

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1020

To amend the Nuclear Waste Policy Act of 1982.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 1995

Mr. UPTON (for himself, Mr. TOWNS, Mr. BILIRAKIS, Mr. MANTON, Mr. STEARNS, Mr. HALL of Texas, Mr. NORWOOD, Mr. GORDON, Mr. BURR, Mrs. THURMAN, Mr. HASTERT, Mr. GILLMOR, Mr. MOORHEAD, Mr. GRAHAM, and Mr. FRANKS of Connecticut) introduced the following bill; which was referred to the Committee on Commerce and, in addition, to the Committees on Resources, Transportation and Infrastructure, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Nuclear Waste Policy Act of 1982.

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

3 **SECTION 1. NUCLEAR WASTE POLICY ACT OF 1982.**

4 The Nuclear Waste Policy Act of 1982 is amended  
5 to read as follows:

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

2 “(a) SHORT TITLE.—This Act may be cited as the  
3 “Integrated Spent Nuclear Fuel Management Act of  
4 1995”.

5 “(b) TABLE OF CONTENTS.—

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

“Sec. 2. Definitions.

“Sec. 3. Findings and purposes.

“TITLE I—OBLIGATIONS AND REMEDIES

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

“Sec. 102. Remedies.

“TITLE II—INTEGRATED SPENT NUCLEAR FUEL MANAGEMENT  
SYSTEM

“Sec. 201. Establishment of the integrated spent nuclear fuel management sys-  
tem.

“Sec. 202. Railroad.

“Sec. 203. Transportation planning.

“Sec. 204. Transportation requirements.

“Sec. 205. Multi-purpose canister systems.

“Sec. 206. Interim storage.

“Sec. 207. Permanent disposal.

“Sec. 208. Land withdrawal.

“Sec. 209. Private storage facilities.

“TITLE III—STATE RELATIONS

“Sec. 301. State consultation and assistance.

“TITLE IV—FUNDING AND ORGANIZATION

“Sec. 401. Budget priorities.

“Sec. 402. Environmental requirements.

“Sec. 403. Nuclear waste fund.

“Sec. 404. Office of Civilian Radioactive Waste Management.

“Sec. 405. Defense contribution.

“TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

“Sec. 501. Compliance with other laws.

“Sec. 502. Judicial review of agency actions.

“Sec. 503. Title to material.

“Sec. 504. Licensing of facility expansions and transshipments.

“Sec. 505. Siting a second repository.

“Sec. 506. Financial arrangements for low-level radioactive waste site closure.

“Sec. 507. Nuclear Regulatory Commission training authority.

“TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

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

“TITLE VII—MANAGEMENT REFORM

- “Sec. 701. Management reform initiatives.
- “Sec. 702. Reporting.

1 **“SEC. 2. DEFINITIONS.**

2 “For purposes of this Act:

3 “(1) The term ‘accept’ or ‘acceptance’ means  
4 the Secretary’s act of taking title to and possession  
5 of commercial spent nuclear fuel and high-level ra-  
6 dioactive waste pursuant to contracts and removing  
7 such spent nuclear fuel and high-level waste from  
8 the sites designated by the contract holders pursuant  
9 to such contracts.

10 “(2) The term ‘acceptance schedule’ means the  
11 schedule established pursuant to the contracts for  
12 acceptance by the Secretary of spent nuclear fuel  
13 and high-level radioactive waste from the contract  
14 holders. The acceptance schedule shall be imple-  
15 mented in accordance with the following:

16 “(A) Acceptance priority ranking shall be  
17 determined by the Department’s annual ‘Ac-  
18 ceptance Priority Ranking’ report.

1           “(B) The Secretary’s spent fuel acceptance  
2 rate shall be no less than the following: 1,200  
3 MTU in 1998 and 1,200 MTU in 1999; 2,000  
4 MTU in 2000 and 2000 MTU in 2001; 2,700  
5 MTU in 2002; and 3,000 MTU thereafter.

6           “(C) If the Secretary is unable to begin ac-  
7 ceptance by January 31, 1998 at the rates  
8 specified in subparagraph (B), or if the cumu-  
9 lative amount accepted in any year thereafter is  
10 less than that which would have been accepted  
11 under the acceptance rate specified in subpara-  
12 graph (B), the acceptance schedule shall be ad-  
13 justed upward such that within 5 years of the  
14 start of acceptance by the Secretary—

15           “(i) the total quantity accepted by the  
16 Secretary is consistent with the total quan-  
17 tity that the Secretary would have accepted  
18 if the Secretary had began acceptance in  
19 1998, and

20           “(ii) thereafter the acceptance rate is  
21 equivalent to the rate that would be in  
22 place pursuant to subparagraph (B) above  
23 if the Secretary had commenced accept-  
24 ance in 1998.

1           “(D) The acceptance schedule shall not be  
2           affected or modified in any way as a result of  
3           the Secretary’s acceptance of any material other  
4           than contract holders’ spent nuclear fuel and  
5           high-level radioactive waste.

6           “(3) The term ‘affected Indian tribe’ means any  
7           Indian tribe—

8                   “(A) within whose reservation boundaries  
9                   an interim storage facility or a repository for  
10                  spent nuclear fuel or high-level radioactive  
11                  waste is proposed to be located; or

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

22           “(4) The term ‘affected unit of local govern-  
23           ment’ means the unit of local government with juris-  
24           diction over the site of the repository or interim  
25           storage facility. Such term may, at the discretion of

1 the Secretary, include other units of local govern-  
2 ment that are contiguous with such unit.

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

7 “(A) Naval reactors development.

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

10 “(C) Verification and control technology.

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

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

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

17 “(G) Defense research and development.

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

22 “(7) The term ‘contracts’ means the contracts,  
23 executed prior to the date of enactment of this Act,  
24 under section 302(a) of the Nuclear Waste Policy  
25 Act of 1982, by the Secretary and any person who

1 generates or holds title to high-level radioactive  
2 waste or spent nuclear fuel of domestic origin for ac-  
3 ceptance of such waste or fuel by the Secretary and  
4 the payment of fees to offset the Secretary's expend-  
5 itures.

6 “(8) The term ‘contract holders’ means parties  
7 to contracts other than the Secretary.

8 “(9) The term ‘Commission’ means the Nuclear  
9 Regulatory Commission.

10 “(10) The term ‘Department’ means the De-  
11 partment of Energy.

12 “(11) The term ‘disposal’ means the emplace-  
13 ment in a repository of high-level radioactive waste,  
14 spent nuclear fuel, or other highly radioactive mate-  
15 rial with no foreseeable intent of recovery, whether  
16 or not such emplacement permits recovery of such  
17 material for any future purpose.

