

## Calendar No. 504

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**H.R. 5427****[Report No. 109-274]**

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IN THE SENATE OF THE UNITED STATES

MAY 25, 2006

Received; read twice and referred to the Committee on Appropriations

JUNE 29, 2006

Reported by Mr. DOMENICI, with an amendment and an amendment to the  
title

[Strike out all after the enacting clause and insert the part printed in italic]

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**AN ACT**

Making appropriations for energy and water development  
for the fiscal year ending September 30, 2007, and for  
other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 ~~That the following sums are appropriated, out of any~~  
4 ~~money in the Treasury not otherwise appropriated, for the~~  
5 ~~fiscal year ending September 30, 2007, for energy and~~  
6 ~~water development and for other purposes, namely:~~

1 *during the preceding fiscal year on interest-bearing market-*  
2 *able securities of the United States which, at the time the*  
3 *computation is made, have terms of 15 years or more re-*  
4 *maining to maturity.*

5       *SEC. 313. CONSOLIDATION AND PREPARATION FACILI-*  
6 *TIES. (a) DEFINITIONS.—*

7           (1) *ACCEPT, ACCEPTANCE.—The terms “accept”*  
8 *and “acceptance” mean the Secretary’s act of taking*  
9 *possession of, and title to, spent nuclear fuel or high-*  
10 *level radioactive waste.*

11           (2) *CIVILIAN NUCLEAR POWER REACTOR.—The*  
12 *term “civilian nuclear power reactor” shall have the*  
13 *same meaning as provided in the Nuclear Waste Pol-*  
14 *icy Act of 1982 (42 U.S.C. 10101 et seq.).*

15           (3) *COMMISSION.—The term “Commission”*  
16 *means the Nuclear Regulatory Commission.*

17           (4) *CONSOLIDATION AND PREPARATION FACIL-*  
18 *ITY.—The term “consolidation and preparation facil-*  
19 *ity” means a facility designed and constructed for the*  
20 *receipt, handling, possession, safeguarding, and stor-*  
21 *age of spent nuclear fuel and high-level radioactive*  
22 *waste in accordance with this section.*

23           (5) *CONTRACTS.—The term “contracts” means*  
24 *the contracts executed under section 302(a) of the Nu-*  
25 *clear Waste Policy Act of 1982, by the Secretary and*

1     *any person who generates or holds title to spent nu-*  
2     *clear fuel or high-level radioactive waste of domestic*  
3     *origin for acceptance of such waste or fuel by the Sec-*  
4     *retary and the payment of fees to offset the Sec-*  
5     *retary's expenditures.*

6             (6) *CONTRACT HOLDERS.*—*The term “contract*  
7     *holders” means parties (other than the Secretary) to*  
8     *contracts.*

9             (7) *DISPOSAL.*—*The term “disposal” shall have*  
10    *the same meaning as provided in the Nuclear Waste*  
11    *Policy Act of 1982 (42 U.S.C. 10101 et seq.).*

12            (8) *REPOSITORY.*—*The term “repository” shall*  
13    *have the same meaning as provided in the Nuclear*  
14    *Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.).*

15            (9) *SECRETARY.*—*The term “Secretary” shall*  
16    *mean the Secretary of Energy.*

17            (10) *STORAGE.*—*The term “storage” shall have*  
18    *the same meaning as provided in the Nuclear Waste*  
19    *Policy Act of 1982 (42 U.S.C. 10101 et seq.).*

20    (b) *ACCEPTANCE.*—

21            (1) *ACCEPTANCE FOR SHUT DOWN REACTORS.*—  
22    *If a civilian nuclear power reactor has reached the*  
23    *end of its useful life or has been shut down perma-*  
24    *nently for whatever reason, the Secretary, at the re-*

1        *quest of the contract holder or the successor thereto,*  
2        *shall assume—*

3                *(A) the title to the high-level nuclear waste*  
4                *and spent nuclear fuel remaining at the site of*  
5                *the shutdown facility; and*

6                *(B) responsibility for the storage of the*  
7                *high-level radioactive waste and spent nuclear*  
8                *fuel at the site of the shutdown facility until*  
9                *such time as the high-level radioactive waste or*  
10               *spent nuclear fuel can be moved to another site*  
11               *for storage or disposal.*

