of the Commission to ban the shipment of waste from the region pursuant to Article III.

h. The withdrawal of a party state from this compact under section e. of this article or the suspension or revocation of a state's membership in this compact under section f. of this article does not affect the applicability of this compact to the remaining party states.

i. A state which has been designated by the Commission to be a host state has 90 days from receipt by the Governor of written notice of designation to withdraw from the compact without any right to receive refund of any funds already paid pursuant to this compact, and without any further payment. Withdrawal becomes effective immediately upon notice as provided in section e. of this article. A designated host state which withdraws from the compact after 90 days and prior to fulfilling its obligations shall be assessed a sum the Commission determines to be necessary to cover the costs borne by the Commission and remaining party states as a result of that withdrawal.

ARTICLE IX–PENALTIES

a. Each party state shall prescribe and enforce penalties against any person who is not an official of another state for violation of any provision of this compact.

b. Unless otherwise authorized by the Commission pursuant to Article III.h. after January 1, 1986, it is a violation of this compact:

1. For any person to deposit at a regional facility waste not generated within the region;

2. For any regional facility to accept waste not generated within the region;

Exports.

3. For any person to export from the region waste which is generated within the region; or

4. For any person to dispose of waste at a facility other than a regional facility.

Regulations.

c. Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws, rules and regulations may result in the imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

d. Each party state has the right to seek legal recourse against any party state which acts in violation of this compact.

ARTICLE X–SEVERABILITY AND CONSTRUCTION

Provisions held invalid.

The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

Sec. 226. Rocky Mountain Low-level Radioactive Waste Compact.

42 USC 2021d note. Arizona. Colorado. Nevada. New Mexico. Utah. Wyoming.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 USC 2021d(a)(2)), the consent of the Congress hereby is given to the States of Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming to enter into the Rocky Mountain Interstate Low-Level Radioactive Waste Compact. Such compact is substantially as follows:

ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE COMPACT

ARTICLE I–FINDINGS AND PURPOSE

Research and development.

(a) The party states agree that each state is responsible for providing for the management of low-level radioactive waste generated within its borders, except for waste generated as a result of defense activities of the federal government or federal research and development activities. Moreover, the party states find that the United States Congress, by enacting the "Low-Level Radioactive Waste Policy Act" (P.L. 96-573), has encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level radioactive waste.

42 USC 2021b note.

Health. Safety.

(b) It is the purpose of the party states, by entering into an interstate compact, to establish the means for cooperative effort in managing low-level radioactive waste; to ensure the availability and economic viability of sufficient facilities for the proper and efficient management of low-level radioactive waste generated within the region while preventing unnecessary and uneconomic proliferation of such facilities; to encourage reduction of the volume of low-level radioactive waste requiring disposal within the region; to restrict management within the region of low-level radioactive waste generated outside the region; to distribute the costs, benefits and obligations of low-level radioactive waste management equitably among the party states; and by these means to promote the health, safety and welfare of the residents within the region.

ARTICLE II–DEFINITIONS

As used in this compact, unless the context clearly indicates otherwise:

(a) "Board" means the Rocky Mountain low-level radioactive waste board;

(b) "Carrier" means a person who transports low-level waste;

(c) "Disposal" means the isolation of waste from the biosphere, with no intention of retrieval, such as by land burial;

(d) "Facility" means any property, equipment or structure used or to be used for the management of low-level waste;

(e) "Generate" means to produce low-level waste;

(f) "Host state" means a party state in which a regional facility is located or being developed;

(g) "Low-level waste" or "waste" means radioactive waste other than:

(i) Waste generated as a result of defense activities of the federal government or federal research and development activities;

(ii) High-level waste such as irradiated reactor fuel, liquid waste from reprocessing irradiated reactor fuel, or solids into which any such liquid waste has been converted;

(iii) Waste material containing transuranic elements with contamination levels greater than ten (10) nanocuries per gram of waste material;

(iv) By-product material as defined in section 11e.(2) of the "Atomic Energy Act of 1954," as amended November 8, 1978; or

(v) Wastes from mining, milling, smelting or similar processing of ores and mineral-bearing material primarily for minerals other than radium.

(h) "Management" means collection, consolidation, storage, treatment, incineration or disposal;

(i) "Operator" means a person who operates a regional facility;

(j) "Person" means an individual, corporation, partnership or other legal entity, whether public or private;

(k) "Region" means the combined geographic area within the boundaries of the party states; and

(l) "Regional facility" means a facility within any party state which either:

(i) has been approved as a regional facility by the board; or

Nevada.

(ii) is the low-level waste facility in existence on January 1, 1982, at Beatty, Nevada.

ARTICLE III–RIGHTS, RESPONSIBILITIES, AND OBLIGATIONS

Nevada.

(a) There shall be regional facilities sufficient to manage the low-level waste generated within the region. At least one (1) regional facility shall be open and operating in a party state other than Nevada within six (6) years after this compact becomes law in Nevada and in one (1) other state.

Health. Safety.

(b) Low-level waste generated within the region shall be managed at regional facilities without discrimination among the party states; provided, however, that a host state may close a regional facility when necessary for public health or safety.

(c) Each party state which, according to reasonable projections made by the board, is expected to generate twenty percent (20%) or more in cubic feet except as otherwise determined by the board of the low-level waste generated within the region has an obligation to become a host state in compliance with subsection (d) of this article.

(d) A host state, or a party state seeking to fulfill its obligation to become a host state, shall:

(i) Cause a regional facility to be developed on a timely basis as determined by the board, and secure the approval of such regional facility by the board as provided in Article IV before allowing site preparation or physical construction to begin;

Health. Safety.

(ii) Ensure by its own law, consistent with any applicable federal law, the protection and preservation of public health and safety in the siting, design, development, licensure or other regulation, operation, closure, decommissioning and long-term care of the regional facilities within the state;

(iii) Subject to the approval of the board, ensure that charges for management of low-level waste at the regional facilities within the state are reasonable;

(iv) Solicit comments from each other party state and the board regarding siting, design, development, licensure or other regulation, operation, closure, decommissioning and long-term care of the regional facilities within the state and respond in writing to such comments;

Report. (v) Submit an annual report to the board which contains projections of the anticipated future capacity and availability of the regional facilities within the state, together with other information required by the board; and

Report. (vi) Notify the board immediately if any exigency arises requiring the possible temporary or permanent closure of a regional facility within the state at a time earlier than was projected in the state's most recent annual report to the board.

Nevada. (e) Once a party state has served as a host state, it shall not be obligated to serve again until each other party state having an obligation under subsection (c) of this article has fulfilled that obligation. Nevada, already being a host state, shall not be obligated to serve again as a host state until every other party state has so served.

(f) Each party state:

Regulations. Transportation. (i) Agrees to adopt and enforce procedures requiring low-level waste shipments originating within its borders and destined for a regional facility to conform to packaging and transportation requirements and regulations. Such procedures shall include but are not limited to:

(A) Periodic inspection of packaging and shipping practices;

(B) Periodic inspections of waste containers while in the custody of carriers; and

(C) Appropriate enforcement actions with respect to violations.

Regulations. Transportation. (ii) Agrees that after receiving notification from a host state that a person in the party state has violated packaging, shipping or transportation requirements or regulations, it shall take appropriate action to ensure that violations do not recur. Appropriate action may include but is not limited to the requirement that a bond be posted by the violator to pay the cost of repackaging at the regional facility and the requirement that future shipments be inspected;

(iii) May impose fees to recover the cost of the practices provided for in paragraph (i) and (ii) of this subsection;

(iv) Shall maintain an inventory of all generators within the state that may have low-level waste to be managed at a regional facility; and

Regulations. (v) May impose requirements or regulations more stringent than those required by this subsection.

ARTICLE IV–BOARD APPROVAL OF REGIONAL FACILITIES

(a) Within ninety (90) days after being requested to do so by a party state, the board shall approve or disapprove a regional facility to be located within that state.

(b) A regional facility shall be approved by the board if and only if the board determines that:

(i) There will be, for the foreseeable future, sufficient demand to render operation of the proposed facility economically feasible without endangering the economic feasibility of operation of any other regional facility; and

(ii) The facility will have sufficient capacity to serve the needs of the region for a reasonable period of years.

ARTICLE V–SURCHARGES

(a) The board shall impose a "compact surcharge" per unit of waste received at any regional facility. The surcharge shall be adequate to pay the costs and expenses of the board in the conduct of its authorized activities and may be increased or decreased as the board deems necessary.

(b) A host state may impose a "state surcharge" per unit of waste received at any regional facility within the state. The host state may fix and change the amount of the state surcharge subject to approval by the board. Money received from the state surcharge may be used by the host state for any purpose authorized by its own law, including but not limited to costs of licensure and regulatory activities related to the regional facility, reserves for decommissioning and long-term care of the regional facility and local impact assistance.

ARTICLE VI–THE BOARD

Prohibition. Rocky Mountain Low-Level Radioactive Waste Board, establishment.

(a) The "Rocky Mountain low-level radioactive waste board", which shall not be an agency or instrumentality of any party state, is created.

(b) The board shall consist of one (1) member from each party state. The governor shall determine how and for what term its member shall be appointed, and how and for what term any alternate may be appointed to perform that member's duties on the board in the member's absence.

(c) Each party state is entitled to one (1) vote. A majority of the board constitutes a quorum. Unless otherwise provided in this compact, a majority of the total number of votes on the board is necessary for the board to take any action.

(d) The board shall meet at least once a year and otherwise as its business requires. Meetings of the board may be held in any place within the region deemed by the board to be reasonably convenient for the attendance of persons required or entitled to attend and where adequate accommodations may be found. Reasonable public notice and opportunity for comment shall be given with respect to any meeting; provided, however, that nothing in this subsection shall preclude the board from meeting in executive session when seeking legal advice from its attorneys or when discussing the employment, discipline or termination of any of its employees.

(e) The board shall pay necessary travel and reasonable per diem expenses of its members, alternates, and advisory committee members.

(f) The board shall organize itself for the efficient conduct of its business. It shall adopt and publish rules consistent with this compact regarding its organization and procedures. In special circumstances the board, with unanimous consent of its members, may take actions by telephone; provided, however, that any action taken by telephone shall be

confirmed in writing by each member within thirty (30) days. Any action taken by telephone shall be noted in the minutes of the board.

(g) The board may use for its purposes the services of any personnel or other resources which may be offered by any party state.

(h) The board may establish its offices in space provided for that purpose by any of the party states, or, if space is not provided or is deemed inadequate, in any space within the region selected by the board.

Contracts. (i) Consistent with available funds, the board may contract for necessary personnel services to carry out its duties. Staff shall be employed without regard for the personnel, civil service, or merit system laws of any of the party states and shall serve at the pleasure of the board. The board may provide appropriate employee benefit programs for its staff.

(j) The board shall establish a fiscal year which conforms to the extent practicable to the fiscal years of the party states.

(k) The board shall keep an accurate account of all receipts and disbursements. An annual audit of the books of the board shall be

Audit. conducted by an independent certified public accountant, and the audit

Report. report shall be made a part of the annual report of the board.

Report. (l) The board shall prepare and include in the annual report a budget showing anticipated receipts and disbursements for the ensuing year.

(m) Upon legislative enactment of this compact, each party state shall consider the need to appropriate seventy thousand dollars ($70,000.00) to the board to support its activities prior to the collection of sufficient funds through the compact surcharge imposed pursuant to subsection (a) of article V of this compact.

Grants. (n) The board may accept any donations, grants, equipment, supplies,

Report. materials or services, conditional or otherwise, from any source. The nature, amount and condition, if any, attendant upon any donation, grant or other resources accepted pursuant to this subsection, together with the identity of the donor or grantor, shall be detailed in the annual report of the board.

(o) In addition to the powers and duties conferred upon the board pursuant to other provisions of this compact, the board:

Report. (i) Shall submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of the board, including an annual report to be submitted by December 15;

(ii) May assemble and make available to the governments of the party states and to the public through its members information concerning low-level waste management needs, technologies and problems;

(iii) Shall keep a current inventory of all generators within the region, based upon information provided by the party states;

(iv) Shall keep a current inventory of all regional facilities, including information on the size, capacity, location, specific wastes capable of being managed and the projected useful life of each regional facility;

(v) May keep a current inventory of all low-level waste facilities in the region, based upon information provided by the party states;

(vi) Shall ascertain on a continuing basis the needs for regional facilities and capacity to manage each of the various classes of low-level waste;

(vii) May develop a regional low-level waste management plan;

(viii) May establish such advisory committees as it deems necessary for the purpose of advising the board on matters pertaining to the management of low-level waste;

Contracts. Prohibition.

(ix) May contract as it deems appropriate to accomplish its duties and effectuate its powers, subject to its projected available resources; but no contract made by the board shall bind any party state;

(x) Shall make suggestions to appropriate officials of the party states to ensure that adequate emergency response programs are available for dealing with any exigency that might arise with respect to low-level waste transportation or management;

(xi) Shall prepare contingency plans, with the cooperation and approval of the hose state, for management of low-level waste in the event any regional facility should be closed;

Records.

(xii) May examine all records of operators of regional facilities pertaining to operating costs, profits or the assessment or collection of any charge, fee or surcharge;

(xiii) Shall have the power to sue; and

(xiv) When authorized by unanimous vote of its members, may intervene as of right in any administrative or judicial proceeding involving low-level waste.

ARTICLE VII–PROHIBITED ACTS AND PENALTIES

(a) It shall be unlawful for any person to dispose of low-level waste within the region, except at a regional facility; provided, however, that a generator who, prior to January 1, 1982, had been disposing of only his own waste on his own property may, subject to applicable federal and state law, continue to do so.

Exports.

(b) After January 1, 1986, it shall be unlawful for any person to export low-level waste which was generated within the region outside the region unless authorized to do so by the board. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

(i) The economic impact of the export of the waste on the regional facilities;

(ii) The economic impact on the generator of refusing to permit the export of the waste; and

(iii) The availability of a regional facility appropriate for the disposal of the waste involved.

(c) After January 1, 1986, it shall be unlawful for any person to manage any low-level waste within the region unless the waste was generated within the region or unless authorized to do so both by the board and by the state in which said management takes place. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

Imports.

(i) the impact of importing waste on the available capacity and projected life of the regional facilities;

(ii) the economic impact on the regional facilities; and

(iii) the availability of a regional facility appropriate for the disposal of the type of waste involved.

(d) It shall be unlawful for any person to manage at a regional facility any radioactive waste other than low-level waste as defined in this compact, unless authorized to do so both by the board and the host state. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

(i) the impact of allowing such management on the available capacity and projected life of the regional facilities;

(ii) the availability of a facility appropriate for the disposal of the type of waste involved;

(iii) the existence of transuranic elements in the waste; and

(iv) the economic impact on the regional facilities.

(e) Any person who violates subsection (a) or (b) of this article shall be liable to the board for a civil penalty not to exceed ten (10) times the charges which would have been charged for disposal of the waste at a regional facility.

(f) Any person who violates subsection (c) or (d) of this article shall be liable to the board for a civil penalty not to exceed ten (10) times the charges which were charged for management of the waste at a regional facility.

(g) The civil penalties provided for in subsections (e) and (f) of this article may be enforced and collected in any court of general jurisdiction within the region where necessary jurisdiction is obtained by an appropriate proceeding commenced on behalf of the board by the attorney general of the party state wherein the proceeding is brought or by other counsel authorized by the board. In any such proceeding, the board, if it prevails, is entitled to recover reasonable attorney's fees as part of its costs.

(h) Out of any civil penalty collected for a violation of subsection (a) or (b) of this article, the board shall pay to the appropriate operator a sum sufficient in the judgment of the board to compensate the operator for any loss of revenue attributable to the violation. Such compensation may be subject to state and compact surcharges as if received in the normal course of the operator's business. The remainder of the civil penalty collected shall be allocated by the board. In making such allocation, the board shall give first priority to the needs of the long-term care funds in the region.

(i) Any civil penalty collected for a violation of subsection (c) or (d) of this article shall be allocated by the board. In making such allocation, the board shall give first priority to the needs of the long-term care funds in the region.

(j) Violations of subsection (a), (b), (c), or (d) of this article may be enjoined by any court of general jurisdiction within the region where necessary jurisdiction is obtained in any appropriate proceeding commenced on behalf of the board by the attorney general of the party state wherein the proceeding is brought or by other counsel authorized by the board. In any such proceeding, the board, if it prevails, is entitled to recover reasonable attorney's fees as part of its costs.

Prohibition.

(k) No state attorney general shall be required to bring any proceeding under any subsection of this article, except upon his consent.

ARTICLE VIII–ELIGIBILITY, ENTRY INTO EFFECT, CONGRESSIONAL CONSENT, WITHDRAWAL, EXCLUSION

Arizona. Colorado. Nevada. New Mexico. Utah. Wyoming.

(a) Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming are eligible to become parties to this compact. Any other state may be made eligible by unanimous consent of the board.

(b) An eligible state may become a party state by legislative enactment of this compact or by executive order of its governor this adopting compact; provided, however, a state becoming a party by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened thereafter, unless before such adjournment the legislature shall have enacted this compact.

Effective date.

(c) This compact shall take effect when it has been enacted by the legislatures of two (2) eligible states. However, subsections (b) and (c) of article VII shall not take effect until Congress has by law consented to this compact. Every five (5) years after such consent has been given, Congress may by law withdraw its consent.

Nevada.

(d) A state which has become a party state by legislative enactment may withdraw by legislation repealing its enactment of this compact; but not such repeal shall take effect until two (2) years after enactment of the repealing legislation. If the withdrawing state is a host state, any regional facility in that state shall remain available to receive low-level waste generated within the region until five (5) years after the effective date of the withdrawal; provided, however, this provision shall not apply to the existing facility in Beatty, Nevada.

(e) A party state may be excluded from this compact by a two-thirds (2/3) vote of the members representing the other party states, acting in a meeting, on the ground that the state to be excluded has failed to carry out its obligation under this compact. Such an exclusion may be terminated upon a two-thirds (2/3) vote of the members acting in a meeting.

ARTICLE IX–CONSTRUCTION AND SEVERABILITY

(a) The provisions of this compact shall be broadly construed to carry out the purposes of the compact.

Prohibition.

(b) Nothing in this compact shall be construed to affect any judicial proceeding pending on the effective date of this compact.

Provisions held invalid.

(c) If any part or application of this compact is held invalid, the remainder, or its application to other situations or persons, shall not be affected.

Sec. 227. Northeast Interstate Low-level Radioactive Waste Management Compact.

42 USC 2021d note. 42 USC 2021d. Connecticut. Delaware. Maryland. New Jersey.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act, the consent of the Congress is hereby given to the States of Connecticut, New Jersey, Delaware, and Maryland to enter into the Northeast Interstate Low-Level Radioactive Waste Management Compact. Such compact is substantially as follows:

NORTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT

ARTICLE I–POLICY AND PURPOSE

Research and development.

There is hereby created the Northeast Interstate Low-Level Radioactive Waste Management Compact. The party states recognize that the Congress has declared that each state is responsible for providing for the availability of capacity, either within or outside its borders, for disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of atomic energy defense activities of the federal government, as defined in the Low-Level Radioactive Waste Policy Act (P. L. 96-573, "The Act"), or federal research and development activities. They also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis. The party states further recognize that the Congress of the United States, by enacting the Act has provided for and encouraged the development of regional low-level radioactive waste compacts to manage such waste. The party states recognize that the long-term, safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

42 USC 2021d note.

Health. Safety.

In order to promote the health and safety of the region, it is the policy of the party states to: enter into a regional low-level radioactive waste management compact as a means of facilitating an interstate cooperative effort, provide for proper transportation of low-level waste generated in the region, minimize the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region, encourage the reduction of the amounts of low-level waste generated in the region, distribute the costs, benefits, and obligations of proper low-level radioactive waste management equitably among the party states, and ensure the environmentally sound and economical management of low-level radioactive waste.

ARTICLE II–DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

a. "commission" means the Northeast Interstate Low-Level Radioactive Waste Commission established pursuant to Article IV of this compact;

b. "custodial agency" means the agency the government designated to act on behalf of the government owner of the regional facility;

c. "disposal" means the isolation of low-level radioactive waste from the biosphere inhabited by man and his food chains;

d. "facility" means a parcel of land, together with the structures, equipment and improvements thereon or appurtenant thereto, which is used or is being developed for the treatment, storage or disposal of low-level waste, but shall not include on-site treatment or storage by a generator;

e. "generator" means a person who produces or processes low-level waste, but does not include persons who only provide a service by arranging for the collection, transportation, treatment, storage or disposal of wastes generated outside the region;

f. “high-level waste” means 1) 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 concentration; and 2) any other highly radioactive material determined by the federal government as requiring permanent isolation;

g. “host state” means a party state in which a regional facility is located or being developed;

h. “institutional control” means the continued observation, monitoring, and care of the regional facility following transfer of control of the regional facility from the operator to the custodial agency;

i. “low-level waste” means radioactive waste that 1) is neither high-level waste nor transuranic waste, nor spent nuclear fuel, nor by-product material as defined in section 11e (2) of the Atomic Energy Act of 1954 as amended; and 2) is classified by the federal government as low-level waste, consistent with existing law; but does not include waste generated as a result of atomic energy defense activities of the federal government, as defined in P. L. 96-573, or federal research and development activities;

j. “party state” means any state which is a signatory party in good standing to this compact;

k. “person” means an individual, corporation, business enterprise or other legal entity, either public or private and their legal successors;

l. “post-closure observation and maintenance” means the continued monitoring of a closed regional facility to ensure the integrity and environmental safety of the site through compliance with applicable licensing and regulatory requirements; prevention of unwarranted intrusion, and correction of problems;

m. “region” means the entire area of the party states;

n. “regional facility” means a facility as defined in this section which has been designated or accepted by the Commission;

o. “state” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territory subject to the laws of the United States;

p. “storage” means the holding of waste for treatment or disposal;

q. “transuranic waste” means waste material containing radionuclides with an atomic number greater than 92 which are excluded from shallow land burial by the federal government;

r. “treatment” means any method, technique or process, including storage for decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render such waste safer for transport or disposal, amenable for recovery, convertible to another usable material or reduced in volume;

s. “waste” means low-level radioactive waste as defined in this section;

t. “waste management” means the storage, treatment, transportation, and disposal, where applicable, of waste.

ARTICLE III–RIGHTS AND OBLIGATIONS

a. There shall be provided within the region one or more regional facilities which, together with such other facilities as may be made

available to the region, will provide sufficient capacity to manage all wastes generated within the region.

1. Regional facilities shall be entitled to waste generated within the region, unless otherwise provided by the Commission. To the extent regional facilities are available, no waste generated within a party state shall be exported to facilities outside the region unless such exportation is approved by the Commission and the affected host state(s).

Exports.
Prohibition.

2. After January 1, 1986, no person shall deposit at a regional facility waste generated outside the region, and further, no regional facility shall accept waste generated outside the region, unless approved by the Commission and the affected host state(s).

Prohibition.

b. The rights, responsibilities and obligations of each party state to this compact are as follows:

1. Each party state shall have the right to have all wastes generated within its borders managed at regional facilities, and shall have the right of access to facilities made available to the region through agreements entered into by the Commission pursuant to Article IV(i)(11). The right of access by a generator within a party state to any regional facility is limited by the generator's adherence to applicable state and federal laws and regulations and the provisions of this compact.

2. To the extent not prohibited by federal law, each party state shall institute procedures which will require shipments of low-level waste generated within or passing through its borders to be consistent with applicable federal packaging and transportation regulations and applicable host state packaging and transportation regulations for management of low-level waste; provided, however, that these practices shall not impose unreasonable, burdensome impediments to the management of low-level waste in the region. Upon notification by a host state that a generator, shipper, or carrier within the party state is in violation of applicable packaging or transportation regulations, the party state shall take appropriate action to ensure that such violations do not recur.

Regulations.
Transportation.

3. Each party state may impose reasonable fees upon generators, shippers, or carriers to recover the cost of inspections and other practices under this compact.

4. Each party state shall encourage generators within its borders to minimize the volumes of waste requiring disposal.

5. Each party state has the right to rely on the good faith performance by every other party state of acts which ensure the provision of facilities for regional availability and their use in a manner consistent with this compact.

6. Each party state shall provide to the Commission any data and information necessary for the implementation of the Commission's responsibilities, and shall establish the capability to obtain any data and information necessary to meet its obligation as herein defined.

7. Each party state shall have the capability to host a regional facility in a timely manner and to ensure the post-closure observation and maintenance, and institutional control of any regional facility within its borders.

8. No non-host party state shall be liable for any injury to persons or property resulting from the operation of a regional facility or the

Prohibition.
Transportation.

transportation of waste to a regional facility; however, if the host state itself is the operator of the regional facility, its liability shall be that of any private operator.

c. The rights, responsibilities and obligations of a host state are as follows:

1. To the extent not prohibited by federal law, a host state shall ensure the timely development and the safe operation, closure, post-closure observation and maintenance, and institutional control of any regional facility within its borders.

2. In accordance with procedures established in Articles V and IX, the host state shall provide for the establishment of a reasonable structure of fees sufficient to cover all costs related to the development, operation, closure, post-closure observation and maintenance, and institutional control of a regional facility. It may also establish surcharges to cover the regulatory costs, incentives, and compensation associated with a regional facility; provided, however, that without the express approval of the Commission, no distinction in fees or surcharges shall be made between persons of the several states party to this compact.

Prohibition.

3. To the extent not prohibited by federal law, a host state may establish requirements and regulations pertaining to the management of waste at a regional facility; provided, however, that such requirements shall not impose unreasonable impediments to the management of low-level waste within the region. Nor may a host state or a subdivision impose such restrictive requirements on the siting or operation of a regional facility that, along or as a whole, they serve as unreasonable barriers or prohibitions to the siting or operation of such a facility.

Prohibition.
Regulations.

4. Each host state shall submit to the Commission annually a report concerning each operating regional facility within its borders. The report shall contain projections of the anticipated future capacity and availability of the regional facility, a financial audit of its operations, and other information as may be required by the Commission; and in the case of regional facilities in institutional control or otherwise no longer operating, the host states shall furnish such information as may be required on the facilities still subject to their jurisdiction.

Report.

Audit.

5. A host state shall notify the Commission immediately if any exigency arises which requires the permanent, temporary, or possible closure of any regional facility located therein at a time earlier than projected in its most recent annual report to the Commission. The Commission may conduct studies, hold hearings, or take such other measures to ensure that the actions taken are necessary and compatible with the obligations of the host state under this compact.

Report.

Studies.

ARTICLE IV–THE COMMISSION

a. There is hereby created the Northeast Interstate Low-Level Radioactive Waste Commission. The Commission shall consist of one member from each party state to be appointed by the Governor according to procedures of each party state, except that a host state shall have two members during the period that it has an operating regional Governor shall notify the Commission in writing of the identity of the facility. The

Northeast Interstate Low-Level Radioactive Waste Commission, establishment.

member and one alternate, who may act on behalf of the member only in the member's absence.

Prohibition. b. Each Commission member shall be entitled to one vote. No action of the Commission shall be binding unless a majority of the total membership cast their vote in the affirmative.

Regulations. c. The Commission shall elect annually from among its members a presiding officer and such other officers as it deems appropriate. The Commission shall adopt and publish, in convenient form, such rules and regulations as are necessary for due process in the performance of its duties and powers under this compact.

d. The Commission shall meet at least once a year and shall also meet upon the call of the presiding officer, or upon the call of a party state member.

e. All meetings of the Commission shall be open to the public with reasonable prior public notice. The Commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal matters. All Commission actions and decisions shall be made in open meetings and appropriately recorded. A roll call vote may be required upon request of any party state or the presiding officer.

f. The Commission may establish such committees as it deems necessary.

Contracts. g. The commission may appoint, contract for, and compensate such limited staff as it determines necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure irrespective of the civil service, personnel or other merit laws of any of the party states or the federal government and shall be compensated from funds of the Commission.

h. The Commission shall adopt an annual budget for its operations.

i. The Commission shall have the following duties and powers:

1. The Commission shall receive and act on the application of a non-party state to become an eligible state in accordance with Article VII(e).

2. The Commission shall receive and act on the application of an eligible state to become a party state in accordance with Article VII(b).

Report. 3. The commission shall submit an annual report to and otherwise communicate with the governors and the presiding officer of each body of the legislature of the party states regarding the activities of the Commission.

4. Upon request of party states, the Commission shall meditate disputes which arise between the party states regarding this compact.

5. The Commission shall develop, adopt and maintain a regional management plan to ensure safe and effective management of waste within the region, pursuant to Article V.

Report. 6. The Commission may conduct such legislative or adjudicatory
Studies. hearings, and require such reports, studies, evidence and testimony as are necessary to perform its duties and functions.

Regulation. 7. The Commission shall establish by regulation, after public notice and opportunity for comment, such procedural regulations as deemed necessary to ensure efficient operation, the orderly gathering of information, and the protection of the rights of due process of affected persons.

8. In accordance with the procedures and criteria set forth in Article V, the Commission shall accept a host state's proposed facility as a regional facility.

9. In accordance with the procedures and criteria set forth in Article V, the Commission may designate, by a two-thirds vote, host states for the establishment of needed regional facilities. The Commission shall not exercise this authority unless the party states have failed to voluntarily pursue the development of such facilities.

Prohibition.

10. The commission may require of and obtain from party states, eligible states seeking to become party states, and non-party states seeking to become eligible states, data and information necessary for the implementation of Commission responsibilities.

Contracts.
Imports.

11. The Commission may enter into agreements with any person, state, regional body, or group of states for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. Such authorization to import requires a two-thirds majority vote of the Commission, including an affirmative vote of the representatives of the host state in which any affected regional facility is located. This shall be done only after the Commission and the host state have made an assessment of the affected facilities' capability to handle such wastes and of relevant environmental, economic, and public health factors, as defined by the appropriate regulatory authorities.

Exports.

12. The Commission may, upon petition, grant an individual generator or group of generators in the region the right to export wastes to a facility located outside the region. Such grant of right shall be for a period of time and amount of waste and on such other terms and conditions as determined by the Commission and approved by the affected host states.

13. The Commission may appear as an intervenor or party in interest before any court of law, federal, state or local agency, board or commission that has jurisdiction over the management of wastes. Such authority to intervene or otherwise appear shall be exercised only after a two-thirds vote of the Commission. In order to represent its views, the Commission may arrange for any expert testimony, reports, evidence or other participation as it deems necessary.

Report.

14. The Commission may impose sanctions, including but not limited to, fines, suspension of privileges and revocation of the membership of a party state in accordance with Article VII. The Commission shall have the authority to revoke, in accordance with Article VII(g), the membership of a party state that creates unreasonable barriers to the siting of a needed regional facility or refuses to accept host state responsibilities upon designation by the Commission.

Regulation.

15. The Commission shall establish by regulation criteria for and shall review the fee and surcharge systems in accordance with Articles V and IX.

16. The Commission shall review the capability of party states to ensure the siting, operation, post-closure observation and maintenance, and institutional control of any facility within its borders.

17. The Commission shall review the compact legislation every five years prior to federal congressional review provided for in the Act, and may recommend legislative action.

Regulations.

18. The Commission has the authority to develop and provide to party states such rules, regulations and guidelines as it deems appropriate for the efficient, consistent, fair and reasonable implementation of the compact.

j. There is hereby established a Commission operating account. The Commission is authorized to expend monies from such account for the expenses of any staff and consultants designated under section (g) of this Article and for official Commission business. Financial support of the Commission account shall be provided as follows:

1. Each eligible state, upon becoming a party state, shall pay $70,000 to the Commission, which shall be used for administrative cost of the Commission.

2. The commission shall impose a "commission surcharge" per unit of waste received at any regional facility as provided in Article V.

3. Until such time as at least one regional facility is in operation and accepting waste for management, or to the extent that revenues under paragraphs (1) and (2) of this section are unavailable or insufficient to cover the approved annual budget of the Commission, each party state shall pay an apportioned amount of the difference between the funds available and the total budget in accordance with the following formula:

(a) 20 percent in equal shares;

(b) 30 percent in the proportion that the population of the party state bears to the total population of all party states, according to the most recent U. S. census;

(c) 50 percent in the proportion that the waste generated for management in each party state bears to the total waste generated for management in the region for the most recent calendar year in which reliable data are available, as determined by the Commission.

k. The Commission shall keep accurate accounts of all receipts and disbursements. An independent certified public accountant shall annually audit all receipts and disbursements of Commission accounts and funds and submit an audit report to the Commission. Such audit report shall be made a part of the annual report of the Commission required by Article IV(i)(3).

Audit.
Report.

Grants.
Loans.

l. The Commission may accept, receive, utilize and dispose for any of this purposes and functions any and all donations, loans, grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation.

Report.

The nature, amount and condition, if any, attendant upon any donation, loans, or grant accepted pursuant to this paragraph, together with the identity of the donor, grantor, or lender, shall be detailed in the annual report of the Commission. The Commission shall by rule establish guidelines for the acceptance of donations, loans, grants of money, equipment, supplies, materials and services. This shall provide that no donor, grantor or lender may derive unfair or unreasonable advantage in any proceeding before the Commission.

Prohibitions.

m. The Commission herein established is a body corporate and politic, separate and distinct from the party states and shall be so liable for its own actions. Liabilities of the Commission shall not be deemed liabilities of the party states, nor shall members of the Commission be personally liable for action taken by them in their official capacity.

1. The Commission shall not be responsible for any costs or expenses associated with the creation, operation, closure, post-closure observation and maintenance, and institutional control of any regional facility, or any associated regulatory activities of the party states.

2. Except as otherwise provided herein, this compact shall not be construed to alter the incidence of liability of any kind for any act, omission, or course of conduct. Generators, shippers and carriers of wastes, and owners and operators of sites shall be liable for their acts, omissions, conduct, or relationships in accordance with all laws relating thereto.

Courts, U.S. District of Columbia.

n. The United States district courts in the District of Columbia shall have original jurisdiction of all actions brought by or against the Commission. Any such action initiated in a state court shall be removed to the designated United States district court in the manner provided by Act of June 25, 1948 as amended (28 USC 14446). This section shall not alter the jurisdiction of the United States Court of Appeals for the District of Columbia Circuit to review the final administrative decisions of the Commission as set forth in the paragraph below.

Prohibition.

Courts, U.S.

o. The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review the final administrative decisions of the Commission.

1. Any person aggrieved by a final administrative decision may obtain review of the decision by filing a petition for review within 60 days after the Commission's final decision.

2. In the event that review is sought of the Commission's decision relative to the designation of a host state, the Court of Appeals shall accord the matter an expedited review, and, if the Court does not rule within 90 days after a petition for review has been filed, the Commission's decision shall be deemed to be affirmed.

Prohibition.

3. The courts shall not substitute their judgement for that of the Commission as to the decisions of policy or weight of the evidence on questions of fact. The Court may affirm the decision of the Commission or remand the case for further proceedings if it finds that the petitioners has been aggrieved because the finding, inferences, conclusions or decisions of the Commission are:

a. in violation of the Constitution of the United States;

b. in excess of the authority granted to the Commission by this compact;

c. made upon unlawful procedure to the detriment of any person;

d. arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Regulations.

4. The Commission shall be deemed to be acting in a legislative capacity except in those instances where it decides, pursuant to its rules and regulations, that its determinations are adjudicatory in nature.

ARTICLE V–HOST STATE SELECTION AND DEVELOPMENT AND OPERATION OF REGIONAL FACILITIES

a. The Commission shall develop, adopt, maintain, and implement a regional management plan to ensure the safe and efficient management of waste within the region. The plan shall include the following:

1. a current inventory of all generators within the region;

2. a current inventory of all facilities within the region, including information on the size, capacity, location, specific waste being handled, and projected useful life of each facility;

Health. Safety.

3. consistent with considerations for public health and safety as defined by appropriate regulatory authorities, a determination of the type and number of regional facilities which are presently necessary and projected to be necessary to manage waste generated within the region;

4. reference guidelines, as defined by appropriate regulatory authorities, for the party states for establishing the criteria and procedures to evaluate locations for regional facilities.

b. The Commission shall develop and adopt criteria and procedures for reviewing a party state which volunteers to host a regional facility within its borders. These criteria shall be developed with public notice and shall include the following factors: the capability of the volunteering party state to host a regional facility in a timely manner and to ensure its post-closure observation and maintenance, and institutional control; and the anticipated economic feasibility of the proposed facility.

1. Any party state may volunteer to host a regional facility within its borders. The Commission may set terms and conditions to encourage a party state to volunteer to be the first host state.

2. Consistent with the review required above, the Commission shall, upon a two-thirds affirmative vote, designate a volunteering party state to serve as a host state.

c. If all regional facilities required by the regional management plan are not developed pursuant to section (b), or upon notification that an existing facility will be closed, or upon determination that an additional regional facility is or may be required, the Commission shall convene to consider designation of a host state.

1. The Commission shall develop and adopt procedures for designating a party state to be a host state for a regional facility. The Commission shall base its decision on the following criteria:

Health. Safety.

a. the health, safety and welfare of citizens of the party states as defined by the appropriate regulatory authorities;

b. the environmental, economic, and social effects of a regional facility on the party states;

The Commission shall also base its decision on the following criteria:

c. economic benefits and costs;

d. the volumes and types of waste generated within each party state;

Transportation.

e. the minimization of waste transportation; and

f. the existence of regional facilities within the party states.

2. Following its established criteria and procedures, the Commission shall designate by a two-thirds affirmative vote a party

state to serve as a host state. A current host state shall have the right of first refusal for a succeeding regional facility.

Studies.

3. The Commission shall conduct such hearings and studies, and take such evidence and testimony as is required by its approved procedures prior to designating a host state. Public hearings shall be held upon request in each candidate host state prior to final evaluation and selection.

4. A party state which has been designated as a host state by the Commission and which fails to fulfill its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the Commission.

d. Each host state shall be responsible for the timely identification of a site and the time development and operation of a regional facility. The proposed facility shall meet geologic, environmental and economic criteria which shall not conflict with applicable federal and host state laws and regulations.

1. To the extent not prohibited by federal law, a host state may regulate and license any facility within its borders.

Report.

2. To the extent not prohibited by federal law, a host state shall ensure the safe operation, closure, post-closure observation and maintenance, and institutional control of a facility, including adequate financial assurances by the operator and adequate emergency response procedures. It shall periodically review and report to the Commission on the status of the post-closure and institutional control funds and the remaining useful life of the facility.

3. A host state shall solicit comments from each party state and the Commission regarding the siting, operation, financial assurances, closure, post-closure observation and maintenance, and institutional control of a regional facility.

e. A host state intending to close a regional facility within its borders shall notify the Commission in writing of its intention and reasons therefore.

1. Except as otherwise provided, such notification shall be given to the Commission at least five years prior to the scheduled date of closure.

Health. Safety.

2. A host state may close a regional facility within its borders in the event of an emergency of if a condition exists which constitutes a substantial threat to public health and safety. A host state shall notify the Commission in writing within three days of its action and shall within 30 working days, show justification for the closing.

3. In the event that a regional facility closes before an additional or new facility becomes operational, the Commission shall make interim arrangements for the storage or disposal of waste generated within the region until such time that a new regional facility is operational.

f. Fees and surcharges shall be imposed equitably upon all users of a regional facility, based upon criteria established by the Commission.

Regulations.

1. A host state shall, according to its lawful administrative procedures, approve fee schedules to be charged to all users of the regional facility within its borders. Except as provided herein, such fee schedules shall be established by the operator of a regional facility, under applicable state regulations, and shall be reasonable and sufficient to cover all costs related to the development, operation,

closure, post-closure observation and maintenance, institutional control of the regional facility. The host state shall determine a schedule for contributions to the post-closure observation and maintenance, and institutional control funds. Such fee schedules shall not be approved unless the Commission has been given reasonable opportunity to review and make recommendations on the proposed fee schedules.

Regulation.

2. A host state may, according to its lawful administrative procedures impose a state surcharge per unit of waste received at any regional facility within its borders. The state surcharge shall be in addition to the fees charged for waste management. The surcharge shall be sufficient to cover all reasonable costs associated with administration and regulation of the facility. The surcharge shall not be established unless the Commission has been provided reasonable opportunity to review and make recommendations on the proposed state surcharge.

3. The Commission shall impose a commission surcharge per unit of waste received at any regional facility. The total monies collected shall be adequate to pay the cost and expenses of the Commission and shall be remitted to the Commission on a timely basis as determined by the Commission. The surcharge may be increased or decreased as the Commission deems necessary.

4. Nothing herein shall be construed to limit the ability of the host state, or the political subdivision in which the regional facility is situated, to impose surcharges for purposes including, but not limited to, host community compensation and host community development incentives. Such surcharges shall be reasonable and shall not be imposed unless the Commission has been provided reasonable opportunity to review and make recommendations on the proposed surcharge. Such surcharge may be recovered through the approved fee and surcharge schedules provided for in this section.

ARTICLE VI–OTHER LAWS AND REGULATIONS

42 USC 2021.
Prohibition.

a. Nothing in this compact shall be construed to abrogate or limit the regulatory responsibility or authority of the U.S. Nuclear Regulatory Commission or of an Agreement State under section 274 of the Atomic Energy Act of 1954, as amended.

b. The laws or portions of those laws of a party state that are not inconsistent with this compact remain in full force.

Prohibition.

c. Nothing in this compact shall make unlawful the continued development and operation of any facility already licensed for development or operation on the date this compact becomes effective.

Prohibition.

d. No judicial or administrative proceeding pending on the effective date of the compact shall be affected by the compact.

Prohibition.

e. Except as provided for in Article III(b)(2) and (c)(3), this compact shall not affect the relations between and the respective internal responsibilities of the government of a party state and its subdivisions.

42 USC 2021b note.
Research and development.

f. The generation, treatment, storage, transportation, or disposal of waste generated by the atomic energy defense activities of the federal government, as defined in P.L. 96-573, or federal research and development activities are not affected by this compact.

Taxes.
Transportation.

g. To the extent that the rights and powers of any state or political subdivision to license and regulate any facility within its borders and to impose taxes, fees, and surcharges on the waste managed at that regional facility do not operate as an unreasonable impediment to the transportation, treatment or disposal of waste, such rights and powers shall not be diminished by this compact.

Prohibition.

h. No party state shall enact any law or regulation or attempt to enforce any measure which is inconsistent with this compact. Such measures may provide the basis for the Commission to suspend or terminate a party state's membership and privileges under this compact.

i. All laws and regulations, or parts thereof of any party state or subdivision or instrumentality thereof which are inconsistent with this compact are hereby repealed and declared null and void. Any legal right, obligation, violation or penalty arising under such laws or regulations prior to the enactment of this compact, or not in conflict with it, shall not be affected.

Prohibition.

j. Subject to Article III(c)(2), no law or regulation of a party state or subdivision or instrumentality thereof may be applied so as to restrict or make more costly or inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.

Prohibition.

k. No law, ordinance, or regulation of any party state or any subdivision or instrumentality thereof shall prohibit, suspend, or unreasonably delay, limit or restrict the operation of a siting or licensing agency in the designation, siting, or licensing of a regional facility. Any such provision in existence at the time of ratification of this compact is hereby repealed.

ARTICLE VII–ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

Connecticut.
Delaware.
Maine.
Maryland.
Massachusetts.
New Hampshire.
New Jersey.
New York.
Pennsylvania.
Rhode Island.
Vermont.

a. The initially eligible parties to this compact shall be the eleven states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. Initial eligibility will expire June 30, 1984.

b. Each state eligible to become a party state to this compact shall be declared a party state upon enactment of this compact into law by the state, repeal of all statutes or statutory provisions that pose unreasonable impediments to the capability of the state to host a regional facility in a timely manner, and upon payment of the fees required by Article IV(j)(1). An eligible state may become a party to this compact by an executive order by the governor of the state and upon payment of the fees required by Article IV(j)(1). However, any state which becomes a party state by executive order shall cease to be a party state upon the final adjournment of the next general or regular session of its legislature, unless this compact has by then been enacted as a statute by the state and all statutes and statutory provisions that conflict with the compact have been repealed.

Effective date.

c. The compact shall become effective in a party state upon enactment by that state. It shall not become initially effective in the region until enacted into law by three party states and consent given to it by the Congress.

d. The first three states eligible to become party states to this compact which adopt this compact into law as required in Article VII(b) shall

immediately, upon the appointment of their Commission members, constitute themselves as the Northeast Interstate Low-Level Radioactive Waste Commission. They shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall do those things necessary to organize the Commission and implement the provisions of this compact.

1. The Commission shall be the judge of the qualifications of the party states and of its members and of their compliance with the conditions and requirements of this compact and of the laws of the party states relating to the enactment of this compact.

2. All succeeding states eligible to become party states to this compact shall be declared party states pursuant to the provisions of section (b) of this Article.

e. Any state not expressly declared eligible to become a party state to this compact in section (a) of this Article may petition the Commission to be declared eligible. The Commission may establish such conditions as it deems necessary and appropriate to be met by a state requesting eligibility as a party state to this compact pursuant to the provisions of this section, including a public hearing on the application. Upon satisfactorily meeting such conditions and upon the affirmative vote of two-thirds of the Commission, including the affirmative vote of the representatives of the host states in which any affected regional facility is located, the petitioning state shall be eligible to become a party state to this compact and may become a party state in the same manner as those states declared eligible in section (a) of this Article.

Prohibition.

f. No state holding membership in any other regional compact for the management of low-level radioactive waste may become a member of this compact.

g. Any party state which fails to comply with the provisions of this compact or to fulfill its obligations hereunder may have its privileges suspended or, upon a two-thirds vote of the Commission, after full opportunity for hearing and comment, have its membership in the compact revoked. Revocation shall take effect one year from the date the affected party state receives written notice from the Commission of its action. All legal rights of the affected party state established under this compact shall cease upon the effective date of revocation, except that any legal obligations of that party state arising prior to revocation will not cease until they have been fulfilled. As soon as practicable after a Commission decision suspending or revoking party state status, the Commission shall provide written notice of the action and a copy of the resolution to the governors and the presiding officer of each body of the state legislatures of the party states, and to chairmen of the appropriate committees of the Congress.

h. Any party state may withdraw from this compact by repealing its authorization legislation, and all legal rights under this compact of the party state cease upon repeal. However, no such withdrawal shall take effect until five years after the Governor of the withdrawing state has given notice in writing of such withdrawal to the Commission and to the governor of each party state. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to that time.

1. Upon receipt of the notification, the Commission shall, as soon as practicable, provide copies to the governors and the presiding

officer of each body of the state legislatures of the party states, and to the chairmen of the appropriate committees of the Congress.

2. A regional facility in a withdrawing state shall remain available to the region for five years after the date the Commission receives written notification of the intent to withdraw or until the prescheduled dates of closure, whichever occurs first.

i. This compact may be terminated only by the affirmative action of the Congress or by the repeal of all laws enacting the compact in each party state. The Congress may by law withdraw its consent every five years after the compact takes effect.

1. The consent given to this compact by the Congress shall extend to any future admittance of new party states under sections (b) and (e) of this Article.

2. The withdrawal of a party state from this compact under section (h) or the revocation of a state's membership in this compact under section (g) of this Article shall not affect the applicability of the compact to the remaining party states.

ARTICLE VIII–PENALTIES

a. Each party state, consistent with federal and host state regulations and laws, shall enforce penalties against any person not acting as an official of a party state for violation of this compact in the party state. Each party state acknowledges that the shipment to a host state of waste packaged or transported in violation of applicable laws and regulations can result in the imposition of sanctions by the host state. These sanctions may include, but are not limited to, suspension or revocation of the violator's rights of access to the facility in the host state.

Regulations.

b. Without the express approval of the Commission, it shall be unlawful for any person to dispose of any low-level waste within the region except at a regional facility; provided, however, that this restriction shall not apply to waste which is permitted by applicable federal or state regulations to be discarded without regard to its radioactivity.

c. Unless specifically approved by the Commission and affected host state(s) pursuant to Article IV, it shall be a violation of this compact for: 1) any person to deposit at a regional facility waste not generated within the region; 2) any regional facility to accept waste not generated within the region; and 3) any person to export from the region waste generated within the region.

d. Primary responsibility for enforcing provisions of the law will rest with the affected state or states. The Commission, upon a two-thirds vote of its members, may bring action to seek enforcement or appropriate remedies against violators of the provisions and regulations for this compact as provided for in Article IV.

ARTICLE IX–COMPENSATION PROVISIONS

a. The responsibility for ensuring compensation and clean-up during the operational and post-closure periods rests with the host state, as set forth herein.

1. The host state shall ensure the availability of funds and procedures for compensation of injured persons, including facility employees, and property damage (except any possible claims for

diminution of property values) due to the existence and operation of a regional facility, and for clean-up and restoration of the facility and surrounding areas.

2. The state may satisfy this obligation by requiring bonds, insurance, compensation funds, or any other means or combination of means, imposed either on the facility operator or assumed by the state itself, or both. Nothing in this article alters the liability of any person or governmental entity under applicable state and federal laws.

Prohibition.

b. The Commission shall provide a means of compensation for persons injured or property damaged during the institutional control period due to the radioactive and waste management nature of the regional facility. This responsibility may be met by a special fund, insurance, or other means.

Contracts.
Insurance.

1. The Commission is authorized, at its discretion, to impose a waste management surcharge, to be collected by the operator or owner of the regional facility; to establish a separate insurance entity, formed by but separate from the Commission itself, but under such terms and conditions as it decides, and exempt from state insurance regulation; to contract with this company or other entity for coverage; or to take any other measures, or combination of measures, to implement the goals of this section.

Regulations.

2. The existence of this fund or other means of compensation shall not imply liability by the Commission, the non-host party states, or any of their officials and staff, which are exempted from liability by other provisions of this compact. Claims or suits for compensation shall be directed against the fund, the insurance company, or other entity, unless the Commission, by regulation, directs otherwise.

c. Not withstanding any other provisions, the Commission fund, insurance, or other means of compensation shall also be available for third party relief during the operational and post-closure periods, as the Commission may direct, but only to the extent that no other funds, insurance, tort compensation, or other means are available from the host state or other entities, under section a. of this Article or otherwise; provided, that this Commission contribution shall not apply to clean-up or restoration of the regional facility and its environs during the operational and post-closure period.

d. The liability of the Commission's fund, insurance entity, or any other means of compensation shall be limited to the amount currently contained therein; provided that the Commission may set some lower limit to ensure the integrity and availability of the fund or other entity for liability.

ARTICLE X–SEVERABILITY AND CONSTRUCTION

Provisions held invalid.

The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared by a federal court of competent jurisdiction to be contrary to the Constitution of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person or

circumstance shall not be affected thereby. The provisions of this compact shall be liberally construed to give effect to the purpose thereof.[43]

Approved January 15, 1986.

[43] Amends Public Law 96-573 by striking out sections 1, 2, 3, 4 and inserting in lieu thereof Public Law 99-240.

APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT CONSENT ACT

May 19, 1988

An Act

Appalachian States Low-Level Radioactive Waste Compact Consent Act.

To grant the consent of the Congress to the Appalachian States Low-Level Radioactive Waste Compact.

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

Sec. 1. Short Title

42 USC 2021d note.

This Act may be cited as the "Appalachian States Low-Level Radioactive Waste Compact Consent Act."

Sec. 2. Congressional Finding.

42 USC 2021d note.

The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act.

Sec. 3. Conditions of Consent to Compact.

42 USC 2021d note.

The consent of the Congress to the compact set forth in section 5–

(1) shall become effective on the date of the enactment of this Act,

(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act, and

(3) is granted only for so long as the Appalachian States Low-Level Radioactive Waste Commission, advisory committees, and regional boards established in the compact comply with all the provisions of such Act.

Sec. 4. Congressional Review.

42 USC 2021d note.

The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of the enactment of this Act, and at such intervals thereafter as may be provided for in such compact.

Sec. 5. Appalachian States Low-level Radioactive Waste Compact.

42 USC 2021d note.
Delaware.
Maryland.
Pennsylvania.
West Virginia.
Waste disposal.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(A)(2)), the consent of Congress is given to the States of Pennsylvania, West Virginia, and any eligible States as defined in Article 5(A) of the Appalachian States Low-Level Radioactive Waste Compact to enter into such compact. Such compact is substantially as follows:

APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT

PREAMBLE

Whereas, The United States Congress, by enacting the Low-Level Radioactive Waste Policy Act (42 USC sections2021b-2021d) has encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level radioactive waste;

Public health and safety.

Whereas, Under section 4(a)(1)(A) of the Low-Level Radioactive Waste Policy Act (42 USC section 2021d(a)(1)(A)), each state is responsible for providing for the capacity for disposal of low-level radioactive waste generated within its borders;

Whereas, To promote the health, safety and welfare of residents within, the Commonwealth of Pennsylvania and other eligible states as defined in Article 5(A) of this compact shall enter into a compact for the regional management and disposal of low-level radioactive waste.

Now, therefore, the Commonwealth of Pennsylvania and the state of West Virginia and other eligible states hereby agree to enter into the Appalachian States Low-Level Radioactive Waste Compact.

ARTICLE I–DEFINITIONS

As used in this compact, unless the context clearly indicates otherwise:

(a) "Broker" means any intermediate person who handles, treats, processes, stores, packages, ships or otherwise has responsibility for or possesses low-level waste obtained from a generator.

(b) "Carrier" means a person who transports low-level waste to a regional facility.

(c) "Commission" means the Appalachian States Low-Level Radioactive Waste Commission.

(d) "Disposal" means the isolation of low-level waste from the biosphere.

(e) "Facility" means any real personal property within the region, and improvements thereof or thereon, and any and all plant structures, machinery and equipment acquired, constructed, operated or maintained for the management or disposal of low-level waste.

(f) "Generate" means to produce low-level waste requiring disposal.

(g) "Generator" means a person whose activity results in the production of low-level waste requiring disposal.

(h) "Hazardous life" means the time required for radioactive materials to decay to safe levels, as defined by the time period for the concentration of radioactive materials within a given container or package to decay to maximum permissible concentrations as defined by Federal law or by standards to be set by a host state, whichever is more restrictive.

(i) "Host state" means Pennsylvania or other party state so designated by the Commission in accordance with Article 3 of this compact.

(j) "Institutional control period" means the time of the continued observation, monitoring and care of the regional facility following transfer of control from the operator to the custodial agency.

(k) "Low-level waste" means radioactive waste that:

(1) is neither high-level waste or transuranic waste, nor spent nuclear fuel, nor by-product material as defined in section 11(e)(2) of the Atomic Energy Act of 1954 as amended; and

(2) is classified by the Federal Government as low-level waste, consistent with existing law; but does not include waste generated as a result of atomic energy defense activities of the Federal

Government, as defined in Public Law 96-573, or Federal research and development activities.

(l) "Management" means the reproduction, collection, consolidation, storage, packaging or treatment of low-level waste.

(m) "Operator" means a person who operates a regional facility.

(n) "Party state" means any state that has become a party in accordance with Article 5 of this compact.

(o) "Person" means an individual, corporation, partnership or other legal entity, whether public or private.

(p) "Region" means the combined geographic area within the boundaries of the party states.

(q) "Regional facility" means a facility within any party state which has been approved by the Commission for the disposal of low-level waste.

(r) "Shallow land burial" means the disposal of low-level radioactive waste directly in subsurface trenches without additional confinement in engineered structures or by proper packaging in containers as determined by the law of the host state.

(s) "Transuranic waste" means low-level waste containing radionuclides with an atomic number greater than 92 which are excluded from shallow-land burial by the Federal Government.

Establishment.

(A) Creation and Organization.

(1) Creation–There is hereby created the Appalachian States Low-Level Radioactive Waste Commission. The Commission is hereby created as a body corporate and politic, with succession for the duration of this compact, as an agency and instrumentality of the governments of the respective signatory parties, but separate and distinct from the respective signatory party states. The Commission shall have central offices located in Pennsylvania.

(2) Commission Membership–The Commission shall consist of two voting members from each party state to be appointed according to the laws of each party state and two additional voting members from each host state to be appointed according to the laws of each host state. Upon selection of the site of the regional facility, an additional voting member shall be appointed to the Commission who shall be a resident of the county or municipality where the facility is to be located. The appointing authority of each party state shall notify the Commission in writing of the identities of the members and of any alternates. An alternate may vote and act in the member's absence. No member shall have a financial interest in any industry which generates low-level radioactive waste, any low-level radioactive waste regional facility or any related industry for the duration of the member's term. No more than one-half the members and alternates from any party state shall have been employed by or be employed by a low-level waste generator or related industry upon appointment to or during their tenure of office; provided, that no member shall have been employed by or be employed by a regional facility operator. No member or alternate from any party state shall accept employment from any regional facility operator or brokers for at least three years after leaving office.

(3) Compensation–Members of the Commission and alternates shall serve without compensation from the Commission but may be

reimbursed for necessary expenses incurred in and incident to the performance of their duties.

(4) Voting Power–Each Commission member is entitled to one vote. Unless otherwise provided in this compact, affirmative votes by a majority of a host state's members are necessary for the Commission to take any action related to the regional facility and the disposal and management of low-level waste within that host state.

(5) Organization and –

(a) The Commission shall provide for its own organization and procedures and shall adopt by-laws not inconsistent with this compact and any rules and regulations necessary to implement this compact. It shall meet at least once a year in the county selected to host a regional facility and shall elect a chairman and vice chairman from among its members. In the absence of the chairman, the vice chairman shall serve.

Public information.

(b) All meetings of the Commission shall be open to the public with at least 14 days' advance notice, except that the chairman may convene an emergency meeting with less advance notice. Each municipality and county selected to host a regional facility shall be specifically notified in advance of all Commission meetings. All meetings of the Commission shall be conducted in a manner that substantially conforms to the Administrative Procedure Act (5 U.S.C. Chapter 5, Subchapter II, and Chapter 7). The Commission may, by a two-thirds vote, including approval of a majority of each host state's Commission members, hold an Executive Session closed to the public for the purpose of: considering or discussing legally privileged or proprietary information; to consider dismissal, disciplining of or hearing complaints or charges brought against an employee or other public agents unless such person requests such public hearing; or to consult with its attorney regarding information or strategy in connection with specific litigation. The reason for the Executive Session must be announced at least 14 days prior to the Executive Session, except that the chairman may convene an emergency meeting with less advance notice, in which case the reason for the Executive Session must be announced at the open meeting immediately subsequent to the Executive Session. All action taken in violation of this open meeting shall be null and void.

Records.
Public Information.

(c) Detailed written minutes shall be kept of all meetings of the Commission. All decisions, files, records and data of the Commission, except for information privileged against introduction in judicial proceedings, personnel records and minutes of a properly convened Executive Session, shall be open to public inspection subject to a procedure that substantially conforms to the Freedom of Information Act (Public Law 89-554, 5 USC section552) and applicable Pennsylvania law and may be copied upon request and payment of fees which shall be no higher than necessary to recover copying costs.

(d) The Commission shall select an appropriate staff, including an Executive Director, to carry out the duties and functions assigned by the Commission. Notwithstanding any other provision

of law, the Commission may hire and/or retain its own legal counsel.

(e) Any person aggrieved by a final decision of the Commission which adversely affects the legal rights, duties or privileges of such person may petition a court of competent jurisdiction, within 60 days after the Commission's final decision, to obtain judicial review of said final decisions.

(f) Liabilities of the Commission shall not be deemed liabilities of the party states. Members of the Commission shall not be personally liable for actions taken in their official capacity.

(B) Powers and Duties.

The Commission:

Regulations. Research and development.

(a) Shall conduct research and establish regulations to promote a reasonable reduction of volume and curie content of low-level wastes generated in the region. The regulations shall be reviewed and, if necessary, revised by the Commission at least annually.

(b) Shall ensure, to the extent authorized by Federal law, that low-level wastes are safely disposed of within the region except that the Commission shall have no power or authority to license, regulate or otherwise develop a regional facility, such powers and authority being reserved for the host state(s) as permitted under the law.

(c) Shall designate as "host states" any party state which generates 25 percent or more of Pennsylvania's volume or total curie content of low-level waste generated based on a comparison of averages over three successive years, as determined by the Commission. This determination shall be based on volume or total curie content, whichever is greater.

(d) Shall ensure, to the extent authorized by Federal law, that low-level waste packages brought into the regional facility for disposal conform to applicable state and Federal regulations. Low-level waste brokers or generators who violate these regulations will be subject to a fine or other penalty imposed by the Commission, including restricted access to a regional facility. The Commission may impose such fines and/or penalties in addition to any other penalty levied by the party states pursuant to Article 4(D).

(e) Shall establish such advisory committees as it deems necessary for the purpose of advising the Commission on matters pertaining to the management and disposal of low-level waste.

Contracts.

(f) May contract to accomplish its duties and effectuate its powers subject to projected available resources. No contract made by the Commission shall bind a party state.

(g) Shall prepare contingency plans for management and disposal of low-level waste in the event any regional facility should be closed or otherwise unavailable.

Records.

(h) Shall examine all records of operators of regional facilities pertaining to operating costs, profits or the assessment or collection of any charge, fee or surcharge and may make recommendations to the host state(s) which shall review the recommendations in accordance with its (their) own sovereign laws.

(i) Shall have the power to sue and be sued subject to Article (2)(A)(5)(e) and may seek to intervene in any administrative or judicial proceeding.

(j) Shall assemble and make available, to the party states and to the public, information concerning low-level waste management and disposal needs, technologies, and problems.

Records. (k) Shall keep current and annual inventories of all generators by name and quantity of low-level waste generated within the region, based upon information provided by the party states. Inventory information shall include both volume in cubic feet and total curie content of the low-level waste and all available information on chemical composition and toxicity of such wastes.

Records. (l) Shall keep an inventory of all regional facilities and specialized facilities, including, but not necessarily restricted to, information on their size, capacity and location, as well as specific wastes capable of being managed, and the projected useful life of each regional facility.

Reports. (m) Shall make and publish an annual report to the governors of the signatory party states and to the public detailing its programs, operations and finances, including copies of the annual budget and the independent audit required by this compact.

Contracts. (n) Notwithstanding any other provision of this compact to the contrary, may, with the unanimous approval of the Commission members of the host state(s), enter into temporary agreements with non-party states or other regional boards for the emergency disposal of low-level waste at the regional facility, if so authorized by law(s) of the host state(s), or other disposal facilities located in states that are not parties to this agreement.

Regulations. (o) Shall promulgate regulations, pursuant to host state law, to specifically govern and define exactly what would constitute an emergency situation and exactly what restrictions and limitations would be placed on temporary agreements.

(p) Shall not accept any donations, grants, equipment, supplies, materials or services, conditional or otherwise, from any source, except from any Federal agency and from party states which are certified as being legal and proper under the laws of the donating party state.

(C) Budget and Operation.

(1) Fiscal Year–The Commission shall establish a fiscal year which conforms to the fiscal year of the Commonwealth of Pennsylvania.

(2) Current Expense Budget–Upon legislative enactment of this compact by two party states and each year until the regional facility becomes available, the Commission shall adopt a current expense budget for its fiscal year. The budget shall include the Commission's estimated expenses for administration. Such expenses shall be allocated to the party states according to the following formula:

Each designated initial host state will be allocated costs equal to twice the costs of the other party states, but such costs will not exceed $200,000.

Each remaining party state will be allocated a cost of one half the cost of the initial host state, but such cost will not exceed $100,000.

The party states will include the amounts allocated above in their respective budgets, subject to such review and approval as may be required by their respective budgetary processes. Such

amounts shall be due and payable to the Commission in quarterly installments during the fiscal year.

(3) Annual Budget Request–For continued funding of its activities, the Commission shall submit an annual budget request to each party state for funding, based upon the percentage of the region's waste generated in each state in the region, as reported in the latest available annual inventory required under Article 2(B)(k). The percentage of waste shall be based on volume of waste or total curie content as determined by the Commission.

(4) Annual Report to Include Budget–The Commission shall prepare and include in the annual report a budget showing anticipated receipts and disbursements for the ensuing year.

(5) Annual Independent Audit–

(a) As soon as practible after the closing of the fiscal year, an audit shall be made of the financial accounts of the Commission. The audit shall be made by qualified certified public accountants selected by the Commission, who have no personal direct or indirect interest in the financial affairs of the Commission or any of its officers or employees.

Reports.

The report of audit shall be prepared in accordance with accepted accounting practices and shall be filed with the chairman and such other officers as the Commission shall direct. Copies of the report shall be distributed to each Commission member and shall be made available for public distribution.

Public information.

(b) Each signatory party, by its duly authorized officers, shall be entitled to examine and audit at any time all of the books, documents, records, files and accounts and all other papers, things or property of the Commission. The representatives of the signatory parties shall have access to all books, documents, records, accounts, reports, files and all other papers, things or property belonging to or in use by the Commission and necessary to facilitate the audit; and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents and custodians.

ARTICLE III–RIGHTS, RESPONSIBILITIES AND OBLIGATIONS OF PARTY STATES

(A) Regional Facilities.