18 “(12) The term ‘disposal system’ means all nat-  
19 ural barriers and engineered barriers, and engi-  
20 neered systems and components, that prevent the re-  
21 lease of radionuclides from the Yucca Mountain site.

22 “(13) The term ‘engineered barriers’ and ‘engi-  
23 neered systems and components,’ means man made  
24 components of a disposal system. Such term includes  
25 the high-level radioactive waste or spent nuclear fuel

1 form, high-level radioactive waste or spent nuclear  
2 fuel package, and other materials placed over and  
3 around such packages.

4 “(14) The term ‘high-level radioactive waste’  
5 means—

6 “(A) the highly radioactive material result-  
7 ing from the reprocessing of spent nuclear fuel,  
8 including liquid waste produced directly in re-  
9 processing and any solid material derived from  
10 such liquid waste that contains fission products  
11 in sufficient concentrations; and

12 “(B) other highly radioactive material that  
13 the Commission, consistent with existing law,  
14 determines by rule requires permanent isola-  
15 tion.

16 “(15) The term ‘Federal agency’ means any  
17 Executive agency, as defined in section 105 of title  
18 5, United States Code.

19 “(16) The term ‘Indian tribe’ means any Indian  
20 tribe, band, nation, or other organized group or com-  
21 munity of Indians recognized as eligible for the serv-  
22 ices provided to Indians by the Secretary of the Inte-  
23 rior because of their status as Indians including any  
24 Alaska Native village, as defined in section 3(c) of

1 the Alaska Native Claims Settlement Act (43 U.S.C.  
2 1602(c)).

3 “(17) The term ‘integrated spent nuclear fuel  
4 management system’ means an integrated system,  
5 developed by the Secretary in accordance with the  
6 provisions of title II of this Act.

7 “(18) The term ‘interim storage facility’ means  
8 a facility designed and constructed for the receipt,  
9 handling, possession, safeguarding, and storage of  
10 spent nuclear fuel and other materials in accordance  
11 with title II of this Act.

12 “(19) The term ‘interim storage facility site’  
13 means either the specific site within Area 25 of the  
14 Nevada Test Site that is designated by the Secretary  
15 and withdrawn and reserved in accordance with this  
16 Act for the location of the interim storage facility,  
17 or, such other volunteer site in Nevada that is des-  
18 ignated by the Secretary for the location of an in-  
19 terim storage facility in accordance with Title II of  
20 this Act.

21 “(20) The term ‘low-level radioactive waste’  
22 means radioactive material that—

23 “(A) is not high-level radioactive waste,  
24 spent nuclear fuel, transuranic waste, or by-  
25 product material as defined in section 11 e.(2)

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

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

6 “(21) The term ‘metric tons uranium’ or  
7 ‘MTU’ means the amount of uranium in the original  
8 unirradiated fuel element whether or not the spent  
9 nuclear fuel has been reprocessed.

10 “(22) The term ‘multi-purpose canister system’  
11 means a metal canister, together with overpacks, as  
12 required, capable of holding spent nuclear fuel as-  
13 semblies and miscellaneous support equipment dur-  
14 ing storage, transportation, and disposal.

15 “(23) The term ‘Office’ means the Office of Ci-  
16 vilian Radioactive Waste Management established  
17 within the Department prior to the date of enact-  
18 ment of this Act under the provisions of the Nuclear  
19 Waste Policy Act of 1982.

20 “(24) The term ‘program approach’ means the  
21 Civilian Radioactive Waste Management Program  
22 Plan, dated December 19, 1994, as modified by this  
23 Act, and as amended from time to time by the Sec-  
24 retary in accordance with this Act.

1           “(25) The term ‘repository’ means a system de-  
2           signed and constructed under title II of this Act for  
3           the permanent geologic disposal of high-level radio-  
4           active waste and spent nuclear fuel, including both  
5           surface and subsurface areas at which high-level ra-  
6           dioactive waste and spent nuclear fuel receipt, han-  
7           dling, possession, safeguarding, storage, and han-  
8           dling activities are conducted.

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

11          “(27) The term ‘site characterization’ means  
12          activities, whether in a laboratory or in the field, un-  
13          dertaken to establish the geologic condition and the  
14          ranges of the parameters of a candidate site relevant  
15          to the location of a repository, including borings,  
16          surface excavations, excavations of exploratory facili-  
17          ties, limited subsurface lateral excavations and bor-  
18          ings, and in situ testing needed to evaluate the  
19          licenseability of a candidate site for the location of  
20          a repository, but not including preliminary borings  
21          and geophysical testing needed to assess whether  
22          site characterization should be undertaken.

23          “(28) The term ‘spent nuclear fuel’ means fuel  
24          that has been withdrawn from a nuclear reactor fol-

1       lowing irradiation, the constituent elements of which  
2       have not been separated by reprocessing.

3           “(29) The term ‘storage’ means retention of  
4       high-level radioactive waste, spent nuclear fuel, or  
5       transuranic waste with the intent to recover such  
6       waste or fuel for subsequent use, processing, or dis-  
7       posal.

8           “(30) The term ‘waste fund’ means the nuclear  
9       waste fund established in the United States Treas-  
10      ury prior to the date of enactment of this Act under  
11      section 302(c) of the Nuclear Waste Policy Act of  
12      1982.

13          “(31) The term ‘withdrawal’ has the same defi-  
14      nition as that set forth in the Federal Land Policy  
15      Management Act (43 U.S.C. 1702).

16          “(32) The term ‘Yucca Mountain site’ means  
17      the area in the State of Nevada that is withdrawn  
18      and reserved in accordance with this Act for the lo-  
19      cation of a repository.

20   **“SEC. 3. FINDINGS AND PURPOSES.**

21          “(a) FINDINGS.—The Congress finds that—

22           “(1) a national problem has been created by the  
23      accumulation of—

24            “(A) spent nuclear fuel from and at nu-  
25      clear reactors; and

1 “(B) radioactive waste from—

2 “(i) reprocessing of spent nuclear fuel;

3 “(ii) activities related to medical re-  
4 search, diagnosis, and treatment; and

5 “(iii) other sources;

6 “(2) the storage and disposal of high-level ra-  
7 dioactive waste and spent nuclear fuel at a central  
8 Federal site is vital to the protection of the public  
9 health and safety and the environment and to the  
10 maintenance of the energy security of the United  
11 States;

12 “(3) while spent nuclear fuel can be safely  
13 stored at reactor sites, the expeditious movement to  
14 and storage of such spent nuclear fuel at a central-  
15 ized Federal facility will enhance the nation’s envi-  
16 ronmental protection;

17 “(4) while the Federal Government has the re-  
18 sponsibility to provide for the centralized interim  
19 storage and permanent disposal of high-level radio-  
20 active waste and spent nuclear fuel to protect the  
21 public health and safety and the environment, the  
22 costs of such storage and disposal should be the re-  
23 sponsibility of the generators and owners of such  
24 waste and fuel, including the Federal Government;

