

Beyond Nuclear

working for a world free from nuclear power and nuclear weapons



The Nuclear Waste Policy Act (42 U.S.C. § 10101 *et seq.*) sets the U.S. on the road to a repository, with guardrails designed to prevent dangerous detours. However, the law's mandate to open a repository has yet to be met. To successfully open a repository, the Act must be amended to require **staged, adaptive, and consent-based siting**.

Accordingly, Congress should **amend the Nuclear Waste Policy Act** to:

- Remove Yucca Mountain's designation as the sole site the Department of Energy (DOE) may consider for a repository and expressly state that Yucca Mountain is no longer in consideration.
- Require that the DOE publish general science-based standards for a repository before the search process for a repository begins, allowing qualified communities to express non-binding interest and, if desired, proffer additional criteria (e.g., specific environmental justice considerations).
- Require that the DOE conduct preliminary assessments only after it receives requests from interested host communities. Ensure that communities undergoing a preliminary assessment have access to all relevant information, resources, and funding necessary to independently participate in the assessment process, for example, by hiring their own scientific experts to determine suitability.
- Require that the DOE hold public hearings at sites that pass initial assessment to inform the public of the proposed site selection and solicit comments. Require that the DOE obtain consent from a community's governing authority before proceeding with a detailed assessment.

Amending the Nuclear Waste Policy Act and the Atomic Energy Act to Ensure Success

- Ensure communities undergoing detailed assessment have adequate technical assistance and funding to monitor, evaluate, and make recommendations about the detailed assessment. Ensure they receive compensation for any economic, social, public health and safety, and environmental impacts resulting from the assessment.
- Require that the DOE hold public hearings to solicit comments and recommendations before making a final suitability determination. Require that DOE's final suitability determination considers and promotes legality under all statutes and treaties, scientific suitability, environmental justice, regional equity, mitigation of transport risks, intergenerational equity, ensured non-proliferation, and prohibition of pre-disposal reprocessing.
- Require that DOE enter into a Consent Agreement with the host state and local government before submitting a licensing application. Replace the Act's "Benefits Agreement" section with a broad provision mandating the execution of a Consent Agreement with terms and conditions to be negotiated by the parties. Ensure that federal funding is available so that communities can develop proposed terms and conditions for the Consent Agreement.

To further ensure consent-based siting, Congress should amend the **Atomic Energy Act** to allow states to promulgate radioactive materials regulations that are stricter than Atomic Energy Act-based federal standards in a manner consistent with the Clean Air Act, Clean Water Act, and the Resource Conservation and Recovery Act.¹

¹Clean Air Act, 42 U.S.C. § 7401 *et. seq* (1970); Clean Water Act, 33 U.S.C. § 11251 *et. seq* (1972); Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et. seq* (1976).