

Nuclear Energy: Overview of Congressional Issues

Updated December 8, 2023

Congressional Research Service

<https://crsreports.congress.gov>

R42853



R42853

December 8, 2023

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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 54 sites in the United States generate about 20% of the nation's electricity. One new reactor, in Georgia, began operation in June 2023 and a twin unit is scheduled to start up by early 2024. About a dozen more reactors of various designs are planned or proposed. Whether they eventually move forward will depend largely on their economic competitiveness with natural gas and renewable energy sources. Similar economic forces affect existing reactors. Thirteen U.S. reactors were permanently closed from 2013 through April 2022. However, several states have taken action to prevent reactor shutdowns, and Congress has enacted federal tax credits and other support for existing reactors 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. Detractors raise concerns regarding weapons-proliferation risks and cast doubt on their affordability and sustainability. DOE is providing support for several proposed advanced reactor demonstrations, which could indicate whether the anticipated benefits can be realized. Numerous bills have been introduced in the 118th Congress to support development of advanced reactors and fuels, such as S. 1111 and H.R. 5750.

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 has since been requested or provided.

The Obama Administration 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. DOE awarded \$26 million in grants to 13 consortia of universities and other organizations in June 2023 to develop consent-based siting approaches. In the meantime, Yucca Mountain remains the sole authorized candidate site for permanent disposal, despite its lack of funding. Nuclear waste bills in the 118th Congress include proposals to require state and local consent for siting a nuclear waste repository (H.R. 1051, S. 404).

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, and its ten-year anniversary heightened safety interest.

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 reactors in several countries without nuclear power, including the Middle East, have prompted concerns about the effectiveness of international controls. Current bills to encourage nuclear exports include S. 1928 and H.R. 806.

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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 in Japan, Chernobyl in the Soviet Union, and, to a lesser extent, Three Mile Island in Pennsylvania. 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, and proposed consolidated interim storage facilities in New Mexico and Texas.

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, slowed nuclear power expansion plans around the world, particularly in Japan and Western Europe. Nevertheless, 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

¹ World Nuclear Association, "World Nuclear Power Reactors and Uranium Requirements," November 2023, <http://www.world-nuclear.org/information-library/facts-and-figures/world-nuclear-power-reactors-and-uranium-requireme.aspx>.

² Energy Information Administration, *Annual Energy Outlook 2023*, March 16, 2023, <https://www.eia.gov/outlooks/aeo/narrative/index.php#TheElectricityMixinth>.

United States.³ However, subsequent declines in natural gas prices and uncertainty about carbon dioxide controls put most of those projects on hold.

Some of those projects began construction, with mixed results. A new reactor in Georgia began commercial operation in July 2023 and a twin unit is scheduled to start up by early 2024. A planned advanced nuclear plant in Idaho was terminated by its developers in November 2023 after experiencing numerous delays and cost overruns. Two identical reactors under construction in South Carolina were canceled in July 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.

Existing U.S. nuclear power plants are continuing to face difficult competition from natural gas and renewable energy. Thirteen U.S. reactors were permanently closed from 2013 through April 2022. Three of those units closed because of the need for expensive repairs, three were retired under agreements with state utility regulators, and seven could not compete in their regional wholesale electricity markets. All 13 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). (See **Table 2.**) The shutdowns 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 several years. Congress has also enacted federal tax credits and other support for existing and new nuclear power plants.

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 could 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 54 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 recent to begin commercial operation was Vogtle 3 in Georgia in July 2023.⁴ Before that, the most recent reactors to start up were Watts Bar 2 in 2015 and its twin unit, Watts Bar 1, in 1996 in Tennessee.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 10 reactors are currently under review, one application is being reviewed for acceptance, and eight others are anticipated during the next two

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>.

⁴ Georgia Power, "Vogtle Unit 3 goes into operation," news release, July 31, 2023, <https://www.georgiapower.com/company/news-center/2023-articles/vogtle-unit-3-goes-into-operation.html>.

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 13, 2023, <https://www.nrc.gov/reactors/operating/licensing/renewal/applications.html>.

years.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 Vogtle 3, 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.

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 higher than wind and solar as well. For example, the Energy Information Administration (EIA) estimates that, for plants coming on line in 2028, the average cost of electricity generation from a nuclear power plant would be 7.1 cents per kilowatt-hour (kwh), including tax credits, while advanced combined-cycle gas-fired generation would cost 4.3 cents/kwh and an ultracritical coal plant would cost 8.9 cents/kwh. EIA estimates that electricity from onshore wind would cost 3.1 cents/kwh, solar photovoltaics 2.3 cents/kwh, and geothermal 3.7 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 at the Vogtle nuclear plant site in Georgia experienced considerable construction delays and cost overruns.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.

Much of the U.S. interest in new nuclear power plants is focused on "advanced" reactors, using different technology from that of existing light water reactors, which use ordinary (light) water as a coolant and moderator to slow the neutrons in the nuclear chain reaction. There is also considerable interest in "small modular reactors," which would be smaller than today's commercial reactors and could use a variety of technologies. In addition to the microreactor noted above, NRC is conducting licensing reviews or pre-application activities for several advanced reactors.¹¹

Throughout the world, 436 reactors are currently in service or operable, and 62 more are under construction. France is the most heavily nuclear-reliant country in the world, with 56 reactors

⁷ Nuclear Regulatory Commission, "Status of Subsequent License Renewal Applications," September 6, 2023, <https://www.nrc.gov/reactors/operating/licensing/renewal/subsequent-license-renewal.html>.

⁸ Energy Information Administration, "Levelized Cost of New Generation Resources in the Annual Energy Outlook 2023," p. 8, April 2023, https://www.eia.gov/outlooks/aeo/electricity_generation/pdf/AEO2023_LCOE_report.pdf. Levelized costs include capital costs averaged over the life of the plant, plus fuel and maintenance costs and tax credits, in 2022 dollars.

⁹ Darrell Proctor, "Another Delay for New Unit at Vogtle Nuclear Plant," *Power*, June 17, 2023, <https://www.powermag.com/another-delay-for-new-unit-at-vogtle-nuclear-plant>.

¹⁰ Nuclear Regulatory Commission, "Combined License Applications for New Reactors," July 3, 2023, <https://www.nrc.gov/reactors/new-reactors/col.html>.

¹¹ Nuclear Regulatory Commission, "Licensing Activities for Advanced Reactors," March 31, 2022, <https://www.nrc.gov/reactors/new-reactors/advanced/licensing-activities.html>.

generating 63% of the country's electricity in 2022. Thirty-two countries in 2022 (plus Taiwan) generated at least some of their electricity from nuclear power.¹²

After the Fukushima accident, Germany, which had previously generated about 30% of its electricity with nuclear power, began phasing out its 17 power reactors through early 2023. 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 2011 earthquake and tsunami, and 11 of Japan's 33 operable reactors are currently in commercial service. In addition to the 11 currently approved to operate, 14 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.¹³ France had planned to reduce nuclear power to 50% of the country's total generation by 2025, although that goal was pushed back in 2019 and then rescinded altogether in 2023.¹⁴

Major Nuclear Energy Issues

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. Supporters of advanced reactors contend that their potentially lower cost and other advantages over existing commercial reactors could make them highly competitive with other low-emission energy sources and create a vast export market. Several demonstrations of advanced reactor designs are currently planned, which could provide an indication of their commercial viability.

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,

¹² World Nuclear Association, "Nuclear Share Figures, 2012-2022," August 2023, <http://www.world-nuclear.org/information-library/facts-and-figures/nuclear-generation-by-country.aspx>; World Nuclear Association, "World Nuclear Power Reactors and Uranium Requirements," op. cit.

