Update on The Trump Administration's Push To Domesticate The U.S. Nuclear Fuel Supply – And How Texas Fits In

Dallas Bar Association

Energy Law Section

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David Cabrales is an attorney and lobbyist in the Austin and Dallas offices of Foley & Lardner. He is co-chair of the firm's Texas State Government Solutions practice group, as well as co-chair of its Economic Development and Government Incentives practice group, and a member of the Texas Corporate Governance Team.

David has been immersed in Texas state government matters for over 20 years, including time spent as a Texas Racing Commissioner, as General Counsel to Governor Rick Perry, and as chairman of the Texas Economic Development Corporation. A seasoned complex-commercial trial attorney, David represents clients at the intersection of law and public policy at the Legislature as well as before state agencies and local governments. He has particular expertise in resolving matters before the Texas Commission on Environmental Quality, the Texas Health and Human Services Commission, the Texas Department of Insurance, the Texas Railroad Commission, and the Texas Racing Commission.

David is a member of the bipartisan Federal Judicial Evaluation Committee (FJEC), which is composed of leading Texas attorneys who screen and recommend to U.S. Senators John Cornyn and Ted Cruz nominees for vacancies on the federal bench and in U.S. attorney offices in Texas.

David started his career as a briefing attorney for Texas Supreme Court Justice Raul Gonzalez. He has an undergraduate degree in International Trade from Texas Tech University and a law degree from SMU, where he attended as a Hatton W. Sumners Scholar.

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Cole Lempke is an environmental attorney in the Milwaukee office of Foley & Lardner. He advises clients on a broad spectrum of environmental matters at the local, state and federal levels, including regulatory counseling, permitting, and litigation. His experience spans the power, industrial, and energy distribution sectors, where he helps navigate complex compliance obligations under environmental regulations.

Before joining Foley, he was an environmental associate in the Austin office of an internationally recognized law firm. He represented clients in contested case hearings and advised clients on federal and state environmental matters, ranging from compliance strategies to rulemaking challenges.

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Federal Developments

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Federal Nuclear Regulation: Overview

U.S.NRC
United States Nuclear Regulatory Commission

U.S. DEPARTMENT of ENERGY

EPA United States Environmental Protection Agency

U.S. Department of Defense

- Commercial Licensing
- Research & Development
- Environmental Protection Standards and Permitting
- Naval Nuclear Propulsion Program

Federal Nuclear Regulation: NRC

- Licensing the construction and operation of nuclear reactors and other nuclear facilities
- Licensing the possession, use, processing, handling, and export of nuclear material
- Licensing the siting, design, construction, operation, and closure of certain radioactive waste disposal sites
- Regulates uranium mining (in some states, delegated in others, including Texas)

Federal Nuclear Regulation: DOE

U.S. DEPARTMENT of ENERGY

- Supports research, development, and demonstration programs
- Ensures safety of its own developmental nuclear activities through self-regulation
- Idaho National Laboratory: “nation’s test bed for nuclear energy research”

Federal Nuclear Regulation: EPA

- Underground injection control permitting
- Environmental radiation protection standards for nuclear power operations
- Environmental radiation protection standards for disposal of spent fuel
- Delegates some regulatory duties to individual states

Federal Nuclear Regulation: DOD

U.S. Department *of* Defense

- U.S. Naval Nuclear Propulsion Program
- Domestic uranium for defense needs (nuclear weapons and Navy nuclear reactors)
- Responsible for all aspects of the Navy's nuclear propulsion

May 2025 Executive Orders on Nuclear Energy

EO 14299: Deploying Advanced Nuclear Reactor Technologies for National Security

- **Policy:**
  - Ensure rapid development, deployment, and use of advanced nuclear technologies to support national security objectives
  - Enable private sector investment, innovation, development, and use of advanced nuclear technologies in the United States
- **Directives:**
  - DOE and DOD to recommend legislative and regulatory actions regarding the distribution, operation, replacement, and removal of advanced nuclear reactors and spent nuclear fuel on military installations
  - DOE to initiate process for designating AI data centers as critical defense facilities
  - DOE to identify all useful uranium and plutonium material within DOE's inventories that may be recycled or processed into nuclear fuel

May 2025 Executive Orders on Nuclear Energy

EO 14300: Ordering the Reform of the Nuclear Regulatory Commission

- **Policy:**
  - Reestablish the U.S. as the global leader in nuclear energy
- **Directives:**
  - Restructure NRC to not "unduly restrict the benefits of nuclear power"
  - Review and wholesale revision of regulations
    - 9 months to proposed rules (~February 2026)
    - 18 months to final rules (~November 2026)
    - Expedite approvals process
  - Expand nuclear capacity from 100 GW (2024) to 400 GW (2050)

