

104TH CONGRESS  
2D SESSION

# S. 1936

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## AN ACT

To amend the Nuclear Waste Policy Act of 1982.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That the Nuclear Waste Policy Act of 1982 is amended  
4       to read as follows:

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

6       “(a) SHORT TITLE.—This Act may be cited as the  
7       ‘Nuclear Waste Policy Act of 1996’.

## 1 “(b) TABLE OF CONTENTS.—

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

“Sec. 2. Definitions.

“TITLE I—OBLIGATIONS

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

“TITLE II—INTEGRATED MANAGEMENT SYSTEM

“Sec. 201. Intermodal transfer.

“Sec. 202. Transportation planning.

“Sec. 203. Transportation requirements.

“Sec. 204. Interim storage.

“Sec. 205. Permanent repository.

“Sec. 206. Land withdrawal.

“TITLE III—LOCAL RELATIONS

“Sec. 301. Financial assistance.

“Sec. 302. On-site representative.

“Sec. 303. Acceptance of benefits.

“Sec. 304. Restrictions on use of funds.

“Sec. 305. Land conveyances.

“TITLE IV—FUNDING AND ORGANIZATION

“Sec. 401. Program funding.

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

“Sec. 403. Federal contribution.

“TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

“Sec. 501. Compliance with other laws.

“Sec. 502. Judicial review of agency actions.

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

“Sec. 504. Siting a second repository.

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

“Sec. 506. Nuclear Regulatory Commission training authorization.

“Sec. 507. Emplacement schedule.

“Sec. 508. Transfer of title.

“Sec. 509. Decommissioning pilot program.

“Sec. 510. Water rights.

“TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

“Sec. 601. Definitions.

“Sec. 602. Nuclear Waste Technical Review Board.

“Sec. 603. Functions.

“Sec. 604. Investigatory powers.

“Sec. 605. Compensation of members.

“Sec. 606. Staff.

“Sec. 607. Support services.

“Sec. 608. Report.

“Sec. 609. Authorization of appropriations.

“Sec. 610. Termination of the board.

## “TITLE VII—MANAGEMENT REFORM

“Sec. 701. Management reform initiatives.

“Sec. 702. Reporting.

“Sec. 703. Effective date.

1 **“SEC. 2. DEFINITIONS.**

2 “For purposes of this Act:

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

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

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

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

21 “(3) AFFECTED UNIT OF LOCAL GOVERN-  
22 MENT.—The term ‘affected unit of local government’  
23 means the unit of local government with jurisdiction

1 over the site of a repository or interim storage facil-  
2 ity. Such term may, at the discretion of the Sec-  
3 retary, include other units of local government that  
4 are contiguous with such unit.

5 “(4) ATOMIC ENERGY DEFENSE ACTIVITY.—

6 The term ‘atomic energy defense activity’ means any  
7 activity of the Secretary performed in whole or in  
8 part in carrying out any of the following functions:

9 “(A) Naval reactors development.

10 “(B) Weapons activities including defense  
11 inertial confinement fusion.

12 “(C) Verification and control technology.

13 “(D) Defense nuclear materials produc-  
14 tion.

15 “(E) Defense nuclear waste and materials  
16 byproducts management.

17 “(F) Defense nuclear materials security  
18 and safeguards and security investigations.

19 “(G) Defense research and development.

20 “(5) CIVILIAN NUCLEAR POWER REACTOR.—

21 The term ‘civilian nuclear power reactor’ means a ci-  
22 vilian nuclear power plant required to be licensed  
23 under section 103 or 104 b. of the Atomic Energy  
24 Act of 1954 (42 U.S.C. 2133, 2134(b)).

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

3           “(7) CONTRACTS.—The term ‘contracts’ means  
4 the contracts, executed prior to the date of enact-  
5 ment of the Nuclear Waste Policy Act of 1996,  
6 under section 302(a) of the Nuclear Waste Policy  
7 Act of 1982, by the Secretary and any person who  
8 generates or holds title to spent nuclear fuel or high-  
9 level radioactive waste of domestic origin for accept-  
10 ance of such waste or fuel by the Secretary and the  
11 payment of fees to offset the Secretary’s expendi-  
12 tures, and any subsequent contracts executed by the  
13 Secretary pursuant to section 401(a) of this Act.

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

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

19           “(10) DISPOSAL.—The term ‘disposal’ means  
20 the emplacement in a repository of spent nuclear  
21 fuel, high-level radioactive waste, or other highly ra-  
22 dioactive material with no foreseeable intent of re-  
23 covery, whether or not such emplacement permits re-  
24 covery of such material for any future purpose.

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

6           “(12) EMPLACEMENT SCHEDULE.—The term  
7           ‘emplacement schedule’ means the schedule estab-  
8           lished by the Secretary in accordance with section  
9           507(a) for emplacement of spent nuclear fuel and  
10          high-level radioactive waste at the interim storage  
11          facility.

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

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

23                  “(A) the highly radioactive material result-  
24                  ing from the reprocessing of spent nuclear fuel,  
25                  including liquid waste produced directly in re-

1 processing and any solid material derived from  
2 such liquid waste that contains fission products  
3 in sufficient concentrations; and

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

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

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

24 “(17) INTEGRATED MANAGEMENT SYSTEM.—  
25 The term ‘integrated management system’ means

1 the system developed by the Secretary for the ac-  
2 ceptance, transportation, storage, and disposal of  
3 spent nuclear fuel and high-level radioactive waste  
4 under title II of this Act.

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

11 “(19) INTERIM STORAGE FACILITY SITE.—The  
12 term ‘interim storage facility site’ means the specific  
13 site within area 25 of the Nevada test site that is  
14 designated by the Secretary and withdrawn and re-  
15 served in accordance with this Act for the location  
16 of the interim storage facility.

17 “(20) LOW-LEVEL RADIOACTIVE WASTE.—The  
18 term ‘low-level radioactive waste’ means radioactive  
19 material that—

20 “(A) is not spent nuclear fuel, high-level  
21 radioactive waste, transuranic waste, or byprod-  
22 uct material as defined in section 11 e.(2) of  
23 the Atomic Energy Act of 1954 (42 U.S.C.  
24 2014(e)(2)); and



1           “(B) the Commission, consistent with ex-  
2           isting law, classifies as low-level radioactive  
3           waste.

4           “(21) METRIC TONS URANIUM.—The terms  
5           ‘metric tons uranium’ and ‘MTU’ mean the amount  
6           of uranium in the original unirradiated fuel element  
7           whether or not the spent nuclear fuel has been re-  
8           processed.

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

15          “(23) OFFICE.—The term ‘Office’ means the  
16          Office of Civilian Radioactive Waste Management es-  
17          tablished within the Department prior to the date of  
18          enactment of this Act under the provisions of the  
19          Nuclear Waste Policy Act of 1982.

20          “(24) PROGRAM APPROACH.—The term ‘pro-  
21          gram approach’ means the Civilian Radioactive  
22          Waste Management Program Plan, dated May 6,  
23          1996, as modified by this Act, and as amended from  
24          time to time by the Secretary in accordance with  
25          this Act.

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

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

11           “(27) SITE CHARACTERIZATION.—The term  
12 ‘site characterization’ means activities, whether in a  
13 laboratory or in the field, undertaken to establish  
14 the geologic condition and the ranges of the param-  
15 eters of a candidate site relevant to the location of  
16 a repository, including borings, surface excavations,  
17 excavations of exploratory facilities, limited sub-  
18 surface lateral excavations and borings, and in situ  
19 testing needed to evaluate the licensability of a can-  
20 didate site for the location of a repository, but not  
21 including preliminary borings and geophysical test-  
22 ing needed to assess whether site characterization  
23 should be undertaken.

24           “(28) SPENT NUCLEAR FUEL.—The term  
25 ‘spent nuclear fuel’ means fuel that has been with-

1 drawn from a nuclear reactor following irradiation,  
2 the constituent elements of which have not been sep-  
3 arated by reprocessing.

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

8 “(30) WITHDRAWAL.—The term ‘withdrawal’  
9 has the same definition as that set forth in section  
10 103(j) of the Federal Land Policy and Management  
11 Act of 1976 (43 U.S.C. 1702(j)).

12 “(31) YUCCA MOUNTAIN SITE.—The term  
13 ‘Yucca Mountain site’ means the area in the State  
14 of Nevada that is withdrawn and reserved in accord-  
15 ance with this Act for the location of a repository.

## 16 **“TITLE I—OBLIGATIONS**

### 17 **“SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.**

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

22 “(b) INTERIM STORAGE.—The Secretary shall store  
23 spent nuclear fuel and high-level radioactive waste from  
24 facilities designated by contract holders at an interim stor-  
25 age facility pursuant to section 204 in accordance with

1 the emplacement schedule, beginning not later than No-  
2 vember 30, 1999.

3       “(c) TRANSPORTATION.—The Secretary shall provide  
4 for the transportation of spent nuclear fuel and high-level  
5 radioactive waste accepted by the Secretary. The Sec-  
6 retary shall procure all systems and components necessary  
7 to transport spent nuclear fuel and high-level radioactive  
8 waste from facilities designated by contract holders to and  
9 among facilities comprising the Integrated Management  
10 System. Consistent with the Buy American Act (41 U.S.C.  
11 10a–10c), unless the Secretary shall determine it to be  
12 inconsistent with the public interest, or the cost to be un-  
13 reasonable, all such systems and components procured by  
14 the Secretary shall be manufactured in the United States,  
15 with the exception of any transportable storage systems  
16 purchased by contract holders prior to the effective date  
17 of the Nuclear Waste Policy Act of 1996 and procured  
18 by the Secretary from such contract holders for use in the  
19 integrated management system.

20       “(d) INTEGRATED MANAGEMENT SYSTEM.—The  
21 Secretary shall expeditiously pursue the development of  
22 each component of the integrated management system,  
23 and in so doing shall seek to utilize effective private sector  
24 management and contracting practices.

