

105TH CONGRESS  
1ST SESSION

# H. R. 1270

[Report No. 105-290, Part I]

To amend the Nuclear Waste Policy Act of 1982.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 1997

Mr. UPTON (for himself, Mr. TOWNS, Mr. HASTERT, Mr. CRAPO, Mr. HALL of Texas, Mr. GUTKNECHT, Mr. BURR of North Carolina, Mr. BARTON of Texas, Mr. STEARNS, Mr. KLINK, Mr. RUSH, Mr. KNOLLENBERG, Mr. BONIOR, Mr. TAUZIN, Mr. NORWOOD, Mr. GRAHAM, Mr. MANZULLO, Mr. SHIMKUS, Mr. EHLERS, Mr. STUPAK, Mr. RAMSTAD, Mr. SPRATT, Mr. PICKERING, Mr. BILIRAKIS, Mr. PORTER, Mr. LIPINSKI, Mr. LAHOOD, Mr. FAWELL, Mr. GORDON, Mr. EVERETT, Mr. KILDEE, Mr. BARCIA, Mr. BARTLETT of Maryland, Mr. SKEEN, Mr. WHITFIELD, Mr. LATHAM, Mr. MCHUGH, Mr. SNOWBARGER, Mr. CAMP, Mr. HASTINGS of Washington, Mr. BAKER, Mr. FRELINGHUYSEN, Mr. COOKSEY, Mr. LEVIN, Mr. SESSIONS, Mr. GOSS, Mr. COLLINS, Mr. MANTON, Mrs. ROUKEMA, Mr. CHAMBLISS, Mr. BORSKI, Mr. FATTAH, Mr. HOLDEN, Mr. RIGGS, Mr. CLYBURN, Mr. MORAN of Virginia, Mr. BACHUS, Mr. PACKARD, and Mr. BERRY) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Resources, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

OCTOBER 1, 1997

Additional sponsors: Ms. DUNN, Mr. FOX of Pennsylvania, Mrs. THURMAN, Mr. CONYERS, Mr. LATOURETTE, Mr. KLUG, Mrs. FOWLER, Mr. HYDE, Mr. GILLMOR, Mr. CALVERT, Mr. SAM JOHNSON of Texas, Mr. MICA, Mr. SISISKY, Mr. WICKER, Mrs. CUBIN, Mr. LOBIONDO, Mr. SPENCE, Mr. WELDON of Florida, Mr. PICKETT, Mr. BOUCHER, Mr. SCARBOROUGH, Mr. MCCOLLUM, Mr. WAMP, Ms. KILPATRICK, Mr. SOLOMON, Mr. PAXON, Ms. STABENOW, Mr. WHITE, Mr. BALLENGER, Mr. JOHN, Mr. SENSENBRENNER, Mr. CALLAHAN, Mr. INGLIS of South Carolina, Mrs. MYRICK, Mr. LINDER, Mr. BOYD, Mr. ROHRABACHER, Mr. RYUN, Mr. HILLEARY, Mr. MORAN of Kansas, Mr. COBLE, Mr. WELLER, Mr. TAYLOR of North Carolina, Mr. CANADY of Florida, Mr. SANFORD, Mr. DIAZ-BALART, Mr. DUNCAN, Mr. BEREUTER, Mr. NETHERCUTT,

Mr. GREEN, Mr. HEFNER, Mr. CRAMER, Ms. CHRISTIAN-GREEN, Ms. PRYCE of Ohio, Mr. KANJORSKI, Mr. HOEKSTRA, Mr. BOEHLERT, Mr. LIVINGSTON, Mr. ETHERIDGE, Mr. KINGSTON, Mr. JONES, Mr. HILLIARD, Mr. DAVIS of Virginia, Mr. OXLEY, Mr. MCINTYRE, Mr. WEXLER, Mr. ADERHOLT, Mr. THORNBERRY, Mr. HUTCHINSON, Mr. SAXTON, Mr. HASTINGS of Florida, Ms. JACKSON-LEE of Texas, Mr. WALSH, Mr. SCOTT, Mr. EHRLICH, Mr. THOMPSON, Mr. PARKER, Mr. MCCRERY, Mr. GOODE, Mrs. MEEK of Florida, Mr. DOOLITTLE, Mr. GALLEGLY, Mr. POMEROY, Mr. BARR of Georgia, Mr. PETERSON of Minnesota, Mr. RILEY, Mr. GEKAS, Mr. GOODLATTE, Mrs. CHENOWETH, Mr. PITTS, Mrs. JOHNSON of Connecticut, Mr. FOLEY, Mr. SHAW, Mr. LEACH, Mr. BURTON of Indiana, Mr. TRAFICANT, Mr. BATEMAN, Mr. SUNUNU, Mr. KIND, Mr. SNYDER, Mrs. EMERSON, Mr. DEUTSCH, Mr. STENHOLM, Mr. SMITH of Michigan, Ms. ROS-LEHTINEN, Mr. SHADEGG, Mr. YOUNG of Florida, and Mrs. NORTHUP

OCTOBER 1, 1997

Referral to the Committee on Transportation and Infrastructure extended for a period ending not later than October 1, 1997

OCTOBER 1, 1997

The Committee on Transportation and Infrastructure discharged

OCTOBER 1, 1997

Referral to the Committee on Resources extended for a period ending not later than October 21, 1997

OCTOBER 1, 1997

Reported from the Committee on Commerce with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on April 10, 1997]

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## A BILL

To amend the Nuclear Waste Policy Act of 1982.

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

1 **SECTION 1. AMENDMENT OF NUCLEAR WASTE POLICY ACT**  
 2 **OF 1982.**

3 *The Nuclear Waste Policy Act of 1982 is amended to*  
 4 *read as follows:*

5 **“SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

6 *“(a) SHORT TITLE.—This Act may be cited as the ‘Nu-*  
 7 *clear Waste Policy Act of 1997’.*

8 *“(b) TABLE OF CONTENTS.—*

*“Sec. 1. Short title and table of contents.*

*“Sec. 2. Definitions.*

*“Sec. 3. Findings and purposes.*

*“TITLE I—OBLIGATIONS*

*“Sec. 101. Obligations of the Secretary of Energy.*

*“TITLE II—INTEGRATED MANAGEMENT SYSTEM*

*“Sec. 201. Intermodal transfer.*

*“Sec. 202. Transportation planning.*

*“Sec. 203. Transportation requirements.*

*“Sec. 204. Interim storage.*

*“Sec. 205. Permanent disposal.*

*“Sec. 206. Land withdrawal.*

*“Sec. 207. Private storage facilities.*

*“TITLE III—LOCAL RELATIONS*

*“Sec. 301. On-site representative.*

*“Sec. 302. Benefits agreements.*

*“Sec. 303. Content of agreements.*

*“Sec. 304. Acceptance of benefits.*

*“Sec. 305. Restriction on use of funds.*

*“Sec. 306. Initial land conveyances.*

*“Sec. 307. Payments equal to taxes.*

*“TITLE IV—FUNDING AND ORGANIZATION*

*“Sec. 401. Program funding.*

*“Sec. 402. Office of Civilian Radioactive Waste Management.*

*“Sec. 403. Defense contribution.*

*“TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS*

*“Sec. 501. Compliance with other laws.*

*“Sec. 502. Water rights.*

*“Sec. 503. Judicial review of agency actions.*

*“Sec. 504. Licensing of facility expansions and transshipments.*

- “Sec. 505. *Siting a second repository.*  
 “Sec. 506. *Financial arrangements for low-level radioactive waste site closure.*  
 “Sec. 507. *Nuclear Regulatory Commission training authorization.*  
 “Sec. 508. *Acceptance schedule.*  
 “Sec. 509. *Subseabed or ocean water disposal.*

“TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

- “Sec. 601. *Definitions.*  
 “Sec. 602. *Nuclear Waste Technical Review Board.*  
 “Sec. 603. *Functions.*  
 “Sec. 604. *Investigatory powers.*  
 “Sec. 605. *Compensation of members.*  
 “Sec. 606. *Staff.*  
 “Sec. 607. *Support services.*  
 “Sec. 608. *Report.*  
 “Sec. 609. *Authorization of appropriations.*  
 “Sec. 610. *Termination of the board.*

“TITLE VII—MANAGEMENT REFORM

- “Sec. 701. *Management reform initiatives.*  
 “Sec. 702. *Reporting.*

1 **“SEC. 2. DEFINITIONS.**

2 “For purposes of this Act:

3 “(1) *ACCEPT, ACCEPTANCE.*—The terms ‘accept’  
 4 and ‘acceptance’ mean the Secretary’s act of taking  
 5 possession of spent nuclear fuel or high-level radio-  
 6 active waste.

7 “(2) *ACCEPTANCE SCHEDULE.*—The term ‘ac-  
 8 ceptance schedule’ means the schedule established in  
 9 section 508 for acceptance of spent nuclear fuel and  
 10 high-level radioactive waste.

11 “(3) *AFFECTED INDIAN TRIBE.*—The term ‘af-  
 12 fected Indian tribe’ means any Indian tribe—

13 “(A) *within whose reservation boundaries*  
 14 *the interim storage facility or a repository for*

1           *spent nuclear fuel or high-level radioactive waste,*  
2           *or both, is proposed to be located; or*

3           “(B) *whose federally defined possessory or*  
4           *usage rights to other lands outside of the reserva-*  
5           *tion’s boundaries arising out of congressionally*  
6           *ratified treaties may be substantially and ad-*  
7           *versely affected by the locating of such a facility*  
8           *if the Secretary of the Interior finds, upon the*  
9           *petition of the appropriate governmental officials*  
10           *of the tribe, that such effects are both substantial*  
11           *and adverse to the tribe.*

12           “(4) *AFFECTED UNIT OF LOCAL GOVERNMENT.—*  
13           *The term ‘affected unit of local government’ means the*  
14           *unit of local government with jurisdiction over the*  
15           *site of a repository or interim storage facility. Such*  
16           *term may, at the discretion of the Secretary, include*  
17           *other units of local government that are contiguous*  
18           *with such unit.*

19           “(5) *ATOMIC ENERGY DEFENSE ACTIVITY.—The*  
20           *term ‘atomic energy defense activity’ means any ac-*  
21           *tivity of the Secretary performed in whole or in part*  
22           *in carrying out any of the following functions:*

23                   “(A) *Naval reactors development.*

24                   “(B) *Weapons activities including defense*  
25                   *inertial confinement fusion.*

1           “(C) *Verification and control technology.*

2           “(D) *Defense nuclear materials production.*

3           “(E) *Defense nuclear waste and materials*  
4           *byproducts management.*

5           “(F) *Defense nuclear materials security and*  
6           *safeguards and security investigations.*

7           “(G) *Defense research and development.*

8           “(6) *CIVILIAN NUCLEAR POWER REACTOR.—The*  
9           *term ‘civilian nuclear power reactor’ means a civilian*  
10          *nuclear power plant required to be licensed under sec-*  
11          *tion 103 or 104 b. of the Atomic Energy Act of 1954*  
12          *(42 U.S.C. 2133, 2134(b)).*

13          “(7) *COMMISSION.—The term ‘Commission’*  
14          *means the Nuclear Regulatory Commission.*

15          “(8) *DEPARTMENT.—The term ‘Department’*  
16          *means the Department of Energy.*

17          “(9) *DISPOSAL.—The term ‘disposal’ means the*  
18          *emplacement in a repository of spent nuclear fuel,*  
19          *high-level radioactive waste, or other highly radio-*  
20          *active material with no foreseeable intent of recovery,*  
21          *whether or not such emplacement permits recovery of*  
22          *such material for any future purpose.*

23          “(10) *DISPOSAL SYSTEM.—The term ‘disposal*  
24          *system’ means all natural barriers and engineered*  
25          *barriers, and engineered systems and components,*

1       that prevent the release of radionuclides from the re-  
2       pository.

3               “(11) *ENGINEERED BARRIERS.*—The terms ‘engi-  
4       neered barriers’ and ‘engineered systems and compo-  
5       nents,’ mean man made components of a disposal sys-  
6       tem. Such terms include the spent nuclear fuel or  
7       high-level radioactive waste form, spent nuclear fuel  
8       package or high-level radioactive waste package, and  
9       other materials placed over and around such pack-  
10      ages.

11              “(12) *HIGH-LEVEL RADIOACTIVE WASTE.*—The  
12      term ‘high-level radioactive waste’ means—

13                      “(A) the highly radioactive material result-  
14                      ing from the reprocessing of spent nuclear fuel,  
15                      including liquid waste produced directly in re-  
16                      processing and any solid material derived from  
17                      such liquid waste that contains fission products  
18                      in sufficient concentrations;

19                      “(B) the highly radioactive material result-  
20                      ing from atomic energy defense activities; and

21                      “(C) any other highly radioactive material  
22                      that the Commission, consistent with existing  
23                      law, determines by rule requires permanent iso-  
24                      lation.

1           “(13) *FEDERAL AGENCY*.—The term ‘Federal  
2           agency’ means any Executive agency, as defined in  
3           section 105 of title 5, United States Code.

4           “(14) *INDIAN TRIBE*.—The term ‘Indian tribe’  
5           means any Indian tribe, band, nation, or other orga-  
6           nized group or community of Indians recognized as  
7           eligible for the services provided to Indians by the  
8           Secretary of the Interior because of their status as In-  
9           dians including any Alaska Native village, as defined  
10          in section 3(c) of the Alaska Native Claims Settlement  
11          Act (43 U.S.C. 1602(c)).

12          “(15) *INTEGRATED MANAGEMENT SYSTEM*.—The  
13          term ‘integrated management system’ means the sys-  
14          tem developed by the Secretary for the acceptance,  
15          transportation, storage, and disposal of spent nuclear  
16          fuel and high-level radioactive waste.

17          “(16) *INTERIM STORAGE FACILITY*.—The term  
18          ‘interim storage facility’ means a facility designed  
19          and constructed for the receipt, handling, possession,  
20          safeguarding, and storage of spent nuclear fuel and  
21          high-level radioactive waste in accordance with title  
22          II of this Act.

