

Union Calendar No. 195

105<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 1270**

[Report No. 105-290, Parts I and II]

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**A BILL**

To amend the Nuclear Waste Policy Act of 1982.

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OCTOBER 21, 1997

Reported from the Committee on Resources with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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105<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1270

[Report No. 105–290, Parts I and II]

To amend the Nuclear Waste Policy Act of 1982.

## IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 1997

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

OCTOBER 1, 1997

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

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

OCTOBER 1, 1997

Reported from the Committee on Commerce with an amendment

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

OCTOBER 1, 1997

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

OCTOBER 1, 1997

The Committee on Transportation and Infrastructure discharged

OCTOBER 1, 1997

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

OCTOBER 21, 1997

Reported from the Committee on Resources with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed.

[Strike out all after the enacting clause and insert the part printed in boldface roman]

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

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## A BILL

To amend the Nuclear Waste Policy Act of 1982.

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

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

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

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

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

8 *“(b) TABLE OF CONTENTS.—*

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

*“Sec. 2. Definitions.*

*“Sec. 3. Findings and purposes.*

**“TITLE I—OBLIGATIONS**

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

**“TITLE II—INTEGRATED MANAGEMENT SYSTEM**

*“Sec. 201. Intermodal transfer.*

*“Sec. 202. Transportation planning.*

*“Sec. 203. Transportation requirements.*

*“Sec. 204. Interim storage.*

*“Sec. 205. Permanent disposal.*

*“Sec. 206. Land withdrawal.*

*“Sec. 207. Private storage facilities.*

**“TITLE III—LOCAL RELATIONS**

*“Sec. 301. On-site representative.*

*“Sec. 302. Benefits agreements.*

*“Sec. 303. Content of agreements.*

*“Sec. 304. Acceptance of benefits.*

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

*“Sec. 306. Initial land conveyances.*

*“Sec. 307. Payments equal to taxes.*

**“TITLE IV—FUNDING AND ORGANIZATION**

*“Sec. 401. Program funding.*

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

*“Sec. 403. Defense contribution.*

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

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

*“Sec. 502. Water rights.*

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

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

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

“TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

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

“TITLE VII—MANAGEMENT REFORM

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

1 **“SEC. 2. DEFINITIONS.**

2 “For purposes of this Act:

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

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

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

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

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

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

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

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

23                   “(A) *Naval reactors development.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 14                **“TITLE I—OBLIGATIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 “(c) *TECHNICAL ASSISTANCE.*—

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

17 “(2) *EMPLOYEE ORGANIZATIONS.*—

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

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

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

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

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

15                   “(iii) *shall include—*

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

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

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

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

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

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

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

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

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

21       “(g) *TRAINING STANDARD.*—

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

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

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

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

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

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

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

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

1 **“SEC. 204. INTERIM STORAGE.**

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

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

21       “(c) *LICENSING.*—

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

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

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

21          “(d) *ADDITIONAL AUTHORITY.*—

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

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

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

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

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

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

11 “(2) ENVIRONMENTAL IMPACT STATEMENT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 **“SEC. 205. PERMANENT DISPOSAL.**

9 “(a) *SITE CHARACTERIZATION.*—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9           “(1) *RELEASE STANDARD.—*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25       “(b) *LAND DESCRIPTION.*—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22           “(a) *IN GENERAL.*—

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

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

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

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

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

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

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

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

24          “(a) *IN GENERAL.*—

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

*“BENEFITS SCHEDULE*

*[Amounts in millions]*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 *“(2) for litigation purposes; and*

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

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

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

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

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

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

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

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

18                       “*Map 3: Pahrump Landfill Sites*

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

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

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

25                       “*Map 7: Round Mountain Landfill Site*

1                   *“Map 8: Tonopah Landfill Site*

2                   *“Map 9: Gabbs Landfill Site.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17          “(a) *CONTRACTS.*—

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

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

6 *“(2) ANNUAL FEES.—*

7 *“(A) ELECTRICITY.—*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12              “(1) *IN GENERAL.*—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9       “(f) *APPROPRIATIONS.—*

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

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

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

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

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

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

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

23        *“(c) AUDITS.—*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 “(b) *ADJUDICATORY HEARING.*—

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

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

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

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

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

7           “(B) shall not consider—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22           “(a) *FINANCIAL ARRANGEMENTS.—*

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

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

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

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

7       “(b) *TITLE AND CUSTODY.*—

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

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

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

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



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

9 **“SEC. 508. ACCEPTANCE SCHEDULE.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7           *“Notwithstanding any other provision of law—*

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

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

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

16   **“SEC. 601. DEFINITIONS.**

17           *“For purposes of this title—*

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

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

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

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

8       “(b) *MEMBERS.—*

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

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

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

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

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

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

3           “(C) *NOMINEES.*—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 **“SEC. 606. STAFF.**

8       “(a) *CLERICAL STAFF.*—

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

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

21       “(b) *PROFESSIONAL STAFF.*—

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

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

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

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

16       **“SEC. 607. SUPPORT SERVICES.**

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

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

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

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

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

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

19       “**SEC. 608. REPORT.**

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

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

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

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

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

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

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

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

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

24 **“SEC. 702. REPORTING.**

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

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

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

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

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

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

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

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

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

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

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

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

16   **SECTION 1. AMENDMENT OF NUCLEAR WASTE POLICY ACT**  
17                           **OF 1982.**

18        **The Nuclear Waste Policy Act of 1982 is**  
19        **amended to read as follows:**

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

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

23        **“(b) TABLE OF CONTENTS.—**

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

**“Sec. 2. Definitions.**

**“Sec. 3. Findings and purposes.**

**“TITLE I—OBLIGATIONS**

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

**“TITLE II—INTEGRATED MANAGEMENT SYSTEM**

- “Sec. 201. Intermodal transfer.**
- “Sec. 202. Transportation planning.**
- “Sec. 203. Transportation requirements.**
- “Sec. 204. Interim storage.**
- “Sec. 205. Permanent disposal.**
- “Sec. 206. Land withdrawal.**

**“TITLE III—LOCAL RELATIONS**

- “Sec. 301. On-site representative.**
- “Sec. 302. Benefits agreements.**
- “Sec. 303. Content of agreements.**
- “Sec. 304. Acceptance of benefits.**
- “Sec. 305. Restriction on use of funds.**
- “Sec. 306. Initial land conveyances.**

**“TITLE IV—FUNDING AND ORGANIZATION**

- “Sec. 401. Program funding.**
- “Sec. 402. Office of Civilian Radioactive Waste Management.**
- “Sec. 403. Defense contribution.**

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

- “Sec. 501. Compliance with other laws.**
- “Sec. 502. Water rights.**
- “Sec. 503. Judicial review of agency actions.**
- “Sec. 504. Licensing of facility expansions and transshipments.**
- “Sec. 505. Siting a second repository.**
- “Sec. 506. Financial arrangements for low-level radioactive waste site closure.**
- “Sec. 507. Nuclear Regulatory Commission training authorization.**
- “Sec. 508. Acceptance schedule.**
- “Sec. 509. Subseabed or ocean water disposal.**
- “Sec. 510. Compensation.**

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

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

**“TITLE VII—MANAGEMENT REFORM**

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

1 **“SEC. 2. DEFINITIONS.**

2 **“For purposes of this Act:**

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

8 **“(2) ACCEPTANCE SCHEDULE.—The term**  
9 **‘acceptance schedule’ means the schedule**  
10 **established by the Secretary under sec-**  
11 **tion 508 for acceptance of spent nuclear**  
12 **fuel and high-level radioactive waste.**

13 **“(3) AFFECTED INDIAN TRIBE.—The**  
14 **term ‘affected Indian tribe’ means an In-**  
15 **dian tribe—**

16 **“(A) whose reservation is sur-**  
17 **rounded by or borders on an affected**  
18 **unit of local government, or**

19 **“(B) whose federally-defined**  
20 **possessory or usage rights to other**  
21 **lands outside of the border of the In-**  
22 **dian tribe’s reservation arising out of**  
23 **Congressionally-ratified treaties,**  
24 **may be affected by the locating of an in-**  
25 **terim storage facility or repository, if the**  
26 **Secretary finds, upon petition of the ap-**

1       **appropriate government officials of the In-**  
2       **dian tribe, that such affects are both sub-**  
3       **stantial and adverse to the Indian tribe.**

4               **“(4) AFFECTED UNIT OF LOCAL GOVERN-**  
5       **MENT.—The term ‘affected unit of local**  
6       **government’ means the unit of local gov-**  
7       **ernment with jurisdiction over the site of**  
8       **a repository or interim storage facility.**  
9       **Such term may, at the discretion of the**  
10       **Secretary, include other units of local**  
11       **government that are contiguous with**  
12       **such unit.**

13               **“(5) ATOMIC ENERGY DEFENSE ACTIV-**  
14       **ITY.—The term ‘atomic energy defense ac-**  
15       **tivity’ means any activity of the Secretary**  
16       **performed in whole or in part in carrying**  
17       **out any of the following functions:**

18                       **“(A) Naval reactors development.**

19                       **“(B) Weapons activities including**  
20       **defense inertial confinement fusion.**

21                       **“(C) Verification and control tech-**  
22       **nology.**

23                       **“(D) Defense nuclear materials**  
24       **production.**

1           **“(E) Defense nuclear waste and**  
2           **materials byproducts management.**

3           **“(F) Defense nuclear materials se-**  
4           **curity and safeguards and security**  
5           **investigations.**

6           **“(G) Defense research and devel-**  
7           **opment.**

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

14          **“(7) COMMISSION.—The term ‘Commis-**  
15          **sion’ means the Nuclear Regulatory Com-**  
16          **mission.**

17          **“(8) DEPARTMENT.—The term ‘Depart-**  
18          **ment’ means the Department of Energy.**

19          **“(9) DISPOSAL.—The term ‘disposal’**  
20          **means the emplacement in a repository**  
21          **of spent nuclear fuel, high-level radio-**  
22          **active waste, or other highly radioactive**  
23          **material with no foreseeable intent of re-**  
24          **covery, whether or not such emplacement**

1       permits recovery of such material for any  
2       future purpose.

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

9               “(11) ENGINEERED BARRIERS.—The  
10       term ‘engineered barriers’ and ‘engi-  
11       neered systems and components,’ means  
12       man made components of a disposal sys-  
13       tem. Such term includes the spent nu-  
14       clear fuel or high-level radioactive waste  
15       form, spent nuclear fuel package or high-  
16       level radioactive waste, and other mate-  
17       rials placed over and around such pack-  
18       ages.

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

22                       “(A) the highly radioactive mate-  
23                       rial resulting from the reprocessing  
24                       of spent nuclear fuel, including liquid  
25                       waste produced directly in reprocess-

1           ing and any solid material derived  
2           from such liquid waste that contains  
3           fission products in sufficient con-  
4           centrations;

5           “(B) the highly radioactive mate-  
6           rial resulting from atomic energy de-  
7           fense activities; and

8           “(C) other highly radioactive ma-  
9           terial that the Commission, consistent  
10          with existing law, determines by rule  
11          requires permanent isolation.

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

16          “(14) INDIAN TRIBE.—The term ‘Indian  
17          tribe’ means any Indian tribe, band, na-  
18          tion, or other organized group or commu-  
19          nity of Indians recognized as eligible for  
20          the services provided to Indians by the  
21          Secretary of the Interior because of their  
22          status as Indians including any Alaska  
23          Native village, as defined in section 3(c)  
24          of the Alaska Native Claims Settlement  
25          Act (43 U.S.C. 1602(c)).

1           **“(15) INTEGRATED MANAGEMENT SYS-**  
2           **TEM.—The term ‘integrated management**  
3           **system’ means the system developed by**  
4           **the Secretary for the acceptance, trans-**  
5           **portation, storage, and disposal of spent**  
6           **nuclear fuel and high-level radioactive**  
7           **waste.**

8           **“(16) INTERIM STORAGE FACILITY.—The**  
9           **term ‘interim storage facility’ means a fa-**  
10          **ility designed and constructed for the**  
11          **receipt, handling, possession, safeguard-**  
12          **ing, and storage of spent nuclear fuel and**  
13          **high-level radioactive waste in accord-**  
14          **ance with title II of this Act.**

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

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

1           “(A) is not spent nuclear fuel,  
2           high-level radioactive waste, trans-  
3           uranic waste, or byproduct material  
4           as defined in section 11 e.(2) of the  
5           Atomic Energy Act of 1954 (42 U.S.C.  
6           2014(e)(2)); and

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

10          “(19) METRIC TONS URANIUM.—The  
11          terms ‘metric tons uranium’ and ‘MTU’  
12          means the amount of uranium in the  
13          original unirradiated fuel element wheth-  
14          er or not the spent nuclear fuel has been  
15          reprocessed.

