Public Law 97-90
97th Congress

An Act

To authorize appropriations for the Department of Energy for national security programs for fiscal year 1982, and for other purposes.

Dec. 4, 1981
[H.R. 3413]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1982".

Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1982.

TITLE I—NATIONAL SECURITY PROGRAMS

OPERATING EXPENSES

SEC. 101. Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1982 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the armed services, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For the naval reactors development program, $279,500,000, including $9,500,000 for program management.

(2) For weapons activities, $2,494,600,000, to be allocated as follows:

(A) For research and development, $732,400,000, to be allocated as follows:

(i) For the defense inertial confinement fusion program, $142,300,000, of which—

(I) $75,500,000 shall be used for glass laser experiments;

(II) $40,000,000 shall be used for gas laser experiments;

(III) $18,000,000 shall be used for pulsed power experiments;

(IV) $7,500,000 shall be used for supporting research and experiments, except that none of such funds may be used for the research, development, or demonstration of the use of heavy ion devices as drivers for defense inertial confinement fusion experiments and defense inertial confinement fusion systems; and

(V) $1,300,000 shall be used for inertial confinement fusion program management.

(ii) For all other research and development, $590,100,000.

(B) For weapons testing, $369,000,000.

(C) For production and surveillance, $1,351,800,000.

(D) For weapons program management other than inertial confinement fusion, $41,400,000.

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(3) For verification and control technology, $50,400,000, including $1,800,000 for program management.

(4) For defense nuclear materials production, $632,400,000, to be allocated as follows:

(A) For production reactor operations, $280,630,000.

(B) For processing of defense nuclear materials, $148,650,000.

(C) For special isotope separation research, $30,000,000.

(D) For supporting services, $171,320,000.

(E) For program management, $1,800,000.

(5) For defense nuclear materials byproducts management, $262,128,000, to be allocated as follows:

(A) For interim waste management, $181,084,000.

(B) For long-term waste management technology, $59,400,000.

(C) For byproducts beneficial uses, $5,000,000.

(D) For terminal waste storage, $5,000,000.

(E) For decontamination and decomissioning, $4,000,000.

(F) For transportation research and development, $6,067,000.

(G) For program management, $1,577,000.

(6) For nuclear materials security and safeguards technology development program (defense programs), $41,800,000, including $3,985,000 for program management.

(7) For security investigations, $23,600,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1982 for plant and capital equipment (including planning, construction, acquisition, and modification of facilities, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs, as follows:

(1) For naval reactors development:

Project 82-N-100, general plant projects, various locations, $4,000,000.

Project 82-N-111, naval fuels processing facility, Savannah River Plant, South Carolina, $15,000,000.

(2) For weapons activities:

Project 82-D-100, general plant projects, various locations (research and development), $15,800,000.

Project 82-D-103, general plant projects, various locations (production and surveillance), $16,300,000.

Project 82-D-104, new weapons production installations, various locations, $5,000,000.

Project 82-D-106, weapon assembly facilities, Pantex Plant, Texas, $23,500,000.

Project 82-D-107, utilities and equipment restoration, replacement and upgrade, Phase III, various locations, $87,500,000.

Project 82-D-108, nuclear weapons stockpile improvements, various locations, $15,000,000.

Project 82-D-109, 155-millimeter artillery-fired atomic projectile, various locations, $35,000,000.

Project 82-D-110, exhaust plenum modifications, Rocky Flats Plant, Colorado, $12,000,000.

Project 82-D-111, interactive graphics system, various locations, $9,000,000.

Project 82-D-142, North Las Vegas ATLAS Facility, Nevada, $3,600,000.

Project 82-D-144, simulation technology laboratory, Sandia National Laboratories, New Mexico, $1,200,000.

Project 82-D-146, weapons production and support facilities, various locations, $8,000,000.

Project 82-D-147, pressure test facility, Savannah River Plant, South Carolina, $3,500,000.

Project 82-D-150, weapons material research and development facility, Lawrence Livermore National Laboratory, California, $2,500,000.

Project 82-D-151, high explosives applications facility, Lawrence Livermore National Laboratory, California, $10,000,000.

Project 82-D-152, new detonator facility, Los Alamos National Laboratory, New Mexico, $8,000,000.

Project 82-D-153, tritium facility, Los Alamos National Laboratory, New Mexico, $5,000,000.

Project 82-D-154, weapons laboratory building, Sandia National Laboratories, Livermore, California, $7,000,000.

Project 81-D-106, weaponization facilities, Lawrence Livermore National Laboratory, California, $1,000,000, for a total project authorization of $7,600,000.

Project 81-D-108, reactor support facilities, Sandia National Laboratories, New Mexico, $1,000,000, for a total project authorization of $10,000,000.