¹³ World Nuclear Association, "Nuclear Power in Japan," August 2023, <http://www.world-nuclear.org/information-library/country-profiles/countries-g-n/japan-nuclear-power.aspx>.

¹⁴ World Nuclear Association, "Nuclear Power in France," August 2023, <https://www.world-nuclear.org/information-library/country-profiles/countries-a-f/france.aspx>.

and other long-lived radioisotopes to make new fuel for fast reactors.¹⁵ Such reprocessing, or recycling, would also reduce the need for newly mined uranium to fuel a potentially growing worldwide reactor fleet, according to proponents. However, the separation of plutonium from spent nuclear fuel also raises significant concerns about nuclear weapons proliferation.

SMRs would be smaller than today's commercial LWRs, which generally have about 1,000 megawatts (MW) of electric generating capacity or more.¹⁶ 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.¹⁷ None of the currently proposed U.S. designs for SMRs have been constructed, so actual costs and construction times have yet to be demonstrated.¹⁸

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.¹⁹

Recent Events

DOE's Advanced Reactor Demonstration Program (ARDP) supports demonstration plants using advanced nuclear technology and the development of technologies for possible future demonstration.²⁰ The program was initially funded with \$230 million by the Further Consolidated

¹⁵ 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.

¹⁶ A DOE fact sheet says SMRs can "represent a variety of sizes, technology options, capabilities, and deployment scenarios" and are "envisioned to vary in size from tens of megawatts up to hundreds of megawatts." DOE Office of Nuclear Energy, "Advanced Small Modular Reactors (SMRs)," <https://www.energy.gov/ne/advanced-small-modular-reactors-smrs>. The Infrastructure Investment and Jobs Act (P.L. 117-58, Section 40321) and the James M. Inhofe National Defense Authorization Act (NDAA) for Fiscal Year 2023 (P.L. 117-263, Section 320, amending P.L. 117-81, NDAA for FY2022) define SMRs as having generating capacity of less than 300 MW. The 300 MW limit is also used by the Atomic Energy Act in setting reactor liability limits for public damages (42 U.S.C. 2210(b)(5)). The International Atomic Energy Agency (IAEA) defines SMRs as having electrical capacity of up to 300 MW. IAEA, "Small Modular Reactor (SMR) Regulators' Forum," <https://www.iaea.org/topics/small-modular-reactors/smr-regulators-forum>.

¹⁷ 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>.

¹⁸ A high-temperature gas-cooled SMR began commercial operation in China in December 2023. The 210 MW (electric) plant took 11 years to construct at a cost that was not announced. See "China's Demonstration HTR-PM Enters Commercial Operation," *World Nuclear News*, December 6, 2023, <https://www.world-nuclear-news.org/Articles/Chinese-HTR-PM-Demo-begins-commercial-operation>.

¹⁹ DOE Office of Nuclear Energy, "What Is a Nuclear Microreactor?," February 26, 2021, <https://www.energy.gov/ne/articles/what-nuclear-microreactor>. Electrical output of a reactor can range from about 34%-39% of its thermal output. World Nuclear Association, "Is the Cooling of Power Plants a Constraint on the Future of Nuclear Power?," p. 3, https://www.world-nuclear.org/uploadedFiles/org/WNA/Publications/WNA_Position_Statements/PS-cooling.pdf.

²⁰ DOE, "Advanced Reactor Demonstration Program," <https://www.energy.gov/ne/advanced-reactor-demonstration-program>.

Appropriations Act, 2020 (P.L. 116-94) and was authorized by the Energy Act for funding through FY2025.

The Infrastructure Investment and Jobs Act (IIJA, P.L. 117-58), enacted in 2021, appropriated \$2.477 billion through FY2025 for ARDP, in addition to annual appropriations. DOE selected two demonstration projects in October 2020 to receive a total of \$3.2 billion from the program over seven years, with the project sponsors matching that amount. Five potential future reactor demonstration projects received 80% cost-share awards under ARDP in December 2020, totaling \$600 million of DOE funding over seven years.

In addition to the ARDP projects, DOE announced a cost-shared award of up to \$1.4 billion under an earlier program in October 2020 to demonstrate the NuScale water-cooled SMR at Idaho National Laboratory. However, that project was terminated on November 8, 2023, by NuScale and the intended owner of the plant, Utah Associated Municipal Power Systems (UAMPS). According to a statement by the companies, UAMPS members (mostly small municipal power systems) did not commit to purchasing enough of the SMR plant's planned 462 megawatts of electric generation to make the project economically viable.²¹ The project had experienced a number of delays and cost overruns before being terminated.²²

Tax credits for advanced nuclear reactors and other new zero-carbon power plants were included in the law commonly referred to as the Inflation Reduction Act (IRA, P.L. 117-169). Qualifying plants can receive a 10-year electricity production tax credit of up to 2.6 cents/kilowatt-hour (as adjusted for inflation²³) or a 30% investment tax credit. IRA also includes \$700 million for DOE to develop supplies of high-assay low enriched uranium (HALEU), needed for some advanced reactor designs, including the two non-LWR demonstration plants that DOE is supporting. HALEU, not currently available commercially, is uranium enriched in the fissile isotope U-235 above the 3%-5% level used by existing commercial reactors but below the 20% threshold for highly enriched uranium. DOE's HALEU program was authorized by the Energy Act of 2020. The Nuclear Energy Innovation Capabilities Act of 2017 (NEICA, P.L. 115-248) authorizes the construction of demonstration reactors funded by the private sector at DOE sites and authorizes grants to help pay for advanced reactor licensing. The Nuclear Energy Innovation and Modernization Act (P.L. 115-439), enacted in 2019, requires NRC to develop a new licensing framework for advanced nuclear 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 six 77 MW (electric) reactors in a large pool of water.²⁴ NRC is also reviewing construction permit applications by Kairos Power and Abilene Christian University.²⁵ Under ARDP, one of the award recipients, TerraPower, is proposing to build its demonstration plant on

²¹ NuScale, UAMPS, "Utah Associated Municipal Power Systems (UAMPS) and NuScale Power Agree to Terminate the Carbon Free Power Project (CFPP)," news release, November 8, 2023, <https://www.cfppllc.com/file/44ac923c-86d2-43de-a87b-2c6e336a0db5>.

²² Zach Bright, "NuScale Cancels First-of-a-Kind Nuclear Project as Costs Surge," *Energywire*, November 9, 2023, <https://www.eenews.net/articles/nuscale-cancels-first-of-a-kind-nuclear-project-as-costs-surge>.

²³ The base renewable energy production tax credit of 1.5 cents/kwh, amended by IRA, was established in 1992 and is annually adjusted for inflation.

²⁴ NRC, "NuScale US460 Standard Design Approval Application Review," August 1, 2023, <https://www.nrc.gov/reactors/new-reactors/smr/licensing-activities/current-licensing-reviews/nuscale-us460.html>.

²⁵ NRC, "Current Licensing Reviews of Advanced Reactors," July 31, 2023, <https://www.nrc.gov/reactors/new-reactors/advanced/licensing-activities/current-licensing-reviews.html>.

the site of a closed coal-fired power plant in Wyoming,²⁶ while the other, X-energy, is proposing to build a four-unit demonstration plant at a Dow Chemical plant in Texas.²⁷

Table 1. Planned Advanced Reactor Demonstration Plants

Selected Projects with DOE Funding or NRC License Applications

Reactor Designer	Technology	Reactor Power (electric)	Plant Owner	DOE Funding	DOE Cost Share	Plant Location	NRC Licensing Status
Terra Power	Sodium-cooled fast reactor	345 MW	PacificCorp	Up to \$1.6 billion	50%	Kemmerer, WY	Pre-application activities
X-energy	High-temperature gas-cooled reactor	80 MW	Energy Northwest	Up to \$1.2 billion	50%	Seadrift, TX	Pre-application activities
Kairos	Fluoride-salt-cooled high-temperature reactor	35 MW	Kairos	Up to \$303 million	48%	Oak Ridge, TN	Construction permit applications submitted 9/29/2021 and 7/14/2023
Abilene Christian University	Molten salt research reactor	1 MW	Abilene Christian University			Abilene, TX	Construction permit application submitted 8/12/2022
<i>Previously funded project terminated</i>							
NuScale	Light water SMR	77 MW	Utah Associated Municipal Power Systems (UAMPS)	Up to \$1.4 billion	50%	Idaho Falls, ID (Idaho National Laboratory)	Standard Design Approval application submitted 1/1/2023

Sources: DOE, NRC, 2023.

