

107TH CONGRESS
2D SESSION

H. R. 4648

To provide for the disposition of weapons-usable plutonium at the Savannah River Site, Aiken, South Carolina.

IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2002

Mr. GRAHAM introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the disposition of weapons-usable plutonium at the Savannah River Site, Aiken, South Carolina.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DISPOSITION OF WEAPONS-USABLE PLUTO-**
4 **NIUM AT THE SAVANNAH RIVER SITE, AIKEN,**
5 **SOUTH CAROLINA.**

6 (a) FINDINGS.—Congress finds the following:

7 (1) In September 2000, the United States and
8 the Russian Federation signed a Plutonium Manage-
9 ment and Disposition Agreement by which each

1 agreed to dispose of 34 metric tons of weapons-
2 grade plutonium.

3 (2) The agreement with Russia is a significant
4 step toward safeguarding nuclear materials and pre-
5 venting their diversion to rogue states and terrorists.

6 (3) The Department of Energy plans to dispose
7 of 34 metric tons of weapons-grade plutonium of the
8 United States before the end of 2019 by converting
9 the plutonium to a mixed-oxide fuel to be used in
10 commercial nuclear power reactors.

11 (4) The Department has formulated a plan for
12 implementing the agreement with Russia through
13 construction of a mixed-oxide fuel fabrication facility
14 and a pit disassembly and conversion facility at the
15 Savannah River Site.

16 (5) The United States and the State of South
17 Carolina have a compelling interest in the safe,
18 proper, and efficient operation of the plutonium dis-
19 position facilities at the Savannah River Site. The
20 MOX facility will also be economically beneficial to
21 the State of South Carolina, and that economic ben-
22 efit will not be fully realized unless the MOX facility
23 is built. The State of South Carolina therefore de-
24 sires to ensure that all plutonium transferred to the
25 State of South Carolina is stored safely; that the full

benefits of the MOX facility are realized as soon as possible; and, specifically, that all defense plutonium or defense plutonium materials transferred to the Savannah River Site either be processed or be removed expeditiously.

(b) PLAN REQUIRED.—

(1) Not later than February 1, 2003, the Secretary of Energy shall submit to Congress a plan for the construction and operation of the MOX facility. The plan shall include a schedule for construction and operations so as to achieve, as of January 1, 2009, the MOX production objective and to produce one metric ton of mixed-oxide fuel by December 31, 2009. The plan shall also include a schedule of operations designed so that 34 metric tons of defense plutonium and defense plutonium materials at the Savannah River Site will be processed into mixed-oxide fuel by January 1, 2019.

(2) Not later than February 15 of each year beginning in 2004 and continuing for as long as the MOX facility is in use, the Secretary shall submit to Congress a report on the implementation of the plan required by paragraph (1). Each such report shall include an assessment of compliance with the schedule referred to in paragraph (1) and a certification

1 by the Secretary that the MOX production objective
2 can be met by January 1, 2009.

3 (3) For years after 2009, each such report shall
4 address whether the MOX production objective has
5 been met and shall report progress toward meeting
6 the obligations of the United States under the
7 United States Plutonium Management and Disposi-
8 tion Agreement dated September 2000.

9 (4) For years after 2017, each such report shall
10 also include an assessment of compliance with the
11 MOX production objective and, if not in compliance,
12 the plan of the Secretary for achieving one of the
13 following:

14 (A) Compliance with such objective.

15 (B) Removal of all remaining defense plu-
16 tonium and defense plutonium materials from
17 the State of South Carolina.

18 (c) CORRECTIVE ACTIONS.—

19 (1) If any report under subsection (b)(2) for a
20 year after 2003 indicates that construction or oper-
21 ation at the MOX facility is behind, by 12 months
22 or more, the schedule required by subsection (b)(1),
23 the Secretary shall submit to Congress, not later
24 than August 15 of the same year, a plan for correc-
25 tive actions to be implemented by the Secretary to

1 ensure that the project is capable of meeting the
2 MOX production objective by January 1, 2009. For
3 years after 2009, such plan shall include corrective
4 actions to be implemented by the Secretary to en-
5 sure that the MOX production objective is met. The
6 plan for corrective actions shall establish milestones
7 for achieving such compliance with that objective.

