

Calendar No. 27

105TH CONGRESS
1ST Session

S. 104

A BILL

To amend the Nuclear Waste Policy Act of 1982.

MARCH 14, 1997

Reported with amendments

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105TH CONGRESS
1ST SESSION

S. 104

To amend the Nuclear Waste Policy Act of 1982.

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1997

Mr. MURKOWSKI (for himself, Mr. CRAIG, Mr. GRAMS, Mr. KEMPTHORNE, Mr. ABRAHAM, Mr. HELMS, Mr. THURMOND, Mr. KYL, Mr. HOLLINGS, Mr. MACK, Mr. FAIRCLOTH, Mr. HATCH, Mr. WARNER, Mr. BOND, Mr. SMITH of New Hampshire, Mr. ROBERTS, Mr. SANTORUM, Mr. LOTT, Mr. JEFFORDS, Mr. COCHRAN, Mr. THOMAS, Mr. ROBB, Mr. BROWNBACK, Mr. BURNS, Mr. ASHCROFT, Mr. HUTCHINSON, Mr. ENZI, and Mr. COVERDELL) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

MARCH 14, 1997

Reported by Mr. MURKOWSKI, with amendments

[Omit the part struck through and insert the part printed in *italic*]

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

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

2 “(a) SHORT TITLE.—This Act may be cited as the
3 ‘Nuclear Waste Policy Act of 1997’.

4 “(b) TABLE OF CONTENTS.—

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

“Sec. 2. Definitions.

“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 repository.

“Sec. 206. Land withdrawal.

“TITLE III—LOCAL RELATIONS

“Sec. 301. Financial Assistance.

“Sec. 302. On-Site Representative.

“Sec. 303. Acceptance of Benefits.

“Sec. 304. Restrictions on Use of Funds.

“Sec. 305. Land Conveyances.

“TITLE IV—FUNDING AND ORGANIZATION

“Sec. 401. Program Funding.

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

“Sec. 403. Federal contribution.

“TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

“Sec. 501. Compliance with other laws.

“Sec. 502. Judicial review of agency actions.

“Sec. 503. Licensing of facility expansions and transshipments.

“Sec. 504. Siting a second repository.

“Sec. 505. Financial arrangements for low-level radioactive waste site closure.

“Sec. 506. Nuclear Regulatory Commission training authority.

“Sec. 507. Emplacement schedule.

“Sec. 508. Transfer of Title.

“Sec. 509. Decommissioning Pilot Program.

“Sec. 510. Water Rights.

“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.
- “Sec. 703. Effective date.

1 **“SEC. 2. DEFINITIONS.**

2 “For purposes of this Act:

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

7 “(2) AFFECTED INDIAN TRIBE.—The term ‘af-
 8 fected Indian tribe’ means any Indian tribe—

9 “(A) whose reservation is surrounded by or
 10 borders an affected unit of local government, or

11 “(B) whose federally defined possessory or
 12 usage rights to other lands outside of the res-
 13 ervation’s boundaries arising out of congress-
 14 sionally ratified treaties may be substantially
 15 and adversely affected by the locating of an in-
 16 terim storage facility or a repository if the Sec-
 17 retary of the Interior finds, upon the petition of
 18 the appropriate governmental officials of the
 19 tribe, that such effects are both substantial and
 20 adverse to the tribe.

1 “(3) AFFECTED UNIT OF LOCAL GOVERN-
2 MENT.—The term ‘affected unit of local government’
3 means the unit of local government with jurisdiction
4 over the site of a repository or interim storage facil-
5 ity. Such term may, at the discretion of the Sec-
6 retary, include other units of local government that
7 are contiguous with such unit.

8 “(4) ATOMIC ENERGY DEFENSE ACTIVITY.—
9 The term ‘atomic energy defense activity’ means any
10 activity of the Secretary performed in whole or in
11 part in carrying out any of the following functions:

12 “(A) Naval reactors development.

13 “(B) Weapons activities including defense
14 inertial confinement fusion.

15 “(C) Verification and control technology.

16 “(D) Defense nuclear materials produc-
17 tion.

18 “(E) Defense nuclear waste and materials
19 byproducts management.

20 “(F) Defense nuclear materials security
21 and safeguards and security investigations.

22 “(G) Defense research and development.

23 “(5) CIVILIAN NUCLEAR POWER REACTOR.—
24 The term ‘civilian nuclear power reactor’ means a ci-
25 vilian nuclear power plant required to be licensed

1 under section 103 or 104 b. of the Atomic Energy
2 Act of 1954 (42 U.S.C. 2133, 2134(b)).

3 “(6) COMMISSION.—The term ‘Commission’
4 means the Nuclear Regulatory Commission.

5 “(7) CONTRACTS.—The term ‘contracts’ means
6 the contracts, executed prior to the date of enact-
7 ment of the Nuclear Waste Policy Act of 1997,
8 under section 302(a) of the Nuclear Waste Policy
9 Act of 1982, by the Secretary and any person who
10 generates or holds title to spent nuclear fuel or high-
11 level radioactive waste of domestic origin for accept-
12 ance of such waste or fuel by the Secretary and the
13 payment of fees to offset the Secretary’s expendi-
14 tures, and any subsequent contracts executed by the
15 Secretary pursuant to section 401(a) of this Act.

16 “(8) CONTRACT HOLDERS.—The term ‘contract
17 holders’ means parties (other than the Secretary) to
18 contracts.

19 “(9) DEPARTMENT.—The term ‘Department’
20 means the Department of Energy.

21 “(10) DISPOSAL.—The term ‘disposal’ means
22 the emplacement in a repository of spent nuclear

1 fuel, high-level radioactive waste, or other highly ra-
2 dioactive material with no foreseeable intent of re-
3 covery, whether or not such emplacement permits re-
4 covery of such material for any future purpose.

5 “(11) DISPOSAL SYSTEM.—The term ‘disposal
6 system’ means all natural barriers and engineered
7 barriers, and engineered systems and components,
8 that prevent the release of radionuclides from the re-
9 pository.

10 “(12) EMPLACEMENT SCHEDULE.—The term
11 ‘emplacement schedule’ means the schedule estab-
12 lished by the Secretary in accordance with section
13 507(a) for emplacement of spent nuclear fuel and
14 high-level radioactive waste at the interim storage
15 facility.

16 “(13) ENGINEERED BARRIERS AND ENGI-
17 NEERED SYSTEMS AND COMPONENTS.—The terms
18 ‘engineered barriers’ and ‘engineered systems and
19 components,’ mean man-made components of a dis-
20 posal system. These terms include the spent nuclear
21 fuel or high-level radioactive waste form, spent nu-
22 clear fuel package or high-level radioactive waste
23 package, and other materials placed over and around
24 such packages.

1 “(14) HIGH-LEVEL RADIOACTIVE WASTE.—The
2 term ‘high-level radioactive waste’ means—

3 “(A) the highly radioactive material result-
4 ing from the reprocessing of spent nuclear fuel,
5 including liquid waste produced directly in re-
6 processing and any solid material derived from
7 such liquid waste that contains fission products
8 in sufficient concentrations; and

9 “(B) other highly radioactive material that
10 the Commission, consistent with existing law,
11 determines by rule requires permanent isola-
12 tion, which includes any low-level radioactive
13 waste with concentrations of radionuclides that
14 exceed the limits established by the Commission
15 for class C radioactive waste, as defined by sec-
16 tion 61.55 of title 10, Code of Federal Regula-
17 tions, as in effect on January 26, 1983.

18 “(15) FEDERAL AGENCY.—The term ‘Federal
19 agency’ means any Executive agency, as defined in
20 section 105 of title 5, United States Code.

21 “(16) INDIAN TRIBE.—The term ‘Indian tribe’
22 means any Indian tribe, band, nation, or other orga-
23 nized group or community of Indians recognized as
24 eligible for the services provided to Indians by the
25 Secretary of the Interior because of their status as

1 Indians including any Alaska Native village, as de-
2 fined in section 3(c) of the Alaska Native Claims
3 Settlement Act (43 U.S.C. 1602(c)).

4 “(17) INTEGRATED MANAGEMENT SYSTEM.—
5 The term ‘integrated management system’ means
6 the system developed by the Secretary for the ac-
7 ceptance, transportation, storage, and disposal of
8 spent nuclear fuel and high-level radioactive waste
9 under title II of this Act.

10 “(18) INTERIM STORAGE FACILITY.—The term
11 ‘interim storage facility’ means a facility designed
12 and constructed for the receipt, handling, possession,
13 safeguarding, and storage of spent nuclear fuel and
14 high-level radioactive waste in accordance with title
15 II of this Act.

16 “(19) INTERIM STORAGE FACILITY SITE.—The
17 term ‘interim storage facility site’ means the specific
18 site within Area 25 of the Nevada Test Site that is
19 designated by the Secretary and withdrawn and re-
20 served in accordance with this Act for the location
21 of the interim storage facility.

22 “(20) LOW-LEVEL RADIOACTIVE WASTE.—The
23 term ‘low-level radioactive waste’ means radioactive
24 material that—

1 “(A) is not spent nuclear fuel, high-level
2 radioactive waste, transuranic waste, or byprod-
3 uct material as defined in section 11 e. (2) of the
4 Atomic Energy Act of 1954 (42 U.S.C.
5 2014(e). (2)); and

6 “(B) the Commission, consistent with ex-
7 isting law, classifies as low-level radioactive
8 waste.

9 “(21) METRIC TONS URANIUM.—The terms
10 ‘metric tons uranium’ and ‘MTU’ means the amount
11 of uranium in the original unirradiated fuel element
12 whether or not the spent nuclear fuel has been re-
13 processed.

14 “(22) NUCLEAR WASTE FUND.—The terms
15 ‘Nuclear Waste Fund’ and ‘waste fund’ mean the
16 nuclear waste fund established in the United States
17 Treasury prior to the date of enactment of this Act
18 under section 302(c) of the Nuclear Waste Policy
19 Act of 1982.

20 “(23) OFFICE.—The term ‘Office’ means the
21 Office of Civilian Radioactive Waste Management es-
22 tablished within the Department prior to the date of
23 enactment of this Act under the provisions of the
24 Nuclear Waste Policy Act of 1982.

1 “(24) PROGRAM APPROACH.—The term ‘pro-
2 gram approach’ means the Civilian Radioactive
3 Waste Management Program Plan, dated May 6,
4 1996, as modified by this Act, and as amended from
5 time to time by the Secretary in accordance with
6 this Act.

7 “(25) REPOSITORY.—The term ‘repository’
8 means a system designed and constructed under title
9 II of this Act for the geologic disposal of spent nu-
10 clear fuel and high-level radioactive waste, including
11 both surface and subsurface areas at which spent
12 nuclear fuel and high-level radioactive waste receipt,
13 handling, possession, safeguarding, and storage are
14 conducted.

15 “(26) SECRETARY.—The term ‘Secretary’
16 means the Secretary of Energy.

17 “(27) SITE CHARACTERIZATION.—The term
18 ‘site characterization’ means activities, whether in a
19 laboratory or in the field, undertaken to establish
20 the geologic condition and the ranges of the param-
21 eters of a candidate site relevant to the location of
22 a repository, including borings, surface excavations,
23 excavations of exploratory facilities, limited sub-
24 surface lateral excavations and borings, and in situ

1 testing needed to evaluate the licensability of a can-
2 didate site for the location of a repository, but not
3 including preliminary borings and geophysical test-
4 ing needed to assess whether site characterization
5 should be undertaken.

6 “(28) SPENT NUCLEAR FUEL.—The term
7 ‘spent nuclear fuel’ means fuel that has been with-
8 drawn from a nuclear reactor following irradiation,
9 the constituent elements of which have not been sep-
10 arated by reprocessing.

11 “(29) STORAGE.—The term ‘storage’ means re-
12 tention of spent nuclear fuel or high-level radioactive
13 waste with the intent to recover such waste or fuel
14 for subsequent use, processing, or disposal.

15 “(30) WITHDRAWAL.—The term ‘withdrawal’
16 has the same definition as that set forth in section
17 103(j) of the Federal Land Policy and Management
18 Act of 1976 (43 U.S.C. 1702(j)).

19 “(31) YUCCA MOUNTAIN SITE.—The term
20 “Yucca Mountain site” means the area in the State
21 of Nevada that is withdrawn and reserved in accord-
22 ance with this Act for the location of a repository.

1 **“TITLE I—OBLIGATIONS**

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

3 “(a) DISPOSAL.—The Secretary shall develop and op-
4 erate an integrated management system for the storage
5 and permanent disposal of spent nuclear fuel and high-
6 level radioactive waste.

7 “(b) INTERIM STORAGE.—The Secretary shall store
8 spent nuclear fuel and high-level radioactive waste from
9 facilities designated by contract holders at an interim stor-
10 age facility pursuant to section 204 in accordance with
11 the emplacement schedule, beginning not later than No-
12 vember 30, 1999.

13 “(c) TRANSPORTATION.—The Secretary shall provide
14 for the transportation of spent nuclear fuel and high-level
15 radioactive waste accepted by the Secretary. The Sec-
16 retary shall procure all systems and components necessary
17 to transport spent nuclear fuel and high-level radioactive
18 waste from facilities designated by contract holders to and
19 among facilities comprising the Integrated Management
20 System. Consistent with the Buy American Act (41 U.S.C.
21 10a–10c), unless the Secretary shall determine it to be
22 inconsistent with the public interest, or the cost to be un-
23 reasonable, all such systems and components procured by
24 the Secretary shall be manufactured in the United States,
25 with the exception of any transportable storage systems

1 purchased by contract holders prior to the effective date
2 of the Nuclear Waste Policy Act of 1997 and procured
3 by the Secretary from such contract holders for use in the
4 integrated management system.

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

10 “(e) PRIVATE SECTOR PARTICIPATION.—In admin-
11 istering the Integrated Management System, the Sec-
12 retary shall, to the maximum extent possible, utilize, em-
13 ploy, procure and contract with, the private sector to fulfill
14 the Secretary’s obligations and requirements under this
15 Act.

