116TH CONGRESS
1ST SESSION
S. 1234

To establish a new organization to manage nuclear waste, provide a consensual process for siting nuclear waste facilities, ensure adequate funding for managing nuclear waste, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 30, 2019

Ms. Murkowski (for herself, Mr. Alexander, and Mrs. Feinstein) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To establish a new organization to manage nuclear waste, provide a consensual process for siting nuclear waste facilities, ensure adequate funding for managing nuclear waste, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Nuclear Waste Administration Act of 2019”.

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
TITLE I—FINDINGS, PURPOSES, AND DEFINITIONS

Sec. 101. Findings.
Sec. 102. Purposes.
Sec. 103. Definitions.

TITLE II—NUCLEAR WASTE ADMINISTRATION

Sec. 201. Establishment.
Sec. 202. Principal officers.
Sec. 203. Other officers.
Sec. 204. Inspector General.
Sec. 205. Nuclear Waste Oversight Board.
Sec. 206. Conforming amendments.

TITLE III—FUNCTIONS

Sec. 301. Transfer of functions.
Sec. 302. Transfer of contracts.
Sec. 303. Nuclear waste facilities.
Sec. 304. Siting nuclear waste facilities.
Sec. 305. Storage facilities.
Sec. 306. Repositories.
Sec. 307. Licensing nuclear waste facilities.
Sec. 308. Defense waste.
Sec. 309. Transportation.

TITLE IV—FUNDING AND LEGAL PROCEEDINGS

Sec. 401. Working Capital Fund.
Sec. 402. Nuclear Waste Fund.
Sec. 403. Full cost recovery.
Sec. 404. Judicial review.
Sec. 405. Litigation authority.
Sec. 406. Liabilities.

TITLE V—ADMINISTRATIVE AND SAVINGS PROVISIONS

Sec. 501. Administrative powers of Administrator.
Sec. 502. Personnel.
Sec. 503. Offices.
Sec. 504. Mission plan.
Sec. 505. Annual reports.
Sec. 506. Savings provisions; terminations.
Sec. 507. Technical assistance in the field of spent fuel storage and disposal.
Sec. 509. Repeal of volume limitation.

1 TITLE I—FINDINGS, PURPOSES, AND DEFINITIONS

2 SEC. 101. FINDINGS.

3 Congress finds that—
(1) the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.)—

(A) made the Federal Government responsible for providing for the permanent disposal of nuclear waste;

(B) vested the responsibility for siting, constructing, and operating a permanent geologic repository for the disposal of nuclear waste in the Secretary of Energy; and

(C) required the Secretary to enter into binding contracts with the generators and owners of nuclear waste pursuant to which the Secretary is obligated to have begun disposing of the nuclear waste in a repository not later than January 31, 1998;

(2) in 1987, Congress designated the Yucca Mountain site as the site for the repository and precluded consideration of other sites;

(3) in 2002, the Secretary found the Yucca Mountain site to be suitable for the development of the repository, the President recommended the site to Congress, and Congress enacted a joint resolution approving the Yucca Mountain site for the repository;
(4) in 2008, the Secretary applied to the Nuclear Regulatory Commission for a license to construct a repository at the Yucca Mountain site;

(5) in 2009, the Secretary found the Yucca Mountain site to be unworkable and abandoned efforts to construct a repository;

(6) in 2010, the Secretary, at the request of the President, established the Blue Ribbon Commission on America’s Nuclear Future to conduct a comprehensive review of the nuclear waste management policies of the United States and recommend a new strategy for managing the nuclear waste of the United States; and

(7) the Blue Ribbon Commission has recommended that Congress establish a new nuclear waste management organization and adopt a new consensual approach to siting nuclear waste management facilities.

SEC. 102. PURPOSES.

The purposes of this Act are—

(1) to establish a new nuclear waste management organization;

(2) to transfer to the new organization the functions of the Secretary relating to the siting, li-
censing, construction, and operation of nuclear waste
management facilities;

(3) to establish a new consensual process for
the siting of nuclear waste management facilities;

(4) to provide for centralized storage of nuclear
waste pending completion of a repository; and

(5) to ensure that—

(A) the generators and owners of nuclear
waste pay the full cost of the program; and

(B) funds collected for the program are
used for that purpose.

SEC. 103. DEFINITIONS.

In this Act:

(1) ADMINISTRATION.—The term “Administration” means the Nuclear Waste Administration es-
tablished by section 201.

(2) ADMINISTRATOR.—The term “Adminis-
trator” means the Administrator of the Administra-
tion.

(3) AFFECTED INDIAN TRIBE.—The term “af-
fected Indian Tribe” means any Indian Tribe—

(A) within the reservation boundaries of
which a repository or storage facility is pro-
posed to be located; or
•

6

(B) that has federally defined possessory or usage rights to other land outside of the reservation boundaries that—

(i) arise out of a congressionally ratified treaty; and

(ii) the Secretary of the Interior finds, on petition of an appropriate governmental official of the Indian Tribe, may be substantially and adversely affected by the repository or storage facility.

(4) AFFECTED UNIT OF GENERAL LOCAL GOVERNMENT.—

(A) IN GENERAL.—The term “affected unit of general local government” means the unit of general local government that has jurisdiction over the site of a repository or storage facility.

(B) INCLUSION.—The term “affected unit of general local government” may include, at the discretion of the Administrator, units of general local government that are contiguous with the unit that has jurisdiction over the site of a repository or storage facility.

(5) CIVILIAN NUCLEAR POWER REACTOR.—The term “civilian nuclear power reactor” has the mean-

(6) **COMMISSION.**—The term “Commission” means the Nuclear Regulatory Commission.

(7) **COMPLIANCE AGREEMENT.**—The term “compliance agreement” means a legally enforceable agreement between the Secretary and a Federal or State agency requiring the removal of defense waste from a Department of Energy facility.

(8) **CONTRACT HOLDER.**—The term “contract holder” means any person who—

(A) generates or holds title to nuclear waste generated at a civilian nuclear power reactor; and

(B) has entered into a contract for the disposal of nuclear waste under section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) or this Act.

(9) **DEFENSE WASTE.**—The term “defense waste” means nuclear waste generated by an atomic energy defense activity (as defined in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101)).
(10) **Disposal.**—The term “disposal” has the meaning given the term in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(11) **Emergency delivery.**—

(A) **In general.**—The term “emergency delivery” means nuclear waste accepted by the Administrator for storage prior to the date provided in the contractual delivery commitment schedule pursuant to article V.D. of the standard contract for disposal of nuclear waste codified in section 961.11 of title 10, Code of Federal Regulations.

(B) **Inclusion.**—The term “emergency delivery” may include, at the discretion of the Administrator, defense waste that is required to be removed from a Department of Energy facility—

   (i) pursuant to a compliance agreement; or

   (ii) to eliminate an imminent and serious threat to the health and safety of the public or the common defense and security.

(12) **High-level radioactive waste.**—The term “high-level radioactive waste” has the meaning

(13) **INDIAN TRIBE.**—The term “Indian Tribe” has the meaning given the term “Indian tribe” in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(14) **MISSION PLAN.**—The term “mission plan” means the comprehensive report required under section 504.