There shall be regional facilities sufficient to dispose of the low-level waste generated within the region. Each regional facility shall be capable of disposing of such low-level waste but in the form(s) required by regulations or license conditions. Specialized facilities for particular types of low-level waste management, reduction or treatment may not be developed in any party state unless they are in accordance with the laws and regulations of such state and applicable Federal laws and regulations.

(B) Equal Access to Regional Facilities.

Public health and safety.

Each party state shall have equal access as other party states to regional facilities located within the region and accepting low-level waste, provided, however, that the host state may close the regional facility located within its borders when necessary for public health and safety. However, a host state shall send notification to the Commission in writing

within three (3) days of this action and shall, within thirty (30) working days, provide in writing the reasons for the closing.

(C) Initial Host State.

Pennsylvania and party states which generate 25 percent or more of the volume or curies of low-level waste generated by Pennsylvania, based on a comparison of averages over the three years 1982 through 1984, are designated as "initial host states" and are required to develop and host low-level waste sites as regional facilities. The percentage of waste from each state shall be determined by cubic foot volume or total curie content, whichever is greater.

(D) Exemption From Being Initial Host State.

Party states which generate less than 25 percent of the volume or curies of low-level waste generated by Pennsylvania, based on a comparison of averages over the years 1982 through 1984, shall be exempt from initial host state responsibilities. These states shall continue to be exempt as long as they generate less that 25 percent threshold over successive 3-year periods. Once a state generates an average of 25 percent or more of the volume or curies generated by Pennsylvania over a successive 3-year period, it shall be designated as a "host state" for a 30-year period by the Commission and shall immediately initiate development of a regional facility to be operational within five years. Such host state shall be prepared to accept at its regional facility low-level waste at least equal to that generated in the state. With Commission approval, any party state may volunteer to host a regional facility. The percentage of waste from each state shall be determined by either a cubic foot volume or total curie content, whichever is greater.

(E) Useful Life of Regional Facilities.

Pennsylvania and other host states are obligated to develop regional facilities for the duration of this compact. All regional facilities shall be designed for at least a 30-year useful life. At the end of the facility's life, normal closure and maintenance procedures shall be initiated in accordance with the applicable requirements of the host state and the Federal Government. Each host state's obligation for operating regional facilities shall remain as long as the state continues to produce over a 3-year period 25 percent or more of the volume or curies of low-level waste generated by Pennsylvania.

(F) Duties of Host State.

Each host state shall:

(a) Cause a regional facility to be sited and developed on a timely basis.

Environmental protection. Public health and safety.

(b) Ensure by law, consistent with applicable state and Federal law, the protection and preservation of public health, safety and environmental quality in the siting, design, development, licensure or other regulation, operation, closure, decommissioning, long-term care and the institutional control period of the regional facility within the state. To the extent authorized by Federal law, a host state may adopt more stringent laws, rules or regulations than required by Federal law.

(c) Ensure and maintain a manifest system which documents all waste-related activities of generators, brokers, carriers and related activities of generators, brokers, carriers and operators, and establish the chain of custody of waste from its initial generation to the end of

its hazardous life. Copies of all such manifests shall be submitted to the Commission on a timely basis.

(d) Ensure that charges for disposal of low-level waste at the regional facility are sufficient to fully fund the safe disposal and perpetual care of the regional facility and that charges are assessed without discrimination as to the party state of origin.

Reports.

(e) Submit an annual report to the Commission on the status of the regional facility which contains projections of the anticipated future capacity.

(f) Notify the Commission immediately if any exigency arises requiring the possible temporary or permanent closure of a regional facility within the state at a time earlier than was projected in the state's most recent annual report to the Commission.

(g) Require that the institutional control period of any disposal facility be at least as long as the hazardous life, as defined in Article 1(h), of the radioactive materials that are disposed at that facility.

(h) Prohibit the use of any shallow land burial, as defined in Article 1®), and develop alternative means for treatment, storage and disposal of low-level waste.

(i) Establish by law, to the extent not prohibited by Federal law, requirements for financial responsibility, including, but not limited to:

(i) Requirements for the purchase and maintenance of adequate insurance by generators, brokers, carriers and operators of the regional facility;

(ii) Requirements for the establishment of a long-term care fund to be funded by a fee placed on generators to pay for preventative or corrective measures of low-level waste to the regional facility; and

(iii) Any further financial responsibility requirements that shall be submitted by generators, brokers, carriers and operators as deemed necessary by the host state.

(G) Duties of Party State.

Each party state:

(a) Shall appropriate its portion of the Commission's initial and annual budgets as set out in Article 2(C)(2) and (3).

(b) To the extent authorized by Federal law shall develop and enforce procedures requiring low-level waste shipments originating within its borders and destined for a regional facility to conform to volume reduction, packaging and transportation requirements and regulations as well as any other requirements specified by the regional facility. Such procedures shall include, but are not limited to:

(i) Periodic inspections of packaging and shipping practices;

(ii) Periodic inspections of low-level waste containers while in custody of carriers; and

(iii) Appropriate enforcement actions with respect to violations.

(c) To the extent authorized by Federal law, shall, after receiving notification from a host state or other person that a person in a party state has violated volume reduction, packaging, shipping or transportation requirements or regulations, take appropriate action to ensure that violations do not recur. Appropriate action shall include, but is not limited to, the requirement that a bond be posted by the

violator to pay the cost of repackaging at the regional facility and the requirement that future shipments be inspected. Appropriate action may also include suspension of the violator's use of the regional facility. Should such suspension be imposed, the suspension shall remain in effect until such time as the violator has, to the satisfaction of the party state imposing such suspension, complied with the appropriate requirements or regulations upon which the suspension was based and has taken appropriate action to ensure that such violation or violations do not recur.

Records.

(d) Shall maintain a registry of all generators and quantities generated within the state.

(H) Liability.

In the event of liability arising from the operation of any regional facility and during and after closure of that facility, each party state shall share in that liability in an amount equal to that state's share of the region's low-level waste disposed of at the facility. If such liability arises from negligence, malfeasance or neglect on the part of a host state or any party state, then any other host or party state(s) may make any claim allowable under law for that negligence, malfeasance or neglect. If such liability arises from a particular waste shipment or shipments to, or quantity of waste or condition at, the regional facility, then any host or party state may make any claim allowable under law for such liability. The percentage of waste shall be based on volume of waste or total curie content.

Claims.

(I) Failure of Party State to Fulfill Obligations.

A party state which fails to fulfill its obligations, including timely funding of the Commission, may have its privileges under the Compact suspended or its membership in the Compact revoked by the Commission and be subject to any other legal equitable remedies available to the party states.

ARTICLE IV–PROHIBITED ACTS AND PENALTIES

(A) Prohibition.

It shall be unlawful for any person to dispose of low-level waste within the region except at a regional facility unless authorized by the Commission.

(B) Waste Disposed of Within Region.

After establishment of the regional facility(s), it shall be unlawful for any person to dispose of any low-level waste within the region unless the waste was generated within the region or unless authorized to do so both by the Commission and by law of the host state in which said disposal takes place. For the purpose of this compact, waste generated within the region excludes radioactive material shipped from outside the party states to a waste management facility within the region. In determining whether to grant such authorization, the factors to be considered by the Commission shall include, but not be limited to, the following:

Public health and safety.
Environmental protection.

(a) The impact on the health, safety and environmental quality of the citizens of the party states;

(b) The impact of importing waste on the available capacity and projected life of the regional facility;

(c) The availability of a regional facility appropriate for the safe disposal of the type of low-level waste involved.

(C) Waste Generated Within Region.

Any and all low-level waste generated within the region shall be disposed of at a regional facility, except for specific cases agreed upon by the Commission, with the affirmative votes by a majority of the Commission members of the host state(s) affected by the decision.

(D) Liability.

Generators, brokers and carriers of wastes, and owners and operators of sites shall be liable for their acts, omissions, conduct or relationships in accordance with all laws relating thereto. The party states shall impose a fine for any violation in an amount equal to the present and future costs associated with correcting any harm caused by the violation and shall assess punitive fines or penalties if it is deemed necessary. In addition, the host state shall bar any person who violates host state or Federal regulations from using the regional facility until that person demonstrates to the satisfaction of the host state the ability and willingness to comply with the law.

(E) Conflict of Interest.

(1) Prohibitions–

No commissioner, officer or employee shall:

(a) Be financially interested, either directly or indirectly, in a contract, sale, purchase, lease or transfer of real or personal property to which the Commission is a party.

(b) Solicit or accept money or any other thing of value in addition to the expenses paid to him by the Commission for services performed within the scope of his official duties.

(c) Offer money or anything of value for or in consideration of obtaining an appointment, promotion or privilege in his employment with the Commission.

Employment and unemployment.

(2) Forfeiture of Office or Employment–Any officer or employee who shall willfully violate any of the provisions of this section shall forfeit his office or employment.

Contracts.

(3) Agreement Void–Any contract or agreement knowingly made in contravention of this section is void.

(4) Criminal and Civil Sanctions–

Officers and employees of the Commission shall be subject, in addition to the provisions of this section, to such criminal and civil sanctions for misconduct in office as may be imposed by Federal law and the law of the signatory state in which such misconduct occurs.

ARTICLE V–ELIGIBILITY, ENTRY INTO EFFECT, CONGRESSIONAL CONSENT, WITHDRAWAL

(A) Eligibility.

Delaware.
Maryland
Pennsylvania.
West Virginia.

Only the States of Pennsylvania, West Virginia, Delaware and Maryland are eligible to become parties to this compact.

(B) Entry into Effect.

An eligible state may become a party state by legislative enactment of this compact or by executive order of the governor adopting this compact; provided, however, a state becoming a party state by executive order shall cease to be a party state upon adjournment of the first federal session of its legislature convened thereafter, unless the legislature shall have enacted this compact before such adjournment.

(C) Congressional Consent.

Effective dates.

This compact shall take effect when it has been enacted by the legislatures of Pennsylvania and one or more eligible states. However, Article 4 (B) and (C) shall not take effect until Congress has consented to this compact. Every fifth year after such consent has been given, Congress may withdraw consent.

(D) Withdrawal.

A party state may withdraw from the compact by repealing the enactment of this compact, but no such withdrawal shall become effective until two years after enactment of the repealing legislation. If the withdrawing state is a host state, any regional facility in that state shall remain available to receive low-level waste generated within the region until five years after the effective date of the withdrawal.

ARTICLE VI–CONSTRUCTION AND SEVERABILITY

(A) Construction.

The provisions of this compact shall be broadly construed to carry out the purposes of the compact, but the sovereign powers of a party state shall not unnecessarily be infringed.

(B) Severability.

If any part or application of this compact is held invalid, the remainder, or its application to other situations or persons, shall not be affected.

Approved May 19, 1988

SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT ACT

Public Law 100-712 **102 Stat. 4773**

Nov. 23, 1988

An Act

Southwestern Low-Level Radioactive Waste Disposal Compact Consent Act.

To grant the consent of the Congress to the Southwestern Low-Level Radioactive Waste Disposal Compact.

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

Sec. 1. Short Title.

42 USC 2021d note.

This Act may be cited as the "Southwestern Low-Level Radioactive Waste Disposal Compact Consent Act."

Sec. 2. Congressional Finding.

Environmental protection.

42 USC 2021d note.

The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act.

Sec. 3. Conditions of Consent to Compact.

42 USC 2021d note.

The consent of the Congress to the compact set forth in section 5–

(1) shall become effective on the date of the enactment of this Act;

(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act; and

(3) is granted only for so long as the regional commission established in the compact complies with all of the provisions of such Act.

Sec. 4. Congressional Review.

42 USC 2021d note.

The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of enactment of this Act, and at such intervals thereafter as may be provided in such compact.

Sec. 5. Southwestern Low-Level Radioactive Waste Compact.

State listing.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 USC 2021d(a)(2)), the consent of Congress is given to the states of Arizona, California, and any eligible states, as defined in article VII of the Southwestern Low-Level Radioactive Waste Disposal Compact, to enter into such compact. Such compact is substantially as follows:

ARTICLE I–COMPACT POLICY AND FORMATION

The party states hereby find and declare all of the following :

(A) The United States Congress, by enacting the Low-Level Radioactive Waste Policy Act, Public Law 96-573, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 USC section 2021b to 2021j, incl.), has encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level radioactive waste.

(B) It is the purpose of this compact to provide the means for such a cooperative effort between or among party states to protect the citizens of the states and the states' environments.

(C) It is policy of party states to this compact to encourage the reduction of the volume of low-level radioactive waste requiring disposal within the compact region.

Public health and safety.

(D) It is the policy of the party states that the protection of the health and safety of their citizens and the most ecological and economical management of low-level radioactive wastes can be accomplished through cooperation of the states by minimizing the amount of handling and transportation required to dispose of these wastes and by providing facilities that serve the compact region.

(E) Each party state, if an agreement state pursuant to section 2021 of Title 42 of the United States Code, or the Nuclear Regulatory Commission if not an agreement state, is responsible for the primary regulation of radioactive materials within its jurisdiction.

ARTICLE II–DEFINITIONS

As used in this compact, unless the context clearly indicates otherwise, the following definitions apply:

(A) “Commission” means the Southwestern Low-Level Radioactive Waste Commission established in article III of this compact.

(B) “Compact region” or “region” means the combined geographical area with the boundaries of the party states.

(C) “Disposal” means the permanent isolation of low-level radioactive waste pursuant to requirements established by the Nuclear Regulatory Commission and the Environmental Protection Agency under applicable laws, or by a party state if the state hosts a disposal facility.

(D) “Generate,” when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

(E) “Generator” means a person whose activity, excluding the management of low-level radioactive waste, results in the production of low-level radioactive waste.

(F) “Host county” means a county, or similar political subdivision of a party state, in which a regional disposal facility is located or being developed.

(G) “Host state” means a party state in which a regional disposal facility is located or being developed. The state of California is the host state under this compact for the first thirty years from the date the California regional disposal facility commences operations.

(H) “Institutional control period” means that period of time in which the facility license is transferred to the disposal site owner in compliance with the appropriate regulations for long-term observation and maintenance following the postclosure period.

(I) “Low-level radioactive waste” means regulated radioactive material that meets all of the following requirements:

(1) The waste is not high-level radioactive waste, spent nuclear fuel, or by-product material (as defined in section 11e(2) of the Atomic Energy Act of 1954 (42 USC section 2014(e)(2)).

(2) The waste is not uranium mining or mill tailings.

(3) The waste is not any waste for which the Federal Government is responsible pursuant to subdivision (b) of section 3 of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 USC section 2021c(b)).

(4) The waste is not an alpha emitting transuranic nuclide with a half-life greater than five years and with a concentration greater than one hundred nanocuries per gram, or plutonium-241 with a concentration greater than three thousand five hundred nanocuries per gram, or curium-242 with a concentration greater than twenty thousand nanocuries per gram.

(J) “Management” means collection, consolidation, storage, packaging, or treatment.

(K)”Major generator state” means a party state which generates 10 percent of the total amount of low-level radioactive waste produced within the compact region and disposed of at the regional disposal facility. If no party state other than California generates at least ten percent of the total amount, “Major generator state” means the party state which is second to California in the amount of waste produced within the compact region and disposed of at the regional disposal facility.

(L) “Operator” means a person who operates a regional disposal facility.

(M) “Party state” means any state that has become a party in accordance with article VII of this compact.

(N) “Person” means an individual, corporation, partnership, or other legal entity, whether public or private.

(O) “Postclosure period” means that period of time after completion of closure of a disposal facility during which the licensee shall observe, monitor, and carry out necessary maintenance and repairs at the disposal facility to assure that the disposal facility will remain stable and will not need ongoing active maintenance. This period ends with the beginning of the institutional control period.

(P) “Regional disposal facility” means a non-Federal low-level radioactive waste disposal facility established and operated under this compact.

(Q) “Site closure and stabilization” means the activities of the disposal facility operator taken at the end of the disposal facility’s operating life to assure the continued protection of the public from any residual radioactive or other potential hazards present at the disposal facility.

®) “Transporter” means a person who transports low-level radioactive waste.

(S) “Uranium mine and mill tailings” means waste resulting from mining and processing of ores containing uranium.

ARTICLE III–THE COMMISSION

Establishment.

(A) There is hereby established the Southwestern Low-Level Radioactive Waste Commission.

(1) The Commission shall consist of one voting member from each party state to be appointed by the governor, confirmed by the senate of that party state, and to serve at the pleasure of the governor of each party state, and one voting member from the host county. The appointing authority of each party state shall notify the Commission in writing of the identity of the member and any alternates. An alternate may act in the member’s absence.

(2) The host state shall also appoint that number of additional voting members of the Commission which is necessary for the host state’s members to compose at least 51 percent of the membership on the Commission. The host state’s additional members shall be appointed by the host state governor and confirmed by the host state senate.

If there is more than one host state, only the state in which is located the regional disposal facility actively accepting low-level radioactive waste pursuant to this compact may appoint these additional members.

(3) If the host county has not been selected at the time the Commission is appointed, the governor of the host state shall appoint an interim local government member, who shall be an elected representative of a local government. After a host county is selected, the interim local government member shall resign and the governor shall appoint the host county member pursuant to paragraph (4).

(4) The governor shall appoint the host county member from a list of at least seven candidates compiled by the board of supervisors of the host county.

(5) In recommending and appointing the host county member pursuant to paragraph (4), the board of supervisors and the governor shall give first consideration to recommending and appointing the members of the board of supervisors in whose district the regional disposal facility is located or being developed. If the board of supervisors of the host county does not provide a list to the governor of at least seven candidates from which to choose, the governor shall appoint a resident of the host county as the host county member.

(6) The host county member is subject to confirmation by the senate of that party and shall serve at the pleasure of the governor of the host state.

(B) The Commission is a legal entity separate and distinct from the party states and shall be so liable for its actions. Members of the Commission shall not be personally liable for actions taken in their official capacity. The liabilities of the Commission shall not be deemed liabilities of the party states.

(C) The Commission shall conduct its business affairs pursuant to the laws of the host state and disputes arising out of Commission action shall be governed by the laws of the host state. The Commission shall be located in the capital city of the host state in which the regional disposal facility is located.

Public information. Records.

(D) The Commission's records shall be subject to the host state's public records law, and the meetings of the Commission shall be open and public in accordance with the host state's open meeting law.

(E) The Commission members are public officials of the appointing state and shall be subject to the conflict of interest laws, as well as any other law, of the appointing state. The Commission members shall be compensated according to the appointing state's law.

(F) Each Commission member is entitled to one vote. A majority of the Commission constitutes a quorum. Unless otherwise provided in this capacity, a majority of the total number of votes on the Commission is necessary for the Commission to take any action.

(G) The Commission has all of the following duties and authority:

(1) The Commission shall do, pursuant to the authority granted by this compact, whatever is reasonably necessary to ensure that low-level radioactive wastes are safely disposed of and managed within the region.

(2) The Commission shall meet at least once a year and otherwise as business requires.

(3) The Commission shall establish a compact surcharge to be imposed upon party state generators. The surcharge shall be based upon the cubic feet of low-level radioactive waste and the radioactivity of the low-level radioactive waste and shall be collected by the operator of the disposal facility.

The host state shall set, and the Commission shall impose, the surcharge after congressional approval of the compact. The amount of the surcharge shall be sufficient to establish and maintain at a reasonable level funds for all of the following purposes:

(a) The activities of the Commission and Commission staff.

(b) At the discretion of the host state, a third-party liability fund to provide compensation for injury to persons or property during the operational, closure, stabilization, and postclosure and institutional control periods of the regional disposal facility. This subparagraph does not limit the responsibility or liability of the operator, who shall comply with any federal or host state statutes or regulations regarding third-party liability claims.

(c) A local government reimbursement fund, for the purpose of reimbursing the local government entity or entities hosting the regional disposal facility for any costs or increased burdens on the local governmental entity for services, including, but not limited to, general fund expenses, the improvement and maintenance of roads and bridges, fire protection, law enforcement, monitoring by local health officials, and emergency preparation and response related to the hosting of the regional disposal facility.

(4) The surcharges imposed by the Commission for purposes of subparagraphs (b) and (c) of paragraph (3) and surcharges pursuant to paragraph (3) of subdivision (E) of article IV shall be transmitted on a monthly basis to the host state for distribution to the proper accounts.

(5) The Commission shall establish a fiscal year which conforms to the fiscal years of the party states to the extent possible.

Records.

(6) The Commission shall keep an accurate account of all receipts and disbursements. An annual audit of the books of the Commission shall be conducted by an independent certified public accountant, and the audit report shall be made a part of the annual report of the Commission.

Reports.

(7) The Commission shall prepare and include in the annual report a budget showing anticipated receipts and disbursements for the subsequent fiscal year.

Gifts and property.

(8) The Commission may accept any grants, equipment, supplies, materials, or services, conditional or otherwise, from the federal or state government. The nature, amount and condition, if any, of any donation, grant or other resources accepted pursuant to this paragraph and the identity of the donor or grantor shall be detailed in the annual report of the Commission.

However, the host state shall receive, for the uses specified in subparagraph (E) of paragraph (2) of subsection (d) of section 2021e of Title 42 of the United States Code, any payments paid from the special escrow account for which the Secretary of Energy is trustee pursuant to subparagraph (A) of paragraph (2) of subsection (d) of section 2021e of Title 42 of the United States Code.

Reports.

(9) The Commission shall submit communications to the governors to the presiding officers of the legislatures of the party states regarding the activities of the Commission, including an annual report to be submitted on or before January 15 of each year. The Commission shall include in the annual report a review of, and recommendations for, low-level radioactive waste disposal methods which are alternative technologies to the shallow land burial of low-level radioactive waste.

Public information.

(10) The Commission shall assemble and make available to the party states, and to the public, information concerning low-level radioactive waste management needs, technologies, and problems.

Records.

(11) The Commission shall keep a current inventory of all generators within the region, based upon information provided by the party states.

Records.

(12) The Commission shall keep a current inventory of all regional disposal facilities, including information on the size, capacity, location, specific low-level radioactive wastes capable of being managed, and the projected useful life of each regional disposal facility.

(13) The Commission may establish advisory committees for the purpose of advising the Commission on the disposal and management of low-level radioactive waste.

(14) The Commission may enter into contracts to carry out its duties and authority, subject to projected resources. No contract made by the Commission shall bind a party state.

(15) The Commission shall prepare contingency plans, with the cooperation and approval of the host state, for the disposal and management of low-level radioactive waste in the event that any regional disposal facility should be closed.

(16) The Commission may sue and be sued and, when authorized by a majority vote of the members, may seek to intervene in an administrative or judicial proceeding related to this compact.

(17) The Commission shall be managed by an appropriate staff, including an executive director. Notwithstanding any other provision of law, the Commission may hire or retain, or both, legal counsel.

(18) The Commission may, subject to applicable federal and state laws, recommend to the appropriate host state authority suitable land and rail transportation routes for low-level radioactive waste carriers.

(19) The Commission may enter into an agreement to import low-level radioactive waste into the region only if both of the following requirements are met–

(a) The Commission approves the importation agreement by a two-thirds vote of the Commission.

(b) The Commission and the host state assess the affected regional disposal facilities' capability to handle imported low-level radioactive wastes and any relevant environmental or economic factors, as defined by the host state's appropriate regulatory authorities.

(20) The Commission may, upon petition, allow an individual generator, a group of generators, or the host state of the compact, to export low-level radioactive wastes to a low-level radioactive waste disposal facility located outside the region. The Commission may approve the petition only by a two-thirds vote of the Commission. The permission to export low-level radioactive wastes shall be effective for that period of time and for the amount of low-level radioactive waste, and subject to any other term or condition, which may be determined by the Commission.

(21) The Commission may approve, only by a two-thirds vote of the Commission, the exportation outside the region of material, which otherwise meets the criteria of low-level radioactive waste, if the sole purpose of the exportation is to process the material for recycling.

(22) The Commission shall, not later than 10 years before the closure of the initial or subsequent regional disposal facility, prepare a plan for the establishment of the next regional disposal facility.

ARTICLE IV–RIGHTS, RESPONSIBILITIES, AND OBLIGATIONS OF PARTY STATES

(A) There shall be regional disposal facilities sufficient to dispose of the low-level radioactive waste generated within the region.

(B) Low-level radioactive waste generated within the region shall be disposed of at regional disposal facilities and each party state shall have access to any regional disposal facility without discrimination.

(C)(1) Upon the effective date of this compact, the State of California shall serve as the host state and shall comply with the requirements of subdivision (E) for at least 30 years from the date the regional disposal facility begins to accept low-level radioactive waste for disposal. The extension of the obligation and duration shall be at the option of the State of California.

If the State of California does not extend this obligation, the party state, other than the State of California, which is the largest major generator state shall then serve as the host state for the second regional disposal facility.

The obligation of a host state which hosts the second regional disposal facility shall also run for thirty years from the date the second regional disposal facility begins operations.

Public health and safety.

(2) The host state may close its regional disposal facility when necessary for public health or safety.

(D) The party states of this compact cannot be members of another regional low-level radioactive waste compact entered into pursuant to the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 USC sections 2021b to 2021j, incl.).

(E) A host state shall do all of the following:

(1) Cause a regional disposal facility to be developed on a timely basis.

Public health and safety.

(2) Ensure by law, consistent with any applicable federal laws, the protection and preservation of public health and safety in the siting, design, development, licensing, regulation, operation, closure, decommissioning, and long-term care of the regional disposal facilities within the state.

(3) Ensure that charges for disposal of low-level radioactive waste at the regional disposal facility are reasonably sufficient to do all of the following:

(a) Ensure the safe disposal of low-level radioactive waste and long-term care of the regional disposal facility.

(b) Pay for the cost of inspection, enforcement, and surveillance activities at the regional disposal facility.

(c) Assure that charges are assessed without discrimination as to the party state of origin.

Reports.

(4) Submit an annual report to the Commission on the status of the regional disposal facility including projections of the facility's anticipated future capacity.

(5) The host state and the operator shall notify the Commission immediately upon the occurrence of any event which could cause a possible temporary or permanent closure of a regional disposal facility.

Commerce and trade.
Transportation.
Utilities.

(F) Each party state is subject to the following duties and authority:

(1) To the extent authorized by federal law, each party state shall develop and enforce procedures requiring low-level radioactive waste shipments originating within its borders and destined for a regional disposal facility to conform to packaging and transportation requirements and regulations. These procedures shall include, but are not limited to, all of the following requirements:

(a) Periodic inspections of packaging and shipping practices.

(b) Periodic inspections of low-level radioactive waste containers while in the custody of transporters.

(c) Appropriate enforcement actions with respects to violations.

(2) A party state may impose a surcharge on the low-level radioactive waste generators within the state to pay for activities required by paragraph (1).

(3) To the extent authorized by federal law, each party state shall, after receiving notification from a host state that a person in a party state has violated packaging, shipping, or transportation requirements or regulations, take appropriate actions to ensure that these violations do not continue. Appropriate actions may include, but are not limited to, requiring that a bond be posted by the violator to pay the cost of repackaging at the regional disposal facility and prohibit future shipments to the regional disposal facility.

Records.

(4) Each party state shall maintain a registry of all generators within the state that may have low-level radioactive waste to be disposed of at a regional disposal facility, including, but not limited to, the amount of low-level radioactive waste and the class of low-level radioactive waste generated by each generator.

(5) Each party state shall encourage generators within its borders to minimize the volume of low-level radioactive waste requiring disposal.

(6) Each party state may rely on the good faith performance of the other party states to perform those acts which are required by this compact to provide regional disposal facilities, including the use of the regional disposal facilities in a manner consistent with this compact.

(7) Each party state shall provide the Commission with any data and information necessary for the implementation of the Commission's responsibilities, including taking those actions necessary to obtain this data or information.

(8) Each party state shall agree that only low-level radioactive waste generated within the jurisdiction of the party states shall be disposed of in the regional disposal facility, except as provided in paragraph (19) of subdivision (G) of article III.

(9) Each party state shall agree that if there is any injury to persons or property resulting from the operation of a regional disposal facility, the damages resulting from the injury may be paid from the third-party liability fund pursuant to subparagraph (b) of paragraph (3) of subdivision (G) of article III, only to the extent that the damages exceed the limits of liability insurance carried by the operator. No party state, by joining this compact, assumes any liability resulting

from the siting, operation, maintenance, long-term care, or other activity relating to a regional facility, and no party state shall be liable for any harm or damage resulting from a regional facility not located within the state.

ARTICLE V–APPROVAL OF REGIONAL FACILITIES

A regional disposal facility shall be approved by the host state in accordance with its laws. This compact does not confer any authority on the Commission regarding the siting, design, development, licensing, or other regulation, or the operation, closure, decommissioning, or long-term care of, any regional disposal facility within a party state.

ARTICLE VI–PROHIBITED ACTS AND PENALTIES

(A) No person shall dispose of low-level radioactive waste within the region unless the disposal is at a regional disposal facility, except as otherwise provided in paragraphs (20) and (21) of subdivision (G) of article III.

(B) No person shall dispose of or manage any low-level radioactive waste within the region unless the low-level radioactive waste was generated within the region, except as provided in paragraphs (19), (20), and (21) of subdivision (G) of article III.

(C) Violations of this section shall be reported to the appropriate law enforcement agency within the party state's jurisdiction.

(D) Violations of this section may result in prohibiting the violator from disposing of low-level radioactive waste in the regional disposal facility, as determined by the Commission or the host state.

ARTICLE VII–ELIGIBILITY, ENTRY INTO EFFECT, CONGRESSIONAL CONSENT, WITHDRAWAL, EXCLUSION

(A) The States of Arizona, North Dakota, South Dakota, and California are eligible to become parties to this compact. Any other state may be made eligible by a majority vote of the Commission and ratification by the legislatures of all of the party states by statute, and upon compliance with those terms and conditions for eligibility which the host state may establish. The host state may establish all terms and conditions for the entry of any state, other than the states named in this subparagraph, as a member of this compact.

(B) Upon compliance with the other provisions of this compact, an eligible state may become a party state by legislative enactment of this compact or by executive order of the governor of the state adopting this compact. A state becoming a party state by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened after the executive order is issued, unless before the adjournment the legislature enacts this compact.

(C) A party state, other than the host state, may withdraw from the compact by repealing the enactment of this compact, but this withdrawal shall not become effective until two years after the effective date of the repealing legislation. If a party state which is a major generator of low-level radioactive waste voluntarily withdraws from the compact pursuant to this subdivision, that state shall make arrangements for the

disposal of the other party states' low-level radioactive waste for a time period equal the period of time it was a member of this compact.

If the host state withdraws from the compact, the withdrawal shall not become effective until five years after the effective date of the repealing legislation.

(D) A party state may be excluded from this compact by a two-thirds vote of the Commission members, acting in a meeting, if the state to be excluded has failed to carry out any obligations required by compact.

Effective date.

(E) This compact shall take effect upon the enactment by statute by the legislatures of the State of California and at least 1 other eligible state and upon the consent of Congress and shall remain in effect until otherwise provided by federal law. This compact is subject to review by Congress and the withdrawal of the consent of Congress every 5 years after its effective date, pursuant to federal law.

ARTICLE VIII–CONSTRUCTION AND SEVERABILITY

(A) The provisions of this compact shall be broadly construed to carry out the purposes of the compact, but the sovereign powers of a party state shall not be infringed unnecessarily.

(B) This compact does not affect any judicial proceeding pending on the effective date of this compact.

(C) If any provision of this compact or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provision or applications of the compact which can be given effect without the invalid provision or application, and to this end the provisions of this compact are severable.

(D) Nothing in this compact diminishes or otherwise impairs the jurisdiction, authority, or discretion of either of the following:

(1) The Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended (42 USC section 2011 *et seq*.).

(2) An agreement state under section 274 of the Atomic Energy Act of 1954, as amended (42 USC section 2021).

(E) Nothing in this compact confers any new authority on the states or Commission to do any of the following:

(1) Regulate the packaging or transportation of low-level radioactive waste in a manner inconsistent with the regulations of the Nuclear Regulatory Commission or the United States Department of Transportation.

(2) Regulate health, safety, or environmental hazards from source, by-product, or special nuclear material.

(3) Inspect the activities of licensees of the agreement states or of the Nuclear Regulatory Commission.

Approved November 23, 1988

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT ACT

Public Law 105-236 **112 Stat. 1542**

September 20, 1998

An Act

To grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact.

Texas Low-Level Radioactive Waste Disposal Compact Consent Act.

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

Sec. 1. Short Title.

42 USC 2021d note.

This Act may be cited as the "Texas Low-Level Radioactive Waste Disposal Compact Consent Act."

Sec. 2. Congressional Finding.

42 USC 2021d note.

The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act (42 USC 2021b et seq.).

Sec. 3. Conditions of Consent to Compact.

42 USC 2021d note.
Effective date.

The Consent of the Congress to the compact set forth in section 5–

(1) shall become effect on the date of the enactment of this Act;

(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act (42 USC 2021b et seq.); and

(3) is granted only for so long as the regional commission established in the compact complies with all of the provisions of such Act.

Sec. 4. Congressional Review.

42 USC 2021d note.

The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of the enactment of this Act, and at such intervals thereafter as may be provided in such compact.

Sec. 5. Texas Low-Level Radioactive Waste Compact.

42 USC 2021d note.
Maine, Vermont.

(a) CONSENT OF CONGRESS.–In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 USC 2021d(a)(2)), the consent of Congress is given to the States of Texas, Maine, and Vermont to enter into the compact set forth in subsection (b).

ARTICLE I. POLICY AND PURPOSE

SEC. 1.01. The party states recognize a responsibility for each state to seek to manage low-level radioactive waste generated within its boundaries, pursuant to the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 USC 2021b-2021j). They also recognize that the United States Congress, by enacting the Act, has authorized and encouraged states to enter into compacts for the efficient management and disposal of low-level radioactive water. It is the policy of the party states to cooperate in the protection of the health, safety, and welfare of their citizens and the environment and to provide for and encourage the economical

management and disposal of low-level radioactive waste. It is the purpose of this compact to provide the framework for such a cooperative effort; to promote the health, safety, and welfare of the citizens and the environment of the party states; to limit the number of facilities needed to effectively, efficiently, and economically manage low-level radioactive waste and to encourage the reduction of the generation thereof; and to distribute the costs, benefits, and obligations among the party states; all in accordance with the terms of this compact.

ARTICLE II. DEFINITIONS

SEC. 2.01. As used in this compact, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Act" means the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 USC 2021b-2021j).

(2) "Commission" means the Texas Low-Level Radioactive Waste Disposal compact Commission established in Article III of this compact.

(3) "Compact facility" or "facility" means any site, location, structure, or property located in and provided by the host state for the purpose of management or disposal of low-level radioactive waste for which the party states are responsible.

(4) "Disposal" means the permanent isolation of low-level radioactive waste pursuant to requirements established by the United States Nuclear Regulatory Commission and the United States Environmental Protection Agency under applicable laws, or by the host state.

(5) "Generate" when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

(6) "Generator" means a person who produces or processes low-level radioactive waste in the course of its activities, excluding persons who arrange for the collection, transportation, management, treatment, storage, or disposal of waste generated outside the party states, unless approved by the commission.

(7) "Host county" means a county in the host state in which a disposal facility is located or is being developed.

(8) "Host state" means a party state in which a compact facility is located or is being developed. The State of Texas is the host state under this compact.

(9) "Institutional control period" means that period of time following closure of the facility and transfer of the facility license from the operator to the custodial agency in compliance with the appropriate regulations for long-term observation and maintenance.

(10) "Low-Level radioactive waste" has the same meaning as that term is defined in section 2(9) of the Act (42 USC 2021b(9)), or in the host state statute so long as the waste is not incompatible with management and disposal at the compact facility.

(11) "Management" means collection, consolidation, storage, packaging, or treatment.

(12) "Operator" means a person who operates a disposal facility.

(13) “Party state” means any state that has become a party in accordance with Article VII of this compact. Texas, Maine, and Vermont are initial party states under this compact.

(14) “Person” means an individual, corporation, partnership or other legal entity, whether public or private.

(15) “Transporter” means a person who transports low-level radioactive waste.

ARTICLE III. THE COMMISSION

Establishment.

SEC. 3.01. There is hereby established the Texas Low-Level Radioactive Waste disposal Compact Commission. The commission shall consist of one voting member from each party state except that the host state shall be entitled to six voting members. Commission members shall be appointed by the party state governors, as provided by the laws of each party state. Each party state may provide alternates for each appointed member.

SEC. 3.02. A quorum of the commission consists of a majority of the members. Except as otherwise provided in this compact, an official act of the commission must receive the affirmative vote of a majority of its members.

SEC. 3.03. The commission is a legal entity separate and distinct from the party states and has governmental immunity to the same extent as an entity created under the authority of Article XVI, section 59, of the Texas Constitution. Members of the commission shall not be personally liable for actions taken in their official capacity. The liabilities of the commission shall not be deemed liabilities of the party states.

SEC. 3.04. The Commission shall:

(1) Compensate its members according to the host state’s law.

Records.

(2) Conduct its business, hold meetings, and maintain public records pursuant to laws of the host state, except that notice of public meetings shall be given in the non-host party states in accordance with their respective statutes.

(3) Be located in the capital city of the host state.

(4) Meet at least once a year and upon the call of the chair, or any member. The governor of the host state shall appoint a chair and vice-chair.

Records.

(5) Keep an accurate account of all receipts and disbursements. An annual audit of the books of the commission shall be conducted by an independent certified public accountant, and the audit report shall be made a part of the annual report of the commission.

(6) Approve a budget each year and establish a fiscal year that conforms to the fiscal year of the host state.

(7) Prepare, adopt, and implement continency plans for the disposal and management of low-level radioactive waste in the event that the compact facility should be closed. Any plan which requires the host state to store or otherwise manage the low-level radioactive waste from all the party states must be approved by at least four host state members of the commission. The commission, in a contingency plan or otherwise, may not require a non-host party state to store low-level radioactive waste generated outside of the state.

Reports.
Deadlines.

(8) Submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of

the commission, including an annual report to be submitted on or before January 31 of each year.

Public information.

(9) Assembly and make available to the party states, and to the public, information concerning low-level radioactive waste management needs, technologies, and problems.

Records.

(10) Keep a current inventory of all generators within the party states, based upon information provided by the party states.

Deadlines.

(11) By no later than 180 days after all members of the commission are appointed under section 3.01 of this article, establish by rule the total volume of low-level radioactive waste that the host state will dispose of in the compact facility in the years 1995-2045, including decommissioning waste. The shipments of low-level radioactive waste from all non-host party states shall not exceed 20 percent of the volume estimated to be disposed of by the host state during the 50-year period. When averaged over such 50-year period, the total of all shipments from non-host party states shall not exceed 20,000 cubic feet a year. The commission shall coordinate the volumes, timing, and frequency of shipments from generators in the non-host party states in order to assure that over the life of this agreement shipments from the non-host party states do not exceed 20 percent of the volume projected by the commission under this paragraph.

SEC 3.05. The commission may:

(1) Employ staff necessary to carry out its duties and functions. The commission is authorized to use to the extent practicable the services of existing employees of the party states. Compensation shall be as determined by the commission.

(2) Accept any grants, equipment, supplies, materials, or services, conditional or otherwise, from the federal or state government. The nature, amount and condition , if any, of any donation, grant or other resources accepted pursuant to this paragraph and the identity of the donor or grantor shall be detailed in the annual report of the commission.

(3) Enter into contracts to carry out its duties and authority, subject to projected resources. No contract made by the commission shall bind a party state.

(4) Adopt, by a majority vote, bylaws and rules necessary to carry out the terms of this compact. Any rules promulgated by the commission shall be adopted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(5) Sue and be sued and, when authorized by a majority vote of the members, seek to intervene in administrative or judicial proceedings related to this compact.

(6) Enter into an agreement with any person, state, regional body, or group of states for the importation of low-level radioactive waste into the compact for management or disposal, provided that the agreement receives a majority vote of the commission. The commission may adopt such conditions and restrictions in the agreement as it deems advisable.

(7) Upon petition, allow an individual generator, a group of generators, or the host state of the compact, to export low-level waste to a low-level radioactive waste disposal facility located outside the

party states. The commission may approve the petition only by a majority vote of its members. The permission to export low-level radioactive waste shall be effective for that period of time and for the specified amount of low-level radioactive waste, and subject to any other term or condition, as is determined by the commission.

(8) Monitor the exportation outside of the party states of material, which otherwise meets the criteria of low-level radioactive waste, where the sole purpose of the exportation is to manage or process the material for recycling or waste reduction and return it to the party states for disposal in the compact facility.

SEC. 3.06. Jurisdiction and venue of any action contesting any action of the commission shall be in the United States District Court in the district where the commission maintains its office.

ARTICLE IV. RIGHTS, RESPONSIBILITIES, AND OBLIGATIONS OF PARTY

SEC. 4.01. The host state shall develop and have full administrative control over the development, management and operation of a facility for the disposal of low-level radioactive waste generated within the party states. The host state shall be entitled to unlimited use of the facility over its operating life. Use of the facility by the non-host party states for disposal of low-level radioactive waste, including such waste resulting from decommissioning of any nuclear electric generation facilities located in the party states, is limited to the volume requirements of section 3.04(11) of Article III.

SEC. 4.02. Low-level radioactive waste generated within the party states shall be disposed of only at the compact facility, except as provided in section 3.05(7) of Article III.

SEC. 4.03. The initial states of this compact cannot be members of another low-level radioactive waste compact entered into pursuant to the Act.

SEC. 4.04. The host state shall do the following

(1) Cause a facility to be developed in a timely manner and operated and maintained through the institutional control period.

(2) Ensure, consistent with any applicable federal and host state laws, the protection and preservation of the environment and the public health and safety in the siting, design, development, licensing, regulation, operation, closure, decommissioning, and long-term care of the disposal facilities within the host state.

Notification.

(3) Close the facility when reasonably necessary to protect the public health and safety of its citizens or to protect its natural resources from harm. However, the host state shall notify the commission of the closure within three days of its action and shall, within 30 working days of its action, provide a written explanation to the commission of the closure, and implement any adopted contingency plan.

(4) Establish reasonable fees for disposal at the facility of low-level radioactive waste generated in the party states based on disposal fee criteria set out in sections 402,272 and 402,273, Texas Health and Safety Code. The same fees shall be charged for the disposal of low-level radioactive waste that was generated in the host state and in the non-host party states. Fees shall also be sufficient to reasonably support the activities of the Commission.

Reports.

(5) Submit an annual report to the commission on the status of the facility, including projections of the facility's anticipated future capacity, and on the related funds.

Notification.

(6) Notify the Commission immediately upon the occurrence of any event which could cause a possible temporary or permanent closure of the facility and identify all reasonable options for the disposal of low-level radioactive waste at alternate compact facilities or, by arrangement and commission vote, at non-compact facilities.

Notification.

(7) Promptly notify the other party states of any legal action involving the facility.

(8) Identify and regulate, in accordance with federal and host state law, the means and routes of transportation of low-level radioactive waste in the host state.

SEC. 4.05. Each party state shall do the following:

(1) Develop and enforce procedures requiring low-level radioactive waste shipments originating within its borders and destined for the facility to conform to packaging, processing, and waste form specifications of the host state.

(2) Maintain a registry of all generators within the state that may have low-level radioactive waste to be disposed of at a facility, including, but not limited to, the amount of low-level radioactive waste and the class of low-level radioactive waste generated by each generator.

(3) Develop and enforce procedures requiring generators within its borders to minimize the volume of low-level radioactive waste requiring disposal. Nothing in this compact shall prohibit the storage, treatment, or management of waste by a generator.

(4) Provide the commission with any data and information necessary for the implementation of the commission's responsibilities, including taking those actions necessary to obtain this data or information.

(5) Pay for community assistance projects designated by the host county in an amount for each non-host party state equal to 10 percent of the payment provided for in Article V for each such state. One-half of the payment shall be due and payable to the host county on the first day of the month following ratification of this compact agreement by Congress and one-half of the payment shall be due and payable on the first day of the month following the approval of a facility operating license by the host state's regulatory body.

(6) Provide financial support for the commission's activities prior to the date of facility operation and subsequent to the date of congressional ratification of this compact under section 7.07 of Article VII. Each party state will be responsible for annual payments equaling its pro-rata share of the commission's expenses, incurred for administrative, legal, and other purposes of the commission.

(7) If agreed by all parties to a dispute, submit the dispute to arbitration or other alternate dispute resolution process. If arbitration is agreed upon, the governor of each party state shall appoint an arbitrator. If the number of party states is an even number, the arbitrators so chosen shall appoint an additional arbitrator. The determination of a majority of the arbitrators shall be binding on the party states. Arbitration proceedings shall be conducted in accordance

with the provisions of 9 USC sections 1 to 16. If all parties to a dispute do not agree to arbitration or alternate dispute resolution process, the United States District Court in the district where the commission maintains its office shall have original jurisdiction over any action between or among parties to this compact.

(8) Provide on a regular basis to the commission and host state–

(A) an accounting of waste shipped and proposed be shipped to the compact facility, by volume and curies;

(B) proposed transportation methods and routes; and

(C) proposed shipment schedules.

(9) Seek to join in any legal action by or against the host state to prevent nonparty states or generators from disposing of low-level radioactive waste at the facility.

SEC. 4.06. Each party state shall act in good faith and may rely on the good faith performance of the other party states regarding requirements of this compact.

ARTICLE V. PARTY STATE CONTRIBUTIONS

SEC. 5.01. Each party state, except the host state, shall contribute a total of $25 million to the host state. Payments shall be deposited in the host state treasure to the credit of the low-level waste fund in the following manner except as otherwise provided. Not later than the 60th day after the date of congressional ratification of this compact, each non-host party state shall pay to the host state $12.5 million. Not later than the 60th day after the date of the opening of the compact facility, each non-host party state shall pay to the host state an additional $12.5 million.

Deadline.

SEC. 5.02. As an alternative, the host state and the non-host states may provide for payments in the same total amount as stated above to be made to meet the principal and interest expense associated with the bond indebtedness or other form of indebtedness issued by the appropriate agency of the host state for purposes associated with the development, operation, and post-closure monitoring of the compact facility. In the event the member states proceed in this manner, the payment schedule shall be determined in accordance with the schedule of debt repayment. This schedule shall replace the payment schedule described in section 5.01 of this article.

ARTICLE VI. PROHIBITED ACTS AND PENALTIES

SEC. 6.01. No person shall dispose of low-level radioactive waste generated within the party states unless the disposal is at the compact facility, except as otherwise provided in section 3.05(7) of Article III..

SEC. 6.02. No person shall manage or dispose of any low-level radioactive waste within the party states unless the low-level radioactive waste was generated within the party states, except as provided in section 3.05(6) of Article III. Nothing herein shall be construed to prohibit the storage or management of low-level radioactive waste by a generator, nor its disposal pursuant to 10 CFR Part 20.302.

SEC. 6.03. Violations of this article may result in prohibiting the violator from disposing of low-level radioactive waste in the compact facility, or in the imposition of penalty surcharges on shipments to the facility, as determined by the commission.

ARTICLE VII. ELIGIBILITY, ENTRY INTO EFFECT; CONGRESSIONAL CONSENT; WITHDRAWAL; EXCLUSION

SEC. 7.01. The states of Texas, Maine, and Vermont are party states to this compact. Any other state may be made eligible for party status by a majority vote of the commission and ratification by the legislature of the host state, subject to fulfillment of the rights of the initial non-host party states under section 3.04(11) of Article III and section 4.01 of Article IV, and upon compliance with those terms and conditions for eligibility that the host state may establish. The host state may establish all terms and conditions for the entry of any state, other than the states names in this section, as a member of this compact; provided, however, the specific provisions of this compact, except for those pertaining to the composition of the commission and those pertaining to section 7.09 of this article, may not be changed except upon ratification by the legislatures of the party states.

SEC. 7.02. Upon compliance with the other provisions of this compact, a state made eligible under section 7.01 of this article may become a party state by legislative enactment of this compact or by executive order of the governor of the state adopting this compact. A state becoming a party state by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened after the executive order is issued, unless before the adjournment, the legislature enacts this compact.

SEC. 7.03. Any party state may withdraw from this compact by repealing enactment of this compact subject to the provisions herein. In the event the host state allows an additional state or additional states to join the compact, the host state's legislature, without the consent of the non-host party states, shall have the right to modify the composition of the commission so that the host state shall have a voting majority on the commission, provided, however, that any modification maintains the right of each initial party state to retain one voting member on the commission.

Effective Date.

SEC. 7.04. If the host state withdraws from the compact, the withdrawal shall not become effective until five years after enactment of the repealing legislation and the non-host party states may continue to use the facility during that time. The financial obligation of the non-host party states under Article V shall cease immediately upon enactment of the repealing legislation. If the host state withdraws from the compact or abandons plans to operate a facility prior to the date of any non-host party state payment under sections 4.05(5) and (6) of Article IV or Article V, the non-host party states are relieved of any obligations to make the contributions. This section sets out the exclusive remedies for the non-host party states if the host state withdraws from the compact or is unable to develop and operate a compact facility.

Effective date.

SEC. 7.05. A party state, other than the host state, may withdraw from the compact by repealing the enactment of this compact, but this withdrawal shall not become effective until two years after the effective date of the repealing legislation. During this two-year period the party state will continue to have access to the facility. The withdrawing party shall remain liable for any payments under sections 4.05(5) and (6) of Article IV that were due during the two-year period, and shall not be entitled to any refund of payments previously made.

SEC. 7.06. Any party state that substantially fails to comply with the terms of the compact or to fulfill its obligations hereunder may have its membership in the compact revoked by a seven-eighths vote of the commission following notice that a hearing will be scheduled not less than six months from the date of the notice. In all other respects, revocation proceedings undertaken by the commission will be subject to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), except that a party state may appeal the commission's revocation decision to the United States District Court in accordance with section 3.06 of Article III. Revocation shall take effect one year from date such party state receives written notice from the commission of a final action. Written notice of revocation shall be transmitted immediately following the vote of the commission, by the chair, to the governor of the affected party state, all other governors of party states, and to the United States Congress.

Effective date.

Notice.

SEC. 7.07. This compact shall take effect following its enactment under the laws of the host state and any other party state and thereafter upon the consent of the United States Congress and shall remain in effect until otherwise provided by federal law. If Texas and either Maine or Vermont ratify this compact, the compact shall be in full force and effect as to Texas and the other ratifying state, and this compact shall be interpreted as follows:

Effective date.

(1) Texas and the other ratifying state are the initial party states.

(2) The commission shall consist of two voting members from the other ratifying state and six from Texas.

(3) Each party state is responsible for its pro-rata share of the commission's expenses.

SEC. 7.08. This compact is subject to review by the United States Congress and the withdrawal of the consent of Congress every five years after its date, pursuant to federal law.

SEC. 7.09. The host state legislature, with the approval of the governor, shall have the right and authority, without the consent of the non-host party states, to modify the provisions contained in section 3.04(11) of Article III to comply with section 402.219(c)(1), Texas Health & Safety Code, as long as the modification does not impair the rights of the initial non-hose party states.

ARTICLE VIII. CONSTRUCTION AND SEVERABILITY

SEC. 8.01. The provisions of this compact shall be broadly construed to carry out the purposes of the compact, but the sovereign powers of a party shall not be infringed upon unnecessarily.

SEC. 8.02. This compact does not affect any judicial proceeding pending on the effective date of this compact.

SEC. 8.03. No party state acquires any liability, by joining this compact, resulting from the siting, operation, maintenance, long-term care or any other activity relating to the compact facility. No non-host party state shall be liable for any harm or damage from the siting, operation, maintenance, or long-term care relating to the compact facility. Except as otherwise expressly provided in this compact, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act or failure to act. Generators, transporters, owners and operators of the facility shall be liable for their acts, omissions, conduct or relationships in

accordance with applicable law. By entering. into this compact and securing the ratification by Congress of its terms, no party state acquires a potential liability under section 5(d)(2)(C) of the Act (42 USC section 202le(d)(2)(C)) that did not exist prior to entering into this compact.

SEC. 8.04. If a party state withdraws from the compact pursuant to section 7.03 of Article VII or has its membership in this compact revoked pursuant to section 7.06 of Article VII, the withdrawal or revocation shall not affect any liability already incurred by or chargeable to the affected state under section 8.03 of this article.

SEC. 8.05. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared by a court of competent jurisdiction to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby to the extent the remainder can in all fairness be given effect. If any provision of this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

SEC. 8.06. Nothing in this compact diminishes or otherwise impairs the jurisdiction, authority, or discretion of either of the following:

(1) The United States Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended (42 USC section 2011 *et. seq*.).

(2) An agreement state under section 274 of the Atomic Energy Act of 1954, as amended (42 USC 2021).

SEC. 8.07. Nothing in this compact confers any new authority on the states or commission to do any of the following:

(1) Regulate the packaging or transportation of low-level radioactive waste in a manner inconsistent with the regulations of the United States Nuclear Regulatory Commission or the United States Department of Transportation.

(2) Regulate health, safety, or environmental hazards from source, by-product, or special nuclear material.

(3) Inspect the activities of licensees of the agreement states or of the United States Nuclear Regulatory Commission.

Approved September 20, 1998

SELECTED SECTIONS OF THE CLEAN AIR ACT OF 1977, AS AMENDED

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SELECTED SECTIONS OF THE CLEAN AIR ACT OF 1977, AS AMENDED

(Including amendments made by)

Public Law 101-549 104 Stat. 2399

November, 14, 1990

Sec. 302. Definitions

When used in this Chapter

(a) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(b) The term "air pollution control agency" means any of the following:

(1) A single State agency designated by the Governor of that State as the official State air pollution control agency for purposes of this Chapter.

(2) An agency established by two or more States and having substantial powers or duties pertaining to the prevention and control of air pollution.

(3) A city, county, or other local government health authority, or, in the case of any city, county, or other local government in which there is an agency other than the health authority charged with responsibility for enforcing ordinances or laws relating to the prevention and control of air pollution, such other agency.

(4) An agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention and control of air pollution.

(5) An agency of an Indian tribe.

(c) The term "interstate air pollution control agency" means–

(1) an air pollution control agency established by two or more States, or

(2) an air pollution control agency of two or more municipalities located in different States.

(d) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa and includes the Commonwealth of the Northern Mariana Islands.

(e) The term "person" includes an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department or instrumentality of the United States and any officer, agent, or employee thereof.

(f) The term "municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

(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. Such term includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term "air pollutant" is used.

(h) All language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being, whether caused by transformation, conversion, or combination with other air pollutants.

(i) The term "Federal land manager" means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

(j) Except as otherwise expressly provided, the terms "major stationary source" and "major emitting facility" mean any stationary facility or source of air pollutants which directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant (including any major emitting facility or source of fugitive emissions of any such pollutant, as determined by rule by the Administrator).

(k) The terms "emission limitation" and "emission standard" mean a requirement established by the State or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction, and any design, equipment, work practice or operational standard promulgated under this Chapter.

(l) The term "standard of performance" means a requirement of continuous emission reduction, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction.

(m) The term "means of emission limitation" means a system of continuous emission reduction (including the use of specific technology or fuels with specified pollution (characteristics).

(n) The term "primary standard attainment date" means the date specified in the applicable implementation plan for the attainment of a national primary ambient air quality standard for any air pollutant.

(o) The term "delayed compliance order" means an order issued by the State or by the Administrator to an existing stationary source, postponing the date required under an applicable implementation plan for compliance by such source with any requirement of such plan.

(p) The term "schedule and timetable of compliance" means a schedule of required measures including an enforceable sequence of actions or operations leading to compliance with an emission limitation, other limitation, prohibition, or standard.

(q) For purposes of this Chapter, the term "applicable implementation plan" means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under section 7410 of this Title, or promulgated under section 7410(c) of this Title, or promulgated or approved pursuant to regulations promulgated under section 7601(d) of this Title and which implements the relevant requirements of this Chapter.

®) INDIAN TRIBE

The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and

services provided by the United States to Indians because of their status as Indians.

(s) VOC

The term "VOC" means volatile organic compound, as defined by the Administrator.

(t) PM-10

The term "PM-10" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers, as measured by such method as the Administrator may determine.

(u) NAAQS AND CTG

The term "NAAQS" means national ambient air quality standard. The term "CTG" means a Control Technique Guideline published by the Administrator under section 7408 of this Title.

(v) NO_X

The term "NO_X" means oxides of nitrogen.

(w) CO

The term "CO" means carbon monoxide.

(x) SMALL SOURCE

The term "small source" means a source that emits less than 100 tons of regulated pollutants per year, or any class of persons that the Administrator determines, through regulation, generally lack technical ability or knowledge regarding control of air pollution.

(y) FEDERAL IMPLEMENTATION PLAN

The term "Federal implementation plan" means a plan (or portion thereof) promulgated by the Administrator to fill all or a portion of a gap or otherwise correct all or a portion of an inadequacy in a State implementation plan, and which includes enforceable emission limitations or other control measures, means or techniques (including economic incentives, such as marketable permits or auctions of emissions allowances), and provides for attainment of the relevant national ambient air quality standard.

(z) STATIONARY SOURCE

The term "stationary source" means generally any source of an air pollutant except those emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in section 7550 of this Title[44].

TITLE III

Sec. 301. Hazardous Air Pollutants

42 USC 7412.

Section 112 of the Clean Air Act is amended to read as follows:

Sec. 112. Hazardous Air Pollutants

(a) DEFINITIONS.–For purposes of this section, except subsection ®)–

(1) Major Source.–The term "major source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit

[44]July 14, 1955, c. 360, Title III, 302, formerly 9, as added Dec. 17, 1963, Public Law 88-206, 1, 77 Stat. 400, renumbered Oct. 20, 1965, Public Law 89-272, Title I, 101(4), 79 Stat. 992, and amended Nov. 21, 1967, Public Law 90-48, 2, 81 Stat. 504; Dec. 31, 1970, Public Law 91-604, 15(a)(1), (c)(1), 84 Stat. 1710, 1713; Aug. 7, 1977, Public Law 95-95, Title II, 218(c), Title III, 301, 91 Stat. 761, 769; Nov. 16, 1977, Public Law 95-190, 14(a)(76), 91 Stat. 1404, Public Law 101-549. Title I, 101(d)(4), 107(a), (b), 108(i), 109(b), Title III, 302(e), Title VII, 709, Nov. 15, 1990, 104 Stat. 2409, 2464, 2468, 2470, 2574, 2684.

considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. The Administrator may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source than that specified in the previous sentence, on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors.

(2) Area source.–The term "area source" means any stationary source of hazardous air pollutants that is not a major source. For purposes of this section, the term "area source" shall not include motor vehicles or non-road vehicles subject to regulation under Title II.

(3) Stationary Source.–The term "stationary source" shall have the same meaning as such term has under section 111(a).

(4) New Source.–The term "new source" means a stationary source the construction or reconstruction of which is commenced after the Administrator first proposes regulations under this section establishing an emission standard applicable to such source.

(5) Modification.–The term "modification" means any physical change in, or change in the method of operation of, a major source which increases the actual emissions of any hazardous air pollutant emitted by such source by more than a de minimis amount or which results in the emission of any hazardous air pollutant not previously emitted by more than a de minimis amount.

(6) Hazardous Air Pollutant.–The term "hazardous air pollutant" means any air pollutant listed pursuant to subsection (b).

(7) Adverse Environmental Effect.–The term "adverse environmental effect" means any significant and widespread adverse effect, which may reasonably be anticipated, to wildlife, aquatic life, or other natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.

(8) Electric Utility Steam Generating Unit.–The term "electric utility steam generating unit" means any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that cogenerates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.

(9) Owner or Operator.–The term "owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

(10) Existing Source.–The term "existing source" means any stationary source other than a new source.

(11) Carcinogenic Effect.–Unless revised, the term "carcinogenic effect" shall have the meaning provided by the Administrator under Guidelines for Carcinogenic Risk Assessment as of the date of enactment. Any revisions in the existing Guidelines shall be subject to notice and opportunity for comment.

(b) LIST OF POLLUTANTS.–

(1) Initial List.–The Congress establishes for purposes of this section a list of hazardous air pollutants as follows:

* * * *

0 Radionuclides (including radon)[45]

* * * *

(2) Revision Of The List.–The Administrator shall periodically review the list established by this subsection and publish the results thereof and, where appropriate, revise such list by rule, adding pollutants which present, or may present, through inhalation or other routes of exposure, a threat of adverse human health effects (including, but not limited to, substances which are known to be, or may reasonably be anticipated to be, carcinogenic, mutagenic, teratogenic, neurotoxic, which cause reproductive dysfunction, or which are acutely or chronically toxic) or adverse environmental effects whether through ambient concentrations, bioaccumulation, deposition, or otherwise, but not including releases subject to regulation under subsection r. as a result of emissions to the air. No air pollutant which is listed under section 108(a) may be added to the list under this section, except that the prohibition of this sentence shall not apply to any pollutant which independently meets the listing criteria of this paragraph and is a precursor to a pollutant which is listed under section 108(a) or to any pollutant which is in a class of pollutants listed under such section. No substance, practice, process or activity regulated under Title VI of this act shall be subject to regulation under this section solely due to its adverse effects on the environment.

(3) Petitions To Modify The List.–

(A) Beginning at any time after 6 months after the date of enactment of the Clean Air Act Amendments of 1990, any person may petition the Administrator to modify the list of hazardous air pollutants under this subsection by adding or deleting a substance or, in case of listed pollutants without CAS numbers (other than coke oven emissions, mineral fibers, or polycyclic organic matter) removing certain unique substances. Within 18 months after receipt of a petition, the Administrator shall either grant or deny the petition by publishing a written explanation of the reasons for the Administrator's decision. Any such petition shall include a showing by the petitioner that there is adequate data on the health or environmental defects of the pollutant or other evidence adequate to support the petition. The Administrator may not deny a petition solely on the basis of inadequate resources or time for review.

(B) The Administrator shall add a substance to the list upon a showing by the petitioner or on the Administrator's own determination that the substance is an air pollutant and that emissions, ambient concentrations, bioaccumulation or deposition of the substance are known to cause or may reasonably be anticipated to cause adverse effects to human health or adverse environmental effects.

(C) The Administrator shall delete a substance from the list upon a showing by the petitioner or on the Administrator's own determination that there is adequate data on the health and environmental effects of the substance to determine that emissions, ambient concentrations, bioaccumulation or deposition of the

[45]A type of atom which spontaneously undergoes radioactive decay.

substance may not reasonably be anticipated to cause any adverse effects to the human health or adverse environmental effects.

(D) The Administrator shall delete one or more unique chemical substances that contain a listed hazardous air pollutant not having a CAS number (other than coke oven emissions, mineral fibers, or polycyclic organic matter) upon a showing by the petitioner or on the Administrator's own determination that such unique chemical substances that contain the named chemical of such listed hazardous air pollutant meet the deletion requirements of subparagraph (C). The Administrator must grant or deny a deletion petition prior to promulgating any emission standards pursuant to subsection (d) applicable to any source category or subcategory of a listed hazardous air pollutant without a CAS number listed under subsection (b) for which a deletion petition has been filed within 12 months of the date of enactment of the Clean Air Act Amendments of 1990.

(4) Further Information.–If the Administrator determines that information on the health or environmental effects of a substance is not sufficient to make a determination required by this subsection, the Administrator may use any authority available to the Administrator to acquire such information.

(5) Test Methods.–The Administrator may establish, by rule, test measures and other analytic procedures for monitoring and measuring emissions, ambient concentrations, deposition, and bioaccumulation of hazardous air pollutants.

(6) Prevention Of Significant Deterioration.–The provisions of Part C (prevention of significant deterioration) shall not apply to pollutants listed under this section.

(7) Lead.–The Administrator may not list elemental lead as a hazardous air pollutant under this subsection.

(c) LIST OF SOURCE CATEGORIES.–

(1) In General.–Not later than 12 months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish, and shall from time to time, but no less often than every 8 years, revise, if appropriate, in response to public comment or new information, a list of all categories and subcategories of major sources and area sources (listed under paragraph (3)) of the air pollutants listed pursuant to subsection (b). To the extent practicable, the categories and subcategories listed under this subsection shall be consistent with the list of source categories established pursuant to section 111 and Part C. Nothing in the preceding sentence limits the Administrator's authority to establish subcategories under this section, as appropriate.

(2) Requirement for Emissions Standards.–For the categories and subcategories the Administrator lists, the Administrator shall establish emissions standards under subsection (d), according to the schedule in this subsection and subsection (e).

Regulations.

(3) Area Sources.–The Administrator shall list under this subsection each category or subcategory of area sources which the Administrator finds presents a threat of adverse effects to human health or the environment (by such sources individually or in the aggregate) warranting regulation under this section. The Administrator

shall, not later than 5 years after the date of enactment of the Clean Air Act Amendments of 1990 and pursuant to subsection (k)(3)(B), list, based on actual or estimated aggregate emissions of a listed pollutant or pollutants, sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the area source emissions of the 30 hazardous air pollutants that present the greatest threat to public health in the largest number of urban areas are subject to regulation under this section. Such regulations shall be promulgated not later than 10 years after such date of enactment.

