

# MAINE STATE LEGISLATURE

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(Governor's Bill)  
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1416

H.P. 1053 House of Representatives, May 4, 1987  
Reference to the Committee on Utilities suggested and  
ordered printed.

EDWIN H. PERT, Clerk  
Presented by Representative HOLLOWAY of Edgecomb.  
Cosponsored by Representatives GWADOSKY of Fairfield,  
VOSE of Eastport, and Senator CAHILL of Sagadahoc.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Establish a State Nuclear Safety  
2 Program for Commercial Nuclear Power  
3 Facilities in the State.  
4

5 Be it enacted by the People of the State of Maine as  
6 follows:

7 Sec. 1. 5 MRSA §931, sub-§1, ¶K is enacted to  
8 read:

9 K. State Nuclear Safety Inspector positions at  
10 the State Planning Office;

11 Sec. 2. 22 MRSA §673, sub-§3-A is enacted to  
12 read:

1        3-A. Commercial nuclear power facility or facil-  
2 ity. A "commercial nuclear power facility" or "facil-  
3 ity" means a utilization facility situated in this  
4 State which holds an operating permit or license is-  
5 ssued by the United States Nuclear Regulatory Commis-  
6 sion.

7        **Sec. 3. 22 MRSA §674, sub-§5, as enacted by PL**  
8 **1983, c. 345, §§13 and 14, is amended to read:**

9        5. Coordination. The In consultation with the  
10 State Nuclear Safety Inspector in fulfillment of his  
11 duties pursuant to Title 25, sections 51 and 52, the  
12 commissioner shall serve as the coordinator of radiat-  
13 ion activities among the Bureau of Civil Emergency  
14 Preparedness, Department of Public Safety and Depart-  
15 ment of Environmental Protection. The commissioner  
16 shall:

17        A. Consult with and review regulations and pro-  
18 cedures of the agencies and federal law to assure  
19 consistency and to prevent unnecessary duplica-  
20 tion, inconsistencies or gaps in regulatory re-  
21 quirements; and

22        B. Review, prior to promulgation, the proposed  
23 rules of all agencies of the State relating to  
24 use of control of radiation, to assure that these  
25 rules are consistent with the Maine Administra-  
26 tive Procedure Act, Title 5, chapter 375, and  
27 rules of other agencies of the State. The review  
28 shall be completed within 15 days.

29        If the commissioner determines that proposed rules  
30 are inconsistent with rules of other agencies of the  
31 State or federal law, he shall consult with the agen-  
32 cies involved in an effort to resolve these inconsis-  
33 tencies. In the event no inconsistency is reported  
34 within 15 days, the proposed rules shall be presumed  
35 consistent for the purposes of this subsection. Upon  
36 notification by the commissioner that the inconsis-  
37 tency has not been resolved, the Governor may find  
38 that the proposed rules or parts thereof are incon-  
39 sistent with rules of other agencies of the State or  
40 the Federal Government and may issue or order to that  
41 effect, in which event the proposed rules or parts  
42 thereof shall not become effective. The Governor

1 may, in the alternative, upon a similar determina-  
2 tion, direct the appropriate agency or agencies to  
3 amend or repeal existing rules to achieve consistency  
4 with the proposed rules.

5 Sec. 4. 22 MRSA §676, sub-§4, as enacted by PL  
6 1983, c. 345, §§13 and 14, is amended to read:

7 4. Radioactive waste. The Department of Environ-  
8 mental Protection shall coordinate management of and  
9 shall serve as liaison point of contact with the  
10 United States Nuclear Regulatory Commission for  
11 high-level and low-level radioactive wastes, in con-  
12 sultation with the State Nuclear Safety Inspector in  
13 fulfillment of his duties pursuant to Title 25, sec-  
14 tions 51 and 52.