Note: NuScale/UAMPS project terminated by sponsors November 8, 2023. See news release at <https://www.cfpplc.com/file/44ac923c-86d2-43de-a87b-2c6e336a0db5>.

The Department of Defense (DOD) awarded a contract in 2022 to BWX Technologies to build a prototype mobile microreactor. An award to develop a second prototype design went to X-energy in 2023. According to DOD's Strategic Capabilities Office (SCO), "By nurturing and developing

²⁶ 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>.

²⁷ X-energy, "Energy Northwest and X-energy Sign Joint Development Agreement for Xe-100 Advanced Small Modular Reactor Project," July 19, 2023, <https://x-energy.com/media/news-releases/energy-northwest-x-energy-joint-development-agreement-xe-100>.

multiple micro reactor designs, SCO will not just provide options for the military Services, but will also help jumpstart a truly competitive commercial marketplace for micro reactors.”²⁸

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, 2023 (P.L. 118-328, Division D) included \$1.473 billion for DOE nuclear energy programs. The enacted funding measure provided \$85 million for the Advanced Reactor Demonstration Program and \$114 million for accident-tolerant fuels. An additional \$300 million was appropriated under Division M of P.L. 118-328 for advanced nuclear reactor demonstrations and fuel availability.

For FY2024, the Biden Administration requested \$1.563 billion for nuclear energy programs, while the House approved \$1.783 billion (H.Rept. 118-4394, H.Rept. 118-126) and the Senate Appropriations Committee recommended \$1.551 billion (S. 2443, S.Rept. 118-72).

Selected Congressional Action—118th Congress

Hearing to Examine the Nuclear Fuel Cycle, Senate Committee on Energy and Natural Resources

Topics included the supply of HALEU for advanced reactors, domestic nuclear fuel production, and nuclear waste storage and disposal. Held March 9, 2023, <https://www.energy.senate.gov/hearings/2023/3/full-committee-hearing-to-examine-the-nuclear-fuel-cycle>.

Hearing on American Nuclear Energy Expansion: Powering a Clean and Secure Future, House Committee on Energy and Commerce, Subcommittee on Energy, Climate, and Grid Security

Topics included conditions needed for deployment of nuclear technologies, domestic nuclear infrastructure and workforce, regulatory issues, and competition in international markets. Held April 18, 2023, <https://energycommerce.house.gov/events/energy-climate-and-grid-security-subcommittee-hearing-american-nuclear-energy-expansion-powering-a-clean-and-secure-future>.

Hearing on From Theory to Reality: The Limitless Potential of Fusion Energy, House Committee on Science, Space, and Technology, Subcommittee on Energy

Topics included the status of DOE fusion research and the growth of private-sector companies pursuing commercial fusion. Held June 13, 2023, <https://science.house.gov/hearings?ID=1A693FA1-B7A9-4408-BE83-6253FFB7787D>.

Atomic Energy Advancement Act (H.R. 6544, Duncan)

Among other provisions, would remove requirements for NRC to recover costs for reviewing applications and conducting pre-application for early site permits for advanced reactors. Would require NRC to develop risk-informed and performance-base strategies and guidance for

²⁸ DOD, “DOD Exercises Option on Second Micro Nuclear Reactor Design,” September 13, 2023, <https://www.defense.gov/News/Releases/Release/Article/3524458/dod-exercises-option-on-second-micro-nuclear-reactor-design>.

microreactor licensing. Would authorize pilot program for DOE long-term power purchases from a new commercial nuclear power plant. Would require an interagency study of the global nuclear energy industry and global supply chains. Would require NRC to coordinate reactor import and export licensing activities and authorizes an NRC International Nuclear Reactor Export and Innovation Branch. Would extend authority for new reactors to be included in the Price-Anderson Act nuclear accident liability system through 2065. Would authorize the Secretary of Energy to award prizes for the first advanced reactor to receive an NRC operating license and for other licensing categories. Introduced December 1, 2023; approved December 5, 2023, by House Committee on Energy and Commerce.

Advanced Reactor Fee Reduction Act (H.R. 6326, Bucshon)

Would limit the hourly rates charged by NRC for reviewing pre-application materials for advanced reactor licenses and for reviewing advanced reactor license applications. Introduced November 9, 2023; referred to Committee on Energy and Commerce. Similar provisions included in H.R. 6544, ordered to be reported by House Committee on Energy and Commerce December 5, 2023.

Strengthening American Nuclear Competitiveness Act (H.R. 6303, Bill Johnson)

Would require the Secretary of Energy to report to Congress on U.S. nuclear energy industry competitiveness and to review and update the process for granting general authorization to countries for the transfer of civilian nuclear technology. Would establish exceptions to the current prohibition on foreign ownership or control of U.S. nuclear power plants. Would extend the deadline for new reactors to be included in the Price-Anderson Act nuclear liability and compensation system from 2025 to 2065. Introduced November 8, 2023; referred to Committee on Energy and Commerce, and in addition the Committee on Foreign Affairs for provisions under its jurisdiction.

Advanced Nuclear Reactor Prize Act (H.R. 6253, Curtis)

Would authorize the Secretary of Energy to make awards to cover regulatory costs relating to licensing certain first-of-a-kind advanced nuclear reactors. Introduced November 7, 2023; referred to the House Committee on Energy and Commerce. Similar provisions included in H.R. 6544, ordered to be reported by House Committee on Energy and Commerce December 5, 2023.

Green Nuclear Fertilizer Act (H.R. 5750, Donalds)

Would require the secretaries of Energy and Agriculture and NRC to submit a report to Congress on the feasibility of producing hydrogen from advanced nuclear reactors to make “green nuclear fertilizer.” Introduced September 27, 2023; referred to Committee on Agriculture, and to the Committee on Energy and Commerce for provisions under its jurisdiction.

Nuclear Fuel Security Act of 2023 (H.R. 5718, Latta; S. 452, Manchin)

Would require DOE to ensure supplies of domestic nuclear fuel, at all stages of production, and would set a goal of providing at least 10 metric tons of HALEU for advanced reactors by June 30, 2026. H.R. 5718 introduced September 26, 2023; referred to Committees on Energy and Commerce, and Science, Space, and Technology. Ordered to be reported by House Committee on Energy and Commerce December 5, 2023. S. 442 introduced February 15, 2023; referred to Committee on Energy and Natural Resources and reported with an amendment July 11, 2023

(S.Rept. 118-52). Provisions included as Section 3144 of the National Defense Authorization Act for Fiscal Year 2024 (S. 2226), passed by the Senate July 27, 2023.

U.S. Capitol Power Plant Retrofit Act (H.R. 5706, Donalds)

Would require the Architect of the Capitol, in consultation with DOE and NRC, to study the feasibility of “retrofitting the Capitol Power Plant to incorporate an advanced nuclear reactor.” Introduced September 26, 2023; referred to Committee on Transportation and Infrastructure.