16 “(f) PREEXISTING RIGHTS.—Nothing in this Act is
17 intended to or shall be construed to modify—

18 “(1) any right of a contract holder under sec-
19 tion 302(a) of the Nuclear Waste Policy Act of
20 1982, or under a contract executed prior to the date
21 of enactment of this Act under that section; or

22 “(2) obligations imposed upon the Federal Gov-
23 ernment by the United States District Court of
24 Idaho in an order entered on October 17, 1995 in
25 United States v. Batt (No. 91-0054-S-EJL).

1 Lincoln County, Nevada, as required to facilitate replace-
2 ment of land and city wastewater disposal facilities nec-
3 essary to commence intermodal transfer pursuant to this
4 Act. Replacement of land and city wastewater disposal ac-
5 tivities shall occur no later than November 30, 1999.

6 “(e) NOTICE AND MAP.—Within 6 months of the
7 date of enactment of the Nuclear Waste Policy Act of
8 1997, the Secretary shall—

9 “(1) publish in the Federal Register a notice
10 containing a legal description of the sites and rights-
11 of-way to be acquired under this subsection; and

12 “(2) file copies of a map of such sites and
13 rights-of-way with the Congress, the Secretary of the
14 Interior, the State of Nevada, the Archivist of the
15 United States, the Board of Lincoln County Com-
16 missioners, the Board of Nye County Commis-
17 sioners, and the Caliente City Council.

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

23 “(f) IMPROVEMENTS.—The Secretary shall make im-
24 provements to existing roadways selected for heavy-haul
25 truck transport between Caliente, Nevada, and the interim

1 storage facility site as necessary to facilitate year-round
2 safe transport of spent nuclear fuel and high-level radio-
3 active waste.

4 “(g) LOCAL GOVERNMENT INVOLVEMENT.—The
5 Commission shall enter into a Memorandum of Under-
6 standing with the City of Caliente and Lincoln County,
7 Nevada, to provide advice to the Commission regarding
8 intermodal transfer and to facilitate on-site representa-
9 tion. Reasonable expenses of such representation shall be
10 paid by the Secretary.

11 “(h) BENEFITS AGREEMENT.—

12 “(1) IN GENERAL.—The Secretary shall offer to
13 enter into an agreement with the City of Caliente
14 and Lincoln County, Nevada concerning the inte-
15 grated management system.

16 “(2) AGREEMENT CONTENT.—Any agreement
17 shall contain such terms and conditions, including
18 such financial and institutional arrangements, as the
19 Secretary and agreement entity determine to be rea-
20 sonable and appropriate and shall contain such pro-
21 visions as are necessary to preserve any right to par-
22 ticipation or compensation of the City of Caliente
23 and Lincoln County, Nevada.

24 “(3) AMENDMENT.—An agreement entered into
25 under this subsection may be amended only with the

1 mutual consent of the parties to the amendment and
2 terminated only in accordance with paragraph (4).

3 “(4) TERMINATION.—The Secretary shall ter-
4 minate the agreement under this subsection if any
5 major element of the integrated management system
6 may not be completed.

7 “(5) LIMITATION.—Only 1 agreement may be
8 in effect at any one time.

9 “(6) JUDICIAL REVIEW.—Decisions of the Sec-
10 retary under this section are not subject to judicial
11 review.

12 “(i) CONTENT OF AGREEMENT.—

13 “(1) SCHEDULE.—In addition to the benefits to
14 which the City of Caliente and Lincoln County are
15 entitled to under this title, the Secretary shall make
16 payments under the benefits agreement in accord-
17 ance with the following schedule:

BENEFITS SCHEDULE

(amounts in millions)

Event	Payment
(A) Annual payments prior to first receipt of spent fuel	2.5
(B) Annual payments beginning upon first spent fuel receipt	5
(C) Payment upon closure of the intermodal transfer facility	5

18 “(2) DEFINITIONS.—For purposes of this sec-
19 tion, the term—

20 “(A) ‘spent fuel’ means high-level radio-
21 active waste or spent nuclear fuel; and

1 “(B) ‘first spent fuel receipt’ does not in-
2 clude receipt of spent fuel or high-level radio-
3 active waste for purposes of testing or oper-
4 ational demonstration.

5 “(3) ANNUAL PAYMENTS.—Annual payments
6 prior to first spent fuel receipt under paragraph
7 (1)(A) shall be made on the date of execution of the
8 benefits agreement and thereafter on the anniver-
9 sary date of such execution. Annual payments after
10 the first spent fuel receipt until closure of the facil-
11 ity under paragraph (1)(C) shall be made on the an-
12 niversary date of such first spent fuel receipt.

13 “(4) REDUCTION.—If the first spent fuel pay-
14 ment under paragraph (1)(B) is made within 6
15 months after the last annual payment prior to the
16 receipt of spent fuel under paragraph (1)(A), such
17 first spent fuel payment under paragraph (1)(B)
18 shall be reduced by an amount equal to $\frac{1}{12}$ of such
19 annual payment under paragraph (1)(A) for each
20 full month less than 6 that has not elapsed since the
21 last annual payment under paragraph (1)(A).

22 “(5) RESTRICTIONS.—The Secretary may not
23 restrict the purposes for which the payments under
24 this section may be used.

1 “(6) DISPUTE.—In the event of a dispute con-
2 cerning such agreement, the Secretary shall resolve
3 such dispute, consistent with this Act and applicable
4 State law.

5 “(7) CONSTRUCTION.—The signature of the
6 Secretary on a valid benefits agreement under this
7 section shall constitute a commitment by the United
8 States to make payments in accordance with such
9 agreement under section 401(c)(2).

10 “(j) INITIAL LAND CONVEYANCES.

11 “(1) CONVEYANCES OF PUBLIC LANDS.—One
12 hundred and twenty days after enactment of this
13 Act, all right, title and interest of the United States
14 in the property described in paragraph (2), and im-
15 provements thereon, together with all necessary
16 easements for utilities and ingress and egress to
17 such property, including, but not limited to, the
18 right to improve those easements, are conveyed by
19 operation of law to the County of Lincoln, Nevada,
20 unless the county notifies the Secretary of Interior
21 or the head of such other appropriate agency in
22 writing within 60 days of such date of enactment
23 that it elects not to take title to all or any part of
24 the property, except that any lands conveyed to the
25 County of Lincoln under this subsection that are

1 subject to a Federal grazing permit or lease or a
2 similar federally granted permit or lease shall be
3 conveyed between 60 and 120 days of the earliest
4 time the Federal agency administering or granting
5 the permit or lease would be able to legally termi-
6 nate such right under the statutes and regulations
7 existing at the date of enactment of this Act, unless
8 Lincoln County and the affected holder of the permit
9 or lease negotiate an agreement that allows for an
10 earlier conveyance.

11 “(2) SPECIAL CONVEYANCES.—Notwithstand-
12 ing any other law, the following public lands de-
13 picted on the maps and legal descriptions dated Oc-
14 tober 11, 1995, shall be conveyed under paragraph
15 (1) to the County of Lincoln, Nevada:

16 Map 10: Lincoln County, Parcel M, Indus-
17 trial Park Site

18 Map 11: Lincoln County, Parcel F, Mixed
19 Use Industrial Site

20 Map 13: Lincoln County, Parcel J, Mixed
21 Use, Alamo Community Expansion Area

22 Map 14: Lincoln County, Parcel E, Mixed
23 Use, Pioche Community Expansion Area

24 Map 15: Lincoln County, Parcel B, Land-
25 fill Expansion Site.

1 “(3) CONSTRUCTION.—The maps and legal de-
2 scriptions of special conveyances referred to in para-
3 graph (2) shall have the same force and effect as if
4 they were included in this Act. The Secretary may
5 correct clerical and typographical errors in the maps
6 and legal descriptions and make minor adjustments
7 in the boundaries of the sites.

8 “(4) EVIDENCE OF TITLE TRANSFER.—Upon
9 the request of the County of Lincoln, Nevada, the
10 Secretary of the Interior shall provide evidence of
11 title transfer.

12 **“SEC. 202. TRANSPORTATION PLANNING.**

13 “(a) TRANSPORTATION READINESS.—The Secretary
14 shall take those actions that are necessary and appropriate
15 to ensure that the Secretary is able to transport safely
16 spent nuclear fuel and high-level radioactive waste from
17 sites designated by the contract holders to mainline trans-
18 portation facilities, using routes that minimize, to the
19 maximum practicable extent consistent with Federal re-
20 quirements governing transportation of hazardous mate-
21 rials, transportation of spent nuclear fuel and high-level
22 radioactive waste through populated areas, beginning not
23 later than November 30, 1999, and, by that date, shall,
24 in consultation with the Secretary of Transportation, de-
25 velop and implement a comprehensive management plan

1 that ensures that safe transportation of spent nuclear fuel
2 and high-level radioactive waste from the sites designated
3 by the contract holders to the interim storage facility site
4 beginning not later than November 30, 1999.

5 “(b) TRANSPORTATION PLANNING.—In conjunction
6 with the development of the logistical plan in accordance
7 with subsection (a), the Secretary shall update and mod-
8 ify, as necessary, the Secretary’s transportation institu-
9 tional plans to ensure that institutional issues are ad-
10 dressed and resolved on a schedule to support the com-
11 mencement of transportation of spent nuclear fuel and
12 high-level radioactive waste to the interim storage facility
13 no later than November 30, 1999. Among other things,
14 such planning shall provide a schedule and process for ad-
15 dressing and implementing, as necessary, transportation
16 routing plans, transportation contracting plans, transpor-
17 tation training in accordance with Section 203, and public
18 education regarding transportation of spent nuclear fuel
19 and high level radioactive waste; and transportation track-
20 ing programs.

21 **“SEC. 203. TRANSPORTATION REQUIREMENTS.**

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

1 “(b) STATE NOTIFICATION.—The Secretary shall
2 abide by regulations of the Commission regarding advance
3 notification of State and local governments prior to trans-
4 portation of spent nuclear fuel or high-level radioactive
5 waste under this Act.

6 “(c) TECHNICAL ASSISTANCE.—The Secretary shall
7 provide technical assistance and funds to States, units of
8 local government, and Indian tribes through whose juris-
9 diction the Secretary plans to transport substantial
10 amounts of spent nuclear fuel or high-level radioactive
11 waste for training for public safety officials of appropriate
12 units of local government. The Secretary shall also provide
13 technical assistance and funds for training directly to na-
14 tional nonprofit employee organizations which dem-
15 onstrate experience in implementing and operating worker
16 health and safety training and education programs and
17 demonstrate the ability to reach and involve in training
18 programs target populations of workers who are or will
19 be directly engaged in the transportation of spent nuclear
20 fuel and high-level radioactive waste, or emergency re-
21 sponse or post-emergency response with respect to such
22 transportation. Training shall cover procedures required
23 for safe routine transportation of these materials, as well
24 as procedures for dealing with emergency response situa-
25 tions, and shall be consistent with any training standards

1 established by the Secretary of Transportation in accord-
2 ance with subsection (g). The Secretary's duty to provide
3 technical and financial assistance under this subsection
4 shall be limited to amounts specified in annual appropria-
5 tions.

6 **“SEC. 202. TRANSPORTATION PLANNING.**

7 “(a) *TRANSPORTATION READINESS.*—*The Secretary—*
8 “(1) *shall take such actions as are necessary and*
9 *appropriate to ensure that the Secretary is able to*
10 *transport safely spent nuclear fuel and high-level ra-*
11 *dioactive waste from sites designated by the contract*
12 *holders to mainline transportation facilities and from*
13 *the mainline transportation facilities to the interim*
14 *storage facility or repository, using routes that mini-*
15 *mize, to the maximum practicable extent consistent*
16 *with Federal requirements governing transportation*
17 *of hazardous materials, transportation of spent nu-*
18 *clear fuel and high-level radioactive waste through*
19 *populated areas, beginning not later than November*
20 *30, 1999; and*

21 “(2) *not later than November 30, 1999, shall, in*
22 *consultation with the Secretary of Transportation*
23 *and affected States and tribes, develop and implement*
24 *a comprehensive management plan that ensures that*
25 *safe transportation of spent nuclear fuel and high-*

1 *level radioactive waste from the sites designated by*
2 *the contract holders to the interim storage facility site*
3 *beginning not later than that date.*

4 “(b) *TRANSPORTATION PLANNING.*—

5 “(1) *IN GENERAL.*—*In conjunction with the de-*
6 *velopment of the logistical plan in accordance with*
7 *subsection (a), the Secretary shall update and modify,*
8 *as necessary, the Secretary’s transportation institu-*
9 *tional plans to ensure that institutional issues are ad-*
10 *dressed and resolved on a schedule to support the com-*
11 *mencement of transportation of spent nuclear fuel*
12 *and high-level radioactive waste to the interim storage*
13 *facility not later than November 30, 1999.*

14 “(2) *MATTERS TO BE ADDRESSED.*—*Among*
15 *other things, planning under paragraph (1) shall pro-*
16 *vide a schedule and process for addressing and imple-*
17 *menting, as necessary—*

18 “(A) *transportation routing plans;*

19 “(B) *transportation contracting plans;*

20 “(C) *transportation training in accordance*
21 *with section 203;*

22 “(D) *public education regarding transpor-*
23 *tation of spent nuclear fuel and high level radio-*
24 *active waste; and*

25 “(E) *transportation tracking programs.*

1 “(c) *SHIPPING CAMPAIGN TRANSPORTATION PLANS.*—

2 “(1) *IN GENERAL.*—*The Secretary shall develop*
3 *a transportation plan for the implementation of each*
4 *shipping campaign (as that term is defined by the*
5 *Secretary) from each site at which high-level nuclear*
6 *waste is stored, in accordance with the requirements*
7 *stated in Department of Energy Order No. 460.2 and*
8 *the Program Manager’s Guide.*

9 “(2) *REQUIREMENTS.*—*A shipping campaign*
10 *transportation plan shall—*

11 “(A) *be fully integrated with State, and*
12 *tribal government notification, inspection, and*
13 *emergency response plans along the preferred*
14 *shipping route or State-designated alternative*
15 *route identified under subsection (d); and*

16 “(B) *be consistent with the principles and*
17 *procedures developed for the safe transportation*
18 *of transuranic waste to the Waste Isolation Pilot*
19 *Plant (unless the Secretary demonstrates that a*
20 *specific principle or procedure is inconsistent*
21 *with a provision of this Act).*

