

110TH CONGRESS  
2D SESSION

# S. 2551

To provide for the safe development of a repository at the Yucca Mountain site in the State of Nevada, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2008

Mr. INHOFE (for himself, Mr. CRAIG, Mr. DEMINT, Mr. BARRASSO, Mr. BOND, Mr. ALEXANDER, and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To provide for the safe development of a repository at the Yucca Mountain site in the State of Nevada, and for other purposes.

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. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Nuclear Waste Policy Amendments Act of 2008”.

6 (b) TABLE OF CONTENTS.—The table of contents of  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings; purposes.
- Sec. 3. Definitions.

## TITLE I—LICENSING

- Sec. 101. Applications.
- Sec. 102. Application procedures; infrastructure activities.
- Sec. 103. Connected actions.
- Sec. 104. Waste confidence.
- Sec. 105. Definition of high-level radioactive waste.

## TITLE II—ADMINISTRATION

- Sec. 201. Air quality permits.
- Sec. 202. Expedited authorizations.
- Sec. 203. Applicability of law to certain materials.
- Sec. 204. Authority for new standard contracts.

**1 SEC. 2. FINDINGS; PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) progress toward the safe disposal of spent  
4 nuclear fuel and high-level radioactive waste will  
5 help ensure that the expanded use of nuclear energy  
6 will contribute to meeting the growing need of the  
7 United States for reliable, cost-effective energy;

8 (2) the Federal Government has the responsi-  
9 bility to provide for permanent disposal of spent nu-  
10 clear fuel, high-level radioactive waste, and waste  
11 generated from United States atomic energy defense  
12 activities;

13 (3) the obligation of the Federal Government to  
14 develop a repository provides sufficient grounds for  
15 findings by the Nuclear Regulatory Commission that  
16 spent nuclear fuel and high-level radioactive waste  
17 will be disposed of safely and in a timely manner;

18 (4) the electricity consumers and nuclear power  
19 plant operators of the United States have paid in ex-

1       cess of \$27,000,000,000 in fees and interest to fund  
2       disposal of spent nuclear fuel and high-level radio-  
3       active waste;

4               (5) the National Research Council of the Na-  
5       tional Academy of Sciences—

6                       (A) since 1957, has endorsed the concept  
7       of deep geologic disposal of high-level radio-  
8       active waste as a long-term solution based on  
9       scientific and technical analysis; and

10                      (B) maintains that deep geologic disposal  
11       remains as the only long-term solution available  
12       for the disposal of high-level radioactive waste;

13               (6) in 2002, the Yucca Mountain site was rec-  
14       ommended by the President and approved by Con-  
15       gress for development as a deep geologic repository;

16               (7) operation of a repository in accordance with  
17       the Nuclear Waste Policy Act of 1982 (42 U.S.C.  
18       10101 et seq.) is nearly 20 years behind schedule;

19               (8) the delay has—

20                      (A) resulted in judicial findings of a partial  
21       breach of contract on the part of the Federal  
22       Government; and

23                      (B) subjected taxpayers to billions of dol-  
24       lars in liability;

1           (9) the Commission should allow the upgrade of  
2 non-nuclear infrastructure at the repository site  
3 prior to construction in an effort to accelerate  
4 progress and reduce taxpayer liability;

5           (10) the repository should be licensed to safely  
6 use the maximum potential capacity of the reposi-  
7 tory, based on scientific and technical consider-  
8 ations; and

9           (11) the development of the repository should  
10 incorporate technological advances to improve pro-  
11 tection of public health and safety and the environ-  
12 ment on a regular basis while retaining the option  
13 of retrieval.

14       (b) PURPOSES.—The purposes of this Act are—

15           (1) to encourage the expanded contribution of  
16 nuclear energy to meet the growing need of the  
17 United States for safe, reliable, and cost-effective  
18 energy;

19           (2) to provide a process for the expeditious and  
20 safe development and operation of a repository at  
21 the Yucca Mountain site;

22           (3) to require periodic system improvements  
23 based on advances in technology and understanding  
24 to enhance the protection of public health and safety  
25 and the environment;

1           (4) to clarify the authority of the Secretary to  
2 carry out infrastructure activities without  
3 prejudicing the consideration of the Commission  
4 with respect to repository applications; and

5           (5) to provide guidance to the Commission with  
6 respect to the consideration by the Commission of  
7 spent nuclear fuel and high-level waste disposal dur-  
8 ing new reactor licensing proceedings.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11           (1) COMMISSION.—The term “Commission”  
12 means the Nuclear Regulatory Commission.

