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Nuclear Energy: Overview of Congressional Issues

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SUMMARY

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Nuclear Energy: Overview of Congressional Issues

The policy debate over the role of nuclear power in the nation's energy mix is rooted in the technology's fundamental characteristics. Nuclear reactors can produce potentially vast amounts of useful energy with relatively low consumption of natural resources and emissions of greenhouse gases and other pollutants. However, facilities that produce nuclear fuel for civilian power reactors can also produce materials for nuclear weapons. In addition, the process of nuclear fission (splitting of atomic nuclei) to generate power produces radioactive material that can remain hazardous for thousands of years and must be contained. How to manage the weapons proliferation and safety risks of nuclear power, or whether the benefits of nuclear power are worth those risks, are issues that have long been debated in Congress.

The 93 licensed nuclear power reactors at 55 sites in the United States generate about 20% of the nation's electricity. Two new reactors are currently under construction. About a dozen more are planned, but with no specific construction dates. Whether they will eventually move forward will depend largely on their economic competitiveness with natural gas and renewable energy sources. Similar economic forces are affecting existing reactors. Twelve U.S. reactors were permanently closed from 2013 through April 2021, and three more are planned for closure through the mid-2020s. However, several states have taken action to prevent planned reactor shutdowns, and several proposals to support existing reactors are pending in the 117th Congress as well.

The Department of Energy (DOE) and its predecessor agencies for decades have conducted research on "advanced" reactor technologies, such as fast neutron reactors, that would differ significantly from existing commercial nuclear plants and potentially be far smaller. Proponents of advanced reactors contend that they would be safer, more efficient, and less expensive to build and operate than today's conventional light water reactors. DOE is providing support for several proposed advanced reactor demonstrations, which could indicate whether the anticipated benefits can be realized.

Highly radioactive spent nuclear fuel that is regularly removed from nuclear reactors is currently stored primarily at power plant sites. Development of a permanent underground repository at Yucca Mountain, NV, was suspended by the Obama Administration. The Trump Administration requested funding for FY2018, FY2019, and FY2020 to revive the program, but it was not approved by Congress. No Yucca Mountain program funding was requested or provided for FY2021, and the Biden Administration did not request any for FY2022.

The Obama Administration had appointed the Blue Ribbon Commission on America's Nuclear Future to recommend an alternative approach to the Nuclear Waste Policy Act's focus on Yucca Mountain for permanent high-level waste disposal. In response to the commission's recommendations, DOE issued a waste strategy in January 2013 that called for the selection of new candidate sites for nuclear waste storage and disposal facilities through a "consent-based" process. However, Congress has not enacted legislation for such a strategy, so Yucca Mountain remains the sole authorized candidate site, despite its lack of funding.

The March 2011 disaster at the Fukushima Dai-ichi nuclear power plant in Japan increased attention to nuclear safety throughout the world. The Nuclear Regulatory Commission (NRC), which issues and enforces nuclear safety requirements, established a task force to identify lessons from Fukushima applicable to U.S. reactors. The task force's report led to NRC's first Fukushima-related regulatory requirements on March 12, 2012. Several other countries, such as Germany and Japan, eliminated or reduced their planned future reliance on nuclear power after the accident.

The level of security that must be provided at nuclear power plants has been a high-profile issue since the 9/11 terrorist attacks on the United States in 2001. Since those attacks, NRC issued a series of orders and regulations that substantially increased nuclear plant security requirements, although industry critics contend that those measures are still insufficient.

Encouraging exports of U.S. civilian nuclear products, services, and technology while making sure they are not used for foreign nuclear weapons programs has long been a fundamental goal of U.S. nuclear energy policy. Recent proposals to build nuclear power plants in several countries in the less developed world, including the Middle East, have prompted concerns that international controls may prove inadequate.

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Synthesis of Key Issues

The long-running policy debate over the future of nuclear energy is rooted in the technology's inherent characteristics. Initially developed for its unprecedented destructive power during World War II, nuclear energy seemed to hold equal promise after the war as a way of providing limitless energy to all humanity. International diplomacy has focused ever since on finding institutional mechanisms for spreading the perceived benefits of nuclear energy throughout the world while preventing the technology from being used for the proliferation of nuclear weapons. Much of this international effort is focused on key nuclear fuel cycle facilities—plants for enriching uranium in the fissile isotope U-235 and for separating plutonium from irradiated nuclear fuel. Such plants can be used to produce civilian nuclear reactor fuel as well as fissile material for nuclear warheads.

Yet even the use of nuclear power solely for peaceful energy production has proven intrinsically controversial. The harnessing of nuclear fission in a reactor creates highly radioactive materials that must be kept from overheating and escaping from the reactor building, as occurred during the accidents at Fukushima, Chernobyl, and, to a lesser extent, Three Mile Island. Spent nuclear fuel that is regularly removed from reactors during refueling must be isolated from the environment for up to 1 million years. Proposed commercial technologies to reduce long-lived nuclear waste through recycling usually involve separating plutonium that possibly could be used for nuclear weapons, although technologies designed to reduce proliferation risks are also the subject of worldwide research and development efforts. All nuclear energy technologies, even with recycling, would still leave substantial amounts of radioactive waste to be stored and disposed of. Central storage and disposal sites for nuclear waste have proven difficult to develop throughout the world, as illustrated by the long-running controversy over the proposed U.S. waste repository at Yucca Mountain, NV.

The March 2011 disaster at Japan's Fukushima Dai-ichi nuclear power plant, which forced the evacuation of areas as far as 30 miles away, has slowed nuclear power expansion plans around the world, particularly in Japan and Western Europe. However, dozens of new reactors are still being planned and built in China, India, Russia, and elsewhere.[1] In these areas, nuclear power's initial promise of generating large amounts of electricity without the need for often-imported fossil fuels, along with the more recent desire to reduce greenhouse gas emissions, remains a compelling motivation.

With 93 licensed reactors, the United States has the largest nuclear power industry in the world. But U.S. nuclear power growth has been largely stagnant for the past two decades, as natural gas and renewable energy have captured most of the market for new electric generating capacity and improvements in energy efficiency have slowed electricity demand growth.[2] Congress enacted incentives for new nuclear plants in the Energy Policy Act of 2005 (P.L. 109-58), including production tax credits, loan guarantees, and insurance against regulatory delays. Those incentives, combined with rising natural gas prices and concerns about federal restrictions on carbon dioxide emissions, prompted announcements by late 2009 of up to 30 new nuclear power reactors in the United States.[3] However, subsequent declines in natural gas prices and uncertainty about carbon

[1] World Nuclear Association, "World Nuclear Power Reactors and Uranium Requirements," September 2021, http://www.world-nuclear.org/information-library/facts-and-figures/world-nuclear-power-reactors-and-uranium-requireme.aspx.

[2] Energy Information Administration, "EIA Projects Renewables Share of U.S. Electricity Generation Mix Will Double by 2050," February 8, 2021, https://www.eia.gov/todayinenergy/detail.php?id=46676.

[3] Nuclear Regulatory Commission, "Expected New Nuclear Power Plant Applications," updated March 28, 2008, https://www.nirs.org/wp-content/uploads/nukerelapse/industry/expectednewrxapplications32808.pdf.

dioxide controls have put most of those projects on hold. Currently, two new reactors in Georgia are under construction. Two identical reactors under construction in South Carolina were canceled July 31, 2017. The Georgia and South Carolina projects both experienced large cost overruns and schedule delays. An older reactor, Watts Bar 2 in Tennessee, received an NRC operating license on October 22, 2015, after construction had been suspended for two decades and then completed. A variety of incentives to renew the growth of nuclear power have been proposed.

Existing U.S. nuclear power plants are continuing to face difficult competition from natural gas and renewable energy. Twelve U.S. reactors were permanently closed from 2013 through April 2021. Three of those units closed because of the need for expensive repairs, three were retired under agreements with state utility regulators, and six could not compete in their regional wholesale electricity markets. The most recent shutdowns were New Jersey's Oyster Creek plant in September 2018,[4] Pilgrim (MA) in May 2019, Three Mile Island (PA) in October 2019, Indian Point 2 (NY) in April 2020, Duane Arnold (IA) in August 2020, and Indian Point 3 in April 2021. All 12 units had substantial time remaining on their initial 40-year operating licenses or had received or planned to apply for 20-year license extensions from the Nuclear Regulatory Commission (NRC). Three additional reactors are currently scheduled for permanent closure by the mid-2020s (**Table 1**). The actual and planned shutdowns have prompted widespread discussion about the future of other aging U.S. reactors and proposals for federal assistance. Action taken by states has forestalled the announced shutdowns of 20 other U.S. reactors during the past five years, and additional subsidies are currently under consideration in the 117th Congress.

The extent to which the growth of nuclear power should be encouraged in the United States and around the world will continue to be a major component of the U.S. energy policy debate. Questions for Congress will include the implementation of policies to encourage or discourage nuclear power, post-Fukushima safety standards, development of new nuclear power and fuel cycle technologies, and nuclear waste management strategies.

Basic Facts and Statistics

The 93 licensed nuclear power reactors at 55 sites in the United States generate about 20% of the nation's electricity. The oldest of today's operating reactors were licensed in 1969, and the most recently licensed was Watts Bar 2 in 2015. The most recent to start up before Watts Bar 2 was its twin unit, Watts Bar 1, in 1996.[5] All U.S. reactors were initially licensed to operate for 40 years, but nearly all of them have received or applied for 20-year license renewals by NRC.[6] NRC issued its first "subsequent license renewals," which allow operation for up to 80 years, to the Turkey Point 1 and 2 reactors in Florida in December 2019. Four more renewals to 80 years, for Peach Bottom 2 and 3 in Pennsylvania and Surry 1 and 2 in Virginia, were issued in March 2020 and May 2021. Subsequent license renewal applications for another seven reactors are currently

[4] The New Jersey Department of Environmental Protection issued an administrative consent order on December 9, 2010, allowing Oyster Creek to continue running without a cooling tower in return for an agreement by the plant's owner, Exelon, to retire the plant by the end of 2019, 10 years before the expiration of its NRC operating license. See https://www.sec.gov/Archives/edgar/data/1109357/000119312510277630/dex991.htm.

[5] Nuclear Regulatory Commission, *Information Digest, 2020-2021*, NUREG-1350, vol. 32, Appendix A, https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1350/index.html.

[6] Nuclear Regulatory Commission, "Status of Initial License Renewal Applications and Industry Initiatives," October 9, 2019, https://www.nrc.gov/reactors/operating/licensing/renewal/applications.html.

under review, and two more applications are being reviewed for acceptance.[7] Under the current mixture of 40- and 60- and 80-year licenses, all of today's operating reactors would shut down by 2055. If newer reactors such as Watts Bar 1 and 2 eventually were to receive license renewals to 80 years, the shutdown date for the existing fleet could be pushed back by two decades or more. However, as noted above, many U.S. reactors have been retired before their license expirations, with three more currently scheduled to do so.