22 “(d) *SAFE SHIPPING ROUTES AND MODES.*—

23 “(1) *IN GENERAL.*—*The Secretary shall evaluate*
24 *the relative safety of the proposed shipping routes and*

1 *shipping modes from each shipping origin to the in-*
2 *terim storage facility or repository compared with the*
3 *safety of alternative modes and routes.*

4 “(2) *CONSIDERATIONS.*—*The evaluation under*
5 *paragraph (1) shall be conducted in a manner con-*
6 *sistent with regulations promulgated by the Secretary*
7 *of Transportation under authority of chapter 51 of*
8 *title 49, United States Code, and the Nuclear Regu-*
9 *latory Commission under authority of the Atomic En-*
10 *ergy Act of 1954 (42 U.S.C. 2011 et seq.), as applica-*
11 *ble.*

12 “(3) *DESIGNATION OF PREFERRED SHIPPING*
13 *ROUTE AND MODE.*—*Following the evaluation under*
14 *paragraph (1), the Secretary shall designate preferred*
15 *shipping routes and modes from each civilian nuclear*
16 *power reactor and Department of Energy facility that*
17 *stores spent nuclear fuel or other high-level defense*
18 *waste.*

19 “(4) *SELECTION OF PRIMARY SHIPPING*
20 *ROUTE.*—*If the Secretary designates more than 1 pre-*
21 *ferred route under paragraph (3), the Secretary shall*
22 *select a primary route after considering, at a mini-*
23 *imum, historical accident rates, population, signifi-*
24 *cant hazards, shipping time, shipping distance, and*

1 *mitigating measures such as limits on the speed of*
2 *shipments.*

3 “(5) *USE OF PRIMARY SHIPPING ROUTE AND*
4 *MODE.—Except in cases of emergency, for all ship-*
5 *ments conducted under this Act, the Secretary shall*
6 *cause the primary shipping route and mode or State-*
7 *designated alternative route under chapter 51 of title*
8 *49, United States Code, to be used. If a route is des-*
9 *ignated as a primary route for any reactor or De-*
10 *partment of Energy facility, the Secretary may use*
11 *that route to transport spent nuclear fuel or high-level*
12 *radioactive waste from any other reactor or Depart-*
13 *ment of Energy facility.*

14 “(6) *TRAINING AND TECHNICAL ASSISTANCE.—*
15 *Following selection of the primary shipping routes, or*
16 *State-designated alternative routes, the Secretary*
17 *shall focus training and technical assistance under*
18 *section 203(c) on those routes.*

19 “(7) *PREFERRED RAIL ROUTES.—*

20 “(A) *REGULATION.—Not later than 1 year*
21 *after the date of enactment of the Nuclear Waste*
22 *Policy Act of 1997, the Secretary of Transpor-*
23 *tation, pursuant to authority under other provi-*
24 *sions of law, shall promulgate a regulation estab-*
25 *lishing procedures for the selection of preferred*

1 *routes for the transportation of spent nuclear*
2 *fuel and nuclear waste by rail.*

3 “(B) *INTERIM PROVISION.*—*During the pe-*
4 *riod beginning on the date of enactment of the*
5 *Nuclear Waste Policy Act of 1997 and ending on*
6 *the date of issuance of a final regulation under*
7 *subparagraph (A), rail transportation of spent*
8 *nuclear fuel and high-level radioactive waste*
9 *shall be conducted in accordance with regulatory*
10 *requirements in effect on that date and with this*
11 *section.*

12 **“SEC. 203. TRANSPORTATION REQUIREMENTS.**

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

17 “(b) *STATE NOTIFICATION.*—*The Secretary shall abide*
18 *by regulations of the Commission regarding advance notifi-*
19 *cation of State and tribal governments prior to transpor-*
20 *tation of spent nuclear fuel or high-level radioactive waste*
21 *under this Act.*

22 “(c) *TECHNICAL ASSISTANCE.*—

23 “(1) *IN GENERAL.*—

1 “(A) *STATES AND INDIAN TRIBES.*—As pro-
2 vided in paragraph (3), the Secretary shall pro-
3 vide technical assistance and funds to States and
4 Indian tribes for training of public safety offi-
5 cials of appropriate units of State, local, and
6 tribal government. A State shall allocate to local
7 governments within the State a portion any
8 funds that the Secretary provides to the State for
9 technical assistance and funding.

10 “(B) *EMPLOYEE ORGANIZATIONS.*—The Sec-
11 retary shall provide technical assistance and
12 funds for training directly to nonprofit employee
13 organizations and joint labor-management orga-
14 nizations that demonstrate experience in imple-
15 menting and operating worker health and safety
16 training and education programs and dem-
17 onstrate the ability to reach and involve in
18 training programs target populations of workers
19 who are or will be directly engaged in the trans-
20 portation of spent nuclear fuel and high-level ra-
21 dioactive waste, or emergency response or post-
22 emergency response with respect to such trans-
23 portation.

24 “(C) *TRAINING.*—Training under this sec-
25 tion—

1 “(i) shall cover procedures required for
2 safe routine transportation of materials and
3 procedures for dealing with emergency re-
4 sponse situations;

5 “(ii) shall be consistent with any
6 training standards established by the Sec-
7 retary of Transportation under subsection
8 (g); and

9 “(iii) shall include—

10 “(I) a training program applica-
11 ble to persons responsible for respond-
12 ing to emergency situations occurring
13 during the removal and transportation
14 of spent nuclear fuel and high-level ra-
15 dioactive waste;

16 “(II) instruction of public safety
17 officers in procedures for the command
18 and control of the response to any inci-
19 dent involving the waste; and

20 “(III) instruction of radiological
21 protection and emergency medical per-
22 sonnel in procedures for responding to
23 an incident involving spent nuclear
24 fuel or high-level radioactive waste
25 being transported.

1 “(2) *NO SHIPMENTS IF NO TRAINING.*—(A) *There*
2 *will be no shipments of spent nuclear fuel and high-*
3 *level radioactive waste through the jurisdiction of any*
4 *State or the reservation lands of any Indian tribe eli-*
5 *gible for grants under paragraph (3)(B) unless tech-*
6 *nical assistance and funds to implement procedures*
7 *for safe routine transportation and for dealing with*
8 *emergency response situations under paragraph*
9 *(1)(A) have been available to a State or Indian tribe*
10 *for at least 2 years prior to any shipment: Provided,*
11 *however, That the Secretary may ship spent nuclear*
12 *fuel and high-level radioactive waste if technical as-*
13 *istance or funds have not been made available due to*
14 *(1) an emergency, including the sudden and unfore-*
15 *seen closure of a highway or rail line or the sudden*
16 *and unforeseen need to remove spent fuel from a reac-*
17 *tor because of an accident, or (2) the refusal to accept*
18 *technical assistance by a State or Indian tribe, or (3)*
19 *fraudulent actions which violate Federal law govern-*
20 *ing the expenditure of Federal funds.*

21 “(B) *In the event the Secretary is required to*
22 *transport spent fuel or high level radioactive waste*
23 *through a jurisdiction prior to 2 years after the pro-*
24 *vision of technical assistance or funds to such juris-*
25 *isdiction, the Secretary shall, prior to such shipment,*

1 *hold meetings in each State and Indian reservation*
2 *through which the shipping route passes in order to*
3 *present initial shipment plans and receive comments.*
4 *Department of Energy personnel trained in emer-*
5 *gency response shall escort each shipment. Funds and*
6 *all Department of Energy training resources shall be*
7 *made available to States and Indian tribes along the*
8 *shipping route no later than three months prior to the*
9 *commencement of shipments: Provided, however, That*
10 *in no event shall such shipments exceed 1,000 metric*
11 *tons per year, And provided further, That no such*
12 *shipments shall be conducted more than four years*
13 *after the effective date of the Nuclear Waste Policy Act*
14 *of 1997.*

15 “(3) *GRANTS.—*

16 “(A) *IN GENERAL.—To implement this sec-*
17 *tion, grants shall be made under section*
18 *401(c)(2).*

19 “(B) *GRANTS FOR DEVELOPMENT OF*
20 *PLANS.—*

21 “(i) *IN GENERAL.—The Secretary shall*
22 *make a grant of at least \$150,000 to each*
23 *State through the jurisdiction of which and*
24 *each federally recognized Indian tribe*
25 *through the reservation lands of which a*

1 *shipment of spent nuclear fuel or high-level*
2 *radioactive waste will be made under this*
3 *Act for the purpose of developing a plan to*
4 *prepare for such shipments.*

5 “(ii) *LIMITATION.—A grant shall be*
6 *made under clause (i) only to a State or a*
7 *federally recognized Indian tribe that has*
8 *the authority to respond to incidents involv-*
9 *ing shipments of hazardous material.*

10 “(C) *GRANTS FOR IMPLEMENTATION OF*
11 *PLANS.—*

12 “(i) *IN GENERAL.—Annual implemen-*
13 *tation grants shall be made to States and*
14 *Indian tribes that have developed a plan to*
15 *prepare for shipments under this Act under*
16 *subparagraph (B). The Secretary, in sub-*
17 *mitting annual departmental budget to*
18 *Congress for funding of implementation*
19 *grants under this section, shall be guided by*
20 *the State and tribal plans developed under*
21 *subparagraph (B). As part of the Depart-*
22 *ment of Energy’s annual budget request, the*
23 *Secretary shall report to Congress on—*

1 “(I) the funds requested by states
2 and federally recognized Indian tribes
3 to implement this subsection;

4 “(II) the amount requested by the
5 President for implementation; and

6 “(III) the rationale for any dis-
7 crepancies between the amounts re-
8 quested by States and federally recog-
9 nized Indian tribes and the amounts
10 requested by the President.

11 “(ii) ALLOCATION.—Of funds available
12 for grants under this subparagraph for any
13 fiscal year—

14 “(I) 25 percent shall be allocated
15 by the Secretary to ensure minimum
16 funding and program capability levels
17 in all States and Indian tribes based
18 on plans developed under subpara-
19 graph (B); and

20 “(II) 75 percent shall be allocated
21 to States and Indian tribes in propor-
22 tion to the number of shipment miles
23 that are projected to be made in total
24 shipments under this Act through each
25 jurisdiction.

1 “(4) *AVAILABILITY OF FUNDS FOR SHIP-*
2 *MENTS.—Funds under paragraph (1) shall be*
3 *provided for shipments to an interim storage fa-*
4 *ility or repository, regardless of whether the in-*
5 *terim storage facility or repository is operated*
6 *by a private entity or by the Department of En-*
7 *ergy.*

8 “(d) **PUBLIC EDUCATION.**—The Secretary shall con-
9 duct a program to educate the public regarding the trans-
10 portation of spent nuclear fuel and high-level radioactive
11 waste, with an emphasis upon those States, units of local
12 government, and Indian tribes through whose jurisdiction
13 the Secretary plans to transport substantial amounts of
14 spent nuclear fuel or high-level radioactive waste.

15 “(e) **COMPLIANCE WITH TRANSPORTATION REGULA-**
16 **TIONS.**—Any person that transports spent nuclear fuel or
17 high-level radioactive waste under the Nuclear Waste Pol-
18 icy Act of ~~1986~~ 1997, pursuant to a contract with the Sec-
19 retary, shall comply with all requirements governing such
20 transportation issued by the Federal, State, and local gov-
21 ernments, and Indian tribes, in the same way and to the
22 same extent that any person engaging in that transpor-
23 tation that is in or affects interstate commerce must com-
24 ply with such requirements, as required by 49 U.S.C. sec.
25 5126.

1 “(f) EMPLOYEE PROTECTION.—Any person engaged
2 in the interstate commerce of spent nuclear fuel or high-
3 level radioactive waste under contract to the Secretary
4 pursuant to this Act shall be subject to and comply fully
5 with the employee protection provisions of 49 U.S.C.
6 20109 and 49 U.S.C. 31105.

7 “(g) TRAINING STANDARD.—(1) No later than 12
8 months after the date of enactment of the Nuclear Waste
9 Policy Act of 1997, the Secretary of Transportation, pur-
10 suant to authority under other provisions of law, in con-
11 sultation with the Secretary of Labor and the Commission,
12 shall promulgate a regulation establishing training stand-
13 ards applicable to workers directly involved in the removal
14 and transportation of spent nuclear fuel and high-level ra-
15 dioactive waste. The regulation shall specify minimum
16 training standards applicable to workers, including mana-
17 gerial personnel. The regulation shall require that the em-
18 ployer possess evidence of satisfaction of the applicable
19 training standard before any individual may be employed
20 in the removal and transportation of spent nuclear fuel
21 and high-level radioactive waste.

22 “(2) If the Secretary of Transportation determines,
23 in promulgating the regulation required by subparagraph
24 (1), that regulations promulgated by the Commission es-
25 tablish adequate training standards for workers, then the

1 Secretary of Transportation can refrain from promulgat-
2 ing additional regulations with respect to worker training
3 in such activities. The Secretary of Transportation and the
4 Commission shall work through their Memorandum of Un-
5 derstanding to ensure coordination of worker training
6 standards and to avoid duplicative regulation.

7 “(3) The training standards required to be promul-
8 gated under subparagraph (1) shall, among other things
9 deemed necessary and appropriate by the Secretary of
10 Transportation, include the following provisions—

11 “(A) a specified minimum number of hours of
12 initial offsite instruction and actual field experience
13 under the direct supervision of a trained, experi-
14 enced supervisor;

15 “(B) a requirement that onsite managerial per-
16 sonnel receive the same training as workers, and a
17 minimum number of additional hours of specialized
18 training pertinent to their managerial responsibil-
19 ities; and

20 “(C) a training program applicable to persons
21 responsible for responding to and cleaning up emer-
22 gency situations occurring during the removal and
23 transportation of spent nuclear fuel and high-level
24 radioactive waste.

1 “(4) There is authorized to be appropriated to the
2 Secretary of Transportation, from general revenues, such
3 sums as may be necessary to perform his duties under this
4 subsection.

5 **“SEC. 204. INTERIM STORAGE.**

6 “(a) AUTHORIZATION.—The Secretary shall design,
7 construct, and operate a facility for the interim storage
8 of spent nuclear fuel and high-level radioactive waste at
9 the interim storage facility site. The interim storage facil-
10 ity shall be subject to licensing pursuant to the Atomic
11 Energy Act of 1954 in accordance with the Commission’s
12 regulations governing the licensing of independent spent
13 fuel storage installations, which regulations shall be
14 amended by the Commission as necessary to implement
15 the provisions of this Act. The interim storage facility
16 shall commence operation in phases in accordance with
17 subsection (b).