(15) **NONPRIORITY WASTE.**—The term “nonpriority waste” means nuclear waste that does not qualify as priority waste.

(16) **NUCLEAR WASTE.**—The term “nuclear waste” means—

(A) spent nuclear fuel; and

(B) high-level radioactive waste.

(17) **NUCLEAR WASTE ACTIVITIES.**—The term “nuclear waste activities” has the meaning given the term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

(18) **NUCLEAR WASTE FACILITY.**—The term “nuclear waste facility” means—

(A) a repository; and

(B) a storage facility.
(19) **Nuclear Waste Fund.**—The term “Nuclear Waste Fund” means the separate fund in the Treasury established by section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)).

(20) **Oversight Board.**—The term “Oversight Board” means the Nuclear Waste Oversight Board established by section 205.

(21) **Pilot Facility.**—The term “pilot facility” means the storage facility for priority waste authorized by section 303(1).

(22) **Priority Waste.**—The term “priority waste” means—

(A) any emergency delivery; and

(B) spent nuclear fuel removed from a civilian nuclear power reactor that has been permanently shut down.

(23) **Public Liability.**—The term “public liability” has the meaning given the term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

(24) **Repository.**—The term “repository” has the meaning given the term in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).
(25) RESERVATION.—The term “reservation” has the meaning given the term in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(26) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(27) SITE CHARACTERIZATION.—

(A) IN GENERAL.—The term “site characterization” means the site-specific activities that the Administrator determines necessary to support an application to the Commission for a license to construct a repository or storage facility under section 305(c).

(B) REPOSITORY SITE CHARACTERIZATION.—In the case of a site for a repository, the term “site characterization” may include borings, surface excavations, excavations of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the suitability of a candidate site for the location of a repository.

(C) STORAGE SITE CHARACTERIZATION.—In the case of a site for an above-ground storage facility, the term “site characterization” does not include subsurface borings and excava-
vations that the Administrator determines are uniquely associated with underground disposal and unnecessary to evaluate the suitability of a candidate site for the location of an above-ground storage facility.

(D) PRELIMINARY ACTIVITIES.—The term “site characterization” does not include preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

(28) SPENT NUCLEAR FUEL.—The term “spent nuclear fuel” has the meaning given the term in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(29) STORAGE.—The term “storage” means the temporary retention of nuclear waste pending the disposal of the nuclear waste in a repository.

(30) STORAGE FACILITY.—The term “storage facility” means a facility for the consolidated storage of nuclear waste from multiple contract holders or the Secretary pending the disposal of the spent nuclear fuel in a repository.

(31) UNIT OF GENERAL LOCAL GOVERNMENT.—The term “unit of general local government” has the meaning given the term in section 2


**TITLE II—NUCLEAR WASTE ADMINISTRATION**

**SEC. 201. ESTABLISHMENT.**

(a) **Establishment.**—There is established an independent agency in the executive branch to be known as the “Nuclear Waste Administration”.

(b) **Purpose.**—The purposes of the Administration are—

(1) to discharge the responsibility of the Federal Government to provide for the permanent disposal of nuclear waste;

(2) to protect the public health and safety and the environment in discharging the responsibility under paragraph (1); and

(3) to ensure that the costs of activities under paragraph (1) are borne by the persons responsible for generating the nuclear waste.

**SEC. 202. PRINCIPAL OFFICERS.**

(a) **Administrator.**—
(1) APPOINTMENT.—There shall be at the head of the Administration a Nuclear Waste Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, from among persons who are, by reason of education, experience, and attainments, exceptionally well qualified to perform the duties of the Administrator.

(2) TERM.—The term of service of the Administrator shall be 6 years.

(3) REAPPOINTMENT.—An Administrator may serve more than 1 term.

(4) FUNCTIONS AND POWERS.—The functions and powers of the Administration shall be vested in and exercised by the Administrator.

(5) SUPERVISION AND DIRECTION.—The Administration shall be administrated under the supervision and direction of the Administrator, who shall be responsible for the efficient and coordinated management of the Administration.

(6) DELEGATION.—The Administrator may, from time to time and to the extent permitted by law, delegate such functions of the Administrator as the Administrator determines to be appropriate.
(7) Compensation.—The President shall fix the total annual compensation of the Administrator in an amount that—

(A) is sufficient to recruit and retain a person of demonstrated ability and achievement in managing large corporate or governmental organizations; and

(B) does not exceed the total annual compensation paid to the Chief Executive Officer of the Tennessee Valley Authority.

(b) Deputy Administrator.—

(1) Appointment.—There shall be in the Administration a Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, from among persons who are, by reason of education, experience, and attainments, exceptionally well qualified to perform the duties of the Deputy Administrator.

(2) Term.—The term of service of the Deputy Administrator shall be 6 years.

(3) Reappointment.—A Deputy Administrator may serve more than 1 term.

(4) Duties.—The Deputy Administrator shall—
(A) perform such functions as the Administrator shall from time to time assign or delegate; and

(B) act as the Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of the Administrator.

(5) COMPENSATION.—The President shall fix the total annual compensation of the Deputy Administrator in an amount that—

(A) is sufficient to recruit and retain a person of demonstrated ability and achievement in managing large corporate or governmental organizations; and

(B) does not exceed the total annual compensation paid to the Administrator.

SEC. 203. OTHER OFFICERS.

(a) ESTABLISHMENT.—There shall be in the Administration—

(1) a General Counsel;

(2) a Chief Financial Officer, who shall be appointed from among individuals who possess demonstrated ability in general management of, and knowledge of and extensive practical experience in,
financial management practices in large governmental or business entities; and

(3) not more than 3 Assistant Administrators, who shall perform such functions as the Administrator shall specify from time to time.

(b) APPOINTMENT.—Officers appointed under this section shall—

(1) be appointed by the Administrator;

(2) be considered career appointees; and

(3) be subject to section 161 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(d)).

(c) ORDER OF SUCCESSION.—The Administrator may designate the order in which the officers appointed pursuant to this section shall act for, and perform the functions of, the Administrator during the absence or disability of the Administrator and the Deputy Administrator or in the event of vacancies in the offices of the Administrator and the Deputy Administrator.

SEC. 204. INSPECTOR GENERAL.

There shall be in the Administration an Inspector General, who shall be appointed by the President, by and with the advice and consent of the Senate, in accordance with section 3 of the Inspector General Act of 1978 (5 U.S.C. App.).
SEC. 205. NUCLEAR WASTE OVERSIGHT BOARD.

(a) ESTABLISHMENT.—There is established an independent establishment in the executive branch, to be known as the “Nuclear Waste Oversight Board”—

(1) to oversee—

(A) the receipt, disbursement, and use of funds in the Working Capital Fund and the Nuclear Waste Fund;

(B) the adequacy of the fees collected under section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) to ensure the full recovery of the costs incurred by the Federal Government in carrying out activities under this Act and the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.); and

(C) the performance of the Administrator in—

(i) fulfilling contracts with contract holders; and

(ii) complying with the mission plan;

and

(2) to review the annual management reports and financial statements submitted by the Administrator under section 505.

(b) MEMBERS.—The Oversight Board shall be composed of 5 members appointed by the President, by and
with the advice and consent of the Senate, from among
prominent United States citizens of integrity and reputa-
tion who, based on the training, experience, and attain-
ments of the individuals, are exceptionally well qualified
to evaluate and oversee the administration of this Act.