1       “(e) PRIVATE SECTOR PARTICIPATION.—In admin-  
2     istering the Integrated Management System, the Sec-  
3     retary shall, to the maximum extent possible, utilize, em-  
4     ploy, procure and contract with, the private sector to fulfill  
5     the Secretary’s obligations and requirements under this  
6     Act.

7       “(f) PRE-EXISTING RIGHTS.—Nothing in this Act is  
8     intended to or shall be construed to modify—

9               “(1) any right of a contract holder under sec-  
10     tion 302(a) of the Nuclear Waste Policy Act of  
11     1982, or under a contract executed prior to the date  
12     of enactment of this Act under that section; or

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

17       “(g) LIABILITY.—Subject to subsection (f), nothing  
18     in this Act shall be construed to subject the United States  
19     to financial liability for the Secretary’s failure to meet any  
20     deadline for the acceptance or emplacement of spent nu-  
21     clear fuel or high-level radioactive waste for storage or dis-  
22     posal under this Act.

1     **“TITLE II—INTEGRATED MANAGEMENT**  
2                     **SYSTEM**

3     **“SEC. 201. INTERMODAL TRANSFER.**

4             “(a) ACCESS.—The Secretary shall utilize heavy-haul  
5 truck transport to move spent nuclear fuel and high-level  
6 radioactive waste from the mainline rail line at Caliente,  
7 Nevada, to the interim storage facility site.

8             “(b) CAPABILITY DATE.—The Secretary shall de-  
9 velop the capability to commence rail to truck intermodal  
10 transfer at Caliente, Nevada, no later than November 30,  
11 1999. Intermodal transfer and related activities are inci-  
12 dental to the interstate transportation of spent nuclear  
13 fuel and high-level radioactive waste.

14             “(c) ACQUISITIONS.—The Secretary shall acquire  
15 lands and rights-of-way necessary to commence intermodal  
16 transfer at Caliente, Nevada.

17             “(d) REPLACEMENTS.—The Secretary shall acquire  
18 and develop on behalf of, and dedicate to, the City of  
19 Caliente, Nevada, parcels of land and right-of-way within  
20 Lincoln County, Nevada, as required to facilitate replace-  
21 ment of land and city wastewater disposal facilities nec-  
22 essary to commence intermodal transfer pursuant to this  
23 Act. Replacement of land and city wastewater disposal ac-  
24 tivities shall occur no later than November 30, 1999.

1       “(e) NOTICE AND MAP.—Within 6 months of the  
2 date of enactment of the Nuclear Waste Policy Act of  
3 1996, the Secretary shall—

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

7               “(2) file copies of a map of such sites and  
8 rights-of-way with the Congress, the Secretary of the  
9 Interior, the State of Nevada, the Archivist of the  
10 United States, the Board of Lincoln County Com-  
11 missioners, the Board of Nye County Commis-  
12 sioners, and the Caliente City Council.

13 Such map and legal description shall have the same force  
14 and effect as if they were included in this Act. The Sec-  
15 retary may correct clerical and typographical errors and  
16 legal descriptions and make minor adjustments in the  
17 boundaries.

18       “(f) IMPROVEMENTS.—The Secretary shall make im-  
19 provements to existing roadways selected for heavy-haul  
20 truck transport between Caliente, Nevada, and the interim  
21 storage facility site as necessary to facilitate year-round  
22 safe transport of spent nuclear fuel and high-level radio-  
23 active waste.

24       “(g) LOCAL GOVERNMENT INVOLVEMENT.—The  
25 Commission shall enter into a Memorandum of Under-

1 standing with the City of Caliente and Lincoln County,  
 2 Nevada, to provide advice to the Commission regarding  
 3 intermodal transfer and to facilitate on-site representa-  
 4 tion. Reasonable expenses of such representation shall be  
 5 paid by the Secretary.

6 “(h) BENEFITS AGREEMENT.—

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

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

19 “(3) AMENDMENT.—An agreement entered into  
 20 under this subsection may be amended only with the  
 21 mutual consent of the parties to the amendment and  
 22 terminated only in accordance with paragraph (4).

23 “(4) TERMINATION.—The Secretary shall ter-  
 24minate the agreement under this subsection if any



1 major element of the integrated management system  
2 may not be completed.

3 “(5) LIMITATION.—Only one agreement may be  
4 in effect at any one time.

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

8 “(i) CONTENT OF AGREEMENT.—

9 “(1) SCHEDULE.—In addition to the benefits to  
10 which the City of Caliente and Lincoln County is en-  
11 titled to under this title, the Secretary shall make  
12 payments under the benefits agreement in accord-  
13 ance with the following schedule:

“BENEFITS SCHEDULE

“(Amounts in millions)

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

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

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

18 “(B) ‘first spent fuel receipt’ does not in-  
19 clude receipt of spent fuel or high-level radio-  
20 active waste for purposes of testing or oper-  
21 ational demonstration.

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

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

18          “(5) RESTRICTIONS.—The Secretary may not  
19      restrict the purposes for which the payments under  
20      this section may be used.

21          “(6) DISPUTE.—In the event of a dispute con-  
22      cerning such agreement, the Secretary shall resolve  
23      such dispute, consistent with this Act and applicable  
24      State law.

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

6       “(j) INITIAL LAND CONVEYANCES.—

7           “(1) CONVEYANCES OF PUBLIC LANDS.—One  
8       hundred and twenty days after enactment of this  
9       Act, all right, title and interest of the United States  
10      in the property described in paragraph (2), and im-  
11      provements thereon, together with all necessary  
12      easements for utilities and ingress and egress to  
13      such property, including, but not limited to, the  
14      right to improve those easements, are conveyed by  
15      operation of law to the County of Lincoln, Nevada,  
16      unless the county notifies the Secretary of the Inte-  
17      rior or the head of such other appropriate agency in  
18      writing within 60 days of such date of enactment  
19      that it elects not to take title to all or any part of  
20      the property, except that any lands conveyed to the  
21      County of Lincoln under this subsection that are  
22      subject to a Federal grazing permit or lease or a  
23      similar federally granted permit or lease shall be  
24      conveyed between 60 and 120 days of the earliest  
25      time the Federal agency administering or granting

1 the permit or lease would be able to legally termi-  
2 nate such right under the statutes and regulations  
3 existing at the date of enactment of this Act, unless  
4 Lincoln County and the affected holder of the permit  
5 or lease negotiate an agreement that allows for an  
6 earlier conveyance.

7 “(2) SPECIAL CONVEYANCES.—Notwithstanding  
8 any other law, the following public lands depicted on  
9 the maps and legal descriptions dated October 11,  
10 1995, shall be conveyed under paragraph (1) to the  
11 County of Lincoln, Nevada:

12 Map 10; Lincoln County, parcel M, indus-  
13 trial park site.

14 Map 11; Lincoln County, parcel F, mixed  
15 use industrial site.

16 Map 13; Lincoln County, parcel J, mixed  
17 use, Alamo Community Expansion Area.

18 Map 14; Lincoln County, parcel E, mixed  
19 use, Pioche Community Expansion Area.

20 Map 15; Lincoln County, parcel B, landfill  
21 expansion site.

22 “(3) CONSTRUCTION.—The maps and legal de-  
23 scriptions special conveyances referred to in para-  
24 graph (2) shall have the same force and effect as if  
25 they were included in this Act. The Secretary may

1 correct clerical and typographical errors in the maps  
2 and legal descriptions and make minor adjustments  
3 in the boundaries of the sites.

4 “(4) EVIDENCE OF TITLE TRANSFER.—Upon  
5 the request of the County of Lincoln, Nevada, the  
6 Secretary of the Interior shall provide evidence of  
7 title transfer.

8 **“SEC. 202. TRANSPORTATION PLANNING.**

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

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

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

18       “(a) PACKAGE CERTIFICATION.—No spent nuclear  
19 fuel or high-level radioactive waste may be transported by  
20 or 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  
23 abide by regulations of the Commission regarding advance  
24 notification of State and local governments prior to trans-

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

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

1 shall be limited to amounts specified in annual appropria-  
2 tions.

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

10 “(e) COMPLIANCE WITH TRANSPORTATION REGULA-  
11 TIONS.—Any person that transports spent nuclear fuel or  
12 high-level radioactive waste under the Nuclear Waste Pol-  
13 icy Act of 1986, pursuant to a contract with the Secretary,  
14 shall comply with all requirements governing such trans-  
15 portation issued by the Federal, State and local govern-  
16 ments, and Indian tribes, in the same way and to the same  
17 extent that any person engaging in that transportation  
18 that is in or affects interstate commerce must comply with  
19 such requirements, as required by section 5126 of title 49,  
20 United States Code.

21 “(f) EMPLOYEE PROTECTION.—Any person engaged  
22 in the interstate commerce of spent nuclear fuel or high-  
23 level radioactive waste under contract to the Secretary  
24 pursuant to this Act shall be subject to and comply fully



1 with the employee protection provisions of 49 United  
2 States Code 20109 and 49 United States Code 31105.

3 “(g) TRAINING STANDARD.—(1) No later than 12  
4 months after the date of enactment of the Nuclear Waste  
5 Policy Act of 1996, the Secretary of Transportation, pur-  
6 suant to authority under other provisions of law, in con-  
7 sultation with the Secretary of Labor and the Commission,  
8 shall promulgate a regulation establishing training stand-  
9 ards applicable to workers directly involved in the removal  
10 and transportation of spent nuclear fuel and high-level ra-  
11 dioactive waste. The regulation shall specify minimum  
12 training standards applicable to workers, including mana-  
13 gerial personnel. The regulation shall require that the em-  
14 ployer possess evidence of satisfaction of the applicable  
15 training standard before any individual may be employed  
16 in the removal and transportation of spent nuclear fuel  
17 and high-level radioactive waste.

18 “(2) If the Secretary of Transportation determines,  
19 in promulgating the regulation required by paragraph (1),  
20 that regulations promulgated by the Commission establish  
21 adequate training standards for workers, then the Sec-  
22 retary of Transportation can refrain from promulgating  
23 additional regulations with respect to worker training in  
24 such activities. The Secretary of Transportation and the  
25 Commission shall work through their Memorandum of Un-

1 derstanding to ensure coordination of worker training  
2 standards and to avoid duplicative regulation.

