

Summary of Testimony
Nuclear Energy Institute
Maria Korsnick, President and Chief Executive Officer
Subcommittee on Energy, Committee on Energy and Commerce
U.S. House of Representatives
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The United States is at an inflection point. Electricity demand is rising rapidly, increasing the importance of both reliability and affordability. The nuclear industry is responding: existing plants are pursuing license renewals and uprates, reactor restarts are underway, advanced reactors are under construction, and domestic fuel-cycle capabilities are being rebuilt.

Against this backdrop, there is a timely opportunity to make progress on the nation's longstanding used-fuel challenge. State interest in hosting integrated nuclear fuel-cycle, used-fuel management, and permanent disposal projects could help break the used-fuel stalemate and strengthen the U.S. nuclear industrial base. Congress should build on that state interest to establish a durable disposal program and support innovation across the nuclear lifecycle. In doing so, Congress should shield electricity generators and their customers from unnecessary costs and ensure new fuel-cycle approaches meet key technical and commercial milestones before broad deployment is assumed.

DOE's Nuclear Lifecycle Innovation Campus initiative has helped bring these issues into focus, with states exploring campuses that could combine fuel-cycle, recycling, and disposal activities. NEI supports building on that state interest through a milestone-based approach that sustains willing-state participation, begins federal performance, supports fuel-cycle innovation, and protects affordability. Near-term bipartisan legislation should focus on six areas:

- **Establishing durable partnerships with willing host states** through hosting agreements that define activities, milestones, benefits, responsibilities, and ultimate disposal pathways.
- **Beginning federal acceptance and movement of used fuel** by providing DOE authority to take title to, transport, and temporarily store fuel while preserving Standard Contract rights.
- **Providing legislative authority to investigate permanent-disposal pathways** beyond Yucca Mountain and advance the supporting regulatory framework.
- **Supporting recycling innovation and commercial deployment** through continued research, demonstration, and early deployment as technologies and markets mature.
- **Preserving the Nuclear Waste Fund for its statutory disposal mission**, with broader campus activities relying on private investment and other federal and state support.
- **Conditioning waste fee collection on federal performance and demonstrated need**, with any fee increase prospective and only after DOE begins accepting and moving used fuel.

With these targeted reforms, the coming years can turn today's momentum into measurable progress. Congress can act now, measure progress against meaningful milestones, and use that experience to inform longer-term decisions.

Testimony for the Record
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I am Maria Korsnick, President and Chief Executive Officer of the Nuclear Energy Institute (NEI). NEI represents more than 400 members across the commercial nuclear energy industry, including companies that own and operate nuclear power plants, reactor developers, fuel-cycle companies, manufacturers, suppliers, labor organizations, universities, national laboratories, and other organizations that support the use and growth of nuclear energy. I appreciate the opportunity to testify and thank Chairman Guthrie, Ranking Member Pallone, Chairman Latta, Ranking Member Castor, and the other members of the Committee for their continued leadership on nuclear energy and for the opportunity to discuss the future of the nation's used nuclear fuel program and DOE's Nuclear Lifecycle Innovation Campus initiative.

I have had the privilege of appearing before this Committee twice already this year. In January and again in June, I described a nuclear industry moving from policy development toward project execution. Congress has helped make that possible through bipartisan legislation and sustained support for nuclear energy, including the ADVANCE Act, the extension of the Price-Anderson Act, domestic fuel-cycle investments, tax incentives, and DOE demonstration and financing programs. The Administration has reinforced that direction through its nuclear executive orders, including Executive Order 14302, *Reinvigorating the Nuclear Industrial Base*. Those actions recognize what this Committee has long understood: reliable and affordable nuclear energy is increasingly important to the nation's economic competitiveness, energy security, and national security.

Building on its nuclear executive orders, DOE has launched the Nuclear Lifecycle Innovation Campus initiative. By bringing together states, private companies, federal agencies, and multiple elements of the nuclear lifecycle, the initiative has generated significant state interest and could help rebuild domestic nuclear industrial capabilities while making long-overdue progress on used-fuel management and disposal. NEI supports building on that momentum through durable campus partnerships and congressional action.

