

106TH CONGRESS
2D SESSION

S. 1287

AN ACT

To provide for the storage of spent nuclear fuel pending completion of the nuclear waste repository, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nuclear Waste Policy
5 Amendments Act of 2000”.

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act—

3 (1) the term “contract holder” means a party
 4 to a contract with the Secretary of Energy for the
 5 disposal of spent nuclear fuel or high-level radio-
 6 active waste entered into pursuant to section 302(a)
 7 of the Nuclear Waste Policy Act of 1982 (42 U.S.C.
 8 10222(a)); and

9 (2) the terms “Administrator”, “civilian nuclear
 10 power reactor”, “Commission”, “Department”, “dis-
 11 posal”, “high-level radioactive waste”, “Indian
 12 tribe”, “repository”, “reservation”, “Secretary”,
 13 “spent nuclear fuel”, “State”, “storage”, “Waste
 14 Fund”, and “Yucca Mountain site” shall have the
 15 meanings given such terms in section 2 of the Nu-
 16 clear Waste Policy Act of 1982 (42 U.S.C. 10101).

17 **TITLE I—STORAGE AND**
 18 **DISPOSAL**

19 **SEC. 101. PROGRAM SCHEDULE.**

20 (a) IN GENERAL.—The President, the Secretary, and
 21 the Nuclear Regulatory Commission shall carry out their
 22 duties under this Act and the Nuclear Waste Policy Act
 23 of 1982 by the earliest practicable date consistent with
 24 the public interest and applicable provisions of law.

25 (b) MILESTONES.—(1) The Secretary shall make a
 26 final decision whether to recommend the Yucca Mountain

1 site for development of the repository to the President by
2 December 31, 2001;

3 (2) The President shall make a final decision whether
4 to recommend the Yucca Mountain site for development
5 of the repository to the Congress by March 31, 2002;

6 (3) The Nuclear Regulatory Commission shall make
7 a final decision whether to authorize construction of the
8 repository by January 31, 2006; and

9 (4) As provided in subsection (c), the Secretary shall
10 begin receiving waste at the repository site at the earliest
11 practicable date and no later than eighteen months after
12 receiving construction authorization from the Nuclear
13 Regulatory Commission.

14 (c) RECEIPT FACILITIES.—(1) As part of the submis-
15 sion of an application for a construction authorization pur-
16 suant to section 114(b) of the Nuclear Waste Policy Act
17 of 1982 (42 U.S.C. 10134(b)), the Secretary shall apply
18 to the Commission to receive and possess spent nuclear
19 fuel and high-level radioactive waste at surface facilities
20 within the geologic repository operations area for the re-
21 ceipt, handling, packaging, and storage prior to emplace-
22 ment.

23 (2) As part of the issuance of the construction au-
24 thorization under section 114(b) of the Nuclear Waste
25 Policy Act of 1982, the Commission shall authorize con-

1 construction of surface facilities described in subsection (c)(1)
2 and the receipt and possession of spent nuclear fuel and
3 high-level radioactive waste at such surface facilities with-
4 in the geologic repository operations area for the purposes
5 in subsection (c)(1), in accordance with such standards
6 as the Commission finds are necessary to protect the pub-
7 lic health and safety.

8 **SEC. 102. BACKUP STORAGE CAPACITY.**

9 (a) Subject to section 105(d), the Secretary shall
10 enter into a contract under this subsection with any per-
11 son generating or owning spent nuclear fuel that meets
12 the requirements of section 135(b)(1) (A) and (B) of the
13 Nuclear Waste Policy Act of 1982 (42 U.S.C. 10155(b)(1)
14 (A) and (B)) to—

15 (1) take title at the civilian nuclear power reac-
16 tor site to such amounts of spent nuclear fuel from
17 the civilian nuclear power reactor as the Commission
18 determines cannot be stored onsite; and

19 (2) transport such spent nuclear fuel to, and
20 store such spent nuclear fuel at, the repository site
21 after the Commission has authorized construction of
22 the repository without regard to the Secretary's Ac-
23 ceptance Priority Ranking report or Annual Capac-
24 ity report.

1 **SEC. 103. REPOSITORY LICENSING.**

2 (a) ADOPTION OF STANDARDS.—Notwithstanding
3 the time schedule in section 801(a)(1) of the Energy Pol-
4 icy Act of 1992 (42 U.S.C. 10141 note), the Adminis-
5 trator shall not publish or adopt public health and safety
6 standards for the protection of the public from releases
7 from radioactive materials stored or disposed of in the re-
8 pository at the Yucca Mountain site—

9 (1) except in accordance with this section; and

10 (2) before June 1, 2001.

11 (b) CONSULTATION AND REPORTS TO CONGRESS.—

12 (1) Not later than 30 days after the enactment of this
13 Act, the Administrator shall provide the Commission and
14 the National Academy of Sciences—

15 (A) a detailed written comparison of the provi-
16 sions of the proposed Environmental Protection
17 Standards for Yucca Mountain, Nevada, published
18 in the Federal Register on August 27, 1999 (64
19 Fed. Reg. 46,975) with the recommendations made
20 by the National Academy of Sciences in its report,
21 Technical Bases for Yucca Mountain Standards,
22 pursuant to section 801(a)(2) of the Energy Policy
23 Act of 1992 (42 U.S.C. 10141 note); and

24 (B) the scientific basis for the proposed rule.

