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106TH CONGRESS
2D SESSION

H. R. 4566

To set standards for radioactive contamination content in both the domestic and international metals industry, to prohibit the release of radioactively contaminated scrap metal by the Department of Energy and nuclear fuel production, utilization, and fabrication facilities, and to require all nations exporting metals into the United States to certify and document the amount of radioactive contamination of any scrap metals being exported into the United States.

IN THE HOUSE OF REPRESENTATIVES

MAY 25, 2000

Mr. KLINK (for himself, Mr. VISCLOSKY, Mr. MURTHA, Mr. BALDACCI, Mr. COYNE, Mr. HOLDEN, Mr. MASCARA, Mr. DOYLE, and Mr. BRADY of Pennsylvania) introduced the following bill; which was referred to the Committee on Commerce

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A BILL

To set standards for radioactive contamination content in both the domestic and international metals industry, to prohibit the release of radioactively contaminated scrap metal by the Department of Energy and nuclear fuel production, utilization, and fabrication facilities, and to require all nations exporting metals into the United States to certify and document the amount of radioactive contamination of any scrap metals being exported into the United States.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Steel and Metal Consumers Radioactivity Protection Act''.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) The metals industry in the United States is a $100,000,000,000 plus industry and employs millions of Americans.

(2) Because of their unique features, most metals can be recycled over and over again which conserves the world's natural resources and contributes to a healthy environment.

(3) Metal is an essential component of millions of industrial, business, and consumer products. The presence of radioactive contamination in steel scrap and other metals resulting from the production, utilization, and fabrication of nuclear fuel by the Department of Energy and other facilities poses a risk to public safety, threatens the metals recycling stream, and can cause millions of dollars worth of damage to facilities that unknowingly process contaminated metals.

(4) The metals industry in the United States desires to keep radioactive contamination resulting from the production, utilization, and fabrication of nuclear fuel by the Department of Energy and other facilities out of its facilities and products.

(5) Currently there are no approved standards for the unrestricted release of metals containing radioactive contamination in the United States. The American public has rejected all previous attempts by the Nuclear Regulatory Commission to set a standard for such releases. It is expected that American consumers will reject products that contain unknown amounts of radioactive contamination from the Department of Energy and nuclear fuel production, utilization, and fabrication facilities. All such releases are now done only with the specific approval of the Nuclear Regulatory Commission or its agreement States.

(6) However, the Nuclear Regulatory Commission currently is deliberating whether there is a need for a rulemaking to set a specified level of radioactive material in scrap and other metal that will be allowed in metals for unrestricted use.

(7) At present, there is a lack of accountability and a lack of standards regarding radioactive con-

tent in metals imported into the United States. The Nuclear Regulatory Commission has no authority to regulate these metals at the time of their importation.

SEC. 3. DUTIES OF FEDERAL AGENCIES.

(a) NUCLEAR REGULATORY COMMISSION.—

(1) STANDARD.—

(A) ESTABLISHMENT.—Not later than 24 months after the date of enactment of this Act, the Nuclear Regulatory Commission shall establish, through a rulemaking under chapter 5 of title 5, United States Code (relating to administrative procedures), a standard that controls the free release of radioactively contaminated scrap metal from the Department of Energy or nuclear fuel cycle facilities in order to protect the health and safety of the American consumer.

(B) LIMITATION.— Until such standard is established, the Nuclear Regulatory Commission and agreement States shall not take any action to facilitate, implement, promulgate, or issue a rule or guidance or take any other administrative action that would allow the free re-

lease into commerce of radioactively contaminated scrap metal.

(2) RELEASE OF RADIOACTIVELY CONTAMINATED EQUIPMENT, DEVICES, COMMODITIES, AND OTHER MATERIALS.—Effective upon the date of enactment of this Act, all radioactively contaminated equipment, devices, commodities, and other materials approved for general release to persons exempt from licensing by the Nuclear Regulatory Commission or any of its agreement States will be released only under the provisions of the Atomic Energy Act of 1954 and its implementing regulations governing the release of byproduct and source material (as defined in section 11 of such Act (42 U.S.C. 2014)). The Nuclear Regulatory Commission is prohibited from establishing separate and differing release regulations and standards for equipment, devices, commodities, and other materials which are contaminated during the nuclear fuel production, utilization, and fabrication process from those regulations and standards established for equipment, devices, commodities, and other materials into which byproduct and source material have been deliberately inserted for their beneficial use.

