

105TH CONGRESS
1ST SESSION

S. 104

To amend the Nuclear Waste Policy Act of 1982.

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1997

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

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 1997’.

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 MANAGEMENT SYSTEM

- “Sec. 201. Intermodal Transfer.
- “Sec. 202. Transportation planning.
- “Sec. 203. Transportation requirements.
- “Sec. 204. Interim storage.
- “Sec. 205. Permanent repository.
- “Sec. 206. Land withdrawal.

“TITLE III—LOCAL RELATIONS

- “Sec. 301. Financial Assistance.
- “Sec. 302. On-Site Representative.
- “Sec. 303. Acceptance of Benefits.
- “Sec. 304. Restrictions on Use of Funds.
- “Sec. 305. Land Conveyances.

“TITLE IV—FUNDING AND ORGANIZATION

- “Sec. 401. Program Funding.
- “Sec. 402. Office of Civilian Radioactive Waste Management.
- “Sec. 403. Federal contribution.

“TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

- “Sec. 501. Compliance with other laws.
- “Sec. 502. Judicial review of agency actions.
- “Sec. 503. Licensing of facility expansions and transshipments.
- “Sec. 504. Siting a second repository.
- “Sec. 505. Financial arrangements for low-level radioactive waste site closure.
- “Sec. 506. Nuclear Regulatory Commission training authority.
- “Sec. 507. Emplacement schedule.
- “Sec. 508. Transfer of Title.
- “Sec. 509. Decommissioning Pilot Program.
- “Sec. 510. Water Rights.

“TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

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

“TITLE VII—MANAGEMENT REFORM

- “Sec. 701. Management reform initiatives.
- “Sec. 702. Reporting.
- “Sec. 703. Effective date.

1 **“SEC. 2. DEFINITIONS.**

2 “For purposes of this Act:

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

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

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

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

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

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

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

9 “(A) Naval reactors development.

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

12 “(C) Verification and control technology.

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

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

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

19 “(G) Defense research and development.

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

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

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

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

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

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

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

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

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

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

23 “(A) the highly radioactive material result-
24 ing from the reprocessing of spent nuclear fuel,

1 including liquid waste produced directly in re-
2 processing and any solid material derived from
3 such liquid waste that contains fission products
4 in sufficient concentrations; and

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

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

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

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

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

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

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

22 “(A) is not spent nuclear fuel, high-level
23 radioactive waste, transuranic waste, or byprod-
24 uct material as defined in section 11 e. (2) of the

1 Atomic Energy Act of 1954 (42 U.S.C.
2 2014(e). (2)); and

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

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

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

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

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

1 time to time by the Secretary in accordance with
2 this Act.

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

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

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

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

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

10 “(30) WITHDRAWAL.—The term ‘withdrawal’
11 has the same definition as that set forth in section
12 103(j) of the Federal Land Policy and Management
13 Act of 1976 (43 U.S.C. 1702(j)).

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

18 **“TITLE I—OBLIGATIONS**

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

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

24 “(b) INTERIM STORAGE.—The Secretary shall store
25 spent nuclear fuel and high-level radioactive waste from

1 facilities designated by contract holders at an interim stor-
2 age facility pursuant to section 204 in accordance with
3 the emplacement schedule, beginning not later than No-
4 vember 30, 1999.

5 “(c) TRANSPORTATION.—The Secretary shall provide
6 for the transportation of spent nuclear fuel and high-level
7 radioactive waste accepted by the Secretary. The Sec-
8 retary shall procure all systems and components necessary
9 to transport spent nuclear fuel and high-level radioactive
10 waste from facilities designated by contract holders to and
11 among facilities comprising the Integrated Management
12 System. Consistent with the Buy American Act (41 U.S.C.
13 10a–10c), unless the Secretary shall determine it to be
14 inconsistent with the public interest, or the cost to be un-
15 reasonable, all such systems and components procured by
16 the Secretary shall be manufactured in the United States,
17 with the exception of any transportable storage systems
18 purchased by contract holders prior to the effective date
19 of the Nuclear Waste Policy Act of 1997 and procured
20 by the Secretary from such contract holders for use in the
21 integrated management system.

