

Calendar No. 490

104TH CONGRESS
2^D SESSION

S. 1936

A BILL

To amend the Nuclear Waste Policy Act of 1982.

JULY 10, 1996

Read the second time and placed on the calendar

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104TH CONGRESS
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To amend the Nuclear Waste Policy Act of 1982.

IN THE SENATE OF THE UNITED STATES

JULY 9, 1996

Mr. CRAIG (for himself and Mr. MURKOWSKI) introduced the following bill;
which was read the first time

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Read the second time and placed on the calendar

A BILL

To amend the Nuclear Waste Policy Act of 1982.

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

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’.

8 “(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 SPENT NUCLEAR FUEL 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.

“Sec. 207. Permanent disposal alternatives.

“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.

“Sec. 404. Budget priorities.

“TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

“Sec. 501. Compliance with other laws.

“Sec. 502. Judicial review of agency actions.

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

“Sec. 504. Siting a second repository.

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

“Sec. 506. Nuclear Regulatory Commission training authority.

“Sec. 507. Emplacement schedule.

“Sec. 508. Transfer of title.

“Sec. 509. Decommissioning pilot program.

“Sec. 510. Water rights.

“TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

“Sec. 601. Definitions.

“Sec. 602. Nuclear Waste Technical Review Board.

“Sec. 603. Functions.

“Sec. 604. Investigatory powers.

“Sec. 605. Compensation of members.

“Sec. 606. Staff.

“Sec. 607. Support services.

“Sec. 608. Report.

“Sec. 609. Authorization of appropriations.

“Sec. 610. Termination of the board.

“TITLE VII—MANAGEMENT REFORM

“Sec. 701. Management reform initiatives.

“Sec. 702. Reporting.

1 **“SECTION 2. DEFINITIONS.**

2 “For purposes of this Act:

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

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

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

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

20 “(3) AFFECTED UNIT OF LOCAL GOVERN-
21 MENT.—The term ‘affected unit of local government’
22 means the unit of local government with jurisdiction
23 over the site of a repository or interim storage facil-

1 ity. Such term may, at the discretion of the Sec-
2 retary, include other units of local government that
3 are contiguous with such unit.

4 “(4) ATOMIC ENERGY DEFENSE ACTIVITY.—

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

8 “(A) Naval reactors development.

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

11 “(C) Verification and control technology.

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

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

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

18 “(G) Defense research and development.

19 “(5) CIVILIAN NUCLEAR POWER REACTOR.—

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

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

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

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

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

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

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

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

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

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

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

20 “(A) the highly radioactive material result-
21 ing from the reprocessing of spent nuclear fuel,
22 including liquid waste produced directly in re-
23 processing and any solid material derived from
24 such liquid waste that contains fission products
25 in sufficient concentrations; and

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

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

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

21 “(17) INTEGRATED MANAGEMENT SYSTEM.—
22 The term ‘integrated management system’ means
23 the system developed by the Secretary for the ac-
24 ceptance, transportation, storage, and disposal of

1 spent nuclear fuel and high-level radioactive waste
2 under title II of this Act.

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

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

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

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

23 “(B) the Commission, consistent with ex-
24 isting law, classifies as low-level radioactive
25 waste.

1 “(21) METRIC TONS URANIUM.—The term
2 ‘metric tons uranium’ and ‘MTU’ means the amount
3 of uranium in the original unirradiated fuel element
4 whether or not the spent nuclear fuel has been re-
5 processed.

6 “(22) NUCLEAR WASTE FUND.—The term ‘Nu-
7 clear Waste Fund’ and ‘waste fund’ means the nu-
8 clear waste fund established in the United States
9 Treasury prior to the date of enactment of this Act
10 under section 302 (c) of the Nuclear Waste Policy
11 Act of 1982.

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

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

23 “(25) REPOSITORY.—The term ‘repository’
24 means a system designed and constructed under title
25 II of this Act for the geologic disposal of spent nu-

1 clear fuel and high-level radioactive waste, including
2 both surface and subsurface areas at which spent
3 nuclear fuel and high-level radioactive waste receipt,
4 handling, possession, safeguarding, and storage are
5 conducted.

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

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

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

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

5 “(30) WITHDRAWAL.—The term ‘withdrawal’
6 has the same definition as that set forth in section
7 103(j) of the Federal Land Policy and Management
8 Act of 1976 (43 U.S.C. 1702(j)).

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

13 **“TITLE I—OBLIGATIONS**

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

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

19 “(b) INTERIM STORAGE.—The Secretary shall store
20 spent nuclear fuel and high-level radioactive waste from
21 facilities designated by contract holders for storage at an
22 interim storage facility pursuant to section 204 in accord-
23 ance with the emplacement schedule, beginning not later
24 than November 30, 1999.

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

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

23 “(e) PRIVATE SECTOR PARTICIPATION.—In admin-
24 istering the Integrated Spent Nuclear Fuel Management
25 System, the Secretary shall, to the maximum extent pos-

1 sible, utilize, employ, procure and contract with, the pri-
 2 vate sector to fulfill the Secretary's obligations and re-
 3 quirements under this Act.

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

6 “(1) any right of a contract holder under sec-
 7 tion 302(a) of the Nuclear Waste Policy Act of
 8 1982, or under a contract executed prior to the date
 9 of enactment of this Act under that section; or

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

14 “(g) LIABILITY.—Subject to any valid existing right
 15 under subsection (f), nothing in this Act shall be construed
 16 to subject the United States to financial liability for the
 17 Secretary's failure to meet any deadline for the acceptance
 18 or emplacement of spent nuclear fuel or high-level radio-
 19 active waste for storage or disposal under this Act.

20 **“TITLE II—INTEGRATED MANAGEMENT**
 21 **SYSTEM**

22 **“SEC. 201. INTERMODAL TRANSFER.**

23 “(a) ACCESS.—The Secretary shall utilize heavy-haul
 24 truck transport to move spent nuclear fuel and high-level

1 radioactive waste from the mainline rail line at Caliente,
2 Nevada, to the interim storage facility site.

3 “(b) CAPABILITY DATE.—The Secretary shall de-
4 velop the capability to commence rail to truck intermodal
5 transfer at Caliente, Nevada, no later than November 30,
6 1999. Intermodal transfer and related activities are inci-
7 dental to the interstate transportation of spent nuclear
8 fuel and high-level radioactive waste.

9 “(c) ACQUISITIONS.—The Secretary shall acquire
10 lands and rights-of-way along the ‘Chalk Mountain Heavy
11 Haul Route’ depicted on the map dated March 13, 1996,
12 and on file with the Secretary, necessary to commence
13 intermodal transfer at Caliente, Nevada.

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

22 “(e) NOTICE AND MAP.—Within 6 months of the
23 date of enactment of the Nuclear Waste Policy Act of
24 1996, the Secretary shall—

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

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

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

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

21 “(g) LOCAL GOVERNMENT INVOLVEMENT.—The
22 Commission shall enter into a Memorandum of Under-
23 standing with the City of Caliente and Lincoln County,
24 Nevada, to provide advice to the Commission regarding
25 intermodal transfer and to facilitate on-site representa-

1 tion. Reasonable expenses of such representation shall be
2 paid by the Secretary.

