



February 3, 2022

Dr. Kathryn Huff  
Principal Deputy Assistant Secretary for Nuclear Energy  
1000 Independence Ave. SW  
Washington DC 20585

**Scott Saiki**  
Speaker of the House  
Hawaii  
President, NCSL

**Joseph James  
"J.J." Gentry, Esq.**  
Counsel  
Senate Ethics Committee  
South Carolina  
Staff Chair, NCSL

**Tim Storey**  
Chief Executive Officer  
NCSL

RE: RFI: Consent-Based Siting and Federal Interim Storage

Dear Assistant Secretary Huff:

The National Conference of State Legislatures (NCSL), the bipartisan organization representing the legislatures of our nation's states, territories, and commonwealths, appreciates the opportunity to provide information to the U.S Department of Energy's (DOE) in response to the Notice of Request for Information (RFI) on Using a Consent-Based Siting Process To Identify Federal Interim Storage Facilities.

We urge the agency to reinstitute a process of a consent-based siting for the disposal of spent nuclear fuel and high-level radioactive waste, as based on the recommendations from the Blue Ribbon Commission (BRC) on America's Nuclear Future. NCSL has long supported efforts by both previous administrations and Congress to address issues that accompany spent nuclear fuel storage and high-level radioactive waste management.

While nuclear power is an integral part of a national energy plan, we recognize that issues including storage and disposal of spent nuclear fuel must be confronted. It has been a pillar of NCSL's Radioactive Waste Management policy that the siting of facilities for both interim storage and long-term disposal, be the result of a consent-based approach, and that it involve all affected levels of government, including state legislatures.

NCSL recognizes that the consent-based process in the United States is inherently unique, and as DOE proceeds with finalizing a process, NCSL strongly encourages the following:

### **The Role of State Legislatures**

NCSL recognizes the need for DOE to develop processes that are efficient and effective to enable a constructive environment for these efforts. However, efforts to streamline this process do not necessitate overlooking the role of state legislatures in the process. A state's consent is best determined through its policymaking process which is conducted by the legislative branch and implemented by the executive branch. This allows for states to fully assess, from numerous viewpoints, various potential impacts of the creation of a nuclear waste repository and would ensure that the many interests and the voices of a state have a role in the process. Within DOE's RFI, the potential role of 'community' consent in the siting process is included throughout. NCSL believes 'community' should be further

defined to identify which aspects of local, tribal and state government should be involved in the siting process, while also outlining the roles varying levels of government play in the process. Most importantly, NCSL urges DOE to define “community” to ensure the state’s consent. Additionally, it is vital that state legislatures be explicitly named so the department remains consistent with the Nuclear Waste Policy Act of 1982, Section 117, which states the department “shall consult and cooperate with the Governor and legislature of such State.” Specifically, NCSL urges the department to include language in its finalized process specifying that the “presiding officer, or their designee, of each legislative chamber” be included with regards to site selection, study, and siting.” Presiding officers are not only elected by their constituents, but more importantly, by majorities of the elected officials of their legislative chamber.

### **Access to Resources to Ensure Opportunity**

The federal government should both offer and make clear its determination to provide fair and equitable compensation to state, local and tribal governments of host states. NCSL supports federal funds for independent oversight activities by state executive and legislative branches so the host state may participate in and conduct its own assessments of a proposed waste repository site and disposal technology. The Nuclear Waste Fund should serve as the source for such nuclear waste management, with funds being isolated for developing permanent disposal and consolidated interim storage facilities. A lack of funding availability could significantly hamper a state’s willingness, and ability to begin, as well as continue, the consent siting process.

### **Transportation of Hazardous Waste**

One additional item we urge DOE to consider as it moves forward regards the transportation of spent nuclear fuel and high-level radioactive waste. Should DOE proceed with developing a federal interim storage site, NCSL strongly urges the assurance of safe and reliable modes of transportation of radioactive wastes. DOE should seek to enter into a memorandum of understanding with each corridor state to spell out responsibilities, liability, compensation, response time, cleanup, shipping, planning, and other duties connected with emergency situations. State, local, and tribal governments should also be given both the funding and technical assistance, consistent with Section 180 (c) of the Nuclear Waste Policy Act, for ongoing emergency preparedness and should be involved in a meaningful manner with regard to all elements of the transportation system including radiation emissions standards, cask designs, and transportation equipment.

### **Additional Comments**

Rather than establish a new federal entity, NCSL urges the creation of a public-private partnership to manage this back end of the nuclear cycle. Additionally, for any interim storage facilities that are approved, they should be licensed for a specific, limited period of time not to exceed 25 years.

NCSL has an extensive history of working on issues related to nuclear waste management and would welcome the opportunity to continuing to work with DOE.

Further details on NCSL's positions on consent-based siting can be found in NCSL's Radioactive Waste Management policy directive. Please contact NCSL staff, Ben Husch (ben.husch@ncsl.org) and Kristen Hildreth (kristen.hildreth@ncsl.org) with any additional questions

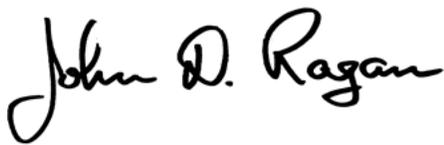
Sincerely,



Representative Megan Blanksma  
NCSL Natural Resources and Infrastructure  
Committee Co-Chair  
Idaho House of Representatives



Representative David Tarnas  
NCSL Natural Resources and Infrastructure  
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