3 “(3) The training standards required to be promul-  
4 gated under paragraph (1) shall, among other things  
5 deemed necessary and appropriate by the Secretary of  
6 Transportation, include the following provisions—

7 “(A) a specified minimum number of hours of  
8 initial off site instruction and actual field experience  
9 under the direct supervision of a trained, experi-  
10 enced supervisor;

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

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

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

1   **“SEC. 204. INTERIM STORAGE.**

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

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

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

23                   “(B) The Secretary shall cease all activities (ex-  
24 cept necessary termination activities) at the Yucca  
25 Mountain site if the President determines, in his dis-  
26 cretion, on or before December 31, 1998, based on

1 a preponderance of the information available at such  
2 time, that the Yucca Mountain site is unsuitable for  
3 development as a repository, including geologic and  
4 engineered barriers, because of a substantial likeli-  
5 hood that a repository of useful size, cannot be de-  
6 signed, licensed, and constructed at the Yucca  
7 Mountain site.

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

12 “(i) the preliminary design concept for the  
13 critical elements of the repository and waste  
14 package,

15 “(ii) a total system performance assess-  
16 ment, based upon the design concept and the  
17 scientific data and analysis available by June  
18 30, 1998, describing the probable behavior of  
19 the repository in the Yucca Mountain geologic  
20 setting relative to the overall system perform-  
21 ance standard set forth in section 205(d) of this  
22 Act,

23 “(iii) a plan and cost estimate for the re-  
24 maining work required to complete a license ap-  
25 plication, and

1                   “(iv) an estimate of the costs to construct  
2                   and operate the repository in accordance with  
3                   the design concept.

4                   “(D) Within 18 months of a determination by  
5                   the President that the Yucca Mountain site is un-  
6                   suitable for development as a repository under sub-  
7                   paragraph (B), the President shall designate a site  
8                   for the construction of an interim storage facility. If  
9                   the President does not designate a site for the con-  
10                  struction of an interim storage facility, or the con-  
11                  struction of an interim storage facility at the des-  
12                  ignated site is not approved by law within 24  
13                  months of the President’s determination that the  
14                  Yucca Mountain site is not suitable for development  
15                  as a repository, the Secretary shall begin construc-  
16                  tion of an interim storage facility at the interim  
17                  storage facility site as defined in section 2(19) of  
18                  this Act. The interim storage facility site as defined  
19                  in section 2(19) of this Act shall be deemed to be  
20                  approved by law for purposes of this section.

21                  “(2) Upon the designation of an interim storage facil-  
22                  ity site by the President under paragraph (1)(D), the Sec-  
23                  retary shall proceed forthwith and without further delay  
24                  with all activities necessary to begin storing spent nuclear  
25                  fuel and high-level radioactive waste at an interim storage

1 facility at the designated site, except that the Secretary  
2 shall not begin any construction activities at the des-  
3 ignated interim storage facility site before the designated  
4 interim storage facility site is approved by law.

5 “(c) DESIGN.—

6 “(1) The interim storage facility shall be de-  
7 signed in two phases in order to commence oper-  
8 ations no later than November 30, 1999. The design  
9 of the interim storage facility shall provide for the  
10 use of storage technologies, licensed, approved, or  
11 certified by the Commission for use at the interim  
12 storage facility as necessary to ensure compatibility  
13 between the interim storage facility and contract  
14 holders’ spent nuclear fuel and facilities, and to fa-  
15 cilitate the Secretary’s ability to meet the Sec-  
16 retary’s obligations under this Act.

17 “(2) The Secretary shall consent to an amend-  
18 ment to the contracts to provide for reimbursement  
19 to contract holders for transportable storage systems  
20 purchased by contract holders if the Secretary deter-  
21 mines that it is cost effective to use such transport-  
22 able storage systems as part of the integrated man-  
23 agement system, provided that the Secretary shall  
24 not be required to expend any funds to modify con-  
25 tract holders’ storage or transport systems or to

1 seek additional regulatory approvals in order to use  
2 such systems.

3 “(d) LICENSING.—

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

8 “(2) FIRST PHASE.—No later than 12 months  
9 after the date of enactment of the Nuclear Waste  
10 Policy Act of 1996, the Secretary shall submit to the  
11 Commission an application for a license for the first  
12 phase of the interim storage facility. The Environ-  
13 mental Report and Safety Analysis Report submitted  
14 in support of such license application shall be con-  
15 sistent with the scope of authority requested in the  
16 license application. The license issued for the first  
17 phase of the interim storage facility shall have a  
18 term of 20 years. The interim storage facility li-  
19 censed in the first phase shall have a capacity of not  
20 more than 15,000 MTU. The Commission shall issue  
21 a final decision granting or denying the application  
22 for the first phase license no later than 16 months  
23 from the date of the submittal of the application for  
24 such license.

1           “(3) SECOND PHASE.—No later than 30  
2           months after the date of enactment of the Nuclear  
3           Waste Policy Act of 1996, the Secretary shall sub-  
4           mit to the Commission an application for a license  
5           for the second phase interim storage facility. The li-  
6           cense for the second phase facility shall authorize a  
7           storage capacity of 40,000 MTU. If the Secretary  
8           does not submit the license application for construc-  
9           tion of a repository by February 1, 2002, or does  
10          not begin full spent nuclear fuel receipt operations  
11          at a repository by January 17, 2010, the license  
12          shall authorize a storage capacity of 60,000 MTU.  
13          The license application shall be submitted such that  
14          the license can be issued to permit the second phase  
15          facility to begin full spent nuclear fuel receipt oper-  
16          ations no later than December 31, 2002. The license  
17          for the second phase shall have an initial term of up  
18          to 100 years, and shall be renewable for additional  
19          terms upon application of the Secretary.

20          “(e) ADDITIONAL AUTHORITY.—

21               “(1) CONSTRUCTION.—For purposes of comply-  
22               ing with this section, the Secretary may commence  
23               site preparation for the interim storage facility as  
24               soon as practicable after the date of enactment of  
25               the Nuclear Waste Policy Act of 1996 and shall



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

11 “(2) FACILITY USE.—Notwithstanding any oth-  
12 erwise applicable licensing requirement, the Sec-  
13 retary may utilize any facility owned by the Federal  
14 Government on the date of enactment of the Nuclear  
15 Waste Policy Act of 1996 within the boundaries of  
16 the interim storage facility site, in connection with  
17 an imminent and substantial endangerment to public  
18 health and safety at the interim storage facility prior  
19 to commencement of operations during the second  
20 phase.

21 “(3) EMPLACEMENT OF FUEL AND WASTE.—  
22 Subject to subsection (i), once the Secretary has  
23 achieved the annual acceptance rate for spent nu-  
24 clear fuel from civilian nuclear power reactors estab-  
25 lished pursuant to the contracts executed prior to

1 the date of enactment of the Nuclear Waste Policy  
2 Act of 1996, as set forth in the Secretary's annual  
3 capacity report dated March, 1995 (DOE/RW-  
4 0457), the Secretary shall accept, in an amount not  
5 less than 25 percent of the difference between the  
6 contractual acceptance rate and the annual emplace-  
7 ment rate for spent nuclear fuel from civilian nu-  
8 clear power reactors established under section  
9 507(a), the following radioactive materials—

10 “(A) spent nuclear fuel or high-level radio-  
11 active waste of domestic origin from civilian nu-  
12 clear power reactors that have permanently  
13 ceased operation on or before the date of enact-  
14 ment of the Nuclear Waste Policy Act of 1996;

15 “(B) spent nuclear fuel from foreign re-  
16 search reactors, as necessary to promote non-  
17 proliferation objectives; and

18 “(C) spent nuclear fuel, including spent  
19 nuclear fuel from naval reactors, and high-level  
20 radioactive waste from atomic energy defense  
21 activities.

22 “(f) NATIONAL ENVIRONMENTAL POLICY ACT OF  
23 1969.—

24 “(1) PRELIMINARY DECISIONMAKING ACTIVI-  
25 TIES.—The Secretary's and President's activities

1 under this section, including, but not limited to, the  
2 selection of a site for the interim storage facility, as-  
3 sessments, determinations and designations made  
4 under section 204(b), the preparation and submittal  
5 of a license application and supporting documenta-  
6 tion, the construction of a facility under paragraph  
7 (e)(1) of this section, and facility use pursuant to  
8 paragraph (e)(2) of this section shall be considered  
9 preliminary decisionmaking activities for purposes of  
10 judicial review. The Secretary shall not prepare an  
11 environmental impact statement under section  
12 102(2)(C) of the National Environmental Policy Act  
13 of 1969 (42 U.S.C. 4332(2)(C)) or any environ-  
14 mental review under subparagraph (E) or (F) of  
15 such Act before conducting these activities.

16 “(2) ENVIRONMENTAL IMPACT STATEMENT.—

17 “(A) FINAL DECISION.—A final decision  
18 by the Commission to grant or deny a license  
19 application for the first or second phase of the  
20 interim storage facility shall be accompanied by  
21 an Environmental Impact Statement prepared  
22 under section 102(2)(C) of the National Envi-  
23 ronmental Policy Act of 1969 (42 U.S.C.  
24 4332(2)(C)). In preparing such Environmental  
25 Impact Statement, the Commission—

1 “(i) shall ensure that the scope of the  
2 Environmental Impact Statement is con-  
3 sistent with the scope of the licensing ac-  
4 tion; and

5 “(ii) shall analyze the impacts of the  
6 transportation of spent nuclear fuel and  
7 high-level radioactive waste to the interim  
8 storage facility in a generic manner.