3 “(h) BENEFITS AGREEMENT.—

4 “(1) IN GENERAL.—The Secretary shall offer to
5 enter into an agreement with Lincoln County, Ne-
6 vada, concerning the integrated management system.

7 “(2) AGREEMENT CONTENT.—Any agreement
8 shall contain such terms and conditions, including
9 such financial and institutional arrangements, as the
10 Secretary and agreement entity determine to be rea-
11 sonable and appropriate and shall contain such pro-
12 visions as are necessary to preserve any right to par-
13 ticipation or compensation of Lincoln County, Ne-
14 vada.

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

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

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

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

4 “(i) CONTENT OF AGREEMENT.—

5 “(1) SCHEDULE.—In addition to the benefits to
 6 which Lincoln County is entitled to under this title,
 7 the Secretary shall make payments under the bene-
 8 fits agreement in accordance with the following
 9 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

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

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

14 “(B) ‘first spent fuel receipt’ does not in-
 15 clude receipt of spent fuel or high-level radio-
 16 active waste for purposes of testing or oper-
 17 ational demonstration.

18 “(3) ANNUAL PAYMENTS.—Annual payments
 19 prior to first spent fuel receipt under paragraph
 20 (1)(A) shall be made on the date of execution of the
 21 benefits agreement and thereafter on the anniver-
 22 sary date of such execution. Annual payments after

1 the first spent fuel receipt until closure of the facil-
2 ity under paragraph (1)(C) shall be made on the an-
3 niversary date of such first spent fuel receipt.

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

13 “(5) RESTRICTIONS.—The Secretary may not
14 restrict the purposes for which the payments under
15 this section may be used.

16 “(6) DISPUTE.—In the event of a dispute con-
17 cerning such plan, the Secretary shall resolve such
18 dispute, consistent with this Act and applicable
19 State law.

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

25 “(j) INITIAL LAND CONVEYANCES.—

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

1 “(2) SPECIAL CONVEYANCES.—Notwithstanding
2 any other law, the following public lands depicted on
3 the maps and legal descriptions date October 11,
4 1995, shall be conveyed under paragraph (1) to the
5 County of Lincoln, Nevada:

6 Map 10; Lincoln County, parcel M, indus-
7 trial park site.

8 Map 11; Lincoln County, parcel F, mixed
9 use industrial site.

10 Map 13; Lincoln County, parcel J, mixed
11 use, Alamo Community Expansion Area.

12 Map 14; Lincoln County, parcel E, mixed
13 use, Pioche Community Expansion Area.

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

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

23 “(4) EVIDENCE OF TITLE TRANSFER.—Upon
24 the request of the County of Lincoln, Nevada, the

1 Secretary of the Interior shall provide evidence of
2 title transfer.

3 **“SEC. 202. TRANSPORTATION PLANNING.**

4 “(a) TRANSPORTATION READINESS.—The Secretary
5 shall take those actions that are necessary and appropriate
6 to ensure that the Secretary is able to transport spent nu-
7 clear fuel and high-level radioactive waste from sites des-
8 igned by the contract holders to mainline transportation
9 facilities beginning not later than November 30, 1999. As
10 soon as is practicable following enactment of this Act, the
11 Secretary shall analyze each specific reactor facility des-
12 igned by contract holders in the order of priority estab-
13 lished in the emplacement schedule, and develop a
14 logistical plan to assure the Secretary’s ability to transport
15 spent nuclear fuel and high-level radioactive waste.

16 “(b) TRANSPORTATION PLANNING.—In conjunction
17 with the development of the logistical plan in accordance
18 with subsection (a), the Secretary shall update and mod-
19 ify, as necessary, the Secretary’s transportation institu-
20 tional plans to ensure that institutional issues are ad-
21 dressed and resolved on a schedule to support the com-
22 mencement of transportation of spent nuclear fuel and
23 high-level radioactive waste to the interim storage facility
24 no later than November 30, 1999. Among other things,
25 such planning shall provide a schedule and process for ad-

1 dressing and implementing as necessary, transportation
2 routing plans, transportation contracting plans, transpor-
3 tation training in accordance with section 203, and public
4 education regarding transportation of spent nuclear fuel
5 and nuclear waste; and transportation tracking pro-
6 grams.

7 **“SEC. 203. TRANSPORTATION REQUIREMENTS.**

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

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

17 “(c) TECHNICAL ASSISTANCE.—The Secretary shall
18 provide technical assistance and funds to States, units of
19 local government, and Indian tribes through whose juris-
20 diction the Secretary plans to transport substantial
21 amounts of spent nuclear fuel or high-level radioactive
22 waste for public safety officials of appropriate units of
23 local government. The Secretary shall also provide tech-
24 nical assistance and funds for training directly to national
25 nonprofit employee organizations which demonstrate expe-

1 rience in implementing and operating worker health and
2 safety training and education programs and demonstrate
3 the ability to reach and involve in training programs tar-
4 get populations of workers who are or will be directly en-
5 gaged in the transportation of spent nuclear fuel and high-
6 level radioactive waste, or emergency response or post-
7 emergency response with respect to such transportation.
8 Training shall cover procedures required for safe routine
9 transportation of these materials, as well as procedures
10 for dealing with emergency response situations, and shall
11 be consistent with any training standards established by
12 the Secretary of Transportation in accordance with sub-
13 section (g). The Secretary's duty to provide technical and
14 financial assistance under this subsection shall be limited
15 to amounts specified in annual appropriations.

16 “(d) PUBLIC EDUCATION.—The Secretary shall con-
17 duct a program to educate the public regarding the trans-
18 portation of spent nuclear fuel and high-level radioactive
19 waste, with an emphasis upon those States, units of local
20 government, and Indian tribes through whose jurisdiction
21 the Secretary plans to transport substantial amounts of
22 spent nuclear fuel or high-level radioactive waste.

23 “(e) COMPLIANCE WITH TRANSPORTATION REGULA-
24 TIONS.—Any person that transports spent nuclear fuel or
25 high-level radioactive waste under the Nuclear Waste Pol-

1 icy Act of 1986, pursuant to a contract with the Secretary,
2 shall comply with all requirements governing such trans-
3 portation issued by the federal, state and local govern-
4 ments, and Indian tribes, in the same way and to the same
5 extent that any person engaging in that transportation
6 that is in or affects interstate commerce must comply with
7 such requirements, as required by 49 U.S.C. sec. 5126.

8 “(f) EMPLOYEE PROTECTION.—Any person engaged
9 in the interstate commerce of spent nuclear fuel or high-
10 level radioactive waste under contract to the Secretary
11 pursuant to this Act shall be subject to and comply fully
12 with the employee protection provisions of 49 U.S.C.
13 20109 and 49 U.S.C. 31105. Carmen shall be designated
14 to perform the inspection and testing of trains under the
15 provisions of 49 CFR 215 and 232 at all initial terminals
16 and intermediate inspection points. Members of an operat-
17 ing crew shall be trained to perform the cursory inspection
18 and testing required on cars picked up at outlying points
19 under the provisions of 49 CFR 215 appendix D and 232.