25 (2) Not later than April 1, 2001, the Commission and
26 the National Academy of Sciences shall, based on the pro-

1 posed rule and the information provided by the Adminis-
2 trator under paragraph (1), each submit a report to Con-
3 gress on whether the proposed rule—

4 (A) is consistent with section 801(a)(2) of the
5 Energy Policy Act of 1992 (42 U.S.C. 10141 note);

6 (B) provide a reasonable expectation that the
7 public health and safety and the environment will be
8 adequately protected from the hazards posed by
9 high-level radioactive waste and spent nuclear fuel
10 disposed of in the repository;

11 (C) is based on the best reasonably obtainable
12 scientific and technical information concerning the
13 need for, and consequences of, the rule; and

14 (D) imposes the least burden, consistent with
15 obtaining the regulatory objective of protecting the
16 public health and safety and the environment.

17 (3) In the event that either the Commission or the
18 National Academy of Sciences finds that the proposed rule
19 does not meet one or more of the criteria listed in para-
20 graph (2), it shall notify the Administrator not later than
21 April 1, 2001 of its finding and the basis for such finding.

22 (c) APPLICATION OF CONGRESSIONAL REVIEW PRO-
23 CEDURES.—Any final rule promulgated under section
24 801(a)(1) of the Energy Policy Act of 1992 (42 U.S.C.
25 10141 note) shall be treated as a major rule for purposes

1 of chapter 8 of title 5, United States Code, and shall be
 2 subject to all the requirements and procedures pertaining
 3 to a major rule in such chapter.

4 (d) CAPACITY.—Section 114(d) of the Nuclear Waste
 5 Policy Act of 1982 (42 U.S.C. 10134(d)) is amended by
 6 striking “The Commission decision approving the first
 7 such application . . .” through the period at the end of
 8 the sentence.

9 **SEC. 104. NUCLEAR WASTE FEE.**

10 The last sentence of section 302(a)(4) of the Nuclear
 11 Waste Policy Act of 1982 (42 U.S.C. 10222(a)(4)) is
 12 amended to read as follows: “The adjusted fee proposed
 13 by the Secretary shall be effective upon enactment of a
 14 joint resolution or other provision of law specifically ap-
 15 proving the adjusted fee.”.

16 **SEC. 105. SETTLEMENT AGREEMENTS.**

17 (a) IN GENERAL.—The Secretary may, upon the re-
 18 quest of any person with whom he has entered into a con-
 19 tract under section 302(a) of the Nuclear Waste Policy
 20 Act of 1982 (42 U.S.C. 10222(a)), enter into a settlement
 21 agreement with the contract holder to—

22 (1) relieve any harm caused by the Secretary’s
 23 failure to meet the Department’s commitment, or

24 (2) settle any legal claims against the United
 25 States arising out of such failure.

1 (b) TYPES OF RELIEF.—Pursuant to a settlement
2 agreement entered into under this section, the Secretary
3 may—

4 (1) provide spent nuclear fuel storage casks to
5 the contract holder;

6 (2) compensate the contract holder for the cost
7 of providing spent nuclear fuel storage at the con-
8 tract holders' storage facility; or

9 (3) provide any combination of the foregoing.

10 (c) SCOPE OF RELIEF.—The Secretary's obligation
11 to provide the relief under subsection (b) shall not exceed
12 the Secretary's obligation to accept delivery of such spent
13 fuel under the terms of the Secretary's contract with such
14 contract holder under section 302(a) of the Nuclear Waste
15 Policy Act of 1982 (42 U.S.C. 10222(a)), including any
16 otherwise permissible assignment of rights.

17 (d) WAIVER OF CLAIMS.—(1) The Secretary may not
18 enter into a settlement agreement under subsection (a) or
19 (f) or a backup contract under section 102(a) with any
20 contract holder unless the contract holder—

21 (A) notifies the Secretary within 180 days after
22 the date of enactment of this Act of its intent to
23 enter into a settlement negotiations, and

24 (B) as part of such settlement agreement or
25 backup contract, waives any claim for damages

1 against the United States arising out of the Sec-
2 retary's failure to begin disposing of such person's
3 high-level waste or spent nuclear fuel by January
4 31, 1998.

5 (2) Nothing in this subsection shall be read to
6 require a contract holder to waive any future claim
7 against the United States arising out of the Sec-
8 retary's failure to meet any new obligation assumed
9 under a settlement agreement or backup storage
10 agreement, including any obligation related to the
11 movement of spent fuel by the Department.

12 (e) SOURCE OF FUNDS.—Notwithstanding section
13 302(d) of the Nuclear Waste Policy Act of 1982 (42
14 U.S.C. 10222(d)), the Secretary may not make expendi-
15 tures from the Nuclear Waste Fund for any costs that
16 may be incurred by the Secretary pursuant to a settlement
17 agreement or backup storage contract under this Act
18 except—

19 (1) the cost of acquiring and loading spent nu-
20 clear fuel casks;

21 (2) the cost of transporting spent nuclear fuel
22 from the contract holder's site to the repository; and

23 (3) any other cost incurred by the Secretary re-
24 quired to perform a settlement agreement or backup
25 storage contract that would have been incurred by

1 the Secretary under the contracts entered into under
2 section 302(a) of the Nuclear Waste Policy Act of
3 1982 (42 U.S.C. 10222(a)) notwithstanding their
4 amendment pursuant to this Act.