22 “(d) INTEGRATED MANAGEMENT SYSTEM.—The
23 Secretary shall expeditiously pursue the development of
24 each component of the integrated management system,

1 and in so doing shall seek to utilize effective private sector
2 management and contracting practices.

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

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

11 “(1) any right of a contract holder under sec-
12 tion 302(a) of the Nuclear Waste Policy Act of
13 1982, or under a contract executed prior to the date
14 of enactment of this Act under that section; or

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

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

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

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

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

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

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

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

1 “(e) NOTICE AND MAP.—Within 6 months of the
2 date of enactment of the Nuclear Waste Policy Act of
3 1997, the Secretary shall—

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

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

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

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

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

8 “(h) BENEFITS AGREEMENT.—

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

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

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

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

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

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

10 “(i) CONTENT OF AGREEMENT.—

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

BENEFITS SCHEDULE
 (amounts in millions)

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

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

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

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

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

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

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

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

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

10 “(j) INITIAL LAND CONVEYANCES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 “(f) EMPLOYEE PROTECTION.—Any person engaged
24 in the interstate commerce of spent nuclear fuel or high-
25 level radioactive waste under contract to the Secretary

1 pursuant to this Act shall be subject to and comply fully
2 with the employee protection provisions of 49 U.S.C.
3 20109 and 49 U.S.C. 31105.

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

19 “(2) If the Secretary of Transportation determines,
20 in promulgating the regulation required by subparagraph
21 (1), that regulations promulgated by the Commission es-
22 tablish adequate training standards for workers, then the
23 Secretary of Transportation can refrain from promulgat-
24 ing additional regulations with respect to worker training
25 in such activities. The Secretary of Transportation and the

1 Commission shall work through their Memorandum of Un-
2 derstanding to ensure coordination of worker training
3 standards and to avoid duplicative regulation.

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

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

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

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

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

1 **“SEC. 204. INTERIM STORAGE.**

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

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

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

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

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

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

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

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

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

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

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

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

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

5 “(c) DESIGN.—

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

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

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

3 “(d) LICENSING.—

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

8 “(2) FIRST PHASE.—No later than 12 months
9 after the date of enactment of the Nuclear Waste
10 Policy Act of 1997, the Secretary shall submit to the
11 Commission an application for a license for the first
12 phase of the interim storage facility. The Environ-
13 mental Report and Safety Analysis Report submitted
14 in support of such license application shall be con-
15 sistent with the scope of authority requested in the
16 license application. The license issued for the first
17 phase of the interim storage facility shall have a
18 term of 20 years. The interim storage facility li-
19 censed in the first phase shall have a capacity of
20 not more than 15,000 MTU. The Commission shall
21 issue a final decision granting or denying the appli-
22 cation for the first phase license no later than 16
23 months from the date of the submittal of the appli-
24 cation for such license.

1 “(3) SECOND PHASE.—No later than 30
2 months after the date of enactment of the Nuclear
3 Waste Policy Act of 1997, the Secretary shall sub-
4 mit to the Commission an application for a license
5 for the second phase interim storage facility. The li-
6 cense for the second phase facility shall authorize a
7 storage capacity of 40,000 MTU. If the Secretary
8 does not submit the license application for construc-
9 tion of a repository by February 1, 2002, or does
10 not begin full spent nuclear fuel receipt operations
11 at a repository by January 17, 2010, the license
12 shall authorize a storage capacity of 60,000 MTU.
13 The license application shall be submitted such that
14 the license can be issued to permit the second phase
15 facility to begin full spent nuclear fuel receipt oper-
16 ations no later than December 31, 2002. The license
17 for the second phase shall have an initial term of up
18 to 100 years, and shall be renewable for additional
19 terms upon application of the Secretary.

20 “(e) ADDITIONAL AUTHORITY.—

21 “(1) CONSTRUCTION.—For purposes of comply-
22 ing with this section, the Secretary may commence
23 site preparation for the interim storage facility as
24 soon as practicable after the date of enactment of
25 the Nuclear Waste Policy Act of 1997 and shall

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

11 “(2) FACILITY USE.—Notwithstanding any oth-
12 erwise applicable licensing requirement, the Sec-
13 retary may utilize any facility owned by the Federal
14 Government on the date of enactment of the Nuclear
15 Waste Policy Act of 1997 within the boundaries of
16 the interim storage facility site, in connection with
17 an imminent and substantial endangerment to public
18 health and safety at the interim storage facility prior
19 to commencement of operations during the second
20 phase.