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

23          “(21) OFFICE.—The term ‘Office’ means  
24          the Office of Civilian Radioactive Waste  
25          Management established within the De-

1        **partment prior to the date of enactment**  
2        **of this Act under the provisions of the**  
3        **Nuclear Waste Policy Act of 1982.**

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

11           **“(23) REPOSITORY.—The term ‘reposit-**  
12        **tory’ means a system designed and con-**  
13        **structed under title II of this Act for the**  
14        **permanent geologic disposal of spent nu-**  
15        **clear fuel and high-level radioactive**  
16        **waste, including both surface and sub-**  
17        **surface areas at which spent nuclear fuel**  
18        **and high-level radioactive waste receipt,**  
19        **handling, possession, safeguarding, and**  
20        **storage are conducted.**

21           **“(24) SECRETARY.—The term ‘Sec-**  
22        **retary’ means the Secretary of Energy.**

23           **“(25) SITE CHARACTERIZATION.—The**  
24        **term ‘site characterization’ means activi-**  
25        **ties, whether in a laboratory or in the**

1 field, undertaken to establish the geo-  
2 logic condition and the ranges of the pa-  
3 rameters of a candidate site relevant to  
4 the location of a repository, including  
5 borings, surface excavations, excavations  
6 of exploratory facilities, limited sub-  
7 surface lateral excavations and borings,  
8 and in situ testing needed to evaluate the  
9 licensability of a candidate site for the lo-  
10 cation of a repository, but not including  
11 preliminary borings and geophysical test-  
12 ing needed to assess whether site charac-  
13 terization should be undertaken.

14 “(26) SPENT NUCLEAR FUEL.—The term  
15 ‘spent nuclear fuel’ means fuel that has  
16 been withdrawn from a nuclear reactor  
17 following irradiation, the constituent ele-  
18 ments of which have not been separated  
19 by reprocessing.

20 “(27) STORAGE.—The term ‘storage’  
21 means retention of spent nuclear fuel or  
22 high-level radioactive waste with the in-  
23 tent to recover such waste or fuel for sub-  
24 sequent use, processing, or disposal.

1           **“(28) WITHDRAWAL.—**The term ‘with-  
2           **drawal’** has the same definition as that  
3           **set forth in the Federal Land Policy and**  
4           **Management Act (43 U.S.C. 1702 and fol-**  
5           **lowing).**

6           **“(29) YUCCA MOUNTAIN SITE.—**The term  
7           **‘Yucca Mountain site’** means the area in  
8           **the State of Nevada that is withdrawn**  
9           **and reserved in accordance with this Act**  
10           **for the location of a repository.**

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

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

13           **“(1) while spent nuclear fuel can be**  
14           **safely stored at reactor sites, the expedi-**  
15           **tious movement to and storage of such**  
16           **spent nuclear fuel at a centralized Fed-**  
17           **eral facility will enhance the nation’s en-**  
18           **vironmental protection;**

19           **“(2) while the Federal Government**  
20           **has the responsibility to provide for the**  
21           **centralized interim storage and perma-**  
22           **nent disposal of spent nuclear fuel and**  
23           **high-level radioactive waste to protect**  
24           **the public health and safety and the envi-**  
25           **ronment, the costs of such storage and**

1       **disposal should be the responsibility of**  
2       **the generators and owners of such waste**  
3       **and fuel, including the Federal Govern-**  
4       **ment;**

5           **“(3) in the interests of protecting the**  
6       **public health and safety, enhancing the**  
7       **nation’s environmental protection, pro-**  
8       **moting the nation’s energy security, and**  
9       **ensuring the Secretary’s ability to com-**  
10       **mence acceptance of spent nuclear fuel**  
11       **and high-level radioactive waste no later**  
12       **than January 31, 2000, it is necessary for**  
13       **Congress to authorize the interim storage**  
14       **facility;**

15           **“(4) deficit-control measures designed**  
16       **to limit appropriation of general reve-**  
17       **nuues have limited the availability of the**  
18       **Nuclear Waste Fund for its intended pur-**  
19       **poses; and**

20           **“(5) the Federal Government has the**  
21       **responsibility to provide for the perma-**  
22       **nent disposal of waste generated from**  
23       **United States atomic energy defense ac-**  
24       **tivities.**

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

3           **“(1) to direct the Secretary to develop**  
4 **an integrated management system in ac-**  
5 **cordance with this Act so that the De-**  
6 **partment can accept spent nuclear fuel**  
7 **or high-level radioactive waste for in-**  
8 **terim storage commencing no later than**  
9 **January 31, 2000, and for permanent dis-**  
10 **posal at a repository commencing no**  
11 **later than January 17, 2010;**

12           **“(2) to provide for the siting, con-**  
13 **struction, and operation of a repository**  
14 **for permanent geologic disposal of spent**  
15 **nuclear fuel and high-level radioactive**  
16 **waste in order to adequately protect the**  
17 **public and the environment;**

18           **“(3) to take those actions necessary to**  
19 **ensure that the consumers of nuclear en-**  
20 **ergy, who are funding the Secretary’s ac-**  
21 **tivities under this Act, receive the serv-**  
22 **ices to which they are entitled and real-**  
23 **ize the benefits of enhanced protection of**  
24 **public health and safety, and the environ-**  
25 **ment, that will ensue from the Secretary’s**

1 compliance with the obligations imposed  
2 by this Act; and

3 “(4) to provide a schedule and process  
4 for the expeditious and safe development  
5 and commencement of operation of an in-  
6 tegrated management system and any  
7 necessary modifications to the transpor-  
8 tation infrastructure to ensure that the  
9 Secretary can commence acceptance of  
10 spent nuclear fuel and high-level radio-  
11 active waste no later than January 31,  
12 2000.

### 13 “TITLE I—OBLIGATIONS

14 “SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.

15 “(a) DISPOSAL.—The Secretary shall de-  
16 velop and operate a repository for the perma-  
17 nent geologic disposal of spent nuclear fuel  
18 and high-level radioactive waste.

19 “(b) ACCEPTANCE.—The Secretary shall ac-  
20 cept spent nuclear fuel and high-level radio-  
21 active waste for storage at the interim storage  
22 facility pursuant to section 204 in accordance  
23 with the acceptance schedule established  
24 under section 508, beginning not later than  
25 January 31, 2000.

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

5       “(d) **INTEGRATED MANAGEMENT SYSTEM.**—  
6 The Secretary shall expeditiously pursue the  
7 development of each component of the inte-  
8 grated management system, and in so doing  
9 shall seek to utilize effective private sector  
10 management and contracting practices in ac-  
11 cordance with title VII of this Act.

12               **“TITLE II—INTEGRATED**  
13               **MANAGEMENT SYSTEM**

14       **“SEC. 201. INTERMODAL TRANSFER.**

15       “(a) **BEFORE RAIL ACCESS.**—Until such time  
16 as direct rail access is available to the interim  
17 storage facility site, the Secretary shall utilize  
18 heavy-haul truck transport to move spent nu-  
19 clear fuel and high-level radioactive waste  
20 from the mainline rail line at Caliente, Ne-  
21 vada, to the interim storage facility site.

22       “(b) **CAPABILITY DATE.**—The Secretary  
23 shall develop the capability to commence rail  
24 to truck intermodal transfer at Caliente, Ne-  
25 vada, no later than January 31, 2000.

1       **“(c) ACQUISITIONS.—The Secretary shall ac-**  
2 **quire lands and rights-of-way necessary to**  
3 **commence intermodal transfer at Caliente,**  
4 **Nevada.**

5       **“(d) REPLACEMENTS.—The Secretary shall**  
6 **acquire and develop on behalf of, and dedi-**  
7 **cate to, the City of Caliente, Nevada, parcels**  
8 **of land and rights-of-way as required to facili-**  
9 **tate replacement of land and city wastewater**  
10 **disposal activities necessary to commence**  
11 **intermodal transfer pursuant to this Act. Re-**  
12 **placement of land and city wastewater dis-**  
13 **posal activities shall occur no later than Jan-**  
14 **uary 31, 2000.**

15       **“(e) NOTICE AND MAP.—Within 6 months of**  
16 **the date of enactment of this Act, the Sec-**  
17 **retary shall—**

18               **“(1) publish in the Federal Register a**  
19 **notice containing a legal description of**  
20 **the sites and rights-of-way to be acquired**  
21 **under this section; and**

22               **“(2) file copies of a map of such sites**  
23 **and rights-of-way with the Congress, the**  
24 **Secretary of the Interior, the State of Ne-**  
25 **vada, the Archivist of the United States,**

1       the Board of Lincoln County Commis-  
2       sioners, the Board of Nye County Com-  
3       missioners, and the Caliente City Coun-  
4       cil.

5       Such map and legal description shall have the  
6       same force and effect as if they were included  
7       in this Act. The Secretary may correct clerical  
8       and typographical errors and legal descrip-  
9       tions and make minor adjustments in the  
10      boundaries.

11      “(f) IMPROVEMENTS.—The Secretary shall  
12      make improvements to existing roadways se-  
13      lected for heavy-haul truck transport between  
14      Caliente, Nevada, and the interim storage fa-  
15      cility site as necessary to facilitate year-round  
16      safe transport of spent nuclear fuel and high-  
17      level radioactive waste.

18      “(g)       HEAVY-HAUL       TRANSPORTATION  
19      ROUTE.—

20              “(1) DESIGNATION OF ROUTE.—The  
21              route for the heavy-haul truck transport  
22              of spent nuclear fuel and high-level ra-  
23              dioactive waste shall be as designated in  
24              the map (entitled ‘Heavy-Haul Route’ and  
25              on file with the Secretary).

1           **“(2) TRUCK TRANSPORTATION.—The Sec-**  
2           **retary, in consultation with the State of**  
3           **Nevada and appropriate counties and**  
4           **local jurisdictions, shall establish reason-**  
5           **able terms and conditions pursuant to**  
6           **which the Secretary may utilize heavy-**  
7           **haul truck transport to move spent nu-**  
8           **clear fuel and high-level radioactive**  
9           **waste from Caliente, Nevada, to the in-**  
10          **terim storage facility site.**

11          **“(3) IMPROVEMENTS AND MAINTEN-**  
12          **NANCE.—Notwithstanding any other law—**

13               **“(A) the Secretary shall be re-**  
14               **sponsible for any incremental costs**  
15               **related to improving or upgrading**  
16               **Federal, State, and local roads within**  
17               **the heavy-haul transportation route**  
18               **utilized, and performing any mainte-**  
19               **nance activities on such roads, as**  
20               **necessary, to facilitate year-round**  
21               **safe transport of spent nuclear fuel**  
22               **and high-level radioactive waste; and**

23               **“(B) any such improvement, up-**  
24               **grading, or maintenance activity**  
25               **shall be funded solely by appropria-**

1           **tions made pursuant to sections 401**  
2           **and 403 of this Act.**

3           **“(h) LOCAL GOVERNMENT INVOLVEMENT.—**  
4           **The Commission shall enter into a Memoran-**  
5           **dum of Understanding with the City of**  
6           **Caliente and Lincoln County, Nevada, to pro-**  
7           **vide advice to the Commission regarding**  
8           **intermodal transfer and to facilitate on-site**  
9           **representation.**

10          **“(i) NATIONAL ENVIRONMENTAL POLICY ACT**  
11          **OF 1969.—The Secretary’s activities in connec-**  
12          **tion with the development of intermodal**  
13          **transfer capability, and upgrading and im-**  
14          **provements to, and maintenance of, the roads**  
15          **within the heavy-haul transportation route**  
16          **shall be considered preliminary decisionmak-**  
17          **ing activities. Such activities shall not require**  
18          **the preparation of an environmental impact**  
19          **statement under section 102(2)(c) of the Na-**  
20          **tional Environmental Policy Act of 1969 (42**  
21          **U.S.C. 4332(2)(C)) or any environmental re-**  
22          **view under subparagraph (E) or (F) of section**  
23          **102(2) of such Act.**

24          **“(j) REGULATION.—Notwithstanding any**  
25          **other law, the Secretary’s movement of spent**

1 nuclear fuel and high-level radioactive waste  
2 by heavy-haul transport route pursuant to  
3 this subsection shall be subject to exclusive  
4 regulation by the Secretary of Transportation  
5 and the Commission in accordance with regu-  
6 latory authority under the provisions of this  
7 Act, chapter 51 of title 49, United States Code  
8 (relating to the transportation of hazardous  
9 materials), and the Atomic Energy Act of 1954  
10 (42 U.S.C. 2011 et seq.).

11 “SEC. 202. TRANSPORTATION PLANNING.

12 “(a) TRANSPORTATION READINESS.—The  
13 Secretary shall take those actions that are  
14 necessary and appropriate to ensure that the  
15 Secretary is able to accept spent nuclear fuel  
16 and high-level radioactive waste beginning  
17 not later than January 31, 2000, and transport  
18 such fuel or waste to mainline transportation  
19 facilities. As soon as is practicable following  
20 the enactment of this Act, the Secretary shall  
21 analyze each specific reactor facility in the  
22 order of priority established in the accept-  
23 ance schedule under section 508, and develop  
24 a logistical plan to assure the Secretary’s abil-

1 ity to transport spent nuclear fuel and high-  
2 level radioactive waste.

3       “(b) **TRANSPORTATION PLANNING.**—In con-  
4 junction with the development of the  
5 logistical plan in accordance with subsection  
6 (a), the Secretary shall update and modify, as  
7 necessary, the Secretary’s transportation in-  
8 stitutional plans to ensure that institutional  
9 issues are addressed and resolved on a sched-  
10 ule to support the commencement of trans-  
11 portation of spent nuclear fuel and high-level  
12 radioactive waste to the interim storage facil-  
13 ity no later than January 31, 2000. Among  
14 other things, such planning shall provide a  
15 schedule and process for addressing and im-  
16 plementing, as necessary, transportation  
17 routing plans, transportation contracting  
18 plans, transportation training in accordance  
19 with section 203, and transportation tracking  
20 programs.