May 2025 Executive Orders on Nuclear Energy

EO 14301: Reforming Nuclear Reactor Testing at the DOE

- **Policy:**
  - Foster nuclear innovation and bring advanced nuclear technologies into domestic production as soon as possible
- **Directives:**
  - DOE to revise regulations, guidance, and procedures to "significantly expedite the review, approval, and deployment of advanced reactors"
  - DOE to create pilot program outside National Laboratories

May 2025 Executive Orders on Nuclear Energy

EO 14302: Reinvigorating the Nuclear Industrial Base

- **Policy:**
  - Expedite and promote production and operation of nuclear energy and build out associated supply chains
- **Directives:**
  - DOE to report on recommendations to achieve policy goals
  - DOE to use Defense Production Act authority to seek agreements with domestic nuclear energy companies
  - DOE to develop plan to expand domestic uranium conversion capacity and expand enrichment capabilities
  - DOE to work toward generating 5 GW of power uprates to existing reactors and have 10 new large reactors with complete designs under construction by 2030
  - Departments of Labor and Education to promote nuclear engineering education

Uranium Critical Mineral Designation

EO 14154: Unleashing American Energy (Jan. 20, 2025)

- **Policy:**
  - Unleash America's affordable and reliable energy and natural resources
- **Directives:**
  - USGS to update list of critical minerals to include uranium (uranium was listed in 2018, but not in 2022)
  - List finalized November 7, 2025, to include uranium as one of sixty listed minerals. 90 Fed. Reg. 50,494.
  - "The List of Critical Minerals guides strategies to secure the Nation's mineral supply chains."

Project Vault

- Establishes the U.S. Strategic Critical Minerals Reserve
- Public-private partnership to store essential raw minerals in facilities across U.S.
- $10B loan from Export-Import Bank of the U.S.
- $2B in private-sector investment

DOE Actions in Response to EOs

Energy Department Announces New Pathway to Test Advanced Reactors

New pilot program unlocks private funding and provides fast track to commercial licensing

Energy.gov

June 18, 2025

Energy Department Announces Pilot Program to Build Advanced U.S. Nuclear Fuel Lines and End Foreign Dependence

The U.S. Department of Energy today announced the start of a new pilot program to accelerate the development of advanced nuclear reactors and strengthen domestic supply chains for nuclear fuel.

Energy.gov

July 16, 2025

Energy Department to Establish New Consortium for Nuclear Fuel Supply Chain

New consortium to leverage Defense Production Act to strengthen U.S. nuclear industrial base and reduce dependence on foreign sources of enriched uranium

Office of Nuclear Energy

August 22, 2025

Department of Energy Seeks Hosts for Nuclear Lifecycle Innovation Campuses

The U.S. Department of Energy today issued a Request for Information inviting states to express interest in hosting Nuclear Lifecycle Innovation Campuses, a new effort to modernize the nation's full nuclear fuel cycle and strengthen America's leadership in advanced nuclear energy.

Energy.gov

January 28, 2026

DOE Nuclear Fuel Supply Chain Funding

- $900M to American Centrifuge Operating to create domestic HALEU enrichment capacity
- $900M to General Matter to create domestic HALEU enrichment capacity
- $900M to Orano Federal Services to expand U.S. domestic LEU enrichment capacity
- $28M to Global Laser Enrichment to advance new uranium enrichment technology
- $11M to five U.S. companies to develop/license transportation packages for HALEU

DOE Action on Retired Nuclear Plants

DOE Approves Sixth Loan Disbursement to Restart the Palisades Nuclear Plant

Energy Department Closes Loan to Restart Nuclear Power Plant in Pennsylvania

NRC Actions on Advanced Reactors

NRC Dockets Construction Permit Application for Dow Advanced Reactor Project

The U.S. Nuclear Regulatory Commission (NRC) accepted Dow's construction permit application to build X-energy's first small modular reactor plant to power a chemical facility in Seadrift, Texas.

Office of Nuclear Energy

May 14, 2025

NRC Dockets Construction Permit Application for TVA Small Modular Reactor

First utility-led construction permit application now under review to build BWRX-300 SMR design.