5 (f) REACTOR DEMONSTRATION PROGRAM.—(1) Not
6 later than 120 days after the date of enactment of the
7 Nuclear Waste Policy Amendments Act of 2000, and not-
8 withstanding Section 302(a)(5) of the Nuclear Waste Pol-
9 icy Act of 1982 (42 U.S.C. 10222(a)(5)), the Secretary
10 is authorized to take title to the spent nuclear fuel with-
11 drawn from the demonstration reactor remaining from the
12 Cooperative Power Reactor Demonstration Program (Pub.
13 L. No. 87–315, Sec. 109, 75 Stat. 679), the Dairyland
14 Power Cooperative La Crosse Boiling Water Reactor. Im-
15 mediately upon the Secretary’s taking title to the
16 Dairyland Power Cooperative La Crosse Boiling Water
17 Reactor spent nuclear fuel, the Secretary shall assume all
18 responsibility and liability for the interim storage and per-
19 manent disposal thereof and is authorized to compensate
20 Dairyland Power Cooperative for any costs related to oper-
21 ating and maintaining facilities necessary for such stor-
22 age, from the date of taking title until the Secretary re-
23 moves the spent nuclear fuel from the Dairyland Power
24 Cooperative La Crosse Boiling Water Reactor site. The
25 Secretary’s obligation to take title or compensate the hold-

1 er of the Dairyland Power Cooperative La Crosse Boiling
2 Water Reactor spent nuclear fuel under this subsection
3 shall include all of such fuel, regardless of the delivery
4 commitment schedule for such fuel under the Secretary's
5 contract with the Dairyland Power Cooperative as the con-
6 tract holder under Section 302(a) of the Nuclear Waste
7 Policy Act of 1982 (42 U.S.C. 10222(a)) or the accept-
8 ance schedule for such fuel under section 106 of this Act.

9 (2) As a condition to the Secretary's taking of title
10 to the Dairyland Power Cooperative La Crosse Boiling
11 Water Reactor spent nuclear fuel, the contract holder for
12 such fuel shall enter into a settlement agreement con-
13 taining a waiver of claims against the United States as
14 provided in this section.

15 (g) SAVINGS CLAUSE.—(1) Nothing in this section
16 shall limit the Secretary's existing authority to enter into
17 settlement agreements or address shutdown reactors and
18 any associated public health and safety or environmental
19 concerns that may arise.

20 (2) Nothing in this Act diminishes obligations im-
21 posed upon the Federal Government by the United States
22 District Court of Idaho in an order entered on October
23 17, 1995 in United States v. Batt (No. 91-0054-S-EJL).
24 To the extent this Act imposes obligations on the Federal

1 Government that are greater than those imposed by the
2 court order, the provisions of this Act shall prevail.

3 **SEC. 106. ACCEPTANCE SCHEDULE.**

4 (a) PRIORITY RANKING.—Acceptance priority rank-
5 ing shall be determined by the Department’s “Acceptance
6 Priority Ranking” report.

7 (b) ACCEPTANCE RATE.—As soon as practicable
8 after construction authorization, but no later than eight-
9 een months after the year of issuance of a license to re-
10 ceive and possess spent nuclear fuel and high-level radio-
11 active waste under section 101(c), the Secretary’s total ac-
12 ceptance rate for all spent nuclear fuel and high-level
13 waste shall be a rate no less than the following as meas-
14 ured in metric tons uranium (MTU), assuming that each
15 high-level waste canister contains 0.5 MTU: 500 MTU in
16 year 1, 700 MTU in year 2, 1,300 MTU in year 3, 2,100
17 MTU in year 4, 3,100 MTU in year 5, 3,300 MTU in
18 years 6, 7, and 8, 3,400 MTU in years 9 through 24, and
19 3,900 MTU in year 25 and thereafter.

20 (c) OTHER ACCEPTANCES.—Subject to the conditions
21 contained in the license to receive and possess spent nu-
22 clear fuel and high-level radioactive waste issued under
23 section 101(c), of the amounts provided for in paragraph
24 (b) for each year, not less than one-sixth shall be—

1 (1) spent nuclear fuel or civilian high-level ra-
2 dioactive waste of domestic origin from civilian nu-
3 clear power reactors that have permanently ceased
4 operation on or before the date of enactment of the
5 Nuclear Waste Policy Act Amendments of 2000;

6 (2) spent nuclear fuel from foreign research re-
7 actors, as necessary to promote nonproliferation ac-
8 tivities; and

9 (3) spent nuclear fuel and high-level radioactive
10 waste from research and atomic energy defense ac-
11 tivities, including spent nuclear fuel from naval reac-
12 tors:

13 *Provided, however,* That the Secretary shall accept not less
14 than 7.5 percent of the total quantity of fuel and high-
15 level radioactive waste accepted in any year from the cat-
16 egories of radioactive materials described in paragraphs
17 (2) and (3) in subsection (c). If sufficient amounts of ra-
18 dioactive materials are not available to utilize this alloca-
19 tion, the Secretary shall allocate this acceptance capacity
20 to other contract holders.