Expressing the sense of the Senate and House that advanced nuclear power should be encouraged (S.Res. 321, Budd; H.Res. 124, Donalds)

Expresses the sense of the Senate and House that nuclear power should be promoted as clean, reliable, and secure, that advanced nuclear reactors could be a U.S. export opportunity, and that the necessary supply chain, fuel, and workforce should be established. Senate resolution introduced July 27, 2023; referred to Committee on Energy and Natural Resources; House resolution introduced February 14, 2023; referred to Committee on Energy and Commerce, and to the Committee on Armed Services for provisions under its jurisdiction.

Provide Logistical Aid to airports via advanced Nuclear Energy (PLANE) Act (H.R. 4678, Donalds)

Would require NRC, the Federal Aviation Administration, and DOE to establish procedures to deploy microreactors at airports. Introduced July 17, 2023; referred to Committee on Transportation and Infrastructure.

Leverage Obligated appropriations for Advanced Nuclear (LOAN) Act (H.R. 4677, Donalds)

Would make DOE advanced reactor demonstration projects eligible for DOE innovative technology loan guarantees. Introduced July 17, 2023; referred to Committee on Energy and Commerce, and also the Committee on Science, Space, and Technology for provisions under its jurisdiction.

Advanced Nuclear Feasibility Act (H.R. 4674, Donalds)

Would require DOE to establish a grant program for feasibility studies for the deployment of advanced nuclear reactors. Introduced July 17, 2023; referred to Committee on Energy and Commerce.

Civil Nuclear Export Act of 2023 (S. 1928, Manchin)

Would allow for Export-Import (EXIM) Bank financing of fast breeder reactors and spent nuclear fuel reprocessing plants if they are otherwise permitted by law, add nuclear facilities to the EXIM Bank Program on China and Transformational Exports, and establish EXIM Bank liability limits for damages caused by nuclear projects financed by the bank. Introduced June 12, 2023; referred to Committee on Banking, Housing, and Urban Affairs.

21st Century American Atomic Energy Age Act (H.R. 3553, Wittman)

Would require NRC to provide technical assistance to SMR license applicants, among other provisions. Introduced May 18, 2023; referred to Committee on Energy and Commerce, and to the Committees on Homeland Security and Armed Services for provisions under their jurisdiction.

Advanced Nuclear Support Act (H.R. 3487, Donalds)

Would provide financial support for “commercial planning for, and licensing and construction of, advanced nuclear reactors, and supply chain infrastructure associated with advanced nuclear reactors.” Introduced May 18, 2023; referred to Committee on Energy and Commerce, and to Committee on Science, Space, and Technology for provisions under its jurisdiction.

Recoup American Nuclear Global Leadership Act (H.R. 3486, Donalds)

Would establish Nuclear Exports Working Group composed of senior officials from DOE, EXIM Bank, NRC, Department of Commerce, and other relevant agencies. Introduced May 18, 2023; referred to Committee on Foreign Affairs.

To amend the Internal Revenue Code of 1986 to make advanced nuclear facilities eligible for the qualifying advanced energy project credit (H.R. 2488, Donalds)

Would make advanced nuclear facilities eligible for the qualifying advanced energy project tax credit. Introduced April 6, 2023; referred to Committee on Ways and Means.

Accelerating Deployment of Versatile, Advanced Nuclear for Clean Energy (ADVANCE) Act of 2023 (S. 1111, Capito)

Would authorize NRC to establish an International Nuclear Reactor Export and Innovation Branch, restrict possession of nuclear fuel assemblies manufactured in Russia or China, restrict nuclear exports to countries lacking specified international safeguards, limit NRC fees for advanced reactor license applications, authorize prizes for the first advanced reactor licenses, and exclude NRC costs for reviewing advanced reactors at DOE sites from annual fees, among other provisions. Introduced March 30, 2023; reported with an amendment in the nature of a substitute by Environment and Natural Resources Committee July 10, 2023. Text included as Section 8141 of the National Defense Authorization Act for Fiscal Year 2024 (S. 2226), passed by the Senate July 27, 2023.

International Nuclear Energy Act of 2023 (S. 826, Manchin; H.R. 2938, Donalds)

Would require the Secretary of State, in coordination with the Secretaries of Energy and Commerce, to conduct meetings with allied and partner nations to pursue collaboration on research, development, licensing, and deployment of advanced nuclear reactor technologies; and includes other provisions to encourage international civil nuclear cooperation and exports. Senate bill introduced March 15, 2023; referred to Committee on Foreign Relations. House bill introduced April 28, 2023; referred to Committees on Foreign Affairs, Energy and Commerce, and Ways and Means.

National Strategy to Utilize Microreactors for Natural Disaster Response Efforts Act (H.R. 1009, Donalds)

Would require the President, in consultation with relevant federal agencies, to develop a national strategy to utilize microreactors to assist with natural disaster response efforts. Introduced February 14, 2023; referred to Committee on Transportation and Infrastructure, and to the Committees on Energy and Commerce, and Armed Services, for provisions under their jurisdiction.

Nuclear Assistance for America's Small Businesses Act (H.R. 1007, Donalds)

Would delay collection of a portion of NRC fees related to advanced reactor license applications and pre-application activities. Introduced February 14, 2023; referred to Committee on Energy and Commerce.

Global Nuclear Energy Assessment and Cooperation Act (H.R. 995, Carter of Georgia)

Would require NRC to support “the consideration of international technical standards to assist the design, licensing, and construction of advanced nuclear systems” and establish an NRC International Nuclear Reactor Export and Innovation Branch to carry out such activities, among other provisions. Introduced February 14, 2023; approved by Committee on Energy and Commerce Subcommittee on Energy, Climate, and Grid Security October 24, 2023. Also referred to Committee on Foreign Affairs for provisions under its jurisdiction. Similar provisions included in H.R. 6544, ordered to be reported by House Committee on Energy and Commerce December 5, 2023.

International Nuclear Energy Financing Act of 2023, (H.R. 806, McHenry)

Would require the Secretary of the Treasury to instruct the United States Executive Director at the World Bank and other international financial institutions to support assistance for nuclear energy. Introduced February 2, 2023; referred to Committee on Financial Services.

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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 90,000 metric tons at the end of 2022 and increasing at the rate of about 2,200 metric tons per year.²⁹

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 DOE to study the site and seek a license from NRC to build a repository there.

Citing opposition from the State of Nevada, the Obama Administration halted the Yucca Mountain project. No new funding has been appropriated for it since FY2010. 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

²⁹ DOE, Resource Portal for DOE Nuclear Waste Management Information, interactive map, viewed October 24, 2023, <https://curie.pnnl.gov/map>.

“consent-based” process to select nuclear waste storage and disposal sites and for a surface storage pilot facility to open by 2021.³⁰ DOE issued a *Draft Consent-Based Siting Process* shortly before the end of the Obama Administration.³¹

A federal appeals court on August 13, 2013, ordered NRC to continue the Yucca Mountain licensing process with previously appropriated funds.³² 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.³³ 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.³⁴

Recent Events

The Trump Administration largely halted the consent-based siting process and included funding to restart Yucca Mountain licensing in its FY2018, FY2019, and FY2020 budget submissions to Congress, but the requests were not funded by Congress. The Trump Administration did not seek Yucca Mountain repository funding for FY2021, but only funds for interim storage planning, which were appropriated by Congress. The Biden Administration also requested nuclear waste funds only for planning in FY2022, FY2023, and FY2024 (with those amounts enacted in FY2022 and FY2023).

The Biden Administration resumed the consent-based siting process in December 2021 with a request for information about the design of such a program and issued an updated report on consent-based siting in April 2023.³⁵ Under the updated process, DOE awarded grants on July 9, 2023, to 13 consortia made up of academic, non-profit, and private-sector institutions to “work with communities interested in DOE’s community-centered approach to storing and disposing of spent nuclear fuel.”³⁶

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. NRC issued licenses to the Texas facility on September 13, 2021, and to the New Mexico facility on May 9,

³⁰ 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.