18 “(b) SCHEDULE.—(1) The Secretary shall proceed
19 forthwith and without further delay with all activities nec-
20 essary to begin storing spent nuclear fuel and high-level
21 radioactive waste at the interim storage facility at the in-
22 terim storage facility site by November 30, 1999, except
23 that:

1 “(A) The Secretary shall not begin any con-
2 struction activities at the interim storage facility site
3 before December 31, 1998.

4 “(B) The Secretary shall cease all activities (ex-
5 cept necessary termination activities) at the Yucca
6 Mountain site if the President determines, in his dis-
7 cretion, on or before December 31, 1998, based on
8 a preponderance of the information available at such
9 time, that the Yucca Mountain site is unsuitable for
10 development as a repository, including geologic and
11 engineered barriers, because of a substantial likeli-
12 hood that a repository of useful size cannot be de-
13 signed, licensed, and constructed at the Yucca
14 Mountain site.

15 “(C) No later than June 30, 1998, the Sec-
16 retary shall provide to the President and to the Con-
17 gress a viability assessment of the Yucca Mountain
18 site. The viability assessment shall include—

19 “(i) the preliminary design concept for the
20 critical elements of the repository and waste
21 package,

22 “(ii) a total system performance assess-
23 ment, based upon the design concept and the
24 scientific data and analysis available by June
25 30, 1998, describing the probable behavior of

1 the repository in the Yucca Mountain geologic
2 setting relative to the overall system perform-
3 ance standard set forth in section 205(d) of this
4 Act,

5 “(iii) a plan and cost estimate for the re-
6 maining work required to complete a license ap-
7 plication, and

8 “(iv) an estimate of the costs to construct
9 and operate the repository in accordance with
10 the design concept.

11 “(D) Within 18 months of a determination by
12 the President that the Yucca Mountain site is un-
13 suitable for development as a repository under sub-
14 paragraph (B), the President shall designate a site
15 for the construction of an interim storage facility.
16 *The President shall not designate the Hanford Nu-*
17 *clear Reservation in the State of Washington as a site*
18 *for construction of an interim storage facility.* If the
19 President does not designate a site for the construc-
20 tion of an interim storage facility, or the construc-
21 tion of an interim storage facility at the designated
22 site is not approved by law within 24 months of the
23 President’s determination that the Yucca Mountain
24 site is not suitable for development as a repository,
25 the Secretary shall begin construction of an interim

1 storage facility at the interim storage facility site as
2 defined in section 2(19) of this Act. The interim
3 storage facility site as defined in section 2(19) of
4 this Act shall be deemed to be approved by law for
5 purposes of this section.

6 “(2) Upon the designation of an interim storage facil-
7 ity site by the President under paragraph (1)(D), the Sec-
8 retary shall proceed forthwith and without further delay
9 with all activities necessary to begin storing spent nuclear
10 fuel and high-level radioactive waste at an interim storage
11 facility at the designated site, except that the Secretary
12 shall not begin any construction activities at the des-
13 ignated interim storage facility site before the designated
14 interim storage facility site is approved by law.

15 “(c) DESIGN.—

16 “(1) The interim storage facility shall be de-
17 signed in two phases in order to commence oper-
18 ations no later than November 30, 1999. The design
19 of the interim storage facility shall provide for the
20 use of storage technologies, licensed, approved, or
21 certified by the Commission for use at the interim
22 storage facility as necessary to ensure compatibility
23 between the interim storage facility and contract

1 holders' spent nuclear fuel and facilities, and to fa-
2 cilitate the Secretary's ability to meet the Sec-
3 retary's obligations under this Act.

4 “(2) The Secretary shall consent to an amend-
5 ment to the contracts to provide for reimbursement
6 to contract holders for transportable storage systems
7 purchased by contract holders if the Secretary deter-
8 mines that it is cost effective to use such transport-
9 able storage systems as part of the integrated man-
10 agement system, provided that the Secretary shall
11 not be required to expend any funds to modify con-
12 tract holders' storage or transport systems or to
13 seek additional regulatory approvals in order to use
14 such systems.

15 “(d) LICENSING.—

16 “(1) PHASES.—The interim storage facility
17 shall be licensed by the Commission in two phases
18 in order to commence operations no later than No-
19 vember 30, 1999.

20 “(2) FIRST PHASE.—No later than 12 months
21 after the date of enactment of the Nuclear Waste
22 Policy Act of 1997, the Secretary shall submit to the
23 Commission an application for a license for the first
24 phase of the interim storage facility. The Environ-
25 mental Report and Safety Analysis Report submitted

1 in support of such license application shall be con-
2 sistent with the scope of authority requested in the
3 license application. The license issued for the first
4 phase of the interim storage facility shall have a
5 term of 20 years. The interim storage facility li-
6 censed in the first phase shall have a capacity of
7 not more than 15,000 MTU. The Commission shall
8 issue a final decision granting or denying the appli-
9 cation for the first phase license no later than 16
10 months from the date of the submittal of the appli-
11 cation for such license.

12 “(3) SECOND PHASE.—No later than 30
13 months after the date of enactment of the Nuclear
14 Waste Policy Act of 1997, the Secretary shall sub-
15 mit to the Commission an application for a license
16 for the second phase interim storage facility. The li-
17 cense for the second phase facility shall authorize a
18 storage capacity of 40,000 MTU. If the Secretary
19 does not submit the license application for construc-
20 tion of a repository by February 1, 2002, or does
21 not begin full spent nuclear fuel receipt operations
22 at a repository by January 17, 2010, the license
23 shall authorize a storage capacity of 60,000 MTU.
24 The license application shall be submitted such that
25 the license can be issued to permit the second phase

1 facility to begin full spent nuclear fuel receipt oper-
2 ations no later than December 31, 2002. The license
3 for the second phase shall have an initial term of up
4 to 100 years, and shall be renewable for additional
5 terms upon application of the Secretary.

6 “(e) ADDITIONAL AUTHORITY.—

7 “(1) CONSTRUCTION.—For purposes of comply-
8 ing with this section, the Secretary may commence
9 site preparation for the interim storage facility as
10 soon as practicable after the date of enactment of
11 the Nuclear Waste Policy Act of 1997 and shall
12 commence construction of each phase of the interim
13 storage facility subsequent to submittal of the li-
14 cense application for such phase except that the
15 Commission shall issue an order suspending such
16 construction at any time if the Commission deter-
17 mines that such construction poses an unreasonable
18 risk to public health and safety or the environment.
19 The Commission shall terminate all or part of such
20 order upon a determination that the Secretary has
21 taken appropriate action to eliminate such risk.

22 “(2) FACILITY USE.—Notwithstanding any oth-
23 erwise applicable licensing requirement, the Sec-
24 retary may utilize any facility owned by the Federal
25 Government on the date of enactment of the Nuclear

1 Waste Policy Act of 1997 within the boundaries of
2 the interim storage facility site, in connection with
3 an imminent and substantial endangerment to public
4 health and safety at the interim storage facility prior
5 to commencement of operations during the second
6 phase.

7 “(3) EMPLACEMENT OF FUEL AND WASTE.—
8 Subject to paragraph (i), ~~once the Secretary has~~
9 ~~achieved~~ *in each year in which the actual emplace-*
10 *ment rate is greater than* the annual acceptance rate
11 for spent nuclear fuel from civilian nuclear power re-
12 actors established pursuant to the contracts executed
13 prior to the date of enactment of the Nuclear Waste
14 Policy Act of 1997, as set forth in the Secretary’s
15 annual capacity report dated March 1995 (DOE/
16 RW-0457), the Secretary shall accept, in an amount
17 not less than 25 percent of the difference between
18 the contractual acceptance rate and the ~~annual~~ *ac-*
19 *tual* emplacement rate for spent nuclear fuel from
20 civilian nuclear power reactors established under sec-
21 tion 507(a), the following radioactive materials:

22 “(A) spent nuclear fuel or high-level radio-
23 active waste of domestic origin from civilian nu-
24 clear power reactors that have permanently

1 ceased operation on or before the date of enact-
2 ment of the Nuclear Waste Policy Act of 1997;

3 “(B) spent nuclear fuel from foreign re-
4 search reactors, as necessary to promote non-
5 proliferation objectives; and

6 “(C) spent nuclear fuel, including spent
7 nuclear fuel from naval reactors, and high-level
8 radioactive waste from atomic energy defense
9 activities: *Provided, however, That the Secretary*
10 *shall accept not less than 5 percent of the total*
11 *quantity of spent fuel accepted in any one year*
12 *from the categories of radioactive materials de-*
13 *scribed in subparagraphs (B) and (C).*

14 “(f) NATIONAL ENVIRONMENTAL POLICY ACT OF
15 1969.—

16 “(1) PRELIMINARY DECISIONMAKING ACTIVI-
17 TIES.—The Secretary’s and President’s activities
18 under this section, including, but not limited to, the
19 selection of a site for the interim storage facility, as-
20 sessments, determinations and designations made
21 under section 204(b), the preparation and submittal
22 of a license application and supporting documenta-
23 tion, the construction of a facility under paragraph
24 (e)(1) of this section, and facility use pursuant to
25 paragraph (e)(2) of this section shall be considered

1 preliminary decisionmaking activities for purposes of
2 judicial review. The Secretary shall not prepare an
3 environmental impact statement under section
4 102(2)(C) of the National Environmental Policy Act
5 of 1969 (42 U.S.C. 4332(2)(C)) or any environ-
6 mental review under subparagraph (E) or (F) of
7 such Act before conducting these activities.

8 “(2) ENVIRONMENTAL IMPACT STATEMENT.—

9 “(A) FINAL DECISION.—A final decision
10 by the Commission to grant or deny a license
11 application for the first or second phase of the
12 interim storage facility shall be accompanied by
13 an Environmental Impact Statement prepared
14 under section 102(2)(C) of the National Envi-
15 ronmental Policy Act of 1969 (42 U.S.C.
16 4332(2)(C)). In preparing such Environmental
17 Impact Statement, the Commission—

18 “(i) shall ensure that the scope of the
19 Environmental Impact Statement is con-
20 sistent with the scope of the licensing ac-
21 tion; and

22 “(ii) shall analyze the impacts of the
23 transportation of spent nuclear fuel and
24 high-level radioactive waste to the interim
25 storage facility in a generic manner.

1 “(B) CONSIDERATIONS.—Such Environ-
2 mental Impact Statement shall not consider—
3 “(i) the need for the interim storage
4 facility, including any individual compo-
5 nent thereof;
6 “(ii) the time of the initial availability
7 of the interim storage facility;
8 “(iii) any alternatives to the storage
9 of spent nuclear fuel and high-level radio-
10 active waste at the interim storage facility;
11 “(iv) any alternatives to the site of
12 the facility as designated by the Secretary
13 in accordance with subsection (a);
14 “(v) any alternatives to the design cri-
15 teria for such facility or any individual
16 component thereof, as specified by the Sec-
17 retary in the license application; or
18 “(vi) the environmental impacts of the
19 storage of spent nuclear fuel and high-level
20 radioactive waste at the interim storage fa-
21 cility beyond the initial term of the license
22 or the term of the renewal period for which
23 a license renewal application is made.

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

21 “(i) STORAGE OF OTHER SPENT NUCLEAR FUEL
22 AND HIGH-LEVEL RADIOACTIVE WASTE.—No later than
23 18 months following the date of enactment of the Nuclear
24 Waste Policy Act of 1997, the Commission shall, by rule,

1 establish criteria for the storage in the interim storage fa-
2 cility of fuel and waste listed in subsection (e)(3) (A)
3 through (C), to the extent such criteria are not included
4 in regulations issued by the Commission and existing on
5 the date of enactment of the Nuclear Waste Policy Act
6 of 1997. Following establishment of such criteria, the Sec-
7 retary shall seek authority, as necessary, to store fuel and
8 waste listed in subsection (e)(3) (A) through (C) at the
9 interim storage facility. None of the activities carried out
10 pursuant to this subsection shall delay, or otherwise affect,
11 the development, construction, licensing, or operation of
12 the interim storage facility.

13 “(j) SAVINGS CLAUSE.—The Commission shall, by
14 rule, establish procedures for the licensing of any tech-
15 nology for the dry storage of spent nuclear fuel by rule
16 and without, to the maximum extent possible, the need
17 for site-specific approvals by the Commission. Nothing in
18 this Act shall affect any such procedures, or any licenses
19 or approvals issued pursuant to such procedures in effect
20 on the date of enactment.

21 **“SEC. 205. PERMANENT REPOSITORY.**

22 “(a) REPOSITORY CHARACTERIZATION.—

23 “(1) GUIDELINES.—The guidelines promul-
24 gated by the Secretary and published at 10 CFR

1 part 960 are annulled and revoked and the Sec-
2 retary shall make no assumptions or conclusions
3 about the licensability of the Yucca Mountain site as
4 a repository by reference to such guidelines.

5 “(2) SITE CHARACTERIZATION ACTIVITIES.—

6 The Secretary shall carry out appropriate site char-
7 acterization activities at the Yucca Mountain site in
8 accordance with the Secretary’s program approach
9 to site characterization. The Secretary shall modify
10 or eliminate those site characterization activities de-
11 signed only to demonstrate the suitability of the site
12 under the guidelines referenced in paragraph (1).

13 “(3) SCHEDULE DATE.—Consistent with the

14 schedule set forth in the program approach, as
15 modified to be consistent with the Nuclear Waste
16 Policy Act of 1997, no later than February 1, 2002,
17 the Secretary shall apply to the Commission for au-
18 thorization to construct a repository. If, at any time
19 prior to the filing of such application, the Secretary
20 determines that the Yucca Mountain site cannot sat-
21 isfy the Commission’s regulations applicable to the
22 licensing of a geologic repository, the Secretary shall
23 terminate site characterization activities at the site,
24 notify Congress and the State of Nevada of the Sec-
25 retary’s determination and the reasons therefor, and

1 recommend to Congress not later than 6 months
2 after such determination furthers actions, including
3 the enactment of legislation, that may be needed to
4 manage the Nation's spent nuclear fuel and high-
5 level radioactive waste.