(4) Previously Regulated Categories.–The Administrator may, in the Administrator's discretion, list any category or subcategory of sources previously regulated under this section as in effect before the date of enactment of the Clean Air Act Amendments of 1990.

(5) Additional Categories.–In addition to those categories and subcategories of sources listed for regulation pursuant to paragraphs (1) and (3), the Administrator may at any time list additional categories and subcategories of sources of hazardous air pollutants according to the same criteria for listing applicable under such paragraphs. In the case of source categories and subcategories listed after publication of the initial list required under paragraph (1) or (3), emission standards under subsection (d) for the category or subcategory shall be promulgated within 10 years after the date of enactment of the Clean Air Act Amendments of 1990, or within 2 years after the date on which such category or subcategory is listed, whichever is later.

* * * *

(9) Deletions From This List.–

(A) Where the sole reason for the inclusion of a source category on the list required under this subsection is the emission of a unique chemical substance, the Administrator shall delete the source category from this list if it is appropriate because of action taken under either subparagraphs (C) or (D) of subsection (b)(3).

(B) The Administrator may delete any source category from the list under this subsection, on petition of any person or on the Administrator's own motion, whenever the Administrator makes the following determination or determinations, as applicable:

(i) In the case of hazardous air pollutants emitted by sources in the category that may result in cancer in humans, a determination that no source in the category (or group of sources in the case of area sources) emits such hazardous air pollutants in quantities which may cause a lifetime risk of cancer greater than one in one million to the individual in the population who is most exposed to emissions of such pollutants from the source (or group of sources in the case of area sources).

(ii) In the case of hazardous air pollutants that may result in adverse health effects in humans other than cancer or adverse environmental effects, a determination that emissions from no source in the category or subcategory concerned (or group of sources in the case of area sources) exceed a level which is adequate to protect public health with an ample margin of safety and no adverse environmental effect will result from

emissions from any source (or from a group of sources in the case of area sources).

The Administrator shall grant or deny a petition under this paragraph within 1 year after the petition is filed.

(d) EMISSION STANDARDS.–

(1) In General.–The Administrator shall promulgate regulations establishing emission standards for each category or subcategory of major sources and area sources of hazardous air pollutants listed for regulation pursuant to subsection (c) in accordance with the schedules provided in subsections (c) and (e). The Administrator may distinguish among classes, types, and sizes of sources within a category or subcategory in establishing such standards except that, there shall be no delay in the compliance date for any standard applicable to any source under subsection (i) as the result of the authority provided by this sentence.

(2) Standards And Methods.–Emissions standard promulgated under this subsection and applicable to new or existing sources of hazardous air pollutants shall require the maximum degree of reduction in emissions of the hazardous air pollutants subject to this section (including a prohibition on such emissions, where achievable) that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which such emission standard applies, through application of measures, processes, methods, systems or techniques including, but not limited to, measures which–

(A) reduce the volume of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications,

(B) enclose systems or processes to eliminate emissions,

(C) collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point,

(D) are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in subsection (h), or

(E) are a combination of the above,

None of the measures described in subparagraphs (A) through (D) shall, consistent with the provisions of section 114(c), in any way compromise any United States patent or United States trademark right, or any confidential business information, or any trade secret or any other intellectual property right.

(3) New And Existing Sources.–The maximum degree of reduction in emissions that is deemed achievable for new sources in a category or subcategory shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source, as determined by the Administrator. Emission standards promulgated under this subsection for existing sources in a category or subcategory may be less stringent than standards for new sources in the same category or subcategory but shall not be less stringent, and may be more stringent than–

(A) the average emission limitation achieved by the best performing 12 percent of the existing sources (for which the Administrator has emissions information), excluding those sources that have, within 18 months before the emission standard is proposed or within 30 months before such standard is promulgated, whichever is later, first achieved a level of emission rate or emission reduction which complies, or would comply if the source is not subject to such standard, with the lowest achievable emission rate (as defined by section 171) applicable to the source category and prevailing at the time, in the category or subcategory for categories and subcategories with 30 or more sources, or

(B) the average emission limitation achieved by the best performing 5 sources (for which the Administrator has or could reasonably obtain emissions information) in the category or subcategory for categories or subcategories with fewer than 30 sources.

(4) Health Threshold.–With respect to pollutants for which a health threshold has been established, the Administrator may consider such threshold level, with an ample margin of safety, when establishing emission standards under this subsection.

(5) Alternative Standard For Area Sources.–With respect only to categories and subcategories of area sources listed pursuant to subsection (c), the Administrator may, in lieu of the authorities provided in paragraph (2) and subsection (f), elect to promulgate standards or requirements applicable to sources in such categories or subcategories which provide for the use of generally available control technologies or management practices by such sources to reduce emissions of hazardous air pollutants.

(6) Review And Revision.–The Administrator shall review, and revise as necessary (taking into account developments in practices, processes, and control technologies), emission standards promulgated under this section no less often than every 8 years.

(7) Other Requirements Preserved.–No emission standard or other requirement promulgated under this section shall be interpreted, construed or applied to diminish or replace the requirements of a more stringent emission limitation or other applicable requirement established pursuant to section 111, Part C or D, or other authority of this Act or a standard issued under State authority.

* * * *

(9) Sources Licensed By The Nuclear Regulatory Commission.–No standard for radionuclide emissions from any category or subcategory of facilities licensed by the Nuclear Regulatory Commission (or an Agreement State) is required to be promulgated under this section if the Administrator determines, by rule, and after consultation with the Nuclear Regulatory Commission, that the regulatory program established by the Nuclear Regulatory Commission pursuant to the Atomic Energy Act for such category or subcategory provides an ample margin of safety to protect the public health. Nothing in this subsection shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any standard or limitation respecting emissions of radionuclides which is more stringent than the standard or limitation in effect under section 111 or this section.

(10) Effective Date.–Emission standards or other regulations promulgated under this subsection shall be effective upon promulgation.

* * * *

(q) SAVINGS PROVISION.–

(1) Standard Previously Promulgated.–Any standard under this section in effect before the date of enactment of the Clean Air Act Amendments of 1990 shall remain in force and effect after such date unless modified as provided in this section before the date of enactment of such Amendments or under such Amendments. Except as provided in paragraph (4), any standard under this section which has been promulgated, but has not taken effect, before such date shall not be affected by such Amendments unless modified as provided in this section before such date or under such Amendments. Each such standard shall be reviewed and, if appropriate, revised, to comply with the requirements of subsection (d) within 10 years after the date of enactment of the Clean Air Act Amendments of 1990. If a timely petition for review of any such standard under section 307 is pending on such date of enactment, the standard shall be upheld if it complies with this section as in effect before that date. If any such standard is remanded to the Administrator, the Administrator may in the Administrator's discretion apply either the requirements of this section, or those of this section as in effect before the date of enactment of the Clean Air Act Amendments of 1990.

(2) Special Rule.–Notwithstanding paragraph (1), no standard shall be established under this section, as amended by the Clean Air Act Amendments of 1990, for radionuclide emissions from (A) elemental phosphorous plants, (B) grate calcination elemental phosphorous plants, (C) phosphogypsum stacks, or (D) any subcategory of the foregoing. This section, as in effect prior to the date of enactment of the Clean Air Act Amendments of 1990, shall remain in effect for radionuclide emissions from such plants and stacks.

(3) Other Categories.–Notwithstanding paragraph (1), this section, as in effect prior to the date of enactment of the Clean Air Act Amendments of 1990, shall remain in effect for radionuclide emissions from non-Department of Energy Federal facilities that are not licensed by the Nuclear Regulatory Commission, coal-fired utility and industrial boilers, underground uranium mines, surface uranium mines, and disposal of uranium mill tailings piles, unless the Administrator, in the Administrator's discretion, applies the requirements of this section as modified by the Clean Air Act Amendments of 1990 to such sources of radionuclides.

(4) Medical Facilities.–Notwithstanding paragraph (1), no standard promulgated under this section prior to the date of enactment of the Clean Air Act Amendments of 1990 with respect to medical research or treatment facilities shall take effect for two years following the date of enactment of the Clean Air Act Amendments of 1990, unless the Administrator makes a determination pursuant to a rulemaking under section 112(d)(9). If the Administrator determines that the regulatory program established by the Nuclear Regulatory Commission for such facilities does not provide an ample margin of safety to protect public health, the requirements of section 112 shall fully apply to such

facilities. If the Administrator determines that such regulatory program does provide an ample margin of safety to protect the public health, the Administrator is not required to promulgate a standard under this section for such facilities, as provided in section 112(d)(9).

r) PREVENTION OF ACCIDENTAL RELEASES.–

(1) Purpose And General Duty.–It shall be the objective of the regulations and programs authorized under this subsection to prevent the accidental release and to minimize the consequences of any such release of any substance listed pursuant to paragraph (3) or any other extremely hazardous substance. The owners and operators of stationary sources producing, processing, handling or storing such substances have a general duty in the same manner and to the same extent as section 654, Title 29 of the United States Code, to identify hazards which may result from such releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur. For purposes of this paragraph, the provisions of section 304 shall not be available to any person or otherwise be construed to be applicable to this paragraph. Nothing in this section shall be interpreted, construed, implied or applied to create any liability or basis for suit for compensation for bodily injury or any other injury or property damages to any person which may result from accidental releases of such substances.

(2) Definitions.–

(A) The term "accidental release" means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

(B) The term "regulated substance" means a substance listed under paragraph (3).

(C) The term "stationary source" means any buildings, structures, equipment, installations or substance emitting stationary activities (i) which belong to the same industrial group, (ii) which are located on one or more contiguous properties, (iii) which are under the control of the same person (or persons under common control), and (iv) from which an accidental release may occur.

(3) List Of Substances.–The Administrator shall promulgate not later than 24 months after November 15, 1990, an initial list of 100 substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. For purposes of promulgating such list, the Administrator shall use, but is not limited to, the list of extremely hazardous substances published under the Emergency Planning and Community Right-to-Know Act of 1986, with such modifications as the Administrator deems appropriate. The initial list shall include chlorine, anhydrous ammonia, methyl chloride, ethylene oxide, vinyl chloride, methyl isocyanate, hydrogen cyanide, ammonia, hydrogen sulfide, toluene diisocyanate, phosgene, bromine, anhydrous hydrogen chloride, hydrogen fluoride, anhydrous sulfur dioxide, and sulfur trioxide. The initial list shall include at least 100 substances which pose the greatest risk of causing death, injury, or

serious adverse effects to human health or the environment from accidental releases.

Regulations.

Regulations establishing the list shall include an explanation of the basis for establishing the list. The list may be revised from time to time by the Administrator on the Administrator's own motion or by petition and shall be reviewed at least every 5 years. No air pollutant for which a national primary ambient air quality standard has been established shall be included on any such list. No substance, practice, process, or activity regulated under subchapter VI of this Chapter shall be subject to regulations under this subsection. The Administrator shall establish procedures for the addition and deletion of substances from the list established under this paragraph consistent with those applicable to the list in subsection (b).

(4) Factors To Be Considered.–In listing substances under paragraph (3), the Administrator shall consider each of the following criteria–

(A) the severity of any acute adverse health effects associated with accidental releases of the substance.

(B) the likelihood of accidental releases of the substance; and

(C) the potential magnitude of human exposure to accidental releases of the substance.

(5) Threshold Quantity.–At the time any substance is listed pursuant to paragraph (3), the Administrator shall establish by rule, a threshold quantity for the substance, taking into account the toxicity, reactivity, volatility, dispersibility, combustibility, or flammability of the substance and the amount of the substance which, as a result of an accidental release, is known to cause or may reasonably be anticipated to cause death, injury or serious adverse effects to human health for which the substance was listed. The Administrator is authorized to establish a greater threshold quantity for, or to exempt entirely, any substance that is a nutrient used in agriculture when held by a farmer.

* * * *

(11) State Authority.–Nothing in this subsection shall preclude, deny or limit any right of a State or political subdivision thereof to adopt or enforce any regulation, requirement, limitation or standard (including any procedural requirement) that is more stringent than a regulation, requirement, limitation or standard in effect under this subsection or that applies to a substance not subject to this subsection.

* * * *

(7) Accident Prevention.–

(A) In order to prevent accidental releases of regulated substances, the Administrator is authorized to promulgate release prevention, detection, and correction requirements which may include monitoring, record-keeping, reporting, training, vapor recovery, secondary containment, and other design, equipment, work practice, and operational requirements. Regulations promulgated under this paragraph may make distinctions between various types, classes, and kinds of facilities, devices and systems taking into consideration factors including, but not limited to, the size, location, process, process controls, quantity of substances handled, potency of substances, and response capabilities present at any stationary source. Regulations promulgated pursuant to this

subparagraph shall have an effective date, as determined by the Administrator, assuring compliance as expeditiously as practicable.

Regulations.

(B)(i) Within 3 years after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate reasonable regulations and appropriate guidance to provide, to the greatest extent practicable, for the prevention and detection of accidental releases of regulated substances and for response to such releases by the owners or operators of the sources of such releases. The Administrator shall utilize the expertise of the Secretaries of Transportation and Labor in promulgating such regulations. As appropriate, such regulations shall cover the use, operation, repair, replacement, and maintenance of equipment to monitor, detect, inspect, and control such releases, including training of persons in the use and maintenance of such equipment and in the conduct of periodic inspections. The regulations shall include procedures and measures for emergency response after an accidental release of a regulated substance in order to protect human health and the environment. The regulations shall cover storage, as well as operations. The regulations shall, as appropriate, recognize differences in size, operations, processes, class and categories of sources and the voluntary actions of such sources to prevent such releases and respond to such releases. The regulations shall be applicable to a stationary source 3 years after the date of promulgation, or 3 years after the date on which a regulated substance present at the source in more than threshold amounts is first listed under paragraph (3), whichever is later.

(ii) The regulations under this subparagraph shall require the owner or operator of stationary sources at which a regulated substance is present in more than a threshold quantity to prepare and implement a risk management plan to detect and prevent or minimize accidental releases of such substances from the stationary source, and to provide a prompt emergency response to any such releases in order to protect human health and the environment. Such plan shall provide for compliance with the requirements of this subsection and shall also include each of the following:

(I) a hazard assessment to assess the potential effects of an accidental release of any regulated substance. This assessment shall include an estimate of potential release quantities and a determination of downwind effects, including potential exposures to affected populations. Such assessment shall include a previous release history of the past 5 years, including the size, concentration, and duration of releases, and shall include an evaluation of worst case accidental releases;

(II) a program for preventing accidental releases of regulated substances, including safety precautions and maintenance, monitoring and employee training measures to be used at the source; and

(III) a response program providing for specific actions to be taken in response to an accidental release of a regulated substance so as to protect human health and the

environment, including procedures for informing the public and local agencies responsible for responding to accidental releases, emergency health care, and employee training measures.

At the time regulations are promulgated under this subparagraph, the Administrator shall promulgate guidelines to assist stationary sources in the preparation of risk management plans. The guidelines shall, to the extent practicable, include model risk management plans.

(iii) The owner or operator of each stationary source covered by clause (ii) shall register a risk management plan prepared under this subparagraph with the Administrator before the effective date of regulations under clause (i) in such form and manner as the Administrator shall, by rule, require. Plans prepared pursuant to this subparagraph shall also be submitted to the Chemical Safety and Hazard Investigation Board, to the State in which the stationary source is located, and to any local agency or entity having responsibility for planning for or responding to accidental releases which may occur at such source, and shall be available to the public under section 114(c). The Administrator shall establish, by rule, an auditing system to regularly review and, if necessary, require revision in risk management plans to assure that the plans comply with this subparagraph. Each such plan shall be updated periodically as required by the Administrator, by rule.

(C) Any regulations promulgated pursuant to this subsection shall to the maximum extent practicable, consistent with this subsection, be consistent with the recommendations and standards established by the American Society of Mechanical Engineers (ASME), the American National Standards Institute (ANSI) or the American Society of Testing Materials (ASTM). The Administrator shall take into consideration the concerns of small business in promulgating regulations under this subsection.

(D) In carrying out the authority of this paragraph, the Administrator shall consult with the Secretary of Labor and the Secretary of Transportation and shall coordinate any requirements under this paragraph with any requirements established for comparable purposes by the Occupational Safety and Health Administration or the Department of Transportation. Nothing in this subsection shall be interpreted, construed or applied to impose requirements affecting, or to grant the Administrator, the Chemical Safety and Hazard Investigation Board, or any other agency any authority to regulate (including requirements for hazard assessment), the accidental release of radionuclides arising from the construction and operation of facilities licensed by the Nuclear Regulatory Commission.

(E) After the effective date of any regulation or requirement imposed under this subsection, it shall be unlawful for any person to operate any stationary source subject to such regulation or requirement in violation of such regulation or requirement. Each regulation or requirement under this subsection shall for purposes of section 113, 114, 116, 120, 304, and 307 and other enforcement

provisions of this Act, be treated as a standard in effect under subsection (d).

(F) Notwithstanding the provisions of Title V or this section, no stationary source shall be required to apply for, or operate pursuant to, a permit issued under such Title solely because such source is subject to regulations or requirements under this subsection.

(G) In exercising any authority under this subsection, the Administrator shall not, for purposes of section 653(b)(1) of Title 29 of the United States Code, be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.[46]

Sec. 116. Retention of State Authority

Except as otherwise provided in sections 1857c-10(e), (e), and (ff) (as in effect before August 7, 1977), 7543, 7545(c)(4), and 7573 of this Title (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 7411 or 7412, 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.[47]

Sec. 122. Listing of Certain Unregulated Pollutants

(a) Not later than one year after August 7, 1977 (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), cadium, 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 7408(a)(1) or 7412(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 7411(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)).

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[46]July 14, 1955, Chapter 360, Title I, 112, as added Dec. 31, 1970, Public Law 91-604, 4(a), 84 Stat. 1685, and amended Aug. 7, 1977; Public Law 95-95, Title I, 109(d)(2), 110, Title 401(c), 91 Stat. 701, 703, 791; Nov. 9, 1978, Public Law 95- 623, 13(b), 92 Stat. 3458; Nov. 15, 1990, Public Law 101-549, Title III, 301, 104 Stat. 2531.

[47]July 14, 1955, Chapter 360, Title I, section116, formerly section109, as added Nov. 21, 1967, Public Law 90-148, section 2, 81 Stat. 497, renumbered and amended Dec. 31, 1970, Public Law 91-604, section4(a),(c), 84 Stat. 1678, 1689; June 22, 1974, Public Law 93-319, section6(b), 88 Stat. 259, Nov. 16, 1978, Public Law 95-190, section14(a)(24), 91 Stat. 1400.

(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.[48]

TITLE IV

Sec. 501. Permits.

Add the following new Title after Title IV:

TITLE V

Sec. 501. Definitions.

42 USC 7661.

As used in this Title–

(1) Affected source.–The term "affected source" shall have the meaning given such term in Title IV.

(2) Major source.–The term "major source" means any stationary source (or any group of stationary sources located within a contiguous area and under common control) that is either of the following:

(A) A major source as defined in section 112.

[48] July 14, 1955, Chapter 360, Title I, section122, as added Aug. 7, 1977, Public Law 95-95, Title I, section120(a), 91 Stat. 720.

(B) A major stationary source as defined in section 302 or Part D of Title I.

(3) Schedule of compliance.–The term "schedule of compliance" means a schedule of remedial measures, including an enforceable sequence of actions or operations, leading to compliance with an applicable implementation plan, emission standard, emission limitation, or emission prohibition.

(4) Permitting authority.–The term "permitting authority" means the Administrator or the air pollution control agency authorized by the Administrator to carry out a permit program under this Title.

Sec. 502. Permit Programs.

42 USC 7661a.

(a) VIOLATIONS.–After the effective date of any permit program approved or promulgated under this Title, it shall be unlawful for any person to violate any requirement of a permit issued under this Title, or to operate an affected source (as provided in Title IV), a major source, any other source (including an area source) subject to standards or regulations under section 111 or 112, any other source required to have a permit under Parts C or D of Title I, or any other stationary source in a category designated (in whole or in part) by regulations promulgated by the Administrator (after notice and public comment) which shall include a finding setting forth the basis for such designation, except in compliance with a permit issued by a permitting authority under this Title. (Nothing in this subsection shall be construed to alter the applicable requirements of this Act that a permit be obtained before construction or modification.) The Administrator may, in the Administrator's discretion and consistent with the applicable provisions of this Act, promulgate regulations to exempt one or more source categories (in whole or in part) from the requirements of this subsection if the Administrator finds that compliance with such requirements in impracticable, infeasible, or unnecessarily burdensome on such categories, except that the Administrator may not exempt any major source from such requirements.

(b) REGULATIONS.–The Administrator shall promulgate within 12 months after the date of the enactment of the Clean Air Act Amendments of 1990 regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency. These elements shall include each of the following:

(1) Requirements for permit applications, including a standard application form and criteria for determining in a timely fashion the completeness of applications.

(2) Monitoring and reporting requirements.

(3)(A) A requirement under State or local law or interstate compact that the owner or operator of all sources subject to the requirement to obtain a permit under this Title pay an annual fee, or the equivalent over some other period, sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements of this Title, including section 507, including the reasonable costs of–

(i) reviewing and acting upon any application for such a permit,

(ii) if the owner or operator receives a permit for such source, whether before or after the date of the enactment of the Clean Air Act Amendments of 1990, implementing and enforcing the terms

and conditions of any such permit (not including any court costs or other costs associated with any enforcement action),

(iii) emissions and ambient monitoring,

(iv) preparing generally applicable regulations, or guidance,

(v) modeling, analyses, and demonstrations, and

(vi) preparing inventories and tracking emissions.

(B) The total amount of fees collected by the permitting authority shall conform to the following requirements:

(i) The Administrator shall not approve a program as meeting the requirements of this paragraph unless the State demonstrates that, except as otherwise provided in subparagraphs (ii) through (v) of this subparagraph, the program will result in the collection, in the aggregate, from all sources subject to subparagraph (A), of an amount not less than $25 per ton of each regulated pollutant, or such other amount as the Administrator may determine adequately reflects the reasonable costs of the permit program.

(ii) As used in this subparagraph, the term "regulated pollutant" shall mean (I) a volatile organic compound; (II) each pollutant regulated under section 111 or 112; and (III) each pollutant for which a national primary ambient air quality standard has been promulgated (except that carbon monoxide shall be excluded from this reference).

(iii) In determining the amount under clause (i), the permitting authority is not required to include any amount of regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

(iv) The requirements of clause (i) shall not apply if the permitting authority demonstrates that collecting an amount less than the amount specified under clause (i) will meet the requirements of subparagraph (A).

(v) The fee calculated under clause (i) shall be increased (consistent with the need to cover the reasonable costs authorized by subparagraph (A)) in each year beginning after the year of the enactment of the Clean Air Act Amendments of 1990 by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1989. For purposes of this clause–

(I) the Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year, and

(II) the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

(C)(i) If the Administrator determines, under subsection (d), that the fee provisions of the operating permit program do not meet the requirements of this paragraph, or if the Administrator makes a determination, under subsection (i), that the permitting authority is not adequately administering or enforcing an approved fee program, the Administrator may, in addition to taking any other

action authorized under this Title, collect reasonable fees from the sources identified under subparagraph (A). Such fees shall be designed solely to cover the Administrator's costs of administering the provisions of the permit program promulgated by the Administrator.

(ii) Any source that fails to pay fees lawfully imposed by the Administrator under this subparagraph shall pay a penalty of 50 percent of the fee amount, plus interest on the fee amount computed in accordance with section 6621(a)(2) of the Internal Revenue Code of 1986 (relating to computation of interest on underpayment of Federal taxes).

(iii) Any fees, penalties, and interest collected under this subparagraph shall be deposited in a special fund in the United States Treasury or licensing and other services, which thereafter shall be available for appropriation, to remain available until expended, subject to appropriation, to carry out the Agency's activities for which the fees were collected. Any fee required to be collected by a State, local, or interstate agency under this subsection shall be utilized solely to cover all reasonable (direct and indirect) costs required to support the permit program as set forth in subparagraph (A).

(4) Requirements for adequate personnel and funding to administer the program.

(5) A requirement that the permitting authority have adequate authority to:

(A) issue permits and assure compliance by all sources required to have a permit under this Title with each applicable standard, regulation or requirement under this Act;

(B) issue permits for a fixed term, not to exceed 5 years;

(C) assure that upon issuance or renewal permits incorporate emission limitations and other requirements in an applicable implementation plan;

(D) terminate, modify, or revoke and reissue permits for cause;

(E) enforce permits, permit fee requirements, and the requirement to obtain a permit, including authority to recover civil penalties in a maximum amount of not less than $10,000 per day for each violation, and provide appropriate criminal penalties; and

(F) assure that no permit will be issued if the Administrator objects to its issuance in a timely manner under this Title.

(6) Adequate, streamlined, and reasonable procedures for expeditiously determining when applications are complete, for processing such applications, for public notice, including offering an opportunity for public comment and a hearing, and for expeditious review of permit actions, including applications, renewals, or revisions, and including an opportunity for judicial review in State court of the final permit action by the applicant, any person who participated in the public comment process, and any other person who could obtain judicial review of that action under applicable law.

(7) To ensure against unreasonable delay by the permitting authority, adequate authority and procedures to provide that a failure of such permitting authority to act on a permit application or permit renewal application (in accordance with the time periods specified in

section 503 or, as appropriate, Title IV) shall be treated as a final permit action solely for purposes of obtaining judicial review in State court of an action brought by any person referred to in paragraph (6) to require that action be taken by the permitting authority on such application without additional delay.

(8) Authority, and reasonable procedures consistent with the need for expeditious action by the permitting authority on permit applications and related matters, to make available to the public any permit application, compliance plan, permit, and monitoring or compliance report under section 503(e), subject to the provisions of section 114(c) of this Act.

(9) A requirement that the permitting authority, in the case of permits with a term of 3 or more years for major sources, shall require revisions to the permit to incorporate applicable standards and regulations promulgated under this Act after the issuance of such permit. Such revisions shall occur as expeditiously as practicable and consistent with the procedures established under paragraph (6) but not later than 18 months after the promulgation of such standards and regulations. No such revision shall be required if the effective date of the standards or regulations is a date after the expiration of the permit term. Such permit revision shall be treated as a permit renewal if it complies with the requirements of this Title regarding renewals.

(10) Provisions to allow changes within a permitted facility (or one operating pursuant to section 503(d) without requiring a permit revision, if the changes are not modifications under any provision of Title I and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions: Provided, That the facility provides the Administrator and the permitting authority with written notification in advance of the proposed changes which shall be a minimum of 7 days, unless the permitting authority provides in its regulations a different timeframe for emergencies.

(c) SINGLE PERMIT.–A single permit may be issued for a facility with multiple sources.

(d) SUBMISSION AND APPROVAL.–(1) Not later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Governor of each State shall develop and submit to the Administrator a permit program under State or local law or under an interstate compact meeting the requirements of this Title. In addition, the Governor shall submit a legal opinion from the attorney general (or the attorney for those State air pollution control agencies that have independent legal counsel), or from the chief legal officer of an interstate agency, that the laws of the State, locality, or the interstate compact provide adequate authority to carry out the program. Not later than 1 year after receiving a program, and after notice and opportunity for public comment, the Administrator shall approve or disapprove such program, in whole or in part. The Administrator may approve a program to the extent that the program meets the requirements of this Act, including the regulations issued under subsection (b). If the program is disapproved, in whole or in part, the Administrator shall notify the Governor of any revisions or modifications necessary to obtain approval. The Governor shall revise and resubmit the

program for review under this section within 180 days after receiving notification.

(2)(A) If the Governor does not submit a program as required under paragraph (1) or if the Administrator disapproves a program submitted by the Governor under paragraph (1), in whole or in part, the Administrator may, prior to the expiration of the 18-month period referred to in subparagraph (B), in the Administrator's discretion, apply any of the sanctions specified in section 179(b).

(B) If the Governor does not submit a program as required under paragraph (1), or if the Administrator disapproves any such program submitted by the Governor under paragraph (1), in whole or in part, 18 months after the date required for such submittal or the date of such disapproval, as the case may be, the Administrator shall apply sanctions under section 179(b) in the same manner and subject to the same deadlines and other conditions as are applicable in the case of a determination, disapproval, or finding under section 179(a).

(C) The sanctions under section 179(b)(2) shall not apply pursuant to this paragraph in any area unless the failure to submit or the disapproval referred to in subparagraph (A) or (B) relates to an air pollutant for which such area has been designated a nonattainment area (as defined in Part D of Title I).

(3) If a program meeting the requirements of this Title has not been approved in whole for any State, the Administrator shall, 2 years after the date required for submission of such a program under paragraph (1), promulgate, administer, and enforce a program under this Title for that State.

(e) SUSPENSION.–The Administrator shall suspend the issuance of permits promptly upon publication of notice of approval of a permit program under this section, but may, in such notice, retain jurisdiction over permits that have been federally issued, but for which the administrative or judicial review process is not complete. The Administrator shall continue to administer and enforce federally issued permits under this Title until they are replaced by a permit issued by a permitting program. Nothing in this subsection should be construed to limit the Administrator's ability to enforce permits issued by a State.

(f) PROHIBITION.–No partial permit program shall be approved unless, at a minimum, it applies, and ensures compliance with, this Title and each of the following:

(1) All requirements established under Title IV applicable to affected sources.

(2) All requirements established under section 112 applicable to major sources, area sources, and new sources.

(3) All requirements of Title I (other than section 112) applicable to sources required to have a permit under this Title.

Approval of a partial program shall not relieve the State of its obligation to submit a complete program, nor from the application of any sanctions under this Act for failure to submit an approvable permit program.

(g) INTERIM APPROVAL.–If a program (including a partial permit program) submitted under this Title substantially meets the requirements of this Title, but is not fully approvable, the Administrator may by rule

grant the program interim approval. In the notice of final rulemaking, the Administrator shall specify the changes that must be made before the program can receive full approval. An interim approval under this subsection shall expire on a date set by the Administrator not later than two years after such approval, and may not be renewed. For the period of any such interim approval, the provisions of subsection (d)(2), and the obligation of the Administrator to promulgate a program under this Title for the State pursuant to subsection (d)(3), shall be suspended. Such provisions and such obligation of the Administrator shall apply after the expiration of such interim approval.

(h) EFFECTIVE DATE.–The effective date of a permit program, or partial or interim program, approved under this Title, shall be the effective date of approval by the Administrator. The effective date of a permit program, or partial permit program, promulgated by the Administrator shall be the date of promulgation.

(i) ADMINISTRATION AND ENFORCEMENT.–(1) Whenever the Administrator makes a determination that a permitting authority is not adequately administering and enforcing a program, or portion thereof, in accordance with the requirements of this Title, the Administrator shall provide notice to the State and may, prior to the expiration of the 18-month period referred to in paragraph (2), in the Administrator's discretion, apply any of the sanctions specified in section 179(b).

(2) Whenever the Administrator makes a determination that a permitting authority is not adequately administering and enforcing a program, or portion thereof, in accordance with the requirements of this Title, 18 months after the date of the notice under paragraph (1), the Administrator shall apply the sanctions under section 179(b) in the same manner and subject to the same deadlines and other conditions as are applicable in the case of a determination, disapproval, or finding under section 179(a).

(3) The sanctions under section 179(b)(2) shall not apply pursuant to this subsection in any area unless the failure to adequately enforce and administer the program relates to an air pollutant for which such area has been designated a nonattainment area.

(4) Whenever the Administrator has made a finding under paragraph (1) with respect to any State, unless the State has corrected such deficiency within 18 months after the date of such finding, the Administrator shall, 2 years after the date of such finding, promulgate, administer, and enforce a program under this Title for that State. Nothing in this paragraph shall be construed to affect the validity of a program which has been approved under this Title or the authority of any permitting authority acting under such program until such time as such program is promulgated by the Administrator under this paragraph.

Sec. 503. Permit Applications.

42 USC 7661b.

(a) APPLICABLE DATE.–Any source specified in section 502(a) shall become subject to a permit program, and required to have a permit, on the later of the following dates–

(1) the effective date of a permit program or partial or interim permit program applicable to the source; or

(2) the date such source becomes subject to section 502(a).

(b) COMPLIANCE PLAN.–(1) The regulations required by section 502(b) shall include a requirement that the applicant submit with the permit application a compliance plan describing how the source will comply with all applicable requirements under this Act. The compliance plan shall include a schedule of compliance, and a schedule under which the permittee will submit progress reports to the permitting authority no less frequently than every 6 months.

Reports.

(2) The regulations shall further require the permittee to periodically (but no less frequently than annually) certify that the facility is in compliance with any applicable requirements of the permit, and to promptly report any deviations from permit requirements to the permitting authority.

(c) DEADLINE.–Any person required to have a permit shall, not later than 12 months after the date on which the source becomes subject to a permit program approved or promulgated under this Title, or such earlier date as the permitting authority may establish, submit to the permitting authority a compliance plan and an application for a permit signed by a responsible official, who shall certify the accuracy of the information submitted. The permitting authority shall approve or disapprove a completed application consistent with the procedures established under this Title for consideration of such applications), and shall issue or deny the permit, within 18 months after the date of receipt thereof, except that the permitting authority shall establish a phased schedule for acting on permit applications submitted within the first full year after the effective date of a permit program (or a partial or interim program). Any such schedule shall assure that at least one-third of such permits will be acted on by such authority annually over a period of not to exceed 3 years after such effective date. Such authority shall establish reasonable procedures to prioritize such approval or disapproval actions in the case of applications for construction or modification under the applicable requirements of this Act.

(d) TIMELY AND COMPLETE APPLICATIONS.–Except for sources required to have a permit before construction or modification under the applicable requirements of this Act, if an applicant has submitted a timely and complete application for a permit required by this Title (including renewals), but final action has not been taken on such application, the source's failure to have a permit shall not be a violation of this Act, unless the delay in final action was due to the failure of the applicant timely to submit information required or requested to process the application. No source required to have a permit under this Title shall be in violation of section 502(a) before the date on which the source is required to submit an application under subsection (c).

Public information.

(e) COPIES; AVAILABILITY.–A copy of each permit application, compliance plan (including the schedule of compliance), emissions or compliance monitoring report, certification, and each permit issued under this Title, shall be available to the public. If an applicant or permittee is required to submit information entitled to protection from disclosure under section 114(c) of this Act, the applicant or permittee may submit such information separately. The requirements of section 114(c) shall apply to such information. The contents of a permit shall not be entitled to protection under section 114(c).

Sec. 504. Permit Requirements and Conditions.

42 USC 7661c.

(a) CONDITIONS.–Each permit issued under this Title shall include enforceable emission limitations and standards, a schedule of compliance, a requirement that the permittee submit to the permitting authority, no less often than every 6 months, the results of any required monitoring, and such other conditions as are necessary to assure compliance with applicable requirements of this Act, including the requirements of the applicable implementation plan.

(b) MONITORING AND ANALYSIS.–The Administrator may by rule prescribe procedures and methods for determining compliance and for monitoring and analysis of pollutants regulated under this Act, but continuous emissions monitoring need not be required if alternative methods are available that provide sufficiently reliable and timely information for determining compliance. Nothing in this subsection shall be construed to affect any continuous emissions monitoring requirement of Title IV, or where required elsewhere in this Act.

(c) INSPECTION, ENTRY, MONITORING, CERTIFICATION, AND REPORTING.–Each permit issued under this Title shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions. Such monitoring and reporting requirements shall conform to any applicable regulation under subsection (b). Any report required to be submitted by a permit issued to a corporation under this Title shall be signed by a responsible corporate official, who shall certify its accuracy.

(d) GENERAL PERMITS.–The permitting authority may, after notice and opportunity for public hearing, issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to permits under this Title. No source covered by a general permit shall thereby be relieved from the obligation to file an application under section 503.

(e) TEMPORARY SOURCES.–The permitting authority may issue a single permit authorizing emissions from similar operations at multiple temporary locations. No such permit shall be issued unless it includes conditions that will assure compliance with all the requirements of this Act at all authorized locations, including, but not limited to, ambient standards and compliance with any applicable increment or visibility requirements under Part C of Title I. Any such permit shall in addition require the owner or operator to notify the permitting authority in advance of each change in location. The permitting authority may require a separate permit fee for operations at each location.

(f) PERMIT SHIELD.–Compliance with a permit issued in accordance with this Title shall be deemed compliance with section 502. Except as otherwise provided by the Administrator by rule, the permit may also provide that compliance with the permit shall be deemed compliance with other applicable provisions of this Act that relate to the permittee if–

(1) the permit includes the applicable requirements of such provisions, or

(2) the permitting authority in acting on the permit application makes a determination relating to the permittee that such other provisions (which shall be referred to in such determination) are not applicable and the permit includes the determination or a concise summary thereof.

Nothing in the preceding sentence shall alter or affect the provisions of section 303, including the authority of the Administrator under that section.

Sec. 505. Notification to Administrator and Contiguous States.

42 USC 7661d.

(a) TRANSMISSION AND NOTICE.–(1) Each permitting authority–

(A) shall transmit to the Administrator a copy of each permit application (and any application for a permit modification or renewal) or such portion thereof, including any compliance plan, as the Administrator may require to effectively review the application and otherwise to carry out the Administrator's responsibilities under this Act, and

(B) shall provide to the Administrator a copy of each permit proposed to be issued and issued as a final permit.

(2) The permitting authority shall notify all States–

(A) whose air quality may be affected and that are contiguous to the State in which the emission originates, or

(B) that are within 50 miles of the source,

of each permit application or proposed permit forwarded to the Administrator under this section, and shall provide an opportunity for such States to submit written recommendations respecting the issuance of the permit and its terms and conditions. If any part of those recommendations are not accepted by the permitting authority, such authority shall notify the State submitting the recommendations and the Administrator in writing of its failure to accept those recommendations and the reasons therefor.

(b) OBJECTION BY EPA.–(1) If any permit contains provisions that are determined by the Administrator as not in compliance with the applicable requirements of this Act, including the requirements of an applicable implementation plan, the Administrator shall, in accordance with this subsection, object to its issuance. The permitting authority shall respond in writing if the Administrator (A) within 45 days after receiving a copy of the proposed permit under subsection (a)(1), or (B) within 45 days after receiving notification under subsection (a)(2), objects in writing to its issuance as not in compliance with such requirements. With the objection, the Administrator shall provide a statement of the reasons for the objection. A copy of the objection and statement shall be provided to the applicant.

(2) If the Administrator does not object in writing to the issuance of a permit pursuant to paragraph (1), any person may petition the Administrator within 60 days after the expiration of the 45-day review period specified in paragraph (1) to take such action. A copy of such petition shall be provided to the permitting authority and the applicant by the petitioner. The petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the permitting agency (unless the petitioner demonstrates in the petition to the Administrator that it was impracticable to raise such objections within such period or unless the grounds for such objection arose after such period). The petition shall identify all such objections. If the permit has been issued by the permitting agency, such petition shall not postpone the effectiveness of the permit. The Administrator shall grant or deny such petition within 60 days after the petition is filed. The Administrator shall issue an objection within such period if the petitioner demonstrates to the

Administrator that the permit is not in compliance with the requirements of this Act, including the requirements of the applicable implementation plan. Any denial of such petition shall be subject to judicial review under section 307. The Administrator shall include in regulations under this Title provisions to implement this paragraph. The Administrator may not delegate the requirements of this paragraph.

(3) Upon receipt of an objection by the Administrator under this subsection, the permitting authority may not issue the permit unless it is revised and issued in accordance with subsection (c). If the permitting authority has issued a permit prior to receipt of an objection by the Administrator under paragraph (2) of this subsection, the Administrator shall modify, terminate, or revoke such permit and the permitting authority may thereafter only issue a revised permit in accordance with subsection (c).

(c) ISSUANCE OR DENIAL.–If the permitting authority fails, within 90 days after the date of an objection under subsection (b), to submit a permit revised to meet the objection, the Administrator shall issue or deny the permit in accordance with the requirements of this Title. No objection shall be subject to judicial review until the Administrator takes final action to issue or deny a permit under this subsection.

(d) WAIVER OF NOTIFICATION REQUIREMENTS.–(1) The Administrator may waive the requirements of subsections (a) and (b) at the time of approval of a permit program under this Title for any category (including any class, type, or size within such category) of sources covered by the program other than major sources.

(2) The Administrator may, by regulation, establish categories of sources (including any class, type, or size within such category) to which the requirements of subsections (a) and (b) shall not apply. The preceding sentence shall not apply to major sources.

(3) The Administrator may exclude from any waiver under this subsection notification under subsection (a)(2). Any waiver granted under this subsection may be revoke or modified by the Administrator by rule.

(e) REFUSAL OF PERMITTING AUTHORITY TO TERMINATE, MODIFY, OR REVOKE AND REISSUE.–If the Administrator finds that cause exists to terminate, modify, or revoke and reissue a permit under this Title, the Administrator shall notify the permitting authority and the source of the Administrator's finding. The permitting authority shall, within 90 days after receipt of such notification, forward to the Administrator under this section a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The Administrator may extend such 90 day period for an additional 90 days if the Administrator finds that a new or revised permit application is necessary, or that the permitting authority must require the permittee to submit additional information. The Administrator may review such proposed determination under the provisions of subsections (a) and (b). If the permitting authority fails to submit the required proposed determination, or if the Administrator objects and the permitting authority fails to resolve the objection within 90 days, the Administrator may, after notice and in accordance with fair and reasonable procedures, terminate, modify, or revoke and reissue the permit.

Sec. 506. Other Authorities.

42 USC 7661e.

(a) IN GENERAL.–Nothing in this Title shall prevent a State, or interstate permitting authority, from establishing additional permitting requirements not inconsistent with this Act.

(b) PERMITS IMPLEMENTING ACID RAIN PROVISIONS.–The provisions of this Title, including provisions regarding schedules for submission and approval or disapproval of permit applications, shall apply to permits implementing the requirements of Title IV except as modified by that Title.

Sec. 507. Small Business Stationary Source Technical and Environmental Compliance Assistance Program.

42 USC 7661f.

(Text not reprinted.)[49] [50]

Approved November 14, 1990

[49]See P.L. 101-549.

[50]July 14, 1955, ch. 360, Title V, 507, as added Nov. 15, 1990, Pub. L 101-549, 501, 105 Stat. 2645.

SECTION 511 OF THE FEDERAL WATER POLLUTION CONTROL ACT OF 1972

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SECTION 511 OF THE FEDERAL WATER POLLUTION CONTROL ACT OF 1972

Sec. 511. Other Affected Authority

30 Stat. 1151. (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.

33 USC 1371. 72 Stat. 970. (b) Discharges of pollutants into the navigable waters subject to the Rivers and Harbors Act of 1910 (36 Stat. 593; 33 USC 421) and the Supervisory Harbors Act of 1888 (25 Stat. 209; 33 USC 441-451b) 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.

(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

42 USC 4321 note.

(2) Nothing in the National Environmental Policy Act of 1969 (83 Stat. 852) shall be deemed to–

(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) Not withstanding 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) section 3, added subsec. (d).

NATIONAL ENVIRONMENTAL POLICY ACT OF 1969, AS AMENDED

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NATIONAL ENVIRONMENTAL POLICY ACT OF 1969, AS AMENDED

Public Law 91-190 **83 Stat. 852**

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.

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

Sec. 1. Short Title

National Environmental Policy Act of 1969.

That this Act may be cited as the "National Environmental Policy Act of 1969"

Sec. 2. Purpose

Policies and goals.

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.

TITLE I

Sec. 101. Declaration of National Environmental Policy

(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 aesthetically 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.

Sec. 102. (Interpretation and Administration)

Administration.

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

Copies of statements, etc.; availability.

States Code, and shall accompany the proposal through the existing agency review processes;

(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 officials, 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.

Sec. 103. (Review)

Review.

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

[1]Public Law 94-83 (89 Stat. 424) (1975) amended section 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).

their authority and policies into conformity with the intent, purposes, and procedures set forth in this Act.

Sec. 104. (Statutory Obligations)

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. (Policy and Goals)

The polices and goals set forth in this Act are supplementary to those set forth in existing authorization of Federal agencies.

TITLE II

Sec. 201. Council on Environmental Quality (Report to Congress)

Report to Congress.

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 non-governmental 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.

Sec. 202. (Council on Environmental Quality)

Council on Environmental Quality.
Report to Congress

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. (Employment/Compensation)

(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 USC 665(b)), the Council may accept and employ voluntary and uncompensated services in furtherance of the purposes of the Council.[3]

Sec. 204. (Duties and Functions)

80 Stat. 416.
Duties and functions.

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.

Sec. 205. (Power)

See 34 F.R. 8693.

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]Public Law 94-52 (89 Stat. 258) (1975), section 2 added (a) immediately after section 203.
[3]Public Law 94-52 (89 Stat. 258) (1975), section 2 added a new subsec. (b).

(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 conflict with similar activities authorized by law and performed by established agencies.

Sec. 206. (Tenure and Compensation)

80 Stat. 460.
80 Stat. 461.
81 Stat. 638.
Tenure and compensation.

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 USC 5313). The other members of the council shall be compensated at the rate provided for Level IV or the Executive Schedule Pay Rates (5 USC 5315).

Sec. 207. Acceptance of Travel Reimbursement

42 USC 4346a.

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.[4] [5]

Sec. 208. Expenditures or International Travel

42 USC 4346b.

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.

Sec. 209. (Appropriations)

Appropriations.

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.[6]

Approved January 1, 1970

[4]Public Law 94-52 (89 Stat. 258) (1975), section 3 redesignated section 207 as section 209.
[5]Public Law 94-52 (89 Stat. 258) (1975), section 3 added new sub section 207 and 208.
[6]Public Law 94-52 (89 Stat. 258) (1975), section 3 redesignated section 207 as section 209.

WEST VALLEY DEMONSTRATION PROJECT ACT

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WEST VALLEY DEMONSTRATION PROJECT ACT

Public Law 96-368 **94 Stat. 1347**

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 United States of America in Congress assembled,

Section 1. Title

42 USC 2021a note. West Valley Demonstration Project Act.

This Act may be cited as the "West Valley Demonstration Project Act."

Sec. 2. Purpose

42 USC 2021a note. Activities.

(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:

(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 for 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:

Hearings.

(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.

(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

Publications in Federal Register.

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.

(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.

Reports and other information to Commission.

(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.

(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.

Consultation with EPA and others.

(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.

Sec. 3. Appropriation/Authorization

42 USC 2021a note. Appropriation authorization.

(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.

(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. Report

42 USC 2021a note. Report to Speaker of the House and President pro tempore of the Senate.

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.

Sec. 5. Rights and Obligations

42 USC 2021a note.

(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 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. Definitions

42 USC 2021a note. Definitions.

For purposes of this Act:

(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 the 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.

42 USC 2014.

(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 11e.(2) of the Atomic Energy Act of 1954.

(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 1, 1980

* * * *

Other Provisions: Reduction in Funding for West Valley Demonstration Project.

Act November 12, 2001, Public Law 107–66, Title III, 115 Stat. 503, provides:

Funding for the West Valley Demonstration Project shall be reduced in subsequent fiscal years to the minimum necessary to maintain the project in a safe and stable condition, unless not later than September 30, 2002, the Secretary:

(1) provides written notification to the Committees on Appropriations of the House of Representatives and the Senate that agreement has been reached with the State of New York on the final scope of Federal activities at the West Valley site and on the respective Federal and State cost shares for those activities;

(2) submits a written copy of that agreement to the Committees on Appropriations of the House of Representatives and the Senate; and

(3) provides a written certification that the Federal actions proposed in the agreement will be in full compliance with all

relevant Federal statutes and are in the best interest of the Federal Government.

NUCLEAR NON-PROLIFERATION AND EXPORT LICENSING STATUTES

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NUCLEAR NON-PROLIFERATION ACT OF 1978

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NUCLEAR NON-PROLIFERATION ACT OF 1978

Public Law 95-242 **92 Stat. 120**

March 10, 1978

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,

Sec. 1. Short Title

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

That this Act may be cited as the "Nuclear Non-Proliferation Act of 1978."

Sec. 2. Statement of Policy

22 USC 3201.

The Congress finds 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

(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-proliferation 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 date; 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.

Sec. 3. Statement of Purpose

22 USC 3202.

It is the purpose of this Act to promote the policies set forth above by–

(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 nations of the world 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.

Sec. 4. Definitions

(a) As used in this Act, the term–

22 USC 3203.

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

(2) "IAEA" means International Atomic Energy Agency;[7]

(3) "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 109b. of the 1954 Act;

Post, p. 141.

(4) "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;

(5) "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 or 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 USC 2011 note.

(6) "1954 Act" means the Atomic Energy Act of 1954, as amended; and

(7) "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.

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

Sec. 101. Policy

22 USC 3221.
42 USC 5801 note.

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

42 USC 2201.

[7]P.L. 105-277, Div. G, Title XII, section 1225(e)(1), (112 Stat. 2681-775), Oct. 21,1998.

shall, on a timely basis, authorize the export of nuclear materials and equipment when all the applicable statutory requirements are met.

Sec. 102. Uranium Enrichment Capacity

22 USC 3222.

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, and the Secretary of State[8] 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.

Sec. 103. Report

22 USC 3222 note.
Study.

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 non-proliferation 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.

Report to Congress.

Sec. 104. International Undertaking

22 USC 3223.
Discussions and negotiations.

(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–

(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.

[8]P.L. 105-277, Div. G, Title XII, section 1225(e)(2), (112 Stat. 2681-775), Oct. 26, 1998.

Proposals, submitted to Congress.

(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.

(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.

Sec. 105. Reevaluation of Nuclear Fuel Cycle

22 USC 3224.

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

Sec. 201. Policy

22 USC 3241.

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.

Sec. 202. Training Program

22 USC 3242.

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.

Sec. 203. Negotiations

22 USC 3243.

The United States shall seek to negotiate with other nations and groups of nations to–

(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 materials 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

Sec. 301. Government-to-Government Transfers

42 USC 2074.
Post, p. 131.

(a) Section 54 of the 1954 Act is amended by adding a new subsection d. thereof as follows:

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.

42 USC 2094.

(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."

(c) Chapter 10 of the 1954 Act is amended by adding a new section 111 as follows:

42 USC 2141.

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:

42 USC 2112.
Supra.

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.

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 sub section 128 are met, and that the proposed distribution would not be inimical to the common defense and security.

Post, p. 136.
Post, p. 137.

Sec. 302. (Special Nuclear Material Production)

Special nuclear material, production.

Subsection 57b. of the 1954 Act is amended to read as follows:

42 USC 2077. Standards and criteria. Technology transfers. *Post*, p. 127. *Post*, p. 142.

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 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, 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 11v.(2) or 11cc.(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 54d., section 64, or section 111b.

Authorization requests, procedures.

Trade secrets, protection.

42 USC 2014. *Post,* pp. 131, 141. 42 USC 7172.

Ante, p. 125. 42 USC 2074. 42 USC 2094.

Sec. 303. Subsequent Arrangements

(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:

42 USC 2160.

Sec. 131. SUBSEQUENT ARRANGEMENTS.–

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 91c., 144b., or 144c. 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 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.

42 USC 2121.
42 USC 2164.

Notice, publication in the Federal Register.

Nuclear Proliferation Assessment Statement.

(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.

Subsequent arrangements.

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–

Contracts.

(A) contracts for the furnishing of nuclear materials and equipment;

(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;

Ante, p. 125.
Post, pp. 131, 141.

(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 111b., section 126, or section 09b.;

(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.

Post, p. 142.

(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 other such requirements for prior approval or conditions for entering such arrangement shall also be satisfied before the arrangements takes effect pursuant to subsection a. (1).

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–

Report to congressional committees.

(1) the Secretary of Energy may not enter into any subsequent arrangements for the retransfer of any such material to a 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 of 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 130g. 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 provisions for necessary administrative actions and interagency 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.

Controversial requests, identification.

Potentially controversial requests be should identified as quickly as possible so that any required policy or decisions 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 procedure 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 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.

Standards and criteria.

Nuclear Proliferation Assessment Statement.

Presidential waiver.

Notice to congressional committees.

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.

42 USC 7172.

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 every any matter arising from any function of the Secretary of Energy in this section.

Presidential plan, submittal to Congress.

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:

Post, p. 139.

(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 130g. 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 period of sixty days of continuous session (as defined in subsection 130g. 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;

(B) The Secretary of Energy has complied with subsection a.; and

Ante, p. 125.
Post, p. 131.

(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.

Notice to congressional committees.

(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.

Plan, contents.

(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, costs data and justifications, legal and regulatory consideration, 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 131a.(2)(E) shall be subject to the requirements of section 131.

42 USC 2075.
Ante, p. 127.

(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 131a.(2)(E) shall be subject to the requirements of section 131."

Sec. 304. Export Licensing Procedures

(a) Chapter 11 of the 1954 Act is amended by adding a new section 126 as follows:

Sec 126.Export Licensing Procedures.–

42 USC 2155.
Exemption.
Ante, p. 125.
Supra.
42 USC 2112.

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 –

Executive branch judgment, 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 Nuclear Regulatory

Procedures.

Contents.

Commission,[9] 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 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 Foreign Affairs 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:

Standards and criteria.

(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

Post, p. 136.

(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

[9]Public Law 105–277, Division G, Title XII, Chapter 3, section 1225(d)(5), as amended, 112 Stat. 2681-774; October 21, 1998.

export, and whether in the Secretary's judgment those conditions will be implemented in a manner acceptable to the United States. 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

Data and recommendations.

(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:

42 USC 2154.

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 Foreign Affairs 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–

Extension, notice to Congress.

Post, p. 139.

Findings.

(A) make a single finding under this subsection for more than a single application or request, where the applications or requests involve exports to the same country, in the same general time frame, or 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.

Judicial review, exception.

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.

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 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 130g.) and shall be referred to the Committee on Foreign Affairs 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

Report to Congress and congressional committees.

Post, p.139.

Review.

Concerns and requests, transmittal to executive branch.

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 branch judgment), the President may authorize the proposed export by Executive order, upon a finding that further delay would be excessive and upon making the findings required for such Presidential authorization 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 days 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 Foreign Affairs 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.

42 USC 2155a.
Post, p. 139.
Regulations.

(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.

42 USC 2155a.
42 USC 2239.
Hearings.

(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 189a. of the 1954 Act, shall not require the Commission to grant any person an on-the-record hearing in such a proceeding.

42 USC 2156a.
Regulations.

(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, and the Secretary of Defense, 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.[10]

Post, p. 136.

Sec. 305. Criteria Governing United States Nuclear Exports

Chapter 11 of the 1954 Act, as a amended by section 304, is further amended by adding at the end thereof the following:

42 USC 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 material 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.

[10]As amended, Public Law 105-277, Div. G, Title XII, Ch. 3, section 1225(e)(3), (112 Stat. 2681-775), Oct. 21, 1998.

(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.

Sec. 306. Additional Export Criterion and Procedures

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 USC 2157.

Sec. 128. ADDITIONAL EXPORT CRITERIA AND PROCEDURES–

a. (1) As a condition of continued United States export 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 of 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

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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 130g. 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.

Ante, p. 131.
Post, p. 139.

Congressional disapproval, resolution.

(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.

Export authorizations, congressional review.

(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 this paragraph, the provisions of paragraph (2) shall apply with respect to further exports to such state.

Sec. 307. Conduct Resulting in Termination of Nuclear Exports

Export terminations, criterion.
42 USC 2158.

Chapter 11 of the 1954 Act, as amended by sections 304, 305, and 306, is further amended by adding at the end thereof:

Sec. 129. Conduct Resulting In Termination Of Nuclear Exports– No nuclear materials and equipment or sensitive nuclear technology shall be export 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 inducted 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 non-proliferation 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 130g. 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.

Sec. 308. Congressional Review Procedures

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 USC 2159.

Sec. 130. CONGRESSIONAL REVIEW PROCEDURES–

Congressional committee reports.

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 123d., 126a.(2), 126b.(2), 128b., 129, 131a.(3), or 131f.(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 91c., 144b., or 144c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, shall each submit a report

Post, p. 142.

Ante, pp. 131, 137, 138, 127.

42 USC 2121.
42 USC 2164.

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 91c., 144b., or 144c. 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.

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 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 amendment 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 current 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 session 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 part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in 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 procedures 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.

Sec. 309. Component and Other Parts of Facilities

42 USC 2139.

(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 USC 2139.

a. With respect to those utilization and production facilities which are so determined by the Commission pursuant to subsection 11v.(2) or 11cc.(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, the Commission is authorized and directed to determine which component parts as defined in subsection 11v.(2) or 11cc.(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 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

Ante, p. 131.

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.[11]

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 126a., that the export would be inimical to the common defense and security of the United States.

42 USC 2139a. Regulations.

(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.

42 USC 2139a. Export control procedures, Presidential publications.

(c) The President, within not more than one hundred and twenty days after the date of enactment of the 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.

42 USC 2139 note. *Ante*, p. 141. Savings provisions.

(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

Sec. 401. Cooperation with Other Nations

42 USC 2153.

Section 123 of the 1954 Act is amended to read as follows:

Sec. 123. Cooperation With Other Nations–

42 USC 2073. 42 USC 2074. 42 USC 2077. 42 USC 2094. 42 USC 2112 42 USC 2121. 42 USC 2133. 42 USC 2134. 42 USC 2164. Cooperative agreements, submittal to

No cooperation with any nation, group of nations or regional defense organizations pursuant to section 53, 54a., 57, 64, 82, 91, 103, 104, or 144 shall be undertaken until–"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

[11] P.L. 105-277, Div. G, Title XII, Ch. 3, section 1225(d)(2), (112 Stat. 2681-774).

President.
Contents.

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 91c., 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 thereto 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., 144b., or 144c., 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 USC 2121.
42 USC 2164.

(6) 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 91c., 144b., or 144c., 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 91c., 144b., or 144c., 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 91c., 144b., or 144c., 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.

42 USC 2121.
42 USC 2164.
Agreement requirements, Presidential exemptions.
Nuclear Proliferation Assessment Statement.
Proposed cooperation agreements, submitted to President.

The President may exempt a proposed agreement for cooperation (except an agreement arranged pursuant to subsection 91c., 144b., 144c or 144d.) 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 91c., 144b., 144c., or 144d., 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 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, and the Nuclear Regulatory Commission. The Secretary of State shall also provide to the President an unclassified Nuclear Proliferation Assessment Statement (A) which shall analyze the consistency of the text of proposed agreement for cooperation with all the requirements of this Act with specific attention to whether the proposed agreement is consistent with each of the criteria set forth in this subsection, and (B) 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. Each Nuclear Proliferation Assessment Statement prepared pursuant to this Act shall be accompanied by a classified annex, prepared in consultation with the Director of Central Intelligence, summarizing relevant classified information. In the case of those agreements for cooperation arranged pursuant to subsection 91c., 144b., 144c., or 144d., 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 91c., 144b., or 144d., which are to be implemented by the Department of Defense, by the Secretary of Defense;

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 130g.): *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.

42 USC 2073.
42 USC 2074.
42 USC 2133.
42 USC 2073.
42 USC 2074.
42 USC 2133.
42 USC 2134.

d. the proposed agreement for cooperation (if arranged pursuant to subsection 91c., 144b., 144c., or 144d., or if entailing implementation of section 53, 54a., 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 130g. of this Act) and referred to the Committee on Foreign Affairs of the House 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 91c., 144b., 144c., or 144d., 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, and there is enacted, a joint resolution stating in substance that the Congress does not favor the proposed agreement for cooperation: *Provided,* That the sixty-day period shall not begin until a Nuclear Proliferation Assessment Statement prepared by the Secretary of State, and any annexes thereto, when required by subsection 123a., has been submitted to the Congress: *Provided further*, That an agreement for cooperation exempted by the President pursuant to subsection a. from any requirement contained in that subsection shall not become effective unless the Congress adopts, and there is enacted, a joint resolution stating that the Congress does favor such agreement. During the sixty–day period the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall each hold hearings on the proposed agreement for cooperation and submit a report to their respective bodies recommending whether it should be approved or disapproved. Any such proposed agreement for cooperation shall be considered pursuant to the procedures set forth in section130i. of this Act.

42 USC 2121.
42 USC 2164.
Agency views to congressional committees.

Following submission of a proposed agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91c., 144b., or 144c.) 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 constitute an unreasonable risk to the common defense and security.

Ante, p. 131.
Ante, p. 137.

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 123a.(2), such failure to act shall constitute a failure to adopt a resolution of disapproval pursuant to subsection 128b.(3) for purposes of the Commission's consideration of applications and requests under section 126a.(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.

Sec. 402. Additional Requirements

42 USC 2153a.
Nuclear material enrichment, approval.

(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.

Ante, p. 127.

42 USC 2121.
42 USC 2164.
Enrichment facility components, export prohibition.

(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 (exempt an agreement for cooperation pursuant to subsection 91c., 144b., 144c. 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.

Major critical component.

Sec. 403. Peaceful Nuclear Activities

42 USC 2153b.
Export policies.

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:

(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 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.

42 USC 2104. Enriched nuclear material and sources, prohibition. Proposed international agreements.

(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.

Sec. 404. Renegotiation of Agreements for Cooperation

42 USC 2153c.

(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 agreement 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 123a. 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.

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 123a. 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.

Presidential export criteria proposals, submittal to Congress.

(c) If Presidential export criteria proposals, submittal to Congress. 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 non-proliferation 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 130b. through g. of the 1954 Act.

Ante, p. 139.

Sec. 405. Authority to Continue Agreements

42 USC 2153d. Savings provision.

(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 of Cooperation.

Sec. 406. Review

42 USC 2160a.

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.

Sec. 407. Protection of the Environment

42 USC 2153e.

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

Sec. 501. Policy: Report

22 USC 3261. Nuclear and non-nuclear energy, resource development.

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.

Sec. 502. Programs

Developing countries, energy development programs.

(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.

22 USC 2151a.
22 USC 2151d.
22 USC 2151q.

(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.

Sec. 503. Report

22 USC 3262 note.
Presidential report to Congress.

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

Sec. 601. Reports of the President

22 USC 3281.
Governmental nuclear non-proliferation activities.

(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 forswear 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;

(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 Unites 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 control therein.

(6) a description of the implementation of nuclear and nuclear-related dual-use export controls in the preceding calendar year, including a summary by type of commodity and destination of–

(A) all transactions for which–

(i) an export license was issued for any good controlled under section 309(c) of this Act;

(ii) an export license was issued under section 109b. of the 1954 Act;

(iii) approvals were issued under the Export Administration Act of 1979, or section 109b.(3) of the 1954 Act, for the retransfer of any item, technical data, component, or substance; or

(iv) authorizations were made as required by section 57b.(2) of the 1954 Act to engage, directly or indirectly, in the production of special nuclear material;

(B) each instance in which–

(i) a sanction has been imposed under section 821(a) or section 824 of the Nuclear Proliferation Prevention Act of 1994 or section 102(b)(1) of the Arms Export Control Act;

(ii) sales or leases have been denied under section 3(f) of the Arms Export Control Act or transactions prohibited by reason of acts relating to proliferation of nuclear explosive devices as described in section 40(d) of that Act;

(iii) a sanction has not been imposed by reason of section 821(c)(2) of the Nuclear Proliferation Prevention Act of 1994 or the imposition of a sanction has been delayed under section 102(b)(4) of the Arms Export Control Act; or

(iv) a waiver of a sanction has been made under–

(I) section 821(f) or section 824 of the Nuclear Proliferation Prevention Act of 1994,

(II) section 620E(d) of the Foreign Assistance Act of 1961, or paragraph (5) or (6)(B) of section 102(b) of the Arms Export Control Act,

(III) section 40(g) of the Arms Export Control Act with respect to the last sentence of section 40(d) of that Act, or

(IV) section 614 of the Foreign Assistance Act of 1961 with respect to section 620E of that Act or section 3(f), the last sentence of section 40(d), or 102(b)(1) of the Arms Export Control Act; and

(C) the progress of those independent states of the former Soviet Union that are non-nuclear-weapon states and of the Baltic states towards achieving the objective of applying full scope safeguards to all their peaceful nuclear activities. Portions of the information required by paragraph (6) may be submitted in classified form, as necessary. Any such information that may not be published or disclosed under section 12(c)(1) of the Export Administration Act of 1979 shall be submitted as confidential.

(a) DETERMINATION BY THE PRESIDENT.–

(1) IN GENERAL.–Except as provided in subsection (b)(2), the President shall impose the sanction described in subsection (c) if the President determines in writing that, on or after the effective date of this part, a foreign person or a United States person has materially and with requisite knowledge contributed, through the export from the United States or any other country of any goods or technology (as defined in section 830(2)), to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device.

(2) PERSONS AGAINST WHICH THE SANCTION IS TO BE IMPOSED.–The sanction shall be imposed pursuant to paragraph (1) on–

(A) the foreign person or United States person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person or United States person;

(C) any foreign person or United States person that is a parent or subsidiary of that person if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of that determination; and

(D) any foreign person or United States person that is an affiliate of that person if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that person.

(3) OTHER SANCTIONS AVAILABLE.–The sanction which is required to be imposed for activities described in this subsection is in addition to any other sanction which may be imposed for the same activities under any other provision of law.