9 “(B) CONSIDERATIONS.—Such Environ-  
10 mental Impact Statement shall not consider—

11 “(i) the need for the interim storage  
12 facility, including any individual compo-  
13 nent thereof;

14 “(ii) the time of the initial availability  
15 of the interim storage facility;

16 “(iii) any alternatives to the storage  
17 of spent nuclear fuel and high-level radio-  
18 active waste at the interim storage facility;

19 “(iv) any alternatives to the site of  
20 the facility as designated by the Secretary  
21 in accordance with subsection (a);

22 “(v) any alternatives to the design cri-  
23 teria for such facility or any individual  
24 component thereof, as specified by the Sec-  
25 retary in the license application; or

1                   “(vi) the environmental impacts of the  
2                   storage of spent nuclear fuel and high-level  
3                   radioactive waste at the interim storage fa-  
4                   cility beyond the initial term of the license  
5                   or the term of the renewal period for which  
6                   a license renewal application is made.

7           “(g) JUDICIAL REVIEW.—Judicial review of the Com-  
8           mission’s environmental impact statement under the Na-  
9           tional Environmental Policy Act of 1969 (42 U.S.C. 4321  
10          et seq.) shall be consolidated with judicial review of the  
11          Commission’s licensing decision. No court shall have juris-  
12          diction to enjoin the construction or operation of the in-  
13          terim storage facility prior to its final decision on review  
14          of the Commission’s licensing action.

15          “(h) WASTE CONFIDENCE.—The Secretary’s obliga-  
16          tion to construct and operate the interim storage facility  
17          in accordance with this section and the Secretary’s obliga-  
18          tion to develop an integrated management system in ac-  
19          cordance with the provisions of this Act, shall provide suf-  
20          ficient and independent grounds for any further findings  
21          by the Commission of reasonable assurance that spent nu-  
22          clear fuel and high-level radioactive waste will be disposed  
23          of safely and on a timely basis for purposes of the Com-  
24          mission’s decision to grant or amend any license to operate

1 any civilian nuclear power reactor under the Atomic En-  
2 ergy Act of 1954 (42 U.S.C. 2011 et seq.).

3 “(i) STORAGE OF OTHER SPENT NUCLEAR FUEL  
4 AND HIGH-LEVEL RADIOACTIVE WASTE.—No later than  
5 18 months following the date of enactment of the Nuclear  
6 Waste Policy Act of 1996, the Commission shall, by rule,  
7 establish criteria for the storage in the interim storage fa-  
8 cility of fuel and waste listed in subparagraph (e)(3) (A)  
9 through (C), to the extent such criteria are not included  
10 in regulations issued by the Commission and existing on  
11 the date of enactment of the Nuclear Waste Policy Act  
12 of 1996. Following establishment of such criteria, the Sec-  
13 retary shall seek authority, as necessary, to store fuel and  
14 waste listed in subparagraph (e)(3) (A) through (C) at  
15 the interim storage facility. None of the activities carried  
16 out pursuant to this subsection shall delay, or otherwise  
17 affect, the development, construction, licensing, or oper-  
18 ation of the interim storage facility.

19 “(j) SAVINGS CLAUSE.—The Commission shall, by  
20 rule, establish procedures for the licensing of any tech-  
21 nology for the dry storage of spent nuclear fuel by rule  
22 and without, to the maximum extent possible, the need  
23 for site-specific approvals by the Commission. Nothing in  
24 this Act shall affect any such procedures, or any licenses

1 or approvals issued pursuant to such procedures in effect  
 2 on the date of enactment.

3 **“SEC. 205. PERMANENT REPOSITORY.**

4 “(a) REPOSITORY CHARACTERIZATION.—

5 “(1) GUIDELINES.—The guidelines promul-  
 6 gated by the Secretary and published at part 960 of  
 7 title 10, Code of Federal Regulations are annulled  
 8 and revoked and the Secretary shall make no as-  
 9 sumptions or conclusions about the licensability of  
 10 the Yucca Mountain site as a repository by reference  
 11 to such guidelines.

12 “(2) SITE CHARACTERIZATION ACTIVITIES.—

13 The Secretary shall carry out appropriate site char-  
 14 acterization activities at the Yucca Mountain site in  
 15 accordance with the Secretary’s program approach  
 16 to site characterization. The Secretary shall modify  
 17 or eliminate those site characterization activities de-  
 18 signed only to demonstrate the suitability of the site  
 19 under the guidelines referenced in paragraph (1).

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

21 schedule set forth in the program approach, as  
 22 modified to be consistent with the Nuclear Waste  
 23 Policy Act of 1996, no later than February 1, 2002,  
 24 the Secretary shall apply to the Commission for au-  
 25 thorization to construct a repository. If, at any time

1 prior to the filing of such application, the Secretary  
2 determines that the Yucca Mountain site cannot sat-  
3 isfy the Commission's regulations applicable to the  
4 licensing of a geologic repository, the Secretary shall  
5 terminate site characterization activities at the site,  
6 notify Congress and the State of Nevada of the Sec-  
7 retary's determination and the reasons therefor, and  
8 recommend to Congress not later than 6 months  
9 after such determination, further actions, including  
10 the enactment of legislation, that may be needed to  
11 manage the Nation's spent nuclear fuel and high-  
12 level radioactive waste.

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

18 “(b) REPOSITORY LICENSING.—Upon the completion  
19 of any licensing proceeding for the first phase of the in-  
20 terim storage facility, the Commission shall amend its reg-  
21 ulations governing the disposal of spent nuclear fuel and  
22 high-level radioactive waste in geologic repositories to the  
23 extent necessary to comply with this Act. Subject to sub-  
24 section (c), such regulations shall provide for the licensing  
25 of the repository 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  
9       regulations of the Commission;

10          “(B) without unreasonable risk to the  
11       health 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 oper-  
21       ate—

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

1                   “(B) without unreasonable risk to the  
2 health and safety of the public; and

3                   “(C) consistent with the common defense  
4 and security.

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

18                   “(A) in conformity with the Secretary’s ap-  
19 plication to amend the license, the provisions of  
20 this Act, and the regulations of the Commis-  
21 sion;

22                   “(B) without unreasonable risk to the  
23 health and safety of the public; and

24                   “(C) consistent with the common defense  
25 and security.

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

6                   “(A) breaching the repository’s engineered  
7                   or geologic barriers; or

8                   “(B) increasing the exposure of individual  
9                   members of the public to radiation beyond the  
10                  release standard established in subsection  
11                  (d)(1).

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

22          “(d) REPOSITORY LICENSING STANDARDS.—The Ad-  
23          ministrators of the Environmental Protection Agency shall,  
24          pursuant to authority under other provisions of law, issue  
25          generally applicable standards for the protection of the

1 public from releases of radioactive materials or radioactiv-  
2 ity from the repository. Such standards shall be consistent  
3 with the overall system performance standard established  
4 by this subsection unless the Administrator determines by  
5 rule that the overall system performance standard would  
6 constitute an unreasonable risk to health and safety. The  
7 Commission's repository licensing determinations for the  
8 protection of the public shall be based solely on a finding  
9 whether the repository can be operated in conformance  
10 with the overall system performance standard established  
11 in paragraph (1), applied in accordance with the provi-  
12 sions of paragraph (2), and the Administrator's radiation  
13 protection standards. The Commission shall amend its  
14 regulations in accordance with subsection (b) to incor-  
15 porate each of the following licensing standards:

16           “(1) ESTABLISHMENT OF OVERALL SYSTEM  
17           PERFORMANCE STANDARD.—The standard for pro-  
18           tection of the public from release of radioactive ma-  
19           terial or radioactivity from the repository shall pro-  
20           hibit releases that would expose an average member  
21           of the general population in the vicinity of the Yucca  
22           Mountain site to an annual dose in excess of 100  
23           millirems unless the Commission determines by rule  
24           that such standard would constitute an unreasonable  
25           risk to health and safety and establishes by rule an-

1 other standard which will protect health and safety.  
2 Such standard shall constitute an overall system  
3 performance standard.

4 “(2) APPLICATION OF OVERALL SYSTEM PER-  
5 FORMANCE STANDARD.—The Commission shall issue  
6 the license if it finds reasonable assurance that for  
7 the first 1,000 years following the commencement of  
8 repository operations, the overall system perform-  
9 ance standard will be met based on a probabilistic  
10 evaluation, as appropriate, of compliance with the  
11 overall system performance standard in paragraph  
12 (1).

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

15 “(A) the Commission shall not consider  
16 catastrophic events where the health con-  
17 sequences of individual events themselves can  
18 be reasonably assumed to exceed the health  
19 consequences due to the impact of the events on  
20 repository performance;

21 “(B) for the purpose of this section, an av-  
22 erage member of the general population in the  
23 vicinity of the Yucca Mountain site means a  
24 person whose physiology, age, general health,  
25 agricultural practices, eating habits, and social

1 behavior represent the average for persons liv-  
2 ing in the vicinity of the site. Extremes in social  
3 behavior, eating habits, or other relevant prac-  
4 tices or characteristics shall not be considered;  
5 and

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

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

16 “(ii) prevent any increase in the expo-  
17 sure of individual members of the public to  
18 radiation beyond the allowable limits speci-  
19 fied in paragraph (1).

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

1 years after the commencement of operation of the  
2 repository.

3 “(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

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

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

21 “(3) ADOPTION BY COMMISSION.—The Sec-  
22 retary’s environmental impact statement and any  
23 supplements thereto shall, to the extent practicable,  
24 be adopted by the Commission in connection with  
25 the issuance by the Commission of a construction

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

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

20 **“SEC. 206. LAND WITHDRAWAL.**

21 “(a) WITHDRAWAL AND RESERVATION.—

22 “(1) WITHDRAWAL.—Subject to valid existing  
 23 rights, the interim storage facility site and the  
 24 Yucca Mountain site, as described in subsection (b),  
 25 are withdrawn from all forms of entry, appropria-



1       tion, and disposal under the public land laws, includ-  
2       ing the mineral leasing laws, the geothermal leasing  
3       laws, the material sale laws, and the mining laws.

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

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

15       “(b) LAND DESCRIPTION.—

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

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

1           “(3) NOTICE AND MAPS.—Within 6 months of  
2           the date of the enactment of the Nuclear Waste Pol-  
3           icy Act of 1996, the Secretary shall—

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

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

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

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

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

24           “(5) CONSTRUCTION.—The maps and legal de-  
25           scriptions of the interim storage facility site and the

1       Yucca Mountain site referred to in this subsection  
 2       shall have the same force and effect as if they were  
 3       included in this Act. The Secretary may correct cler-  
 4       ical and typographical errors in the maps and legal  
 5       descriptions and make minor adjustments in the  
 6       boundaries of the sites.