6 “(4) MAXIMIZING CAPACITY.—In developing an
7 application for authorization to construct the reposi-
8 tory, the Secretary shall seek to maximize the capac-
9 ity of the repository, in the most cost-effective man-
10 ner, consistent with the need for disposal capacity.

11 “(b) REPOSITORY LICENSING.—Upon the completion
12 of any licensing proceeding for the first phase of the in-
13 terim storage facility, the Commission shall amend its reg-
14 ulations governing the disposal of spent nuclear fuel and
15 high-level radioactive waste in geologic repositories to the
16 extent necessary to comply with this Act. Subject to sub-
17 section (c), such regulations shall provide for the licensing
18 of the repository according to the following procedures:

19 “(1) CONSTRUCTION AUTHORIZATION.—The
20 Commission shall grant the Secretary a construction
21 authorization for the repository upon determining
22 that there is reasonable assurance that spent nuclear
23 fuel and high-level radioactive waste can be disposed
24 of in the repository—

1 “(A) in conformity with the Secretary’s ap-
2 plication, the provisions of this Act, and the
3 regulations of the Commission;

4 “(B) without unreasonable risk to the
5 health and safety of the public; and

6 “(C) consistent with the common defense
7 and security.

8 “(2) LICENSE.—Following substantial comple-
9 tion of construction and the filing of any additional
10 information needed to complete the license applica-
11 tion, the Commission shall issue a license to dispose
12 of spent nuclear fuel and high-level radioactive waste
13 in the repository if the Commission determines that
14 the repository has been constructed and will oper-
15 ate—

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

19 “(B) without unreasonable risk to the
20 health and safety of the public; and

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

23 “(3) CLOSURE.—After emplacing spent nuclear
24 fuel and high-level radioactive waste in the reposi-
25 tory and collecting sufficient confirmatory data on

1 repository performance to reasonably confirm the
2 basis for repository closure consistent with the Com-
3 mission’s regulations applicable to the licensing of a
4 repository, as modified in accordance with this Act,
5 the Secretary shall apply to the Commission to
6 amend the license to permit permanent closure of
7 the repository. The Commission shall grant such li-
8 cense amendment upon finding that there is reason-
9 able assurance that the repository can be perma-
10 nently closed—

11 “(A) in conformity with the Secretary’s ap-
12 plication to amend the license, the provisions of
13 this Act, and the regulations of the Commis-
14 sion;

15 “(B) without unreasonable risk to the
16 health and safety of the public; and

17 “(C) consistent with the common defense
18 and security.

19 “(4) POST-CLOSURE.—The Secretary shall take
20 those actions necessary and appropriate at the
21 Yucca Mountain site to prevent any activity at the
22 site subsequent to repository closure that poses an
23 unreasonable risk of—

24 “(A) breaching the repository’s engineered
25 or geologic barriers; or

1 “(B) increasing the exposure of individual
2 members of the public to radiation beyond the
3 release standard established in subsection
4 (d)(1).

5 “(c) MODIFICATION OF REPOSITORY LICENSING
6 PROCEDURE.—The Commission’s regulations shall pro-
7 vide for the modification of the repository licensing proce-
8 dure, as appropriate, in the event that the Secretary seeks
9 a license to permit the emplacement in the repository, on
10 a retrievable basis, of spent nuclear fuel or high-level ra-
11 dioactive waste as is necessary to provide the Secretary
12 with sufficient confirmatory data on repository perform-
13 ance to reasonably confirm the basis for repository closure
14 consistent with applicable regulations.

15 “(d) REPOSITORY LICENSING STANDARDS.—The Ad-
16 ministrator of the Environmental Protection Agency shall,
17 pursuant to authority under others provisions of law, issue
18 generally applicable standards for the protection of the
19 public from releases of radioactive materials or radioactiv-
20 ity from the repository. Such standards shall be consistent
21 with the overall system performance standard established
22 by this subsection unless the Administrator determines by
23 rule that the overall system performance standard would
24 constitute an unreasonable risk to health and safety. The
25 Commission’s repository licensing determinations for the

1 protection of the public shall be based solely on a finding
2 whether the repository can be operated in conformance
3 with the overall system performance standard established
4 in paragraph (1), applied in accordance with the provi-
5 sions of paragraph (2), and the Administrator's radiation
6 protection standards. The Commission shall amend its
7 regulations in accordance with subsection (b) to incor-
8 porate each of the following licensing standards:

9 “(1) ESTABLISHMENT OF OVERALL SYSTEM
10 PERFORMANCE STANDARD.—The standard for pro-
11 tection of the public from release of radioactive ma-
12 terial or radioactivity from the repository shall pro-
13 hibit releases that would expose an average member
14 of the general population in the vicinity of the Yucca
15 Mountain site to an annual dose in excess of 100
16 millirems unless the Commission determines by rule
17 that such standard would constitute an unreasonable
18 risk to health and safety and establishes by rule an-
19 other standard which will protect health and safety.
20 Such standard shall constitute an overall system
21 performance standard.

22 “(2) APPLICATION OF OVERALL SYSTEM PER-
23 FORMANCE STANDARD.—The Commission shall issue
24 the license if it finds reasonable assurance that for
25 the first 1,000 years following the commencement of

1 repository operations, the overall system perform-
2 ance standard will be met based on a probabilistic
3 evaluation, as appropriate, of compliance with the
4 overall system performance standard in paragraph
5 (1).

6 “(3) FACTORS.—For purposes of making the
7 finding in paragraph (2)—

8 “(A) the Commission shall not consider
9 catastrophic events where the health con-
10 sequences of individual events themselves can
11 be reasonably assumed to exceed the health
12 consequences due to the impact of the events on
13 repository performance;

14 “(B) for the purpose of this section, an av-
15 erage member of the general population in the
16 vicinity of the Yucca Mountain site means a
17 person whose physiology, age, general health,
18 agricultural practices, eating habits, and social
19 behavior represent the average for persons liv-
20 ing in the vicinity of the site. Extremes in social
21 behavior, eating habits, or other relevant prac-
22 tices or characteristics shall not be considered;
23 and

1 “(C) the Commission shall assume that,
2 following repository closure, the inclusion of en-
3 gineered barriers and the Secretary’s post-clo-
4 sure actions at the Yucca Mountain site, in ac-
5 cordance with subsection (b)(4), shall be suffi-
6 cient to—

7 “(i) prevent any human activity at the
8 site that poses an unreasonable risk of
9 breaching the repository’s engineered or
10 geologic barriers; and

11 “(ii) prevent any increase in the expo-
12 sure of individual members of the public to
13 radiation beyond the allowable limits speci-
14 fied in paragraph (1).

15 “(4) ADDITIONAL ANALYSIS.—The Commission
16 shall analyze the overall system performance through
17 the use of probabilistic evaluations that use best es-
18 timate assumptions, data, and methods for the pe-
19 riod commencing after the first 1,000 years of oper-
20 ation of the repository and terminating at 10,000
21 years after the commencement of operation of the
22 repository.

23 “(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

1 “(1) SUBMISSION OF STATEMENT.—Construction
2 tion and operation of the repository shall be consid-
3 ered a major Federal action significantly affecting
4 the quality of the human environment for purposes
5 of the National Environmental Policy Act of 1969
6 (42 U.S.C. 4321 et seq.). The Secretary shall submit
7 an environmental impact statement on the construc-
8 tion and operation of the repository to the Commis-
9 sion with the license application and shall supple-
10 ment such environmental impact statement as ap-
11 propriate.

12 “(2) CONSIDERATIONS.—For purposes of com-
13 plying with the requirements of the National Envi-
14 ronmental Policy Act of 1969 and this section, the
15 Secretary shall not consider in the environmental
16 impact statement the need for the repository, or al-
17 ternative sites or designs for the repository.

18 “(3) ADOPTION BY COMMISSION.—The Sec-
19 retary’s environmental impact statement and any
20 supplements thereto shall, to the extent practicable,
21 be adopted by the Commission in connection with
22 the issuance by the Commission of a construction
23 authorization under subsection (b)(1), a license
24 under subsection (b)(2), or a license amendment

1 under subsection (b)(3). To the extent such state-
2 ment or supplement is adopted by the Commission,
3 such adoption shall be deemed to also satisfy the re-
4 sponsibilities of the Commission under the National
5 Environmental Policy Act of 1969, and no further
6 consideration shall be required, except that nothing
7 in this subsection shall affect any independent re-
8 sponsibilities of the Commission to protect the public
9 health and safety under the Atomic Energy Act of
10 1954. In any such statement or supplement pre-
11 pared with respect to the repository, the Commission
12 shall not consider the need for a repository, or alter-
13 nate sites or designs for the repository.

14 “(f) JUDICIAL REVIEW.—No court shall have juris-
15 diction to enjoin issuance of the Commission repository
16 licensing regulations prior to its final decision on review
17 of such regulations.

18 **“SEC. 206. LAND WITHDRAWAL.**

19 “(a) WITHDRAWAL AND RESERVATION.—

20 “(1) WITHDRAWAL.—Subject to valid existing
21 rights, the interim storage facility site and the
22 Yucca Mountain site, as described in subsection (b),

1 are withdrawn from all forms of entry, appropria-
2 tion, and disposal under the public land laws, includ-
3 ing the mineral leasing laws, the geothermal leasing
4 laws, the material sale laws, and the mining laws.

5 “(2) JURISDICTION.—Jurisdiction of any land
6 within the interim storage facility site and the Yucca
7 Mountain site managed by the Secretary of the Inte-
8 rior or any other Federal officer is transferred to the
9 Secretary.

10 “(3) RESERVATION.—The interim storage facil-
11 ity site and the Yucca Mountain site are reserved for
12 the use of the Secretary for the construction and op-
13 eration, respectively, of the interim storage facility
14 and the repository and activities associated with the
15 purposes of this title.

16 “(b) LAND DESCRIPTION.—

17 “(1) BOUNDARIES.—The boundaries depicted
18 on the map entitled “Interim Storage Facility Site
19 Withdrawal Map,” dated March 13, 1996, and on
20 file with the Secretary, are established as the bound-
21 aries of the Interim Storage Facility site.

22 “(2) BOUNDARIES.—The boundaries depicted
23 on the map entitled ‘Yucca Mountain Site With-
24 drawal Map,’ dated July 9, 1996, and on file with

1 the Secretary, are established as the boundaries of
2 the Yucca Mountain site.

3 “(3) NOTICE AND MAPS.—Within 6 months of
4 the date of the enactment of the Nuclear Waste Pol-
5 icy Act of 1997, the Secretary shall—

6 “(A) publish in the Federal Register a no-
7 tice containing a legal description of the interim
8 storage facility site; and

9 “(B) file copies of the maps described in
10 paragraph (1), and the legal description of the
11 interim storage facility site with the Congress,
12 the Secretary of the Interior, the Governor of
13 Nevada, and the Archivist of the United States.

14 “(4) NOTICE AND MAPS.—Concurrent with the
15 Secretary’s application to the Commission for au-
16 thority to construct the repository, the Secretary
17 shall—

18 “(A) publish in the Federal Register a no-
19 tice containing a legal description of the Yucca
20 Mountain site; and

21 “(B) file copies of the maps described in
22 paragraph (2), and the legal description of the
23 Yucca Mountain site with the Congress, the
24 Secretary of the Interior, the Governor of Ne-
25 vada, and the Archivist of the United States.

1 “(5) CONSTRUCTION.—The maps and legal de-
2 scriptions of the interim storage facility site and the
3 Yucca Mountain site referred to in this subsection
4 shall have the same force and effect as if they were
5 included in this Act. The Secretary may correct cler-
6 ical and typographical errors in the maps and legal
7 descriptions and make minor adjustments in the
8 boundaries of the sites.

9 **“TITLE III—LOCAL RELATIONS**

10 **“SEC. 301. FINANCIAL ASSISTANCE.**

11 “(a) GRANTS.—The Secretary is authorized to make
12 grants to any affected Indian tribe or affected unit of local
13 government for purposes of enabling the affected Indian
14 tribe or affected unit of local government—

15 “(1) to review activities taken with respect to
16 the Yucca Mountain site for purposes of determining
17 any potential economic, social, public health and
18 safety, and environmental impacts of the integrated
19 management system on the affected Indian tribe or
20 the affected unit of local government and its resi-
21 dents;

22 “(2) to develop a request for impact assistance
23 under subsection (c);

24 “(3) to engage in any monitoring, testing, or
25 evaluation activities with regard to such site;

1 “(4) to provide information to residents regard-
2 ing any activities of the Secretary, or the Commis-
3 sion with respect to such site; and

4 “(5) to request information from, and make
5 comments and recommendations to, the Secretary
6 regarding any activities taken with respect to such
7 site.

8 “(b) SALARY AND TRAVEL EXPENSES.—Any salary
9 or travel expense that would ordinarily be incurred by any
10 affected Indian tribe or affected unit of local government
11 may not be considered eligible for funding under this sec-
12 tion.

13 “(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

14 “(1) ASSISTANCE REQUESTS.—The Secretary is
15 authorized to offer to provide financial and technical
16 assistance to any affected Indian tribe or affected
17 unit of local government requesting such assistance.
18 Such assistance shall be designed to mitigate the im-
19 pact on the affected Indian tribe or affected unit of
20 local government of the development of the inte-
21 grated management system.

22 “(2) REPORT.—Any affected Indian tribe or af-
23 fected unit of local government may request assist-
24 ance under this section by preparing and submitting
25 to the Secretary a report on the economic, social,

1 public health and safety, and environmental impacts
2 that are likely to result from activities of the inte-
3 grated management system.

4 “(d) OTHER ASSISTANCE.—

5 “(1) TAXABLE AMOUNTS.—In addition to finan-
6 cial assistance provided under this subsection, the
7 Secretary is authorized to grant to any affected In-
8 dian tribe or affected unit of local government an
9 amount each fiscal year equal to the amount such
10 affected Indian tribe or affected unit of local govern-
11 ment, respectively, would receive if authorized to tax
12 integrated management system activities, as such af-
13 fected Indian tribe or affected unit of local govern-
14 ment taxes the non-Federal real property and indus-
15 trial activities occurring within such affected unit of
16 local government.

