

116TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Nuclear Waste Policy Act of 1982 to provide for the expansion of emergency planning zones and the development of plans for dry cask storage of spent nuclear fuel, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Nuclear Waste Policy Act of 1982 to provide for the expansion of emergency planning zones and the development of plans for dry cask storage of spent nuclear fuel, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Dry Cask Storage Act  
5        of 2019”.

1 **SEC. 2. EMERGENCY PLANNING ZONES; DRY CASK STOR-**  
2 **AGE OF SPENT NUCLEAR FUEL.**

3 (a) IN GENERAL.—Title I of the Nuclear Waste Pol-  
4 icy Act of 1982 (42 U.S.C. 10121 et seq.) is amended  
5 by adding at the end the following:

6 **“Subtitle I—Emergency Planning**  
7 **Zones; Dry Cask Storage of**  
8 **Spent Nuclear Fuel**

9 **“SEC. 185. DEFINITIONS.**

10 “In this subtitle:

11 “(1) EMERGENCY PLANNING ZONE.—The term  
12 ‘emergency planning zone’ means the emergency  
13 planning zone that is delineated with respect to the  
14 plume exposure pathway (as defined in section 350.2  
15 of title 44, Code of Federal Regulations (or any suc-  
16 cessor regulation)) of a civilian nuclear power reac-  
17 tor.

18 “(2) LICENSEE.—The term ‘licensee’ has the  
19 meaning given the term in section 50.2 of title 10,  
20 Code of Federal Regulations (or any successor regu-  
21 lation).

22 “(3) SPENT NUCLEAR FUEL DRY CASK.—The  
23 term ‘spent nuclear fuel dry cask’ means a container  
24 (including any components and systems associated  
25 with the container) in which spent nuclear fuel is

1 stored at an independent spent fuel storage facil-  
2 ity—

3 “(A) that is—

4 “(i) licensed by the Commission; and

5 “(ii) located at a civilian nuclear  
6 power reactor site; and

7 “(B) the design of which—

8 “(i) includes a realistic security, seis-  
9 mic, and flooding design basis, as deter-  
10 mined by the Commission; and

11 “(ii) is approved by the Commission.

12 **“SEC. 186. PLAN FOR DRY CASK STORAGE OF SPENT NU-  
13 CLEAR FUEL.**

14 “(a) IN GENERAL.—Not later than 180 days after  
15 the date of enactment of this section, each licensee shall  
16 submit to the Commission a plan that provides for—

17 “(1) by the deadline specified in subsection (b),  
18 the transfer to spent nuclear fuel dry casks of any  
19 spent nuclear fuel that is—

20 “(A) stored by the licensee in spent nu-  
21 clear fuel pools; and

22 “(B) qualified to be placed in spent nu-  
23 clear fuel dry casks, in accordance with sub-  
24 section (d);

1           “(2) on completion of the transfer under para-  
2           graph (1), the additional transfer, on an ongoing  
3           basis, of any additional spent nuclear fuel that is  
4           stored by the licensee in spent nuclear fuel pools and  
5           that, after the date of the transfer under paragraph  
6           (1), is determined to be qualified to be placed in  
7           spent nuclear fuel dry casks, in accordance with sub-  
8           section (d), subject to the requirement that each ad-  
9           ditional transfer shall be completed by the date that  
10          is 1 year after the date on which the applicable  
11          spent nuclear fuel is determined to be qualified to be  
12          placed in spent nuclear fuel dry casks, in accordance  
13          with that subsection; and

14          “(3) the configuration of the remaining spent  
15          nuclear fuel in the spent nuclear fuel pool in a man-  
16          ner that minimizes the chance of a fire if there is  
17          a loss of water in the spent nuclear fuel pool.

18          “(b) DEADLINE FOR TRANSFER.—The deadline for  
19          transfer referred to in subsection (a)(1) is not later than  
20          the date that is 7 years after the date of submission of  
21          the plan.

22          “(c) APPROVAL OR DISAPPROVAL BY COMMISSION.—

23                  “(1) IN GENERAL.—Not later than 90 days  
24          after the date on which a plan is submitted under

1 subsection (a), the Commission shall approve or dis-  
2 approve the plan.