23          “(17) *INTERIM STORAGE FACILITY SITE*.—The  
24          term ‘interim storage facility site’ means the specific  
25          site within Area 25 of the Nevada Test Site that is

1 *designated by the Secretary and withdrawn and re-*  
2 *served in accordance with this Act for the location of*  
3 *the interim storage facility.*

4 “(18) *LOW-LEVEL RADIOACTIVE WASTE.*—*The*  
5 *term ‘low-level radioactive waste’ means radioactive*  
6 *material that—*

7 “(A) *is not spent nuclear fuel, high-level ra-*  
8 *dioactive waste, transuranic waste, or byproduct*  
9 *material as defined in section 11 e.(2) of the*  
10 *Atomic Energy Act of 1954 (42 U.S.C.*  
11 *2014(e)(2)); and*

12 “(B) *the Commission, consistent with exist-*  
13 *ing law, classifies as low-level radioactive waste.*

14 “(19) *METRIC TONS URANIUM.*—*The terms ‘met-*  
15 *ric tons uranium’ and ‘MTU’ mean the amount of*  
16 *uranium in the original unirradiated fuel element*  
17 *whether or not the spent nuclear fuel has been repro-*  
18 *cessed.*

19 “(20) *NUCLEAR WASTE FUND.*—*The term ‘Nu-*  
20 *clear Waste Fund’ means the nuclear waste fund es-*  
21 *tablished in the United States Treasury prior to the*  
22 *date of enactment of this Act under section 302(c) of*  
23 *the Nuclear Waste Policy Act of 1982.*

24 “(21) *OFFICE.*—*The term ‘Office’ means the Of-*  
25 *fice of Civilian Radioactive Waste Management estab-*

1 *lished within the Department prior to the date of en-*  
2 *actment of this Act under the provisions of the Nu-*  
3 *clear Waste Policy Act of 1982.*

4 “(22) *PACKAGE.*—*The term ‘package’ means the*  
5 *primary container that holds, and is in direct contact*  
6 *with, solidified high-level radioactive waste, spent nu-*  
7 *clear fuel, or other radioactive materials and any*  
8 *overpack that are emplaced at a repository.*

9 “(23) *PROGRAM APPROACH.*—*The term ‘program*  
10 *approach’ means the Civilian Radioactive Waste*  
11 *Management Program Plan, dated May 1996, as*  
12 *modified by this Act, and as amended from time to*  
13 *time by the Secretary in accordance with this Act.*

14 “(24) *REPOSITORY.*—*The term ‘repository’*  
15 *means a system designed and constructed under title*  
16 *II of this Act for the permanent geologic disposal of*  
17 *spent nuclear fuel and high-level radioactive waste,*  
18 *including both surface and subsurface areas at which*  
19 *spent nuclear fuel and high-level radioactive waste re-*  
20 *ceipt, handling, possession, safeguarding, and storage*  
21 *are conducted.*

22 “(25) *SECRETARY.*—*The term ‘Secretary’ means*  
23 *the Secretary of Energy.*

24 “(26) *SITE CHARACTERIZATION.*—*The term ‘site*  
25 *characterization’ means activities, whether in a lab-*

1        *oratory or in the field, undertaken to establish the*  
2        *geologic condition and the ranges of the parameters of*  
3        *a candidate site relevant to the location of a reposi-*  
4        *tory, including borings, surface excavations, exca-*  
5        *vations of exploratory facilities, limited subsurface*  
6        *lateral excavations and borings, and in situ testing*  
7        *needed to evaluate the licensability of a candidate site*  
8        *for the location of a repository, but not including pre-*  
9        *liminary borings and geophysical testing needed to*  
10       *assess whether site characterization should be under-*  
11       *taken.*

12            *“(27) SPENT NUCLEAR FUEL.—The term ‘spent*  
13        *nuclear fuel’ means fuel that has been withdrawn*  
14        *from a nuclear reactor following irradiation, the con-*  
15        *stituent elements of which have not been separated by*  
16        *reprocessing.*

17            *“(28) STORAGE.—The term ‘storage’ means re-*  
18        *tention of spent nuclear fuel or high-level radioactive*  
19        *waste with the intent to recover such waste or fuel for*  
20        *subsequent use, processing, or disposal.*

21            *“(29) WITHDRAWAL.—The term ‘withdrawal’ has*  
22        *the same definition as that set forth in the Federal*  
23        *Land Policy and Management Act (43 U.S.C. 1702 et*  
24        *seq.).*

1           “(30) *YUCCA MOUNTAIN SITE*.—*The term ‘Yucca*  
2           *Mountain site’ means the area in the State of Nevada*  
3           *that is withdrawn and reserved in accordance with*  
4           *this Act for the location of a repository.*

5   **“SEC. 3. FINDINGS AND PURPOSES.**

6           “(a) *FINDINGS*.—*The Congress finds that—*

7                   “(1) *while spent nuclear fuel can be safely stored*  
8                   *at reactor sites, the expeditious movement to and stor-*  
9                   *age of such spent nuclear fuel at a centralized Federal*  
10                  *facility will enhance the nation’s environmental pro-*  
11                  *tection;*

12                   “(2) *while the Federal Government has the re-*  
13                   *sponsibility to provide for the centralized interim*  
14                   *storage and permanent disposal of spent nuclear fuel*  
15                   *and high-level radioactive waste to protect the public*  
16                   *health and safety and the environment, the costs of*  
17                   *such storage and disposal should be the responsibility*  
18                   *of the generators and owners of such waste and fuel,*  
19                   *including the Federal Government;*

20                   “(3) *in the interests of protecting the public*  
21                   *health and safety, enhancing the nation’s environ-*  
22                   *mental protection, promoting the nation’s energy se-*  
23                   *curity, and ensuring the Secretary’s ability to com-*  
24                   *mence acceptance of spent nuclear fuel and high-level*  
25                   *radioactive waste no later than January 31, 2002, it*

1 *is necessary for Congress to authorize the interim*  
2 *storage facility;*

3 *“(4) deficit-control measures designed to limit*  
4 *appropriation of general revenues have limited the*  
5 *availability of the Nuclear Waste Fund for its in-*  
6 *tended purposes; and*

7 *“(5) the Federal Government has the responsibil-*  
8 *ity to provide for the permanent disposal of waste*  
9 *generated from United States atomic energy defense*  
10 *activities.*

11 *“(b) PURPOSES.—The purposes of this Act are—*

12 *“(1) to direct the Secretary to develop an inte-*  
13 *grated management system in accordance with this*  
14 *Act so that the Department can accept spent nuclear*  
15 *fuel or high-level radioactive waste for interim storage*  
16 *commencing no later than January 31, 2002, and for*  
17 *permanent disposal at a repository commencing no*  
18 *later than January 17, 2010;*

19 *“(2) to provide for the siting, construction, and*  
20 *operation of a repository for permanent geologic dis-*  
21 *posal of spent nuclear fuel and high-level radioactive*  
22 *waste in order to adequately protect the public and*  
23 *the environment;*

24 *“(3) to take those actions necessary to ensure*  
25 *that the consumers of nuclear energy, who are fund-*

1        *ing the Secretary’s activities under this Act, receive*  
2        *the services to which they are entitled and realize the*  
3        *benefits of enhanced protection of public health and*  
4        *safety, and the environment, that will ensue from the*  
5        *Secretary’s compliance with the obligations imposed*  
6        *by this Act; and*

7                *“(4) to provide a schedule and process for the ex-*  
8        *peditious and safe development and commencement of*  
9        *operation of an integrated management system and*  
10        *any necessary modifications to the transportation in-*  
11        *frastructure to ensure that the Secretary can com-*  
12        *mence acceptance of spent nuclear fuel and high-level*  
13        *radioactive waste no later than January 31, 2002.*

14                **“TITLE I—OBLIGATIONS**

15        **“SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.**

16                *“(a) DISPOSAL.—The Secretary shall develop and op-*  
17        *erate a repository for the permanent geologic disposal of*  
18        *spent nuclear fuel and high-level radioactive waste.*

19                *“(b) ACCEPTANCE.—The Secretary shall accept spent*  
20        *nuclear fuel and high-level radioactive waste for storage at*  
21        *the interim storage facility pursuant to section 204 in ac-*  
22        *cordance with the acceptance schedule, beginning not later*  
23        *than January 31, 2002.*

1       “(c) *TRANSPORTATION.*—*The Secretary shall provide*  
2 *for the transportation of spent nuclear fuel and high-level*  
3 *radioactive waste accepted by the Secretary.*

4       “(d) *INTEGRATED MANAGEMENT SYSTEM.*—*The Sec-*  
5 *retary shall expeditiously pursue the development of each*  
6 *component of the integrated management system, and in*  
7 *so doing shall seek to utilize effective private sector manage-*  
8 *ment and contracting practices.*

9                   **“TITLE II—INTEGRATED**  
10                   **MANAGEMENT SYSTEM**

11       **“SEC. 201. INTERMODAL TRANSFER.**

12       “(a) *TRANSPORTATION.*—*The Secretary shall utilize*  
13 *heavy-haul truck transport to move spent nuclear fuel and*  
14 *high-level radioactive waste from the mainline rail line at*  
15 *Caliente, Nevada, to the interim storage facility site. If di-*  
16 *rect rail access becomes available to the interim storage fa-*  
17 *cility site, the Secretary may use rail transportation to*  
18 *meet the requirements of this title.*

19       “(b) *CAPABILITY DATE.*—*The Secretary shall develop*  
20 *the capability to commence rail to truck intermodal trans-*  
21 *fer at Caliente, Nevada, no later than January 31, 2002.*

22       “(c) *ACQUISITIONS.*—*The Secretary shall acquire*  
23 *lands and rights-of-way necessary to commence intermodal*  
24 *transfer at Caliente, Nevada.*

1       “(d) *REPLACEMENTS.*—*The Secretary shall acquire*  
2 *and develop on behalf of, and dedicate to, the City of*  
3 *Caliente, Nevada, parcels of land and rights-of-way as re-*  
4 *quired to facilitate replacement of land and city wastewater*  
5 *disposal activities necessary to commence intermodal trans-*  
6 *fer pursuant to this Act. Replacement of land and city*  
7 *wastewater disposal activities shall occur no later than*  
8 *January 31, 2002.*

9       “(e) *NOTICE AND MAP.*—*Within 6 months of the date*  
10 *of enactment of this Act, the Secretary shall—*

11               “(1) *publish in the Federal Register a notice con-*  
12 *taining a legal description of the sites and rights-of-*  
13 *way to be acquired under this section; and*

14               “(2) *file copies of a map of such sites and rights-*  
15 *of-way with the Congress, the Secretary of the Inte-*  
16 *rior, the State of Nevada, the Archivist of the United*  
17 *States, the Board of Lincoln County Commissioners,*  
18 *the Board of Nye County Commissioners, and the*  
19 *Caliente City Council.*

20 *Such map and legal description shall have the same force*  
21 *and effect as if they were included in this Act. The Sec-*  
22 *retary may correct clerical and typographical errors in*  
23 *legal descriptions and make minor adjustments in the*  
24 *boundaries.*

1       “(f) *IMPROVEMENTS.*—*The Secretary shall make im-*  
2 *provements to existing roadways selected for heavy-haul*  
3 *truck transport between Caliente, Nevada, and the interim*  
4 *storage facility site as necessary to facilitate year-round*  
5 *safe transport of spent nuclear fuel and high-level radio-*  
6 *active waste.*

7       “(g) *HEAVY-HAUL TRANSPORTATION ROUTE.*—

8               “(1) *DESIGNATION OF ROUTE.*—*The route for the*  
9 *heavy-haul truck transport of spent nuclear fuel and*  
10 *high-level radioactive waste shall be as designated in*  
11 *the map dated July 21, 1997 (referred to as ‘Heavy-*  
12 *Haul Route’)* and on file with the Secretary.

13              “(2) *TRUCK TRANSPORTATION.*—*The Secretary,*  
14 *in consultation with the State of Nevada and appro-*  
15 *priate counties and local jurisdictions, shall establish*  
16 *reasonable terms and conditions pursuant to which*  
17 *the Secretary may utilize heavy-haul truck transport*  
18 *to move spent nuclear fuel and high-level radioactive*  
19 *waste from Caliente, Nevada, to the interim storage*  
20 *facility site.*

21              “(3) *IMPROVEMENTS AND MAINTENANCE.*—*Not-*  
22 *withstanding any other law—*

23                      “(A) *the Secretary shall be responsible for*  
24 *any incremental costs related to improving or*  
25 *upgrading Federal, State, and local roads within*

1           *the heavy-haul transportation route utilized, and*  
2           *performing any maintenance activities on such*  
3           *roads, as necessary, to facilitate year-round safe*  
4           *transport of spent nuclear fuel and high-level ra-*  
5           *dioactive waste; and*

6                   “(B) *any such improvement, upgrading, or*  
7           *maintenance activity shall be funded solely by*  
8           *appropriations made pursuant to sections 401*  
9           *and 403 of this Act.*

10           “(h) *LOCAL GOVERNMENT INVOLVEMENT.—The Com-*  
11           *mission shall enter into a Memorandum of Understanding*  
12           *with the City of Caliente and Lincoln County, Nevada, to*  
13           *provide advice to the Commission regarding intermodal*  
14           *transfer and to facilitate on-site representation. Reasonable*  
15           *expenses of such representation shall be paid by the Sec-*  
16           *retary.*

17           **“SEC. 202. TRANSPORTATION PLANNING.**

18           “(a) *TRANSPORTATION READINESS.—The Secretary*  
19           *shall take those actions that are necessary and appropriate*  
20           *to ensure that the Secretary is able to accept and transport*  
21           *spent nuclear fuel and high-level radioactive waste begin-*  
22           *ning not later than January 31, 2002. As soon as is prac-*  
23           *ticable following the enactment of this Act, the Secretary*  
24           *shall analyze each specific reactor facility in the order of*  
25           *priority established in the acceptance schedule, and develop*

1 *a logistical plan to assure the Secretary's ability to trans-*  
2 *port spent nuclear fuel and high-level radioactive waste.*

3       “(b) *TRANSPORTATION PLANNING.*—*In conjunction*  
4 *with the development of the logistical plan in accordance*  
5 *with subsection (a), the Secretary shall update and modify,*  
6 *as necessary, the Secretary's transportation institutional*  
7 *plans to ensure that institutional issues are addressed and*  
8 *resolved on a schedule to support the commencement of*  
9 *transportation of spent nuclear fuel and high-level radio-*  
10 *active waste to the interim storage facility no later than*  
11 *January 31, 2002. Among other things, such planning shall*  
12 *provide a schedule and process for addressing and imple-*  
13 *menting, as necessary, transportation routing plans, trans-*  
14 *portation contracting plans, transportation training in ac-*  
15 *cordance with section 203, and transportation tracking pro-*  
16 *grams.*

17 **“SEC. 203. TRANSPORTATION REQUIREMENTS.**

18       “(a) *PACKAGE CERTIFICATION.*—*No spent nuclear fuel*  
19 *or high-level radioactive waste may be transported by or*  
20 *for the Secretary under this Act except in packages that*  
21 *have been certified for such purposes by the Commission.*

22       “(b) *STATE NOTIFICATION.*—*The Secretary shall abide*  
23 *by regulations of the Commission regarding advance notifi-*  
24 *cation of State and local governments prior to transpor-*

1 *tation of spent nuclear fuel or high-level radioactive waste*  
2 *under this Act.*

3 “(c) *TECHNICAL ASSISTANCE.*—

4 “(1) *IN GENERAL.*—*The Secretary shall provide*  
5 *technical assistance and funds to States, affected units*  
6 *of local government, and Indian tribes through whose*  
7 *jurisdiction the Secretary plans to transport substan-*  
8 *tial amounts of spent nuclear fuel or high-level radio-*  
9 *active waste for training for public safety officials of*  
10 *appropriate units of local government. Training shall*  
11 *cover procedures required for safe routine transpor-*  
12 *tation of these materials, as well as procedures for*  
13 *dealing with emergency response situations. The Sec-*  
14 *retary’s duty to provide technical and financial as-*  
15 *sistance under this subsection shall be limited to*  
16 *amounts specified in annual appropriations.*

17 “(2) *EMPLOYEE ORGANIZATIONS.*—

18 “(A) *IN GENERAL.*—*The Secretary shall*  
19 *provide technical assistance and funds for train-*  
20 *ing directly to nonprofit employee organizations*  
21 *and joint labor-management organizations that*  
22 *demonstrate experience in implementing and op-*  
23 *erating worker health and safety training and*  
24 *education programs and demonstrate the ability*  
25 *to reach and involve in training programs target*

1           *populations of workers who are or will be di-*  
2           *rectly engaged in the transportation of spent nu-*  
3           *clear fuel and high-level radioactive waste or*  
4           *emergency response or post-emergency response*  
5           *with respect to such transportation.*

6           “(B) *TRAINING.*—*Training under this para-*  
7           *graph—*

8                   “(i) *shall cover procedures required for*  
9                   *safe routine transportation of materials and*  
10                   *procedures for dealing with emergency re-*  
11                   *sponse situations;*

12                   “(ii) *shall be consistent with any*  
13                   *training standards established by the Sec-*  
14                   *retary of Transportation; and*

15                   “(iii) *shall include—*

16                           “(I) *a training program applica-*  
17                           *ble to persons responsible for respond-*  
18                           *ing to emergency situations occurring*  
19                           *during the removal and transportation*  
20                           *of spent nuclear fuel and high-level ra-*  
21                           *dioactive waste;*

22                           “(II) *instruction of public safety*  
23                           *officers in procedures for the command*  
24                           *and control of the response to any inci-*  
25                           *dent involving the waste; and*

1                   “(III) instruction of radiological  
2                   protection and emergency medical per-  
3                   sonnel in procedures for responding to  
4                   an incident involving spent nuclear  
5                   fuel or high-level radioactive waste  
6                   being transported.

