

## **Bill Classifying West Valley Waste as Defense Waste Taken up by House**

On May 18, the Environment Subcommittee of the House Energy and Commerce Committee held a hearing to discuss H.R. 2389, a bill that would reauthorize the West Valley Demonstration Project for FY2017-FY2026, and seek to classify all radioactive waste at West Valley as waste resulting from atomic energy defense activities, as defined in section 2 of the Nuclear Waste Policy Act of 1982.

During the hearing, Representative Tom Reed (R-NY) testified that, “The federal government should provide a disposal path for all waste on the site. Records show that the majority of waste at the site was a result of reprocessing federally-owned nuclear fuel—most of it from the federal government’s Hanford facility in Washington State [...] The result of that reprocessing that went to the federal government in some part for weapons research or weapons use.” He argued that all radioactive waste at the site is resulting from the atomic energy defense activities and should therefore be treated as defense waste. Doing so would provide a disposal path for waste at the site (at sites like the Waste Isolation Pilot Plant or the planned Yucca Mountain repository) that currently doesn’t exist for the waste under its current classification.

EM Associate Principal Deputy Assistant Secretary for Regulatory and Policy Affairs Mark Gilbertson also testified during the hearing, expressing concern that categorizing the West Valley waste as defense waste, rather than its current classification as commercial waste, would force the Department to assume the environmental liability and cost associated with cleaning up and disposing of the waste.

Rep. Paul Tonko (D-NY) asked Gilbertson how the Department could view the waste at West Valley as commercial when the reprocessed material produced at the site were “all usable or characterized as defense-related.” Gilbertson replied that the waste is still considered commercial waste because the material was originally sold to a commercial entity for use, even though the commercial entity used the material for defense-related purposes.

Mr. Noah Shaw, the General Council of the New York State Energy Research and Development Authority (NYSERDA) also testified at the hearing, noting that West Valley is the only site managed by EM with onsite waste that DOE calls commercial. West Valley also houses the only transuranic (TRU) waste in the nation that is prohibited for disposal at the Waste Isolation Pilot Plant (WIPP) in New Mexico, meaning that the limited dollars appropriated to the cleanup efforts at the site have to be spent to contend with the potentially permanent onsite storage of TRU waste, making the local communities surrounding the site de facto hosts for nuclear waste storage.

A committee vote for H.R. 2389 has not yet been scheduled. ECA will continue to track the bill and any companion bills in the Senate.