Whether new reactors will be constructed to replace the existing fleet or even to expand nuclear power's market share will depend largely on costs. The cost of building and operating a new nuclear power plant in the United States is generally estimated to be significantly higher than natural gas combined-cycle plants (which use both combustion and steam turbines to generate electricity) and above wind and solar as well. For example, the Energy Information Administration (EIA) estimates that, for plants coming on line in 2026, the average cost of electricity generation from a nuclear power plant would be 6.3 cents per kilowatt-hour (kwh), including tax credits, while advanced combined-cycle gas-fired generation would cost 3.7 cents/kwh and an ultracritical coal plant would cost 7.3 cents/kwh. EIA estimates that electricity from onshore wind would cost 3.7 cents/kwh, solar photovoltaics 3.0 cents/kwh, and geothermal 3.4 cents/kwh.[8] Such estimates depend on a wide range of variables, such as future fuel costs, regional solar and wind availability, current and future tax incentives, and environmental regulations and mandates. The specific attributes of each generating technology, such as the intermittent nature of solar and wind, are also important considerations in power plant construction decisions.

The two new U.S. reactors under construction at the Vogtle nuclear plant site in Georgia, after considerable construction delays and cost overruns, are now scheduled to begin operating in the second quarter of 2022 and the first quarter of 2023.[9] As noted above, construction of two new units in South Carolina has been terminated. Licenses to build and operate 10 additional reactors have been issued by NRC. However, applications for 14 other new reactors have been withdrawn or suspended. An application for a license to build a 1.5 megawatt microreactor at Idaho National Laboratory was submitted to NRC on March 11, 2020.[10] Aside from the 2 new Vogtle units, the 10 other planned reactors with issued licenses do not have specific schedules for moving toward construction.

Throughout the world, 444 reactors are currently in service or operable, and 56 more are under construction. France is the most heavily nuclear-reliant country in the world, with 56 reactors generating 71% of the country's electricity in 2020. Thirty-three countries in 2020 (including Taiwan) generated at least some of their electricity from nuclear power.[11]

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[7] Nuclear Regulatory Commission, "Status of Subsequent License Renewal Applications," August 13, 2021, https://www.nrc.gov/reactors/operating/licensing/renewal/subsequent-license-renewal.html; and Nuclear Regulatory Commission, "NRC Issues Subsequent Renewed Licenses for Surry Reactors," May 4, 2021, https://www.nrc.gov/reading-rm/doc-collections/news/2021/21-019.pdf.

[8] Energy Information Administration, "Levelized Cost and Levelized Avoided Cost of New Generation Resources in the Annual Energy Outlook 2021," Table 1b, February 2021, https://www.eia.gov/outlooks/aeo/pdf/electricity_generation.pdf. Levelized costs include capital costs averaged over the life of the plant, plus fuel and maintenance costs and tax credits, in 2020 dollars.

[9] Georgia Power Company, "Georgia Power Announces Revised Schedule, Cost Forecast for Vogtle Units 3 & 4," July 29, 2021, https://www.georgiapower.com/company/news-center/2021-articles/cost-forecast-for-vogtle.html.

[10] Nuclear Regulatory Commission, "Combined License Applications for New Reactors," May 6, 2020, https://www.nrc.gov/reactors/new-reactors/col.html.

[11] World Nuclear Association, "Nuclear Share Figures, 2010-2020," June 2021, http://www.world-nuclear.org/information-library/facts-and-figures/nuclear-generation-by-country.aspx; World Nuclear Association, "World Nuclear

After the Fukushima accident, Germany, which had previously generated about 30% of its electricity with nuclear power, closed 8 of the country's 17 power reactors and decided to shut the remainder by 2022. Japan, which had also generated about 30% of its electricity with nuclear power and had planned to raise that level to 50%, now is planning for about 20% by 2030. All Japanese reactors were closed within a year after the tsunami, and only 10 of Japan's 33 operable reactors are currently in commercial service. In addition to the 10 currently approved to operate, 15 Japanese reactors have applied for restart, which involves safety upgrades to meet new regulatory requirements. It is not clear how many of Japan's operable reactors will ultimately resume operation.[12] France had planned to reduce nuclear power to 50% of the country's total generation by 2025, although that goal has been delayed to 2035.[13]

Major Nuclear Energy Issues

Radioactive Waste

After several years in a nuclear reactor, nuclear fuel (primarily uranium) can no longer economically sustain a nuclear chain reaction and becomes highly radioactive and thermally hot. Such spent nuclear fuel must be periodically removed from operating reactors and stored in adjacent pools of water, which prevents overheating and provides radiation shielding. After several years of cooling, the spent fuel can be placed in dry casks for storage elsewhere on the plant site. When existing U.S. reactors were built, spent fuel had been expected to be taken away for reprocessing (separation of plutonium and uranium to make new fuel) or permanent disposal. However, reprocessing has not become commercialized in the United States, for economic and nonproliferation reasons, and central waste storage and disposal facilities have proven difficult to site. As a result, the vast majority of U.S. commercial spent fuel remains at the nuclear plants where it was generated—estimated at 86,000 metric tons at the end of 2020 and increasing at the rate of about 2,200 metric tons per year.[14]

The Nuclear Waste Policy Act of 1982 (P.L. 97-425, NWPA), as amended in 1987, named Yucca Mountain, NV, as the nation's sole candidate site for a permanent high-level nuclear waste repository. NWPA required the Department of Energy (DOE) to study the site and seek a license from NRC to build a repository there.

Recent Events

Citing opposition from the State of Nevada, the Obama Administration decided to halt the Yucca Mountain project, and no new funding has been appropriated for it since FY2010. The Trump Administration included funding to restart Yucca Mountain licensing in its FY2018, FY2019, and FY2020 budget submissions to Congress, but the requests were not approved. The Trump Administration did not seek Yucca Mountain repository funding for FY2021, but only funds for interim storage planning. The Consolidated Appropriations Act, 2021 (P.L. 116-260) included the

Power Reactors and Uranium Requirements," op. cit.

[12] World Nuclear Association, "Nuclear Power in Japan," August 2021, http://www.world-nuclear.org/information-library/country-profiles/countries-g-n/japan-nuclear-power.aspx.

[13] World Nuclear Association, "Nuclear Power in France," January 2021, https://www.world-nuclear.org/information-library/country-profiles/countries-a-f/france.aspx.

[14] Oak Ridge National Laboratory, Centralized Used Fuel Resource for Information Exchange (CURIE) Interactive Map, viewed September 27, 2021, https://curie.ornl.gov/map.

proposed interim storage planning funds with no Yucca Mountain project funding. The Biden Administration submitted a similar request for FY2022.

The Obama Administration appointed the Blue Ribbon Commission on America's Nuclear Future to develop an alternative nuclear waste policy, and its final report was issued in January 2012. DOE largely adopted the Commission's recommendations in a January 2013 waste strategy that called for a "consent-based" process to select nuclear waste storage and disposal sites and for a surface storage pilot facility to open by 2021.[15] DOE issued a *Draft Consent-Based Siting Process* shortly before the end of the Obama Administration.[16]

A federal appeals court on August 13, 2013, ordered NRC to continue the Yucca Mountain licensing process with previously appropriated funds.[17] In response, NRC issued the final volumes of the Yucca Mountain Safety Evaluation Report (SER), which provided the NRC staff's determination that the repository would meet all applicable standards. However, the staff said upon completing the SER that NRC should not authorize construction of the repository until all land and water rights requirements were met and a supplement to DOE's environmental impact statement (EIS) was completed.[18] NRC completed the supplemental EIS in May 2016 and made its database of Yucca Mountain licensing documents publicly available, using nearly all the remaining previously appropriated licensing funds.[19]

With no spent fuel disposal or storage facilities currently under development by DOE, two private-sector storage facilities in New Mexico and Texas have been proposed. The Texas facility received an NRC license on September 13, 2021, and NRC plans to issue a decision on the New Mexico facility in January 2022. These near-surface Consolidated Interim Storage Facilities are intended to hold spent fuel from nuclear power plants around the country until a permanent underground repository is available. [20] However, they are facing strong opposition from the two proposed host states. New Mexico filed a lawsuit against NRC on March 29, 2021, and the Texas governor signed a law banning new spent fuel storage facilities in the state on August 9, 2021.[21]

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[15] DOE, *Strategy for the Management and Disposal of Used Nuclear Fuel and High-Level Radioactive Waste*, January 2013, http://energy.gov/sites/prod/files/2013%201-15%20Nuclear_Waste_Report.pdf.

[16] DOE, *Draft Consent-Based Siting Process for Consolidated Storage and Disposal Facilities for Spent Nuclear Fuel and High-Level Radioactive Waste*, January 12, 2017, https://energy.gov/sites/prod/files/2017/01/f34/Draft%20Consent-Based%20Siting%20Process%20and%20Siting%20Considerations.pdf.

[17] U.S. Court of Appeals for the District of Columbia Circuit, *In re: Aiken County et al*., No. 11-1271, writ of mandamus, August 13, 2013, http://www.cadc.uscourts.gov/internet/opinions.nsf/BAE0CF34F762EBD985257BC6004DEB18/$file/11-1271-1451347.pdf.

[18] NRC, "NRC Publishes Final Two Volumes of Yucca Mountain Safety Evaluation," news release 15-005, January 29. 2015, http://www.nrc.gov/reading-rm/doc-collections/news/2015/.

[19] NRC, *Supplement to the U.S. Department of Energy's Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada*, NUREG-2184, Final Report, May 2016, http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr2184/; "NRC Staff Issues Volume 3 of Yucca Mountain Safety Evaluation Report," news release 14-069, October 16, 2014, http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1949/v3/.

[20] NRC, "Consolidated Interim Storage Facility (CISF)," December 8, 2020, https://www.nrc.gov/waste/spent-fuel-storage/cis.html; NRC, "NRC Issues License to Interim Storage Partners for Consolidated Spent Nuclear Fuel Interim Storage Facility in Texas," News Release No. 21-036, September 13, 2021, https://www.nrc.gov/docs/ML2125/ML21257A091.pdf.

[21] Texas Governor Greg Abbott, "Interim Storage Partners (ISP) Consolidated Interim Storage Facility Project, Docket ID NRC-2016-0231," November 3, 2020, https://www.nrc.gov/docs/ML2030/ML20309B061.pdf; Texas Legislature Online, Actions, HB7, https://capitol.texas.gov/BillLookup/Actions.aspx?LegSess=872&Bill=HB7; and New Mexico Governor Michelle Lujan Grisham, "Comments from Governor Michelle Lujan Grisham on Docket ID NRC-2018-0052," September 22, 2020, https://www.nrc.gov/docs/ML2026/ML20269A025.pdf.

Recent Congressional Action—117th Congress

Nuclear Waste Task Force Act of 2021 (S. 2871, Markey/H.R. 5401, Levin)

Requires the EPA Administrator to establish a task force to examine whether removing exemptions from environmental laws for spent nuclear fuel and high-level waste would help gain state, local, and tribal consent for nuclear waste disposal facilities. Introduced September 28, 2021; Senate bill referred to Committee on Environment and Public Works and House bill referred to Committee on Energy and Commerce.