(4) DEFINITION.–For purposes of this subsection, the term "requisite knowledge" means situations in which a person "knows", as "knowing" is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 USC 78dd-2).

(b) CONSULTATION WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.–

(1) CONSULTATIONS.–If the President makes a determination described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of the sanction pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.–In order to pursue such consultations with that government, the President may delay imposition of the sanction pursuant to this section for up to 90 days. Following these consultations, the President shall impose the sanction unless the President determines and certifies in writing to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay the imposition of the sanction for up to an additional 90 days if the President determines and certifies in writing to the Congress that that government is in the process of taking the actions described in the preceding sentence.

(3) REPORT TO CONGRESS.–Not later than 90 days after making a determination under subsection (a)(1), the President shall submit to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) SANCTION.–

(1) DESCRIPTION OF SANCTION.–The sanction to be imposed pursuant to subsection (a)(1) is, except as provided in paragraph (2) of this subsection, that the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(2).

(2) EXCEPTIONS.–The President shall not be required to apply or maintain the sanction under this section–

(A) in the case of procurement of defense articles or defense services–

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(ii) if the President determines in writing that the person or other entity to which the sanction would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines in writing that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanction;

(C) to–

(i) spare parts which are essential to United States products or production;

(ii) component parts, but not finished products, essential to United States products or production; or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) ADVISORY OPINIONS.–Upon the request of any person, the Secretary of State may, in consultation with the Secretary of Defense, issue in writing an advisory opinion to that person as to whether a proposed activity by that person would subject that person to the sanction under this section. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanction, and any person who thereafter engages in such activity, may not be made subject to such sanction on account of such activity.

(e) TERMINATION OF THE SANCTION.–The sanction imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of the sanction and shall cease to apply thereafter only if the President determines and certifies in writing to the Congress that–

(1) reliable information indicates that the foreign person or United States person with respect to which the determination was made under

subsection (a)(1) has ceased to aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in that subsection; and

(2) the President has received reliable assurances from the foreign person or United States person, as the case may be, that such person will not, in the future, aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in subsection (a)(1).

(f) WAIVER.–

(1) CRITERION FOR WAIVER.–The President may waive the application of the sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies in writing to the Congress that the continued imposition of the sanction would have a serious adverse effect on vital United States interests.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.–If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.[12]

Sec. 602. Additional Reports

22 USC 3282. Governmental nuclear non-proliferation activities. Reports to Congress.

(a) The annual report 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 so 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 to lieu of any other reporting requirements under applicable law.

(c)(1) The Department of State, the Department of Defense, the Department of Commerce, the Department of Energy, the Commission, and, with regard to subparagraph (B), the Director of Central Intelligence, 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–

(A) their activities to carry out the purposes and policies of this Act and to otherwise prevent proliferation, including the proliferation of nuclear, chemical, or biological weapons, or their means of delivery; and

(B) the current activities of foreign nations which are of significance from the proliferation standpoint.

(2) For the purposes of this subsection with respect to paragraph (1)(B), the phrase 'fully and currently informed' means the

[12]Section 6 was added by Public Law 103-236 (108 Stat. 507-511); April 30, 1994.

transmittal of credible information not later than 60 days after becoming aware of the activity concerned.[13]

(d) Any classified portions of the reports required by this Act shall be submitted to the Senate Foreign Relations Committee and the House of International Relations Committee.

Nuclear non-proliferation policies, study. Reports to Congress.

(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.

(f) (1) The Secretary of Defense shall have access, on a timely basis, to all information regarding nuclear proliferation matters which the Secretary of State or the Secretary of Energy has or is entitled to have. Such access shall include access to all communications, materials, documents and records relating to nuclear proliferation matters.

(2) This subsection does not apply to any intra-departmental document of the Department of State or the Department of Energy, or any portion of such document, that is solely concerned with internal, confidential advice on policy concerning the conduct of interagency deliberations on nuclear proliferation matters.[14]

Sec. 603. Savings Clause

42 USC 2153f.

(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 USC 2153f.
42 USC 2121.
42 USC 2164.

(b) Nothing in this Act shall affect the procedures or requirements applicable to agreements for cooperation entered into pursuant to section 91c., 144b., or 144c. of the 1954 Act or arrangements pursuant thereto as it was in effect immediately prior to the date of enactment of this Act.

22 USC 3201 note. Effective date.

(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

* * * *

Other Provisions: Provision of Certain Information to Congress.

[13]Public Law 99-661 (100 Stat. 4004) (1986) amended section 602(c) and added (f).
[14]Public Law 99-661 (100 Stat. 4004) (1986) amended section 602(c) and added (f).

(a) REQUIREMENT TO PROVIDE INFORMATION.–The head of each department and agency described in section 602(c) of the Nuclear Non–Proliferation Act of 1978 (22 USC 3282(c)) shall promptly provide information to the chairman and ranking minority member of the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives in meeting the requirements of subsection (c) or (d) of section 602 of such Act.

(b) ISSUANCE OF DIRECTIVES.–Not later than February 1, 2000, the Secretary of State, the Secretary of Defense, the Secretary of Commerce, the Secretary of Energy, the Director of Central Intelligence, and the Chairman of the Nuclear Regulatory Commission shall issue directives, which shall provide access to information, including information contained in special access programs, to implement their responsibilities under subsections (c) and (d) of section 602 of the Nuclear Non–Proliferation Act of 1978 (22 USC 3282(c) and (d)). Copies of such directive shall be forwarded promptly to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives upon the issuance of the directives.[15]

[15]Public Law 106–113, Division B, section 1000(a)(7), (113 Stat. 1536), (enacting into law section 1134 of Subtitle B of Title XI of Division B of H.R. 3427 (113 Stat. 1501A–494), as introduced on November 17, 1999).

INTERNATIONAL ATOMIC ENERGY AGENCY PARTICIPATION ACT OF 1957

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STATUTE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY

INTERNATIONAL ATOMIC ENERGY AGENCY PARTICIPATION ACT OF 1957

Public Law 85-177 71 Stat. 5899

August 28, 1957

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,

Sec. 1. Short Title

That this Act may be cited as the "International Atomic Energy Agency Participation Act of 1957."

Sec. 2. Representatives

(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 exofficio 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 representative 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 USC 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 the exceed those received by Chiefs of Mission and Foreign Service officers occupying positions of equivalent importance.

Sec. 3. Participation

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 that 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. Voting

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.

Sec. 5. Salaries and Expenses

5 USC 5101.
5 USC 5701.
5 USC 5731.
22 USC 801 note.
TIAS 3873.

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

[1] Public Law 89-348 (79 Stat. 1310), section 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.

authorized by section 15 of the Act of August 2, 1946 (5 USC 55a);[2] translating and other services, by contract; hire of passenger motor vehicles and other local transportation; printing and binding without regard to section II of the Act of March 1, 1919 (44 USC 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.

Sec. 6. CSR/FEGLI Status

5 USC 8301.
5 USC 8701.

(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 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, and 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.

[2]Public Law 89-554 (80 Stat. 416) codified section 15 of the Act of August 2, 1946, as 5 USC 3109.

[3]Section 7 of Public Law 85-795 (72 Stat. 959), approved Aug. 28, 1958, repealed section 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."

(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. (Special Nuclear Material Compensation)

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. (Authority Termination)

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

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–FUNCTION

A. The Agency is authorized:

1. To encourage and assist research on, and development and practical applications 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 of scientific 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 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 applications 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 the 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 Untied 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 headquarters 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 shall designate for membership on the Board the ten 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 in which none of the aforesaid ten is located:

(1) North America
(2) Latin America
(3) Western Europe
(4) Eastern Europe
(5) Africa
(6) Middle East and 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 that 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 for 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 the 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 principal 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, renumerated, and dismissed shall be in accordance with regulations made by the Board of Governors, subject to 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 instruction 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 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 possession. 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;
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 as above;

6. To send into the territory of the recipient State or States inspectors, designated by the Agency after consultation with 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 a 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 groups 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 Conference 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 depository 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 depository 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 materials" 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 as 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 of more of the foregoing in such concentration as the Board of Governors shall from time to time determine; and such other materials as the Board of Governors shall from time to time determine.

ARTICLE XXI–SIGNATURE, ACCEPTANCE, AND ENTRY INTO FORCE

5 USC 5101.
5 USC 5701.
5 USC 5731.

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.

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 depository 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 depository 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 depository 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 depository 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 organization or other 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 depository Government. Duly certified copies of this Statute shall be transmitted by the depository 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 performs 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 subparagraph 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 programs 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 Energy 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 provisions for materials, services, equipment, and facilities needed to carry out the foregoing purposes; (c) to foster the exchange of scientific and technical information on, and the exchange and training of scientist 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 uses 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 principals 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.)

NOTE:
While the list of 30 initial member states is not provided here, eighteen ratifications were required to bring the IAEA's Statute into force. By July 29, 1957, the States in *italics*–as well as the former Czechoslovakia–had ratified the Statute. By the end of 1957, the following states had signed the Statute: (Names of States are not necessarily their historical designations.)

Afghanistan	Albania
Argentina	*Australia*
Austria	*Belarus*
Brazil	Bulgaria
Canada	Cuba
Denmark	Dominican Republic
Egypt	El Salvador
Ethiopia	*France*
Germany	Greece
Guatemala	Haiti
Holy See	Hungary
Iceland	*India*
Indonesia	*Israel*
Italy	*Japan*
Republic of Korea	Monaco
Morocco	Myanmar
Netherlands	New Zealand
Norway	*Pakistan*
Paraguay	Peru
Poland	*Portugal*
Romania	*Russian Federation*
South Africa	Spain
Sri Lanka	*Sweden*
Switzerland	Thailand
Tunisia	*Turkey*
Ukraine	*United Kingdom*
United States	Venezuela
Viet Nam	Yugoslavia

INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976

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INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976

Public Law 94-329 **90 Stat. 729**

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,

International Security Assistance and Arms Export Control Act of 1976.

That this Act may be cited as the "International Security Assistance and Arms Export Control Act of 1976."

TITLE II

Sec. 38. Control of Arms Exports and Imports

22 USC 2778.

(a) Presidential Control of Exports and Imports of Defense Articles and Services, Guidance of Policy, Etc.; Designation of United States Munitions List; Issuance of Export Licenses; Condition for Export; Negotiations Information

(1) In furtherance of world peace and the security and foreign policy of the United States, the President is authorized to control the import and the export of defense articles and defense services and to provide foreign policy guidance to persons of the United States involved in the export and import of such articles and services. The President is authorized to designate those items which shall be considered as defense articles and defense services for the purposes of this section and to promulgate regulations for the import and export of such articles and services. The items so designated shall constitute the United States Munitions List.

(2) Decisions on issuing export licenses under this section shall take into account whether the export of an article would contribute to an arms race, aid in the development of weapons of mass destruction, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control or nonproliferation agreement or other arrangements.

(3) In exercising the authorities conferred by this section, the President may require that any defense article or defense service be sold under this Chapter as a condition of its eligibility for export, and may require that persons engaged in the negotiation for the export of defense articles and services keep the President fully and currently informed of the progress and future prospects of such negotiations.

(b) Registration and licensing requirements for manufacturers, exporters, or importers of designated defense articles and defense services; exceptions.

(1)(A)(i) As prescribed in regulations issued under this section, every person (other than an officer or employee of the united States Government acting in an official capacity) who engages in the

business of manufacturing, exporting, or importing any defense articles or defense services designated by the President under subsection (a)(1) shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations. Such regulations shall prohibit the return to the United States for sale in the United States (other than for the Armed Forces of the United States and its allies or for any State or local law enforcement agency) of any military firearms or ammunition of United States manufacture furnished to foreign governments by the United States under this Act or any other foreign assistance or sales program of the United States, whether or not enhanced in value or improved in condition in a foreign country. This prohibition shall not extend to similar firearms that have been so substantially transformed as to become, in effect, articles of foreign manufacture.

(1)(A)(ii)(I) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in an official capacity) who engages in the business of brokering activities with respect to the manufacturing, export, import, or transfer of any defense article or defense service designated by the President under subsection (a)(1), or in the business of brokering activities with respect to the manufacture, export, import, or transfer of any foreign defense article or defense service (as defined in subclause (IV)), shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations.

(1)(A)(ii)(II) Such brokering activities shall include the financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import of a defense article or defense service.

(1)(A)(ii)(III) No person may engage in the business of brokering activities described in subclause (I) without a license, issued in accordance with this Act, except that no license shall be required for such activities undertaken by or for an agency of the United States Government–

(aa) for use by an agency of the United States Government; or

(bb) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

(1)(A)(ii)(IV) For purposes of this clause, the term" "foreign defense article or defense service" includes any non-United States defense article or defense service of a nature described on the United States Munitions List regardless of whether such article or service is of United States origin or whether such article or service contains United States origin components.[1]

(c) CRIMINAL VIOLATIONS; PUNISHMENT

Any person who willfully violates any provision of this section or section 2779 of this Title, or any rule or regulation issued under either section, or who willfully, in a registration or license application or required report, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the

[1]As amended by P.L. 105-277, Div G, Title XII, Ch. 3, section 1225(a)(2), (112 Stat. 2681).

statements therein not misleading, shall upon conviction be fined for each violation not more than $1,000,000 or imprisoned not more than ten years, or both.

(d) REPEALED. PUB. L. 96-70, Title III, section 3303(a)(4), SEPT. 27, 1979, 93 STAT. 499.

(e) ENFORCEMENT POWERS OF PRESIDENT.

In carrying out functions under this section with respect to the export of defense articles and defense services, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies and officials by subsections (c), (d), (e), and (g) of section 11 of the Export Administration Act of 1979 [50 App. USC 2410(c), (d), (e), and (g)], and by subsections (a) and (c) of section 12 of such Act [50 App. USC 2411(a) and (c)], subject to the same terms and conditions as are applicable to such powers under such Act [50 App. USC 2401 et seq.]. Nothing in this subsection shall be construed as authorizing the withholding of information from the Congress. Notwithstanding section 11(c) of the Export Administration Act of 1979, the civil penalty for each violation involving controls imposed on the export of defense articles and defense services under this section may not exceed $500,000.

(g)[2] IDENTIFICATION OF PERSONS CONVICTED OR SUBJECT TO INDICTMENT FOR VIOLATIONS OF CERTAIN PROVISION

(1) The President shall develop appropriate mechanisms to identify, in connection with the export licensing process under this section–

(A) persons who are the subject of an indictment for, or have been convicted of, a violation under–

(i) this section,

(ix) section 57, 92, 101, 104, 222, 224, 225, or 226 of the Atomic Energy Act of 1954 (42 USC 2077, 2122, 2131, 2134, 2272, 2274, 2275, and 2276),

(xi) section 603 (b) or (c) of the Comprehensive Anti-Apartheid Act of 1986 (22 USC 5113(b) and (c));

(2) The President shall require that each applicant for a license to export an item on the United States Munitions List identify in the application all consignees and freight forwarders involved in the proposed export.

(3) If the President determines–

(A) that an applicant for a license to export under this section is the subject of an indictment for a violation of any of the statutes cited in paragraph (1),

(B) that there is reasonable cause to believe that an applicant for a license to export under this section has violated any of the statutes cited in paragraph (1), or

(C) that an applicant for a license to export under this section is ineligible to contract with, or to receive a license or other form of authorization to import defense articles or defense services from, any agency of the United States Government, the President may disapprove the application. The President shall consider requests by the Secretary of the Treasury to disapprove any export license application based on these criteria.

[2]Pub. L. 99-64 substituted (g) for (f).

(4) A license to export an item on the United States Munitions List may not be issued to a person–

(A) if that person, or any party to the export, has been convicted of violating a statute cited in paragraph (1), or

(B) if that person, or any party to the export, is at the time of the license review ineligible to receive export licenses (or other forms of authorization to export) from any agency of the United States Government, except as may be determined on a case-by-case basis by the President, after consultation with the Secretary of the Treasury, after a thorough review of the circumstances surrounding the conviction or ineligibility to export and a finding by the President that appropriate steps have been taken to mitigate any law enforcement concerns.

(5) A license to export an item on the United States Munitions List may not be issued to a foreign person (other than a foreign government).

(6) The President may require a license (or other form of authorization) before any item on the United States Munitions List is sold or otherwise transferred to the control or possession of a foreign person or a person acting on behalf of a foreign person.

(7) The President shall, in coordination with law enforcement and national security agencies, develop standards for identifying high-risk exports for regular end-use verification. These standards shall be published in the Federal Register and the initial standards shall be published not later than October 1, 1988.

(8) Upon request of the Secretary of State, the Secretary of Defense and the Secretary of the Treasury shall detail to the office primarily responsible for export licensing functions under this section, on a nonreimbursable basis, personnel with appropriate expertise to assist in the initial screening of applications for export licenses under this section in order to determine the need for further review of those applications for foreign policy, national security, and law enforcement concerns.

(9) For purposes of this subsection–

(A) the term "foreign corporation" means a corporation that is not incorporated in the United States;

(B) the term "foreign government" includes any agency or subdivision of a foreign government, including an official mission of a foreign government;

(C) the term "foreign person" means any person who is not a citizen or national of the United States or lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], and includes foreign corporations, international organizations, and foreign governments;

(D) the term "party to the export" means–

(i) the president, the chief executive officer, and other senior officers of the license applicant;

(ii) the freight forwarders or designated exporting agent of the license application; and

(iii) any consignee or end user of any item to be exported; and

(E) the term "person" means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization, or group, including governmental entities.[3]

22 USC 2778a.

EXPORTATION OF URANIUM DEPLETED IN THE ISOTOPE 235.–

Upon 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 [42 USC 2011 et seq.] and of the Nuclear Non-Proliferation Act of 1978 [22 USC 3201 et seq.] when such exports are subject to the controls established under the Arms Export Control Act [22 USC 2751 et seq.] or the Export Administration Act of 1979 [50 App. USC 2401 et seq][4]

CODIFICATION

Section was enacted as part of the International Security and Development Cooperation Act of 1980, and not as part of the Arms Export Control Act which comprises this Chapter.

AMENDMENTS

1987 - Subsec. (b)(1). Pub. L. 100-204, w 1255(b), designated existing provisions as subparagraph (A) and added subparagraph (B) relating to review by Secretary of the Treasury of munitions control registrations.

Pub. L. 100-202 designated existing provisions as subparagraph (A) and added subparagraph (B) relating to allowance of return to United States of certain military firearms, etc., under certain circumstances.

Subsec. (b) (3). Pub. L. 100-204, section 1255(c), added par. (3). Subsec. (g).

1985 - Subsec. (c), Pub. L. 99-83, section 119(a), inserted "for each violation" before "not more" and substituted "$1,000,000" for $100,000" and "ten" for "two."

Subsec. (e). Pub. L. 99-83, section 119(b), inserted provisions relating to civil penalty for each violation.

1981 - Subsec. (b)(3), Pub. L. 97-113, section 106, struck out par. (3), which placed a $100,000,000 ceiling on commercial arms exports of major defense equipment to all countries other than NATO countries, Japan, Australia, and New Zealand.

Subsec. (f), Pub. L. 97-113, section 107, added subsec. (f).

1980 - Subsec. (a)(3). Pub. L. 96-533, section 107(c), added para. (3).

[3]Pub. L. 90-629, ch. 3, section 38, as added Pub. L. 94-329, Title II, section212(a) (1), June 30, 1976, 90 Stat. 744, and amended Pub. L. 95-92, section 20, Aug. 4, 1977, 91 Stat. 623; Pub. L. 96-70, Title III, section 3303(a)(4), Sept. 27, 1979, 93 Stat. 499; Pub. L. 96-72, section 22(a), Sept. 29, 1979, 93 Stat. 535; Pub. L. 96-92, section 21, Oct. 29, 1979, 93 Stat. 710; Pub. L. 96-533, Title I, section 107(a), (c), Dec. 16, 1980, 94 Stat. 3136; Pub. L. 97-113, Title I sections 106, 107, Dec. 29, 1981, 95 Stat. 1522; Pub. L. 99-64, Title I, section 123(a), July 12, 1985, 99 Stat. 156; Pub. L. 99-83, Title I, section 119(a), (b), Aug. 8, 1985, 99 Stat. 203, 204; Pub. L. 100-202, section 101(b) [Title VIII section 8142(a)], Dec. 22, 1987, 101 Stat. 1329-43, 1329-88; Pub. L. 100-204, Title XII. section 1255, Dec. 22, 1987, 101 Stat 1429; Pub. L. 101-222 sections 3(a), b, Dec. 12 1989, 103 Stat. 1896, 1899.)

[4]Pub. L. 96-533, Title I, section 110, Dec. 16, 1980. 94 Stat. 3138.

Subsec. (b)(3). Pub. L. 96-533, section 107(a), increased the limitation in the sale of major defense equipment exports to $100,000,000 from $35,000,000.

1979 - Subsec. (b) (3), Pub. L. 96-92 increased the limitation in the sale of major defense equipment exports to $35,000,000 from $25,000,000.

Subsec. (d). Pub. L. 96-70 struck out subsec. (d), which provided that this section applies to and within the Canal Zone.

Subsec. (e). Pub. L. 96-72 substituted "subsections (c), (d), (e), and (f) of section 11 of the Export Administration Act of 1979, and by subsections (a) and (c) of section 12 of such Act" for "sections 6(c), (d), (e), and (f) and 7(a) and (c) of the Export Administration Act of 1969."

1977 - Subsec. (b)(3). Pub. L. 95-92 added provisions relating to exceptions to prohibitions against issuance of licenses under this section and procedures applicable for implementation of such exceptions.

TITLE III–GENERAL LIMITATIONS

Sec. 669. Nuclear Enrichment and Reprocessing Transfers: Nuclear Detonations

22 USC 2304 note.
22 USC 2429.
22 USC 2751 note.
Assistance, agreements and safeguards.

Nuclear Enrichment Transfers.[5]–(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

[5]Public Law 95-92 (91 Stat. 620) (1977) section 12, struck out old section 669 and inserted new section 669. Before amendment, old section 669 read as follows:

Section 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

(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 join 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.

(including assistance under Chapter 4 of Part II)[6] providing military assistance or grant military education and training, providing assistance under Chapter 6 of Part II,[7] 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–

(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.

(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.

Sec. 670. Nuclear Reprocessing Transfers And Nuclear Detonations

22 USC 2429a.

–(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) providing military or security supporting 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–

(1) 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

[6]Public Law 95-384 (92 Stat. 734) (1978) section 534(a)(4), added the words "(including assistance under Chapter 4 of Part II)" and striking "or security supporting."

[7]Public Law 95-384 (92 Stat. 734) (1978) section 554(3), added the words: providing assistance under Chapter 6 of Part 11.

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.

Presidential certification, submitted 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 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.

Joint resolution.

(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.[8]

Approved June 30, 1976

[8]Public Law 95-92 (91 Stat. 620) (1977) section 12, added new section 670.

INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1980

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INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1980

Public Law 96-533 **94 Stat. 3131**

December 16, 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,

Sec. 1. Short Title

22 USC 2151 note. International Security and Development Cooperation Act of 1980.

This Act may be cited as the "International Security and Development Cooperation Act of 1980."

TITLE I–MILITARY AND RELATED ASSISTANCE AND SALES PROGRAMS

Sec. 110. Exportation of Uranium Depleted in the Isotope 235

22 USC 2751 note. 22 USC 2778a. 22 USC 3201 note. 42 USC 2011 note.

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.

Approved December 16, 1980

INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1981

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INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1981

Public Law 97-113 **95 Stat. 1519**

December 29, 1981

An Act

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,

Sec. 1. Short Title

22 USC 2151 note. International Security and Development Cooperation Act of 1981.

This Act may be cited as the "International Security and Development Cooperation Act of 1981.

TITLE VII–MISCELLANEOUS PROVISIONS

Sec. 735. Report on Nuclear Activities

22 USC 2429a-1. Report to Congress.

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 Assistance Act of 1961 is in effect, including an assessment of–

22 USC 2429.
22 USC 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.

Sec. 737. Prohibitions Relating to Nuclear Transfers and Nuclear Detonations

22 USC 2429a note.

(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.

90 Stat. 765.

(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.

(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

22 USC 2151 note.
22 USC 2346.
22 USC 2348.
22 USC 2751 note.
22 USC 2751 note.

(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).

Transmittal of certification to Congress.

(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.

Congressional disapproval.

(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.

(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 2346.
22 USC 2458.
22 USC 2751 note.
22 USC 2151 note.

(A) transfers a nuclear explosive device to a non-nuclear-weapon state, or

(B) is a non-nuclear-weapon state and either–

(i) receives a nuclear explosive device, or

(ii) detonates a nuclear explosive device.

Transmittal of certification to Congress.

(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.

(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. See 21 USC 483.

(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.

Approved December 29, 1981

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL IMPLEMENTATION ACT OF 1982

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CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL IMPLEMENTATION ACT OF 1982[1]

Public Law 97-351 **96 Stat. 1663**

October 18, 1982

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.

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

Sec. 1. Short Title

18 USC 831 note. Convention on the Physical Protection of Nuclear Material Implementation Act of 1982.

This Act may be cited as the "Convention on the Physical Protection of Nuclear Material Implementation Act of 1982."

Sec. 2. Implementation of Convention and Prohibition of Related Offenses

(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:

18 USC 831.

Sec. 831. Prohibited transactions involving nuclear materials

(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 for nuclear byproduct material and–

(A) thereby knowingly causes the death of or serious bodily injury to any person or substantial damage to property or to the environment; or

(B) circumstances exist, or have been represented to the defendant to exist, that are likely to cause the death or serious bodily injury to any person, or substantial damage to property or to the environment;

(2) with intent to deprive another of nuclear material or nuclear byproduct material, knowingly–

(A) takes and carries away nuclear material or nuclear byproduct material of another without authority;

(B) makes an unauthorized uses, disposition, or transfer, of nuclear material or nuclear byproduct material belonging to another; or

(C) uses fraud and thereby obtains nuclear material or nuclear byproduct material belonging to another;

(3) knowingly–

(A) uses force; or

[1]Added October 15, 1982, Public Law 97–351, section 2(a), 96 Stat. 1663; November 18, 1988, Public Law 100–690, Title VII, Subtitle B, section 7022, 102 Stat. 4397; July 5, 1994, Public Law 103–272, section 5(e)(6), 108 Stat. 1374; September 13, 1994, Public Law 103–322, Title XXXIII, section 330016(2)(C), 108 Stat. 2148.

As amended April 24, 1996, Public Law 104–132, Title V, Subtitle A, section 502, 110 Stat. 1282.

(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 or nuclear byproduct material belonging to another from the person or presence of any other;

(4) intentionally intimidates any person and thereby obtains nuclear material or nuclear byproduct 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 or nuclear byproduct material to cause death or serious bodily injury to any person or substantial damage to property or to the environment 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 of 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 under this Title; and

(B) imprisonment–

(i) for any term of years or for life

(I) if, while committing 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 body 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 under this Title; 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 46501 of Title 49);

(2) an offender or a victim is–

(A) a national of the United States; or

(B) a United States corporation or other legal entity;

(3) 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

96 Stat. 1665.

(4) the conduct required for the offense occurs with respect to the carriage of a consignment of nuclear material or nuclear byproduct mater by any means of transportation intended to go beyond the territory of the state where the shipment originates beginning 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; or

(5) either–

(A) the governmental entity under subsection (a)(5) is the United States; or

(B) the threat under subsection (a)(6) is directed at the United States

10 USC 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 USC 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).

Emergency situation.

(2) As used in this subsection, the term "emergency situation" means a circumstance–

(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.

(3) 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.

(4) The Secretary of Defense may require reimbursement as a condition of assistance under this section.

(5) The Attorney General may delegate the Attorney General's function under this subsection only to a Deputy, Associate, or Assistant Attorney General.

Definitions.

(f) As used in this section–

(1) the term "nuclear material" means material containing any–

(A) plutonium;

(B) uranium not in the form of ore or ore residue that contains the mixture of isotopes as occurring in nature;

(C) enriched uranium, defined as 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 "nuclear byproduct material" means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;

(3) the term "international organization" means a public international organization designated as such pursuant to section 1 of the International Organizations Immunities Act (22 USC 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.

(4) 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 a bodily member, organ, or mental faculty;

(5) 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.

(6) the term "national of the United States" has the same meaning as in section 101(a)(22) of the Immigration and Nationality Act (8 USC 1101(a)(22)); and

(7) the term "United States corporation or other legal entity" means any corporation or other entity organized under the laws of the United States or any State, Commonwealth, territory, possession, or district of the United States.

FOREIGN OPERATIONS APPROPRIATIONS ACT FOR FISCAL YEAR 1991

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IRAQ SANCTIONS ACT OF 1990

* * * *

TITLE V

* * * *

Sec. 586. SHORT TITLE.

Iraq Sanctions Act of 1990.

Sections 586 through 586J of this Act may be cited as the ‹Iraq Sanctions Act of 1990’.

Sec. 586A. DECLARATIONS REGARDING IRAQ'S INVASION OF KUWAIT.

The Congress–

(1) condemns Iraq's invasion of Kuwait on August 2, 1990;

(2) supports the actions that have been taken by the President in response to that invasion;

(3) calls for the immediate and unconditional withdrawal of Iraqi forces from Kuwait;

(4) supports the efforts of the United Nations Security Council to end this violation of international law and threat to international peace;

(5) supports the imposition and enforcement of multilateral sanctions against Iraq;

(6) calls on United States allies and other countries to support fully the efforts of the United Nations Security Council, and to take other appropriate actions, to bring about an end to Iraq's occupation of Kuwait; and

(7) condemns the brutal occupation of Kuwait by Iraq and its gross violations of internationally recognized human rights in Kuwait, including widespread arrests, torture, summary executions, and mass extrajudicial killings.

Sec. 586B. CONSULTATIONS WITH CONGRESS.

President

The President shall keep the Congress fully informed, and shall consult with the Congress, with respect to current and anticipated events regarding the international crisis caused by Iraq's invasion of Kuwait, including with respect to United States actions.

SEC. 586C. TRADE EMBARGO AGAINST IRAQ.

President

(a) CONTINUATION OF EMBARGO–Except as otherwise provided in this section, the President shall continue to impose the trade embargo and other economic sanctions with respect to Iraq and Kuwait that the United States is imposing, in response to Iraq's invasion of Kuwait, pursuant to Executive Orders Numbered 12724 and 12725 (August 9, 1990) and, to the extent they are still in effect, Executive Orders Numbered 12722 and 12723 (August 2, 1990). Notwithstanding any other provision of law, no funds, credits, guarantees, or insurance appropriated or otherwise made available by this or any other Act for fiscal year 1991 or any fiscal year thereafter shall be used to support or administer any financial or commercial operation of any United States Government

department, agency, or other entity, or of any person subject to the jurisdiction of the United States, for the benefit of the Government of Iraq, its agencies or instrumentalities, or any person working on behalf of the Government of Iraq, contrary to the trade embargo and other economic sanctions imposed in accordance with this section.

(b) HUMANITARIAN ASSISTANCE–To the extent that transactions involving foodstuffs or payments for foodstuffs are exempted ‹in humanitarian circumstances' from the prohibitions established by the United States pursuant to United Nations Security Council Resolution 661 (1990), those exemptions shall be limited to foodstuffs that are to be provided consistent with United Nations Security Council Resolution 666 (1990) and other relevant Security Council resolutions.

(c) NOTICE TO CONGRESS OF EXCEPTIONS TO AND TERMINATION OF SANCTIONS–

(1) NOTICE OF REGULATIONS–Any regulations issued after the date of enactment of this Act with respect to the economic sanctions imposed with respect to Iraq and Kuwait by the United States under Executive Orders Numbered 12722 and 12723 (August 2, 1990) and Executive Orders Numbered 12724 and 12725 (August 9, 1990) shall be submitted to the Congress before those regulations take effect.

President

(2) NOTICE OF TERMINATION OF SANCTIONS–The President shall notify the Congress at least 15 days before the termination, in whole or in part, of any sanction imposed with respect to Iraq or Kuwait pursuant to those Executive orders.

(d) Relation to Other Laws–

(1) SANCTIONS LEGISLATION–The sanctions that are described in subsection (a) are in addition to, and not in lieu of the sanctions provided for in section 586G of this Act or any other provision of law.

(2) NATIONAL EMERGENCIES AND UNITED NATIONS LEGISLATION–Nothing in this section supersedes any provision of the National Emergencies Act or any authority of the President under the International Emergency Economic Powers Act or section 5(a) of the United Nations Participation Act of 1945.

Sec. 586D. COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ.

(a) DENIAL OF ASSISTANCE–None of the funds appropriated or otherwise made available pursuant to this Act to carry out the Foreign Assistance Act of 1961 (including Title IV of Chapter 2 of Part I, relating to the Overseas Private Investment Corporation) or the Arms Export Control Act may be used to provide assistance to any country that is not in compliance with the United Nations Security Council sanctions against Iraq unless the President determines and so certifies to the Congress that–

(1) such assistance is in the national interest of the United States;

(2) such assistance will directly benefit the needy people in that country; or

(3) the assistance to be provided will be humanitarian assistance for foreign nationals who have fled Iraq and Kuwait.

(b) IMPORT SANCTIONS–If the President considers that the taking of such action would promote the effectiveness of the economic sanctions of the United Nations and the United States imposed with respect to Iraq, and is consistent with the national interest, the President may prohibit, for

such a period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not prohibited–

(1) the importation of products of Iraq into its customs territory, and

(2) the export of its products to Iraq.

Sec. 586E. PENALTIES FOR VIOLATIONS OF EMBARGO.

Notwithstanding section 206 of the International Emergency Economic Powers Act (50 USC 1705) and section 5(b) of the United Nations Participation Act of 1945 (22 USC 287c(b))–

(1) a civil penalty of not to exceed $250,000 may be imposed on any person who, after the date of enactment of this Act, violates or evades or attempts to violate or evade Executive Order Numbered 12722, 12723, 12724, or 12725 or any license, order, or regulation issued under any such Executive order; and

(2) whoever, after the date of enactment of this Act, willfully violates or evades or attempts to violate or evade Executive Order Numbered 12722, 12723, 12724, or 12725 or any license, order, or regulation issued under any such Executive order–

(A) shall, upon conviction, be fined not more than $1,000,000, if a person other than a natural person; or

(B) if a natural person, shall, upon conviction, be fined not more than $1,000,000, be imprisoned for not more than 12 years, or both.

Any officer, director, or agent of any corporation who knowingly participates in a violation, evasion, or attempt described in paragraph (2) may be punished by imposition of the fine or imprisonment (or both) specified in subparagraph (B) of that paragraph.

Sec. 586F. DECLARATIONS REGARDING IRAQ'S LONG–STANDING VIOLATIONS OF INTERNATIONAL LAW.

(a) IRAQ'S VIOLATIONS OF INTERNATIONAL LAW–The Congress determines that–

(1) the Government of Iraq has demonstrated repeated and blatant disregard for its obligations under international law by violating the Charter of the United Nations, the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (done at Geneva, June 17, 1925), as well as other international treaties;

(2) the Government of Iraq is a party to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights and is obligated under the Covenants, as well as the Universal Declaration of Human Rights, to respect internationally recognized human rights;

(3) the State Department's Country Reports on Human Rights Practices for 1989 again characterizes Iraq's human rights record as ?abysmal";

(4) Amnesty International, Middle East Watch, and other independent human rights organizations have documented extensive, systematic, and continuing human rights abuses by the Government of Iraq, including summary executions, mass political killings, disappearances, widespread use of torture, arbitrary arrests and prolonged detention without trial of thousands of political opponents,

forced relocation and deportation, denial of nearly all civil and political rights such as freedom of association, assembly, speech, and the press, and the imprisonment, torture, and execution of children;

(5) since 1987, the Government of Iraq has intensified its severe repression of the Kurdish minority of Iraq, deliberately destroyed more than 3,000 villages and towns in the Kurdish regions, and forcibly expelled more than 500,000 people, thus effectively depopulating the rural areas of Iraqi Kurdistan;

(6) Iraq has blatantly violated international law by initiating use of chemical weapons in the Iran-Iraq war;

(7) Iraq has also violated international law by using chemical weapons against its own Kurdish citizens, resulting in tens of thousands of deaths and more than 65,000 refugees;

Saddam Hussein.

(8) Iraq continues to expand its chemical weapons capability, and President Saddam Hussein has threatened to use chemical weapons against other nations;

(9) persuasive evidence exists that Iraq is developing biological weapons in violation of international law;

(10) there are strong indications that Iraq has taken steps to produce nuclear weapons and has attempted to smuggle from the United States, in violation of United States law, components for triggering devices used in nuclear warheads whose manufacture would contravene the Treaty on the Non-Proliferation of Nuclear Weapons, to which Iraq is a party; and

Saddam Hussein.

(11) Iraqi President Saddam Hussein has threatened to use terrorism against other nations in violation of international law and has increased Iraq's support for the Palestine Liberation Organization and other Palestinian groups that have conducted terrorist acts.

(b) HUMAN RIGHTS VIOLATIONS–The Congress determines that the Government of Iraq is engaged in a consistent pattern of gross violations of internationally recognized human rights. All provisions of law that impose sanctions against a country whose government is engaged in a consistent pattern of gross violations of internationally recognized human rights shall be fully enforced against Iraq.

(c) SUPPORT FOR INTERNATIONAL TERRORISM–

(1) The Congress determines that Iraq is a country which has repeatedly provided support for acts of international terrorism, a country which grants sanctuary from prosecution to individuals or groups which have committed an act of international terrorism, and a country which otherwise supports international terrorism. The provisions of law specified in paragraph (2) and all other provisions of law that impose sanctions against a country which has repeatedly provided support for acts of international terrorism, which grants sanctuary from prosecution to an individual or group which has committed an act of international terrorism, or which otherwise supports international terrorism shall be fully enforced against Iraq.

(2) The provisions of law referred to in paragraph (1) are–

(A) section 40 of the Arms Export Control Act;

(B) section 620A of the Foreign Assistance Act of 1961;

(C) sections 555 and 556 of this Act (and the corresponding sections of predecessor foreign operations appropriations Acts); and

(D) section 555 of the International Security and Development Cooperation Act of 1985.

(d) MULTILATERAL COOPERATION–The Congress calls on the President to seek multilateral cooperation–

(1) to deny dangerous technologies to Iraq;

(2) to induce Iraq to respect internationally recognized human rights; and

(3) to induce Iraq to allow appropriate international humanitarian and human rights organizations to have access to Iraq and Kuwait, including the areas in northern Iraq traditionally inhabited by Kurds.

Sec. 586G. SANCTIONS AGAINST IRAQ.

(a) IMPOSITION–Except as provided in section 586H, the following sanctions shall apply with respect to Iraq:

(1) FMS SALES–The United States Government shall not enter into any sale with Iraq under the Arms Export Control Act.

(2) COMMERCIAL ARMS SALES- Licenses shall not be issued for the export to Iraq of any item on the United States Munitions List.

(3) EXPORTS OF CERTAIN GOODS AND TECHNOLOGY–The authorities of section 6 of the Export Administration Act of 1979 (50 USC App. 2405) shall be used to prohibit the export to Iraq of any goods or technology listed pursuant to that section or section 5(c)(1) of that Act (50 USC App. 2404(c)(1)) on the control list provided for in section 4(b) of that Act (50 USC App. 2403(b)).

(4) Nuclear equipment, materials, and technology–

(A) NRC LICENSES–The Nuclear Regulatory Commission shall not issue any license or other authorization under the Atomic Energy Act of 1954 (42 USC 2011 and following) for the export to Iraq of any source or special nuclear material, any production or utilization facility, any sensitive nuclear technology, any component, item, or substance determined to have significance for nuclear explosive purposes pursuant to section 109b. of the Atomic Energy Act of 1954 (42 USC 2139(b)), or any other material or technology requiring such a license or authorization.

(B) DISTRIBUTION OF NUCLEAR MATERIALS–The authority of the Atomic Energy Act of 1954 shall not be used to distribute any special nuclear material, source material, or byproduct material to Iraq.

(C) DOE AUTHORIZATIONS–The Secretary of Energy shall not provide a specific authorization under section 57b. (2) of the Atomic Energy Act of 1954(42 USC 2077(b)(2)) for any activity that would constitute directly or indirectly engaging in Iraq in activities that require a specific authorization under that section.

(5) ASSISTANCE FROM INTERNATIONAL FINANCIAL INSTITUTIONS–The United States shall oppose any loan or financial or technical assistance to Iraq by international financial institutions in accordance with section 701 of the International Financial Institutions Act (22 USC 262d).

Credit.

(6) ASSISTANCE THROUGH THE EXPORT-IMPORT BANK–Credits and credit guarantees through the Export-Import Bank of the United States shall be denied to Iraq.

(7) ASSISTANCE THROUGH THE COMMODITY CREDIT CORPORATION–Credit, credit guarantees, and other assistance through the Commodity Credit Corporation shall be denied to Iraq.

(8) FOREIGN ASSISTANCE–All forms of assistance under the Foreign Assistance Act of 1961 (22 USC 2151 and following) other than emergency assistance for medical supplies and other forms of emergency humanitarian assistance, and under the Arms Export Control Act (22 U.S.C. 2751 and following) shall be denied to Iraq.

(b) CONTRACT SANCTITY–For purposes of the export controls imposed pursuant to subsection (a)(3), the date described in subsection (m)(1) of section 6 of the Export Administration Act of 1979 (50 USC App. 2405) shall be deemed to be August 1, 1990.

Sec. 586H. WAIVER AUTHORITY.

(a) IN GENERAL–The President may waive the requirements of any paragraph of section 586G(a) if the President makes a certification under subsection (b) or subsection (c).

(b) CERTIFICATION OF FUNDAMENTAL CHANGES IN IRAQI POLICIES AND ACTIONS–The authority of subsection (a) may be exercised 60 days after the President certifies to the Congress that–

(1) the Government of Iraq–

(A) has demonstrated, through a pattern of conduct, substantial improvement in its respect for internationally recognized human rights;

(B) is not acquiring, developing, or manufacturing (i) ballistic missiles, (ii) chemical, biological, or nuclear weapons, or (iii) components for such weapons; has forsworn the first use of such weapons; and is taking substantial and verifiable steps to destroy or otherwise dispose of any such missiles and weapons it possesses; and

(C) does not provide support for international terrorism;

(2) the Government of Iraq is in substantial compliance with its obligations under international law, including–

(A) the Charter of the United Nations;

(B) the International Covenant on Civil and Political Rights (done at New York, December 16, 1966) and the International Covenant on Economic, Social, and Cultural Rights (done at New York, December 16, 1966);

(C) the Convention on the Prevention and Punishment of the Crime of Genocide (done at Paris, December 9, 1948);

(D) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (done at Geneva, June 17, 1925);

(E) the Treaty on the Non-Proliferation of Nuclear Weapons (done at Washington, London, and Moscow, July 1, 1968); and

(F) the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (done at Washington, London, and Moscow, April 10, 1972); and

(3) the President has determined that it is essential to the national interests of the United States to exercise the authority of subsection (a).

(c) CERTIFICATION OF FUNDAMENTAL CHANGES IN IRAQI LEADERSHIP AND POLICIES–The authority of subsection (a) may be exercised 30 days after the President certifies to the Congress that–

(1) there has been a fundamental change in the leadership of the Government of Iraq; and

(2) the new Government of Iraq has provided reliable and credible assurance that–

(A) it respects internationally recognized human rights and it will demonstrate such respect through its conduct;

(B) it is not acquiring, developing, or manufacturing and it will not acquire, develop, or manufacture (i) ballistic missiles, (ii) chemical, biological, or nuclear weapons, or (iii) components for such weapons; has forsworn the first use of such weapons; and is taking substantial and verifiable steps to destroy or otherwise dispose of any such missiles and weapons it possesses;

(C) it is not and will not provide support for international terrorism; and(D) it is and will continue to be in substantial compliance with its obligations under international law, including all the treaties specified in subparagraphs (A) through (F) of subsection (b)(2).

(d) INFORMATION TO BE INCLUDED IN CERTIFICATIONS–Any certification under subsection (b) or (c) shall include the justification for each determination required by that subsection. The certification shall also specify which paragraphs of section 586G(a) the President will waive pursuant to that certification.

Sec. 586I. DENIAL OF LICENSES FOR CERTAIN EXPORTS TO COUNTRIES ASSISTING IRAQ'S ROCKET OR CHEMICAL, BIOLOGICAL, OR NUCLEAR WEAPONS CAPABILITY.

(a) RESTRICTION ON EXPORT LICENSES–None of the funds appropriated by this or any other Act may be used to approve the licensing for export of any supercomputer to any country whose government the President determines is assisting, or whose government officials the President determines are assisting, Iraq to improve its rocket technology or chemical, biological, or nuclear weapons capability.

(b) NEGOTIATIONS–The President is directed to begin immediate negotiations with those governments with which the United States has bilateral supercomputer agreements, including the Government of the United Kingdom and the Government of Japan, on conditions restricting the transfer to Iraq of supercomputer or associated technology.

Sec. 586J. REPORTS TO CONGRESS.

(a) STUDY AND REPORT ON THE INTERNATIONAL EXPORT TO IRAQ OF NUCLEAR, BIOLOGICAL, CHEMICAL, AND BALLISTIC MISSILE TECHNOLOGY–

(1) The President shall conduct a study on the sale, export, and third party transfer or development of nuclear, biological, chemical, and ballistic missile technology to or with Iraq including–

(A) an identification of specific countries, as well as companies and individuals, both foreign and domestic, engaged in such sale or

export of, nuclear, biological, chemical, and ballistic missile technology;

(B) a detailed description and analysis of the international supply, information, support, and coproduction network, individual, corporate, and state, responsible for Iraq's current capability in the area of nuclear, biological, chemical, and ballistic missile technology; and

(C) a recommendation of standards and procedures against which to measure and verify a decision of the Government of Iraq to terminate the development, production, coproduction, and deployment of nuclear, biological, chemical, and offensive ballistic missile technology as well as the destruction of all existing facilities associated with such technologies.

(2) The President shall include in the study required by paragraph (1) specific recommendations on new mechanisms, to include, but not be limited to, legal, political, economic and regulatory, whereby the United States might contribute, in conjunction with its friends, allies, and the international community, to the management, control, or elimination of the threat of nuclear, biological, chemical, and ballistic missile proliferation.

(3) Not later than March 30, 1991, the President shall submit to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives, a report, in both classified and unclassified form, setting forth the findings of the study required by paragraph (1) of this subsection.

(b) STUDY AND REPORT ON IRAQ'S OFFENSIVE MILITARY CAPABILITY–

(1) The President shall conduct a study on Iraq's offensive military capability and its effect on the Middle East balance of power including an assessment of Iraq's power projection capability, the prospects for another sustained conflict with Iran, joint Iraqi-Jordanian military cooperation, the threat Iraq's arms transfer activities pose to United States allies in the Middle East, and the extension of Iraq's political-military influence into Africa and Latin America.

(2) Not later than March 30, 1991, the President shall submit to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives, a report, in both classified and unclassified form, setting forth the findings of the study required by paragraph (1).

(c) REPORT ON SANCTIONS TAKEN BY OTHER NATIONS AGAINST IRAQ–

(1) The President shall prepare a report on the steps taken by other nations, both before and after the August 2, 1990, invasion of Kuwait, to curtail the export of goods, services, and technologies to Iraq which might contribute to, or enhance, Iraq's nuclear, biological, chemical, and ballistic missile capability.

(2) The President shall provide a complete accounting of international compliance with each of the sanctions resolutions adopted by the United Nations Security Council against Iraq since August 2, 1990, and shall list, by name, each country which to his

knowledge, has provided any assistance to Iraq and the amount and type of that assistance in violation of each United Nations resolution.

(3) The President shall make every effort to encourage other nations, in whatever forum or context, to adopt sanctions toward Iraq similar to those contained in this section.

(4) Not later than every 6 months after the date of enactment of this Act, the President shall submit to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives, a report in both classified and unclassified form, setting forth the findings of the study required by paragraph (1) of this subsection.

* * * *

EMERGENCY WARTIME SUPPLEMENTAL APPROPRIATIONS ACT, 2003

Public Law 108-11 **117 Stat. 579**

April 16, 2003

An Act

Making emergency wartime supplemental appropriations for the fiscal year 2003, and for other purposes.

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

Sec. 1503.

The President may suspend the application of any provision of the Iraq Sanctions Act of 1990: *Provided*, That nothing in this section shall affect the applicability of the Iran-Iraq Arms Non- Proliferation Act of 1992 (Public Law 102-484), except that such Act shall not apply to humanitarian assistance and supplies: *Provided further*, That the President may make inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961 or any other provision of law that applies to countries that have supported terrorism: *Provided further*, That military equipment, as defined by Title XVI, section 1608(1)(A) of Public Law 102-484, shall not be exported under the authority of this section: *Provided further*, That section 307 of the Foreign Assistance Act of 1961 shall not apply with respect to programs of international organizations for Iraq: *Provided further*, That provisions of law that direct the United States Government to vote against or oppose loans or other uses of funds, including for financial or technical assistance, in international financial institutions for Iraq shall not be construed as applying to Iraq: *Provided further*, That the President shall submit a notification 5 days prior to exercising any of the authorities described in this section to the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives: *Provided further*, That not more than 60 days after

President. Notification.

Deadlines. President. Reports.

enactment of this Act and every 90 days thereafter the President shall submit a report to the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives containing a summary of all licenses approved for export to Iraq of any item on the Commerce Control List contained in the Export Administration Regulations, 15 CFR Part 774, Supplement 1, including identification of end users of such items: *Provided further*, That the authorities contained in this section shall expire on September 30, 2004, or on the date of enactment of a subsequent Act authorizing assistance for Iraq and that specifically amends, repeals or otherwise makes inapplicable the authorities of this section, whichever occurs first.

Expiration date.

* * * *

For Immediate Release
Office of the Press Secretary
May 7, 2003

Memorandum for the Secretary of State
Presidential Determination
No. 2003-23

THE SECRETARY OF COMMERCE

SUBJECT: Suspending the Iraq Sanctions Act, Making Inapplicable Certain Statutory Provisions Related to Iraq, and Delegating Authorities, under the Emergency Wartime Supplemental Appropriations Act, 2003

By virtue of the authority vested in me by the Constitution and the laws of the United States, including sections 1503 and 1504 of the Emergency Wartime Supplemental Act, 2003, Public Law 108-11 (the "Act"), and section 301 of Title 3, United States Code, I hereby:

(1) suspend the application of all of the provisions, other than section 586E, of the Iraq Sanctions Act of 1990, Public Law 101-513, and

(2) make inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961, Public Law 87-195, as amended (the "FAA"), and any other provision of law that applies to countries that have supported terrorism.

In addition, I delegate the functions and authorities conferred upon the President by:

(1) section 1503 of the Act to submit reports to the designated committees of the Congress to the Secretary of Commerce, or until such time as the principal licensing responsibility for the export to Iraq of items on the Commerce Control List has reverted to the Department of Commerce, to the Secretary of the Treasury; and,

(2) section 1504 of the Act to the Secretary of State.

The functions and authorities delegated herein may be further delegated and redelegated to the extent consistent with applicable law.

The Secretary of State is authorized and directed to publish this determination in the Federal Register.

GEORGE W. BUSH

# # #

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993

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50 USC 1701 note.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993

Public Law 102-484 **106 Stat. 2571**

October 23, 1992

* * * *

DIVISION A –TITLE XVI

* * * *

TITLE XVI–IRAN-IRAQ ARMS NON-PROLIFERATION ACT OF 1992

Sec. 1601. SHORT TITLE.

Iran–Iraq Arms Non–Proliferation Act of 1992. 50 USC 1701 note.

This Title may be cited as the ?Iran–Iraq Arms Non–Proliferation Act of 1992".

Sec. 1602. UNITED STATES POLICY.

(a) IN GENERAL–It shall be the policy of the United States to oppose, and urgently to seek the agreement of other nations also to oppose, any transfer to Iran or Iraq of any goods or technology, including dual-use goods or technology, wherever that transfer could materially contribute to either country's acquiring chemical, biological, nuclear, or destabilizing numbers and types of advanced conventional weapons.

President.

(b) SANCTIONS–

(1) In the furtherance of this policy, the President shall apply sanctions and controls with respect to Iran, Iraq, and those nations and persons who assist them in acquiring weapons of mass destruction in accordance with the Foreign Assistance Act of 1961, the Nuclear Non-Proliferation Act of 1978, the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, Chapter 7 of the Arms Export Control Act, and other relevant statutes, regarding the non-proliferation of weapons of mass destruction and the means of their delivery.

(2) The President should also urgently seek the agreement of other nations to adopt and institute, at the earliest practicable date, sanctions and controls comparable to those the United States is obligated to apply under this subsection.

(c) PUBLIC IDENTIFICATION–The Congress calls on the President to identify publicly (in the report required by section 1607) any country or person that transfers goods or technology to Iran or Iraq contrary to the policy set forth in subsection (a).

Sec. 1603. APPLICATION TO IRAN OF CERTAIN IRAQ SANCTIONS.

The sanctions against Iraq specified in paragraphs (1) through (4) of section 586G(a) of the Iraq Sanctions Act of 1990 (as contained in Public Law 101-513), including denial of export licenses for United States persons and prohibitions on United States Government sales, shall be applied to the same extent and in the same manner with respect to Iran.

Sec. 1604. SANCTIONS AGAINST CERTAIN PERSONS.

(a) PROHIBITION–If any person transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to

acquire chemical, biological, or nuclear weapons or destabilizing numbers and types of advanced conventional weapons, then the sanctions described in subsection (b) shall be imposed.

(b) MANDATORY SANCTIONS–The sanctions to be imposed pursuant to subsection (a) are as follows:

(1) PROCUREMENT SANCTION–For a period of two years, the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the sanctioned person.

(2) EXPORT SANCTION- For a period of two years, the United States Government shall not issue any license for any export by or to the sanctioned person.

Sec. 1605. SANCTIONS AGAINST CERTAIN FOREIGN COUNTRIES.

President.

(a) PROHIBITION–If the President determines that the government of any foreign country transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire chemical, biological, or nuclear weapons or destabilizing numbers and types of advanced conventional weapons, then–

(1) the sanctions described in subsection (b) shall be imposed on such country; and

(2) in addition, the President may apply, in the discretion of the President, the sanction described in subsection (c).

(b) MANDATORY SANCTIONS- Except as provided in paragraph (2), the sanctions to be imposed pursuant to subsection (a)(1) are as follows:

(1) SUSPENSION OF UNITED STATES ASSISTANCE–The United States Government shall suspend, for a period of one year, United States assistance to the sanctioned country.

(2) MULTILATERAL DEVELOPMENT BANK ASSISTANCE–The Secretary of the Treasury shall instruct the United States Executive Director to each appropriate international financial institution to oppose, and vote against, for a period of one year, the extension by such institution of any loan or financial or technical assistance to the sanctioned country.

(3) SUSPENSION OF CODEVELOPMENT OR COPRODUCTION AGREEMENTS–The United States shall suspend, for a period of one year, compliance with its obligations under any memorandum of understanding with the sanctioned country for the codevelopment or coproduction of any item on the United States Munitions List (established under section 38 of the Arms Export Control Act), including any obligation for implementation of the memorandum of understanding through the sale to the sanctioned country of technical data or assistance or the licensing for export to the sanctioned country of any component part.

(4) SUSPENSION OF MILITARY AND DUAL-USE TECHNICAL EXCHANGE AGREEMENTS–The United States shall suspend, for a period of one year, compliance with its obligations under any technical exchange agreement involving military and dual-use technology between the United States and the sanctioned country that does not directly contribute to the security of the United

States, and no military or dual-use technology may be exported from the United States to the sanctioned country pursuant to that agreement during that period.

(5) UNITED STATES MUNITIONS LIST–No item on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) may be exported to the sanctioned country for a period of one year.

(c) DISCRETIONARY SANCTION–The sanction referred to in subsection (a)(2) is as follows:

(1) USE OF AUTHORITIES OF INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT–Except as provided in paragraph (2), the President may exercise, in accordance with the provisions of that Act, the authorities of the International Emergency Economic Powers Act with respect to the sanctioned country.

(2) EXCEPTION–Paragraph (1) does not apply with respect to urgent humanitarian assistance.

Sec. 1606. WAIVER.

President. The President may waive the requirement to impose a sanction described in section 1603, in the case of Iran, or a sanction described in section 1604(b) or 1605(b), in the case of Iraq and Iran, 15 days after the President determines and so reports to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives that it is essential to the national interest of the United States to exercise such waiver authority. Any such report shall provide a specific and detailed rationale for such determination.

Sec. 1607. REPORTING REQUIREMENT.

President. (a) ANNUAL REPORT–Beginning one year after the date of the enactment of this Act, and every 12 months thereafter, the President shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report detailing–

(1) all transfers or retransfers made by any person or foreign government during the preceding 12-month period which are subject to any sanction under this Title; and

(2) the actions the President intends to undertake or has undertaken pursuant to this Title with respect to each such transfer.

(b) REPORT ON INDIVIDUAL TRANSFERS–Whenever the President determines that a person or foreign government has made a transfer which is subject to any sanction under this Title, the President shall, within 30 days after such transfer, submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report–

(1) identifying the person or government and providing the details of the transfer; and

(2) describing the actions the President intends to undertake or has undertaken under the provisions of this Title with respect to each such transfer.

(c) FORM OF TRANSMITTAL–Reports required by this section may be submitted in classified as well as in unclassified form.

Sec. 1608. DEFINITIONS.

For purposes of this Title:

(1) The term ?advanced conventional weapons" includes–

(A) such long-range precision-guided munitions, fuel air explosives, cruise missiles, low observability aircraft, other radar evading aircraft, advanced military aircraft, military satellites, electromagnetic weapons, and laser weapons as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways;

(B) such advanced command, control, and communications systems, electronic warfare systems, or intelligence collection systems as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways; and

(C) such other items or systems as the President may, by regulation, determine necessary for purposes of this Title.

(2) The term ?cruise missile" means guided missiles that use aerodynamic lift to offset gravity and propulsion to counteract drag.

(3) The term ?goods or technology" means–

(A) any article, natural or manmade substance, material, supply, or manufactured product, including inspection and test equipment; and

(B) any information and know-how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data.

(4) The term ?person" means any United States or foreign individual, partnership, corporation, or other form of association, or any of their successor entities, parents, or subsidiaries.

(5) The term ?sanctioned country" means a country against which sanctions are required to be imposed pursuant to section 1605.

(6) The term ?sanctioned person" means a person that makes a transfer described in section 1604(a).

(7) The term ?United States assistance" means–

(A) any assistance under the Foreign Assistance Act of 1961, other than–

(i) urgent humanitarian assistance or medicine, and

(ii) assistance under Chapter 11 of Part I (as enacted by the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992);

(B) sales and assistance under the Arms Export Control Act;

(C) financing by the Commodity Credit Corporation for export sales of agricultural commodities; and

(D) financing under the Export-Import Bank Act.

SUBTITLE B–NORTH KOREA THREAT REDUCTION

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SUBTITLE B–NORTH KOREA THREAT REDUCTION

Public Law 106-113 113 Stat. 1501–472

November 29, 1999

An Act

making consolidated appropriations for the fiscal year ending September 30, 2000, and for other purposes.

* * * *

Sec. 821. SHORT TITLE.

This subtitle may be cited as the "North Korea Threat Reduction Act of 1999"

Sec. 822. RESTRICTIONS ON NUCLEAR COOPERATION WITH NORTH KOREA.

(a) IN GENERAL.–Notwithstanding any other provision of law or any international agreement, no agreement for cooperation (as defined in section 11b. of the Atomic Energy Act of 1954 (42 USC 2014 b.)) between the United States and North Korea may become effective, no license may be issued for export directly or indirectly to North Korea of any nuclear material, facilities, components, or other goods, services, or technology that would be subject to such agreement, and no approval may be given for the transfer or retransfer directly or indirectly to North Korea of any nuclear material, facilities, components, or other goods, services, or technology that would be subject to such agreement, until the President determines and reports to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that–

(1) North Korea has come into full compliance with its safeguards agreement with the IAEA (INFCIRC/403), and has taken all steps that have been deemed necessary by the IAEA in this regard;

(2) North Korea has permitted the IAEA full access to all additional sites and all information (including historical records) deemed necessary by the IAEA to verify the accuracy and completeness of North Korea's initial report of May 4, 1992, to the IAEA on all nuclear sites and material in North Korea;

(3) North Korea is in full compliance with its obligations under the Agreed Framework;

(4) North Korea has consistently taken steps to implement the Joint Declaration on Denuclearization, and is in full compliance with its obligations under numbered paragraphs 1, 2, and 3 of the Joint Declaration on Denuclearization (excluding in the case of numbered paragraph 3 facilities frozen pursuant to the Agreed Framework);

(5) North Korea does not have uranium enrichment or nuclear reprocessing facilities (excluding facilities frozen pursuant to the Agreed Framework), and is making no significant progress toward acquiring or developing such facilities;

(6) North Korea does not have nuclear weapons and is making no significant effort to acquire, develop, test, produce, or deploy such weapons; and

(7) the transfer to North Korea of key nuclear components, under the proposed agreement for cooperation with North Korea and in accordance with the Agreed Framework, is in the national interest of the United States.

(b) CONSTRUCTION.–The restrictions contained in subsection (a) shall apply in addition to all other applicable procedures, requirements, and restrictions contained in the Atomic Energy Act of 1954 and other laws.

Sec. 823. DEFINITIONS.

In this subtitle:

(1) AGREED FRAMEWORK.–The term "Agreed Framework" means the "Agreed Framework Between the United States of America and the Democratic People's Republic of Korea", signed in Geneva on October 21, 1994, and the Confidential Minute to that Agreement.

(2) IAEA.–The term "IAEA" means the International Atomic Energy Agency.

(3) NORTH KOREA.–The term "North Korea" means the Democratic People's Republic of Korea.

(4) JOINT DECLARATION ON DENUCLEARIZATION.–The term "Joint Declaration on Denuclearization" means the Joint Declaration on the Denuclearization of the Korean Peninsula, issued by the Republic of Korea and the Democratic People's Republic of Korea on January 1, 1992.

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IRAN NONPROLIFERATION ACT OF 2000

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50 USC 1701

IRAN NONPROLIFERATION ACT OF 2000

March 14, 2000

An Act

to provide for the application of measures to foreign persons who transfer to Iran certain goods, services, or technology, and for other purposes.

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

Iran Nonproliferation Act of 2000. Arms and munitions. Weapons. 50 USC 1701 note.

Sec. 1. SHORT TITLE.

This Act may be cited as the "Iran Nonproliferation Act of 2000".

President

Sec. 2. REPORTS ON PROLIFERATION TO IRAN.

(a) REPORTS.–The President shall, at the times specified in subsection (b), submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report identifying every foreign person with respect to whom there is credible information indicating that that person, on or after January 1, 1999, transferred to Iran–

(1) goods, services, or technology listed on–

(A) the Nuclear Suppliers Group Guidelines for the Export of Nuclear Material, Equipment and Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/254/ Rev.3/ Part 1, and subsequent revisions) and Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Material, and Related Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/254/ Rev.3/ Part 2, and subsequent revisions);

(B) the Missile Technology Control Regime Equipment and Technology Annex of June 11, 1996, and subsequent revisions;

(C) the lists of items and substances relating to biological and chemical weapons the export of which is controlled by the Australia Group;

(D) the Schedule One or Schedule Two list of toxic chemicals and precursors the export of which is controlled pursuant to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction; or

(E) the Wassenaar Arrangement list of Dual Use Goods and Technologies and Munitions list of July 12, 1996, and subsequent revisions; or

(2) goods, services, or technology not listed on any list identified in paragraph (1) but which nevertheless would be, if they were United States goods, services, or technology, prohibited for export to Iran because of their potential to make a material contribution to the development of nuclear, biological, or chemical weapons, or of ballistic or cruise missile systems.

Deadline.

(b) TIMING OF REPORTS.–The reports under subsection (a) shall be submitted not later than 90 days after the date of the enactment of this Act, not later than 6 months after such date of enactment, and not later than the end of each 6-month period thereafter.

(c) EXCEPTIONS.–Any foreign person who–

(1) was identified in a previous report submitted under subsection (a) on account of a particular transfer; or

(2) has engaged in a transfer on behalf of, or in concert with, the Government of the United States, is not required to be identified on account of that same transfer in any report submitted thereafter under this section, except to the degree that new information has emerged indicating that the particular transfer may have continued, or been larger, more significant, or different in nature than previously reported under this section.

(d) Submission in Classified Form.--When the President considers it appropriate, reports submitted under subsection (a), or appropriate parts thereof, may be submitted in classified form.

Sec. 3. APPLICATION OF MEASURES TO CERTAIN FOREIGN PERSONS.

(a) APPLICATION OF MEASURES.–Subject to sections 4 and 5, the President is authorized to apply with respect to each foreign person identified in a report submitted pursuant to section 2(a), for such period of time as he may determine, any or all of the measures described in subsection (b).