20 “(g) TRAINING STANDARD.—(1) No later than 12
21 months after the date of enactment of the Nuclear Waste
22 Policy Act of 1996, the Secretary of Transportation, pur-
23 suant to authority under other provisions of law, in con-
24 sultation with the Secretary of Labor and the Commission,
25 shall promulgate a regulation establishing training stand-

1 ards applicable to workers directly involved in the removal,
2 transportation, interim storage, and permanent disposal of
3 spent nuclear fuel and high-level radioactive waste. The
4 regulation shall specify minimum training standards appli-
5 cable to workers, including managerial personnel. The reg-
6 ulation shall require that evidence of satisfaction of the
7 applicable training standard, through certification or other
8 means, be provided to an employer before any individual
9 may be employed in the removal, transportation, interim
10 storage, and permanent disposal of spent nuclear fuel and
11 high-level radioactive waste.

12 “(2) If the Secretary of Transportation determines,
13 in promulgating the regulation required by subparagraph
14 (1), that regulations promulgated by the Commission es-
15 tablish adequate training standards for workers directly
16 involved in the interim storage and permanent disposal of
17 spent nuclear fuel and high-level radioactive waste, then
18 the Secretary of Transportation can refrain from promul-
19 gating additional regulations with respect to worker train-
20 ing in such activities. The Secretary of Transportation and
21 the Commission shall work through their Memorandum of
22 Understanding to ensure coordination of worker training
23 standards and to avoid duplicative regulation.

24 “(3) The training standards required to be promul-
25 gated under subparagraph (1) shall, among other things

1 deemed necessary and appropriate by the Secretary of
2 Transportation, include the following provisions—

3 “(A) a specified minimum number of hours of
4 initial off site instruction and actual field experience
5 under the direct supervision of a trained, experi-
6 enced supervisor;

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

12 “(C) a training program applicable to persons
13 responsible for responding to and cleaning up emer-
14 gency situations occurring during the removal,
15 transportation, interim storage, and permanent dis-
16 posal of spent nuclear fuel and high-level radioactive
17 waste.

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

22 **“SEC. 204. INTERIM STORAGE.**

23 “(a) AUTHORIZATION.—The Secretary shall design,
24 construct, and operate a facility for the interim storage
25 of spent nuclear fuel and high-level radioactive waste at

1 the interim storage facility site. The interim storage facil-
2 ity shall be subject to licensing pursuant to the Atomic
3 Energy Act of 1954 in accordance with the Commission's
4 regulations governing the licensing of independent spent
5 fuel storage installations, which regulations shall be
6 amended by the Commission as necessary to implement
7 the provisions of this Act. The interim storage facility
8 shall commence operation in phases by January 31, 1999.

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

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

18 “(B) The Secretary shall cease all activities (ex-
19 cept necessary termination activities) at the Yucca
20 Mountain site if the President determines, in his dis-
21 cretion, on or before December 31, 1998, based on
22 a preponderance of the information available at such
23 time, that the Yucca Mountain site is unsuitable for
24 development as a repository, including geologic and
25 engineered barriers, because of a substantial likeli-

1 hood that a repository of useful size, cannot be de-
2 signed, licensed, and constructed at the Yucca
3 Mountain site.

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

8 “(i) the preliminary design concept for the
9 critical elements of the repository and waste
10 package,

11 “(ii) a total system performance assess-
12 ment, based upon the design concept and the
13 scientific data and analysis available by June
14 30, 1998, describing the probable behavior of
15 the repository in the Yucca Mountain geologic
16 setting relative to the overall system perform-
17 ance standard set forth in section 205(d) of this
18 Act.

19 “(iii) a plan and cost estimate for the re-
20 maining work required to complete a license ap-
21 plication, and

22 “(iv) an estimate of the costs to construct
23 and operate the repository in accordance with
24 the design concept.

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

18 “(2) Upon the designation of an interim storage facil-
19 ity site by the President under paragraph (1)(D), the Sec-
20 retary shall proceed forthwith and without further delay
21 with all activities necessary to begin accepting spent nu-
22 clear fuel and high-level radioactive waste at an interim
23 storage facility at the designated site, except that the Sec-
24 retary shall not begin any construction activities at the

1 designated interim storage facility site before the des-
2 ignated interim storage facility site is approved by law.

3 “(c) DESIGN.—

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

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

1 “(d) LICENSING.—

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

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

23 “(3) SECOND PHASE.—No later than 30
24 months after the date of enactment of the Nuclear
25 Waste Policy Act of 1996, the Secretary shall sub-

1 mit to the Commission an application for a license
2 for the second phase interim storage facility. The li-
3 cense for the second phase facility shall authorize a
4 storage capacity of 40,000 MTU. If the Secretary
5 does not complete the viability assessment of the
6 Yucca Mountain site by June 30, 1998, or submit
7 the license application for construction of a
8 repository by February 1, 2002, or does not begin
9 full spent nuclear fuel receipt operations at a reposi-
10 tory by January 17, 2010, the license shall authorize
11 a storage capacity of 60,000 MTU. The license ap-
12 plication shall be submitted such that the license can
13 be issued to permit the second phase facility to begin
14 full spent nuclear fuel receipt operations no later
15 than December 31, 2002. The license for the second
16 phase shall have an initial term of up to 100 years,
17 and shall be renewable for additional terms upon ap-
18 plication of the Secretary.

19 “(e) ADDITIONAL AUTHORITY.—

20 “(1) CONSTRUCTION.—For purposes of comply-
21 ing with subsection (a), the Secretary may com-
22 mence site preparation for the interim storage facil-
23 ity as soon as practicable after the date of enact-
24 ment of the Nuclear Waste Policy Act of 1996 and
25 shall commence construction of each phase of the in-

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

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

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

1 Act of 1996, the Secretary shall accept, in an
2 amount not less than 25 percent of the difference
3 between the contractual acceptance rate and the an-
4 nual emplacement rate for spent nuclear fuel from
5 civilian nuclear power reactors established under sec-
6 tion 507(a), the following radioactive materials:

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

12 “(B) spent nuclear fuel from foreign re-
13 search reactors, as necessary to promote non-
14 proliferation objectives; and

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

19 “(f) NATIONAL ENVIRONMENTAL POLICY ACT OF
20 1969.—

21 “(1) PRELIMINARY DECISIONMAKING ACTIVI-
22 TIES.—The Secretary’s and President’s activities
23 under this section, including, but not limited to, the
24 selection of a site for the interim storage facility, as-
25 sessments, determinations and designations made

1 under section 204(b), the preparation and submittal
2 of a license application and supporting documenta-
3 tion, the construction and operation of any facility,
4 and facility use pursuant to paragraph (d)(2) of this
5 section shall be considered preliminary decisionmak-
6 ing activities for purposes of judicial review. The
7 Secretary shall not prepare an environmental impact
8 statement under section 102(2)(C) of the National
9 Environmental Policy Act of 1969 (42 U.S.C.
10 4332(2)(C)) or any environmental review under sub-
11 paragraph (E) or (F) of such Act before conducting
12 these activities.

13 “(2) ENVIRONMENTAL IMPACT STATEMENT.—

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

23 “(i) shall ensure that the scope of the
24 Environmental Impact Statement is con-

1 sistent with the scope of the licensing ac-
2 tion; and

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

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

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

12 “(ii) the time of the initial availability
13 of the interim storage facility;

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

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

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

24 “(vi) the environmental impacts of the
25 storage of spent nuclear fuel and high-level

1 radioactive waste at the interim storage fa-
2 cility beyond the initial term of the license
3 or the term of the renewal period for which
4 a license renewal application is made.