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

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

1 **been certified for such purposes by the Com-**  
2 **mission.**

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

9 **“(c) TECHNICAL ASSISTANCE.—**

10 **“(1) IN GENERAL.—The Secretary shall**  
11 **provide technical assistance and funds to**  
12 **States, affected units of local government,**  
13 **and Indian tribes through whose jurisdic-**  
14 **tion the Secretary plans to transport sub-**  
15 **stantial amounts of spent nuclear fuel or**  
16 **high-level radioactive waste for training**  
17 **for public safety officials of appropriate**  
18 **units of local government. Training shall**  
19 **cover procedures required for safe rou-**  
20 **tine transportation of these materials, as**  
21 **well as procedures for dealing with emer-**  
22 **gency response situations. The Sec-**  
23 **retary’s duty to provide technical and fi-**  
24 **ancial assistance under this subsection**

1 shall be limited to amounts specified in  
2 annual appropriations.

3 “(2) MINIMIZING DUPLICATION OF EF-  
4 FORT AND EXPENSES.—The Secretaries of  
5 Transportation, Labor, and Energy, Di-  
6 rectors of the Federal Emergency Man-  
7 agement Agency and National Institute of  
8 Environmental Health Sciences, Chair-  
9 man of the Nuclear Regulatory Commis-  
10 sion, and Administrator of the Environ-  
11 mental Protection Agency shall review  
12 periodically, with the head of each de-  
13 partment, agency, or instrumentality of  
14 the Government, all emergency response  
15 and preparedness training programs of  
16 that department, agency, or instrumen-  
17 tality to minimize duplication of effort  
18 and expense of the department, agency,  
19 or instrumentality in carrying out the  
20 programs and shall take necessary action  
21 to minimize duplication.

22 “(d) USE OF PRIVATE CARRIERS.—The Sec-  
23 retary, in providing for the transportation of  
24 spent nuclear fuel and high level radioactive  
25 waste under this Act, shall by contract use

1 private industry to the fullest extent possible  
2 in each aspect of such transportation. The  
3 Secretary shall use direct Federal services for  
4 such transportation only upon a determina-  
5 tion by the Secretary of Transportation, in  
6 consultation with the Secretary, that private  
7 industry is unable or unwilling to provide  
8 such transportation services at a reasonable  
9 cost.

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

14 “SEC. 204. INTERIM STORAGE.

15 “(a) AUTHORIZATION.—The Secretary shall  
16 design, construct, and operate a facility for  
17 the interim storage of spent nuclear fuel and  
18 high-level radioactive waste at the interim  
19 storage facility site. The interim storage facil-  
20 ity shall be subject to licensing pursuant to  
21 the Atomic Energy Act of 1954 (42 U.S.C. 2011  
22 et seq.) in accordance with the Commission’s  
23 regulations governing the licensing of inde-  
24 pendent spent fuel storage installations and

1 shall commence operation in phases by Janu-  
2 ary 31, 2000.

3       “(b) DESIGN.—The design of the interim  
4 storage facility shall provide for the use of  
5 storage technologies licensed or certified by  
6 the Commission for use at the interim storage  
7 facility as necessary to ensure compatibility  
8 between the interim storage facility and con-  
9 tract holders’ spent nuclear fuel and facilities,  
10 and to facilitate the Secretary’s ability to  
11 meet the Secretary’s obligations under this  
12 Act.

13       “(c) LICENSING.—

14               “(1) PHASES.—The interim storage fa-  
15 cility shall be licensed by the Commission  
16 in two phases in order to commence oper-  
17 ations no later than January 31, 2000.

18               “(2) FIRST PHASE.—No later than 12  
19 months after the date of enactment of  
20 this Act, the Secretary shall submit to the  
21 Commission an application for a license  
22 for the first phase of the interim storage  
23 facility. The license issued for the first  
24 phase of the interim storage facility shall  
25 have a term of 20 years. The interim stor-

1       **age facility licensed in the first phase**  
2       **shall have a capacity of not more than**  
3       **10,000 MTU. The Commission shall issue**  
4       **a final decision granting or denying the**  
5       **application for the first phase license no**  
6       **later than 16 months from the date of the**  
7       **submittal of the application for such li-**  
8       **cence.**

9               **“(3) SECOND PHASE.—Upon the issu-**  
10       **ance of the license for the first phase of**  
11       **the interim storage facility under para-**  
12       **graph (2), the Secretary shall submit to**  
13       **the Commission an application for a li-**  
14       **cence for the second phase interim stor-**  
15       **age facility. The license for the second**  
16       **phase facility shall authorize a storage**  
17       **capacity of 40,000 MTU. The license for**  
18       **the second phase shall have an initial**  
19       **term of up to 100 years, and shall be re-**  
20       **newable for additional terms upon appli-**  
21       **cation of the Secretary.**

22               **“(d) ADDITIONAL AUTHORITY.—**

23               **“(1) CONSTRUCTION.—For the purpose**  
24       **of complying with subsection (a), the Sec-**  
25       **retary may commence site preparation**

1       **for the interim storage facility as soon as**  
2       **practicable after the date of enactment of**  
3       **this Act and shall commence construction**  
4       **of the first phase of the interim storage**  
5       **facility subsequent to submittal of the li-**  
6       **cence application except that the Com-**  
7       **mission shall issue an order suspending**  
8       **such construction at any time if the Com-**  
9       **mission determines that such construc-**  
10      **tion poses an unreasonable risk to public**  
11      **health and safety or the environment.**  
12      **The Commission shall terminate all or**  
13      **part of such order upon a determination**  
14      **that the Secretary has taken appropriate**  
15      **action to eliminate such risk.**

16           **“(2) FACILITY USE.—Notwithstanding**  
17      **any otherwise applicable licensing re-**  
18      **quirement, the Secretary may utilize any**  
19      **facility owned by the Federal Govern-**  
20      **ment on the date of enactment of this Act**  
21      **and within the boundaries of the interim**  
22      **storage facility site, in connection with**  
23      **an imminent and substantial**  
24      **endangerment to public health and safety**  
25      **at the interim storage facility prior to**

1 commencement of operations during the  
2 second phase.

3 **“(3) ACCEPTANCE OF FUEL AND WASTE.—**

4 **“(A) GENERAL RULE.—In each year,**  
5 **once the Secretary has achieved the**  
6 **annual acceptance rate for spent nu-**  
7 **clear fuel from civilian nuclear power**  
8 **reactors established pursuant to the**  
9 **contracts executed under the Nuclear**  
10 **Waste Policy Act of 1982 (as set forth**  
11 **in the Secretary’s annual capacity re-**  
12 **port dated March 1995 (DOE/RW-**  
13 **0457)), the Secretary—**

14 **“(i) may, additionally, accept**  
15 **spent nuclear fuel or high-level**  
16 **radioactive waste of domestic ori-**  
17 **gin from civilian nuclear power**  
18 **reactors which have permanently**  
19 **ceased operation; and**

20 **“(ii) except as provided in**  
21 **subparagraph (B), shall accept at**  
22 **least 25 percent of the difference**  
23 **between such annual acceptance**  
24 **rate and the annual rate under**  
25 **the acceptance schedule estab-**

1           lished under section 508 for spent  
2           nuclear fuel from civilian power  
3           reactors of—

4                   “(I) spent nuclear fuel  
5                   from foreign research reac-  
6                   tors; and

7                   “(II) spent nuclear fuel  
8                   from naval reactors and high-  
9                   level radioactive waste from  
10                  atomic energy defense activi-  
11                  ties.

12               “(B) EXCEPTION.—If the annual  
13               rate under the acceptance schedule  
14               established under section 508 is not  
15               achieved, the acceptance rate of the  
16               Secretary of the materials described  
17               in subclauses (I) and (II) of subpara-  
18               graph (A)(ii) shall be the greater of  
19               the acceptance rate prescribed by  
20               subparagraph (A) and calculated on  
21               the basis of the amount of spent nu-  
22               clear fuel and high-level radioactive  
23               waste actually received or 5 percent  
24               of the total amount of spent nuclear

1           **fuel and high-level radioactive waste**  
2           **actually accepted.**

3           **“(e) NATIONAL ENVIRONMENTAL POLICY ACT**  
4 **OF 1969.—**

5           **“(1) PRELIMINARY DECISIONMAKING AC-**  
6 **TIVITIES.—The Secretary’s activities under**  
7 **this section, including the selection of a**  
8 **site for the interim storage facility, the**  
9 **preparation and submittal of any license**  
10 **application, and the construction and op-**  
11 **eration of any facility shall be considered**  
12 **preliminary decisionmaking activities for**  
13 **purposes of the National Environmental**  
14 **Policy Act of 1969 (42 U.S.C. 4321 et seq.).**  
15 **No such activity shall require the prepa-**  
16 **ration of an environmental impact state-**  
17 **ment under section 102(2)(C) of the Na-**  
18 **tional Environmental Policy Act of 1969**  
19 **(42 U.S.C. 4332(2)(C)) or require any envi-**  
20 **ronmental review under subparagraph**  
21 **(E) or (F) of such Act.**

22           **“(2) ENVIRONMENTAL IMPACT STATE-**  
23 **MENT.—**

24           **“(A) FINAL DECISION.—A final deci-**  
25 **sion of the Commission to grant or**

1 deny a license application for the  
2 first or second phase of the interim  
3 storage facility shall be accompanied  
4 by an Environmental Impact State-  
5 ment prepared under section  
6 102(2)(C) of the National Environ-  
7 mental Policy Act of 1969 (42 U.S.C.  
8 4332(2)(C)). In preparing such Envi-  
9 ronmental Impact Statement, the  
10 Commission—

11 “(i) shall assume that 40,000  
12 MTU will be stored at the facility;

13 “(ii) shall analyze the impacts  
14 of the transportation of spent nu-  
15 clear fuel and high-level radio-  
16 active waste to the interim stor-  
17 age facility in a generic manner;  
18 and

19 “(iii) shall consider the results  
20 of the study by the National Acad-  
21 emy of Sciences on the migration  
22 of plutonium at the Nevada test  
23 site.

1           **“(B) CONSIDERATIONS.—Such Envi-**  
2           **ronmental Impact Statement shall not**  
3           **consider—**

4                   **“(i) the need for the interim**  
5                   **storage facility, including any in-**  
6                   **dividual component thereof;**

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

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

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

18                   **“(v) any alternatives to the de-**  
19                   **sign criteria for such facility or**  
20                   **any individual component there-**  
21                   **of, as specified by the Secretary**  
22                   **in the license application; or**

23                   **“(vi) the environmental im-**  
24                   **pacts of the storage of spent nu-**  
25                   **clear fuel and high-level radio-**

1           **active waste at the interim stor-**  
2           **age facility beyond the initial**  
3           **term of the license or the term of**  
4           **the renewal period for which a li-**  
5           **cence renewal application is**  
6           **made.**

7           **“(f) JUDICIAL REVIEW.—Judicial review of**  
8           **the Commission’s environmental impact**  
9           **statement under the National Environmental**  
10          **Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall**  
11          **be consolidated with judicial review of the**  
12          **Commission’s licensing decision. No court**  
13          **shall have jurisdiction to enjoin the construc-**  
14          **tion or operation of the interim storage facil-**  
15          **ity prior to its final decision on review of the**  
16          **Commission’s licensing action.**

17          **“(g) WASTE CONFIDENCE.—The Secretary’s**  
18          **obligation to construct and operate the in-**  
19          **terim storage facility in accordance with this**  
20          **section and the Secretary’s obligation to de-**  
21          **velop an integrated management system in**  
22          **accordance with the provisions of this Act,**  
23          **shall provide sufficient and independent**  
24          **grounds for any further findings by the Com-**  
25          **mission of reasonable assurance that spent**

1 nuclear fuel and high-level radioactive waste  
2 will be disposed of safely and on a timely  
3 basis for purposes of the Commission's deci-  
4 sion to grant or amend any license to operate  
5 any civilian nuclear power reactor under the  
6 Atomic Energy Act of 1954 (42 U.S.C. 2011 et  
7 seq.).

8       “(h) SAVINGS CLAUSE.—Nothing in this Act  
9 shall affect the Commission's procedures for  
10 the licensing of any technology for the dry  
11 storage of spent nuclear fuel at the site of any  
12 civilian nuclear power reactor as adopted by  
13 the Commission under section 218 of the Nu-  
14 clear Waste Policy Act of 1982, as in effect  
15 prior to the enactment of the Nuclear Waste  
16 Policy Act of 1997. The establishment of such  
17 procedures shall not preclude the licensing,  
18 under any applicable procedures or rules of  
19 the Commission in effect prior to such estab-  
20 lishment, of any technology for the storage of  
21 civilian spent nuclear fuel at the site of any  
22 civilian nuclear power reactor.

23 “SEC. 205. PERMANENT DISPOSAL.