(b) DESCRIPTION OF MEASURES.–The measures referred to in subsection (a) are the following:

(1) EXECUTIVE ORDER NO. 12938 PROHIBITIONS.–The measures set forth in subsections (b) and (c) of section 4 of Executive Order No. 12938.

(2) ARMS EXPORT PROHIBITION.–Prohibition on United States Government sales to that foreign person of any item on the United States Munitions List as in effect on August 8, 1995, and termination of sales to that person of any defense articles, defense services, or design and construction services under the Arms Export Control Act.

(3) DUAL USE EXPORT PROHIBITION.–Denial of licenses and suspension of existing licenses for the transfer to that person of items the export of which is controlled under the Export Administration Act of 1979 or the Export Administration Regulations.

(c) EFFECTIVE DATE OF MEASURES.–Measures applied pursuant to subsection (a) shall be effective with respect to a foreign person no later than–

(1) 90 days after the report identifying the foreign person is submitted, if the report is submitted on or before the date required by section 2(b);

(2) 90 days after the date required by section 2(b) for submitting the report, if the report identifying the foreign person is submitted within 60 days after that date; or

(3) on the date that the report identifying the foreign person is submitted, if that report is submitted more than 60 days after the date required by section 2(b).

(d) PUBLICATION IN FEDERAL REGISTER.–The application of measures to a foreign person pursuant to subsection (a) shall be announced by notice published in the Federal Register.

Sec. 4. PROCEDURES IF MEASURES ARE NOT APPLIED.

(a) REQUIREMENT TO NOTIFY CONGRESS.–Should the President not exercise the authority of section 3(a) to apply any or all of the measures described in section 3(b) with respect to a foreign person identified in a report submitted pursuant to section 2(a), he shall so notify the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate no later than the effective date under section 3(c) for measures with respect to that person.

(b) WRITTEN JUSTIFICATION.–Any notification submitted by the President under subsection (a) shall include a written justification describing in detail the facts and circumstances relating specifically to the foreign person identified in a report submitted pursuant to section 2(a) that support the President's decision not to exercise the authority of section 3(a) with respect to that person.

(c) SUBMISSION IN CLASSIFIED FORM.–When the President considers it appropriate, the notification of the President under subsection (a), and the written justification under subsection (b), or appropriate parts thereof, may be submitted in classified form.

Sec. 5. DETERMINATION EXEMPTING FOREIGN PERSON FROM SECTIONS 3 AND 4.

(a) IN GENERAL.–Sections 3 and 4 shall not apply to a foreign person 15 days after the President reports to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that the President has determined, on the basis of information provided by that person, or otherwise obtained by the President, that–

(1) the person did not, on or after January 1, 1999, knowingly transfer to Iran the goods, services, or technology the apparent transfer of which caused that person to be identified in a report submitted pursuant to section 2(a);

(2) the goods, services, or technology the transfer of which caused that person to be identified in a report submitted pursuant to section 2(a) did not materially contribute to Iran’s efforts to develop nuclear, biological, or chemical weapons, or ballistic or cruise missile systems;

(3) the person is subject to the primary jurisdiction of a government that is an adherent to one or more relevant nonproliferation regimes, the person was identified in a report submitted pursuant to section 2(a) with respect to a transfer of goods, services, or technology described in section 2(a)(1), and such transfer was made consistent with the guidelines and parameters of all such relevant regimes of which such government is an adherent; or

(4) the government with primary jurisdiction over the person has imposed meaningful penalties on that person on account of the transfer of the goods, services, or technology which caused that person to be identified in a report submitted pursuant to section 2(a).

(b) OPPORTUNITY TO PROVIDE INFORMATION.–Congress urges the President–

(1) in every appropriate case, to contact in a timely fashion each foreign person identified in each report submitted pursuant to section 2(a), or the government with primary jurisdiction over such person, in order to afford such person, or governments, the opportunity to provide explanatory, exculpatory, or other additional information with respect to the transfer that caused such person to be identified in a report submitted pursuant to section 2(a); and

(2) to exercise the authority in subsection (a) in all cases where information obtained from a foreign person identified in a report submitted pursuant to section 2(a), or from the government with primary jurisdiction over such person, establishes that the exercise of such authority is warranted.

(c) SUBMISSION IN CLASSIFIED FORM.–When the President considers it appropriate, the determination and report of the President under subsection (a), or appropriate parts thereof, may be submitted in classified form.

Sec. 6. RESTRICTION ON EXTRAORDINARY PAYMENTS IN CONNECTION WITH THE INTERNATIONAL SPACE STATION.

Russian Federation.
President.

(a) RESTRICTION ON EXTRAORDINARY PAYMENTS IN CONNECTION WITH THE INTERNATIONAL SPACE STATION.–Notwithstanding any other provision of law, no agency of the United States Government may make extraordinary payments in connection with the International Space Station to the Russian Aviation and Space Agency, any organization or entity under the jurisdiction or control of the Russian Aviation and Space Agency, or any other organization, entity, or element of the Government of the Russian Federation, unless, during the fiscal year in which the extraordinary payments in connection with the International Space Station are to be made, the President has made the determination described in subsection (b), and reported such determination to the Committee on International Relations and the Committee on Science of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation of the Senate.

(b) DETERMINATION REGARDING RUSSIAN COOPERATION IN PREVENTING PROLIFERATION TO IRAN.–The determination referred to in subsection (a) is a determination by the President that–

(1) it is the policy of the Government of the Russian Federation to oppose the proliferation to Iran of weapons of mass destruction and missile systems capable of delivering such weapons;

(2) the Government of the Russian Federation (including the law enforcement, export promotion, export control, and intelligence agencies of such government) has demonstrated and continues to demonstrate a sustained commitment to seek out and prevent the transfer to Iran of goods, services, and technology that could make a material contribution to the development of nuclear, biological, or chemical weapons, or of ballistic or cruise missile systems; and

(3) neither the Russian Aviation and Space Agency, nor any organization or entity under the jurisdiction or control of the Russian Aviation and Space Agency, has, during the 1-year period prior to the date of the determination pursuant to this subsection, made transfers to

Iran reportable under section 2(a) of this Act (other than transfers with respect to which a determination pursuant to section 5 has been or will be made).

Deadline.

(c) PRIOR NOTIFICATION.–Not less than 5 days before making a determination under subsection (b), the President shall notify the Committee on International Relations and the Committee on Science of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation of the Senate of his intention to make such determination.

(d) WRITTEN JUSTIFICATION.–A determination of the President under subsection (b) shall include a written justification describing in detail the facts and circumstances supporting the President's conclusion.

(e) SUBMISSION IN CLASSIFIED FORM.–When the President considers it appropriate, a determination of the President under subsection (b), a prior notification under subsection (c), and a written justification under subsection (d), or appropriate parts thereof, may be submitted in classified form.

(f) EXCEPTION FOR CREW SAFETY.–

(1) EXCEPTION.–The National Aeronautics and Space Administration may make extraordinary payments that would otherwise be prohibited under this section to the Russian Aviation and Space Agency or any organization or entity under the jurisdiction or control of the Russian Aviation and Space Agency if the President has notified the Congress in writing that such payments are necessary to prevent the imminent loss of life by or grievous injury to individuals aboard the International Space Station.

Deadline.

(2) REPORT.–Not later than 30 days after notifying Congress that the National Aeronautics and Space Administration will make extraordinary payments under paragraph (1), the President shall submit to Congress a report describing–

(A) the extent to which the provisions of subsection (b) had been met as of the date of notification; and

(B) the measures that the National Aeronautics and Space Administration is taking to ensure that–

(i) the conditions posing a threat of imminent loss of life by or grievous injury to individuals aboard the International Space Station necessitating the extraordinary payments are not repeated; and

(ii) it is no longer necessary to make extraordinary payments in order to prevent imminent loss of life by or grievous injury to individuals aboard the International Space Station.

(g) SERVICE MODULE EXCEPTION.–

(1) The National Aeronautics and Space Administration may make extraordinary payments that would otherwise be prohibited under this section to the Russian Aviation and Space Agency, any organization or entity under the jurisdiction or control of the Russian Aviation and Space Agency, or any subcontractor thereof for the construction, testing, preparation, delivery, launch, or maintenance of the Service Module, and for the purchase (at a total cost not to exceed $14,000,000) of the pressure dome for the Interim Control Module and

the Androgynous Peripheral Docking Adapter and related hardware for the United States propulsion module, if–

(A) the President has notified Congress at least 5 days before making such payments;

(B) no report has been made under section 2 with respect to an activity of the entity to receive such payment, and the President has no credible information of any activity that would require such a report; and

(C) the United States will receive goods or services of value to the United States commensurate with the value of the extraordinary payments made.

(2) For purposes of this subsection, the term "maintenance" means activities which cannot be performed by the National Aeronautics and Space Administration and which must be performed in order for the Service Module to provide environmental control, life support, and orbital maintenance functions which cannot be performed by an alternative means at the time of payment.

Termination date.

(3) This subsection shall cease to be effective 60 days after a United States propulsion module is in place at the International Space Station.

(h) EXCEPTION.–Notwithstanding subsections (a) and (b), no agency of the United States Government may make extraordinary payments in connection with the International Space Station to any foreign person subject to measures applied pursuant to–

(1) section 3 of this Act; or

(2) section 4 of Executive Order No. 12938 (November 14, 1994), as amended by Executive Order No. 13094 (July 28, 1998).

Such payments shall also not be made to any other entity if the agency of the United States Government anticipates that such payments will be passed on to such a foreign person.

Sec. 7. DEFINITIONS.

For purposes of this Act, the following terms have the following meanings:

(1) EXTRAORDINARY PAYMENTS IN CONNECTION WITH THE INTERNATIONAL SPACE STATION.–The term "extraordinary payments in connection with the International Space Station" means payments in cash or in kind made or to be made by the United States Government–

(A) for work on the International Space Station which the Russian Government pledged at any time to provide at its expense; or

(B) for work on the International Space Station, or for the purchase of goods or services relating to human space flight, that are not required to be made under the terms of a contract or other agreement that was in effect on January 1, 1999, as those terms were in effect on such date.

(2) FOREIGN PERSON; PERSON.–The terms "foreign person" and "person" mean–

(A) a natural person that is an alien;

(B) a corporation, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group,

that is organized under the laws of a foreign country or has its principal place of business in a foreign country;

(C) any foreign governmental entity operating as a business enterprise; and

(D) any successor, subunit, or subsidiary of any entity described in subparagraph (B) or (C).

(3) EXECUTIVE ORDER NO. 12938. The term “Executive Order No. 12938" means Executive Order No. 12938 as in effect on January 1, 1999.

(4) ADHERENT TO RELEVANT NONPROLIFERATION REGIME.–A government is an “adherent” to a “relevant nonproliferation regime” if that government–

(A) is a member of the Nuclear Suppliers Group with respect to a transfer of goods, services, or technology described in section 2(a)(1)(A);

(B) is a member of the Missile Technology Control Regime with respect to a transfer of goods, services, or technology described in section 2(a)(1)(B), or is a party to a binding international agreement with the United States that was in effect on January 1, 1999, to control the transfer of such goods, services, or technology in accordance with the criteria and standards set forth in the Missile Technology Control Regime;

(C) is a member of the Australia Group with respect to a transfer of goods, services, or technology described in section 2(a)(1)(C);

(D) is a party to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction with respect to a transfer of goods, services, or technology described in section 2(a)(1)(D); or

(E) is a member of the Wassenaar Arrangement with respect to a transfer of goods, services, or technology described in section 2(a)(1)(E).

(5) ORGANIZATION OR ENTITY UNDER THE JURISDICTION OR CONTROL OF THE RUSSIAN AVIATION AND SPACE AGENCY.–

(A) The term “organization or entity under the jurisdiction or control of the Russian Aviation and Space Agency”" means an organization or entity that–

(i) was made part of the Russian Space Agency upon its establishment on February 25, 1992;

(ii) was transferred to the Russian Space Agency by decree of the Russian Government on July 25, 1994, or May 12, 1998;

(iii) was or is transferred to the Russian Aviation and Space Agency or Russian Space Agency by decree of the Russian Government at any other time before, on, or after the date of the enactment of this Act; or

(iv) is a joint stock company in which the Russian Aviation and Space Agency or Russian Space Agency has at any time held controlling interest.

(B) Any organization or entity described in subparagraph (A) shall be deemed to be under the jurisdiction or control of the Russian Aviation and Space Agency regardless of whether–

(i) such organization or entity, after being part of or transferred to the Russian Aviation and Space Agency or Russian Space Agency, is removed from or transferred out of the Russian Aviation and Space Agency or Russian Space Agency; or

(ii) the Russian Aviation and Space Agency or Russian Space Agency, after holding a controlling interest in such organization or entity, divests its controlling interest.

MISCELLANEOUS

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NUCLEAR NON-PROLIFERATION TREATY

TABLE OF CONTENTS

NUCLEAR NON-PROLIFERATION TREATY

Treaty on the Non-Proliferation 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 measurements 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 cooperation 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 compete 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 of 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 to 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.

Signature, Ratification, Acceptance, Approval or Accession by States or Organizations

Country	Date of Signature	Date of Deposit of Ratification	Date of Deposit of Accession (A) or Succession (S)
Afghanistan*	7/1/68	2/4/70	
Albania**			9/12/90(A)
Algeria			1/12/95(A)
Andorra			6/07/96(A)
Angola			10/14/96(A)
Antigua and Barbuda			6/17/85(S)
Argentina			2/10/95(A)
Armenia			7/15/93(A)
Australia*	2/27/70	½3/73	
Austria*	7/1/68	6/27/69	
Azerbaijan			9/22/92(A)
Bahamas, The			8/11/76(S)
Bahrain			11/3/88(A)
Bangladesh*			8/31/79(A)
Barbados	7/1/68	2/21/80	
Belarus			7/22/93(A)
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	
Bosnia and Herzegovina			8/15/94(S)
Botswana	7/1/68	4/28/69	
Brazil			9/18/98(A)
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)
Cambodia			6/2/72(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	
Chile			5/25/95(A)
China			3/9/92(A)
Colombia**	7/1/68	4/8/86	
Comoros			10/4/95(A)
Congo			10/23/78(A)
Costa Rica*	7/1/68	3/3/70	
Cote d'Ivoire*	7/1/68	3/6/73	
Croatia			6/29/92(S)

Country	Date of Signature	Date of Deposit of Ratification	Date of Deposit of Accession (A) or Succession (S)
Cyprus*	7/1/68	2/10/70	
Czech Republic			1/1/93(S)
Denmark*	7/1/68	1/3/69	
Djibouti			10/16/96(A)
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)
Eritrea			3/3/95(A)
Estonia			1/7/92(A)
Ethiopia*	9/5/68	2/5/70	
Fiji*			7/14/72(S)
Finland*	7/1/68	2/5/69	
Former Yugoslav Republic of Macedonia			4/12/95(A)
France			8/3/92(A)
Gabon			2/19/74(A)
Gambia*, The	9/4/68	5/12/75	
Georgia			3/7/94(A)
Germany*, Fed. 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(S)
Guyana			10/19/93(A)
Haiti	7/1/68	6/2/70	
Holy See*			2/25/71(A)[1]
Honduras*	7/1/68	5/16/73	
Hungary*, Republic of	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*	½8/69	5/2/75[1]	
Jamaica*	4/14/69	3/5/70	
Japan*	2/3/70	6/8/76[1]	
Jordan*	7/10/68	2/11/70	
Kazakhstan			2/14/94(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	

Country	Date of Signature	Date of Deposit of Ratification	Date of Deposit of Accession (A) or Successions (S)
Kuwait	8/15/68	11/17/89	
Kyrgyzstan			7/5/94(A)
Laos	7/1/68	2/20/70	
Latvia			1/31/92(A)
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]
Lithuania			9/23/91(A)
Luxembourg*	8/14/68	5/2/75	
Madagascar*	8/22/68	10/8/70	
Malawi*			2/18/86(S)
Malaysia*	7/1/68	3/5/70	
Maldive Islands*	9/11/68	4/7/70	
Mali	7/14/69	2/10/70	
Malta*	4/17/69	2/6/70	
Marshall Islands			1/30/95(A)
Mauritania			10/26/93(A)
Mauritius*	7/1/68	4/8/69	
Mexico*	7/26/68	½1/69[1]	
Micronesia			4/14/95(A)
Moldova			10/11/94(A)
Monaco			3/13/95(A)
Mongolia*	7/1/68	5/14/69	
Morocco*	7/1/68	11/27/70	
Mozambique			9/4/90(A)
Myanmar (Burma)			12/2/92(A)
Namibia			10/2/92(A)
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	
Niger			10/9/92(A)
Nigeria*	7/1/68	9/27/68	
Norway*	7/1/68	2/5/69	
Oman			1/23/97(A)
Palau			4/12/95(A)
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)
Qatarv			4/3/89(A)
Romania*	7/1/68	2/4/70	

Country	Date of Signature	Date of Deposit of Ratification	Date of Deposit of Accession (A) or Successions (S)
Russia[5]	7/1/68	3/5/70	
Rwanda			5/20/75(A)
St. Kitts and Nevis			3/22/93(S)
St. Lucia*			12/28/79(S)
St. Vincent and the Grenadines			11/6/84(S)
San Marino	7/1/68	8/10/70	
Sao Tome and Principe			7/20/83(A)
Saudi Arabia			10/3/88(A)
Senegal*	7/1/68	12/17/70	
Seychelles			3/12/85(A)
Sierra Leone			2/26/75(A)
Singapore*	2/5/70	3/10/76	
Slovakia			1/1/93(S)
Slovenia			4/7/92(S)
Solomon Islands			6/17/81(S)
Somalia	7 /1/68	3/5/70	
South Africa*			7/10/91(A)
Spain*			11/5/87(A)
Sri Lanka*	7/1/68	3/5/79	
Sudan*	12/24/68	10/31/73	
Suriname*			6/30/76(S)(b)
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	
Taiwan[7]	7/1/68	½7/70	
Tajikistan			1/17/95(A)
Tanzania			5/31/91(A)
Thailand*			12/2/72(A)
Togo	7/1/68	2/26/70	
Tonga			7/7/71(S)
Trinidad and Tobago	8/20/68	10/30/86	
Tunisia*	7/1/68	2/26/70	
Turkey*	½8/69	4/17/80 [1]	
Turkmenistan			9/29/94(A)
Tuvalu*			1/19/79(S)
Uganda			10/20/82(A)
Ukraine			12/5/94(A)
United Arab Emirates			9/26/95(A)
United Kingdom	7/1/68	11/27/68[4]	
United States	7/1/68	3/5/70	
Uruguay*	7/1/68	8/31/70	
Uzbekistan*			5/2/92(A)
Vanuatu			8/26/95(A)
Venezuela*	7/1/68	9/25/75	
Vietnam*			6/14/82(A)
Western Samoa*			3/17/75(A)
Yemen[6]	11/14/68	6/1/79	

Country	Date of Signature	Date of Deposit of Ratification	Date of Deposit of Accession (A) or Successions (S)
Yugoslavia, Federal Republic of	7/10/68	3/4/70	
Zaire*	7/22/68	8/4/70	
Zambia			5/15/91(A)
Zimbabwe			9/26/91(A0

TOTAL: 185 (Total does not include Taiwan or Yugoslavia, which has dissolved.)

* - Entries with asterisk have NPT safeguards agreements that have entered into force as of 10/31/92.

** - Non-NPT, full-scope safeguards agreement in force.

a - 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.

b - Effective 11/25/75.

[1] With Statement.

[2] The former German Democratic Republic, which united with the Federal Republic of Germany on 10/3/90, had signed the NPT on 7/1/68 and deposited its instrument of ratification on 10/31/69.

[3] Extended to Netherlands Antilles and Aruba.

[4] Extended to Aguilla and territories under the territorial sovereignty of the United Kingdom.

[5] Russia has given notice that it would continue to exercise the rights and fulfill the obligations of the former Soviet Union arising from the NPT.

[6] The Republic of Yemen resulted from the union of the Yemen Arab Republic and the People's Democratic Republic of Yemen. The table indicates the date of signature and ratification by the People's Democratic Republic of Yemen; the first of these two states to become a party to the NPT. The Yemen Arab Republic signed the NPT on 9/23/68 and deposited its instrument of ratification on 5/14/86.

[7] On ½7/70, an instrument of ratification was deposited in the name of the Republic of China. Effective 1/1/79, 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 the obligations imposed by the Treaty.

December 3, 1998

Treaty Affairs,
Office of the Legal Advisor
Department of State

THE CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL

THE STATES PARTIES TO THIS CONVENTION,
RECOGNIZING the right of all States to develop and apply nuclear energy for peaceful purposes and their legitimate interests in the potential benefits to be derived from the peaceful application of nuclear energy,
CONVINCED of the need for facilitating international co-operation in the peaceful application of nuclear energy,
DESIRING to avert the potential dangers posed by the unlawful taking and use of nuclear material,
CONVINCED that offences relating to nuclear material are a matter of grave concern and that there is an urgent need to adopt appropriate and effective measures to ensure the prevention, detection and punishment of such offences,
AWARE OF THE NEED FOR international co-operation to establish, in conformity with the national law of each State Party and with this Convention, effective measures for the physical protection of nuclear material,
CONVINCED that this Convention should facilitate the safe transfer of nuclear material,
STRESSING also the importance of the physical protection of nuclear material in domestic use, storage and transport,
RECOGNIZING the importance of effective physical protection of nuclear material used for military purposes, and understanding that such material is and will continue to be accorded stringent physical protection,
HAVE AGREED as follows:

Article 1

For the purposes of this Convention:

(a) "nuclear material" means plutonium except that with isotopic concentration exceeding 80% in plutonium-238; uranium-233; uranium enriched in the isotope 235 or 233; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore-residue; any material containing one or more of the foregoing;

(b) "uranium enriched in the isotope 235 or 233" means uranium containing the isotope 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;

(c) "international nuclear transport" means the carriage of a consignment of nuclear material by any means of transportation intended to go beyond the territory of the State where the shipment originates beginning 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.

Article 2

1. This Convention shall apply to nuclear material used for peaceful purposes while in international nuclear transport.

2. With the exception of articles 3 and 4 and paragraph 3 of article 5, this Convention shall also apply to nuclear material used for peaceful purposes while in domestic use, storage and transport.

3. Apart from the commitments expressly undertaken by States Parties in the articles covered by paragraph 2 with respect to nuclear material used for peaceful purposes while in domestic use, storage and transport, nothing in this Convention shall be interpreted as

affecting the sovereign rights of a State regarding the domestic use, storage and transport of such nuclear material.

Article 3

Each State Party shall take appropriate steps within the framework of its national law and consistent with international law to ensure as far as practicable that, during international nuclear transport, nuclear material within its territory, or on board a ship or aircraft under its jurisdiction insofar as such ship or aircraft is engaged in the transport to or from that State, is protected at the levels described in Annex I.

Article 4

1. Each State Party shall not export or authorize the export of nuclear material unless the State Party has received assurances that such material will be protected during the international nuclear transport at the levels described in Annex I.

2. Each State Party shall not import or authorize the import of nuclear material from a State not party to this Convention unless the State Party has received assurances that such material will during the international nuclear transport be protected at the levels described in Annex I.

3. A State Party shall not allow the transit of its territory by land or internal waterways or through its airports or seaports of nuclear material between States that are not parties to this Convention unless the State Party has received assurances as far as practicable that this nuclear material will be protected during international nuclear transport at the levels described in Annex I.

4. Each State Party shall apply within the framework of its national law the levels of physical protection described in Annex I to nuclear material being transported from a part of that State to another part of the same State through international waters or airspace.

5. The State Party responsible for receiving assurances that the nuclear material will be protected at the levels described in Annex I according to paragraphs 1 to 3 shall identify and inform in advance States which the nuclear material is expected to transit by land or internal waterways, or whose airports or seaports it is expected to enter.

6. The responsibility for obtaining assurances referred to in paragraph 1 may be transferred, by mutual agreement, to the State Party involved in the transport as the importing State.

7. Nothing in this article shall be interpreted as in any way affecting the territorial sovereignty and jurisdiction of a State, including that over its airspace and territorial sea.

Article 5

1. States Parties shall identify and make known to each other directly or through the International Atomic Energy Agency their central authority and point of contact having responsibility for physical protection of nuclear material and for co-ordinating recovery and response operations in the event of any unauthorized removal, use or alteration of nuclear material or in the event of credible threat thereof.

2. In the case of theft, robbery or any other unlawful taking of nuclear material or of credible threat thereof, States Parties shall, in accordance with their national law, provide co-operation and assistance to the maximum feasible extent in the recovery and protection of such material to any State that so requests. In particular:

(a) a State Party shall take appropriate steps to inform as soon as possible other States, which appear to it to be concerned, of any theft, robbery or other unlawful taking of nuclear material or credible threat thereof and to inform, where appropriate, international organizations;

(b) as appropriate, the States Parties concerned shall exchange information with each other or international organizations with a view to protecting threatened nuclear material, verifying the integrity of the shipping container, or recovering unlawfully taken nuclear material and shall:

(i) co-ordinate their efforts through diplomatic and other agreed channels;

(ii) render assistance; if requested;

(iii) ensure the return of nuclear material stolen or missing as a consequence of the above-mentioned events.

The means of implementation of this co-operation shall be determined by the States Parties concerned.

3. States Parties shall co-operate and consult as appropriate, with each other directly or through international organizations, with a view to obtaining guidance on the design, maintenance and improvement of systems of physical protection of nuclear material in international transport.

Article 6

1. States Parties shall take appropriate measures consistent with their national law to protect the confidentiality of any information which they receive in confidence by virtue of the provisions of this Convention form another State Party or through participation in an activity carried out for the implementation of this Convention. If States Parties provide information to international organizations in confidence, steps shall be taken to ensure that the confidentiality of such information is protected.

2. States Parties shall not be required by this Convention to provide any information which they are not permitted to communicate pursuant to national law or which would jeopardize the security of the State concerned or the physical protection of nuclear material.

Article 7

1. The intentional commission of:

(a) an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property;

(b) a theft of robbery of nuclear material;

(c) an embezzlement or fraudulent obtaining of nuclear material;

(d) an act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation;

(e) a threat:

(i) to use nuclear material to cause death or serious injury to any person or substantial property damage, or

(ii) to commit an offence described in sub-paragraph (b) in order to compel a natural or legal person, international organization or State to do or to refrain from doing any act;

(f) an attempt to commit any offence described in paragraphs (a), (b) or (c); and

(g) an act which constitutes participation in any offence described in paragraphs (a) to (f) shall be made a punishable offence by each State Party under its national law.

2. Each State Party shall make the offences described in this article punishable by appropriate penalties which take into account their grave nature.

Article 8

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 7 in the following cases;

(a) when the offence is committed in the territory of that State or on board a ship or aircraft registered in that State;

(b) when the alleged offender is a national of that State.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these offences in cases where the alleged offender is presented in its territory and it does not extradite him pursuant to article 11 to any of the States mentioned in paragraph 1.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

4. In addition to the States Parties mentioned in paragraphs 1 and 2, each State Party may, consistent with international law, establish its jurisdiction over the offences set forth in article 7 when it is involved in international nuclear transport as the exporting or importing State.

Article 9

Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take appropriate measures, including detention, under its national law to ensure his presence for the purpose of prosecution or extradition. Measures taken according to this article shall be notified without delay to the States required to establish jurisdiction pursuant to Article 8 and, where appropriate, all other States concerned.

Article 10

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

Article 11

1. The offences in article 7 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include those offences as extraditable offences in every future extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of those offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Each of the offences shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties required to establish their jurisdiction in accordance with paragraph 1 of Article 8.

Article 12

Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in article 7 shall be guaranteed fair treatment at all stages of the proceedings.

Article 13

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in article 7, including the supply of evidence at their disposal necessary for the proceedings. The law of the State requested shall apply in all cases.
2. The provisions of paragraph 1 shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

Article 14

1. Each State Party shall inform the depositary of its laws and regulations which give effect to this Convention. The depositary shall communicate such information periodically to all States Parties.
2. The State Party where an alleged offender is prosecuted shall, wherever practicable, first communicate the final outcome of the proceedings to the States directly concerned. The State Party shall also communicate the final outcome to the depositary who shall inform all States.
3. Where an offence involves nuclear material used for peaceful purposes in domestic use, storage or transport, and both the alleged offender and the nuclear material remain in the territory of the State Party in which the offence was committed, nothing in this Convention shall be interpreted as requiring that State Party to provide information concerning criminal proceedings arising out of such an offence.

Article 15

The Annexes constitute an integral part of this Convention.

Article 16

1. A conference of States Parties shall be convened by the depositary of five years after the entry into force of this Convention to review the implementation of the Convention and its adequacy as concerns the preamble, the whole of the operative part and the annexes in the light of the then prevailing situation.
2. At intervals of not less than five years thereafter, the majority of States Parties may obtain, by submitting a proposal to this effect to the depositary, the convening of further conferences with the same objective.

Article 17

1. In the event of a dispute between two or more States Parties concerning the interpretation or application of this Convention, such States Parties shall consult with a view to the settlement of the dispute by negotiation, or by any other peaceful means of settling disputes acceptable to all parties to the dispute.
2. Any dispute of this character which cannot be settled in the manner prescribed in paragraph 1 shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute

are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In case of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority. Each State Party may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2, with respect to a State Party which has made a reservation to that procedure.

3. Any State Party which has made a reservation in accordance with paragraph 3 may at any time withdraw that reservation by notification to the depositary.

Article 18

1. This Convention shall be open for signature by all States at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York from 3 March 1980 until its entry into force.

2. This Convention is subject to ratification, acceptance or approval by the signatory States.

3. After its entry into force, this Convention will be open for accession by all States.

(a) This Convention shall be open for signature or accession by international organizations and regional organizations of an integration or other nature, provided that any such organization is constituted by sovereign States and has competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(b) In matters within their competence, such organizations shall, on their own behalf, exercise the rights and fulfil the responsibilities which this Convention attributes to States Parties.

(c) When becoming party to this Convention such an organization shall communicate to the depository a declaration indicating which States are members thereof and which articles of this Convention do not apply to it.

(d) Such an organization shall not hold any vote additional to those of its Member States.

4. Instruments of ratification, acceptance, approval or accession shall be deposited with depositary.

Article 19

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-first instrument of ratification, acceptance or approval with the depositary.

2. For each State ratifying, accepting, approving or acceding to the Convention after the date of deposit of the twenty-first instrument of ratification, acceptance or approval, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 20

1. Without prejudice to article 16 a State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all States Parties. If a majority of States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to being not sooner than thirty

days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be promptly circulated by the depositary to all States Parties.

2. The amendment shall enter into force for each State Party that deposits its instrument of ratification, acceptance or approval of the amendment on the thirtieth day after the date on which two thirds of the States Parties have deposited their instruments of ratification, acceptance or approval with the depositary. Thereafter, the amendment shall enter into force for nay other State Party on the day on which that State Party deposits its instrument of ratification, acceptance or approval of the amendment.

Article 21

1. Any State Party any denounce this Convention by written notification to the depositary.

2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the depositary.

Article 22

The depositary shall promptly notify all States of:

(a) each signature of this Convention;

(b) each deposit of an instrument of ratification, acceptance, approval or accession;

(c) any reservation or withdrawal in accordance with article 17;

(d) any communication made by an organization in accordance with paragraph 4(c) of article 18;

(e) the entry into force of this Convention;

(f) the entry into force of any amendment to this Convention; and

(g) any denunciation made under article 21.

Article 23

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Convention, opened for signature at Vienna and at New York on 3 March 1980.

ANNEX 1

Levels of Physical Protection to be Applied in International Transport of Nuclear Materials as Categorized in Annex II

1. Levels of physical protection for nuclear material during storage incidental to international nuclear transport include:

(a) For Category III materials, storage within an area to which access is controlled;

(b) For Category II materials, storage within an area under constant surveillance by guards or electronic devices, surrounded by a physical barrier with a limited number of points of entry under appropriate control or any area with an equivalent level of physical protection;

(c) For Category I material, storage within a protected area as defined for Category II above, to which, in addition, access is restricted to persons whose

trustworthiness has been determined, and which is under surveillance by guards who are in close communication with appropriate responses forces. Specific measures taken in this context should have as their object the detection and prevention of any assault, unauthorized access or unauthorized removal of material.

2. Levels of physical protection for nuclear material during international transport include:

(a) For Category II and III materials, transportation shall take place under special precautions including prior arrangements among sender, receiver, and carrier, and prior agreement between natural or legal persons subject to the jurisdiction and regulation of exporting and importing States, specifying time, place and procedures for transferring transport responsibility;

(b) For Category I materials, transportation shall take place under special precautions identified above for transportation of Category II and III materials, and in addition, under constant surveillance by escorts and under conditions which assure close communication with appropriate response forces;

(c) For natural uranium other than in the form of ore or ore-residue; transportation protection for quantities exceeding 500 kilograms uranium shall include advance notification of shipment specifying mode of transport, expected time of arrival and confirmation of receipt of shipment.

ANNEX II
TABLE: CATEGORIZATION OF NUCLEAR MATERIAL

Material	Form	Category		
		I	II	III[1]
1. Plutonium[2]	Unirradiated[3]	2 kg or more	Less than 2 kg but more than 500 g	500 g or less but more than 15 g
2. Uranium-235	Unirradiated[3]			
	•uranium enriched to 20% ^{235}U or more	5 kg or more	Less than 5 kg but more than 1 kg	1 kg or less but more than 15 g
	•uranium enriched to 10% ^{235}U but less than 20%		10 kg or more	Less than 10 kg but more than 1 kg
	•uranium enriched above natural, but less than 10% ^{235}U			10 kg or more
3. Uranium-233	Unirradiated[3]	2 kg or more	Less than 2 kg but more than 500 kg	500 g or less but more than 15 g
4. Irradiated fuel			Depleted or natural uranium, thorium or low-enriched fuel (less than 10% fossile content)[4] [5]	

[1]Quantities not falling in Category III and natural uranium should be protected in accordance with prudent management practice.

[2]All plutonium except that with isotopic concentration exceeding 80% in plutonium-238.

[3]Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 100 rads/hour at one metr unshielded.

[4]Although this level of protection is recommended, it would be open to States, upon evaluation of the specific circumstances, to assign a different category of physical protection.

[5]Other fuel which by virtue of its original fissile material content is classified as Category I and II before irradiation may be reduced one category level while the radiation level from the fuel exceeds 100 rads/hour at one metre unshielded.

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL

Signature, Ratification, Acceptance, Approval or Accession by States or Organizations

Country/Organization	Date of Signature	Means/Date of Deposit of Expression of Consent to be Bound		Entry into Force
Afghanistan		acceded	12 Sep 2003	12 Oct 2003
Albania		acceded	05 Mar	04 Apr 2002
Algeria		acceded	30 Apr 2003	03 May 2003
Antigua & Barbuda		acceded	04 Aug	03 Sep 1993
Argentina	28 Feb 1986	ratified	06 Apr 1989	06 May 1989
Armenia		acceded	24 Aug	23 Sep 1993
Australia	22 Feb 1984	ratified	22 Sep 1987	22 Oct 1987
Austria[a]	03 Mar 1980	ratified	22 Dec 1988	21 Jan 1989
Azerbaijan		acceded	19 Jan 2004	18 Feb 2004
Belarus		succession	09 Sep 1993	14 Jun 1993
Belgium[*,a]	13 Jun 1980	ratified	06 Sep 1991	06 Oct 1991
Bolivia		acceded	24 Jan 2002	23 Feb 2002
Bosnia and Herzegovina		succession	30 Jun 1998	01 Mar 1992
Botswana		acceded	19 Sep 2000	19 Oct 2000
Brazil	15 May 1981	ratified	17 Oct 1985	08 Feb 1987
Bulgaria	23 Jun 1981	ratified	10 Apr 1984	08 Feb 1987
Burkina Faso		acceded	13 Jan 2004	12 Feb 2004
Cameroon		acceded	29 Jun 2004	29 Jul 2004
Canada	23 Sep 1980	ratified	21 Mar	08 Feb 1987
Chile		acceded	27 Apr 1994	27 May 1994
China		acceded	10 Jan 1989	09 Feb 1989
Columbia		acceded	28 Mar	27 Apr 2003
Costa Rica		acceded	02 May	01 Jun 2003
Croatia		succession	29 Sep 1992	08 Oct 1991
Cuba		acceded	26 Sep 1997	26 Oct 1997
Cyprus		acceded	23 Jul 1998	22 Aug 1998
Czech Republic		succession	24 Mar	01 Jan 1993
Democratic Rep. of the Congo		acceded	21 Sep 2004	21 Oct 2004
Denmark[*]	13 Jun 1980	ratified	06 Sep 1991	06 Oct 1991
Djibouti		acceded	22 Jun 2004	22 Jul 2004
Dominica		acceded	08 Nov	08 Dec 2004
Dominican Republic	03 Mar 1980			
Ecuador	26 Jun 1986	ratified	17 Jan 1996	16 Feb 1996
Equatorial Guinea		acceded	24 Nov	24 Dec 2003
Estonia		acceded	09 May	08 Jun 1994
Finland[a]	25 Jun 1981	accepted	22 Sep 1989	22 Oct 1989
France[*,a]	13 Jun 1980	approved	06 Sep 1991	06 Oct 1991
Germany[*,a]	13 Jun 1980	ratified	06 Sep 1991	06 Oct 1991
Ghana		acceded	16 Oct 2002	15 Nov 2002
Greece[*,a]	03 Mar 1980	ratified	06 Sep 1991	06 Oct 1991
Grenada		acceded	09 Jan 2002	08 Feb 2002
Guatemala	12 Mar 1980	ratified	23 Apr 1985	08 Feb 1987
Haiti	09 Apr 1980			
Honduras		acceded	28 Jan 2004	27 Feb 2004

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL

Signature, Ratification, Acceptance, Approval or Accession by States or Organizations

Country/Organization	Date of Signature	Means/Date of Deposit of Expression of Consent to be Bound		Entry into Force
Hungary	17 Jun 1980	ratified	04 May	08 Feb 1987
Iceland		acceded	18 Jun 2002	18 Jul 2002
India		acceded	12 Mar	11 Apr 2002
Indonesia	03 Jul 1986	ratified	05 Nov	08 Feb 1987
Ireland[*,a]	13 Jun 1980	ratified	06 Sep 1991	06 Oct 1991
Israel	17 Jun 1983	ratified	22 Jan 2002	21 Feb 2002
Italy[*,a]	13 Jun 1980	ratified	06 Sep 1991	06 Oct 1991
Japan		acceded	28 Oct 1988	27 Nov 1988
Kenya		acceded	11 Feb 2002	13 Mar 2002
Korea, Republic of	29 Dec 1981	ratified	07 Apr 1982	08 Feb 1987
Kuwait		acceded	23 Apr 2004	23 May 2004
Latvia		acceded	06 Nov	06 Dec 2002
Lebanon		acceded	16 Dec 1997	15 Jan 1998
Libyan Arab Jamahiriya		acceded	18 Oct 2000	17 Nov 2000
Liechtenstein	13 Jan 1986	ratified	25 Nov	08 Feb 1987
Lithuania		acceded	07 Dec 1993	06 Jan 1994
Luxembourg[*,a]	13 Jun 1980	ratified	06 Sep 1991	06 Oct 1991
Madagascar		acceded	28 Oct 2003	27 Nov 2003
Mali		acceded	07 May	06 Jun 2002
Malta		acceded	16 Oct 2003	15 Nov 2003
Marshall Islands		acceded	07 Feb 2003	09 Mar 2003
Mexico		acceded	04 Apr 1988	04 May 1988
Monaco		acceded	09 Aug	08 Sep 1996
Mongolia	23 Jan 1986	ratified	28 May	08 Feb 1987
Morocco	25 Jul 1980	ratified	23 Aug	22 Sep 2002
Mozambique		acceded	03 Mar	02 Apr 2003
Namibia		accession	02 Oct 2002	01 Nov 2002
Netherlands[*,a]	13 Jun 1980	accepted	06 Sep 1991	06 Oct 1991
New Zealand		acceded	19 Dec 2003	18 Jan 2004
Nicaragua		acceded	10 Dec 2004	09 Jan 2005
Niger	07 Jan 1985			
Norway[a]	26 Jan 1983	ratified	15 Aug	08 Feb 1987
Oman		acceded	11 Jun 2003	11 Jul 2003
Pakistan		acceded	12 Sep 2000	12 Oct 2000
Panama	18 Mar 1980	ratified	01 Apr 1999	01 May 1999
Paraguay	21 May 1980	ratified	06 Feb 1985	08 Feb 1987
Peru		acceded	11 Jan 1995	10 Feb 1995
Philippines	19 May 1980	ratified	22 Sep 1981	08 Feb 1987
Poland	06 Aug 1980	ratified	05 Oct 1983	08 Feb 1987
Portugal[*,a]	19 Sep 1984	ratified	06 Sep 1991	06 Oct 1991
Qatar		acceded	09 Mar	08 Apr 2004
Republic of Moldova		acceded	07 May	06 Jun 1998
Romania	15 Jan 1981	ratified	23 Nov	23 Dec 1993
Russian Federation	22 May 1980	ratified	25 May	08 Feb 1987
Senegal		acceded	03 Nov	03 Dec 2003

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL

Signature, Ratification, Acceptance, Approval or Accession by States or Organizations

Country/Organization	Date of Signature	Means/Date of Deposit of Expression of Consent to be Bound		Entry into Force
Serbia and Montenegro	15 Jul 1980	succession	05 Feb 2002	27 Apr 1992
Seychelles		acceded	13 Aug	12 Sep 2003
Slovakia		succession	10 Feb 1993	01 Jan 1993
Slovenia		succession	07 Jul 1992	25 Jun 1991
South Africa	18 May 1981			
Spain[*,a]	07 Apr 1986	ratified	06 Sep 1991	06 Oct 1991
Sudan		acceded	18 May	17 Jun 2000
Swaziland		acceded	17 Apr 2003	17 May 2003
Sweden[a]	02 Jul 1980	ratified	01 Aug	08 Feb 1987
Switzerland[a]	09 Jan 1987	ratified	09 Jan 1987	08 Feb 1987
Tajikistan		acceded	11 Jul 1996	10 Aug 1996
The Frmr. Yug. Rep. Macedonia		succession	20 Sep 1996	17 Nov 1991
Tonga		acceded	24 Jan 2003	23 Feb 2003
Trinidad and Tobago		acceded	25 Apr 2001	25 May 2001
Tunisia		acceded	08 Apr 1993	08 May 1993
Turkey	23 Aug 1983	ratified	27 Feb 1985	08 Feb 1987
Turkmenistan		acceded	07 Jan 2005	06 Feb 2005
Uganda		acceded	10 Dec 2003	10 Jan 2004
Ukraine		acceded	06 Jul 1993	05 Aug 1993
United Arab Emirates		acceded	16 Oct 2003	15 Nov 2003
United Kingdom[*,a]	13 Jun 1980	ratified	06 Sep 1991	06 Oct 1991
United States of America	03 Mar 1980	ratified	13 Dec 1982	08 Feb 1987
Uruguay		acceded	24 Oct 2003	23 Nov 2003
Uzbekistan		acceded	09 Feb 1998	11 Mar 1998
EURATOM[a]	13 Jun 1980	confirmed	06 Sep 1991	06 Oct 1991

*Signed/ratified as a EURATOM Member State.

[a]Deposited an objection to the declaration of Pakistan.

Notes: The Convention entered into force on 8 February 1987, *i.e.*, on the thirtieth day following the deposit of the twenty-first instrument of ratification, acceptance or approval with the Director General pursuant to Article 19, paragraph 1.

Status: 110 parties
45 signatories

Last change of status: 07 January 2005

CONVENTION ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT

TABLE OF CONTENTS

CONVENTION ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT

Adopted September 26, 1986, Entered into Force October 27, 1986

THE STATES PARTIES TO THIS CONVENTION,

AWARE that nuclear activities are being carried out in a number of States,

NOTING THAT comprehensive measures have been and are being taken to ensure a high level of safety in nuclear activities, aimed at preventing nuclear accidents and minimizing the consequences of any such accident, should it occur,

DESIRING to strengthen further international co-operation on the safe development and use of nuclear energy,

CONVINCED of the need for States to provide relevant information about nuclear accidents as early as possible in order that transboundary radiological consequences can be minimized,

NOTING the usefulness of bilateral and multilateral arrangements on information exchange in this area,

HAVE AGREED as follows:

Article 1–Scope of Application

1. This Convention shall apply in the event of any accident involving facilities or activities of a State Party or of persons or legal entities under its jurisdiction or control, referred to in paragraph 2 below, from which a release of radioactive material occurs or is likely to occur and which has resulted or may result in an international transboundary release that could be of radiological safety significance for another State.

2. The facilities and activities referred to in paragraph 1 are the following:

(a) any nuclear reactor wherever located;

(b) any nuclear fuel cycle facility;

(c) any radioactive waste management facility;

(d) the transport and storage of nuclear fuels or radioactive wastes;

(e) the manufacture, use, storage, disposal and transport of radioisotopes for agricultural, industrial, medical and related scientific and research purposes; and

(f) the use of radioisotopes for power generation in space objects.

Article 2–Notification and Information

In the event of an accident specified in article 1 (hereinafter referred to as a "nuclear accident"), the State Party referred to in that article shall:

(a) forthwith notify, directly or through the International Atomic Energy Agency (hereinafter referred to as the "Agency"), those States which are or may be physically affected as specified in article 1 and the Agency of the nuclear accident, its nature, the time of its occurrence and its exact location where appropriate; and

(b) promptly provide the States referred to in subparagraph (a), directly or through the Agency, and the Agency with such available information relevant to minimizing the radiological consequences in those States, as specified in article 5.

Article 3–Other Nuclear Accidents

With a view to minimizing the radiological consequences, States Parties may notify in the event of nuclear accidents other than those specified in article 1.

Article 4–Functions of the Agency

The Agency shall:

(a) forthwith inform States Parties, Member States, other States which are or may be physically affected as specified in article 1 and relevant international intergovernmental organizations (hereinafter referred to as "international organizations") of a notification received pursuant to subparagraph (a) of article 2; and

(b) promptly provide any State Party, Member State or relevant international organization, upon request, with the information received pursuant to sub-paragraph (b) of article 2.

Article 5–Information to be Provided

1. The information to be provided pursuant to subparagraph (b) of article 2 shall comprise the following data as then available to the notifying State Party:

(a) the time, exact location where appropriate, and the nature of the nuclear accident;

(b) the facility or activity involved;

(c) the assumed or established cause and the foreseeable development of the nuclear accident relevant to the transboundary release of the radioactive materials;

(d) the general characteristics of the radioactive release, including, as far as is practicable and appropriate, the nature, probable physical and chemical form and the quantity, composition and effective height of the radioactive release;

(e) information on current and forecast meteorological and hydrological conditions, necessary for forecasting the transboundary release of the radioactive materials;

(f) the results of environmental monitoring relevant to the transboundary release of the radioactive materials;

(g) the off-site protective measures taken or planned;

(h) the predicted behavior over time of the radioactive release.

2. Such information shall be supplemented as appropriate intervals by further relevant information on the development of the emergency situation, including its foreseeable or actual termination.

3. Information received pursuant to sub-paragraph (b) of article 2 may be used without restriction, except when such information is provided in confidence by the notifying State Party.

Article 6–Consultations

A State Party providing information pursuant to subparagraph (b) of article 2 shall, as far as is reasonably practicable, response promptly to a request for further information or consultations sought by an affected State Party with a view to minimizing the radiological consequences in that State.

Article 7–Competent Authorities and Points of Contact

1. Each State Party shall make known to the Agency and to other States Parties, directly or through the Agency, its competent authorities and point of contact responsible for issuing and receiving the notification and information referred to in article

2. Such points of contact and a focal point within the Agency shall be available continuously. 2. Each State Party shall promptly inform the Agency of any changes that may occur in the information referred to in paragraph 1.

3. The Agency shall maintain an up-to-date list of such national authorities and points of contact as well as points of contact of relevant international organizations and

shall provide it to States Parties and Member States and to relevant international organizations.

Article 8–Assistance to State Parties

The Agency shall, in accordance with its Statute and upon a request of a State Party which does not have nuclear activities itself and borders on a State having an active nuclear programme but not Party, conduct investigations into the feasibility and establishment of an appropriate radiation monitoring system in order to facilitate the achievement of the objectives of this Convention.

Article 9–Bilateral and Multilateral Arrangements

In furtherance of their mutual interests, States Parties may consider, where deemed appropriate, the conclusion of bilateral or multilateral arrangements relating to the subject matter of this Convention.

Article 10–Relationship to Other International Agreements

This Convention shall not affect the reciprocal rights and obligations of States Parties under existing international agreements which relate to the matters covered by this Convention, or under future international agreements concluded in accordance with the object and purpose of this Convention.

Article 11–Settlement of Disputes

1. In the event of a dispute between States Parties, or between a State Party and the Agency, concerning the interpretation or application of this Convention, the parties to the dispute shall consult with a view to the settlement of the dispute by negotiation or by any other peaceful means of settling disputes acceptable to them.

2. If a dispute of this character between States Parties cannot be settled within one year from the request for consultation pursuant to paragraph 1, it shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In cases of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.

3. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2 with respect to a State Party for which such a declaration is in force.

4. A State Party which made a declaration in accordance with paragraph 3 may at any time withdraw it by notification to the depositary.

Article 12–Entry into Force

1. This Convention shall be open for signature by all States and Namibia, represented by the United Nations Council for Namibia, at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York, from 26 September 1986 and 6 October 1986 respectively, until its entry into force or for twelve months, whichever period is longer.

2. A State and Namibia, represented by the United Nations Council for Namibia, may express its consent to be bound by this Convention either by signature, or by deposit of an instrument of ratification, acceptance or approval following signature made subject to ratification, acceptance or approval, or by deposit of an instrument of accession. The instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

3. This Convention shall enter into force thirty days after consent to be bound has been expressed by three States.

4. For each State expressing consent to be bound by this Convention after its entry into force, this Convention shall enter into force for that State thirty days after the date of expression of consent.

5. (a) This Convention shall be open for accession, as provided for in this article, by international organizations and regional integration organizations constituted by sovereign States, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(b) In matters within their competence such organizations shall, on their own behalf, exercise the rights and fulfill the obligations which this Convention attributes to States Parties.

(c) When depositing its instrument of accession, such an organization shall communicate to the depositary a declaration indicating the extent of its competence in respect of matters covered by this Convention.

(d) Such an organization shall not hold any vote additional to those of its Member States.

Article 13–Provisional Application

A State may, upon signature or at any later date before this Convention enters into force for it, declare that it will apply this Convention provisionally.

Article 14–Amendments

1. A State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all other States Parties.

2. If a majority of the States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be laid down in a protocol which is open to signature in Vienna and New York by all States Parties.

3. The protocol shall enter into force thirty days after consent to be bound has been expressed by three States. For each State expressing consent to be bound by the protocol after its entry into force, the protocol shall enter into force for that State thirty days after the date of expression of consent.

Article 15–Denunciation

1. A State Party may denounce this Convention by written notification to the depositary.

2. Denunciation shall take effect one year following the date on which the notification is received by the depositary.

Article 16–Depositary

1. The Director General of the Agency shall be the depositary of this Convention.

2. The Director General of the Agency shall promptly notify States Parties and all other States of:

(a) each signature of this Convention or any protocol of amendment;

(b) each deposit of an instrument of ratification, acceptance, approval or accession concerning this Convention or any protocol of amendment;

(c) any declaration or withdrawal thereof in accordance with article 11;

(d) any declaration of provisional application of this Convention in accordance with article 13;

(e) the entry into force of this Convention and of any amendment thereto; and

(f) any denunciation made under article 15.

Article 17–Authentic Texts and Certified Copies

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies to States Parties and all other States.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Convention, open for signature as provided for in paragraph 1 of article 12.

ADOPTED by the General Conference of the International Atomic Energy Agency meeting in special session at Vienna on the twenty -sixth day of September one thousand nine hundred and eighty-six.

CONVENTION ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT

Signature, Ratification, Acceptance, Approval or Accession by States or Organizations

		Means/Date of Deposit of Expression of Consent to be Bound			
Country/ Organization	**Date of Signature**	**Instrument**	**Date of Deposit**	**D / W***	**Entry into Force**
Afghanistan	26 Sep 1986			T	
Albania		accession	30 Sep 2003		30 Oct 2003
Algeria	24 Sep 1987	ratification	15 Jan 2004	T	15 Feb 2004
Argentina		accession	17 Jan 1990	T	17 Feb 1990
Armenia		accession	24 Aug 1993		24 Sep 1993
Australia	26 Sep 1986	ratification	22 Sep 1987	T	23 Oct 1987
Austria	26 Sep 1986	ratification	18 Feb 1988		20 Mar 1988
Bangladesh		accession	07 Jan 1988		07 Feb 1988
Belarus	26 Sep 1986	ratification	26 Jan 1987	T	26 Feb 1987
Belgium	26 Sep 1986	ratification	04 Jan 1999		04 Feb 1999
Bolivia		accession	22 Aug 2003	T	21 Sep 2003
Bosnia and Herzegovina		succession	30 Jun 1988		01 Mar 1992
Brazil	26 Sep 1986	ratification	04 Dec 1990		04 Jan 1991
Bulgaria	26 Sep 1986	ratification	24 Feb 1988	T T	26 Mar 1988
Cameroon	25 Sep 1987				

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Country/ Organization	Date of Signature	Means/Date of Deposit of Expression of Consent to be Bound: Instrument	Date of Deposit	D / W*		Entry into Force
Canada	26 Sep 1986	ratification	18 Jan 1990	T		18 Feb 1990
Chile	26 Sep 1986					
China	26 Sep 1986	ratification	10 Sep 1987	T		11 Oct 1987
Colombia		accession	28 Mar 2003			28 Apr 2003
Costa Rica	26 Sep 1986	ratification	16 Sep 1991			17 Oct 1991
Côte d'Ivoire	26 Sep 1986					
Croatia		succession	29 Sep 1992			08 Oct 1991
Cuba	26 Sep 1986	ratification	08 Jan 1991	T		08 Feb 1991
Cyprus		accession	04 Jan 1989			04 Feb 1989
Czech Republic		succession	24 Mar 1993			01 Jan 1993
Dem. P.R. of Korea	29 Sep 1986			T		
Dem. Republic of the Congo	30 Sep 1986					
Denmark	26 Sep 1986	signature	26 Sep 1986			27 Oct 1986
Egypt	26 Sep 1986	ratification	06 Jul 1988	T		06 Aug 1988
Estonia		accession	09 May 1994			09 Jun 1994
Finland	26 Sep 1986	approval	11 Dec 1986			11 Jan 1987
France	26 Sep 1986	approval	06 Mar 1989	T		06 Apr 1989
Germany	26 Sep 1986	ratification	14 Sep 1989	T		15 Oct 1989
Greece	26 Sep 1986	ratification	06 Jun 1991	T		07 Jul 1991
Guatemala	26 Sep 1986	ratification	08 Aug 1988			08 Sep 1988
Holy See	26 Sep 1986					
Hungary	26 Sep 1986	ratification	10 Mar 1987	T	T	10 Apr 1987
Iceland	26 Sep 1986	ratification	27 Sep 1989			28 Oct 1989
India	29 Sep 1986	ratification	28 Jan 1988	T		28 Feb 1988
Indonesia	26 Sep 1986	ratification	12 Nov 1993	T		13 Dec 1993
Iran, Islamic Republic of	26 Sep 1986	ratification	09 Oct 2000	T		09 Nov 2000
Iraq	12 Aug 1987	ratification	21 Jul 1988	T		21 Aug 1988
Ireland	26 Sep 1986	ratification	13 Sep 1991			14 Oct 1991
Israel	26 Sep 1986	ratification	25 May 1989	T		25 Jun 1989
Italy	26 Sep 1986	ratification	08 Feb 1990	T		11 Mar 1990
Japan	06 Mar 1987	acceptance	09 Jun 1987			10 Jul 1987
Jordan	02 Oct 1986	ratification	11 Dec 1987			11 Jan 1988
Korea, Republic of		accession	08 Jun 1990			09 Jul 1990
Kuwait		accession	13 May 2003			13 Jun 2003
Latvia		accession	28 Dec 1992			28 Jan 1993
Lebanon	26 Sep 1986	ratification	17 Apr 1997			18 May 1997
Liechtenstein	26 Sep 1986	ratification	19 Apr 1994			20 May 1994
Lithuania		accession	16 Nov 1994			17 Dec 1994
Luxembourg	26 Sep 1986	ratification	26 Sep 2000			27 Oct 2000

CONVENTION ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT

Signature, Ratification, Acceptance, Approval or Accession by States or Organizations

		Means/Date of Deposit of Expression of Consent to be Bound			
Country/ Organization	**Date of Signature**	**Instrument**	**Date of Deposit**	**D / W***	**Entry into Force**
Malaysia	01 Sep 1987	signature	01 Sep 1987	T	02 Oct 1987
Mali	02 Oct 1986				
Mauritius		accession	17 Aug 1992	T	17 Sep 1992
Mexico	26 Sep 1986	ratification	10 May 1988		10 Jun 1988
Monaco	26 Sep 1986	approval	19 Jul 1989	T	19 Aug 1989
Mongolia	08 Jan 1987	ratification	11 Jun 1987	T T	12 Jul 1987
Morocco	26 Sep 1986	ratification	07 Oct 1993		07 Nov 1993
Myanmar		accession	18 Dec 1997	T	18 Jan 1998
Netherlands	26 Sep 1986	acceptance	23 Sep 1991	T	24 Oct 1991
New Zealand		accession	11 Mar 1987		11 Apr 1987
Nicaragua		accession	11 Nov 1993	T	12 Dec 1993
Niger	26 Sep 1986				
Nigeria	21 Jan 1987	ratification	10 Aug 1990		10 Sep 1990
Norway	26 Sep 1986	signature	26 Sep 1986		27 Oct 1986
Pakistan		accession	11 Sep 1989	T	12 Oct 1989
Panama	26 Sep 1986	ratification	01 Apr 1999		02 May 1999
Paraguay	02 Oct 1986				
Peru		accession	17 Jul 1995	T	17 Aug 1995
Philippines		accession	05 May 1997		05 Jun 1997
Poland	26 Sep 1986	ratification	24 Mar 1988	T T	24 Apr 1988
Portugal	26 Sep 1986	ratification	30 Apr 1993		31 May 1993
Republic of Moldova		accession	07 May 1998		07 Jun 1998
Romania		accession	12 Jun 1990	T	13 Jul 1990
Russian Federation	26 Sep 1986	ratification	23 Dec 1986	T	24 Jan 1987
St. Vincent & the Grenadines		accession	18 Sep 2001		19 Oct 2001
Saudi Arabia		accession	03 Nov 1989	T	04 Dec 1989
Senegal	15 Jun 1987				
Serbia and Montenegro	27 May 1987	succession	05 Feb 2002		27 Apr 1992
Sierra Leone	25 Mar 1987				
Singapore		accession	15 Dec 1997		15 Jan 1998
Slovakia		succession	10 Feb 1993	T	01 Jan 1993
Slovenia		succession	07 Jul 1992	T	25 Jun 1991
South Africa	10 Aug 1987	ratification	10 Aug 1987	T	10 Sep 1987
Spain	26 Sep 1986	ratification	13 Sep 1989	T	14 Oct 1989
Sri Lanka		accession	11 Jan 1991	T	11 Feb 1991
Sudan	26 Sep 1986				
Sweden	26 Sep 1986	ratification	27 Feb 1987		30 Mar 1987
Switzerland	26 Sep 1986	ratification	31 May 1988		01 Jul 1988

CONVENTION ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT

Signature, Ratification, Acceptance, Approval or Accession by States or Organizations

Country/ Organization	Date of Signature	Means/Date of Deposit of Expression of Consent to be Bound: Instrument	Date of Deposit	D / W*	Entry into Force
Syrian Arab Republic	02 Jul 1987				
Thailand	25 Sep 1987	ratification	21 Mar 1989	T	21 Apr 1989
The Fmr.Yug. Rep. of Macedonia		succession	20 Sep 1996		17 Nov 1991
Tunisia	24 Feb 1987	ratification	24 Feb 1989		27 Mar 1989
Turkey	26 Sep 1986	ratification	03 Jan 1991	T	03 Feb 1991
Ukraine	26 Sep 1986	ratification	26 Jan 1987	T	26 Feb 1987
United Arab Emirates		accession	02 Oct 1987	T	02 Nov 1987
United Kingdom	26 Sep 1986	ratification	09 Feb 1990	T	12 Mar 1990
United States of America	26 Sep 1986	ratification	19 Sep 1988	T	20 Oct 1988
Uruguay		accession	21 Dec 1989		21 Jan 1990
Viet Nam		accession	29 Sep 1987	T	30 Oct 1987
Zimbabwe	26 Sep 1986				
Food & Agriculture Org. (FAO)		accession	19 Oct 1990	T T	19 Nov 1990
World Health Org. (WHO)		accession	10 Aug 1988	T	10 Sep 1988
World Meteorological Org. (WMO)		accession	17 Apr 1990	T	18 May 1990

*"D" denotes Declaration etc. / "W" denotes Withdrawal.

Note: The Convention entered into force on 27 October 1986, *i.e.* thirty days after the date on which the third State expressed their consent to be bound, pursuant to Article 12, para. 3.

Number of Parties: 92
Signatories: 70

Last change of status: 15 January 2004

CONVENTION ON NUCLEAR SAFETY

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CHAPTER 4
FINAL CLAUSES AND OTHER PROVISIONS

CONVENTION ON NUCLEAR SAFETY

Adopted September 20, 1994, Entered into Force October 27, 1986

PREAMBLE

The Contracting Parties,

(i) Aware of the importance to the international community of ensuring that the use of nuclear energy is safe, well regulated and environmentally sound;

(ii) Reaffirming the necessity of continuing to promote a high level of nuclear safety worldwide;

(iii) Reaffirming that responsibility for nuclear safety rests with the State having jurisdiction over a nuclear installation;

(iv) Desiring to promote an effective nuclear safety culture;

(v) Aware that accidents at nuclear installations have the potential for transboundary impacts;

(vi) Keeping in mind the Convention on the Physical Protection of Nuclear Material (1979), the Convention on Early Notification of a Nuclear Accident (1986), and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency (1986);

(vii) Affirming the importance of international cooperation for the enhancement of nuclear safety through existing bilateral and multilateral mechanisms and the establishment of this incentive Convention;

(viii) Recognizing that this Convention entails a commitment to the application of fundamental safety principles for nuclear installations rather than of detailed safety standards and that there are internationally formulated safety guidelines which are updated from time to time and so can provide guidance on contemporary means of achieving a high level of safety;

(ix) Affirming the need to begin promptly the development of an international convention on the safety of radioactive waste management as soon as the ongoing process to develop waste management safety fundamentals has resulted in broad international agreement;

(x) Recognizing the usefulness of further technical work in connection with the safety of other parts of the nuclear fuel cycle, and that this work may, in time, facilitate the development of current or future international instruments;

Have agreed as follows:

CHAPTER 1
OBJECTIVES, DEFINITIONS AND SCOPE OF APPLICATION

Article 1–Objectives

The objectives of this Convention are:

(i) to achieve and maintain a high level of nuclear safety worldwide through the enhancement of national measures and international co-operation including, where appropriate, safety-related technical co-operation;

(ii) to establish and maintain effective defenses in nuclear installations against potential radiological hazards in order to protect individuals, society and the environment from harmful effects of ionizing radiation from such installations;

(iii) to prevent accidents with radiological consequences and to mitigate such consequences should they occur.

Article 2–Definitions

For the purpose of this Convention:

(i) "nuclear installation" means for each Contracting Party any land-based civil nuclear power plant under its jurisdiction including such storage, handling and treatment facilities for radioactive materials as are on the same site and are directly related to the operation of the nuclear power plant. Such a plant ceases to be a nuclear installation when all nuclear fuel elements have been removed permanently from the reactor core and have been stored safely in accordance with approved procedures, and a decommissioning program has been agreed to by the regulatory body;

(ii) "regulatory body" means for each Contracting Party any body or bodies given the legal authority by that Contracting Party to grant licences and to regulate the siting, design, construction, commissioning, operation or decommissioning of nuclear installations;

(iii) "licence" means any authorization granted by the regulatory body to the applicant to have the responsibility for the siting, design, construction, commissioning, operation or decommissioning of a nuclear installation.

Article 3–Scope of Application

This Convention shall apply to the safety of nuclear installations.

CHAPTER 2
OBLIGATIONS

(a) General Provisions

Article 4– Implementing Measures

Each Contracting Party shall take, within the framework of its national law, the legislative, regulatory and administrative measures and other steps necessary for implementing its obligations under this Convention.

Article 5–Reporting

Each Contracting Party shall submit for review, prior to each meeting referred to in Article 20, a report on the measures it has taken to implement each of the obligations of this Convention.