8 (2) If, by reason of a failure to achieve mile-
9 stones set forth in the corrective action plan referred
10 to in paragraph (1), there is a substantial and mate-
11 rial risk that the MOX production objective will not
12 be achieved by 2009, the Secretary shall suspend
13 further transfers of defense plutonium and defense
14 plutonium materials to be processed by the MOX fa-
15 cility until such risk is addressed and the Secretary
16 certifies that the MOX production objective can be
17 met by 2009. After January 1, 2009, if, by reason
18 of a failure to achieve milestones set forth in the
19 corrective action plan referred to in paragraph (1),
20 the MOX production objective has not been
21 achieved, the Secretary shall suspend further trans-
22 fers of defense plutonium and defense plutonium
23 materials to be processed by the MOX facility until
24 the Secretary certifies that the MOX production ob-
25 jective can be met.

1 (3) Upon a suspension of transfers under para-
2 graph (2), the Secretary shall submit to Congress a
3 report on the options for removing from the State of
4 South Carolina an amount of defense plutonium or
5 defense plutonium materials equal to the amount of
6 such plutonium or plutonium materials transferred
7 to the State of South Carolina after April 15, 2002.
8 The report shall include an analysis of each such op-
9 tion, including costs, schedules, and any implications
10 relating to the National Environmental Policy Act of
11 1969 (42 U.S.C. 4321 et seq.) (hereinafter referred
12 to as “NEPA”). Upon submission of the report, the
13 Secretary shall commence any NEPA analysis that
14 may be required to select among the options ana-
15 lyzed.

16 (d) LIMITATION.—If the MOX production objective
17 is not achieved as of January 1, 2009, the Secretary shall,
18 consistent with NEPA and other governing laws, remove
19 from the State of South Carolina, for storage or disposal
20 elsewhere—

21 (1) not later than January 1, 2011, not less
22 than one metric ton of defense plutonium or defense
23 plutonium materials; and

24 (2) not later than January 1, 2017, an amount
25 of defense plutonium or defense plutonium materials

1 equal to the amount of such plutonium or plutonium
2 materials transferred to the Savannah River Site be-
3 tween April 15, 2002, and January 1, 2017, but not
4 processed by the MOX facility.

5 (e) ECONOMIC/IMPACT ASSISTANCE.—

6 (1) If the MOX production objective is not
7 achieved as of January 1, 2011, the Secretary shall,
8 from funds available to the Secretary, pay economic/
9 impact assistance to the State of South Carolina in
10 the amount of \$1,000,000 per day, not to exceed
11 \$100,000,000 per calendar year, until the MOX pro-
12 duction objective is achieved or until the Secretary
13 has removed at least one metric ton of defense pluto-
14 nium or defense plutonium materials from South
15 Carolina.

16 (2) If, as of January 1, 2017, the MOX facility
17 has not processed mixed-oxide fuel from defense plu-
18 tonium and defense plutonium materials in the
19 amount of not less than—

20 (A) one metric ton, in each of any two con-
21 secutive calendar years; and

22 (B) three metric tons total,

23 the Secretary shall, from funds available to the Sec-
24 retary, pay economic/impact assistance to the State
25 of South Carolina in the amount of \$1,000,000 per

1 day, not to exceed \$100,000,000 per calendar year,
2 until an amount of defense plutonium or defense
3 plutonium material equal to the amount of such de-
4 fense plutonium or defense plutonium materials
5 transferred to the Savannah River Site between
6 April 15, 2002, and January 1, 2017, but not proc-
7 essed by the MOX facility has been removed from
8 the State of South Carolina. Nothing in this para-
9 graph extinguishes other legal obligations set forth
10 in this section.

11 (3) If the State of South Carolina obtains an
12 injunction that prohibits the Department of Energy
13 from taking any action necessary for it to meet any
14 deadline specified by this section, that deadline shall
15 be extended for a period of time equal to the period
16 of time during which the injunction is in effect.