That opportunity comes at an important moment. The Administration has set a goal of expanding U.S. nuclear capacity to 400 gigawatts by 2050, and significant innovation is underway across the nuclear fuel cycle, including in recycling technologies. Yet more than forty years after enactment of the Nuclear Waste Policy Act (NWPA), the federal government still has not begun accepting commercial used fuel as required by law and the Standard Contracts. Congress should use this moment to create a framework that produces tangible federal performance, sustains willing-state participation, preserves existing legal and contractual commitments, and supports innovation without imposing unnecessary costs or turning the Nuclear Waste Fund into a source of financing for nuclear industrial development unrelated to its statutory disposal mission.

In my testimony today, I will outline a practical, milestone-based approach for moving forward. The central idea is straightforward: act now on the reforms needed to unlock progress, measure that progress against meaningful milestones, and use the experience gained over the next several years to inform longer-term decisions. This approach can produce meaningful results now and build a durable foundation for the future.

I. Nuclear energy is essential to America’s reliability, affordability, and national security.

Nuclear power is foundational to the nation’s reliable electricity system. The U.S. nuclear fleet provides nearly one-fifth of the nation’s electricity, operates at industry-leading capacity factors, and provides large volumes of power around the clock. Those attributes are increasingly valuable as electricity demand grows at a pace the country has not experienced in decades.

Customers of all types are seeking reliable, affordable, always-available electricity, and investment in nuclear energy is accelerating in response. Plant owners are pursuing license renewals and uprates, previously closed reactors are being restarted, advanced reactor projects are moving forward, and companies are investing in domestic fuel-cycle capabilities. What was until recently a conversation about whether nuclear growth would occur is now a question of how quickly projects can be licensed, financed, supplied, built, and operated.

That momentum makes it especially important to get used-fuel policy right. Used-fuel policy should support, not impede, continued nuclear growth. Poorly designed policies—particularly those that impose unnecessary costs, undermine existing contractual rights, or prematurely commit the nation to particular fuel-cycle approaches—could create avoidable headwinds. Innovation campuses offer an opportunity to take a better, more effective path: making overdue progress on the federal government’s statutory and contractual used-fuel responsibilities while supporting continued nuclear growth.

II. Innovation campuses create a new opportunity to address used fuel and strengthen the nuclear industrial base.

The response to DOE’s Nuclear Lifecycle Innovation Campus initiative is encouraging. More than half of the states responded to DOE’s initial request for information (RFI), and DOE has now entered into memoranda of understanding with six states to continue exploring potential

campuses. States are not simply being asked to host a federal waste-disposal facility. They are exploring broader partnerships that could bring substantial private investment, high-quality jobs, new manufacturing and fuel-cycle capabilities, advanced nuclear technologies, and other economic benefits.

This level of state interest reflects the broader change underway in the nuclear sector. Companies are investing in new reactors, domestic enrichment and fuel fabrication, advanced manufacturing, recycling technologies, and other parts of the nuclear supply chain. States increasingly see nuclear energy as an opportunity for economic development, skilled employment, manufacturing, and technological leadership. Innovation campuses could help bring several of those investments together while also creating a new pathway for progress on the federal government's longstanding used-fuel responsibilities.

Used-fuel policy has too often been treated as a stand-alone problem centered on finding locations for storage and disposal facilities. Innovation campuses instead create the possibility of broader partnerships that reflect the priorities, capabilities, and interests of individual states. DOE has appropriately recognized that campus activities will depend on state priorities and regional capabilities. That flexibility can help advance a more integrated national nuclear strategy while allowing states to pursue the activities and investments that make sense for them.

The challenge now is to translate this initial interest into partnerships capable of enduring through the long timelines associated with nuclear facilities and used-fuel management.

III. A durable used fuel management and disposal program should be grounded in enforceable partnerships with willing host states.

Initial state interest is important and encouraging, but it cannot be assumed to persist if federal commitments are uncertain, project purposes materially change without meaningful engagement, or promised benefits and responsibilities remain unclear. Congress should provide a

framework that enables interested states to explore potential projects and establish increasingly specific, enforceable commitments as those projects advance.