24       “(a) SITE CHARACTERIZATION.—

1           **“(1) GUIDELINES.—The guidelines pro-**  
2           **mulgated by the Secretary and published**  
3           **at 10 CFR part 960 are annulled and re-**  
4           **voked and the Secretary shall make no**  
5           **assumptions or conclusions about the**  
6           **licensability of the Yucca Mountain site**  
7           **as a repository by reference to such**  
8           **guidelines.**

9           **“(2) SITE CHARACTERIZATION ACTIVI-**  
10          **TIES.—The Secretary shall carry out ap-**  
11          **propriate site characterization activities**  
12          **at the Yucca Mountain site in accordance**  
13          **with the Secretary’s program approach to**  
14          **site characterization if the Secretary**  
15          **modifies or eliminates those site charac-**  
16          **terization activities designed to dem-**  
17          **onstrate the suitability of the site under**  
18          **the guidelines referenced in paragraph**  
19          **(1).**

20          **“(3) DATE.—No later than December**  
21          **31, 2002, the Secretary shall apply to the**  
22          **Commission for authorization to con-**  
23          **struct a repository that will commence**  
24          **operations no later than January 17,**  
25          **2010. If, at any time prior to the filing of**

1       such application, the Secretary deter-  
2       mines that the Yucca Mountain site can-  
3       not satisfy the Commission's regulations  
4       applicable to the licensing of a geologic  
5       repository, the Secretary shall terminate  
6       site characterization activities at the site,  
7       notify Congress and the State of Nevada  
8       of the Secretary's determination and the  
9       reasons therefor, and recommend to Con-  
10      gress not later than 6 months after such  
11      determination further actions, including  
12      the enactment of legislation, that may be  
13      needed to manage the Nation's spent nu-  
14      clear fuel and high-level radioactive  
15      waste.

16           “(4) MAXIMIZING CAPACITY.—In devel-  
17      oping an application for authorization to  
18      construct the repository, the Secretary  
19      shall seek to maximize the capacity of the  
20      repository.

21           “(b) LICENSING.—Within one year of the  
22      date of enactment of this Act, the Commission  
23      shall amend its regulations governing the dis-  
24      posal of spent nuclear fuel and high-level ra-  
25      dioactive waste in geologic repositories to the

1 extent necessary to comply with this Act. Sub-  
2 ject to subsection (c), such regulations shall  
3 provide for the licensing of the repository ac-  
4 cording to the following procedures:

5           “(1) CONSTRUCTION AUTHORIZATION.—  
6           The Commission shall grant the Sec-  
7           retary a construction authorization for  
8           the repository upon determining that  
9           there is reasonable assurance that spent  
10          nuclear fuel and high-level radioactive  
11          waste can be disposed of in the reposi-  
12          tory—

13                   “(A) in conformity with the Sec-  
14                   retary’s application, the provisions of  
15                   this Act, and the regulations of the  
16                   Commission;

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

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

22           “(2) LICENSE.—Following substantial  
23          completion of construction and the filing  
24          of any additional information needed to  
25          complete the license application, the

1       **Commission shall issue a license to dis-**  
2       **pose of spent nuclear fuel and high-level**  
3       **radioactive waste in the repository if the**  
4       **Commission determines that the reposi-**  
5       **tory has been constructed and will oper-**  
6       **ate—**

7               **“(A) in conformity with the Sec-**  
8               **retary’s application, the provisions of**  
9               **this Act, and the regulations of the**  
10              **Commission;**

11              **“(B) without unreasonable risk to**  
12              **the health and safety of the public;**  
13              **and**

14              **“(C) consistent with the common**  
15              **defense and security.**

16              **“(3) CLOSURE.—After emplacing spent**  
17              **nuclear fuel and high-level radioactive**  
18              **waste in the repository and collecting**  
19              **sufficient confirmatory data on reposi-**  
20              **tory performance to reasonably confirm**  
21              **the basis for repository closure consist-**  
22              **ent with the Commission’s regulations**  
23              **applicable to the licensing of a reposi-**  
24              **tory, as modified in accordance with this**  
25              **Act, the Secretary shall apply to the Com-**

1 mission to amend the license to permit  
2 permanent closure of the repository. The  
3 Commission shall grant such license  
4 amendment upon finding that there is  
5 reasonable assurance that the repository  
6 can be permanently closed—

7 “(A) in conformity with the Sec-  
8 retary’s application to amend the li-  
9 cense, the provisions of this Act, and  
10 the regulations of the Commission;

11 “(B) without unreasonable risk to  
12 the health and safety of the public;  
13 and

14 “(C) consistent with the common  
15 defense and security.

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

22 “(A) breaching the repository’s  
23 engineered or geologic barriers; or

24 “(B) increasing the exposure of in-  
25 dividual members of the public to ra-

1           diation beyond the release standard  
2           established in subsection (d)(1).

3           “(c) **MODIFICATION OF REPOSITORY LICENS-**  
4 **ING PROCEDURE.**—The Commission’s regula-  
5 tions shall provide for the modification of the  
6 repository licensing procedure, as appro-  
7 priate, in the event that the Secretary seeks  
8 a license to permit the emplacement in the re-  
9 pository, on a retrievable basis, of only that  
10 quantity of spent nuclear fuel or high-level ra-  
11 dioactive waste that is necessary to provide  
12 the Secretary with sufficient confirmatory  
13 data on repository performance to reasonably  
14 confirm the basis for repository closure con-  
15 sistent with applicable regulations.

16           “(d) **LICENSING STANDARDS.**—Notwith-  
17 standing any other provision of law, the Ad-  
18 ministrator of the Environmental Protection  
19 Agency shall not promulgate, by rule or other-  
20 wise, standards for protection of the public  
21 from releases of radioactive materials or ra-  
22 dioactivity from the repository and any such  
23 standards existing on the date of enactment  
24 of this Act shall not be incorporated in the  
25 Commission’s licensing regulations. The Com-

1 mission's repository licensing determinations  
2 for the protection of the public shall be based  
3 solely on a finding whether the repository can  
4 be operated in conformance with the overall  
5 system performance standard established in  
6 paragraph (1)(A) and applied in accordance  
7 with the provisions of paragraph (1)(B). The  
8 Commission shall amend its regulations in ac-  
9 cordance with subsection (b) to incorporate  
10 each of the following licensing standards:

11           “(1) RELEASE STANDARD.—

12                   “(A) ESTABLISHMENT OF OVERALL  
13                   SYSTEM PERFORMANCE STANDARD.—The  
14                   standard for protection of the public  
15                   from release of radioactive material  
16                   or radioactivity from the repository  
17                   shall prohibit releases that would ex-  
18                   pose an average member of the gen-  
19                   eral population in the vicinity of the  
20                   Yucca Mountain site to an annual  
21                   dose in excess of 100 millirems unless  
22                   the Commission determines by rule  
23                   that such standard would constitute  
24                   an unreasonable risk to health and  
25                   safety and establishes by rule another

1           **standard which will protect health**  
2           **and safety. Such standard shall con-**  
3           **stitute an overall system performance**  
4           **standard.**

5           **“(B) APPLICATION OF OVERALL SYS-**  
6           **TEM PERFORMANCE STANDARD.—The**  
7           **Commission shall issue the license if**  
8           **it finds reasonable assurance that—**

9                   **“(i) for the first 1,000 years**  
10                   **following the commencement of**  
11                   **repository operations, the overall**  
12                   **system performance standard will**  
13                   **be met based on a deterministic**  
14                   **or probabilistic evaluation of the**  
15                   **overall performance of the dis-**  
16                   **posal system; and**

17                   **“(ii) for the period commenc-**  
18                   **ing after the first 1,000 years of**  
19                   **operation of the repository and**  
20                   **terminating at 10,000 years after**  
21                   **the commencement of operation**  
22                   **of the repository, there is likely to**  
23                   **be compliance with the overall**  
24                   **system performance standard**  
25                   **based on regulatory insight**

1           **gained through the use of a prob-**  
2           **abilistic integrated performance**  
3           **model that uses best estimate as-**  
4           **sumptions, data, and methods.**

5           **“(2) HUMAN INTRUSION.—The Commis-**  
6           **sion shall assume that, following reposi-**  
7           **tory closure, the inclusion of engineered**  
8           **barriers and the Secretary’s post-closure**  
9           **actions at the Yucca Mountain site, in ac-**  
10          **cordance with subsection (b)(3), shall be**  
11          **sufficient to—**

12                  **“(A) prevent any human activity**  
13                  **at the site that poses an unreasonable**  
14                  **risk of breaching the repository’s en-**  
15                  **gineered or geologic barriers; and**

16                  **“(B) prevent any increase in the**  
17                  **exposure of individual members of**  
18                  **the public to radiation beyond allow-**  
19                  **able limits as specified in paragraph**  
20                  **(1).**

21          **“(e) NATIONAL ENVIRONMENTAL POLICY**  
22          **ACT.—**

23                  **“(1) SUBMISSION OF STATEMENT.—Con-**  
24                  **struction and operation of the repository**  
25                  **shall be considered a major Federal ac-**

1        **tion significantly affecting the quality of**  
2        **the human environment for purposes of**  
3        **the National Environmental Policy Act of**  
4        **1969 (42 U.S.C. 4321 et seq.). The Sec-**  
5        **retary shall submit an environmental im-**  
6        **part statement on the construction and**  
7        **operation of the repository to the Com-**  
8        **mission with the application for con-**  
9        **struction authorization.**

10        **“(2) CONSIDERATIONS.—For purposes**  
11        **of complying with the requirements of**  
12        **the National Environmental Policy Act of**  
13        **1969 and this section, the Secretary shall**  
14        **not consider in the environmental impact**  
15        **statement the need for the repository, al-**  
16        **ternative sites or designs for the reposi-**  
17        **tory, the time of the initial availability of**  
18        **the repository, or any alternatives to the**  
19        **isolation of spent nuclear fuel and high-**  
20        **level radioactive waste in a repository.**

21        **“(3) ADOPTION BY COMMISSION.—The**  
22        **Secretary’s environmental impact state-**  
23        **ment and any supplements thereto shall,**  
24        **to the extent practicable, be adopted by**  
25        **the Commission in connection with the**

1       issuance by the Commission of a con-  
2       struction authorization under subsection  
3       (b)(1), a license under subsection (b)(2),  
4       or a license amendment under subsection  
5       (b)(3). To the extent such statement or  
6       supplement is adopted by the Commis-  
7       sion, such adoption shall be deemed to  
8       also satisfy the responsibilities of the  
9       Commission under the National Environ-  
10      mental Policy Act of 1969, and no further  
11      consideration shall be required, except  
12      that nothing in this subsection shall af-  
13      fect any independent responsibilities of  
14      the Commission to protect the public  
15      health and safety under the Atomic En-  
16      ergy Act of 1954 (42 U.S.C. 2011 et seq.).  
17      In any such statement prepared with re-  
18      spect to the repository, the Commission  
19      shall not consider the need for a reposi-  
20      tory, the time of initial availability of the  
21      repository, alternate sites to the Yucca  
22      Mountain site, or nongeologic alter-  
23      natives to such site.

24      “(f) JUDICIAL REVIEW.—No court shall have  
25      jurisdiction to enjoin issuance of the Commis-

1 sion repository licensing regulations prior to  
2 its final decision on review of such regula-  
3 tions.

4 “SEC. 206. LAND WITHDRAWAL.

5 “(a) WITHDRAWAL AND RESERVATION.—

6 “(1) WITHDRAWAL.—Subject to valid  
7 existing rights, the interim storage facil-  
8 ity site and the Yucca Mountain site, as  
9 described in subsection (b), are with-  
10 drawn from all forms of entry, appropri-  
11 ation, and disposal under the public land  
12 laws, including the mineral leasing laws,  
13 the geothermal leasing laws, the material  
14 sale laws, and the mining laws. With-  
15 drawal under this paragraph shall expire  
16 at the beginning of the year 2012 if the  
17 interim storage facility site is not used in  
18 accordance with section 204(c)(2) and  
19 other provisions of this Act. After the ex-  
20 piration of the withdrawal, the sites will  
21 return to the Federal agency which had  
22 jurisdiction over them before the with-  
23 drawal and for the purposes previously  
24 used.

1           **“(2) JURISDICTION.—Jurisdiction of**  
2           **any land within the interim storage facil-**  
3           **ity site and the Yucca Mountain site man-**  
4           **aged by the Secretary of the Interior or**  
5           **any other Federal officer is transferred**  
6           **to the Secretary.**

7           **“(3) RESERVATION.—The interim stor-**  
8           **age facility site and the Yucca Mountain**  
9           **site are reserved for the use of the Sec-**  
10           **retary for the construction and oper-**  
11           **ation, respectively, of the interim storage**  
12           **facility and the repository and activities**  
13           **associated with the purposes of this title.**

14           **“(b) LAND DESCRIPTION.—**

15           **“(1) BOUNDARIES.—The boundaries de-**  
16           **scribed on the map entitled ‘Interim Stor-**  
17           **age Facility Site Withdrawal Map,’ dated**  
18           **July 28, 1995, and on file with the Sec-**  
19           **retary, are established as the boundaries**  
20           **of the Interim Storage Facility site.**

21           **“(2) BOUNDARIES.—The boundaries de-**  
22           **scribed on the map entitled ‘Yucca Moun-**  
23           **tain Site Withdrawal Map,’ dated July 28,**  
24           **1995, and on file with the Secretary, are**

1 established as the boundaries of the  
2 Yucca Mountain site.