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

1 the date of enactment of the Nuclear Waste Policy
2 Act of 1997, as set forth in the Secretary's annual
3 capacity report dated March 1995 (DOE/RW-
4 0457), the Secretary shall accept, in an amount not
5 less than 25 percent of the difference between the
6 contractual acceptance rate and the annual emplace-
7 ment rate for spent nuclear fuel from civilian nu-
8 clear power reactors established under section
9 507(a), the following radioactive materials:

10 “(A) spent nuclear fuel or high-level radio-
11 active waste of domestic origin from civilian nu-
12 clear power reactors that have permanently
13 ceased operation on or before the date of enact-
14 ment of the Nuclear Waste Policy Act of 1997;

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

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

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

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

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

16 “(2) ENVIRONMENTAL IMPACT STATEMENT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

3 “(i) STORAGE OF OTHER SPENT NUCLEAR FUEL
4 AND HIGH-LEVEL RADIOACTIVE WASTE.—No later than
5 18 months following the date of enactment of the Nuclear
6 Waste Policy Act of 1997, the Commission shall, by rule,
7 establish criteria for the storage in the interim storage fa-
8 cility of fuel and waste listed in subsection (e)(3) (A)
9 through (C), to the extent such criteria are not included
10 in regulations issued by the Commission and existing on
11 the date of enactment of the Nuclear Waste Policy Act
12 of 1997. Following establishment of such criteria, the Sec-
13 retary shall seek authority, as necessary, to store fuel and
14 waste listed in subsection (e)(3) (A) through (C) at the
15 interim storage facility. None of the activities carried out
16 pursuant to this subsection shall delay, or otherwise affect,
17 the development, construction, licensing, or operation of
18 the interim storage facility.

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

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

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

4 “(a) REPOSITORY CHARACTERIZATION.—

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

11 “(2) SITE CHARACTERIZATION ACTIVITIES.—

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

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

20 schedule set forth in the program approach, as
21 modified to be consistent with the Nuclear Waste
22 Policy Act of 1997, no later than February 1, 2002,
23 the Secretary shall apply to the Commission for au-
24 thorization to construct a repository. If, at any time
25 prior to the filing of such application, the Secretary

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 risk to health and safety and establishes by rule an-
2 other standard which will protect health and safety.
3 Such standard shall constitute an overall system
4 performance standard.

5 “(2) APPLICATION OF OVERALL SYSTEM PER-
6 FORMANCE STANDARD.—The Commission shall issue
7 the license if it finds reasonable assurance that for
8 the first 1,000 years following the commencement of
9 repository operations, the overall system perform-
10 ance standard will be met based on a probabilistic
11 evaluation, as appropriate, of compliance with the
12 overall system performance standard in paragraph
13 (1).

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

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

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

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

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

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

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

21 “(4) ADDITIONAL ANALYSIS.—The Commission
22 shall analyze the overall system performance through

1 the use of probabilistic evaluations that use best es-
2 timate assumptions, data, and methods for the pe-
3 riod commencing after the first 1,000 years of oper-
4 ation of the repository and terminating at 10,000
5 years after the commencement of operation of the
6 repository.

7 “(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

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

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

1 “(3) ADOPTION BY COMMISSION.—The Sec-
2 retary’s environmental impact statement and any
3 supplements thereto shall, to the extent practicable,
4 be adopted by the Commission in connection with
5 the issuance by the Commission of a construction
6 authorization under subsection (b)(1), a license
7 under subsection (b)(2), or a license amendment
8 under subsection (b)(3). To the extent such state-
9 ment or supplement is adopted by the Commission,
10 such adoption shall be deemed to also satisfy the re-
11 sponsibilities of the Commission under the National
12 Environmental Policy Act of 1969, and no further
13 consideration shall be required, except that nothing
14 in this subsection shall affect any independent re-
15 sponsibilities of the Commission to protect the public
16 health and safety under the Atomic Energy Act of
17 1954. In any such statement or supplement pre-
18 pared with respect to the repository, the Commission
19 shall not consider the need for a repository, or alter-
20 nate sites or designs for the repository.

