

## NRC Proposed Legislation on the Control of Nuclear Materials

### SECTION . TREATMENT OF ACCELERATOR-PRODUCED AND OTHER RADIOACTIVE MATERIAL AS BYPRODUCT MATERIAL

(a) DEFINITION OF BYPRODUCT MATERIAL.--Section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014 (e)) is amended--

(1) by striking “The term ‘byproduct material’ means” and inserting the following:  
“The term ‘byproduct material’ means--“;

(2) by inserting on the line following “The term ‘byproduct material’ means--“ the clause in section 11 e. that begins “(1) any radioactive material”;

(3) by striking “, and” at the end of clause (1) of section 11 e. and inserting “;”;

(4) by inserting on the line following the semicolon added by clause (3) the clause in section 11 e. that begins “(2) the tailings or wastes”;

(5) by striking “content.” at the end of clause (3) in section 11 e. and inserting “content;”; and

(6) by inserting on the line following “content;” the following:

“(3)(A) any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after the date of enactment of this paragraph, for use in a commercial, medical, or research activity; or

“(B) any material that --

“(i) has been made radioactive by use of a particle accelerator; and

“(ii) is produced, extracted, or converted after extraction, before, on, or after the date of enactment of this paragraph, for use in a commercial, medical, or research activity; and

“(4) any discrete source of naturally occurring radioactive material, other

than source material, that --

“(A) the Nuclear Regulatory Commission determines (after consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency), would pose a threat similar to that posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

“(B) before, on, or after the date of enactment of this paragraph, is extracted or converted after extraction, for use in a commercial, medical, or research activity;

*Provided*, That the term “byproduct material” as defined in paragraphs (3) and (4) does not include diffuse Technologically Enhanced Naturally Occurring Radioactive Material, such as that found in coal ash or oil and gas pipelines or sludges.”

(b) AGREEMENTS.--Section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021) is amended--

(1) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (2) the following:

“(3) byproduct materials (as defined in section 11 e.(3));

“(4) byproduct materials (as defined in section 11 e.(4));”.

(c) REGULATIONS.--

(1) IN GENERAL.--Not later than the effective date of this section, the Nuclear Regulatory Commission shall promulgate final regulations establishing such requirements and standards as the Commission considers necessary for the acquisition,

possession, transfer, use, or disposal of byproduct material (as defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (as added by subsection (a))).

(2) COOPERATION.--The Commission shall cooperate with the States in formulating the regulations under paragraph (1).

(3) TRANSITION.--To ensure an orderly transition of regulatory authority with respect to byproduct material as defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (as added by subsection (a)), not later than 180 days before the effective date of this section, the Nuclear Regulatory Commission shall prepare and provide public notice of a transition plan developed in coordination with States that--

(A) have not, before the effective date of this section, entered into an agreement with the Commission under section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021); or

(B) in the case of a State that has entered into such an agreement, has not, before the effective date of this section, applied for an amendment to the agreement that would permit assumption by the State of regulatory responsibility for such byproduct material.

(d) WASTE DISPOSAL.--

(1) Notwithstanding any other Federal or State law or any action that has been taken to implement such law, commencing with the effective date of subsection (a), byproduct material as defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (as added by subsection (a)) may be transferred to and disposed of--

(A) in a disposal facility licensed by the Commission, if the disposal meets the requirements of the Commission, or

(B) in a disposal facility licensed by a State that has entered into an agreement with the Commission under section 274b. of the Atomic Energy Act of 1954, if the disposal meets requirements of the State that are equivalent to the requirements of the Commission.

(2) Notwithstanding the provisions of paragraph (1), byproduct material as defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (as added by subsection (a)) may be disposed of under the provisions of Title II of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), popularly known as the "Resource Conservation and Recovery Act," to the same extent as such material was subject to those provisions before the enactment of this section.

(3) Byproduct material as defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (as added by subsection (a)) shall not be considered low-level radioactive waste as defined in title I of the Low-Level Radioactive Waste Policy Amendments Act of 1985, or in implementing any Congressionally approved Compact entered into pursuant to the Low-Level Radioactive Policy Act of 1980, as amended.

(e) EFFECTIVE DATE.--Except with respect to matters that the Nuclear Regulatory Commission determines are required to be addressed earlier to protect the public health and safety or to promote the common defense and security, the amendments made by this section take effect on the date that is 4 years after the date of enactment of this Act.