(b) DEPARTMENTS OF DEFENSE AND ENERGY; ENVIRONMENTAL PROTECTION AGENCY; OTHER AGENCIES.—The Departments of Defense and Energy, the Environmental Protection Agency, and all other agencies that have oversight or control over the release of radioactively contaminated metals shall adopt standards that are no less stringent than the standards established by the Nuclear Regulatory Commission under subsection (a). Until such standards are established, the Secretary of Energy, the Secretary of Defense, the Administrator of the Environmental Protection Agency, and the heads of all other agencies that have oversight or control over the release of radioactively contaminated metals shall not take any action to facilitate, promote, or allow the release into commerce of radioactively contaminated scrap metal.

(c) UNITED STATES CUSTOMS SERVICE.—The United States Customs Service shall, within 12 months after establishment of the standard under subsection (a), monitor and enforce these standards at the borders of the United States.

(d) SECRETARY OF STATE.—After the standard is established under subsection (a), the Secretary of State shall work with international standard-writing bodies to adopt standards consistent with the standard established under subsection (a).

(e) INTERIM CERTIFICATIONS.—Before the standard established under subsection (a) takes effect, all scrap metal imported into the United States must be accompanied by documentation—

(1) stating the amount of radioactive contamination as certified by the government of the exporting country; and

(2) validating that the metal does not contain any byproduct, source, or any special nuclear material.

Such information shall be readily available as part of the documentation and must accompany the shipment of these products. This requirement will go into effect 90 days after the date of enactment of this Act and the Secretary of Commerce is directed to promulgate a final rule implementing this requirement by that date.

SEC. 4. CIVIL PENALTY FOR FALSE DOCUMENTATION.

Any person who knowingly falsifies any documentation required under section 3(e) or required under any standard in effect under section 3 shall be subject to a civil penalty of not more than $250,000 for each violation.

SEC. 5. ANNUAL REPORT TO CONGRESS.

The Secretary of Commerce shall not later than one year after the date of enactment of this Act and annually thereafter submit a report to the Congress which—

(1) lists the number of violations of the standards in effect under section 3 and the volume of tons of radioactively contaminated metals involved in each violation reported on; and

(2) for each violation, lists the number of tons of radioactively contaminated metals involved in each violation reported on, the country of origin of such metals, and the type of metal involved.

SEC. 6. DEFINITIONS.

As used in this Act:

(1) AGREEMENT STATE.—The term ''agreement State'' means a State that—

(A) has entered into an agreement with the Nuclear Regulatory Commission under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021); and

(B) has authority to regulate the disposal of low-level waste under such agreement.

(2) NUCLEAR FUEL PRODUCTION, UTILIZATION, AND FABRICATION FACILITY.—The term ''nuclear fuel production, utilization, and fabrication facility'' means—

(A) any nuclear reactor, including those designed or used primarily for the formation of plutonium or uranium-233;

(B) any facility, equipment, or device designed or used for the separation of the isotopes of plutonium, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

(C) any facility, equipment, or device designed or used for processing irradiated materials containing special nuclear material or by-product material, except—

(i) laboratory scale facilities designed or used for experimental or analytical purposes; and

(ii) facilities in which processing is conducted pursuant to a license issued under parts 30 and 70 of title 10 of the Code of Federal Regulations or the equivalent regulations of an agreement State for the receipt, possession, use, and transfer of irradiated special nuclear material, which license authorizes the processing of the irradiated materials on a batch basis for the separation of selected fission products and limits the process batch to not more than 100 grams of uranium enriched in the iso-

tope 235 and not more than 15 grams of any other special nuclear material.

(3) RADIOACTIVELY CONTAMINATED.—The term ''radioactively contaminated'' means any material containing residual levels of radiological contamination involving any source material, by-product material, or special nuclear material as defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014) or any waste derived therefrom.

(4) SCRAP METAL.—The term ''scrap metal'' means ferrous or non-ferrous metal equipment, vehicles, tools, and other metal items (including metal pieces, parts, and bits) that are no longer being used for their original purpose and are destined to be processed as feedstock to produce new metal materials and products.

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