Project 81-D-115, MX warhead production facilities, various locations, $30,000,000, for a total project authorization of $40,000,000.

Project 81-D-116, utilities and equipment restoration, replacement, and upgrade, Phase II, various locations, $10,000,000, for a total project authorization of $85,000,000.

Project 81-D-120, control of effluents and pollutants, Y-12 Plant, Tennessee, $3,400,000, for a total project authorization of $6,400,000.

Project 81-D-133, earthquake damage restoration, Lawrence Livermore National Laboratory, California, $1,000,000, for a total project authorization of $4,000,000.

Project 79-7-o, universal pilot plant, Pantex Plant, Texas, $5,200,000, for a total project authorization of $12,600,000.

Project 78-16-a, cruise missile production facilities, various locations, $80,700,000, for a total project authorization of $98,800,000.

Project 78-17-e, high explosives machining facility, Pantex Plant, Texas, $5,600,000, for a total project authorization of $10,600,000.

Project 77-11-c, 8-inch artillery-fired atomic, projectile production facilities, various locations, $3,600,000, for a total project authorization of $30,800,000.

(3) For defense nuclear materials production:

Project 82-D-116, general plant projects, various locations, $23,000,000.

Project 82-D-117, plant engineering and design, various locations, $3,000,000.

Project 82-D-118, N-reactor plant security and surveillance, Richland, Washington, $4,000,000.

Project 82-D-124, restoration of production capabilities, Phase III, various locations, $126,000,000.

Project 82-D-126, reactor safety and reliability, various locations, $42,900,000.

Project 82-D-127, safeguards improvements, Savannah River Plant, South Carolina, $34,600,000.

Project 82-D-128, plant perimeter security systems upgrade, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $4,400,000.

Project 82-D-136, fuel processing facilities upgrade, Idaho Fuel Processing Facility, Idaho National Engineering Laboratory, Idaho, $40,000,000.

Project 82-D-200, new production reactor, location unspecified, (A-E only) $10,000,000.

Project 82-D-201, special plutonium recovery facility, JB line, Savannah River Plant, South Carolina, (A-E only) $2,000,000.

Project 82-D-202, advanced isotope separation laboratory, Lawrence Livermore National Laboratory, California, $21,200,000.

Project 81-D-126, pollution abatement facilities—chemical processing plants, Richland, Washington, $4,300,000, for a total project authorization of $5,300,000.

Project 81-D-128, restoration of production capabilities, Phase I, various locations, $14,400,000, for a total project authorization of $49,400,000.

Project 81-D-142, steam transfer header, Savannah River Plant, South Carolina, $1,000,000, for a total project authorization of $8,000,000.

Project 81-D-143, L-reactor upgrade, Savannah River Plant, South Carolina, $66,000,000, for a total project authorization of $115,000,000.

Project 80-AE-3, steam generation facilities, Idaho Fuels Processing Facility, Idaho, $5,000,000, for a total project authorization of $28,500,000.

Project 77-13-a, fluorinel dissolution process and fuel receiving improvements, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $50,000,000, for a total project authorization of $199,400,000.

(4) For defense nuclear materials byproducts management:

Project 82-N-101, general plant projects, various locations, $11,400,000.

Project 82-N-103, waste handling and isolation facilities, Richland, Washington, $34,450,000.

Project 82-N-104, waste transfer facilities, Richland, Washington, $6,750,000.

Project 82-N-107, rail replacement, Hanford Railroad, Richland, Washington, $12,000,000.

Project 82-BU-1, byproducts beneficial uses demonstration plants, various locations, $5,000,000.

Project 81-T-105, defense waste processing facility (DWPF), Savannah River Plant, South Carolina, $20,000,000.

Project 77-13-f, waste isolation pilot plant, New Mexico, $38,600,000, for a total project authorization of $157,600,000.

(5) For capital equipment not related to construction:

(A) For naval reactors development, $28,000,000.

(B) For defense inertial confinement fusion, $11,000,000.

(C) For weapons activities, $185,500,000.

(D) For verification and control technology, $1,100,000.

(E) For defense nuclear materials production, $73,600,000.

(F) For defense nuclear materials byproducts management, $24,472,000.

(G) For nuclear materials safeguards and security, $3,700,000.

TITLE II—GENERAL PROVISIONS

REPROGRAMING

SEC. 201. (a) Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of 105 percent of the amount authorized for that program by this Act or $10,000,000 more than the amount authorized for that program by this Act, whichever is the lesser, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of thirty calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the appropriate committees of Congress of notice from the Secretary of Energy (hereinafter in this title referred to as the "Secretary") 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 unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(b) In no event may the total amount of funds obligated pursuant to this Act exceed the total amount authorized to be appropriated by this Act.