7               **“TITLE III—LOCAL RELATIONS**

8       **“SEC. 301. FINANCIAL ASSISTANCE.**

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

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

20              “(2) to develop a request for impact assistance  
 21      under subsection (c);

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

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

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

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

13          “(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

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

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

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

4 “(d) OTHER ASSISTANCE.—

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

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

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

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

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

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

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

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

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

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

1   pository in the State of Nevada, any provision of such  
 2   Constitution or laws to the contrary notwithstanding.

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

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

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

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

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

22           “(2) for litigation purposes; and

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

1   **“SEC. 305. LAND CONVEYANCES.**

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

24           “(b) SPECIAL CONVEYANCES.—Notwithstanding any  
25 other law, the following public lands depicted on the maps  
26 and legal descriptions dated October 11, 1995, and on file



1 with the Secretary shall be conveyed under subsection (a)  
2 to the County of Nye, Nevada:

3           Map 1: Proposed Pahrump industrial park site.

4           Map 2: Proposed Lathrop Wells (gate 510) in-  
5 dustrial park site.

6           Map 3: Pahrump landfill sites.

7           Map 4: Amargosa Valley Regional Landfill site.

8           Map 5: Amargosa Valley Municipal Landfill  
9 site.

10          Map 6: Beatty Landfill/Transfer Station site.

11          Map 7: Round Mountain Landfill site.

12          Map 8: Tonopah Landfill site.

13          Map 9: Gabbs Landfill site.

14          “(c) CONSTRUCTION.—The maps and legal descrip-  
15 tions of special conveyances referred to in subsection (b)  
16 shall have the same force and effect as if they were in-  
17 cluded in this Act. The Secretary may correct clerical and  
18 typographical errors in the maps and legal descriptions  
19 and make minor adjustments in the boundaries of the  
20 sites.

21          “(d) EVIDENCE OF TITLE TRANSFER.—Upon the re-  
22 quest of the County of Nye, Nevada, the Secretary of the  
23 Interior shall provide evidence of title transfer.

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

2 **“SEC. 401. PROGRAM FUNDING.**

3 “(a) CONTRACTS.—

4 “(1) AUTHORITY OF SECRETARY.—In the per-  
5 formance of the Secretary’s functions under this  
6 Act, the Secretary is authorized to enter into con-  
7 tracts with any person who generates or holds title  
8 to spent nuclear fuel or high-level radioactive waste  
9 of domestic origin for the acceptance of title and  
10 possession, transportation, interim storage, and dis-  
11 posal of such waste or spent fuel. Such contracts  
12 shall provide for payment of annual fees to the Sec-  
13 retary in the amounts set by the Secretary pursuant  
14 to paragraphs (2) and (3). Except as provided in  
15 paragraph (3), fees assessed pursuant to this para-  
16 graph shall be paid to the Treasury of the United  
17 States and shall be available for use by the Sec-  
18 retary pursuant to this section until expended. Sub-  
19 sequent to the date of enactment of the Nuclear  
20 Waste Policy Act of 1996, the contracts executed  
21 under section 302(a) of the Nuclear Waste Policy  
22 Act of 1982 shall continue in effect under this Act:  
23 *Provided*, That the Secretary shall consent to an  
24 amendment to such contracts as necessary to imple-  
25 ment the provisions of this Act.

1 “(2) ANNUAL FEES.—

2 “(A) for electricity generated by civilian  
3 nuclear power reactors and sold between Janu-  
4 ary 7, 1983, and September 30, 2002, the fee  
5 under paragraph (1) shall be equal to 1.0 mill  
6 per kilowatt-hour generated and sold. For elec-  
7 tricity generated by civilian nuclear power reac-  
8 tors and sold on or after October 1, 2002, the  
9 aggregate amount of fees collected during each  
10 fiscal year shall be no greater than the annual  
11 level of appropriations for expenditures on those  
12 activities consistent with subsection (d) for that  
13 fiscal year, minus—

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

17 “(ii) the percentage of such appro-  
18 priation required to be funded by the Fed-  
19 eral Government pursuant to section 403.

20 The Secretary shall determine the level of the  
21 annual fee for each civilian nuclear power reac-  
22 tor based on the amount of electricity generated  
23 and sold, except that the annual fee collected  
24 under this subparagraph shall not exceed 1.0  
25 mill per kilowatt-hour generated and sold.

1           “(B) EXPENDITURES IF SHORTFALL.—If,  
2           during any fiscal year on or after October 1,  
3           2002, the aggregate amount of fees assessed  
4           pursuant to subparagraph (A) is less than the  
5           annual level of appropriations for expenditures  
6           on those activities specified in subsection (d) for  
7           that fiscal year, minus—

8                   “(i) any unobligated balance collected  
9                   pursuant to this section during the pre-  
10                  vious fiscal year; and

11                  “(ii) the percentage of such appro-  
12                  priations required to be funded by the Fed-  
13                  eral Government pursuant to section 403,  
14           the Secretary may make expenditures from the  
15           Nuclear Waste Fund up to the level of the fees  
16           assessed.

17           “(C) RULES.—The Secretary shall, by  
18           rule, establish procedures necessary to imple-  
19           ment this paragraph.

20           “(3) ONE-TIME FEE.—For spent nuclear fuel or  
21           solidified high-level radioactive waste derived from  
22           spent nuclear fuel, which fuel was used to generate  
23           electricity in a civilian nuclear power reactor prior to  
24           January 7, 1983, the fee shall be in an amount  
25           equivalent to an average charge of 1.0 mill per kilo-

1 watt-hour for electricity generated by such spent nu-  
2 clear fuel, or such solidified high-level waste derived  
3 therefrom. Payment of such one-time fee prior to the  
4 date of enactment of the Nuclear Waste Policy Act  
5 of 1996 shall satisfy the obligation imposed under  
6 this paragraph. Any one-time fee paid and collected  
7 subsequent to the date of enactment of the Nuclear  
8 Waste Policy Act of 1996 pursuant to the contracts,  
9 including any interest due pursuant to such con-  
10 tracts, shall be paid to the Nuclear Waste Fund no  
11 later than September 30, 2002. The Commission  
12 shall suspend the license of any licensee who fails or  
13 refuses to pay the full amount of the fee referred to  
14 in this paragraph on or before September 30, 2002,  
15 and the license shall remain suspended until the full  
16 amount of the fee referred to in this paragraph is  
17 paid. The person paying the fee under this para-  
18 graph to the Secretary shall have no further finan-  
19 cial obligation to the Federal Government for the  
20 long-term storage and permanent disposal of spent  
21 fuel or high-level radioactive waste derived from  
22 spent nuclear fuel used to generate electricity in a  
23 civilian power reactor prior to January 7, 1983.

24 “(4) ADJUSTMENTS TO FEE.—The Secretary  
25 shall annually review the amount of the fees estab-

1       lished by paragraphs (2) and (3), together with the  
 2       existing balance of the Nuclear Waste Fund on the  
 3       date of enactment of the Nuclear Waste Policy Act  
 4       of 1996, to evaluate whether collection of the fee will  
 5       provide sufficient revenues to offset the costs as de-  
 6       fined in subsection (c)(2). In the event the Secretary  
 7       determines that the revenues being collected are ei-  
 8       ther insufficient or excessive to recover the costs in-  
 9       curred by the Federal Government that are specified  
 10      in subsection (c)(2), the Secretary shall propose an  
 11      adjustment to the fee in subsection (c)(2) to ensure  
 12      full cost recovery. The Secretary shall immediately  
 13      transmit the proposal for such an adjustment to  
 14      both houses of Congress.

15      “(b) ADVANCE CONTRACTING REQUIREMENT.—

16          “(1) IN GENERAL.—

17              “(A) LICENSE ISSUANCE AND RENEWAL.—

18              The Commission shall not issue or renew a li-  
 19              cense to any person to use a utilization or pro-  
 20              duction facility under the authority of section  
 21              103 or 104 of the Atomic Energy Act of 1954  
 22              (42 U.S.C. 2133, 2134) unless—

23                  “(i) such person has entered into a  
 24                  contract under subsection (a) with the Sec-  
 25                  retary; or

1                   “(ii) the Secretary affirms in writing  
2                   that such person is actively and in good  
3                   faith negotiating with the Secretary for a  
4                   contract under this section.

5                   “(B) PRECONDITION.—The Commission,  
6                   as it deems necessary or appropriate, may re-  
7                   quire as a precondition to the issuance or re-  
8                   newal of a license under section 103 or 104 of  
9                   the Atomic Energy Act of 1954 (42 U.S.C.  
10                  2133, 2134) that the applicant for such license  
11                  shall have entered into an agreement with the  
12                  Secretary for the disposal of spent nuclear fuel  
13                  and high-level radioactive waste that may result  
14                  from the use of such license.

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

1 or owner commences generation of, or takes title to,  
 2 such spent fuel or waste.

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

5 “(c) NUCLEAR WASTE FUND.—

6 “(1) IN GENERAL.—The Nuclear Waste Fund  
 7 established in the Treasury of the United States  
 8 under section 302(c) of the Nuclear Waste Policy  
 9 Act of 1982 shall continue in effect under this Act  
 10 and shall consist of—

11 “(A) the existing balance in the Nuclear  
 12 Waste Fund on the date of enactment of the  
 13 Nuclear Waste Policy Act of 1996; and

14 “(B) all receipts, proceeds, and recoveries  
 15 realized under subsections (a), and (c)(3) subse-  
 16 quent to the date of enactment of the Nuclear  
 17 Waste Policy Act of 1996, which shall be depos-  
 18 ited in the Nuclear Waste Fund immediately  
 19 upon their realization.

