

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.

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

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).”.

○