For federal activities involving the management of used fuel, Congress should authorize structured hosting agreements between DOE and willing host states. Those agreements should address, as appropriate, the facilities and activities contemplated; the types, purposes, and expected quantities of nuclear material to be managed; development milestones; transportation planning and emergency preparedness; federal, state, tribal, local, and private-sector responsibilities; access to technical information and monitoring; host benefits and federal financial commitments; and the long-term management and ultimate disposition of nuclear materials. The agreements should also provide mechanisms for addressing significant changes in project scope and enforcing the commitments made by both the federal government and the host state.

The framework should recognize that the commitments required of potential hosts—and the federal support provided to them—will appropriately change as a project advances. States should be able to participate in early feasibility work, site characterization, and technical review without that participation being treated as an irrevocable commitment to host a facility. Federal support at those early stages can appropriately help states evaluate proposals, obtain independent technical expertise, and assess potential impacts and benefits. More substantial federal commitments and host benefits, however, should accompany correspondingly firm commitments by the host state and achievement of defined milestones toward an authorized federal disposal function. Once binding commitments are made, both the federal government and the host state should be able to rely on them.

That same progression should inform how host benefits are funded. Early exploration, independent technical review, capacity building, and incentives to evaluate potential participation should generally rely on appropriations or other non-Nuclear Waste Fund authorities. As a host makes binding commitments and a project advances toward performing an authorized federal disposal function, Congress can provide for additional benefits and assistance appropriately attributable to that function. Nuclear Waste Fund resources should be available only for costs properly associated with the statutory disposal mission. Broader economic-development initiatives and related activities should remain separately funded.

IV. Congress should enable DOE to begin performing its used-fuel obligations.

The federal government has long been responsible for the permanent disposal of commercial used nuclear fuel. The NWPA codified that responsibility and established the statutory and contractual framework for carrying it out. It required nuclear plant owners and operators to enter into Standard Contracts with DOE and required DOE to begin accepting used fuel by January 31, 1998. Nuclear plant owners—and ultimately their customers—paid billions of dollars into the Nuclear Waste Fund in return for that federal commitment. Industry has safely and securely managed used fuel at reactor sites in the decades since DOE failed to meet the 1998 deadline, but onsite storage was never intended to be a permanent substitute for federal performance.

The consequences of that failure extend beyond the continued accumulation of used fuel at reactor sites. Because DOE has not performed its contractual obligations, taxpayers have paid more than \$12 billion from the Judgment Fund for damages resulting from the government's partial breach of the Standard Contracts, and DOE estimates tens of billions of dollars in additional liability. Those payments compensate contract holders for costs they have actually

incurred because DOE did not accept their fuel as required. The answer is not to eliminate that remedy or shift those costs to the Nuclear Waste Fund. It is to begin federal performance and reduce the underlying costs and liabilities over time.

Near-term legislation should give DOE a workable path to begin accepting and moving used fuel. Congress should provide the authorities necessary to take title, transport fuel, temporarily store it, and integrate those activities with repository development.

Moving fuel would accomplish more than reduce inventories at individual plant sites. It would generate real operating experience with transportation routes, packaging and cask interfaces, temporary storage operations, federal-state coordination, emergency preparedness, and the logistics of large-scale fuel movement. It would also demonstrate that the federal government is capable of performing, rather than merely planning. As DOE begins accepting fuel and thereby reduces the storage costs caused by its delay, the government's continuing breach liability should decline accordingly. By contrast, merely establishing a new program, demonstrating a technology, or building a facility does not itself reduce the government's contractual liability.

Priority can reasonably be given to stranded fuel at shutdown sites where there is no longer an operating reactor and where continued storage can impede site redevelopment. But legislation should not rewrite existing Standard Contract acceptance priorities by fiat. Contract holders should retain their queue and acceptance rights, with voluntary exchanges and other mutually agreed arrangements available to improve system efficiency where parties choose to use them.

The same principle applies to other contractual rights. Participation in an innovation campus, consolidated storage arrangement, transportation program, or recycling transaction

should not be conditioned on waiver or impairment of existing or future damages claims arising from DOE's delay, acceptance-priority rights, one-time fee terms, or other Standard Contract protections. Damages resulting from the government's breach should continue to be paid from the Judgment Fund rather than the Nuclear Waste Fund, consistent with existing law. Any reduction in those payments should result from actual federal performance and mitigation of the costs caused by DOE's delay—not from legislation that simply deems the government's obligations satisfied.