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

24 “(3) ADMINISTRATION OF NUCLEAR WASTE  
 25 FUND.—



1           (A) IN GENERAL.—The Secretary of the  
2           Treasury shall hold the Nuclear Waste Fund  
3           and, after consultation with the Secretary, an-  
4           nually report to the Congress on the financial  
5           condition and operations of the Nuclear Waste  
6           Fund during the preceding fiscal year.

7           “(B) AMOUNTS IN EXCESS OF CURRENT  
8           NEEDS.—If the Secretary determines that the  
9           Nuclear Waste Fund contains at any time  
10          amounts in excess of current needs, the Sec-  
11          retary may request the Secretary of the Treas-  
12          ury to invest such amounts, or any portion of  
13          such amounts as the Secretary determines to be  
14          appropriate, in obligations of the United  
15          States—

16               “(i) having maturities determined by  
17               the Secretary of the Treasury to be appro-  
18               priate to the needs of the Nuclear Waste  
19               Fund; and

20               “(ii) bearing interest at rates deter-  
21               mined to be appropriate by the Secretary  
22               of the Treasury, taking into consideration  
23               the current average market yield on out-  
24               standing marketable obligations of the  
25               United States with remaining periods to

1 maturity comparable to the maturities of  
2 such investments, except that the interest  
3 rate on such investments shall not exceed  
4 the average interest rate applicable to ex-  
5 isting borrowings.

6 “(C) EXEMPTION.—Receipts, proceeds,  
7 and recoveries realized by the Secretary under  
8 this section, and expenditures of amounts from  
9 the Nuclear Waste Fund, shall be exempt from  
10 annual apportionment under the provisions of  
11 subchapter II of chapter 15 of title 31, United  
12 States Code.

13 “(d) BUDGET.—The Secretary shall submit the budg-  
14 et for implementation of the Secretary’s responsibilities  
15 under this Act to the Office of Management and Budget  
16 annually along with the budget of the Department of En-  
17 ergy submitted at such time in accordance with chapter  
18 11 of title 31, United States Code. The budget shall con-  
19 sist of the estimates made by the Secretary of expendi-  
20 tures under this Act and other relevant financial matters  
21 for the succeeding 3 fiscal years, and shall be included  
22 in the budget of the United States Government.

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

1   **“SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MAN-**  
2                                   **AGEMENT.**

3           “(a) ESTABLISHMENT.—There hereby is established  
4 within the Department of Energy an Office of Civilian Ra-  
5 dioactive Waste Management. The Office shall be headed  
6 by a Director, who shall be appointed by the President,  
7 by and with the advice and consent of the Senate, and  
8 who shall be compensated at the rate payable for level IV  
9 of the Executive Schedule under section 5315 of title 5,  
10 United States Code.

11          “(b) FUNCTIONS OF DIRECTOR.—The Director of the  
12 Office shall be responsible for carrying out the functions  
13 of the Secretary under this Act, subject to the general su-  
14 pervision of the Secretary. The Director of the Office shall  
15 be directly responsible to the Secretary.

16   **“SEC. 403. FEDERAL CONTRIBUTION.**

17          “(a) ALLOCATION.—No later than one year from the  
18 date of enactment of the Nuclear Waste Policy Act of  
19 1996, acting pursuant to section 553 of title 5, United  
20 States Code, the Secretary shall issue a final rule estab-  
21 lishing the appropriate portion of the costs of managing  
22 spent nuclear fuel and high-level radioactive waste under  
23 this Act allocable to the interim storage or permanent dis-  
24 posal of spent nuclear fuel and high-level radioactive waste  
25 from atomic energy defense activities and spent nuclear  
26 fuel from foreign research reactors. The share of costs al-

1 locable to the management of spent nuclear fuel and high-  
2 level radioactive waste from atomic energy defense activi-  
3 ties and spent nuclear fuel from foreign research reactors  
4 shall include—

5           “(1) an appropriate portion of the costs associ-  
6       ated with research and development activities with  
7       respect to development of an interim storage facility  
8       and repository; and

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

15      “(b) APPROPRIATION REQUEST.—In addition to any  
16 request for an appropriation from the Nuclear Waste  
17 Fund, the Secretary shall request annual appropriations  
18 from general revenues in amounts sufficient to pay the  
19 costs of the management of spent nuclear fuel and high-  
20 level radioactive waste from atomic energy defense activi-  
21 ties and spent nuclear fuel from foreign research reactors,  
22 as established under subsection (a).

23      “(c) REPORT.—In conjunction with the annual report  
24 submitted to Congress under section 702, the Secretary  
25 shall advise the Congress annually of the amount of spent

1 nuclear fuel and high-level radioactive waste from atomic  
2 energy activities and spent nuclear fuel from foreign re-  
3 search reactors, requiring management in the integrated  
4 management system.

5 “(d) AUTHORIZATION.—There is authorized to be ap-  
6 propriated to the Secretary, from general revenues, for  
7 carrying out the purposes of this Act, such sums as may  
8 be necessary to pay the costs of the management of spent  
9 nuclear fuel and high-level radioactive waste from atomic  
10 energy defense activities and spent nuclear fuel from for-  
11 eign research reactors, as established under subsection  
12 (a).

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

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

16 “If the requirements of any Federal, State, or local  
17 law (including a requirement imposed by regulation or by  
18 any other means under such a law) are inconsistent with  
19 or duplicative of the requirements of the Atomic Energy  
20 Act of 1954 (42 U.S.C. 2011 et seq.) or of this Act, the  
21 Secretary shall comply only with the requirements of the  
22 Atomic Energy Act of 1954 and of this Act in implement-  
23 ing the integrated management system.

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

2           “(a) JURISDICTION OF THE UNITED STATES COURTS  
3 OF APPEALS.—

4           “(1) ORIGINAL AND EXCLUSIVE JURISDIC-  
5 TION.—Except for review in the Supreme Court of  
6 the United States, and except as otherwise provided  
7 in this Act, the United States courts of appeals shall  
8 have original and exclusive jurisdiction over any civil  
9 action—

10           “(A) for review of any final decision or ac-  
11 tion of the Secretary, the President, or the  
12 Commission under this Act;

13           “(B) alleging the failure of the Secretary,  
14 the President, or the Commission to make any  
15 decision, or take any action, required under this  
16 Act;

17           “(C) challenging the constitutionality of  
18 any decision made, or action taken, under any  
19 provision of this Act; or

20           “(D) for review of any environmental im-  
21 pact statement prepared or environmental as-  
22 sessment pursuant to the National Environ-  
23 mental Policy Act of 1969 (42 U.S.C. 4321 et  
24 seq.) with respect to any action under this Act  
25 or alleging a failure to prepare such statement  
26 with respect to any such action.

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

6           (b) DEADLINE FOR COMMENCING ACTION.—A civil  
7           action for judicial review described under subsection (a)(1)  
8           may be brought no later than 180 days after the date of  
9           the decision or action or failure to act involved, as the  
10          case may be, except that if a party shows that he did not  
11          know of the decision or action complained of (or of the  
12          failure to act), and that a reasonable person acting under  
13          the circumstances would not have known, such party may  
14          bring a civil action no later than 180 days after the date  
15          such party acquired actual or constructive knowledge or  
16          such decision, action, or failure to act.

17          “(c) APPLICATION OF OTHER LAW.—The provisions  
18          of this section relating to any matter shall apply in lieu  
19          of the provisions of any other Act relating to the same  
20          matter.

21       **“SEC. 503. LICENSING OF FACILITY EXPANSIONS AND**  
22               **TRANSSHIPMENTS.**

23          “(a) ORAL ARGUMENT.—In any Commission hearing  
24          under section 189 of the Atomic Energy Act of 1954 (42  
25          U.S.C. 2239) on an application for a license, or for an

1 amendment to an existing license, filed after January 7,  
2 1983, to expand the spent nuclear fuel storage capacity  
3 at the site of a civilian nuclear power reactor, through the  
4 use of high-density fuel storage racks, fuel rod compac-  
5 tion, the transshipment of spent nuclear fuel to another  
6 civilian nuclear power reactor within the same utility sys-  
7 tem, the construction of additional spent nuclear fuel pool  
8 capacity or dry storage capacity, or by other means, the  
9 Commission shall, at the request of any party, provide an  
10 opportunity for oral argument with respect to any matter  
11 which the Commission determines to be in controversy  
12 among the parties. The oral argument shall be preceded  
13 by such discovery procedures as the rules of the Commis-  
14 sion shall provide. The Commission shall require each  
15 party, including the Commission staff, to submit in writ-  
16 ten form, at the time of the oral argument, a summary  
17 of the facts, data, and arguments upon which such party  
18 proposes to rely that are known at such time to such  
19 party. Only facts and data in the form of sworn testimony  
20 or written submission may be relied upon by the parties  
21 during oral argument. Of the materials that may be sub-  
22 mitted by the parties during oral argument, the Commis-  
23 sion shall only consider those facts and data that are sub-  
24 mitted in the form of sworn testimony or written submis-  
25 sion.



1 “(b) ADJUDICATORY HEARING.—

2 “(1) DESIGNATION.—At the conclusion of any  
3 oral argument under subsection (a), the Commission  
4 shall designate any disputed question of fact, to-  
5 gether with any remaining questions of law, for reso-  
6 lution in an adjudicatory hearing only if it deter-  
7 mines that—

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

12 “(B) the decision of the Commission is  
13 likely to depend in whole or in part on the reso-  
14 lution of such dispute.

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

17 “(A) shall designate in writing the specific  
18 facts that are in genuine and substantial dis-  
19 pute, the reason why the decision of the agency  
20 is likely to depend on the resolution of such  
21 facts, and the reason why an adjudicatory hear-  
22 ing is likely to resolve the dispute; and

23 “(B) shall not consider—

24 “(i) any issue relating to the design,  
25 construction, or operation of any civilian

1 nuclear power reactor already licensed to  
2 operate at such site, or any civilian nuclear  
3 power reactor to which a construction per-  
4 mit has been granted at such site, unless  
5 the Commission determines that any such  
6 issue substantially affects the design, con-  
7 struction, or operation of the facility or ac-  
8 tivity for which such license application,  
9 authorization, or amendment is being con-  
10 sidered; or

11 “(ii) any siting or design issue fully  
12 considered and decided by the Commission  
13 in connection with the issuance of a con-  
14 struction permit or operating license for a  
15 civilian nuclear power reactor at such site,  
16 unless—

17 “(I) such issue results from any  
18 revision of siting or design criteria by  
19 the Commission following such deci-  
20 sion; and

21 “(II) the Commission determines  
22 that such issue substantially affects  
23 the design, construction, or operation  
24 of the facility or activity for which

1                   such license application, authorization,  
2                   or amendment is being considered.

