

**SRS Language – SC/DOE  
11/21**

**Sec. \_\_\_\_.**

**(a) Notwithstanding any other provision of law, with respect to material stored at the Department of Energy's Savannah River Site, high-level radioactive waste does not include radioactive material resulting from the reprocessing of spent nuclear fuel (1) that the Secretary of Energy determines (A) does not require permanent isolation in a deep geologic repository for spent fuel or highly radioactive waste pursuant to criteria promulgated by the Department of Energy by rule in consultation with the Nuclear Regulatory Commission (NRC) and (B) has had highly radioactive radionuclides removed to the maximum extent practical in accordance with the NRC-reviewed criteria and (C), in the case of material derived from the storage tanks, is disposed of in a facility (including a tank) pursuant to a State-approved closure plan or a State-issued permit, authority for the approval or issuance of which is conferred on the State outside of this Act; or (2) that the Secretary determines is radioactive material resulting from reprocessing that otherwise constitutes transuranic waste eligible for disposal pursuant to the Waste Isolation Pilot Plant Land Withdrawal Act and the Environmental Protection Agency regulations promulgated pursuant to that Act, and that does not contain concentrations of plutonium in excess of 20 percent by weight prior to the addition of any material to the waste to prepare it for disposal.**

**(b) The Department of Energy may implement any action authorized (1) by a State-approved closure plan or State-issued permit in existence on the date of enactment of this section, or (2) by a closure plan approved by the State or a permit issued by the State during the pendency of the rulemaking provided for in subsection (a). Any such action may be completed pursuant to the terms of the closure plan or the State-issued permit notwithstanding the final criteria adopted by the rulemaking pursuant to subsection (a).**

## **Draft Legislation**

**Sec. \_\_\_\_.**

(a) Notwithstanding any other provision of law, with respect to material stored at the Department of Energy's Savannah River Site, Hanford Site and the Idaho National Engineering and Environmental Laboratory, high-level radioactive waste does not include radioactive material resulting from the reprocessing of spent nuclear fuel that the Secretary of Energy determines pursuant to criteria promulgated by the Department of Energy by rule, in consultation with the Nuclear Regulatory Commission, that:

(1) does not require permanent isolation in a deep geologic repository for spent fuel or high-level radioactive waste, and

(2) has had highly radioactive radionuclides removed to the maximum extent practical in accordance with Department of Energy promulgated criteria, or, in the case of waste that otherwise qualifies as transuranic waste designated for disposal pursuant to the Waste Isolation Pilot Plant Land Disposal Act, that meets Waste Isolation Pilot Plant waste acceptance criteria, and

(3) will be disposed pursuant to a State-approved closure plan or a State-issued permit, which, in the case of waste that otherwise qualifies as transuranic waste designated for disposal pursuant to the Waste Isolation Pilot Plant Land Disposal Act, includes the State-issued permit for the Waste Isolation Pilot Plant.

(b) During the pendency of the rulemaking provided for in subsection (a) and with the written concurrence of the State(s) in which such waste is located and will be disposed, the Department of Energy may implement any action authorized by a State-approved closure plan or State-issued permit either in existence on the date of enactment of this section, or approved or issued during such rulemaking. Any authorized action commenced during the pendency of the rulemaking may be completed pursuant to the terms of the closure plan or the State-issued permit notwithstanding the final criteria adopted by the rulemaking pursuant to subsection (a).

(c) In developing the criteria specified in subsection (a), the Secretary of Energy shall consider factors including but not limited to the type, half-life and concentration of radionuclides, and waste form characteristics. In making a determination that permanent isolation in a deep geologic repository for spent fuel or high-level radioactive waste is not required, the Secretary shall not rely upon man-made barriers, institutional controls or near-surface disposal site characteristics. Such rulemaking as is required by this section shall be completed by not later than December 31, 2006.

(d) For the purposes of this section, "highly radioactive radionuclides" means radioactive isotopes of americium, carbon, cesium, iodine, neptunium, plutonium, strontium, technetium, thorium, tin and uranium, with half-lives in excess of twenty years.