21 “(f) JUDICIAL REVIEW.—No court shall have juris-
22 diction to enjoin issuance of the Commission repository
23 licensing regulations prior to its final decision on review
24 of such regulations.

1 **“SEC. 206. LAND WITHDRAWAL.**

2 “(a) WITHDRAWAL AND RESERVATION.—

3 “(1) WITHDRAWAL.—Subject to valid existing
4 rights, the interim storage facility site and the
5 Yucca Mountain site, as described in subsection (b),
6 are withdrawn from all forms of entry, appropria-
7 tion, and disposal under the public land laws, includ-
8 ing the mineral leasing laws, the geothermal leasing
9 laws, the material sale laws, and the mining laws.

10 “(2) JURISDICTION.—Jurisdiction of any land
11 within the interim storage facility site and the Yucca
12 Mountain site managed by the Secretary of the Inte-
13 rior or any other Federal officer is transferred to the
14 Secretary.

15 “(3) RESERVATION.—The interim storage facil-
16 ity site and the Yucca Mountain site are reserved for
17 the use of the Secretary for the construction and op-
18 eration, respectively, of the interim storage facility
19 and the repository and activities associated with the
20 purposes of this title.

21 “(b) LAND DESCRIPTION.—

22 “(1) BOUNDARIES.—The boundaries depicted
23 on the map entitled “Interim Storage Facility Site
24 Withdrawal Map,” dated March 13, 1996, and on
25 file with the Secretary, are established as the bound-
26 aries of the Interim Storage Facility site.

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

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

9 “(A) publish in the Federal Register a no-
10 tice containing a legal description of the interim
11 storage facility site; and

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

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

21 “(A) publish in the Federal Register a no-
22 tice containing a legal description of the Yucca
23 Mountain site; and

24 “(B) file copies of the maps described in
25 paragraph (2), and the legal description of the

1 Yucca Mountain site with the Congress, the
2 Secretary of the Interior, the Governor of Ne-
3 vada, and the Archivist of the United States.

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

12 **“TITLE III—LOCAL RELATIONS**

13 **“SEC. 301. FINANCIAL ASSISTANCE.**

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

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

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

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

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

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

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

17 “(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

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

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

8 “(d) OTHER ASSISTANCE.—

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

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

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

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

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

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

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

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

24 “(a) CONSENT.—The acceptance or use of any of the
25 benefits provided under this title by any affected Indian

1 tribe or affected unit of local government shall not be
2 deemed to be an expression of consent, express, or implied,
3 either under the Constitution of the State or any law
4 thereof, to the siting of an interim storage facility or re-
5 pository in the State of Nevada, any provision of such
6 Constitution or laws to the contrary notwithstanding.

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

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

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

19 “None of the funding provided under this title may
20 be used—

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

1 “(2) for litigation purposes; and

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

5 **“SEC. 305. LAND CONVEYANCES.**

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

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

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

8 Map 1: Proposed Pahrump Industrial Park Site

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

11 Map 3: Pahrump Landfill Sites

12 Map 4: Amargosa Valley Regional Landfill Site

13 Map 5: Amargosa Valley Municipal Landfill
14 Site

15 Map 6: Beatty Landfill/Transfer Station Site

16 Map 7: Round Mountain Landfill Site

17 Map 8: Tonopah Landfill Site

18 Map 9: Gabbs Landfill Site.

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

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

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

6 **“SEC. 401. PROGRAM FUNDING.**

7 “(a) CONTRACTS.—

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

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

5 “(2) ANNUAL FEES.—

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

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

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

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

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

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

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

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

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

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

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

21 “(b) ADVANCE CONTRACTING REQUIREMENT.—

22 “(1) IN GENERAL.—

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

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

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

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

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

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

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

13 “(c) NUCLEAR WASTE FUND.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 “(b) ADJUDICATORY HEARING.—