LIMITS ON GENERAL PLANT PROJECTS

SEC. 202. (a) The Secretary may carry out any construction project under the general plant projects provisions authorized by this Act if the total estimated cost of the construction project does not exceed $1,000,000.

(b) If at any time during the construction of any general plant project authorized by this Act, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,000,000, the Secretary shall immediately furnish a complete report to the appropriate committees of Congress explaining the reasons for the cost variation.

Report to congressional committees.

(c) In no event may the total amount of funds obligated to carry out all general plant projects authorized by this Act exceed the total amount authorized to be appropriated for such projects by this Act.

LIMITS ON CONSTRUCTION PROJECTS

SEC. 203. (a) Whenever the current estimated cost of a construction project which is authorized by section 102 of this Act, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of (1) the amount authorized for the project, or (2)

the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to the Congress, construction may not be started or additional obligations incurred in connection with the project above the total estimated cost, as the case may be, unless a period of thirty calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three days to a day certain) has passed after receipt by the appropriate committees of the Congress of written notice from the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the action, or unless each committee before the expiration of such period has notified the Secretary it has no objection to the proposed action.

(b) Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

FUND TRANSFER AUTHORITY

SEC. 204. To the extent specified in appropriation Acts, funds appropriated pursuant to this Act may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

AUTHORITY FOR CONSTRUCTION DESIGN

SEC. 205. (a)(1) Within the amounts authorized by this Act for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

Notification to congressional committees.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the appropriate committees of Congress in writing of the details of such project at least thirty days before any funds are obligated for design services for such project.

(b) In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

SEC. 206. In addition to the advance planning and construction design authorized by section 102, the Secretary may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

SEC. 207. Subject to the provisions of appropriation Acts, amounts appropriated pursuant to this Act for management and support activities and for general plant projects are available for use, when

necessary, in connection with all national security programs of the Department of Energy.

ADJUSTMENTS FOR PAY INCREASES

SEC. 208. Appropriations authorized by this Act for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

AVAILABILITY OF FUNDS

SEC. 209. When so specified in an appropriation Act, amounts appropriated for "Operating Expenses" or for "Plant and Capital Equipment" may remain available until expended.

SAFEGUARDING CERTAIN UNCLASSIFIED INFORMATION

SEC. 210. (a)(1) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by inserting after section 147 the following new section:

"SEC. 148. PROHIBITION AGAINST THE DISSEMINATION OF CERTAIN UNCLASSIFIED INFORMATION.— 42 USC 2168.

"a. (1) In addition to any other authority or requirement regarding protection from dissemination of information, and subject to section 552(b)(3) of title 5, United States Code, the Secretary of Energy (hereinafter in this section referred to as the 'Secretary') shall prescribe such regulations, after notice and opportunity for public comment thereon, or issue such orders as may be necessary to prohibit the unauthorized dissemination of unclassified information pertaining to— Regulations.

"(A) the design of production facilities or utilization facilities;

"(B) security measures (including security plans, procedures, and equipment) for the physical protection of (i) production or utilization facilities, (ii) nuclear material contained in such facilities, or (iii) nuclear material in transit; or

"(C) the design, manufacture, or utilization of any atomic weapon or component if the design, manufacture, or utilization of such weapon or component was contained in any information declassified or removed from the Restricted Data category by the Secretary (or the head of the predecessor agency of the Department of Energy) pursuant to section 142. 42 USC 2162.

"(2) The Secretary may prescribe regulations or issue orders under paragraph (1) to prohibit the dissemination of any information described in such paragraph only if and to the extent that the Secretary determines that the unauthorized dissemination 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 (A) illegal production of nuclear weapons, or (B) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

"(3) In making a determination under paragraph (2), the Secretary may consider what the likelihood of an illegal production, theft, diversion, or sabotage referred to in such paragraph would be if the information proposed to be prohibited from dissemination under this section were at no time available for dissemination.

"(4) The Secretary shall exercise his authority under this subsection to prohibit the dissemination of any information described in subsection a. (1)—

"(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 dissemination of such information could reasonably be expected to result in a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of (i) illegal production of nuclear weapons, or (ii) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

"(5) Nothing in this section shall be construed to authorize the Secretary to authorize the withholding of information from the appropriate committees of the Congress.

Penalties.

"b. (1) Any person who violates any regulation or order of the Secretary issued under this section with respect to the unauthorized dissemination of information shall be subject to a civil penalty, to be imposed by the Secretary, of not to exceed $100,000 for each such violation. The Secretary may compromise, mitigate, or remit any penalty imposed under this subsection.