³¹ 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>.

³² 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](http://www.cadc.uscourts.gov/internet/opinions.nsf/BAE0CF34F762EBD985257BC6004DEB18/$file/11-1271-1451347.pdf).

³³ 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/>.

³⁴ 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/>.

³⁵ DOE, *Consent-Based Siting Process for Federal Consolidated Interim Storage of Spent Nuclear Fuel*, April 2023, <https://www.energy.gov/sites/default/files/2023-05/Consent-Based%20Siting%20Process%20Report-0424%203.pdf>.

³⁶ DOE, “DOE Awards \$26 Million to Support Consent-Based Siting for Spent Nuclear Fuel,” June 9, 2023, <https://www.energy.gov/articles/doe-awards-26-million-support-consent-based-siting-spent-nuclear-fuel>.

2023. 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.³⁷ 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, 2021.³⁸ In a lawsuit filed by Texas, the Fifth Circuit Court of Appeals on August 25, 2023, vacated the license for the Texas site on the grounds that NRC lacks authority to license nuclear waste storage facilities other than those specified by NWSA.³⁹ NRC petitioned for review by the full circuit court on October 24, 2023.⁴⁰

Canadian plans for nuclear waste disposal have also generated congressional controversy, because some proposed sites are near the Great Lakes. In 2019, Canada's Nuclear Waste Management Organization narrowed its search for a spent nuclear fuel repository to two sites in Ontario, one located near Lake Huron.⁴¹

Recent Congressional Action—118th Congress

Increasing Nuclear Safety Protocols for Extended Canister Transfers (INSPECT) Act (H.R. 5115, Levin)

Would require NRC to assign a resident inspector to each commercial nuclear power plant that has permanently ceased operation. Would require the inspector to conduct inspections of decommissioning activities and spent nuclear fuel transfer activities, and remain at the plant until all fuel is transferred from its spent fuel pools to dry storage. Introduced August 1, 2023; referred to Committee on Energy and Commerce.

Spent Fuel Prioritization Act of 2023 (H.R. 3862, Levin)

Would require that, in determining the order in which spent nuclear fuel will be taken by DOE from nuclear plant sites under NWSA, highest priority shall be given to plants that are permanently closed and are located in the highest-population areas, earthquake zones, and areas that pose national security concerns. Introduced June 6, 2023; referred to Committee on Energy and Commerce.

³⁷ 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 21-036, September 13, 2021, <https://www.nrc.gov/docs/ML2125/ML21257A091.pdf>; NRC, "NRC Issues License to Holtec International for Consolidated Spent Nuclear Fuel Interim Storage Facility in New Mexico," news release 23-031, May 9, 2023, <https://www.nrc.gov/cdn/doc-collection-news/2023/23-031.pdf>.

³⁸ 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>.

³⁹ State of Texas v. NRC, U.S. Court of Appeals for the Fifth Circuit, August 25, 2023, <https://www.ca5.uscourts.gov/opinions/pub/21/21-60743-CV0.pdf>.

⁴⁰ NRC Petition for Review of Action, U.S. Court of Appeals for the Fifth Circuit, October 24, 2023, <https://www.exchangemonitor.com/wp-content/up>.

⁴¹ Canadian Nuclear Waste Management Organization, "About the Site Selection Process," viewed December 7, 2023, <https://www.nwmo.ca/Site-selection>.

Expressing the sense of the Senate and the House of Representatives that the President and the Secretary of State should ensure that the Government of Canada does not permanently store nuclear waste in the Great Lakes Basin (S.Res. 117, Stabenow; H.Res. 243, Kildee)

Expresses the sense of the House and Senate that Canada should not allow construction of a nuclear waste repository within the Great Lakes Basin, and that the President and the Department of State should work with Canada to prevent such construction and craft a long-term solution for nuclear waste storage that does not threaten the Great Lakes. Senate resolution introduced March 22, 2023; referred to Committee on Foreign Relations. House resolution introduced March 22, 2023; referred to Committee on Foreign Affairs.

Nuclear Waste Informed Consent Act (H.R. 1051, Titus; S. 404, Cortez Masto)

Would require the Secretary of Energy to obtain the consent of affected state, local, and tribal governments before making expenditures from the Nuclear Waste Fund for a nuclear waste repository. Both bills introduced February 14, 2023. House bill referred to Committee on Energy and Commerce; Senate bill referred to Committee on Environment and Public Works.

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Report to the Secretary of Energy, Blue Ribbon Commission on America's Nuclear Future, January 2012, <http://cybercemetery.unt.edu/archive/brc/20120620211605/http://brc.gov>

Nuclear Plant Economic Viability

U.S. nuclear power plants have faced severe financial pressure caused primarily by competition from low-cost natural gas, growing supplies of renewable energy, and stagnant electricity demand. Thirteen U.S. reactors were permanently closed from 2013 through April 2022 (**Table 2**). Plans for up to 30 new U.S. reactors announced during the past 15 years have largely been put on hold, with 1 completed, 1 currently under construction, and 2 canceled in 2017 after construction had begun.

In light of that situation, Congress and several states have taken action 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.

Government support for nuclear power can include loan guarantees, tax credits, clean energy mandates, emissions credits, and electricity market regulations.

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, 2019.⁴² No other proposed nuclear plants have received any commitments for DOE loan guarantees.

Federal tax credits for electricity production from new nuclear plants were extended by the Bipartisan Budget Act of 2018 (P.L. 115-123). 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. The two new Vogtle reactors total about 2,300 megawatts of capacity, well within the limit. As noted above, construction delays pushed the startup of the first of the new reactors (Vogtle 3) to July 2023 and

⁴² 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>.

the planned completion date of Vogtle 4 to early 2024, well beyond the previous 2021 deadline, and the production tax credits are widely considered crucial for their financial viability.

Table 2. U.S. Commercial Reactor Shutdowns Since 2012

Reactor	State	Shutdown Date	Net Summer Generating Capacity (Megawatts)	Start-Up Year	Major Factors Contributing to Shutdown
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
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
Palisades	Michigan	April 2022	784	1971	Operating losses, end of power purchase agreement; plant owner now attempting to restart with state and federal support

Source: Company news releases, 2013-2022.

Recent Events

Congress took a major step to improve the economics of existing nuclear plants by establishing a tax credit in IRA Section 13105. The credit provides up to 1.5 cents per kilowatt-hour, adjusted for inflation, for electricity generated in 2024 through 2032. IRA Section 13701 makes new nuclear reactors eligible for a similar 10-year clean electricity production credit that is available

for facilities placed into service after 2024. IRA Section 13707 allows nuclear reactors to qualify for a clean electricity investment tax credit of up to 30% if they do not take the clean electricity production credit.

IIJA created a Civil Nuclear Credit Program to provide direct financial support to nuclear power plants at risk of closure for economic reasons. Reactors certified by the Secretary of Energy as being at risk of closure can submit bids to receive credits for four years, specifying an amount per megawatt-hour of electricity generated that would be paid for each credit. DOE announced a conditional Civil Nuclear Credit award totaling \$1.1 billion to the two-unit Diablo Canyon plant in California in November 21, 2022.⁴³ The Diablo Canyon credit award, the only one issued by the program to date, is intended to prevent the planned permanent shutdown of the plant in 2025.