3 “(3) NOTICE AND MAPS.—Within 6  
4 months of the date of enactment of this  
5 Act, the Secretary shall—

6 “(A) publish in the Federal Reg-  
7 ister a notice containing a legal de-  
8 scription of the interim storage facil-  
9 ity site; and

10 “(B) file copies of the maps de-  
11 scribed in paragraph (1), and the  
12 legal description of the interim stor-  
13 age facility site with the Congress,  
14 the Secretary of the Interior, the Gov-  
15 ernor of Nevada, and the Archivist of  
16 the United States.

17 “(4) NOTICE AND MAPS.—Concurrent  
18 with the Secretary’s application to the  
19 Commission for authority to construct  
20 the repository, the Secretary shall—

21 “(A) publish in the Federal Reg-  
22 ister a notice containing a legal de-  
23 scription of the Yucca Mountain site;  
24 and

1           **“(B) file copies of the maps de-**  
2           **scribed in paragraph (2), and the**  
3           **legal description of the Yucca Moun-**  
4           **tain site with the Congress, the Sec-**  
5           **retary of the Interior, the Governor of**  
6           **Nevada, and the Archivist of the Unit-**  
7           **ed States.**

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

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

19          **“SEC. 301. ON-SITE REPRESENTATIVE.**

20          **The Secretary shall offer to Nye County,**  
21          **Nevada, an opportunity to designate a rep-**  
22          **resentative to conduct on-site oversight ac-**  
23          **tivities at such site. Reasonable expenses of**  
24          **such representatives shall be paid by the Sec-**  
25          **retary.**

1 **“SEC. 302. BENEFITS AGREEMENTS.**

2 **“(a) IN GENERAL.—**

3 **“(1) SEPARATE AGREEMENTS.—The Sec-**  
4 **retary shall offer to enter into separate**  
5 **agreements with Nye County, Nevada,**  
6 **and Lincoln County, Nevada, concerning**  
7 **the integrated management system.**

8 **“(2) AGREEMENT CONTENT.—Any agree-**  
9 **ment shall contain such terms and condi-**  
10 **tions, including such financial and insti-**  
11 **tutional arrangements, as the Secretary**  
12 **and agreement entity determine to be**  
13 **reasonable and appropriate and shall**  
14 **contain such provisions as are necessary**  
15 **to preserve any right to participation or**  
16 **compensation of Nye County, Nevada,**  
17 **and Lincoln County, Nevada.**

18 **“(b) AMENDMENT.—An agreement entered**  
19 **into under subsection (a) may be amended**  
20 **only with the mutual consent of the parties to**  
21 **the amendment and terminated only in ac-**  
22 **cordance with subsection (c).**

23 **“(c) TERMINATION.—The Secretary shall**  
24 **terminate an agreement under subsection (a)**  
25 **if any element of the integrated management**  
26 **system may not be completed.**

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

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

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

8       “(a) **IN GENERAL.—**

9               “(1) **SCHEDULE.—The Secretary shall**  
 10 **make payments to the party of a benefits**  
 11 **agreement under section 302(a) in ac-**  
 12 **cordance with the following schedule:**

*“BENEFITS SCHEDULE*

*[Amounts in millions]*

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

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

15                       “(A) **‘spent fuel’ means high-level**  
 16 **radioactive waste or spent nuclear**  
 17 **fuel; and**

18                       “(B) **‘first spent fuel receipt’ does**  
 19 **not include receipt of spent fuel or**  
 20 **high-level radioactive waste for pur-**

1           poses of testing or operational dem-  
2           onstration.

3           “(3) ANNUAL PAYMENTS.—Annual pay-  
4           ments prior to first spent fuel receipt  
5           under line (A) of the benefit schedule  
6           shall be made on the date of execution of  
7           the benefits agreement and thereafter on  
8           the anniversary date of such execution.  
9           Annual payments after the first spent  
10          fuel receipt until closure of the facility  
11          under line (C) of the benefit schedule  
12          shall be made on the anniversary date of  
13          such first spent fuel receipt.

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

1        **ment under line (A) of the benefit sched-**  
2        **ule.**

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

5                **“(1) the parties to the agreement shall**  
6        **share with one another information rel-**  
7        **evant to the licensing process for the in-**  
8        **terim storage facility or repository, as it**  
9        **becomes available; and**

10               **“(2) the affected unit of local govern-**  
11        **ment that is party to such agreement may**  
12        **comment on the development of the inte-**  
13        **grated management system and on docu-**  
14        **ments required under law or regulations**  
15        **governing the effects of the system on the**  
16        **public health and safety.**

17        **“(c) CONSTRUCTION.—The signature of the**  
18        **Secretary on a valid benefits agreement**  
19        **under section 302 shall constitute a commit-**  
20        **ment by the United States to make payments**  
21        **in accordance with such agreement.**

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

23               **“(a) CONSENT.—The acceptance or use of**  
24        **any of the benefits provided under this title**  
25        **by any affected unit of local government shall**

1 not be deemed to be an expression of consent,  
2 express, or denied, either under the Constitu-  
3 tion of the State of Nevada or any law thereof,  
4 to the siting of the interim storage facility or  
5 repository in the State of Nevada, any provi-  
6 sion of such Constitution or laws to the con-  
7 trary notwithstanding.

8       “(b) ARGUMENTS.—Neither the United  
9 States nor any other entity may assert any ar-  
10 gument based on legal or equitable estoppel,  
11 or acquiescence, or waiver, or consensual in-  
12 volvement, in response to any decision by the  
13 State of Nevada, to oppose the siting in Ne-  
14 vada of the interim storage facility or reposi-  
15 tory premised upon or related to the accept-  
16 ance or use of benefits under this title.

17       “(c) LIABILITY.—No liability of any nature  
18 shall accrue to be asserted against the State  
19 of Nevada, its Governor, any official thereof,  
20 or any official of any governmental unit  
21 thereof, premised solely upon the acceptance  
22 or use of benefits under this title.

23 “SEC. 305. RESTRICTION ON USE OF FUNDS.

24       “None of the funding provided under sec-  
25 tion 303 may be used—

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

7           **“(2) for litigation purposes; and**

8           **“(3) to support multistate efforts or**  
9           **other coalition-building activities incon-**  
10          **sistent with the purposes of this Act.**

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

12          **“(a) CONVEYANCE OF PUBLIC LANDS.—With-**  
13          **in 120 days of the date of enactment of this**  
14          **Act, the Secretary of the Interior, or other**  
15          **agency with jurisdiction over the public lands**  
16          **described in subsection (b), shall convey the**  
17          **public lands described in subsection (b) to the**  
18          **appropriate county, unless the county notifies**  
19          **the Secretary of the Interior or the head of**  
20          **such other appropriate agency in writing**  
21          **within 60 days of such date of enactment that**  
22          **it elects not to take title to all or any part of**  
23          **the property, except that any lands conveyed**  
24          **to the County of Nye, County of Lincoln, or**  
25          **the City of Caliente under this subsection that**

1 are subject to a Federal grazing permit or a  
2 similar federally granted privilege shall be  
3 conveyed between 60 and 120 days of the ear-  
4 liest time the Federal agency administering  
5 or granting the privilege would be able to le-  
6 gally terminate such privilege under the stat-  
7 utes and regulations existing at the date of  
8 enactment of this Act, unless the Federal  
9 agency, county or city, and the affected hold-  
10 er of the privilege negotiate an agreement  
11 that allows for an earlier conveyance.

12       “(b) SPECIAL CONVEYANCES.—Subject to  
13 valid existing rights and notwithstanding any  
14 other law, the Secretary of the Interior or the  
15 head of the other appropriate agency shall  
16 convey:

17               “(1) To the County of Nye, Nevada,  
18       the following public lands depicted on  
19       the maps dated October 11, 1995, and on  
20       file with the Secretary:

21                       Map 1: Proposed Pahrump Indus-  
22                       trial Park Site

23                       Map 2: Proposed Lathrop Wells  
24                       (Gate 510) Industrial Park Site

25                       Map 3: Pahrump Landfill Sites

1           **Map 4: Amargosa Valley Regional**  
2           **Landfill Site**

3           **Map 5: Amargosa Valley Muni-**  
4           **pal Landfill Site**

5           **Map 6: Beatty Landfill/Transfer**  
6           **station Site**

7           **Map 7: Round Mountain Landfill**  
8           **Site**

9           **Map 8: Tonopah Landfill Site**

10          **Map 9: Gabbs Landfill Site.**

11          **“(2) To the County of Lincoln, Ne-**  
12          **vada, the following public lands depicted**  
13          **on the maps dated October 11, 1995, and**  
14          **on file with the Secretary:**

15               **Map 2: Lincoln County, Parcel M,**  
16               **Industrial Park Site, Jointly with the**  
17               **City of Caliente**

18               **Map 3: Lincoln County, Parcels F**  
19               **and G, Mixed Use, Industrial Sites**

20               **Map 4: Lincoln County, Parcels H**  
21               **and I, Mixed Use and Airport Expan-**  
22               **sion Sites**

23               **Map 5: Lincoln County, Parcels J**  
24               **and K, Mixed Use, Airport and Land-**  
25               **fill Expansion Sites**

1           **Map 6: Lincoln County, Parcels E**  
2           **and L, Mixed Use, Airport and Indus-**  
3           **trial Expansion Sites.**

4           **“(3) To the City of Caliente, Nevada,**  
5           **the following public lands depicted on**  
6           **the maps dated October 11, 1995, and on**  
7           **file with the Secretary:**

8           **Map 1: City of Caliente, Parcels A,**  
9           **B, C and D, Community Growth,**  
10          **Landfill Expansion and Community**  
11          **Recreation Sites**

12          **Map 2: City of Caliente, Parcel M,**  
13          **Industrial Park Site, jointly with Lin-**  
14          **coln County.**

15          **“(c) NATIONAL ENVIRONMENTAL POLICY ACT**  
16          **OF 1969.—The activities of the Secretary and**  
17          **the head of any other Federal agency in con-**  
18          **nection with subsections (a) and (b) shall be**  
19          **considered preliminary decision making ac-**  
20          **tivities. No such activity shall require the**  
21          **preparation of an environmental impact**  
22          **statement under section 102(2)(C) of the Na-**  
23          **tional Environmental Policy Act of 1969 (42**  
24          **U.S.C. 4332(2)(C)) or any environmental re-**

1 view under subparagraph (E) or (F) of section  
2 102(2) of such Act.

3 **“TITLE IV—FUNDING AND**  
4 **ORGANIZATION**

5 **“SEC. 401. PROGRAM FUNDING.**

6 **“(a) CONTRACTS.—**

7 **“(1) AUTHORITY OF SECRETARY.—In the**  
8 **performance of the Secretary’s functions**  
9 **under this Act, the Secretary is author-**  
10 **ized to enter into contracts with any per-**  
11 **son who generates or holds title to spent**  
12 **nuclear fuel or high-level radioactive**  
13 **waste of domestic origin for the accept-**  
14 **ance of title and possession, transpor-**  
15 **tation, interim storage, and disposal of**  
16 **such spent fuel or waste upon the pay-**  
17 **ment of fees in accordance with para-**  
18 **graphs (2) and (3). Fees assessed pursu-**  
19 **ant to this paragraph shall be paid to the**  
20 **Treasury of the United States and shall**  
21 **be available for use by the Secretary pur-**  
22 **suant to this section until expended.**

23 **“(2) ANNUAL FEES.—**

24 **“(A) ELECTRICITY.—Under a con-**  
25 **tract entered into under paragraph**

1           **(1) there shall be a fee for electricity**  
2           **generated by civilian nuclear power**  
3           **reactors and sold on or after the date**  
4           **of enactment of this Act. The aggre-**  
5           **gate amount of such fees collected**  
6           **during each fiscal year shall be no**  
7           **greater than the annual level of ap-**  
8           **propriations for expenditures on the**  
9           **possession, transportation, interim**  
10          **storage, and disposal of such spent**  
11          **fuel or waste consistent with sub-**  
12          **section (d) for that fiscal year,**  
13          **minus—**

14                **“(i) any unobligated balance**  
15                **of fees collected during the pre-**  
16                **vious fiscal year;**

17                **“(ii) such appropriations re-**  
18                **quired to be funded by the Fed-**  
19                **eral Government pursuant to sec-**  
20                **tion 403; and**

21                **“(iii) the amount of one-time**  
22                **fees received pursuant to para-**  
23                **graph (3).**

24           **The Secretary shall determine the**  
25           **level of the annual fee for each civil-**

1           ian nuclear power reactor based on  
2           the amount of electricity generated  
3           and sold, except that the annual fee  
4           shall not exceed 1.0 mill per kilowatt-  
5           hour generated and sold. Fees as-  
6           sessed pursuant to this subparagraph  
7           shall be paid to the Treasury of the  
8           United States and shall be available  
9           for use by the Secretary pursuant to  
10          this section until expended.

11           “(B) EXPENDITURES IF SHORTFALL.—

12          **If, during any fiscal year, the aggre-**  
13          **gate amount of fees assessed pursu-**  
14          **ant to subparagraph (A) is less than**  
15          **the annual level of appropriations for**  
16          **expenditures on those activities spec-**  
17          **ified in subsection (d) for that fiscal**  
18          **year, minus—**

19                “(i) any unobligated balance  
20                collected pursuant to this section  
21                during the previous fiscal year;

22                “(ii) such appropriations re-  
23                quired to be funded by the Fed-  
24                eral Government pursuant to sec-  
25                tion 403; and

1           “(iii) the amount of one-time  
2           fees received pursuant to para-  
3           graph (3).