7                   “(3) GRANTS.—To implement this subsection,  
8                   grants shall be made under section 401(c).

9                   “(4) MINIMIZING DUPLICATION OF EFFORT AND  
10                  EXPENSES.—The Secretaries of Transportation,  
11                  Labor, and Energy, Directors of the Federal Emer-  
12                  gency Management Agency and National Institute of  
13                  Environmental Health Sciences, the Nuclear Regu-  
14                  latory Commission, and Administrator of the Envi-  
15                  ronmental Protection Agency shall review periodi-  
16                  cally, with the head of each department, agency, or  
17                  instrumentality of the Government, all emergency re-  
18                  sponse and preparedness training programs of that  
19                  department, agency, or instrumentality to minimize  
20                  duplication of effort and expense of the department,  
21                  agency, or instrumentality in carrying out the pro-  
22                  grams and shall take necessary action to minimize  
23                  duplication.

24                  “(d) USE OF PRIVATE CARRIERS.—The Secretary, in  
25                  providing for the transportation of spent nuclear fuel and

1 *high-level radioactive waste under this Act, shall by con-*  
2 *tract use private industry to the fullest extent possible in*  
3 *each aspect of such transportation. The Secretary shall use*  
4 *direct Federal services for such transportation only upon*  
5 *a determination by the Secretary of Transportation, in con-*  
6 *sultation with the Secretary, that private industry is un-*  
7 *able or unwilling to provide such transportation services*  
8 *at a reasonable cost.*

9       “(e) *TRANSFER OF TITLE.*—Acceptance by the Sec-  
10 *retary of any spent nuclear fuel or high-level radioactive*  
11 *waste shall constitute a transfer of title to the Secretary.*

12       “(f) *EMPLOYEE PROTECTION.*—Any person engaged in  
13 *the interstate commerce of spent nuclear fuel or high-level*  
14 *radioactive waste under contract to the Secretary pursuant*  
15 *to this Act shall be subject to and comply fully with the*  
16 *employee protection provisions of section 20109 of title 49,*  
17 *United States Code (in the case of employees of railroad*  
18 *carriers), and section 31105 of title 49, United States Code*  
19 *(in the case of employees operating commercial motor vehi-*  
20 *cles), or the Commission (in the case of all other employees).*

21       “(g) *TRAINING STANDARD.*—

22               “(1) *REGULATION.*—No later than 12 months  
23 *after the date of enactment of this Act, the Secretary*  
24 *of Transportation, pursuant to authority under other*  
25 *provisions of law, in consultation with the Secretary*

1       of Labor and the Commission, shall promulgate a reg-  
2       ulation establishing training standards applicable to  
3       workers directly involved in the removal and trans-  
4       portation of spent nuclear fuel and high-level radio-  
5       active waste. The regulation shall specify minimum  
6       training standards applicable to workers, including  
7       managerial personnel. The regulation shall require  
8       that the employer possess evidence of satisfaction of  
9       the applicable training standard before any individ-  
10      ual may be employed in the removal and transpor-  
11      tation of spent nuclear fuel and high-level radioactive  
12      waste.

13               “(2) SECRETARY OF TRANSPORTATION.—If the  
14      Secretary of Transportation determines, in promul-  
15      gating the regulation required by paragraph (1), that  
16      regulations promulgated by the Commission establish  
17      adequate training standards for workers, then the  
18      Secretary of Transportation can refrain from promul-  
19      gating additional regulations with respect to worker  
20      training in such activities. The Secretary of Trans-  
21      portation and the Commission shall use their Memo-  
22      randum of Understanding to ensure coordination of  
23      worker training standards and to avoid duplicative  
24      regulation.

1           “(3) *TRAINING STANDARDS CONTENT.*—*The*  
2           *training standards required to be promulgated under*  
3           *paragraph (1) shall, among other things deemed nec-*  
4           *essary and appropriate by the Secretary of Transpor-*  
5           *tation, include the following provisions—*

6                     “(A) *a specified minimum number of hours*  
7                     *of initial off site instruction and actual field ex-*  
8                     *perience under the direct supervision of a*  
9                     *trained, experienced supervisor;*

10                    “(B) *a requirement that onsite managerial*  
11                    *personnel receive the same training as workers,*  
12                    *and a minimum number of additional hours of*  
13                    *specialized training pertinent to their manage-*  
14                    *rial responsibilities; and*

15                    “(C) *a training program applicable to per-*  
16                    *sons responsible for responding to and cleaning*  
17                    *up emergency situations occurring during the re-*  
18                    *moval and transportation of spent nuclear fuel*  
19                    *and high-level radioactive waste.*

20           “(4) *AUTHORIZATION.*—*There is authorized to be*  
21           *appropriated to the Secretary of Transportation, from*  
22           *general revenues, such sums as may be necessary to*  
23           *perform his duties under this subsection.*

1 **“SEC. 204. INTERIM STORAGE.**

2       “(a) *AUTHORIZATION.*—*The Secretary shall design,*  
3 *construct, and operate a facility for the interim storage of*  
4 *spent nuclear fuel and high-level radioactive waste at the*  
5 *interim storage facility site. The interim storage facility*  
6 *shall be subject to licensing pursuant to the Atomic Energy*  
7 *Act of 1954 (42 U.S.C. 2011 et seq.) in accordance with*  
8 *the Commission’s regulations governing the licensing of*  
9 *independent spent fuel storage installations and shall com-*  
10 *mence operation in phases by January 31, 2002. The in-*  
11 *terim storage facility shall store spent nuclear fuel and*  
12 *high-level radioactive waste until the Secretary is able to*  
13 *transfer such fuel and waste to the repository.*

14       “(b) *DESIGN.*—*The design of the interim storage facil-*  
15 *ity shall provide for the use of storage technologies licensed*  
16 *or certified by the Commission for use at the interim storage*  
17 *facility as necessary to ensure compatibility between the in-*  
18 *terim storage facility and contract holders’ spent nuclear*  
19 *fuel and facilities, and to facilitate the Secretary’s ability*  
20 *to meet the Secretary’s obligations under this Act.*

21       “(c) *LICENSING.*—

22               “(1) *PHASES.*—*The interim storage facility shall*  
23 *be licensed by the Commission in two phases in order*  
24 *to commence operations no later than January 31,*  
25 *2002.*

1           “(2) *FIRST PHASE.*—No later than 12 months  
2           after the date of enactment of this Act, the Secretary  
3           shall submit to the Commission an application for a  
4           license for the first phase of the interim storage facil-  
5           ity. The license issued for the first phase of the in-  
6           terim storage facility shall have a term of 20 years.  
7           The interim storage facility licensed in the first phase  
8           shall have a capacity of not more than 10,000 MTU.  
9           The Commission shall issue a final decision granting  
10          or denying the application for the first phase license  
11          no later than 36 months from the date of the submit-  
12          tal of the application for such license.

13           “(3) *SECOND PHASE.*—The Secretary shall sub-  
14          mit to the Commission an application for a license  
15          for the second phase interim storage facility. The li-  
16          cense for the second phase facility shall authorize a  
17          storage capacity of 40,000 MTU. The license for the  
18          second phase shall have an initial term of up to 100  
19          years, and shall be renewable for additional terms  
20          upon application of the Secretary.

21          “(d) *ADDITIONAL AUTHORITY.*—

22           “(1) *CONSTRUCTION.*—For the purpose of com-  
23          plying with subsection (a), the Secretary may com-  
24          mence site preparation for the interim storage facility  
25          as soon as practicable after the date of enactment of

1        *this Act and shall commence construction of the first*  
2        *phase of the interim storage facility subsequent to*  
3        *submittal of the license application except that the*  
4        *Commission shall issue an order suspending such con-*  
5        *struction at any time if the Commission determines*  
6        *that such construction poses an unreasonable risk to*  
7        *public health and safety or the environment. The*  
8        *Commission shall terminate all or part of such order*  
9        *upon a determination that the Secretary has taken*  
10       *appropriate action to eliminate such risk.*

11            *“(2) FACILITY USE.—Notwithstanding any oth-*  
12        *erwise applicable licensing requirement, the Secretary*  
13        *may utilize any facility owned by the Federal Gov-*  
14        *ernment on the date of enactment of this Act and*  
15        *within the boundaries of the interim storage facility*  
16        *site, in connection with an imminent and substantial*  
17        *endangerment to public health and safety at the in-*  
18        *terim storage facility prior to commencement of oper-*  
19        *ations during the second phase.*

20            *“(e) NATIONAL ENVIRONMENTAL POLICY ACT OF*  
21        *1969.—*

22            *“(1) PRELIMINARY DECISIONMAKING ACTIVI-*  
23        *TIES.—The Secretary’s activities under this section,*  
24        *including the selection of a site for the interim storage*  
25        *facility, the preparation and submittal of any license*

1        *application, and the construction and operation of*  
2        *any facility shall be considered preliminary decision-*  
3        *making activities for purposes of the National Envi-*  
4        *ronmental Policy Act of 1969 (42 U.S.C. 4321 et*  
5        *seq.). No such activity shall require the preparation*  
6        *of an environmental impact statement under section*  
7        *102(2)(C) of the National Environmental Policy Act*  
8        *of 1969 (42 U.S.C. 4332(2)(C)) or require any envi-*  
9        *ronmental review under subparagraph (E) or (F) of*  
10       *such Act.*

11            *“(2) ENVIRONMENTAL IMPACT STATEMENT.—*

12                    *“(A) FINAL DECISION.—A final decision of*  
13                    *the Commission to grant or deny a license appli-*  
14                    *cation for the first or second phase of the interim*  
15                    *storage facility shall be accompanied by an En-*  
16                    *vironmental Impact Statement prepared under*  
17                    *section 102(2)(C) of the National Environmental*  
18                    *Policy Act of 1969 (42 U.S.C. 4332(2)(C)). In*  
19                    *preparing such Environmental Impact State-*  
20                    *ment, the Commission—*

21                            *“(i) shall assume that 40,000 MTU*  
22                            *will be stored at the facility; and*

23                            *“(ii) shall analyze the impacts of the*  
24                            *transportation of spent nuclear fuel and*

1 *high-level radioactive waste to the interim*  
2 *storage facility in a generic manner.*

3 “(B) *CONSIDERATIONS.—Such Environ-*  
4 *mental Impact Statement shall not consider—*

5 *“(i) the need for the interim storage fa-*  
6 *ility, including any individual component*  
7 *thereof;*

8 *“(ii) the time of the initial availability*  
9 *of the interim storage facility;*

10 *“(iii) any alternatives to the storage of*  
11 *spent nuclear fuel and high-level radioactive*  
12 *waste at the interim storage facility;*

13 *“(iv) any alternatives to the site of the*  
14 *facility as designated by the Secretary in*  
15 *accordance with subsection (a);*

16 *“(v) any alternatives to the design cri-*  
17 *teria for such facility or any individual*  
18 *component thereof, as specified by the Sec-*  
19 *retary in the license application; or*

20 *“(vi) the environmental impacts of the*  
21 *storage of spent nuclear fuel and high-level*  
22 *radioactive waste at the interim storage fa-*  
23 *ility beyond the initial term of the license*  
24 *or the term of the renewal period for which*  
25 *a license renewal application is made.*

1           “(f) *JUDICIAL REVIEW.*—*Judicial review of the Com-*  
2 *mission’s environmental impact statement under the Na-*  
3 *tional Environmental Policy Act of 1969 (42 U.S.C. 4321*  
4 *et seq.) shall be consolidated with judicial review of the*  
5 *Commission’s licensing decision. No court shall have juris-*  
6 *isdiction to enjoin the construction or operation of the in-*  
7 *terim storage facility prior to its final decision on review*  
8 *of the Commission’s licensing action.*

9           “(g) *WASTE CONFIDENCE.*—*The Secretary’s obligation*  
10 *to construct and operate the interim storage facility in ac-*  
11 *cordance with this section and the Secretary’s obligation to*  
12 *develop an integrated management system in accordance*  
13 *with the provisions of this Act, shall provide sufficient and*  
14 *independent grounds for any further findings by the Com-*  
15 *mission of reasonable assurance that spent nuclear fuel and*  
16 *high-level radioactive waste will be disposed of safely and*  
17 *on a timely basis for purposes of the Commission’s decision*  
18 *to grant or amend any license to operate any civilian nu-*  
19 *clear power reactor under the Atomic Energy Act of 1954*  
20 *(42 U.S.C. 2011 et seq.).*

21           “(h) *SAVINGS CLAUSE.*—*Nothing in this Act shall af-*  
22 *fect the Commission’s procedures for the licensing of any*  
23 *technology for the dry storage of spent nuclear fuel at the*  
24 *site of any civilian nuclear power reactor as adopted by*  
25 *the Commission under section 218 of the Nuclear Waste Pol-*

1 *icy Act of 1982, as in effect prior to the date of the enact-*  
2 *ment of this Act. The establishment of such procedures shall*  
3 *not preclude the licensing, under any applicable procedures*  
4 *or rules of the Commission in effect prior to such establish-*  
5 *ment, of any technology for the storage of civilian spent*  
6 *nuclear fuel at the site of any civilian nuclear power reac-*  
7 *tor.*

8 **“SEC. 205. PERMANENT DISPOSAL.**

9 “(a) *SITE CHARACTERIZATION.*—

10 “(1) *GUIDELINES.*—*The guidelines promulgated*  
11 *by the Secretary and published at 10 CFR part 960*  
12 *are annulled and revoked and the Secretary shall*  
13 *make no assumptions or conclusions about the*  
14 *licensability of the Yucca Mountain site as a reposi-*  
15 *tory by reference to such guidelines.*