1           “(5) development of an integrated spent nuclear  
2 fuel management system would provide a safe, envi-  
3 ronmentally sound, efficient, and cost effective meth-  
4 od of storing, transporting, and disposing of high-  
5 level radioactive waste and spent nuclear fuel, and  
6 would ensure that the consumers of nuclear energy  
7 are receiving the services for which they have paid,  
8 including interest, over \$10,000,000,000;

9           “(6) the expeditious development and utilization  
10 of a central Federal facility and associated equip-  
11 ment for the storage of spent nuclear fuel, as well  
12 as the transportation infrastructure necessary for  
13 access to such a facility, is not only critical to the  
14 nation’s energy security and environmental protec-  
15 tion, but would provide a means for the Secretary to  
16 meet the Secretary’s obligations under this Act;

17           “(7) in the interests of protecting the public  
18 health and safety, enhancing the nation’s environ-  
19 mental protection, promoting the nation’s energy se-  
20 curity, and ensuring the Secretary’s ability to meet  
21 the Secretary’s obligation to commence acceptance of  
22 spent nuclear fuel no later than January 31, 1998,  
23 it is necessary for Congress to take steps to stream-  
24 line the processes for siting, licensing, and commenc-  
25 ing operations at an interim storage facility;

1           “(8) the Secretary should continue the ongoing  
2 efforts to develop multi-purpose canister-based sys-  
3 tems for the storage, transportation, and disposal of  
4 spent nuclear fuel and high-level radioactive waste in  
5 accordance with the obligations imposed by this Act,  
6 because such systems could provide benefits to the  
7 integrated spent nuclear fuel management system  
8 from a cost, feasibility, health and safety, and risk  
9 perspective;

10           “(9) the beneficiaries of nuclear energy have a  
11 responsibility to provide future generations with a  
12 safe, integrated system for the storage, transport  
13 and disposal of spent nuclear fuel and high-level  
14 waste, and to bear the financial costs of developing  
15 such a system in a responsible, timely, efficient and  
16 cost-effective manner;

17           “(10) pursuant to the Nuclear Waste Policy  
18 Act of 1982 and the contracts executed thereunder,  
19 the Secretary has a clear and unconditional obliga-  
20 tion to accept spent nuclear fuel and high-level ra-  
21 dioactive waste beginning not later than January 31,  
22 1998, which obligation is continued under this Act;

23           “(11) the customers of owners and generators  
24 of high-level radioactive waste and spent nuclear fuel  
25 have provided, including interest, over \$10 billion,

1 and continue to provide billions of dollars of funding  
2 to finance the Secretary's implementation of the  
3 Secretary's responsibilities to provide for the interim  
4 storage, transportation, and permanent disposal of  
5 spent nuclear fuel and high-level radioactive waste;  
6 and

7 “(12) deficit-control measures designed to limit  
8 appropriation of general revenues have unreasonably  
9 limited the availability of the nuclear waste fund for  
10 its intended purposes.

11 “(b) PURPOSES.—The purposes of this Act are—

12 “(1) to direct the Secretary to develop an inte-  
13 grated spent nuclear fuel management system in ac-  
14 cordance this Act and to commence acceptance of  
15 spent nuclear fuel and high-level radioactive waste in  
16 accordance with the acceptance schedule no later  
17 than January 31, 1998;

18 “(2) to provide a means for the Secretary to  
19 fulfill the Secretary's obligation to commence accept-  
20 ance of spent nuclear fuel beginning not later than  
21 January 31, 1998, by—

22 “(A) requiring and facilitating the develop-  
23 ment, licensing procurement, and deployment of  
24 multi-purpose canister systems;

1           “(B) directing the Secretary to develop an  
2 interim storage facility at area 25 of the Ne-  
3 vada test site, or, at a volunteer host site in Ne-  
4 vada;

5           “(C) eliminating unnecessary duplication  
6 of agency effort in complying with Federal envi-  
7 ronmental laws in connection with the certifi-  
8 cation of multi-purpose canisters and the siting,  
9 licensing, construction and operation of the in-  
10 terim storage facility, including related activi-  
11 ties such as transportation, while ensuring com-  
12 pliance with the purposes of such laws;

13           “(D) modifying the provisions for licensing  
14 of the repository to more appropriately reflect  
15 the nature of the facility; and

16           “(E) modifying the provisions for judicial  
17 review of the Secretary’s and the Commission’s  
18 actions to ensure that such review takes place  
19 at the appropriate time and does not unduly  
20 delay development of the integrated spent nu-  
21 clear fuel management system;

22           “(3) to take those actions necessary to ensure  
23 that the consumers of nuclear energy, who are fund-  
24 ing the Secretary’s activities under this Act, receive  
25 the services to which they are entitled and realize

1 the benefits of enhanced protection of public health  
2 and safety, and the environment, that will ensue  
3 from the Secretary's compliance with the obligations  
4 imposed by this Act;

5 “(4) to provide a schedule and process for the  
6 expeditious and safe development and commence-  
7 ment of operation of a interim storage facility, the  
8 procurement of related equipment, and any nec-  
9 essary modifications to the transportation infrastruc-  
10 ture to ensure that the Secretary can satisfy the ob-  
11 ligation to commence acceptance of high level waste  
12 and spent nuclear fuel no later than January 31,  
13 1998;

14 “(5) to facilitate the development of an inte-  
15 grated spent nuclear fuel management system for  
16 management of high-level radioactive waste and  
17 spent nuclear fuel;

18 “(6) to direct the Secretary to continue the on-  
19 going activities with respect to the design, licensing,  
20 procurement, and deployment of multi-purpose can-  
21 ister systems that can be utilized for the storage,  
22 transportation, and disposal of spent nuclear fuel  
23 and high level radioactive waste;

24 “(7) to direct the Secretary to implement man-  
25 agement reforms in the civilian radioactive waste

1 management program, as appropriate, to facilitate  
2 the Secretary's ability to implement the integrated  
3 spent nuclear fuel management system in a timely,  
4 efficient, safe, and cost-effective manner;

5 “(8) to eliminate unreasonable restrictions on  
6 the appropriation of funds paid by consumers of nu-  
7 clear energy into the nuclear waste fund to ensure  
8 that such funds are available as necessary and ap-  
9 propriate to support development of the integrated  
10 spent nuclear fuel management system; and

11 “(9) to recognize and encourage private efforts  
12 to provide for temporary storage of spent nuclear  
13 fuel until the Secretary fulfills the Secretary's con-  
14 tractual and statutory obligation to accept spent nu-  
15 clear fuel, and to authorize the Secretary to contract  
16 to use private storage facilities as a means of miti-  
17 gating damages for any failure of the Secretary to  
18 meet the Secretary's acceptance obligations.