Office of Nuclear Energy

No: 25-063 December 1, 2025

CONTACT: Scott Burnell, 301-415-8200

NRC Completes Safety Review of Construction Permit Application For Kemmerer Power Station in Wyoming

NRC Planned Rulemaking Activities

Advisory Committee on Reactor Safeguards Functions
Approval of the 2023 Edition of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code and Code Cases, Revision 41
Exceptions from Foreign Ownership, Control, or Domination
Exemptions from Materials Licensing
FR-1 Regulatory Changes to Nonprocurement and Debarment and Suspension Requirement
FR-6 Revisions to Freedom of Information Act Implementing Regulations
In Situ Recovery Monitoring and Decommissioning Timeliness
Incorporation by Reference of Institute of Electrical and Electronics Engineers Standard-603-2018
Increased Flexibility in the Mandatory Hearing Process
Licensing Requirements for Microreactors and Other Low Consequence Reactors
Modernizing Materials Licensing
Modernizing Package Certification Requirements
Modernizing Reactor Licensing, Safety Oversight, and Siting Practices
Modernizing Requirements Relating to the Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material
Modernizing Security Requirements
National Environmental Policy Act Requirements
NRC Modernization: Federal Advisory Committee Act Alignment, Access, Security, and Equity
Organizational Changes and Conforming Amendments
Reducing Barriers to Medical Use Licensing
Reforming and Modernizing the NRC's Radiation Protection Framework
Regulatory Enhancements for Reactor Licensing, Decommissioning, and Operational Oversight

