TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 23 - DEVELOPMENT AND CONTROL OF ATOMIC ENERGY
Division A - Atomic Energy
SUBCHAPTER XVII-A - DEFENSE NUCLEAR FACILITIES SAFETY BOARD

§ 2286. Establishment

(a) Establishment

There is hereby established an independent establishment in the executive branch, to be known as the “Defense Nuclear Facilities Safety Board” (hereafter in this subchapter referred to as the “Board”).

(b) Membership

(1) The Board shall be composed of five members appointed from civilian life by the President, by and with the advice and consent of the Senate, from among United States citizens who are respected experts in the field of nuclear safety with a demonstrated competence and knowledge relevant to the independent investigative and oversight functions of the Board. Not more than three members of the Board shall be of the same political party.

(2) Any vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made.

(3) No member of the Board may be an employee of, or have any significant financial relationship with, the Department of Energy or any contractor of the Department of Energy.

(4) Not later than 180 days after September 29, 1988, the President shall submit to the Senate nominations for appointment to the Board. In the event that the President is unable to submit the nominations within such 180-day period, the President shall submit to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives a report describing the reasons for such inability and a plan for submitting the nominations within the next 90 days. If the President is unable to submit the nominations within that 90-day period, the President shall again submit to such committees and the Speaker such a report and plan. The President shall continue to submit to such committees and the Speaker such a report and plan every 90 days until the nominations are submitted.

(c) Chairman and Vice Chairman

(1) The President shall designate a Chairman and Vice Chairman of the Board from among members of the Board.

(2) The Chairman shall be the chief executive officer of the Board and, subject to such policies as the Board may establish, shall exercise the functions of the Board with respect to—

(A) the appointment and supervision of employees of the Board;

(B) the organization of any administrative units established by the Board; and

(C) the use and expenditure of funds.

(3) The Chairman may delegate any of the functions under this paragraph to any other member or to any appropriate officer of the Board.

(4) The Vice Chairman shall act as Chairman in the event of the absence or incapacity of the Chairman or in case of a vacancy in the office of Chairman.

(d) Terms

(1) Except as provided under paragraph (2), the members of the Board shall serve for terms of five years. Members of the Board may be reappointed.

(2) Of the members first appointed—

(A) one shall be appointed for a term of one year;

(B) one shall be appointed for a term of two years;

(C) one shall be appointed for a term of three years;
(D) one shall be appointed for a term of four years; and

(E) one shall be appointed for a term of five years,
as designated by the President at the time of appointment.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term of office
for which such member’s predecessor was appointed shall be appointed only for the remainder
of such term. A member may serve after the expiration of that member’s term until a successor
has taken office.

(e) Quorum

Three members of the Board shall constitute a quorum, but a lesser number may hold hearings.

(Aug. 1, 1946, ch. 724, title I, § 311, as added Pub. L. 100–456, div. A, title XIV, § 1441(a)(1), Sept. 29,
2944.)

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—

“(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 [Nov. 18, 1997], 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).”