19 **“TITLE I—OBLIGATIONS AND**  
20 **REMEDIES**

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

22 “(a) The Secretary shall accept spent nuclear fuel  
23 and high-level radioactive waste pursuant to this Act and  
24 the contracts in accordance with the acceptance schedule,  
25 beginning not later than January 31, 1998.

1       “(b) The Secretary has a clear and unconditional ob-  
2 ligation to accept spent nuclear fuel and high-level radio-  
3 active waste at a Commission licensed facility notwith-  
4 standing the availability of any component of the inte-  
5 grated spent nuclear fuel management system or a private  
6 facility for the temporary storage of spent nuclear fuel.

7       “(c) The Secretary shall satisfy such obligation by ex-  
8 peditiously pursuing the development of each component  
9 of the integrated spent nuclear fuel management system,  
10 and in so doing shall seek to utilize effective private sector  
11 management and contracting practices in accordance with  
12 title VII of this Act.

13       “(d) The failure of the Secretary to accept spent nu-  
14 clear fuel and high-level radioactive waste in accordance  
15 with subsection (a) shall entitle the contract holders to the  
16 remedies provided in section 102 of this Act, in addition  
17 to any other remedies that may be available at law.

18 **“SEC. 102. REMEDIES.**

19       “(a) JURISDICTION.—

20               “(1) The United States Court of Federal  
21 Claims shall have original jurisdiction of all claims  
22 brought by a contract holder for monetary damages  
23 for a breach of a contract or a failure to meet statu-  
24 tory obligations to accept spent nuclear fuel or high-  
25 level radioactive waste. Notwithstanding any other

1 grant of jurisdiction, such claims may be brought  
2 within six years of the date on which the Secretary  
3 would have accepted the contract holder's spent nu-  
4 clear fuel or high level radioactive waste had the  
5 Secretary commenced waste acceptance by January  
6 31, 1998 in accordance with the acceptance priority  
7 ranking in effect prior to the date of enactment of  
8 this Act at the rate set forth in the annual capacity  
9 report in effect prior to the date of enactment of  
10 this Act.

11 “(2) The provisions of the Contract Disputes  
12 Act do not apply to claims asserted pursuant to this  
13 section.

14 “(b) DAMAGE AWARD.—Damages for the Secretary's  
15 breach of a contract or the Secretary's failure to meet  
16 statutory obligations shall be awarded to a contract holder  
17 in the amounts specified in this subsection for each MTU  
18 of spent nuclear fuel and high-level radioactive waste for  
19 which the contract holder has to provide interim storage  
20 that would not have been necessary if the Secretary had  
21 accepted such material from the contract holder in accord-  
22 ance with the acceptance ranking and rate set forth in  
23 subsection (a)(1) of this section. The award of damages  
24 under this subsection shall not be affected by the provision  
25 of a multi-purpose canister system to a contract holder

1 by the Secretary, the storage technology and storage loca-  
2 tion utilized by the contract holder, or the availability to  
3 the contract holder of existing storage capacity.

4 “(1) For the first 5-year period during which  
5 the contract holder has to provide such interim stor-  
6 age services, \$34,000 per MTU per year.

7 “(2) In the sixth year following the provision of  
8 such storage services, \$170,000 per MTU.

9 “(c) PROCEDURE.—Within 6 months of the date of  
10 enactment of this Act, the United States Court of Federal  
11 Claims shall establish procedures that provide, to the max-  
12 imum extent practicable, for the expeditious processing of  
13 claims for damages under this section.

14 “(d) RESTRICTION.—The waste fund shall not be  
15 used, either directly or indirectly, for the payment of dam-  
16 ages by the Secretary pursuant to this section.

17 “(e) MITIGATION OR AVOIDANCE OF DAMAGES.—  
18 Any damages that may otherwise arise under subsection  
19 (b) for the Secretary’s failure to accept spent nuclear fuel  
20 and high-level radioactive waste may be mitigated or  
21 avoided if the Secretary provides for the transportation  
22 to, and storage of, such fuel or waste in private storage  
23 facilities in accordance with the following criteria:

24 “(1) The Secretary may enter into a service  
25 contract with one or more private entities that have

1 facilities, licensed or to be licensed by the Commis-  
2 sion, that can be utilized for the storage of spent nu-  
3 clear fuel or high-level radioactive waste and attend-  
4 ant services, provided however that the Secretary  
5 shall not utilize such facilities until they have re-  
6 ceived a license from the Commission.

7 “(2) The Secretary may utilize any available  
8 certified system, including multi-purpose canister  
9 systems developed under this section, for the trans-  
10 portation of spent nuclear fuel and/or high-level ra-  
11 dioactive waste to the private storage facility and the  
12 storage of such fuel or waste at the private storage  
13 facility.

14 “(3) The Secretary’s execution of a service con-  
15 tract with a private storage facility shall not convert  
16 the private storage facility into a government facility  
17 or its owner or lessee into a government contractor  
18 or subcontractor. Accordingly, the Secretary’s execu-  
19 tion of a service contract with a private storage fa-  
20 cility shall not impose any obligations on the private  
21 storage facility that are unique to contracts with the  
22 Federal government and shall not impose any obliga-  
23 tions on the Secretary that would not apply to a pri-  
24 vate entity that contracts with the storage facility,  
25 including the following:

1           “(A) The service contract shall not impose  
2 any requirements on the Secretary or the pri-  
3 vate storage facility under the National Envi-  
4 ronmental Policy Act of 1969.

5           “(B) The service contract shall not subject  
6 the Secretary or the private storage facility to  
7 Federal laws and regulations governing the Sec-  
8 retary’s procurement of goods or services or the  
9 Secretary’s hiring, employment, payment, or fir-  
10 ing of personnel.

11           “(C) The service contract shall not convert  
12 the private storage facility into an interim stor-  
13 age facility as defined in this Act that is part  
14 of the integrated spent nuclear fuel manage-  
15 ment system.

16           “(D) The service contract shall not in any  
17 way affect the Secretary’s obligation to develop  
18 in an expeditious manner each component of  
19 the integrated spent nuclear fuel management  
20 system, including the interim storage facility.

21           “(4) The Waste Fund shall be used to fund the  
22 Secretary’s actions in executing such service contract  
23 and implementing the Secretary’s responsibilities  
24 thereunder, including the acceptance of spent nu-  
25 clear fuel and high-level radioactive waste at con-

1 tract holder sites and transporting such fuel or  
2 waste to the private storage facility.

3 “(f) ADDITIONAL REMEDIES.—The remedies pro-  
4 vided under this section are in addition to any legal or  
5 contractual remedies that are otherwise available to a con-  
6 tract holder.