17 “(2) TERMINATION.—Such grants shall con-
18 tinue until such time as all such activities, develop-
19 ment, and operations are terminated at such site.

20 “(3) ASSISTANCE TO INDIAN TRIBES AND
21 UNITS OF LOCAL GOVERNMENT.—

22 “(A) PERIOD.—Any affected Indian tribe
23 or affected unit of local government may not re-
24 ceive any grant under paragraph (1) after the
25 expiration of the 1-year period following the

1 date on which the Secretary notifies the af-
2 fected Indian tribe or affected unit of local gov-
3 ernment of the termination of the operation of
4 the integrated management system.

5 “(B) ACTIVITIES.—Any affected Indian
6 tribe or affected unit of local government may
7 not receive any further assistance under this
8 section if the integrated management system
9 activities at such site are terminated by the
10 Secretary or if such activities are permanently
11 enjoined by any court.

12 **“SEC. 302. ON-SITE REPRESENTATIVE.**

13 “The Secretary shall offer to the unit of local govern-
14 ment within whose jurisdiction a site for an interim stor-
15 age facility or repository is located under this Act an op-
16 portunity to designate a representative to conduct on-site
17 oversight activities at such site. The Secretary is author-
18 ized to pay the reasonable expenses of such representative.

19 **“SEC. 303. ACCEPTANCE OF BENEFITS.**

20 “(a) CONSENT.—The acceptance or use of any of the
21 benefits provided under this title by any affected Indian
22 tribe or affected unit of local government shall not be
23 deemed to be an expression of consent, express, or implied,
24 either under the Constitution of the State or any law

1 thereof, to the siting of an interim storage facility or re-
2 pository in the State of Nevada, any provision of such
3 Constitution or laws to the contrary notwithstanding.

4 “(b) ARGUMENTS.—Neither the United States nor
5 any other entity may assert any argument based on legal
6 or equitable estoppel, or acquiescence, or waiver, or con-
7 sensual involvement, in response to any decision by the
8 State to oppose the siting in Nevada of an interim storage
9 facility or repository premised upon or related to the ac-
10 ceptance or use of benefits under this title.

11 “(c) LIABILITY.—No liability of any nature shall ac-
12 crue to be asserted against any official of any govern-
13 mental unit of Nevada premised solely upon the accept-
14 ance or use of benefits under this title.

15 **“SEC. 304. RESTRICTIONS ON USE OF FUNDS.**

16 “None of the funding provided under this title may
17 be used—

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

23 “(2) for litigation purposes; and

1 “(3) to support multistate efforts or other coali-
2 tion-building activities inconsistent with the purposes
3 of this Act.

4 **“SEC. 305. LAND CONVEYANCES.**

5 “(a) CONVEYANCES OF PUBLIC LANDS.—One hun-
6 dred and twenty days after enactment of this Act, all
7 rights, title and interest of the United States in the prop-
8 erty described in subsection (b), and improvements there-
9 on, together with all necessary easements for utilities and
10 ingress and egress to such property, including, but not
11 limited to, the right to improve those easements, are con-
12 veyed by operation of law to the County of Nye, Nevada,
13 unless the county notifies the Secretary of the Interior or
14 the head of such other appropriate agency in writing with-
15 in 60 days of such date of enactment that it elects not
16 to take title to all or any part of the property, except that
17 any lands conveyed to the County of Nye under this sub-
18 section that are subject to a Federal grazing permit or
19 lease or a similar federally granted permit or lease shall
20 be conveyed between 60 and 120 days of the earliest time
21 the Federal agency administering or granting the permit
22 or lease would be able to legally terminate such right
23 under the statutes and regulations existing at the date of
24 enactment of this Act, unless Nye County and the affected

1 holder of the permit or lease negotiate an agreement that
2 allows for an earlier conveyance.

3 “(b) SPECIAL CONVEYANCES.—Notwithstanding any
4 other law, the following public lands depicted on the maps
5 and legal descriptions dated October 11, 1995, and on file
6 with the Secretary shall be conveyed under subsection (a)
7 to the County of Nye, Nevada:

8 Map 1: Proposed Pahrump Industrial Park Site

9 Map 2: Proposed Lathrop Wells (Gate 510) In-
10 dustrial Park Site

11 Map 3: Pahrump Landfill Sites

12 Map 4: Amargosa Valley Regional Landfill Site

13 Map 5: Amargosa Valley Municipal Landfill
14 Site

15 Map 6: Beatty Landfill/Transfer Station Site

16 Map 7: Round Mountain Landfill Site

17 Map 8: Tonopah Landfill Site

18 Map 9: Gabbs Landfill Site.

19 “(3) CONSTRUCTION.—The maps and legal de-
20 scriptions of special conveyances referred to in sub-
21 section (b) shall have the same force and effect as
22 if they were included in this Act. The Secretary may
23 correct clerical and typographical errors in the maps
24 and legal descriptions and make minor adjustments
25 in the boundaries of the sites.

1 “(4) EVIDENCE OF TITLE TRANSFER.—Upon
2 the request of the County of Nye, Nevada, the Sec-
3 retary of the Interior shall provide evidence of title
4 transfer.

5 **“TITLE IV—FUNDING AND ORGANIZATION**

6 **“SEC. 401. PROGRAM FUNDING.**

7 “(a) CONTRACTS.—

8 “(1) AUTHORITY OF SECRETARY.—In the per-
9 formance of the Secretary’s functions under this
10 Act, the Secretary is authorized to enter into con-
11 tracts with any person who generates or holds title
12 to spent nuclear fuel or high-level radioactive waste
13 of domestic origin for the acceptance of title and
14 possession, transportation, interim storage, and dis-
15 posal of such waste or spent fuel. Such contracts
16 shall provide for payment of annual fees to the Sec-
17 retary in the amounts set by the Secretary pursuant
18 to paragraphs (2) and (3). Except as provided in
19 paragraph (3), fees assessed pursuant to this para-
20 graph shall be paid to the Treasury of the United
21 States and shall be available for use by the Sec-
22 retary pursuant to this section until expended. Sub-
23 sequent to the date of enactment of the Nuclear
24 Waste Policy Act of 1997, the contracts executed
25 under section 302(a) of the Nuclear Waste Policy

1 Act of 1982 shall continue in effect under this Act,
2 provided that the Secretary shall consent to an
3 amendment to such contracts as necessary to imple-
4 ment the provisions of this Act.

5 “(2) ANNUAL FEES.—

6 “(A) For electricity generated by civilian
7 nuclear power reactors and sold between Janu-
8 ary 7, 1983, and September 30, ~~2002~~ 2003, the
9 fee under paragraph (1) shall be equal to 1.0
10 mill per kilowatt hour generated and sold. For
11 electricity generated by civilian nuclear power
12 reactors and sold on or after October 1, ~~2002~~
13 2003, the aggregate amount of fees collected
14 during each fiscal year shall be no greater than
15 the annual level of appropriations for expendi-
16 tures on those activities consistent with sub-
17 section (d) for that fiscal year, minus—

18 “(i) any unobligated balance collected
19 pursuant to this section during the pre-
20 vious fiscal year; and

21 “(ii) the percentage of such appro-
22 priation required to be funded by the Fed-
23 eral Government pursuant to section 403;

1 The Secretary shall determine the level of the
2 annual fee for each civilian nuclear power reac-
3 tor based on the amount of electricity generated
4 and sold, except that the annual fee collected
5 under this subparagraph shall not exceed 1.0
6 mill per kilowatt-hour generated and sold.

7 “(B) EXPENDITURES IF SHORTFALL.—If,
8 during any fiscal year on or after October 1,
9 2002, the aggregate amount of fees assessed
10 pursuant to subparagraph (A) is less than the
11 annual level of appropriations for expenditures
12 on those activities specified in subsection (d) for
13 that fiscal year, minus—

14 “(i) any unobligated balance collected
15 pursuant to this section during the pre-
16 vious fiscal year; and

17 “(ii) the percentage of such appro-
18 priations required to be funded by the Fed-
19 eral Government pursuant to section 403;
20 the Secretary may make expenditures from the
21 Nuclear Waste Fund up to the level of the fees
22 assessed.

23 “(C) RULES.—The Secretary shall, by
24 rule, establish procedures necessary to imple-
25 ment this paragraph.

1 “(3) ONE-TIME FEE.—For spent nuclear fuel or
2 solidified high-level radioactive waste derived from
3 spent nuclear fuel, which fuel was used to generate
4 electricity in a civilian nuclear power reactor prior to
5 January 7, 1983, the fee shall be in an amount
6 equivalent to an average charge of 1.0 mill per kilo-
7 watt-hour for electricity generated by such spent nu-
8 clear fuel, or such solidified high-level waste derived
9 therefrom. Payment of such one-time fee prior to the
10 date of enactment of the Nuclear Waste Policy Act
11 of 1997 shall satisfy the obligation imposed under
12 this paragraph. Any one-time fee paid and collected
13 subsequent to the date of enactment of the Nuclear
14 Waste Policy Act of 1997 pursuant to the contracts,
15 including any interest due pursuant to such con-
16 tracts, shall be paid to the Nuclear Waste Fund no
17 later than September 30, 2002. The Commission
18 shall suspend the license of any licensee who fails or
19 refuses to pay the full amount of the fee referred to
20 in this paragraph on or before September 30, 2002,
21 and the license shall remain suspended until the full
22 amount of the fee referred to in this paragraph is
23 paid. The person paying the fee under this para-
24 graph to the Secretary shall have no further finan-
25 cial obligation to the Federal Government for the

1 long-term storage and permanent disposal of spent
2 fuel or high-level radioactive waste derived from
3 spent nuclear fuel used to generate electricity in a
4 civilian power reactor prior to January 7, 1983.

5 “(4) ADJUSTMENTS TO FEE.—The Secretary
6 shall annually review the amount of the fees estab-
7 lished by paragraphs (2) and (3), together with the
8 existing balance of the Nuclear Waste Fund on the
9 date of enactment of the Nuclear Waste Policy Act
10 of 1997, to evaluate whether collection of the fee will
11 provide sufficient revenues to offset the costs as de-
12 fined in subsection (c)(2). In the event the Secretary
13 determines that the revenues being collected are ei-
14 ther insufficient or excessive to recover the costs in-
15 curred by the Federal Government that are specified
16 in subsection (c)(2), the Secretary shall propose an
17 adjustment to the fee in subsection (c)(2) to ensure
18 full cost recovery. The Secretary shall immediately
19 transmit the proposal for such an adjustment to
20 both Houses of Congress.

21 “(b) ADVANCE CONTRACTING REQUIREMENT.—

22 “(1) IN GENERAL.—

1 “(A) LICENSE ISSUANCE AND RENEWAL.—
2 The Commission shall not issue or renew a li-
3 cense to any person to use a utilization or pro-
4 duction facility under the authority of section
5 103 or 104 of the Atomic Energy Act of 1954
6 (42 U.S.C. 2133, 2134) unless—

7 “(i) such person has entered into a
8 contract under subsection (a) with the Sec-
9 retary; or

10 “(ii) the Secretary affirms in writing
11 that such person is actively and in good
12 faith negotiating with the Secretary for a
13 contract under this section.

14 “(B) PRECONDITION.—The Commission,
15 as it deems necessary or appropriate, may re-
16 quire as a precondition to the issuance or re-
17 newal of a license under section 103 or 104 of
18 the Atomic Energy Act of 1954 (42 U.S.C.
19 2133, 2134) that the applicant for such license
20 shall have entered into an agreement with the
21 Secretary for the disposal of spent nuclear fuel
22 and high-level radioactive waste that may result
23 from the use of such license.

24 “(2) DISPOSAL IN REPOSITORY.—Except as
25 provided in paragraph (1), no spent nuclear fuel or

1 high-level radioactive waste generated or owned by
2 any person (other than a department of the United
3 States referred to in section 101 or 102 of title 5,
4 United States Code) may be disposed of by the Sec-
5 retary in the repository unless the generator or
6 owner of such spent fuel or waste has entered into
7 a contract under subsection (a) with the Secretary
8 by not later than the date on which such generator
9 or owner commences generation of, or takes title to,
10 such spent fuel or waste.

11 “(3) ASSIGNMENT.—The rights and duties of
12 contract holders are assignable.

13 “(c) NUCLEAR WASTE FUND.—

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

19 “(A) the existing balance in the Nuclear
20 Waste Fund on the date of enactment of the
21 Nuclear Waste Policy Act of 1997; and

22 “(B) all receipts, proceeds, and recoveries
23 realized under subsections (a), and (c)(3) subse-
24 quent to the date of enactment of the Nuclear

1 Waste Policy Act of 1997, which shall be depos-
2 ited in the Nuclear Waste Fund immediately
3 upon their realization.

4 “(2) USE.—The Secretary may make expendi-
5 tures from the Nuclear Waste Fund, subject to sub-
6 sections (d) and (e), only for purposes of the inte-
7 grated management system.

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

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

16 “(B) AMOUNTS IN EXCESS OF CURRENT
17 NEEDS.—If the Secretary determines that the
18 Nuclear Waste Fund contains at any time
19 amounts in excess of current needs, the Sec-
20 retary may request the Secretary of the Treas-
21 ury to invest such amounts, or any portion of
22 such amounts as the Secretary determines to be
23 appropriate, in obligations of the United
24 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
7 of the Treasury, taking into consideration
8 the current average market yield on out-
9 standing marketable obligations of the
10 United States with remaining periods to
11 maturity comparable to the maturities of
12 such investments, except that the interest
13 rate on such investments shall not exceed
14 the average interest rate applicable to ex-
15 isting borrowings.

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

23 “(d) BUDGET.—The Secretary shall submit the budg-
24 et for implementation of the Secretary’s responsibilities
25 under this Act to the Office of Management and Budget

1 annually along with the budget of the Department of En-
2 ergy submitted at such time in accordance with chapter
3 11 of title 31, United States Code. The budget shall con-
4 sist of the estimates made by the Secretary of expendi-
5 tures under this Act and other relevant financial matters
6 for the succeeding 3 fiscal years, and shall be included
7 in the budget of the United States Government.

8 “(e) APPROPRIATIONS.—The Secretary may make ex-
9 penditures from the Nuclear Waste Fund, subject to ap-
10 propriations, which shall remain available until expended.

