

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1998

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Legislative Document

No. 1960

S.P. 714

In Senate, January 7, 1998

**An Act to Amend and Clarify Laws Concerning Nuclear Safety.**

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Submitted by the Department of Human Services pursuant to Joint Rule 204.  
Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator KILKELLY of Lincoln.  
Cosponsored by Representative PEAVEY of Woolwich and  
Senators: DAGGETT of Kennebec, TREAT of Kennebec.

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

2           **Sec. 1. 22 MRSA §661**, as amended by PL 1991, c. 824, Pt. A,  
4           §40, is further amended to read:

6           **§661. Public policy**

8           In the interests of the public health and welfare of the  
10           people of this State, it is the declared public policy of this  
12           State that ~~the operation of nuclear power facilities~~ a facility  
14           licensed to operate by the United States Nuclear Regulatory  
16           Commission and situated in the State must be accomplished in a  
18           manner consistent with protection of the public health and safety  
20           and in compliance with the environmental protection policies of  
22           this State. It is the purpose of this chapter, in conjunction  
24           with sections 671 to 690; Title 25, sections 51 and 52; ~~Title~~  
26           ~~37-B, chapter 17, and~~ Title 35-A, sections 4331 to 4393; and  
28           Title 37-B, chapter 17, to exercise the jurisdiction of the State  
30           to the maximum extent permitted by the United States Constitution  
32           and federal law and to establish in cooperation with the Federal  
34           Government a State Nuclear Safety Inspector Program for the  
36           on-site monitoring, regulatory review and oversight of the  
38           ~~operations of commercial nuclear power facilities~~ a facility  
40           within the State that ~~held an operating~~ holds a license issued by  
42           the United States Nuclear Regulatory Commission. Nothing in this  
44           chapter may be construed as an attempt by the State to regulate  
46           radiological health and safety reserved to the Federal Government  
48           by reason of the United States Atomic Energy Act of 1954, as  
50           amended.

**Sec. 2. 22 MRSA §662, sub-§1**, as enacted by PL 1987, c. 519,  
          §1, is amended to read:

**Facility.** A ~~"commercial nuclear power facility"~~ or  
          "facility" means a production or utilization facility situated in  
          this State which that holds an operating permit or license issued  
          by the United States Nuclear Regulatory Commission. It also  
          means a power reactor licensee situated in the State, whether  
          decommissioned or not, with a possession-only license issued by  
          the United States Nuclear Regulatory Commission for special  
          nuclear material, by-product material and source material. It  
          also includes spent fuel or high-level waste storage facilities.

**Sec. 3. 22 MRSA §663, sub-§2**, as enacted by PL 1987, c. 519,  
          §1, is amended to read:

**2. Duties.** The State Nuclear Safety Inspector shall serve  
          as an on-site nuclear safety inspector of ~~commercial nuclear~~  
          ~~power facilities~~ a facility and of the on-site storage and  
          transportation of high-level or low-level nuclear waste.

2           **Sec. 4. 22 MRSA §664**, as amended by PL 1997, c. 395, Pt. F,  
3 §1, is further amended to read:

4           **§664. Responsibility of facility licensees**

6           The responsibility of ~~nuclear-power-plant~~ facility licensees  
7 is as follows.

10           1. **Records.** Each ~~nuclear-power-plant~~ facility licensee  
11 shall permit the inspection and copying, for the purposes of this  
12 chapter, of its books and records, maintained in any form,  
13 ~~provided~~ except that books and records that are privileged as a  
14 matter of law, proprietary, security-related, or restricted by  
15 federal law, ~~shall~~ are not be open to inspection. Subject to the  
16 approval of the United States Nuclear Regulatory Commission and  
17 of the ~~nuclear-power-plant~~ facility licensee, access to books and  
18 records ~~which~~ that are proprietary, security-related or  
19 restricted by federal law may be granted, if the State Nuclear  
20 Safety Inspector, on behalf of the State, enters into a  
21 nondisclosure agreement. For purposes of this section,  
22 proprietary information includes personnel records,  
23 manufacturers' proprietary information, licensee proprietary  
24 information and trade secrets, as defined by Title 26, section  
25 1711, subsection 12.

26           2. **Monitoring.** Each ~~nuclear-power-plant~~ facility licensee  
27 shall permit monitoring, for the purposes of this chapter, of the  
28 premises, equipment and materials, including source, special  
29 nuclear and by-product materials, in its possession or use, or  
30 subject to its control. For the purposes of this subsection,  
31 "monitoring" means observing the conduct of operations, including  
32 maintenance, quality assurance activities, the preparation,  
33 transportation and handling of radioactive waste, emissions  
34 monitoring, radiation protection and the observation of emergency  
35 preparedness tests and drills. Nothing in this chapter prohibits  
36 a State Nuclear Safety Inspector from participating in licensee  
37 training activities that are scheduled for licensee personnel.

40           3. **Access.** The facility licensee shall provide the State  
41 Nuclear Safety Inspector with unescorted access to the plant at  
42 all times and on an identical basis as that provided to licensee  
43 personnel with unescorted access clearance, ~~provided that~~ as long  
44 as the State Nuclear Safety Inspector complies with the  
45 licensee's applicable access control measures for security,  
46 radiological protection, personal safety and fitness for duty.  
47 The State Nuclear Safety Inspector ~~shall be~~ is subject to and  
48 shall comply with such continuing security procedures and  
periodic medical testing ~~which~~ that is applicable to all licensee

employees as may be required to retain unrestricted facility access.