The one-unit Palisades nuclear power plant in Michigan ceased operation in April 2022. The plant's owner, Holtec, had purchased the plant with the intention of decommissioning it, but decided after the shutdown to try to resume operation. Holtec announced the filing of a restart application with NRC on October 6, 2023, and has applied for a DOE loan guarantee. No permanently closed reactors in the United States have ever restarted.⁴⁴

Several states also 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.⁴⁵ New York and Illinois provided “zero emission credits” to seven reactors that had been at risk of retirement by 2018.⁴⁶ 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 2018.⁴⁷ 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 2021.⁴⁸ 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-

⁴³ DOE, “Biden-Harris Administration Announces Major Investment to Preserve America's Clean Nuclear Energy Infrastructure,” November 21, 2022, <https://www.energy.gov/articles/biden-harris-administration-announces-major-investment-preserve-americas-clean-nuclear>.

⁴⁴ Holtec International, “Holtec Formally Initiates Process with NRC to Reauthorize Operations at Palisades Power Plant,” October 6, 2023, <https://holtecinternational.com/2023/10/06/holtec-formally-initiates-process-with-nrc-to-reauthorize-operations-at-palisades-power-plant>.

⁴⁵ Illinois General Assembly, Energy Transition Act (Nuclear Plant Assistance), Public Act 102-0662, <https://ilga.gov/legislation/publicacts/102/102-0662.htm>.

⁴⁶ *Zero-Emission Credits*, Nuclear Energy Institute, April 2018, <https://www.nei.org/CorporateSite/media/filefolder/resources/reports-and-briefs/zero-emission-credits-201804.pdf>.

⁴⁷ *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>.

⁴⁸ “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>.

free nuclear generators.”⁴⁹ Michigan enacted legislation on July 31, 2023, to provide \$150 million toward restarting the closed Palisades plant.⁵⁰

DOE’s Light Water Reactor Sustainability Program manages cost-shared research projects “to solve significant highest priority cost and technical problems threatening existing plants.”⁵¹ The program includes research on materials used in nuclear plants, modeling of plant aging, and plant upgrades. The Consolidated Appropriations Act, 2023 (P.L. 117-328) included \$45 million for the sustainability program, nearly the same as in FY2022. For FY2024, the Biden Administration requested \$35 million for the program, while the House approved \$45 million (H.R. 4394) and the Senate Appropriations Committee recommended \$35 million (S. 2443).

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 has set a goal of eliminating carbon emissions for the U.S. power sector by 2035.⁵²

Selected Congressional Action—118th Congress

Expressing the sense of Congress relating to nuclear power being a necessary clean baseload energy source to achieve a reliable, secure, and green electric grid (H.Con.Res. 26, Donalds)

Expresses the sense of Congress that “in order to achieve geopolitical energy leadership, reduce carbon emissions, and secure American energy independence, Congress is committed to embracing and accepting nuclear power as a clean baseload energy source that is easily compatible with other intermittent energy sources and necessary to achieve a reliable, secure, and green electric grid.” Introduced March 17, 2003; referred to Committee on Energy and Commerce.

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⁴⁹ 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>.

⁵⁰ David Dalton, “Michigan Budget Includes \$150 Million to Support Nuclear Reactor Restart,” *NucNet*, July 3, 2023, <https://www.nucnet.org/news/michigan-budget-includes-usd150-million-to-support-nuclear-reactor-restart-7-1-2023>.

⁵¹ 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.

⁵² White House, “President Biden to Catalyze Global Climate Action Through the Major Economies Forum on Energy and Climate,” fact sheet, April 20, 2023, <https://www.whitehouse.gov/briefing-room/statements-releases/2023/04/20/fact-sheet-president-biden-to-catalyze-global-climate-action-through-the-major-economies-forum-on-energy-and-climate>.

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Safety and Regulation

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.⁵³

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 from nuclear critics but opposition from the industry on cost grounds.⁵⁴ NRC voted on August 19, 2015, not to proceed with rulemaking on filtered vents.⁵⁵

Congressional controversy was generated by NRC’s final rule for Mitigation of Beyond-Design-Basis Events (MBDBE), announced January 24, 2019.⁵⁶ 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, 2015,⁵⁷ and the draft final rule, released by NRC on January 5, 2017,⁵⁸ 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.⁵⁹ In supporting those exclusions, the Commission majority

⁵³ 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>.

⁵⁴ 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.

⁵⁵ 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>.

⁵⁶ 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>.

⁵⁷ 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>.

⁵⁸ 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>.

⁵⁹ NRC, “Staff Requirements—Affirmation Session,” SRM-M190124A, Enclosure 1, January 24, 2019, <https://www.nrc.gov/docs/ML1902/ML19023A038.html>.

asserted that the deleted requirements did not meet NRC's cost-benefit standards.⁶⁰ NRC is continuing to monitor the implementation of all post-Fukushima regulations and orders.⁶¹

Recent Events

NRC published new emergency planning regulations for SMRs and other new nuclear technologies November 16, 2023. The new rules allow SMRs and other new technologies (other than conventional large LWRs) to calculate emergency planning zones (EPZs) based on smaller inventories of radioactive materials, lower frequencies of release, and other safety improvements over existing reactors. For existing reactors, the EPZ for direct radioactive exposure (the "plume exposure pathway"), in which planning for evacuations and other protective actions is required, includes the area within about 10 miles from each reactor. Under the calculations specified by the new rules, an EPZ might not extend beyond the boundary of a nuclear plant site. In its explanation of the new rules, NRC said, "In cases where a plume exposure pathway EPZ does not extend beyond the site boundary, even in the absence of NRC requirements for offsite radiological emergency planning, the responsible OROs [offsite response organizations] would continue to take actions to protect the health and safety of the public."⁶² The new rules were long supported by the nuclear industry but criticized by groups skeptical about the nuclear industry's safety and security record.⁶³

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.⁶⁴ 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."⁶⁵

⁶⁰ Ibid., "Views of the Commission."

⁶¹ NRC, "Plant-Specific Japan Lessons-Learned Activities," August 13, 2018, <https://www.nrc.gov/reactors/operating/ops-experience/japan-dashboard/japan-plants.html>.

⁶² NRC, "Emergency Preparedness for Small Modular Reactors and Other New Technologies," final rule and guidance, *Federal Register*, November 16, 2023, <https://www.federalregister.gov/documents/2023/11/16/2023-25163/emergency-preparedness-for-small-modular-reactors-and-other-new-technologies>.

⁶³ See, for example, "NRC's Risky Rule Change Ignores History. More Nuclear Emergency Planning Needed, Not Less. Statement by Dr. Edwin Lyman at the Union of Concerned Scientists," August 14, 2023, <https://www.ucsusa.org/about/news/nrcs-risky-rule-change-ignores-history-more-nuclear-emergency-planning-needed-not-less>; and Nuclear Energy Institute, "NRC Staff Agrees Small Modular Reactors Won't Need Large-Scale Emergency Zones," August 22, 2018, <https://www.nei.org/news/2018/nrc-staff-agrees-smrs-wont-need-large-epzs>.

⁶⁴ 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>.

⁶⁵ 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—118th Congress

Hearing on the Nomination of Jeffery Martin Baran to Be a Member of the Nuclear Regulatory Commission, Senate Committee on Environment and Public Works

Hearing focused on the nominee’s record as an NRC Commissioner and whether his actions were appropriate to ensure adequate safety or imposed unnecessary burdens on the nuclear industry. Held May 10, 2023, <https://www.epw.senate.gov/public/index.cfm/2023/5/hearing-on-the-nomination-of-jeffery-martin-baran-to-be-a-member-of-the-nuclear-regulatory-commission>.

Hearing on the Nuclear Regulatory Commission’s Proposed Fiscal Year 2024 Budget, Senate Committee on Environment and Public Works

Topics included whether NRC has sufficient budget and staffing to ensure adequate nuclear safety, progress on developing a regulatory framework for advanced reactors, and whether the agency is operating efficiently. Held April 19, 2023, <https://www.epw.senate.gov/public/index.cfm/2023/4/the-nuclear-regulatory-commission-s-proposed-fiscal-year-2024-budget>.