Sensible, Timely Relief for America's Nuclear Districts' Economic Development (STRANDED) Act (S. 1290, Duckworth/H.R. 3731, Schneider)

For communities with closed nuclear power plants that are storing "stranded" spent nuclear fuel, authorizes annual grants of $15 for each kilogram of nuclear waste "to offset the economic and social impacts of stranded nuclear waste." Authorizes DOE to establish a prize competition for alternative activities at closed reactor sites and to develop a pilot project for each proposal awarded a prize. Requires DOE to establish a task force to conduct a study on resources and options for communities hosting stranded spent fuel. Senate bill introduced April 21, 2021; referred to Committee on Environment and Public Works. House bill introduced June 4, 2021; referred to Committees on Transportation and Infrastructure, Financial Services, and Ways and Means. (Reintroduced from the 116th Congress, S. 1985 and H.R. 5608.)

Storage and Transportation of Residual and Excess (STORE) Nuclear Fuel Act (H.R. 2097, Matsui)

Authorizes DOE to develop nuclear waste storage facilities and enter into a contract to store waste at a nonfederal facility. DOE must obtain state, local, and tribal consent for storage facilities. Financial and technical assistance authorized to states, local governments, and tribes. DOE required to give storage priority to waste from closed reactors and to waste shipments necessary to address emergencies. Introduced March 19, 2021; referred to Committee on Energy and Commerce. (Reintroduced from the 116th Congress, H.R. 3136.)

Nuclear Waste Informed Consent Act (H.R. 1524, Titus/S. 541, Cortez Masto)

Requires the Secretary of Energy to obtain the consent of affected state and local governments before making expenditures from the Nuclear Waste Fund for a nuclear waste repository. Both bills introduced March 2, 2021. House bill referred to Committee on Energy and Commerce; Senate bill referred to Committee on Environment and Public Works. (Reintroduced from the 116th Congress, H.R. 1544 and S. 649.)

116th Congress

Nuclear Waste Policy Amendments Act of 2019 (H.R. 2699, McNerney/S. 2917, Barrasso)

Would have addressed a major condition for licensing the Yucca Mountain repository by withdrawing the repository site from use under public lands laws and placing it solely under DOE's control. Would also have authorized DOE to store spent fuel at an NRC-licensed interim storage facility owned by a nonfederal entity and increased the capacity limit on the Yucca

Mountain repository from 70,000 to 110,000 metric tons. House bill introduced May 14, 2019; referred to Committees on Energy and Commerce; Natural Resources; Armed Services; Budget; and Rules. Approved by Energy and Commerce Committee's Environment and Climate Change Subcommittee September 26, 2019, by voice vote. Passed the House Energy and Commerce Committee by voice vote November 20, 2019. Legislative hearing on discussion draft of S. 2917 held May 1, 2019, by Senate Environment and Public Works Committee; introduced and referred to the committee on November 20, 2019.

Nuclear Waste Administration Act of 2019 (S. 1234, Murkowski)

Would have established an independent Nuclear Waste Administration (NWA), which would have been authorized to develop nuclear waste storage and disposal facilities with the consent of the affected state, local, and tribal governments. In addition to receiving consent-based siting authority, NWA would have taken over DOE's authority under NWPA to construct and operate a repository at Yucca Mountain and DOE's waste disposal contractual obligations. The bill specifically provided that it would not have affected the ongoing Yucca Mountain licensing process. Introduced April 30, 2019; referred to Committee on Energy and Natural Resources. Hearing held June 27, 2019.

Jobs, Not Waste Act (H.R. 1619, Susie Lee/S. 721, Rosen)

Would have prohibited the Secretary of Energy from taking any action relating to the licensing, planning, development, or construction of a nuclear waste repository until the Director of the Office of Management and Budget submitted to Congress a study on alternative economic uses of the Yucca Mountain site and congressional hearings were held on the subject. Both bills introduced March 7, 2019; House bill referred to Committee on Energy and Commerce and Senate bill referred to Committee on Environment and Public Works.

Spent Fuel Prioritization Act of 2019 (H.R. 2995, Mike Levin)

Would have required DOE to give the highest priority for storage or disposal of spent nuclear fuel to reactors that have permanently shut down, have the highest surrounding population, and have the highest earthquake hazard. Introduced May 23, 2019; referred to Committee on Energy and Commerce.

Dry Cask Storage Act of 2019 (S. 2854, Markey)

Would have required spent fuel at nuclear power plants to be moved from spent fuel pools to dry casks after it had sufficiently cooled, pursuant to NRC-approved transfer plans. Emergency planning zones would have had to be expanded from 10 to 50 miles in radius around any reactor determined by NRC to be out of compliance with its spent fuel transfer plan. NRC would have been authorized to use interest earned by the Nuclear Waste Fund to provide grants to nuclear power plants to transfer spent fuel to dry storage. Introduced November 13, 2019; referred to Committee on Environment and Public Works.

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Nuclear Plant Economic Viability

U.S. nuclear power plants are facing severe financial pressure caused primarily by competition from low-cost natural gas, growing supplies of renewable energy, and stagnant electricity demand. Twelve U.S. reactors were permanently closed from 2013 through April 2021, and three more are planned for closure through the mid-2020s (**Table 1**). Plans for up to 30 new U.S. reactors announced during the past 10 years have largely been put on hold, with 2 currently under construction and 2 canceled in 2017 after construction had begun.

In light of that situation, Congress is considering whether federal action is needed to keep the existing nuclear fleet operating and to encourage the construction of new reactors. A key element of that debate is the appropriate role of nuclear power, if any, in meeting national energy and environmental goals. Nuclear power supporters generally point to the technology as crucial for providing a secure, domestic source of energy with low greenhouse gas and other emissions. Supporters also see a viable and growing domestic nuclear power industry as crucial in providing a technology base for naval nuclear reactors and other defense nuclear programs, and in providing a base for nuclear power plant exports to counter reactor exports being pursued by Russia and China for geopolitical purposes. Opponents generally counter that safety and proliferation risks, nuclear waste hazards, and high costs outweigh those benefits.

Potential mechanisms for increased federal support of nuclear power include loan guarantees, tax credits, clean energy mandates, emissions credits, and electricity market regulations.

Some states have taken action to prevent nuclear plant closures. An Illinois law signed September 15, 2021, provides "carbon mitigation credits" to nuclear plants at risk of closure for economic reasons, averting the planned shutdown of two plants with four operating reactors.[22] New York and Illinois provided "zero emission credits" to seven reactors that had been at risk of retirement by 2018.[23] Connecticut enacted legislation in 2017 to make nuclear reactors eligible for a state procurement process for zero-emission electricity sources, upon certification of financial need. New Jersey enacted zero-emission credits for nuclear power in 2018.[24] Ohio enacted subsidies in July 2019 that prompted the owner of the state's two commercial reactors, Davis-Besse and Perry, to rescind the units' previously planned retirements, although the assistance was repealed in March 2021.[25] The planned retirement of the two-unit Beaver Valley nuclear plant in western Pennsylvania was rescinded in March 2020, after Pennsylvania joined the Regional Greenhouse Gas Initiative (RGGI). The plant's owner, Energy Harbor, said RGGI would provide emissions credits "which will begin to help level the playing field for our carbon-free nuclear generators."[26]

Table 1. Recent and Announced U.S. Commercial Reactor Shutdowns

Reactor	State	Shutdown Date	Net Summer Generating Capacity (Megawatts)	Start-Up Year	Major Factors Contributing to Shutdown
Permanent Shutdowns Since 2012					
Crystal River 3	Florida	February 2013	860	1977	Cost of major repairs to reactor containment
Kewaunee	Wisconsin	May 2013	566	1974	Operating losses
San Onofre 2	California	June 2013	1,070	1983	Cost of replacing new steam generators
San Onofre 3	California	June 2013	1,080	1984	Cost of replacing new steam generators
Vermont Yankee	Vermont	December 2014	620	1972	Operating losses

[22] Illinois General Assembly, Energy Transition Act (Nuclear Plant Assistance), Public Act 102-0662, https://ilga.gov/legislation/publicacts/102/102-0662.htm.

[23] *Zero-Emission Credits*, Nuclear Energy Institute, April 2018, https://www.nei.org/CorporateSite/media/filefolder/resources/reports-and-briefs/zero-emission-credits-201804.pdf.

[24] *Solutions for Maintaining the Existing Nuclear Fleet*, Center for Climate and Energy Solutions, May 2018, https://www.c2es.org/site/assets/uploads/2018/05/solutions-for-maintaining-existing-nuclear-fleet.pdf.

[25] "FirstEnergy Solutions Rescinds Deactivation Notices for Competitive Generating Plants in Ohio," *PR Newswire*, July 26, 2019, https://www.prnewswire.com/news-releases/firstenergy-solutions-rescinds-deactivation-notices-for-competitive-generating-plants-in-ohio-300891786.html. A bill repealing the Ohio nuclear plant assistance was signed by the governor on March 31, 2021. See Mike DeWine, Governor of Ohio, "Governor DeWine Signs Ohio Transportation Budget," news release, March 31, 2021, https://governor.ohio.gov/wps/portal/gov/governor/media/news-and-media/transportation-budget-signed-03312021.

[26] Energy Harbor, "Energy Harbor Corp Rescinds Deactivation Notice for Nuclear Generating Plant in Pennsylvania," news release, March 13, 2020, https://energyharbor.com/en/about/news-and-information/energy-harbor-corp-rescinds-deactivation-notice-for-nuclear-gene.

Reactor	State	Shutdown Date	Net Summer Generating Capacity (Megawatts)	Start-Up Year	Major Factors Contributing to Shutdown
Fort Calhoun	Nebraska	October 2016	479	1973	Operating losses
Oyster Creek	New Jersey	September 2018	614	1969	Agreement with state to avoid building cooling towers
Pilgrim	Massachusetts	May 2019	685	1972	Operating losses, rising capital expenditures
Three Mile Island 1	Pennsylvania	October 2019	803	1974	Operating losses
Indian Point 2	New York	April 30, 2020	1,020	1974	Low electricity prices; settlement with state
Duane Arnold	Iowa	August 2020	601	1975	Lower-cost alternative power
Indian Point 3	New York	April 30, 2021	1,035	1976	Low electricity prices; settlement with state
Announced Shutdowns					
Palisades	Michigan	April 2022	784	1971	Operating losses, end of power purchase agreement
Diablo Canyon 1	California	November 2024	1,122	1985	Settlement with labor and environmental groups
Diablo Canyon 2	California	August 2025	1,118	1986	Settlement with labor and environmental groups

Source: Company news releases.

Recent Events

A new federal program to provide financial support to nuclear power plants at risk of closure is included in the Infrastructure Assistance and Jobs Act (H.R. 3684) as passed by the Senate on August 10, 2021. Reactors certified by the Secretary of Energy as being at risk of closure could submit bids to receive credits for four years, specifying an amount per megawatt-hour of electricity generated that would be paid for each credit. A tax credit for existing nuclear power plants of up to 1.5 cents per kilowatt-hour is included in budget reconciliation legislation, the Build Back Better Act (H.R. 5376), introduced September 27, 2021.