12               *(2) ACCEPTANCE FOR STORAGE AT CONSOLIDA-*  
13               *TION AND PREPARATION FACILITIES.—*

14               *(A) ACCEPTANCE.—The Secretary shall ac-*  
15               *cept spent nuclear fuel and high-level radioactive*  
16               *waste at facilities designated by contract holders*  
17               *pursuant to the contracts, for storage at consoli-*  
18               *dation and preparation facilities constructed*  
19               *pursuant to this section.*

20               *(B) PRIORITY.—After receipt of a license to*  
21               *construct and operate an consolidation and*  
22               *preparation facility under this section, the Sec-*  
23               *retary shall, to the greatest extent practicable,*  
24               *accept fuel eligible to be moved to that consolida-*  
25               *tion and preparation facility based upon the Ac-*

1            *ceptance Priority Ranking established under*  
2            *part 961 of title 10, Code of Federal Regulations.*

3            (c) *TRANSPORTATION.—The Secretary shall provide*  
4            *for the transportation of spent nuclear fuel and high-level*  
5            *radioactive waste accepted by the Secretary. The Secretary*  
6            *shall procure all systems and components necessary to*  
7            *transport spent nuclear fuel and high-level radioactive*  
8            *waste from facilities designated by contract holders to the*  
9            *consolidation and preparation facilities. Transportation of*  
10           *spent nuclear fuel under this section shall be subject to li-*  
11           *censing and regulation by the Commission and by the Sec-*  
12           *retary of Transportation as provided for transportation of*  
13           *commercial spent nuclear fuel under existing law.*

14           (d) *DESIGNATION AND CONSTRUCTION OF CONSOLIDA-*  
15           *TION AND PREPARATION FACILITY SITES.—*

16           (1) *DESIGNATION OF CONSOLIDATION AND PREP-*  
17           *ARATION FACILITY SITES.—*

18           (A) *Within 90 days of the issuance of the*  
19           *report under paragraph (4)(C), the Secretary, in*  
20           *consultation with the Governor of each State*  
21           *containing the site of a civilian nuclear power*  
22           *reactor, shall designate an eligible site within*  
23           *that State for the location of a consolidation and*  
24           *preparation facility for spent nuclear fuel stored*  
25           *within that State, unless the Secretary deter-*

1           *mines that designation of such a site is not fea-*  
2           *sible or desirable. During the consultation, the*  
3           *Governor may nominate an eligible site or sites.*

4           *(B) Within 90 days of the issuance of the*  
5           *report under paragraph (4)(C), the Secretary*  
6           *may determine that it is in the national interest*  
7           *to locate a regional consolidation and prepara-*  
8           *tion facility and on that basis designate an eligi-*  
9           *ble site for that purpose, except that no eligible*  
10          *site shall be designated for a regional consolida-*  
11          *tion and preparation facility in a State in*  
12          *which a site has been designated pursuant to*  
13          *(1)(A).*

14          *(2) ELIGIBLE SITES.—Subject to the limitations*  
15          *set forth in subsection (3), any site that is within a*  
16          *State that contains a civilian nuclear power reactor*  
17          *that is owned by the Federal Government or that can*  
18          *be purchased by the Federal government from any*  
19          *willing seller is eligible for designation by the Sec-*  
20          *retary pursuant to (d)(1).*

21          *(3) INELIGIBLE SITES.—No site can be des-*  
22          *ignated for the location, construction and operation of*  
23          *a consolidation and preparation facility for spent nu-*  
24          *clear fuel—*

1           (A) *in any State in which there is located*  
2 *any site selected for a repository under section*  
3 *115 of the Nuclear Waste Policy Act of 1982 (42*  
4 *U.S.C. 10101 et seq.);*

5           (B) *in any State in which the Nuclear Reg-*  
6 *ulatory Commission has authorized the construc-*  
7 *tion and operation of commercial, away from re-*  
8 *actor, above ground dry cask storage facility for*  
9 *spent nuclear fuel that is currently authorized to*  
10 *receive additional spent nuclear fuel; or*

11           (C) *which includes lands within the Na-*  
12 *tional Park System, National Forests or Wildlife*  
13 *Refuges or lands managed by the Bureau of*  
14 *Land Management that are within a conserva-*  
15 *tion system unit.*

16           (4) *DIRECTOR OF CONSOLIDATION AND PREPARA-*  
17 *TION.—*

18           (A) *Within 60 days of enactment of this*  
19 *Act, the Secretary shall designate a Director of*  
20 *Consolidation and Preparation.*