V. Congress should authorize investigation of additional permanent disposal pathways and modernization of the regulatory framework.

Permanent geologic disposal remains essential under every foreseeable fuel-cycle strategy. Recycling and advanced fuel cycles may improve waste forms, recover useful material, or reduce certain disposal burdens, but they do not eliminate the need to isolate long-lived radioactive waste. A durable federal program therefore must include sufficient geologic disposal capacity.

Current law remains tied to a Yucca Mountain-specific framework. Whatever view one takes of Yucca Mountain itself, a durable national policy should allow the federal government to investigate and evaluate additional repository sites and geologic settings. Congress should authorize a collaborative, milestone-based siting process that can build on expressions of interest and initial hosting agreements and provide a clear path through feasibility work, site characterization, licensing, construction, operation, and closure.

Global experience has shown that mined geologic repositories will need to remain a cornerstone of the federal disposal program. Deep boreholes and other geologic disposal concepts may complement or optimize traditional mined repositories, but Congress should not

assume before demonstration that they can replace traditional mined repository capacity for the full commercial inventory.

A new statutory pathway also requires a modern regulatory architecture. Generally applicable radiation-protection standards should be established for future geologic repositories and other disposal technologies rather than relying solely on the standards tailored to Yucca Mountain. Such generic and technology-inclusive disposal standards should be developed early in the siting process because they can support consideration of multiple sites and improve public confidence that the rules are not being written around one particular project.

Congress also should encourage timely completion of NRC rulemakings that are directly relevant to future fuel-cycle and disposal activities so that the appropriate regulatory framework is in place as projects advance. The NRC's *Modernizing Materials Licensing* rulemaking can establish more workable licensing pathways for reprocessing facilities, pilot fuel lines, advanced fuels, and used-fuel storage activities. Its *Integrated Low-Level Radioactive Waste Disposal* rulemaking can modernize disposal pathways for Greater-Than-Class-C waste, certain transuranic wastes, and waste streams that may result from recycling. Together, these rulemakings can help ensure that the regulatory framework keeps pace as new fuel-cycle technologies move toward deployment.

VI. Congress should support recycling innovation and build the conditions for broader commercial deployment.

Recycling is an increasingly important part of the discussion about the future of the U.S. nuclear fuel cycle. In the early decades of commercial nuclear power, the United States generally assumed that used fuel would be reprocessed so that recoverable uranium, plutonium, and other useful constituents could be returned to the fuel cycle. Commercial reprocessing was pursued in

the United States, and utilities generally planned to send their used fuel for reprocessing rather than direct disposal.

However, by the mid-1970s, larger-than-expected uranium supplies, the technical and economic challenges of reprocessing, changing expectations for nuclear growth and breeder reactors, regulatory uncertainty, and growing nonproliferation concerns had begun to weaken the case for commercial reprocessing. That shift was reinforced by President Ford's 1976 decision to delay the commercialization of reprocessing and President Carter's 1977 decision to extend that policy indefinitely. President Reagan reversed that policy in 1981 and restored the reprocessing option, but the private sector did not move forward with commercial reprocessing. Against that backdrop, Congress passed the NWPA in 1982 and established a federal disposal program focused on managing commercial used fuel directly rather than depending on reprocessing as the cornerstone of the nation's waste-management strategy.

Today, technological innovation, plans for significant nuclear growth, the prospect of increased global demand for uranium, and development of advanced reactors that could create new markets for recycled fuels are creating new opportunities for recycling. Used nuclear fuel retains significant energy value, and advanced recycling technologies could recover useful materials, support advanced fuel cycles, improve resource utilization, strengthen domestic fuel security, and alter the quantity or characteristics of material requiring disposal. Some technologies may also recover valuable isotopes for medical, industrial, and other applications. NEI supports public and private investment in the development, demonstration, and deployment of promising recycling and advanced fuel-cycle technologies, including efforts to develop commercially viable fuel products and better understand their potential effects on the federal disposal program.

Successful deployment of recycling technologies requires supportive public policy, as well as commercially sustainable markets for recycled-fuel products. Different recycling approaches support different markets: some recycled fuels could be used in light-water reactors, while other recovered materials may be better suited to support fast reactors as that market develops. The technologies and markets will mature over time as fuels are qualified, reactors are deployed, and customer demand develops.