13           (2) REPOSITORY.—The term “repository” has  
14 the meaning given the term in section 2 of the Nu-  
15 clear Waste Policy Act of 1982 (42 U.S.C. 10101).

16           (3) SECRETARY.—The term “Secretary” means  
17 the Secretary of Energy.

18 **TITLE I—LICENSING**

19 **SEC. 101. APPLICATIONS.**

20 Section 114(b) of the Nuclear Waste Policy Act of  
21 1982 (42 U.S.C. 10134(b)) is amended—

22           (1) in the subsection heading, by striking “AP-  
23 PPLICATION” and inserting “APPLICATIONS”;

24           (2) by striking “If the President” and inserting  
25 the following:

1 “(1) IN GENERAL.—If the President”; and  
2 (3) by adding at the end the following:

3 “(2) APPLICATION PROCESSES.—

4 “(A) IN GENERAL.—The Secretary shall  
5 submit, and the Commission shall review, each  
6 application described in this paragraph.

7 “(B) APPLICATION FOR A CONSTRUCTION  
8 AUTHORIZATION.—

9 “(i) REQUIRED INFORMATION.—An  
10 application for a construction authorization  
11 for a repository at a site shall contain pro-  
12 visions—

13 “(I) for the establishment of, and  
14 preliminary information relating to, a  
15 continuing program, including under-  
16 ground repository surveillance, meas-  
17 urement, and testing and research  
18 and development of technologies that  
19 may improve the safety or operation  
20 of the repository—

21 “(aa) to be carried out dur-  
22 ing the operation of the reposi-  
23 tory; and

1                   “(bb) to monitor, evaluate,  
2                   and confirm repository perform-  
3                   ance; and

4                   “(II) for the development of a  
5                   strategy to ensure the ability of the  
6                   repository to retrieve, for a period of  
7                   not less than 300 years beginning on  
8                   the date on which the repository first  
9                   commences operation, each quantity  
10                  of spent nuclear fuel and high-level  
11                  radioactive waste stored at the reposi-  
12                  tory.

13                  “(ii) AUTHORIZED INFORMATION.—  
14                  An application for a construction author-  
15                  ization shall not be required to contain any  
16                  information—

17                         “(I) relating to any surface facil-  
18                         ity other than any surface facility de-  
19                         termined by the Secretary to be nec-  
20                         essary for the initial operation of the  
21                         repository; and

22                         “(II) that is required under sub-  
23                         paragraph (D) for an application re-  
24                         lating to the permanent closure of the  
25                         repository.

1           “(C) APPLICATION TO AMEND A CON-  
2           STRUCTION AUTHORIZATION TO RECEIVE AND  
3           POSSESS SPENT NUCLEAR FUEL AND HIGH-  
4           LEVEL RADIOACTIVE WASTE.—

5           “(i) REQUIRED INFORMATION.—An  
6           application to amend a construction au-  
7           thorization to receive and possess spent  
8           nuclear fuel and high-level radioactive  
9           waste at a repository shall contain provi-  
10          sions for the establishment of, and final in-  
11          formation relating to—

12                   “(I) a continuing program, in-  
13                   cluding underground repository sur-  
14                   veillance, measurement, and testing,  
15                   and research and development of tech-  
16                   nologies that may improve the safety  
17                   or operation of the repository—

18                           “(aa) to be carried out dur-  
19                           ing the operation of the reposi-  
20                           tory; and

21                           “(bb) to monitor, evaluate,  
22                           and confirm repository perform-  
23                           ance;

1           “(II) a procedure to provide for  
2           periodic revisions of the license of the  
3           repository that shall be conducted—

4                   “(aa) to modify the license  
5                   based on the results of the pro-  
6                   gram described in subclause (I);  
7                   and

8                   “(bb) at intervals of not  
9                   more than 50 years; and

10           “(III) a program to ensure the  
11           ability of the repository to retrieve, for  
12           a period of not less than 300 years  
13           beginning on the date on which the  
14           repository first commences operation,  
15           each quantity of spent nuclear fuel  
16           and high-level radioactive waste stored  
17           at the repository.