7 **“TITLE II—INTEGRATED SPENT**  
8 **NUCLEAR FUEL MANAGE-**  
9 **MENT SYSTEM**

10 **“SEC. 201. ESTABLISHMENT OF THE INTEGRATED SPENT**  
11 **NUCLEAR FUEL MANAGEMENT SYSTEM.**

12 “There is established an integrated spent nuclear fuel  
13 management system for the management of spent nuclear  
14 fuel and high-level radioactive waste by the Secretary, in-  
15 cluding the storage, transportation, and disposal of such  
16 spent nuclear fuel and high-level radioactive waste.

17 **“SEC. 202. RAILROAD.**

18 “(a) AUTHORIZATION.— The Secretary shall acquire  
19 rights of way within the corridor designated in subsection  
20 (b) as provided in this section and shall construct and op-  
21 erate, or cause to be constructed and operated, a railroad  
22 and such facilities as are required to transport spent nu-  
23 clear fuel and high-level radioactive waste from existing  
24 rail systems to the interim storage facility and the reposi-  
25 tory.

1 “(b) ROUTE DESIGNATION.—

2 “(1) The Secretary shall acquire such rights of  
3 way and develop such facilities within the corridor  
4 depicted on the map dated \_\_\_\_\_ and on file with  
5 the Secretary.

6 “(2) Within 6 months of the date of the enact-  
7 ment of this Act, the Secretary shall—

8 “(A) publish in the Federal Register a no-  
9 tice containing a legal description of the cor-  
10 ridor; and

11 “(B) file copies of the map described in  
12 paragraph (1) and the legal description of the  
13 corridor with the Congress, the Secretary of the  
14 Interior, the Governor of Nevada, and the Ar-  
15 chivist of the United States.

16 “(3) The map and legal description referred to  
17 in paragraph (2) shall have the same force and ef-  
18 fect as if they were included in this Act. The Sec-  
19 retary may correct clerical and typographical errors  
20 in the map and legal description.

21 “(c) WITHDRAWAL AND RESERVATION.—

22 “(1) Subject to valid existing rights, the public  
23 lands depicted on such map are withdrawn from all  
24 forms of entry, appropriation, and disposal under  
25 the public land laws, including without limitation the

1 mineral leasing laws, the geothermal laws, the mate-  
2 rial sale laws, and the mining laws.

3 “(2) Jurisdiction of such land is transferred  
4 from the Secretary of the Interior to the Secretary  
5 of Energy.

6 “(3) Such lands are reserved for the use of the  
7 Secretary for the construction and operation of such  
8 transportation facilities and associated activities  
9 under this title.

10 “(4) The lands depicted in the corridor and on  
11 the map that are within Bureau of Land Manage-  
12 ment study units NV-051-411 and NV-050-04R-  
13 15 are deemed to have been adequately studied and  
14 shall be managed consistent with this Title.

15 “(d) NATIONAL ENVIRONMENTAL POLICY ACT.—

16 “(1) The Secretary’s activities in connection  
17 with the designation of a route and the acquisition  
18 of rights of way under this section shall be consid-  
19 ered preliminary decisionmaking activities and shall  
20 not constitute a major Federal action significantly  
21 affecting the quality of the human environment for  
22 purposes of the National Environmental Policy Act  
23 of 1969, shall not require the preparation of an envi-  
24 ronmental impact statement under section 102(2)(C)  
25 of the National Environmental Policy Act of 1969

1 (42 U.S.C. 4332(2)(C)), or any environmental re-  
2 view under subparagraph (E) or (F) of section  
3 102(2) of such Act, and shall not be delayed pending  
4 completion of the environmental impact statement  
5 required under paragraph (2).

6 “(2) Construction and operation of transpor-  
7 tation facilities within the corridor shall constitute a  
8 major Federal action significantly affecting the qual-  
9 ity of the human environment for purposes of the  
10 National Environmental Policy Act of 1969. The  
11 Secretary shall prepare an environmental impact  
12 statement on the construction and operation of such  
13 facilities prior to commencement of construction. In  
14 preparing such statement, the Secretary shall adopt,  
15 to the extent practicable, relevant environmental re-  
16 ports that have been developed by other Federal and  
17 State agencies.

18 “(3) For purposes of complying with the re-  
19 quirements of the National Environmental Policy  
20 Act of 1969 and this section, the Secretary need not  
21 consider the need for the development or improve-  
22 ment of transportation facilities, the timing of the  
23 initial availability of the transportation facilities, al-  
24 ternative routes, or alternative means of transpor-  
25 tation.

1       “(e) CONSTRUCTION.—Notwithstanding any state or  
2 Federal statute, regulation or orders to the contrary, or  
3 the pendency of any judicial proceeding, the Secretary  
4 shall be authorized to commence construction of transpor-  
5 tation facilities upon compliance with the requirements of  
6 subsections (a) through (d). No court shall have jurisdic-  
7 tion to enjoin the construction of the transportation facili-  
8 ties authorized by this section except upon its entry of a  
9 final order that the construction is not in accord with the  
10 provisions of applicable law.

11       “(f) EXEMPTION.—Neither the Secretary nor any  
12 person constructing or operating railroad facilities under  
13 contract with the Secretary under this section shall be con-  
14 sidered a rail carrier within the meaning of the Interstate  
15 Commerce Act (49 U.S.C. 10102 (19)) and shall not be  
16 subject to the jurisdiction of the Interstate Commerce  
17 Commission.

18 **“SEC. 203. TRANSPORTATION PLANNING.**

19       “(a) TRANSPORTATION READINESS.—The Secretary  
20 shall take those actions that are necessary and appropriate  
21 to ensure that the Secretary is able to accept spent nuclear  
22 fuel and high-level radioactive waste at the sites des-  
23 ignated by the contract holders, in accordance with the  
24 acceptance schedule, beginning not later than January 31,  
25 1998, and transport such fuel or waste to mainline trans-

1 portation facilities. These actions shall include, but not be  
2 limited to, the following:

3           “(1) As soon as is practicable following enact-  
4           ment of this Act, the Secretary shall update both the  
5           Facilities Interface Capability Assessment (FICA)  
6           and the Near Site Transportation Infrastructure  
7           Study (NSTI) previously conducted by the Sec-  
8           retary. In conducting such updates, the Secretary  
9           shall analyze each specific reactor facility in the  
10          order of priority established in the Acceptance  
11          Schedule.

