

Nuclear Waste Bill to Implement the Blue Ribbon Commission's Recommendations
Section-by-Section Summary of Discussion Draft
April 2013

In General: The Nuclear Waste Administration Act of 2013 includes most of the language of S.3469, the Nuclear Waste Administration Act of 2012. The most significant change in the 2013 bill is the provision linking construction and siting of a consolidated storage facility to progress on a repository. The 2012 Act prohibited storage of any spent nuclear fuel beyond 10,000 metric tons until the Administration concluded a repository consent agreement. The 2013 Act does not include a volume limit on consolidated storage, but does require the Administrator to cease shipments of nuclear waste to the storage facility if progress is not being made on the repository.

Note: Comments are being solicited on [bracketed] provisions.

TITLE I: Findings, Purposes, and Definitions

Section 101 – Findings

Recognizes efforts to date in siting a repository at Yucca Mountain, and acknowledges recommendations of the President's Blue Ribbon Commission on America's Nuclear Future, released in February 2012.

Section 102 – Purposes

Sets forth objectives of the act, including the transfer of nuclear waste management functions from the Department of Energy to a new authority, and establishment of a consensual process for siting consolidated storage facilities and one or more repositories.

Section 103 – Definitions

Defines terms used in the bill.

TITLE II: Nuclear Waste Administration

Section 201 – Establishment

Establishes a new federal agency to be called the "Nuclear Waste Administration" to discharge the responsibility of the Federal Government to provide for permanent disposal of nuclear waste.

Section 202 – Principal Officers

Provides that the Administration will be headed by a single Administrator, appointed by the President by and with the advice and consent of the Senate. The President shall also appoint a Deputy Administrator subject to Senate confirmation.

Section 203 – Other Officers

Provides that the Administrator shall appoint a General Counsel, CFO, and not more than 3 Assistant Administrators.

Section 204 – Inspector General

Provides that the President shall appoint an Inspector General by and with the advice and consent of the Senate.

Section 205 – Nuclear Waste Oversight Board

Establishes an Oversight Board—composed of the Deputy Director of OMB, the Chief Engineer of the Army Corps of Engineers, and the Deputy Secretary of Energy—to oversee the new agency’s administration of the program. Provides for the President to designate one Board member as chair, and for the Oversight Board to appoint an Executive Secretary and up to 10 additional staff members. The Board must meet at least once every 90 days.

Section 206 – Conforming Amendments

TITLE III: Functions

Section 301 – Transfer of Functions

Transfers to the new agency from DOE the responsibility for siting, building, and operating nuclear waste repositories and storage facilities, fulfilling waste disposal contracts with the utilities, and collecting the nuclear waste fee.

Section 302 – Transfer of Contracts

Specifies each contract for waste disposal entered into by the Secretary before enactment will continue with the Administrator substituted for the Secretary.

Section 303 – Nuclear Waste Facilities

Directs the Administrator to site, construct, and operate a pilot facility for storing priority waste, one or more additional storage facilities for nonpriority nuclear waste, and one or more repositories.

Section 304 – Siting Nuclear Waste Facilities

Establishes a new siting process, [applicable to both repositories and storage facilities,] that is based on sound science and meaningful collaboration with affected communities.

Requires the new nuclear waste agency to—

- establish technical siting guidelines to evaluate sites;
- solicit states and communities to volunteer sites;
- obtain state and local (and tribal if on an Indian reservation) consent to study sites;
- hold multiple public hearings before studying or selecting sites;
- obtain state and local (and tribal if on an Indian reservation) consent to site a repository or storage facility; and
- obtain congressional ratification of any consent agreement for a site.

Section 305 – Licensing Nuclear Waste Facilities

Retains NRC’s existing licensing and regulatory authority.

[Section 306 – Linkage Between Storage and Disposal]

[Requires efforts to site and construct a consolidated storage facility be paralleled by efforts to site and construct a repository. Prevents the Administrator from sending any new waste to a

storage facility if the Administrator or Oversight Board determines substantial progress is not being made on a repository, as measured against the Administration's mission plan. Emergency shipments of waste to the storage facility are excepted. Wastes received prior to any suspension remain in storage.]

Section 307 – Defense Waste

Directs the Administrator to dispose of defense waste, and allows the Secretary to arrange for the Administration to store defense wastes in storage facilities pending repository completion. Allows the Administrator to reevaluate the decision to commingle defense wastes with civilian wastes.

Section 308 - Transportation

Transfers responsibility from DOE to the new agency for transporting defense and civilian wastes. Requires that waste be shipped in NRC-certified containers and states and tribes be notified in advance and given technical assistance.

TITLE IV: Funding and Legal Proceedings

Section 401 – Working Capital Fund

Provides that the fees collected from the utilities (currently about \$765 million per year) would be deposited into a new Working Capital Fund in the Treasury and would be available without further appropriation.

Section 402 – Nuclear Waste Fund

Retains fees already collected (about \$28.2 billion as of January 2013) in the Nuclear Waste Fund, where they will remain subject to appropriation.

Section 403 – Full Cost Recovery

Directs the Administrator to take the costs resulting from this act into account when determining whether insufficient or excess revenues are being collected to ensure cost recovery.

Section 404 – Judicial Review

Specifies courts of jurisdiction and deadlines for civil action challenging decisions and actions taken under the Act.

Section 405 – Litigation Authority

Specifies that the litigation of the Administration shall be subject to supervision of the Attorney General.

Section 406 – Liabilities

Provides for continuation of legal proceedings and payments of judgments and settlements in cases arising from the failure of the federal government to dispose of nuclear waste. Prohibits the Administrator from entering into new waste disposal contracts before licensing a repository or storage facility.

TITLE V: Administrative and Savings Provisions

Section 501 – Administrative Powers of Administrator

Invests in the Administrator the powers to: enter into contracts, acquire real estate for nuclear waste facilities, conduct research and make rules and regulations as necessary to carry out Administrative functions.

Section 502 – Personnel

Authorizes the Administrator to appoint officers and employees as necessary to carry out the functions of the Administration. Authorizes the Administrator to retain temporary services of experts or consultants, and to establish such advisory committees as the Administrator considers appropriate.

Section 503 – Offices

Places the principal office of the Administration in or near the District of Columbia, allowing the Administrator to establish such field offices as may be necessary.

Section 504 – Mission Plan

Requires the Administrator to prepare a mission plan within 1 year detailing schedules and milestones for carrying out the functions of the Act. These must provide for operation of a pilot storage facility by 2021, a storage facility for nonpriority waste by 2025, and a repository by 2048.

Section 505 – Annual Reports

Requires the Administrator to submit a comprehensive annual report to Congress, the President, and the Oversight Board on the activities and expenditures of the Administration.

Section 506 – Savings Provisions; Terminations

Maintains the authority of the Secretary to manage and store defense wastes prior to acceptance by the Administrator for disposal. Preserves DOE's authority under existing law to conduct research and development on advanced reactors, nuclear fuel, waste management; and to support nuclear workforce development and training.

Section 507 – Technical Assistance in the Field of Spent Fuel Storage and Disposal

Reauthorizes an expired program that allowed NRC and DOE to provide technical assistance on spent fuel storage and disposal to foreign countries.

Section 508 – Nuclear Waste Technical Review Board

Extends the activities of the Nuclear Waste Technical Review Board to report to and work with the Administration.

Section 509 – Repeal of Volume Limitation

Eliminates 70,000 metric ton cap on the first repository (which was designed to ensure that more than one repository would be needed), but authorizes the new agency to build additional repositories if additional capacity is needed.