16 “(2) *SITE CHARACTERIZATION ACTIVITIES.*—*The*  
17 *Secretary shall carry out appropriate site character-*  
18 *ization activities at the Yucca Mountain site in ac-*  
19 *cordance with the Secretary’s program approach to*  
20 *site characterization if the Secretary modifies or*  
21 *eliminates those site characterization activities de-*  
22 *signed to demonstrate the suitability of the site under*  
23 *the guidelines referenced in paragraph (1).*

24 “(3) *DATE.*—*No later than December 31, 2002,*  
25 *the Secretary shall apply to the Commission for au-*

1        *thorization to construct a repository that will com-*  
2        *mence operations no later than January 17, 2010. If,*  
3        *at any time prior to the filing of such application,*  
4        *the Secretary determines that the Yucca Mountain*  
5        *site cannot satisfy the Commission’s regulations ap-*  
6        *plicable to the licensing of a geologic repository, the*  
7        *Secretary shall terminate site characterization activi-*  
8        *ties at the site, notify Congress and the State of Ne-*  
9        *vada of the Secretary’s determination and the reasons*  
10       *therefor, and recommend to Congress not later than 6*  
11       *months after such determination further actions, in-*  
12       *cluding the enactment of legislation, that may be*  
13       *needed to manage the Nation’s spent nuclear fuel and*  
14       *high-level radioactive waste.*

15            *“(4) MAXIMIZING CAPACITY.—In developing an*  
16        *application for authorization to construct the reposi-*  
17        *tory, the Secretary shall seek to maximize the capac-*  
18        *ity of the repository.*

19            *“(b) LICENSING.—Within one year of the date of enact-*  
20        *ment of this Act, the Commission shall amend its regula-*  
21        *tions governing the disposal of spent nuclear fuel and high-*  
22        *level radioactive waste in geologic repositories to the extent*  
23        *necessary to comply with this Act. Subject to subsection (c),*  
24        *such regulations shall provide for the licensing of the reposi-*  
25        *tory according to the following procedures:*

1           “(1) *CONSTRUCTION AUTHORIZATION.*—*The*  
2           *Commission shall grant the Secretary a construction*  
3           *authorization for the repository upon determining*  
4           *that there is reasonable assurance that spent nuclear*  
5           *fuel and high-level radioactive waste can be disposed*  
6           *of in the repository—*

7                     “(A) *in conformity with the Secretary’s ap-*  
8                     *plication, the provisions of this Act, and the reg-*  
9                     *ulations of the Commission;*

10                    “(B) *with adequate protection of the health*  
11                    *and safety of the public; and*

12                    “(C) *consistent with the common defense*  
13                    *and security.*

14           “(2) *LICENSE.*—*Following substantial comple-*  
15           *tion of construction and the filing of any additional*  
16           *information needed to complete the license applica-*  
17           *tion, the Commission shall issue a license to dispose*  
18           *of spent nuclear fuel and high-level radioactive waste*  
19           *in the repository if the Commission determines that*  
20           *the repository has been constructed and will operate—*

21                     “(A) *in conformity with the Secretary’s ap-*  
22                     *plication, the provisions of this Act, and the reg-*  
23                     *ulations of the Commission;*

24                     “(B) *with adequate protection of the health*  
25                     *and safety of the public; and*

1           “(C) consistent with the common defense  
2           and security.

3           “(3) CLOSURE.—After emplacing spent nuclear  
4           fuel and high-level radioactive waste in the repository  
5           and collecting sufficient confirmatory data on reposi-  
6           tory performance to reasonably confirm the basis for  
7           repository closure consistent with the Commission’s  
8           regulations applicable to the licensing of a repository,  
9           as modified in accordance with this Act, the Secretary  
10          shall apply to the Commission to amend the license  
11          to permit permanent closure of the repository. The  
12          Commission shall grant such license amendment upon  
13          finding that there is reasonable assurance that the re-  
14          pository can be permanently closed—

15                 “(A) in conformity with the Secretary’s ap-  
16                 plication to amend the license, the provisions of  
17                 this Act, and the regulations of the Commission;

18                 “(B) with adequate protection of the health  
19                 and safety of the public; and

20                 “(C) consistent with the common defense  
21                 and security.

22           “(4) POST-CLOSURE.—The Secretary shall take  
23           those actions necessary and appropriate at the Yucca  
24           Mountain site to prevent any activity at the site sub-

1        *sequent to repository closure that poses an unreason-*  
2        *able risk of—*

3                *“(A) breaching the repository’s engineered*  
4                *or geologic barriers: or*

5                *“(B) increasing the exposure of individual*  
6                *members of the public to radiation beyond the re-*  
7                *lease standard established in subsection (d)(1).*

8                *“(c) MODIFICATION OF REPOSITORY LICENSING PRO-*  
9        *CEDURE.—The Commission’s regulations shall provide for*  
10        *the modification of the repository licensing procedure, as*  
11        *appropriate, in the event that the Secretary seeks a license*  
12        *to permit the emplacement in the repository, on a retriev-*  
13        *able basis, of only that quantity of spent nuclear fuel or*  
14        *high-level radioactive waste that is necessary to provide the*  
15        *Secretary with sufficient confirmatory data on repository*  
16        *performance to reasonably confirm the basis for repository*  
17        *closure consistent with applicable regulations.*

18                *“(d) LICENSING STANDARDS.—Notwithstanding any*  
19        *other provision of law, the Administrator of the Environ-*  
20        *mental Protection Agency shall not promulgate, by rule or*  
21        *otherwise, standards for protection of the public from re-*  
22        *leases of radioactive materials or radioactivity from the re-*  
23        *pository and any such standards existing on the date of*  
24        *enactment of this Act shall not be incorporated in the Com-*  
25        *mission’s licensing regulations. The Commission’s repositi-*

1 *tory licensing determinations for the protection of the pub-*  
2 *lic shall be based solely on a finding whether the repository*  
3 *can be operated in conformance with the overall system per-*  
4 *formance standard established in paragraph (1)(A) and ap-*  
5 *plied in accordance with the provisions of paragraph*  
6 *(1)(B). The Commission shall amend its regulations in ac-*  
7 *cordance with subsection (b) to incorporate each of the fol-*  
8 *lowing licensing standards:*

9           “(1) *RELEASE STANDARD.—*

10                   “(A) *ESTABLISHMENT OF OVERALL SYSTEM*  
11 *PERFORMANCE STANDARD.—The standard for*  
12 *protection of the public from release of radio-*  
13 *active material or radioactivity from the reposi-*  
14 *tory shall prohibit releases that would expose an*  
15 *average member of the general population in the*  
16 *vicinity of the Yucca Mountain site to an annual*  
17 *dose in excess of 100 millirems unless the Com-*  
18 *mission, in consultation with the Administrator*  
19 *of the Environmental Protection Agency, deter-*  
20 *mines by rule that such standard would not pro-*  
21 *vide for adequate protection of the health and*  
22 *safety of the public and establishes by rule an-*  
23 *other standard which will provide for adequate*  
24 *protection of the health and safety of the public.*

1           *Such standard shall constitute an overall system*  
2           *performance standard.*

3           “(B) *APPLICATION OF OVERALL SYSTEM*  
4           *PERFORMANCE STANDARD.—The Commission*  
5           *shall issue the license if it finds reasonable assur-*  
6           *ance that—*

7                   “(i) *for the first 1,000 years following*  
8                   *the commencement of repository operations,*  
9                   *the overall system performance standard*  
10                  *will be met based on a deterministic or*  
11                  *probabilistic evaluation of the overall per-*  
12                  *formance of the disposal system; and*

13                   “(ii) *for the period commencing after*  
14                   *the first 1,000 years of operation of the re-*  
15                   *pository and terminating at 10,000 years*  
16                   *after the commencement of operation of the*  
17                   *repository, there is likely to be compliance*  
18                   *with the overall system performance stand-*  
19                   *ard based on regulatory insight gained*  
20                   *through the use of a probabilistic integrated*  
21                   *performance model that uses best estimate*  
22                   *assumptions, data, and methods.*

23           “(2) *HUMAN INTRUSION.—The Commission shall*  
24           *assume that, following repository closure, the inclu-*  
25           *sion of engineered barriers and the Secretary’s post-*

1 *closure actions at the Yucca Mountain site, in accord-*  
2 *ance with subsection (b)(3), shall be sufficient to—*

3 *“(A) prevent any human activity at the site*  
4 *that poses an unreasonable risk of breaching the*  
5 *repository’s engineered or geologic barriers; and*

6 *“(B) prevent any increase in the exposure of*  
7 *individual members of the public to radiation*  
8 *beyond allowable limits as specified in para-*  
9 *graph (1).*

10 *“(e) NATIONAL ENVIRONMENTAL POLICY ACT.—*

11 *“(1) SUBMISSION OF STATEMENT.—Construction*  
12 *and operation of the repository shall be considered a*  
13 *major Federal action significantly affecting the qual-*  
14 *ity of the human environment for purposes of the Na-*  
15 *tional Environmental Policy Act of 1969 (42 U.S.C.*  
16 *4321 et seq.). The Secretary shall submit an environ-*  
17 *mental impact statement on the construction and op-*  
18 *eration of the repository to the Commission with the*  
19 *application for construction authorization.*

20 *“(2) CONSIDERATIONS.—For purposes of comply-*  
21 *ing with the requirements of the National Environ-*  
22 *mental Policy Act of 1969 and this section, the Sec-*  
23 *retary shall not consider in the environmental impact*  
24 *statement the need for the repository, alternative sites*  
25 *for the repository, the time of the initial availability*

1 *of the repository, or any alternatives to the isolation*  
2 *of spent nuclear fuel and high-level radioactive waste*  
3 *in a repository.*

4 “(3) *ADOPTION BY COMMISSION.—The Sec-*  
5 *retary’s environmental impact statement and any*  
6 *supplements thereto shall, to the extent practicable, be*  
7 *adopted by the Commission in connection with the is-*  
8 *suance by the Commission of a construction author-*  
9 *ization under subsection (b)(1), a license under sub-*  
10 *section (b)(2), or a license amendment under sub-*  
11 *section (b)(3). To the extent such statement or supple-*  
12 *ment is adopted by the Commission, such adoption*  
13 *shall be deemed to also satisfy the responsibilities of*  
14 *the Commission under the National Environmental*  
15 *Policy Act of 1969, and no further consideration shall*  
16 *be required, except that nothing in this subsection*  
17 *shall affect any independent responsibilities of the*  
18 *Commission to protect the public health and safety*  
19 *under the Atomic Energy Act of 1954 (42 U.S.C.*  
20 *2011 et seq.). In any such statement prepared with*  
21 *respect to the repository, the Commission shall not*  
22 *consider the need for a repository, the time of initial*  
23 *availability of the repository, alternate sites to the*  
24 *Yucca Mountain site, or nongeologic alternatives to*  
25 *such site.*

1       “(f) *JUDICIAL REVIEW.*—No court shall have jurisdic-  
2       tion to enjoin issuance of the Commission repository licens-  
3       ing regulations prior to its final decision on review of such  
4       regulations.

5       **“SEC. 206. LAND WITHDRAWAL.**

6       “(a) *WITHDRAWAL AND RESERVATION.*—

7               “(1) *WITHDRAWAL.*—Subject to valid existing  
8       rights, the interim storage facility site and the Yucca  
9       Mountain site, as described in subsection (b), are  
10       withdrawn from all forms of entry, appropriation,  
11       and disposal under the public land laws, including  
12       the mineral leasing laws, the geothermal leasing laws,  
13       the material sale laws, and the mining laws.

14              “(2) *JURISDICTION.*—Jurisdiction of any land  
15       within the interim storage facility site and the Yucca  
16       Mountain site managed by the Secretary of the Inte-  
17       rior or any other Federal officer is transferred to the  
18       Secretary.

19              “(3) *RESERVATION.*—The interim storage facil-  
20       ity site and the Yucca Mountain site are reserved for  
21       the use of the Secretary for the construction and oper-  
22       ation, respectively, of the interim storage facility and  
23       the repository and activities associated with the pur-  
24       poses of this title.

25       “(b) *LAND DESCRIPTION.*—

1           “(1) *BOUNDARIES.*—*The boundaries depicted on*  
2 *the map entitled ‘Interim Storage Facility Site With-*  
3 *drawal Map,’ dated July 28, 1995, and on file with*  
4 *the Secretary, are established as the boundaries of the*  
5 *interim storage facility site.*

6           “(2) *BOUNDARIES.*—*The boundaries depicted on*  
7 *the map entitled ‘Yucca Mountain Site Withdrawal*  
8 *Map,’ dated July 28, 1995, and on file with the Sec-*  
9 *retary, are established as the boundaries of the Yucca*  
10 *Mountain site.*

11           “(3) *NOTICE AND MAPS.*—*Within 6 months of*  
12 *the date of enactment of this Act, the Secretary*  
13 *shall—*

14                   “(A) *publish in the Federal Register a no-*  
15 *tice containing a legal description of the interim*  
16 *storage facility site; and*

17                   “(B) *file copies of the maps described in*  
18 *paragraph (1), and the legal description of the*  
19 *interim storage facility site with the Congress,*  
20 *the Secretary of the Interior, the Governor of Ne-*  
21 *vada, and the Archivist of the United States.*

22           “(4) *NOTICE AND MAPS.*—*Concurrent with the*  
23 *Secretary’s application to the Commission for author-*  
24 *ity to construct the repository, the Secretary shall—*

1           “(A) publish in the Federal Register a no-  
2           tice containing a legal description of the Yucca  
3           Mountain site; and

4           “(B) file copies of the maps described in  
5           paragraph (2), and the legal description of the  
6           Yucca Mountain site with the Congress, the Sec-  
7           retary of the Interior, the Governor of Nevada,  
8           and the Archivist of the United States.

9           “(5) CONSTRUCTION.—The maps and legal de-  
10          scriptions of the interim storage facility site and the  
11          Yucca Mountain site referred to in this subsection  
12          shall have the same force and effect as if they were  
13          included in this Act. The Secretary may correct cler-  
14          ical and typographical errors in the maps and legal  
15          descriptions and make minor adjustments in the  
16          boundaries of the sites.

17   **“SEC. 207. PRIVATE STORAGE FACILITIES.**

18          “(a) COMMISSION ACTION.—Upon application by one  
19          or more private entities for a license for an independent  
20          spent fuel storage installation not located at the site of a  
21          civilian nuclear power reactor, the Commission shall review  
22          such license application and issue a license for one or more  
23          such facilities at the earliest practicable date, to the extent  
24          permitted by the applicable provisions of law and regula-  
25          tion.