21 (d) EFFECT ON SCHEDULE.—The contractual ac-
22 ceptance schedule shall not be modified in any way as a
23 result of the Secretary's acceptance of any material other
24 than contract holders' spent nuclear fuel and high-level ra-
25 dioactive waste.

1 (e) MULTI-YEAR SHIPPING CAMPAIGNS.—Consistent
2 with the acceptance schedule, the Secretary shall, in con-
3 junction with contract holders, define a specified multi-
4 year period for each shipping campaign and establish cri-
5 teria under which the Secretary could accept contract
6 holders' cumulative allocations of spent nuclear fuel dur-
7 ing the campaign period at one time and thereby enhance
8 the efficiency and cost-effectiveness of spent nuclear fuel
9 and high-level waste acceptance.

10 **SEC. 107. INITIAL LAND CONVEYANCES.**

11 (a) CONVEYANCES OF PUBLIC LANDS.—One hundred
12 and twenty days after enactment, all right, title and inter-
13 est of the United States in the property described in sub-
14 section (b), and improvements thereon, together with all
15 necessary easements for utilities and ingress and egress
16 to such property, including, but not limited to, the right
17 to improve those easements, are conveyed by operation of
18 law to the County of Nye, County of Lincoln, or the City
19 of Caliente, Nevada, unless the county notifies the Sec-
20 retary of the Interior or the head of such other appro-
21 priate agency in writing within 60 days of such date that
22 it elects not to take title to all or any part of the property,
23 except that any lands conveyed to the County of Nye
24 under this subsection that are subject to a Federal grazing
25 permit or lease or a similar federally granted permit or

1 lease shall be conveyed between 60 and 120 days of the
 2 earliest time the Federal agency administering or granting
 3 the permit or lease would be able to legally terminate such
 4 right under the statutes and regulations existing at the
 5 date of enactment of this Act, unless Nye County and the
 6 affected holder of the permit or lease negotiate an agree-
 7 ment that allows for an earlier conveyance.

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

12 (1) To the County of Nye, Nevada, the fol-
 13 lowing public lands depicted on the maps dated Feb-
 14 ruary 1, 2000, and on file with the Secretary:

15 Map 1: Proposed Pahrump Industrial Park
 16 Site

17 Map 2: Proposed Lathrop Wells (Gate
 18 510) Industrial Park Site

19 Map 3: Pahrump Landfill Sites

20 Map 4: Amargosa Valley Regional Landfill
 21 Site

22 Map 5: Amargosa Valley Municipal Land-
 23 fill Site

24 Map 6: Beatty Landfill/Transfer Station
 25 Site

1 Map 7: Round Mountain Landfill Site

2 Map 8: Tonopah Landfill Site

3 Map 9: Gabbs Landfill Site.

4 (2) To the County of Nye, Nevada, the fol-
 5 lowing public lands depicted on the maps dated Feb-
 6 ruary 1, 2000, and on file with the Secretary:

7 Map 1: Beatty

8 Map 2: Ione/Berlin

9 Map 3: Manhattan

10 Map 4: Round Mountain/Smoky Valley

11 Map 5: Tonopah

12 Map 6: Armargosa Valley

13 Map 7: Pahrump.

14 (3) To the County of Lincoln, Nevada, the fol-
 15 lowing public lands depicted on the maps dated Feb-
 16 ruary 1, 2000, and on file with the Secretary:

17 Map 2: Lincoln County, Parcel M, Indus-
 18 trial Park Site, Jointly with the City of Caliente

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

21 Map 4: Lincoln County, Parcels H and I,
 22 Mixed Use and Airport Expansion Sites

23 Map 5: Lincoln County, Parcels J and K,
 24 Mixed Use, Airport and Landfill Expansion
 25 Sites

1 Map 6: Lincoln County, Parcels E and L,
 2 Mixed Use, Airport and Industrial Expansion
 3 Sites.

4 (4) To the City of Caliente, Nevada, the fol-
 5 lowing public lands depicted on the maps dated Feb-
 6 ruary 1, 2000, and on file with the Secretary:

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

10 Map 2: City of Caliente, Parcel M, Indus-
 11 trial Park Site, Jointly with Lincoln County.

12 (5) To the City of Caliente, Nevada, the fol-
 13 lowing public lands depicted on the maps dated Feb-
 14 ruary 1, 2000, and on file with the Secretary:

15 Map 1: City of Caliente, Industrial Park
 16 Site Expansion.

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

24 (d) EVIDENCE OF TITLE TRANSFER.—Upon the re-
 25 quest of the County of Lincoln or the County of Nye, Ne-

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

3 (e) CONSENT.—(1) The acceptance or use of any of
4 the benefits provided under this title by any affected unit
5 of local government shall not be deemed to be an expres-
6 sion of consent, express or implied, either under the Con-
7 stitution of the State of Nevada or any law thereof, to
8 the siting of the repository in the State of Nevada, any
9 provision of such Constitution or laws to the contrary not-
10 withstanding.

