

**AMENDMENT TO H.R. \_\_\_\_\_**  
**(NUCLEAR WASTE POLICY AMENDMENTS ACT OF**  
**2017)**  
**OFFERED BY MS. MATSUI OF CALIFORNIA**

At the end of title VI, add the following new section:

1 **SEC. 604. PILOT PROGRAM FOR INTERIM STORAGE FACILI-**  
2 **TIES.**

3 (a) ESTABLISHMENT OF PILOT PROGRAM.—The Sec-  
4 retary shall establish a pilot program to license, construct,  
5 and operate, through 1 or more non-Federal sector part-  
6 ners, 1 or more government or non-federally owned stor-  
7 age facilities to provide storage, as needed, for priority  
8 waste, pending the construction and operation of a reposit-  
9 tory.

10 (b) REQUEST FOR PROPOSALS.—

11 (1) IN GENERAL.—Not later than 180 days  
12 after the date of enactment of this Act, the Sec-  
13 retary shall issue a request for proposals for cooper-  
14 ative agreements for the pilot program established  
15 under subsection (a) for the storage of priority  
16 waste—

17 (A) to obtain any license from the Com-  
18 mission and any other Federal or State entity

1 that is necessary for the construction of 1 or  
2 more storage facilities;

3 (B) to demonstrate the safe transportation  
4 of spent nuclear fuel and high-level radioactive  
5 waste, as applicable; and

6 (C) to demonstrate the safe storage of  
7 spent nuclear fuel and high-level radioactive  
8 waste, as applicable, at the 1 or more storage  
9 facilities, pending the construction and oper-  
10 ation of a repository.

11 (2) GUIDELINES.—

12 (A) IN GENERAL.—The request for pro-  
13 posals under paragraph (1) shall include gen-  
14 eral guidelines for the consideration of storage  
15 facilities consistent with each requirement of  
16 section 112(a) of the Nuclear Waste Policy Act  
17 of 1982 (42 U.S.C. 10132(a)) that the Sec-  
18 retary determines to be applicable to above-  
19 ground storage.

20 (B) REVISIONS.—The Secretary may revise  
21 the general guidelines from time to time, con-  
22 sistent with this section.

23 (c) REVIEW OF PROPOSALS.—

1           (1) IN GENERAL.—The Secretary shall review  
2           each proposal submitted under subsection (b) to  
3           evaluate—

4                   (A) the extent to which the applicable  
5           States, affected units of general local govern-  
6           ment, and affected Indian tribes support the  
7           proposal;

8                   (B) the likelihood that the proposed site is  
9           suitable for site characterization under the  
10          guidelines under subsection (b)(2);

11                  (C) a reasonable comparative evaluation of  
12          the proposed site and other proposed sites;

13                  (D) the extent to which spent nuclear fuel  
14          and high-level radioactive waste are, or are  
15          planned to be, stored or disposed of within the  
16          State;

17                  (E) the extent to which each proposal  
18          would—

19                          (i) enhance the reliability and flexi-  
20                  bility of the system for the disposal of  
21                  spent nuclear fuel and high-level radio-  
22                  active waste, including co-location with a  
23                  proposed permanent geological repository;  
24                  and

1 (ii) minimize the impacts of transpor-  
2 tation and handling of spent nuclear fuel  
3 and high-level radioactive waste;

4 (F) potential conflicts with—

5 (i) a compliance agreement requiring  
6 removal of spent nuclear fuel and high-  
7 level radioactive waste from a site; or

8 (ii) a statutory prohibition on the  
9 storage or disposal of spent nuclear fuel  
10 and high-level radioactive waste at a site;  
11 and

12 (G) any other criteria, including criteria  
13 relating to technical or safety specifications,  
14 that the Secretary determines to be appro-  
15 priate.

16 (2) PREFERENCE FOR CO-LOCATED REPOSI-  
17 TORY AND STORAGE FACILITY.—In reviewing pro-  
18 posals submitted under subsection (b), the Secretary  
19 shall give preference to sites proposed to be co-lo-  
20 cated with—

21 (A) additional storage facilities for nonpri-  
22 ority waste; or

23 (B) a repository.

24 (d) SITE CHARACTERIZATION.—

1           (1) DETERMINATION OF SUITABILITY.—After  
2           conducting a review under subsection (c) and any  
3           additional site investigation that the Secretary deter-  
4           mines to be appropriate, the Secretary shall deter-  
5           mine whether the site is suitable for site character-  
6           ization.

