

106TH CONGRESS
2D SESSION

H. R. 3907

To provide for the external regulation of nuclear safety and occupational safety and health at Department of Energy facilities.

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2000

Mr. BLILEY (for himself, Mr. BARTON of Texas, Mr. UPTON, Mr. BURR of North Carolina; Mr. SENSENBRENNER, and Mr. CALVERT) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Science, Armed Services, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the external regulation of nuclear safety and occupational safety and health at Department of Energy facilities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “External Regulation
5 of the Department of Energy Act”.

1 **SEC. 2. ELIMINATION OF DEPARTMENT OF ENERGY AU-**
2 **THORITY.**

3 Effective October 1, 2001, the Department of Energy
4 shall have no regulatory or enforcement authority with re-
5 spect to nuclear safety and occupational safety and health
6 responsibilities assumed by the Nuclear Regulatory Com-
7 mission under section 3 or by the Occupational Safety and
8 Health Administration under section 4 at any facility
9 owned or operated by the Department.

10 **SEC. 3. NUCLEAR REGULATORY COMMISSION AUTHORITY.**

11 (a) **NUCLEAR SAFETY REGULATORY AND ENFORCE-**
12 **MENT RESPONSIBILITIES.**—Effective October 1, 2001, the
13 Nuclear Regulatory Commission shall assume the nuclear
14 safety regulatory and enforcement responsibilities of the
15 Department of Energy under the Atomic Energy Act of
16 1954 with regard to facilities owned or operated by the
17 Department.

18 (b) **LICENSED ENTITIES.**—For the purposes of car-
19 rying out at facilities owned or operated by the Depart-
20 ment of Energy regulatory and enforcement responsibil-
21 ities described in subsection (a), the Nuclear Regulatory
22 Commission may regulate, through licensing, certification,
23 or other appropriate means, the Department, the Depart-
24 ment’s contractors, or both.

25 (c) **DECOMMISSIONING.**—A contractor operating a fa-
26 cility owned by the Department of Energy shall not be

1 responsible for the costs of decommissioning that facility.
2 No enforcement action may be taken against such con-
3 tractor for any violation of Nuclear Regulatory Commis-
4 sion decommissioning requirements, if such violation is the
5 result of a failure of the Department to authorize or fund
6 decommissioning activities. The Nuclear Regulatory Com-
7 mission and the Department shall, not later than January
8 1, 2002, enter into a memorandum of understanding es-
9 tablishing decommissioning procedures and requirements
10 for facilities owned or operated by the Department.

11 (d) ADMINISTRATION.—The responsibilities assumed
12 by the Nuclear Regulatory Commission under this section
13 shall be administered by the Nuclear Regulatory Commis-
14 sion, not by States.

15 (e) REGULATION OF DEFENSE NUCLEAR FACILI-
16 TIES.—

17 (1) REPEAL.—Chapter 21 of the Atomic En-
18 ergy Act of 1954 (42 U.S.C. 2286 et seq.) is re-
19 pealed.

20 (2) DEDICATED ORGANIZATIONAL ELEMENT.—
21 The Nuclear Regulatory Commission shall establish
22 an organizational element dedicated solely to the
23 regulation of defense nuclear facilities within the De-
24 partment of Energy.

1 (3) USE OF AVAILABLE RESOURCES.—In car-
2 rying out the responsibilities assumed under this
3 section, the Nuclear Regulatory Commission shall
4 employ appropriate personnel or other resources
5 available as a result of the repeal made by para-
6 graph (1) of this subsection.

7 (f) JUDICIAL REVIEW.—Section 189b. of the Atomic
8 Energy Act of 1954 (42 U.S.C. 2239(b)) is amended by
9 adding the following paragraph after paragraph (4):

10 “(5) Any final order or regulation of the Com-
11 mission establishing standards to govern facilities
12 owned or operated by the Department of Energy
13 that are issued to implement the Commission’s re-
14 sponsibilities under the External Regulation of the
15 Department of Energy Act, and any final determina-
16 tion of the Commission relating to whether a facility
17 owned or operated by the Department is in compli-
18 ance with such standards and all applicable Commis-
19 sion regulations or orders.”.

20 (g) EMPLOYEE PROTECTION.—Any Department of
21 Energy contractor operating a facility that is regulated by
22 the Nuclear Regulatory Commission under this section
23 shall be subject to section 211 of the Energy Reorganiza-
24 tion Act of 1974 (41 U.S.C. 5851) to the same extent
25 as any other employer subject to such section 211.