Countries such as France have demonstrated that reprocessing and fabrication of recycled fuels can be conducted at commercial scale. But those programs have been sustained as elements of coordinated national fuel-cycle strategies encompassing reprocessing capacity, fuel fabrication, reactor use of recycled fuels, safeguards, waste management, and ultimate disposal—not because reprocessing has consistently been the least-cost alternative to a once-through fuel cycle.

Innovative U.S. technologies offer the potential to substantially improve on historical approaches and change those economics. Continued private-sector development and early deployment can help establish commercial viability and build markets for recycled-fuel products. As experience grows, those results can inform the broader role of recycling in the nation’s fuel-cycle strategy.

Recycling should therefore complement, not replace or delay, the federal disposal program. Every foreseeable recycling approach produces residual wastes requiring permanent geologic disposal, and some existing used fuel may ultimately be more appropriate for direct disposal. Federal acceptance and permanent disposal of used fuel should proceed regardless of how quickly commercial recycling develops.

The next several years should be used to establish the technical and commercial foundation for broader deployment of recycling technologies. Commercial-scale demonstrations can establish cost and throughput; fuel-development programs can qualify recycled-fuel products; reactor deployments and commercial arrangements can establish markets and demonstrate customer demand for those products; and operating experience can validate safeguards, security, and transportation approaches. At the same time, DOE and industry can better characterize residual waste forms and quantify the effects different recycling strategies would have on needed repository capacity and total lifecycle costs. These are not reasons to delay innovation. They are the milestones that can demonstrate whether, where, and at what scale recycling can become a commercially sustainable part of the U.S. nuclear fuel cycle.

Congress should continue—and, where appropriate, expand—federal support aimed at reaching those milestones. DOE and ARPA-E already support recycling through cost-shared research and development, advanced separations and safeguards technologies, recycled-fuel development and qualification, and private-sector demonstrations intended to move promising technologies toward commercial scale. DOE’s Defense Production Act (DPA) Nuclear Fuel Cycle Consortium provides another mechanism for government and industry to identify and address barriers across the domestic fuel cycle, expressly including recycling and reprocessing. Congress should build on these efforts with continued support for research, demonstration, fuel qualification, and appropriately structured public-private partnerships, while encouraging private investment and commercial arrangements that can establish durable markets for recycled fuels. As these technologies are deployed, targeted incentives such as tax credits and federal loans may also be appropriate to reduce first-of-a-kind risk and support early commercial deployment.

VII. The Nuclear Waste Fund should remain dedicated to the federal disposal program and broader campus development should be funded separately.

Developing innovation campuses will require substantial capital from a range of public and private sources. DOE's RFI appropriately envisions a private-sector-led initiative in which private investment serves as the primary source of capital, supplemented as appropriate by state support and targeted federal assistance. Successful projects should be able to draw on an appropriate mix of those resources, including congressional appropriations, DOE financing authorities, tax incentives, and defense or DPA authorities where applicable. The Nuclear Waste Fund also has an important role in supporting the federal disposal functions that would be incorporated into these campuses—but that role should remain limited to the purpose for which the Fund was created.

Section 302(d) of the NWPA is clear that the Secretary of Energy may make expenditures from the Nuclear Waste Fund only for specified radioactive-waste disposal activities under the Act. Those activities are broader than excavating a repository. They include repository and monitored retrievable storage activities; nongeneric disposal research, development, and demonstration; program administration; transportation; treating and packaging associated with disposal or storage under the Act; and specified assistance to states, local governments, and tribes. The common thread is the federal disposal mission.

Congress should preserve that basic funding principle. Nuclear Waste Fund resources should support activities that advance the federal disposal program, rather than serve as a general source of capital for the broader nuclear industrial development that nuclear campuses are intended to foster. Those broader objectives—including economic development, energy production, fuel-cycle capabilities, manufacturing, and workforce development—may be important to host states and to the nation. Indeed, they are central to the value proposition

underlying the campus concept. But co-locating those activities with federal waste-management functions should not by itself make them costs of the federal disposal program. DOE's RFI similarly contemplates facility-specific infrastructure and capital investments being funded primarily by private partners and, where appropriate, state and local entities, with targeted federal assistance available through other authorities.