15 Sec. 5. 22 MRSA §682, sub-§1, as enacted by PL  
16 1983, c. 345, §§13 and 14, is amended to read:

17 1. Authorized. The department or its duly autho-  
18 rized representatives may enter at all reasonable  
19 times upon any private or public property for the  
20 purpose of determining whether or not there is com-  
21 pliance with or violation of the provisions of this  
22 Act and the rules issued thereunder, except that en-  
23 try into areas under the jurisdiction of the Federal  
24 Government or its duly designated representative  
25 shall be subject to section 684 and Title 25, sec-  
26 tions 51 and 52, which are incorporated by reference  
27 as provisions of this Act.

28 Sec. 6. 25 MRSA §51, as amended by Pl 1971, c.  
29 592, §37, is further amended to read:

30 §51. Agreements

31 The Governor, the Department of Health and Wel-  
32 fare and the Bureau of State Police, or any person,  
33 department or agency designated by the Governor De-  
34 partment of Human Services and Other state agencies  
35 designated in Title 22, section 676, in consultation  
36 with the State Nuclear Safety Inspector, in fulfill-  
37 ment of his duties pursuant to section 52, shall have  
38 authority to enter into agreements, understandings or  
39 arrangements with any other department or agency of  
40 this State, any federal agency, state, political sub-

1 division or person to provide for mutual aid plans,  
2 emergency plans, evacuation plans and their implementa-  
3 tion, memoranda of understanding and any other  
4 agreements deemed necessary to protect public and  
5 property in this State from hazards or dangers from  
6 radiation, radioactive materials, nuclear materials  
7 or the occurrence of a radiological incident as a re-  
8 sult of the presence of, release of or emissions from  
9 radioactive materials, radioactivity or nuclear mate-  
10 rials in this State. The hazards or dangers referred  
11 to in this section shall be only those arising from  
12 the peaceful use, transportation or storage of nucle-  
13 ar or atomic materials.

14 Sec. 7. 25 MRSA §52 is enacted to read:

15 §52. State Nuclear Safety Program

16 1. Policy. In the interests of the public health  
17 and welfare of the people of this State, it is the  
18 declared public policy of this State that the opera-  
19 tion of nuclear power facilities licensed to operate  
20 in the State shall be accomplished in a manner con-  
21 sistent with protection of the public health and  
22 safety and in compliance with the environmental pro-  
23 tection policies of this State. It is the purpose of  
24 this section, in conjunction with Title 22, sections  
25 671 to 690; Title 37-B, section 951; and Title 35,  
26 sections 3331 to 3393, to exercise the jurisdiction  
27 of the State to the maximum extent permitted by the  
28 United States Constitution and federal law and to es-  
29 tablish in cooperation with the Federal Government a  
30 State Nuclear Safety Inspector Program for the on-  
31 site monitoring, regulatory review and oversight of  
32 the operations of commercial nuclear power facilities  
33 within the State which hold an operating license is-  
34 sued by the United States Nuclear Regulatory Commis-  
35 sion. Nothing in this section may be construed as an  
36 attempt by the State to regulate radiological health  
37 and safety reserved to the Federal Government by rea-  
38 son of the United States Atomic Energy Act of 1954,  
39 as amended.

40 2. State Nuclear Safety Inspector. The Governor  
41 shall appoint, pursuant to Title 5, section 931, sub-  
42 section 1, paragraph K, an individual knowledgeable  
43 in the field of commercial nuclear power production

1 to serve as an on-site nuclear safety inspector, to  
2 advise the Governor and the Legislature on issues  
3 pertaining to the safe operation of nuclear facili-  
4 ties and the safe transportation and storage of nu-  
5 clear waste and to consult with other agencies of  
6 State Government or Federal Government whose activi-  
7 ties pertain to these issues. The State Nuclear Safe-  
8 ty Inspector shall possess, at a minimum, a master's  
9 degree with major work in nuclear, mechanical, elec-  
10 trical or chemical engineering and have at least 3  
11 years' experience in nuclear operations. The State  
12 Nuclear Safety Inspector shall employ such other per-  
13 sonnel as may be necessary to carry out the purposes  
14 of this section.