18           “(ii) AUTHORIZED INFORMATION.—

19           An application to amend a construction au-  
20           thorization for permission to receive and  
21           possess spent nuclear fuel and high-level  
22           radioactive waste shall not be required to  
23           contain—

24                   “(I) any information that was in-  
25                   cluded in an application or considered

1 by the Commission in connection with  
2 the issuance of a construction author-  
3 ization for the repository for which  
4 authorization to receive and possess  
5 the spent nuclear fuel and high-level  
6 radioactive waste is sought; or

7 “(II) any information that is re-  
8 quired under subparagraph (D) for an  
9 application relating to the permanent  
10 closure of the repository.

11 “(iii) REQUIREMENTS RELATING TO  
12 AUTHORIZATION.—If the Commission ap-  
13 proves an application to amend a construc-  
14 tion authorization to receive and possess  
15 spent nuclear fuel and high-level radio-  
16 active waste, the Commission shall impose  
17 such requirements relating to the program,  
18 periodic amendment, and retrievability as  
19 the Commission determines to be appro-  
20 priate.

21 “(D) APPLICATION TO PERMANENTLY  
22 CLOSE REPOSITORY.—

23 “(i) AUTHORITY OF SECRETARY.—  
24 The Secretary may submit to the Commis-

1           sion an application to permanently close  
2           the repository.

3           “(ii) CONTENTS.—An application to  
4           permanently close the repository shall con-  
5           tain information that is sufficient to dem-  
6           onstrate to the Commission that there is a  
7           reasonable expectation that the health and  
8           safety of the public will be adequately pro-  
9           tected from any release generated by any  
10          radioactive material disposed of in the re-  
11          pository in accordance with each standard  
12          promulgated pursuant to section 801 of  
13          the Energy Policy Act of 1992 (42 U.S.C.  
14          10141 note; Public Law 102–486).”.

15 **SEC. 102. APPLICATION PROCEDURES; INFRASTRUCTURE**  
16 **ACTIVITIES.**

17          Section 114 of the Nuclear Waste Policy Act of 1982  
18 (42 U.S.C. 10134) is amended by striking subsection (d)  
19 and inserting the following:

20          “(d) COMMISSION ACTION.—

21                 “(1) REVIEW OF REGULATIONS.—The Commis-  
22                 sion shall review and modify each applicable regula-  
23                 tion promulgated by the Commission as determined  
24                 to be necessary by the Commission to ensure that  
25                 each application described in subsection (b)(2) con-

1 tains sufficient information for the Commission to  
2 determine whether the repository could be operated  
3 for a period of not less than 300 years beginning on  
4 the date on which the repository first commences op-  
5 eration.

6 “(2) APPROVAL PROCESS RELATING TO APPLI-  
7 CATION FOR CONSTRUCTION AUTHORIZATION.—

8 “(A) APPLICATION DEADLINE.—Not later  
9 than June 30, 2008, the Secretary shall submit  
10 to the Commission an application for a con-  
11 struction authorization for a repository site.

12 “(B) CONSIDERATION.—The Commission  
13 shall consider the application for a construction  
14 authorization in accordance with the informal  
15 hearing process described in subpart L of part  
16 2 of chapter 1 of title 10, Code of Federal Reg-  
17 ulations (as in effect on January 1, 2006).

18 “(C) AUTHORIZATION OF CONSTRU-  
19 TION.—Upon review and consideration of an  
20 application for a construction authorization, the  
21 Commission shall approve the application if the  
22 Commission determines that there is a reason-  
23 able expectation that the health and safety of  
24 the public will be adequately protected for a pe-  
25 riod of not less than 300 years beginning on the

1 date on which the repository first commences  
2 operation.