(c) Political Affiliation.—Not more than 3
members of the Oversight Board may be members of the
same political party.

(d) Terms.—

(1) In general.—Except as provided in para-
graphs (2) and (3), each member shall serve a term
of 5 years.

(2) Initial terms.—

(A) Starting date.—The term of the
first 5 members appointed to the Oversight
Board shall be treated as having started on the
first July 1 after the date of enactment of this
Act.

(B) Staggered term.—Of the 5 mem-
bers first appointed to the Board under sub-
paragraph (A)—

(i) 1 shall be appointed for a term of
1 year;

(ii) 1 shall be appointed for a term of
2 years;
(iii) I shall be appointed for a term of

3 years;

(iv) I shall be appointed for a term of

4 years; and

(v) I shall be appointed for a term of

5 years.

(3) Extension of Term.—

(A) In General.—Subject to subpara-

graph (B), a member of the Oversight Board

may continue to serve after the expiration of

the term of the member until a successor is ap-

pointed, has been confirmed, and has taken the

oath of office.

(B) Limitation.—No member of the

Oversight Board may serve beyond the end of

the session of the Congress in which the term

of the member expires.

(4) Vacancies.—A member of the Oversight

Board appointed to fill a vacancy occurring before

the expiration of the term for which the predecessor

of the member was appointed shall be appointed only

for the remainder of the term of the predecessor.

(5) Reappointment.—A member of the Over-

sight Board may be reappointed for an additional
term by the President, by and with the advice and consent of the Senate.

(c) REMOVAL.—The President may remove any member of the Oversight Board for inefficiency, neglect of duty, or malfeasance in office.

(f) CHAIR.—The President shall designate 1 member of the Oversight Board as Chair of the Oversight Board.

(g) ACTING CHAIR.—The Chair designated under subsection (f) may from time to time designate any other member of the Oversight Board to act in the place and stead of the Chair during the absence.

(h) QUORUM.—Three members of the Oversight Board shall constitute a quorum for the purpose of doing business.

(i) EQUAL RESPONSIBILITY AND AUTHORITY.—Each member of the Oversight Board, including the Chair, shall have—

(1) equal responsibility and authority in all decisions and actions of the Oversight Board;

(2) full access to all information relating to the performance of the duties and responsibilities of the member; and

(3) 1 vote.

(j) CONFLICT OF INTEREST.—No member of the Oversight Board shall—
(1) be employed by the Administration or the Department of Energy; or

(2) have a financial interest in (including an employment relationship with) any contract holder or contractor of the Administration.

(k) COMPENSATION.—

(1) IN GENERAL.—Each member of the Oversight Board shall be paid at the rate of pay payable for level III of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code, for each day (including travel time) the member is engaged in the work of the Oversight Board.

(2) TRAVEL EXPENSES.—Each member of the Oversight Board may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(l) MEETINGS.—The Oversight Board shall meet at least once every 90 days.

(m) FUNCTIONS.—The Oversight Board shall—

(1) review, on an ongoing basis—

(A) the progress made by the Administrator in siting, constructing, and operating nuclear waste facilities under this Act;
(B) the use of funds made available to the
Administrator under this Act;

(C) whether the fees collected from con-
tract holders are sufficient to ensure full cost
recovery or require adjustment; and

(D) the liability of the United States to
contract holders;

(2) identify any problems that may impede the
implementation of this Act; and

(3) recommend to the Administrator, the Presi-
dent, or Congress, as appropriate, any actions that
may be needed to ensure the implementation of this
Act.

(n) REPORTS.—The Oversight Board shall report the
findings, conclusions, and recommendations of the Over-
sight Board to the Administrator, the President, and Con-
gress not less than once per year.

(o) RESPONSE BY THE ADMINISTRATOR.—Not later
than 45 days after the date on which the Oversight Board
submits a report to the Administrator under subsection
(n), the Administrator shall transmit to the Oversight
Board, in writing—

(1) a statement of whether the Administrator
accepts or rejects, in whole or in part, the rec-
ommendations submitted by the Oversight Board;
(2) a description of the actions taken in response to the recommendations (or an explanation of the reasons for not acting on the recommendations); and

(3) the views of the Administrator on the recommendations.

(p) PUBLIC AVAILABILITY.—The Administrator shall make all reports under subsection (n) and all responses from the Administrator under subsection (o) available to the public.

(q) EXECUTIVE SECRETARY.—The Oversight Board shall appoint and fix the compensation of an Executive Secretary, who shall—

(1) assemble and maintain the reports, records, and other papers of the Oversight Board; and

(2) perform such functions as the Oversight Board shall from time to time assign or delegate to the Executive Secretary.

(r) ADDITIONAL STAFF.—

(1) APPOINTMENT.—The Oversight Board may appoint and fix the compensation of such additional clerical and professional staff as may be necessary to discharge the responsibilities of the Oversight Board.
(2) Limitation.—The Oversight Board may appoint not more than 10 clerical or professional staff members under this subsection.

(3) Supervision and direction.—The clerical and professional staff of the Oversight Board shall be under the supervision and direction of the Executive Secretary.

(8) Staff Compensation.—

(1) Clerical staff.—Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule rates.

(2) Professional staff.—Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the maximum rate of pay under the General Schedule.
(t) ACCESS TO INFORMATION.—

   (1) DUTY TO INFORM.—The Administrator shall keep the Oversight Board fully and currently informed on all of the activities of the Administration.

   (2) PRODUCTION OF DOCUMENTS.—The Administrator shall provide the Oversight Board with any records, files, papers, data, or information requested by the Oversight Board.

(u) SUPPORT SERVICES.—To the extent permitted by law and requested by the Oversight Board, the Administrator of General Services shall provide the Oversight Board with necessary administrative services, facilities, and support on a reimbursable basis.

(v) HEALTH, SAFETY, AND ENVIRONMENTAL REGULATION.—Nothing in this section gives the Oversight Board jurisdiction to regulate the activities of the Administration to protect the health and safety of the public or the environment.

(w) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Oversight Board from amounts in the Nuclear Waste Fund such sums as are necessary to carry out this section.
SEC. 206. CONFORMING AMENDMENTS.

(a) Section 901(b)(2) of title 31, United States Code, is amended by adding at the end the following:

“(H) The Nuclear Waste Administration.”.

(b) Section 12 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting “the Administrator of the Nuclear Waste Administration;” after “Export-Import Bank;”; and

(2) in paragraph (2), by inserting “the Nuclear Waste Administration,” after “Export-Import Bank,”.

TITLE III—FUNCTIONS

SEC. 301. TRANSFER OF FUNCTIONS.

There are transferred to and vested in the Administrator all functions vested in the Secretary by the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) relating to—

(1) the construction and operation of a repository;

(2) entering into and performing contracts for the disposal of nuclear waste under section 302 of that Act (42 U.S.C. 10222);

(3) the collection, adjustment, deposition, and use of fees to offset expenditures for the management of nuclear waste; and
(4) the issuance of obligations under section 302(e)(5) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(e)(5)).

SEC. 302. TRANSFER OF CONTRACTS.