15 3. Responsibility of nuclear power plant licens-  
16 ees. The responsibility of nuclear power plant li-  
17 cesees is as follows.

18 A. Each nuclear power plant licensee shall per-  
19 mit the inspection and copying, for the purposes  
20 of this section, of its books and records, main-  
21 tained in any form, provided that books and  
22 records that are privileged as a matter of law,  
23 proprietary, security-related, or restricted by  
24 federal law, shall not be open to inspection.  
25 Subject to the approval of the Nuclear Regulatory  
26 Commission and of the nuclear power plant licens-  
27 ee, access to books and records which are propri-  
28 etary, security-related or restricted by federal  
29 law may be granted, if the State Nuclear Safety  
30 Inspector, on behalf of the State, enters into a  
31 nondisclosure agreement. For purposes of this  
32 subsection, proprietary information includes per-  
33 sonnel records, manufacturers' proprietary infor-  
34 mation, licensee proprietary information and  
35 trade secrets, as defined by Title 26, section  
36 1711, subsection 12.

37 B. Each nuclear power plant licensee shall per-  
38 mit monitoring, for the purposes of this section,  
39 of the premises, equipment and materials, includ-  
40 ing source, special nuclear and by-product mate-  
41 rials, in its possession or use, or subject to  
42 its control. For the purposes of this paragraph,  
43 monitoring means observing the conduct of opera-  
44 tions, including maintenance, quality assurance

1 activities, the preparation, transportation and  
2 handling of radioactive waste, emissions monitor-  
3 ing, radiation protection and the observation of  
4 emergency preparedness tests and drills. Nothing  
5 in this section prohibits a State Nuclear Safety  
6 Inspector from participating in licensee training  
7 activities which are scheduled for licensee per-  
8 sonnel.

9 C. The licensee shall provide the State Nuclear  
10 Safety Inspector with unescorted access to the  
11 plant at all times and on an identical basis as  
12 that provided to licensee personnel with  
13 unescorted access clearance, provided that the  
14 State Nuclear Safety Inspector complies with the  
15 licensee's applicable access control measures for  
16 security, radiological protection, personal safe-  
17 ty and fitness for duty. The State Nuclear Safety  
18 Inspector shall be subject to and comply with  
19 such continuing security procedures and periodic  
20 medical testing which is applicable to all li-  
21 cencee employees as may be required to retain un-  
22 restricted facility access.

23 D. Any nuclear power plant licensee, upon the  
24 request of the Director of the State Planning Of-  
25 ice, shall provide rent-free space, including  
26 all necessary utility and janitorial services,  
27 for the exclusive use of the State Nuclear Safety  
28 Inspector. The office shall be convenient to and  
29 have full access to the nuclear power facility  
30 and shall provide the State Nuclear Safety In-  
31 pector with privacy.

32 Each nuclear power plant licensee whose opera-  
33 tions are monitored under this section shall pay  
34 to the General Fund, for appropriation to the  
35 State Planning Office, the full cost of the on-  
36 site inspection program, including the cost to  
37 the State of personnel and fringe benefits. The  
38 assessment under this paragraph shall not exceed  
39 \$80,000 a year.

40 4. United States Nuclear Regulatory Commission  
41 activities. The State Nuclear Safety Inspector shall  
42 take all reasonable steps to cooperate with any on-  
43 site resident inspectors employed by the United

1 States Nuclear Regulatory Commission in a manner  
2 which enables these employees to fulfill their re-  
3 sponsibilities under federal law and regulation. Sub-  
4 ject to the approval of the United States Nuclear  
5 Regulatory Commission and of the licensee, and pursu-  
6 ant to section 51, the State Nuclear Safety Inspector  
7 shall observe periodic United States Nuclear Regula-  
8 tory Commission inspections, meetings and audits as  
9 they pertain to the safety of the licensee's opera-  
10 tions and procedures.