3 “(D) FINAL DECISION DEADLINE.—

4 “(i) IN GENERAL.—Except as pro-  
5 vided in clause (ii), not later than 3 years  
6 after the date on which the Secretary sub-  
7 mits to the Commission an application for  
8 a construction authorization under sub-  
9 paragraph (A), the Commission shall carry  
10 out all activities relating to the consider-  
11 ation of an application for all or part of a  
12 repository, including—

13 “(I) a sufficiency review and  
14 docketing of the application;

15 “(II) the completion of safety  
16 and environmental reviews;

17 “(III) the conduct of hearings;  
18 and

19 “(IV) the issuance of a final deci-  
20 sion approving or disapproving the  
21 issuance of a construction authoriza-  
22 tion.

23 “(ii) EXCEPTION.—The Commission  
24 may extend the deadline described in  
25 clause (i) by a period of not more than 1

1 year if, not less than 30 days before the  
2 date on which the deadline occurs, the  
3 Commission complies with each reporting  
4 requirement described in subsection (e)(2).

5 “(E) ADMINISTRATION.—In carrying out  
6 the actions required by this section, the Com-  
7 mission shall—

8 “(i) issue such partial initial decisions  
9 as the Commission determines to be appro-  
10 priate to expedite the review of applica-  
11 tions described in subparagraph (A); and

12 “(ii) consider each application, in  
13 whole or in part, in accordance with law  
14 applicable to the application.

15 “(3) APPROVAL PROCESS RELATING TO APPLI-  
16 CATION TO AMEND A CONSTRUCTION AUTHORIZA-  
17 TION TO RECEIVE AND POSSESS SPENT NUCLEAR  
18 FUEL AND HIGH-LEVEL RADIOACTIVE WASTE.—

19 “(A) SUBMISSION OF APPLICATION.—If  
20 the Commission approves an application for a  
21 construction authorization under paragraph (2),  
22 not later than 90 days after the effective date  
23 of the construction authorization, the Secretary  
24 shall submit to the Commission an application  
25 to amend the construction authorization to re-

1           ceive and possess spent nuclear fuel and high-  
2           level radioactive waste.

3           “(B) CONSIDERATION.—

4                   “(i) IN GENERAL.—The Commission  
5           shall consider an application to amend a  
6           construction authorization to receive and  
7           possess spent nuclear fuel and high-level  
8           radioactive waste in accordance with—

9                           “(I) the informal hearing process  
10           described in subpart L of part 2 of  
11           chapter 1 of title 10, Code of Federal  
12           Regulations (as in effect on January  
13           1, 2006); and

14                           “(II) discovery procedures to  
15           minimize the burden of each party of  
16           submitting to the Commission docu-  
17           ments that the Commission deter-  
18           mines are not necessary for the Com-  
19           mission to approve the application for  
20           an authorization to receive and pos-  
21           sess spent nuclear fuel and high-level  
22           radioactive waste.

23                           “(ii) MATTERS RESOLVED DURING AP-  
24           PROVAL OF CONSTRUCTION AUTHORIZA-  
25           TION.—In considering an application to

1 amend a construction authorization to re-  
2 ceive and possess spent nuclear fuel and  
3 high-level radioactive waste under clause  
4 (i), the Commission shall consider to be re-  
5 solved each matter resolved during the con-  
6 sideration by the Commission of the con-  
7 struction authorization that is the subject  
8 of the application.

9 “(C) PERMISSION TO RECEIVE AND POS-  
10 SESS SPENT NUCLEAR FUEL AND HIGH-LEVEL  
11 RADIOACTIVE WASTE.—Upon review and con-  
12 sideration of an application to amend a con-  
13 struction authorization to receive and possess  
14 spent nuclear fuel and high-level radioactive  
15 waste, the Commission shall approve the appli-  
16 cation if the Commission determines that there  
17 is a reasonable expectation that the health and  
18 safety of the public will be adequately protected  
19 for a period of not less than 300 years begin-  
20 ning on the date on which the repository first  
21 commences operation.