Each contract for the disposal of nuclear waste entered into by the Secretary before the date of enactment of this Act shall continue in effect according to the terms of the contract with the Administrator substituted for the Secretary.

SEC. 303. NUCLEAR WASTE FACILITIES.

The Administrator shall site, construct, and operate—

(1) a pilot facility for the storage of priority waste;

(2) 1 or more additional storage facilities for the storage of nonpriority nuclear waste; and

(3) 1 or more repositories for the permanent disposal of nuclear waste.

SEC. 304. SITING NUCLEAR WASTE FACILITIES.

In siting nuclear waste facilities under this Act or performing any function transferred under section 301(1), the Administrator shall employ a process that—

(1) allows affected communities to decide whether, and on what terms, the affected communities will host a nuclear waste facility;
(2) is open to the public and allows interested persons to be heard in a meaningful way;

(3) is flexible and allows decisions to be re-viewed and modified in response to new information or new technical, social, or political developments; and

(4) is based on sound science and meets public health, safety, and environmental standards.

**SEC. 305. STORAGE FACILITIES.**

(a) Establishment of Storage Facility Program.—The Administrator shall establish a storage pro-gram to license, construct, and operate through 1 or more non-Federal sector partners, 1 or more government or non-federally owned storage facilities to provide interim storage, as needed, for spent nuclear fuel and high-level radioactive waste.

(b) Pilot Program for the Storage of Priority Waste.—

(1) Request for proposals.—

(A) In general.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue a request for propos-als for cooperative agreements for a pilot program for the storage of priority waste—
(i) to obtain any license from the Nuclear Regulatory Commission and any other Federal or State entity that is necessary for the construction of 1 or more storage facilities;

(ii) to demonstrate the safe transportation of spent nuclear fuel and high-level radioactive waste, as applicable; and

(iii) to demonstrate the safe storage of spent nuclear and high-level radioactive waste, as applicable, at the 1 or more storage facilities, pending the construction and operation of deep geologic disposal capacity for the permanent disposal of the spent nuclear fuel or high-level radioactive waste.

(B) GUIDELINES.—

(i) IN GENERAL.—The request for proposals under subparagraph (A) shall include general guidelines for the consideration of storage facilities consistent with each requirement of section 112(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10132(a)), that the Administrator determines to be applicable to above-ground storage.
(ii) Revisions.—The Administrator may revise the general guidelines from time to time, consistent with this section.

(2) Reviews of proposals.—

(A) In general.—The Administrator shall review each proposal submitted under paragraph (1) to evaluate—

(i) the extent to which the applicable States, affected units of general local government, and affected Indian Tribes support the proposal;

(ii) the likelihood that the proposed site is suitable for site characterization under the guidelines under paragraph (1)(B);

(iii) a reasonable comparative evaluation of the proposed site and other proposed sites;

(iv) the extent to which nuclear wastes are, or are planned to be, stored or disposed of within the State;

(v) the extent to which each proposal would—

(I) enhance the reliability and flexibility of the system for the dis-
posal of nuclear waste, including co-
location with a proposed permanent
geological repository; and

   (II) minimize the impacts of
   transportation and handling of nu-
clear waste;

   (vi) potential conflicts with—

   (I) a compliance agreement re-
   quiring removal of nuclear waste from
   a site; or

   (II) a statutory prohibition on
   the storage or disposal of nuclear
   waste at a site; and

   (vii) any other criteria, including cri-
   teria relating to technical or safety speci-
   fications, that the Administrator deter-
   mines to be appropriate.

(B) PREFERENCE FOR CO-LOCATED RE-
POSITORY AND STORAGE FACILITY.—In review-
ing proposals submitted under paragraph (1),
the Administrator shall give preference to sites
proposed to be co-located with—

   (i) additional storage facilities for
   nonpriority waste; or

   (ii) a repository.
(3) Site characterization.—

(A) Determination of suitability.—
After conducting a review under paragraph (2) and any additional site investigation that the Administrator determines to be appropriate, the Administrator shall determine whether the site is suitable for site characterization.

(B) Selection of site for characterization.—From the sites determined to be suitable for site characterization under subparagraph (A), the Administrator shall select at least 1 site for site characterization, giving priority to sites that have been proposed to be co-located with a permanent geological repository, after—

(i) holding public hearings in the vicinity of each site and at least 1 other location within the State in which the site is located; and

(ii) notifying Congress.

(C) Cooperative agreement.—On selection of a site for characterization under subparagraph (B), the Administrator may enter into a cooperative agreement, subject to section 401(e), with the State, affected units of general
local government, and affected Indian Tribes, as applicable, that includes—

(i) terms of financial and technical assistance to enable each applicable unit of government to monitor, review, evaluate, comment on, obtain information on, make recommendations on, and mitigate any impacts from, site characterization activities; and

(ii) any other term that the Administrator determines to be appropriate.

(4) SITE SELECTION.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), on completion of site characterization activities, the Administrator shall—

(i) make a final determination for each site of whether the site is suitable for development as a storage facility; and

(ii) select 1 or more suitable sites for storage facilities.

(B) CONSENT-BASED APPROVAL.—Before selecting a site for developing a storage facility, the Administrator shall enter into a consent agreement, subject to section 401(e), to host the facility with—
(i) the Governor or other authorized
official of the State in which the site is
proposed to be located;
(ii) each affected unit of general local
government; and
(iii) any affected Indian Tribe.

(C) Binding effect.—The consent
agreement—
(i) shall be binding on the parties,
subject to section 401(e); and
(ii) shall not be amended or revoked
except by mutual agreement of the parties.

(5) Submission of program plan.—Not less
than 30 days before selecting a site for development
of a storage facility under paragraph (4), the Ad-
ministrator shall submit to Congress a program plan
that includes—
(A) a list of the 1 or more sites the Ad-
ministrator proposes to select for a storage fa-
cility;
(B) an estimate of the cost of licensing,
constructing, and operating each storage facil-
ity, including the transportation costs, on an
annual basis, over the expected lifetime of the
storage facility;
(C) a schedule for—

(i) obtaining from the Nuclear Regulatory Commission any license necessary to construct and operate the storage facility;

(ii) constructing the storage facility;

(iii) transporting spent fuel to the storage facility; and

(iv) removing the spent fuel from, and decommissioning of, the storage facility;

(D) an estimate of the cost of any financial assistance, compensation, or incentives proposed to be paid to the host State, Indian Tribe, or unit of local government;

(E) an estimate of any future reductions in the damages expected to be paid by the United States for the delay of the Department of Energy in accepting spent fuel expected to result from the storage facilities developed under this section; and

(F) recommendations for any additional legislation needed to authorize and implement the program.

(6) Submission of license application.—

On selection of a site under paragraph (4), the applicant (in the case of a non-Federal facility) or the
Administrator (in the case of a federally owned facility) shall submit to the Commission an application for a construction authorization for the storage facility.

(c) ADDITIONAL STORAGE FACILITIES FOR NONPRIORITIVITY WASTE.—

(1) IN GENERAL.—The Administrator shall seek to ensure that efforts to site, construct, and operate a storage facility for nonpriority waste are accompanied by parallel efforts to site, construct, and operate 1 or more repositories.

