

112TH CONGRESS
1ST SESSION

S. 1320

To require the Secretary of Energy to offer to enter into temporary used fuel storage facility agreements.

IN THE SENATE OF THE UNITED STATES

JUNE 30, 2011

Ms. MURKOWSKI (for herself and Ms. LANDRIEU) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To require the Secretary of Energy to offer to enter into temporary used fuel storage facility agreements.

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 “Nuclear Fuel Storage
5 Improvement Act of 2011”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) COMMISSION.—The term “Commission”
9 means the Nuclear Regulatory Commission.

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of Energy.

3 **SEC. 3. INCENTIVES FOR SITING OF TEMPORARY USED**
4 **FUEL STORAGE FACILITIES.**

5 (a) DEFINITIONS.—In this section:

6 (1) AGREEMENT.—The term “agreement”
7 means a temporary used fuel storage facility agree-
8 ment entered into under subsection (e).

9 (2) FIRST USED FUEL RECEIPT.—The term
10 “first used fuel receipt” means the receipt of used
11 fuel by a temporary used fuel storage facility at a
12 site within the jurisdiction of a unit of local govern-
13 ment that is a party to an agreement.

14 (3) NUCLEAR WASTE FUND.—The term “Nu-
15 clear Waste Fund” means the Nuclear Waste Fund
16 established under section 302 of the Nuclear Waste
17 Policy Act of 1982 (42 U.S.C. 10222).

18 (4) UNIT OF LOCAL GOVERNMENT.—The term
19 “unit of local government” means any borough, city,
20 county, parish, town, township, village, or other gen-
21 eral purpose political subdivision of a State, or asso-
22 ciation of 2 or more political subdivisions of a State.

23 (5) USED FUEL.—The term “used fuel” means
24 nuclear fuel that has been withdrawn from a nuclear
25 reactor following irradiation, the constituent ele-

1 ments of which have not been separated by repro-
2 essing.

3 (b) AUTHORIZATION.—The Secretary shall offer to
4 enter into temporary used fuel storage facility agreements
5 in accordance with this section.

6 (c) NOTICE FROM UNITS OF LOCAL GOVERNMENT
7 TO SECRETARY.—Not later than January 1, 2013, rep-
8 resentatives of a unit of local government, with the written
9 approval of the Governor of the State in which the juris-
10 diction of the local government is located, may submit to
11 the Secretary written notice that the unit of local govern-
12 ment is willing to have a privately owned and operated
13 temporary used fuel storage facility located at an identi-
14 fied site within the jurisdiction of the unit of local govern-
15 ment.

16 (d) PRELIMINARY COMPENSATION.—

17 (1) IN GENERAL.—The Secretary shall make
18 payments of \$1,000,000 each year to not more than
19 3 units of local government that have submitted no-
20 tices under subsection (c).

21 (2) MULTIPLE NOTICES.—If more than 3 no-
22 tices are received under subsection (c), the Secretary
23 shall make payments to the first 3 units of local gov-
24 ernment, based on the order in which the notices are
25 received.

1 (3) TIMING.—The payments shall be made an-
2 nually for a 3-year period, on the anniversary date
3 of the filing of the notice under subsection (c).

4 (e) AGREEMENT.—

5 (1) IN GENERAL.—On the docketing of an ap-
6 plication for a license for a temporary used fuel stor-
7 age facility, in accordance with part 72 of title 10,
8 Code of Federal Regulations, at a site within the ju-
9 risdiction of a unit of local government by the Com-
10 mission, the Secretary shall offer to enter into a
11 temporary used fuel storage facility economic impact
12 agreement with the unit of local government.

13 (2) TERMS AND CONDITIONS.—An agreement
14 between the Secretary and a unit of local govern-
15 ment under this subsection shall contain such terms
16 and conditions (including such financial and institu-
17 tional arrangements) as the Secretary and the unit
18 of local government determine to be reasonable and
19 appropriate.

20 (3) AMENDMENT.—An agreement may be—

21 (A) amended only with the mutual consent
22 of the parties to the agreement; and

23 (B) terminated only in accordance with
24 paragraph (4).

1 (4) TERMINATION.—The Secretary shall termi-
2 nate an agreement if the Secretary determines that
3 any major element of the temporary used fuel stor-
4 age facility required under the agreement will not be
5 completed.

6 (5) NUMBER OF AGREEMENTS.—Not more than
7 2 agreements may be in effect at any time.

