

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

MEMORANDUM

June 26, 2018

To: Subcommittee on Environment Democratic Members and Staff

Fr: Committee on Energy and Commerce Democratic Staff

Re: Subcommittee Markup of H.R. 2278, “the Responsible Disposal Reauthorization Act of 2017” and H.R. 2389, “To reauthorize the West Valley demonstration project, and for other purposes”

On Wednesday, June 27, 2018, 11:00 a.m. or 15 minutes after the conclusion of the Health Subcommittee markup, whichever is later, in room 2123 of the Rayburn House Office Building, the Subcommittee on Environment will hold a markup of H.R. 2278, “the Responsible Disposal Reauthorization Act of 2017” and H.R. 2389, “To reauthorize the West Valley demonstration project, and for other purposes.” The Subcommittee held a legislative hearing on the two bills on May 18, 2018.

I. H.R. 2278, THE RESPONSIBLE DISPOSAL REAUTHORIZATION ACT OF 2017

A. Background

The Climax Uranium Company began processing uranium in Grand Junction, Colorado in 1951. The milling process produced millions of tons of radioactive mill tailings. Before the health risks and dangers of the mill tailings were well understood, an estimated 300,000 tons of radioactive tailings were incorporated into building materials.¹ Congress passed the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) in response to the dangers and necessary cleanup of these radioactive tailings.² Title I of UMTRCA authorized the creation of disposal cells for the encapsulation of uranium mill tailings and the associated contaminated

¹ Department of Energy, *Grand Junction, Colorado, Site, Fact Sheet* (Nov. 2017) (www.lm.doe.gov/Grand_Junction/Fact_Sheet_GJO.pdf).

² 42 U.S.C. §7922.

construction materials. Today, the Cheney Disposal Cell in Grand Junction is the only active disposal cell created under Title I authority still accepting uranium mill tailings. Additional information on the Grand Junction site can be found within the May 18, 2018 [hearing memo](#).

B. Features of the Bill

Rep. Tipton (R-CO) introduced H.R. 2278, the Responsible Disposal Reauthorization Act of 2017 on May 1, 2017. The bill amends UMTRCA to authorize the Department of Energy (DOE) to operate the Cheney Disposal Cell until September 30, 2048, or until the disposal cell is filled to capacity, whichever occurs first. Current law allows the Cheney Disposal Cell to operate through September 2023. Congress has extended the closure date of the Cheney Disposal Cell multiple times to allow additional contaminated materials to be received, most recently in 1996.³

II. H.R. 2389, TO REAUTHORIZE THE WEST VALLEY DEMONSTRATION PROJECT, AND FOR OTHER PURPOSES

A. Background

The Western New York Nuclear Service Center (WNYNSC) in West Valley, New York, was an experimental project to reprocess spent nuclear fuel (SNF) and to assess its beneficial applications. Given the unique history of the site and the associated costs of remediation, New York State and the Department of Energy have been debating the designation of the waste and the fiscal liabilities for decades. The disagreement is rooted in conflicting legislation; specifically, the West Valley Demonstration Project Act (WVDPA), enacted in 1980, and the Nuclear Waste Policy Act (NWPA) of 1982. The WVDPA states the “[a]ct does not authorize the Federal Government to acquire title to any high level radioactive waste at the Center or to the Center or any portion thereof.”⁴ The NWPA states that, “costs resulting from permanent disposal of high-level radioactive waste from atomic energy defense activities should be paid by the Federal Government.”⁵ Approximately 60 percent of the SNF reprocessed at WNYNSC came from DOE’s Hanford facility; 80 percent of the reprocessed plutonium was returned to Hanford; and the site’s recovered plutonium was used in Department of Defense nuclear weapons testing.⁶

This ongoing disagreement has delayed the permanent disposal of the site’s transuranic waste (TRU). The sole permanent TRU waste disposal site in the United States, the Waste

³ P.L. 104-259.

⁴ 42 U.S.C. § 2021a note Sec. 5. (B).

⁵ 42 U.S.C. § 10107(b)(2).

⁶ The New York State Energy Research and Development Authority, *NYSERDA’s View on the Defense Origin of the West Valley Waste at the Western New York Nuclear Service Center* (Mar. 2017) (westvalleyctf.org/2017_Materials/03/2017-03-22_NYSERDA_Waste_Classification_Presentation.pdf); Department of Energy, *Plutonium: The First 50 Years* (Feb. 1996).

Isolation Pilot Plant in New Mexico, only accepts TRU created through atomic energy defense activity.⁷

B. Features of the Bill

Rep. Reed (R-NY) introduced H.R. 2389, to reauthorize the West Valley demonstration project, and for other purposes, on May 4, 2017. H.R. 2389 amends the WVDPA to authorize \$75,000,000 for the West Valley Demonstration Project for each of the fiscal years 2017 through 2026. Additionally, the bill designates all of the radioactive waste at the high-level radioactive waste management demonstration project at the WNYNSC in West Valley, New York as waste resulting from atomic energy defense activities.

⁷ Department of Energy, *West Valley Demonstration Project Site Cleanup By the Numbers* (Jun. 2017) (www.energy.gov/sites/prod/files/2017/08/f36/WVDP%20Site%20by%20Numbers%20June%202017.pdf).