Federal tax credits for electricity production from new nuclear plants were extended by the Bipartisan Budget Act of 2018 (P.L. 115-123), signed into law February 9, 2018. Before the extension, new nuclear plants had been required to begin operation before January 1, 2021, to qualify for the production tax credit, which is limited to 6,000 megawatts of total generating capacity. The extension allows new reactors to use the credit after that date if the capacity limit has not been reached. Along with the extension, the tax credit was modified to allow non-taxpaying partners in a nuclear project, such as public power agencies, to transfer their credits to a project's taxpaying partners. Two U.S. reactors are currently under construction, at the Vogtle nuclear power plant in Georgia, totaling about 2,300 megawatts of capacity, well within the limit. Construction delays have pushed the planned completion dates of the new Vogtle reactors beyond the 2021 deadline, and the production tax credits are widely considered crucial for their financial viability.

Recent filings by Georgia Power, the lead partner in the Vogtle consortium, with the Georgia Public Service Commission indicate that the company's share of the project's construction and financing costs will total about $10.4 billion. That estimate does not include costs covered by Georgia Power's $1.5 billion share of a Westinghouse contract settlement and $700 million in unrecovered costs. Adding those amounts would bring the Georgia Power construction and financing cost share to about $12.6 billion.[27] With Georgia Power holding a 45.7% share of the project, the total construction and financing cost of the new reactors is estimated to be about $27.6 billion, or $13.8 billion per reactor.

The two new reactors at the Vogtle plant have received loan guarantees from DOE totaling $12 billion, as authorized by Title 17 of the Energy Policy Act of 2005 (P.L. 109-58). Energy Secretary Ernest Moniz announced the issuance of $6.5 billion in loan guarantees on February 19, 2014, to two of the three utility partners in the project, Georgia Power and Oglethorpe Power. Another $1.8 billion loan guarantee for another partner, Municipal Electric Authority of Georgia, was issued June 24, 2015. Energy Secretary Rick Perry announced the finalization of an additional $3.7 billion in loan guarantees to the three partners in the Vogtle project on March 22, 2019.[28] No other proposed nuclear plants have received any commitments for DOE loan guarantees.

DOE's Light Water Reactor Sustainability Program manages cost-shared research projects "to solve significant highest priority cost and technical problems threatening existing plants."[29] The program includes research on materials used in nuclear plants, modeling of plant aging, and plant upgrades. The Consolidated Appropriations Act, 2021 (P.L. 116-260) included $47 million for the sustainability program for FY2021, the same as in FY2020. For FY2022, the Biden Administration requested $60 million for the program, while the House approved $50 million (H.R. 4502) and the Senate Appropriations Committee recommended $45 million (S. 2605).

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[27] Georgia Power, "Georgia Power Announces Revised Schedule, Cost Forecast for Vogtle Units 3 & 4," July 29, 2021, https://www.georgiapower.com/company/news-center/2021-articles/cost-forecast-for-vogtle.html; Georgia Power, *Twentieth/Twenty-first Semi-Annual Vogtle Construction Monitoring Report*, Docket No. 29849, August 2019, p. 11, https://psc.ga.gov/search/facts-document/?documentId=178224.

[28] Department of Energy, "Secretary Perry Announces Financial Close on Additional Loan Guarantees During Trip to Vogtle Advanced Nuclear Energy Project," news release, March 22, 2019, https://www.energy.gov/articles/secretary-perry-announces-financial-close-additional-loan-guarantees-during-trip-vogtle.

[29] Department of Energy, "Reactor Technology Program Overview," presentation by R. Shane Johnson, Deputy Assistant Secretary for Nuclear Technology Demonstration and Deployment, to the Nuclear Energy Advisory Committee, July 9, 2018, https://www.energy.gov/sites/prod/files/2018/07/f53/RSJ%20Brief%20to%20NEAC%20-%20July%209%202018_0.pdf.

Federal policy on carbon dioxide emissions could also have a significant impact on the expansion of nuclear power and the economic viability of existing reactors. The Biden Administration's American Jobs Plan, announced March 31, 2021, includes an Energy Efficiency and Clean Electricity Standard (CES) that would require increasing percentages of power generation to come from non-carbon-emitting sources, including existing nuclear plants.[30] The House budget reconciliation bill for FY2022, the Build Back Better Act (H.R. 5376), includes a Clean Electricity Performance Program that is similar in some ways to a CES.[31]

Selected Congressional Action—117th Congress

Build Back Better Act (H.R. 5376, Yarmuth)

Budget reconciliation bill for FY2022 that includes provisions to support existing nuclear power plants and communities with closed plants. These include a tax credit of up to 1.5 cents per kwh for generation from existing nuclear plants (section 136109) and an FY2022 appropriation of $500 million to communities with retiring energy facilities, including nuclear (section 110018). It also includes the Clean Electricity Performance Program, authorizing grants and fees to encourage utilities to increase their supply of low-carbon electricity, including from nuclear power (section 30411). Introduced September 27, 2021, and placed on the Union Calendar pursuant to budget reconciliation procedures.

Infrastructure Investment and Jobs Act (H.R. 3684, DeFazio)

As passed by the Senate, includes a federal program to provide financial support to nuclear power plants at risk of closure, with appropriations of $6 billion through FY2026, and appropriates $2.477 billion over four years for DOE's Advanced Reactor Demonstration Program. Introduced June 4, 2021; referred to House Committee on Transportation and Infrastructure. Reported by Committee June 22, 2021 (H.Rept. 117-70); passed by House July 1, 2021; passed by Senate with an amendment August 10, 2021.

Preserving Existing Nuclear Energy Generation Act (H.R. 4960, Kinzinger)

Establishes DOE program to provide credits to nuclear power plants certified by the Secretary of Energy as being at risk of shutdown for financial reasons (similar to the program in H.R. 3684 as passed by the Senate). Each credit equals one megawatt-hour (MWh) of electric generation, and certified reactors could submit bids specifying the price per MWh of the credits desired. Also authorizes grants for units of local government affected by nuclear plant retirements. Introduced August 6, 2021; referred to Committees on Energy and Commerce, Transportation and Infrastructure, and Financial Services.

Energy Infrastructure Act (S. 2377, Manchin)

Section 3203 establishes credits for at-risk nuclear power plants similar to the program in H.R. 3684 as passed by the Senate. Introduced July 19, 2021; referred to Committee on Energy and Natural Resources.

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[30] House Committee on Energy and Commerce, "Full Committee Markup of Legislative Recommendations for Budget Reconciliation," staff memorandum, September 9, 2021, https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Memo_FC%20MU_2021.9.9_0.pdf.

[31] For more information on the Clean Electricity Performance Plan, see CRS Report R46934, *The Clean Electricity Performance Program (CEPP): In Brief*, by Ashley J. Lawson.

American Nuclear Infrastructure Act of 2021 (S. 2373, Capito)

Section 301 establishes credits for at-risk nuclear power plants similar to the program in H.R. 3684 as passed by the Senate, except that the program is run by EPA. Section 503 authorizes grants to units of local government affected by nuclear power plant shutdowns. Introduced July 15, 2021; referred to Committee on Environment and Public Works.

Zero-Emission Nuclear Power Production Credit Act of 2021 (H.R. 4024, Pascrell/S. 2291, Cardin)

Establishes tax credit of up to 1.5 cents per kwh of nuclear energy generation through the end of 2030. The credit amount is reduced as the price of electricity sold by a nuclear plant rises, and is to be adjusted for inflation. The credit amount also would be reduced based on similar state and local credits received. Nuclear plants would have to pay prevailing wages to receive the federal credit. House bill introduced June 21, 2021; referred to Committee on Ways and Means. Senate bill introduced June 24, 2021; referred to Committee on Finance.

Senate Committee on Energy and Natural Resources Hearing on Nuclear Energy

The March 25, 2021, hearing focused on "ways to maintain and expand the use of nuclear energy in the United States and abroad."[32] Committee Chairman Joe Manchin followed up the hearing with a letter to President Biden on April 20, 2021, urging him "to take action to preserve our existing nuclear fleet and prevent further closures. I believe the federal government must use all the tools it has to protect this vital resource, to the maximum extent consistent with the health and safety of the public."[33] Hearing statements, testimony, and video available on the committee website at https://www.energy.senate.gov/hearings/2021/3/full-committee-hearing-on-nuclear-energy.

Nuclear Industrial Base Act of 2021 (H.R. 1698, Latta)

Establishes DOE Nuclear Industrial Base Analysis and Sustainment Program to monitor and assess the needs of the domestic nuclear industry and supports nuclear power development and deployment partnerships between the federal government and private entities. Introduced March 9, 2021; referred to Committee on Energy and Commerce.

CLEAN Energy Future Act (H.R. 1512, Pallone)

Establishes a national clean energy standard (CES), which would require electric utilities to provide specific amounts of power to their customers from low- or zero-carbon generating sources. A CES that includes nuclear energy could increase the demand for electricity from existing reactors and possibly provide an economic incentive for building new ones. Bill includes a CES that would gradually rise to 100% zero-emission electricity generation, including nuclear power, by 2035 and afterward. Introduced March 2, 2021, by House Energy and Commerce Committee Chairman Frank Pallone Jr.; referred to House Energy and Commerce Committee, which held hearings on the bill starting March 18, 2021. Hearing statements, testimony, and video

[32] Senate Committee on Energy and Natural Resources, "Full Committee Hearing on Nuclear Energy," March 25, 2021, https://www.energy.senate.gov/hearings/2021/3/full-committee-hearing-on-nuclear-energy.

[33] Letter from Senate Committee on Energy and Natural Resources Committee Chairman Joe Manchin III to President Joseph R. Biden, April 20, 2021, https://www.energy.senate.gov/services/files/FC01A8FF-FC8F-4FFA-A44E-C3D81CF00A2E.

available on the committee website at https://energycommerce.house.gov/committee-activity/hearings/hearing-on-the-clean-future-act-industrial-climate-policies-to-create.

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Energy Act of 2020, P.L. 116-260, Division Z

Includes authorization of $55 million per year for FY2021 through FY2025 for the Sustainability Program for Light Water Reactors to conduct research, development, demonstration, and commercial application of technologies to improve the economics, safety, and lifetime of existing nuclear power plants (Section 2003). Signed into law December 27, 2020. Authorization of the sustainability program was also included in the Nuclear Energy Renewal Act of 2019 (S. 2368, Coons), approved by the Committee on Energy and Natural Resources on November 11, 2019 (S.Rept. 116-203).

Nuclear Powers America Act of 2019 (S. 1134, Cramer/H.R. 2314, LaHood)

Would have provided a 30% tax credit for fuel and capital expenses incurred by nuclear power plants. The credit would have phased out from December 31, 2023, through January 1, 2026. To receive the credit, nuclear power plants were to submit a license renewal to NRC or certify to DOE that a license renewal would be submitted. Senate bill introduced April 10, 2019; referred to Committee on Finance. House bill introduced April 12, 2019; referred to Committee on Ways and Means.

