

## STAFF REPORT

96

Federal

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S. Pemberton

### **CONSIDER SUPPORTING H.R. 2995, THE SPENT FUEL PRIORITIZATION ACT OF 2019 INTRODUCED BY U.S. REPRESENTATIVE MIKE LEVIN IN THE 116<sup>th</sup> CONGRESS AND H.R. 2699, THE NUCLEAR WASTE POLICY AMENDMENTS ACT OF 2019 INTRODUCED BY U.S. REPRESENTATIVE JERRY MCNERNEY IN THE 116<sup>th</sup> CONGRESS**

#### **SUMMARY:**

On May 23, 2019, Representative Mike Levin introduced H.R. 2995, the Spent Fuel Prioritization Act of 2019. This bill would amend the Nuclear Waste Policy Act of 1982 to prioritize the removal of high-level radioactive waste and spent nuclear fuel from decommissioned nuclear sites based on the operating status of the reactor, the population size of the area in which the reactor is located, and the earthquake hazard of the area in which the reactor is located. On May 14, 2019, Representative Jerry McNerney introduced H.R. 2699, the Nuclear Waste Policy Amendments Act of 2019 to prioritize storage of spent nuclear fuel from retired or decommissioned facilities in areas of high seismicity or near large bodies of water.

#### **BACKGROUND AND DISCUSSION:**

The San Onofre Nuclear Generating Station (SONGS) began operating in 1968 on the Pacific coast just south of San Clemente, California. It went off-line in 2012 and is now preparing for decommissioning. SONGS, like all nuclear power plants, including the Diablo Canyon Power Plant, stores spent nuclear fuel, which is nuclear fuel that has been used to the extent that it can no longer effectively sustain a chain reaction. The U.S. Nuclear Regulatory Commission has exclusive jurisdiction over the storage of spent nuclear fuel.

Under federal law, the Nuclear Waste Policy Act of 1982, the oldest nuclear power plants are first in line to have their spent fuel collected and transported offsite. The Spent Fuel Prioritization Act of 2019 would, instead, prioritize removal based on the population size of the area in which the reactor is located, the earthquake hazard of the area in which the reactor is located (based on the seismic hazard maps published by the U.S. Geological Survey) and prioritize a reactor that is decommissioned or in the process of being decommissioned. Based on this prioritization, the spent fuel at SONGS would be first in line to be removed because it is the only site in the nation that has the seismic risk, high population density, and is a decommissioning site.

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Like the Spent Fuel Prioritization Act of 2019, the Nuclear Waste Policy Amendments Act of 2019 would prioritize storage of nuclear fuel from retired or decommissioned facilities in areas of high seismicity or near large bodies of water. Although this bill does not prioritize based on nearby population, it does prioritize based on proximity to a major body of water, which would prioritize the San Onofre and Humboldt Bay spent fuel and would likely prioritize the Diablo Canyon Power Plant spent nuclear fuel when the plant is retired. The bill, which establishes an Office of Spent Nuclear Fuel whose Director would be relatively independent, is intended to provide opportunities for interim and permanent storage facilities for spent nuclear power reactor fuel and radioactive waste. The bill would authorize the Department of Energy to site, build, and operate at least one consolidated interim storage facility, prioritizing storage from retired nuclear power plants that are in seismically active areas or near large bodies of water; withdraw 147,000 acres of federal land in Nye County, Nevada for the repository, and update payment levels to host states for interim storage and permanent disposal sites.

When the Commission approved an Environmental Impact Report and issued a lease for SONGS Units 2 and 3 earlier this year ([Item 01, March 21, 2019](#)), it expressed concerns about the on-site storage of the spent nuclear fuel and the inherent risks associated with the fuel transfer operations. The Commission also authorized staff to advocate for the acceleration of the nation's efforts to identify and develop a safe, secure long-term facility for the spent fuel stored at nuclear power plants around the country. The Spent Fuel Prioritization Act of 2019 and Nuclear Waste Policy Amendments Act of 2019 are consistent with this authorization and are intended to remove spent nuclear fuel from the SONGS region quickly and safely, among other things.

The Spent Fuel Prioritization Act of 2019 is cosponsored by Representatives Scott Peters (D-CA), Katie Porter (D-CA), Harley Rouda (D-CA), Jared Huffman (D-CA), Salud Carbajal (D-CA), Juan Vargas (D-CA), Alan Lowenthal (D-CA), Susan Davis (D-CA), and Suzanne Bonamici (D-OR).

The Nuclear Waste Policy Amendments Act of 2019 is cosponsored by Representatives John Shimkus (R-IL), Scott Peters (D-CA), Jeff Duncan (R-CA), Debbie Lesko (R-AZ), Lisa Rochester Blunt (D-DE), Red Upton (R-MI), William Keating (D-MA), Rick W. Allen (R-GA), Michael Doyle (D-PA), Joe Wilson (R-SC), Joe Courtney (D-CT), and Troy Balderson (R-OH).

On June 13, 2019, the Subcommittee on Environment and Climate Change of the Committee on Energy and Commerce held a legislative hearing on both bills. The hearing was entitled, "Cleaning Up Communities: Ensuring Safe Storage and Disposal of Spent Nuclear Fuel."

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**RECOMMENDED ACTION:**

Staff recommends that the Commission support H.R. 2995, the Spent Fuel Prioritization Act of 2019 introduced by U.S. Representative Mike Levin in the 116<sup>th</sup> Congress and H.R. 2699, the Nuclear Waste Policy Amendments Act of 2019 introduced by U.S. Representative Jerry McNerney in the 116<sup>th</sup> Congress.