Atomic Energy Advancement Act (H.R. 6544, Duncan)

Title I would require NRC to update its mission statement to include that licensing and regulation should be efficient and not unnecessarily limit the growth and benefits of nuclear power, while remaining consistent with Atomic Energy Act safety standards. Would require NRC to implement procedures for “efficient, timely, and predictable” licensing reviews and make other improvements in licensing efficiency. Would authorize direct hiring and higher compensation if needed to address NRC workforce shortages. Would reduce and restrict fees charged to specified nuclear license applicants. Introduced December 1, 2023, and ordered to be reported by House Committee on Energy and Commerce December 5, 2023.

Efficient Nuclear Licensing Hearings Act (H.R. 6464, Griffith)

Would allow NRC to issue licenses and permits without holding the currently required mandatory hearing if such a hearing is not requested and allow for use of informal adjudicatory procedures. Introduced November 21, 2023; referred to the House Committee on Energy and Commerce.

Advancing Nuclear Regulatory Oversight Act (H.R. 6346, Lesko)

Would require NRC to submit reports to Congress on regulatory changes adopted during the COVID-19 health emergency, possible oversight and inspection improvements, and potential reductions in NRC’s costs for office space and facilities. Introduced November 9, 2023; referred to the House Committee on Energy and Commerce.

Nuclear for Brownfield Site Preparation Act (H.R. 6268, Guthrie)

Would require NRC to submit a report to Congress and initiate a rulemaking on timely licensing reviews for nuclear facilities at retired fossil fuel sites or brownfield sites. Introduced November 7, 2023; referred to the House Committee on Energy and Commerce. Similar provisions included in H.R. 6544, ordered to be reported by the House Committee on Energy and Commerce December 5, 2023.

NRC Mission Alignment Act (H.R. 6265, Duncan)

Would require NRC to update its mission statement, while conforming to the Atomic Energy Act of 1954, to include that licensing of nuclear facilities should be efficient and not unnecessarily limit the potential benefits of nuclear energy. Introduced November 7, 2023; referred to the House Committee on Energy and Commerce. Similar provisions included in H.R. 6544, ordered to be reported by the House Committee on Energy and Commerce December 5, 2023.

Modernize Nuclear Reactor Environmental Reviews Act (H.R. 6252, Weber)

Would direct the Nuclear Regulatory Commission to submit a report and conduct a rulemaking on facilitating efficient, timely environmental reviews of nuclear reactor applications. Introduced November 6, 2023; referred to the House Committee on Energy and Commerce. Similar provisions included in H.R. 6544, ordered to be reported by the House Committee on Energy and Commerce December 5, 2023.

Nuclear Licensing Efficiency Act (H.R. 6236, Allen)

Would tighten timelines for NRC licensing reviews and require NRC, in reviewing applications for nuclear facilities at currently licensed sites, to use information previously used to license that site, to the maximum extent practicable. Introduced November 6, 2023; referred to the House Committee on Energy and Commerce. Similar provisions included in H.R. 6544, ordered to be reported by the House Committee on Energy and Commerce December 5, 2023.

Nuclear Red Tape Reduction Act (H.R. 4676, Donalds)

Would establish deadlines for interested parties to request that NRC hold hearings on applications for reactor construction permits and license applications, allow for hearings to be waived in specified circumstances, and require NRC to report to Congress on reactor license renewal periods. Introduced July 17, 2023; referred to Committee on Energy and Commerce.

NRC Office of Public Engagement and Participation Act of 2023 (H.R. 4530, Levin)

Would establish an Office of Public Engagement and Participation within NRC to support, coordinate, and assist public participation in NRC proceedings and advocate for the public interest within NRC. Introduced July 11, 2023; referred to Committee on Energy and Commerce.

Strengthening the NRC Workforce Act of 2023 (H.R. 4528, DeGette)

Would authorize the NRC Chairman, upon certifying a critical hiring need or shortage of candidates, to “directly appoint highly qualified individuals into the competitive service.” Also would establish procedures for temporarily setting higher compensation levels for certain categories of employees. Introduced July 11, 2023. Related NRC workforce provisions included in the National Defense Authorization Act for FY2024 as passed by the Senate (S. 2226, Section 8141(u)). Similar provisions included in H.R. 6544, ordered to be reported by the House Committee on Energy and Commerce December 5, 2023.

Hydrogen Permitting Simplification Act (H.R. 2962, Lesko)

Would exempt certain major federal actions, including actions that produce hydrogen from nuclear reactors, from requirements under the National Environmental Policy Act of 1969.

Introduced April 27, 2023; referred to Committee on Energy and Commerce, and to the Committee on Natural Resources for provisions under its jurisdiction.

Department of Energy and Nuclear Regulatory Commission Whistleblower Protection Act (S. 1112, Duckworth)

Would specify 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 March 30, 2023; referred to Committee on Energy and Natural Resources. Reintroduced from 116th Congress (S. 2962).

Nuclear Regulatory Commission Survey Act (H.R. 1006, Donalds)

Would require the NRC inspector general to distribute optional and anonymous surveys about NRC's efficiency and effectiveness to NRC employees and, if feasible, to stakeholders in the nuclear industry. Introduced February 14, 2023; referred to Committee on Energy and Commerce.

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Nuclear Power 101, Natural Resources Defense Council, May 14, 2020, <https://www.nrdc.org/stories/nuclear-power-101>

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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.⁶⁶ In response to Fukushima, NRC staff recommended that nuclear emergency plans be required to address events affecting multiple reactors and prolonged station blackout. NRC told nuclear power plants on March 12, 2012, to provide specific information and analysis on those issues.⁶⁷

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.⁶⁸

Recent Events

NRC issued a final rule March 14, 2023, on “Enhanced Weapons, Firearms Background Checks, and Security Event Notifications.”⁶⁹ The rule establishes 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 rule also modifies 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.

Concerns about international nuclear plant security have been raised by Russia's ongoing military occupation of Ukraine's six-reactor Zaporizhzhia nuclear power plant (ZNPP)—the largest in Europe. Russian forces captured the plant on March 4, 2022, and it has since lost offsite power several times, increasing the risk of damage to the plant's nuclear fuel and radioactive releases to the environment. The International Atomic Energy Agency (IAEA) issued a report on September 5, 2022, that called for “establishment of a nuclear safety and security protection zone” around the plant, but the proposal has not been implemented.⁷⁰

⁶⁶ NRC, “Enhancements to Emergency Preparedness Regulations,” final rule, *Federal Register*, November 23, 2011, p. 72560.

⁶⁷ 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>.

⁶⁸ NRC, “Backgrounder on Cyber Security,” March 2019, <http://www.nrc.gov/reading-rm/doc-collections/fact-sheets/cyber-security-bg.html>.

⁶⁹ NRC, “Enhanced Weapons, Firearms Background Checks, and Security Event Notifications,” final rule, March 14, 2023, <https://www.federalregister.gov/documents/2023/03/14/2023-03944/enhanced-weapons-firearms-background-checks-and-security-event-notifications>.

⁷⁰ IAEA, *Nuclear Safety, Security, and Safeguards in Ukraine*, September 5, 2022, https://www.iaea.org/sites/default/files/22/09/ukraine-2ndsummaryreport_sept2022.pdf.

Selected Congressional Action—118th Congress

Sanction Russian Nuclear Safety Violators Act of 2023 (H.R. 3246, Meeks)

Would require the President to impose specified sanctions on any foreign person who has endangered the integrity, safety, or undermined Ukrainian operational control of the Zaporizhzhia Nuclear Power Station. Introduced May 11, 2023; referred to Committee on Foreign Affairs and the Committee on the Judiciary for provisions under its jurisdiction.