12          “(2) Based on the data and analysis contained  
13          in the updated FICA and NSTI, the Secretary shall  
14          develop a logistical plan to assure the Secretary’s  
15          ability to transport spent nuclear fuel and/or high-  
16          level radioactive waste from the point of acceptance  
17          at each contract holder’s sites to mainline transpor-  
18          tation facilities. The logistical plan shall:

19               “(A) Detail the Secretary’s plans for pro-  
20               curing and deploying the fleet of multi-purpose  
21               canister systems developed under section 205  
22               and certified by the Commission, as well as any  
23               other certified transport or storage cask sys-  
24               tems, necessary to meet the Secretary’s obliga-  
25               tions under this Act.

1           “(B) Advise each contract holder of rec-  
2           ommended modifications that should be made  
3           to the contract holder’s sites, including the near  
4           site transportation infrastructure, to facilitate  
5           the Secretary’s ability to accept spent nuclear  
6           fuel at such sites and transport it to mainline  
7           transportation facilities, and enter into discus-  
8           sions with such contract holder concerning the  
9           implementation of such modifications. In devel-  
10          oping such plan, and determining the desirabil-  
11          ity of modifications to a particular contract  
12          holder’s sites, including the near site transpor-  
13          tation infrastructure, the Secretary shall bal-  
14          ance the costs of the modifications to the indi-  
15          vidual contract holder, against the economic  
16          and logistical benefits of the modifications to  
17          the integrated spent nuclear fuel management  
18          system; and

19           “(C) Detail the Secretary’s plans for en-  
20           suring the availability to the Secretary of an  
21           adequate number of appropriately designed rail  
22           cars, legal weight tractors and trailers, and  
23           truck casks, including heavy-haul vehicles, to  
24           meet the Secretary’s obligations under this Act.

1       “(b) TRANSPORTATION PLANNING.—In conjunction  
2 with the development of the logistical plan in accordance  
3 with subsection (a), the Secretary shall update and mod-  
4 ify, as necessary, the Secretary’s transportation institu-  
5 tional plans to ensure that institutional issues are ad-  
6 dressed and resolved on a schedule to support the com-  
7 mencement of transportation of spent nuclear fuel and  
8 high-level radioactive waste to the interim storage facility  
9 no later than January 31, 1998. Among other things, such  
10 transportation institutional planning shall provide a  
11 schedule and process for addressing and implementing, as  
12 necessary, transportation routing plans; transportation  
13 contracting plans; transportation training in accordance  
14 with section 204; and transportation tracking programs.

15       “(c) INITIAL PLANNING.—

16               “(1) To ensure the Secretary’s ability to com-  
17 mence spent nuclear fuel shipments to the interim  
18 storage facility no later than January 31, 1998, the  
19 Secretary shall, in taking actions required to ensure  
20 transportation readiness in accordance with this sec-  
21 tion, in determining routes for spent nuclear fuel  
22 shipments, and in providing the technical assistance  
23 required by section 204(c), focus first on those lim-  
24 ited actions that will be required to support the first  
25 shipping campaign.

1           “(2) In conjunction with the transportation  
2           planning under this section, and consistent with the  
3           acceptance schedule, the Secretary shall discuss with  
4           contract holders the desirability of defining a speci-  
5           fied multi-year period for each shipping campaign  
6           and establishing criteria under which the Secretary  
7           could accept a contract holders’ cumulative alloca-  
8           tion of spent nuclear fuel during the campaign pe-  
9           riod at one time and thereby enhance the efficiency  
10          and cost-effectiveness of the integrated spent nuclear  
11          fuel management system.

12   **“SEC. 204. TRANSPORTATION REQUIREMENTS.**

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

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

22          “(c) TECHNICAL ASSISTANCE.—The Secretary shall  
23          provide technical assistance and funds to States, for train-  
24          ing for public safety officials of appropriate units of local  
25          government, and to Indian tribes through whose jurisdic-

1 tion the Secretary plans to transport substantial amounts  
2 of spent nuclear fuel or high-level radioactive waste under  
3 this Act. Training shall cover procedures required for safe  
4 routine transportation of these materials, as well as proce-  
5 dures for dealing with emergency response situations. The  
6 Secretary's duty to provide technical and financial assist-  
7 ance under this subsection shall be limited to amounts  
8 specified in annual appropriations from the waste fund for  
9 such purpose.

10       “(d) USE OF PRIVATE CARRIERS.—The Secretary, in  
11 providing for the transportation of spent nuclear fuel  
12 under this Act, shall utilize by contract private industry  
13 to the fullest extent possible in each aspect of such trans-  
14 portation. The Secretary shall use direct Federal services  
15 for such transportation only upon a determination by the  
16 Secretary of Transportation, in consultation with the Sec-  
17 retary, that private industry is unable or unwilling to pro-  
18 vide such transportation services at a reasonable cost.

19 **“SEC. 205. MULTI-PURPOSE CANISTER SYSTEMS.**

20       “(a) DESIGN AND CERTIFICATION OF MULTI-PUR-  
21 POSE CANISTER SYSTEMS.—

22               “(1) The Secretary shall design one or more  
23 multi-purpose canister systems. Not later than April  
24 1, 1996, the Secretary shall submit to the Commis-  
25 sion applications for certification of one or more

1 such multi-purpose canister systems under the exist-  
2 ing provisions of 10 CFR part 71 and part 72, sub-  
3 part K existing on the date of enactment of this Act.

4 “(2) The Secretary shall solicit and consider  
5 contract holder guidance through all phases of  
6 multi-purpose canister system design to maximize, to  
7 the extent practicable, compatibility between the  
8 multi-purpose canister systems and contract holders’  
9 spent nuclear fuel and facilities, as well as to maxi-  
10 mize, to the extent practicable, the use of such  
11 multi-purpose canister systems in the integrated  
12 spent nuclear fuel management system.

13 “(3) The Commission shall consider applica-  
14 tions for certification of a multi-purpose canister  
15 system for storage and transport in accordance with  
16 the laws and regulations applicable to such applica-  
17 tions, except that the Commission shall issue a final  
18 decision granting or denying a requested certifi-  
19 cation no later than 18 months from the date of the  
20 submittal of such applications. In conjunction with  
21 such decisions, the Commission shall review the  
22 multi-purpose canister system and inform the Sec-  
23 retary of its views regarding the use of such multi-  
24 purpose canister system as a disposal package based

1 on the then current state of knowledge of the natu-  
2 ral and engineered systems in the repository.

3 “(b) PROCUREMENT OF MULTI-PURPOSE CANISTER  
4 SYSTEMS.—Upon the certification of multi-purpose can-  
5 ister systems by the Commission for both storage and  
6 transportation, the Secretary shall procure such multi-  
7 purpose canisters in quantities sufficient to comply with  
8 subsection (c) of this section, except that the Secretary  
9 is authorized to commence procurement of such multi-  
10 purpose canisters prior to such certification if necessary  
11 to meet the obligations imposed under this Act.