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

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

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

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

1 **“SEC. 205. PERMANENT REPOSITORY.**

2 “(a) REPOSITORY CHARACTERIZATION.—

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

9 “(2) SITE CHARACTERIZATION ACTIVITIES.—

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

17 “(3) SCHEDULE DATE.—Consistent with the
18 schedule set forth in the program approach, as
19 modified to be consistent with the Nuclear Waste
20 Policy Act of 1996. No later than February 1, 2002,
21 the Secretary shall apply to the Commission for au-
22 thorization to construct a repository. If, at any time
23 prior to the filing of such application, the Secretary
24 determines that the Yucca Mountain site cannot sat-
25 isfy the Commission’s regulations applicable to the
26 licensing of a geologic repository, the Secretary shall

1 terminate site characterization activities at the site,
2 notify Congress and the State of Nevada of the Sec-
3 retary's determination and the reasons therefor, and
4 recommend to Congress not later than 6 months
5 after such determination further actions, including
6 the enactment of legislation, that may be needed to
7 manage the Nation's spent nuclear fuel and high-
8 level radioactive waste.

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

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

22 “(1) CONSTRUCTION AUTHORIZATION.—The
23 Commission shall grant the Secretary a construction
24 authorization for the repository upon determining
25 that there is reasonable assurance that spent nuclear

1 fuel and high-level radioactive waste can be disposed
2 of in the repository—

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

6 “(B) without unreasonable risk to the
7 health and safety of the public; and

8 “(C) consistent with the common defense
9 and security.

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

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

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

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

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

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

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

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

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

1 site subsequent to repository closure that poses an
2 unreasonable risk of—

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

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

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

19 “(d) REPOSITORY LICENSING STANDARDS.—Not-
20 withstanding any other provision of law, the Administrator
21 of the Environmental Protection Agency shall not promul-
22 gate, by rule or otherwise, standards for protection of the
23 public from releases of radioactive materials or radioactiv-
24 ity from the repository and any such standards existing
25 on the date of enactment of the Nuclear Waste Policy Act

1 of 1996 shall not be incorporated in the Commission's li-
2 censing regulations. The Commission's repository licens-
3 ing determinations for the protection of the public shall
4 be based solely on a finding whether the repository can
5 be operated in conformance with the overall system per-
6 formance standard established in paragraph (1), applied
7 in accordance with the provisions of paragraph (2). The
8 Commission shall amend its regulations in accordance
9 with subsection (b) to incorporate each of the following
10 licensing standards:

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

24 “(2) APPLICATION OF OVERALL SYSTEM PER-
25 FORMANCE STANDARD.—The Commission shall issue

1 the license if it finds reasonable assurance that for
2 the first 1,000 years following the commencement of
3 repository operations, the overall system perform-
4 ance standard will be met based on a probabilistic
5 evaluation, as appropriate, of compliance with the
6 overall system performance standard in paragraph
7 (1).

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

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

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

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

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

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

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

23 “(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

24 “(1) SUBMISSION OF STATEMENT.—Construc-
25 tion and operation of the repository shall be consid-

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

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

16 “(3) ADOPTION BY COMMISSION.—The Sec-
17 retary’s environmental impact statement and any
18 supplements thereto shall, to the extent practicable,
19 be adopted by the Commission in connection with
20 the issuance by the Commission of a construction
21 authorization under subsection (b)(1), a license
22 under subsection (b)(2), or a license amendment
23 under subsection (b)(3). To the extent such state-
24 ment or supplement is adopted by the Commission,
25 such adoption shall be deemed to also satisfy the re-

1 sponsibilities of the Commission under the National
2 Environmental Policy Act of 1969, and no further
3 consideration shall be required, except that nothing
4 in this subsection shall affect any independent re-
5 sponsibilities of the Commission to protect the public
6 health and safety under the Atomic Energy Act of
7 1954. In any such statement or supplement pre-
8 pared with respect to the repository, the Commission
9 shall not consider the need for a repository, or alter-
10 nate sites or designs for the repository.

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

15 **“SEC. 206. LAND WITHDRAWAL.**

16 “(a) WITHDRAWAL AND RESERVATION.—

17 “(1) WITHDRAWAL.—Subject to valid existing
18 rights, the interim storage facility site and the
19 Yucca Mountain site, as described in subsection (b),
20 are withdrawn from all forms of entry, appropria-
21 tion, and disposal under the public land laws, includ-
22 ing the mineral leasing laws, the geothermal leasing
23 laws, the material sale laws, and the mining laws.

24 “(2) JURISDICTION.—Jurisdiction of any land
25 within the interim storage facility site and the Yucca

1 Mountain site managed by the Secretary of the Inte-
2 rior or any other Federal officer is transferred to the
3 Secretary.

4 “(3) RESERVATION.—The interim storage facil-
5 ity site and the Yucca Mountain site are reserved for
6 the use of the Secretary for the construction and op-
7 eration, respectively, of the interim storage facility
8 and the repository and activities associated with the
9 purposes of this title.

10 “(b) LAND DESCRIPTION.—

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

16 “(2) BOUNDARIES.—The boundaries depicted
17 on the map entitled ‘Yucca Mountain Site With-
18 drawal Map,’ dated July 9, 1996, and on file with
19 the Secretary, are established as the boundaries of
20 the Yucca Mountain site.

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

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

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

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

13 “(A) publish in the Federal Register a no-
14 tice containing a legal description of the Yucca
15 Mountain site; and

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

21 “(5) CONSTRUCTION.—The maps and legal de-
22 scriptions of the interim storage facility site and the
23 Yucca Mountain site referred to in this subsection
24 shall have the same force and effect as if they were
25 included in this Act. The Secretary may correct cler-

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

4 **“SEC. 207. PERMANENT DISPOSAL ALTERNATIVES.**

5 “(a) STUDY.—Within 270 days after the date of the
6 enactment of the Nuclear Waste Policy Act of 1996, the
7 Secretary shall report to Congress on alternatives for the
8 permanent disposal of spent nuclear fuel and high-level ra-
9 dioactive waste. The report under this section shall in-
10 clude—

11 “(1) an assessment of the current state of
12 knowledge of alternative technologies for the treat-
13 ment and disposal of spent nuclear fuel and high-
14 level radioactive waste;

15 “(2) an estimate of the costs of research and
16 development of alternative technologies;

17 “(3) an analysis of institutional factors associ-
18 ated with alternative technologies, including inter-
19 national aspects of a decision of the United States
20 to proceed with the development of alternative tech-
21 nologies (including nuclear proliferation concerns) as
22 an option for nuclear waste management and dis-
23 posal;

1 “(4) a full discussion of environmental and pub-
2 lic health and safety aspects of alternative tech-
3 nologies;

4 “(5) recommendations on alternative ways to
5 structure an effort in research, development, and
6 demonstration with respect to alternative tech-
7 nologies; and

8 “(6) the recommendations of the Secretary with
9 respect to research, development, and demonstration
10 of the most promising alternative technologies for
11 the treatment and disposal of spent nuclear fuel and
12 high-level radioactive waste.

13 “(b) OFFICE OF NUCLEAR WASTE DISPOSAL RE-
14 SEARCH.—(1) There is hereby established an Office of Nu-
15 clear Waste Disposal Research within the Office of Energy
16 Research of the Department of Energy. The Office shall
17 be headed by the Director, who shall be a member of the
18 Senior Executive Service appointed by the Director of the
19 Office of Energy Research, and compensated at a rate de-
20 termined by applicable law.