21           (B) *Within 180 days of enactment of this*  
22 *Act, the Director of Consolidation and Prepara-*  
23 *tion, in consultation with the Governor of each*  
24 *State containing the site of a civilian nuclear*  
25 *power reactor, shall evaluate the feasibility and*

1           *desirability of locating a consolidation and prep-*  
2           *eration facility within each State containing a*  
3           *civilian nuclear power reactor, and shall make*  
4           *recommendations to the Secretary regarding*  
5           *methods to most efficiently and expeditiously lo-*  
6           *cate such a facility in each State containing a*  
7           *civilian nuclear power reactor.*

8           *(C) The Coordinator shall issue a report of*  
9           *findings to the Secretary and such report shall*  
10          *be provided to the relevant Congressional Com-*  
11          *mittees of jurisdiction, and published in the Fed-*  
12          *eral Register for comment.*

13          (5) *LICENSE APPLICATION.*—*No later than 30*  
14          *days after the date on which the Secretary designates*  
15          *a consolidation and preparation facility site under*  
16          *paragraphs (1)(A) or (1)(B) of this subsection, the*  
17          *Secretary shall submit a license application and an*  
18          *environmental report to the Commission in accord-*  
19          *ance with applicable regulations (subpart B of part*  
20          *72 of title 10, Code of Federal Regulations, and sub-*  
21          *part A of part 51 of title 10, Code of Federal Regula-*  
22          *tions, respectively). The license application shall be*  
23          *for a term of 25 years, and the license shall be non-*  
24          *renewable.*

25          (6) *DESIGN.*—

1           (A) *The design for the consolidation and*  
2           *preparation facilities shall provide for the use of*  
3           *storage technologies which are licensed, approved,*  
4           *or certified by the Commission, to ensure com-*  
5           *patibility between the consolidation and prepa-*  
6           *ration facilities and contract holders' spent nu-*  
7           *clear fuel and facilities.*

8           (B) *The Secretary shall consent to an*  
9           *amendment to the contracts to provide for reim-*  
10           *bursement to contract holders for transportable*  
11           *storage systems purchased by contract holders if*  
12           *the Secretary determines that it is cost effective*  
13           *to use such transportable storage systems, pro-*  
14           *vided that the Secretary shall not be required to*  
15           *expend any funds to modify contract holders'*  
16           *storage or transport systems or to seek additional*  
17           *regulatory approvals in order to use such sys-*  
18           *tems.*

19           (7) *AUTHORIZATION.—There is authorized to be*  
20           *appropriated to carry out this subsection \$10,000,000*  
21           *for each of fiscal years 2007 through 2011.*

22           (e) *LICENSE AMENDMENTS.—The Secretary may seek*  
23           *such amendments to the licenses for the consolidation and*  
24           *preparation facilities as the Secretary may deem appro-*  
25           *priate, including amendments to use new storage tech-*

1 *nologies licensed by the Commission or to respond to*  
2 *changes in Commission regulations.*

3 *(f) COMMISSION ACTIONS.—*

4 *(1) The issuance of a license to construct and op-*  
5 *erate the consolidation and preparation facilities*  
6 *shall be considered a major Federal action signifi-*  
7 *cantly affecting the quality of the human environment*  
8 *for purposes of the National Environmental Policy*  
9 *Act of 1969 (42 U.S.C. 4321 et seq.). Prior to issuing*  
10 *a license under this section, the Commission shall pre-*  
11 *pare a final environmental impact statement in ac-*  
12 *cordance with the National Environmental Policy Act*  
13 *of 1969, the Commission's regulations. The Commis-*  
14 *sion shall ensure that this environmental impact*  
15 *statement is consistent with the scope of the licensing*  
16 *action and shall analyze the impacts of transpor-*  
17 *tation of spent nuclear fuel and high-level radioactive*  
18 *waste to the consolidation and preparation facility.*

19 *(2) CONSIDERATION.—Such environmental im-*  
20 *portant statement shall not consider the environmental*  
21 *impacts of the storage of spent nuclear fuel and high-*  
22 *level radioactive waste at the consolidation and prep-*  
23 *aration facility beyond the term of the license.*

24 *(g) PRELIMINARY DECISIONMAKING ACTIVITIES.—The*  
25 *Secretary's activities under this section, including, but not*