11 5. Responsibilities of the State Nuclear Safety  
12 Inspectors. The responsibilities of the State Nuclear  
13 Safety Inspectors are as follows.

14 A. In the event the State Nuclear Safety Inspec-  
15 tor has reason to believe that any activity poses  
16 a danger to public health and safety, and after  
17 notifying the facility and the United States Nu-  
18 clear Regulatory Commission, the inspector shall  
19 immediately notify the Governor, the Commissioner  
20 of Human Services and the Director of the State  
21 Planning Office. This provision should not be  
22 construed as precluding the State Nuclear Safety  
23 Inspector from discussing his concerns with the  
24 United States Nuclear Regulatory Commission or  
25 others before making a determination that any ac-  
26 tivity poses a danger to public health and safe-  
27 ty. The State Nuclear Safety Inspector, with the  
28 cooperation of the Director of Health Engineer-  
29 ing, within the Department of Human Services,  
30 shall prepare a report of his activities under  
31 this section to be submitted January 1st of each  
32 year to the Governor and the Legislature. The  
33 State Nuclear Safety Inspector shall prepare  
34 monthly reports for the Governor, the President  
35 of the Senate and the Speaker of the House, with  
36 copies to the United States Nuclear Regulatory  
37 Commission and the licensee.

38 B. The State Nuclear Safety Inspector shall keep  
39 confidential and privileged the identity of any  
40 person providing communications which, in the  
41 opinion of the State Nuclear Safety Inspector,  
42 support a presumption of unsafe operation of a  
43 commercial nuclear power facility or which indi-  
44 cate any violation of the licensee's operating



1 license issued by the United States Nuclear Regu-  
2 latory Commission, unless the request for confi-  
3 dentiality is waived or withdrawn by such person.  
4 The safety inspector shall make all prudent ef-  
5 forts to investigate the basis for any related  
6 allegation of unsafe or improper operation and  
7 shall cooperate to the extent feasible with  
8 United States Nuclear Regulatory Commission per-  
9 sonnel in this effort. Any information brought to  
10 the attention of the state inspector which in-  
11 volves the safety of the plant or a possible vio-  
12 lation of United States Nuclear Regulatory Com-  
13 mission regulations shall be immediately brought  
14 to the attention of the United States Nuclear  
15 Regulatory Commission and the licensee.

16 C. Notwithstanding any provisions to the con-  
17 trary which are otherwise established by the  
18 Maine Tort Claims Act, the State shall be liable  
19 for the negligent acts or omissions of the State  
20 Nuclear Safety Inspector, or any personnel under  
21 his direct supervision and control, which occur  
22 on the site of a commercial nuclear power facili-  
23 ty and which result in property damage, bodily  
24 injury, death or regulatory penalties.

1

STATEMENT OF FACT

2           It is the purpose of this bill to amend the Radi-  
3           ation Protection Act, and the Governor's statutory  
4           powers in a radioactive emergency, to provide for on-  
5           site state monitoring of the Maine Yankee Atomic Pow-  
6           er Plant. The State Nuclear Safety Inspector will  
7           regularly advise the Governor and consult with those  
8           state agencies with off-site responsibilities for nu-  
9           clear safety and will report periodically to the Leg-  
10          islature. The on-site monitoring will be carried out  
11          by an engineer with knowledge and experience in the  
12          area of nuclear power employed by the State. The po-  
13          sition will be unclassified in order to attract and  
14          compensate a highly qualified individual. The State  
15          shall be responsible for any negligent acts of the  
16          State Nuclear Safety Inspector on the site of the nu-  
17          clear power plant. The cost of the program, up to a  
18          maximum of \$80,000, will be paid for through an as-  
19          sessment on the Maine Yankee Atomic Power Company. To  
20          the extent that any nuclear plant operations violate  
21          the Radiation Protection Act, this bill incorporates  
22          the civil and criminal penalties of that Act.

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