

108TH CONGRESS  
2D SESSION

# S. 2763

To amend the Atomic Energy Act of 1954 to clarify the treatment of accelerator-produced and other radioactive material as byproduct material.

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IN THE SENATE OF THE UNITED STATES

JULY 22, 2004

Mrs. CLINTON (for herself, Mr. GREGG, and Mr. REID) 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 amend the Atomic Energy Act of 1954 to clarify the treatment of accelerator-produced and other radioactive material as byproduct material.

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. TREATMENT OF ACCELERATOR-PRODUCED**  
4 **AND OTHER RADIOACTIVE MATERIAL AS BY-**  
5 **PRODUCT MATERIAL.**

6 (a) DEFINITION OF BYPRODUCT MATERIAL.—Sec-  
7 tion 11e. of the Atomic Energy Act of 1954 (42 U.S.C.  
8 2014(e)) is amended—

1           (1) by striking “means (1) any radioactive” and  
2       inserting “means—  
3           “(1) any radioactive”;  
4           (2) by striking “material, and (2) the tailings”  
5       and inserting “material;  
6           “(2) the tailings”; and  
7           (3) by striking “content.” and inserting “con-  
8       tent;  
9           “(3)(A) any discrete source of radium-226 that  
10       is produced, extracted, or converted after extraction,  
11       before, on, or after the date of enactment of this  
12       paragraph, for use in a commercial, medical, or re-  
13       search activity; or  
14       “(B) any material that—  
15           “(i) has been made radioactive by use of a  
16       particle accelerator; and  
17           “(ii) is produced, extracted, or converted  
18       after extraction, before, on, or after the date of  
19       enactment of this paragraph, for use in a com-  
20       mercial, medical, or research activity; and  
21       “(4) any discrete source of naturally occurring  
22       radioactive material, other than source material  
23       that—  
24           “(A) the Nuclear Regulatory Commission  
25       determines (after consultation with the Admin-

1           istrator of the Environmental Protection Agen-  
2           cy, the Secretary of Energy, the Secretary of  
3           Homeland Security, and the head of any other  
4           appropriate Federal agency), would pose a  
5           threat similar to that posed by a discrete source  
6           of radium-226 to the public health and safety  
7           or the common defense and security; and

8                   “(B) before, on, or after the date of enact-  
9           ment of this paragraph, is extracted or con-  
10          verted after extraction, for use in a commercial,  
11          medical, or research activity.”.

12          (b) AGREEMENTS.—Section 274b. of the Atomic En-  
13   ergy Act of 1954 (42 U.S.C. 2021(b)) is amended—

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

16               (2) by inserting after paragraph (2) the fol-  
17          lowing:

18                   “(3) byproduct materials (as defined in section  
19          11e.(3));

20                   “(4) byproduct materials (as defined in section  
21          11e.(4));”.

22          (c) REGULATIONS.—

23               (1) IN GENERAL.—Not later than the effective  
24          date of this section, the Nuclear Regulatory Com-  
25          mission shall promulgate final regulations estab-

1       lishing such requirements and standards as the  
2       Commission considers necessary for the acquisition,  
3       possession, transfer, use, or disposal of byproduct  
4       material (as defined in paragraphs (3) and (4) of  
5       section 11e. of the Atomic Energy Act of 1954 (as  
6       added by subsection (a))).

7               (2) COOPERATION.—The Commission shall co-  
8       operate with the States in formulating the regula-  
9       tions under paragraph (1).

10              (3) TRANSITION.—To ensure an orderly transi-  
11       tion of regulatory authority with respect to byprod-  
12       uct material as defined in paragraphs (3) and (4) of  
13       section 11e. of the Atomic Energy Act of 1954 (as  
14       added by subsection (a)), not later than 180 days  
15       before the effective date of this section, the Nuclear  
16       Regulatory Commission shall prepare and provide  
17       public notice of a transition plan developed in co-  
18       ordination with States that—

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

23                   (B) in the case of a State that has entered  
24       into such an agreement, has not, before the ef-  
25       fective date of this section, applied for an

1           amendment to the agreement that would permit  
2           assumption by the State of regulatory responsi-  
3           bility for such byproduct material.

4       (d) EFFECTIVE DATE.—Except with respect to mat-  
5   ters that the Nuclear Regulatory Commission determines  
6   are required to be addressed earlier to protect the public  
7   health and safety or to promote the common defense and  
8   security, the amendments made by this section take effect  
9   on the date that is 1 year after the date of enactment  
10 of this Act.

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