7           (2) SELECTION OF SITE FOR CHARACTERIZA-  
8           TION.—From the sites determined to be suitable for  
9           site characterization under paragraph (1), the Sec-  
10          retary shall select at least 1 site for site character-  
11          ization, giving priority to sites that have been pro-  
12          posed to be co-located with a repository, after—

13                   (A) holding public hearings in the vicinity  
14                   of each site and at least 1 other location within  
15                   the State in which the site is located; and

16                   (B) notifying Congress.

17          (3) COOPERATIVE AGREEMENT.—On selection  
18          of a site for characterization under paragraph (2),  
19          the Secretary may enter into a cooperative agree-  
20          ment, subject to the availability of appropriations,  
21          with the State, affected units of general local gov-  
22          ernment, and affected Indian tribes, as applicable,  
23          that includes—

24                   (A) terms of financial and technical assist-  
25                   ance to enable each applicable unit of govern-

1           ment to monitor, review, evaluate, comment on,  
2           obtain information on, make recommendations  
3           on, and mitigate any impacts from, site charac-  
4           terization activities; and

5                   (B) any other term that the Secretary de-  
6           termines to be appropriate.

7           (e) SITE SELECTION.—

8                   (1) IN GENERAL.—Subject to paragraphs (2)  
9           and (3), on completion of site characterization activi-  
10          ties, the Secretary shall—

11                   (A) make a final determination for each  
12          site of whether the site is suitable for develop-  
13          ment as a storage facility; and

14                   (B) select 1 or more suitable sites for stor-  
15          age facilities.

16                   (2) CONSENT-BASED APPROVAL.—Before select-  
17          ing a site for developing a storage facility, the Sec-  
18          retary shall enter into a consent agreement, subject  
19          to the availability of appropriations, to host the fa-  
20          cility with—

21                   (A) the Governor or other authorized offi-  
22          cial of the State in which the site is proposed  
23          to be located;

24                   (B) each affected unit of general local gov-  
25          ernment; and

1 (C) any affected Indian tribe.

2 (3) BINDING EFFECT.—The consent agree-  
3 ment—

4 (A) shall be binding on the parties, subject  
5 to the availability of appropriations; and

6 (B) shall not be amended or revoked ex-  
7 cept by mutual agreement of the parties.

8 (f) SUBMISSION OF PROGRAM PLAN.—Not less than  
9 30 days before selecting a site for development of a stor-  
10 age facility under subparagraph (e), the Secretary shall  
11 submit to Congress a program plan that includes—

12 (1) a list of the 1 or more sites the Secretary  
13 proposes to select for a storage facility;

14 (2) an estimate of the cost of licensing, con-  
15 structing, and operating each storage facility, includ-  
16 ing the transportation costs, on an annual basis,  
17 over the expected lifetime of the storage facility;

18 (3) a schedule for—

19 (A) obtaining from the Commission any li-  
20 cense necessary to construct and operate the  
21 storage facility;

22 (B) constructing the storage facility;

23 (C) transporting spent fuel to the storage  
24 facility; and

1 (D) removing the spent fuel from, and de-  
2 commissioning of, the storage facility;

3 (4) an estimate of the cost of any financial as-  
4 sistance, compensation, or incentives proposed to be  
5 paid to the host State, affected Indian tribe, or af-  
6 fected unit of general local government;

7 (5) an estimate of any future reductions in the  
8 damages expected to be paid by the United States  
9 for the delay of the Department of Energy in accept-  
10 ing spent fuel expected to result from the storage fa-  
11 cilities developed under this section; and

12 (6) recommendations for any additional legisla-  
13 tion needed to authorize and implement the pro-  
14 gram.

15 (g) SUBMISSION OF LICENSE APPLICATION.—On se-  
16 lection of a site under subsection (e), the applicant (in the  
17 case of a non-Federal facility) or the Secretary (in the case  
18 of a federally owned facility) shall submit to the Commis-  
19 sion an application for a construction authorization for the  
20 storage facility.

21 (h) DEFINITIONS.—In this section:

22 (1) AFFECTED INDIAN TRIBE.—The term “af-  
23 fected Indian tribe” means any Indian tribe—



1 (A) within the reservation boundaries of  
2 which a repository or storage facility is pro-  
3 posed to be located; or

4 (B) that has federally defined possessory  
5 or usage rights to other land outside of the res-  
6 ervation boundaries that—

7 (i) arise out of a congressionally rati-  
8 fied treaty; and

9 (ii) the Secretary of the Interior finds,  
10 on petition of an appropriate governmental  
11 official of the Indian tribe, may be sub-  
12 stantially and adversely affected by the re-  
13 pository or storage facility.

14 (2) AFFECTED UNIT OF GENERAL LOCAL GOV-  
15 ERNMENT.—

16 (A) IN GENERAL.—The term “affected  
17 unit of general local government” means the  
18 unit of general local government that has juris-  
19 diction over the site of a repository or storage  
20 facility.