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

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

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

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

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

12 “(B) shall not consider—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 “(a) FINANCIAL ARRANGEMENTS.—

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

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

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

18 “(b) TITLE AND CUSTODY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **“SEC. 508. TRANSFER OF TITLE.**

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

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

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

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

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

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

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

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

15 “(b) MEMBERS.—

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

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

24 “(3) NATIONAL ACADEMY OF SCIENCES.—

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

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

12 “(C) NOMINEES.—

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

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

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

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

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

4 “(I) the Department of Energy;

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

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

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

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

1 **“SEC. 603. FUNCTIONS.**

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

6 “(1) site characterization activities; and

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

10 **“SEC. 604. INVESTIGATORY POWERS.**

11 “(a) HEARINGS.—Upon request of the Chairman or
12 a majority of the members of the Board, the Board may
13 hold such hearings, sit and act at such times and places,
14 take such testimony, and receive such evidence, as the
15 Board considers appropriate. Any member of the Board
16 may administer oaths or affirmations to witnesses appear-
17 ing before the Board. The Secretary or the Secretary’s
18 designee or designees shall not be required to appear be-
19 fore the Board or any element of the Board for more than
20 12 working days per calendar year.

21 “(b) PRODUCTION OF DOCUMENTS.—

22 “(1) RESPONSE TO INQUIRIES.—Upon the re-
23 quest of the Chairman or a majority of the members
24 of the Board, and subject to existing law, the Sec-
25 retary (or any contractor of the Secretary) shall pro-
26 vide the Board with such records, files, papers, data,

1 or information that is generally available to the pub-
2 lic as may be necessary to respond to any inquiry of
3 the Board under this title.

4 “(2) EXTENT.—Subject to existing law, infor-
5 mation obtainable under paragraph (1) may include
6 drafts of products and documentation of work in
7 progress.

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

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

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

18 **“SEC. 606. STAFF.**

19 “(a) CLERICAL STAFF.—

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

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

8 “(b) PROFESSIONAL STAFF.—

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

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

17 “(3) TITLE 5.—Professional staff members may
18 be appointed without regard to the provisions of title
19 5, United States Code, governing appointments in
20 the competitive service, and may be paid without re-
21 gard to the provisions of chapter 51 and subchapter
22 III of chapter 53 of such title relating to classifica-
23 tion and General Schedule pay rates, except that no
24 individual so appointed may receive pay in excess of

1 the annual rate of basic pay payable for GS-18 of
2 the General Schedule.

3 **“SEC. 607. SUPPORT SERVICES.**

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

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

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

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

23 “(e) EXPERTS AND CONSULTANTS.—Subject to such
24 rules as may be prescribed by the Board, the Chairman
25 may procure temporary and intermittent services under

1 section 3109(b) of title 5 of the United States Code, but
2 at rates for individuals not to exceed the daily equivalent
3 of the maximum annual rate of basic pay payable for GS-
4 18 of the General Schedule.

5 **“SEC. 608. REPORT.**

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

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

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

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

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

18 **“TITLE VII—MANAGEMENT REFORM**

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

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

25 “(b) AUDITS.—

1 “(1) STANDARD.—The Office of Civilian Radio-
2 active Waste Management, its contractors, and sub-
3 contractors at all tiers, shall conduct, or have con-
4 ducted, audits and examinations of their operations
5 in accordance with the usual and customary prac-
6 tices of private corporations engaged in large nuclear
7 construction projects consistent with its role in the
8 program.

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

18 “(3) COMPTROLLER GENERAL.—The Comptrol-
19 ler General of the United States shall annually make
20 an audit of the Office, in accordance with such regu-
21 lations as the Comptroller General may prescribe.
22 The Comptroller General shall have access to such
23 books, records, accounts, and other materials of the
24 Office as the Comptroller General determines to be
25 necessary for the preparation of such audit. The

1 Comptroller General shall submit to the Congress a
2 report on the results of each audit conducted under
3 this section.

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

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

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

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

1 **“SEC. 702. REPORTING.**

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

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

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

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

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

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

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

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

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

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

12 **“SEC. 703. EFFECTIVE DATE.**

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

○