1           “(b) *SECRETARY’S ACTIONS.*—*The Secretary shall en-*  
2 *courage efforts to develop private facilities for the storage*  
3 *of spent nuclear fuel by providing any requested informa-*  
4 *tion and assistance, as appropriate, to the developers of*  
5 *such facilities and to State and local governments and In-*  
6 *dian tribes within whose jurisdictions such facilities may*  
7 *be located, and shall cooperate with the developers of such*  
8 *facilities to facilitate compatibility between such facilities*  
9 *and the integrated management system.*

10           “(c) *OBLIGATION.*—*The Secretary shall satisfy the Sec-*  
11 *retary’s obligations under this Act notwithstanding the de-*  
12 *velopment of private facilities for the storage of spent nu-*  
13 *clear fuel or high-level radioactive waste.*

### 14           **“TITLE III—LOCAL RELATIONS**

#### 15           **“SEC. 301. ON-SITE REPRESENTATIVE.**

16           *“The Secretary shall offer to Nye County, Nevada, an*  
17 *opportunity to designate a representative to conduct on-site*  
18 *oversight activities at the Yucca Mountain site. Reasonable*  
19 *expenses of such representatives shall be paid by the Sec-*  
20 *retary.*

#### 21           **“SEC. 302. BENEFITS AGREEMENTS.**

22           “(a) *IN GENERAL.*—

23                   “(1) *SEPARATE AGREEMENTS.*—*The Secretary*  
24 *shall offer to enter into separate agreements with Nye*

1        *County, Nevada, and Lincoln County, Nevada, con-*  
2        *cerning the integrated management system.*

3            “(2) *AGREEMENT CONTENT.*—*Any agreement*  
4        *shall contain such terms and conditions, including*  
5        *such financial and institutional arrangements, as the*  
6        *Secretary and agreement entity determine to be rea-*  
7        *sonable and appropriate and shall contain such pro-*  
8        *visions as are necessary to preserve any right to par-*  
9        *ticipation or compensation of Nye County, Nevada,*  
10       *and Lincoln County, Nevada.*

11          “(b) *AMENDMENT.*—*An agreement entered into under*  
12       *subsection (a) may be amended only with the mutual con-*  
13       *sent of the parties to the amendment and terminated only*  
14       *in accordance with subsection (c).*

15          “(c) *TERMINATION.*—*The Secretary shall terminate an*  
16       *agreement under subsection (a) if any element of the inte-*  
17       *grated management system may not be completed.*

18          “(d) *LIMITATION.*—*Only 1 agreement each for Nye*  
19       *County, Nevada, and Lincoln County, Nevada, may be in*  
20       *effect at any one time.*

21          “(e) *JUDICIAL REVIEW.*—*Decisions of the Secretary*  
22       *under this section are not subject to judicial review.*

23        **“SEC. 303. CONTENT OF AGREEMENTS.**

24          “(a) *IN GENERAL.*—

1           “(1) *SCHEDULE.*—*The Secretary, subject to ap-*  
 2           *propriations, shall make payments to the party of a*  
 3           *benefits agreement under section 302(a) in accordance*  
 4           *with the following schedule:*

“*BENEFITS SCHEDULE*”

*[Amounts in millions]*

<i>Event</i>	<i>County</i>
<i>(A) Annual payments prior to first receipt of fuel .....</i>	<i>\$2.5</i>
<i>(B) Upon first spent fuel receipt .....</i>	<i>\$5</i>
<i>(C) Annual payments after first spent fuel receipt until closure of fa- cility .....</i>	<i>\$5</i>

5           “(2) *DEFINITIONS.*—*For purposes of this section,*  
 6           *the term—*

7                   “(A) ‘*spent fuel*’ means *high-level radio-*  
 8                   *active waste or spent nuclear fuel; and*

9                   “(B) ‘*first spent fuel receipt*’ does not in-  
 10                  *clude receipt of spent fuel or high-level radio-*  
 11                  *active waste for purposes of testing or oper-*  
 12                  *ational demonstration.*

13           “(3) *ANNUAL PAYMENTS.*—*Annual payments*  
 14           *prior to first spent fuel receipt under line (A) of the*  
 15           *benefit schedule shall be made on the date of execution*  
 16           *of the benefits agreement and thereafter on the anni-*  
 17           *versary date of such execution. Annual payments*  
 18           *after the first spent fuel receipt until closure of the fa-*  
 19           *cility under line (C) of the benefit schedule shall be*  
 20           *made on the anniversary date of such first spent fuel*  
 21           *receipt.*

1           “(4) *REDUCTION.*—If the first spent fuel pay-  
2           ment under line (B) is made within 6 months after  
3           the last annual payment prior to the receipt of spent  
4           fuel under line (A) of the benefit schedule, such first  
5           spent fuel payment under line (B) of the benefit  
6           schedule shall be reduced by an amount equal to  $\frac{1}{12}$   
7           of such annual payment under line (A) of the benefit  
8           schedule for each full month less than 6 that has not  
9           elapsed since the last annual payment under line (A)  
10          of the benefit schedule.

11          “(b) *CONTENTS.*—A benefits agreement under section  
12 302 shall provide that—

13           “(1) the parties to the agreement shall share with  
14           one another information relevant to the licensing  
15           process for the interim storage facility or repository,  
16           as it becomes available; and

17           “(2) the affected unit of local government that is  
18           party to such agreement may comment on the devel-  
19           opment of the integrated management system and on  
20           documents required under law or regulations govern-  
21           ing the effects of the system on the public health and  
22           safety.

23          “(c) *CONSTRUCTION.*—The signature of the Secretary  
24 on a valid benefits agreement under section 302 shall con-

1 *stitute a commitment by the United States to make pay-*  
2 *ments in accordance with such agreement.*

3 **“SEC. 304. ACCEPTANCE OF BENEFITS.**

4       “(a) *CONSENT.*—*The acceptance or use of any of the*  
5 *benefits provided under this title by any affected unit of*  
6 *local government shall not be deemed to be an expression*  
7 *of consent, express, or denied, either under the Constitution*  
8 *of the State of Nevada or any law thereof, to the siting of*  
9 *the interim storage facility or repository in the State of Ne-*  
10 *vada, any provision of such Constitution or laws to the con-*  
11 *trary notwithstanding.*

12       “(b) *ARGUMENTS.*—*Neither the United States nor any*  
13 *other entity may assert any argument based on legal or eq-*  
14 *uitable estoppel, or acquiescence, or waiver, or consensual*  
15 *involvement, in response to any decision by the State of*  
16 *Nevada, to oppose the siting in Nevada of the interim stor-*  
17 *age facility or repository premised upon or related to the*  
18 *acceptance or use of benefits under this title.*

19       “(c) *LIABILITY.*—*No liability of any nature shall ac-*  
20 *crue to be asserted against the State of Nevada, its Gov-*  
21 *ernor, any official thereof, or any official of any govern-*  
22 *mental unit thereof, premised solely upon the acceptance*  
23 *or use of benefits under this title.*

1 **“SEC. 305. RESTRICTION ON USE OF FUNDS.**

2 *“None of the funding provided under section 303 may*  
3 *be used—*

4 *“(1) directly or indirectly to influence legislative*  
5 *action on any matter pending before Congress or a*  
6 *State legislature or for any lobbying activity as pro-*  
7 *vided in section 1913 of title 18, United States Code;*

8 *“(2) for litigation purposes; and*

9 *“(3) to support multistate efforts or other coal-*  
10 *ition-building activities inconsistent with the purposes*  
11 *of this Act.*

12 **“SEC. 306. INITIAL LAND CONVEYANCES.**

13 *“(a) CONVEYANCE OF PUBLIC LANDS.—Within 120*  
14 *days after October 1, 1998, the Secretary of the Interior,*  
15 *or other agency with jurisdiction over the public lands de-*  
16 *scribed in subsection (b), shall convey the public lands de-*  
17 *scribed in subsection (b) to the appropriate county, unless*  
18 *the county notifies the Secretary of the Interior or the head*  
19 *of such other appropriate agency in writing within 60 days*  
20 *of such date of enactment that it elects not to take title to*  
21 *all or any part of the property, except that any lands con-*  
22 *veyed to the County of Nye, County of Lincoln, or the City*  
23 *of Caliente under this subsection that are subject to a Fed-*  
24 *eral grazing permit or a similar federally granted privilege*  
25 *shall be conveyed between 60 and 120 days of the earliest*  
26 *time the Federal agency administering or granting the*

1 *privilege would be able to legally terminate such privilege*  
2 *under the statutes and regulations existing on October 1,*  
3 *1998, unless the Federal agency, county or city, and the*  
4 *affected holder of the privilege negotiate an agreement that*  
5 *allows for an earlier conveyance, but in no case to occur*  
6 *earlier than October 1, 1998.*

7       “(b) *SPECIAL CONVEYANCES.*—*Subject to valid exist-*  
8 *ing rights and notwithstanding any other law, the Sec-*  
9 *retary of the Interior or the head of the other appropriate*  
10 *agency shall convey:*

11               “(1) *To the County of Nye, Nevada, the following*  
12 *public lands depicted on the maps dated October 11,*  
13 *1995, and on file with the Secretary:*

14                       “*Map 1: Proposed Pahrump Industrial*  
15 *Park Site*

16                       “*Map 2: Proposed Lathrop Wells (Gate 510)*  
17 *Industrial Park Site*

18                       “*Map 3: Pahrump Landfill Sites*

19                       “*Map 4: Amargosa Valley Regional Landfill*  
20 *Site*

21                       “*Map 5: Amargosa Valley Municipal Land-*  
22 *fill Site*

23                       “*Map 6: Beatty Landfill/Transfer station*  
24 *Site*

25                       “*Map 7: Round Mountain Landfill Site*

1                   *“Map 8: Tonopah Landfill Site*

2                   *“Map 9: Gabbs Landfill Site.*

3                   *“(2) To the County of Lincoln, Nevada, the fol-*  
4 *lowing public lands depicted on the maps dated Octo-*  
5 *ber 11, 1995, and on file with the Secretary:*

6                   *“Map 2: Lincoln County, Parcel M, Indus-*  
7 *trial Park Site, Jointly with the City of Caliente*

8                   *“Map 3: Lincoln County, Parcels F and G,*  
9 *Mixed Use, Industrial Sites*

10                  *“Map 4: Lincoln County, Parcels H and I,*  
11 *Mixed Use and Airport Expansion Sites*

12                  *“Map 5: Lincoln County, Parcels J and K,*  
13 *Mixed Use, Airport and Landfill Expansion*  
14 *Sites*

15                  *“Map 6: Lincoln County, Parcels E and L,*  
16 *Mixed Use, Airport and Industrial Expansion*  
17 *Sites.*

18                  *“(3) To the City of Caliente, Nevada, the follow-*  
19 *ing public lands depicted on the maps dated October*  
20 *11, 1995, and on file with the Secretary:*

21                  *“Map 1: City of Caliente, Parcels A, B, C*  
22 *and D, Community Growth, Landfill Expansion*  
23 *and Community Recreation Sites*

24                  *“Map 2: City of Caliente, Parcel M, Indus-*  
25 *trial Park Site, jointly with Lincoln County.*

1           “(c) *NATIONAL ENVIRONMENTAL POLICY ACT OF*  
2 *1969.—The activities of the Secretary and the head of any*  
3 *other Federal agency in connection with subsections (a) and*  
4 *(b) shall be considered preliminary decision making activi-*  
5 *ties. No such activity shall require the preparation of an*  
6 *environmental impact statement under section 102(2)(C) of*  
7 *the National Environmental Policy Act of 1969 (42 U.S.C.*  
8 *4332(2)(C)) or any environmental review under subpara-*  
9 *graph (E) or (F) of section 102(2) of such Act.*

10   **“SEC. 307. PAYMENTS EQUAL TO TAXES.**

11           “(a) *TAXABLE AMOUNTS.—In addition to financial*  
12 *assistance provided under this title, the Secretary is author-*  
13 *ized to grant to any affected Indian tribe or affected unit*  
14 *of local government an amount each fiscal year equal to*  
15 *the amount such affected Indian tribe or affected unit of*  
16 *local government, respectively, would receive if authorized*  
17 *to tax integrated management system activities, as such af-*  
18 *ected Indian tribe or affected unit of local government taxes*  
19 *the non-Federal real property and industrial activities oc-*  
20 *curing within such affected unit of local government.*

21           “(b) *TERMINATION.—Such grants shall continue until*  
22 *such time as all such activities, development, and oper-*  
23 *ations are terminated at such site.*

24           “(c) *ASSISTANCE TO INDIAN TRIBES AND UNITS OF*  
25 *LOCAL GOVERNMENT.—*

1           “(1) *PERIOD.*—Any affected Indian tribe or af-  
2           fected unit of local government may not receive any  
3           grant under subsection (a) after the expiration of the  
4           1-year period following the date on which the Sec-  
5           retary notifies the affected Indian tribe or affected  
6           unit of local government of the termination of the op-  
7           eration of the integrated management system.

8           “(2) *ACTIVITIES.*—Any affected Indian tribe or  
9           affected unit of local government may not receive any  
10          further assistance under this section if the integrated  
11          management system activities at such site are termi-  
12          nated by the Secretary or if such activities are per-  
13          manently enjoined by any court.

## 14           **“TITLE IV—FUNDING AND** 15           **ORGANIZATION**

### 16          **“SEC. 401. PROGRAM FUNDING.**

17          “(a) *CONTRACTS.*—

18                 “(1) *AUTHORITY OF SECRETARY.*—In the per-  
19                 formance of the Secretary’s functions under this Act,  
20                 the Secretary is authorized to enter into contracts  
21                 with any person who generates or holds title to spent  
22                 nuclear fuel or high-level radioactive waste of domes-  
23                 tic origin for the acceptance of title and possession,  
24                 transportation, interim storage, and disposal of such  
25                 spent fuel or waste upon the payment of fees in ac-

1 *cordance with paragraphs (2) and (3). Except as pro-*  
2 *vided in paragraph (3), fees assessed pursuant to this*  
3 *paragraph shall be paid to the Treasury of the United*  
4 *States and shall be available for use by the Secretary*  
5 *pursuant to this section until expended.*

6 “(2) *ANNUAL FEES.*—

7 “(A) *ELECTRICITY.*—

8 “(i) *IN GENERAL.*—*Under a contract*  
9 *entered into under paragraph (1) there shall*  
10 *be a fee for electricity generated by civilian*  
11 *nuclear power reactors and sold on or after*  
12 *the date of enactment of this Act. The aggre-*  
13 *gate amount of such fees collected during*  
14 *each fiscal year shall be no greater than the*  
15 *annual level of appropriations for expendi-*  
16 *tures on the integrated management system*  
17 *for that fiscal year, minus—*

18 “(I) *any unobligated balance of*  
19 *fees collected during the previous fiscal*  
20 *year; and*

21 “(II) *such appropriations re-*  
22 *quired to be funded by the Federal*  
23 *Government pursuant to section 403.*

24 “(ii) *FEE LEVEL.*—*The Secretary shall*  
25 *determine the level of the annual fee for*

1           *each civilian nuclear power reactor based*  
2           *on the amount of electricity generated and*  
3           *sold, except that for the period commencing*  
4           *with fiscal year 1999 and continuing*  
5           *through the fiscal year in which disposal at*  
6           *the repository commences—*

7                     “(I) *the average annual fee col-*  
8                     *lected under this subparagraph shall*  
9                     *not exceed 1.0 mill per-kilowatt hour*  
10                    *generated and sold; and*

11                    “(II) *the fee in any fiscal year in*  
12                    *such period shall not exceed 1.5 mill*  
13                    *per kilowatt hour generated and sold.*