(2) STORAGE FACILITIES FOR NONPRIORITY WASTE.—Except as provided in paragraphs (3) and (4), the Administrator may issue requests for proposals and select sites for site characterization for 1 or more additional storage facilities for nonpriority waste as the Administrator determines to be necessary—

(A) subject to the terms and conditions of this section; and

(B) in accordance with the mission plan developed under section 504.

(3) FIRST 10 YEARS.—During the 10-year period following the date of enactment of this Act, the Administrator may not issue an additional request
for proposals or select a site for site characterization for an additional storage facility for nonpriority waste unless the Administrator has obligated funds for activities under section 306.

(4) After first 10 years.—After the date that is 10 years after the date of enactment of this Act, the Administrator may not issue an additional request for proposals or select a site for site characterization for an additional storage facility for nonpriority waste until the Administrator has selected a site for evaluation under section 306(b)(2).

(5) Storage of priority waste.—Nothing in this section precludes the Administrator from storing priority waste at a storage facility for nonpriority waste.

SEC. 306. REPOSITORIES.

(a) Siting Guidelines.—

(1) Issuance.—Not later than 1 year after the date of enactment of this Act, the Administrator shall issue general guidelines for the consideration of candidate sites for repositories, which shall—

(A) comply with the requirements of section 112(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10132(a)); and
(B) require the Administrator to take into account the extent to which a repository would—

(i) enhance the reliability and flexibility of the system for the disposal of nuclear waste; and

(ii) minimize the impacts of transportation and handling of nuclear waste.

(2) REVISIONS.—The Administrator may revise the guidelines in a manner consistent with this subsection and section 112(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10132(a)).

(b) IDENTIFICATION OF CANDIDATE SITES.—

(1) REVIEW OF POTENTIAL SITES.—As soon as practicable after the date of the issuance of the guidelines under subsection (a), the Administrator shall evaluate potential sites for a repository to determine whether the sites are suitable for site characterization.

(2) SITES ELIGIBLE FOR REVIEW.—The Administrator shall select sites for evaluation under paragraph (1) from among sites recommended by—

(A) the Governor or duly authorized official of the State in which the site is located;
(B) the governing body of the affected unit of general local government;

(C) the governing body of an Indian Tribe within the reservation boundaries of which the site is located; or

(D) the Administrator, after consultation with, and with the consent of—

(i) the Governor of the State in which the site is located;

(ii) the governing body of the affected unit of general local government; and

(iii) the governing body of the Indian Tribe, if the site is located within the reservation of an Indian Tribe.

(3) SITE INVESTIGATIONS.—In evaluating a site under this subsection prior to any determination of the suitability of the site for site characterization, the Administrator—

(A) shall use available geophysical, geological, geochemical, hydrological, and other information; and

(B) shall not perform any preliminary borings or excavations at the site unless necessary to determine the suitability of the site and authorized by the landowner.
(4) Determination of Suitability.—The Administrator shall determine whether a site is suitable for site characterization based on an environmental assessment of the site, which shall include—

(A) an evaluation by the Administrator of whether the site is suitable for development as a repository under the guidelines established under subsection (a), including a safety case that provides the basis for confidence in the safety of the proposed nuclear waste facility at the proposed site;

(B) an evaluation by the Administrator of the effects of site characterization activities on public health and safety and the environment;

(C) a reasonable comparative evaluation of the proposed site and other proposed sites;

(D) a description of the decision process by which the site was recommended;

(E) an assessment of the regional and local impacts of locating a repository at the site, including the extent to which nuclear wastes are, or are planned to be, stored or disposed of within the State; and

(F) potential conflicts with—
(i) a compliance agreement requiring
removal of nuclear waste from a site; or
(ii) a statutory prohibition on the
storage or disposal of nuclear waste at a
site.

(c) SITE CHARACTERIZATION.—

(1) SELECTION OF SITES.—From among the
sites determined to be suitable for site characteriza-
tion under subsection (b), the Administrator shall
select at least 1 site for site characterization as a re-
pository.

(2) PREFERENCE FOR CO-LOCATED REPOSI-
TORY AND STORAGE FACILITY.—In selecting sites
for site characterization as a repository, the Admin-
istrator shall give preference and priority to sites de-
termined to be suitable for co-location of a storage
facility and a repository.

(3) PUBLIC HEARINGS.—Before selecting a site
for site characterization, the Administrator shall
hold public hearings in the vicinity of the site and
at least 1 other location within the State in which
the site is located—

(A) to inform the public of the proposed
site characterization; and
(B) to solicit public comments and recommendations with respect to the site characterization plan of the Administrator.

(4) Consultation and cooperation agreement.—

(A) Requirement.—Before selecting a site for site characterization, the Administrator shall enter into a consultation and cooperation agreement, subject to section 401(e), with—

(i) the Governor of the State in which the site is located;

(ii) the governing body of the affected unit of general local government; and

(iii) the governing body of any affected Indian Tribe.

(B) Contents.—The consultation and cooperation agreement shall provide—

(i) compensation to the State, any affected units of local government, and any affected Indian Tribes for any potential economic, social, public health and safety, and environmental impacts associated with site characterization; and

(ii) financial and technical assistance to enable the State, affected units of local
government, and affected Indian Tribes to
monitor, review, evaluate, comment on, ob-
tain information on, and make rec-
ommendations on site characterization ac-
tivities.

(d) **Final Site Suitability Determination.**—

(1) **Determination Required.**—On comple-
tion of site characterization activities, the Adminis-
trator shall make a final determination of whether
the site is suitable for development as a repository.

(2) **Basis of Determination.**—In making a
determination under paragraph (1), the Adminis-
trator shall determine if—

(A) the site is scientifically and technically
suitable for development as a repository, taking
into account—

(i) whether the site meets the siting
guidelines of the Administrator; and

(ii) whether there is reasonable assur-
ance that a repository at the site will
meet—

(I) the radiation protection
standards of the Administrator of the
Environmental Protection Agency;

and
(II) the licensing standards of
the Commission; and

(B) development of a repository or storage
facility at the site is in the national interest.

(3) PUBLIC HEARINGS.—Before making a final
determination under paragraph (1), the Adminis-
trator shall hold public hearings in the vicinity of
the site and at least 1 other location within the
State in which the site is located to solicit public
comments and recommendations on the proposed de-
termination.

(e) CONSENT AGREEMENTS.—

(1) REQUIREMENT.—On making a final deter-
mination of site suitability under subsection (d), but
before submitting a license application to the Com-
mission under subsection (f), the Administrator shall
enter into a consent agreement, subject to section
401(e), with—

(A) the Governor or other authorized offi-
cial of the State in which the site is located;

(B) the governing body of the affected unit
of general local government; and

(C) if the site is located on a reservation,
the governing body of the affected Indian Tribe.
(2) CONTENTS.—The consent agreement shall—

(A) contain the terms and conditions on which each State, local government, and Indian Tribe, as applicable, consents to host the repository; and

(B) express the consent of each State, local government, and Indian Tribe to host the repository.

(3) TERMS AND CONDITIONS.—The terms and conditions under paragraph (2)(A)—

(A) shall promote the economic and social well-being of the people living in the vicinity of the repository; and

(B) may include—

(i) financial compensation and incentives;

(ii) economic development assistance;

(iii) operational limitations or requirements; and

(iv) regulatory oversight authority.