American Nuclear Infrastructure Act (S. 4897, Barrasso)

Would have established an Environmental Protection Agency (EPA) program to provide assistance, subject to appropriation, to nuclear power plants at risk of permanent shutdown. Certified at-risk plants were to submit bids describing the amount of assistance they would require to generate a specific amount of electricity for the subsequent four years. EPA would have allocated the available assistance to "as many certified nuclear reactors as possible" based on the bids. Hearings held by Senate Committee on Environment and Public Works on discussion draft August 5, 2020 (H.Hrg. 116-270). Bill introduced November 16, 2020; ordered reported with amendment December 2, 2020.

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Keeping the Lights on at America's Nuclear Power Plants, Jeremy Carl and David Fedor, Shultz-Stephenson Task Force on Energy Policy, Hoover Institution Press, 2017

Advanced Nuclear Technology

Existing commercial nuclear power plants in the United States are based on light water reactor (LWR) technology, in which ordinary (light) water is used to cool the reactor and to moderate, or slow, the neutrons in a nuclear chain reaction. In the chain reaction, neutrons cause the nuclei of uranium and other heavy atoms to fission (split), releasing large amounts of energy and additional neutrons to maintain the reaction. The federal government developed LWRs for naval propulsion in the 1950s and funded the commercialization of the technology for electricity generation. DOE and its predecessor agencies for decades have also conducted research on "advanced" reactor technologies that use different coolants and moderators, as well as fast neutron reactors that have no moderator.

The term "advanced nuclear reactor" is defined by the Energy Act of 2020 (P.L. 116-260, Division Z) as a fission reactor that has "significant improvements" over existing commercial reactors, and any fusion reactor. Areas of improvement can include safety, waste generation, performance, resistance to weapons proliferation, "modular sizes," and integration of electric and non-electric applications (such as heat and hydrogen production). That definition encompasses small modular reactors (SMRs) of any type.

To produce less long-lived radioactive waste than existing reactors, some advanced reactor concepts would involve the reprocessing of spent nuclear fuel to separate uranium, plutonium,

and other long-lived radioisotopes to make new fuel for fast reactors.[34] Such reprocessing, or recycling, would also reduce the need for newly mined uranium to fuel a potentially growing worldwide reactor fleet, according to proponents.

SMRs, which DOE defines as having generating capacity of 300 megawatts (MW) or below, would be far smaller than today's commercial LWRs, which average about 1,000 MW of electric generating capacity. Most proposed advanced reactors, including small LWRs, would meet DOE's definition of SMRs. Supporters of SMRs contend that they would be small enough to be assembled in factories and shipped to reactor sites to reduce construction costs. In addition, SMRs could reduce the financial risks of building a new nuclear power plant, because each module would cost less than today's large reactors and revenues could begin when the first module was complete, rather than after completion of a much larger unit. However, some analysts contend that SMRs would be too small to achieve the economies of scale needed for economic viability.[35]

Very small SMRs are often called "microreactors," defined by DOE as having thermal energy capacity below 20 MW. They could provide heat or electric power at remote locations. Self-contained microreactor power units would be assembled in a factory, transported to a site in a shipping container, and set up to generate power within a week, according to DOE. Microreactors would be "self regulating," in that their designs are intended to prevent overheating even without operator intervention.[36]

Recent Events

The Energy Act of 2020, signed by President Trump on December 27, 2020, authorized DOE programs on advanced nuclear energy R&D, fuel supply, and demonstration through FY2025.

The Energy Act requires DOE to implement a program to help make high-assay low-enriched uranium (HALEU) available for advanced reactor R&D and deployment. HALEU is uranium enriched above 5% of the fissile isotope uranium 235 but below 20%, which is the threshold for high-enriched uranium that poses weapons proliferation concerns. Many proposed advanced reactors are being designed to use HALEU. DOE's Advanced Reactor Demonstration Program, initially funded in the Further Consolidated Appropriations Act, 2020 (P.L. 116-94), was authorized by the Energy Act at $405 million in FY2021, rising to $455 million in FY2025.

Legislation to stimulate the development of advanced nuclear technology, the Nuclear Energy Innovation Capabilities Act of 2017 (NEICA), was signed by the President on September 28, 2018 (P.L. 115-248). Key provisions authorize the construction of demonstration reactors funded by the private sector at DOE sites, authorize DOE to construct a Versatile Test Reactor (VTR) for advanced nuclear fuels and materials, and authorize grants to help pay for advanced reactor licensing. The Nuclear Energy Innovation and Modernization Act (P.L. 115-439), signed into law January 14, 2019, requires NRC to develop a new licensing framework for advanced nuclear

[34] Radioisotopes are radioactive isotopes; isotopes are forms of an element that have different numbers of neutrons. Different radioisotopes of the same element will behave the same chemically but have different half-lives and other radioactive characteristics. Long-lived radioisotopes separated from spent fuel could in principle be fissioned or transmuted in a fast reactor into shorter-lived radioisotopes for disposal.

[35] Deign, Jason, "Interest in Small Modular Nuclear Reactors Is Growing. So Are Fears They Aren't Viable," Greentech Media, March 14, 2018, https://www.greentechmedia.com/articles/read/interest-in-small-modular-nuclear-grows#gs.ph5LRao.

[36] DOE Office of Nuclear Energy, "What Is a Nuclear Microreactor?," October 23, 2018, https://www.energy.gov/ne/articles/what-nuclear-microreactor.

technology. Proponents of the law contend that NRC's existing licensing system is too focused on LWR technology and would potentially cause delays in non-LWR applications.

NRC is currently reviewing a design certification application for the NuScale SMR plant, which would consist of a dozen 60 MW(electric) reactors in a large pool of water.[37] DOE announced a cost-shared award of up to $1.4 billion for a NuScale demonstration plant on October 16, 2020.[38] Oklo Power submitted a combined construction permit and operating license application to NRC on March 11, 2020, for its 1.5 MW(electric) Aurora microreactor.[39] Both plants are proposed for construction at Idaho National Laboratory. DOE announced initial awards totaling $160 million for two demonstration plants under the Advanced Reactor Demonstration Program on October 13, 2020.[40] One of the award recipients, TerraPower, is proposing to build its demonstration plant on the site of one of four closed coal-fired power plants in Wyoming.[41]

Table 2. Planned Advanced Reactor Demonstration Plants

Reactor Designer	Tech-nology	Reactor Power (electric)	Plant Owner	DOE Funding	DOE Cost Share	Plant Location	NRC Licensing Status
NuScale	Light water SMR	77 MW	Utah Associated Municipal Power Systems	Up to $1.4 billion	50%	Idaho National Laboratory	Standard Design Certification application submitted January 2017
Terra Power	Sodium-cooled fast reactor	345 MW	PacificCorp	Up to $1.6 billion	50%	Wyoming, at 1 of 4 closed coal plants	Pre-application activities
X-Energy	High-temperature gas-cooled reactor	80 MW	Energy Northwest	Up to $1.6 billion	50%	Richland, WA	Pre-application activities
Oklo	Sodium-cooled fast reactor	1.5 MW	Oklo	$2.6 million	50%	Idaho National Laboratory	COL application submitted 3/11/20

[37] NRC, "Application Review Schedule for the NuScale Design," May 14, 2020, https://www.nrc.gov/reactors/new-reactors/smr/nuscale/review-schedule.html. NuScale currently plans to increase each module's electric generating capacity to 77 MW. See NuScale Power, "Technology Overview," https://www.nuscalepower.com/technology/technology-overview.

[38] DOE Office of Nuclear Energy, "DOE Approves Award for Carbon Free Power Project," October 16, 2020, https://www.energy.gov/ne/articles/doe-approves-award-carbon-free-power-project.

[39] NRC, "Aurora—Oklo Application," June 17, 2020, https://www.nrc.gov/reactors/new-reactors/col/aurora-oklo.html.

[40] DOE Office of Nuclear Energy, "U.S. Department of Energy Announces $160 Million in First Awards under Advanced Reactor Demonstration Program," October 13, 2020, https://www.energy.gov/ne/articles/us-department-energy-announces-160-million-first-awards-under-advanced-reactor.

[41] DOE Office of Nuclear Energy, "Next-Gen Nuclear Plant and Jobs Are Coming to Wyoming," June 7, 2021, https://www.energy.gov/ne/articles/next-gen-nuclear-plant-and-jobs-are-coming-wyoming.

Reactor Designer	Tech-nology	Reactor Power (electric)	Plant Owner	DOE Funding	DOE Cost Share	Plant Location	NRC Licensing Status
Kairos	Fluoride-salt-cooled high-temperature reactor	140 MW	Kairos	Up to $303 million	48%	Oak Ridge, TN	Pre-application activities

Sources: DOE, NRC.

Note: COL = combined construction permit and operating license.

The Department of Defense (DOD) awarded three contracts on March 9, 2020, for design development of mobile microreactors. "A safe, small, mobile nuclear reactor would enable units to carry a nearly endless clean power supply, enabling expansion and sustainment of operations for extended periods of time anywhere on the planet," according to DOD's announcement of the awards.[42]

DOE's nuclear energy research and development program includes reactor modeling and simulation, experimental processing of spent nuclear fuel, development of advanced reactor concepts, and testing of "accident tolerant fuels" for existing LWRs. The Energy and Water Development and Related Agencies Appropriations Act, 2021 (P.L. 116-260, Division D) includes $1.508 billion for DOE nuclear energy programs. The enacted funding measure provides $250 million for the Advanced Reactors Demonstration Program, including $160 million for two advanced nuclear reactor demonstration projects, with a cost-share of at least 50% from nonfederal sources, and $40 million to reduce the technical risk of five additional reactor demonstration proposals, with a nonfederal cost-share of at least 20%. The measure also provides $106 million for accident-tolerant fuels, $45 million to continue development of the VTR, and $20 million for processing HALEU from various sources at Idaho National Laboratory.

For FY2022, the Biden Administration is requesting $1.851 billion for nuclear energy programs, while the House approved $1.675 billion (H.R. 4502) and the Senate Appropriations Committee recommended $1.591 billion (S. 2605). The Administration's American Jobs Plan would provide $15 billion for energy demonstration projects, including advanced nuclear reactors, and $46 billion in federal purchases to stimulate clean energy manufacturing, including advanced nuclear reactors and fuel.[43] The Infrastructure Investment and Jobs Act (H.R. 3684) as passed by the Senate would appropriate $2.477 billion over four years for the Advanced Reactor Demonstration Program, and the Build Back Better Act (H.R. 5376) includes $95 million for the VTR. Selected Congressional Action—117th Congress

Build Back Better Act (H.R. 5376, Yarmuth)

Budget reconciliation bill that includes FY2022 appropriations for advanced nuclear energy technology, including $95 million for the VTR (section 90002) and $53 million for research reactor infrastructure (section 90003). Introduced September 27, 2021, and placed on the Union Calendar pursuant to budget reconciliation procedures.

[42] DOD, "DOD Awards Contracts for Development of a Mobile Microreactor," March 9, 2020, https://www.defense.gov/Newsroom/Releases/Release/Article/2105863/dod-awards-contracts-for-development-of-a-mobile-microreactor.