14           *Thereafter, the annual fee collected under*  
15           *this subparagraph shall not exceed 1.0 mill*  
16           *per-kilowatt hour generated and sold. Fees*  
17           *assessed pursuant to this subparagraph*  
18           *shall be paid to the Treasury of the United*  
19           *States and shall be available for use by the*  
20           *Secretary pursuant to this section until ex-*  
21           *pended.*

22                    “(B) *EXPENDITURES IF SHORTFALL.—If,*  
23                    *during any fiscal year, the aggregate amount of*  
24                    *fees assessed pursuant to subparagraph (A) is*  
25                    *less than the annual level of appropriations for*

1           *expenditures on those activities specified in sub-*  
2           *section (d) for that fiscal year, minus—*

3                   “(i) *any unobligated balance collected*  
4                   *pursuant to this section during the previous*  
5                   *fiscal year, and*

6                   “(ii) *such appropriations required to*  
7                   *be funded by the Federal Government pur-*  
8                   *suant to section 403,*

9           *the Secretary may make expenditures from the*  
10           *Nuclear Waste Fund up to the level of appro-*  
11           *priations.*

12                   “(C) *RULES.—The Secretary shall, by rule,*  
13                   *establish procedures necessary to implement this*  
14                   *paragraph.*

15                   “(3) *ONE-TIME FEES.—The one-time fees col-*  
16                   *lected under contracts executed under section 302(a)*  
17                   *of the Nuclear Waste Policy Act of 1982 before the*  
18                   *date of enactment of this Act on spent nuclear fuel,*  
19                   *or high-level radioactive waste derived from spent nu-*  
20                   *clear fuel, which fuel was used to generate electricity*  
21                   *in a civilian nuclear power reactor before April 7,*  
22                   *1983, shall be paid to the Nuclear Waste Fund. The*  
23                   *Secretary shall collect all such fees before the expira-*  
24                   *tion of fiscal year 2002. The Commission shall sus-*  
25                   *pend the license of any licensee who fails or refuses*

1       to pay the full amount of the fee referred to in this  
2       paragraph and the license shall remain suspended  
3       until the full amount of the fee referred to in this  
4       paragraph is paid. In paying such a fee, the person  
5       delivering such spent nuclear fuel or high-level radio-  
6       active wastes, to the Secretary shall have no further  
7       financial obligation under this paragraph to the Fed-  
8       eral Government for the long-term storage and perma-  
9       nent disposal of such spent nuclear fuel or high-level  
10      radioactive waste.

11      “(b) *ADVANCE CONTRACTING REQUIREMENT.*—

12              “(1) *IN GENERAL.*—

13                      “(A) *LICENSE ISSUANCE AND RENEWAL.*—

14                      *The Commission shall not issue or renew a li-*  
15                      *cence to any person to use a utilization or pro-*  
16                      *duction facility under the authority of section*  
17                      *103 or 104 of the Atomic Energy Act of 1954 (42*  
18                      *U.S.C. 2133, 2134) unless—*

19                              “(i) *such person has entered into a*  
20                              *contract under subsection (a) with the Sec-*  
21                              *retary; or*

22                              “(ii) *the Secretary affirms in writing*  
23                              *that such person is actively and in good*  
24                              *faith negotiating with the Secretary for a*  
25                              *contract under subsection (a).*

1           “(B) *PRECONDITION.*—*The Commission, as*  
2           *it deems necessary or appropriate, may require*  
3           *as a precondition to the issuance or renewal of*  
4           *a license under section 103 or 104 of the Atomic*  
5           *Energy Act of 1954 (42 U.S.C. 2133, 2134) that*  
6           *the applicant for such license shall have entered*  
7           *into an agreement with the Secretary for the dis-*  
8           *posal of spent nuclear fuel and high-level radio-*  
9           *active waste that may result from the use of such*  
10           *license.*

11           “(2) *DISPOSAL IN REPOSITORY.*—*Except as pro-*  
12           *vided in paragraph (1), no spent nuclear fuel or high-*  
13           *level radioactive waste generated or owned by any*  
14           *person (other than a department of the United States*  
15           *referred to in section 101 or 102 of title 5, United*  
16           *States Code) may be disposed of by the Secretary in*  
17           *the repository unless the generator or owner of such*  
18           *spent fuel or waste has entered into a contract under*  
19           *subsection (a) with the Secretary by not later than*  
20           *the date on which such generator or owner commences*  
21           *generation of, or takes title to, such spent fuel or*  
22           *waste.*

23           “(3) *ASSIGNMENT.*—*The rights and duties of a*  
24           *party to a contract entered into under this section*

1        *may be assignable with transfer of title to the spent*  
2        *nuclear fuel or high-level radioactive waste involved.*

3            “(4) *DISPOSAL CONDITION.*—*No spent nuclear*  
4        *fuel or high-level radioactive waste generated or*  
5        *owned by any department of the United States re-*  
6        *ferred to in section 101 or 102 of title 5, United*  
7        *States Code, may be stored or disposed of by the Sec-*  
8        *retary at the interim storage facility or repository in*  
9        *the integrated management system developed under*  
10       *this Act unless, in each fiscal year, such department*  
11       *funds its appropriate portion of the costs of such stor-*  
12       *age and disposal as specified in section 403.*

13            “(c) *NUCLEAR WASTE FUND.*—

14            “(1) *IN GENERAL.*—*The Nuclear Waste Fund es-*  
15        *tablished in the Treasury of the United States under*  
16        *section 302(c) of the Nuclear Waste Policy Act of 1982*  
17        *shall continue in effect under this Act and shall con-*  
18        *sist of—*

19            “(A) *all receipts, proceeds, and recoveries*  
20        *realized by the Secretary before the date of enact-*  
21        *ment of this Act;*

22            “(B) *any appropriations made by the Con-*  
23        *gress before the date of enactment of this Act to*  
24        *the Nuclear Waste Fund;*

1           “(C) all interest paid on amounts invested  
2           by the Secretary of the Treasury under para-  
3           graph (3)(B); and

4           “(D) the one-time fees collected pursuant to  
5           subsection (a)(3).

6           “(2) USE.—The Nuclear Waste Fund shall be  
7           used only for purposes of the integrated management  
8           system.

9           “(3) ADMINISTRATION OF NUCLEAR WASTE  
10          FUND.—

11           “(A) IN GENERAL.—The Secretary of the  
12           Treasury shall hold the Nuclear Waste Fund  
13           and, after consultation with the Secretary, annu-  
14           ally report to the Congress on the financial con-  
15           dition and operations of the Nuclear Waste Fund  
16           during the preceding fiscal year.

17           “(B) AMOUNTS IN EXCESS OF CURRENT  
18           NEEDS.—If the Secretary determines that the  
19           Nuclear Waste Fund contains at any time  
20           amounts in excess of current needs, the Secretary  
21           may request the Secretary of the Treasury to in-  
22           vest such amounts, or any portion of such  
23           amounts as the Secretary determines to be ap-  
24           propriate, in obligations of the United States—

1           “(i) *having maturities determined by*  
2           *the Secretary of the Treasury to be appro-*  
3           *priate to the needs of the Nuclear Waste*  
4           *Fund; and*

5           “(ii) *bearing interest at rates deter-*  
6           *mined to be appropriate by the Secretary of*  
7           *the Treasury, taking into consideration the*  
8           *current average market yield on outstand-*  
9           *ing marketable obligations of the United*  
10          *States with remaining periods to maturity*  
11          *comparable to the maturities of such invest-*  
12          *ments, except that the interest rate on such*  
13          *investments shall not exceed the average in-*  
14          *terest rate applicable to existing borrowings.*

15          “(C) *EXEMPTION.—Receipts, proceeds, and*  
16          *recoveries realized by the Secretary under this*  
17          *section, and expenditures of amounts from the*  
18          *Nuclear Waste Fund, shall be exempt from an-*  
19          *annual apportionment under the provisions of sub-*  
20          *chapter II of chapter 15 of title 31, United*  
21          *States Code.*

22          “(d) *USE OF APPROPRIATED FUNDS.—During each*  
23          *fiscal year, the Secretary may make expenditures of funds*  
24          *collected after the date of enactment of this Act under this*  
25          *section and section 403, up to the level of appropriations*

1 *for that fiscal year pursuant to subsection (f) only for pur-*  
2 *poses of the integrated management system.*

3       “(e) *PROHIBITION ON USE OF APPROPRIATIONS AND*  
4 *NUCLEAR WASTE FUND.—The Secretary shall not make ex-*  
5 *penditures of funds collected pursuant to this section or sec-*  
6 *tion 403 to design or construct packages for the transpor-*  
7 *tation, storage, or disposal of spent nuclear fuel from civil-*  
8 *ian nuclear power reactors.*

9       “(f) *APPROPRIATIONS.—*

10           “(1) *BUDGET.—The Secretary shall submit the*  
11 *budget for implementation of the Secretary’s respon-*  
12 *sibilities under this Act to the Office of Management*  
13 *and Budget triennially along with the budget of the*  
14 *Department of Energy submitted at such time in ac-*  
15 *cordance with chapter 11 of title 31, United States*  
16 *Code. The budget shall consist of the estimates made*  
17 *by the Secretary of expenditures under this Act and*  
18 *other relevant financial matters for the succeeding 3*  
19 *fiscal years, and shall be included in the budget of the*  
20 *United States Government.*

21           “(2) *APPROPRIATIONS.—Appropriations shall be*  
22 *subject to triennial authorization. During each fiscal*  
23 *year, the Secretary may make expenditures, up to the*  
24 *level of appropriations, out of the funds collected pur-*  
25 *suant to this section and section 403, if the Secretary*

1        *transmits the amounts appropriated for implementa-*  
2        *tion of this Act to the Commission and the Nuclear*  
3        *Waste Technical Review Board in appropriate pro-*  
4        *portion to the collection of such funds.*

5        *“(g) EFFECTIVE DATE.—This section shall take effect*  
6        *October 1, 1998, and section 302 of the Nuclear Waste Pol-*  
7        *icy Act of 1982 (42 U.S.C. 10222) shall continue in effect*  
8        *until October 1, 1998.*

9        **“SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MAN-**  
10        **AGEMENT.**

11        *“(a) CONTINUATION OF OFFICE OF CIVILIAN RADIO-*  
12        *ACTIVE WASTE MANAGEMENT.—The Office of Civilian Ra-*  
13        *dioactive Waste Management established under section*  
14        *304(a) of the Nuclear Waste Policy Act of 1982 as con-*  
15        *stituted prior to the date of enactment of this Act, shall*  
16        *continue in effect subsequent to the date of enactment of*  
17        *this Act.*

18        *“(b) FUNCTIONS OF DIRECTOR.—The Director of the*  
19        *Office shall be responsible for carrying out the functions of*  
20        *the Secretary under this Act, subject to the general super-*  
21        *vision of the Secretary. The Director of the Office shall be*  
22        *directly responsible to the Secretary.*

23        *“(c) AUDITS.—*

24                *“(1) STANDARD.—The Office of Civilian Radio-*  
25        *active Waste Management, its contractors, and sub-*

1 *contractors at all tiers, shall conduct, or have con-*  
2 *ducted, audits and examinations of their operations*  
3 *in accordance with the usual and customary practices*  
4 *of private corporations engaged in large nuclear con-*  
5 *struction projects consistent with its role in the pro-*  
6 *gram.*

7           “(2) *TIME.*—*The management practices and per-*  
8 *formances of the Office of Civilian Radioactive Waste*  
9 *Management shall be audited every 5 years by an*  
10 *independent management consulting firm with sig-*  
11 *nificant experience in similar audits of private cor-*  
12 *porations engaged in large nuclear construction*  
13 *projects. The first such audit shall be conducted 5*  
14 *years after the date of enactment of this Act.*

15           “(3) *COMPTROLLER GENERAL.*—*The Comptroller*  
16 *General of the United States shall annually make an*  
17 *audit of the Office, in accordance with such regula-*  
18 *tions as the Comptroller General may prescribe. The*  
19 *Comptroller General shall have access to such books,*  
20 *records, accounts, and other materials of the Office as*  
21 *the Comptroller General determines to be necessary*  
22 *for the preparation of such audit. The Comptroller*  
23 *General shall submit to the Congress a report on the*  
24 *results of each audit conducted under this section.*

1           “(4) *TIME*.—No audit contemplated by this sub-  
2           section shall take longer than 30 days to conduct. An  
3           audit report shall be issued in final form no longer  
4           than 60 days after the audit is commenced.

5           “(5) *PUBLIC DOCUMENTS*.—All audit reports  
6           shall be public documents and available to any indi-  
7           vidual upon request.

8           **“SEC. 403. DEFENSE CONTRIBUTION.**

9           “(a) *ALLOCATION*.—No later than one year from the  
10          date of enactment of this Act, acting pursuant to section  
11          553 of title 5, United States Code, the Secretary shall issue  
12          a final rule establishing the appropriate portion of the costs  
13          of managing spent nuclear fuel and high-level radioactive  
14          waste under this Act allocable to the interim storage or per-  
15          manent disposal of spent nuclear fuel, high-level radioactive  
16          waste from atomic energy defense activities, and spent nu-  
17          clear fuel from foreign research reactors. The share of costs  
18          allocable to the management of spent nuclear fuel, high-level  
19          radioactive waste from atomic energy defense activities, and  
20          spent nuclear fuel from foreign research reactors shall in-  
21          clude—

22                 “(1) an appropriate portion of the costs associ-  
23                 ated with research and development activities with re-  
24                 spect to development of the interim storage facility  
25                 and repository; and

1           “(2) *interest on the principal amounts due cal-*  
2           *culated by reference to the appropriate Treasury bill*  
3           *rate as if the payments were made at a point in time*  
4           *consistent with the payment dates for spent nuclear*  
5           *fuel and high-level radioactive waste under the con-*  
6           *tracts.*

7           “(b) *APPROPRIATION REQUEST.—In addition to any*  
8           *request for an appropriation from the Nuclear Waste Fund,*  
9           *the Secretary shall request annual appropriations from gen-*  
10           *eral revenues in amounts sufficient to pay the costs of the*  
11           *management of materials described in subsection (a).*

12           “(c) *REPORT.—In conjunction with the annual report*  
13           *submitted to Congress under section 702, the Secretary shall*  
14           *advise the Congress annually of the amount of spent nuclear*  
15           *fuel and high-level radioactive waste from atomic energy*  
16           *defense activities, and spent nuclear fuel from foreign re-*  
17           *search reactors requiring management in the integrated*  
18           *management system.*

19           “(d) *AUTHORIZATION.—There is authorized to be ap-*  
20           *propriated to the Secretary, from general revenues, for car-*  
21           *rying out the purposes of this Act, such sums as may be*  
22           *necessary to pay the costs of the management of spent nu-*  
23           *clear fuel and high-level radioactive waste from atomic en-*  
24           *ergy defense activities as established under subsection (a).*

1           **“TITLE V—GENERAL AND**  
2           **MISCELLANEOUS PROVISIONS**

3           **“SEC. 501. COMPLIANCE WITH OTHER LAWS.**

4           *“If the requirements of any law are inconsistent with*  
5 *or duplicative of the requirements of the Atomic Energy Act*  
6 *of 1954 (42 U.S.C. 2011 et seq.) and this Act, the Secretary*  
7 *shall comply only with the requirements of the Atomic En-*  
8 *ergy Act of 1954 and this Act in implementing the inte-*  
9 *grated management system. Any requirement of a State or*  
10 *political subdivision of a State is preempted if—*