21 “(2) The Director of the Office of Nuclear Waste Re-
22 search shall be responsible for carrying out research, de-
23 velopment, and demonstration activities on alternative
24 technologies for the treatment and disposal of high-level
25 nuclear radioactive waste and spent nuclear fuel, subject

1 to the general supervision of the Secretary. The Director
2 of the Office shall be directly responsible to the Director
3 of the Office of Energy Research, and the first such Direc-
4 tor shall be appointed within 30 days of the date of enact-
5 ment of the Nuclear Waste Policy Act of 1996.

6 “(3) In carrying out his responsibilities under this
7 Section, the Secretary may make grants to, or enter into
8 contracts with, the Nuclear Waste Research Consortium
9 described in paragraph (4) of this section and other per-
10 sons.

11 “(4)(A) Within 60 days of the date of enactment of
12 the Nuclear Waste Policy Act of 1996, the Secretary shall
13 establish a university-based Nuclear Waste Disposal Con-
14 sortium involving leading universities and institutions, na-
15 tional laboratories, the commercial nuclear industry, and
16 other organizations to investigate technical and institu-
17 tional feasibility of alternative technologies for the treat-
18 ment and disposal of spent nuclear fuel and high-level ra-
19 dioactive waste.

20 “(B) The Nuclear Waste Disposal Consortium shall
21 develop a research plan and budget to achieve the follow-
22 ing objectives by 2005:

23 “(i) identify promising alternative technologies
24 for the treatment and disposal of spent nuclear fuel
25 and high-level radioactive waste.

1 “(ii) conduct research and develop conceptual
2 designs for promising alternative technologies, in-
3 cluding estimated costs and institutional require-
4 ments for continued research and development; and

5 “(iii) identify and assess potential impacts of
6 promising alternative technologies on the environ-
7 ment.

8 “(C) In 2000, and again in 2005, the Nuclear Waste
9 Disposal Consortium shall report to Congress on the
10 progress being made in achieving the objectives of para-
11 graph (2).

12 “(5) The Director of the Office of Nuclear Waste Dis-
13 posal Research shall annually prepare and submit a report
14 to the Congress on the activities and expenditures of the
15 Office.

16 **“TITLE III—LOCAL RELATIONS**

17 **“SEC. 301. FINANCIAL ASSISTANCE.**

18 “(a) GRANTS.—The Secretary is authorized to make
19 grants to any affected Indian tribe or affected unit of local
20 government for purposes of enabling the affected Indian
21 tribe or affected unit of local government—

22 “(1) to review activities taken with respect to
23 the Yucca Mountain site for purposes of determining
24 any potential economic, social, public health and
25 safety, and environmental impacts of the integrated

1 management system the affected Indian tribe or the
2 affected unit of local government and its residents;

3 “(2) to develop a request for impact assistance
4 under subsection (c);

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

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

10 “(5) to request information from, and make
11 comments and recommendations to, the Secretary
12 regarding any activities taken with respect to such
13 site.

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

19 “(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

20 “(1) ASSISTANCE REQUESTS.—The Secretary is
21 authorized to offer to provide financial and technical
22 assistance to any affected Indian tribe or affected
23 unit of local government requesting such assistance.
24 Such assistance shall be designed to mitigate the im-
25 pact on the affected Indian tribe or affected unit of

1 local government of the development of the inte-
2 grated management system.

3 “(2) REPORT.—Any affected Indian tribe or af-
4 fected unit of local government may request assist-
5 ance under this section by preparing and submitting
6 to the Secretary a report on the economic, social,
7 public health and safety, and environmental impacts
8 that are likely to result from activities of the inte-
9 grated management system.

10 “(d) OTHER ASSISTANCE.—

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

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

1 “(3) ASSISTANCE TO INDIAN TRIBES AND
2 UNITS OF LOCAL GOVERNMENT.—

3 “(A) PERIOD.—Any affected Indian tribe
4 or affected unit of local government may not re-
5 ceive any grant under paragraph (1) after the
6 expiration of the 1-year period following the
7 date on which the Secretary notifies the af-
8 fected Indian tribe or affected unit of local gov-
9 ernment of the termination of the operation of
10 the integrated management system.

11 “(B) ACTIVITIES.—Any affected Indian
12 tribe or affected unit of local government may
13 not receive any further assistance under this
14 section if the integrated management system
15 activities at such site are terminated by the
16 Secretary or if such activities are permanently
17 enjoined by any court.

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

19 “‘The Secretary shall offer to the unit of local govern-
20 ment within whose jurisdiction a site for an interim stor-
21 age facility or repository is located under this Act an op-
22 portunity to designate a representative to conduct onsite
23 oversight activities at such site. The Secretary is author-
24 ized to pay the reasonable expenses of such representa-
25 tives.

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

2 “(a) CONSENT.—The acceptance or use of any of the
3 benefits provided under this title by any affected Indian
4 tribe or affected unit of local government shall not be
5 deemed to be an expression of consent, express, or denied,
6 either under the Constitution of the State or any law
7 thereof, to the siting of an interim storage facility or re-
8 pository in the State of Nevada, any provision of such
9 Constitution or laws to the contrary notwithstanding.

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

17 “(c) LIABILITY.—No liability of any nature shall ac-
18 crue to be asserted against any official of any government
19 unit of Nevada premised solely upon the acceptance or use
20 of benefits under this title.

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

22 “None of the funding provided under this title may
23 be used—

24 “(1) directly or indirectly to influence legislative
25 action on any matter pending before Congress or a
26 State legislature or for any lobbying activity as pro-

1 vided in section 1913 of title 18, United States
2 Code;

3 “(2) for litigation purposes; and

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

7 **“SEC. 305 LAND CONVEYANCES.**

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

1 under the statutes and regulations existing at the date of
2 enactment of this Act, unless Nye County and the affected
3 holder of the permit or lease negotiate an agreement that
4 allows for an earlier conveyance.

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

10 Map 1; proposed Pahrump industrial park site.

11 Map 2; proposed Lathrop Wells (gate 510) in-
12 dustrial park site.

13 Map 3; Pahrump landfill sites.

14 Map 4; Amargosa Valley Regional Landfill site.

15 Map 5; Amargosa Valley Municipal Landfill
16 site.

17 Map 6; Beatty Landfill/Transfer Station site.

18 Map 7; Round Mountain Landfill site.

19 Map 8; Tonopah Landfill site.

20 Map 9; Gabbs Landfill site.

21 “(c) CONSTRUCTION.—The maps and legal descrip-
22 tions special conveyances referred to in paragraph (2)
23 shall have the same force and effect as if they were in-
24 cluded in this Act. The Secretary may correct clerical and
25 typographical errors in the maps and legal descriptions

1 and make minor adjustments in the boundaries of the
2 sites.

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

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

7 **“SEC. 401. PROGRAM FUNDING.**

8 “(a) CONTRACTS.—

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

1 under section 302(a) of the Nuclear Waste Policy
2 Act of 1982 shall continue in effect under this Act,
3 provided that the Secretary shall consent to an
4 amendment to such contracts as necessary to imple-
5 ment the provisions of this Act.