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

9           “(4) CONSTRUCTION.—The provisions of this  
10   section shall not apply to the first application for a  
11   license or license amendment received by the Com-  
12   mission to expand onsite spent fuel storage capacity  
13   by the use of a new technology not previously ap-  
14   proved for use at any nuclear power plant by the  
15   Commission.

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

21               “(1) an objection to the procedure used was  
22   presented to the Commission in a timely fashion or  
23   there are extraordinary circumstances that excuse  
24   the failure to present a timely objection; and

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

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

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

10          “(b) REPORT.—The Secretary shall report to the  
11   President and to Congress on or after January 1, 2007,  
12   but not later than January 1, 2010, on the need for a  
13   second repository.

14   **“SEC. 505. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL**  
15                   **RADIOACTIVE WASTE SITE CLOSURE.**

16          “(a) FINANCIAL ARRANGEMENTS.—

17               “(1) STANDARDS AND INSTRUCTIONS.—The  
18   Commission shall establish by rule, regulation, or  
19   order, after public notice, and in accordance with  
20   section 181 of the Atomic Energy Act of 1954 (42  
21   U.S.C. 2231), such standards and instructions as  
22   the Commission may deem necessary or desirable to  
23   ensure in the case of each license for the disposal of  
24   low-level radioactive waste that an adequate bond,  
25   surety, or other financial arrangement (as deter-

1        mined by the Commission) will be provided by a li-  
2        censee to permit completion of all requirements es-  
3        tablished by the Commission for the decontamina-  
4        tion, decommissioning, site closure, and reclamation  
5        of sites, structures, and equipment used in conjunc-  
6        tion with such low-level radioactive waste. Such fi-  
7        nancial arrangements shall be provided and ap-  
8        proved by the Commission, or, in the case of sites  
9        within the boundaries of any agreement State under  
10       section 274 of the Atomic Energy Act of 1954 (42  
11       U.S.C. 2021), by the appropriate State or State en-  
12       tity, prior to issuance of licenses for low-level radio-  
13       active waste disposal or, in the case of licenses in ef-  
14       fect on January 7, 1983, prior to termination of  
15       such licenses.

16       “(2) BONDING, SURETY OR OTHER FINANCIAL  
17       ARRANGEMENTS.—If the Commission determines  
18       that any long-term maintenance or monitoring, or  
19       both, will be necessary at a site described in para-  
20       graph (1), the Commission shall ensure before termi-  
21       nation of the license involved that the licensee has  
22       made available such bonding, surety, or other finan-  
23       cial arrangements as may be necessary to ensure  
24       that any necessary long-term maintenance or mon-  
25       itoring needed for such site will be carried out by

1 the person having title and custody for such site fol-  
2 lowing license termination.

3 “(b) TITLE AND CUSTODY.—

4 “(1) AUTHORITY OF SECRETARY.—The Sec-  
5 retary shall have authority to assume title and cus-  
6 tody of low-level radioactive waste and the land on  
7 which such waste is disposed of, upon request of the  
8 owner of such waste and land and following termi-  
9 nation of the license issued by the Commission for  
10 such disposal, if the Commission determines that—

11 “(A) the requirements of the Commission  
12 for site closure, decommissioning, and decon-  
13 tamination have been met by the licensee in-  
14 volved and that such licensee is in compliance  
15 with the provisions of subsection (a);

16 “(B) such title and custody will be trans-  
17 ferred to the Secretary without cost to the Fed-  
18 eral Government; and

19 “(C) Federal ownership and management  
20 of such site is necessary or desirable in order to  
21 protect the public health and safety, and the  
22 environment.

23 “(2) PROTECTION.—If the Secretary assumes  
24 title and custody of any such waste and land under  
25 this subsection, the Secretary shall maintain such

1 waste and land in a manner that will protect the  
2 public health and safety, and the environment.

3 “(c) SPECIAL SITES.—If the low-level radioactive  
4 waste involved is the result of a licensed activity to recover  
5 zirconium, hafnium, and rare earths from source material,  
6 the Secretary, upon request of the owner of the site in-  
7 volved, shall assume title and custody of such waste and  
8 the land on which it is disposed when such site has been  
9 decontaminated and stabilized in accordance with the re-  
10 quirements established by the Commission and when such  
11 owner has made adequate financial arrangements ap-  
12 proved by the Commission for the long-term maintenance  
13 and monitoring of such site.

14 **“SEC. 506. NUCLEAR REGULATORY COMMISSION TRAINING**  
15 **AUTHORIZATION.**

16 “The Commission is authorized and directed to pro-  
17 mulgate regulations, or other appropriate regulatory guid-  
18 ance, for the training and qualifications of civilian nuclear  
19 power plant operators, supervisors, technicians, and other  
20 appropriate operating personnel. Such regulations or guid-  
21 ance shall establish simulator training requirements for  
22 applicants for civilian nuclear power plant operator li-  
23 censes and for operator requalification programs; require-  
24 ments governing Commission administration of requali-  
25 fication examinations; requirements for operating tests at

1 civilian nuclear power plant simulators, and instructional  
2 requirements for civilian nuclear power plant licensee per-  
3 sonnel training programs.

4 **“SEC. 507. EMPLACEMENT SCHEDULE.**

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

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

10 “(2) The Secretary’s spent fuel emplacement  
11 rate shall be no less than the following: 1,200 MTU  
12 in fiscal year 2000 and 1,200 MTU in fiscal year  
13 2001; 2,000 MTU in fiscal year 2002 and 2,000  
14 MTU in fiscal year 2003; 2,700 MTU in fiscal year  
15 2004; and 3,000 MTU annually thereafter.

16 “(b) If the Secretary is unable to begin emplacement  
17 by November 30, 1999 at the rates specified in subsection  
18 (a), or if the cumulative amount emplaced in any year  
19 thereafter is less than that which would have been accept-  
20 ed under the emplacement rate specified in subsection (a),  
21 the Secretary shall, as a mitigation measure, adjust the  
22 emplacement schedule upward such that within 5 years  
23 of the start of emplacement by the Secretary,

24 “(1) the total quantity accepted by the Sec-  
25 retary is consistent with the total quantity that the



1 Secretary would have accepted if the Secretary had  
2 began emplacement in fiscal year 2000, and

3 “(2) thereafter the emplacement rate is equiva-  
4 lent to the rate that would be in place pursuant to  
5 subsection (a) above if the Secretary had commenced  
6 emplacement in fiscal year 2000.

7 **“SEC. 508. TRANSFER OF TITLE.**

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

11 “(b) No later than 6 months following the date of  
12 enactment of the Nuclear Waste Policy Act of 1996, the  
13 Secretary is authorized to accept all spent nuclear fuel  
14 withdrawn from Dairyland Power Cooperative’s La Crosse  
15 Reactor and, upon acceptance, shall provide Dairyland  
16 Power Cooperative with evidence of the title transfer. Im-  
17 mediately upon the Secretary’s acceptance of such spent  
18 nuclear fuel, the Secretary shall assume all responsibility  
19 and liability for the interim storage and permanent dis-  
20 posal thereof and is authorized to compensate Dairyland  
21 Power Cooperative for any costs related to operating and  
22 maintaining facilities necessary for such storage from the  
23 date of acceptance until the Secretary removes the spent  
24 nuclear fuel from the La Crosse Reactor site.

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

2       “(a) AUTHORIZATION.—The Secretary is authorized  
3 to establish a Decommissioning Pilot Program to decom-  
4 mission and decontaminate the sodium-cooled fast breeder  
5 experimental test-site reactor located in northwest Arkan-  
6 sas.

7       “(b) FUNDING.—No funds from the Nuclear Waste  
8 Fund may be used for the Decommissioning Pilot Pro-  
9 gram.

10   **“SEC. 510. WATER RIGHTS.**

11       “(a) NO FEDERAL RESERVATION.—Nothing in this  
12 Act or any other Act of Congress shall constitute or be  
13 construed to constitute either an express or implied Fed-  
14 eral reservation of water or water rights for any purpose  
15 arising under this Act.

16       “(b) ACQUISITION AND EXERCISE OF WATER  
17 RIGHTS UNDER NEVADA LAW.—The United States may  
18 acquire and exercise such water rights as it deems nec-  
19 essary to carry out its responsibilities under this Act pur-  
20 suant to the substantive and procedural requirements of  
21 the State of Nevada. Nothing in this Act shall be con-  
22 strued to authorize the use of eminent domain by the  
23 United States to acquire water rights for such lands.

24       “(c) EXERCISE OF WATER RIGHTS GENERALLY  
25 UNDER NEVADA LAWS.—Nothing in this Act shall be con-

1 strued to limit the exercise of water rights as provided  
 2 under Nevada State laws.

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

5 **“SEC. 601. DEFINITIONS.**

6 “For purposes of this title—

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

10 “(2) Board.—The term ‘Board’ means the Nu-  
 11 clear Waste Technical Review Board continued  
 12 under section 602.

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

14 “(a) CONTINUATION OF THE NUCLEAR WASTE  
 15 TECHNICAL REVIEW BOARD.—The Nuclear Waste Tech-  
 16 nical Review Board, established under section 502(a) of  
 17 the Nuclear Waste Policy Act of 1982 as constituted prior  
 18 to the date of enactment of the Nuclear Waste Policy Act  
 19 of 1996, shall continue in effect subsequent to the date  
 20 of enactment of the Nuclear Waste Policy Act of 1996.