11                   *“(1) complying with such requirement and a re-*  
12                   *quirement of this Act is impossible; or*

13                   *“(2) such requirement, as applied or enforced, is*  
14                   *an obstacle to accomplishing or carrying out this Act*  
15                   *or a regulation under this Act.*

16           **“SEC. 502. WATER RIGHTS.**

17           *“(a) NO FEDERAL RESERVATION.—Nothing in this*  
18 *Act or any other Act of Congress shall constitute or be con-*  
19 *strued to constitute either an express or implied Federal*  
20 *reservation of water or water rights for any purpose arising*  
21 *under this Act.*

22           **“(b) ACQUISITION AND EXERCISE OF WATER RIGHTS**  
23 **UNDER NEVADA LAW.—***The United States may acquire*  
24 *and exercise such water rights as it deems necessary to*  
25 *carry out its responsibilities under this Act pursuant to the*

1 *substantive and procedural requirements of the State of Ne-*  
2 *vada. Nothing in this Act shall be construed to authorize*  
3 *the use of eminent domain by the United States to acquire*  
4 *water rights.*

5       “(c) *EXERCISE OF WATER RIGHTS GENERALLY*  
6 *UNDER NEVADA LAWS.*—*Nothing in this Act shall be con-*  
7 *strued to limit the exercise of water rights as provided*  
8 *under Nevada State laws.*

9       “**SEC. 503. JUDICIAL REVIEW OF AGENCY ACTIONS.**

10       “(a) *JURISDICTION OF UNITED STATES COURTS OF*  
11 *APPEALS.*—

12               “(1) *ORIGINAL AND EXCLUSIVE JURISDICTION.*—  
13 *Except for review in the Supreme Court of the United*  
14 *States, and except as otherwise provided in this Act,*  
15 *the United States courts of appeals shall have original*  
16 *and exclusive jurisdiction over any civil action—*

17                       “(A) *for review of any final decision or ac-*  
18 *tion of the Secretary, the President, or the Com-*  
19 *mission under this Act;*

20                       “(B) *alleging the failure of the Secretary,*  
21 *the President, or the Commission to make any*  
22 *decision, or take any action, required under this*  
23 *Act;*

1           “(C) *challenging the constitutionality of*  
2           *any decision made, or action taken, under any*  
3           *provision of this Act; or*

4           “(D) *for review of any environmental im-*  
5           *portant statement prepared or environmental assess-*  
6           *ment made pursuant to the National Environ-*  
7           *mental Policy Act of 1969 (42 U.S.C. 4321 et*  
8           *seq.) with respect to any action under this Act*  
9           *or alleging a failure to prepare such statement*  
10          *with respect to any such action.*

11          “(2) *VENUE.—The venue of any proceeding*  
12          *under this section shall be in the judicial circuit in*  
13          *which the petitioner involved resides or has its prin-*  
14          *cipal office, or in the United States Court of Appeals*  
15          *for the District of Columbia.*

16          “(b) *DEADLINE FOR COMMENCING ACTION.—A civil*  
17          *action for judicial review described under subsection (a)(1)*  
18          *may be brought no later than 180 days after the date of*  
19          *the decision or action or failure to act involved, as the case*  
20          *may be, except that if a party shows that the party did*  
21          *not know of the decision or action complained of or of the*  
22          *failure to act, and that a reasonable person acting under*  
23          *the circumstances would not have known of such decision,*  
24          *action, or failure to act, such party may bring a civil action*  
25          *no later than 180 days after the date such party acquired*

1 *actual or constructive knowledge of such decision, action,*  
2 *or failure to act.*

3       “(c) *APPLICATION OF OTHER LAW.*—*The provisions of*  
4 *this section relating to any matter shall apply in lieu of*  
5 *the provisions of any other Act relating to the same matter.*

6 **“SEC. 504. LICENSING OF FACILITY EXPANSIONS AND**  
7 **TRANSSHIPMENTS.**

8       “(a) *ORAL ARGUMENT.*—*In any Commission hearing*  
9 *under section 189 of the Atomic Energy Act of 1954 (42*  
10 *U.S.C. 2239) on an application for a license, or for an*  
11 *amendment to an existing license, filed after January 7,*  
12 *1983, to expand the spent nuclear fuel storage capacity at*  
13 *the site of a civilian nuclear power reactor, through the use*  
14 *of high-density fuel storage racks, fuel rod compaction, the*  
15 *transshipment of spent nuclear fuel to another civilian nu-*  
16 *clear power reactor within the same utility system, the con-*  
17 *struction of additional spent nuclear fuel pool capacity or*  
18 *dry storage capacity, or by other means, the Commission*  
19 *shall, at the request of any party, provide an opportunity*  
20 *for oral argument with respect to any matter which the*  
21 *Commission determines to be in controversy among the par-*  
22 *ties. The oral argument shall be preceded by such discovery*  
23 *procedures as the rules of the Commission shall provide. The*  
24 *Commission shall require each party, including the Com-*  
25 *mission staff, to submit in written form, at the time of the*

1 *oral argument, a summary of the facts, data, and argu-*  
2 *ments upon which such party proposes to rely that are*  
3 *known at such time to such party. Only facts and data in*  
4 *the form of sworn testimony or written submission may be*  
5 *relied upon by the parties during oral argument. Of the*  
6 *materials that may be submitted by the parties during oral*  
7 *argument, the Commission shall only consider those facts*  
8 *and data that are submitted in the form of sworn testimony*  
9 *or written submission.*

10 “(b) *ADJUDICATORY HEARING.*—

11 “(1) *DESIGNATION.*—*At the conclusion of any*  
12 *oral argument under subsection (a), the Commission*  
13 *shall designate any disputed question of fact, together*  
14 *with any remaining questions of law, for resolution*  
15 *in an adjudicatory hearing only if it determines*  
16 *that—*

17 “(A) *there is a genuine and substantial dis-*  
18 *pute of fact which can only be resolved with suf-*  
19 *ficient accuracy by the introduction of evidence*  
20 *in an adjudicatory hearing; and*

21 “(B) *the decision of the Commission is like-*  
22 *ly to depend in whole or in part on the resolu-*  
23 *tion of such dispute.*

24 “(2) *DETERMINATION.*—*In making a determina-*  
25 *tion under this subsection, the Commission—*

1           “(A) shall designate in writing the specific  
2 facts that are in genuine and substantial dis-  
3 pute, the reason why the decision of the agency  
4 is likely to depend on the resolution of such facts,  
5 and the reason why an adjudicatory hearing is  
6 likely to resolve the dispute; and

7           “(B) shall not consider—

8           “(i) any issue relating to the design,  
9 construction, or operation of any civilian  
10 nuclear power reactor already licensed to  
11 operate at such site, or any civilian nuclear  
12 power reactor to which a construction per-  
13 mit has been granted at such site, unless the  
14 Commission determines that any such issue  
15 substantially affects the design, construc-  
16 tion, or operation of the facility or activity  
17 for which such license application, author-  
18 ization, or amendment is being considered;  
19 or

20           “(ii) any siting or design issue fully  
21 considered and decided by the Commission  
22 in connection with the issuance of a con-  
23 struction permit or operating license for a  
24 civilian nuclear power reactor at such site,  
25 unless—

1                   “(I) such issue results from any  
2                   revision of siting or design criteria by  
3                   the Commission following such deci-  
4                   sion; and

5                   “(II) the Commission determines  
6                   that such issue substantially affects the  
7                   design, construction, or operation of  
8                   the facility or activity for which such  
9                   license application, authorization, or  
10                  amendment is being considered.

11                  “(3) APPLICATION.—The provisions of para-  
12                  graph (2)(B) shall apply only with respect to licenses,  
13                  authorizations, or amendments to licenses or author-  
14                  izations, applied for under the Atomic Energy Act of  
15                  1954 (42 U.S.C. 2011 et seq.) before December 31,  
16                  2005.

17                  “(4) CONSTRUCTION.—The provisions of this sec-  
18                  tion shall not apply to the first application for a li-  
19                  cense or license amendment received by the Commis-  
20                  sion to expand onsite spent fuel storage capacity by  
21                  the use of a new technology not previously approved  
22                  for use at any nuclear power plant by the Commis-  
23                  sion.

24                  “(c) JUDICIAL REVIEW.—No court shall hold unlawful  
25                  or set aside a decision of the Commission in any proceeding

1 *described in subsection (a) because of a failure by the Com-*  
2 *mission to use a particular procedure pursuant to this sec-*  
3 *tion unless—*

4           “(1) *an objection to the procedure used was pre-*  
5 *sented to the Commission in a timely fashion or there*  
6 *are extraordinary circumstances that excuse the fail-*  
7 *ure to present a timely objection; and*

8           “(2) *the court finds that such failure has pre-*  
9 *cluded a fair consideration and informed resolution of*  
10 *a significant issue of the proceeding taken as a whole.*

11 **“SEC. 505. SITING A SECOND REPOSITORY.**

12           “(a) *CONGRESSIONAL ACTION REQUIRED.—The Sec-*  
13 *retary may not conduct site-specific activities with respect*  
14 *to a second repository unless Congress has specifically au-*  
15 *thorized and appropriated funds for such activities.*

16           “(b) *REPORT.—The Secretary shall report to the Presi-*  
17 *dent and to Congress on or after January 1, 2007, but not*  
18 *later than January 1, 2010, on the need for a second reposi-*  
19 *tory.*

20 **“SEC. 506. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RA-**  
21 **DIOACTIVE WASTE SITE CLOSURE.**

22           “(a) *FINANCIAL ARRANGEMENTS.—*

23           “(1) *STANDARDS AND INSTRUCTIONS.—The Com-*  
24 *mission shall establish by rule, regulation, or order,*  
25 *after public notice, and in accordance with section*

1        *181 of the Atomic Energy Act of 1954 (42 U.S.C.*  
2        *2231), such standards and instructions as the Com-*  
3        *mission may deem necessary or desirable to ensure*  
4        *in the case of each license for the disposal of low-*  
5        *level radioactive waste that an adequate bond, surety,*  
6        *or other financial arrangement (as determined by the*  
7        *Commission) will be provided by a licensee to permit*  
8        *completion of all requirements established by the*  
9        *Commission for the decontamination, decommission-*  
10       *ing, site closure, and reclamation of sites, structures,*  
11       *and equipment used in conjunction with such low-*  
12       *level radioactive waste. Such financial arrangements*  
13       *shall be provided and approved by the Commission,*  
14       *or, in the case of sites within the boundaries of any*  
15       *agreement State under section 274 of the Atomic En-*  
16       *ergy Act of 1954 (42 U.S.C. 2021), by the appropriate*  
17       *State or State entity, prior to issuance of licenses for*  
18       *low-level radioactive waste disposal or, in the case of*  
19       *licenses in effect on January 7, 1983, prior to termi-*  
20       *nation of such licenses.*

21                *“(2) BONDING, SURETY, OR OTHER FINANCIAL*  
22        *ARRANGEMENTS.—If the Commission determines that*  
23        *any long-term maintenance or monitoring, or both,*  
24        *will be necessary at a site described in paragraph (1),*  
25        *the Commission shall ensure before termination of the*

1       *license involved that the licensee has made available*  
2       *such bonding, surety, or other financial arrangements*  
3       *as may be necessary to ensure that any necessary*  
4       *long-term maintenance or monitoring needed for such*  
5       *site will be carried out by the person having title and*  
6       *custody for such site following license termination.*

7       “(b) *TITLE AND CUSTODY.*—

8               “(1) *AUTHORITY OF SECRETARY.*—*The Secretary*  
9       *shall have authority to assume title and custody of*  
10       *low-level radioactive waste and the land on which*  
11       *such waste is disposed of, upon request of the owner*  
12       *of such waste and land and following termination of*  
13       *the license issued by the Commission for such dis-*  
14       *posal, if the Commission determines that—*

15                       “(A) *the requirements of the Commission for*  
16       *site closure, decommissioning, and decontamina-*  
17       *tion have been met by the licensee involved and*  
18       *that such licensee is in compliance with the pro-*  
19       *visions of subsection (a);*

20                       “(B) *such title and custody will be trans-*  
21       *ferred to the Secretary without cost to the Fed-*  
22       *eral Government; and*

23                       “(C) *Federal ownership and management of*  
24       *such site is necessary or desirable in order to*



1 *ance shall establish simulator training requirements for ap-*  
2 *plicants for civilian nuclear powerplant operator licenses*  
3 *and for operator requalification programs; requirements*  
4 *governing Commission administration of requalification*  
5 *examinations; requirements for operating tests at civilian*  
6 *nuclear powerplant simulators, and instructional require-*  
7 *ments for civilian nuclear powerplant licensee personnel*  
8 *training programs.*

9 **“SEC. 508. ACCEPTANCE SCHEDULE.**

10 *“The acceptance schedule shall be implemented in ac-*  
11 *cordance with the following:*

12 *“(1) PRIORITY RANKING.—Acceptance priority*  
13 *ranking shall be determined by the Department’s ‘Ac-*  
14 *ceptance Priority Ranking’ report.*

15 *“(2) ACCEPTANCE RATE.—Except as provided in*  
16 *paragraph (5), the Secretary’s acceptance rate for*  
17 *spent nuclear fuel shall be no less than the following:*  
18 *1,200 MTU in 2002 and 1,200 MTU in 2003, 2,000*  
19 *MTU in 2004 and 2,000 MTU in 2005, 2,700 MTU*  
20 *in 2006, and 3,000 MTU thereafter.*

21 *“(3) OTHER ACCEPTANCES.—In each year, once*  
22 *the Secretary has achieved the annual acceptance rate*  
23 *for spent nuclear fuel from civilian nuclear power re-*  
24 *actors established pursuant to the contracts executed*  
25 *under the Nuclear Waste Policy Act of 1982 (as set*

1       *forth in the Secretary's annual capacity report dated*  
2       *March 1995 (DOE/RW-0457)), the Secretary—*

3               *“(A) shall accept from spent nuclear fuel*  
4               *from foreign research reactors and spent nuclear*  
5               *fuel from naval reactors and high-level radio-*  
6               *active waste from atomic energy defense activi-*  
7               *ties, an amount of spent nuclear fuel and high-*  
8               *level radioactive waste which is—*

9                       *“(i) at least 25 percent of the difference*  
10                      *between such annual acceptance rate and*  
11                      *the annual rate specified in paragraph (2),*  
12                      *or*

13                      *“(ii) 5 percent of the total amount of*  
14                      *spent nuclear fuel and high-level radioactive*  
15                      *waste actually accepted,*

16               *whichever is higher. If such amount is less than*  
17               *the rate prescribed in the preceding sentence, the*  
18               *Secretary shall accept spent nuclear fuel or high-*  
19               *level radioactive waste of domestic origin from*  
20               *civilian nuclear power reactors which have per-*  
21               *manently ceased operation; and*

22                      *“(B) may, additionally, accept any other*  
23                      *spent nuclear fuel or high-level radioactive waste.*