4           the Secretary may make expenditures  
5           from the Nuclear Waste Fund up to  
6           the level of the fees assessed.

7           “(C) BUDGET PRIORITIES IF SHORT-  
8           FALL.—If, during any fiscal year, the  
9           provisions of subparagraph (B) come  
10          into effect—

11           “(i) the Secretary, for pur-  
12           poses of preparing annual re-  
13           quests for appropriations and al-  
14           locating appropriated funds  
15           among competing requirements  
16           under the Nuclear Waste Policy  
17           Act of 1997, shall accord—

18           “(I) the activities leading  
19           to an operating repository the  
20           highest priority; and

21           “(II) the activities leading  
22           to an operating interim stor-  
23           age facility under section 204  
24           the next highest priority; and

1           “(ii) the Commission, for pur-  
2           poses of preparing annual re-  
3           quests for appropriations and al-  
4           locating appropriated funds  
5           among competing requirements  
6           under the Nuclear Waste Policy  
7           Act of 1997, shall accord—

8                   “(I) the activities leading  
9                   to an operating repository the  
10                  highest priority; and

11                  “(II) the activities leading  
12                  to an operating interim stor-  
13                  age facility under section 204  
14                  the next highest priority.

15           “(D) RULES.—The Secretary shall,  
16           by rule, establish procedures nec-  
17           essary to implement this paragraph.

18           “(3) ONE-TIME FEE.—The one-time fee  
19           collected under contracts executed under  
20           section 302(a) of the Nuclear Waste Policy  
21           Act of 1982 before the date of enactment  
22           of this Act on spent nuclear fuel, or high-  
23           level radioactive waste derived from  
24           spent nuclear fuel, which fuel was used  
25           to generate electricity in a civilian nu-

1 clear power reactor before April 7, 1983,  
2 shall be paid to the Treasury. The Sec-  
3 retary shall collect all such fees before  
4 the expiration of fiscal year 2002. The  
5 Commission shall suspend the license of  
6 any licensee who fails or refuses to pay  
7 the full amount of the fee referred to in  
8 this paragraph and the license shall re-  
9 main suspended until the full amount of  
10 the fee referred to in this paragraph is  
11 paid. In paying such a fee, the person de-  
12 livering such spent nuclear fuel or high-  
13 level radioactive wastes, to the Secretary  
14 shall have no further financial obligation  
15 under this paragraph to the Federal Gov-  
16 ernment for the long-term storage and  
17 permanent disposal of such spent nuclear  
18 fuel or high-level radioactive waste.

19 **“(b) ADVANCE CONTRACTING REQUIRE-**  
20 **MENT.—**

21 **“(1) IN GENERAL.—**

22 **“(A) LICENSE ISSUANCE AND RE-**  
23 **NEWAL.—The Commission shall not**  
24 **issue or renew a license to any per-**  
25 **son to use a utilization or production**

1 facility under the authority of section  
2 103 or 104 of the Atomic Energy Act  
3 of 1954 (42 U.S.C. 2133, 2134) unless—

4 “(i) such person has entered  
5 into a contract under subsection  
6 (a) with the Secretary; or

7 “(ii) the Secretary affirms in  
8 writing that such person is ac-  
9 tively and in good faith negotiat-  
10 ing with the Secretary for a con-  
11 tract under subsection (a).

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

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

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

14            **“(3) ASSIGNMENT.—The rights and du-**  
15        **ties of a party to a contract entered into**  
16        **under this section may be assignable**  
17        **with transfer of title to the spent nuclear**  
18        **fuel or high-level radioactive waste in-**  
19        **volved.**

20            **“(4) DISPOSAL CONDITION.—No spent**  
21        **nuclear fuel or high-level radioactive**  
22        **waste generated or owned by any depart-**  
23        **ment of the United States referred to in**  
24        **section 101 or 102 of title 5, United States**  
25        **Code, may be stored or disposed of by the**

1 **Secretary at the interim storage facility**  
2 **or repository in the integrated manage-**  
3 **ment system developed under this Act**  
4 **unless, in each fiscal year, such depart-**  
5 **ment funds its appropriate portion of the**  
6 **costs of such storage and disposal as**  
7 **specified in section 403.**

8 **“(c) NUCLEAR WASTE FUND.—**

9 **“(1) IN GENERAL.—The Nuclear Waste**  
10 **Fund established in the Treasury of the**  
11 **United States under section 302(c) of the**  
12 **Nuclear Waste Policy Act of 1982 shall**  
13 **continue in effect under this Act and**  
14 **shall consist of—**

15 **“(A) all receipts, proceeds, and re-**  
16 **coveries realized by the Secretary be-**  
17 **fore the date of enactment of this Act;**

18 **“(B) any appropriations made by**  
19 **the Congress before the date of enact-**  
20 **ment of the Nuclear Waste Policy Act**  
21 **of 1997 to the Nuclear Waste Fund;**  
22 **and**

23 **“(C) all interest paid on amounts**  
24 **invested by the Secretary of the**  
25 **Treasury under paragraph (3)(B).**

1           **“(2) USE.—The Nuclear Waste Fund**  
2           **shall be used only for purposes of the in-**  
3           **tegrated management system.**

4           **“(3) ADMINISTRATION OF NUCLEAR**  
5           **WASTE FUND.—**

6                   **“(A) IN GENERAL.—The Secretary**  
7                   **of the Treasury shall hold the Nu-**  
8                   **clear Waste Fund and, after consulta-**  
9                   **tion with the Secretary, annually re-**  
10                   **port to the Congress on the financial**  
11                   **condition and operations of the Nu-**  
12                   **clear Waste Fund during the preced-**  
13                   **ing fiscal year.**

14                   **“(B) AMOUNTS IN EXCESS OF CUR-**  
15                   **RENT NEEDS.—If the Secretary deter-**  
16                   **mines that the Nuclear Waste Fund**  
17                   **contains at any time amounts in ex-**  
18                   **cess of current needs, the Secretary**  
19                   **may request the Secretary of the**  
20                   **Treasury to invest such amounts, or**  
21                   **any portion of such amounts as the**  
22                   **Secretary determines to be appro-**  
23                   **priate, in obligations of the United**  
24                   **States—**

1           “(i) having maturities deter-  
2           mined by the Secretary of the  
3           Treasury to be appropriate to the  
4           needs of the Nuclear Waste Fund;  
5           and

6           “(ii) bearing interest at rates  
7           determined to be appropriate by  
8           the Secretary of the Treasury,  
9           taking into consideration the cur-  
10          rent average market yield on out-  
11          standing marketable obligations  
12          of the United States with remain-  
13          ing periods to maturity com-  
14          parable to the maturities of such  
15          investments, except that the in-  
16          terest rate on such investments  
17          shall not exceed the average in-  
18          terest rate applicable to existing  
19          borrowings.

20          “(C) EXEMPTION.—Receipts, pro-  
21          ceeds, and recoveries realized by the  
22          Secretary under this section, and ex-  
23          penditures of amounts from the Nu-  
24          clear Waste Fund, shall be exempt  
25          from annual apportionment under

1           the provisions of subchapter II of  
2           chapter 15 of title 31, United States  
3           Code.

4           “(d) USE OF APPROPRIATED FUNDS.—During  
5 each fiscal year, the Secretary may make ex-  
6 penditures of funds collected after the date of  
7 enactment of this Act under this section and  
8 section 403, up to the level of appropriations  
9 for that fiscal year pursuant to subsection (f)  
10 only for purposes of the integrated manage-  
11 ment system.

12           “(e) PROHIBITION ON USE OF APPROPRIA-  
13 TIONS AND NUCLEAR WASTE FUND.—The Sec-  
14 retary shall not make expenditures of funds  
15 collected pursuant to this section or section  
16 403 to design or construct systems and compo-  
17 nents for the transportation, storage, or dis-  
18 posal of spent nuclear fuel from civilian nu-  
19 clear power reactors.

20           “(f) APPROPRIATIONS.—

21           “(1) BUDGET.—The Secretary shall  
22 submit the budget for implementation of  
23 the Secretary’s responsibilities under this  
24 Act to the Office of Management and  
25 Budget triennially along with the budget

1 of the Department of Energy submitted at  
2 such time in accordance with chapter 11  
3 of title 31, United States Code. The budg-  
4 et shall consist of the estimates made by  
5 the Secretary of expenditures under this  
6 Act and other relevant financial matters  
7 for the succeeding 3 fiscal years, and  
8 shall be included in the budget of the  
9 United States Government.

10 “(2) APPROPRIATIONS.—Appropriations  
11 shall be subject to triennial authoriza-  
12 tion. During each fiscal year, the Sec-  
13 retary may make expenditures, up to the  
14 level of appropriations, out of the funds  
15 collected pursuant to this section and  
16 section 403, if the Secretary transmits the  
17 amounts appropriated for implementa-  
18 tion of this Act to the Commission and  
19 the Nuclear Waste Technical Review  
20 Board in appropriate proportion to the  
21 collection of such funds.

22 “(g) EFFECTIVE DATE.—This section shall  
23 take effect October 1, 1998.

1 **“SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MAN-**  
2 **AGEMENT.**

3 **“(a) CONTINUATION OF OFFICE OF CIVILIAN**  
4 **RADIOACTIVE WASTE MANAGEMENT.—The Office**  
5 **of Civilian Radioactive Waste Management es-**  
6 **tablished under section 304(a) of the Nuclear**  
7 **Waste Policy Act of 1982 as constituted prior**  
8 **to the date of enactment of this Act, shall con-**  
9 **tinue in effect subsequent to the date of en-**  
10 **actment of this Act.**

11 **“(b) FUNCTIONS OF DIRECTOR.—The Direc-**  
12 **tor of the Office shall be responsible for carry-**  
13 **ing out the functions of the Secretary under**  
14 **this Act, subject to the general supervision of**  
15 **the Secretary. The Director of the Office shall**  
16 **be directly responsible to the Secretary.**

17 **“(c) AUDITS.—**

18 **“(1) STANDARD.—The Office of Civilian**  
19 **Radioactive Waste Management, its con-**  
20 **tractors, and subcontractors at all tiers,**  
21 **shall conduct, or have conducted, audits**  
22 **and examinations of their operations in**  
23 **accordance with the usual and customary**  
24 **practices of private corporations engaged**  
25 **in large nuclear construction projects**  
26 **consistent with its role in the program.**

1           **“(2) TIME.—The management prac-**  
2           **tices and performances of the Office of**  
3           **Civilian Radioactive Waste Management**  
4           **shall be audited every 5 years by an inde-**  
5           **pendent management consulting firm**  
6           **with significant experience in similar au-**  
7           **dits of private corporations engaged in**  
8           **large nuclear construction projects. The**  
9           **first such audit shall be conducted 5**  
10          **years after the date of enactment of this**  
11          **Act.**

12          **“(3) COMPTROLLER GENERAL.—The**  
13          **Comptroller General of the United States**  
14          **shall annually make an audit of the Of-**  
15          **fice, in accordance with such regulations**  
16          **as the Comptroller General may pre-**  
17          **scribe. The Comptroller General shall**  
18          **have access to such books, records, ac-**  
19          **counts, and other materials of the Office**  
20          **as the Comptroller General determines to**  
21          **be necessary for the preparation of such**  
22          **audit. The Comptroller General shall sub-**  
23          **mit to the Congress a report on the re-**  
24          **sults of each audit conducted under this**  
25          **section.**

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

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

9           **“SEC. 403. DEFENSE CONTRIBUTION.**

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

1           “(1) an appropriate portion of the  
2           costs associated with research and devel-  
3           opment activities with respect to develop-  
4           ment of the interim storage facility and  
5           repository; and

6           “(2) interest on the principal amounts  
7           due calculated by reference to the appro-  
8           priate Treasury bill rate as if the pay-  
9           ments were made at a point in time con-  
10          sistent with the payment dates for spent  
11          nuclear fuel and high-level radioactive  
12          waste under the contracts.

13          “(b) APPROPRIATION REQUEST.—In addition  
14          to any request for an appropriation from the  
15          Nuclear Waste Fund, the Secretary shall re-  
16          quest annual appropriations from general  
17          revenues in amounts sufficient to pay the  
18          costs of the management of spent nuclear fuel  
19          and high-level radioactive waste from atomic  
20          energy defense activities as established under  
21          subsection (a).

22          “(c) REPORT.—In conjunction with the an-  
23          nual report submitted to Congress under sec-  
24          tion 702, the Secretary shall advise the Con-  
25          gress annually of the amount of spent nuclear

1 fuel and high-level radioactive waste from  
2 atomic energy defense activities requiring  
3 management in the integrated management  
4 system.

5 “(d) AUTHORIZATION.—There is authorized  
6 to be appropriated to the Secretary, from gen-  
7 eral revenues, for carrying out the purposes  
8 of this Act, such sums as may be necessary to  
9 pay the costs of the management of spent nu-  
10 clear fuel and high-level radioactive waste  
11 from atomic energy defense activities as es-  
12 tablished under subsection (a).