Article 6–Existing Nuclear Installations

Each Contracting Party shall take the appropriate steps to ensure that the safety of nuclear installations existing at the time the Convention enters into force for that Contracting Party is reviewed as soon as possible. When necessary in the context of this Convention, the Contracting Party shall ensure that all reasonably practicable improvements are made as a matter of urgency to upgrade the safety of the nuclear installation. If such upgrading cannot be achieved, plans should be implemented to shut down the nuclear installation as soon as practically possible. The timing of the shutdown may take into account the whole energy context and possible alternatives as well as the social, environmental and economic impact.

(b) Legislation and Regulation

Article 7–Legislative and Regulatory Framework

1. Each Contracting Party shall establish and maintain a legislative and regulatory framework to govern the safety of nuclear installations.

2. The legislative and regulatory framework shall provide for:

(i) the establishment of applicable national safety requirements and regulations;

(ii) a system of licensing with regard to nuclear installations and the prohibition of the operation of a nuclear installation without a license;

(iii) a system of regulatory inspection and assessment of nuclear installations to ascertain compliance with applicable regulations and the terms of licenses;

(iv) the enforcement of applicable regulations and of the terms of licenses, including suspension, modification or revocation.

Article 8–Regulatory Body

1. Each Contracting Party shall establish or designate a regulatory body entrusted with the implementation of the legislative and regulatory framework referred to in Article 7, and provided with adequate authority, competence and financial and human resources to fulfill its assigned responsibilities.

2. Each Contracting Party shall take the appropriate steps to ensure an effective separation between the functions of the regulatory body and those of any other body or organization concerned with the promotion or utilization of nuclear energy.

Article 9–Responsibility of the License Holder

Each Contracting Party shall ensure that prime responsibility for the safety of a nuclear installation rests with the holder of the relevant license and shall take the appropriate steps to ensure that each such license holder meets its responsibility.

(c) General Safety Considerations

Article 10–Priority to Safety

Each Contracting Party shall take the appropriate steps to ensure that all organizations engaged in activities directly related to nuclear installations shall establish policies that give due priority to nuclear safety.

Article 11–Financial and Human Resources

1. Each Contracting Party shall take the appropriate steps to ensure that adequate financial resources are available to support the safety of each nuclear installation throughout its life.

2. Each Contracting Party shall take the appropriate steps to ensure that sufficient numbers of qualified staff with appropriate education, training and retraining are available for all safety-related activities in or for each nuclear installation, throughout its life.

Article 12–Human Factors

Each Contracting Party shall take the appropriate steps to ensure that the capabilities and limitations of human performance are taken into account throughout the life of a nuclear installation.

Article 13–Quality Assurance

Each Contracting Party shall take the appropriate steps to ensure that quality assurance programs are established and implemented with a view to providing confidence that specified requirements for all activities important to nuclear safety are satisfied throughout the life of a nuclear installation.

Article 14–Assessment and Verification of Safety

Each Contracting Party shall take the appropriate steps to ensure that:

(i) comprehensive and systematic safety assessments are carried out before the construction and commissioning of a nuclear installation and throughout its life. Such assessments shall be well documented, subsequently updated in the light of operating experience and significant new safety information, and reviewed under the authority of the regulatory body;

(ii) verification by analysis, surveillance, testing and inspection is carried out to ensure that the physical state and the operation of a nuclear installation continue to be in accordance with its design, applicable national safety requirements, and operational limits and conditions.

Article 15–Radiation Protection

Each Contracting Party shall take the appropriate steps to ensure that in all operational states the radiation exposure to the workers and the public caused by a nuclear installation shall be kept as low as reasonably achievable and that no individual shall be exposed to radiation doses which exceed prescribed national dose limits.

Article 16–Emergency Preparedness

1. Each Contracting Party shall take the appropriate steps to ensure that there are on-site and off-site emergency plans that are routinely tested for nuclear installations and cover the activities to be carried out in the event of an emergency. For any new nuclear installation, such plans shall be prepared and tested before it commences operation above a low power level agreed by the regulatory body.

2. Each Contracting Party shall take the appropriate steps to ensure that, insofar as they are likely to be affected by a radiological emergency, its own population and the competent authorities of the States in the vicinity of the nuclear installation are, provided with appropriate information for emergency planning and response.

3. Contracting Parties which do not have a nuclear installation on their territory, insofar as they are likely to be affected in the event of a radiological emergency at a nuclear installation in the vicinity, shall take the appropriate steps for the preparation and testing of emergency plans for their territory that cover the activities to be carried out in the event of such an emergency.

(d) Safety of Installations

Article 17–Siting

Each Contracting Party shall take the appropriate steps to ensure that appropriate procedures are established and implemented:

(i) for evaluating all relevant site-related factors likely to affect the safety of a nuclear installation for its projected lifetime;

(ii) for evaluating the likely safety impact of a proposed nuclear installation on individuals, society and the environment;

(iii) for re-evaluating as necessary all relevant factors referred to in sub-paragraphs (i) and (ii) so as to ensure the continued safety acceptability of the nuclear installation; (iv) for consulting Contracting Parties in the vicinity of a proposed nuclear installation, insofar as they are likely to be affected by that installation and, upon request providing the necessary information to such Contracting Parties, in order to enable them to evaluate and make their own assessment of the likely safety impact on their own.
territory of the nuclear installation.

Article 18–Design and Construction

Each Contracting Party shall take the appropriate steps to ensure that:

(i) the design and construction of a nuclear installation provides for several reliable levels and methods of protection (defense in depth) against the release of radioactive materials, with a view to preventing the occurrence of accidents and to mitigating their radiological consequences should they occur;

(ii) the technologies incorporated in the design and construction of a nuclear installation are proven by experience or qualified by testing or analysis;

(iii) the design of a nuclear installation allows for reliable, stable and easily manageable operation, with specific consideration of human factors and the man-machine interface.

Article 19–Operation

Each Contracting Party shall take the appropriate steps to ensure that:

(i) the initial authorization to operate a nuclear installation is based upon an appropriate safety analysis and a commissioning program demonstrating that the installation, as constructed, is consistent with design and safety requirements;

(ii) operational limits and conditions derived from the safety analysis, tests and operational experience are defined and revised as necessary for identifying safe boundaries for operation;

(iii) operation, maintenance, inspection and testing of a nuclear installation are conducted in accordance with approved procedures;

(iv) procedures are established for responding to anticipated operational occurrences and to accidents;

(v) necessary engineering and technical support in all safety related fields is available throughout the lifetime of a nuclear installation;

(vi) incidents significant to safety are reported in a timely manner by the holder of the relevant license to the regulatory body;

(vii) programs to collect and analyze operating experience are established, the results obtained and the conclusions drawn are acted upon and that existing mechanisms are used to share important experience with international bodies and with other operating organizations and regulatory bodies;

(viii) the generation of radioactive waste resulting from the operation of nuclear installation is kept to the minimum practicable for the process concerned, both in activity and in volume, and any necessary treatment and storage of spent fuel and waste directly related to the operation and on the same site as that of the nuclear installation take into consideration conditioning and disposal.

CHAPTER 3
MEETINGS OF THE CONTRACTING PARTIES

Article 20–Review Meetings

1. The Contracting Parties shall hold meetings (hereinafter referred to as "review meetings") for the purpose of reviewing the reports submitted pursuant to Article 5 in accordance with the procedures adopted under Article 22.

2. Subject to the provisions of Article 24 sub-groups comprised of representatives of Contracting Parties may be established and may function during the review meetings as deemed necessary for the purpose of reviewing specific subjects contained in the reports.

3. Each Contracting Party shall have a reasonable opportunity to discuss the reports submitted by other Contracting Parties and to seek clarification of such reports.

Article 21–Timetable

1. A preparatory meeting of the Contracting Parties shall be held not later than six months after the date of entry into force of this Convention.

2. At this preparatory meeting, the Contracting Parties shall determine the date for the first review meeting. This review meeting shall be held as soon as possible, but not later than thirty months after the date of entry into force of this Convention.

3. At each review meeting, the Contracting Parties shall determine the date for the next such meeting. The interval between review meetings shall not exceed three years.

Article 22–Procedural Arrangements

1. At the preparatory meeting held pursuant to Article 21 the Contracting Parties shall prepare and adopt by consensus Rules of Procedure and Financial Rules. The Contracting Parties shall establish in particular and in accordance with the Rules of Procedure:

(i) guidelines regarding the form and structure of the reports to be submitted pursuant to Article 5;

(ii) a date for the submission of such reports;

(iii) the process for reviewing such reports;

2. At review meetings the Contracting Parties may, if necessary, review the arrangements established pursuant to subparagraphs (i)-(iii) above, and adopt revisions by consensus unless otherwise provided for in the Rules of Procedure. They may also amend the Rules of Procedure and the Financial Rules, by consensus.

Article 23–Extraordinary Meetings

An extraordinary meeting of the Contracting Parties shall be held:

(i) if so agreed by a majority of the Contracting Parties present and voting at a meeting, abstentions being considered as voting; or

(ii) at the written request of a Contracting Party, within six months of this request having been communicated to the Contracting Parties and notification having been received by the secretariat referred to in Article 28, that the request has been supported by a majority of the Contracting Parties.

Article 24–Attendance

1. Each Contracting Party shall attend meetings of the Contracting Parties and be represented at such meetings by one delegate, and by such alternates, experts and advisers as it deems necessary.

2. The Contracting Parties may invite, by consensus, any intergovernmental organization which is competent in respect of matters governed by this Convention to attend, as an observers, any meeting, or specific sessions thereof. Observers shall be required to accept in writing, and in advance, the provisions of Article 27.

Article 25–Summary Reports

The Contracting Parties shall adopt, by consensus, and make available to the public a document addressing issues discussed and conclusions reached during a meeting.

Article 26–Languages

1. The languages of meetings of the Contracting Parties shall be Arabic, Chinese, English, French, Russian and Spanish unless otherwise provided in the Rules of Procedure.

2. Reports submitted pursuant to Article 5 shall be prepared in the national language of the submitting Contracting Party or in a single designated language to be agreed in the Rules of Procedure. Should the report be submitted in a national language other than the designated language, a translation of the report into the designated language shall be provided by the Contracting Party.

3. Notwithstanding the provisions of paragraph 2, if compensated, the secretariat will assume the translation into the designated language of reports submitted in any other language of the meeting.

Article 27–Confidentiality

1. The provisions of this Convention shall not affect the rights and obligations of the Contracting Parties under their law to protect information from disclosure. For the purposes of this Article, "information" includes, inter alia:

(i) personal data;

(ii) information protected by intellectual property rights or by industrial or commercial confidentiality; and

(iii) information relating to national security or to the physical protection of nuclear materials or nuclear installations.

2. When, in the context of this Convention, a Contracting Party provides information identified by it as protected as described in paragraph 1, such information shall be used only for the purposes for which it has been provided and its confidentiality shall be respected.

3. The content of the debates during the reviewing of the reports by the Contracting Parties at each meeting shall be confidential.

Article 28–Secretariat

1. The International Atomic Energy Agency, (hereinafter referred to as the "Agency") shall provide secretariat for the meetings of the Contracting Parties.

2. The secretariat shall:

(i) convene, prepare and service the meetings of the Contracting Parties;

(ii) transmit to the Contracting Parties information received or prepared in accordance with the provisions of this Convention.

The costs incurred by the Agency in carrying out the functions referred to in subparagraphs (i) and (ii) above shall be borne by the Agency as part of its regular budget.

3. The Contracting Parties may, by consensus, request the Agency to provide other services in support of meetings of the Contracting Parties. The Agency may provide such

services if they can be undertaken within its program and regular budget. Should this not be possible, the Agency may provide such services if voluntary funding is provided from another source.

CHAPTER 4
FINAL CLAUSES AND OTHER PROVISIONS

Article 29–Resolution of Disagreements

In the event of a disagreement between two or more Contracting Parties concerning the interpretation or application of this Convention, the Contracting Parties shall consult within the framework of a meeting of the Contracting Parties with a view to resolving the disagreement.

Article 30–Signature, Ratification, Acceptance, Approval, Accession

1. This Convention shall be open for signature by all States at the Headquarters of the Agency in Vienna from 20 September 1994 until its entry into force.

2. This Convention is subject to ratification, acceptance or approval by the signatory States.

3. After its entry into force, this Convention shall be open for accession by all States.

4. (i) This Convention shall be open for signature or accession by regional organizations of an integration or other nature, provided that any such organization is constituted by sovereign States and has competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(ii) In matters within their competence, such organizations shall, on their own behalf, exercise the rights and fulfill the responsibilities which this Convention attributes to States Parties.

(iii) When becoming party to this Convention, such an organization shall communicate to the Depositary referred to in Article 34, a declaration indicating which States are members thereof, which articles of this Convention apply to it, and the extent of its competence in the field covered by those articles.

(iv) Such an organization shall not hold any vote additional to those of its Member States.

5. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

Article 31–Entry Into Force

1. This Convention shall enter into force on the ninetieth day after the date of deposit with the Depositary of the twenty-second instrument of ratification, acceptance or approval, including the instruments of seventeen States, each having at least one nuclear installation which has achieved criticality in a reactor core.

2. For each State or regional organization of an integration or other nature which ratifies, accepts, approves or accedes to this Convention after the date of deposit of the last instrument required to satisfy the conditions set forth paragraph 1, this Convention shall enter into force on the ninetieth day after the date of deposit with the Depositary of the appropriate instrument by such a State or organization.

Article 32–Amendments to the Convention

1. Any Contracting Party may propose an amendment to this Convention. Proposed amendments shall be considered at a review meeting or an extraordinary meeting.

2. The text of any proposed amendment and the reasons for it shall be provided to the Depositary who shall communicate the proposal to the Contracting Parties promptly and at least ninety days before the meeting for which it is submitted for consideration. Any comments received on such a proposal shall be circulated by the Depositary to the Contracting Parties.

3. The Contracting Parties shall decide after consideration of the proposed amendment whether to adopt it by consensus, or, in the absence of consensus, to submit it to a Diplomatic Conference. A decision to submit a proposed amendment to a Diplomatic Conference shall require a two-thirds majority vote of the Contracting Parties present and voting at the meeting, provided that at least one half of the Contracting Parties are present at the time of voting. Abstentions shall be considered as voting.

4. The Diplomatic Conference to consider and adopt amendments to this Convention shall be convened by the Depositary and held no later than one year after the appropriate decision taken in accordance with paragraph 3 of this Article. The Diplomatic Conference shall make every effort to ensure amendments are adopted by consensus. Should this not be possible, amendments shall be adopted with a two-thirds majority of all Contracting Parties.

5. Amendments to this Convention adopted pursuant to paragraphs 3 and 4 above shall be subject to ratification, acceptance, approval, or confirmation by the Contracting Parties and shall enter into force for those Contracting Parties which have ratified, accepted, approved or confirmed them on the ninetieth day after the receipt by the Depositary of the relevant instruments by at least three fourths of the Contracting Parties. For a Contracting Party which subsequently ratifies, accepts, approves or confirms the said amendments, the amendments will enter into force on the ninetieth day after that Contracting Party has deposited its relevant instrument.

Article 33–Denunciation

1. Any Contracting Party may denounce this Convention by written notification to the Depositary.

2. Denunciation shall take effect one year following the date of the receipt of the notification by the Depositary, or on such later date as may be specified in the notification.

Article 34–Depositary

1. The Director General of the Agency shall be the Depositary of this Convention.

2. The Depositary shall inform the Contracting Parties of:

(i) the signature of this Convention and of the deposit of instruments of ratification, acceptance, approval or accession, in accordance with Article 30;

(ii) the date on which the Convention enters into force, in accordance with Article 31;

(iii) the notifications of denunciation of the Convention and the date thereof, made in accordance with Article 33;

(iv) the proposed amendments to this Convention submitted by Contracting Parties, the amendments adopted by the relevant Diplomatic Conference or by the meeting of the Contracting Parties, and the date of entry into force of the said amendments, in accordance with Article 32.

Article 35–Authentic Texts

The original of this Convention of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Depositary, who shall send certified copies thereof to the Contracting Parties.

IN WITNESS WHEREOF, the undersigned, being duly authorized to that effect, have signed this Convention.

DONE AT VIENNA on the 20th day of September 1994.

SIGNATORIES AND PARTIES ON THE CONVENTION ON NUCLEAR SAFETY

Signature, Ratification, Acceptance, Approval or Accession by States or Organizations

State/ Organization	Date of Signature	Means and Date of Expression of Consent to be Bound	Entry into Force
Algeria	20 Sep 1994		
Argentina*	20 Oct 1994	ratified 17 Apr 1997	16 Jul 1997
Armenia*	22 Sep 1994	ratified 21 Sep 1998	20 Dec 1998
Australia	20 Sep 1994	ratified 24 Dec 1996	24 Mar 1997
Austria[a]	20 Sep 1994	ratified 26 Aug 1997	24 Nov 1997
Bangladesh	21 Sep 1995	accepted 21 Sep 1995	24 Oct 1996
Belarus		acceded 29 Oct 1998	27 Jan 1999
Belgium*	20 Sep 1994	ratified 13 Jan 1997	13 Apr 1997
Brazil*	20 Sep 1994	ratified 04 Mar 1997	02 Jun 1997
Bulgaria*	20 Sep 1994	ratified 08 Nov 1995	24 Oct 1996
Canada*	20 Sep 1994	ratified 12 Dec 1995	24 Oct 1996
Chile	20 Sep 1994	ratified 20 Dec 1996	20 Mar 1997
China*	20 Sep 1994	ratified 09 Apr 1996	24 Oct 1996
Croatia	10 Apr 1995	approved 18 Apr 1996	24 Oct 1996
Cuba	20 Sep 1994		
Cyprus		acceded 17 Mar 1999	15 Jun 1999
Czech Republic*	20 Sep 1994	approved 18 Sep 1995	24 Oct 1996
Denmark	20 Sep 1994	accepted 13 Nov 1998	11 Feb 1999
Egypt	20 Sep 1994		
Finland*	20 Sep 1994	accepted 22 Jan 1996	24 Oct 1996
France*	20 Sep 1994	approved 13 Sep 1995	24 Oct 1996
Germany*	20 Sep 1994	ratified 20 Jan 1997	20 Apr 1997
Ghana	06 Jul 1995		
Greece	01 Nov 1994	ratified 20 Jun 1997	18 Sep 1997
Hungary*	20 Sep 1994	ratified 18 Mar 1996	24 Oct 1996
Iceland	21 Sep 1995		
India*	20 Sep 1994		
Indonesia	20 Sep 1994	ratified 12 Apr 2002	11Jul 2002
Ireland	20 Sep 1994	ratified 11 Jul 1996	24 Oct 1996
Israel	22 Sep 1994		

State/ Organization	Date of Signature	Means and Date of Expression of Consent to be Bound	Entry into Force
Italy	27 Sep 1994	ratified 15 Apr 1998	14 Jul 1998
Japan*	20 Sep 1994	accepted 12 May 1995	24 Oct 1996
Jordan	06 Dec 1994		
Kazakhstan*	20 Sep 1996		
Korea*, Republic of	20 Sep 1994	ratified 19 Sep 1995	24 Oct 1996
Latvia		acceded 25 Oct 1996	23 Jan 1997
Lebanon	07 Mar 1995	ratified 05 Jun 1996	24 Oct 1996
Lithuania*	22 Mar 1995	ratified 12 Jun 1996	24 Oct 1996
Luxembourg	20 Sep 1994	ratified 07 Apr 1997	06 Jul 1997
Mali	22 May 1995	ratified 13 May 1996	24 Oct 1996
Mexico*	09 Nov 1994	ratified 26 Jul 1996	24 Oct 1996
Monaco	16 Sep 1996		
Morocco	01 Dec 1994		
Netherlands[*,b]	20 Sep 1994	accepted 15 Oct 1996	13 Jan 1997
Nicaragua	23 Sep 1994		
Nigeria	21 Sep 1994		
Norway	21 Sep 1994	ratified 29 Sep 1994	24 Oct 1996
Pakistan*	20 Sep 1994	ratified 30 Sep 1997	29 Dec 1997
Peru	22 Sep 1994	ratified 01 Jul 1997	29 Sep 1997
Philippines	14 Oct 1994		
Poland	20 Sep 1994	ratified 14 Jun 1995	24 Oct 1996
Portugal	03 Oct 1994	ratified 20 May 1998	18 Aug 1998
Republic of Moldova		acceded 07 May 1998	05 Aug 1998
Romania*	20 Sep 1994	ratified 01 Jun 1995	24 Oct 1996
Russian Federation*	20 Sep 1994	accepted 12 Jul 1996	24 Oct 1996
Singapore		acceded 15 Dec 1997	15 Mar 1998
Slovakia*	20 Sep 1994	ratified 07 Mar 1995	24 Oct 1996
Slovenia*	20 Sep 1994	ratified 20 Nov 1996	18 Fed 1997
South Africa*	20 Sep 1994	ratified 24 Dec 1996	24 Mar 1997
Spain*	15 Nov 1994	ratified 04 Jul 1995	24 Oct 1996
Sri Lanka		acceded 11 Aug 1999	09 Nov 1999
Sudan	20 Sept 1994		
Sweden*	20 Sep 1994	ratified 11 Sep 1995	24 Oct 1996
Switzerland*	31 Oct 1995	ratified 12 Sep 1996	11 Dec 1996
Syrian Arab Republic	23 Sep 1994		
Tunisia	20 Sep 1994		
Turkey	20 Sep 1994	ratified 08 Mar 1995	24 Oct 1996
Ukraine*	20 Sep 1994	ratified 08 Apr 1998	07 Jul 1998
United Kingdom[*,c]	20 Sep 1994	ratified 17 Jan 1996	24 Oct 1996
United States*	20 Sep 1994	ratified 11 Apr 1999	10 Jul 1999
Uruguay	28 Feb 1996	ratified 03 Sep 2003	02 Dec 2003
EURATOM		acceded 31 Jan 2000	30 Apr 2000

[*] Indicates that the State has at least one nuclear installation which has achieved criticality in a reactor core; sources: Table 1 “Nuclear Power Reactors in Operation and

Under Construction, 31 Dec 1997", Apr 1998 Edition of "Nuclear Power Reactors in the World", Reference Data Series No. 2, IAEA, Vienna; Government notification.

[a] On 9 April 1999, Austria deposited an objection to reservation by Ukraine.

[b] for the Kingdom in Europe.

[c] for the United Kingdom of Great Britain and Northern Ireland, the Bailiwick of Guernsey, the Bailiwick of Jersey and the Isle of Man.

Notes: The Convention, pursuant to Article 31.1, entered into force on the ninetieth day after the date of deposit with the Depositary of the twenty-second instrument of ratification, acceptance or approval, including the instruments of seventeen States, each having at least one nuclear installation which has achieved criticality in a reactor core, i.e. 24 October 1996.

Number of Parties: 55
Signatories: 65

Last change of status: 03 September 2003

CONVENTION ON ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY

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CONVENTION ON ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY

ADOPTED SEPTEMBER 26, 1986

THE STATES PARTIES TO THIS CONVENTION,

AWARE that nuclear activities are being carried out in a number of States,

NOTING THAT comprehensive measures have been and are being taken to ensure a high level of safety in nuclear activities, aimed at preventing nuclear accidents and minimizing the consequences of any such accident, should it occur,

DESIRING to strength further international co-operation in the safe development and use of nuclear energy,

CONVINCED of the need for an international framework which will facilitate the prompt provision of assistance in the event of a nuclear accident or radiological emergency to mitigate its consequences,

NOTING the usefulness of bilateral and multilateral arrangements on mutual assistance in this area,

NOTING the activities of the International Atomic Energy Agency in developing guidelines for mutual emergency assistance arrangements in connection with a nuclear accident or radiological emergency,

HAVE AGREED as follows:

Article 1 – General provisions

1. The States Parties shall cooperate between themselves and with the International Atomic Energy Agency (hereinafter referred to as the "Agency") in accordance with the provisions of this Convention to facilitate prompt assistance in the event of a nuclear accident or radiological emergency to minimize its consequences and to protect life, property and the environment from the effects of radioactive releases.

2. To facilitate such cooperation States Parties may agree on bilateral or multilateral arrangements or, where appropriate, a combination of these, for preventing or minimizing injury and damage which may result in the event of a nuclear accident or radiological emergency.

3. The States Parties request the Agency, acting within the framework of its Statute, to use its best endeavours in accordance with the provisions of this Convention to promote, facilitate and support the cooperation between States Parties provided for in this Convention.

Article 2 – Provisions of Assistance

1. If a State Party needs assistance in the event of a nuclear accident or radiological emergency, whether or not such accident or emergency originates within its territory, jurisdiction or control, it may call for such assistance from any other State Party, directly or through the Agency, and from the Agency, or, where appropriate, from other international intergovernmental organizations (hereinafter referred to as "international organizations").

2. A State Party requesting assistance shall specify the scope and type of assistance required and, where practicable, provide the assistance party with such information as may be necessary for that party to determine the extent to which it is able to meet the request. In the event that it is not practicable for the requesting State Party to specify the scope and type of assistance required, the requesting State Party and the assisting party shall, in consultation, decide upon the scope and type of assistance required.

3. Each State Party to which a request for such assistance is directed shall promptly decide and notify the requesting State Party, directly or through the Agency, whether it is in a position to render the assistance requested, and the scope and terms of the assistance that might be rendered.

4. States Parties shall, within the limits of their capabilities, identify and notify the Agency of experts, equipment and materials which could be made available for the provision of assistance to other States Parties in the event of a nuclear accident or radiological emergency as well as the terms, especially financial, under which such assistance could be provided.

5. Any State Party may request assistance relating to medical treatment or temporary relocation into the territory of another State Party of people involved in a nuclear accident or radiological emergency.

6. The Agency shall respond, in accordance with its Statute and as provided for in this Convention, to a requesting State Party's or a Member State's request for assistance in the event of a nuclear accident or radiological emergency by:

(a) making appropriate resources allocated for this purpose;

(b) transmitting promptly the request to other States and international organizations which, according to the Agency's information, may possess the necessary resources; and

(c) if so requested by the requesting State, co-ordinating the assistance at the international level which may thus become available.

Article 3 – Direction and Control of Assistance

Unless otherwise agreed:

(a) the overall direction, control, co-ordination and supervision of the assistance shall be the responsibility within its territory of the requesting State. The assisting party should, where the assistance involves personnel, designate in consultation with the requesting State, the person who should be in charge of and retain immediate operational supervision over the personnel and the equipment provided by it. The designated person should exercise such supervision in cooperation with the appropriate authorities of the requesting State;

(b) the requesting State shall provide, to the extent of its capabilities, local facilities and services for the proper and effective administration of the assistance. It shall also ensure the protection of personnel, equipment and materials brought into its territory by or on behalf of the assisting party for such purpose;

(c) ownership of equipment and materials provided by either party during the periods of assistance shall be unaffected, and their return shall be ensured;

(d) a State Party providing assistance in response to a request under paragraph 5 of article 2 shall co-ordinate that assistance within its territory.

Article 4 – Competent authorities and Points of Contact

1. Each State Party shall make known to the Agency and to other States Parties, directly or through the Agency, its competent authorities and point of contact authorized to make and receive requests for and to accept offers of assistance. Such points of contact and a focal point within the Agency shall be available continuously.

2. Each State Party shall promptly inform the Agency of any changes that may occur in the information referred to in paragraph 1.

3. The Agency shall regularly and expeditiously provide to States Parties, Member States and relevant international organizations the information referred to in paragraphs 1 and 2.

Article 5 – Functions of the Agency

The States Parties request the Agency, in accordance with paragraph 3 of article 1 and without prejudice to other provisions of this Convention, to:

(a) collect and disseminate to States Parties and Member States information concerning:

(i) experts, equipment and materials which could be made available in the event of nuclear accidents or radiological emergencies;

(ii) methodologies, techniques and available results of research relating to response to nuclear accidents or radiological emergencies;

(b) assist a State Party or a Member State when requested in any of the following or other appropriate matters:

(i) preparing both emergency plans in the case of nuclear accidents and radiological emergencies and the appropriate legislation;

(ii) developing appropriate training programmes for personnel to deal with nuclear accidents and radiological emergencies;

(iii) transmitting requests for assistance and relevant information in the event of nuclear accident or radiological emergency;

(iv) developing appropriate radiation monitoring programmes, procedures and standards;

(v) conducting investigations into the feasibility of establishing appropriate radiation monitoring systems; and public

(c) make available to a State Party or a Member State requesting assistance in the event of a nuclear accident or radiological emergency appropriate resources allocated for the purpose of conducting an initial assessment of the accident or emergency;

(d) offer its good offices to the States Parties and Member States in the event of a nuclear accident or radiological emergency;

(e) establish and maintain liaison with relevant international organizations for the purposes of obtaining and exchanging relevant information and data, and make a list of such organizations available to States Parties, Member States and the aforementioned organizations.

Article 6 – Confidentiality and Public Statements

1. The requesting State and the assisting party shall protect the confidentiality of any confidential information that becomes available to either of them in connection with the assistance in the event of a nuclear accident or radiological emergency. Such information shall be used exclusively for the purpose of the assistance agreed upon.

2. The assisting party shall make every effort to coordinate with the requesting State before releasing information to the public on the assistance provided in connection with a nuclear accident or radiological emergency.

Article 7 – Reimbursement of Costs

1. An assisting party may offer assistance without costs to the requesting State. When considering whether to offer assistance on such a basis, the assisting party shall take into account:

(a) the nature of the nuclear accident or radiological emergency;

(b) the place of origin of the nuclear accident or radiological emergency;

(c) the needs of developing countries;

(d) the particular needs of countries without nuclear facilities; and

(e) any other relevant factors.

2. When assistance is provided wholly or partly on a reimbursement basis, the requesting State shall reimburse the assisting party for the costs incurred for the services

rendered by persons or organizations acting on its behalf, and for all expenses in connection with the assistance to the extent that such expenses are not directly defrayed by the requesting State. Unless otherwise agreed, reimbursement shall be provided promptly after the assisting party has presented its request for reimbursement to the requesting State, and in respect of costs other than local costs, shall be freely transferable.

3. Notwithstanding paragraph 2, the assisting party may at any time waive, or agree to the postponement of, the reimbursement in whole or in part. In considering such waiver or postponement, assisting parties shall give due consideration to the needs of developing countries.

Article 8 – Privileges, Immunities and Facilities

1. The requesting State shall afford to personnel of the assisting party and personnel acting on its behalf the necessary privileges, immunities and facilities for the performance of their assistance functions.

2. The requesting State shall afford the following privileges and immunities to personnel of the assisting party or personnel acting on its behalf who have been duly notified to and accepted by the requesting State:

(a) immunity from arrest, detention and legal process, including criminal, civil and administrative jurisdiction, of the requesting State, in respect of acts or omissions in the performance of their duties; and

(b) exemption from taxation, duties or other charges, except those which are normally incorporated in the price of goods or paid for services rendered, in respect of the performance of their assistance functions.

3. The requesting State shall:

(a) afford the assisting party exemption from taxation, duties or other charges on the equipment and property brought into the territory of the requesting State by the assisting party for the purpose of the assistance; and

(b) provide immunity from seizure, attachment, or requisition of such equipment and property.

4. The requesting State shall ensure the return of such equipment and property. If requested by the assisting party, the requesting State shall arrange, to the extent it is able to do so, for the necessary decontamination of recoverable equipment involved in the assistance before its return.

5. The requesting State shall facilitate the entry into, stay in and departure from its national territory of personnel notified pursuant to paragraph 2 and of equipment and property involved in the assistance.

6. Nothing in this article shall require the require the requesting State to provide its nationals or permanent residents with the privileges and immunities provided for in the foregoing paragraphs.

7. Without prejudice to the privileges and immunities, all beneficiaries enjoying such privileges and immunities under this article have a duty to respect the laws and regulations of the requesting State. They shall also have the duty not to interfere in the domestic affairs of the requesting State.

8. Nothing in this article shall prejudice rights and obligations with respect to privileges and immunities afforded pursuant to other international agreements or the rules of customary international law.

9. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound in whole or in part by paragraphs 2 and 3.

10. A State Party which has made a declaration in accordance with paragraph 9 may at any time withdraw it by notification to the depositary.

Article 9 – Transit of Personnel, Equipment and Property

Each State Party shall, at the request of the requesting State or the assisting party, seek to facilitate the transit through its territory of duly notified personnel, equipment and property involved in the assistance to and from the requesting State.

Article 10 – Claims and Compensation

1. The States Parties shall closely cooperate in order to facilitate the settlement of legal proceedings and claims under this article.

2. Unless otherwise agreed, a requesting State shall in respect of death or injury to persons, damage to or loss of property, or damage to the environment caused within its territory or other area under its jurisdiction or control in the course of providing the assistance requested:

(a) not bring any legal proceedings against the assisting party or persons or other legal entities acting on its behalf;

(b) assume responsibility for dealing with legal proceedings and claims brought by third parties against the assisting party or against persons or other legal entities acting on its behalf;

(c) hold the assisting party or persons or other legal entities acting on its behalf harmless in respect of legal proceedings and claims referred to in sub-paragraph (b); and

(d) compensate the assisting party or persons or other legal entities acting on its behalf for:

(i) death of or injury to personnel of the assisting party or persons acting on its behalf;

(ii) loss of or damage to non-consumable equipment or materials related to the assistance; except in cases of willful misconduct by the individuals who caused the death, injury, loss or damage.

3. This article shall not prevent compensation or indemnity available under any applicable international agreement or national law of any State.

4. Nothing in this article shall require the requesting State to apply paragraph 2 in whole or in part to its nationals or permanent residents.

5. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare:

(a) that it does not consider itself bound in whole or in part by paragraph 2;

(b) that it will not apply paragraph 2 in whole or in part in cases of gross negligence by the individuals who caused the death, injury, loss or damage.

6. A State Party which has made a declaration in accordance with paragraph 5 may at any time withdraw it by notification to the depositary.

Article 11 – Termination of Assistance

The requesting State or the assisting party may at any time, after appropriate consultations and by notification in writing, request the termination of assistance received or provided under this Convention. Once such a request has been made, the parties involved shall consult with each other to make arrangements for the proper conclusion of the assistance.

Article 12 – Relationship to Other International Agreements

This Convention shall not affect the reciprocal rights and obligations of States Parties under existing international agreements which relate to the matters covered by this

Convention, or under future international agreements concluded in accordance with the object and purpose of this Convention.

Article 13 – Settlement of Disputes

1. In the event of a dispute between States Parties, or between a State Party and the Agency, concerning the interpretation or application of this Convention, the parties to the dispute shall consult with a view to the settlement of the dispute by negotiation or by any other peaceful means of settling disputes acceptable to them.

2. If a dispute of this character between States Parties cannot be settled within one year from the request for consultation pursuant to paragraph 1, it shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In cases of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.

3. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2 with respect to a State Party for which such a declaration is in force.

4. A State Party which has made a declaration in accordance with paragraph 3 may at any time withdraw it by notification to the depositary.

Article 14 – Entry into Force

1. This Convention shall be open for signature by all States and Namibia, represented by the United Nations Council for Namibia, at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York, from 26 September 1986 and 6 October 1986 respectively, until its entry into force or for twelve months, whichever period is longer.

2. A State and Namibia, represented by the United Nations Council for Namibia, may express its consent to be bound by this Convention either by signature, or by deposit of an instrument of ratification, acceptance or approval following signature made subject to ratification, acceptance or approval, or by deposit of an instrument of accession. The instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

3. This Convention shall enter into force thirty days after consent to be bound has been expressed by three States.

4. For each State expressing consent to be bound by this Convention after its entry into force, this Convention shall enter into force for that Sate thirty days after the date of expression of consent.

5. (a) This Convention shall be open for accession, as provided for in this article, by international organizations and regional integration organizations constituted by sovereign States, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(b) In matters within their competence such organizations shall, on their own behalf, exercise the rights and fulfill the obligations which this Convention attributes to States Parties.

(c) When depositing its instrument of accession, such an organization shall communicate to the depositary a declaration indicating the extent of its competence in respect of matters covered by this Convention.

(d) Such an organization shall not hold any vote additional to those of its Member States.

Article 15 – Provisional Application

A State may, upon signature or at any later date before this Convention enters into force for it, declare that it will apply this Convention provisionally.

Article 16 – Amendments

1. A State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all other States Parties.

2. If a majority of the States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be laid down in a protocol which is open to signature in Vienna and New York by all States Parties.

3. The protocol shall enter into force thirty days after consent to be bound has been expressed by three States. For each State expressing consent to be bound by the protocol after its entry into force, the protocol shall enter into force for that State thirty days after the date of expression of consent.

Article 17 – Denunciation

1. A State Party may denounce this Convention by written notification to the depositary.

2. Denunciation shall take effect one year following the date on which the notification is received by the depositary.

Article 18 – Depositary

1. The Director General of the Agency shall be the depositary of this Convention.

2. The Director General of the Agency shall promptly notify States Parties and all other States of:

(a) each signature of this Convention or any protocol of amendment;

(b) each deposit of an instrument of ratification, acceptance, approval or accession concerning this Convention or any protocol of amendment;

(c) any declaration or withdrawal thereof in accordance with articles 8, 10 and 13;

(d) any declaration of provisional application of this Convention in accordance with article 15;

(e) the entry into force of this Convention and of any amendment thereto; and

(f) any denunciation made under article 17.

Article 19 – Authentic Texts and Certified Copies

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies to States Parties and all other States.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Convention, open for signature as provided for in paragraph 1 of article 14.

ADOPTED by the General Conference of the International Atomic Energy Agency meeting in special session at Vienna on the twenty-sixth day of September one thousand nine hundred and eighty-six.

CONVENTION ON ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY

Signature, Ratification, Acceptance, Approval or Accession by States or Organizations

Country/ Organization	Date of Signature	Means and Date of Expression of Consent to be Bound		Entry into Force
Afghanistan	26 Sep 1986			
Albania		acceded	30 Apr 2003	31 May 2003
Algeria	24 Sep 1987	ratified	15 Jan 2004	15 Feb 2004
Argentina		acceded	17 Jan 1990	17 Feb 1990
Armenia		acceded	24 Aug 1993	24 Sep 1993
Australia	26 Sep 1986	ratified	22 Sep 1987	23 Oct 1987
Austria	26 Sep 1986	ratified	21 Nov 1989	22 Dec 1989
Bangladesh		acceded	07 Jan 1988	07 Feb 1988
Belarus	26 Sep 1986	ratified	26 Jan 1987	26 Feb 1987
Belgium	26 Sep 1986	ratified	04 Jan 1999	04 Feb 1999
Bolivia		acceded	22 Aug 2003	21 Sep 2003
Bosnia and Herzegovina		succeeded	30 June 1998	01 Mar 1992
Brazil	26 Sep 1986	ratified	04 Dec 1990	04 Jan 199
Bulgaria	26 Sep 1986	ratified	24 Feb 1988	26 Mar 1988
Cameroon	25 Sep 1987			
Canada	26 Sep 1986	ratified	12 Aug 2002	12 Sep 2002
Chile	26 Sep 1986	ratified	22 Sep 2004	23 Oct 2004
China	26 Sep 1986	ratified	10 Sep 1987	11 Oct 1987
Costa Rica	26 Sep 1986	ratified	16 Sep 1991	17 Oct 1991
Cote d'Ivoire	26 Sep 1986			
Croatia		succeeded	29 Sep 1992	08 Oct 1991
Cuba	26 Sep 1986	ratified	08 Jan 1991	08 Feb 1991
Cyprus		acceded	04 Jan 1989	04 Feb 1989
Czech Republic		succeeded	24 Mar 1993	01 Jan 1993
Dem. P.R. of Korea	29 Sep 1986			
Dem. Rep. Of the Congo	30 Sep 1986			
Denmark	26 Sep 1986			
Egypt	26 Sep 1986	ratified	17 Oct 1988	17 Nov 1988
Estonia		acceded	09 May 1994	09 Jun 1994
Finland	26 Sep 1986	approved	27 Nov 1990	28 Dec 1990
France	26 Sep 1986	approved	06 Mar 1989	06 Apr 1989
Germany	26 Sep 1986	ratified	14 Sep 1989	15 Oct 1989
Greece	26 Sep 1986	ratified	06 Jun 1991	07 Jul 1991
Guatemala	26 Sep 1986	ratified	08 Aug 1988	08 Sep 1988
Holy See	26 Sep 1986			
Hungary	26 Sep 1986	ratified	10 Mar 1987	10 Apr 1987
Iceland	26 Sep 1986			
India	29 Sep 1986	ratified	28 Jan 1988	28 Feb 1988
Indonesia	26 Sep 1986	ratified	12 Nov 1993	13 Dec 1993
Iran, Islamic Republic of	26 Sep 1986	ratified	09 Oct 2000	09 Nov 2000

Country/ Organization	Date of Signature	Means and Date of Expression of Consent to be Bound		Entry into Force
Iraq	12 Aug 1987	ratified	21 Jul 1988	21 Aug 1988
Ireland	26 Sep 1986	ratified	13 Sep 1991	14 Oct 1991
Israel	26 Sep 1986	ratified	25 May 1989	25 Jun 1989
Italy	26 Sep 1986	ratified	25 Oct 1990	25 Nov 1990
Japan	06 Mar 1987	accepted	09 Jun 1987	10 Jul 1987
Jordan	02 Oct 1986	ratified	11 Dec 1987	11 Jan 1988
Korea, Rep. of		acceded	08 Jun 1990	09 Jul 1990
Kuwait		acceded	13 May 2003	13 Jun 2003
Latvia		acceded	28 Dec 1992	28 Jan 1993
Lebanon	26 Sep 1986	ratified	17 Apr 1997	18 May 1997
Libyan Arab Jamahiriya		acceded	27 Jun 1990	28 Jul 1990
Liechtenstein	26 Sep 1986	ratified	19 Apr 1994	20 May 1994
Lithuania		acceded	21 Sep 2000	22 Oct 2000
Luxembourg		acceded	26 Sep 2000	27 Oct 2000
Malaysia	01 Sep 1987	signature	01 Sep 1987	02 Oct 1987
Mali	02 Oct 1986			
Mauritius		acceded	17 Aug 1992	17 Sep 1992
Mexico	26 Sep 1986	ratified	10 May 1988	10 Jun 1988
Monaco	26 Sep 1986	approval	19 Jul 1989	19 Aug 1989
Mongolia	08 Jan 1987	ratified	11 Jun 1987	12 Jul 1987
Morocco	26 Sep 1986	ratified	07 Oct 1993	07 Nov 1993
Netherlands	26 Sep 1986	accepted	23 Sep 1991	24 Oct 1991
New Zealand		acceded	11 Mar 1987	11 Apr 1987
Nicaragua		acceded	11 Nov 1993	12 Dec 1993
Niger	26 Sep 1986			
Nigeria	21 Jan 1987	ratified	10 Aug 1990	10 Sep 1990
Norway	26 Sep 1986	signature	26 Sep 1986	26 Feb 1987
Pakistan		acceded	11 Sep 1989	12 Oct 1989
Panama	26 Sep 1986	ratified	01 Apr 1999	02 May 1999
Paraguay	02 Oct 1986			
Peru		acceded	17 Jul 1995	17 Aug 1995
Philippines		acceded	05 May 1997	05 Jun 1997
Poland	26 Sep 1986	ratified	24 Mar 1988	24 Apr 1988
Portugal	26 Sep 1986	ratified	23 Oct 2003	23 Nov 2003
Republic of Moldova		acceded	07 May 1988	07 Jun 1998
Romania		acceded	12 Jun 1990	13 Jul 1990
Russian Federation	26 Sep 1986	ratified	23 Dec 1986	26 Feb 1987
Saint Vincent & the Grenadines		acceded	18 Sep 2001	19 Oct 2001
Saudi Arabia		acceded	03 Nov 1989	04 Dec 1989
Senegal	15 Jun 1987			
Serbia and Montenegro		succeeded	05 Feb 2002	27 Apr 1992
Sierra Leone	25 Mar 1987			
Singapore		acceded	15 Dec 1997	15 Jan 1998
Slovakia		succeeded	10 Feb 1993	01 Jan 1993

Country/ Organization	Date of Signature	Means and Date of Expression of Consent to be Bound		Entry into Force
Slovenia		succeeded	07 Jul 1992	25 Jun 1991
South Africa	10 Aug 1987	ratified	10 Aug 1987	10 Sep 1987
Spain	26 Sep 1986	ratified	13 Sep 1989	14 Oct 1989
Sri Lanka		acceded	11 Jan 1991	11 Feb 1991
Sudan	26 Sep 1986			
Sweden	26 Sep 1986	ratified	24 Jun 1992	25 Jul 1992
Switzerland	26 Sep 1986	ratified	31 May 1988	01 Jul 1988
Syrian Arab Republic	02 Jul 1987			
Thailand	25 Sep 1987	ratified	21 Mar 1989	21 Apr 1989
The Frmr.Yug.Rep. of Macedonia		succeeded	20 Sep 1996	17 Nov 1991
Tunisia	24 Feb 1987	ratified	24 Feb 1989	27 Mar 1989
Turkey	26 Sep 1986	ratified	03 Jan 1991	03 Feb 1991
Ukraine	26 Sep 1986	ratified	26 Jan 1987	26 Feb 1987
United Arab Emirates		acceded	02 Oct 1987	02 Nov 1987
United Kingdom	26 Sep 1986	ratified	09 Feb 1990	12 Mar 1990
United States of America	26 Sep 1986	ratified	19 Sep 1988	20 Oct 1988
Uruguay		acceded	21 Dec 1989	21 Jan 1990
Viet Nam		acceded	29 Sep 1987	30 Oct 1987
Zimbabwe	26 Sep 1986			
Food & Agriculture Org (FAO)		acceded	19 Oct 1990	19 Nov 1990
World Health Org Org (WHO)		acceded	10 Aug 1988	10 Sep 1988
World Meteorological Org (WMO)		acceded	17 Apr 1990	18 May 1990

Note: The Convention entered into force on 26 February 1987, *i.e.* thirty days after the date on which the third State expressed its consent to be bound, pursuant to Article 14, paragraph 3.

Number of Parties: 83
Number of Signatories: 68

22 September 2004

ADDITIONAL PROTOCOL I TO THE TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA

TABLE OF CONTENTS

TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA

TREATY FOR THE PROHIBITION OF NUCLEAR WEAPON IN LATIN AMERICA (Continued)

MULTILATERAL

Additional Protocol I to the Treaty for the Prohibition of Nuclear Weapons in Latin America

Done at Mexico February 14, 1967;
Transmitted by the President of the United States of America to the Senate May 24, 1978 (S. Ex. I, 95th Cong., 2d Sess.);
Reported favorably by the Senate Committee on Foreign Relations October 19, 1981 (S. Ex. Rep. No. 97-23, 97th Cong., 1st Sess.);
Advice and consent to ratification by the Senate, with understandings, November 13, 1981;
Ratified by the President, with said understandings, November 19, 1981;
Ratification of the United States of America deposited with Mexico November 23, 1981;
Proclaimed by the President December 14, 1981;
Entered into force with respect to the United States of America November 23, 1981.

By the President of the United States of America

A PROCLAMATION

Considering that:

Additional Protocol I to the Treaty for the Prohibition of Nuclear Weapons in Latin America was signed on behalf of the United States of America at Mexico City on May 26, 1977, a certified copy of which is hereto annexed;[1]

The Senate of the United States of America by its resolution of November 13, 1981, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of Additional Protocol I, subject to the following understandings:

1) That the provisions of the Treaty made applicable by this Additional Protocol do not affect the exclusive power and legal competence under international law of a State adhering to this Protocol to grant or deny transit and transport privileges to its own or any other vessels or aircraft irrespective of cargo or armaments.

2) That the provisions of the Treaty made applicable by this Additional Protocol do not affect rights under the international law of a State adhering to this Protocol regarding the exercise of the freedom of the seas, or regarding passage through or over waters subject to the sovereignty of a State.

3) That the understandings and declarations attached by the United States to its ratification of Additional Protocol II (text attached)[2] apply also to its ratification of Additional Protocol I.

The President of the United States of America on November 19, 1981, ratified Additional Protocol I, subject to the said understandings, in pursuance of the advice and consent of the Senate, and the United States of America deposited its instrument of ratification with the Government of the United Mexican States on November 23, 1981;

Pursuant to the provisions of Additional Protocol I, Additional Protocol I, subject to the said understandings, entered into force for the United States of America on November 23, 1981;

Now, Therefore, I, Ronald Reagan, President of the United States of America, proclaim and make public Additional Protocol I, subject to the said understandings, to the end that

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[1]Texts of the English, French, Portuguese and Spanish languages as certified by the Department of Foreign Relations of Mexico.

[2]See pp. 1794-1795.

it shall be observed and fulfilled with good faith by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

In testimony whereof, I have signed this proclamation and caused the seal of the United States of America to be affixed.

(seal)

Done at the city of Washington this fourteenth day of December in the year of our Lord one thousand nine hundred eighty-one and of the Independence of the United States of America the two hundred sixth.

Ronald Reagan

By the President:
Alexander M. Hair, Jr.
Secretary of State

UNDERSTANDINGS AND DECLARATIONS ATTACHED BY THE UNITED STATES TO ITS RATIFICATION OF ADDITIONAL PROTOCOL II

I.[3] 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 purpose 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 1 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 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

[3]May 8, 1971. TAIS 7137; 22 USED 760.

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-weapons 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.

ADDITIONAL PROTOCOL I

The undersigned Plenipotentiaries, furnished with full powers by their respective Governments,

Convinced that the Treaty for the Prohibition of Nuclear Weapons in Latin America,[4] 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 status of denuclearization in respect of warlike purposes as defined in articles 1, 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.

FOR THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND:
N.J.A. Cheetham

FOR THE KINGDOM OF THE NETHERLANDS:
S. Van Heemstra

FOR THE UNITED STATES OF AMERICA:
Jimmy Carter

[4]Done Feb. 14, 1967. TAIS 7137; 22 USED 762.

NUCLEAR FREE ZONE–LATIN AMERICA[5]

NOTE:
Additional protocol I to the treaty of February 14, 1967 for the prohibition of nuclear weapons in Latin America. Done at Mexico February 14, 1967; entered into force December 11, 1969; for the United States November 23, 1981. 33 USED 1792; TAIS 10147; 634 UNTS 362. States which are parties: Netherlands,[6] United Kingdom,[7] United States[8]

Additional protocol II to the treaty of February 14, 1967 for the prohibition of nuclear weapons in Latin America. Done at Mexico February 14, 1967; entered into force December 11, 1969; for the United States May 12, 1971. 22 USED 754; TAIS 7137; 634 UNTS 364. States which are parties: China,[9] France,[10] Union of Soviet Socialist Reps.,[11] United Kingdom[12] [13], United States[14]

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[15]

BY THE PRESIDENT 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

[5]The United States is not a party to the treaty for the prohibition of nuclear weapon in Latin America (the Treaty of Tlatelolco). For the English text of the treaty, see 22 USC 762; TIAS 7137; for the text in other languages, see 634 UNTS 281.
[6]With statement(s).
[7]Applicable to Anguilla, British Virgin Is., Cayman Is., Falkland Is., Montserrat, Turks and Caicos Is.
[8]With understanding and declarations.
[9]With statement(s).
[10]With statement(s).
[11]With statement(s).
[12]With declaration.
[13]Applicable to Anguilla, British Virgin Is., Cayman Is., Falkland Is., Montserrat, Turks and Caicos Is.
[14]With understanding and declarations.
[15]The United Kingdom, France, and the People's Republic of China are also parties of Protocol II.

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.

The Senate of the United States of America by its resolution of April 19, 1971, two-thirds of the Senators present concurring, gave it 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 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 the 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 (XI), 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 the 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 of 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 inevitable 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 of 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 fulfillment 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:

ARTICLE 1 – *Obligations*

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 weapons, 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.

ARTICLE 2 – *Definition of the Contracting Parties*

For the purposes of this Treaty, the Contracting Parties are those for whom the Treaty is in force.

ARTICLE 3 – *Definition of Territory*

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.

ARTICLE 4 – *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 the Treaty shall also be that which is situated in the western hemisphere with 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 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 line to a point at 5° north latitude, 20° west longitude; from there directly southward to a point at 60° south latitude, 20° west longitude; from there directly westward to a point at 60° south latitude, 115° west longitude; from there directly northward to a point at 0° latitude, 115° west longitude; 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.

ARTICLE 5 – ***Definition of Nuclear Weapons***

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.

ARTICLE 6 – ***Meeting of Signatories***

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.

ARTICLE 7 – ***Organization***

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.

ARTICLE 8 – ***Organs***

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.

ARTICLE 9 – ***The General Conference***

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.

ARTICLE 10 – *The Council*

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 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.

ARTICLE 11 – *The Secretariat*

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.

ARTICLE 12 – *Control System*

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.

ARTICLE 13 – *IAEA Safeguards*

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.

ARTICLE 14 – ***Reports of the Parties***

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 to 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.

ARTICLE 15 – ***Special Reports Requested by the General Secretary***

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 circumstances 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.

ARTICLE 16 – ***Special Inspections***

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, subparagraph (b), sections s (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 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.

ARTICLE 17 – *Use of Nuclear Energy for Peaceful Purposes*

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.

ARTICLE 18 – *Explosions for Peaceful Purposes*

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, provide 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.

ARTICLE 19 – *Relations with Other International Organizations*

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.

ARTICLE 20 – *Measures in the Event of Violation of the Treaty*

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 to 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.

ARTICLE 21 – *United Nations and Organizations of American States*

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.

ARTICLE 22 – *Privileges and Immunities*

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.

ARTICLE 23 – *Notification of Other Agreements*

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.

ARTICLE 24 – *Settlement of Disputes*

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.

ARTICLE 25 – *Signature*

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 35x 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 party 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 extra-continental country and one or more Latin American States, so long as the dispute has not been settled by peaceful means.

ARTICLE 26 – *Ratification and Deposit*

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.

ARTICLE 27 – *Reservations*

This Treaty shall not be subject to reservations.

ARTICLE 28 – *Entry into Force*

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 1 annexed to this Treaty by all extra-continental or continental States have *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.

ARTICLE 29 – *Amendments*

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.

ARTICLE 30 – *Duration and Denunciation*

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.

ARTICLE 31 – *Authentic Texts and Registration*

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

The undersigned Plenipotentiaries, furnished with full powers by their respective Governments.[16]

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 filed 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.

[16]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

Signature and Ratification by States or Organizations

Country	Date of Signature	Date of Deposit of Ratification
Antigua & Barbuda	10/11/83	10/11/83 [1]
Argentina	9/27/67	1/18/94
Bahamas, The	–	11/29/76 [a]
Barbados	10/18/68	4/25/69
Belize	2/14/92	–
Bolivia	2/14/67	2/18/69
Brazil	5/9/67	½9/68 [b]
Chile	2/14/67	10/9/74 [b]
Colombia	2/14/67	8/4/72
Costa Rica	2/14/67	8/25/69
Cuba	–	–
Dominica	5/2/89	–
Dominican Republic	7/29/67	6/14/68
Ecuador	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
St. Lucia	8/25/92	–
St. Vincent/Grenadines	2/14/92	2/14/92
Suriname	2/13/76	6/10/77
Trinidad & Tobago	6/27/67	12/3/70 [c]
Uruguay	2/14/67	8/20/68
Venezuela	2/14/67	3/23/70
TOTAL	29	26 (24 in force)

[1] Dates give are the earliest dates on which countries signed the agreements or deposited their ratifications or accessions – whether in Washington, London, Moscow, or New York. 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 agreement.

[a] 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.

[b] Not in force. No declaration of waver under Art. 28, para 2.

[c] 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

Signature and Ratification by States or Organizations

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

Signature and Ratification by States or Organizations

Country	Date of Signature	Date of Deposit of Ratification
China, Peoples Republic of	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

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS IN THE UNITED STATES OF AMERICA

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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 no-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 safeguard 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, which 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 enable 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 United States those facilities, selected from the then current list provided by the United States in accordance with Article 1(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 agrees 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 agreement 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 and alternative designation or designations.

(iii) If, as a result of the repeated refusal of the United States to accept the designation of the 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 Article 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 Article 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 arbitrators, 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 applications 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 agreement.

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 amendment 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) Procedure for identifying, reviewing and evaluating differences in shipper/receiver measurements;

(d) Procedure 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 Article 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 Article 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 Article 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 the 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 the 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 exempt 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 and 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 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 Subsidiary Arrangement 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 States 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 respect 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 facilities 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 if 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 procedure for taking of physical inventory of nuclear material for the 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 quality 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 Article 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 record 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 Article 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 Article 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 the 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 charges 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 Arrangement; or

(b) If the containment has unexpectedly changed from that specified in the Subsidiary Arrangement 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 Article 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 Article 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 quality 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, identify, 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 Article 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 Article 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 analyzed;

(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 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 Article 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 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 Article 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 facility 30 x 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 x 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 safeguards, 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 facilities 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 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 a quickly as possible appropriate visas, where required, for each inspector designated for the 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 paragraph 72 and 73, particular operations in a facility should be carried out by the operator, then 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 stuck.

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 incidents 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 purpose of this Agreement:

A Adjustment means an entry into and accounting record or a report showing a shipper/receiver difference of material unaccounted for.

B Annual throughput means, for the purposes of Article 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 deleted uranium.

For reporting purposes the weight 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 corrections 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 rector; and

(iv) De-exemption: replication of safeguards on nuclear material previously exempted therefrom on account of its use or quantity.

(b) Decreases:

(i) Export;

(ii) Domestic shipments: 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 measurement, 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 determined 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 our 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 relationships between plutonium produced and power generated.