To require reports on the dangers posed by nuclear reactors in areas that might experience armed conflict (S. 571, Markey)

Would require the Secretary of Defense and the Administrator for Nuclear Security to submit a report to Congress assessing the dangers posed by nuclear reactors in regions that have experienced armed conflict within the past 25 years or may experience armed conflict under specified scenarios. Introduced February 28, 2023; referred to Committee on Armed Services.

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CRS Insight IN11883, *Russian Military Actions at Ukraine's Nuclear Power Plants*, by Mark Holt and Mary Beth D. Nikitin

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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 countries⁷¹ that have not previously used nuclear energy, including several in the Middle East and countries without nuclear experience, 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.

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 (which ceased participating in 2018⁷²) 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.

Recent Events

President Trump announced on May 8, 2018, that his Administration would cease implementing the JCPOA and reimpose sanctions. Other parties to the JCPOA have not followed the U.S. lead.⁷³ Nevertheless, beginning in July 2019, the IAEA verified that some of Iran's nuclear activities were exceeding JCPOA-mandated limits; Iran has since increased the number of activities that violate JCPOA restrictions. The Biden Administration, in April 2021, participated in indirect talks with Iran through other JCPOA participants about potentially returning to compliance if Iran did as well.⁷⁴ A United Kingdom Parliament fact sheet issued in October 2023 says the JCPOA talks have stalled and may “now be derailed by wider geopolitical developments in the Middle East.”⁷⁵

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

⁷¹ World Nuclear Association, “World Nuclear Power Reactors and Uranium Requirements,” October 2021, <http://www.world-nuclear.org/info/Reactors.html>.

⁷² The White House, “President Donald J. Trump Is Ending United States Participation in an Unacceptable Iran Deal,” May 8, 2018, <https://trumpwhitehouse.archives.gov/briefings-statements/president-donald-j-trump-ending-united-states-participation-unacceptable-iran-deal>.

⁷³ 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.

⁷⁴ 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>.

⁷⁵ UK Parliament, House of Commons Library, “What Is the Status of the Iran Nuclear Deal?,” October 13, 2023, <https://commonslibrary.parliament.uk/research-briefings/cbp-9870>.

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.⁷⁶

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.⁷⁷ 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 long-delayed commercial reprocessing plant at Rokkasho is scheduled to be completed in 2024 at the earliest.⁷⁸ 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.⁷⁹ Japan approved a 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.⁸⁰

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.⁸¹ 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.⁸² Then-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

⁷⁶ 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.” An article in the Bulletin of the Atomic Scientists quoted an unnamed senior U.S. official as saying that “at least three or four more years will be necessary for the two governments to be in a position to draw any actual conclusions related to the technical and economic feasibility and nonproliferation acceptability of pyroprocessing on the Korean Peninsula.” Frank N. von Hippel and Jungmin Kang, “Why Joint U.S.-South Korean Research on Plutonium Separation Raises Nuclear Proliferation Danger,” *Bulletin of the Atomic Scientists*, January 13, 2022, <https://thebulletin.org/2022/01/why-joint-us-south-korean-research-on-plutonium-separation-raises-nuclear-proliferation-danger>.

⁷⁷ 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>.

⁷⁸ Japan Nuclear Fuel Limited, “Reprocessing,” viewed November 2, 2023, <https://www.jnfl.co.jp/en/business/reprocessing>.

⁷⁹ Nonproliferation Policy Education Center, “Tokyo and Washington Have Another Nuclear Problem,” August 17, 2017, <http://npolicy.org/article.php?aid=1341&rid=2>.

⁸⁰ 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>.

⁸¹ Nuclear Energy Institute, “As Saudi Arabia Considers New Reactors, NEI Conducts Trade Mission,” April 26, 2018, <https://www.nei.org/news/2018/saudi-arabia-considers-new-reactors>.

⁸² Nonproliferation Policy Education Center, “Letter to Congress on Nuclear Cooperation with Saudi Arabia,” May 24, 2018, <http://npolicy.org/article.php?aid=1395&rtid=4>.

country has a right to enrich and reprocess under international inspections.⁸³ Then-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, which allows strengthened international safeguards on nuclear facilities.⁸⁴ The Biden Administration has included U.S.-Saudi nuclear cooperation as a potential element of a larger diplomatic normalization agreement between Saudi Arabia and Israel, an effort that has been suspended but not necessarily abandoned after the October 7, 2023, attack on Israel by Hamas.⁸⁵

Congress prohibited the use of FY2023 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(i) of Division K, P.L. 117-328). The same provision was included for appropriation in FY2022 (P.L. 117-103), FY2021 (P.L. 116-260) and FY2020 (P.L. 116-94).

Selected Congressional Action—118th Congress

Iran Nuclear Verification Act (H.R. 6057, McClain)

Would prohibit the United States from becoming a party to the JCPOA or any other nuclear agreement with Iran until the President certifies that United Nations inspectors are allowed full access to all Iranian nuclear facilities and have completed a comprehensive report on those facilities. Introduced October 25, 2023; referred to Committee on Foreign Affairs.

Expressing support of the International Atomic Energy Agency's nuclear security role (S.Res. 429, Lujan/H.Res. 641, Foster)

Resolves that the Senate and House maintain that IAEA “plays an indispensable role in strengthening nuclear security and safety around the globe” and encourage the United States and other nations to ensure that IAEA has sufficient resources to carry out its duties. Senate resolution introduced October 25, 2023; referred to Committee on Foreign Relations. House resolution introduced August 1, 2023; referred to Committee on Foreign Affairs.

Solidify Iran Sanctions Act of 2023 (S. 1390, Scott/H.R. 3033, Steel)

Would strike the sunset provision in the Iran Sanctions Act of 1996 (P.L. 104-172), which imposes various sanctions on Iran for its programs to develop nuclear weapons and other weapons of mass destruction. Senate bill introduced May 1, 2023; referred to Committee on Banking, Housing, and Urban Affairs. House bill introduced April 28, 2023; ordered to be reported by Committee on Foreign Affairs June 21, 2023.

⁸³ Mufson, Steven, “Pompeo: Saudis Must Not Enrich Uranium If It Seeks Civilian Nuclear Cooperation,” May 24, 2018, https://www.washingtonpost.com/business/economy/pompeo-saudis-must-not-enrich-uranium-if-it-seeks-civilian-nuclear-cooperation/2018/05/24/714c5e30-5f92-11e8-a4a4-c070ef53f315_story.html.

⁸⁴ Natter, Ari, “U.S. Says Saudis Must Forgo Enrichment for Nuclear Sharing Deal,” *Bloomberg*, September 18, 2019, <https://www.bloomberg.com/news/articles/2019-09-19/u-s-says-saudis-must-forgo-enrichment-for-nuclear-sharing-deal>.

⁸⁵ Samuel Hickey, “Amid Gaza War, a Beefed up Saudi Nuke Program Is Still on the Table,” Quincy Institute for Responsible Statecraft, October 26, 2023, <https://responsiblestatecraft.org/saudi-arabia-nuclear-israel>.

Iran Nuclear Treaty Act (S. 472, Johnson)

Would declare that any agreement reached by the President regarding Iran's nuclear program shall be a treaty subject to Senate advice and consent. Introduced February 16, 2023; referred to Committee on Foreign Relations.

To terminate certain waivers of sanctions with respect to Iran issued in connection with the Joint Comprehensive Plan of Action (S. 256, Cruz)

Would revoke certain waivers of sanctions relating to Iran's nuclear activities and prohibit the President from issuing a new waiver relating to such activities. Introduced February 2, 2023; referred to Committee on Banking, Housing, and Urban Affairs.

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