13 **“TITLE V—GENERAL AND**  
14 **MISCELLANEOUS PROVISIONS**

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

16 **“If the requirements of any law (other**  
17 **than the Federal Lands Policy Management**  
18 **Act of 1976, the Endangered Species Act of**  
19 **1973, the Migratory Bird Treaty Act of 1918,**  
20 **and the Federal Water Pollution Control Act**  
21 **as such Acts pertain to fish and wildlife and**  
22 **wetlands) are inconsistent with or duplicative**  
23 **of the requirements of the Atomic Energy Act**  
24 **and this Act of 1954 (42 U.S.C. 2011 et seq.),**  
25 **the Secretary shall comply only with the re-**

1 **requirements of the Atomic Energy Act of 1954**  
2 **and this Act in implementing the integrated**  
3 **management system. Any requirement of a**  
4 **State or political subdivision of a State is pre-**  
5 **empted if—**

6 **“(1) complying with such requirement**  
7 **and a requirement of this Act is impos-**  
8 **sible; or**

9 **“(2) such requirement, as applied or**  
10 **enforced, is an obstacle to accomplishing**  
11 **or carrying out this Act or a regulation**  
12 **under this Act.**

13 **“SEC. 502. WATER RIGHTS.**

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

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

1 of the State of Nevada. Nothing in this Act  
2 shall be construed to authorize the use of emi-  
3 nent domain by the United States to acquire  
4 water rights for such lands.

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

10 “SEC. 503. JUDICIAL REVIEW OF AGENCY ACTIONS.

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

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

20 “(A) for review of any final deci-  
21 sion or action of the Secretary, the  
22 President, or the Commission under  
23 this Act;

24 “(B) alleging the failure of the  
25 Secretary, the President, or the Com-

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

3 “(C) challenging the constitu-  
4 tionality of any decision made, or ac-  
5 tion taken, under any provision of  
6 this Act; or

7 “(D) for review of any environ-  
8 mental impact statement prepared or  
9 environmental assessment made pur-  
10 suant to the National Environmental  
11 Policy Act of 1969 (42 U.S.C. 4321 et  
12 seq.) with respect to any action under  
13 this Act or alleging a failure to pre-  
14 pare such statement with respect to  
15 any such action.

16 “(2) VENUE.—The venue of any pro-  
17 ceeding under this section shall be in the  
18 judicial circuit in which the petitioner in-  
19 volved resides or has its principal office,  
20 or in the United States Court of Appeals  
21 for the District of Columbia.

22 “(b) DEADLINE FOR COMMENCING ACTION.—  
23 A civil action for judicial review described  
24 under subsection (a)(1) may be brought no  
25 later than 180 days after the date of the deci-



1 age racks, fuel rod compaction, the trans-  
2 shipment of spent nuclear fuel to another ci-  
3 vilian nuclear power reactor within the same  
4 utility system, the construction of additional  
5 spent nuclear fuel pool capacity or dry stor-  
6 age capacity, or by other means, the Commis-  
7 sion shall, at the request of any party, provide  
8 an opportunity for oral argument with re-  
9 spect to any matter which the Commission de-  
10 termines to be in controversy among the par-  
11 ties. The oral argument shall be preceded by  
12 such discovery procedures as the rules of the  
13 Commission shall provide. The Commission  
14 shall require each party, including the Com-  
15 mission staff, to submit in written form, at the  
16 time of the oral argument, a summary of the  
17 facts, data, and arguments upon which such  
18 party proposes to rely that are known at such  
19 time to such party. Only facts and data in the  
20 form of sworn testimony or written submis-  
21 sion may be relied upon by the parties during  
22 oral argument. Of the materials that may be  
23 submitted by the parties during oral argu-  
24 ment, the Commission shall only consider  
25 those facts and data that are submitted in the

1 form of sworn testimony or written submis-  
2 sion.

3 “(b) ADJUDICATORY HEARING.—

4 “(1) DESIGNATION.—At the conclusion  
5 of any oral argument under subsection  
6 (a), the Commission shall designate any  
7 disputed question of fact, together with  
8 any remaining questions of law, for reso-  
9 lution in an adjudicatory hearing only if  
10 it determines that—

11 “(A) there is a genuine and sub-  
12 stantial dispute of fact which can  
13 only be resolved with sufficient accu-  
14 racy by the introduction of evidence  
15 in an adjudicatory hearing; and

16 “(B) the decision of the Commis-  
17 sion is likely to depend in whole or in  
18 part on the resolution of such dis-  
19 pute.

20 “(2) DETERMINATION.—In making a de-  
21 termination under this subsection, the  
22 Commission—

23 “(A) shall designate in writing the  
24 specific facts that are in genuine and  
25 substantial dispute, the reason why

1           **the decision of the agency is likely to**  
2           **depend on the resolution of such**  
3           **facts, and the reason why an adju-**  
4           **dicatory hearing is likely to resolve**  
5           **the dispute; and**

6           **“(B) shall not consider—**

7                   **“(i) any issue relating to the**  
8                   **design, construction, or operation**  
9                   **of any civilian nuclear power re-**  
10                   **actor already licensed to operate**  
11                   **at such site, or any civilian nu-**  
12                   **clear power reactor to which a**  
13                   **construction permit has been**  
14                   **granted at such site, unless the**  
15                   **Commission determines that any**  
16                   **such issue substantially affects**  
17                   **the design, construction, or oper-**  
18                   **ation of the facility or activity for**  
19                   **which such license application,**  
20                   **authorization, or amendment is**  
21                   **being considered; or**

22                   **“(ii) any siting or design issue**  
23                   **fully considered and decided by**  
24                   **the Commission in connection**  
25                   **with the issuance of a construc-**

1           **tion permit or operating license**  
2           **for a civilian nuclear power reac-**  
3           **tor at such site, unless—**

4                   **“(I) such issue results**  
5                   **from any revision of siting or**  
6                   **design criteria by the Com-**  
7                   **mission following such deci-**  
8                   **sion; and**

9                   **“(II) the Commission de-**  
10                   **termines that such issue sub-**  
11                   **stantially affects the design,**  
12                   **construction, or operation of**  
13                   **the facility or activity for**  
14                   **which such license applica-**  
15                   **tion, authorization, or amend-**  
16                   **ment is being considered.**

17                   **“(3) APPLICATION.—The provisions of**  
18                   **paragraph (2)(B) shall apply only with re-**  
19                   **spect to licenses, authorizations, or**  
20                   **amendments to licenses or authoriza-**  
21                   **tions, applied for under the Atomic En-**  
22                   **ergy Act of 1954 (42 U.S.C. 2011 et seq.)**  
23                   **before December 31, 2005.**

24                   **“(4) CONSTRUCTION.—The provisions of**  
25                   **this section shall not apply to the first**

1       **application for a license or license**  
2       **amendment received by the Commission**  
3       **to expand onsite spent fuel storage ca-**  
4       **capacity by the use of a new technology not**  
5       **previously approved for use at any nu-**  
6       **clear power plant by the Commission.**

7       **“(c) JUDICIAL REVIEW.—No court shall hold**  
8       **unlawful or set aside a decision of the Com-**  
9       **mission in any proceeding described in sub-**  
10       **section (a) because of a failure by the Com-**  
11       **mission to use a particular procedure pursu-**  
12       **ant to this section unless—**

13               **“(1) an objection to the procedure**  
14               **used was presented to the Commission in**  
15               **a timely fashion or there are extraor-**  
16               **dinary circumstances that excuse the fail-**  
17               **ure to present a timely objection; and**

18               **“(2) the court finds that such failure**  
19               **has precluded a fair consideration and**  
20               **informed resolution of a significant issue**  
21               **of the proceeding taken as a whole.**

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

23       **“(a) CONGRESSIONAL ACTION REQUIRED.—**  
24       **The Secretary may not conduct site-specific**  
25       **activities with respect to a second repository**

1 unless Congress has specifically authorized  
2 and appropriated funds for such activities.

3 **“(b) REPORT.—The Secretary shall report**  
4 **to the President and to Congress on or after**  
5 **January 1, 2007, but not later than January 1,**  
6 **2010, on the need for a second repository.**

7 **“SEC. 506. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL**  
8 **RADIOACTIVE WASTE SITE CLOSURE.**

9 **“(a) FINANCIAL ARRANGEMENTS.—**

10 **“(1) STANDARDS AND INSTRUCTIONS.—**  
11 **The Commission shall establish by rule,**  
12 **regulation, or order, after public notice,**  
13 **and in accordance with section 181 of the**  
14 **Atomic Energy Act of 1954 (42 U.S.C.**  
15 **2231), such standards and instructions as**  
16 **the Commission may deem necessary or**  
17 **desirable to ensure in the case of each li-**  
18 **cence for the disposal of low-level radio-**  
19 **active waste that an adequate bond, sur-**  
20 **ety, or other financial arrangement (as**  
21 **determined by the Commission) will be**  
22 **provided by a licensee to permit comple-**  
23 **tion of all requirements established by**  
24 **the Commission for the decontamination,**  
25 **decommissioning, site closure, and rec-**

1        **lamation of sites, structures, and equip-**  
2        **ment used in conjunction with such low-**  
3        **level radioactive waste. Such financial ar-**  
4        **rangements shall be provided and ap-**  
5        **proved by the Commission, or, in the case**  
6        **of sites within the boundaries of any**  
7        **agreement State under section 274 of the**  
8        **Atomic Energy Act of 1954 (42 U.S.C.**  
9        **2021), by the appropriate State or State**  
10       **entity, prior to issuance of licenses for**  
11       **low-level radioactive waste disposal or, in**  
12       **the case of licenses in effect on January**  
13       **7, 1983, prior to termination of such li-**  
14       **censes.**

15            **“(2) BONDING, SURETY, OR OTHER FINAN-**  
16        **CIAL ARRANGEMENTS.—If the Commission**  
17        **determines that any long-term mainte-**  
18        **nance or monitoring, or both, will be nec-**  
19        **essary at a site described in paragraph**  
20        **(1), the Commission shall ensure before**  
21        **termination of the license involved that**  
22        **the licensee has made available such**  
23        **bonding, surety, or other financial ar-**  
24        **rangements as may be necessary to en-**  
25        **sure that any necessary long-term main-**

1       **tenance or monitoring needed for such**  
2       **site will be carried out by the person hav-**  
3       **ing title and custody for such site follow-**  
4       **ing license termination.**

5       **“(b) TITLE AND CUSTODY.—**

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

15               **“(A) the requirements of the Com-**  
16       **mission for site closure, decommis-**  
17       **sioning, and decontamination have**  
18       **been met by the licensee involved and**  
19       **that such licensee is in compliance**  
20       **with the provisions of subsection (a);**

21               **“(B) such title and custody will be**  
22       **transferred to the Secretary without**  
23       **cost to the Federal Government; and**

24               **“(C) Federal ownership and man-**  
25       **agement of such site is necessary or**

1           **desirable in order to protect the pub-**  
2           **lic health and safety, and the environ-**  
3           **ment.**

4           **“(2) PROTECTION.—If the Secretary as-**  
5           **sumes title and custody of any such**  
6           **waste and land under this subsection, the**  
7           **Secretary shall maintain such waste and**  
8           **land in a manner that will protect the**  
9           **public health and safety, and the environ-**  
10          **ment.**

11          **“(c) SPECIAL SITES.—If the low-level radio-**  
12          **active waste involved is the result of a li-**  
13          **censed activity to recover zirconium, haf-**  
14          **niun, and rare earths from source material,**  
15          **the Secretary, upon request of the owner of**  
16          **the site involved, shall assume title and cus-**  
17          **tody of such waste and the land on which it**  
18          **is disposed when such site has been decon-**  
19          **taminated and stabilized in accordance with**  
20          **the requirements established by the Commis-**  
21          **sion and when such owner has made adequate**  
22          **financial arrangements approved by the Com-**  
23          **mission for the long-term maintenance and**  
24          **monitoring of such site.**

1 **“SEC. 507. NUCLEAR REGULATORY COMMISSION TRAINING**  
2 **AUTHORIZATION.**

3 **“The Commission is authorized and di-**  
4 **rected to promulgate regulations, or other ap-**  
5 **propriate regulatory guidance, for the train-**  
6 **ing and qualifications of civilian nuclear pow-**  
7 **erplant operators, supervisors, technicians,**  
8 **and other appropriate operating personnel.**  
9 **Such regulations or guidance shall establish**  
10 **simulator training requirements for appli-**  
11 **cants for civilian nuclear powerplant opera-**  
12 **tor licenses and for operator requalification**  
13 **programs; requirements governing Commis-**  
14 **sion administration of requalification exami-**  
15 **nations; requirements for operating tests at**  
16 **civilian nuclear powerplant simulators, and**  
17 **instructional requirements for civilian nu-**  
18 **clear powerplant licensee personnel training**  
19 **programs.**

20 **“SEC. 508. ACCEPTANCE SCHEDULE.**

21 **“The acceptance schedule shall be imple-**  
22 **mented in accordance with the following:**

23 **“(1) Acceptance priority ranking shall**  
24 **be determined by the Department’s an-**  
25 **nuual ‘Acceptance Priority Ranking’ re-**  
26 **port.**

1           **“(2) The Secretary’s spent fuel accept-**  
2           **ance rate shall be no less than the follow-**  
3           **ing: 1,200 MTU in 2000 and 1,200 MTU in**  
4           **2001, 2,000 MTU in 2002 and 2,000 MTU in**  
5           **2003, 2,700 MTU in 2004, and 3,000 MTU**  
6           **thereafter.**

