

Summary of Nuclear Subtitle in the American Power Act

Includes Big Nuclear Giveaways That Harm Taxpayers, Ratepayers, and Public Safety

The discussion draft of the American Power Act (APA), released on May 12, 2010 by Sens. Kerry and Lieberman, piles new and expanded subsidies on top of the subsidies that were already provided for in the Energy Policy Act of 2005. In addition, APA undermines public safety by further shortcutting the Nuclear Regulatory Commission's (NRC) yet-untested licensing process.

Further Subsidizes New Reactors

Section 1102. Triples Nuclear Loan Guarantees to \$54 Billion: Triples the nuclear loan guarantee program from the current \$18.5 billion to \$54 billion. Only one nuclear guarantee has been conditionally offered for \$8.3 billion for two reactors in Georgia. The only condition that the Department of Energy (DOE) has stated publicly is that the project must get an NRC license. This condition does not protect US taxpayers: in the last round of reactor construction over 100 reactors were cancelled after getting a license.

Section 1103. Dramatically Expands "Risk Insurance": Increases the "risk insurance" coverage from 6 to 12 reactors and the amount for each reactor up to \$500 million, for a total taxpayer liability of \$6 billion. "Risk insurance," also called "standby support," pays the nuclear industry for certain delays in full power operation of a new reactor. This section would add to the types of delays, costs, and time period that are covered. Risk insurance will put pressure on the NRC to rush its inspection process for reactors under construction, jeopardizing public safety.

Section 1121. Accelerates Depreciation of New Reactors from 15 Years to 5 Years: Allows the nuclear industry to accelerate the depreciation of a new reactor from 15 years to 5 years. As a result, utilities will be able to write off hundreds of millions of dollars per reactor. This subsidy will eliminate all investor risk in the project within a few years after construction begins.

Section 1122. Provides Investment Tax Credit for New Reactors: Provides a 10% annual investment tax credit for expenditures that a utility makes in the construction of a new reactor for units placed into service before January 1, 2025.

Section 1123. Includes Reactors in Manufacturing Tax Credit: Specifically adds nuclear manufacturing to the list of qualifying projects under the Advanced Energy Manufacturing Tax Credit. Currently, nuclear projects fall under the "other" category. This tax credit provides a 30% credit for investments in new, expanded, or re-equipped energy manufacturing projects. Sec. 4003 of APA adds another \$5 billion to the program.

Section 1124. Increases Nuclear Production Tax Credits: Increase the amount of production tax credits available to new reactors from 6,000MW to 8,000MW, which would cost taxpayers approximately an additional \$2 billion. It also would allow tax-exempt public power investors to allocate their credits to private partners.

Section 1125. Allows Tax-Exempt Private Bonds to Be Applied to Nuclear Projects: Allows tax-exempt private bonds to be used for nuclear projects. Nuclear projects are currently eligible for tax-exempt public bonds when a public power entity is the owner. The private bond market is constrained because there are state

and national caps on the private activity bond volume, which means that the use of private bonds for nuclear projects will noticeably decrease the use of private bonds in other investments.

Section 1126. Provides Payments to Public Power for New Reactors: Makes tax breaks available to publicly owned utilities, which are tax-exempt, in the form of a grant payment worth 10% of the nuclear reactor facility expenditures after the reactor has started up. The program expires at the end of 2024.

Section 1111. Suspends Duty on Import of Nuclear Parts: Suspends for another 10 years the import duties on components for nuclear reactors that are not available in the United States. In fact, the vast majority of and most expensive parts for nuclear reactors will be manufactured abroad.

Section 1107. Requires DOE to Develop Plan to Lower Cost of Reactors: Provides DOE with \$250 million to research and publish a 5-year strategy on the web to “lower effectively the costs of nuclear reactors.” It is highly unlikely that if it were possible to lower the cost of nuclear reactors with a \$250 million, 5-year plan, the nuclear industry would not have done this already.

Section 1104. Sites Reprocessing R&D Center at a National Laboratory: Requires DOE to site within one year a spent fuel reprocessing and fast reactor research and development center at a national laboratory – most likely, the Savannah River Site in South Carolina. This provision is premature, given that the Blue Ribbon Commission on America’s Nuclear Future, which is tasked with making recommendations on managing the nation’s spent fuel – including a review of reprocessing – will not release its report until 2012.

Undermines Public Safety

Section 1108. Undermines NRC Safety Review Before Reactor Startup: Eliminates the NRC’s ability to prevent startup even if fundamental safety components were compromised. Inspections, tests, analyses and acceptance criteria (ITAAC) are the specific requirements that the utility must meet to assure that a reactor was built according to design specifications. Some of the 900 inspections, tests and analyses could be done early on while construction is still underway – meaning that they could age or be damaged after passing inspection.

Section 1109. Guts NEPA Analysis in New Reactor Licensing: Sets an impossibly high standard for including an evaluation of the need for power, the cost of the new reactor, and alternative energy sources within the NRC licensing process. Current regulations do not require that an Early Site Permit¹ application include these assessments, but they must be addressed in the subsequent environmental impact statement for the COL. This section would require that any information added to the subsequent EIS is “new” and “significant in that the information would materially change the prior findings or conclusions.”

Section 1101. Requires NRC to Report on How to Further Truncate Reactor Licensing: Requires the NRC to implement an “expedited procedure” for issuing COLs for new reactors under certain conditions. Nuclear reactors already have the most streamlined licensing process of any type of industrial facility in the U.S. What is actually delaying the processing of reactor applications is not the licensing process, but the fact that the industry has been unable to submit adequate design proposals or to respond to the NRC in a timely fashion.

Section 1105. Eliminates mandatory hearings: Amends the Atomic Energy Act of 1954 to eliminate the mandatory hearing for uncontested issues as part of reactor and uranium enrichment facility licensing processes. “Uncontested” does not mean “unimportant.” The mandatory hearing plays a crucial role of supplementing the contested hearing process, in which few issues – and sometimes no issues – survive NRC’s arduous procedural requirement for admission of issues to a hearing. Without a mandatory hearing, it would be possible that *no* public hearings are held in the licensing of a new reactor.

¹ An Early Site Permit (ESP) is an NRC approval of a site as suitable for a nuclear reactor, but does not allow a company to build until it obtains a Combined Construction and Operating License (COL).