(4) BINDING EFFECT.—The consent agreement—

(A) shall be binding on the parties, subject to section 401(e); and
(B) shall not be amended or revoked except by mutual agreement of the parties.

(f) Submission of License Application.—On determining that a site is suitable under subsection (d) and ratification of a consent agreement under subsection (e), the Administrator shall submit to the Commission an application for a construction authorization for the repository.

SEC. 307. LICENSING NUCLEAR WASTE FACILITIES.

The construction and operation of a storage facility or repository under this Act shall be subject to—

(1) all applicable standards for the protection of the general environment from offsite releases of radioactive material;

(2) the licensing and regulatory jurisdiction of the Commission, including all applicable criteria and requirements issued by the Commission under section 121(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141(b)); and

(3) the terms and conditions of each consent agreement entered into under section 305(b)(4) or section 306(e).

SEC. 308. DEFENSE WASTE.

(a) Disposal and Storage by Administration.—

The Secretary—
(1) shall arrange for the Administrator to dispose of defense wastes in a repository developed under this Act; and

(2) may arrange for the Administrator to store defense wastes in storage facilities developed under this Act pending disposal in a repository.

(b) Memorandum of Agreement.—The arrangements shall be covered by a memorandum of agreement between the Secretary and the Administrator.

(c) Costs.—The portion of the cost of developing, constructing, and operating the repository or storage facilities under this Act that is attributable to defense wastes shall be allocated to the Federal Government and paid by the Federal Government into the Working Capital Fund.

(d) Prohibition.—No defense waste may be stored or disposed of by the Administrator in any storage facility or repository constructed under this Act until funds are appropriated to the Working Capital Fund in an amount equal to the fees that would be paid by contract holders under section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) if such nuclear waste were generated by a contract holder.

(e) Commingling Determination.—
(1) REEVALUATION.—Notwithstanding section 8 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10107), the Secretary may reevaluate the decision to commingle defense wastes with nuclear waste from civilian nuclear power reactors.

(2) NOTIFICATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall notify the President and the appropriate committees of Congress of whether the Secretary intends to reevaluate the decision under paragraph (1) and the reasons for that decision.

(3) SEPARATE NUCLEAR WASTE FACILITIES.—If the Secretary finds, after conducting the reevaluation under paragraph (1), that the development of separate nuclear waste facilities for the storage or disposal of defenses wastes is necessary or appropriate for the efficient management of defenses wastes, the Administrator may, with the concurrence of the President, site, construct, and operate 1 or more separate nuclear waste facilities for the storage or disposal of defenses wastes.

SEC. 309. TRANSPORTATION.

(a) IN GENERAL.—The Administrator shall be responsible for transporting nuclear waste—
(1) from the site of a contract holder to a storage facility or repository;

(2) from a storage facility to a repository; and

(3) in the case of defense waste, from a Department of Energy site to a repository.

(b) CERTIFIED PACKAGES.—No nuclear waste may be transported under this Act except in packages—

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

(2) that have been determined by the Commission to satisfy the quality assurance requirements of the Commission.

(c) NOTIFICATION.—Prior to any transportation of nuclear waste under this Act, the Administrator shall provide advance notification to States and Indian Tribes through whose jurisdiction the Administrator plans to transport the nuclear waste.

(d) TRANSPORTATION ASSISTANCE.—

(1) PUBLIC EDUCATION.—The Administrator shall conduct a program to provide information to the public about the transportation of nuclear waste.

(2) TRAINING.—The Administrator shall provide financial and technical assistance to States and Indian Tribes through whose jurisdiction the Administrator plans to transport nuclear waste to train
public safety officials and other emergency responders on—

(A) procedures required for the safe, routine transportation of nuclear waste; and

(B) procedures for dealing with emergency response situations involving nuclear waste, including instruction of—

(i) government and Tribal officials and public safety officers in command and control procedures;

(ii) emergency response personnel; and

(iii) radiological protection and emergency medical personnel.

(3) Equipment.—The Administrator shall provide monetary grants and contributions in-kind to assist States and Indian Tribes through whose jurisdiction the Administrator plans to transport nuclear waste for the purpose of acquiring equipment for responding to a transportation incident involving nuclear waste.

(4) Transportation Safety Programs.—The Administrator shall provide in-kind, financial, technical, and other appropriate assistance to States and Indian Tribes through whose jurisdiction the
Administrator plans to transport nuclear waste for transportation safety programs related to shipments of nuclear waste.

**TITLE IV—FUNDING AND LEGAL PROCEEDINGS**

**SEC. 401. WORKING CAPITAL FUND.**

(a) **Establishment.**—There is established in the Treasury a separate fund, to be known as the “Nuclear Waste Administration Working Capital Fund”, which shall be separate from the Nuclear Waste Fund.

(b) **Contents.**—The Working Capital Fund shall consist of—

(1) all fees paid by contract holders pursuant to section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) on or after the date of enactment of this Act, which shall be paid into the Working Capital Fund—

(A) notwithstanding section 302(c)(1) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)(1)); and

(B) immediately on the payment of the fees;

(2) any appropriations made by Congress to pay the share of the cost of the program established under this Act attributable to defense wastes; and
(3) interest paid on the unexpended balance of
the Working Capital Fund.

(c) AVAILABILITY.—All funds deposited in the Work-
ing Capital Fund—

(1) shall be immediately available to the Admin-
istrator to carry out the functions of the Adminis-
trator, except to the extent limited in annual author-
ization or appropriation Acts;

(2) shall remain available until expended; and

(3) shall not be subject to apportionment under
subchapter II of chapter 15 of title 31, United
States Code.

(d) USE OF FUND.—Except to the extent limited in
annual authorization or appropriation Acts, the Adminis-
trator may make expenditures from the Working Capital
Fund only for purposes of carrying out functions author-
ized by this Act.

(e) CONTRACT AUTHORITY.—Any contract or agree-
ment that authorizes an expenditure or obligation exceed-
ing an amount available in the Working Capital Fund for
the expenditure or obligation (including any cooperative
agreement, consultation, and cooperation agreement, or
consent agreement under section 305 or 306) shall be sub-
ject to appropriation.
(f) **PERFORMANCE-BASED FUNDING.**—No fees paid by contract holders pursuant to section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) shall be paid into the Working Capital Fund after December 31, 2029, unless the Administrator is operating a nuclear waste facility by that date.

**SEC. 402. NUCLEAR WASTE FUND.**

(a) **ELIMINATION OF LEGISLATIVE VETO.**—Section 302(a)(4) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)(4)) is amended—

(1) in the third sentence, by striking “insure” and inserting “ensure”; and

(2) in the last sentence by striking “transmittal unless” and all that follows through the end of the sentence and inserting “transmittal.”.

(b) **ADMINISTRATION OF THE WASTE FUND.**—Section 302(e) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(e)) is amended—

(1) by striking “Secretary” each place it appears (except where it appears in the context of the “Secretary of the Treasury”) and inserting “Administrator of the Nuclear Waste Administration”; and

(2) by striking “the Waste Fund” each place it appears and inserting “the Waste Fund or the
Working Capital Fund established by section 401 of the Nuclear Waste Administration Act of 2019’.

