

103^D CONGRESS
2^D SESSION

S. 2244

To amend the Nuclear Waste Policy Act of 1982 to allow commercial nuclear utilities that have contracts with the Secretary of Energy under section 302 of that Act to receive credits to offset the cost of storing spent fuel that the Secretary is unable to accept for storage on and after January 31, 1998.

IN THE SENATE OF THE UNITED STATES

JUNE 24 (legislative day, JUNE 7), 1994

Mr. BRYAN introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Nuclear Waste Policy Act of 1982 to allow commercial nuclear utilities that have contracts with the Secretary of Energy under section 302 of that Act to receive credits to offset the cost of storing spent fuel that the Secretary is unable to accept for storage on and after January 31, 1998.

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.**

4 This Act may be cited as the “Independent Spent Nu-
5 clear Fuel Storage Act of 1994”.

1 **SEC. 2. TABLE OF CONTENTS.**

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.
- Sec. 4. Findings.
- Sec. 5. Amendments to the Nuclear Waste Policy Act of 1982.

2 **SEC. 3. DEFINITIONS.**

3 For purposes of this Act—

4 (1) the term “Commission” means the Nuclear
5 Regulatory Commission; and

6 (2) the term “Secretary” means the Secretary
7 of the Department of Energy.

8 **SEC. 4. FINDINGS.**

9 The Congress finds that—

10 (1) by 1998, approximately forty-five thousand
11 tons of spent nuclear fuel will be stored at commer-
12 cial nuclear reactors across the Nation;

13 (2) the deep geologic high level radioactive
14 waste and spent nuclear fuel repository envisioned
15 by the Nuclear Waste Policy Act of 1982 (42 U.S.C.
16 10101 et. seq.) will not be constructed in time to
17 permit the Secretary to receive and accept high level
18 radioactive waste or spent nuclear fuel as con-
19 templated by sections 123 and 302 of that Act (42
20 U.S.C. 10143, 10222), with the result that the Sec-
21 retary will be unable to perform contracts executed
22 pursuant to section 302(a) of that Act with persons

1 who generate or hold title to high level radioactive
2 waste or spent nuclear fuel;

3 (3) there have been no orders for the develop-
4 ment or construction of civilian nuclear power gener-
5 ating facilities since the enactment of the Nuclear
6 Waste Policy Act of 1982; several such facilities that
7 were anticipated when the Act was enacted are not
8 operating now;

9 (4) it does not now appear that a deep geologic
10 high level radioactive waste and spent nuclear fuel
11 repository will be available before the year 2010 or
12 later;

13 (5) by the time a deep geologic repository is
14 available many currently operating commercial nu-
15 clear reactors will need spent fuel storage capacity
16 beyond the maximum now available in at-reactor
17 spent fuel storage pools; nuclear utilities have spent
18 and will spend major sums to construct facilities, in-
19 cluding dry cask spent fuel storage facilities, for use
20 in the interim before a deep geologic repository is
21 available;

22 (6) the sums spent for the purposes described
23 in paragraph (5) are the same funds that commer-
24 cial nuclear utilities intended to contribute to the
25 Nuclear Waste Fund established by section 302(c)

1 of the Nuclear Waste Policy Act of 1982 (42 U.S.C.
2 10222 (c));

3 (7) the technology for long term storage of
4 spent nuclear fuel, including the technology of dry
5 cask storage, has improved dramatically since the
6 enactment of the Nuclear Waste Policy Act of 1982;

7 (8) the existing statutory jurisdiction of the
8 Commission, under the Atomic Energy Act of 1954
9 (42 U.S.C. 2001 et. seq.), the Energy Reorganiza-
10 tion Act of 1974 (42 U.S.C. 5801 et. seq.), Execu-
11 tive Order 11834 (42 U.S.C. 5801 note), the Nu-
12 clear Regulatory Commission Reorganization Plan
13 Numbered 1 of 1980, and the Commission's various
14 authorization Acts includes the jurisdiction to review
15 and evaluate the spent fuel storage capability of
16 commercial nuclear utilities that hold or seek li-
17 censes to receive and possess nuclear materials from
18 the Commission;

19 (9) commercial nuclear utilities that hold li-
20 censes to receive and possess nuclear materials are
21 generally well suited to maintain the institutional ca-
22 pability necessary to become stewards of spent nu-
23 clear fuel during a period of interim storage;

24 (10) the increased radioactive decay that will
25 occur in spent nuclear fuel that has been stored for

1 interim periods prior to delivery to the Secretary
2 pursuant to section 123 of the Nuclear Waste Policy
3 Act of 1982 (42 U.S.C. 10143) will ease and facili-
4 tate its subsequent handling, transportation, and
5 final disposal; and

6 (11) the median estimated cost to commercial
7 nuclear facilities of acquiring or constructing at-
8 reactor dry storage facilities, plus the long term op-
9 erating cost, is approximately 0.56 mil per kilowatt-
10 hour under average industry fuel burnup rates.

11 **SEC. 5. AMENDMENTS TO THE NUCLEAR WASTE POLICY**

12 **ACT OF 1982.**

13 Section 302 of the Nuclear Waste Policy Act of 1982
14 (42 U.S.C. 10222(a)) is amended by inserting at the end
15 thereof the following new subsection:

16 “(f)(1) After January 31, 1998, if the Secretary does
17 not have a facility available to accept spent fuel from per-
18 sons holding contracts under this section, those persons
19 may, through credits on fee payments under subsection
20 (a)(2), offset the expenses of providing storage of spent
21 fuel generated after that date (including expenses reason-
22 ably incurred before that date in anticipation of the neces-
23 sity of providing such storage) and until the date of the
24 Secretary’s first acceptance of that person’s spent fuel at
25 a storage or disposal facility authorized by this Act.

1 “(2) The credits described in paragraph (1)—

2 “(A) shall be deducted from each remittance of
3 a person’s fee payments to the Nuclear Waste Fund
4 from the time that the person meets the conditions
5 of paragraph (1) until the time that the Secretary
6 first accepts that person’s spent fuel at a storage or
7 disposal facility authorized by this Act; and

8 “(B) shall be in the amount of 0.56 mil per
9 kilowatt-hour for electricity generated by the per-
10 son’s civilian nuclear power reactor and sold during
11 the period the person is eligible for the credit, or in
12 such other amount as may be certified to the Sec-
13 retary by the regulatory authority which establishes
14 the rates charged to customers for electricity gen-
15 erated by the person’s civilian nuclear power reac-
16 tor.”.

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