6 “(2) ANNUAL FEES.—

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

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

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

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

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

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

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

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

1 “(3) ONE-TIME FEE.—For spent nuclear fuel or
2 solidified high-level radioactive waste derived from
3 spent nuclear fuel, which fuel was used to generate
4 electricity in a civilian nuclear power reactor prior to
5 January 7, 1983, the fee shall be in an amount
6 equivalent to an average charge of 1.0 mill per
7 kilowatthour for electricity generated by such spent
8 nuclear fuel, or such solidified high-level waste de-
9 rived therefrom. Payment of such one-time fee prior
10 to the date of enactment of the Nuclear Waste Pol-
11 icy Act of 1996 shall satisfy the obligation imposed
12 under this paragraph. Any one-time fee paid and
13 collected subsequent to the date of enactment of the
14 Nuclear Waste Policy Act of 1996 pursuant to the
15 contracts, including any interest due pursuant to
16 such contracts, shall be paid to the Nuclear Waste
17 Fund no later than September 30, 2002. The Com-
18 mission shall suspend the license of any licensee who
19 fails or refuses to pay the full amount of the fee
20 referred to in this paragraph on or before September
21 30, 2002, and the license shall remain suspended
22 until the full amount of the fee referred to in this
23 paragraph is paid. The person paying the fee under
24 this paragraph to the Secretary shall have no fur-
25 ther financial obligation to the Federal Government

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

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

21 “(b) ADVANCE CONTRACTING REQUIREMENT.

22 “(1) IN GENERAL.—

23 “(A) LICENSE ISSUANCE AND RENEWAL.—

24 The Commission shall not issue or renew a li-
25 cense to any person to use a utilization or pro-

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

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

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

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

21 “(2) DISPOSAL IN REPOSITORY.—Except as
22 provided in paragraph (1), no spent nuclear fuel or
23 high-level radioactive waste generated or owned by
24 any person (other than a department of the United
25 States referred to in section 101 or 102 of title 5,

1 United States Code) may be disposed of by the Sec-
2 retary in the repository unless the generator or
3 owner of such spent fuel or waste has entered into
4 a contract under subsection (a) with the Secretary
5 by not later than the date on which such generator
6 or owner commences generation of, or takes title to,
7 such spent fuel or waste.

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

10 “(c) NUCLEAR WASTE FUND.—

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

16 “(A) the existing balance in the Nuclear
17 Waste Fund on the date of enactment of the
18 Nuclear Waste Policy Act of 1996; and

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

1 “(2) USE.—The Secretary may make expendi-
2 tures from the Nuclear Waste Fund, subject to sub-
3 section (d), only for purposes of the integrated man-
4 agement system.

5 “(3) ADMINISTRATION OF NUCLEAR WASTE
6 FUND.—

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

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

22 “(i) having maturities determined by
23 the Secretary of the Treasury to be appro-
24 priate to the needs of the Nuclear Waste
25 Fund; and

1 “(ii) bearing interest at rates deter-
2 mined to be appropriate by the Secretary
3 of the Treasury, taking into consideration
4 the current average market yield on out-
5 standing marketable obligations of the
6 United States with remaining periods to
7 maturity comparable to the maturities of
8 such investments, except that the interest
9 rate on such investments shall not exceed
10 the average interest rate applicable to ex-
11 isting borrowings.

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

19 “(d) BUDGET.—The Secretary shall submit the budg-
20 et for implementation of the Secretary’s responsibilities
21 under this Act to the Office of Management and Budget
22 annually along with the budget of the Department of En-
23 ergy submitted at such time in accordance with chapter
24 11 of title 31, United States Code. The budget shall con-
25 sist of the estimates made by the Secretary of expendi-

1 tures under this Act and other relevant financial matters
2 for the succeeding 3 fiscal years, and shall be included
3 in the budget of the United States Government.

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

7 **“SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MAN-
8 AGEMENT.**

9 “(a) CONTINUATION OF THE OFFICE OF CIVILIAN
10 RADIOACTIVE WASTE MANAGEMENT.—The Office of Ci-
11 vilian Radioactive Waste Management established under
12 section 304(a) of the Nuclear Waste Policy Act of 1982
13 as constituted prior to the date of enactment of the Nu-
14 clear Waste Policy Act of 1996, shall continue in effect
15 subsequent to the date of enactment of the Nuclear Waste
16 Policy Act of 1996.

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

22 **“SEC. 403. FEDERAL CONTRIBUTION.**

23 “(a) ALLOCATION.—No later than one year from the
24 date of enactment of the Nuclear Waste Policy Act of
25 1996, acting pursuant to section 553 of title 5, United

1 States Code, the Secretary shall issue a final rule estab-
2 lishing the appropriate portion of the costs of managing
3 spent nuclear fuel and high-level radioactive waste under
4 this Act allocable to the interim storage or permanent dis-
5 posal of spent nuclear fuel and high-level radioactive waste
6 from atomic energy defense activities and spent nuclear
7 fuel from foreign research reactors. The share of costs al-
8 locable to the management of spent nuclear fuel and high-
9 level radioactive waste from atomic energy defense activi-
10 ties and spent nuclear fuel from foreign research reactors
11 shall include,

12 “(1) an appropriate portion of the costs associ-
13 ated with research and development activities with
14 respect to development of an interim storage facility
15 and repository; and

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

22 “(b) APPROPRIATION REQUEST.—In addition to any
23 request for an appropriation from the Nuclear Waste
24 Fund, the Secretary shall request annual appropriations
25 from general revenues in amounts sufficient to pay the

1 costs of the management of spent nuclear fuel and high-
2 level radioactive waste from atomic energy defense activi-
3 ties as established under subsection (a).

4 “(c) REPORT.—In conjunction with the annual report
5 submitted to Congress under Section 702, the Secretary
6 shall advise the Congress annually of the amount of spent
7 nuclear fuel and high-level radioactive waste from atomic
8 energy activities requiring management in the integrated
9 management system.

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

17 **SEC. 404. BUDGET PRIORITIES.**

18 “(a) THE SECRETARY.—For purposes of preparing
19 annual requests for appropriations for the integrated man-
20 agement system and allocating funds among competing re-
21 quirements, the Secretary shall give funding for the licens-
22 ing, construction, and operation of the interim storage fa-
23 cility under section 204 and development of the transpor-
24 tation capability under sections 201, 202, and 203 the
25 highest priority.

1 “(b) THE COMMISSION.—For purposes of preparing
2 annual requests for appropriations from the Nuclear
3 Waste Fund and allocating annual appropriations from
4 the Nuclear Waste Fund among competing requirements,
5 the Commission shall allocate funds in accordance with the
6 following prioritization:

7 “(1) The issuance of regulations for and the li-
8 censing of an interim storage facility under section
9 205 and any associated storage and/or transport
10 systems to be used in the integrated management
11 system shall be accorded the highest priority; and

12 “(2) the licensing of the repository under sec-
13 tion 206 shall be accorded the next highest priority.