4           **4. On-site facilities.** ~~Any nuclear power plant~~ A facility licensee, upon the request of the commissioner, shall provide rent-free space, including all necessary utility and janitorial services, for the exclusive use of the State Nuclear Safety Inspector. The office shall must be convenient to and have full access to the ~~nuclear power~~ facility and shall must provide the State Nuclear Safety Inspector with privacy.

12           **5. Fees.** Each ~~nuclear power plant~~ facility licensee whose operations are monitored under this chapter shall pay a fee to the State Nuclear Safety Inspector to the permanent fund established in section 680, subsection 7. The fee must take the form of a yearly payment indicated in this subsection for the fiscal year from the fund established in section 680, subsection 7, for the full cost of the on-site inspection program, including the cost to the State for personnel and fringe benefits.

The State Nuclear Safety Inspector fee is \$180,000 annually.

22           **Sec. 5. 22 MRSA §665**, as enacted by PL 1987, c. 519, §1, is amended to read:

26           **§665. United States Nuclear Regulatory Commission activities**

28           The State Nuclear Safety Inspector shall take all reasonable steps to cooperate with any on-site resident inspectors employed by the United States Nuclear Regulatory Commission in a manner which that enables these employees to fulfill their responsibilities under federal law and regulation. Subject to the approval of the United States Nuclear Regulatory Commission and of the facility licensee, and pursuant to Title 25, section 51, the State Nuclear Safety Inspector shall observe United States Nuclear Regulatory Commission inspections, meetings and audits as they pertain to the safety of the facility licensee's operations and procedures.

40           **Sec. 6. 22 MRSA §666**, as amended by PL 1991, c. 151, §1, is further amended to read:

42           **§666. Responsibilities of the State Nuclear Safety Inspector**

44           The responsibilities of the State Nuclear Safety Inspector are as follows.

48           **1. Damages to public health and safety.** In the event the State Nuclear Safety Inspector has reason to believe that any activity poses a danger to public health and safety, and after

2 notifying the ~~operator--of--the~~ facility licensee and the United  
States Nuclear Regulatory Commission, the inspector shall  
4 immediately notify the Governor, the Commissioner of Human  
Services and the State Nuclear Safety Advisor within the State  
6 Planning Office. This provision should may not be construed as  
precluding the State Nuclear Safety Inspector from discussing his  
8 the safety inspector's concerns with the United States Nuclear  
Regulatory Commission or others before making a determination  
that any activity poses a danger to public health and safety.

10  
12 **2. Reports.** The State Nuclear Safety Inspector, with the  
cooperation of the Director of Health Engineering, shall prepare  
14 a report of the safety inspector's activities under this chapter  
to be submitted July 1st of each year to the State Nuclear Safety  
16 Advisor and the Legislature. The State Nuclear Safety Inspector  
shall prepare monthly reports for the State Nuclear Safety  
18 Advisor, the President of the Senate and the Speaker of the  
House, with copies to the United States Nuclear Regulatory  
Commission and the facility licensee.

20  
22 **3. Confidential and privileged information.** The State  
Nuclear Safety Inspector shall keep confidential and privileged  
24 the identity of any person providing communications which that,  
in the opinion of the State Nuclear Safety Inspector, support a  
presumption of unsafe activities, conduct or operation of a  
26 ~~commercial--nuclear--power~~ facility or which that indicate any  
violation of the facility licensee's operating license issued by  
28 the United States Nuclear Regulatory Commission, unless the  
request for confidentiality is waived or withdrawn by such  
30 person. The safety inspector shall make all prudent efforts to  
investigate the basis for any related allegation of unsafe or  
32 improper operation activities and shall cooperate to the extent  
feasible with the United States Nuclear Regulatory Commission  
34 personnel in this effort. Any information brought to the  
attention of the state safety inspector which that involves the  
36 safety of the plant or a possible violation of United States  
Nuclear Regulatory Commission regulations shall must be  
38 immediately brought to the attention of the United States Nuclear  
Regulatory Commission and the facility licensee.

40  
42 **Sec. 7. 22 MRSA §667**, as enacted by PL 1987, c. 519, §1, is  
amended to read:

44 **§667. Liability**

46 Notwithstanding the immunities set forth in Title 14,  
section 8103, the State ~~shall-be~~ is liable for the negligent acts  
48 or omissions of the State Nuclear Safety Inspector, or any  
personnel under his the safety inspector's direct supervision and  
50 control, which that occur on the site of a ~~commercial--nuclear~~

power facility. All other provisions of Title 14, chapter 741,  
including notice requirements, defense and indemnification of  
employees and limitations on damage amounts, shall apply.

**Sec. 8. 22 MRSA §673, sub-§3-A**, as enacted by PL 1987, c. 519,  
§2, is amended to read:

**3-A. Facility.** A ~~"commercial-nuclear-power-facility"~~ or  
"facility" means a production or utilization facility situated in  
this State which that holds an operating permit or license issued  
by the United States Nuclear Regulatory Commission. It also  
means a power reactor licensee situated in the State, whether  
decommissioned or not, with a possession-only license issued by  
the United States Nuclear Regulatory Commission for special  
nuclear material, by-product material and source material. It  
also includes spent fuel or high-level waste storage facilities.

### SUMMARY

This bill clarifies the definition of operating nuclear  
power plants to include those undergoing decommissioning. This  
bill continues the funding of state programs already in place.