24                      *“(4) EXCEPTION.—If the annual rate under the*  
25                      *acceptance schedule is not achieved, the acceptance*

1 *rate of the Secretary of the materials described in*  
2 *paragraph (3)(A) shall be the greater of the accept-*  
3 *ance rate prescribed by paragraph (3) and calculated*  
4 *on the basis of the amount of spent nuclear fuel and*  
5 *high-level radioactive waste actually received or 5*  
6 *percent of the total amount of spent nuclear fuel and*  
7 *high-level radioactive waste actually accepted.*

8 *“(5) ADJUSTMENT.—If the Secretary is unable to*  
9 *begin acceptance by January 31, 2002 at the rate*  
10 *specified in paragraph (2) or if the cumulative*  
11 *amount accepted in any year thereafter is less than*  
12 *that which would have been accepted under the rate*  
13 *specified in paragraph (2), the acceptance schedule*  
14 *shall, to the extent practicable, be adjusted upward*  
15 *such that within 5 years of the start of acceptance by*  
16 *the Secretary—*

17 *“(A) the total quantity accepted by the Sec-*  
18 *retary is consistent with the total quantity that*  
19 *the Secretary would have accepted if the Sec-*  
20 *retary had begun acceptance in 2002; and*

21 *“(B) thereafter the acceptance rate is equiv-*  
22 *alent to the rate that would be in place pursuant*  
23 *to paragraph (2) if the Secretary had com-*  
24 *menced acceptance in 2002.*

1           “(6) *EFFECT ON SCHEDULE.*—*The acceptance*  
2           *schedule shall not be affected or modified in any way*  
3           *as a result of the Secretary’s acceptance of any mate-*  
4           *rial other than contract holders’ spent nuclear fuel*  
5           *and high-level radioactive waste.*

6   **“SEC. 509. SUBSEABED OR OCEAN WATER DISPOSAL.**

7           *“Notwithstanding any other provision of law—*

8                   “(1) *the subseabed or ocean water disposal of*  
9                   *spent nuclear fuel or high-level radioactive waste is*  
10                  *prohibited; and*

11                   “(2) *no funds shall be obligated for any activity*  
12                  *relating to the subseabed or ocean water disposal of*  
13                  *spent nuclear fuel or high-level radioactive waste.*

14           **“TITLE VI—NUCLEAR WASTE**  
15           **TECHNICAL REVIEW BOARD**

16   **“SEC. 601. DEFINITIONS.**

17           *“For purposes of this title—*

18                   “(1) *CHAIRMAN.*—*The term ‘Chairman’ means*  
19                   *the Chairman of the Nuclear Waste Technical Review*  
20                   *Board.*

21                   “(2) *BOARD.*—*The term ‘Board’ means the Nu-*  
22                   *clear Waste Technical Review Board continued under*  
23                   *section 602.*

1 **“SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.**

2       “(a) *CONTINUATION OF NUCLEAR WASTE TECHNICAL*  
3 *REVIEW BOARD.—The Nuclear Waste Technical Review*  
4 *Board, established under section 502(a) of the Nuclear*  
5 *Waste Policy Act of 1982 as constituted prior to the date*  
6 *of enactment of this Act, shall continue in effect subsequent*  
7 *to the date of enactment of this Act.*

8       “(b) *MEMBERS.—*

9               “(1) *NUMBER.—The Board shall consist of 11*  
10 *members who shall be appointed by the President not*  
11 *later than 90 days after December 22, 1987, from*  
12 *among persons nominated by the National Academy*  
13 *of Sciences in accordance with paragraph (3).*

14               “(2) *CHAIR.—The President shall designate a*  
15 *member of the Board to serve as Chairman.*

16               “(3) *NATIONAL ACADEMY OF SCIENCES.—*

17                       “(A) *NOMINATIONS.—The National Acad-*  
18 *emy of Sciences shall, not later than 90 days*  
19 *after December 22, 1987, nominate not less than*  
20 *22 persons for appointment to the Board from*  
21 *among persons who meet the qualifications de-*  
22 *scribed in subparagraph (C).*

23                       “(B) *VACANCIES.—The National Academy*  
24 *of Sciences shall nominate not less than 2 per-*  
25 *sons to fill any vacancy on the Board from*

1           *among persons who meet the qualifications de-*  
2           *scribed in subparagraph (C).*

3           “(C) *NOMINEES.*—

4                   “(i) *Each person nominated for ap-*  
5                   *pointment to the Board shall be—*

6                           “(I) *eminent in a field of science*  
7                           *or engineering, including environ-*  
8                           *mental sciences; and*

9                           “(II) *selected solely on the basis of*  
10                           *established records of distinguished*  
11                           *service.*

12                   “(ii) *The membership of the Board*  
13                   *shall be representatives of the broad range of*  
14                   *scientific and engineering disciplines relat-*  
15                   *ed to activities under this title.*

16                   “(iii) *No person shall be nominated for*  
17                   *appointment to the Board who is an em-*  
18                   *ployee of—*

19                           “(I) *the Department of Energy;*

20                           “(II) *a national laboratory under*  
21                           *contract with the Department of En-*  
22                           *ergy; or*

23                           “(III) *an entity performing spent*  
24                           *nuclear fuel or high-level radioactive*

1                   *waste activities under contract with*  
2                   *the Department of Energy.*

3                   “(4) *VACANCIES.*—*Any vacancy on the Board*  
4                   *shall be filled by the nomination and appointment*  
5                   *process described in paragraphs (1) and (3).*

6                   “(5) *TERMS.*—*Members of the Board shall be ap-*  
7                   *pointed for terms of 4 years, each such term to com-*  
8                   *mence 120 days after December 22, 1987, except that*  
9                   *of the 11 members first appointed to the Board, 5*  
10                  *shall serve for 2 years and 6 shall serve for 4 years,*  
11                  *to be designated by the President at the time of ap-*  
12                  *pointment, except that a member of the Board whose*  
13                  *term has expired may continue to serve as a member*  
14                  *of the Board until such member’s successor has taken*  
15                  *office.*

16                  **“SEC. 603. FUNCTIONS.**

17                  *“The Board shall evaluate the technical and scientific*  
18                  *validity of activities undertaken by the Secretary after De-*  
19                  *cember 22, 1987, including—*

20                         “(1) *site characterization activities; and*

21                         “(2) *activities relating to the packaging or trans-*  
22                         *portation of spent nuclear fuel or high-level radio-*  
23                         *active waste.*

1 **“SEC. 604. INVESTIGATORY POWERS.**

2       “(a) *HEARINGS.*—Upon request of the Chairman or a  
3 majority of the members of the Board, the Board may hold  
4 such hearings, sit and act at such times and places, take  
5 such testimony, and receive such evidence, as the Board con-  
6 siders appropriate. Any member of the Board may admin-  
7 ister oaths or affirmations to witnesses appearing before the  
8 Board.

9       “(b) *PRODUCTION OF DOCUMENTS.*—

10           “(1) *RESPONSE TO INQUIRIES.*—Upon the re-  
11 quest of the Chairman or a majority of the members  
12 of the Board, and subject to existing law, the Sec-  
13 retary (or any contractor of the Secretary) shall pro-  
14 vide the Board with such records, files, papers, data,  
15 or information as may be necessary to respond to any  
16 inquiry of the Board under this title.

17           “(2) *EXTENT.*—Subject to existing law, informa-  
18 tion obtainable under paragraph (1) shall not be lim-  
19 ited to final work products of the Secretary, but shall  
20 include drafts of such products and documentation of  
21 work in progress.

22 **“SEC. 605. COMPENSATION OF MEMBERS.**

23       “(a) *IN GENERAL.*—Each member of the Board shall,  
24 subject to appropriations, be paid at the rate of pay payable  
25 for level III of the Executive Schedule for each day (includ-

1 *ing travel time) such member is engaged in the work of the*  
2 *Board.*

3       “(b) *TRAVEL EXPENSES.*—*Each member of the Board*  
4 *may receive travel expenses, including per diem in lieu of*  
5 *subsistence, in the same manner as is permitted under sec-*  
6 *tions 5702 and 5703 of title 5, United States Code.*

7 **“SEC. 606. STAFF.**

8       “(a) *CLERICAL STAFF.*—

9               “(1) *AUTHORITY OF CHAIRMAN.*—*Subject to*  
10 *paragraph (2), the Chairman may, subject to appro-*  
11 *priations, appoint and fix the compensation of such*  
12 *clerical staff as may be necessary to discharge the re-*  
13 *sponsibilities of the Board.*

14               “(2) *PROVISIONS OF TITLE 5.*—*Clerical staff*  
15 *shall be appointed subject to the provisions of title 5,*  
16 *United States Code, governing appointments in the*  
17 *competitive service, and shall be paid in accordance*  
18 *with the provisions of chapter 51 and subchapter III*  
19 *of chapter 3 of such title relating to classification and*  
20 *General Schedule pay rates.*

21       “(b) *PROFESSIONAL STAFF.*—

22               “(1) *AUTHORITY OF CHAIRMAN.*—*Subject to*  
23 *paragraphs (2) and (3), the Chairman may, subject*  
24 *to appropriations, appoint and fix the compensation*

1       *of such professional staff as may be necessary to dis-*  
2       *charge the responsibilities of the Board.*

3           “(2) *NUMBER.*—*Not more than 10 professional*  
4       *staff members may be appointed under this sub-*  
5       *section.*

6           “(3) *TITLE 5.*—*Professional staff members may*  
7       *be appointed without regard to the provisions of title*  
8       *5, United States Code, governing appointments in the*  
9       *competitive service, and may be paid without regard*  
10      *to the provisions of chapter 51 and subchapter III of*  
11      *chapter 53 of such title relating to classification and*  
12      *General Schedule pay rates, except that no individual*  
13      *so appointed may receive pay in excess of the annual*  
14      *rate of basic pay payable for GS–18 of the General*  
15      *Schedule.*

16   **“SEC. 607. SUPPORT SERVICES.**

17           “(a) *GENERAL SERVICES.*—*To the extent permitted by*  
18      *law and requested by the Chairman, the Administrator of*  
19      *General Services shall provide the Board with necessary ad-*  
20      *ministrative services, facilities, and support on a reimburs-*  
21      *able basis.*

22           “(b) *ACCOUNTING, RESEARCH, AND TECHNOLOGY AS-*  
23      *SESSMENT SERVICES.*—*The Comptroller General, the Li-*  
24      *brarian of Congress, and the Director of the Office of Tech-*  
25      *nology Assessment shall, to the extent permitted by law and*

1 *subject to the availability of funds, provide the Board with*  
2 *such facilities, support, funds and services, including staff,*  
3 *as may be necessary for the effective performance of the*  
4 *functions of the Board.*

5       “(c) *ADDITIONAL SUPPORT.*—*Upon the request of the*  
6 *Chairman, the Board may secure directly from the head*  
7 *of any department or agency of the United States informa-*  
8 *tion necessary to enable it to carry out this title.*

9       “(d) *MAILS.*—*The Board may use the United States*  
10 *mails in the same manner and under the same conditions*  
11 *as other departments and agencies of the United States.*

12       “(e) *EXPERTS AND CONSULTANTS.*—*Subject to such*  
13 *rules as may be prescribed by the Board, the Chairman*  
14 *may, subject to appropriations, procure temporary and*  
15 *intermittent services under section 3109(b) of title 5 of the*  
16 *United States Code, but at rates for individuals not to ex-*  
17 *ceed the daily equivalent of the maximum annual rate of*  
18 *basic pay payable for GS–18 of the General Schedule.*

19       “**SEC. 608. REPORT.**

20       “*The Board shall report not less than 2 times per year*  
21 *to Congress and the Secretary its findings, conclusions, and*  
22 *recommendations.*

1 **“SEC. 609. AUTHORIZATION OF APPROPRIATIONS.**

2 *“There are authorized to be appropriated for expendi-*  
3 *tures such sums as may be necessary to carry out the provi-*  
4 *sions of this title.*

5 **“SEC. 610. TERMINATION OF THE BOARD.**

6 *“The Board shall cease to exist not later than one year*  
7 *after the date on which the Secretary begins disposal of*  
8 *spent nuclear fuel or high-level radioactive waste in the re-*  
9 *pository.*

10 **“TITLE VII—MANAGEMENT**  
11 **REFORM**

12 **“SEC. 701. MANAGEMENT REFORM INITIATIVES.**

13 *“(a) IN GENERAL.—The Secretary is directed to take*  
14 *actions as necessary to improve the management of the ci-*  
15 *vilian radioactive waste management program to ensure*  
16 *that the program is operated, to the maximum extent prac-*  
17 *ticable, in like manner as a private business.*

18 *“(b) SITE CHARACTERIZATION.—The Secretary shall*  
19 *employ, on an on-going basis, integrated performance mod-*  
20 *eling to identify appropriate parameters for the remaining*  
21 *site characterization effort and to eliminate studies of pa-*  
22 *rameters that are shown not to affect long-term repository*  
23 *performance.*

24 **“SEC. 702. REPORTING.**

25 *“(a) INITIAL REPORT.—Within 180 days of the date*  
26 *of enactment of this Act, the Secretary shall report to Con-*

1 *gress on its planned actions for implementing the provi-*  
2 *sions of this Act, including the development of the Inte-*  
3 *grated Waste Management System. Such report shall in-*  
4 *clude—*

5           “(1) *an analysis of the Secretary’s progress in*  
6 *meeting its statutory and contractual obligation to*  
7 *accept title to, possession of, and delivery of spent nu-*  
8 *clear fuel and high-level radioactive waste beginning*  
9 *no later than January 31, 2002, and in accordance*  
10 *with the acceptance schedule;*

11           “(2) *a detailed schedule and timeline showing*  
12 *each action that the Secretary intends to take to meet*  
13 *the Secretary’s obligations under this Act and the*  
14 *contracts;*

15           “(3) *a detailed description of the Secretary’s con-*  
16 *tingency plans in the event that the Secretary is un-*  
17 *able to meet the planned schedule and timeline; and*

18           “(4) *an analysis by the Secretary of its funding*  
19 *needs for fiscal years 1996 through 2001.*

20           “(b) *ANNUAL REPORTS.—On each anniversary of the*  
21 *submittal of the report required by subsection (a), the Sec-*  
22 *retary shall make annual reports to the Congress for the*  
23 *purpose of updating the information contained in such re-*  
24 *port. The annual reports shall be brief and shall notify the*  
25 *Congress of—*

1           “(1) any modifications to the Secretary’s sched-  
2           ule and timeline for meeting its obligations under this  
3           Act;

4           “(2) the reasons for such modifications, and the  
5           status of the implementation of any of the Secretary’s  
6           contingency plans; and

7           “(3) the Secretary’s analysis of its funding needs  
8           for the ensuing 5 fiscal years.”.

9   **SEC. 2. CONTINUATION OF CONTRACTS.**

10          *Subsequent to the date of enactment of this Act, the*  
11          *contracts executed under section 302(a) of the Nuclear*  
12          *Waste Policy Act of 1982 shall continue in effect under this*  
13          *Act in accordance with their terms except to the extent that*  
14          *the contracts have been modified by the parties to the con-*  
15          *tract.*

○