12 “(c) DEPLOYMENT OF MULTI-PURPOSE CANISTER  
13 SYSTEMS.—

14 “(1) As soon as practicable following the Sec-  
15 retary’s procurement of multi-purpose canister sys-  
16 tems and the Commission’s certification of such  
17 multi-purpose canister systems, but not later than  
18 30 days prior to the date the interim storage facility  
19 described in section 206 is required to begin oper-  
20 ation, the Secretary shall commence deployment of  
21 multi-purpose canister systems to contract holders at  
22 the sites designated by the contract holders for the  
23 purpose of commencing acceptance of spent nuclear  
24 fuel. The multi-purpose canister systems shall be de-  
25 ployed to contract holders in quantities and in the

1 priority sequence required by the acceptance sched-  
2 ule.

3 “(2) The Secretary shall take action to estab-  
4 lish terms and conditions for deploying multi-pur-  
5 pose canister systems to contract holders in advance  
6 of their priority under the acceptance schedule. The  
7 Secretary is authorized to collect a separate fee from  
8 those contract holders who receive multi-purpose  
9 canister systems in advance of their priority under  
10 the acceptance schedule to compensate the waste  
11 fund in an amount equal to the loss of interest on  
12 those funds expended to pay for such multi-purpose  
13 canister systems in advance of scheduled delivery  
14 under the acceptance schedule.

15 “(3) The multi-purpose canister systems shall  
16 constitute an element of the integrated spent nuclear  
17 fuel management system and shall be utilized by the  
18 Secretary, to the maximum extent practicable, to im-  
19 plement the integrated spent nuclear fuel manage-  
20 ment system.

21 “(4) The failure of the Secretary to comply  
22 with this section, for any reason, shall not constitute  
23 a basis for delay of any other components of the in-  
24 tegrated spent nuclear fuel management system.

1           “(5) The Secretary shall procure and commence  
2           delivery of multi-purpose canister systems in accord-  
3           ance with this section notwithstanding the pendency  
4           of a proceeding for judicial review of the Commis-  
5           sion’s certification actions relative to such multi-  
6           purpose canister systems. No court shall have juris-  
7           diction to enjoin the procurement or deployment of  
8           a multi-purpose canister system prior to a final deci-  
9           sion on review of the Commission’s certification ac-  
10          tions.

11          “(d) CONTINGENCY.—In the event the Secretary is  
12          unable to comply with subsection (a), (b) or (c) of this  
13          section due to licensing or procurement delays, or due to  
14          site specific compatibility problems, and notwithstanding  
15          the availability of an interim storage facility, the Secretary  
16          shall procure and make available to contract holders such  
17          other certified systems as are necessary to implement the  
18          Secretary’s statutory and contractual obligations to accept  
19          spent nuclear fuel beginning not later than January 31,  
20          1998, and the Secretary’s obligations under this Act to  
21          implement an integrated spent nuclear fuel management  
22          system, until such time as multi-purpose canister systems  
23          developed by the Secretary under this section are available  
24          for deployment.

1       “(e) COMPLIANCE WITH THE NATIONAL ENVIRON-  
2 MENTAL POLICY ACT OF 1969.—

3           “(1) No activity of the Secretary under this sec-  
4 tion, including the design of multi-purpose canister  
5 systems; preparation and submittal of applications  
6 for Commission certification of such multi-purpose  
7 canister systems for storage and transport; the pro-  
8 curement and deployment of multi-purpose canister  
9 systems; and the procurement and deployment of  
10 other certified systems shall be considered a major  
11 Federal action significantly affecting the quality of  
12 the human environment for purposes of the National  
13 Environmental Policy Act of 1969 (42 U.S.C. 4321  
14 et seq.). No such activity shall require the prepara-  
15 tion of an environmental impact statement under  
16 section 102(2)(C) of the National Environmental  
17 Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or re-  
18 quire any environmental review under subparagraph  
19 (E) or (F) of section 102(2) of such Act.

20           “(2) In connection with any application to the  
21 Commission for certification of a multi-purpose can-  
22 ister system for storage and transport, the Secretary  
23 shall comply with the Commission regulations, in-  
24 cluding the submittal of any required environmental

1 documentation, in the same manner as a private ap-  
2 plicant.

3 “(3)(A) In connection with its actions in cer-  
4 tifying a multi-purpose canister system for storage  
5 and transportation, the Commission shall comply  
6 with the requirements of the National Environ-  
7 mental Policy Act of 1969 as imposed in its regula-  
8 tions existing on the date of enactment of this Act.

9 “(B) Any Environmental Assessment prepared  
10 by the Commission in connection with its certifi-  
11 cation action shall not consider—

12 “(i) any alternatives to the use of multi-  
13 purpose canister systems in the Integrated  
14 Waste Management System;

15 “(ii) any alternatives to the design criteria  
16 for such multi-purpose canister system or any  
17 individual component thereof, as specified by  
18 the Secretary in the license application;

19 “(iii) the environmental impacts of the  
20 storage of spent nuclear fuel in such multi-pur-  
21 pose canister system at a reactor site or at the  
22 interim storage facility beyond the initial term  
23 of the multi-purpose canister system certifi-  
24 cation for storage or the term of the renewal  
25 period for which application is made; or

1           “(iv) the environmental impacts of the dis-  
2           posal of spent nuclear fuel in such multi-pur-  
3           pose canister system at the repository.

4           “(C) The Commission’s certification of a multi-  
5           purpose canister system shall not require prepara-  
6           tion of an Environmental Impact Statement under  
7           the National Environmental Policy Act of 1969.

8   **“SEC. 206. INTERIM STORAGE.**

9           “(a) AUTHORIZATION AND LOCATION.—

10           “(1) The Secretary shall design, construct, and  
11           operate a facility for the interim storage of spent  
12           nuclear fuel. The interim storage facility shall be li-  
13           censed by the Commission in accordance with its  
14           regulations governing the licensing of independent  
15           spent fuel storage installations, as modified in ac-  
16           cordance with this section, and shall commence oper-  
17           ation by January 31, 1998. The interim storage fa-  
18           cility shall be located at the interim storage facility  
19           site, unless an alternative site is designated in ac-  
20           cordance with paragraph (2).

21           “(2)(A) No later than 60 days from the date of  
22           enactment of this Act, any unit of local government  
23           in Nevada willing to host an interim storage facility,  
24           and/or a facility for the transportation and handling  
25           of spent nuclear fuel, at a technically qualified site

1 within its jurisdiction shall submit written notice to  
2 the Secretary. Such written notice shall contain—

3 “(i) a description of the facilities that the  
4 affected unit of local government is interested  
5 in hosting;

6 “(ii) a description of the boundaries of the  
7 site and its proximity to any components of the  
8 national transportation system;

9 “(iii) an analysis of the unit of local gov-  
10 ernment’s legal authority to dedicate the site  
11 for the exclusive use of the Secretary for the  
12 necessary period of time; and

13 “(iv) proposed terms and conditions for in-  
14 clusion in a benefits agreement to be executed  
15 with the Secretary in accordance with this sub-  
16 section.

