Public Law 95-601
95th Congress

An Act

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

Nov. 6, 1978
[S. 2584]

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

Nuclear Regulatory Commission. Appropriation authorization, 1978.

SECTION 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 U.S.C. 2017), and section 305 of the Energy Reorganization Act of 1974, as amended (42 U.S.C. 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;

(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.

42 USC 5845.

(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).

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(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 such 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 reprogramed, 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 provi-

sions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

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. Funds, transfers.

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." 42 USC 5849.

(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: Equal employment opportunity, report.

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

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. Radiation, health effects studies, consultation. 42 USC 2051 note.

(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. Memorandum, submittal to Congress.

(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. Reports to Congress, consultations.

(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 radiation, 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:

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

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

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

"(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

Report to Congress.

by the Commission. The Commission shall forward to the 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 5877.

Review.
42 USC 5841 note.

SEC. 7. The Commission is authorized and directed to undertake a 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 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.

Report to Congress.

Disclosure rules.

SEC. 8. (a) Chapter 14 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

42 USC. 2210a.

"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.".

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

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)—

"(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;

42 USC 2011 note.

"(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 (and 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. 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. 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.

Order.

Notice and hearing. Settlement.

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 the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. 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.

5 USC 701 *et seq.*

"(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.

"(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.

Litigative costs.

"(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 requirement of this Act or of the Atomic Energy Act of 1954, as amended.".

42 USC 2011 note.

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.

Report to Congress. 42 USC 2205a.

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.

Authority extension, study. 42 USC 5842 note.

(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.

Cooperation.

(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.

Report to Congress.

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.

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 situs whenever the Commission has knowledge of such proposal.

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

(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

State participation, report.

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.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1089, pt. I and pt. II, accompanying H.R. 12355 (Comm. on Interior and Insular Affairs) and (Comm. on Interstate and Foreign Commerce) and No. 95-1796 (Comm. of Conference).

SENATE REPORT No. 95-848 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Sept. 18, considered and passed Senate.

Oct. 3, 4, H.R. 12355 considered and passed House; passage vacated and S. 2584, amended, passed in lieu.

Oct. 14, House agreed to conference report.

Oct. 15, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:

Nov. 8, Presidential statement.