11 (2) ARGUMENTS.—Neither the United States nor any
12 other entity may assert any argument based on legal or
13 equitable estoppel, or acquiescence, or waiver, or consen-
14 sual involvement, in response to any decision by the State
15 of Nevada, to oppose the siting in Nevada of the repository
16 premised upon or related to the acceptance or use of bene-
17 fits under this title.

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

1 **TITLE II—TRANSPORTATION**

2 **SEC. 201. TRANSPORTATION.**

3 Section 180 of the Nuclear Waste Policy Act of 1982
4 (42 U.S.C. 10175) is amended to read as follows:

5 “TRANSPORTATION

6 “SEC. 180. (a) IN GENERAL.—The transportation of
7 spent nuclear fuel and high-level radioactive waste from
8 any civilian nuclear power reactor to any other civilian nu-
9 clear power reactor or to any Department of Energy Facil-
10 ity, by or for the Secretary, or by or for any person who
11 owns or generates spent nuclear fuel or high-level radio-
12 active waste, shall be subject to licensing and regulation
13 by the Commission and the Secretary of Transportation
14 under all applicable provisions of existing law.

15 “(1) PREFERRED SHIPPING ROUTES.—The Sec-
16 retary shall select and cause to be used preferred
17 shipping routes for the transportation of spent nu-
18 clear fuel and high level radioactive waste from each
19 shipping origin to the repository in accordance with
20 the regulations promulgated by the Secretary of
21 Transportation under authority of the Hazardous
22 Materials Transportation Act (chapter 51 of title 49,
23 United State Code) and by the Nuclear Regulatory
24 Commission under authority of the Atomic Energy
25 Act of 1954 (42 U.S.C. 2201 et seq.).

1 “(2) STATE REROUTING.—For purposes of this
2 section, a preferred route shall be an Interstate Sys-
3 tem highway for which an alternative route is not
4 designated by a State routing agency, or a State-
5 designated route designated by a State routing agen-
6 cy pursuant to section 397.103 of title 49, Code of
7 Federal Regulations.

8 “(b) SHIPPING CONTAINERS.—No spent nuclear fuel
9 or high-level radioactive waste may be transported by or
10 for the Secretary under this Act except in packages—

11 “(1) the design of which has been certified by
12 the Commission; and

13 “(2) that have been determined by the Commis-
14 sion to satisfy its quality assurance requirements.

15 “(c) NOTIFICATION.—The Secretary shall provide ad-
16 vance notification to States and Indian tribes through
17 whose jurisdiction the Secretary plans to transport spent
18 nuclear fuel or high-level radioactive waste.

19 “(d) TECHNICAL ASSISTANCE.—

20 “(1) IN GENERAL.—

21 “(A) STATES AND INDIAN TRIBES.—As
22 provided in paragraph (3), the Secretary shall
23 provide technical assistance and funds to States
24 and Indian tribes for training of public safety
25 officials or appropriate units of State, local, and

1 tribal government. A State shall allocate to
2 local governments within the State a portion of
3 any funds that the Secretary provides to the
4 State for technical assistance and funding.

5 “(B) EMPLOYEE ORGANIZATIONS.—The
6 Secretary shall provide technical assistance and
7 funds for training directly to nonprofit em-
8 ployee organizations, voluntary emergency re-
9 sponse organizations, and joint labor-manage-
10 ment organizations that demonstrate experience
11 in implementing and operating worker health
12 and safety training and education programs
13 and demonstrate the ability to reach and in-
14 volve in training programs target populations of
15 workers who are or will be directly engaged in
16 the transportation of spent nuclear fuel and
17 high-level radioactive waste or emergency re-
18 sponse or post-emergency response with respect
19 to such transportation.

20 “(C) TRAINING.—Training under this
21 section—

22 “(i) shall cover procedures required
23 for safe routine transportation of materials
24 and procedures for dealing with emergency
25 response situations;

1 “(ii) shall be consistent with any
2 training standards established by the Sec-
3 retary of Transportation under subsection
4 (h); and

5 “(iii) shall include—

6 “(I) a training program applica-
7 ble to persons responsible for respond-
8 ing to emergency situations occurring
9 during the removal and transportation
10 of spent nuclear fuel and high-level
11 radioactive waste;

12 “(II) instruction of public safety
13 officers in procedures for the com-
14 mand and control of the response to
15 any incident involving the waste; and

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

22 “(2) NO SHIPMENTS IF NO TRAINING.—

23 “(A) There shall be no shipments by the
24 Secretary of spent nuclear fuel and high-level
25 radioactive waste through the jurisdiction of

1 any State or the reservation lands of any In-
2 dian tribe eligible for grants under paragraph
3 (3)(B) to the repository until the Secretary has
4 made a determination that personnel in all
5 State, local, and tribal jurisdictions on primary
6 and alternative shipping routes have met ac-
7 ceptable standards of training for emergency re-
8 sponses to accidents involving spent nuclear fuel
9 and high-level radioactive waste, as established
10 by the Secretary, and unless technical assist-
11 ance and funds to implement procedures for the
12 safe routine transportation and for dealing with
13 emergency response situations under paragraph
14 (1)(A) have been available to a State or Indian
15 tribe for at least 3 years prior to any shipment:
16 *Provided, however,* That the Secretary may ship
17 spent nuclear fuel and high-level radioactive
18 waste if technical assistance or funds have not
19 been made available because of—

20 “(i) an emergency, including the sud-
21 den and unforeseen closure of a highway or
22 rail line or the sudden and unforeseen need
23 to remove spent fuel from a reactor be-
24 cause of an accident, or

1 “(ii) the refusal to accept technical as-
2 sistance by a State or Indian tribe, or

3 “(iii) fraudulent actions which violate
4 Federal law governing the expenditure of
5 Federal funds.

