

November 2, 2023

The Honorable Thomas R. Carper
Chairman
U.S. Senate Environment and Public Works
Committee
410 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Shelley Moore Capito
Ranking Member
U.S. Senate Environment and Public Works
Committee
410 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Cathy McMorris Rodgers
Chairman
U.S. House Energy and Commerce
Committee
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Frank Pallone
Ranking Member
U.S. House Energy and Commerce
Committee
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Carper, Ranking Member Moore Capito, Chairman McMorris Rodgers, and Ranking Member Pallone:

The undersigned organizations would like to thank the House Energy and Commerce Committee and the Senate Environment and Public Works Committee for their leadership on U.S. nuclear policy and for their thoughtful oversight of the regulatory agencies essential to the safe deployment and operation of nuclear technologies.

We are writing to inform the Committees with jurisdiction over the Environmental Protection Agency (EPA) that the current standard for the safe, permanent disposal of high-level nuclear waste, 40 CFR Part 191, should be updated and harmonized with international practices for commercial spent nuclear fuel (SNF) disposal. Regardless of future policy direction for the U.S. SNF management program, refreshing the EPA's generic geologic repository standard for public health and safety is essential to prevent unnecessary delays after Congress has chosen a path forward.

Updating the EPA's generic geologic repository standard is a long-term endeavor and will not result in any immediate changes to U.S. policy; it may take five to ten years. Furthermore, the Nuclear Regulatory Commission (NRC) would then need to update its rule for high-level radioactive waste management in geologic repositories, 10 CFR Part 60, to conform to the updated EPA standard. Given the extended timeframe for the action, it is imperative that the EPA starts now on the development of an updated standard using state-of-the-art science to be applied to future repositories in order to protect public health and safety.

In a 2017 Government Accountability Office report on nuclear waste, GAO-17-174, experts advised that "it would be premature for [the U.S. Department of Energy] to site a...repository until health and safety regulations are revised." In that same report, EPA officials stated that "they do not plan to invest resources in revising health and safety regulations without specific direction from Congress." This makes encouragement from Congress to direct the EPA to revise the standard in advance of other policy actions necessary for the success of those future policy actions.

Since 40 CFR Part 191 dates back to 1985, the generic geologic repository standard has become inconsistent with modern international repository standards and regulations. For example, it uses generic/bounding calculations related to the performance of repositories in various geologic media, and those calculations were performed prior to the development of today's more sophisticated methods. While modern international standards (e.g., Switzerland, Canada) use dose limits to measure the protection of future inhabitants in the area surrounding the repository, the American generic standard, 40 CFR Part 191, uses radionuclide release limits to measure the protection of the entire world population. Furthermore, 40 CFR Part 191 was narrowly written for mined repository applications; this limits applicability to other types of deep geologic repository designs.

Reports such as the 2012 Blue Ribbon Commission's "America's Nuclear Future" and the 2023 National Academies' "Merits and Viability of Different Nuclear Fuel Cycles and Technology Options and the Waste Aspects of Advanced Nuclear Reactors" have recommended this action. Additionally, the American Nuclear Society recently issued peer-reviewed recommendations to guide the development of a risk-informed, technology-inclusive repository standard.

It is imperative that the EPA begin this work as soon as possible, as these standards should be finalized prior to a site selection process. We believe that encouragement from the Committees of jurisdiction to EPA leadership pushing them to define an acceptable cost basis and timeframe for the development of a new standard would have a meaningful impact on advancing this effort. Our organizations are grateful for the Committees' continued commitment to the health and safety of people and the environment, and write to seek your leadership on the shared priority of directing the EPA to update its generic geological repository standard.

Sincerely,

[American Nuclear Society](#)
[The Breakthrough Institute](#)
[Center for Climate and Energy Solutions](#)
[ClearPath Action](#)
[Energy Communities Alliance](#)
[Good Energy Collective](#)
[Nuclear Innovation Alliance](#)
[Third Way](#)
[United States Nuclear Industry Council](#)

cc:

Senator Ben Cardin
Senator Bernie Sanders
Senator Sheldon Whitehouse
Senator Jeff Merkley
Senator Ed Markey
Senator Debbie Stabenow
Senator Mark Kelly
Senator Alex Padilla
Senator John Fetterman

Senator Kevin Cramer
Senator Cynthia Lummis
Senator Markwayne Mullin
Senator Pete Ricketts
Senator John Boozman
Senator Roger Wicker
Senator Dan Sullivan
Senator Lindsey Graham

Representative Michael Burgess
Representative Bob Latta
Representative Brett Guthrie
Representative Morgan Griffith
Representative Gus Bilirakis
Representative Bill Johnson
Representative Larry Bucshon
Representative Richard Hudson
Representative Tim Walberg
Representative Buddy Carter
Representative Jeff Duncan
Representative Gary Palmer
Representative Neal Dunn
Representative John Curtis
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Representative Greg Pence
Representative Dan Crenshaw
Representative John Joyce
Representative Kelly Armstrong
Representative Randy Weber
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Representative Kat Cammack

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Representative Scott Peters
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Representative Ann Kuster
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Representative Lisa Blunt Rochester
Representative Darren Soto
Representative Angie Craig
Representative Kim Schrier
Representative Lori Trahan
Representative Lizzie Fletcher