21 “(b) MEMBERS.—

22 “(1) NUMBER.—The Board shall consist of 11  
 23 members who shall be appointed by the President  
 24 not later than 90 days after December 22, 1987,  
 25 from among persons nominated by the National

1 Academy of Sciences in accordance with paragraph  
2 (3).

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

5 “(3) NATIONAL ACADEMY OF SCIENCES.—

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

12 “(B) VACANCIES.—The National Academy  
13 of Sciences shall nominate not less than 2 per-  
14 sons to fill any vacancy on the Board from  
15 among persons who meet the qualifications de-  
16 scribed in subparagraph (C).

17 “(C) NOMINEES.—

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

20 “(I) eminent in a field of science  
21 or engineering, including environ-  
22 mental sciences; and

23 “(II) selected solely on the basis  
24 of established records of distinguished  
25 service.

1                   “(ii) The membership of the Board  
2                   shall be representatives of the broad range  
3                   of scientific and engineering disciplines re-  
4                   lated to activities under this title.

5                   “(iii) No person shall be nominated  
6                   for appointment to the Board who is an  
7                   employee of—

8                   “(I) the Department of Energy;

9                   “(II) a national laboratory under  
10                  contract with the Department of En-  
11                  ergy; or

12                  “(III) an entity performing spent  
13                  nuclear fuel or high-level radioactive  
14                  waste activities under contract with  
15                  the Department of Energy.

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

19                  “(5) TERMS.—Members of the Board shall be  
20                  appointed for terms of 4 years, each such term to  
21                  commence 120 days after December 22, 1987, ex-  
22                  cept that of the 11 members first appointed to the  
23                  Board, 5 shall serve for 2 years and 6 shall serve  
24                  for 4 years, to be designated by the President at the  
25                  time of appointment, except that a member of the

1 Board whose term has expired may continue to serve  
2 as a member of the Board until such member's suc-  
3 cessor has taken office.

4 **“SEC. 603. FUNCTIONS.**

5 “The Board shall limit its evaluations to the technical  
6 and scientific validity solely of the following activities un-  
7 dertaken directly by the Secretary after December 22,  
8 1987—

9 “(1) site characterization activities; and

10 “(2) activities of the Secretary relating to the  
11 packaging or transportation of spent nuclear fuel or  
12 high-level radioactive waste.

13 **“SEC. 604. INVESTIGATORY POWERS.**

14 “(a) HEARINGS.—Upon request of the Chairman or  
15 a majority of the members of the Board, the Board may  
16 hold such hearings, sit and act at such times and places,  
17 take such testimony, and receive such evidence, as the  
18 Board considers appropriate. Any member of the Board  
19 may administer oaths or affirmations to witnesses appear-  
20 ing before the Board. The Secretary or the Secretary's  
21 designee or designees shall not be required to appear be-  
22 fore the Board or any element of the Board for more than  
23 twelve working days per calendar year.

24 “(b) PRODUCTION OF DOCUMENTS.—

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

9           “(2) EXTENT.—Subject to existing law, infor-  
 10          mation obtainable under paragraph (1) may include  
 11          drafts of products and documentation of work in  
 12          progress.

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

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

18          “(b) TRAVEL EXPENSES.—Each member of the  
 19          Board may receive travel expenses, including per diem in  
 20          lieu of subsistence, in the same manner as is permitted  
 21          under sections 5702 and 5703 of title 5, United States  
 22          Code.

23   **“SEC. 606. STAFF.**

24          “(a) CLERICAL STAFF.—

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

6           “(2) PROVISIONS OF TITLE 5.—Clerical staff  
7 shall be appointed subject to the provisions of title  
8 5, United States Code, governing appointments in  
9 the competitive service, and shall be paid in accord-  
10 ance with the provisions of chapter 51 and sub-  
11 chapter III of chapter 3 of such title relating to clas-  
12 sification and General Schedule pay rates.

13          “(b) PROFESSIONAL STAFF.—

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

19           “(2) NUMBER.—Not more than 10 professional  
20 staff members may be appointed under this sub-  
21 section.

22           “(3) TITLE 5.—Professional staff members may  
23 be appointed without regard to the provisions of title  
24 5, United States Code, governing appointments in  
25 the competitive service, and may be paid without re-



1       gard to the provisions of chapter 51 and subchapter  
2       III of chapter 53 of such title relating to classifica-  
3       tion and General Schedule pay rates, except that no  
4       individual so appointed may receive pay in excess of  
5       the annual rate of basic pay payable for GS-18 of  
6       the General Schedule.

7       **“SEC. 607. SUPPORT SERVICES.**

8       “(a) GENERAL SERVICES.—To the extent permitted  
9       by law and requested by the Chairman, the Administrator  
10      of General Services shall provide the Board with necessary  
11      administrative services, facilities, and support on a reim-  
12      bursable basis.

13      “(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY  
14      ASSESSMENT SERVICES.—The Comptroller General and  
15      the Librarian of Congress shall, to the extent permitted  
16      by law and subject to the availability of funds, provide the  
17      Board with such facilities, support, funds and services, in-  
18      cluding staff, as may be necessary for the effective per-  
19      formance of the functions of the Board.

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

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

4       “(e) **EXPERTS AND CONSULTANTS.**—Subject to such  
5 rules as may be prescribed by the Board, the Chairman  
6 may procure temporary and intermittent services under  
7 section 3109(b) of title 5 of the United States Code, but  
8 at rates for individuals not to exceed the daily equivalent  
9 of the maximum annual rate of basic pay payable for GS—  
10 18 of the General Schedule.

11   **“SEC. 608. REPORT.**

12       “The Board shall report not less than two times per  
13 year to Congress and the Secretary its findings, conclu-  
14 sions, and recommendations.

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

16       “There are authorized to be appropriated for expendi-  
17 tures such sums as may be necessary to carry out the pro-  
18 visions of this title.

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

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

1       **“TITLE VII—MANAGEMENT REFORM**

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

3       “(a) IN GENERAL.—The Secretary is directed to take  
4 actions as necessary to improve the management of the  
5 civilian radioactive waste management program to ensure  
6 that the program is operated, to the maximum extent  
7 practicable, in like manner as a private business.

8       “(b) AUDITS.—

9               “(1) STANDARD.—The Office of Civilian Radio-  
10 active Waste Management, its contractors, and sub-  
11 contractors at all tiers, shall conduct, or have con-  
12 ducted, audits and examinations of their operations  
13 in accordance with the usual and customary prac-  
14 tices of private corporations engaged in large nuclear  
15 construction projects consistent with its role in the  
16 program.

17               “(2) TIME.—The management practices and  
18 performances of the Office of Civilian Radioactive  
19 Waste Management shall be audited every 5 years  
20 by an independent management consulting firm with  
21 significant experience in similar audits of private  
22 corporations, engaged in large nuclear construction  
23 projects. The first such audit shall be conducted 5  
24 years after the enactment of the Nuclear Waste Pol-  
25 icy Act of 1996.

1           “(3) COMPTROLLER GENERAL.—The Comptrol-  
2           ler General of the United States shall annually make  
3           an audit of the Office, in accordance with such regu-  
4           lations as the Comptroller General may prescribe.  
5           The Comptroller General shall have access to such  
6           books, records, accounts, and other materials of the  
7           Office as the Comptroller General determines to be  
8           necessary for the preparation of such audit. The  
9           Comptroller General shall submit to the Congress a  
10          report on the results of each audit conducted under  
11          this section.

12          “(4) TIME.—No audit contemplated by this  
13          subsection shall take longer than 30 days to con-  
14          duct. An audit report shall be issued in final form  
15          no longer than 60 days after the audit is com-  
16          menced.

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

20          “(c) VALUE ENGINEERING.—The Secretary shall cre-  
21          ate a value engineering function within the Office of Civil-  
22          ian Radioactive Waste Management that reports directly  
23          to the Director, which shall carry out value engineering  
24          functions in accordance with the usual and customary

1 practices of private corporations engaged in large nuclear  
2 construction projects.

3 “(d) SITE CHARACTERIZATION.—The Secretary shall  
4 employ, on an on-going basis, integrated performance  
5 modeling to identify appropriate parameters for the re-  
6 maining site characterization effort and to eliminate stud-  
7 ies of parameters that are shown not to affect long-term  
8 repository performance.

9 **“SEC. 702. REPORTING.**

10 “(a) INITIAL REPORT.—Within 180 days of enact-  
11 ment of this section, the Secretary shall report to Con-  
12 gress on its planned actions for implementing the provi-  
13 sions of this Act, including the development of the Inte-  
14 grated Waste Management System. Such report shall in-  
15 clude—

16 “(1) an analysis of the Secretary’s progress in  
17 meeting its statutory and contractual obligation to  
18 accept title to, possession of, and delivery of spent  
19 nuclear fuel and high-level radioactive waste begin-  
20 ning no later than November 30, 1999, and in ac-  
21 cordance with the acceptance schedule;

22 “(2) a detailed schedule and timeline showing  
23 each action that the Secretary intends to take to  
24 meet the Secretary’s obligation under this Act and  
25 the contracts;

1           “(3) a detailed description of the Secretary’s  
2           contingency plans in the event that the Secretary is  
3           unable to meet the planned schedule and timeline;  
4           and

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

7           “(b) ANNUAL REPORTS.—On each anniversary of the  
8           submittal of the report required by subsection (a), the Sec-  
9           retary shall make annual reports to the Congress for the  
10          purpose of updating the information contained in such re-  
11          port. The annul reports shall be brief and shall notify the  
12          Congress of—

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

16           “(2) the reasons for such modifications, and the  
17          status of the implementation of any of the Sec-  
18          retary’s contingency plans; and

19           “(3) the Secretary’s analysis of its funding  
20          needs for the ensuing 5 fiscal years.

1 **“SEC. 703. EFFECTIVE DATE.**

2       “**This Act shall become effective one day after enact-**  
3 **ment.”.**

Passed the Senate July 31, 1996.

Attest:

*Secretary.*

104TH CONGRESS  
2D SESSION

# S. 1936

## AN ACT

To amend the Nuclear Waste Policy Act of 1982.