11 **“SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MAN-
12 AGEMENT.**

13 “(a) ESTABLISHMENT.—There hereby is established
14 within the Department of Energy an Office of Civilian Ra-
15 dioactive Waste Management. The Office shall be headed
16 by a Director, who shall be appointed by the President,
17 by and with the advice and consent of the Senate, and
18 who shall be compensated at the rate payable for level IV
19 of the Executive Schedule under section 5315 of title 5,
20 United States Code.

21 “(b) FUNCTIONS OF DIRECTOR.—The Director of the
22 Office shall be responsible for carrying out the functions
23 of the Secretary under this Act, subject to the general su-
24 pervision of the Secretary. The Director of the Office shall
25 be directly responsible to the Secretary.

1 **“SEC. 403. FEDERAL CONTRIBUTION.**

2 “(a) ALLOCATION.—No later than 1 year from the
3 date of enactment of the Nuclear Waste Policy Act of
4 1997, acting pursuant to section 553 of title 5, United
5 States Code, the Secretary shall issue a final rule estab-
6 lishing the appropriate portion of the costs of managing
7 spent nuclear fuel and high-level radioactive waste under
8 this Act allocable to the interim storage or permanent dis-
9 posal of spent nuclear fuel and high-level radioactive waste
10 from atomic energy defense activities and spent nuclear
11 fuel from foreign research reactors. The share of costs al-
12 locable to the management of spent nuclear fuel and high-
13 level radioactive waste from atomic energy defense activi-
14 ties and spent nuclear fuel from foreign research reactors
15 shall include,

16 “(1) an appropriate portion of the costs associ-
17 ated with research and development activities with
18 respect to development of an interim storage facility
19 and repository; and

20 “(2) as appropriate, interest on the principal
21 amounts due calculated by reference to the appro-
22 priate Treasury bill rate as if the payments were
23 made at a point in time consistent with the payment
24 dates for spent nuclear fuel and high-level radio-
25 active waste under the contracts.

1 “(b) APPROPRIATION REQUEST.—In addition to any
2 request for an appropriation from the Nuclear Waste
3 Fund, the Secretary shall request annual appropriations
4 from general revenues in amounts sufficient to pay the
5 costs of the management of spent nuclear fuel and high-
6 level radioactive waste from atomic energy defense activi-
7 ties and spent nuclear fuel from foreign research reactors,
8 as established under subsection (a).

9 “(c) REPORT.—In conjunction with the annual report
10 submitted to Congress under section 702, the Secretary
11 shall advise the Congress annually of the amount of spent
12 nuclear fuel and high-level radioactive waste from atomic
13 energy defense activities and spent nuclear fuel from for-
14 eign research reactors, requiring management in the inte-
15 grated management system.

16 “(d) AUTHORIZATION.—There is authorized to be ap-
17 propriated to the Secretary, from general revenues, for
18 carrying out the purposes of this Act, such sums as may
19 be necessary to pay the costs of the management of spent
20 nuclear fuel and high-level radioactive waste from atomic
21 energy defense activities and spent nuclear fuel from for-
22 eign research reactors, as established under subsection
23 (a).

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

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

4 “If the requirements of any Federal, State, or local
5 law (including a requirement imposed by regulation or by
6 any other means under such a law) are inconsistent with
7 or duplicative of the requirements of the Atomic Energy
8 Act of 1954 (42 U.S.C. 2011 et seq.) or of this Act, the
9 Secretary shall comply only with the requirements of the
10 Atomic Energy Act of 1954 and of this Act in implement-
11 ing the integrated management system.

12 **“SEC. 502. JUDICIAL REVIEW OF AGENCY ACTIONS.**

13 “(a) JURISDICTION OF THE UNITED STATES COURTS
14 OF APPEALS.—

15 “(1) ORIGINAL AND EXCLUSIVE JURISDIC-
16 TION.—Except for review in the Supreme Court of
17 the United States, and except as otherwise provided
18 in this Act, the United States courts of appeals shall
19 have original and exclusive jurisdiction over any civil
20 action—

21 “(A) for review of any final decision or ac-
22 tion of the Secretary, the President, or the
23 Commission under this Act;

24 “(B) alleging the failure of the Secretary,
25 the President, or the Commission to make any

1 decision, or take any action, required under this
2 Act;

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

6 “(D) for review of any environmental im-
7 pact statement prepared or environmental as-
8 sessment pursuant to the National Environ-
9 mental Policy Act of 1969 (42 U.S.C. 4321 et
10 seq.) with respect to any action under this Act
11 or alleging a failure to prepare such statement
12 with respect to any such action.

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

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

1 bring a civil action no later than 180 days after the date
2 such party acquired actual or constructive knowledge or
3 such decision, action, or failure to act.

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

8 **“SEC. 503. LICENSING OF FACILITY EXPANSIONS AND**
9 **TRANSSHIPMENTS.**

10 “(a) ORAL ARGUMENT.—In any Commission hearing
11 under section 189 of the Atomic Energy Act of 1954 (42
12 U.S.C. 2239) on an application for a license, or for an
13 amendment to an existing license, filed after January 7,
14 1983, to expand the spent nuclear fuel storage capacity
15 at the site of a civilian nuclear power reactor, through the
16 use of high-density fuel storage racks, fuel rod compac-
17 tion, the transshipment of spent nuclear fuel to another
18 civilian nuclear power reactor within the same utility sys-
19 tem, the construction of additional spent nuclear fuel pool
20 capacity or dry storage capacity, or by other means, the
21 Commission shall, at the request of any party, provide an
22 opportunity for oral argument with respect to any matter
23 which the Commission determines to be in controversy
24 among the parties. The oral argument shall be preceded

1 by such discovery procedures as the rules of the Commis-
2 sion shall provide. The Commission shall require each
3 party, including the Commission staff, to submit in writ-
4 ten form, at the time of the oral argument, a summary
5 of the facts, data, and arguments upon which such party
6 proposes to rely that are known at such time to such
7 party. Only facts and data in the form of sworn testimony
8 or written submission may be relied upon by the parties
9 during oral argument. Of the materials that may be sub-
10 mitted by the parties during oral argument, the Commis-
11 sion shall only consider those facts and data that are sub-
12 mitted in the form of sworn testimony or written submis-
13 sion.

14 “(b) ADJUDICATORY HEARING.—

15 “(1) DESIGNATION.—At the conclusion of any
16 oral argument under subsection (a), the Commission
17 shall designate any disputed question of fact, to-
18 gether with any remaining questions of law, for reso-
19 lution in an adjudicatory hearing only if it deter-
20 mines that—

21 “(A) there is a genuine and substantial
22 dispute of fact which can only be resolved with
23 sufficient accuracy by the introduction of evi-
24 dence in an adjudicatory hearing; and

1 “(B) the decision of the Commission is
2 likely to depend in whole or in part on the reso-
3 lution of such dispute.

4 “(2) DETERMINATION.—In making a deter-
5 mination under this subsection, the Commission—

6 “(A) shall designate in writing the specific
7 facts that are in genuine and substantial dis-
8 pute, the reason why the decision of the agency
9 is likely to depend on the resolution of such
10 facts, and the reason why an adjudicatory hear-
11 ing is likely to resolve the dispute; and

12 “(B) shall not consider—

13 “(i) any issue relating to the design,
14 construction, or operation of any civilian
15 nuclear power reactor already licensed to
16 operate at such site, or any civilian nuclear
17 power reactor to which a construction per-
18 mit has been granted at such site, unless
19 the Commission determines that any such
20 issue substantially affects the design, con-
21 struction, or operation of the facility or ac-
22 tivity for which such license application,
23 authorization, or amendment is being con-
24 sidered; or

1 “(ii) any siting or design issue fully
2 considered and decided by the Commission
3 in connection with the issuance of a con-
4 struction permit or operating license for a
5 civilian nuclear power reactor at such site,
6 unless—

7 “(I) such issue results from any
8 revision of siting or design criteria by
9 the Commission following such deci-
10 sion; and

11 “(II) the Commission determines
12 that such issue substantially affects
13 the design, construction, or operation
14 of the facility or activity for which
15 such license application, authorization,
16 or amendment is being considered.

17 “(3) APPLICATION.—The provisions of para-
18 graph (2)(B) shall apply only with respect to li-
19 censes, authorizations, or amendments to licenses or
20 authorizations, applied for under the Atomic Energy
21 Act of 1954 (42 U.S.C. 2011 et seq.) before Decem-
22 ber 31, 2005.

23 “(4) CONSTRUCTION.—The provisions of this
24 section shall not apply to the first application for a

1 license or license amendment received by the Com-
2 mission to expand onsite spent fuel storage capacity
3 by the use of a new technology not previously ap-
4 proved for use at any nuclear power plant by the
5 Commission.

6 “(c) JUDICIAL REVIEW.—No court shall hold unlaw-
7 ful or set aside a decision of the Commission in any pro-
8 ceeding described in subsection (a) because of a failure
9 by the Commission to use a particular procedure pursuant
10 to this section unless—

11 “(1) an objection to the procedure used was
12 presented to the Commission in a timely fashion or
13 there are extraordinary circumstances that excuse
14 the failure to present a timely objection; and

15 “(2) the court finds that such failure has pre-
16 cluded a fair consideration and informed resolution
17 of a significant issue of the proceeding taken as a
18 whole.

19 **“SEC. 504. SITING A SECOND REPOSITORY.**

20 “(a) CONGRESSIONAL ACTION REQUIRED.—The Sec-
21 retary may not conduct site-specific activities with respect
22 to a second repository unless Congress has specifically au-
23 thorized and appropriated funds for such activities.

24 “(b) REPORT.—The Secretary shall report to the
25 President and to Congress on or after January 1, 2007,

1 but not later than January 1, 2010, on the need for a
2 second repository.

3 **“SEC. 505. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL**
4 **RADIOACTIVE WASTE SITE CLOSURE.**

5 “(a) FINANCIAL ARRANGEMENTS.—

6 (1) STANDARDS AND INSTRUCTIONS.—The
7 Commission shall establish by rule, regulation, or
8 order, after public notice, and in accordance with
9 section 181 of the Atomic Energy Act of 1954 (42
10 U.S.C. 2231), such standards and instructions as
11 the Commission may deem necessary or desirable to
12 ensure in the case of each license for the disposal of
13 low-level radioactive waste that an adequate bond,
14 surety, or other financial arrangement (as deter-
15 mined by the Commission) will be provided by a li-
16 censee to permit completion of all requirements es-
17 tablished by the Commission for the decontamina-
18 tion, decommissioning, site closure, and reclamation
19 of sites, structures, and equipment used in conjunc-
20 tion with such low-level radioactive waste. Such fi-
21 nancial arrangements shall be provided and ap-
22 proved by the Commission, or, in the case of sites
23 within the boundaries of any agreement State under
24 section 274 of the Atomic Energy Act of 1954 (42

1 U.S.C. 2021), by the appropriate State or State en-
2 tity, prior to issuance of licenses for low-level radio-
3 active waste disposal or, in the case of licenses in ef-
4 fect on January 7, 1983, prior to termination of
5 such licenses.

6 “(2) BONDING, SURETY, OR OTHER FINANCIAL
7 ARRANGEMENTS.—If the Commission determines
8 that any long-term maintenance or monitoring, or
9 both, will be necessary at a site described in para-
10 graph (1), the Commission shall ensure before termi-
11 nation of the license involved that the licensee has
12 made available such bonding, surety, or other finan-
13 cial arrangements as may be necessary to ensure
14 that any necessary long-term maintenance or mon-
15 itoring needed for such site will be carried out by
16 the person having title and custody for such site fol-
17 lowing license termination.

18 “(b) TITLE AND CUSTODY.—

19 “(1) AUTHORITY OF SECRETARY.—The Sec-
20 retary shall have authority to assume title and cus-
21 tody of low-level radioactive waste and the land on
22 which such waste is disposed of, upon request of the
23 owner of such waste and land and following termi-
24 nation of the license issued by the Commission for
25 such disposal, if the Commission determines that—

1 “(A) the requirements of the Commission
2 for site closure, decommissioning, and decon-
3 tamination have been met by the licensee in-
4 volved and that such licensee is in compliance
5 with the provisions of subsection (a);

6 “(B) such title and custody will be trans-
7 ferred to the Secretary without cost to the Fed-
8 eral Government; and

9 “(C) Federal ownership and management
10 of such site is necessary or desirable in order to
11 protect the public health and safety, and the
12 environment.

13 “(2) PROTECTION.—If the Secretary assumes
14 title and custody of any such waste and land under
15 this subsection, the Secretary shall maintain such
16 waste and land in a manner that will protect the
17 public health and safety, and the environment.

18 “(c) SPECIAL SITES.—If the low-level radioactive
19 waste involved is the result of a licensed activity to recover
20 zirconium, hafnium, and rare earths from source material,
21 the Secretary, upon request of the owner of the site in-
22 volved, shall assume title and custody of such waste and
23 the land on which it is disposed when such site has been
24 decontaminated and stabilized in accordance with the re-
25 quirements established by the Commission and when such

1 owner has made adequate financial arrangements ap-
2 proved by the Commission for the long-term maintenance
3 and monitoring of such site.

4 **“SEC. 506. NUCLEAR REGULATORY COMMISSION TRAINING**
5 **AUTHORIZATION.**

6 “The Commission is authorized and directed to pro-
7 mulgate regulations, or other appropriate regulatory guid-
8 ance, for the training and qualifications of civilian nuclear
9 power plant operators, supervisors, technicians, and other
10 appropriate operating personnel. Such regulations or guid-
11 ance shall establish simulator training requirements for
12 applicants for civilian nuclear power plant operator li-
13 censes and for operator requalification programs; require-
14 ments governing Commission administration of requali-
15 fication examinations; requirements for operating tests at
16 civilian nuclear power plant simulators, and instructional
17 requirements for civilian nuclear power plant licensee per-
18 sonnel training programs.

19 **“SEC. 507. EMPLACEMENT SCHEDULE.**

20 “(a) The emplacement schedule shall be implemented
21 in accordance with the following:

22 “(1) Emplacement priority ranking shall be de-
23 termined by the Department’s annual ‘Acceptance
24 Priority Ranking’ report.