22 “(D) FINAL DECISION DEADLINE.—

23 “(i) IN GENERAL.—Except as pro-  
24 vided in clause (ii), not later than 540  
25 days after the date on which the Secretary

1 submits to the Commission an application  
2 to amend a construction authorization to  
3 receive and possess spent nuclear fuel and  
4 high-level radioactive waste under subpara-  
5 graph (A), the Commission shall issue a  
6 final decision approving or disapproving  
7 the issuance of a license to receive and  
8 possess spent nuclear fuel and high-level  
9 radioactive waste.

10 “(ii) EXCEPTION.—The Commission  
11 may extend the deadline described in  
12 clause (i) by a period of not more than 180  
13 days if, not less than 30 days before the  
14 date on which the deadline occurs, the  
15 Commission complies with each reporting  
16 requirement described in subsection (e)(2).

17 “(4) REVIEW OF REGULATIONS RELATING TO  
18 APPLICATIONS FOR PERMANENT CLOSURE.—To con-  
19 form the application process for the permanent clo-  
20 sure of the repository with the requirements of this  
21 Act, the Commission shall review and modify each  
22 regulation promulgated by the Commission relating  
23 to the application process for the permanent closure  
24 of a repository.

25 “(5) INFRASTRUCTURE ACTIVITIES.—

1           “(A) AUTHORITY OF SECRETARY.—At any  
2 time before or after the Commission issues a  
3 final decision on an application for a construc-  
4 tion authorization under paragraph (2), the  
5 Secretary may carry out infrastructure activi-  
6 ties that the Secretary determines to be nec-  
7 essary or appropriate to support the construc-  
8 tion of a repository at the Yucca Mountain site  
9 or transportation to the Yucca Mountain site of  
10 spent nuclear fuel and high-level radioactive  
11 waste, including—

12                   “(i) safety upgrades;

13                   “(ii) site preparation activities;

14                   “(iii) the construction of—

15                           “(I) a rail line to connect the  
16 Yucca Mountain site with the national  
17 rail network; and

18                           “(II) any facility necessary for  
19 the operation of the rail line described  
20 in subclause (I); and

21                   “(iv) the construction, upgrade, acqui-  
22 sition, or operation of—

23                           “(I) electrical grids or facilities;

24                           “(II) related utilities;

25                           “(III) communication facilities;

1 “(IV) access roads;  
2 “(V) rail lines; and  
3 “(VI) nonnuclear support facili-  
4 ties.

5 “(B) COMPLIANCE.—

6 “(i) IN GENERAL.—Subject to clause  
7 (ii), in carrying out any infrastructure ac-  
8 tivity under subparagraph (A), the Sec-  
9 retary shall comply with each applicable re-  
10 quirement under the National Environ-  
11 mental Policy Act of 1969 (42 U.S.C.  
12 4321 et seq.).

13 “(ii) AUTHORITY OF SECRETARY.—If  
14 the Secretary determines that an environ-  
15 mental impact statement, environmental  
16 assessment, or other environmental anal-  
17 ysis required under the National Environ-  
18 mental Policy Act of 1969 (42 U.S.C.  
19 4321 et seq.) is required in carrying out an  
20 infrastructure activity under subparagraph  
21 (A), the Secretary shall not be required to  
22 consider in that statement, assessment, or  
23 analysis—

24 “(I) the need for the action;

25 “(II) any alternative action; or

1 “(III) any no-action alternative.

2 “(iii) OTHER FEDERAL AGENCIES.—

3 “(I) IN GENERAL.—If a Federal  
4 agency is required to consider the po-  
5 tential environmental impact of an in-  
6 frastructure activity carried out under  
7 subparagraph (A), the Federal agency  
8 shall, without further action, adopt, to  
9 the maximum extent practicable, any  
10 environmental impact statement, envi-  
11 ronmental assessment, or other envi-  
12 ronmental analysis prepared by the  
13 Secretary.