3 “(2) ACTION FOLLOWING DISAPPROVAL.—If the  
4 Commission disapproves a plan under paragraph  
5 (1), the Commission shall—

6 “(A) advise the licensee in writing of the  
7 reasons for the disapproval;

8 “(B) make recommendations for revisions  
9 to the plan, which shall be submitted to the  
10 Commission by the date that is 30 days after  
11 the date on which the Commission provides no-  
12 tice of the disapproval under subparagraph (A);  
13 and

14 “(C) not later than 30 days after the date  
15 of receipt of a revised plan under subparagraph  
16 (B), approve or disapprove the revised plan.

17 “(d) QUALIFICATION FOR PLACEMENT IN SPENT  
18 NUCLEAR FUEL DRY CASKS.—

19 “(1) IN GENERAL.—Except as provided in para-  
20 graph (2), spent nuclear fuel shall be considered to  
21 be qualified to be placed in spent nuclear fuel dry  
22 casks under this section if the spent nuclear fuel has  
23 been stored in spent nuclear fuel pools for a period  
24 of at least 7 years.

1           “(2) EXCEPTION.—Notwithstanding paragraph  
2 (1), spent nuclear fuel shall not be considered to be  
3 qualified to be placed in spent nuclear fuel dry casks  
4 under this section if there does not exist an ap-  
5 proved spent nuclear fuel dry cask in which the  
6 spent nuclear fuel may be placed.

7           “(e) GRANTS.—

8           “(1) IN GENERAL.—Subject to paragraph (3),  
9 the Commission may provide to any licensee that has  
10 a plan approved under subsection (c) a grant to as-  
11 sist in the cost of transferring spent nuclear fuel to  
12 spent nuclear fuel dry casks under the approved  
13 plan.

14           “(2) PREFERENCE.—In providing grants under  
15 paragraph (1), the Commission shall give preference  
16 to funding the implementation of approved plans—

17           “(A) at civilian nuclear power reactors at  
18 which the spent nuclear fuel pools are close to  
19 being filled to capacity;

20           “(B) that are supported by the State or  
21 unit of local government in which the civilian  
22 nuclear power reactor is located; and

23           “(C) at civilian nuclear power reactors that  
24 have permanently ceased operations.

1           “(3) LIMITATION.—No grants may be provided  
2           under paragraph (1) to a licensee that the Commis-  
3           sion determines is not in compliance with the ap-  
4           proved plan, in accordance with subsection (f).

5           “(f) BIENNIAL REVIEW.—Beginning on the date that  
6           is 2 years after the date on which a plan is approved under  
7           subsection (c) and every 2 years thereafter, the Commis-  
8           sion shall conduct a review to determine whether the li-  
9           censee is in compliance with the approved plan.

10   **“SEC. 187. EXPANSION AND APPLICABILITY OF EMERGENCY**  
11                           **PLANNING ZONE.**

12           “(a) IN GENERAL.—The emergency planning zone  
13           that is applicable to each civilian nuclear power reactor  
14           shall be at least 10 miles in radius until the date on which  
15           all spent nuclear fuel at the civilian nuclear power reactor  
16           has been transferred to spent nuclear fuel dry casks.

17           “(b) EXPANSION OF EMERGENCY PLANNING  
18           ZONE.—

19           “(1) IN GENERAL.—Except as provided in para-  
20           graph (2) and subject to paragraph (3), by the date  
21           that is 18 months after the date of enactment of  
22           this section, the Commission shall expand the emer-  
23           gency planning zone that is applicable to each civil-  
24           ian nuclear power reactor to 50 miles in radius.

1           “(2) EXCEPTION.—Paragraph (1) shall not  
2           apply to any civilian nuclear power reactor that is in  
3           compliance with a plan approved by the Commission  
4           under section 186(c), as determined by the Commis-  
5           sion under section 186(f).

6           “(3) PAYMENT OF COSTS.—The licensee shall  
7           be responsible for all costs associated with the ex-  
8           pansion of the applicable emergency planning zone  
9           under paragraph (1).”.

10          (b) USE OF INTEREST.—Section 302(e) of the Nu-  
11          clear Waste Policy Act of 1982 (42 U.S.C. 10222(e)) is  
12          amended by adding at the end the following:

13                 “(7) USE OF INTEREST.—Annually, the Sec-  
14                 retary of the Treasury shall transfer to the Commis-  
15                 sion an amount equal to at least 10 percent of the  
16                 amount of interest generated during the preceding  
17                 fiscal year under paragraph (3) for use, without fur-  
18                 ther appropriation or fiscal year limitation, to pay  
19                 the costs of carrying out section 186(e).”.