42 USC 2282.

"(2) The provisions of subsections b. and c. of section 234 of this Act shall be applicable with respect to the imposition of civil penalties by the Secretary under this section in the same manner that such provisions are applicable to the imposition of civil penalties by the Commission under subsection a. of such section.

42 USC 2273.

"c. For the purposes of section 223 of this Act, any regulation prescribed or order issued by the Secretary under this section shall also be deemed to be prescribed or issued under section 161 b. of this Act.".

42 USC 2201.

(2) The table of contents at the beginning of such Act is amended by inserting after the item relating to section 147 the following new item:

"Sec. 148. Prohibition Against the Disclosure of Certain Unclassified Information.".

(b) Section 181 of such Act (42 U.S.C. 2231) is amended—

(1) by striking out "or" before "safeguards information protected";

(2) by inserting "or information protected from dissemination under the authority of section 148" after "section 147"; and

(3) by striking out ", defense information, or such safeguards information," each place it appears and inserting in lieu thereof ", defense information, such safeguards information, or information protected from dissemination under the authority of section 148".

ARREST AUTHORITY FOR PERSONS AUTHORIZED TO CARRY FIREARMS UNDER THE ATOMIC ENERGY ACT OF 1954

SEC. 211. Section 161 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(k)) is amended by striking out the semicolon and inserting in lieu thereof a period and the following: "A person authorized to carry firearms under this subsection may, while in the performance of, and in connection with, official duties, make arrests without warrant for any offense against the United States committed in that person's presence or for any felony cognizable under the laws of the United States if that person has reasonable grounds to believe that the

individual to be arrested has committed or is committing such felony. A person granted authority to make arrests by this subsection may exercise that authority only in the enforcement of (1) laws regarding the property of the United States in the custody of the Department of Energy, the Nuclear Regulatory Commission, or a contractor of the Department of Energy or Nuclear Regulatory Commission, or (2) any provision of this Act that may subject an offender to a fine, imprisonment, or both. The arrest authority conferred by this subsection is in addition to any arrest authority under other laws;".

ENVIRONMENTAL STUDIES AND THE NUCLEAR WEAPONS COMPLEX

SEC. 212. (a) None of the funds appropriated pursuant to an authorization of appropriations contained in this Act may be obligated or expended for the purpose of preparing any environmental impact statement not already in the process of preparation with respect to the operation of any defense facility of the Department of Energy unless the preparation of such statement is required by statute.

Notification to congressional committees.

(b) (1) The Secretary may not proceed with the preparation of an environmental impact statement relating to the construction or operation of a defense facility of the Department of Energy if the estimated cost of preparing such statement exceeds $250,000 unless—

(A) the Secretary has notified the Committees on Armed Services of the Senate and the House of Representatives of his intent to prepare such statement and a period of thirty days has expired after the date on which such notice was received by such committees; or

(B) the Secretary has received from each such committee, before the expiration of such thirty-day period, a written notice that the committee agrees with the decision of the Secretary regarding the preparation of such statement.

(2) The provisions of paragraph (1) shall not apply in the case of any environmental impact statement on which the Secretary began preparation before the date of the enactment of this Act.

PLAN FOR THE PERMANENT DISPOSAL OF WASTE FROM ATOMIC ENERGY DEFENSE ACTIVITIES

Report to congressional committees. 42 USC 2021a note.

SEC. 213. (a) The President shall submit to the Committees on Armed Services of the Senate and of the House of Representatives not later than June 30, 1983, a report which sets forth his plans for the permanent disposal of high-level and transuranic wastes resulting from atomic energy defense activities.

(b) Such report shall include, but not be limited to, for each State in which such wastes are stored in interim storage facilities on the date of enactment of this Act—

(1) specific estimates of amounts planned for expenditure in each of the next five fiscal years to achieve the permanent disposal of such wastes and general estimates of amounts planned for expenditure in fiscal years thereafter to achieve such purpose; and

(2) a thorough and detailed program management plan for the disposal of such wastes, including but not limited to—

(A) an explicit schedule for decisions regarding the further processing and permanent disposal of such wastes;

(B) a general description of new facilities likely to be required to achieve such permanent disposal; and

(C) identification of all major program objectives, milestones, key events, and critical path items.

Approved December 4, 1981.

LEGISLATIVE HISTORY—H.R. 3413 (S. 1549):

HOUSE REPORTS: No. 97-45 (Comm. on Armed Services) and No. 97-342 (Comm. of Conference).

SENATE REPORT No. 97-173 accompanying S. 1549 (Comm. on Armed Services).

CONGRESSIONAL RECORD, Vol. 127 (1981):

June 11, considered and passed House.

Nov. 3, considered and passed Senate, amended, in lieu of S. 1549.

Nov. 19, House and Senate agreed to conference report.