21 (B) INCLUSION.—The term “affected unit  
22 of general local government” may include, at  
23 the discretion of the Secretary, units of general  
24 local government that are contiguous with the

1 unit that has jurisdiction over the site of a re-  
2 pository or storage facility.

3 (3) CIVILIAN NUCLEAR POWER REACTOR.—The  
4 term “civilian nuclear power reactor” has the mean-  
5 ing given the term in section 2 of the Nuclear Waste  
6 Policy Act of 1982 (42 U.S.C. 10101).

7 (4) COMMISSION.—The term “Commission”  
8 means the Nuclear Regulatory Commission.

9 (5) CONTRACT HOLDER.—The term “contract  
10 holder” means any person who—

11 (A) generates or holds title to spent nu-  
12 clear fuel and high-level radioactive waste gen-  
13 erated at a civilian nuclear power reactor; and

14 (B) has entered into a contract for the dis-  
15 posal of spent nuclear fuel and high-level radio-  
16 active waste under section 302(a) of the Nu-  
17 clear Waste Policy Act of 1982 (42 U.S.C.  
18 10222(a)).

19 (6) DEFENSE WASTE.—The term “defense  
20 waste” means spent nuclear fuel and high-level ra-  
21 dioactive waste generated by an atomic energy de-  
22 fense activity (as defined in section 2 of the Nuclear  
23 Waste Policy Act of 1982 (42 U.S.C. 10101)).

24 (7) EMERGENCY DELIVERY.—

1 (A) IN GENERAL.—The term “emergency  
2 delivery” means spent nuclear fuel and high-  
3 level radioactive waste accepted by the Sec-  
4 retary for storage prior to the date provided in  
5 the contractual delivery commitment schedule  
6 pursuant to article V.D. of the standard con-  
7 tract for disposal of spent nuclear fuel and  
8 high-level radioactive waste codified in section  
9 961.11 of title 10, Code of Federal Regulations.

10 (B) INCLUSION.—The term “emergency  
11 delivery” may include, at the discretion of the  
12 Secretary, defense waste that is required to be  
13 removed from a Department of Energy facil-  
14 ity—

15 (i) pursuant to a compliance agree-  
16 ment; or

17 (ii) to eliminate an imminent and seri-  
18 ous threat to the health and safety of the  
19 public or the common defense and security.

20 (8) HIGH-LEVEL RADIOACTIVE WASTE.—The  
21 term “high-level radioactive waste” has the meaning  
22 given the term in section 2 of the Nuclear Waste  
23 Policy Act of 1982 (42 U.S.C. 10101).

24 (9) INDIAN TRIBE.—The term “Indian tribe”  
25 has the meaning given the term in section 2 of the

1 Nuclear Waste Policy Act of 1982 (42 U.S.C.  
2 10101).

3 (10) NONPRIORITY WASTE.—The term “nonpri-  
4 ority waste” means spent nuclear fuel or high-level  
5 radioactive waste that does not qualify as priority  
6 waste.

7 (11) PRIORITY WASTE.—The term “priority  
8 waste” means—

9 (A) any emergency delivery; and

10 (B) spent nuclear fuel removed from a ci-  
11 vilian nuclear power reactor that has been per-  
12 manently shut down.

13 (12) REPOSITORY.—The term “repository” has  
14 the meaning given the term in section 2 of the Nu-  
15 clear Waste Policy Act of 1982 (42 U.S.C. 10101).

16 (13) SECRETARY.—The term “Secretary”  
17 means the Secretary of Energy.

18 (14) SPENT NUCLEAR FUEL.—The term “spent  
19 nuclear fuel” has the meaning given the term in sec-  
20 tion 2 of the Nuclear Waste Policy Act of 1982 (42  
21 U.S.C. 10101).

22 (15) STORAGE.—The term “storage” means the  
23 temporary retention of spent nuclear fuel and high-  
24 level radioactive waste pending the disposal of the

1 spent nuclear fuel and high-level radioactive waste in  
2 a repository.

3 (16) STORAGE FACILITY.—The term “storage  
4 facility” means a facility for the consolidated storage  
5 of spent nuclear fuel and high-level radioactive waste  
6 from multiple contract holders or the Secretary  
7 pending the disposal of the spent nuclear fuel and  
8 high-level radioactive waste in a repository.

9 (17) UNIT OF GENERAL LOCAL GOVERN-  
10 MENT.—The term “unit of general local govern-  
11 ment” has the meaning given the term in section 2  
12 of the Nuclear Waste Policy Act of 1982 (42 U.S.C.  
13 10101).