S Strategic point means a location selected during examination of design information where, under normal conditions 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 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 Article 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 Article 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 Article 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 forgoing 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 Article 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 facilities, 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 II 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 identity 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 Article 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 areas 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 definition 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:

STATUS WITH REGARD TO CONCLUSION OF SAFEGUARDS AGREEMENTS AND ADDITIONAL PROTOCOLS[a,b]
As of 01 March 2005

State/Party	SQP[c]	Status of Safeguards Agreement(s)				INFCIRC	Additional Protocol Status		
		Accession	Approved	Signed	In force		Approved	Signed	In force
Afghanistan	X				20 Feb 1978	257	01 Mar 2005		
Albania[d]					28 Nov 2002	359/Mod. 1	16 Jun 2004	02 Dec 2004	
Algeria					07 Jan 1997	531	14 Sep 2004		
Andorra	*X*			*09 Jan 2001*			07 Dec 2000	09 Jan 2001	
Angola									
Antigua and Barbuda[e]	X				09 Sep 1996	528			
Argentina[f]					04 Mar 1994	435/Mod. 1			
Armenia					05 May 1994	455	23 Sep 1997	29 Sep 1997	28 Jun 2004
Australia					10 Jul 1974	217	23 Sep 1997	23 Sep 1997	12 Dec 1997
Austria[g]		31 Jul 1996				193	11 Jun 1998	22 Sep 1998	30 Apr 2004
Azerbaijan	X				29 Apr 1999	580	07 Jun 2000	05 Jul 2000	29 Nov 2000
Bahamas[e]	X				12 Sep 1997	544			
Bahrain									
Bangladesh					11 Jun 1982	301	25 Sep 2000	30 Mar 2001	30 Mar 2001
Barbados[e]	X				14 Aug 1996	527			
Belarus					02 Aug 1995	495			
Belgium					21 Feb 1977	193	11 Jun 1998	22 Sep 1998	30 Apr 2004
Belize[e]	X				21 Jan 1997	532			
Benin	X		*17 Sep 2004*				17 Sep 2004		
Bhutan	X				24 Oct 1989	371			
Bolivia[e]	X				06 Feb 1995	465			
Bosnia and Herzegovina[h]					28 Dec 1973	204			
Botswana									
Brazil[i]					04 Mar 1994	435			
Brunei Darussalam	X				04 Nov 1987	365			
Bulgaria					29 Feb 1972	178	14 Sep 1998	24 Sep 1998	10 Oct 2000

STATUS WITH REGARD TO CONCLUSION OF SAFEGUARDS AGREEMENTS AND ADDITIONAL PROTOCOLS[a,b]
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State/Party	SQP[c]	Status of Safeguards Agreement(s)				INFCIRC	Additional Protocol Status		
		Accession	Approved	Signed	In force		Approved	Signed	In force
Burkina Faso	X				17 Apr 2003	618	18 Mar 2003	17 Apr 2003	17 Apr 2003
Burundi									
Cambodia	X				17 Dec 1999	586			
Cameroon	X				17 Dec 2004	641	16 Jun 2004	16 Dec 2004	
Canada					21 Feb 1972	164	11 Jun 1998	24 Sep 1998	08 Sep 2000
Cape Verde									
Central African Republic									
Chad									
Chile[j]					05 Apr 1995	476	10 Sep 2002	19 Sep 2002	03 Nov 2003
China					18 Sep 1989	369*	25 Nov 1998	31 Dec 1998	28 Mar 2002
Colombia[j]					22 Dec 1982	306	25 Nov 2004		
Comoros									
Congo, Dem. Rep. of							28 Nov 2002	09 Apr 2003	09 Apr 2003
Costa Rica[e]	X				22 Nov 1979	278	29 Nov 2001	12 Dec 2001	
Côte d'Ivoire					08 Sep 1983	309			
Croatia	X				19 Jan 1995	463	14 Sep 1998	22 Sep 1998	06 Jul 2000
Cuba					03 Jun 2004	633	09 Sep 2003	18 Sep 2003	03 Jun 2004
Cyprus	X				26 Jan 1973	189	25 Nov 1998	29 Jul 1999	19 Feb 2003
Czech Republic[k]					11 Sep 1997	541	20 Sep 1999	28 Sep 1999	01 Jul 2002
Democratic People's Rep. of Korea					10 Apr 1992	403			
Democratic Republic of the Congo					09 Nov 1972	183	28 Nov 2002	09 Apr 2003	09 Apr 2003

STATUS WITH REGARD TO CONCLUSION OF SAFEGUARDS AGREEMENTS AND ADDITIONAL PROTOCOLS[a,b]
As of 01 March 2005

State/Party	SQP[c]	Status of Safeguards Agreement(s)				INFCIRC	Additional Protocol Status		
		Accession	Approved	Signed	In force		Approved	Signed	In force
Denmark[l]					21 Feb 1977	193	11 Jun 1998	22 Sep 1998	30 Apr 2004
Djibouti									
Dominica[m]	X				03 May 1996	513			
Dominican Republic[e]	X				11 Oct 1973	201			
Ecuador[e]	X				10 Mar 1975	231	20 Sep 1999	01 Oct 1999	24 Oct 2001
Egypt					30 Jun 1982	302			
El Salvador[e]	X				22 Apr 1975	232	23 Sep 2002	05 Sep 2003	24 May 2004
Equatorial Eritrea	*X*		*13 Jun 1986*						
Estonia					24 Nov 1997	547	21 Mar 2000	13 Apr 2000	
Ethiopia	X				02 Dec 1977	261			
Fiji	X				22 Mar 1973	192			
Finland[n]		01 Oct 1995				193	11 Jun 1998	22 Sep 1998	30 Apr 2004
France				26 Sep 2000[o]	12 Sep 1981	290*	11 Jun 1998	22 Sep 1998	30 Apr 2004
Gabon	*X*			03 Dec 1979			*18 Mar 2003*		
Gambia	X				08 Aug 1978	277			
Georgia					03 Jun 2003	617	23 Sep 1997	29 Sep 1997	03 Jun 2003
Germany[p]					21 Feb 1977	193	11 Jun 1998	22 Sep 1998	30 Apr 2004
Ghana					17 Feb 1975	226	11 Jun 1998	12 Jun 1998	11 Jun 2004
Greece[q]		17 Dec 1981				193	11 Jun 1998	22 Sep 1998	30 Apr 2004
Grenada[e]	X				23 Jul 1996	525			
Guatemala[e]	X				01 Feb 1982	299	29 Nov 2001	14 Dec 2001	
Guinea									
Guinea–Bissau									
Guyana[e]	X				23 May 1997	543			
Haiti[e]	*X*			*06 Jan 1975*			*20 Mar 2002*	10 Jul 2002	
Holy See	X				01 Aug 1972	187	14 Sep 1998	24 Sep 1998	24 Sep 1998

STATUS WITH REGARD TO CONCLUSION OF SAFEGUARDS AGREEMENTS AND ADDITIONAL PROTOCOLS[a,b]
As of 01 March 2005

State/Party	SQP[c]	Status of Safeguards Agreement(s)				INFCIRC	Additional Protocol Status		
		Accession	Approved	Signed	In force		Approved	Signed	In force
Honduras[e]	X				18 Apr 1975	235			
Hungary					30 Mar 1972	174	25 Nov 1998	26 Nov 1998	04 Apr 2000
Iceland	X				16 Oct 1974	215	09 Sep 2003	12 Sep 2003	12 Sep 2003
India					30 Sep 1971	211			
					17 Nov 1977	260			
					27 Sep 1988	360			
					11 Oct 1989	374			
					01 Mar 1994	433			
Indonesia					14 Jul 1980	283	20 Sep 1999	29 Sep 1999	29 Sep 1999
Iran, Islamic Republic of					15 May 1974	214	21 Nov 2003	18 Dec 2003	**
Iraq					29 Feb 1972	172			
Ireland					21 Feb 1977	193	11 Jun 1998	22 Sep 1998	30 Apr 2004
Israel					04 Apr 1975	249/Add. 1			
Italy					21 Feb 1977	193	11 Jun 1998	22 Sep 1998	30 Apr 2004
Jamaica[e]					06 Nov 1978	265	12 Jun 2002	19 Mar 2003	19 Mar 2003
Japan					02 Dec 1977	255	25 Nov 1998	04 Dec 1998	16 Dec 1999
Jordan	X				21 Feb 1978	258	18 Mar 1998	28 Jul 1998	28 Jul 1998
Kazakhstan					11 Aug 1995	504	18 Jun 2003	06 Feb 2004	
Kenya									
Kiribati	X				19 Dec 1990	390	10 Sep 2002	09 Nov 2004	
Korea, Rep. of					14 Nov 1975	236			19 Feb 2004
Kuwait	X				07 Mar 2002	607	12 Jun 2002	19 Jun 2002	02 Jun 2003
Kyrgyzstan	X				03 Feb 2004				
Lao Peoples Democratic Republic	X				05 Apr 2001	599			

STATUS WITH REGARD TO CONCLUSION OF SAFEGUARDS AGREEMENTS AND ADDITIONAL PROTOCOLS[a,b]
As of 01 March 2005

State/Party	SQP[c]	Status of Safeguards Agreement(s)				INFCIRC	Additional Protocol Status		
		Accession	Approved	Signed	In force		Approved	Signed	In force
Latvia					21 Dec 1993	434	07 Dec 2000	12 Jul 2001	12 Jul 2001
Lebanon	X				05 Mar 1973	191			
Lesotho	X				12 Jun 1973	199			
Liberia									
Libyan Arab Jamahiriya					08 Jul 1980	282	09 Mar 2004	10 Mar 2004	**
Liechtenstein					04 Oct 1979	275			
Lithuania					15 Oct 1992	413	08 Dec 1997	11 Mar 1998	05 Jul 2000
Luxembourg					21 Feb 1977	193	11 Jun 1998	22 Sep 1998	30 Apr 2004
Madagascar	X				14 Jun 1973	200	18 Jun 2003	18 Sep 2003	18 Sep 2003
Malawi	X				03 Aug 1992	409			
Malaysia					29 Feb 1972	182			
Maldives	X				02 Oct 1977	253			
Mali	X				12 Sep 2002	615	10 Sep 2002	12 Sep 2002	12 Sep 2002
Malta	X				13 Nov 1990	387	28 Nov 2002	24 Apr 2003	
Marshall Islands			*01 Mar 2005*				*01 Mar 2005*		
Mauritania	*X*			*02 Jun 2003*			18 Mar 2003	*02 Jun 2003*	
Mauritius	X				31 Jan 1973	190	14 Sep 2004	09 Dec 2004	
Mexico[r]					14 Sep 1973	197	12 Mar 2004	29 Mar 2004	
Micronesia, Federated States of									
Monaco	X				13 Jun 1996	524	25 Nov 1998	30 Sep 1999	30 Sep 1999
Mongolia	X				05 Sep 1972	188	11 Sep 2001	05 Dec 2001	12 May 2003
Morocco	X				18 Feb 1975	228	16 Jun 2004	22 Sep 2004	
Mozambique									
Myanmar	X				20 Apr 1995	477			
Namibia	X				15 Apr 1998	551	21 Mar 2000	22 Mar 2000	

STATUS WITH REGARD TO CONCLUSION OF SAFEGUARDS AGREEMENTS AND ADDITIONAL PROTOCOLS[a,b]
As of 01 March 2005

State/Party	SQP[c]	Status of Safeguards Agreement(s)				INFCIRC	Additional Protocol Status		
		Accession	Approved	Signed	In force		Approved	Signed	In force
Nauru	X				13 Apr 1984	317			
Nepal	X				22 Jun 1972	186			
Netherlands					05 Jun 1975	229	11 Jun 1998	22 Sep 1998	30 Apr 2004
					21 Feb 1977	193			
New Zealand	X				29 Feb 1972	185	14 Sep 1998	24 Sep 1998	24 Sep 1998
Nicaragua[e]	X				29 Dec 1976	246	12 Jun 2002	18 Jul 2002	18 Feb 2005
Niger				*11 Jun 2002*			09 Mar 2004	*11 Jun 2004*	
Nigeria					29 Feb 1988	358	07 Jun 2000	20 Sep 2001	
Norway					01 Mar 1972	177	24 Mar 1999	29 Sep 1999	16 May 2000
Oman	*X*			*28 Jun 2001*					
Pakistan					05 Mar 1962	34			
					17 Jun 1968	116			
					17 Oct 1969	135			
					18 Mar 1976	239			
					02 Mar 1977	248			
					10 Sep 1991	393			
					24 Feb 1993	418			
Palau			*01 Mar 2005*				01 Mar 2005		
Panama[k]	X				23 Mar 1984	316	29 Nov 2001	11 Dec 2001	11 Dec 2001
Papua New Guinea	X				13 Oct 1983	312			
Paraguay[e]	X				20 Mar 1979	279	12 Jun 2002	24 Mar 2003	17 Sep 2004
Peru[e]					01 Aug 1979	273	10 Dec 1999	22 Mar 2000	23 Jul 2001
Philippines					16 Oct 1974	216	23 Sep 1997	30 Sep 1997	
Poland					11 Oct 1972	179	23 Sep 1997	30 Sep 1997	05 May 2000
Portugal[s]		01 Jul 1986				193	11 Jun 1998	22 Sep 1998	30 Apr 2004
Qatar									

STATUS WITH REGARD TO CONCLUSION OF SAFEGUARDS AGREEMENTS AND ADDITIONAL PROTOCOLS[a,b]
As of 01 March 2005

State/Party	SQP[c]	Status of Safeguards Agreement(s)				INFCIRC	Additional Protocol Status		
		Accession	Approved	Signed	In force		Approved	Signed	In force
Republic of Korea (ROK)							24 Mar 1999	21 Jun 1999	19 Feb 2004
Republic of Moldova	*X*			*14 Jun 1996*					
Romania					27 Oct 1972	180	09 Jun 1999	11 Jun 1999	07 Jul 2000
Russian Federation					10 Jun 1985	327*	21 Mar 2000	22 Mar 2000	
Rwanda									
St. Kitts and Nevis[m]	X				07 May 1996	514			
St. Lucia[m]	X				02 Feb 1990	379			
St. Vincent and the Grenadines[m]	X				08 Jan 1992	400			
Samoa	X				22 Jan 1979	268			
San Marino	X				21 Sep 1998	575			
São Tome and Principe									
Saudi Arabia									
Senegal	X				14 Jan 1980	276	01 Mar 2005		
Serbia and Montenegro[t]					28 Dec 1973	204	14 Sep 2004		
Seychelles	X				19 Jul 2004	635	18 Mar 2003	07 Apr 2004	13 Oct 2004
Sierra Leone	*X*			*10 Nov 1977*					
Singapore	X				18 Oct 1977	259			
Slovakia[u]					03 Mar 1972	173	14 Sep 1998	27 Sep 1999	
Slovenia					01 Aug 1997	538	25 Nov 1998	26 Nov 1998	22 Aug 2000
Solomon Islands	X				17 Jun 1993	420			

STATUS WITH REGARD TO CONCLUSION OF SAFEGUARDS AGREEMENTS AND ADDITIONAL PROTOCOLS[a,b]
As of 01 March 2005

State/Party	SQP[c]	Status of Safeguards Agreement(s)				INFCIRC	Additional Protocol Status		
		Accession	Approved	Signed	In force		Approved	Signed	In force
Somalia									
South Africa					16 Sep 1991	394	12 Jun 2002	13 Sep 2002	13 Sep 2002
Spain		05 Apr 1989				193	11 Jun 1998	22 Sep 1998	30 Apr 2004
Sri Lanka					06 Aug 1984	320			
Sudan	X				07 Jan 1977	245			
Suriname[e]	X				02 Feb 1979	269			
Swaziland					28 Jul 1975	227			
Sweden[v]		01 Jun 1995				193	11 Jun 1998	22 Sep 1998	30 Apr 2004
Switzerland					06 Sep 1978	264	07 Jun 2000	16 Jun 2000	01 Feb 2005
Syrian Arab Republic					18 May 1992	407			
Tajikistan	X				14 Dec 2004	639	12 Jun 2002	07 Jul 2003	14 Dec 2004
Tanzania							16 Jun 2004	23 Sep 2004	07 Feb 2005
Thailand					16 May 1974	241			
The Former Yugoslav Republic of Macedonia	X				16 Apr 2002	610			
Timor-Leste									
Togo	*X*			*29 Nov 1990*			22 Sep 2003	*26 Sep 2003*	
Tonga	X				18 Nov 1993	426			
Trinidad and Tobago[e]	X				04 Nov 1992	414			
Tunisia					13 Mar 1990	381	01 Mar 2005		
Turkey					01 Sep 1981	295	07 Jun 2000	06 Jul 2000	17 Jul 2001
Turkmenistan			*01 Mar 2005*				01 Mar 2005		
Tuvalu	X				15 Mar 1991	391			
Uganda	*X*		*25 Nov 2004*				25 Nov 2004		

STATUS WITH REGARD TO CONCLUSION OF SAFEGUARDS AGREEMENTS AND ADDITIONAL PROTOCOLS[a,b]
As of 01 March 2005

State/Party	SQP[c]	Status of Safeguards Agreement(s)				INFCIRC	Additional Protocol Status		
		Accession	Approved	Signed	In force		Approved	Signed	In force
Ukraine					22 Jan 1998	550	07 Jun 2000	15 Aug 2000	
United Arab Emirates	X				06 Oct 2003	622			
United Kingdom of Great Britain and Northern Ireland			16 Sep 1992[o]		14 Dec 1972 14 Aug 1978	175[w] 263*	11 Jun 1998	22 Sep 1998	30 Apr 2004
United Republic of Tanzania	X				07 Feb 2005	pending	*16 Jun 2004*		07 Feb 2005
United States of America					09 Dec 1980	288*	11 Jun 1998	12 Jun 1998	
Uruguay[e]					17 Sep 1976	157	23 Sep 1997	29 Sep 1997	30 Apr 2004
Uzbekistan					08 Oct 1994	508	14 Sep 1998	22 Sep 1998	21 Dec 1998
Vanuatu									
Venezuela[e]					11 Mar 1982	300			
Viet Nam					23 Feb 1990	376			
Yemen, Rep. of	X				14 Aug 2002	614			
Zambia	X				22 Sep 1994	456			
Zimbabwe	X				26 Jun 1995	483			

Strengthened Safeguards System: Other Parties with Additional Protocols (as of 01 March 2005).

Other Parties[1]	Board Approved	Date Signed	In force
Euratom	11 Jun 1998	22 Sep 1998	30 Apr 2004

Key

States: **States not party to the NPT whose safeguards agreements are of INFCIRC/66–type.**

States: Non–nuclear–weapon States which are party to the NPT but have not brought into force a safeguards agreement pursuant to Article III of that Treaty.

*: Voluntary offer safeguards agreement for NPT nuclear–weapon States.

**: The Islamic Republic of Iran and Libyan Arab Jamahiriya have pledged to apply their Additional Protocols pending entry into force.

[1]: The Agency also applies safeguards, including the measures foreseen in the Model Additional Protocol, in Taiwan, China. Pursuant to a decision by the Board, the relations between the Agency and the authorities in Taiwan, China are non-governmental.

[a] This Annex does not aim at listing all safeguards agreements that the Agency has concluded. Not included are agreements whose application has been suspended in light of the application of safeguards pursuant to a comprehensive safeguards agreement. Unless otherwise indicated, the safeguards agreements referred to are comprehensive safeguards agreements concluded pursuant to the NPT.

[b] The Agency also applies safeguards in Taiwan, China under two agreements, INFCIRC/133 and INFCIRC/158, which came into force on 13 October 1969 and 6 December 1971, respectively.

[c] States with a legal obligation to conclude a comprehensive safeguards agreement, with nuclear material in quantities not exceeding the limits of

paragraph 37 of INFCIRC/153 and no nuclear material in a facility, have the option to conclude a Small Quantity Protocol, thus holding in abeyance the implementation of most of the detailed provisions set out in Part II of a comprehensive safeguards agreement as long as these conditions continue to apply. This column contains countries whose SQPs have been approved by the Board and for whom, as far as the Secretariat is aware, these conditions continue to apply.

[d] *Sui generis* comprehensive safeguards agreement. On 28 November 2002, upon approval by the Board of Governors, an exchange of letters entered into force confirming that the safeguards agreement satisfies the requirement of Article III of the NPT.

[e] Safeguards agreement refers to both the Treaty of Tlatelolco and the NPT.

[f] Date refers to the safeguards agreement concluded between Argentina, Brazil, ABACC and the Agency. On 18 March 1997, upon approval by the Board of Governors, an exchange of letters entered into force between Argentina and the Agency confirming that the safeguards agreement satisfies the requirements of Article 13 of the Treaty of Tlatelolco and Article III of the NPT to conclude a safeguards agreement with the Agency.

[g] The application of safeguards in Austria under the NPT safeguards agreement INFCIRC/156, in force since 23 July 1972, was suspended on 31 July 1996, on which date the agreement of 5 April 1973 (INFCIRC/193) between the non–nuclear weapon States of EURATOM, EURATOM and the Agency, to which Austria had acceded, entered into force for Austria.

[h] The NPT safeguards agreement concluded with the Socialist Federal Republic of Yugoslavia (INFCIRC/204), which entered into force on 28 December 1973, continues to be applied in Bosnia and Herzegovina to the extent relevant to the territory of Bosnia and Herzegovina.

[i] Date refers to the safeguards agreement concluded between Argentina, Brazil, ABACC and the Agency. On 10 June 1997, upon approval by the Board of Governors, an exchange of letters entered into force between Brazil and the Agency confirming that the safeguards agreement satisfies the requirements of Article 13 of the Treaty of Tlatelolco. On 20 September 1999, upon approval by the Board of Governors, an exchange of letters entered into force confirming that the safeguards agreement also satisfies the requirements of Article III of the NPT.

[j] Date refers to a safeguards agreement pursuant to Article 13 of the Treaty of Tlatelolco. Upon approval by the Board of Governors an exchange of letters entered into force (for Chile on 9 September 1996; for Columbia on 13 June 2001; for Panama on 21 November 2003) confirming that the safeguards agreement satisfies the requirement of Article III of the NPT.

[k] The NPT safeguards agreement concluded with the Czechoslovak Socialist Republic (INFCIRC/173), which entered into force on 3 March 1972, continued to be applied in the Czech Republic to the extend relevant to the territory of the Czech Republic until 11 September 1997, on which date the NPT safeguards agreement concluded with the Czech Republic entered into force.

[l] The NPT safeguards agreement with Denmark (INFCIRC/176), in force since 1 March 1972, has been replaced by the agreement of 5 April 1973 between the non–nuclear–weapon States of EURATOM, EURATOM and the Agency (INFCIRC/193). Since 1 May 1974, that agreement also applies to the Faroe Islands. Upon Greenland's secession from EURATOM as of 31 January 1985, the agreement between the Agency and Denmark (INFCIRC/176) re–entered into force for Greenland.

[m] An exchange of letters has taken place between this State and the Agency confirming that the NPT safeguards agreement satisfies the obligations of the state under Article 13 of the Treaty of Tlateloloco.

[n] The application of safeguards in Finland under the NPT safeguards agreement INFCIRC/155, in force since 9 February 1972, was suspended on 1 October 1995, on which date the agreement of 5 April 1973 (INFCIRC/193) between the non–nuclear–weapon States of EURATOM, EURATOM and the Agency, to which Finland had acceded, entered into force for Finland.

[o] The safeguards agreement referred to is pursuant to Additional Protocol I to the Treaty of Tlatelolco.

[p] The NPT safeguards agreement of 7 March 1972 concluded with the German Democratic Republic (INFCIRC/181) is no longer in force with effect from 3 October 1990, on which date the German Democratic Republic acceded to the Federal Republic of Germany.

[q] The application of safeguards in Greece under the NPT safeguards agreement INFCIRC/166, provisionally in force since 1 March 1972, was suspended on 17 December 1981, on which date Greece acceded to the agreement of 5 April 1973 (INFCIRC/193) between the non–nuclear– weapon States of EURATOM, EURATOM and the Agency.

[r] The safeguards agreement referred to was concluded pursuant to both the Treaty of Tlatelolco and the NPT. The application of safeguards under an earlier safeguards agreement pursuant to the Treaty of Tlatelolco, which entered into force on 6 September 1968 (INFCIRC/118), was suspended as of 14 September 1973.

[s] The application of safeguards in Portugal under the NPT safeguards agreement INFCIRC/272, in force since 14 June 1979, was suspended on 1 July 1986, on which date Portugal acceded to the agreement of 5 April 1973 (INFCIRC/193) between the non–nuclear–weapon States of EURATOM, EURATOM and the Agency.

[t] The NPT safeguards agreement concluded with the Socialist Federal Republic of Yugoslavia (INFCIRC/204), which entered into force on 28 December 1973, continues to be applied in Serbia and Montenegro (formerly the Federal Republic of Yugoslavia) to the extent relevant to the territory of Serbia and Montenegro (formerly the Federal Republic of Yugoslavia) to the extent relevant to the territory of Serbia and Montenegro.

[u] The NPT safeguards agreement concluded with the Czechoslovak Socialist Republic (INFCIRC/173), which entered into force on 3 March 1972, continues to be applied in Slovakia to the extent relevant to the territory of Slovakia. A new NPT safeguards agreement concluded with Slovakia and a Protocol Additional thereto were approved by the Board of Governors on 14 September 1998.

[v] The application of safeguards in Sweden under the NPT safeguards agreement INFCIRC/234, in force since 14 April 1975, was suspended on 1 June 1995, on which date the agreement of 5 April 1973 (INFCIRC/193) between the non–nuclear–weapon States of EURATOM, EURATOM and the Agency, to which Sweden had acceded, entered into force for Sweden.

[w] Date refers to the INFCIRC/66–type safeguards agreement, concluded between the United Kingdom and the Agency, which remains in force.

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	IAEA Information Effective Date	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 USC 1539
Brazil	January 12, 1971	January 12, 1971	147, Part II	–
Canada–Jamaica	January 25, 1984	January 25, 1984	315	TIAS No. –, – USC –
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 USC 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, – USC –
Malaysia	June 12 and July 22,	July 22, 1981	287/Mod. 1	TIAS No. 10202, – USC –
Mexico	December 18, 1963	December 18, 1963	52	TIAS No. 9906, – USC –
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, – USC –
Mexico	December 12, 1972	December 12, 1972	194, Part II	–
Mexico	February 12, 1974	February 12, 1974	203	TIAS No. 10705, – USC –

Agreement	Date Signed	IAEA Information Effective Date	Circular Number	U.S. Citation
Mexico	June 14, 1974	June 14, 1974	203/Add. 1	TIAS No. 10705, – USC –
Morocco	December 2, 1983	December 2, 1983	313	TIAS No. –, – USC –
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	–
Thailand		September 30, 1986	September 30, 1986	–
Turkey	February 8, 1966	February 8, 1966	83, Part II	–
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, – USC –
Yugoslavia	October 31, 1974	October 31, 1974	32Add. 3/Mod. 1	–
Yugoslavia	January 16, 1980	July 14, 1980	32/Add. 4	TIAS No. 9767, 32 USC 1128
Yugoslavia	December 14, 15 and 20,	December 20, 1982	32/Add. 4/Mod. 1	TIAS No. 10621, – USC –
Yugoslavia	February 23, 1983	February 23, 1983	32/Add. 5	TIAS No. 10664, – USC –
Zaire	June 27, 1962	June 27, 1962	37, Part II	–
Zaire	February 14, 1968	February 14, 1968	37/Add. 2	–

Agreement	Date Signed	IAEA Information Effective Date	Circular Number	U.S. Citation
Zaire	December 9, 1970	December 9, 1970	37/Add. 3	–
Zaire	April 15, 1971	April 15, 1971	37/Add. 4	–

March, 1989
Office of the Legal Adviser
Department of State

UNITED STATES AGREEMENTS FOR PEACEFUL NUCLEAR COOPERATION

List of Agreements

Agreement	Date Signed	Effective Date	Termination Date	Citation
Argentina	June 25, 1969	July 25, 1969	July 24, 1999	TIAS No. 6721, 20 USC 2587
Australia	July 5, 1979	January 16, 1981	January 15, 2011	TIAS No. 9893
Brazil	October 14, 1997	September 15, 1999	September 14, 2029	TIAS No. 7439, 23 USC 2477
Bulgaria	June 21, 1994	March 29, 1996	March 28, 2026	
Canada	June 15, 1955	July 21, 1955		TIAS No. 3304, 6 USC 2595
amendment	June 26, 1956	March 4, 1957		TIAS No. 3771, 8 USC 275
amendment	June 11, 1960	July 14, 1960		TIAS No. 4518, 11 USC 1780
amendment	May 25, 1962	July 12, 1962		TIAS No. 5102, 13 USC 1400
amendment	April 23, 1980	July 9, 1980	January 1, 2000	TIAS No. 9759, 32 USC 1079
extension	June 23, 1999			
China	July 23, 1985	December 30, 1985	December 29, 2015	TIAS No. –, –USC–
Colombia	January 8, 1981	September 7, 1983	September 6, 2013	TIAS No. 10722, –USC–
Czech Republic	June 13, 1991	February 13, 1992[2]	February 12, 2022	TIAS No. –, –USC–
Egypt	June 29, 1981	December 29, 1981	December 28, 2021	TIAS No. 10208, –USC–
European Atomic Energy Community (EURATOM)[1]	November 7, 1995 & March 29, 1996	April 12, 1996		
Hungary	June 10, 1991	February 13, 1992	February 12, 2022	TIAS No. –, –USC–
Indonesia	June 30, 1980	December 30, 1981		TIAS No. 10219, – USC –
extension	August 23, 1991	June 24, 1993	December 29, 2001	
International Atomic Energy Agency (IAEA)	May 11, 1959	August 7, 1959		TIAS No. 4291, 10 USC 1424
amendment	February 12, 1974	May 31, 1974	August 6, 2014	TIAS No. 7852, 25 USC 1199
Japan	November 4, 1987	July 17, 1988		TIA S No. –, –USC–
Kazakhstan	November 18, 1997	November 5, 1999	November 4, 2029	
Morocco	May 30, 1980	May 16, 1981	May 16, 2021	TIAS No. 10018, –USC–

[1]Euratom comprises the following Member States: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom.

Agreement	Date Signed	Effective Date	Termination Date	Citation
Norway	January 12, 1984	July 2, 1984	July 1, 2014	TIAS No. 10979, –USC–
Peru	June 26, 1980	April 15, 1982	April 14, 2002	TIAS No. 10300, –USC–
Poland	September 18, 1991	September 3, 1992	September 2, 2022	TIAS No. –, –USC–
Romania	July 15, 1998	August 25, 1999	August 24, 2029	
Slovakia	June 13, 1991[2]	February 13, 1992[2]	February 12, 2022	TIAS No. –, –USC–
South Africa	July 8, 1957	August 22, 1957		TIAS No. 3885, 8 USC 1367
amendment	June 12, 1962	August 23, 1962		TIAS No. 5129, 13 USC 1812
amendment	July 17, 1967	August 17, 1967		TIAS No. 6312, 18 USC 1671
amendment	May 22, 1974	June 28, 1974	August 21, 2007	TIAS No. 7845, 25 USC 1158
Switzerland				
Taiwan[2]	April 4, 1972	June 22, 1972		TIAS No. 7364, 23 USC 945
amendment	March 15, 1974	June 14, 1974	June 21, 2014	TIAS No. 7834, 25 USC 913
Thailand	May 14, 1974	June 27, 1974	June 26, 2014	TIAS No. 7850, 25 USC 1181
Ukraine	May 6, 1998	May 28, 1999	May 27, 2029	

July 1995

[2]Pursuant to section 6 of the Taiwan Relations Act, P.L. 96-8, 93 Stat. 14, and Executive Order 12143, 44 F.R. 37191, all agreements concluded with the Taiwan authorities prior to January 1, 1979 are administered on a nongovernmental basis by the American Institute in Taiwan, a nonprofit District of Columbia corporation, and constitute neither recognition of Taiwan authorities nor the continuation of any official relationship with Taiwan.

AGREEMENTS FOR COOPERATION IN THE USE OF ATOMIC ENERGY

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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]Sep. 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.
[7]Suspended by agreement signed Sept. 23, 1980.

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

Country	Effective Date	TIAS No.
Australia	July 10, 1974	7865
Austria	July 23, 1972	7409
Denmark	Mar. 1, 1972	7289
Greece	–00–	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

U.S. SENATE RESOLUTION

Senate of the United States

IN EXECUTIVE SESSION

July 2, 1980

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advised and consent to the ratification of the Agreement between the United States of America and the International Atomic Energy Agency for the Application of the 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 day 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 authority and responsibility of the Nuclear Regulatory Commission.
5. That the Agreement shall not be constructed 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

CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTERS, WITH ANNEXES

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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 the 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 Organization" means the Organization 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 Organization.

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 minimize the likelihood of damage to human or marine life and shall be reported forthwith to the organization.

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 Organization which, after consulting other Parties, and international organizations 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 Organization of the action it takes. The Parties pledge themselves to assist one another in such situations.

3. Any Contracting Party may waive its right 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 organizations, 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 Organization, 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 Organization 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 Organization. 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 Organization 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 mater 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 organization, 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 Organization 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 a 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 organizational matters.

2. The Contracting Parties shall designate a competent Organization 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 Organization shall make an appropriate contribution to the expenses incurred by the Organization in performing these duties.

3. The Secretariat duties of the Organization 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 Organizations, in the development and implementation of procedures referred to in sub-paragraph (4)(e) of this Article;

(c) considering inquiries by, and information from the Contracting Parties, consulting with them and with the appropriate International Organizations 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 Organization in accordance with Articles IV(3), V(1) and (2), VI(4), XV, XX, and XXI.

Prior to the designation of the Organization 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 Organization on any scientific or technical aspect relevant 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 organizations concerned with the prevention of marine pollution;

(e) develop or adopt, in consultation with appropriate International Organizations, 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 Organization. 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 Organization 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 Organization ad 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 Organization 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 Organization. The Organization shall notify all Contracting Parties of the receipt of such instruments.

4. Prior to the designation of the Organization, the Secretarial unctions 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 depositories 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 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 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 depositories 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 authorized 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 sates) 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 procedures 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 and their compounds
copper
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 paragraph A and to the following additional substances:

beryllium
chromium and their compounds
nickel
vanadium

C. Containers, scrap metal and other bulky wastes liable to sink to the sea bottom 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 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.–Characteristics 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.–Characteristics 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.

Parties to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other matter, with Annexes.

Done at Washington, London, Mexico City and Moscow

December 29, 1972; entered into force August 30, 1975.
26 USC 2403; TIAS 8165; 1046 UNTS 120.

Parties:

Afghanistan
Antigua & Barbuda
Argentina[1]
Australia
Barbados
Belarus
Belgium[1]
Belize[2]
Bosnia-Herzegovina
Brazil
Canada
Cape Verde
Chile
China
Costa Rica
Cote d'Ivoire
Cuba
Cyprus
Denmark[3]
Dominican Republic
Egypt
Finland
France[1 4]
Gabon
Germany, Fed. Rep.[5]
Greece[4]
Guatemala
Haiti
Honduras
Hungary
Iceland
Ireland
Italy[1]
Jamaica
Japan
Jordan
Kenya
Kiribati
Libya
Luxembourg
Malta
Mexico
Monaco
Morocco
Nauru
Netherlands[6]
New Zealand[7]
Nigeria
Norway
Oman
Panama
Papua New Guinea
Philippines
Poland
Portugal
St. Lucia
Seychelles
Slovenia
Solomon Islands
South Africa
Spain
Suriname
Sweden
Switzerland
Tonga
Tunisia
Tuvalu[2]
Ukraine
Union of Soviet Socialist Reps.[8]
United Arab Emirates
United Kingdom[9]
United States
Yugoslavia[10]
Zaire

Amendment: November 12, 1993.

NOTES:

[1]With statement.

[2]See under country heading in the bilateral section for information concerning acceptance of treaty obligations.

[3]Extended to Faroe Is.

[4]With reservation.

[5]See note under GERMANY, FEDERAL REPUBLIC OF in bilateral section.

[6]Applicable to Netherlands Antilles and Aruba.

[7]Not applicable to Cook Is., Niue, and Tokalau Is.

[8]See note under UNION OF SOVIET SOCIALIST REPUBLICS in bilateral section.

[9]Extended to Bailiwick of Guernsey, Bermuda, British Indian Ocean Territory, British Virgin Is., Cayman Is., Ducie and Osno Is., Falkland Is. and dependencies, Henderson, Hong Kong, Isle of Man, Bailiwick of Jersey, Montserrat, Pitcairn, St. Helena and dependencies, Turks and Caicos Is., and United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia on the Island of Cyprus.

[10]See note under YUGOSLAVIA in bilateral section

EXECUTIVE ORDERS AND PRESIDENTIAL STATEMENTS CONCERNING INTERNATIONAL ATOMIC ENERGY COOPERATION

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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 USC 201 *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 USC 2121(c), 2164(a), 2164(b), 2164(c), such approval and authorization by the President shall constitute his authorization to cooperate 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.

Section 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 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.

Section 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.

Section 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. 201 *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

EXECUTIVE ORDER No. 12058

May 11, 1978, 43 F.R. 20947

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 in 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.

Section 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, and 22 U.S.C. 3223(a), 3223(d), 3224, and 42 U.S.C. 2153b, 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.

Section 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).

Section 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.

Section 5. General Provisions.

(a) Executive Order No. 11902 of February 2, 1976[1] 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

SELECTED EXCERPTS OF EXECUTIVE ORDER No. 12656

November 18, 1988, 53 F.R. 47491

ASSIGNMENT OF EMERGENCY PREPAREDNESS RESPONSIBILITIES

WHEREAS our national security is dependent upon our ability to assure continuity of government, at every level, in any national security emergency situation that might confront the Nation; and

WHEREAS effective national preparedness planning to meet such an emergency, including a massive nuclear attack, is essential to our national survival; and

WHEREAS effective national preparedness planning requires the identification of functions that would have to be performed during such an emergency, the assignment of responsibility for developing plans for performing these functions, and the assignment of responsibility for developing the capability to implement those plans; and

WHEREAS the Congress has directed the development of such national security emergency preparedness plans and has provided funds for the accomplishment thereof;

NOW, THEREFORE, by virtue of the authority vested in me as President by the Constitution and laws of the United States of America, and pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), the National Security Act of 1947, as amended, the Defense Production Act of 1950, as amended, and the Federal Civil Defense Act, as amended, it is hereby ordered that the responsibilities of the Federal departments and agencies in national security emergencies shall be as follows:

[1] 1978 U.S. Code Cong, and Adm. News Pamph. No. 4, p. 1159.

PART 1–PREAMBLE

Section 101. National Security Emergency Preparedness Policy.

(a) The policy of the United States is to have sufficient capabilities at all levels of government to meet essential defense and civilian needs during any national security emergency. A national security emergency is any occurrence, including natural disaster, military attack, technological emergency, or other emergency, that seriously degrades or seriously threatens the national security of the United States. Policy for national security emergency preparedness shall be established by the President. Pursuant to the President's direction, the National Security Council shall be responsible for developing and administering such policy. All national security emergency preparedness activities shall be consistent with the Constitution and laws of the United States and with preservation of the constitutional government of the United States.

(b) Effective national security emergency preparedness planning requires: identification of functions that would have to be performed during such an emergency; development of plans for performing these functions; and development of the capability to execute those plans.

Section 102. Purpose.

(a) The purpose of this Order is to assign national security emergency preparedness responsibilities to Federal departments and agencies. These assignments are based, whenever possible, on extensions of the regular missions of the departments and agencies.

(b) This Order does not constitute authority to implement the plans prepared pursuant to this Order. Plans so developed may be executed only in the event that authority for such execution is authorized by law.

Section 103. Scope.

(a) This Order addresses national security emergency preparedness functions and activities. As used in this Order, preparedness functions and activities include, as appropriate, policies, plans, procedure, and readiness measures that enhance the ability of the United States Government to mobilize for, respond to, and recover from a national security emergency.

(b) This Order does not apply to those natural disasters, technological emergencies, or other emergencies, the alleviation of which is normally the responsibility of individuals, the private sector, volunteer organizations, State and local governments, and Federal departments and agencies unless such situations also constitute a national security emergency.

(c) This Order does not require the provision of information concerning, or evaluation of, military policies, plans, programs, or states of military readiness.

(d) This Order does not apply to national security emergency preparedness telecommunications functions and responsibilities that are otherwise assigned by Executive Order 12472.

Section 104. Management of National Security Emergency.

(a) The National Security Council is the principal forum for consideration of national security emergency preparedness policy.

(b) The National Security Council shall arrange for Executive branch liaison with, and assistance to, the Congress and the Federal judiciary on national security-emergency preparedness matters.

(c) The Director of the Federal Emergency Management Agency shall serve as an advisor to the National Security Council on issues of national security emergency preparedness, including mobilization preparedness, civil defense, continuity of government, technological disasters, and other issues, as appropriate. Pursuant to such procedures for the organization and management of the National Security Council process as the President may establish, the Director of the Federal Emergency Management Agency also shall assist in the implementation of and management of the National Security Council process as the

President may establish, the Director of the Federal Emergency Management Agency also shall assist in the implementation of national security emergency preparedness policy by coordinating with the other Federal departments and agencies and with State and local governments, and by providing periodic reports to the National Security Council on implementation of national security emergency preparedness policy.

(d) National security emergency preparedness functions that are shared by more than one agency shall be coordinated by the head of the Federal department or agency having primary responsibility and shall be supported by the heads of other departments and agencies having related responsibilities.

(e) There shall be a national security emergency exercise program that shall be supported by the heads of all appropriate Federal departments and agencies.

(f) Plans and procedure will be designed and developed to provide maximum flexibility to the President for his implementation of emergency actions.

Section 105. Interagency Coordination.

(a) All appropriate Cabinet members and agency heads shall be consulted regarding national security emergency preparedness programs and policy issues. Each department and agency shall support interagency coordination to improve preparedness and response to a national security emergency and shall develop and maintain decentralized capabilities wherever feasible and appropriate.

(b) Each Federal department and agency shall work within the framework established by, and cooperate with those organizations assigned responsibility in. Executive Order No. 12472, to ensure adequate national security emergency preparedness telecommunications in support of the functions and activities addressed by this Order.

PART 2–GENERAL PROVISIONS

Section 201. General.

The head of each Federal department and agency. as appropriate. shall:

(1) Be prepared to respond adequately to all national security emergencies, including those that are international in scope. and those that may occur within any region of the Nation;

(2) Consider national security emergency preparedness factors in the conduct of his or her regular functions, particularly those functions essential in time of emergency. Emergency plans and programs, and an appropriate state of readiness, including organizational infrastructure, shall be developed as an integral part of the continuing activities of each Federal department and agency;

(3) Appoint a senior policy official as Emergency Coordinator, responsible for developing and maintaining a multi-year, national security emergency preparedness plan for the department or agency to include objectives, programs, and budgetary requirements;

(4) Design preparedness measures to permit a rapid and effective transition from routine to emergency operations, and to make effective use of the period following initial indication of a probable national security emergency. This will include:

(a) Development of a system of emergency actions that defines alternatives, processes, and issues to be considered during various stages of national security emergencies:

(b) Identification of actions that could be taken in the early stages of a national security emergency or pending national security emergency to mitigate the impact of or reduce significantly the lead times associated with full emergency action implementation;

(5) Base national security emergency preparedness measures on the use of existing authorities, organizations, resources, and systems to the maximum extent practicable;

(6) Identify areas where additional legal authorities may be needed to assist management and, consistent with applicable Executive orders, take appropriate measures toward acquiring those authorities;

(7) Make policy recommendations to the National Security Council regarding national security emergency preparedness activities and functions of the Federal Government;

(8) Coordinate with State and local government agencies and other organizations, including private sector organizations, when appropriate. Federal plans should include appropriate involvement of and reliance upon private sector organizations in the response to national security emergencies;

(9) Assist State, local, and private sector entities in developing plans for mitigating the effects of national security emergencies and for providing services that are essential to a national response;

(10) Cooperate, to the extent appropriate, in compiling, evaluating, and exchanging relevant data related to all aspects of national security emergency preparedness;

(11) Develop programs regarding congressional relations and public information that could be used during national security emergencies;

(12) Ensure a capability to provide, during a national security emergency, information concerning Acts of Congress, presidential proclamations, Executive orders, regulations, and notices of other actions to the Archivist of the United States, for publication in the Federal Register, or to each agency designated to maintain the Federal Register in an emergency;

(13) Develop and conduct training and education programs that incorporate emergency preparedness and civil defense information necessary to ensure an effective national response;

(14) Ensure that plans consider the consequences for essential services provided by State and local governments, and by the private sector, if the flow of Federal funds is disrupted;

(15) Consult and coordinate with the Director of the Federal Emergency Management Agency to ensure that those activities and plans are consistent with current National Security Council guidelines and policies.

Section 202. Continuity of Government.

The head of each Federal department and agency shall ensure the continuity of essential functions in any national security emergency by providing for: succession to office and emergency delegation of authority in accordance with applicable law; safekeeping of essential resources, facilities, and records; and establishment of emergency operating capabilities.

Section 203. Resource Management.

The head of each Federal department and agency, as appropriate within assigned areas of responsibility, shall:

(1) Develop plans and programs to mobilize personnel (including reservist programs), equipment, facilities, and other resources;

(2) Assess essential emergency requirements and plan for the possible use of alternative resources to meet essential demands during and following national security emergencies;

(3) Prepare plans and procedures to share between and among the responsible agencies resources such an energy, equipment, food, land, materials, minerals, services, supplies, transportation, water, and workforce needed to carry out assigned responsibilities and other essential functions, and cooperate with other agencies in developing programs to ensure availability of such resources in a national security emergency;

(4) Develop plans to set priorities and allocate resources among civilian and military claimants;

(5) Identify occupations and skills for which there may be a critical need in the event of a national security emergency.

Section 204. Protection of Essential Resources and Facilities.
The head of each Federal department and agency, within assigned areas of responsibility, shall:

(1) Identify facilities and resources, both government and private, essential to the national defense and national welfare, and assess their vulnerabilities and develop strategies, plans, and programs to provide for the security of such facilities and resources, and to avoid or minimize disruptions of essential services during any national security emergency;

(2) Participate in interagency activities to assess the relative importance of various facilities and resources to essential military and civilian needs and to integrate preparedness and response strategies and procedures;

(3) Maintain a capability to assess promptly the effect of attack and other disruptions during national security emergencies.

Section 205. Federal Benefit, Insurance, and Loan Programs.
The head of each Federal department and agency that administers a loan, insurance, or benefit program that relies upon the Federal Government payment system shall coordinate with the Secretary of the Treasury in developing plans for the continuation or restoration, to the extent feasible, of such programs in national security emergencies.

Section 206. Research.
The Director of the Office of Science and Technology Policy and the heads of Federal departments and agencies having significant research and development programs shall advise the National Security Council of scientific and technological developments that should be considered in national security emergency preparedness planning.

Section 207. Redelegation.
The head of each Federal department and agency is hereby authorized, to the extent otherwise permitted by law, to redelegate the functions assigned by this Order, and to authorize successive redelegations to organizations, officers, or employees within that department or agency.

Section 208. Transfer of Functions.
Recommendations for interagency transfer of any emergency preparedness function assigned under this Order or for assignment of any new emergency preparedness function shall be coordinated with all affected Federal departments and agencies before submission to the National Security Council.

Section 209. Retention of Existing Authority.
Nothing in this Order shall be deemed to derogate from assignments of functions to any Federal department or agency or officer thereof made by law.

* * * *

PART 7–DEPARTMENT OF ENERGY

Section 701. Lead Responsibilities.
In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Energy shall:

(1) Conduct national security emergency preparedness planning, including capabilities development, and administer operational programs for all energy, resources, including:

(a) Providing information, in cooperation with Federal, State, and energy industry officials, on energy supply and demand conditions and on the requirements for and the availability of materials and services critical to energy supply systems;

(b) In coordination with appropriate departments and agencies and in consultation with the energy industry, develop implementation plans and operational systems for priorities and allocation of all energy resource requirements for national defense and essential civilian needs to assure national security emergency preparedness;

(c) Developing, in consultation with the Board of Directors of the Tennessee Valley Authority, plans necessary for the integration of its power system into the national supply system;

(2) Identify energy facilities essential to the mobilization, deployment, and sustainment of resources to support the national security and national welfare, and develop energy supply and demand strategies to ensure continued provision of minimum essential services in national security emergencies;

(3) In coordination with the Secretary of Defense, ensure continuity of nuclear weapons production consistent with national security requirements;

(4) Assure the security of nuclear materials, nuclear weapons, or devices in the custody of the Department of Energy, as well as the security of all other Department of Energy programs and facilities;

(5) In consultation with the Secretaries of State and Defense and the Director of the Federal Emergency Management Agency, conduct appropriate international liaison activities pertaining to matters within the jurisdiction of the Department of Energy;

(6) In consultation with the Secretaries of State and Defense, the Director of the Federal Emergency Management Agency, the Members of the Nuclear Regulatory Commission, and others, as required, develop plans and capabilities for identification, analysis, damage assessment, and mitigation of hazards from nuclear weapons, materials, and devices;

(7) Coordinate with the Secretary of Transportation in the planning and management of transportation resources involved in the bulk movement of energy;

(8) At the request of or with the concurrence of the Nuclear Regulatory Commission and in consultation with the Secretary of Defense, recapture special nuclear materials from Nuclear Regulatory Commission licensees where necessary to assure the use, preservation, or safeguarding of such material for the common defense and security;

(9) Develop national security emergency operational procedures for the control, utilization, acquisition, leasing, assignment, and priority of occupancy of real property within the jurisdiction of the Department of Energy;

(10) Manage all emergency planning and response activities pertaining to Department of Energy nuclear facilities.

Section 702. Support Responsibilities.

The Secretary of Energy shall:

(1) Provide advice and assistance, in coordination with appropriate agencies, to Federal, State, local officials and private sector organizations to assess the radiological impact associated with national security emergencies;

(2) Coordinate with the Secretaries of Defense and the Interior regarding the operation of hydroelectric projects to assure maximum energy output;

(3) Support the Secretary of Housing and Urban Development and the heads of other agencies, as appropriate, in the development of plans to restore community facilities;

(4) Coordinate with the Secretary of Agriculture regarding the emergency preparedness of the rural electric supply systems throughout the Nation and the assignment of emergency preparedness responsibilities to the Rural Electrification Administration.

* * * *

PART 21–NUCLEAR REGULATORY COMMISSION

Section 2101. Lead Responsibilities.

In addition to the applicable responsibilities covered in Parts 1 and 2, the Members of the Nuclear Regulatory Commission shall:

(1) Promote the development and maintenance of national security emergency preparedness programs through security and safeguards programs by licensed facilities and activities;

(2) Develop plans to suspend any licenses granted by the Commission; to order the operations of any facility licensed under section 103 or 104; Atomic Energy Act of 1954, as amended (42 U.S.C. 2133 or 2134); to order the entry into any plant or facility in order to recapture special nuclear material as determined under Subsection (3) below; and operate such facilities;

(3) Recapture or authorize recapture of special nuclear materials from licensees where necessary to assure the use, preservation, or safeguarding of such materials for the common defense and security, as determined by the Commission or as requested by the Secretary of Energy.

Section 2102. Support Responsibilities.

The Members of the Nuclear Regulator Commission shall:

(1) Assist the Secretary of Energy in assessing damage to Commission-licensed facilities, identifying useable facilities, and estimating the time and actions necessary to restart inoperative facilities;

(2) Provide advice and technical assistance to Federal, State, and local officials and private sector organizations regarding radiation hazards and protective actions in national security emergencies.

* * * *

PART 29–GENERAL

Section 2901.

Executive Order Nos. 10421 and 11490, as amended, are hereby revoked. This Order shall be effective immediately.

Ronald Reagan

The White House,
November 18, 1988

EXECUTIVE ORDER No. 12657

Executive Order 12657 of November 18, 1988

Federal Emergency Management Agency Assistance in Emergency Preparedness Planning at Commercial Nuclear Power Plants

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 225 *et seq*.), the Disaster Relief Act of 1974, as amended (42 U.S.C. 512 *et seq.*), the Atomic Energy Act of 1954, as amended (42 U.S.C. 201 *et seq*.), Reorganization Plan No. 1 of 1958, Reorganization Plan No. 1 of 1973, and section 301 of Title 3 of the United States Code, and in order to ensure that plans and procedures are in place to respond to radiological emergencies at commercial nuclear power plants in operation or under construction, it is hereby ordered as follows:

Section 1. Scope.

(a) This Order applies whenever State or local governments, either individually or together, decline or fail to prepare commercial nuclear power plant radiological emergency preparedness plans that are sufficient to satisfy Nuclear Regulatory Commission ("NRC") licensing requirements or to participate adequately in the preparation, demonstration, testing, exercise, or use of such plans.

(b) In order to request the assistance of the Federal Emergency Management Agency ("FEMA") provided for in this Order, an affected nuclear power plant applicant or licensee

("licensee") shall certify in writing to FEMA that the situation described in Subsection (a) exists.

Section 2. General Applicable Principles and Directives.

(a) Subject to the principles articulated in this Section, the Director of FEMA is hereby authorized and directed to take the actions specified in sections 3 through 6 of this Order.

(b) In carrying out any of its responsibilities under this Order, FEMA:

(1) shall work actively with the licensee, and, before relying upon its resources or those of any other Department or agency within the Executive Branch, shall make maximum feasible use of the licensee's resources;

(2) shall take care not to supplant State and local resources. FEMA shall substitute its own resources for those of the State and local governments only to the extent necessary to compensate for the nonparticipation or inadequate participation of those governments, and only as a last resort after appropriate consultation with the Governors and responsible local officials in the affected area regarding State and local participation;

(3) is authorized, to the extent permitted by law, to enter into interagency Memoranda of Understanding providing for utilization of the resources of other Executive branch Departments and agencies and for delegation to other Executive branch Departments and agencies of any of the functions and duties assigned to FEMA under this Order; however, any such Memorandum of Understanding shall be subject to approval by the Director of the Office of Management and Budget ("OMB") and published in final form in the Federal Register, and

(4) shall assume for purposes of sections 3 and 4 of this Order that, in the event of an actual radiological emergency or disaster, State and local authorities would contribute their full resources and exercise their authorities in accordance with their duties to protect the public from harm and would act generally in conformity with the licensee's radiological emergency preparedness plan.

(c) The Director of OMB shall resolve any issue concerning the obligation of Federal funds arising from the implementation of this Order. In resolving issues under this Subsection, the Director of OMB shall ensure:

(1) that FEMA has utilized to the maximum extent possible the resources of the licensee and State and local governments before it relies upon its appropriated and lawfully available resources or those of any Department or agency in the Executive branch;

(2) that FEMA shall use its existing resources to coordinate and manage, rather than duplicate, other available resources;

(3) that implementation of this Order is accomplished with an economy of resources; and

(4) that full reimbursement to the Federal Government is provided, to the extent permitted by law.

Section 3. FEMA Participation in Emergency Preparedness Planning.

(a) FEMA assistance in emergency preparedness planning shall include advice, technical assistance, and arrangements for facilities and resources as needed to satisfy the emergency planning requirements under the Atomic Energy Act of 1954, as amended, and any other Federal legislation or regulations pertaining to issuance or retention of a construction permit or an operating license for a nuclear power plant.

(b) FEMA shall make all necessary plans and arrangements to ensure that the Federal Government is prepared to assume any and all functions and undertakings necessary to provide adequate protection to the public in cases within the scope of this Order. In making such plans and arrangements,

(1) FEMA shall focus planning of Federal response activities to ensure that:

(A) adequate resources and arrangements will exist, as of the time when an initial response is needed, given the absence or inadequacy of advance State and local commitments; and

(B) attention has been given to coordinating (including turning over) response functions when State and local governments do exercise their authority, with specific attention to the areas where prior State and local participation has been insufficient or absent;

(2) FEMA's planning for Federal participation in responding to a radiological emergency within the scope of this Order shall include, but not be limited to, arrangements for using existing Federal resources to provide prompt notification of the emergency to the general public; to assist in any necessary evacuation; to provide reception centers or shelters and related facilities and services for evacuees; to provide emergency medical services at Federal hospitals, including those operated by the military services and by the Veteran's Administration; and to ensure the creation and maintenance of channels of communication from commercial nuclear power plant licensees or applicants to State and local governments and to surrounding members of the public.

Section 4. Evaluation of Plans.

(a) FEMA shall consider and evaluate all plans developed under the authority of this Order as though drafted and submitted by a State or local government.

(b) FEMA shall take all actions necessary to carry out the evaluation referred to in the preceding Subsection and to permit the NRC to conduct its evaluation of radiological emergency preparedness plans including, but not limited to, planning, participation in, and evaluating exercises, drills, and tests, on a timely basis, as necessary to satisfy NRC requirements for demonstrations of off-site radiological emergency preparedness.

Section 5. Response to a Radiological Emergency.

(a) In the event of an actual radiological emergency or disaster, FEMA shall take all steps necessary to ensure the implementation of the plans developed under this Order and shall coordinate the actions of other Federal agencies to achieve the maximum effectiveness of Federal efforts in responding to the emergency.

(b) FEMA shall coordinate Federal response activities to ensure that adequate resources are directed, when an initial response is needed, to activities hindered by the absence or inadequacy of advance State and local commitments. FEMA shall also coordinate with State and local governmental authorities and turn over response functions as appropriate when State and local governments do exercise their authority.

(c) FEMA shall assume any necessary command-and-control function, or delegate such function to another Federal agency, in the event that no competent State and local authority is available to perform such function.

(d) In any instance in which Federal personnel may be called upon to fill a command-and-control function during a radiological emergency, in addition to any other powers it may have, FEMA or its designee is authorized to accept volunteer assistance from utility employees and other nongovernmental personnel for any purpose necessary to implement the emergency response plan and facilitate off-site emergency response.

Section 6. Implementation of Order.

(a) FEMA shall issue interim and final directives and procedures implementing this Order as expeditiously as is feasible and in any event shall issue interim directives and procedures not more than 90 days following the effective date of this Order and shall issue final directives and procedures not more than 180 days following the effective date of this order.

(b) Immediately upon the effective date of this Order, FEMA shall review, and initiate necessary revisions of all FEMA regulations, directives, and guidance to conform them to the terms and policies of this Order.

(c) Immediately upon the effective date of this Order, FEMA shall review, and initiate necessary renegotiations of, all interagency agreements to which FEMA is a party, so as to conform them to the terms and policies of this Order. This directive shall include, but not be limited to, the Federal Radiological Emergency Response Plan (50 Fed. Reg. 46542 (November 8, 1985)).

(d) To the extent permitted by law, FEMA is directed to obtain full reimbursement, either jointly or severally, for services performed by FEMA or other Federal agencies pursuant to this Order from any affected licensee and from any affected nonparticipating or inadequately participating State or local government.

Section 7. Amendments.

This Executive Order amends Executive Order Nos. 11490 (34 Fed. Reg. 17567 (October 28, 1969)), 12148 (44 Fed. Reg. 43239 (July 20, 1979)), and 12241 (45 Fed. Reg. 64879 (September 29, 1980)), and the same are hereby superseded to the extent that they are inconsistent with this Order.

Ronald Regan

The White House
November 18, 1988

EXECUTIVE ORDER No. 12730

Executive Order 12730 of September 30, 1990

Continuation of Export Control Regulations

By the authority vested in me as President by the Constitution and the laws of the United States of America, including but not limited to section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) (hereafter referred to as "the Act"),

I, GEORGE BUSH, president of the United States of America, find that the unrestricted access of foreign parties to U.S. goods, technology, and technical data and the existence of certain boycott practices of foreign nations, in light of the expiration of the Export Administration Act of 1979, constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and hereby declare a national emergency with respect to that threat.

Accordingly, in order (a) to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States; (b) to further significantly the foreign policy of the United States, including it policy with respect to cooperation by U.S. persons with certain foreign boycott activities, and to fulfill its international responsibilities; and (c) to protect the domestic economy from the excessive drain of scarce materials and reduce the serious economic impact of foreign demand, it is hereby ordered as follows:

Section 1. Notwithstanding the expiration of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq*.), the provisions of that Act, the provisions for administration of that Act, and the delegations of authority set forth in Executive Order

12002 of July 7, 1977, Executive Order 12214[2] of May 2, 1980, and Executive Order No. 12131[3] of May 4, 1979, as amended by Executive Order No. 12551 of February 21, 1986, shall, to the extend permitted by law, be incorporated in this order and shall continue in full force and effect.

Section 2. All rules and regulations issued or continued in effect by the Secretary of Commerce under the authority of the Export Administration Act of 1979, as amended, including those published in Title 15, Chapter III, Subchapter C, of the Code of Federal Regulations, Parts 768 to 799 inclusive, and all orders, regulations, licenses, and other forms of administrative action issued, taken, or continued in effect pursuant thereto, shall, until amended or revoked by the Secretary of Commerce, remain in full force and effect, the same as if issued or taken pursuant to this order, except that the provisions of sections 203(b)(2) and 206 of the Act (50 U.S.C. 1702(b)(2) and 1705) shall control over any inconsistent provisions in the regulations. Nothing in this section shall affect the continued applicability of administrative sanctions provided for by the regulations described above.

Section 3. Provisions for administration of section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) may be made and shall continue in full force and effect until amended or revoked under the authority of section 203 of the Act (50 U.S.C. 1702). To the extent permitted by law, this order also shall constitute authority for the issuance and continuation in full force and effect all rules and regulations by the President or his delegate, and all orders, licenses, and other forms of administrative action issued, taken, or continued in effect pursuant thereto, relating to the administration of section 38(e).

Section 4. This order shall be effective as of midnight between September 30, 1990, and October 1, 1990, and shall remain in effect until terminated. It is my intention to terminate this order upon the enactment into law of a bill reauthorizing the authorities contained in the Export Administration Act.

George Bush

THE WHITE HOUSE
September 30, 1990

[2]50 App. U.S.C.A. section 2403 nt.

[3]50 App. U.S.C.A. section 2401 nt.

International Atomic Energy Agency
Agence internationale de l'energie atomique

2005/Note 8

Note by the Secretariat

Code of Conduct on the Safety and Security of Radioactive Sources

On 8 September 2003, the Board of Governors approved the Code of Conduct on the Safety and Security of Radioactive Sources that was contained in document GOV/2003/49-GC(47)/9. The approved text was subsequently, in January 2004, published with the symbol IAEA/CODEOC/2004.

The Secretariat has recently noticed a typographical error in Table I (Activities Corresponding to Thresholds of Categories) annexed to the Code of Conduct: for Po-210, the entry '6.E+02' under **Category 1** should read '6.E+01'.

The Secretariat is issuing a correction slip in all official languages for insertion into publication IAEA/CODEOC/2004.

7 February 2005

International Atomic Energy Agency

Board of Governors
General Conference

GO V /2003/49-GC(47)/9
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Item 14 of the Conference's provisional agenda (GC/47)/1)

MEASURES TO STRENGTHEN INTERNATIONAL CO-OPERATION IN NUCLEAR, RADIATION AND TRANSPORT SAFETY AND WASTE MANAGEMENT

Revision of the Code of Conduct on the Safety and Security of Radioactive Sources

Report by the Director General

Summary

! The purpose of this document is to seek adoption by the Board of Governors of the revised Code of Conduct on the Safety and Security of Radioactive Sources that is contained in Annex 1 to this document.

Background

! In September 1999, the Board approved an Action Plan for the Safety of Radiation Sources and Security of Radioactive Materials (see document GOV/1999/46-GC(43)/IO and Corr.l) and requested the Secretariat to implement it. The Action Plan included the following action: "to initiate a meeting of technical and legal experts for exploratory discussions relating to an international undertaking in the area of the safety of radiation sources and the security of radioactive materials." Statements made in the Board at that time suggested that the development of a code of conduct would be the most generally acceptable way of proceeding.

! Early in 2000, the Secretariat convened an open-ended group of technical and legal experts to undertake exploratory discussions on a possible Code of Conduct on the Safety of Radiation Sources and the Security of Radioactive Materials. The group met in March and July 2000 and produced a Code of Conduct on the Safety and Security of Radioactive

Sources (see document GOV/2000/34- GC(44/7) which was taken note of by the Board in September 2000.[1] In taking note of the Code of Conduct, the Board also took note of an accompanying report by the Chairman of the open-ended group - Mr. S. McIntosh (Australia) - and requested the Director General "to organize consultations on decisions which the Agency's policy-making organs may wish to take, in the light of the report of the Chairman of the Open-ended Meeting, regarding - inter alia - the application and implementation of the *Code of Conduct on the Safety and Security of Radioactive Sources* and to make recommendations thereon to the Board."

! In May 2002, the Secretariat requested from Member States information about how they were implementing the Code of Conduct and in August 2002, it convened an open-ended group of technical and legal experts to consider how the Code of Conduct might be strengthened, particularly in response to security concerns and to questions arising from the responses to the Secretariat's May 2002 request for information, and to examine previously unresolved issues. The group met, under the chairmanship of Mr. S. McIntosh (Australia), again in March and July 2003, and agreed on the revised Code of Conduct on the Safety and Security of Radioactive Sources that is contained in Annex 1 to this document. Annex 2 contains the report on the last meeting by the Chairman of the open-ended group.

Recommended Action by the Board

! It is recommended that the Board approve the revised Code of Conduct on the Safety and Security of Radioactive Sources and transmit it to the General Conference with a recommendation that the Conference adopt it and encourage its wide implementation.

[1]The Agency published the Code of Conduct (in Arabic, Chinese, English, French, Russian and Spanish) in 2001 under the symbol IAEA/CODE0C/2001.

REVISED CODE OF CONDUCT ON THE SAFETY AND SECURITY OF RADIOACTIVE SOURCES

International Atomic Energy Agency

The IAEA's Member States

Noting that radioactive sources are used throughout the world for a wide variety of beneficial purposes, e.g. in industry, medicine, research, agriculture and education,

Aware that the use of these radioactive sources involves risks due to potential radiation exposure,

Recognizing the need to protect individuals, society and the environment from the harmful effects of possible accidents and malicious acts involving radioactive sources,

Noting that ineffective, interrupted or sporadic regulatory or management control of radioactive sources has led to serious accidents, or malicious acts, or to the existence of orphan sources,

Aware that the risks arising from such incidents must be minimized and protected against through the application of appropriate radiation safety and security standards,

Recognizing the importance of fostering a safety and security culture in all organizations and among all individuals engaged in the regulatory control or the management of radioactive sources,

Recognizing the need for effective and continuous regulatory control, in particular to reduce the vulnerability of radioactive sources during transfers, within and between States2,

Recognizing that States should take due care in authorizing exports, particularly because a number of States may lack appropriate infrastructure for the safe management and secure protection of radioactive sources, and that States should make efforts to harmonize their systems of export control of radioactive sources,

Recognizing the need for technical facilities, including appropriate equipment and qualified staff, to ensure the safe management and secure protection of radioactive sources,

Noting that the International Basic Safety Standards for Protection against Ionizing Radiation and for the Safety of Radiation Sources contain recommendations for protection against exposure to ionizing radiation and for the safety and security of radioactive sources,

Recalling the IAEA's Safety Requirements document on Legal and Governmental Infrastructure for Nuclear, Radiation, Radioactive Waste and Transport Safety,

Taking account of the provisions of the Convention on Early Notification of a Nuclear Accident (1986) and of the provisions of the Convention on Assistance in the Case of Nuclear Accident or Radiological Emergency (1986),

Taking account of the provisions of the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (1997), in particular those provisions which relate to the transboundary movement of radioactive waste and to the possession, remanufacturing or disposal of disused sealed sources,

Recognizing that, while unsealed radioactive material is excluded from this Code, there may be circumstances where it should be managed in accordance with the objectives of this Code,

Recognizing the global role of the IAEA in the area of the safety and security of radioactive sources,

Taking account of the IAEA's categorization of radioactive sources, currently found in IAEA- TECDOC-1344 entitled "Categorization of radioactive sources", while recognizing that TECDOC-1344 is based on deterministic health effects and does not fully take into

account the range of impacts that could result from accidents or malicious acts involving radioactive sources, and

Taking account of the approval by the Board of Governors of the activities regarding protection against nuclear terrorism proposed to it in March 2002, including activities relating to the security of radioactive material other than nuclear material,

DECIDE that the following Code of Conduct should serve as guidance to States for - *inter alia* - the development and harmonization of policies, laws and regulations on the safety and security of radioactive sources.

I. DEFINITIONS

1. For the purposes of this Code:

"authorization" means a permission granted in a document by a regulatory body to a natural or legal person who has submitted an application to manage a radioactive source. The authorization can take the form of a registration, a licence or alternative effective legal control measures which achieve the objectives of the Code.

"disposal" means the emplacement of radioactive sources in an appropriate facility without the intention of retrieval.

"disused source" means a radioactive source which is no longer used, and is not intended to be used, for the practice for which an authorization has been granted.

"management" means the administrative and operational activities that are involved in the manufacture, supply, receipt, possession, storage, use, transfer, import, export, transport, maintenance, recycling or disposal of radioactive sources.

"orphan source" means a radioactive source which is not under regulatory control, either because it has never been under regulatory control, or because it has been abandoned, lost, misplaced, stolen or transferred without proper authorization.

"radioactive source" means radioactive material that is permanently sealed in a capsule or closely bonded, in a solid form and which is not exempt from regulatory control. It also means any radioactive material released if the radioactive source is leaking or broken, but does not mean material encapsulated for disposal, or nuclear material within the nuclear fuel cycles of research and power reactors.

"regulatory body" means an entity or organization or a system of entities or organizations designated by the government of a State as having legal authority for exercising regulatory control with respect to radioactive sources, including issuing authorizations, and thereby regulating one or more aspects of the safety or security of radioactive sources.

"regulatory control" means any form of control or regulation applied to facilities or activities by a regulatory body for reasons related to radiation protection or to the safety or security of radioactive sources.

"safety" means measures intended to minimize the likelihood of accidents involving radioactive sources and, should such an accident occur, to mitigate its consequences.

"safety culture" means the assembly of characteristics and attitudes in organizations and individuals which establishes that, as an overriding priority, protection and safety issues receive the attention warranted by their significance.

"security" means measures to prevent unauthorized access or damage to, and loss, theft or unauthorized transfer of, radioactive sources.

"security culture" means characteristics and attitudes in organizations and of individuals which establish that security issues receive the attention warranted by their significance.

"storage" means the holding of radioactive sources in a facility that provides for their containment with the intention of retrieval.

II. SCOPE AND OBJECTIVES

2. This Code applies to all radioactive sources that may pose a significant risk to individuals, society and the environment, that is the sources referred to in the Annex to this Code. States should also devote appropriate attention to the regulation of other potentially harmful radioactive sources.

3. This Code does not apply to nuclear material as defined in the Convention on the Physical Protection of Nuclear Material, except for sources incorporating plutonium-239.

4. This Code does not apply to radioactive sources within military or defence programmes.

5. (a) The objectives of this Code are, through the development, hamlonization and implementation of national policies, laws and regulations, and through the fostering of international co-operation, to:

(i) achieve and maintain a high level of safety and security of radioactive sources;

(ii) prevent unauthorized access or damage to, and loss, theft or unauthorized transfer of, radioactive sources, so as to reduce the likelihood of accidental harmful exposure to such sources or the malicious use of such sources to cause harm to individuals, society or the environment; and

(iii) mitigate or minimize the radiological consequences of any accident or malicious act involving a radioactive source.

(b) These objectives should be achieved through the establishment of an adequate system of regulatory control of radioactive sources, applicable from the stage of initial production to their final disposal, and a system for the restoration of such control if it has been lost.

6. This Code relies on existing international standards relating to nuclear, radiation, radioactive waste and transport safety and to the control of radioactive sources. It is intended to complement existing international standards in these areas.

III. BASIC PRINCIPLES

GENERAL

7. Every State should, in order to protect individuals, society and the environment, take the appropriate measures necessary to ensure:

(a) that the radioactive sources within its territory, or under its jurisdiction or control, are safely managed and securely protected during their useful lives and at the end of their useful lives; and

(b) the promotion of safety culture and of security culture with respect to radioactive sources.

8. Every State should have in place an effective national legislative and regulatory system of control over the management and protection of radioactive sources. Such a system should:

(a) place the prime responsibility for the safe management of, and the security of, radioactive sources on the persons being granted the relevant authorizations;

(b) minimize the likelihood of a loss of control;

(c) include national strategies for gaining or regaining control over orphan sources;

(d) provide for rapid response for the purpose of regaining control over orphan sources;

(e) foster ongoing communication between the regulatory body and users;

(f) provide for measures to reduce the likelihood of malicious acts, including sabotage, consistent with the threat defined by the State;

(g) mitigate or minimize the radiological consequences of accidents or malicious acts involving radioactive sources; and.

