

The Nuclear Waste Administration Act
Section-by-Section Summary
June 2013

In General: The Nuclear Waste Administration Act of 2013 implements recommendations of the President’s Blue Ribbon Commission on America’s Nuclear Future, and is similar to S.3469, the Nuclear Waste Administration Act of 2012. Public comment was received on a draft of the 2013 bill in May.

There are two significant changes in the introduced version of the bill compared to the discussion draft. The first is the provision linking construction and siting of a consolidated storage facility to progress on a repository. The draft did not include a volume limit on consolidated storage, but required the Administrator to cease shipments of nuclear waste to the storage facility if progress is not being made on the repository. The introduced bill removes the requirement to cease shipments in the event of no progress on the repository. Instead, for 10 years after the enactment of the Act, the Administrator may site storage facilities and ship fuel as long as funds have been obligated toward the siting and/or construction of a repository. After 10 years, the Administrator may not site an additional storage facility unless one or more repository sites have been selected for evaluation.

The second major change is in the structure of the Oversight Board for the Waste Administration. Rather than incorporate three government officials, the Oversight Board will now consist of five members appointed by the President with the consent of the Senate. No more than three members will be of the same political party.

Changes from the discussion draft of the 2013 Act below are in **bold**.

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, **and each shall serve a 6-year term.**

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 to oversee the new agency's **receipt, disbursement and use of funds, the adequacy of the fees collected, and the performance of the Administrator. The Oversight Board will consist of five members appointed by the President by and with the consent of the Senate, to serve staggered 5-year terms. No more than three members shall be of the same political party, and three members shall constitute a quorum.** 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 waste, and one or more repositories.

Section 304 – Siting Nuclear Waste Facilities

Establishes a new siting process, **applicable to any new waste facility or any function transferred from the Nuclear Waste Policy Act**, that is based on sound science and meaningful collaboration with affected communities, and is flexible and open to the public.

Section 305 – Storage Facilities

Requires the new nuclear waste agency to establish a Storage Facility Program, beginning with a pilot program for storage of priority waste which is defined in Sec. 103 as spent fuel from

nuclear power plants that have been shut down and spent fuel that justifies emergency delivery. The Administrator is required to —

- **issue a request for proposals, including general review guidelines, for cooperative agreements to demonstrate storage of priority waste not later than 180 days after enactment;**
- **review each proposal;**
- **select at least one site for characterization after holding hearings in the vicinity of each site and at least one other location in the state of each site;**
- **notify Congress;**
- **may enter into a cooperative agreement for state and local consent prior to site characterization;**
- **make a final determination on the suitability of sites characterized;**
- **obtain state and local (and tribal if on an Indian reservation) consent to site a repository;**
- **select one or more suitable sites for storage facilities;**
- **not less than 30 days before selecting a site, provide a program plan to Congress;**
and
- **submit a license application to the Nuclear Regulatory Commission.**

The Administrator must ensure that efforts on a storage facility for nonpriority waste are paralleled by efforts on a repository. In the 10 years following enactment of the Act, the Administrator may not issue additional requests for proposals or select sites for characterization for additional nonpriority storage facilities unless the Administrator has obligated funds to meet the requirements of Section 306. After 10 years, the Administrator may only develop additional storage facilities if one or more repository sites have been selected for evaluation.

Section 306 – Repositories

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;
and
- obtain congressional ratification of any consent agreement for a site.

Section 307 – Licensing Nuclear Waste Facilities

Provides that construction and operation of a storage facility shall be subject to all applicable environmental protection standards, licensing and regulatory jurisdiction of the Nuclear Regulatory Commission, and all consent agreements.

Section 308 – 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 **Secretary** to reevaluate the decision to commingle defense wastes with civilian wastes made following the enactment of the Nuclear Waste Policy Act of 1982.

Section 309 - 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. **No fees would be paid into the Working Capital Fund after December 31, 2025, unless the Administrator is operating a nuclear waste facility by that date.**

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 that obligate the Administration to begin disposing of fuel 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.