



## H.R. 3053, the Nuclear Waste Policy Amendments Act of 2018

**BACKGROUND:** When Congress enacted the Nuclear Waste Policy Act of 1982 (NWPA), it formally established a comprehensive nuclear waste management strategy and provided the statutory framework that still governs the siting, construction, and operation of a permanent geologic repository to dispose of spent nuclear fuel (SNF) and high-level radioactive waste (HLW).

The NWPA tasked the Department of Energy (DOE) with the responsibility to permanently dispose of SNF and established a “fee-for-service” funding model in which ratepayers who benefitted from nuclear energy paid the federal government to finance a disposal program. The NWPA also established requirements for state participation in the siting process, including a formal disapproval mechanism with Congressional authority to override the state veto.

In 1987, after DOE studies consistently ranked the Yucca Mountain site at or near the top of candidate sites, Congress designated the site for further evaluation as the first deep, geologic repository.

In 2002, following extensive scientific and technical analysis by DOE and its national laboratories, the Secretary of Energy determined Yucca Mountain was suitable and Congress enacted a resolution formally designating the site for a repository. DOE subsequently prepared and submitted a license application to the Nuclear Regulatory Commission (NRC) for the Yucca Mountain facility in 2008. While the license is still pending before the commission, independent NRC scientific review has found the site would meet all safety regulations for the required one-million-year timeframe.

The Energy and Commerce Committee passed H.R. 3053 out of committee in a bipartisan vote of 49-4. H.R. 3053 preserves Yucca Mountain as the most expeditious path for SNF and HLW disposal while authorizing interim storage to move forward until Yucca Mountain is fully licensed and prepared to receive shipments.

### **Key provisions of the Nuclear Waste Policy Amendments Act of 2018 will:**

- *Reform the Nuclear Waste Fund to Protect Ratepayers* – The legislation improves the broken financing mechanism that no longer works as intended by Congress. This reform protects the ratepayers’ previous investment for disposal of spent fuel.
- *Protect National Security Priorities* – The legislation protects our nation’s budgetary resources for national security by assuring previous defense spending supports the completion of the repository licensing process. The bill will help facilitate the quickest pathway for communities hosting DOE national security sites to remove radioactive material.
- *Strengthen DOE Management and Organization* – The legislation strengthens the organizational leadership and accountability at DOE by providing for a five-year fixed-term appointee to provide program continuity. The director can serve up to two terms, if confirmed by the Senate. The bill also clarifies that the statutorily designated lead organization, the Office of Civilian Radioactive Waste Management, carry out all nuclear waste management activities at DOE.

- *Provide for Consolidated Storage Options* – The legislation authorizes DOE to contract with a non-federal entity to store spent nuclear fuel on an interim basis or to develop its own away-from-reactor, centralized storage facility, known as monitored retrievable storage. The bill directs DOE to prioritize activities relating to the agreement with a non-federal entity. Such facility must hold an NRC license and have approval for use from the state, local government, and affected Indian tribes.
- *Assist Repository Licensing Process and Operation* – The bill includes “land withdrawal” (describing legal uses of the federal land) for a permanent repository at Yucca Mountain and clarifies certain regulatory and permitting requirements relating to repository development. These provisions remove potential impediments to license approval for the Yucca Mountain site.
- *Beneficially Engage with Local Stakeholders* – The legislation addresses financial support associated with a nuclear waste management system for states that host a repository or interim storage facility. The bill permits local stakeholders to engage directly with the federal government to mitigate impacts associated with activities authorized by the Act. It also directs DOE to prioritize work with Nevada-based academic institutions, reserves future economic value from spent fuel to the State of Nevada, and makes funding directly available to Nevada once SNF or HLW arrives at the site.
- *Integrate Federal Nuclear Waste Management Activities* – To protect ratepayers and taxpayers, the bill ensures that all activity associated with the transportation and storage of spent fuel, including any interim storage program, is part of and working towards the goal of permanent geologic disposal.
- *Fulfill Federal Government Responsibilities* – The bill directs DOE to take ownership of commercial spent nuclear fuel once it is accepted for transport to an interim storage facility or repository. DOE taking ownership of fuel to send to storage will reduce ongoing taxpayer exposure to claims against the Judgment Fund because DOE’s current lack of ownership places them in breach of contract.

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