1 *limited to, the selection of sites for the consolidation and*  
2 *preparation facilities, assessments, the preparation and*  
3 *submittal of a license application and supporting docu-*  
4 *mentation, the construction and use of a facility licensed*  
5 *by the Commission pursuant to this section shall be consid-*  
6 *ered preliminary decisionmaking activities for purposes of*  
7 *judicial review. The Secretary shall not prepare an environ-*  
8 *mental impact statement under section 102(2)(C) of the Na-*  
9 *tional Environmental Policy Act of 1969 (42 U.S.C.*  
10 *4332(2)(C)) or any environmental review under subpara-*  
11 *graph (E) or (F) of such Act before conducting these activi-*  
12 *ties.*

13       *(h) JUDICIAL REVIEW.—Judicial review of the Com-*  
14 *mission’s environmental impact statement under the Na-*  
15 *tional Environmental Policy Act of 1969 (42 U.S.C. 4321*  
16 *et seq.) shall be consolidated with judicial review of the*  
17 *Commission’s licensing decision.*

18       *(i) LICENSING DEADLINE.—The Commission shall*  
19 *issue a final decision granting or denying a license for a*  
20 *consolidation and preparation facility not later than 32*  
21 *months after the date of submittal of the application for*  
22 *such license.*

23       *(j) WASTE CONFIDENCE.—The provisions of this Act,*  
24 *and the Secretary’s obligation to develop a repository in*  
25 *accordance with the provisions of the Nuclear Waste Policy*

1 *Act of 1982 (42 U.S.C. 10101 et seq.), shall provide suffi-*  
2 *cient and independent grounds for any further findings by*  
3 *the Commission of reasonable assurance that spent nuclear*  
4 *fuel and high-level radioactive waste will be disposed of*  
5 *safely and on a timely basis for purposes of the Commis-*  
6 *sion's decision to grant or amend any license to operate*  
7 *any civilian nuclear power reactor under the Atomic En-*  
8 *ergy Act of 1954 (42 U.S.C. 2011, et seq.).*

9       (k) *EXPENDITURES FROM THE NUCLEAR WASTE*  
10 *FUND.—Notwithstanding the provisions of section 302(d)*  
11 *of the Nuclear Waste Policy Act of 1982 (42 U.S.C.*  
12 *10222(d)), the Secretary shall make expenditures from the*  
13 *Waste Fund for the identification, development, licensing,*  
14 *construction, operation, decommissioning of any consolida-*  
15 *tion and preparation facility constructed under this section,*  
16 *any costs that may be incurred by the Secretary in connec-*  
17 *tion with the transportation, treating, or packaging of spent*  
18 *nuclear fuel or high-level radioactive waste to be stored in*  
19 *a consolidation and preparation facility authorized under*  
20 *this section and any cost that may be incurred as a result*  
21 *of the Secretary's obligation to accept and store high level*  
22 *nuclear waste and spent fuel under subsection (b)(1) of this*  
23 *section.*

24       (l) *CONSOLIDATION AND PREPARATION FUND.—Sec-*  
25 *tion 136 of the Nuclear Waste Policy Act of 1982 (42 U.S.C.*

1 10157) shall not apply to consolidation and preparation  
2 facilities authorized under this Act.

3       *SEC. 314. NUCLEAR MEDICINE. For fiscal year 2007,*  
4 *the Secretary shall use funding provided by section 1001(e)*  
5 *of title X of the Energy Policy Act of 2005, to support nu-*  
6 *clear medicine research within the Office of Science, Bio-*  
7 *logical and Environmental Research program.*

8                                   *TITLE IV*

9                                   *INDEPENDENT AGENCIES*

10                                  *APPALACHIAN REGIONAL COMMISSION*

11       *For expenses necessary to carry out the programs au-*  
12 *thorized by the Appalachian Regional Development Act of*  
13 *1965, as amended, notwithstanding 40 U.S.C. 14704, and,*  
14 *for necessary expenses for the Federal Co-Chairman and the*  
15 *alternate on the Appalachian Regional Commission, for*  
16 *payment of the Federal share of the administrative expenses*  
17 *of the Commission, including services as authorized by 5*  
18 *U.S.C. 3109, and hire of passenger motor vehicles,*  
19 *\$65,472,000, to remain available until expended: Provided,*  
20 *That any congressionally directed spending shall be taken*  
21 *from within that State's allocation in the fiscal year in*  
22 *which it is provided.*