[43] White House, "Fact Sheet: The American Jobs Plan," March 31, 2021, https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/31/fact-sheet-the-american-jobs-plan.

Nuclear Power Purchase Agreements Act (H.R. 4834, Luria)

Authorizes DOE to enter into power purchase agreements of up to 40 years from nuclear reactors licensed after January 1, 2020. Power purchase agreements that can provide reliable electricity to off-grid locations and national defense facilities, or for other purposes found to be in the national interest, can include above-market rates. Introduced July 29, 2021; referred to committees on Energy and Commerce and Oversight and Reform.

National Nuclear University Research Infrastructure Reinvestment Act of 2021 (H.R. 4819, Anthony Gonzalez)

Authorizes a DOE program to strengthen university research and training reactors, including a subprogram to demonstrate advanced nuclear reactor and microreactor concepts. Introduced July 29, 2021; referred to Committee on Science, Space, and Technology.

Energy Infrastructure Act (S. 2377, Manchin)

Requires DOE to prepare a report on the potential use of SMRs and microreactors and authorizes DOE to support feasibility studies on deploying microreactors, SMRs, and advanced reactors in isolated communities. Introduced July 19, 2021; referred to Committee on Energy and Natural Resources.

American Nuclear Infrastructure Act of 2021 (S. 2373, Capito)

Authorizes prizes for advanced nuclear reactors and fuel, and removes the costs of advanced reactor early site permits and pre-licensing activities from NRC fee recovery requirements. Introduced July 15, 2021; referred to Committee on Environment and Public Works.

Strengthening American Nuclear Competitiveness Act (H.R. 1748, Bill Johnson)

Expedites DOE review of certain nuclear technology exports, enables increased investment in U.S. nuclear technology by American allies, and modifies licensing requirements for new nonelectric uses of nuclear energy and for improved manufacturing techniques. Introduced March 10, 2021; referred to Committees on Energy and Commerce and Foreign Affairs.

Advanced Nuclear Deployment Act (H.R. 1746, Hudson)

Facilitates licensing and deployment of advanced civilian nuclear technologies and authorizes federal agencies to enter into certain long-term power purchase agreements. Introduced March 10, 2021; referred to Committee on Energy and Commerce and in addition to the Committee on Science, Space, and Technology.

Nuclear Licensing Efficiency Act (H.R. 1578, Kinzinger)

Establishes timelines and modifies procedures for nuclear power plant permitting and licensing. Introduced March 3, 2021; referred to House Committee on Energy and Commerce.

Modernize Nuclear Reactor Environmental Reviews Act (H.R. 1559, Duncan)

Modifies requirements and procedures for NRC environmental reviews of nuclear power plant licensing and permitting decisions. Introduced March 3, 2021; referred to Committee on Energy and Commerce.

116th Congress

Advanced Nuclear Fuel Availability Act (H.R. 1760, Flores)

Required DOE to establish a program to support the availability of HALEU as fuel for advanced nuclear reactors. Introduced March 14, 2019; referred to Committee on Energy and Commerce. Passed House by voice vote September 9, 2019. HALEU authorization included in Energy Act of 2020.

Nuclear Energy Leadership Act (S. 903, Murkowski/H.R. 3306, Luria)

Would have authorized federal agencies to sign power purchase agreements (PPAs) with electric utilities for up to 40 years and required DOE to establish a pilot PPA program for new nuclear reactors. Included provisions directing DOE to demonstrate advanced reactor technologies, prepare a nuclear energy strategic plan, and make HALEU available for advanced nuclear reactors. DOE and NRC were to establish a program to support university research on advanced nuclear technologies. Senate bill introduced March 27, 2019; referred to Committee on Energy and Natural Resources. Legislative hearings held April 30, 2019. Approved by Committee July 16, 2019 (S.Rept. 116-114). House bill introduced June 19, 2019; referred to Committees on Science, Space, and Technology; Energy and Commerce; Oversight and Reform; and Armed Services. Authorizations for HALEU program and university advanced reactor research support included in Energy Act of 2020.

Advanced Nuclear Energy Technologies Act (H.R. 3358, Higgins)

Directed DOE to carry out two advanced nuclear reactor demonstrations by the end of 2025, to the extent practicable, and up to four additional demonstrations by the end of 2035. The demonstrations were to be cost-shared with nonfederal entities. Would have required DOE to submit a nuclear energy strategic plan to specified congressional committees. Introduced June 19, 2019; referred to Committee on Science, Space, and Technology. Authorization for DOE Advanced Reactor Demonstration Program included in Energy Act of 2020.

Nuclear Energy Renewal Act of 2019 (S. 2368, Coons)

Included authorizations of appropriations for DOE advanced nuclear R&D programs through FY2029. Appropriations for the Advanced Reactor Technologies Development Program were to be authorized at $120 million per year; Fuel Cycle Research and Development Program at $200 million per year; Material Recovery and Waste Form Development at $50 million per year; Advanced Fuels at $120 million per year; Nuclear Energy Enabling Technologies at $150 million per year; Radiological Facilities Management at $30 million per year; and International Nuclear Energy Cooperation at $10 million per year. Included authorization for DOE and NRC to develop certification and licensing criteria for advanced reactors and to provide assistance to advanced reactor license applicants. Appropriations were to be authorized at $15 million per year through FY2029. The Light Water Reactor Sustainability Program, aimed at existing reactors, would also have been authorized through FY2029. It would have allowed an exemption to the existing minimum of 20% private-sector cost sharing for programs authorized by the bill. Introduced July 31, 2019; referred to Committee on Energy and Natural Resources. Approved by Committee November 19, 2019 (S.Rept. 116-203). Authorizations of DOE nuclear energy programs included in Energy Act of 2020.

Integrated Energy Systems Act of 2019 (S. 2702, Risch)

Included provisions to establish an integrated energy systems program to integrate nuclear energy with renewable energy, fossil energy, and energy storage; and expand the use of emissions-reducing energy technologies into nonelectric sectors. Introduced November 19, 2019; referred to Committee on Energy and Natural Resources and reported the same day with an amendment in the nature of a substitute (S.Rept. 116-199). Integrated energy systems program authorization included in Energy Act of 2020.

American Energy Innovation Act (S.Amdt. 1407, Murkowski)

Amendment in the Nature of a Substitute to S. 2657, including provisions from several nuclear energy bills reported by the Committee on Energy and Natural Resources: S. 2368, S. 903, and S. 2702. Amendment submitted March 3, 2020; cloture not invoked March 9, 2020, by vote of 47-44. Many provisions included in Energy Act of 2020.

Nuclear Energy Research and Development Act (H.R. 6097, Lamb)

Included authorizations for DOE nuclear energy research and demonstration programs for existing commercial reactors; advanced reactor technologies; hybrid nuclear energy systems that would operate in tandem with storage, renewable, or other technologies; HALEU for advanced reactors; used (spent) nuclear fuel, including recycling and waste disposal; and advanced technology fuels. It would have authorized $3.016 billion through FY2025 to construct a versatile neutron source, or versatile test reactor. Authorizations were included for DOE to enter into cost-shared agreements for least two advanced reactor demonstration projects by 2027 and from two to five additional projects by 2035, for which $3.2 billion was to be authorized through FY2025. Authorizations are also included for international nuclear energy cooperation and university scholarships and fellowships in nuclear R&D. Introduced March 5, 2020; referred to House Committee on Science, Space, and Technology. Authorizations for HALEU, hybrid nuclear energy systems, spent fuel research, versatile neutron source, advanced reactor demonstrations, international energy cooperation, and university scholarships and fellowships included in Energy Act of 2020.

Nuclear Energy for the Future Act (H.R. 6796, Weber)

Included provisions requiring DOE to carry out an advanced reactor technologies research and development program through public-private partnerships, along with an authorization of $3.016 billion through FY2025 to construct a versatile neutron source. Introduced May 8, 2020; referred to the House Committee on Science, Space, and Technology. Versatile neutron source authorization included in Energy Act of 2020.

Hearing: Advanced Nuclear Technology: Protecting U.S. Leadership and Expanding Opportunities for Licensing New Nuclear Energy Technologies

Hearing by the Senate Committee on Environment and Public Works Subcommittee on Clean Air and Nuclear Safety on the international and domestic outlook for advanced nuclear technologies, June 4, 2019. Witnesses included William D. Magwood, Director General of the Organization for Economic Cooperation and Development Nuclear Energy Agency, and representatives of advanced nuclear technology companies and public policy organizations. Video, written statements, and other material can be found at https://www.epw.senate.gov/public/index.cfm/

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Safety

The 2011 Fukushima Dai-ichi nuclear plant disaster in Japan, triggered by a 9.0-magnitude earthquake and 45-foot tsunami, greatly increased concerns about safety in the nuclear policy debate. The accident clearly demonstrated the potential consequences of a total loss of power (or "station blackout") at today's commercial nuclear plants. Even when the nuclear reaction shuts down as designed, as at the Fukushima plant after the initial earthquake, residual radioactivity in the reactor core continues to generate "decay heat" that must be removed, typically by electrically driven or controlled cooling systems.

When the tsunami knocked out power at the three Fukushima Dai-ichi reactors that had been operating when the earthquake struck, the buildup of heat and pressure from residual radioactivity became so great that it melted the reactors' nuclear fuel and exceeded the limits of their containment structures. The decay heat also caused steam to chemically react with the nuclear fuel cladding in the reactor cores, generating additional heat along with hydrogen that escaped into the upper part of the reactor buildings and exploded. Cooling was also lost in Fukushima's spent fuel storage pools, causing concern that they could overheat, although later examination indicated that they did not.

Safety requirements for nuclear power plants are established and enforced in the United States by NRC, an independent regulatory agency. The Atomic Energy Act of 1954 requires NRC to ensure that licensed nuclear facilities "provide adequate protection to the health and safety of the public" (42 U.S.C. 2232). NRC may issue safety requirements that exceed the statutory "adequate protection" standard if their benefits are found to exceed their costs.

NRC safety regulations address the effects of external events such as earthquakes and floods, equipment failure such as breaks in coolant pipes, and other problems that could lead to radioactive releases into the environment. Critics of nuclear power contend that NRC is often reluctant to impose necessary safety requirements that would be costly or disruptive to the nuclear industry. However, the industry has frequently contended that costly safety proposals are unnecessary and would not significantly increase large existing safety margins.