6 “(B) In the event the Secretary is required
7 to transport spent fuel or high-level radioactive
8 waste through a jurisdiction prior to 3 years
9 after the provision of technical assistance or
10 funds to such jurisdiction, the Secretary shall,
11 prior to such shipment, hold meetings in each
12 State and Indian reservation through which the
13 shipping route passes in order to present initial
14 shipment plans and receive comments. Depart-
15 ment of Energy personnel trained in emergency
16 response shall escort each shipment. Funds and
17 all Department of Energy training resources
18 shall be made available to States and Indian
19 tribes along the shipping route no later than
20 three months prior to the commencement of
21 shipments: *Provided, however,* That in no event
22 shall such shipments exceed 1,000 metric tons
23 per year: *Provided further,* That no such ship-
24 ments shall be conducted more than four years

1 after the effective date of the Nuclear Waste
2 Policy Amendments Act of 2000.

3 “(3) GRANTS.—

4 “(A) IN GENERAL.—To implement this
5 section, the Secretary may make expenditures
6 from the Nuclear Waste Fund to the extent
7 provided for in appropriation Acts.

8 “(B) GRANTS FOR DEVELOPMENT OF
9 PLANS.—

10 “(i) IN GENERAL.—The Secretary
11 shall make a grant of at least \$150,000 to
12 each State through the jurisdiction of
13 which and each federally recognized Indian
14 tribe through the reservation lands of
15 which one or more shipments of spent nu-
16 clear fuel or high-level radioactive waste
17 will be made under this Act for the pur-
18 pose of developing a plan to prepare for
19 such shipments.

20 “(ii) LIMITATION.—A grant shall be
21 made under clause (i) only to a State or a
22 federally recognized Indian tribe that has
23 the authority to respond to incidents in-
24 volving shipments of hazardous material.

1 “(C) GRANTS FOR IMPLEMENTATION OF
2 PLANS.—

3 “(i) IN GENERAL.—Annual implemen-
4 tation grants shall be made to States and
5 Indian tribes that have developed a plan to
6 prepare for shipments under this Act
7 under subparagraph (B). The Secretary, in
8 submitting the annual departmental budg-
9 et to Congress for funding of implementa-
10 tion grants under this section, shall be
11 guided by the State and tribal plans devel-
12 oped under subparagraph (B). As part of
13 the Department of Energy’s annual budget
14 request, the Secretary shall report to Con-
15 gress on—

16 “(I) the funds requested by
17 States and federally recognized Indian
18 tribes to implement this subsection;

19 “(II) the amount requested by
20 the President for implementation; and

21 “(III) the rationale for any dis-
22 crepancies between the amounts re-
23 quested by States and federally recog-
24 nized Indian tribes and the amounts
25 requested by the President.

1 “(ii) ALLOCATION.—Of funds avail-
2 able for grants under this subparagraph
3 for any fiscal year—

4 “(I) 25 percent shall be allocated
5 by the Secretary to ensure minimum
6 funding and program capability levels
7 in all States and Indian tribes based
8 on plans developed under subpara-
9 graph (B); and

10 “(II) 75 percent shall be allo-
11 cated to States and Indian tribes in
12 proportion to the number of shipment
13 miles that are projected to be made in
14 total shipments under this Act
15 through each jurisdiction.

16 “(4) AVAILABILITY OF FUNDS FOR SHIP-
17 MENTS.—Funds under paragraph (1) shall be pro-
18 vided for shipments to a repository, regardless of
19 whether the repository is operated by a private enti-
20 ty or by the Department of Energy.

21 “(5) MINIMIZING DUPLICATION OF EFFORT
22 AND EXPENSES.—The Secretaries of Transportation,
23 Labor, and Energy, Directors of the Federal Emer-
24 gency Management Agency and National Institute of
25 Environmental Health Sciences, the Nuclear Regu-

1 latory Commission, and Administrator of the Envi-
2 ronmental Protection Agency shall review periodi-
3 cally, with the head of each department, agency, or
4 instrumentality of the Government, all emergency re-
5 sponse and preparedness training programs of that
6 department, agency, or instrumentality to minimize
7 duplication of effort and expense of the department,
8 agency, or instrumentality in carrying out the pro-
9 grams and shall take necessary action to minimize
10 duplication.

11 “(e) PUBLIC INFORMATION.—The Secretary shall
12 conduct a program, in cooperation with corridor States
13 and tribes, to inform the public regarding the transpor-
14 tation of spent nuclear fuel and high-level radioactive
15 waste, with an emphasis on those States, units of local
16 government, and Indian tribes through whose jurisdiction
17 the Secretary plans to transport substantial amounts of
18 spent nuclear fuel or high-level radioactive waste.