7           **“(3) If the Secretary is unable to**  
8           **begin acceptance by January 31, 2000 at**  
9           **the rates specified in paragraph (2), or if**  
10          **the cumulative amount accepted in any**  
11          **year thereafter is less than that which**  
12          **would have been accepted under the ac-**  
13          **ceptance rate specified in paragraph (2),**  
14          **the acceptance schedule shall be adjusted**  
15          **upward such that within 5 years of the**  
16          **start of acceptance by the Secretary—**

17               **“(A) the total quantity accepted**  
18               **by the Secretary is consistent with**  
19               **the total quantity that the Secretary**  
20               **would have accepted if the Secretary**  
21               **had began acceptance in 1998, and**

22               **“(B) thereafter the acceptance**  
23               **rate is equivalent to the rate that**  
24               **would be in place pursuant to para-**

1           **graph (2) above if the Secretary had**  
2           **commenced acceptance in 1998.**

3           **“(4) The acceptance schedule shall**  
4           **not be affected or modified in any way as**  
5           **a result of the Secretary’s acceptance of**  
6           **any material other than contract holders’**  
7           **spent nuclear fuel and high-level radio-**  
8           **active waste.**

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

10          **“Notwithstanding any other provision of**  
11          **law—**

12               **“(1) the subseabed or ocean water dis-**  
13               **posal of spent nuclear fuel or high-level**  
14               **radioactive waste is prohibited; and**

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

19          **“SEC. 510. COMPENSATION.**

20          **“The Secretary shall compensate the own-**  
21          **ers of any land the value of which is dimin-**  
22          **ished by actions taken under this Act as fol-**  
23          **lows:**

24               **“(1) If the value of the land, as set by**  
25               **a professional appraiser, is diminished by**

1       at least 20 percent, the Secretary shall  
2       provide compensation to the owner of the  
3       land so that when the compensation is  
4       added to the value of the land the value  
5       of the land will not be considered as di-  
6       minished; and

7               “(2) If the value of the land is dimin-  
8       ished by at least 50 percent, the Sec-  
9       retary shall offer to purchase the land at  
10      its value before action was taken under  
11      this Act.

12       **“TITLE VI—NUCLEAR WASTE**  
13       **TECHNICAL REVIEW BOARD**

14      “SEC. 601. DEFINITIONS.

15       “For purposes of this title—

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

19               “(2) BOARD.—The term ‘Board’ means  
20       the Nuclear Waste Technical Review  
21       Board continued under section 602.

22      “SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

23       “(a) CONTINUATION OF NUCLEAR WASTE  
24      TECHNICAL REVIEW BOARD.—The Nuclear  
25      Waste Technical Review Board, established

1 under section 502(a) of the Nuclear Waste Pol-  
2 icy Act of 1982 as constituted prior to the date  
3 of enactment of this Act, shall continue in ef-  
4 fect subsequent to the date of enactment of  
5 this Act.

6 **“(b) MEMBERS.—**

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

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

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

18 **“(A) NOMINATIONS.—The National**  
19 **Academy of Sciences shall, not later**  
20 **than 90 days after December 22, 1987,**  
21 **nominate not less than 22 persons for**  
22 **appointment to the Board from**  
23 **among persons who meet the quali-**  
24 **fications described in subparagraph**  
25 **(C).**

1           **“(B) VACANCIES.—The National**  
2           **Academy of Sciences shall nominate**  
3           **not less than 2 persons to fill any va-**  
4           **cancy on the Board from among per-**  
5           **sons who meet the qualifications de-**  
6           **scribed in subparagraph (C).**

7           **“(C) NOMINEES.—**

8           **(i) Each person nominated for**  
9           **appointment to the Board shall**  
10          **be—**

11           **“(I) eminent in a field of**  
12           **science or engineering, in-**  
13           **cluding environmental**  
14           **sciences; and**

15           **“(II) selected solely on the**  
16           **basis of established records of**  
17           **distinguished service.**

18           **“(ii) The membership of the**  
19           **Board shall be representatives of**  
20           **the broad range of scientific and**  
21           **engineering disciplines related to**  
22           **activities under this title.**

23           **“(iii) No person shall be nomi-**  
24           **nated for appointment to the**  
25           **Board who is an employee of—**

1                   **“(I) the Department of En-**  
2                   **ergy;**

3                   **“(II) a national laboratory**  
4                   **under contract with the De-**  
5                   **partment of Energy; or**

6                   **“(III) an entity performing**  
7                   **spent nuclear fuel or high-**  
8                   **level radioactive waste activi-**  
9                   **ties under contract with the**  
10                  **Department of Energy.**

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

15                  **“(5) TERMS.—Members of the Board**  
16                  **shall be appointed for terms of 4 years,**  
17                  **each such term to commence 120 days**  
18                  **after December 22, 1987, except that of**  
19                  **the 11 members first appointed to the**  
20                  **Board, 5 shall serve for 2 years and 6**  
21                  **shall serve for 4 years, to be designated**  
22                  **by the President at the time of appoint-**  
23                  **ment.**

1 **“SEC. 603. FUNCTIONS.**

2 **“The Board shall evaluate the technical**  
3 **and scientific validity of activities under-**  
4 **taken by the Secretary after December 22,**  
5 **1987, including—**

6 **“(1) site characterization activities;**  
7 **and**

8 **“(2) activities relating to the packag-**  
9 **ing or transportation of spent nuclear**  
10 **fuel or high-level radioactive waste.**

11 **“SEC. 604. INVESTIGATORY POWERS.**

12 **“(a) HEARINGS.—Upon request of the**  
13 **Chairman or a majority of the members of the**  
14 **Board, the Board may hold such hearings, sit**  
15 **and act at such times and places, take such**  
16 **testimony, and receive such evidence, as the**  
17 **Board considers appropriate. Any member of**  
18 **the Board may administer oaths or affirma-**  
19 **tions to witnesses appearing before the**  
20 **Board.**

21 **“(b) PRODUCTION OF DOCUMENTS.—**

22 **“(1) RESPONSE TO INQUIRIES.—Upon**  
23 **the request of the Chairman or a major-**  
24 **ity of the members of the Board, and sub-**  
25 **ject to existing law, the Secretary (or any**  
26 **contractor of the Secretary) shall provide**

1 the Board with such records, files, pa-  
2 pers, data, or information as may be nec-  
3 essary to respond to any inquiry of the  
4 Board under this title.

5 “(2) EXTENT.—Subject to existing law,  
6 information obtainable under paragraph  
7 (1) shall not be limited to final work  
8 products of the Secretary, but shall in-  
9 clude drafts of such products and docu-  
10 mentation of work in progress.

11 “SEC. 605. COMPENSATION OF MEMBERS.

12 “(a) IN GENERAL.—Each member of the  
13 Board shall be paid at the rate of pay payable  
14 for level III of the Executive Schedule for  
15 each day (including travel time) such member  
16 is engaged in the work of the Board.

17 “(b) TRAVEL EXPENSES.—Each member of  
18 the Board may receive travel expenses, in-  
19 cluding per diem in lieu of subsistence, in the  
20 same manner as is permitted under sections  
21 5702 and 5703 of title 5, United States Code.

22 “SEC. 606. STAFF.

23 “(a) CLERICAL STAFF.—

24 “(1) AUTHORITY OF CHAIRMAN.—Subject  
25 to paragraph (2), the Chairman may ap-

1 point and fix the compensation of such  
2 clerical staff as may be necessary to dis-  
3 charge the responsibilities of the Board.

4 “(2) PROVISIONS OF TITLE 5.—Clerical  
5 staff shall be appointed subject to the  
6 provisions of title 5, United States Code,  
7 governing appointments in the competi-  
8 tive service, and shall be paid in accord-  
9 ance with the provisions of chapter 51  
10 and subchapter III of chapter 3 of such  
11 title relating to classification and General  
12 Schedule pay rates.

13 “(b) PROFESSIONAL STAFF.—

14 “(1) AUTHORITY OF CHAIRMAN.—Subject  
15 to paragraphs (2) and (3), the Chairman  
16 may appoint and fix the compensation of  
17 such professional staff as may be nec-  
18 essary to discharge the responsibilities of  
19 the Board.

20 “(2) NUMBER.—Not more than 10 pro-  
21 fessional staff members may be appointed  
22 under this subsection.

23 “(3) TITLE 5.—Professional staff mem-  
24 bers may be appointed without regard to  
25 the provisions of title 5, United States

1       **Code, governing appointments in the**  
2       **competitive service, and may be paid**  
3       **without regard to the provisions of chap-**  
4       **ter 51 and subchapter III of chapter 53 of**  
5       **such title relating to classification and**  
6       **General Schedule pay rates, except that**  
7       **no individual so appointed may receive**  
8       **pay in excess of the annual rate of basic**  
9       **pay payable for GS-18 of the General**  
10       **Schedule.**

11       **“SEC. 607. SUPPORT SERVICES.**

12       **“(a) GENERAL SERVICES.—To the extent**  
13       **permitted by law and requested by the Chair-**  
14       **man, the Administrator of General Services**  
15       **shall provide the Board with necessary ad-**  
16       **ministrative services, facilities, and support**  
17       **on a reimbursable basis.**

18       **“(b) ACCOUNTING, RESEARCH, AND TECH-**  
19       **NOLOGY ASSESSMENT SERVICES.—The Comptrol-**  
20       **ler General, the Librarian of Congress, and**  
21       **the Director of the Office of Technology As-**  
22       **essment shall, to the extent permitted by law**  
23       **and subject to the availability of funds, pro-**  
24       **vide the Board with such facilities, support,**  
25       **funds and services, including staff, as may be**

1 **necessary for the effective performance of the**  
2 **functions of the Board.**

3 **“(c) ADDITIONAL SUPPORT.—Upon the re-**  
4 **quest of the Chairman, the Board may secure**  
5 **directly from the head of any department or**  
6 **agency of the United States information nec-**  
7 **essary to enable it to carry out this title.**

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

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

21 **“SEC. 608. REPORT.**

22 **“The Board shall report not less than 2**  
23 **times per year to Congress and the Secretary**  
24 **its findings, conclusions, and recommenda-**  
25 **tions.**

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

2 **“There are authorized to be appropriated**  
3 **for expenditures such sums as may be nec-**  
4 **essary to carry out the provisions of this title.**

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

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

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

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

13 **“(a) IN GENERAL.—The Secretary is di-**  
14 **rected to take actions as necessary to improve**  
15 **the management of the civilian radioactive**  
16 **waste management program to ensure that**  
17 **the program is operated, to the maximum ex-**  
18 **tent practicable, in like manner as a private**  
19 **business.**

20 **“(b) SITE CHARACTERIZATION.—The Sec-**  
21 **retary shall employ, on an on-going basis, in-**  
22 **tegrated performance modeling to identify**  
23 **appropriate parameters for the remaining**  
24 **site characterization effort and to eliminate**  
25 **studies of parameters that are shown not to**  
26 **affect long-term repository performance.**

1 **“SEC. 702. REPORTING.**

2 **“(a) INITIAL REPORT.—Within 180 days of**  
3 **the date of enactment of this Act, the Sec-**  
4 **retary shall report to Congress on its planned**  
5 **actions for implementing the provisions of**  
6 **this Act, including the development of the In-**  
7 **tegrated Waste Management System. Such re-**  
8 **port shall include—**

9 **“(1) an analysis of the Secretary’s**  
10 **progress in meeting its statutory and con-**  
11 **tractual obligation to accept title to, pos-**  
12 **session of, and delivery of spent nuclear**  
13 **fuel and high-level radioactive waste be-**  
14 **ginning no later than January 31, 2000,**  
15 **and in accordance with the acceptance**  
16 **schedule;**

17 **“(2) a detailed schedule and timeline**  
18 **showing each action that the Secretary**  
19 **intends to take to meet the Secretary’s**  
20 **obligations under this Act and the con-**  
21 **tracts;**

22 **“(3) a detailed description of the Sec-**  
23 **retary’s contingency plans in the event**  
24 **that the Secretary is unable to meet the**  
25 **planned schedule and timeline; and**

1           “(4) an analysis by the Secretary of its  
2           funding needs for fiscal years 1996  
3           through 2001.

4           “(b) ANNUAL REPORTS.—On each anniver-  
5           sary of the submittal of the report required by  
6           subsection (a), the Secretary shall make an-  
7           nual reports to the Congress for the purpose  
8           of updating the information contained in such  
9           report. The annual reports shall be brief and  
10          shall notify the Congress of—

11           “(1) any modifications to the Sec-  
12           retary’s schedule and timeline for meet-  
13           ing its obligations under this Act;

14           “(2) the reasons for such modifica-  
15           tions, and the status of the implementa-  
16           tion of any of the Secretary’s contingency  
17           plans; and

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

21          SEC. 2. CONTINUATION OF CONTRACTS.

22          Subsequent to the date of enactment of  
23          this Act, the contracts executed under section  
24          302(a) of the Nuclear Waste Policy Act of 1982  
25          shall continue in effect under this Act in ac-

1 **cordance with their terms except to the ex-**  
2 **tent that the contracts have been modified by**  
3 **the parties to the contract.**