Following the Fukushima disaster, NRC established a task force to identify lessons applicable to U.S. reactors and recommend safety improvements. The task force's report led to NRC's first Fukushima-related regulatory requirements, on March 12, 2012. NRC ordered all reactors to develop strategies to maintain cooling and containment integrity during external events, such as floods and earthquakes, that were more severe than anticipated by the plants' designs ("beyond design basis"). In addition, NRC required that U.S. reactors of similar design to the Fukushima reactors have "reliable hardened vents" to remove excess pressure from their primary containments, and that better instrumentation be installed to monitor the condition of spent fuel pools during accidents.[44]

The NRC commissioners on March 19, 2013, required NRC staff to study whether to require the newly mandated containment vents to include filters or other means to reduce the release of radioactive material if the vents have to be used. The idea of requiring filters had drawn praise

[44] Nuclear Regulatory Commission, "Actions in Response to the Japan Nuclear Accident: March 12, 2012," updated May 30, 2012, http://www.nrc.gov/reactors/operating/ops-experience/japan/timeline/03122012.html.

from nuclear critics but opposition from the industry on cost grounds.[45] NRC voted on August 19, 2015, not to proceed with rulemaking on filtered vents.[46]

Recent Events

Congressional controversy was generated by NRC's final rule for Mitigation of Beyond-Design-Basis Events (MBDBE), announced January 24, 2019.[47] The MBDBE regulation requires nuclear power plants to implement strategies to maintain reactor core cooling when electric power is lost, as occurred during the Fukushima accident. The MBDBE proposed rule, published November 13, 2015,[48] and the draft final rule, released by NRC on January 5, 2017,[49] would have required the equipment used in those strategies to be able to withstand newly evaluated flooding and seismic risks, and that regular drills and exercises be conducted. The final rule excluded those requirements, among other changes.[50] In supporting those exclusions, the Commission majority asserted that the deleted requirements did not meet NRC's cost-benefit standards.[51] NRC is continuing to monitor the implementation of all post-Fukushima regulations and orders.[52]

The 10th anniversary of the Fukushima disaster in March 2021 was noted around the world with retrospectives, status reports, and commentary. "An important lesson of Fukushima is that regulators must be strong, independent and adequately resourced," the International Atomic Energy Agency said in marking the occasion.[53] The Japan Atomic Industrial Forum issued a statement declaring, "We in the nuclear industry must reflect on the Fukushima Daiichi accident and learn its lessons thoroughly as we firmly pledge never to allow it to recur, through our unwavering efforts to improve safety."[54]

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[45] NRC, "Consideration of Additional Requirements for Containment Venting Systems for Boiling Water Reactors with Mark I and Mark II Containments," staff requirements memorandum, SECY-12-0157, March 19, 2013, http://www.nrc.gov/reading-rm/doc-collections/commission/srm/2012/2012-0157srm.pdf; Freebairn, William, "NRC Staff Recommends Ordering Filtered Vents for 31 Power Reactors," *Inside NRC*, November 5, 2012, p. 1.

[46] NRC, "Hardened Vents and Filtration (for Boiling Water Reactors with Mark I and Mark II containment designs)," http://www.nrc.gov/reactors/operating/ops-experience/japan-dashboard/hardened-vents.html.

[47] NRC, "NRC To Issue Final Rule for Mitigating Severe Events at U.S. Reactors," news release, January 24, 2019, https://www.nrc.gov/reading-rm/doc-collections/news/2019/19-005.pdf.

[48] NRC, "Mitigation of Beyond-Design-Basis Events," Proposed Rule, *Federal Register*, November 13, 2015, Vol. 80, No. 219, p. 70610, https://www.govinfo.gov/content/pkg/FR-2015-11-13/pdf/2015-28589.pdf.

[49] NRC, Final Rule: Mitigation of Beyond-Design-Basis Events, SECY-16-0142, Enclosure 1, January 5, 2017, https://www.nrc.gov/docs/ML1630/ML16301A005.html.

[50] NRC, "Staff Requirements—Affirmation Session," SRM-M190124A, Enclosure 1, January 24, 2019, https://www.nrc.gov/docs/ML1902/ML19023A038.html.

[51] Ibid., "Views of the Commission."

[52] NRC, "Plant-Specific Japan Lessons-Learned Activities," August 13, 2018, https://www.nrc.gov/reactors/operating/ops-experience/japan-dashboard/japan-plants.html.

[53] International Atomic Energy Agency, "Ten-Year Anniversary of the Fukushima Daiichi Nuclear Power Plant Accident: A Decade of Improving Nuclear Safety," March 10, 2021, https://www.iaea.org/newscenter/statements/ten-year-anniversary-of-the-fukushima-daiichi-nuclear-power-plant-accident-a-decade-of-improving-nuclear-safety.

[54] Japan Atomic Industrial Forum President Shiro Arai, "Marking the Tenth Anniversary of the Fukushima Daiichi Accident," February 26, 2021, https://www.jaif.or.jp/en/marking-the-tenth-anniversary-of-the-fukushima-daiichi-accident.

Selected Congressional Action—117th Congress

Department of Energy and Nuclear Regulatory Commission Whistleblower Protection Act (S. 2896, Duckworth)

Specifies that DOE and NRC employees are included in protections against management retaliation under the Energy Reorganization Act (42 U.S.C. 5851) for raising nuclear safety concerns. Introduced September 29, 2021; referred to Committee on Energy and Natural Resources.

Nuclear Licensing Efficiency Act (H.R. 1578, Kinzinger)

Establishes timelines and modifies procedures for nuclear power plant permitting and licensing. NRC would have to issue safety evaluation reports and final environmental impact statements for nuclear reactor license applications "to the maximum extent practicable within 42 months after the application is accepted for docketing." NRC could use informal procedures for licensing hearings if it found formal adjudicatory procedures to be unnecessary. Introduced March 3, 2021; referred to House Committee on Energy and Commerce.

Modernize Nuclear Reactor Environmental Reviews Act (H.R. 1559, Duncan)

Modifies requirements and procedures for NRC environmental reviews of nuclear power plant licensing and permitting decisions. Requires NRC within three years of enactment to promulgate a final rule "establishing an optional generic environmental impact statement that may be used in the licensing process for nuclear reactors" and allowing for environmental assessments and categorical exclusions for environmental reviews where appropriate. Introduced March 3, 2021; referred to Committee on Energy and Commerce.

116th Congress

Low-Dose Radiation Research Act of 2019 (H.R. 4733, Posey)

Would have authorized a DOE research program on the effects of exposure to low-dose radiation. Introduced October 18, 2019; referred to Committee on Science, Space, and Technology.

Department of Energy and Nuclear Regulatory Commission Whistleblower Protection Act of 2019 (H.R. 5787, Horsford/S. 1330, Duckworth)

Would have specifically protected all DOE and NRC employees from retaliation for raising nuclear safety concerns (whistleblowing). House bill introduced February 6, 2020; referred to Committee on Energy and Commerce; Senate bill introduced May 6, 2019; referred to Committee on Energy and Natural Resources.

Hearing: Preserving and Expanding Clean, Reliable Nuclear Power: U.S. Commercial Nuclear Reactor Performance Trends and Safety Initiatives

Hearing by the Senate Committee on Environment and Public Works on the safety of existing and potential future nuclear power plants and other issues relating to commercial nuclear power. Witnesses came from industry, government, and advocacy organizations. Video, written statements, and other material can be found at https://www.epw.senate.gov/public/index.cfm/

2019/11/preserving-and-expanding-clean-reliable-nuclear-power-u-s-commercial-nuclear-reactor-performance-trends-and-safety-initiatives.

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Security and Emergency Response

The level of security that must be provided at nuclear power plants became a high-profile issue after the 9/11 terrorist attacks on the United States in 2001. Since those attacks, NRC issued a series of orders and regulations that substantially increased nuclear plant security requirements, although industry critics contend that those measures are still insufficient. Key measures include an increase in the level of attacks that nuclear plant security forces must be able to repel, requirements for mitigating the effects of large fires and explosions, and a requirement that new reactors be capable of withstanding aircraft crashes without releasing radioactive material. NRC also modified its planning requirements for evacuations and other emergency responses after the 9/11 attacks, and the Fukushima disaster illustrated the importance of emergency response to radioactive releases from any cause.

NRC issued wide-ranging revisions to its emergency preparedness regulations on November 1, 2011, dealing with duties of emergency personnel and the inclusion of hostile actions in emergency planning drills.[55] In response to Fukushima, NRC staff recommended that nuclear emergency plans be required to address events affecting multiple reactors and prolonged station

[55] NRC, "Enhancements to Emergency Preparedness Regulations," final rule, *Federal Register*, November 23, 2011, p. 72560.

blackout. NRC told nuclear power plants on March 12, 2012, to provide specific information and analysis on those issues.[56]

The NRC Cyber Security Directorate was established in June 2013 to coordinate rulemaking, guidance, and oversight of cybersecurity at nuclear power plants and other regulated nuclear facilities. As part of the Directorate, NRC's Cyber Assessment Team responds to cybersecurity events at NRC-licensed facilities and coordinates threat assessments with other federal agencies.[57]

Recent Events

NRC issued a draft final rule June 7, 2018, on "Enhanced Weapons, Firearms Background Checks, and Security Event Notifications."[58] The draft final rule, which is awaiting Commission approval following a staff revision submitted February 4, 2020,[59] would establish procedures for nuclear power plants and other licensed nuclear facilities to apply for NRC authorization to arm their security personnel with "enhanced" weapons, such as semiautomatic assault weapons and machine guns, despite any state laws prohibiting such weapons. NRC is authorized to preempt state laws for this purpose under Atomic Energy Act Section 161A, enacted by the Energy Policy Act of 2005 (P.L. 109-58). The draft final rule would also modify NRC requirements for nuclear power plants and other licensed facilities to report events related to physical security and would add requirements for reporting suspicious activities.

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Protecting Our Nation, Nuclear Regulatory Commission, NUREG/BR-0314, Rev. 4, August 2015, https://www.nrc.gov/docs/ML1523/ML15232A263.pdf

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[56] NRC, "Request for Information Pursuant to Title 10 of the Code of Federal Regulations 50.54(f) Regarding Recommendations 2.1, 2.3, and 9.3 of the Near-Term Task Force Review of Insights from the Fukushima Dai-ichi Accident," March 12, 2012, http://pbadupws.nrc.gov/docs/ML1205/ML12053A340.pdf.

[57] NRC, "Backgrounder on Cyber Security," March 2019, http://www.nrc.gov/reading-rm/doc-collections/fact-sheets/cyber-security-bg.html.

[58] NRC, "Enhanced Weapons, Firearms Background Checks, and Security Event Notifications," draft final rule, SECY-18-0058, June 7, 2018, https://www.nrc.gov/docs/ML1626/ML16264A000.html.

[59] NRC, "Supplement to SECY-18-0058, 'Draft Final Rule—Enhanced Weapons, Firearms Background Checks, and Security Event Notifications,'" February 4, 2020, https://www.nrc.gov/docs/ML1901/ML19017A025.pdf.

Nuclear Weapons Nonproliferation

Encouraging exports of U.S. civilian nuclear products, services, and technology while making sure they are not used for foreign nuclear weapons programs has long been a fundamental goal of U.S. nuclear energy policy. Section 123 of the Atomic Energy Act requires that any country receiving U.S. nuclear technology, equipment, or materials implement a peaceful nuclear cooperation agreement with the United States. These so-called 123 agreements are intended to ensure that U.S. nuclear cooperation with other countries does not result in the production of weapons materials or otherwise encourage the proliferation of nuclear weapons. Section 123 allows nuclear cooperation agreements to take effect after 90 days of continuous congressional session if they adhere to specified criteria.