14 “(II) EFFECT OF ADOPTION OF  
15 STATEMENT.—The adoption by a  
16 Federal agency of an environmental  
17 impact statement, environmental as-  
18 sessment, or other environmental  
19 analysis under subclause (I) shall sat-  
20 isfy each applicable responsibility of  
21 the Federal agency relating to the ap-  
22 plicable infrastructure activity of the  
23 Federal agency under the National  
24 Environmental Policy Act of 1969 (42  
25 U.S.C. 4321 et seq.).

1           “(C) CONSIDERATION BY COMMISSION.—

2           The Commission shall not consider the fact that  
3           the Secretary has undertaken an infrastructure  
4           activity under this paragraph as a factor in de-  
5           termining whether to approve, deny, or condi-  
6           tion an application—

7                     “(i) for a construction authorization;

8                     “(ii) to amend a construction author-  
9                     ization to receive and possess spent nuclear  
10                    fuel and high-level radioactive waste; or

11                    “(iii) for any other action relating to  
12                    the repository.

13           “(6) PROCEDURES.—In reviewing applications  
14           under this subsection, the Commission shall use pro-  
15           cedures that ensure the transparent review and reso-  
16           lution of key scientific and technical issues in a  
17           timely manner.”.

18 **SEC. 103. CONNECTED ACTIONS.**

19           Section 114(f)(6) of the Nuclear Waste Policy Act  
20           of 1982 (42 U.S.C. 10134(f)(6)) is amended—

21                    (1) by striking “site, or” and inserting “site,”;

22                    and

23                    (2) by inserting before the period at the end the  
24                    following: “, or any action related to construction or  
25                    operation of a rail transport system for transporting

1 spent nuclear fuel or high-level radioactive waste to  
2 the repository”.

3 **SEC. 104. WASTE CONFIDENCE.**

4 For purposes of a determination by the Commission  
5 on whether to grant, amend, or renew any license to con-  
6 struct or operate any civilian nuclear power reactor or  
7 high-level radioactive waste or spent fuel storage or treat-  
8 ment facility under the Atomic Energy Act of 1954 (42  
9 U.S.C. 2011 et seq.)—

10 (1) the obligation of the Secretary to develop a  
11 repository in accordance with the Nuclear Waste  
12 Policy Act of 1982 (42 U.S.C. 10101 et seq.) shall  
13 provide sufficient and independent grounds for any  
14 further findings by the Commission of reasonable as-  
15 surances that spent nuclear fuel and high-level ra-  
16 dioactive waste would be disposed of safely and in a  
17 timely manner; and

18 (2) no consideration of the environmental im-  
19 pact of the storage of spent nuclear fuel or high-level  
20 radioactive waste on the site of the civilian nuclear  
21 power reactor or high-level radioactive waste or  
22 spent fuel storage or treatment facility under the  
23 Atomic Energy Act of 1954 (42 U.S.C. 2011 et  
24 seq.), for the period following the term of the license  
25 for the facility, shall be required in any environ-

1 mental impact statement, environmental assessment,  
2 environmental analysis, or other analysis prepared in  
3 connection with the issuance, amendment or renewal  
4 of a license to construct or operate the facility.

5 **SEC. 105. DEFINITION OF HIGH-LEVEL RADIOACTIVE**  
6 **WASTE.**

7 Section 2 of the Nuclear Waste Policy Act of 1982  
8 (42 U.S.C. 10101) is amended by striking paragraph (12)  
9 and inserting the following:

10 “(12) HIGH-LEVEL RADIOACTIVE WASTE.—The  
11 term ‘high-level radioactive waste’ means—

12 “(A) the highly radioactive material result-  
13 ing from the reprocessing in the United States  
14 of spent nuclear fuel, including liquid waste  
15 produced directly in reprocessing and any solid  
16 material derived from such liquid waste that  
17 contains fission products in sufficient con-  
18 centrations;

19 “(B) the highly radioactive material de-  
20 scribed in section 3(b)(1)(D) of the Low-Level  
21 Radioactive Waste Policy Act (42 U.S.C.  
22 2021c(b)(1)(D) resulting from the operation of  
23 facilities licensed under section 103 or 104 of  
24 the Atomic Energy Act of 1954 (42 U.S.C.  
25 2133, 2134); and

1           “(C) any other highly radioactive material  
2           that the Commission, consistent with law, may  
3           determine by rule requires permanent isola-  
4           tion.”.