Within that framework, repository siting and characterization, licensing and construction, federal acceptance of used fuel, disposal-related transportation and packaging, authorized interim storage or staging that is integrated with the federal disposal strategy, disposal-related monitoring and transportation preparedness, and program administration directly attributable to the disposal mission can appropriately be supported by the Nuclear Waste Fund. Existing law already recognizes that the Fund may support a range of activities necessary or incident to authorized repository, storage, and disposal functions.

Broader nuclear campus development should follow the private-sector-led model contemplated in DOE's RFI. Commercial recycling facilities, enrichment, fuel fabrication, reactors, manufacturing, general campus infrastructure, and broad workforce and economic-development programs should rely on private investment and commercial revenues, supplemented where appropriate by state support and targeted federal assistance through appropriations, financing, tax incentives, cost-sharing, public-private partnerships, or other available authorities. Many of these activities are important and may merit substantial federal support, particularly as emerging technologies move from demonstration toward commercial deployment. The issue is not whether they have value or warrant federal support, but whether commercial nuclear generators and their electricity customers should finance them through a fund established for federal waste disposal.

Mixed-use infrastructure will require careful cost allocation. Co-location should create efficiencies, not erase accounting boundaries. Congress should require transparent accounts and auditable allocation so that only the disposal-attributable share of common infrastructure or services is paid from the Nuclear Waste Fund. Similarly, costs attributable to the disposal of defense waste should remain a federal responsibility and should not be borne by commercial nuclear generators or their customers, even where civilian and defense wastes share facilities.

Preserving the Nuclear Waste Fund for its statutory purpose should not mean leaving its resources difficult to access for that purpose. There are longstanding structural problems with the Fund: it was intended to provide an assured funding source, yet the waste program has repeatedly had to compete in the annual appropriations process. The right balance is reliable access to Fund resources for authorized disposal work, coupled with rigorous congressional, financial, and programmatic oversight. Access and accountability are complements, not substitutes.

This disciplined funding structure protects affordability and nuclear competitiveness, preserves resources for the disposal mission, avoids creating pressure for unnecessary future fee increases, and provides greater certainty to states, private investors, and project developers about how different campus activities will be financed.

VIII. Congress should not restart nuclear waste fee collection before the federal government begins performing and demonstrates a funding need.

The commercial nuclear industry and its customers have already contributed billions of dollars to the Nuclear Waste Fund, which now has a balance of more than \$51 billion. Even with the annual fee set at zero since 2014, the Fund continues to grow through substantial investment income—nearly \$2 billion in fiscal year 2025 alone. Those existing resources provide substantial capacity to finance meaningful near-term progress on federal disposal without immediately restarting the fee on operating nuclear generation. As discussed above, broader nuclear campus

development should rely on private investment and commercial revenues, supplemented as appropriate by state support and targeted federal assistance through appropriations, financing, tax incentives, cost-sharing, and other available authorities. Separately funded federal obligations, including the federal government's share of defense-waste disposal costs, should likewise not be shifted to commercial generators and their customers.

The history of the fee underscores why continued discipline with respect to the fee's purpose and need matters. In 2013, the U.S. Court of Appeals for the D.C. Circuit ordered DOE to reduce the fee to zero after the Department failed to conduct the adequate fee assessment required by law and instead relied on a hypothetical disposal program whose costs could not reliably be determined.¹ The court recognized that fee collection could resume if Congress established an alternative waste-management program and DOE conducted a legally sufficient assessment demonstrating that additional collections were necessary.

Congress should build on that history by connecting any future fee collection not only to a valid statutory program and demonstrated financial need, but also to meaningful federal performance. Enactment of new legislation, execution of a hosting agreement, completion of a recycling demonstration, or operation of non-disposal campus facilities should not itself trigger fee collection. No fees should be assessed until the federal government begins performing the used-fuel responsibilities for which commercial generators and their customers have already paid billions of dollars.