(h) provide for its own continuous improvement.

9. Every State should ensure that appropriate facilities and services for radiation protection, safety and security are available to, and used by, the persons who are authorized to manage radioactive sources. Such facilities and services should include, but are not limited to, those needed for:

(a) searching for missing sources and securing found sources;

(b) intervention in the event of an accident or malicious act involving a radioactive source;

(c) personal dosimetry and environmental monitoring; and

(d) the calibration of radiation monitoring equipment.

10. Every State should ensure that adequate arrangements are in place for the appropriate training of the staff of its regulatory body, its law enforcement agencies and its emergency services organizations.

11. Every State should establish a national register of radioactive sources. This register should, as a minimum, include Category I and 2 radioactive sources as described in the Annex to this Code. The information contained in that register should be appropriately protected. For the purpose of introducing efficiency in the exchange of radioactive source information between States, States should endeavour to harmonize the formats of their registers.

12. Every State should ensure that information concerning any loss of control over radioactive sources, or any incidents, with potential transboundary effects involving radioactive sources, is provided promptly to potentially affected States through established IAEA or other mechanisms.

13. Every State should:

(a) promote awareness among industry, health professionals, the public, and government bodies of the safety and security hazards associated with orphan sources; and

(b) encourage bodies and persons likely to encounter orphan sources during the course of their operations (such as scrap metal recyclers and customs posts) to implement appropriate monitoring programmes to detect such sources.

14. Every State should encourage the reuse or recycling of radioactive sources, when practicable and consistent with considerations of safety and security.

15. Every State should, in implementing this Code, emphasize to designers, manufacturers (both manufacturers of radioactive sources and manufacturers of devices in which radioactive sources are incorporated), suppliers and users and those managing disused sources their responsibilities for the safety and security of radioactive sources.

16. Every State should define its domestic threat, and assess its vulnerability with respect to this threat for the variety of sources used within its territory, based on the potential for loss of control and malicious acts involving one or more radioactive sources.

17. Each State should take appropriate measures consistent with its national law to protect the confidentiality of any information that it receives in confidence under this Code of Conduct from another State or through participation in an activity carried out for the implementation of this Code of Conduct. If any State provides information to international organizations in confidence, steps should be taken to ensure that the confidentiality of such information is protected. A State that has received information in confidence from another State should only provide this information to third parties with

the consent of that other State. A State is not expected to provide any information that it is not permitted to communicate pursuant to its national law or which would jeopardize the security of that State.

LEGISLATION AND REGULATIONS

18. Every State should have in place legislation and regulations that.

(a) prescribe and assign governmental responsibilities to assure the safety and security of radioactive sources;

(b) provide for the effective control of radioactive sources;

(c) specify the requirements for protection against exposure to ionizing radiation; and

(d) specify the requirements for the safety and security of radioactive sources and of the devices in which sources are incorporated.

19. Such legislation and/or regulations should provide for, in particular:

(a) the establishment of a regulatory body whose regulatory functions are effectively independent of other functions with respect to radioactive sources, such as the management of radioactive sources or the promotion of the use of radioactive sources. This body should have the powers and characteristics listed in paragraphs 20 to 22;

(b) measures to protect individuals, society and the environment from the deleterious effects of ionizing radiation from radioactive sources;

(c) administrative requirements relating to the authorization of the management of radioactive sources;

(d) provisions for exemption, as appropriate, from the administrative requirements referred to in paragraph (c) above;

(e) administrative requirements relating to notifications to the regulatory body of actions involved in the management of radioactive sources that may engender a significant risk to individuals, society or the environment;

(f) managerial requirements relating in particular to the establishment of adequate policies, procedures and measures for the control of radioactive sources;

(g) requirements for security measures to deter, detect and delay the unauthorized access to, or the theft, loss or unauthorized use or removal of radioactive sources during all stages of management;

(h) requirements relating to the verification of the safety and security of radioactive sources, through safety and security assessments, monitoring and verification of compliance, and the maintenance of appropriate records; and

(i) the capacity to take appropriate enforcement actions

REGULATORY BODY

20. Every State should ensure that the regulatory body established by its legislation has the authority to:

(a) establish regulations and issue guidance relating to the safety and security of radioactive sources;

(b) require those who intend to manage radioactive sources to seek an authorization and to submit:

(i) a safety assessment; and

(ii) a security plan or assessment as appropriate

for the source and/or the facility in which the source is to be managed, if deemed necessary in the light of the risks posed and, in the case of security, the current national threat assessment;

(c) obtain all relevant information from an applicant for an authorization;

(d) issue, amend, suspend or revoke, as necessary, authorizations for the management of radioactive sources.

(e) attach clear and unambiguous conditions to the authorizations issued by it, including conditions relating to:

(i) responsibilities;

(ii) minimum operator competencies;

(iii) minimum design and performance criteria, and maintenance requirements for radioactive sources and the devices in which they are incorporated;

(iv) minimum performance criteria and maintenance requirements for equipment and systems used to ensure the safety and security of radioactive sources;

(v) requirements for emergency procedures and communication links;

(vi) work procedures to be followed;

(vii) the safe and secure management of disused sources, including, where applicable, agreements regarding the return of disused sources to a supplier;

(viii) measures to determine, as appropriate, the trustworthiness of individuals involved in the management of radioactive sources; and

(ix) the confidentiality of information relating to the security of sources;

(f) obtain any relevant and necessary information from a person with an authorization, in particular if that is warranted by revised safety or security assessments;

(g) require those supplying or transferring radioactive sources or devices incorporating radioactive sources to provide the recipient with all relevant technical information to permit their safe and secure management.

(h) enter premises in order to undertake inspections for the verification of compliance with regulatory requirements;

(i) enforce regulatory requirements;

(j) monitor, or request other authorized bodies to monitor, at appropriate checkpoints for the purpose of detecting orphan sources;

(k) ensure that corrective actions are taken when a radioactive source is in an unsafe or non-secure condition;

(l) provide, on a case-by-case basis, to a person with an authorization and the public any information that is deemed necessary in order to protect individuals, society and the environment;

(m) liaise and co-ordinate with other governmental bodies and with relevant non-governmental bodies in all areas relating to the safety and security of radioactive sources;

(n) liaise with regulatory bodies of other countries and with international organizations to promote co-operation and the exchange of regulatory information;

(o) establish criteria for intervention in emergency situations;

(p) ensure that radioactive sources are stored in facilities appropriate for the purpose of such storage; and

(q) ensure that, where disused sources are stored for extended periods of time, the facilities in which they are stored are fit for that purpose.

21. Every State should ensure that its regulatory body

(a) is staffed by qualified personnel;

(b) has the financial resources and the facilities and equipment necessary to undertake its functions in an effective manner; and

(c) is able to draw upon specialist resources and expertise from other relevant governmental agencies.

22. Every State should ensure that its regulatory body

(a) establishes procedures for dealing with applications for authorization;

(b) ensures that arrangements are made for the safe management and secure protection of radioactive sources, including financial provisions where appropriate, once they have become disused;

(c) maintains appropriate records of persons with authorizations in respect of radioactive sources, with a clear indication of the type(s) of radioactive sources that they are authorized to use, and appropriate records of the transfer and disposal of the radioactive sources on termination of the authorizations. These records should be properly secured against unauthorized access or alteration, and back-up copies should be made;

(d) promotes the establishment of a safety culture and of a security culture among all individuals and in all bodies involved in the management of radioactive sources;

(e) establishes systems for ensuring that, where practicable, both radioactive sources and their containers, are marked by users with an appropriate sign to warn members of the public of the radiation hazard, but where this is not practicable, at least the container is so marked;

(f) establishes systems for ensuring that the areas where radioactive sources are managed are marked by users with appropriate signs to warn workers or members of the public, as applicable, of the radiation hazard;

(g) establishes systems for ensuring that, where practicable, radioactive sources are identifiable and traceable, or where this is not practicable, ensures that alternative processes for identifying and tracing those sources are in place;

(h) ensures that inventory controls are conducted on a regular basis by persons with authorizations;

(i) carries out both announced and unannounced inspections at an appropriate frequency taking into account past performance and the risks presented by the radioactive source;

(j) takes enforcement actions, as appropriate, to ensure compliance with regulatory requirements;

(k) ensures that the regulatory principles and criteria remain adequate and valid and take into account, as applicable, operating experience and internationally endorsed standards and recommendations;

(l) requires the prompt reporting by authorized persons of loss of control over, and of incidents in connection with, radioactive sources;

(m) provides guidance on appropriate levels of information, instruction and training on the safety and security of radioactive sources and the devices or facilities in which they are housed, to manufacturers, suppliers and users of radioactive sources;

(n) requires authorized persons to prepare emergency plans, as appropriate;

(o) is prepared, or has established provisions, to recover and restore appropriate control over orphan sources, and to deal with radiological emergencies and has established appropriate response plans and measures;

(p) is prepared in respect of orphan sources that may have originated within the State to assist in obtaining technical information relating to their safe and secure management.

IMPORT AND EXPORT OF RADIOACTIVE SOURCES

23. Every State involved in the import or export of radioactive sources should take appropriate steps to ensure that transfers are undertaken in a manner consistent with the provisions of the Code and that transfers of radioactive sources in Categories 1 and 2 of the Annex to this Code take place only with the prior notification by the exporting State

and, as appropriate, consent by the importing State in accordance with their respective laws and regulations.

24. Every State intending to authorize the import of radioactive sources in Categories 1 and 2 of the Annex to this Code should consent to their import only if the recipient is authorized to receive and possess the source under its national law and the State has the appropriate technical and administrative capability, resources and regulatory structure needed to ensure that the source will be managed in a manner consistent with the provisions of this Code.

25. Every State intending to authorize the export of radioactive sources in Categories 1 and 2 of the Annex to this Code should consent to its export only if it can satisfy itself, insofar as practicable, that the receiving State has authorized the recipient to receive and possess the source and has the appropriate technical and administrative capability, resources and regulatory structure needed to ensure that the source will be managed in a manner consistent with the provisions of this Code.

26. If the conditions in paragraphs 24 and 25 with respect to a particular import or export cannot be satisfied, that import or export may be authorized in exceptional circumstances with the consent of the importing State if an alternative arrangement has been made to ensure the source will be managed in a safe and secure manner.

27. Every State should allow for re-entry into its territory of disused radioactive sources if, in the framework of its national law, it has accepted that they be returned to a manufacturer authorized to manage the disused sources.

28. Every State which authorizes the import or export of a radioactive source should take appropriate steps to ensure that such import or export is conducted in a manner consistent with existing relevant international standards relating to the transport of radioactive materials.

29. Although not subject to the authorization procedures outlined in paragraphs 24 and 25 above, the transport of radioactive sources through the territory of a transit or transshipment state should be conducted in a manner consistent with existing relevant international standards relating to the transport of radioactive materials, in particular paying careful attention to maintaining continuity of control during international transport.

ROLE OF THE IAEA

30. The IAEA should:

(a) continue to collect and disseminate information on laws, regulations and technical standards relating to the safe management and secure protection of radioactive sources, develop and establish relevant technical standards and provide for the application of these standards at the request of any State, inter alia by advising and assisting on all aspects of the safe management and secure protection of radioactive sources;

(b) disseminate this Code and related information widely; and

(c) in particular, implement the measures approved by its policy-making organs.

DISSEMINATION OF THE CODE

31. Every State should, as appropriate, inform persons involved in the management of radioactive sources, such as industry, health professionals, and government bodies, and the public, of the measures it has taken to implement this Code, and should take steps to disseminate that information.

Annex: List of Sources Covered by the Code

Category I sources, if not safely managed or securely protected would be likely to cause permanent injury to a person who handled them, or were otherwise in contact with them, for more than a few minutes. It would probably be fatal to be close to this amount of unshielded material for a period of a few minutes to an hour. These sources are typically used in practices such as radiothermal generators, irradiators and radiation teletherapy.

Category 2 sources, if not safely managed or securely protected, could cause permanent injury to a person who handled them, or were otherwise in contact with them, for a short time (minutes to hours). It could possibly be fatal to be close to this amount of unshielded radioactive material for a period of hours to days. These sources are typically used in practices such as industrial gamma radiography, high dose rate brachytherapy and medium dose rate brachytherapy.

Category 3 sources, if not safely managed or securely protected, could cause permanent injury to a person who handled them, or were otherwise in contact with them, for some hours. It could possibly - although it is unlikely - be fatal to be close to this amount of unshielded radioactive material for a period of days to weeks. These sources are typically used in practices such as fixed industrial gauges involving high activity sources (for example, level gauges, dredger gauges, conveyor gauges and spinning pipe gauges) and well logging.

Table I provides a categorization by activity levels for radionuclides that are commonly used. These are based on D-values which define a dangerous source i.e.: a source that could, if not under control, give rise to exposure sufficient to cause severe deterministic effects. A more complete listing of radionuclides and associated activity levels corresponding to each category, and a fuller explanation of the derivation of the D-values, may be found in TECDOC-l344, which also provides the underlying methodology that could be applied to radionuclides not listed. Typical source uses are noted above for illustrative purposes only.

In addition to these categories, States should give appropriate attention to radioactive sources considered by them to have the potential to cause unacceptable consequences if employed for malicious purposes, and to aggregations of lower activity sources (as defined by TECDOC 1344) which require management under the principles of this Code.

Table I. Activities Corresponding to Thresholds of Categories						
Radionuclides	**Category 1**		**Category 2**		**Category 1**	
	1000 x D		**10 x D**		**D**	
	(TBq)	**(Ci)[a]**	**(TBq)**	**(Ci)[a]**	**(TBq)**	**(Ci)[a]**
Am-241	6.E+01	2.E+03	6.E-01	2.E+01	6.E-02	2.E+00
Am-241/Be	6.E+01	2.E+03	6.E-01	2.E+01	6.E-02	2.E+00
Cf-252	2.E+01	5.E+02	2.E-01	5.E-00	2.E-02	5.E-01
Cm-244	5.E+01	1.E+03	5.E-01	1.E+01	5.E-02	1.E+00
Co-60	3.E+01	8.E+02	3.E-01	8.E+00	3.E-02	8.E-01
Cs-137	1.E+02	3.E+03	1.E+00	3.E+01	1.E-01	3.E+00
Gd-153	1.E+03	3.E+04	1.E+01	3.E+02	1.E+00	3.E+01
Ir-192	8.E+01	2.E+03	8.E-01	2.E+01	8.E-02	2.E+00
Pm-147	4.E+04	1.E+06	4.E+02	1.E+04	4.E+01	1.E+03
Pu-238	6.E+01	2.E+03	6.E-01	2.E+01	6.E-02	2.E+00
Pu-239[b]/Be	6.E+01	2.E+03	6.E-01	2.E+01	6.E-02	2.E+00
Ra-226	4.E+01	1.E+03	4.E-01	1.E+01	4.E-02	1.E+00
Se-75	2.E+02	5.E+03	2.E+00	5.E+01	2.E-01	5.E+00
Sr-90 (Y-90)	1.E+03	3.E+04	1.E+01	3.E+02	1.E+00	3.E+01
Tm-170	2.E+04	5.E+05	2.E+02	5.E+03	2.E+01	5.E+02
Yb-169	3.E+02	8.E+03	3.E+00	8.E+01	3.E-01	8.E+00
Au-198*	2.E+02	5.E+03	2.E+00	5.E+01	2.E-01	5.E+00
Cd-109*	2.E+04	5.E+05	2.E+02	5.E+03	2.E+01	5.E+02
Co-57*	7.E+02	2.E+04	7.E+00	2.E+02	7.E-01	2.E+01
Fe-55*	8.E+05	2.E+07	8.E+03	2.E+05	8.E+02	2.E+04
Ge-68*	7.E+02	2.E+04	7.E+00	2.E+02	7.E-01	2.E+01
Ni-63*	6.E+04	2.E+06	6.E+02	2.E+04	6.E+01	2.E+03
Pd-103*	9.E+04	2.E+06	9.E+02	2.E+04	9.E+01	2.E+03
Po-210*	6.E+02	2.E+03	6.E-01	2.E+01	6.E-02	2.E+00

Table I. Activities Corresponding to Thresholds of Categories						
Radionuclides	**Category 1**		**Category 2**		**Category 1**	
	1000 x D		**10 x D**		**D**	
	(TBq)	**(Ci)[a]**	**(TBq)**	**(Ci)[a]**	**(TBq)**	**(Ci)[a]**
Ru-106 (Rh-106)*	3.E+02	8.E+03	3.E+00	8.E+01	3.E-01	8.E+00
Tl-204*	2.E+04	5.E+05	2.E+02	5.E+03	2.E+01	5.E+02

*These radionuclides are very unlikely to be used in individual radioactive sources with activity levels that would place them within Categories 1, 2 or 3 and would therefore not be subject to the paragraph relating to national registries (11) or the paragraphs relating to import and export control (23 to 26).

[a] The primary values to be used are given in TBq. Curie values are provided for practical usefulness and are rounded after conversion.

[b] Criticality and safeguard issues will need to be considered for multiples of D.

OPEN-ENDED MEETING OF TECHNICAL AND LEGAL EXPERTS TO REVIEW A DRAFT REVISED CODE OF CONDUCT ON THE SAFETY AND SECURITY OF RADIOACTIVE SOURCES

Vienna, 14-18 July 2003

Report of the Chairman

1. An open-ended meeting of technical and legal experts to review and finalize a draft revised Code of Conduct on the Safety and Security of Radioactive Sources[2] met from 14 to 18 July 2003 at the IAEA Headquarters in Vienna under the chairmanship of Mr. S. McIntosh (Australia). The meeting was attended by representatives from 21 Member States (Argentina, Australia, Belgium, Canada, China, the Czech Republic, Egypt, Ethiopia, France, Germany, India, Israel, Japan, Malaysia, Mexico, the Russian Federation, the Slovak Republic, Turkey, Ukraine, the United Kingdom and the United States of America) and an observer from the NEA/OECD. The meeting was opened by Mr T. Taniguchi, DDG-NS, followed by introductory remarks by Mr A. Gonzalez, NSRW .

2. At the outset, the Chairman recalled the discussions undertaken and decisions made at the Group's previous meetings of 19-23 August 2002 and 3-7 March 2003. Building on those discussions and decisions, the Group made a number of amendments to the draft revised Code. These included, inter alia, changes to some of the definitions in the Code and the addition of language concerning the establishment of systems for mitigating or minimizing the radiological consequences of accidents or malicious acts involving radioactive sources.

3. As foreshadowed in the report of the meeting of 3-7 March 2003, the Group gave priority to consideration of the scope of the Code. That consideration was carried out in the light of the recent finalization of the revisions to the IAEA's Categorization of Radioactive Sources, published as IAEA-TECDOC-1344. The Group confirmed that the Code – with the exception of paragraphs relating to national registers and export/import control – should apply, with some modification, to sources in Categories I to 3 of the categorization developed in TECDOC-1344. This approach is now reflected in the Annex to the Code. Sources containing radionuclides which, although included in TECDOC-1344, do not meet the definition of "radioactive source" in the Code - for example because they are not in a solid form, or are unsealed sources – are outside the scope of the Code, and are therefore excluded from Table I in the Annex. Additionally, radionuclides that are unlikely to be used in radioactive sources with activity levels that would place them within Categories 1, 2 or 3 were marked with an asterisk, in order to indicate that the Code is not currently applicable to individual sources of these types.

4. At the same time, the Group agreed that States should also devote appropriate attention to the regulation, in accordance with the Code, of other potentially harmful radioactive sources. Such sources include those considered by them to have the potential to cause unacceptable consequences if employed for malicious purposes, and aggregations of lower activity sources.

5. The Group recalled that the scope of the Code excluded unsealed radioactive sources. The Group agreed that, although the content of the Code could not be precisely applied to unsealed radioactive sources, States should be encouraged to regulate them under similar

[2]The lAEA Board of Governors took note of an earlier version of the Code of Conduct on 11 September 2000, published as IAEA/CODEOC/200 1.

principles in some circumstances. A paragraph to that effect was inserted in the preamble to the Code.

6. The Group agreed that the Code did not apply to radioactive sources within military or defence programmes, although some states expressed the opinion that such sources should be managed in accordance with the objectives of the Code and that the Code's principles should apply to such sources during and after transfer to civilian programmes. The vulnerability of sources during any form of transfer was highlighted in the preamble.

7. The Group agreed on further enhancements to the paragraphs concerning the export and import of radioactive sources. In particular, it was agreed that the scope of these paragraphs should be restricted to sources within Categories I and 2 of the classification structure contained in the Annex to the Code. The Group considered that the implementation of these paragraphs would be assisted if the Secretariat could take responsibility for the compilation, maintenance and publication of a list of contact details of competent national regulatory bodies, and for the development of a standardised format for importing States to use in indicating that prospective users were properly authorized. Some experts considered that the Secretariat should also take responsibility for providing information concerning the degree of implementation by importing States of the Code, with the consent of the States involved. The Group noted the importance of developing further guidance on the full implementation of the paragraphs dealing with export and import control. In particular, the guidance should include understandings on how an exporting State would assess the degree to which an importing State has implemented the Code. As in the draft developed in March 2003, the revised draft Code includes language permitting the export of a source other than in accordance with these paragraphs only "in exceptional circumstances". The Group noted that the guidance referred to above should include a common understanding as to the scope of the term "exceptional circumstances". The Group encouraged supplier states to consult on the harmonization of their export control systems.

8. The Group gave further consideration to the issue of security of sources, and inserted additional language concerning assessment of domestic threats and vulnerability, sabotage, mitigation and minimisation of consequences, and confidentiality. The Group noted that interim guidance on the security of radioactive sources had recently been published as TECDOC-1355, and that further guidance on this issue will be published by the Agency. The Group also noted that a TECDOC regarding security during transport was currently under development elsewhere in the Agency, and that there was therefore no need to include detailed language in this regard in the Code. Some states expressed concern that the strict application of the Code should not impede international initiatives directed at securing or recovering sources in an unsafe or insecure condition.

9. The Group noted that the Agency's revised draft Action Plan for Safety and Security of Radioactive Sources, to be submitted to the September meeting of the IAEA' s Board of Governors, would contain a number of actions relevant to the implementation of the Code. The Group looked forward to the Board's consideration of this issue. The Chairman also noted the importance of the implementation of the Code by developing states, and the role which the Agency's technical co-operation programme might play in assisting that process.

10. The Group agreed that the finalized draft Code should be submitted to the September meeting of the IAEA's Board of Governors and to the subsequent General Conference for their adoption.

11. The Group further considered whether, and if so by what means, the commitment of States to the Code could be reinforced. That consideration was assisted by the circulation of a Chairman's paper on the subject prior to the meeting. The Group agreed that decisions and guidance on this issue were properly matters for the Agency's policy-making organs. However, some States expressed a preference for a political commitment. Further, several experts considered that, in addition to endorsement by the General Conference, States should be encouraged to make individual political commitments concerning their

implementation of the Code. Options for the wording of such a commitment that were proposed were:

- "[State] declares that it will fully implement the terms of the Code of Conduct on the Safety and Security of Radioactive Sources. Consistent with the non-legally binding status of the Code, this declaration does not create any legal obligations."
- "[State] fully supports and endorses the IAEA's efforts to create international standards for the safety and security of radioactive sources. [State] is working toward full implementation of the IAEA Code of Conduct on the Safety and Security of Radioactive Sources and encourages other countries to do the same."
- "[State] affirms its determination to uphold the principles of safe and secure management of radioactive sources, as are stated in the Code of Conduct on the Safety and Security of Radioactive Sources. Consistent with the non-legally binding status of the Code, this declaration does not create any legal obligations or any specific reporting system."
- "[State] affirms its support for the IAEA's work on the safety and security of radioactive sources, including the completion of the recently revised IAEA Code of Conduct on the Safety and Security of Radioactive Sources, which is non- legally binding in nature. [State] will implement the IAEA Code of Conduct on the Safety and Security of Radioactive Sources and urges other countries to do the same. This declaration does not create any legal obligations or any specific reporting systems."

12. The experts agreed that the Code as revised by the Group provides the basis for significant enhancements of the control of radioactive sources. Such control would be a significant step towards enhancing both the safety and the security of radioactive sources.

Steven McIntosh
Chairman
18 July 2003

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JOINT CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT AND ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT

1. The Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management was adopted on 5 September 1997 by a Diplomatic Conference convened by the International Atomic Energy Agency at its headquarters from 1 to 5 September 1997. The Joint Convention was opened for signature at Vienna on 29 September 1997 during the forty-first session of the General Conference of the International Atomic Energy Agency and will remain open for signature until its entry into force.

2. Pursuant to article 40, the Joint Convention will enter into force on the ninetieth day after the date of deposit with the Depositary of the twenty-fifth instrument of ratification, acceptance or approval, including the instruments of fifteen States each having an operational nuclear power plant.

3. The text of the Convention, as adopted, is attached hereto for the information of Member States.

PREAMBLE

The Contracting Parties

(i) Recognizing that the operation of nuclear reactors generates spent fuel and radioactive waste and that other applications of nuclear technologies also generate radioactive waste;

(ii) Recognizing that the same safety objectives apply both to spent fuel and radioactive waste management;

(iii) Reaffirming the importance to the international community of ensuring that sound practices are planned and implemented for the safety of spent fuel and radioactive waste management;

(iv) Recognizing the importance of informing the public on issues regarding the safety of spent fuel and radioactive waste management;

(v) Desiring to promote an effective nuclear safety culture worldwide;

(vi) Reaffirming that the ultimate responsibility for ensuring the safety of spent fuel and radioactive waste management rests with the State;

(vii) Recognizing that the definition of a fuel cycle policy rests with the State, some States considering spent fuel as a valuable resource that may be reprocessed, others electing to dispose of it;

(viii) Recognizing that spent fuel and radioactive waste excluded from the present Convention because they are within military or defence programmes should be managed in accordance with the objectives stated in this Convention;

(ix) Affirming the importance of international co-operation in enhancing the safety of spent fuel and radioactive waste management through bilateral and multilateral mechanisms, and through this incentive Convention;

(x) Mindful of the needs of developing countries, and in particular the least developed countries, and of States with economies in transition and of the need to facilitate existing mechanisms to assist in the fulfillment of their rights and obligations set out in this incentive Convention;

(xi) Convinced that radioactive waste should, as far as is compatible with the safety of the management of such material, be disposed of in the State in which it was generated, whilst recognizing that, in certain circumstances, safe and efficient management of spent fuel and radioactive waste might be fostered through agreements among Contracting Parties to use facilities in one of them for the benefit of the other Parties, particularly where waste originates from joint projects;

(xii) Recognizing that any State has the right to ban import into its territory of foreign spent fuel and radioactive waste;

(xiii) Keeping in mind the Convention on Nuclear Safety (1994), the Convention on Early Notification of a Nuclear Accident (1986), the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency (1986), the Convention on the Physical Protection of Nuclear Material (1980), the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter as amended (1994) and other relevant international instruments;

(xiv) Keeping in mind the principles contained in the interagency "International Basic Safety Standards for Protection against Ionizing Radiation and for the Safety of Radiation Sources" (1996), in the IAEA Safety Fundamentals entitled "The Principles of Radioactive Waste Management" (1995), and in the existing international standards relating to the safety of the transport of radioactive materials;

(xv) Recalling Chapter 22 of Agenda 21 by the United Nations Conference on Environment and Development in Rio de Janeiro adopted in 1992, which reaffirms the paramount importance of the safe and environmentally sound management of radioactive waste;

(xvi) Recognizing the desirability of strengthening the international control system applying specifically to radioactive materials as referred to in Article 1(3) of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989);

Have agreed as follows:

CHAPTER 1. OBJECTIVES DEFINITIONS AND SCOPE OF APPLICATION

Article 1 – Objectives

The objectives of this Convention are:

(i) to achieve and maintain a high level of safety worldwide in spent fuel and radioactive waste management, through the enhancement of national measures and international co-operation, including where appropriate, safety-related technical co-operation;

(ii) to ensure that during all stages of spent fuel and radioactive waste management there are effective defenses against potential hazards so that individuals, society and the environment are protected from harmful effects of ionizing radiation, now and in the future, in such a way that the needs and aspirations of the present generation are met without compromising the ability of future generations to meet their needs and aspirations;

(iii) to prevent accidents with radiological consequences and to mitigate their consequences should they occur during any stage of spent fuel or radioactive waste management.

Article 2 – Definitions

For the purposes of this Convention:

(a) *"closure"* means the completion of all operations at some time after the emplacement of spent fuel or radioactive waste in a disposal facility. This includes the final engineering or other work required to bring the facility to a condition that will be safe in the long term;

(b) *"decommissioning"* means all steps leading to the release of a nuclear facility, other than a disposal facility, from regulatory control. These steps include the processes of decontamination and dismantling;

(c) *"discharges"* means planned and controlled releases into the environment, as a legitimate practice, within limits authorized by the regulatory body, of liquid or gaseous radioactive materials that originate from regulated nuclear facilities during normal operation;

(d) *"disposal"* means the emplacement of spent fuel or radioactive waste in an appropriate facility without the intention of retrieval;

(e) *"licence"* means any authorization, permission or certification granted by a regulatory body to carry out any activity related to management of spent fuel or of radioactive waste;

(f) *"nuclear facility"* means a civilian facility and its associated land, buildings and equipment in which radioactive materials are produced, processed, used, handled, stored or disposed of on such a scale that consideration of safety is required;

(g) *"operating lifetime"* means the period during which a spent fuel or a radioactive waste management facility is used for its intended purpose. In the case of a disposal facility, the period begins when spent fuel or radioactive waste is first emplaced in the facility and ends upon closure of the facility;

(h) *"radioactive waste"* means radioactive material in gaseous, liquid or solid form for which no further use is foreseen by the Contracting Party or by a natural or legal person whose decision is accepted by the Contracting Party, and which is controlled as radioactive waste by a regulatory body under the legislative and regulatory framework of the Contracting Party;

(i) *"radioactive waste management"* means all activities, including decommissioning activities, that relate to the handling, pretreatment, treatment, conditioning, storage, or disposal of radioactive waste, excluding off-site transportation. It may also involve discharges;

(j) *"radioactive waste management facility"* means any facility or installation the primary purpose of which is radioactive waste management, including a nuclear facility in the process of being decommissioned only if it is designated by the Contracting Party as a radioactive waste management facility;

(k) *"regulatory body"* means any body or bodies given the legal authority by the Contracting Party to regulate any aspect of the safety of spent fuel or radioactive waste management including the granting of licences;

(l) *"reprocessing"* means a process or operation, the purpose of which is to extract radioactive isotopes from spent fuel for further use;

(m) *"sealed source"* means radioactive material that is permanently sealed in a capsule or closely bonded and in a solid form, excluding reactor fuel elements;

(n) *"spent fuel"* means nuclear fuel that has been irradiated in and permanently removed from a reactor core;

(o) *"spent fuel management"* means all activities that relate to the handling or storage of spent fuel, excluding off-site transportation. It may also involve discharges;

(p) *"spent fuel management facility"* means any facility or installation the primary purpose of which is spent fuel management;

(q) *"State of destination"* means a State to which a transboundary movement is planned or takes place;

®) *"State of origin"* means a State from which a transboundary movement is planned to be initiated or is initiated;

(s) *"State of transit"* means any State, other than a State of origin or a State of destination, through whose territory a transboundary movement is planned or takes place;

(t) *"storage"* means the holding of spent fuel or of radioactive waste in a facility that provides for its containment, with the intention of retrieval;

(u) *"transboundary movement"* means any shipment of spent fuel or of radioactive waste from a State of origin to a State of destination.

Article 3 – Scope of Application

1. This Convention shall apply to the safety of spent fuel management when the spent fuel results from the operation of civilian nuclear reactors. Spent fuel held at reprocessing facilities as part of a reprocessing activity is not covered in the scope of this Convention unless the Contracting Party declares reprocessing to be part of spent fuel management.

2. This Convention shall also apply to the safety of radioactive waste management when the radioactive waste results from civilian applications. However, this Convention shall not apply to waste that contains only naturally occurring radioactive materials and that does not originate from the nuclear fuel cycle, unless it constitutes a disused sealed source or it is declared as radioactive waste for the purposes of this Convention by the Contracting Party.

3. This Convention shall not apply to the safety of management of spent fuel or radioactive waste within military or defence programmes, unless declared as spent fuel or radioactive waste for the purposes of this Convention by the Contracting Party. However, this Convention shall apply to the safety of management of spent fuel and radioactive waste

from military or defence programmes if and when such materials are transferred permanently to and managed within exclusively civilian programmes.

4. This Convention shall also apply to discharges as provided for in Articles 4, 7, 11, 14, 24 and 26.

CHAPTER 2. SAFETY OF SPENT FUEL MANAGEMENT

Article 4 – General Safety Requirements

Each Contracting Party shall take the appropriate steps to ensure that at all stages of spent fuel management, individuals, society and the environment are adequately protected against radiological hazards.

In so doing, each Contracting Party shall take the appropriate steps to:

(i) ensure that criticality and removal of residual heat generated during spent fuel management are adequately addressed;

(ii) ensure that the generation of radioactive waste associated with spent fuel management is kept to the minimum practicable, consistent with the type of fuel cycle policy adopted;

(iii) take into account interdependencies among the different steps in spent fuel management;

(iv) provide for effective protection of individuals, society and the environment, by applying at the national level suitable protective methods as approved by the regulatory body, in the framework of its national legislation which has due regard to internationally endorsed criteria and standards;

(v) take into account the biological, chemical and other hazards that may be associated with spent fuel management;

(vi) strive to avoid actions that impose reasonably predictable impacts on future generations greater than those permitted for the current generation;

(vii) aim to avoid imposing undue burdens on future generations.

Article 5 – Existing Facilities

Each Contracting Party shall take the appropriate steps to review the safety of any spent fuel management facility existing at the time the Convention enters into force for that Contracting Party and to ensure that, if necessary, all reasonably practicable improvements are made to upgrade the safety of such a facility.

Article 6 – Siting of Proposed Facilities

1. Each Contracting Party shall take the appropriate steps to ensure that procedures are established and implemented for a proposed spent fuel management facility:

(i) to evaluate all relevant site-related factors likely to affect the safety of such a facility during its operating lifetime;

(ii) to evaluate the likely safety impact of such a facility on individuals, society and the environment;

(iii) to make information on the safety of such a facility available to members of the public;

(iv) to consult Contracting Parties in the vicinity of such a facility, insofar as they are likely to be affected by that facility, and provide them, upon their request, with general data relating to the facility to enable them to evaluate the likely safety impact of the facility upon their territory.

2. In so doing, each Contracting Party shall take the appropriate steps to ensure that such facilities shall not have unacceptable effects on other Contracting Parties by being sited in accordance with the general safety requirements of Article 4.

Article 7 – Design and Construction of Facilities

Each Contracting Party shall take the appropriate steps to ensure that:

(i) the design and construction of a spent fuel management facility provide for suitable measures to limit possible radiological impacts on individuals, society and the environment, including those from discharges or uncontrolled releases;

(ii) at the design stage, conceptual plans and, as necessary, technical provisions for the decommissioning of a spent fuel management facility are taken into account;

(iii) the technologies incorporated in the design and construction of a spent fuel management facility are supported by experience, testing or analysis.

Article 8 – Assessment of Safety of Facilities

Each Contracting Party shall take the appropriate steps to ensure that:

(i) before construction of a spent fuel management facility, a systematic safety assessment and an environmental assessment appropriate to the hazard presented by the facility and covering its operating lifetime shall be carried out;

(ii) before the operation of a spent fuel management facility, updated and detailed versions of the safety assessment and of the environmental assessment shall be prepared when deemed necessary to complement the assessments referred to in paragraph (i).

Article 9 – Operation of Facilities

Each Contracting Party shall take the appropriate steps to ensure that:

(i) the licence to operate a spent fuel management facility is based upon appropriate assessments as specified in Article 8 and is conditional on the completion of a commissioning programme demonstrating that the facility, as constructed, is consistent with design and safety requirements;

(ii) operational limits and conditions derived from tests, operational experience and the assessments, as specified in Article 8, are defined and revised as necessary;

(iii) operation, maintenance, monitoring, inspection and testing of a spent fuel management facility are conducted in accordance with established procedures;

(iv) engineering and technical support in all safety-related fields are available throughout the operating lifetime of a spent fuel management facility;

(v) incidents significant to safety are reported in a timely manner by the holder of the licence to the regulatory body;

(vi) programmes to collect and analyse relevant operating experience are established and that the results are acted upon, where appropriate;

(vii) decommissioning plans for a spent fuel management facility are prepared and updated, as necessary, using information obtained during the operating lifetime of that facility, and are reviewed by the regulatory body.

Article 10 – Disposal of Spent Fuel

If, pursuant to its own legislative and regulatory framework, a Contracting Party has designated spent fuel for disposal, the disposal of such spent fuel shall be in accordance with the obligations of Chapter 3 relating to the disposal of radioactive waste.

CHAPTER 3. SAFETY OF RADIOACTIVE WASTE MANAGEMENT

Article 11 – General Safety Requirements

Each Contracting Party shall take the appropriate steps to ensure that at all stages of radioactive waste management individuals, society and the environment are adequately protected against radiological and other hazards.

In so doing, each Contracting Party shall take the appropriate steps to:

(i) ensure that criticality and removal of residual heat generated during radioactive waste management are adequately addressed;

(ii) ensure that the generation of radioactive waste is kept to the minimum practicable;

(iii) take into account interdependencies among the different steps in radioactive waste management;

(iv) provide for effective protection of individuals, society and the environment, by applying at the national level suitable protective methods as approved by the regulatory body, in the framework of its national legislation which has due regard to internationally endorsed criteria and standards;

(v) take into account the biological, chemical and other hazards that may be associated with radioactive waste management;

(vi) strive to avoid actions that impose reasonably predictable impacts on future generations greater than those permitted for the current generation;

(vii) aim to avoid imposing undue burdens on future generations.

Article 12 – Existing Facilities and Past Practices

Each Contracting Party shall in due course take the appropriate steps to review:

(i) the safety of any radioactive waste management facility existing at the time the Convention enters into force for that Contracting Party and to ensure that, if necessary, all reasonably practicable improvements are made to upgrade the safety of such a facility;

(ii) the results of past practices in order to determine whether any intervention is needed for reasons of radiation protection bearing in mind that the reduction in detriment resulting from the reduction in dose should be sufficient to justify the harm and the costs, including the social costs, of the intervention.

Article 13 – Siting of Proposed Facilities

1. Each Contracting Party shall take the appropriate steps to ensure that procedures are established and implemented for a proposed radioactive waste management facility:

(i) to evaluate all relevant site-related factors likely to affect the safety of such a facility during its operating lifetime as well as that of a disposal facility after closure;

(ii) to evaluate the likely safety impact of such a facility on individuals, society and the environment, taking into account possible evolution of the site conditions of disposal facilities after closure;

(iii) to make information on the safety of such a facility available to members of the public;

(iv) to consult Contracting Parties in the vicinity of such a facility, insofar as they are likely to be affected by that facility, and provide them, upon their request, with general data relating to the facility to enable them to evaluate the likely safety impact of the facility upon their territory.

2. In so doing, each Contracting Party shall take the appropriate steps to ensure that such facilities shall not have unacceptable effects on other Contracting Parties by being sited in accordance with the general safety requirements of Article 11.

Article 14 – Design and Construction of Facilities

Each Contracting Party shall take the appropriate steps to ensure that:

(i) the design and construction of a radioactive waste management facility provide for suitable measures to limit possible radiological impacts on individuals, society and the environment, including those from discharges or uncontrolled releases;

(ii) at the design stage, conceptual plans and, as necessary, technical provisions for the decommissioning of a radioactive waste management facility other than a disposal facility are taken into account;

(iii) at the design stage, technical provisions for the closure of a disposal facility are prepared;

(iv) the technologies incorporated in the design and construction of a radioactive waste management facility are supported by experience, testing or analysis.

Article 15 – Assessment of Safety of Facilities

Each Contracting Party shall take the appropriate steps to ensure that:

(i) before construction of a radioactive waste management facility, a systematic safety assessment and an environmental assessment appropriate to the hazard presented by the facility and covering its operating lifetime shall be carried out;

(ii) in addition, before construction of a disposal facility, a systematic safety assessment and an environmental assessment for the period following closure shall be carried out and the results evaluated against the criteria established by the regulatory body;

(iii) before the operation of a radioactive waste management facility, updated and detailed versions of the safety assessment and of the environmental assessment shall be prepared when deemed necessary to complement the assessments referred to in paragraph (i).

Article 16 – Operation of Facilities

Each Contracting Party shall take the appropriate steps to ensure that:

(i) the licence to operate a radioactive waste management facility is based upon appropriate assessments as specified in Article 15 and is conditional on the completion of a commissioning programme demonstrating that the facility, as constructed, is consistent with design and safety requirements;

(ii) operational limits and conditions, derived from tests, operational experience and the assessments as specified in Article 15 are defined and revised as necessary;

(iii) operation, maintenance, monitoring, inspection and testing of a radioactive waste management facility are conducted in accordance with established procedures. For a disposal facility the results thus obtained shall be used to verify and to review the validity of assumptions made and to update the assessments as specified in Article 15 for the period after closure;

(iv) engineering and technical support in all safety-related fields are available throughout the operating lifetime of a radioactive waste management facility;

(v) procedures for characterization and segregation of radioactive waste are applied;

(vi) incidents significant to safety are reported in a timely manner by the holder of the licence to the regulatory body;

(vii) programmes to collect and analyse relevant operating experience are established and that the results are acted upon, where appropriate;

(viii) decommissioning plans for a radioactive waste management facility other than a disposal facility are prepared and updated, as necessary, using information obtained during the operating lifetime of that facility, and are reviewed by the regulatory body;

(ix) plans for the closure of a disposal facility are prepared and updated, as necessary, using information obtained during the operating lifetime of that facility and are reviewed by the regulatory body.

Article 17 – Institutional Measures After Closure

Each Contracting Party shall take the appropriate steps to ensure that after closure of a disposal facility:

(i) records of the location, design and inventory of that facility required by the regulatory body are preserved;

(ii) active or passive institutional controls such as monitoring or access restrictions are carried out, if required; and

(iii) if, during any period of active institutional control, an unplanned release of radioactive materials into the environment is detected, intervention measures are implemented, if necessary.

CHAPTER 4. GENERAL SAFETY PROVISIONS

Article 18 – Implementing Measures

Each Contracting Party shall take, within the framework of its national law, the legislative, regulatory and administrative measures and other steps necessary for implementing its obligations under this Convention.

Article 19 – Legislative and Regulatory Framework

1. Each Contracting Party shall establish and maintain a legislative and regulatory framework to govern the safety of spent fuel and radioactive waste management.

2. This legislative and regulatory framework shall provide for:

(i) the establishment of applicable national safety requirements and regulations for radiation safety;

(ii) a system of licensing of spent fuel and radioactive waste management activities;

(iii) a system of prohibition of the operation of a spent fuel or radioactive waste management facility without a licence;

(iv) a system of appropriate institutional control, regulatory inspection and documentation and reporting;

(v) the enforcement of applicable regulations and of the terms of the licences;

(vi) a clear allocation of responsibilities of the bodies involved in the different steps of spent fuel and of radioactive waste management.

3. When considering whether to regulate radioactive materials as radioactive waste, Contracting Parties shall take due account of the objectives of this Convention.

Article 20 – Regulatory Body

1. Each Contracting Party shall establish or designate a regulatory body entrusted with the implementation of the legislative and regulatory framework referred to in Article 19, and provided with adequate authority, competence and financial and human resources to fulfill its assigned responsibilities.

2. Each Contracting Party, in accordance with its legislative and regulatory framework, shall take the appropriate steps to ensure the effective independence of the regulatory functions from other functions where organizations are involved in both spent fuel or radioactive waste management and in their regulation.

Article 21 – Responsibility of the License Holder

1. Each Contracting Party shall ensure that prime responsibility for the safety of spent fuel or radioactive waste management rests with the holder of the relevant licence and shall take the appropriate steps to ensure that each such licence holder meets its responsibility.

2. If there is no such licence holder or other responsible party, the responsibility rests with the Contracting Party which has jurisdiction over the spent fuel or over the radioactive waste.

Article 22 – Human and Financial Resources

Each Contracting Party shall take the appropriate steps to ensure that:

(i) qualified staff are available as needed for safety-related activities during the operating lifetime of a spent fuel and a radioactive waste management facility;

(ii) adequate financial resources are available to support the safety of facilities for spent fuel and radioactive waste management during their operating lifetime and for decommissioning;

(iii) financial provision is made which will enable the appropriate institutional controls and monitoring arrangements to be continued for the period deemed necessary following the closure of a disposal facility.

Article 23 – Quality Assurance

Each Contracting Party shall take the necessary steps to ensure that appropriate quality assurance programmes concerning the safety of spent fuel and radioactive waste management are established and implemented.

Article 24 – Operational Radiation Protection

1. Each Contracting Party shall take the appropriate steps to ensure that during the operating lifetime of a spent fuel or radioactive waste management facility:

(i) the radiation exposure of the workers and the public caused by the facility shall be kept as low as reasonably achievable, economic and social factors being taken into account;

(ii) no individual shall be exposed, in normal situations, to radiation doses which exceed national prescriptions for dose limitation which have due regard to internationally endorsed standards on radiation protection; and

(iii) measures are taken to prevent unplanned and uncontrolled releases of radioactive materials into the environment.

2. Each Contracting Party shall take appropriate steps to ensure that discharges shall be limited:

(i) to keep exposure to radiation as low as reasonably achievable, economic and social factors being taken into account; and

(ii) so that no individual shall be exposed, in normal situations, to radiation doses which exceed national prescriptions for dose limitation which have due regard to internationally endorsed standards on radiation protection.

3. Each Contracting Party shall take appropriate steps to ensure that during the operating lifetime of a regulated nuclear facility, in the event that an unplanned or uncontrolled release of radioactive materials into the environment occurs, appropriate corrective measures are implemented to control the release and mitigate its effects.

Article 25 – Emergency Preparedness

1. Each Contracting Party shall ensure that before and during operation of a spent fuel or radioactive waste management facility there are appropriate on-site and, if necessary, off-site emergency plans. Such emergency plans should be tested at an appropriate frequency.

2. Each Contracting Party shall take the appropriate steps for the preparation and testing of emergency plans for its territory insofar as it is likely to be affected in the event of a radiological emergency at a spent fuel or radioactive waste management facility in the vicinity of its territory.

Article 26 – Decommissioning

Each Contracting Party shall take the appropriate steps to ensure the safety of decommissioning of a nuclear facility. Such steps shall ensure that:

(i) qualified staff and adequate financial resources are available;

(ii) the provisions of Article 24 with respect to operational radiation protection, discharges and unplanned and uncontrolled releases are applied;

(iii) the provisions of Article 25 with respect to emergency preparedness are applied; and

(iv) records of information important to decommissioning are kept.

CHAPTER 5. MISCELLANEOUS PROVISIONS

Article 27 – Transboundary Movement

1. Each Contracting Party involved in transboundary movement shall take the appropriate steps to ensure that such movement is undertaken in a manner consistent with the provisions of this Convention and relevant binding international instruments.

In so doing:

(i) a Contracting Party which is a State of origin shall take the appropriate steps to ensure that transboundary movement is authorized and takes place only with the prior notification and consent of the State of destination;

(ii) transboundary movement through States of transit shall be subject to those international obligations which are relevant to the particular modes of transport utilized;

(iii) a Contracting Party which is a State of destination shall consent to a transboundary movement only if it has the administrative and technical capacity, as well as the regulatory structure, needed to manage the spent fuel or the radioactive waste in a manner consistent with this Convention;

(iv) a Contracting Party which is a State of origin shall authorize a transboundary movement only if it can satisfy itself in accordance with the consent of the State of destination that the requirements of subparagraph (iii) are met prior to transboundary movement;

(v) a Contracting Party which is a State of origin shall take the appropriate steps to permit re-entry into its territory, if a transboundary movement is not or cannot be completed in conformity with this Article, unless an alternative safe arrangement can be made.

2. A Contracting Party shall not licence the shipment of its spent fuel or radioactive waste to a destination south of latitude 60 degrees South for storage or disposal.

3. Nothing in this Convention prejudices or affects:

(i) the exercise, by ships and aircraft of all States, of maritime, river and air navigation rights and freedoms, as provided for in international law;

(ii) rights of a Contracting Party to which radioactive waste is exported for processing to return, or provide for the return of, the radioactive waste and other products after treatment to the State of origin;

(iii) the right of a Contracting Party to export its spent fuel for reprocessing;

(iv) rights of a Contracting Party to which spent fuel is exported for reprocessing to return, or provide for the return of, radioactive waste and other products resulting from reprocessing operations to the State of origin.

Article 28 – Disused Sealed Sources

1. Each Contracting Party shall, in the framework of its national law, take the appropriate steps to ensure that the possession, remanufacturing or disposal of disused sealed sources takes place in a safe manner.

2. A Contracting Party shall allow for reentry into its territory of disused sealed sources if, in the framework of its national law, it has accepted that they be returned to a manufacturer qualified to receive and possess the disused sealed sources.

CHAPTER 6. MEETINGS OF THE CONTRACTING PARTIES

Article 29 – Preparatory Meeting

1. A preparatory meeting of the Contracting Parties shall be held not later than six months after the date of entry into force of this Convention.

2. At this meeting, the Contracting Parties shall:

(i) determine the date for the first review meeting as referred to in Article 30. This review meeting shall be held as soon as possible, but not later than thirty months after the date of entry into force of this Convention;

(ii) prepare and adopt by consensus Rules of Procedure and Financial Rules;

(iii) establish in particular and in accordance with the Rules of Procedure:

(a) guidelines regarding the form and structure of the national reports to be submitted pursuant to Article 32;

(b) a date for the submission of such reports;

(c) the process for reviewing such reports.

3. Any State or regional organization of an integration or other nature which ratifies, accepts, approves, accedes to or confirms this Convention and for which the Convention is not yet in force, may attend the preparatory meeting as if it were a Party to this Convention.

Article 30 – Review Meetings

1. The Contracting Parties shall hold meetings for the purpose of reviewing the reports submitted pursuant to Article 32.

2. At each review meeting the Contracting Parties:

(i) shall determine the date for the next such meeting, the interval between review meetings not exceeding three years;

(ii) may review the arrangements established pursuant to paragraph 2 of Article 29, and adopt revisions by consensus unless otherwise provided for in the Rules of Procedure. They may also amend the Rules of Procedure and Financial Rules by consensus.

3. At each review meeting each Contracting Party shall have a reasonable opportunity to discuss the reports submitted by other Contracting Parties and to seek clarification of such reports.

Article 31 – Extraordinary Meetings

An extraordinary meeting of the Contracting Parties shall be held:

(i) if so agreed by a majority of the Contracting Parties present and voting at a meeting; or

(ii) at the written request of a Contracting Party, within six months of this request having been communicated to the Contracting Parties and notification having been received by the secretariat referred to in Article 37 that the request has been supported by a majority of the Contracting Parties.

Article 32 – Reporting

1. In accordance with the provisions of Article 30, each Contracting Party shall submit a national report to each review meeting of Contracting Parties. This report shall address the measures taken to implement each of the obligations of the Convention. For each Contracting Party the report shall also address its:

(i) spent fuel management policy;
(ii) spent fuel management practices;
(iii) radioactive waste management policy;
(iv) radioactive waste management practices;
(v) criteria used to define and categorize radioactive waste.

2. This report shall also include:

(i) a list of the spent fuel management facilities subject to this Convention, their location, main purpose and essential features;

(ii) an inventory of spent fuel that is subject to this Convention and that is being held in storage and of that which has been disposed of. This inventory shall contain a description of the material and, if available, give information on its mass and its total activity;

(iii) a list of the radioactive waste management facilities subject to this Convention, their location, main purpose and essential features;

(iv) an inventory of radioactive waste that is subject to this Convention that:

(a) is being held in storage at radioactive waste management and nuclear fuel cycle facilities;

(b) has been disposed of; or

(c) has resulted from past practices.

This inventory shall contain a description of the material and other appropriate information available, such as volume or mass, activity and specific radionuclides;

(v) a list of nuclear facilities in the process of being decommissioned and the status of decommissioning activities at those facilities.

Article 33 – Attendance

1. Each Contracting Party shall attend meetings of the Contracting Parties and be represented at such meetings by one delegate, and by such alternates, experts and advisers as it deems necessary.

2. The Contracting Parties may invite, by consensus, any intergovernmental organization which is competent in respect of matters governed by this Convention to attend, as an observer, any meeting, or specific sessions thereof. Observers shall be required to accept in writing, and in advance, the provisions of Article 36.

Article 34 – Summary Reports

The Contracting Parties shall adopt, by consensus, and make available to the public a document addressing issues discussed and conclusions reached during meetings of the Contracting Parties.

Article 35 – Languages

1. The languages of meetings of the Contracting Parties shall be Arabic, Chinese, English, French, Russian and Spanish unless otherwise provided in the Rules of Procedure.

2. Reports submitted pursuant to Article 32 shall be prepared in the national language of the submitting Contracting Party or in a single designated language to be agreed in the Rules of Procedure. Should the report be submitted in a national language other than the designated language, a translation of the report into the designated language shall be provided by the Contracting Party.

3. Notwithstanding the provisions of paragraph 2, the secretariat, if compensated, will assume the translation of reports submitted in any other language of the meeting into the designated language.

Article 36 – Confidentiality

1. The provisions of this Convention shall not affect the rights and obligations of the Contracting Parties under their laws to protect information from disclosure. For the purposes of this article, "information" includes, inter alia, information relating to national security or to the physical protection of nuclear materials, information protected by intellectual property rights or by industrial or commercial confidentiality, and personal data.

2. When, in the context of this Convention, a Contracting Party provides information identified by it as protected as described in paragraph 1, such information shall be used only for the purposes for which it has been provided and its confidentiality shall be respected.

3. With respect to information relating to spent fuel or radioactive waste falling within the scope of this Convention by virtue of paragraph 3 of Article 3, the provisions of this Convention shall not affect the exclusive discretion of the Contracting Party concerned to decide:

(i) whether such information is classified or otherwise controlled to preclude release;

(ii) whether to provide information referred to in sub-paragraph (i) above in the context of the Convention; and

(iii) what conditions of confidentiality are attached to such information if it is provided in the context of this Convention.

4. The content of the debates during the reviewing of the national reports at each review meeting held pursuant to Article 30 shall be confidential.

Article 37 – Secretariat

1. The International Atomic Energy Agency, (hereinafter referred to as "the Agency") shall provide the secretariat for the meetings of the Contracting Parties.

2. The secretariat shall:

(i) convene, prepare and service the meetings of the Contracting Parties referred to in Articles 29, 30 and 31;

(ii) transmit to the Contracting Parties information received or prepared in accordance with the provisions of this Convention.

The costs incurred by the Agency in carrying out the functions referred to in sub-paragraphs (i) and (ii) above shall be borne by the Agency as part of its regular budget.

3. The Contracting Parties may, by consensus, request the Agency to provide other services in support of meetings of the Contracting Parties. The Agency may provide such services if they can be undertaken within its programme and regular budget. Should this not be possible, the Agency may provide such services if voluntary funding is provided from another source.

CHAPTER 7. FINAL CLAUSES AND OTHER PROVISIONS

Article 38 – Resolution of Disagreements

In the event of a disagreement between two or more Contracting Parties concerning the interpretation or application of this Convention, the Contracting Parties shall consult within the framework of a meeting of the Contracting Parties with a view to resolving the disagreement. In the event that the consultations prove unproductive, recourse can be made to the mediation, conciliation and arbitration mechanisms provided for in international law, including the rules and practices prevailing within the IAEA.

Article 39 – Signature, Ratification, Acceptance, Approval, Accession

1. This Convention shall be open for signature by all States at the Headquarters of the Agency in Vienna from 29 September 1997 until its entry into force.

2. This Convention is subject to ratification, acceptance or approval by the signatory States.

3. After its entry into force, this Convention shall be open for accession by all States.

4. (i) This Convention shall be open for signature subject to confirmation, or accession by regional organizations of an integration or other nature, provided that any such organization is constituted by sovereign States and has competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(ii) In matters within their competence, such organizations shall, on their own behalf, exercise the rights and fulfil the responsibilities which this Convention attributes to States Parties.

(iii) When becoming party to this Convention, such an organization shall communicate to the Depositary referred to in Article 43, a declaration indicating which States are members thereof, which Articles of this Convention apply to it, and the extent of its competence in the field covered by those articles.

(iv) Such an organization shall not hold any vote additional to those of its Member States.

5. Instruments of ratification, acceptance, approval, accession or confirmation shall be deposited with the Depositary.

Article 40 – Entry into Force

1. This Convention shall enter into force on the ninetieth day after the date of deposit with the Depositary of the twenty-fifth instrument of ratification, acceptance or approval, including the instruments of fifteen States each having an operational nuclear power plant.

2. For each State or regional organization of an integration or other nature which ratifies, accepts, approves, accedes to or confirms this Convention after the date of deposit of the last instrument required to satisfy the conditions set forth in paragraph 1, this Convention shall enter into force on the ninetieth day after the date of deposit with the Depositary of the appropriate instrument by such a State or organization.

Article 41 – Amendments to the Convention

1. Any Contracting Party may propose an amendment to this Convention. Proposed amendments shall be considered at a review meeting or at an extraordinary meeting.

2. The text of any proposed amendment and the reasons for it shall be provided to the Depositary who shall communicate the proposal to the Contracting Parties at least ninety days before the meeting for which it is submitted for consideration. Any comments received on such a proposal shall be circulated by the Depositary to the Contracting Parties.

3. The Contracting Parties shall decide after consideration of the proposed amendment whether to adopt it by consensus, or, in the absence of consensus, to submit it to a Diplomatic Conference. A decision to submit a proposed amendment to a Diplomatic Conference shall require a two-thirds majority vote of the Contracting Parties present and voting at the meeting, provided that at least one half of the Contracting Parties are present at the time of voting.

4. The Diplomatic Conference to consider and adopt amendments to this Convention shall be convened by the Depositary and held no later than one year after the appropriate decision taken in accordance with paragraph 3 of this article. The Diplomatic Conference shall make every effort to ensure amendments are adopted by consensus. Should this not be possible, amendments shall be adopted with a two-thirds majority of all Contracting Parties.

5. Amendments to this Convention adopted pursuant to paragraphs 3 and 4 above shall be subject to ratification, acceptance, approval, or confirmation by the Contracting Parties and shall enter into force for those Contracting Parties which have ratified, accepted, approved or confirmed them on the ninetieth day after the receipt by the Depositary of the relevant instruments of at least two thirds of the Contracting Parties. For a Contracting Party which subsequently ratifies, accepts, approves or confirms the said amendments, the amendments will enter into force on the ninetieth day after that Contracting Party has deposited its relevant instrument.

Article 42 – Denunciation

1. Any Contracting Party may denounce this Convention by written notification to the Depositary.

2. Denunciation shall take effect one year following the date of the receipt of the notification by the Depositary, or on such later date as may be specified in the notification.

Article 43 – Depositary

1. The Director General of the Agency shall be the Depositary of this Convention.

2. The Depositary shall inform the Contracting Parties of:

(i) the signature of this Convention and of the deposit of instruments of ratification, acceptance, approval, accession or confirmation in accordance with Article 39;

(ii) the date on which the Convention enters into force, in accordance with Article 40;

(iii) the notifications of denunciation of the Convention and the date thereof, made in accordance with Article 42;

(iv) the proposed amendments to this Convention submitted by Contracting Parties, the amendments adopted by the relevant Diplomatic Conference or by the meeting of the Contracting Parties, and the date of entry into force of the said amendments, in accordance with Article 41.

Article 44 – Authentic Texts

The original of this Convention of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Depositary, who shall send certified copies thereof to the Contracting Parties.

IN WITNESS WHEREOF THE UNDERSIGNED, BEING DULY AUTHORIZED TO THAT EFFECT, HAVE SIGNED THIS CONVENTION.

Done at Vienna on the fifth day of September, one thousand nine hundred and ninety-seven.

JOINT CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT AND ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT

Notes: The Convention, pursuant to Article 40.1 entered into force on 18 June 2001, *i.e.* on the ninetieth day after the day of deposit with the Depositary of the twenty-fifth instrument of ratification, acceptance or approval, including the instruments of fifteen States each having an operational nuclear power plant.

Country/ Organization	Signature	Instrument	Date of Deposit	Declaration	Withdraw	Entry into Force
Argentina[1]	19 Dec 1997	Ratification	14 Nov 2000			18 Jun 2001
Australia	13 Nov 1998	Ratification	05 Aug 2003			03 Nov 2003
Austria	17 Sep 1998	Ratification	13 Jun 2001			11 Sep 2001
Belarus	13 Oct 1999	Ratification	26 Nov 2002			24 Feb 2003
Belgium[1]	08 Dec 1997	Ratification	05 Sep 2002			04 Dec 2002
Brazil[1]	31 Oct 1997					
Bulgaria[1]	22 Sep 1998	Ratification	21 Jun 2000			18 Jun 2001
Canada[1]	07 May 1998	Ratification	07 May 1998			18 Jun 2001
Croatia	09 Apr 1998	Ratification	10 May 1999			18 Jun 2001
Czech Republic[1]	30 Sep 1997	Approval	25 Mar 1999			18 Jun 2001
Denmark	09 Feb 1998	Acceptance	03 Sep 1999	T		18 Jun 2001
Estonia	05 Jan 2001					
Finland[1]	02 Oct 1997	Acceptance	10 Feb 2000			18 Jun 2001
France[1]	29 Sep 1997	Approval	27 Apr 2000			18 Jun 2001
Germany[1]	01 Oct 1997	Ratification	13 Oct 1998			18 Jun 2001
Greece	09 Feb 1998	Ratification	18 Jul 2000			18 Jun 2001
Hungary[1]	29 Sep 1997	Ratification	02 Jun 1998			18 Jun 2001
Indonesia	06 Oct 1997					
Ireland	01 Oct 1997	Ratification	20 Mar 2001			18 Jun 2001
Italy	26 Jan 1998					
Japan[1]		Accession	26 Aug 2003	T		24 Nov 2003
Kazakhstan[1]	29 Sep 1997					
Korea, Republic of[1]	29 Sep 1997	Ratification	16 Sep 2002			15 Dec 2002
Latvia	27 Mar 2000	Acceptance	27 Mar 2000			18 Jun 2001
Lebanon	30 Sep 1997					
Lithuania[1]	30 Sep 1997	Ratification	16 Mar 2004			14 Jun 2004
Luxembourg	01 Oct 1997	Ratification	21 Aug 2001			19 Nov 2001
Morocco	29 Sep 1997	Ratification	23 Jul 1999			18 Jun 2001
Netherlands[1,2]	10 Mar 1999	Acceptance	26 Apr 2000			18 Jun 2001
Norway	29 Sep 1997	Ratification	12 Jan 1998			18 Jun 2001
Peru	04 Jun 1998					
Philippines	10 Mar 1998					
Poland	03 Oct 1997	Ratification	05 May 2000			18 Jun 2001
Romania[1]	30 Sep 1997	Ratification	06 Sep 1999			18 Jun 2001
Russian Federation[1]	27 Jan 1999					
Slovakia[1]	30 Sep 1997	Ratification	06 Oct 1998			18 Jun 2001
Slovenia[1]	29 Sep 1997	Ratification	25 Feb 1999			18 Jun 2001
Spain[1]	30 Jun 1998	Ratification	11 May 1999			18 Jun 2001
Sweden[1]	29 Sep 1997	Ratification	29 Jul 1999			18 Jun 2001
Switzerland[1]	29 Sep 1997	Ratification	05 Apr 2000			18 Jun 2001
Ukraine[1]	29 Sep 1997	Ratification	24 Jul 2000			18 Jun 2001
United	29 Sep 1997	Ratification	12 Mar 2001			18 Jun 2001
United States of America[1]	29 Sep 1997	Ratification	15 Apr 2003			14 Jul 2003

[1] Indicates that the State has at least one operational nuclear power plant.

[2] For the Kingdom in Europe.

Last change of status: 16 Mar 2004 Parties: 34 Signatories: 42

JOINT CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT AND ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT

Declarations/reservations made upon expressing consent to be bound and objections thereto

Denmark, Kingdom of **accepted 03 Sep 1999**

"Until further notice the Convention shall not apply to Greenland and the Faroe Islands."

Japan **accepted 26 Aug 2003**

"The Government of Japan, in accedding to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, adopted at Vienna on September 5, 1997, declares reprocessing to be part of spent fuel management pursuant to Article 3, paragraph 1 of the Convention."

Declarations/reservations made upon signature

Denmark, Kingdom of **09 Feb 1998**

". . . for the time being, the signature on behalf of Denmark does not commit the Faroe Islands and Greenland."