## 5           **TITLE II—ADMINISTRATION**

### 6           **SEC. 201. AIR QUALITY PERMITS.**

7           Section 114 of the Nuclear Waste Policy Act of 1982  
8           (42 U.S.C. 10134) is amended by adding at the end the  
9           following:

10          “(g) AIR QUALITY.—

11           “(1) IN GENERAL.—The Administrator shall  
12           issue, administer, and enforce any air quality permit  
13           or requirement applicable to any facility under the  
14           jurisdiction of, or any activity carried out by, a Fed-  
15           eral agency that is subject to the requirements of  
16           this Act.

17           “(2) PREEMPTION OF STATE LAWS.—No State  
18           or political subdivision of a State may issue, admin-  
19           ister, or enforce any air quality permit or require-  
20           ment applicable to any facility under the jurisdiction  
21           of, or any activity carried out by, a Federal agency  
22           that is subject to the requirements of this Act.”.

### 23          **SEC. 202. EXPEDITED AUTHORIZATIONS.**

24          Section 120 of the Nuclear Waste Policy Act of 1982  
25          (42 U.S.C. 10140) is amended—

1 (1) in subsection (a)(1)—

2 (A) in the first sentence, by inserting “, or  
3 the conduct of an infrastructure activity,” after  
4 “repository”;

5 (B) by inserting “, State, local, or tribal”  
6 after “Federal” each place it appears; and

7 (C) in the second sentence, by striking “re-  
8 positories” and inserting “a repository or infra-  
9 structure activity”;

10 (2) in subsection (b), by striking “, and may in-  
11 clude terms and conditions permitted by law”; and

12 (3) by adding at the end the following:

13 “(c) FAILURE TO GRANT AUTHORIZATION.—An  
14 agency or officer that fails to grant authorization by the  
15 date that is 1 year after the date of receipt of an applica-  
16 tion or request from the Secretary subject to subsection  
17 (a) shall submit to Congress a written report that explains  
18 the reason for the failure to grant the authorization (or  
19 to reject the application or request) by that date.

20 “(d) TREATMENT OF ACTIONS.—For the purpose of  
21 applying any Federal, State, local, or tribal law or require-  
22 ment, the taking of an action relating to a repository or  
23 an infrastructure activity shall be considered to be—

24 “(1) beneficial, and not detrimental, to the pub-  
25 lic interest and interstate commerce; and



1           (2) by striking “(5) Contracts” and inserting  
2 the following:

3           “(5) REQUIREMENTS RELATING TO CON-  
4 TRACTS.—

5           “(A) IN GENERAL.—Subject to subpara-  
6 graph (B), a contract”;

7           (3) by adding at the end the following:

8           “(B) CIVILIAN NUCLEAR POWER REAC-  
9 TORS.—After the date of enactment of the Nu-  
10 clear Waste Policy Amendments Act of 2008,  
11 for any civilian nuclear power reactor for which  
12 a license application is filed with the Commis-  
13 sion in accordance with section 103 or 104 of  
14 the Atomic Energy Act of 1954 (42 U.S.C.  
15 2133, 2134), a contract under this section  
16 shall—

17           “(i) not later than 60 days after the  
18 date on which the Commission docketed the  
19 license application, be entered into by the  
20 Secretary;

21           “(ii) be consistent with the standard  
22 contract for disposal of spent nuclear fuel  
23 and/or high-level radioactive waste de-  
24 scribed in section 961.11 of title 10, Code

1 of Federal Regulations (as in effect on  
2 January 1, 2006);

3 “(iii) require that not later than 35  
4 years after the date on which the civilian  
5 nuclear power reactor first commences  
6 commercial operation, the Secretary take  
7 title to, transport, and dispose of the spent  
8 nuclear fuel or high-level radioactive waste  
9 of the civilian nuclear power reactor; and

10 “(iv) not contain any provision that  
11 provides for the adjustment of the 1.0 mil  
12 per kilowatt-hour fee established by para-  
13 graph (2).”.

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