SEC. 403. FULL COST RECOVERY.

In determining whether insufficient or excess revenues are being collected to ensure full cost recovery under section 302(a)(4) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)(4)), the Administrator shall—

(1) assume that sufficient funds will be appropriated to the Nuclear Waste Fund to cover the costs attributable to disposal of defense wastes; and

(2) take into account the additional costs resulting from the enactment of this Act.

SEC. 404. JUDICIAL REVIEW.

(a) JURISDICTION.—

(1) COURTS OF APPEALS.—Except for review in the Supreme Court, a court of appeals of the United States shall have original and exclusive jurisdiction over any civil action—

(A) for review of any final decision or action of the Administrator or the Commission under this Act;

(B) alleging the failure of the Administrator or the Commission to make any decision, or take any action, required under this Act;
(C) challenging the constitutionality of any decision made, or action taken, under this Act; or

(D) for review of any environmental assessment or environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this Act, or alleging a failure to prepare any such assessment or statement with respect to any such action.

(2) VENUE.—The venue of any proceeding under this section shall be in—

(A) the judicial circuit in which the petitioner involved resides or has the principal office of the petitioner; or

(B) the United States Court of Appeals for the District of Columbia Circuit.

(b) DEADLINE FOR COMMENCING ACTION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a civil action for judicial review described in subsection (a)(1) may be brought not later than the date that is 180 days after the date of the decision or action or failure to act involved.
(2) NO KNOWLEDGE OF DECISION OR ACTION.—If a party shows that the party did not know
of the decision or action complained of (or of the
failure to act) and that a reasonable person acting
under the circumstances would not have known, the
party may bring a civil action not later than 180
days after the date the party acquired actual or con-
structive knowledge of the decision, action, or failure
to act.

SEC. 405. LITIGATION AUTHORITY.

(a) SUPERVISION BY ATTORNEY GENERAL.—The liti-
gation of the Administration shall be subject to the super-
vision of the Attorney General pursuant to chapter 31 of
title 28, United States Code.

(b) ATTORNEYS OF ADMINISTRATION.—The Attor-
ney General may authorize any attorney of the Adminis-
tration to conduct any civil litigation of the Administration
in any Federal court, except the Supreme Court.

SEC. 406. LIABILITIES.

(a) PENDING LEGAL PROCEEDINGS.—Any suit,
cause of action, or judicial proceeding commenced by or
against the Secretary relating to functions or contracts
transferred to the Administrator by this Act shall—

(1) not abate by reason of the enactment of this
Act; and
(2) continue in effect with the Administrator substituted for the Secretary.

(b) Settlement of Pending Litigation; Contract Modification.—

(1) Settlement.—The Attorney General, in consultation with the Administrator, shall settle all claims against the United States by a contract holder for the breach of a contract for the disposal of nuclear waste under section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) as a condition precedent of an agreement of the Administrator to take title to and store the nuclear waste of the contract holder at a storage facility.

(2) Contract Modification.—The Administrator and contract holders shall modify contracts entered into under section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) in accordance with the settlement under paragraph (1).

(c) Payment of Judgments and Settlements.—Payment of judgments and settlements in cases arising from the failure of the Secretary to meet the deadline of January 31, 1998, to begin to dispose of nuclear waste under contracts entered into under section 302(a)(1) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)(1)) shall continue to be paid from the perma-
sent judgment appropriation established pursuant to section 1304 of title 31, United States Code.

(d) NEW CONTRACTS.—Notwithstanding section 302(a)(5) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)(5)), the Administrator shall not enter into any contract after the date of enactment of this Act that obligates the Administrator to begin disposing of nuclear waste before the Commission has licensed the Administrator to operate a repository or storage facility.

(e) NUCLEAR INDEMNIFICATION.—

(1) INDEMNIFICATION AGREEMENTS.—For purposes of section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) (commonly known as the “Price-Anderson Act”)—

(A) any person that conducts nuclear waste activities under a contract with the Administrator that may involve the risk of public liability shall be treated as a contractor of the Secretary; and

(B) the Secretary shall enter into an agreement of indemnification with any person described in subparagraph (A).

(2) CONFORMING AMENDMENT.—Section 11 ff. of the Atomic Energy Act of 1954 (42 U.S.C.}
2014(ff)) is amended by inserting “or the Nuclear Waste Administration” after “Secretary of Energy”.

**TITLE V—ADMINISTRATIVE AND SAVINGS PROVISIONS**

**SEC. 501. ADMINISTRATIVE POWERS OF ADMINISTRATOR.**

The Administrator shall have the power—

1. to perform the functions of the Secretary transferred to the Administrator pursuant to this Act;

2. to enter into contracts with any person who generates or holds title to nuclear waste generated in a civilian nuclear power reactor for the acceptance of title, subsequent transportation, storage, and disposition of the nuclear waste;

3. to enter into and perform contracts, leases, and cooperative agreements with public agencies, private organizations, and persons necessary or appropriate to carry out the functions of the Administrator;

4. to acquire, in the name of the United States, real estate for the construction, operation, and decommissioning of nuclear waste facilities;

5. to obtain from the Administrator of General Services the services the Administrator of General Services is authorized to provide agencies of the
United States, on the same basis as those services
are provided to other agencies of the United States;

(6) to conduct nongeneric research, develop-
ment, and demonstration activities necessary or ap-
propriate to carrying out the functions of the Ad-
ministrator; and

(7) to make such rules and regulations, not in-
consistent with this Act, as may be necessary to
carry out the functions of the Administrator.

SEC. 502. PERSONNEL.

(a) OFFICERS AND EMPLOYEES.—

(1) APPOINTMENT.—In addition to the senior
officers described in section 203, the Administrator
may appoint and fix the compensation of such offi-
cers and employees as may be necessary to carry out
the functions of the Administration.

(2) COMPENSATION.—Except as provided in
paragraph (3), officers and employees appointed
under this subsection shall be appointed in accord-
ance with the civil service laws and the compensation
of the officers and employees shall be fixed in ac-
cordance with title 5, United States Code.

(3) EXCEPTION.—Notwithstanding paragraph
(2), the Administrator may, to the extent the Ad-
ministrator determines necessary to discharge the
responsibilities of the Administrator—

(A) appoint exceptionally well qualified in-
dividuals to scientific, engineering, or other crit-
ical positions without regard to the provisions
of chapter 33 of title 5, United States Code,
governing appointments in the competitive serv-
ice; and

(B) fix the basic pay of any individual ap-
pointed under subparagraph (A) at a rate of
not more than level I of the Executive Schedule
without regard to the civil service laws, except
that the total annual compensation of the indi-
vidual shall be at a rate of not more than the
highest total annual compensation payable
under section 104 of title 3, United States
Code.

(4) MERIT PRINCIPLES.—The Administrator
shall ensure that the exercise of the authority grant-
ed under paragraph (3) is consistent with the merit
principles of section 2301 of title 5, United States
Code.

(b) EXPERTS AND CONSULTANTS.—The Adminis-
trator may obtain the temporary or intermittent services
of experts or consultants as authorized by section 3109 of title 5, United States Code.