19 “(f) USE OF PRIVATE CARRIERS.—The Secretary, in
20 providing for the transportation of spent nuclear fuel and
21 high-level radioactive waste under this Act, shall contract
22 with private industry to the fullest extent possible in each
23 aspect of such transportation. The Secretary shall use di-
24 rect Federal services for such transportation only upon a
25 determination by the Secretary of Transportation, in con-

1 sultation with the Secretary, that private industry is un-
2 able or unwilling to provide such transportation services
3 at a reasonable cost.

4 “(g) COMPLIANCE WITH TRANSPORTATION REGULA-
5 TIONS.—Any person that transports spent nuclear fuel or
6 high-level radioactive waste under the Nuclear Waste Pol-
7 icy Amendments Act of 2000, pursuant to a contract with
8 the Secretary, shall comply with all requirements gov-
9 erning such transportation issued by the Federal, State
10 and local governments, and Indian tribes, in the same way
11 and to the same extent that any person engaging in that
12 transportation that is in or affects interstate commerce
13 must comply with such requirements, as required by sec-
14 tion 5126 of title 49, United States Code.

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

25 “(i) TRAINING STANDARD.—

1 “(1) REGULATION.—No later than 12 months
2 after the date of enactment of the Nuclear Waste
3 Policy Amendments Act of 2000, the Secretary of
4 Transportation, pursuant to authority under other
5 provisions of law, in consultation with the Secretary
6 of Labor and the Commission, shall promulgate a
7 regulation establishing training standards applicable
8 to workers directly involved in the removal and
9 transportation of spent nuclear fuel and high-level
10 radioactive waste. The regulation shall specify min-
11 imum training standards applicable to workers, in-
12 cluding managerial personnel. The regulation shall
13 require that the employer possess evidence of satis-
14 faction of the applicable training standard before
15 any individual may be employed in the removal and
16 transportation of spent nuclear fuel and high-level
17 radioactive waste.

18 “(2) SECRETARY OF TRANSPORTATION.—If the
19 Secretary of Transportation determines, in promul-
20 gating the regulation required by paragraph (1),
21 that existing Federal regulations establish adequate
22 training standards for workers, then the Secretary
23 of Transportation can refrain from promulgating ad-
24 ditional regulations with respect to worker training
25 in such activities. The Secretary of Transportation

1 and the Commission shall, by Memorandum of Un-
2 derstanding, ensure coordination of worker training
3 standards and to avoid duplicative regulation.

4 “(3) TRAINING STANDARDS CONTENT.—(A) If
5 training standards are required to be promulgated
6 under paragraph (1), such standards shall, among
7 other things deemed necessary and appropriate by
8 the Secretary of Transportation, provide for—

9 “(i) a specified minimum number of hours
10 of initial offsite instruction and actual field ex-
11 perience under the direct supervision of a
12 trained, experienced supervisor;

13 “(ii) a requirement that onsite managerial
14 personnel receive the same training as workers,
15 and a minimum number of additional hours of
16 specialized training pertinent to their manage-
17 rial responsibilities; and

18 (iii) a training program applicable to per-
19 sons responsible for responding to and cleaning
20 up emergency situations occurring during the
21 removal and transportation of spent nuclear
22 fuel and high-level radioactive waste.

23 “(B) The Secretary of Transportation may
24 specify an appropriate combination of knowledge,

1 skills, and prior training to fulfill the minimum
 2 number of hours requirements of clauses (i) and (ii).

3 “(4) EMERGENCY RESPONDER TRAINING
 4 STANDARDS.—The training standards for persons
 5 responsible for responding to emergency situations
 6 occurring during the removal and transportation of
 7 spent nuclear and high-level radioactive waste shall,
 8 in accordance with existing regulations, ensure their
 9 ability to protect nearby persons, property, or the
 10 environment from the effects of accidents involving
 11 spent nuclear fuel and high-level radioactive waste.

12 “(5) AUTHORIZATION.—There is authorized to
 13 be appropriated to the Secretary of Transportation,
 14 from general revenues, such sums as may be nec-
 15 essary to perform his duties under this subsection.”.

16 **TITLE III—DEVELOPMENT OF** 17 **NATIONAL SPENT NUCLEAR** 18 **FUEL STRATEGY**

19 **SEC. 301. FINDINGS.**

20 (a) Prior to permanent closure of the geologic reposi-
 21 tory in Yucca Mountain, Congress must determine wheth-
 22 er the spent fuel in the repository should be treated as
 23 waste subject to permanent burial or should be considered
 24 an energy resource that is needed to meet future energy
 25 requirements.

1 (b) Future use of nuclear energy may require con-
2 struction of a second geologic repository unless Yucca
3 Mountain can safely accommodate additional spent fuel.
4 Improved spent fuel strategies may increase the capacity
5 of Yucca Mountain.

6 (c) Prior to construction of any second permanent
7 geologic repository, the nation's current plans for perma-
8 nent burial of spent fuel should be re-evaluated.