17 (f) FAILURE TO COMPLETE PLANNED DISPOSITION
18 PROGRAM.—For each year beginning with 2020 and con-
19 tinuing for as long as the MOX facility is in use, if on
20 July 1 of that year less than 34 metric tons of defense
21 plutonium and defense plutonium materials have been
22 processed by the MOX facility, the Secretary shall submit
23 to Congress a plan for either—

1 (1) completing the processing of 34 metric tons
2 of defense plutonium and defense plutonium mate-
3 rials; or

4 (2) removing from the State of South Carolina
5 an amount of defense plutonium or defense pluto-
6 nium materials equal to the amount of such pluto-
7 nium or plutonium materials transferred to the Sa-
8 vannah River Site after April 15, 2002, but not
9 processed by the MOX facility.

10 (g) REMOVAL OF MIXED-OXIDE FUEL UPON COM-
11 PLETION OF OPERATIONS OF THE MOX FACILITY.—If,
12 one year after the date on which operation of the MOX
13 facility permanently ceases, any mixed-oxide fuel remains
14 at the Savannah River Site, the Secretary shall submit to
15 Congress either—

16 (1) a report on when such fuel will be trans-
17 ferred for use in commercial nuclear reactors; or

18 (2) a plan for removing such fuel from the
19 State of South Carolina.

20 (h) MOX PRODUCTION OBJECTIVE DEFINED.—In
21 this section, the term “MOX production objective” means
22 production at the MOX facility of mixed-oxide fuel from
23 defense plutonium and defense plutonium materials at an
24 average rate equivalent to not less than one metric ton
25 of mixed-oxide fuel per year. The average rate shall be

1 determined by measuring production at the MOX facility
2 from the date the facility is declared operational to the
3 Nuclear Regulatory Commission through the date of as-
4 sessment.

5 (i) MOX FACILITY DEFINED.—In this section, the
6 term “MOX facility” means the mixed-oxide fuel fabrica-
7 tion facility at the Savannah River Site, Aiken, South
8 Carolina.

9 (j) DEFENSE PLUTONIUM AND DEFENSE PLUTO-
10 NIUM MATERIALS DEFINED.—In this section, the term
11 “defense plutonium or defense plutonium materials”
12 means weapons-usable plutonium.

13 (k) DEFENSE NUCLEAR FACILITIES SAFETY BOARD
14 STUDY.—

15 (1) The Defense Nuclear Facilities Safety
16 Board shall conduct a study of the adequacy of the
17 K-Area Materials Storage facility (KAMS) at the
18 Savannah River Site for storage of defense pluto-
19 nium and defense plutonium materials in connection
20 with the disposition program provided in this section
21 and in the Department of Energy’s amended Record
22 of Decision for fissile materials disposition. Not later
23 than one year after the date of the enactment of this
24 Act, the Defense Nuclear Facilities Safety Board

1 shall submit to Congress and the Secretary of En-
2 ergy a report on the study. The report shall—

3 (A) at a minimum, address—

4 (i) the suitability of KAMS and re-
5 lated support facilities for monitoring and
6 observing any such plutonium and pluto-
7 nium materials stored in KAMS;

8 (ii) the adequacy of the provisions the
9 Department has made for remote moni-
10 toring of such plutonium and plutonium
11 materials by way of sensors and for han-
12 dling of retrieval of such plutonium and
13 plutonium materials; and

14 (iii) the adequacy of KAMS should
15 such plutonium and plutonium materials
16 continue to be stored there beyond 2019;
17 and

18 (B) contain such recommendations as the
19 Board considers necessary or desirable to en-
20 hance the safety, reliability, and functionality of
21 KAMS.

22 (2) Not later than six months after the date on
23 which the report under paragraph (1) is submitted
24 to Congress, and every one year thereafter, the Sec-
25 retary and the Board shall each submit to Congress

- 1 a report on the Secretary's action with respect to the
- 2 recommendations.

