



N A R U C
National Association of Regulatory Utility Commissioners

Commissioner Anthony J. O'Donnell response to Questions for the Record from the House Committee On Energy and Commerce, Subcommittee on Environment April 26, 2017 hearing on "H.R. ___, the Nuclear Waste Policy Amendments Act of 2017."

Questions for the Record from Subcommittee Chairman John Shimkus to Commissioner Anthony J. O'Donnell.

Question 1: Section 301 of the discussion draft amends the Nuclear Waste Policy Act to clarify that DOE may take title for shipment to a repository or an interim storage site, but maintains that is only applicable upon "delivery" to the Secretary. Your testimony raises concerns about DOE taking title to fuel, but then leaving it on site, is that right?

Response: *Yes.*

Question 1 (a). If the discussion draft is modified to assure this only applies when DOE actively receives the fuel, would that alleviate NARUC's concerns?

Response: *If by "actively receives the fuel", you mean clarifying Section 301 to make clear DOE must actually remove "any high-level radioactive waste or spent nuclear fuel" for immediate transport to a "repository or monitored retrievable storage," then the answer is yes. As I noted in my testimony:*

The discussion draft should clarify/define what constitutes "delivery and acceptance". The definition must assure that DOE cannot simply "take title" of waste where it is currently being stored and claim they have met their contractual obligations. The definition must make clear that any transfer of title to DOE includes removing the waste to a NRC licensed storage facility.

Question 2. Section 602 of the Discussion Draft provides for a fixed-term appointment for the Director of DOE's Office of Civilian Radioactive Waste Management. How would this provision affect DOE's program management? Do you think five years is an appropriate length of time to provide continuity of leadership?

Response: *While NARUC has suggested some specific changes to the management structure for the federal waste disposal program, we have not taken a specific position on the amendments to § 10224(b) that makes the Director of the Office of Civilian Radioactive Waste Management "responsible for carrying out the functions of the*

Secretary under this Act” and gives that Director a 5-year term. In my opinion, while not perfect, both these provisions are an incremental improvement over the status quo. The bill’s authors may wish to consider making the 5-year term longer to provide greater stability in the program across administrations.