(c) ADVISORY COMMITTEES.—

(1) ESTABLISHMENT.—The Administrator may establish, in accordance with the Federal Advisory Committee Act (5 U.S.C. App.), such advisory committees as the Administrator may consider appropriate to assist in the performance of the functions of the Administrator.

(2) COMPENSATION.—A member of an advisory committee, other than a full-time employee of the Federal Government, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service without pay, while attending meetings of the advisory committee or otherwise serving away from the homes or regular place of business of the member at the request of the Administrator.

SEC. 503. OFFICES.

(a) PRINCIPAL OFFICE.—The principal office of the Administration shall be in or near the District of Columbia.
(b) FIELD OFFICES.—The Administrator may main-
tain such field offices as the Administrator considers nec-
essary to carry out the functions of the Administrator.

SEC. 504. MISSION PLAN.

(a) IN GENERAL.—The Administrator shall prepare
a mission plan, which shall—

(1) provide an informational basis sufficient to
permit informed decisions to be made in carrying
out the functions of the Administrator; and

(2) provide verifiable indicators for oversight of
the performance of the Administrator.

(b) CONTENTS.—The mission plan shall include—

(1) a description of the actions the Adminis-
trator plans to take to carry out the functions of the
Administrator under this Act;

(2) schedules and milestones for carrying out
the functions of the Administrator, which shall pro-
vide for the operation of—

(A) a pilot facility not later than December
31, 2025;

(B) a storage facility for nonpriority waste
not later than December 31, 2029; and

(C) a repository not later than December
31, 2052; and
(3) an estimate of the amounts that the Administration will need Congress to appropriate from the Nuclear Waste Fund (in addition to amounts expected to be available from the Working Capital Fund) to carry out the functions of the Nuclear Waste Fund, on an annual basis.

(e) PROPOSED MISSION PLAN.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a proposed mission plan for comment to—

(1) Congress;

(2) the Oversight Board;

(3) the Commission;

(4) the Nuclear Waste Technical Review Board established by section 502 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10262);

(5) the States;

(6) affected Indian Tribes; and

(7) such other interested persons as the Administrator considers appropriate.

(d) PUBLIC NOTICE AND COMMENT.—On submitting the proposed mission plan for comment under subsection (c), the Administrator shall—
(1) publish a notice in the Federal Register of the availability of the proposed mission plan for public comment; and

(2) provide interested persons an opportunity to comment on the proposed plan.

(e) Submission of Final Mission Plan.—After consideration of the comments received, the Administrator shall—

(1) revise the proposed mission plan to the extent that the Administrator considers appropriate; and

(2) submit the final mission plan, along with a general statement responding to any significant issues raised in the comments received on the proposed mission plan, to the appropriate committees of Congress, the President, and the Oversight Board.

(f) Revision of the Mission Plan.—The Administrator shall—

(1) revise the mission plan, as appropriate, to reflect major changes in the planned activities, schedules, milestones, and cost estimates reported in the mission plan; and

(2) submit the revised mission plan to Congress, the President, and the Oversight Board prior to implementing the proposed changes.
SEC. 505. ANNUAL REPORTS.

(a) IN GENERAL.—The Administrator shall annually prepare and submit to Congress, the President, and the Oversight Board a comprehensive report on the activities and expenditures of the Administration.

(b) MANAGEMENT REPORT.—The annual report submitted under subsection (a) shall include—

(1) the annual management report required under section 9106 of title 31, United States Code; and

(2) the report on any audit of the financial statements of the Administration conducted under section 9105 of title 31, United States Code.

SEC. 506. SAVINGS PROVISIONS; TERMINATIONS.

(a) COMMISSION PROCEEDINGS.—This Act shall not affect any proceeding or any application for any license or permit pending before the Commission on the date of enactment of this Act.

(b) AUTHORITY OF THE SECRETARY.—This Act shall not transfer or affect the authority of the Secretary with respect to—

(1) the maintenance, treatment, packaging, and storage of defense wastes at Department of Energy sites prior to delivery to, and acceptance by, the Administrator for disposal in a repository;
(2) the conduct of generic research, development, and demonstration activities related to nuclear waste management, including proliferation-resistant advanced fuel recycling and transmutation technologies that minimize environmental and public health and safety impacts; and

(3) training and workforce development programs relating to nuclear waste management.

(e) TERMINATIONS.—The authority for each function of the Secretary relating to the siting, construction, and operation of repositories or storage facilities not transferred to the Administrator under this Act shall terminate on the date of enactment of this Act, including the authority—

(1) to provide interim storage or monitored, retrievable storage under subtitles B and C of title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10151 et seq.); and

(2) to site or construct a test and evaluation facility under title II of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10191 et seq.).

SEC. 507. TECHNICAL ASSISTANCE IN THE FIELD OF SPENT FUEL STORAGE AND DISPOSAL.

(a) JOINT NOTICE.—Not later than 90 days after the date of enactment of this Act and annually for 5 suc-
ceeding years, the Secretary and the Commission shall up-
date and publish in the Federal Register the joint notice
required by section 223(b) of the Nuclear Waste Policy
Act of 1982 (42 U.S.C. 10203(b)).

(b) INFORMING FOREIGN GOVERNMENTS.—As soon
as practicable after the date of the publication of the an-
nual joint notice described in subsection (a), the Secretary
of State shall inform the governments of nations and orga-
nizations operating nuclear power plants, solicit expres-
sions of interest, and transmit any such expressions of in-
terest to the Secretary and the Commission, as provided
in section 223(c) of the Nuclear Waste Policy Act of 1982
(42 U.S.C. 10203(c)).

(c) BUDGET REQUESTS.—The President shall in-
clude in the budget request of the President for the Com-
mission and the Department of Energy for each of fiscal
years 2020 through 2025 such funding requests for a pro-
gram of cooperation and technical assistance with nations
in the fields of spent nuclear fuel storage and disposal as
the President determines appropriate in light of expres-
sions of interest in the cooperation and assistance.

(d) ELIGIBILITY.—Notwithstanding any limitation on
cooperation and technical assistance to non-nuclear weap-
on states under section 223 of the Nuclear Waste Policy
Act of 1982 (42 U.S.C. 10203), the Secretary and the
Commission may cooperate with and provide technical assistance to nuclear weapon states, if the Secretary and the Commission determine the cooperation and technical assistance is in the national interest.

SEC. 508. NUCLEAR WASTE TECHNICAL REVIEW BOARD.


(b) Functions.—Section 503 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10263) is amended by striking “1987” and inserting “1987 and the Nuclear Waste Administrator”.

(c) Production of Documents.—Section 504(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10264(b)) is amended by striking “Secretary” each place it appears and inserting “Nuclear Waste Administrator”.

(d) Reports.—Section 508 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10268) is amended in the first sentence by striking “Congress and the Secretary” and inserting “Congress, the Nuclear Waste Administrator, and the Nuclear Waste Oversight Board”.

(e) Termination.—Section 510 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10270) is amended
1 by striking “Secretary” and inserting “Nuclear Waste Ad-
2 ministrator”.

3 SEC. 509. REPEAL OF VOLUME LIMITATION.

4 Section 114(d) of the Nuclear Waste Policy Act of
5 1982 (42 U.S.C. 10134(d)) is amended by striking the
6 second and third sentences.

○