How Texas Fits In

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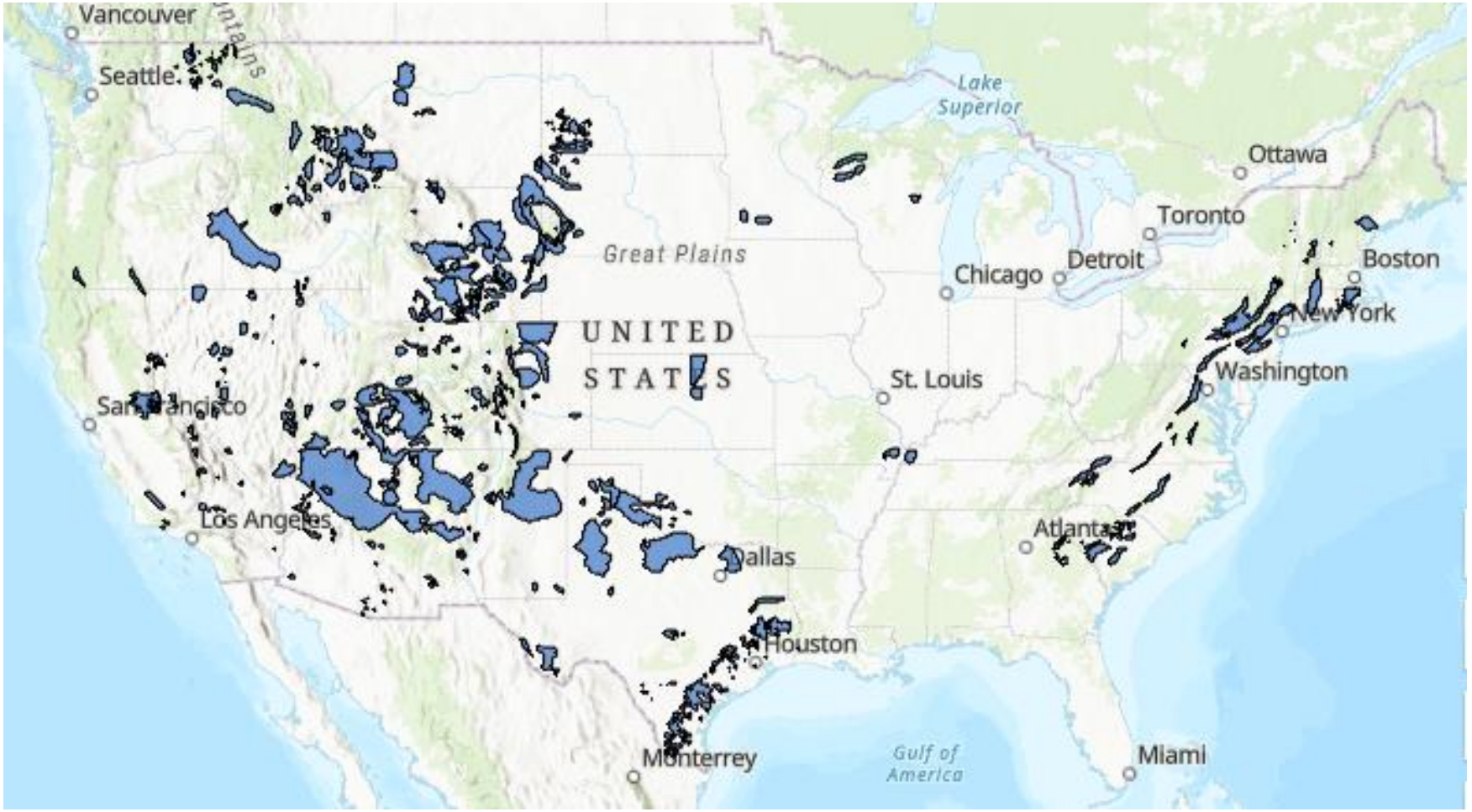
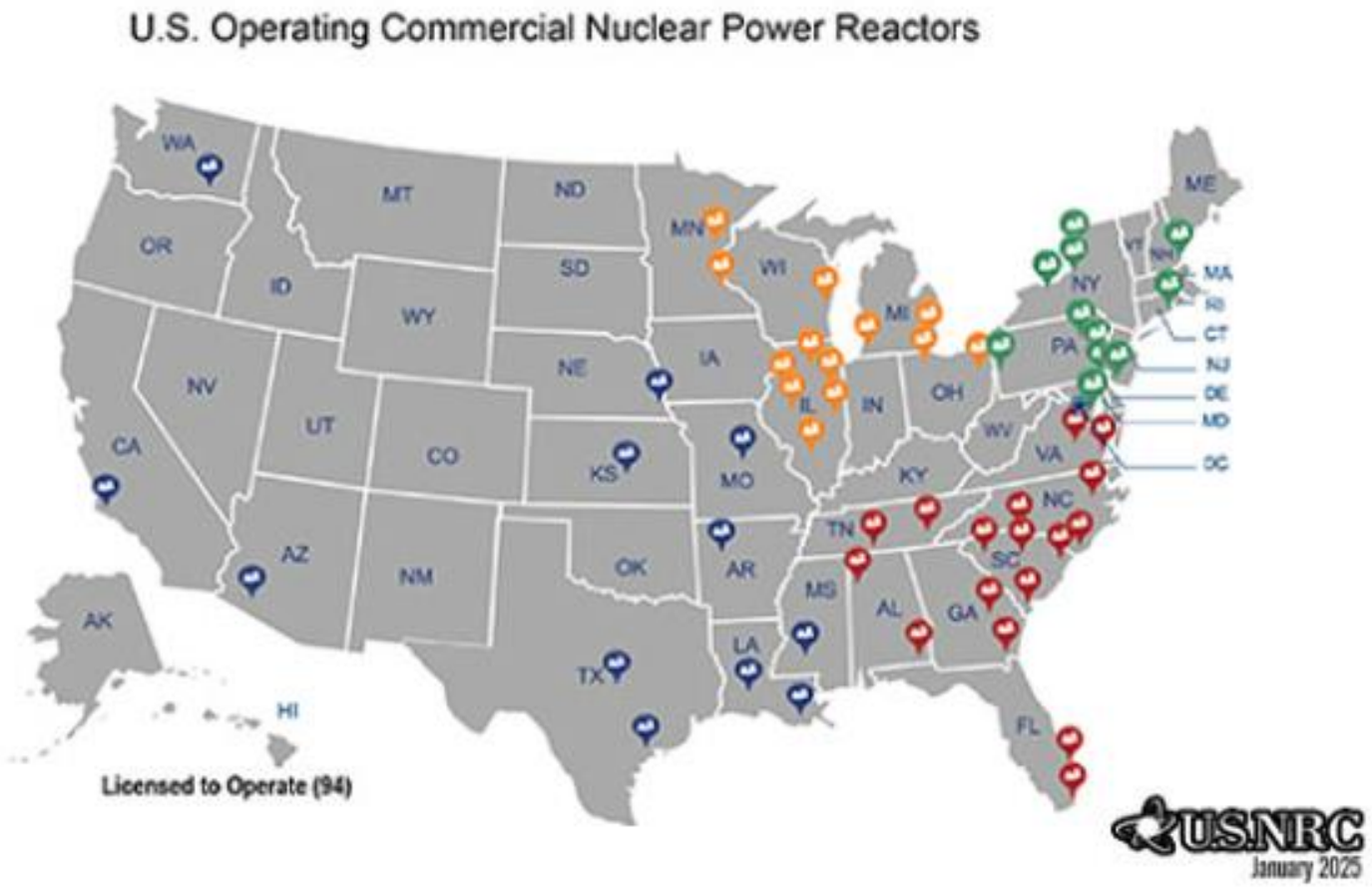
Areas Favorable for the Concentration of Uranium