8 (6) PAYMENT SCHEDULE.—

9 (A) IN GENERAL.—If the Secretary enters
10 into an agreement under this subsection, the
11 Secretary shall make to the unit of local govern-
12 ment and the State in which the unit of local
13 government is located—

14 (i) payments of—

15 (I) on the date of entering into
16 the agreement under this subsection,
17 \$6,000,000;

18 (II) during the period beginning
19 on the date of entering into an agree-
20 ment and ending on the date of first
21 used fuel receipt or denial of the li-
22 cense application for a temporary
23 used fuel storage facility by the Com-
24 mission, whichever is later,
25 \$10,000,000 for each year; and

1 (III) during the period beginning
2 on the date of first used fuel receipt
3 and ending on the date of closure of
4 the facility, a total of the higher of—

5 (aa) \$15,000,000 for each
6 year; or

7 (bb) \$15,000 per metric ton
8 of used fuel received at the facil-
9 ity for each year, up to a max-
10 imum of \$25,000,000 for each
11 year; and

12 (ii) a payment of \$20,000,000 on clo-
13 sure of the facility.

14 (B) TIMING OF ANNUAL PAYMENTS.—The
15 Secretary shall make annual payments under
16 subparagraph (A)(i)—

17 (i) in the case of annual payments de-
18 scribed in subparagraph (A)(i)(II), on the
19 anniversary of the date of the docketing of
20 the license application by the Commission;
21 and

22 (ii) in the case of annual payments
23 described in subparagraph (A)(i)(III), on
24 the date of the first used fuel receipt and
25 thereafter on the anniversary date of the

1 first used fuel receipt, in lieu of annual
2 payments described in subparagraph
3 (A)(i)(II).

4 (C) TERMINATION OF AUTHORITY.—Sub-
5 ject to subparagraph (A)(ii), the authority to
6 make payments under this paragraph termi-
7 nates on the date of closure of the facility.

8 (f) FUNDING.—Funding for compensation and pay-
9 ments provided for, and made under, this section shall be
10 made available from amounts available in the Nuclear
11 Waste Fund.

12 **SEC. 4. ACCEPTANCE, STORAGE, AND SETTLEMENT OF**
13 **CLAIMS.**

14 (a) IN GENERAL.—The Secretary shall offer to enter
15 into a long-term contract for the storage of used fuel from
16 civilian nuclear power plants with a private entity that
17 owns or operates an independent used fuel storage facility
18 licensed by the Commission that is located within the ju-
19 risdiction of a unit of local government to which payments
20 are made pursuant to section 3(e).

21 (b) SETTLEMENT AND ACCEPTANCE OF USED
22 FUEL.—

23 (1) IN GENERAL.—At the request of a party to
24 a contract under section 302(a) of the Nuclear
25 Waste Policy Act of 1982 (42 U.S.C. 10222(a)), the

1 Secretary may enter into an agreement for the set-
2 tlement of all claims against the Secretary under a
3 contract for failure to dispose of high-level radio-
4 active waste or used nuclear fuel not later than Jan-
5 uary 31, 1998.

6 (2) TERMS AND CONDITIONS.—A settlement
7 agreement described in paragraph (1)—

8 (A) shall contain such terms and condi-
9 tions (including such financial and institutional
10 arrangements) as the Secretary and the party
11 to the contract determine to be reasonable and
12 appropriate; and

13 (B) may include the acceptance of used
14 fuel from the party to the contract for storage
15 at a facility with respect to which the Secretary
16 has a long-term contract under subsection (a).

17 (c) PRIORITY FOR ACCEPTANCE FOR CLOSED FA-
18 CILITIES.—

19 (1) IN GENERAL.—If a request for fuel accept-
20 ance is made under this section by a facility that has
21 produced used nuclear fuel and that is shut down
22 permanently and the facility has been decommis-
23 sioned, the Secretary shall provide priority for the
24 acceptance of the fuel produced by the facility.

1 (2) SCHEDULE.—Spent nuclear fuel and high-
2 level radioactive waste generated by a facility in ex-
3 istence as of the date of enactment of this Act shall
4 be offered a schedule in accordance with the priority
5 established pursuant to Article IV.b.5 of the con-
6 tract entitled “Contract for Disposal of Spent Nu-
7 clear Fuel and/or High-Level Radioactive Waste”, as
8 specified in section 961.11 of title 10, Code of Fed-
9 eral Regulations.

10 (d) TRANSPORTATION OF USED FUEL.—

11 (1) IN GENERAL.—The Secretary shall provide
12 for the transportation of used fuel accepted by the
13 Secretary under this section.

14 (2) SYSTEMS AND COMPONENTS.—

15 (A) IN GENERAL.—The Secretary shall
16 procure all systems and components necessary
17 to transport used fuel from facilities designated
18 by contract holders to 1 or more storage facili-
19 ties under this section.

20 (B) CASKS.—The Secretary shall—

21 (i) use transportation and storage
22 casks that are approved by the Commis-
23 sion in use at facilities designated by con-
24 tract holders; and

- 1 (ii) compensate the owner and oper-
- 2 ator of each facility for the use of the
- 3 casks.

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