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

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

17 “If the requirements of any law are inconsistent with
18 or duplicative of the requirements of the Atomic Energy
19 Act and this Act, the Secretary shall comply only with the
20 requirements of the Atomic Energy Act and this Act in
21 implementing the integrated management system. Any re-
22 quirement of a State or political subdivision of a State
23 is preempted if—

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

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

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

5 “(a) JURISDICTION OF THE UNITED STATES COURTS
6 OF APPEALS.—

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

13 “(A) for review of any final decision or ac-
14 tion of the Secretary, the President, or the
15 Commission under this Act;

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

20 “(C) challenging the constitutionality of
21 any decision made, or action taken, under any
22 provision of this Act; or

23 “(D) for review of any environmental im-
24 pact statement prepared or environmental as-
25 sessment pursuant to the National Environ-

1 mental Policy Act of 1969 (42 U.S.C. 4321 et
2 seq.) with respect to any action under this Act
3 or alleging a failure to prepare such statement
4 with respect to any such action.

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

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

21 “(c) APPLICATION OF OTHER LAW.—The provisions
22 of this section relating to any matter shall apply in lieu
23 of the provisions of any other Act relating to the same
24 matter.

1 **“SEC. 503. LICENSING OF FACILITY EXPANSIONS AND**
2 **TRANSSHIPMENTS.**

3 “(a) ORAL ARGUMENT.—In any Commission hearing
4 under section 189 of the Atomic Energy Act of 1954 (42
5 U.S.C. 2239) on an application for a license, or for an
6 amendment to an existing license, filed after January 7,
7 1983, to expand the spent nuclear fuel storage capacity
8 at the site of a civilian nuclear power reactor, through the
9 use of high-density fuel storage racks, fuel rod compac-
10 tion, the transshipment of spent nuclear fuel to another
11 civilian nuclear power reactor within the same utility sys-
12 tem, the construction of additional spent nuclear fuel pool
13 capacity or dry storage capacity, or by other means, the
14 Commission shall, at the request of any party, provide an
15 opportunity for oral argument with respect to any matter
16 which the Commission determines to be in controversy
17 among the parties. The oral argument shall be preceded
18 by such discovery procedures as the rules of the Commis-
19 sion shall provide. The Commission shall require each
20 party, including the Commission staff, to submit in writ-
21 ten form, at the time of the oral argument, a summary
22 of the facts, data, and arguments upon which such party
23 proposes to rely that are known at such time to such
24 party. Only facts and data in the form of sworn testimony
25 or written submission may be relied upon by the parties
26 during oral argument. Of the materials that may be sub-

1 mitted by the parties during oral argument, the Commis-
2 sion shall only consider those facts and data that are sub-
3 mitted in the form of sworn testimony or written submis-
4 sion.

5 “(b) ADJUDICATORY HEARING.—

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

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

16 “(B) the decision of the Commission is
17 likely to depend in whole or in part on the reso-
18 lution of such dispute.

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

21 “(A) shall designate in writing the specific
22 facts that are in genuine and substantial dis-
23 pute, the reason why the decision of the agency
24 is likely to depend on the resolution of such

1 facts, and the reason why an adjudicatory hear-
2 ing is likely to resolve the dispute; and

3 “(B) shall not consider—

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

16 “(ii) any siting or design issue fully
17 considered and decided by the Commission
18 in connection with the issuance of a con-
19 struction permit or operating license for a
20 civilian nuclear power reactor at such site;
21 unless

22 “(I) such issue results from any
23 revision of siting or design criteria by
24 the Commission following such deci-
25 sion; and

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

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

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

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

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

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

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

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

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

18 **“SEC. 505. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL**
19 **RADIOACTIVE WASTE SITE CLOSURE.**

20 “(a) FINANCIAL ARRANGEMENTS.—

21 “(1) STANDARDS AND INSTRUCTIONS.—The
22 Commission shall establish by rule, regulation, or
23 order, after public notice, and in accordance with
24 section 181 of the Atomic Energy Act of 1954 (42
25 U.S.C. 2231), such standards and instructions as

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

20 “(2) BONDING, SURETY OR OTHER FINANCIAL
21 ARRANGEMENTS.—If the Commission determines
22 that any long-term maintenance or monitoring, or
23 both, will be necessary at a site described in para-
24 graph (1), the Commission shall ensure before termi-
25 nation of the license involved that the licensee has

1 made available such bonding, surety, or other finan-
2 cial arrangements as may be necessary to ensure
3 that any necessary long-term maintenance or mon-
4 itoring needed for such site will be carried out by
5 the person having title and custody for such site fol-
6 lowing license termination.

7 “(b) TITLE AND CUSTODY.—

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

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

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

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

1 ance shall establish simulator training requirements for
2 applicants for civilian nuclear power plant operator li-
3 censes and for operator requalification programs; require-
4 ments governing Commission administration of requali-
5 fication examinations; requirements for operating tests at
6 civilian nuclear power plant simulators, and instructional
7 requirements for civilian nuclear power plant licensee per-
8 sonnel training programs.

9 **“SEC. 507. EMPLACEMENT SCHEDULE.**

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

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

15 “(2) The Secretary’s spent fuel emplacement
16 rate shall be no less than the following: 1,200 MTU
17 in fiscal year 2000 and 1,200 MTU in fiscal year
18 2001; 2,000 MTU in fiscal year 2002 and 2,000
19 MTU in fiscal year 2003; 2,700 MTU in fiscal year
20 2004; and 3,000 MTU annually thereafter.

21 “(b) If the Secretary is unable to begin emplacement
22 by January 31, 1999 at the rates specified in paragraph
23 (a), or if the cumulative amount emplaced in any year
24 thereafter is less than that which would have been accept-
25 ed under the emplacement rate specified in paragraph (a),

1 the Secretary shall, as a mitigation measure, adjust the
2 emplacement schedule upward such that within 5 years
3 of the start of emplacement by the Secretary,

4 “(1) the total quantity accepted by the Sec-
5 retary is consistent with the total quantity that the
6 Secretary would have accepted if the Secretary had
7 began emplacement in fiscal year 2000, and

8 “(2) thereafter the emplacement rate is equiva-
9 lent to the rate that would be in place pursuant to
10 paragraph (a) above if the Secretary had commenced
11 emplacement in fiscal year 2000.

12 **“SEC. 508. TRANSFER OF TITLE.**

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

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

1 Power Cooperative for any costs related to operating and
2 maintaining facilities necessary for such storage from the
3 date of acceptance until DOE removes the spent nuclear
4 fuel from the La Crosse Reactor site.”

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

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

11 “(b) FUNDING.—No funds from the Nuclear Waste
12 Fund may be used for the Decommissioning Pilot Pro-
13 gram.

14 **“SEC. 501. WATER RIGHTS.**

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

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

1 strued to authorize the use of eminent domain by the
 2 United States to acquire water rights for such lands.

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

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

9 **“SEC. 601. DEFINITIONS.**

10 “For purposes of this title—

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

14 “(2) Board.—The term ‘Board’ means the Nu-
 15 clear Waste Technical Review Board continued
 16 under section 602.

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

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

25 “(b) MEMBERS.—

1 “(1) NUMBER.—The Board shall consist of 11
2 members who shall be appointed by the President
3 not later than 90 days after December 22, 1987,
4 from among persons nominated by the National
5 Academy of Sciences in accordance with paragraph
6 (3).

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

9 “(3) NATIONAL ACADEMY OF SCIENCES.—

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

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

21 “(C) NOMINEES.—

22 “(i) Each persons nominated for ap-
23 pointment to the Board shall be—

1 “(I) eminent in a field of science
2 or engineering, including environ-
3 mental sciences; and

4 “(II) selected solely on the basis
5 of established records of distinguished
6 service.