A sensible fee framework should have four core elements. First, any resumed fee should be prospective only; there should be no retrospective or catch-up assessment for generation during the period when the fee was lawfully set at zero. Second, any consideration of resuming

¹ *National Ass'n of Regulatory Utility Commissioners v. DOE*, 736 F.3d 517 (D.C. Cir. 2013).

fee collection should be conditioned on a meaningful federal-performance milestone, such as DOE beginning to accept and move commercial used fuel. Third, a transparent and independently validated assessment should confirm that additional collections are actually needed after accounting for the existing Nuclear Waste Fund balance, expected investment income, projected lifecycle disposal costs, separately funded defense obligations, and other resources available to the disposal program. Fourth, continued collection should remain tied to objective performance milestones and ongoing funding need, with an enforceable mechanism for the fee to return to zero if specified performance is not maintained or projected resources exceed program requirements.

Congress also should modernize the fee provisions to account for new nuclear applications. The existing NWPA fee provision was written around electricity generated and sold by traditional commercial nuclear power reactors. As advanced reactors are increasingly developed to provide process heat and other nonelectric energy services, legislation should provide an equitable mechanism for allocating the commercial share of disposal costs associated with used fuel from those applications. That modernization should be part of the prospective fee framework and subject to the same requirements for federal performance and demonstrated funding need.

Congress itself should retain a direct role in any future increase in the fee. The NWPA's existing fee-adjustment mechanism was enacted more than forty years ago, and the congressional-disapproval mechanism Congress originally included was subsequently held unconstitutional.² New legislation should replace the resulting fee-adjustment mechanism with a

² See *Alabama Power Co. v. DOE*, 307 F.3d 1300, 1307-08 (11th Cir. 2002) (holding, under *INS v. Chadha*, 462 U.S. 919 (1983), that the NWPA's one-House legislative veto is unconstitutional, leaving DOE's proposed fee adjustment to take effect after 90 days unless Congress acts through ordinary legislation).

clear, workable process under which an increase in the fee requires affirmative congressional approval. Congress should maintain DOE's responsibility to conduct robust and periodic fee-adequacy assessments but should not give the Department open-ended unilateral authority to impose additional charges on nuclear generators and their customers. The objective is not to avoid the commercial industry's responsibility for its appropriate share of disposal costs. It is to restore accountability between payment, demonstrated funding need, and actual federal performance.

That fee assessment and adjustment discipline is also critical to affordability and nuclear competitiveness. Nuclear companies operate under different market and regulatory structures, so an increased fee would not affect every plant or customer in precisely the same way. But unnecessary costs can make existing nuclear generation less competitive and new nuclear investment more difficult. Congress should not impose those costs—or give DOE open-ended authority to do so—before additional funding is needed, particularly when the Nuclear Waste Fund already contains substantial resources for disposal and the federal government has not yet begun accepting commercial used fuel.

IX. Conclusion

The United States has an opportunity to make meaningful progress on used nuclear fuel while strengthening the domestic nuclear industrial base. States are engaging, industry is investing, technologies are advancing, and Congress and the Administration have placed renewed emphasis on nuclear energy and the infrastructure needed across the nuclear lifecycle. The federal government now has an opportunity to begin performing obligations that have remained unfulfilled for decades.

Innovation campuses can be an important part of that progress. They can strengthen domestic fuel-cycle and manufacturing capabilities, create long-term economic opportunities for willing host states and communities, support recycling and advanced-reactor innovation, and provide a practical vehicle for federal acceptance, transportation, storage, and disposal activities. Realizing that potential will require getting the framework right: durable partnerships with willing host states, meaningful federal performance, credible pathways to permanent disposal, Nuclear Waste Fund resources dedicated to the federal disposal mission, preservation of Standard Contract rights, and continued innovation informed by demonstrated technical and commercial progress.

A milestone-based approach does not mean postponing difficult decisions. It means beginning implementation now and using measurable results to inform the decisions that follow. Congress can provide the authorities needed to begin accepting and moving fuel, open additional disposal pathways, support innovation, and give willing states confidence that federal commitments will be kept. Over the next several years, that work can generate real operating experience and better technical, commercial, and cost information on storage, transportation, repositories, recycling, and other fuel-cycle and disposal technologies. Congress can use that experience to refine the longer-term framework as technologies mature, markets develop, and the federal disposal program advances.

Congress can act now, measure progress against meaningful milestones, and make future decisions based on demonstrated performance and better information. If it does, the next five years can produce more tangible progress on used fuel than the country has seen in decades. NEI and its members stand ready to work with this Committee, the Administration, states, communities, labor, and other stakeholders to make that progress durable.