1 (h) CONFLICT OF INTEREST.—Section 170A of the
2 Atomic Energy Act of 1954 (42 U.S.C. 2210a) applies to
3 contracts, agreements, or other arrangements of the Nu-
4 clear Regulatory Commission proposed or entered into
5 pursuant to its responsibilities assumed under this section.

6 **SEC. 4. OCCUPATIONAL SAFETY AND HEALTH.**

7 (a) OSHA JURISDICTION.—Notwithstanding section
8 4(b)(1) of the Occupational Safety and Health Act of
9 1970 (29 U.S.C. 653(b)(1)) and any other provision of
10 law, effective October 1, 2001, the Occupational Safety
11 and Health Administration shall assume the regulatory
12 and enforcement responsibilities of the Department of En-
13 ergy relating to matters covered by the Occupational Safe-
14 ty and Health Act of 1970 with regard to all facilities
15 owned or operated by the Department, except as provided
16 in subsection (b). Any Department contractor operating
17 such a facility shall, with respect to matters relating to
18 occupational safety and health, be considered to be an em-
19 ployer for purposes of the Occupational Safety and Health
20 Act of 1970.

21 (b) REGULATION OF HAZARDS CONTAINING RADIO-
22 LOGICAL AND NON-RADIOLOGICAL COMPONENT.—If a
23 hazard at a facility owned or operated by the Department
24 presents a risk of occupational exposure and contains both
25 a radiological and non-radiological component, the Occu-

1 pational Safety and Health Administration and the Nu-
2 clear Regulatory Commission shall, effective October 1,
3 2001, share regulatory and enforcement responsibilities
4 with respect to the hazard in accordance with the memo-
5 randum of understanding entered into pursuant to section
6 5.

7 **SEC. 5. MEMORANDUM OF UNDERSTANDING.**

8 The Nuclear Regulatory Commission and the Occu-
9 pational Safety and Health Administration shall, before
10 January 1, 2001, enter into and transmit to the Congress
11 a memorandum of understanding to govern the exercise
12 of their respective authorities over nuclear safety and oc-
13 cupational safety and health at facilities owned or oper-
14 ated by the Department of Energy.

15 **SEC. 6. CIVIL PENALTIES.**

16 The Department of Energy's contractor operating a
17 facility owned or operated by the Department shall not
18 be liable for civil penalties under the Atomic Energy Act
19 of 1954 or the Occupational Safety and Health Act of
20 1970 for any actions taken before October 1, 2001, pursu-
21 ant to the instructions of a Federal agency in preparation
22 for the transfer of regulatory and enforcement responsibil-
23 ities required by this Act.

1 **SEC. 7. INDEMNIFICATION.**

2 The Secretary of Energy shall continue to indemnify
3 facilities owned or operated by the Department in accord-
4 ance with the provisions of section 170d. of the Atomic
5 Energy Act of 1954.

6 **SEC. 8. DEPARTMENT OF ENERGY REPORTING REQUIRE-**
7 **MENT.**

8 By April 1, 2001, the Secretary of Energy shall
9 transmit to the Committee on Commerce, the Committee
10 on Science, and the Committee on Appropriations of the
11 House of Representatives, and the Committee on Energy
12 and Natural Resources and the Committee on Appropria-
13 tions of the Senate, a plan for the termination of the De-
14 partment's regulatory and enforcement responsibilities for
15 facilities owned or operated by the Department required
16 by this Act. The report shall include—

17 (1) a detailed transition plan, drafted in coordi-
18 nation with the Nuclear Regulatory Commission and
19 the Occupational Safety and Health Administration,
20 giving the schedule for termination of self-regulation
21 authority as outlined in section 2, including the ac-
22 tivities to be coordinated with the Nuclear Regu-
23 latory Commission and the Occupational Safety and
24 Health Administration;

25 (2) a description of any issues remaining to be
26 resolved with the Nuclear Regulatory Commission,

1 the Occupational Safety and Health Administration,
2 or other external regulators, and a timetable for re-
3 solving such issues before October 1, 2001; and

4 (3) an estimate of—

5 (A) the annual cost of administering and
6 implementing self-regulation of the nuclear
7 safety and occupational safety and health re-
8 sponsibilities described in sections 3 and 4 at
9 facilities owned or operated by the Department;

10 (B) the number of Federal and contractor
11 employees administering and implementing such
12 self-regulation; and

13 (C) the extent and schedule by which the
14 Department and the staffs at its facilities will
15 be reduced as a result of implementation of this
16 Act.

○