

Beyond Nuclear

working for a world free from nuclear power and nuclear weapons



The Nuclear Waste Policy Act (NWPA) (42 U.S.C. § 10101 *et seq.*) sets the U.S. on the road to a repository, with guardrails designed to prevent dangerous detours. Chief among these guardrails is the prohibition against federal assumption of ownership or liability for nuclear waste until a repository is up and running. This keystone legislation should be protected from interference.

But Congress can and should exercise its oversight authority over federal regulatory agencies to ensure that repositories are sited, licensed, built, and operated with meaningful consent.

Thus, Congress should:

- Require that scientifically based health and safety standards for a suitable repository must be set before the search process begins (not tailored to the site, as they were in the case of Yucca Mountain).
- Require satisfaction of stringent criteria before a site can be declared suitable for hosting a repository, including at a minimum: legality under all statutes and treaties, exclusion of tribal lands as repository sites, consent by host communities, scientific suitability, environmental justice, regional equity, mitigation of transport risks, intergenerational equity, ensured non-proliferation, and prohibition of pre-disposal reprocessing.¹
- Ensure that candidate host communities have access to all relevant information and to necessary resources and are able to independently participate in decisions in advance of repository siting and licensing (not postpone key issues until after repository licensing, as was done in the Yucca Mountain proceeding).

¹Beyond Nuclear, *Stringent Criteria for a Highly Radioactive Waste Geologic Repository*, <http://www.beyondnuclear.org/repositories/2020/5/26/stringent-criteria-for-a-highly-radioactive-waste-geologic-r.html>.

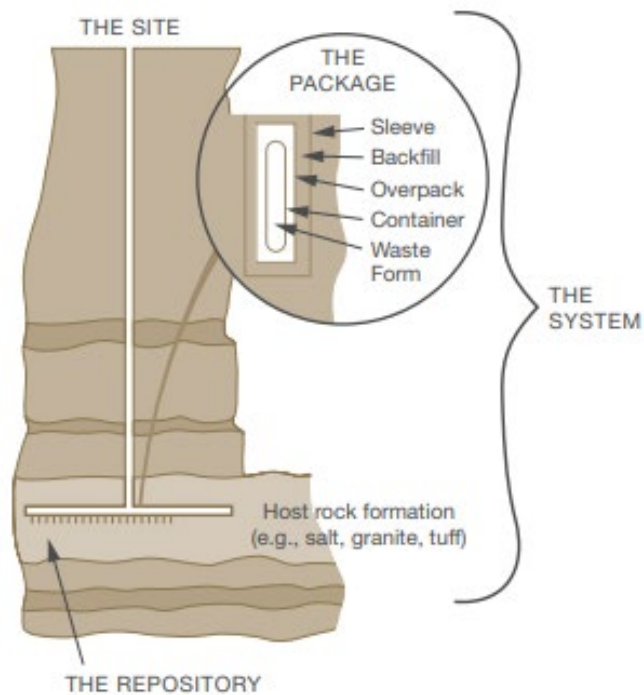
How Can the U.S. Achieve Success on the Road to a Repository?

- Ensure that host communities have free, full, prior, broad-based, and informed consent before a repository is sited.
- Ensure the adequacy of NWPA-provided funding for community and environmental organizations to participate in repository siting and licensing proceedings.
- Resume, as soon as feasible, collection into the Nuclear Waste Fund of sufficient funds for construction and operation of a repository.
- Clarify expressly that Yucca Mountain is no longer under consideration.
- Remove Subtitle F-Benefits Agreements from the NWPA in order to provide support for a consent-based approach.

And Congress should conform the Atomic Energy Act to the Clean Air Act and Other Environmental Statutes that Recognize State and Tribal Rights to Protect Their Citizens.

Thus, Congress should:

- Eliminate the exclusion of radiological health and safety from the scope of issues that can be regulated by states and tribes.
- Consistent with the Clean Air Act, Clean Water Act, and the Resource Conservation and Recovery Act, allow states and tribal governments to promulgate their own standards that are stricter than Atomic Energy Act-based federal standards. This gives each state more power to regulate a repository that is sited in its jurisdiction and to protect the health and safety of its residents. (State, local and tribal governments should not be permitted to weaken federal standards.)



A geologic repository. Source: Blue Ribbon Commission on America's Nuclear Future, Report to the Secretary of Energy at 29, https://www.energy.gov/sites/prod/files/2013/04/f0/brc_final_report_jan2012.pdf.



Greg Abbott
@GregAbbott_TX

Some people want to make Texas the radioactive waste dumping ground of America.

I won't let that happen,
#txlege

June 5, 2019:
https://twitter.com/gregabbott_tx/status/1136471392004780032?lang=en

Federal and State Officials Are Refusing to Take the Dangerous Dead-End Detour to Consolidated "Interim" Nuclear Waste Storage

(Bold typeface indicates emphasis added to original.)

Texas Governor Greg Abbott: "The proposed sites in Texas and New Mexico do not provide the deep geologic isolation required for permanent storage in order to minimize the risks of accidents, terrorism, or sabotage, which could disrupt the country's energy supply with catastrophic effects on the American economy . . . Because of the many risks associated with these projects, the lack of a permanent storage facility, and the importance of the Permian Basin to the economy and energy security of the country, I respectfully urge you to join me in opposing the siting of an interim storage facility in Texas or in New Mexico."

Letter to President Trump, September 30, 2020, <https://www.yuccamountain.org/pdf/texas-gov-letter-092020.pdf>.

Former New Mexico U.S. Representative / Current U.S. Secretary of the Interior Deb Haaland: "[T]he lack of a permanent high-level radioactive waste repository means that any interim storage facility will serve as a de-facto permanent repository that will not meet the technical requirements for permanent waste isolation . . . rather than wasting time and money on an interim storage facility that increases the risk posed by nuclear waste, we should be focusing storing the waste more securely at the sites where it currently resides while we develop a permanent repository. The Nuclear Waste Policy Act of 1982, as amended, recognizes the folly in this and prohibits DOE from taking title to spent nuclear fuel if a permanent repository is not operating."

Letter to Rick Perry, Secretary of Energy, and Kristine Svinicki, Chairman of the Nuclear Regulatory Commission, June 19, 2019, <https://nukewatch.org/newsite/wp-content/uploads/2019/06/Letter-from-Rep.-Haaland-about-Holtec-interim-storage-facility-licensing-process061919.pdf?x29513>.