International controls and inspections are intended to ensure the peaceful use of civilian nuclear facilities and prevent the proliferation of nuclear weapons. However, recent plans or proposals to build nuclear power plants in countries[60] that have not previously used nuclear energy, including several in the Middle East and elsewhere in the less developed world, have prompted concerns that international controls may prove inadequate. Numerous recommendations have been made in the United States and elsewhere to create new incentives for nations to forgo the development of uranium enrichment and spent nuclear fuel reprocessing facilities that could produce weapons materials as well as civilian nuclear fuel.

Recent Events

Iran's nuclear energy program is a major example of the tension between peaceful and weapons uses of nuclear technology. Long-standing world concern had focused on the Iranian uranium enrichment program, which Iran contended was solely for peaceful purposes but which the United States and other countries suspected was for producing weapons material. The U.N. Security Council had imposed sanctions and passed several resolutions calling on Iran to suspend its enrichment program and other sensitive nuclear activities. Iran finalized the Joint Comprehensive Plan of Action (JCPOA) on July 14, 2015, with the United States and the other four permanent members of the U.N. Security Council plus Germany to lift the U.N. sanctions in return for specified Iranian actions to preclude nuclear weapons development. President Trump announced on May 8, 2018, that the Administration would cease implementing the agreement and reimpose sanctions. Other parties to the JCPOA have not followed the U.S. lead, however.[61] The Biden Administration in April 2021 participated in indirect talks with Iran through other JCPOA participants about potentially returning to compliance if Iran does as well.[62]

An extension of the U.S. peaceful nuclear cooperation agreement with South Korea generated controversy but no congressional action to block it. During negotiations on the U.S.-South Korea nuclear cooperation extension, which entered into force November 25, 2015, South Korea had sought advance U.S. consent for spent fuel reprocessing and uranium enrichment. The United States did not provide such consent, on general nonproliferation grounds and because such

[60] World Nuclear Association, "World Nuclear Power Reactors and Uranium Requirements," October 2021, http://www.world-nuclear.org/info/reactors.html.

[61] European Union, "Joint Statement on the Re-imposition of U.S. Sanctions Due to Its Withdrawal from the Joint Comprehensive Plan of Action (JCPOA)," June 8, 2018, https://eeas.europa.eu/headquarters/headquarters-homepage/49141/joint-statement-re-imposition-us-sanctions-due-its-withdrawal-joint-comprehensive-plan-action_en.

[62] U.S. Department of State, "Briefing With Senior State Department Official On Recent U.S. Engagement in Vienna Regarding the JCPOA," April 9, 2021, https://www.state.gov/briefing-with-senior-state-department-official-on-recent-u-s-engagement-in-vienna-regarding-the-jcpoa.

consent could affect other ongoing issues on the Korean peninsula. The new agreement did, however, establish a bilateral "high level commission" to further consider those issues. The high-level commission's deliberations are to be informed by the results of a 10-year Joint Fuel Cycle Study by scientists from the two countries that was scheduled to be completed in April 2021. However, according to DOE, some aspects of the study have not been completed and discussions on how to move forward are continuing.[63]

Japan's long-standing nuclear cooperation agreement with the United States automatically renewed on July 17, 2018, and will remain in force indefinitely unless terminated by either side.[64] The agreement allows Japan to reprocess spent nuclear fuel from its U.S.-designed reactors, separating plutonium and uranium for use in new fuel. A commercial reprocessing plant at Rokkasho is scheduled to be completed in 2022.[65] Some nuclear nonproliferation groups had urged the United States to use the renewal of the U.S.-Japan nuclear cooperation agreement as an opportunity to urge Japan not to begin its reprocessing program. They noted that Japan already has substantial stockpiles of previously separated plutonium that could potentially be used for weapons as well as reactor fuel.[66] Japan approved a new Strategic Energy Plan July 3, 2018, that includes a pledge to reduce Japanese plutonium inventories, reportedly following pressure from the United States and other countries.[67]

Recent discussions between the United States and Saudi Arabia toward drafting a peaceful nuclear cooperation agreement have prompted substantial controversy. The U.S. nuclear industry strongly supports an agreement so that it could supply reactors and other nuclear technology to Saudi Arabia.[68] However, nuclear nonproliferation groups want any nuclear cooperation agreement to include a binding commitment from Saudi Arabia to forswear uranium enrichment and spent fuel reprocessing on its territory.[69] Secretary of State Mike Pompeo testified to the Senate Foreign Relations Committee May 24, 2018, that the United States was insisting that Saudi Arabia accept such a commitment as part of any 123 agreement, despite Saudi arguments that the country has a right to enrich and reprocess under international inspections.[70] Energy Secretary Rick Perry told reporters at a meeting in September 2019 that the United States also would condition any U.S.-Saudi 123 Agreement on Saudi acceptance of the Additional Protocol,

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[63] Emails from John Krohn, DOE Office of Congressional and Intergovernmental Affairs, March 31, 2021, and June 28, 2021. The March email says that "the US and ROK are continuing to talk to determine how to 'finalize' the study, as well as potential continued work in this area."

[64] U.S. Department of State, "U.S. Bilateral Agreements For Peaceful Nuclear Cooperation Pursuant to Section 123 of the U.S. Atomic Energy Act of 1954, As Amended," January 20, 2017, https://www.state.gov/t/isn/rls/fs/2017/266975.htm.

[65] Japan Nuclear Fuel Limited, "Reprocessing," viewed April 27, 2021, https://www.jnfl.co.jp/en/business/reprocessing.

[66] Nonproliferation Policy Education Center, "Tokyo and Washington Have Another Nuclear Problem," August 17, 2017, http://npolicy.org/article.php?aid=1341&rid=2.

[67] Japanese Ministry of Economy, Trade, and Industry, "Cabinet Decision on the New Strategic Energy Plan," July 3, 2018, http://www.meti.go.jp/english/press/2018/0703_002.html; Reuters, "Japan Pledges to Cut Plutonium Stockpile Amid Growing Concern by Neighbours," July 31, 2018, https://af.reuters.com/article/commoditiesNews/idAFL4N1UQ3WD.

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which allows strengthened international safeguards on nuclear facilities.[71] Congress prohibited the use of FY2021 funds for Export-Import Bank support for nuclear exports to Saudi Arabia until the kingdom has a 123 agreement in effect that commits to renouncing uranium enrichment and reprocessing and has signed an Additional Protocol with the IAEA (Section 7041(h) of Division K, P.L. 116-260). The same prohibition was included in appropriations for FY2020 (P.L. 116-94).

Selected Congressional Action—117th Congress

Iran Nuclear Treaty Act (S. 2031, Johnson)

Declares that any agreement reached by the President regarding Iran's nuclear program shall be a treaty subject to Senate advice and consent. Introduced June 10, 2021; referred to Committee on Foreign Relations.

Stopping Activities Underpinning Development In Weapons of Mass Destruction (SAUDI WMD) Act (S. 1146, Markey)

Prohibits U.S. arms sales to Saudi Arabia if Saudi Arabia imports nuclear technology without adopting the Additional Protocol for international nuclear facility inspections and reached a nuclear cooperation agreement with the United States. Introduced April 15, 2021; referred to Committee on Foreign Relations.

Strengthening American Nuclear Competitiveness Act (H.R. 1748, Bill Johnson)

Expedites DOE review of certain nuclear technology exports, enables increased investment in U.S. nuclear technology by American allies, and modifies licensing requirements for new nonelectric uses of nuclear energy and for improved manufacturing techniques. Introduced March 10, 2021; referred to Committees on Energy and Commerce and Foreign Affairs.

Iran Nuclear Deal Advice and Consent Act of 2021 (H.R. 1479, Barr)

Prohibits federal funds to be used for rejoining the Joint Comprehensive Plan of Action unless the Biden Administration commits to submitting any JCPOA successor to the Senate as a treaty rather than as an international agreement. Introduced March 2, 2021; referred to Committee on Foreign Affairs.

Expressing the sense of the House of Representatives regarding United States arms transfers to Saudi Arabia (H.Res. 175, Trone)

Calls on the U.S. Government to rescind nuclear technology transfer authorizations and "cease significant nuclear cooperation" with Saudi Arabia until Saudi Arabia signs a nuclear cooperation agreement with the United States that guarantees that the Saudi nuclear program is solely for civilian purposes and prohibits uranium enrichment and plutonium separation, among other provisions. Introduced February 26, 2021; referred to Committee on Foreign Affairs and sequentially to the Permanent Select Committee on Intelligence.

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Iran Diplomacy Act of 2021 (S. 434, Markey)

Declares it to be U.S. policy that the United States and Iran "should promptly return to full compliance with all of their commitments under the JCPOA," among other provisions. Introduced February 24, 2021; referred to Committee on Foreign Relations.

Iran Nuclear Verification Act (H.R. 1203, McClain)

Prohibits the United States from becoming a party to the JCPOA or any other nuclear agreement with Iran until United Nations inspectors are allowed full access to all Iranian nuclear facilities and have completed a comprehensive report on those facilities. Introduced February 22, 2021; referred to Committee on Foreign Affairs.

116th Congress

Expressing the sense of Congress that any United States-Saudi Arabia civilian nuclear cooperation agreement must prohibit the Kingdom of Saudi Arabia from enriching uranium or separating plutonium on its own territory, in keeping with the strongest possible nonproliferation "gold standard" (S.Con.Res. 2, Merkley/H.Con.Res. 23, Andy Levin)

Would have expressed the sense of Congress that a 123 agreement with Saudi Arabia should prohibit uranium enrichment and plutonium separation in Saudi territory and require Saudi acceptance of the Additional Protocol for nuclear facility inspections. Senate resolution introduced February 12, 2019; referred to Committee on Foreign Relations. House resolution introduced February 28, 2019; referred to Committee on Foreign Affairs.

Saudi Nuclear Nonproliferation Act of 2019 (H.R. 1471, Sherman/S. 612, Markey)

Would have established additional criteria for any 123 agreement with Saudi Arabia and prohibited such an agreement from taking effect without enactment of a joint resolution of Congress. Both bills introduced February 28, 2018. House bill referred to Committee on Foreign Affairs; Senate bill referred to Committee on Foreign Relations.

Preventing Nuclear Proliferation in Saudi Arabia Act of 2019 (S. 2338, Van Hollen)

Would have prohibited the U.S. Export-Import Bank from financing nuclear exports to Saudi Arabia unless Saudi Arabia signs the Additional Protocol and commits not to enrich uranium or separate plutonium in its territory. Introduced July 30, 2019; referred to Committee on Banking, Housing, and Urban Affairs.

Hearing: Oversight of the Trump Administration's Iran Policy

Hearing by the House Committee on Foreign Affairs Subcommittee on the Middle East, North Africa, and International Terrorism, June 19, 2019, with the U.S. Special Representative for Iran. Video can be found at https://foreignaffairs.house.gov/2019/6/oversight-of-the-trump-administration-s-iran-policy.

Hearing: An Examination of U.S.-Iran Policy

Hearing by the Senate Committee on Foreign Relations, October 16, 2019, with the U.S. Special Representative for Iran. Video and testimony can be found at https://www.foreign.senate.gov/hearings/an-examination-of-us-iran-policy.

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