# Governor Sherrill Signs Bill Modernizing Nuclear Generation Permitting in NJ: Minor Step or Nuclear Renaissance?

Client Alert

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## What You Need to Know

- New Jersey has enacted legislation that reshapes the state's regulatory framework for nuclear energy development
- Supported by existing nuclear providers in the state, the legislation removes the statutory barrier that had operated as a "de facto" moratorium on the construction and operation of new nuclear energy generation facilities for more than four decades
- The new law amends the Coastal Area Facility Review Act (CAFRA) and works hand-in-hand with Governor Sherrill's January 20, 2026, Executive Order No. 2, which established a Nuclear Task Force to evaluate the acceleration of the deployment of advanced nuclear technologies in the state

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On April 8, 2026, with the existing Salem Nuclear Power Plant as a backdrop, New Jersey Governor Mikie Sherrill signed into law Senate Bill No. 3870/Assembly Bill No. 4528, reshaping New Jersey's regulatory framework for nuclear energy development. The legislation passed both houses without a single "no" vote and amends the Coastal Area Facility Review Act (CAFRA) by removing the longstanding statutory barrier that has operated as a "de facto" moratorium on the construction and operation of new nuclear energy generation facilities in the State for more than four decades.

**Background and Legislative Context**

The existing Salem and Hope Creek nuclear generating stations, operated by PSEG Nuclear, currently produce more than 40% of the state's electricity and supply approximately 80% of its carbon-free power. These facilities operate at capacity factors of 90–95% of nameplate, deliver around-the-clock power with minimal land use, and serve as a core element of the state's baseload production.

Based upon concerns raised by various groups, New Jersey law has effectively blocked new nuclear development since the 1980s. Under the prior version of CAFRA's permitting standards, the New Jersey Department of Environmental Protection (NJDEP) Commissioner was prohibited from issuing permits for new nuclear facilities unless the applicant demonstrated an approved method for the permanent disposal of high-level radioactive waste by the federal government. Because the U.S. has not yet opened a permanent waste repository, this requirement essentially became a poison pill, effectively resulting in a complete moratorium on new large-scale nuclear projects in New Jersey.

This new legislation works hand-in-hand with the previous Executive Order (EO) No. 2 issued by Governor Sherrill on January 20, 2026. Among other things, EO 2 established a Nuclear Task Force to evaluate the acceleration of the deployment of advanced nuclear technologies in the state. It was supported by existing New Jersey-based nuclear providers, including PSEG Nuclear and makers of small on-site package nuclear facilities such as Holtec International. Further, the New Jersey labor community supported the change in law.

**Key Legislative Provisions**

The newly adopted legislation modifies the CAFRA permit review process specifically for "nuclear energy generation facilities." Under the new law, the NJDEP Commissioner may approve a CAFRA permit if the Commissioner determines that the facility's proposed method for the storage or disposal of radioactive waste material produced or generated by the facility is safe, conforms to standards established by the U.S. Nuclear Regulatory Commission (NRC), and removes danger to life and the environment from such waste material.

Previously, only a "disposal" option was allowed, which required the development and existence of a federal permanent repository. By allowing the NJDEP to determine that a facility's proposed method for storage of nuclear waste is safe, New Jersey can now approve new facilities without waiting for a federal solution.

The new legislation does not alter federal licensing requirements, other state environmental statutes, or local zoning and land use approvals. It also leaves intact the Board of Public Utilities' authority over rates.

**Impacts**

The new law is the first step of many required to advance the possibility of the development of large-scale and small-modular nuclear development in New Jersey. Despite the overwhelming need for the construction of new electricity generation sources, attempts to promote the construction of new nuclear power generation plants in the state are likely to be subject to substantial opposition. While the discussion of carbon-free nuclear generation provides a glimmer of hope to satiate New Jersey's increasing appetite for electricity, the actual design, approval, and construction of new nuclear facilities (even if restricted to small package plants) will require years of sustained efforts by project developers.

Although the development of new nuclear facilities will likely be replete with challenges, a critical first step has been taken to position New Jersey as a more attractive destination for next-generation nuclear investment.

The firm's **Energy & Renewable Resources** team will continue to monitor this development and will keep you informed accordingly. Please contact the authors of this Alert with questions or to discuss your specific business circumstances.

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