NRC Map of Power Reactor Sites



Federal Delegation to Texas

“Agreement State” with NRC under the Atomic Energy Act

- Agreement signed in 1963
- Delegates authority over byproduct materials, source materials, some nuclear materials
- NRC retains authority over construction and operation of production, utilization, and uranium enrichment facilities

EPA granted Texas primacy over Class III underground injection wells under the Safe Drinking Water Act

- Granted in 1982
- Includes in-situ uranium mining

Federal Delegation to Texas: TCEQ's Role

Texas Health and Safety Code Chapter 401

- TCEQ authorized to issue licenses for handling and processing of radioactive materials

Texas Water Code Chapter 27

- TCEQ authorized to issue permits for uranium mining

Texas 89th Legislature

HB 14

- Creates the Texas Advanced Nuclear Energy Office and Texas Advanced Nuclear Development Fund and Completion Grant Program

SB 1535

- Establishes Advanced Nuclear Energy Workforce Development Program

SB 1061

- Streamlines certain amendment applications for uranium mining

TCEQ In-Situ Uranium Mining Permitting

Texas Commission on Environmental Quality

Class III Injection Well Area Permit Application
To Conduct In-Situ Mining of Uranium

A person may not commence underground injection activities for the purpose of in-situ mining recovery of uranium until the Commission has issued an Area Permit and PAA to authorize such activities, the Commission has issued a license for the handling and processing of radioactive materials, and the Commission and Environmental Protection Agency (EPA) have approved an aquifer exemption for the proposed production zone if the zone contains groundwater meeting the definition of an underground source of drinking water (USDW). The PAA application may be developed concurrently with or after the Area Permit application.

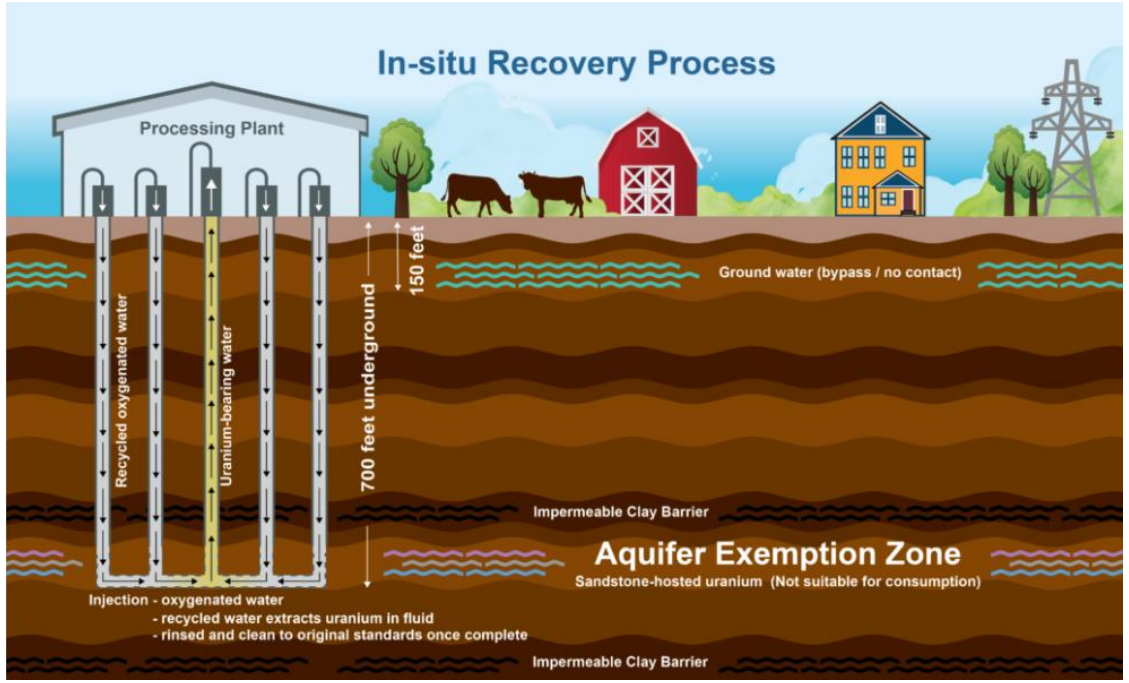


Image from enCore Energy, *In-Situ Recovery (ISR)*, https://encoreuranium.com/industry-and-media/in-situ-recovery/.

Radioactive Waste Disposal in Texas

SUPREME COURT OF THE UNITED STATES

Syllabus

NUCLEAR REGULATORY COMMISSION ET AL. *v.*
TEXAS ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 23–1300. Argued March 5, 2025—Decided June 18, 2025*

Questions?

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About Foley

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