1 “(2) The Secretary’s spent fuel emplacement
2 rate shall be no less than the following: 1,200 MTU
3 in fiscal year 2000 and 1,200 MTU in fiscal year
4 2001; 2,000 MTU in fiscal year 2002 and 2,000
5 MTU in fiscal year 2003; 2,700 MTU in fiscal year
6 2004; and 3,000 MTU annually thereafter.

7 “(b) If the Secretary is unable to begin emplacement
8 by November 30, 1999 at the rates specified in subsection
9 (a), or if the cumulative amount emplaced in any year
10 thereafter is less than that which would have been accept-
11 ed under the emplacement rate specified in subsection (a),
12 the Secretary shall, as a mitigation measure, adjust the
13 emplacement schedule upward such that within 5 years
14 of the start of emplacement by the Secretary,

15 “(1) the total quantity accepted by the Sec-
16 retary is consistent with the total quantity that the
17 Secretary would have accepted if the Secretary had
18 began emplacement in fiscal year 2000, and

19 “(2) thereafter the emplacement rate is equiva-
20 lent to the rate that would be in place pursuant to
21 paragraph (a) above if the Secretary had commenced
22 emplacement in fiscal year 2000.

1 **“SEC. 508. TRANSFER OF TITLE.**

2 “(a) Acceptance by the Secretary of any spent nu-
3 clear fuel or high-level radioactive waste shall constitute
4 a transfer of title to the Secretary.

5 “(b) No later than 6 months following the date of
6 enactment of the Nuclear Waste Policy Act of 1997, the
7 Secretary is authorized to accept all spent nuclear fuel
8 withdrawn from Dairyland Power Cooperative’s La Crosse
9 Reactor and, upon acceptance, shall provide Dairyland
10 Power Cooperative with evidence of the title transfer. Im-
11 mediately upon the Secretary’s acceptance of such spent
12 nuclear fuel, the Secretary shall assume all responsibility
13 and liability for the interim storage and permanent dis-
14 posal thereof and is authorized to compensate Dairyland
15 Power Cooperative for any costs related to operating and
16 maintaining facilities necessary for such storage from the
17 date of acceptance until the Secretary removes the spent
18 nuclear fuel from the La Crosse Reactor site.”

19 **“SEC. 509. DECOMMISSIONING PILOT PROGRAM.**

20 “(a) AUTHORIZATION.—The Secretary is authorized
21 to establish a Decommissioning Pilot Program to decom-
22 mission and decontaminate the sodium-cooled fast breeder
23 experimental test-site reactor located in northwest Arkan-
24 sas.

1 “(1) CHAIRMAN.—The term ‘Chairman’ means
2 the Chairman of the Nuclear Waste Technical Re-
3 view Board.

4 “(2) BOARD.—The term ‘Board’ means the Nu-
5 clear Waste Technical Review Board continued
6 under section 602.

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

8 “(a) CONTINUATION OF THE NUCLEAR WASTE
9 TECHNICAL REVIEW BOARD.—The Nuclear Waste Tech-
10 nical Review Board, established under section 502(a) of
11 the Nuclear Waste Policy Act of 1982 as constituted prior
12 to the date of enactment of the Nuclear Waste Policy Act
13 of 1997, shall continue in effect subsequent to the date
14 of enactment of the Nuclear Waste Policy Act of 1997.

15 “(b) MEMBERS.—

16 “(1) NUMBER.—The Board shall consist of 11
17 members who shall be appointed by the President
18 not later than 90 days after December 22, 1987,
19 from among persons nominated by the National
20 Academy of Sciences in accordance with paragraph
21 (3).

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

24 “(3) NATIONAL ACADEMY OF SCIENCES.—

1 “(A) NOMINATIONS.—The National Acad-
2 emy of Sciences shall, not later than 90 days
3 after December 22, 1987, nominate not less
4 than 22 persons for appointment to the Board
5 from among persons who meet the qualifica-
6 tions described in subparagraph (C).

7 “(B) VACANCIES.—The National Academy
8 of Sciences shall nominate not less than 2 per-
9 sons to fill any vacancy on the Board from
10 among persons who meet the qualifications de-
11 scribed in subparagraph (C).

12 “(C) NOMINEES.—

13 “(i) Each person nominated for ap-
14 pointment to the Board shall be—

15 “(I) eminent in a field of science
16 or engineering, including environ-
17 mental sciences; and

18 “(II) selected solely on the basis
19 of established records of distinguished
20 service.

21 “(ii) The membership of the Board
22 shall be representatives of the broad range
23 of scientific and engineering disciplines re-
24 lated to activities under this title.

1 “(iii) No person shall be nominated
2 for appointment to the Board who is an
3 employee of—

4 “(I) the Department of Energy;

5 “(II) a national laboratory under
6 contract with the Department of En-
7 ergy; or

8 “(III) an entity performing spent
9 nuclear fuel or high-level radioactive
10 waste activities under contract with
11 the Department of Energy.

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

15 “(5) TERMS.—Members of the Board shall be
16 appointed for terms of 4 years, each such term to
17 commence 120 days after December 22, 1987, ex-
18 cept that of the 11 members first appointed to the
19 Board, 5 shall serve for 2 years and 6 shall serve
20 for 4 years, to be designated by the President at the
21 time of appointment, except that a member of the
22 Board whose term has expired may continue to serve
23 as a member of the Board until such member’s suc-
24 cessor has taken office.

1 **“SEC. 603. FUNCTIONS.**

2 The Board shall limit its evaluations to the technical
3 and scientific validity solely of the following activities un-
4 dertaken directly by the Secretary after December 22,
5 1987—

6 “(1) site characterization activities; and

7 “(2) activities of the Secretary relating to the
8 packaging or transportation of spent nuclear fuel or
9 high-level radioactive waste.

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

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

14 *“(2) activities relating to the packaging or trans-*
15 *portation of high-level radioactive waste or spent nu-*
16 *clear fuel.*

17 **“SEC. 604. INVESTIGATORY POWERS.**

18 “(a) HEARINGS.—Upon request of the Chairman or
19 a majority of the members of the Board, the Board may
20 hold such hearings, sit and act at such times and places,
21 take such testimony, and receive such evidence, as the
22 Board considers appropriate. Any member of the Board
23 may administer oaths or affirmations to witnesses appear-
24 ing before the Board. ~~The Secretary or the Secretary’s~~

1 designee or designees shall not be required to appear be-
2 fore the Board or any element of the Board for more than
3 ~~12 working days per calendar year.~~

4 “(b) PRODUCTION OF DOCUMENTS.—

5 “(1) RESPONSE TO INQUIRIES.—Upon the re-
6 quest of the Chairman or a majority of the members
7 of the Board, and subject to existing law, the Sec-
8 retary (or any contractor of the Secretary) shall pro-
9 vide the Board with such records, files, papers, data,
10 or information ~~that is generally available to the pub-~~
11 ~~lic~~ as may be necessary to respond to any inquiry of
12 the Board under this title.

13 “~~(2) EXTENT.—Subject to existing law, infor-~~
14 ~~mation obtainable under paragraph (1) may include~~
15 ~~drafts of products and documentation of work in~~
16 ~~progress.~~

17 “(2) *AVAILABILITY OF DRAFTS.—Subject to exist-*
18 *ing law, information obtainable under paragraph (1)*
19 *shall not be limited to final work products of the Sec-*
20 *retary, but shall include drafts of such products and*
21 *documentation of work in progress.*

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

2 “(a) IN GENERAL.—Each member of the Board shall
3 be paid at the rate of pay payable for level III of the Exec-
4 utive Schedule for each day (including travel time) such
5 member is engaged in the work of the Board.

6 “(b) TRAVEL EXPENSES.—Each member of the
7 Board may receive travel expenses, including per diem in
8 lieu of subsidence, in the same manner as is permitted
9 under sections 5702 and 5703 of title 5, United States
10 Code.

11 **“SEC. 606. STAFF.**

12 “(a) CLERICAL STAFF.—

13 “(1) AUTHORITY OF CHAIRMAN.—Subject to
14 paragraph (2), the Chairman may appoint and fix
15 the compensation of such clerical staff as may be
16 necessary to discharge the responsibilities of the
17 Board.

18 “(2) PROVISIONS OF TITLE 5.—Clerical staff
19 shall be appointed subject to the provisions of title
20 5, United States Code, governing appointments in
21 the competitive service, and shall be paid in accord-
22 ance with the provisions of chapter 51 and sub-
23 chapter III of chapter 3 of such title relating to clas-
24 sification and General Schedule pay rates.

25 “(b) PROFESSIONAL STAFF.—

1 “(1) AUTHORITY OF CHAIRMAN.—Subject to
2 paragraphs (2) and (3), the Chairman may appoint
3 and fix the compensation of such professional staff
4 as may be necessary to discharge the responsibilities
5 of the Board.

6 “(2) NUMBER.—Not more than 10 professional
7 staff members may be appointed under this sub-
8 section.

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

19 **“SEC. 607. SUPPORT SERVICES.**

20 “(a) GENERAL SERVICES.—To the extent permitted
21 by law and requested by the Chairman, the Administrator
22 of General Services shall provide the Board with necessary
23 administrative services, facilities, and support on a reim-
24 bursable basis.

1 “(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY
2 ASSESSMENT SERVICES.—The Comptroller General and
3 the Librarian of Congress shall, to the extent permitted
4 by law and subject to the availability of funds, provide the
5 Board with such facilities, support, funds and services, in-
6 cluding staff, as may be necessary for the effective per-
7 formance of the functions of the Board.

8 “(c) ADDITIONAL SUPPORT.—Upon the request of
9 the Chairman, the Board may secure directly from the
10 head of any department or agency of the United States
11 information necessary to enable it to carry out this title.

12 “(d) MAILS.—The Board may use the United States
13 mails in the same manner and under the same conditions
14 as other departments and agencies of the United States.

15 “(e) EXPERTS AND CONSULTANTS.—Subject to such
16 rules as may be prescribed by the Board, the Chairman
17 may procure temporary and intermittent services under
18 section 3109(b) of title 5 of the United States Code, but
19 at rates for individuals not to exceed the daily equivalent
20 of the maximum annual rate of basic pay payable for GS-
21 18 of the General Schedule.

22 **“SEC. 608. REPORT.**

23 “The Board shall report not less than two times per
24 year to Congress and the Secretary its findings, conclu-
25 sions, and 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 pro-~~
4 ~~visions of this title.~~

5 “*Notwithstanding section 401(d), and subject to sec-*
6 *tion 401(e), there are authorized to be appropriated for ex-*
7 *penditures from amounts in the Nuclear Waste Fund under*
8 *section 401(c) such sums as may be necessary to carry out*
9 *the provisions of this title.*

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

11 “The Board shall cease to exist not later than one
12 year after the date on which the Secretary begins disposal
13 of spent nuclear fuel or high-level radioactive waste in the
14 repository.

15 **“TITLE VII—MANAGEMENT REFORM**

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

17 “(a) IN GENERAL.—The Secretary is directed to take
18 actions as necessary to improve the management of the
19 civilian radioactive waste management program to ensure
20 that the program is operated, to the maximum extent
21 practicable, in like manner as a private business.

22 “(b) AUDITS.—

23 “(1) STANDARD.—The Office of Civilian Radio-
24 active Waste Management, its contractors, and sub-
25 contractors at all tiers, shall conduct, or have con-
26 ducted, audits and examinations of their operations

1 in accordance with the usual and customary prac-
2 tices of private corporations engaged in large nuclear
3 construction projects consistent with its role in the
4 program.

5 “(2) TIME.—The management practices and
6 performances of the Office of Civilian Radioactive
7 Waste Management shall be audited every 5 years
8 by an independent management consulting firm with
9 significant experience in similar audits of private
10 corporations engaged in large nuclear construction
11 projects. The first such audit shall be conducted 5
12 years after the enactment of the Nuclear Waste Pol-
13 icy Act of 1997.

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

1 “~~(4)~~ (3) TIME.—No audit contemplated by this
2 subsection shall take longer than 30 days to con-
3 duct. An audit report shall be issued in final form
4 no longer than 60 days after the audit is com-
5 menced.

6 “~~(5)~~ (4) PUBLIC DOCUMENTS.—All audit re-
7 ports shall be public documents and available to any
8 individual upon request.

9 “(d) VALUE ENGINEERING.—The Secretary shall
10 create a value engineering function within the Office of
11 Civilian Radioactive Waste Management that reports di-
12 rectly to the Director, which shall carry out value engi-
13 neering functions in accordance with the usual and cus-
14 tomary practices of private corporations engaged in large
15 nuclear construction projects.

16 “(e) SITE CHARACTERIZATION.—The Secretary shall
17 employ, on an on-going basis, integrated performance
18 modeling to identify appropriate parameters for the re-
19 maining site characterization effort and to eliminate stud-
20 ies of parameters that are shown not to affect long-term
21 repository performance.

1 **“SEC. 702. REPORTING.**

2 “(a) INITIAL REPORT.—Within 180 days of enact-
3 ment of this section, the Secretary shall report to Con-
4 gress on its planned actions for implementing the provi-
5 sions of this Act, including the development of the Inte-
6 grated Waste Management System. Such report shall in-
7 clude—

8 “(1) an analysis of the Secretary’s progress in
9 meeting its statutory and contractual obligation to
10 accept title to, possession of, and delivery of spent
11 nuclear fuel and high-level radioactive waste begin-
12 ning no later than November 30, 1999, and in ac-
13 cordance with the acceptance schedule;

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

18 “(3) a detailed description of the Secretary’s
19 contingency plans in the event that the Secretary is
20 unable to meet the planned schedule and timeline;
21 and

22 “(4) an analysis by the Secretary of its funding
23 needs for fiscal years 1997 through 2001.

24 “(b) ANNUAL REPORTS.—On each anniversary of the
25 submittal of the report required by subsection (a), the Sec-
26 retary shall make annual reports to the Congress for the

1 purpose of updating the information contained in such re-
2 port. The annual reports shall be brief and shall notify
3 the Congress of:

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

7 “(2) the reasons for such modifications, and the
8 status of the implementation of any of the Sec-
9 retary’s contingency plans; and

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

12 **“SEC. 703. EFFECTIVE DATE.**

13 This Act shall become effective one day after enact-
14 ment.”.

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