7 “(ii) The membership of the Board
8 shall be representatives of the broad range
9 of scientific and engineering disciplines re-
10 lated to activities under this title.

11 “(iii) No person shall be nominated
12 for appointment to the Board who is an
13 employee of—

14 “(I) the Department of Energy;

15 “(II) a national laboratory under
16 contract with the Department of En-
17 ergy; or

18 “(III) an entity performing spent
19 nuclear fuel or high-level radioactive
20 waste activities under contract with
21 the Department of Energy.

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

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

11 **“SEC. 603. FUNCTIONS.**

12 “The Board shall limit its evaluations to the technical
13 and scientific validity solely of the following activities un-
14 dertaken directly by the Secretary after December 22,
15 1987—

16 “(1) site characterization activities; and

17 “(2) activities of the Secretary relating to the
18 packaging or transportation of spent nuclear fuel or
19 high-level radioactive waste.

20 **“SEC. 604. INVESTIGATORY POWERS.**

21 “(a) HEARINGS.—Upon request of the Chairman or
22 a majority of the members of the Board, the Board may
23 hold such hearings, sit and act at such times and places,
24 take such testimony, and receive such evidence, as the
25 Board considers appropriate. Any member of the Board

1 may administer oaths or affirmations to witnesses appear-
2 ing before the Board. The Secretary or the Secretary's
3 designee or designees shall not be required to appear be-
4 fore the Board or any element of the Board for more than
5 twelve working days per calendar year.

6 “(b) PRODUCTION OF DOCUMENTS.—

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

15 “(2) EXTENT.—Subject to existing law, infor-
16 mation obtainable under paragraph (1) shall be lim-
17 ited to final work products of the secretary, but may
18 include drafts of such products and documentation
19 of work in progress.

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

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

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

6 **“SEC. 606. STAFF.**

7 “(a) CLERICAL STAFF.—

8 “(1) AUTHORITY OF CHAIRMAN.—Subject to
9 paragraph (2), the Chairman may appoint and fix
10 the compensation of such clerical staff as may be
11 necessary to discharge the responsibilities of the
12 Board.

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

20 “(b) PROFESSIONAL STAFF.—

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

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

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

14 **“SEC. 607. SUPPORT SERVICES.**

15 “(a) GENERAL SERVICES.—To the extent permitted
16 by law and requested by the Chairman, the Administrator
17 of General Services shall provide the Board with necessary
18 administrative services, facilities, and support on a reim-
19 bursable basis.

20 “(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY
21 ASSESSMENT SERVICES.—The Comptroller General, the
22 Librarian of Congress, and the Director of the Office of
23 Technology Assessment shall, to the extent permitted by
24 law and subject to the availability of funds, provide the
25 Board with such facilities, support, funds and services, in-

1 cluding staff, as may be necessary for the effective per-
2 formance of the functions of the Board.

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

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

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

17 **“SEC. 608. REPORT.**

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

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

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

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

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

6 **“TITLE VII—MANAGEMENT REFORM**

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

8 “(a) IN GENERAL.—The Secretary is directed to take
9 actions as necessary to improve the management of the
10 civilian radioactive waste management program to ensure
11 that the program is operated, to the maximum extent
12 practicable, in like manner as a private business. Notwith-
13 standing any other provision of law, the civilian radio-
14 active waste management program is not subject to laws
15 or regulations concerning the civil service as described in
16 this title.

17 “(b) OFFICE OF CIVILIAN RADIOACTIVE WASTE
18 MANAGEMENT EMPLOYEES.—

19 “(1) COMPENSATION.—The Secretary shall,
20 without regard to section 5301 of title 5, United
21 States Code, fix the compensation of the Director
22 and the Deputy Director of Office of Civilian Radio-
23 active Waste Management. The Director shall, with-
24 out regard to section 5301 of title 5, United States
25 Code, fix the compensation for all other Federal em-
26 ployees assigned to the Office of Civilian Radioactive

1 Waste Management, define their duties, and provide
2 for a system of organization to fix responsibility and
3 promote efficiency. The Deputy Director may be re-
4 moved at the Director's discretion without regard to
5 any laws, rules, or regulations concerning personnel
6 actions in the Civil Service System or Senior Execu-
7 tive Service. Any other Federal employee assigned to
8 the Office of Civilian Radioactive Waste Manage-
9 ment may be removed at the discretion of the Sec-
10 retary or Director without regard to any laws, rules,
11 or regulations concerning personnel actions in the
12 Civil Service System or Senior Executive Service.
13 The Secretary shall ensure that Federal employees
14 assigned to the Office of Civilian Radioactive Waste
15 Management are appointed, promoted, and assigned
16 on the basis of merit and fitness. Other personnel
17 actions shall be consistent with the principles of fair-
18 ness and due process specified in title 5 of the Unit-
19 ed States Code, but without regard to those provi-
20 sions of said title governing appointments and other
21 personnel actions in the competitive service.

22 “(2) APPLICATION.—The provisions of para-
23 graph (1) shall not apply to Federal employees who
24 may be, from time to time, temporarily assigned to
25 the Office of Civilian Radioactive Waste Manage-

1 ment. The use of temporary assignment of Federal
2 employees to the Office of Civilian Radioactive
3 Waste Management shall not be used in any manner
4 to circumvent the full application of the provisions
5 in paragraph (1).

6 “(3) TRANSITION.—The Secretary shall transi-
7 tion the Federal employees assigned to the Office of
8 Civilian Radioactive Waste Management to the pro-
9 visions of this section in an orderly manner allowing
10 for the development of the needed procedures. Under
11 no circumstances shall this transition take longer
12 than 6 months from the date of enactment of this
13 Section.

14 “(4) RETENTION OF BENEFITS.—Federal em-
15 ployees assigned to the Office of Civilian Radioactive
16 Waste Management and transitioned to the provi-
17 sions of this section shall retain employment benefits
18 in effect immediately prior to the transition date.
19 Transitioned employees will continue in the Civil
20 Service System’s retirement system.

21 “(c) AUDITS.—

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

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

5 “(2) TIME.—The management practices and
6 performances of the Office of Civilian Radioactive
7 Waste Management shall be audited every 5 years
8 by an independent management consulting firm with
9 significant experience in similar audits of private
10 corporation engaged in large nuclear construction
11 projects. The first such audit shall be conducted 5
12 years after the enactment of the Nuclear Waste Pol-
13 icy Act of 1995.

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

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

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

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

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

22 **“SEC. 702. REPORTING.**

23 “(a) INITIAL REPORT.—Within 180 days of enact-
24 ment of this section, the Secretary shall report to Con-
25 gress on its planned actions for implementing the provi-

1 sions of this Act, including the development of the Inte-
2 grated Waste Management System. Such report shall in-
3 clude—

4 “(1) an analysis of the Secretary’s progress in
5 meeting its statutory and contractual obligation to
6 accept title to, possession of, and delivery of spent
7 nuclear fuel and high-level radioactive waste begin-
8 ning no later than January 31, 1998, and in accord-
9 ance with the acceptance schedule;

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

14 “(3) a detailed description of the Secretary’s
15 contingency plans in the event that the Secretary is
16 unable to meet the planned schedule and timeline;
17 and

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

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

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

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

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