

Public Law 105-85, National Defense Authorization Act for Fiscal Year 1998

(Enacted on November 18, 1997)

TITLE XXXII - DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3202. REPORT ON EXTERNAL REGULATION OF DEFENSE NUCLEAR FACILITIES.

(a) **REPORTING REQUIREMENT-** The Defense Nuclear Facilities Safety Board (in this section referred to as the "Board") shall prepare a report and make recommendations on its role in the Department of Energy's decision to establish external regulation of defense nuclear facilities. The report shall include the following:

- (1) An assessment of the value of and the need for the Board to continue to perform the functions specified under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).
- (2) An assessment of the relationship between the functions of the Board and a proposal by the Department of Energy to place Department of Energy defense nuclear facilities under the jurisdiction of external regulatory agencies.
- (3) An assessment of the functions of the Board and whether there is a need to modify or amend such functions.
- (4) An assessment of the relative advantages and disadvantages to the Department and the public of continuing the functions of the Board with respect to Department of Energy defense nuclear facilities and replacing the activities of the Board with external regulation of such facilities.
- (5) A list of all existing or planned Department of Energy defense nuclear facilities that are similar to facilities under the regulatory jurisdiction of the Nuclear Regulatory Commission.
- (6) A list of all Department of Energy defense nuclear facilities that are in compliance with all applicable Department of Energy orders, regulations, and requirements relating to the design, construction, operation, and decommissioning of defense nuclear facilities.
- (7) A list of all Department of Energy defense nuclear facilities that have implemented, pursuant to an implementation plan, recommendations made by the Board and accepted by the Secretary of Energy.
- (8) A list of Department of Energy defense nuclear facilities that have a function related to Department weapons activities.
- (9) (A) A list of each existing defense nuclear facility that the Board determines

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(i) should continue to stay within the jurisdiction of the Board for a period of time or indefinitely; and

(ii) should come under the jurisdiction of an outside regulatory authority.

(B) An explanation of the determinations made under subparagraph (A).

(10) For any existing facilities that should, in the opinion of the Board, come under the jurisdiction of an outside regulatory authority, the date when this move would occur and the period of time necessary for the transition.

(11) A list of any proposed Department of Energy defense nuclear facilities that should come under the Board's jurisdiction.

(12) An assessment of regulatory and other issues associated with the design, construction, operation, and decommissioning of facilities that are not owned by the Department of Energy but which would provide services to the Department of Energy.

(13) An assessment of the role of the Board, if any, in privatization projects undertaken by the Department.

(14) An assessment of the role of the Board, if any, in any tritium production facilities.

(15) An assessment of the comparative advantages and disadvantages to the Department of Energy in the event some or all Department of Energy defense nuclear facilities were no longer included in the functions of the Board and were regulated by the Nuclear Regulatory Commission.

(16) A comparison of the cost, as identified by the Nuclear Regulatory Commission, that would be incurred at a gaseous diffusion plant to comply with regulations issued by the Nuclear Regulatory Commission, with the cost that would be incurred by a gaseous diffusion plant if such a plant was considered to be a Department of Energy defense nuclear facility as defined by chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

(b) COMMENTS ON REPORT- Before submission of the report to Congress under subsection (c), the Board shall transmit the report to the Secretary of Energy and the Nuclear Regulatory Commission. The Secretary and the Commission shall provide their comments on the report to both the Board and to Congress.

(c) SUBMISSION TO CONGRESS- Not later than six months after the date of the enactment of this Act, the Board shall provide to Congress an interim report on the status of the implementation of this section. Not later than one year after the date of the enactment of this Act, and not earlier than 30 days after receipt of comments from the Secretary of Energy and the Nuclear Regulatory Commission under subsection (b), the Board shall submit to

Congress the report required under subsection (a).

(d) DEFINITION- In this section, the term "Department of Energy defense nuclear facility" has the meaning provided by section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g).