9 **SEC. 302. OFFICE OF SPENT NUCLEAR FUEL RESEARCH.**

10 (a) ESTABLISHMENT.—There is hereby established
11 an Office of Spent Nuclear Fuel Research within the Of-
12 fice of Nuclear Energy Science and Technology of the De-
13 partment of Energy. The Office shall be headed by the
14 Associate Director, who shall be a member of the Senior
15 Executive Service appointed by the Director of the Office
16 of Nuclear Energy Science and Technology, and com-
17 pensated at a rate determined by applicable law.

18 (b) ASSOCIATE DIRECTOR.—The Associate Director
19 of the Office of Spent Nuclear Fuel Research shall be re-
20 sponsible for carrying out an integrated research, develop-
21 ment, and demonstration program on technologies for
22 treatment, recycling, and disposal of high-level nuclear ra-
23 dioactive waste and spent nuclear fuel, subject to the gen-
24 eral supervision of the Secretary. The Associate Director
25 of the Office shall report to the Director of the Office of

1 Nuclear Energy Science and Technology. The first such
2 Associate Director shall be appointed within 90 days of
3 the enactment of the Nuclear Waste Policy Amendments
4 Act of 2000.

5 (c) GRANT AND CONTRACT AUTHORITY.—In car-
6 rying out his responsibilities under this section, the Sec-
7 retary may make grants, or enter into contracts, for the
8 purposes of the research projects and activities described
9 in (d)(2).

10 (d) DUTIES.—(1) The Associate Director of the Of-
11 fice shall involve national laboratories, universities, the
12 commercial nuclear industry, and other organizations to
13 investigate technologies for the treatment, recycling, and
14 disposal of spent nuclear fuel and high-level radioactive
15 waste.

16 (2) The Associate Director of the Office shall—

17 (A) develop a research plan to provide rec-
18 ommendations by 2015;

19 (B) identify promising technologies for the
20 treatment, recycling, and disposal of spent nuclear
21 fuel and high-level radioactive waste;

22 (C) conduct research and development activities
23 for promising technologies;

24 (D) ensure that all activities include as key ob-
25 jectives minimization of proliferation concerns and

1 risk to the health of the general public or site work-
2 ers, as well as development of cost-effective tech-
3 nologies;

4 (E) require research on both reactor- and accel-
5 erator-based transmutation systems;

6 (F) require research on advanced processing
7 and separations;

8 (G) ensure that research efforts with this Office
9 are coordinated with research on advanced fuel cy-
10 cles and reactors conducted within the Office of Nu-
11 clear Energy Science and Technology.

12 (e) REPORT.—The Associate Director of the Office
13 of Spent Nuclear Fuel Research shall annually prepare
14 and submit a report to the Congress on the activities and
15 expenditures of the Office that discusses progress being
16 made in achieving the objectives of subsection (b).

17 **TITLE IV—GENERAL AND**
18 **MISCELLANEOUS**

19 **SEC. 401. DECOMMISSIONING PILOT PROGRAM.**

20 (a) AUTHORIZATION.—The Secretary is authorized to
21 establish a Decommissioning Pilot Program to decommis-
22 sion and decontaminate the sodium-cooled fast breeder ex-
23 perimental test-site reactor located in northwest Arkansas.

1 (b) FUNDING.—No funds from the Nuclear Waste
2 Fund may be used for the Decommissioning Pilot Pro-
3 gram.

4 **SEC. 402. REPORTS.**

5 (a) The Secretary is directed to report within 90 days
6 from enactment of this Act regarding all alternatives avail-
7 able to Northern States Power Company and the Federal
8 Government which would allow Northern States Power
9 Company to operate the Prairie Island Nuclear Gener-
10 ating Plant until the end of the term of its current Nu-
11 clear Regulatory Commission licenses, assuming existing
12 State and Federal laws remain unchanged.

13 (b) Within six months of enactment of this Act, the
14 General Accounting Office is directed to report back to
15 the Senate Committee on Energy and Natural Resources
16 and the House Committee on Commerce on the potential
17 economic impacts to Minnesota, North Dakota, South Da-
18 kota, Wisconsin, and Michigan ratepayers should the Prai-
19 rie Island Nuclear Generating Plant cease operations once
20 it has met its State-imposed storage limitation, including
21 the costs of new generation, decommissioning costs, and
22 the costs of continued operation of onsite storage of spent
23 nuclear fuel storage.

1 **SEC. 403. SEPARABILITY.**

2 If any provision of this Act, or the application of such
3 provision to any person or circumstance, is held to be in-
4 valid, the remainder of this Act, or the application of such
5 provision to persons or circumstances other than those as
6 to which it is held invalid, shall not be affected thereby.

7 **SEC. 404. FAST FLUX TEST FACILITY.**

8 Any spent nuclear fuel associated with the Fast Flux
9 Test Facility at the Hanford Reservation shall be trans-
10 ported and stored at the repository site as soon as prac-
11 ticable after the Commission has authorized the construc-
12 tion of the repository.

Passed the Senate February 10, 2000.

Attest:

Secretary.

106TH CONGRESS
2D SESSION

S. 1287

AN ACT

To provide for the storage of spent nuclear fuel pending completion of the nuclear waste repository, and for other purposes.

S 1287 ES—2

S 1287 ES—3

S 1287 ES—4

S 1287 ES—5