17 “(B) Upon receiving such notification, the Sec-  
18 retary shall evaluate the proposed site to determine  
19 whether—

20 “(i) the proposed site is technically quali-  
21 fied for location of an interim storage facility or  
22 the proposed facilities for the transportation  
23 and handling of spent nuclear fuel;

24 “(ii) the proposed site can be dedicated, in  
25 accordance with applicable law, for the exclusive

1 use of an interim storage facility and/or facili-  
2 ties for the transportation and handling of  
3 spent nuclear fuel; and

4 “(iii) location of an interim storage facility  
5 and/or facilities for the transportation and han-  
6 dling of spent nuclear fuel at such site would be  
7 beneficial to the integrated spent nuclear fuel  
8 management system considering, among other  
9 things, its proximity to the national transpor-  
10 tation infrastructure and the local support for  
11 the facility or facilities.

12 “(C) Within 60 days of the receipt of the notifi-  
13 cation under subparagraph (A), the Secretary shall  
14 determine, on the basis of the evaluation, whether  
15 the interim storage facility or facilities for the trans-  
16 portation and handling of spent nuclear fuel should  
17 be located at the proposed site. In the event that the  
18 Secretary determines that the interim storage facil-  
19 ity or facilities for the transportation and handling  
20 of spent nuclear fuel should be located at the pro-  
21 posed site, the Secretary shall—

22 “(i) no later than 6 months from the date  
23 of enactment of this Act, file a license applica-  
24 tion and supporting documentation for author-  
25 ity to construct and operate an interim storage

1 facility at such site in accordance with the re-  
2 quirements of this section and/or shall seek  
3 such other authorization as is necessary to con-  
4 struct and operate facilities for the transpor-  
5 tation and handling of spent nuclear fuel at  
6 such site; and

7 “(ii) enter into a benefits agreement with  
8 the unit of local government.

9 “(b) CAPACITY.—The interim storage facility shall be  
10 designed to provide sufficient capacity to store spent nu-  
11 clear fuel from civilian nuclear power plants until the Sec-  
12 retary is able to transfer the spent fuel to the repository  
13 in accordance with the schedule set forth in the program  
14 approach provided, however, that in no event shall the de-  
15 sign capacity of the interim storage facility be less than  
16 40,000 MTU and provided further that the capacity of  
17 such facility shall be expandable if the receipt of spent  
18 nuclear fuel or high-level radioactive waste at the reposi-  
19 tory is delayed beyond 2010.

20 “(c) DESIGN.—The interim storage facility shall sat-  
21 isfy the following design criteria:

22 “(1) The design shall be expandable so that ad-  
23 ditional storage capacity can be added as necessary.

24 “(2) To the extent practicable, the design shall  
25 be based on the use of multi-purpose canister sys-

1        items developed under section 205 and certified by  
2        the Commission for the storage and transportation  
3        of spent nuclear fuel.

4            “(3) Consistent with the design objective speci-  
5        fied in paragraph (2), the design shall provide for  
6        the use of such other storage technologies as are li-  
7        censed or certified by the Commission for use at the  
8        interim storage facility as necessary to ensure com-  
9        patibility between the interim storage facility and  
10       contract holders’ spent nuclear fuel and facilities,  
11       and to facilitate the Secretary’s ability to meet the  
12       Secretary’s obligations under this Act.

13       “(d) LICENSING.—

14            “(1) No later than 6 months from the date of  
15        enactment of this Act, the Secretary shall submit to  
16        the Commission an application for a license for the  
17        interim storage facility pursuant to the Commis-  
18        sion’s regulations governing the licensing of inde-  
19        pendent spent fuel storage installations. Such license  
20        application shall be accompanied by a Safety Analy-  
21        sis Report and an Environmental Report, as re-  
22        quired by such regulations.

23            “(2) No later than 3 months from the date of  
24        enactment of this Act, the Commission shall amend  
25        its regulations governing the licensing of independ-

1 ent spent fuel storage installations as necessary and  
2 appropriate to carry out the purposes of this section.  
3 Such amendments shall incorporate the following  
4 provisions—

5 “(A) the license shall be issued in phases  
6 as necessary to support the commencement of  
7 operations at the interim storage facility as  
8 soon as practicable, but no later than January  
9 31, 1998;

10 “(B) the license shall authorize a storage  
11 capacity of no less than 40,000 MTU provided,  
12 however, that the Commission may license an  
13 initial storage capacity of less than 40,000  
14 MTU in accordance with subparagraph (A) to  
15 permit the commencement of operations no  
16 later than January 31, 1998; and

17 (C) the license shall be issued for an initial  
18 term of up to 100 years, and shall be renewable  
19 for additional terms upon application of the  
20 Secretary.

21 “(3) The Commission shall consider the Sec-  
22 retary’s license application in accordance with the  
23 provisions of this Act and the Commission’s regula-  
24 tions governing the licensing of independent spent  
25 fuel storage installations, as amended in accordance

1 with this Act, except that the Commission shall issue  
2 a final decision granting or denying the license no  
3 later than 18 months from the date of the submittal  
4 of the license application.

5 “(e) ADDITIONAL AUTHORITY.—

6 “(1) The Secretary is authorized to commence  
7 construction of the interim storage facility subse-  
8 quent to submittal of the license application pro-  
9 vided, however, that the Commission shall issue an  
10 order suspending such construction at any time if  
11 the Commission determines that such construction  
12 poses an unreasonable risk to public health and safe-  
13 ty or the environment. The Commission shall termi-  
14 nate all or part of such order upon a determination  
15 that the Secretary has taken appropriate action to  
16 eliminate such risk.

17 “(2) For a temporary period beginning with is-  
18 suance of the license for the interim storage facility,  
19 the Commission shall authorize the Secretary, at the  
20 Secretary’s request, to utilize any facility owned by  
21 the Federal Government on the date of enactment of  
22 this Act and within the boundaries of the interim  
23 storage facility site, whether or not such facility is  
24 licensed by the Commission, in connection with the  
25 storage, transportation, and handling of spent nu-

1 clear fuel at the interim storage facility provided  
2 that the Commission establishes reasonable terms  
3 and conditions for use of such facility in the license  
4 for the interim storage facility and provided further  
5 that the Commission oversees the use of such facility  
6 to assure that such use does not pose an unreason-  
7 able risk to public health and safety and the environ-  
8 ment.

9 “(f) NATIONAL ENVIRONMENTAL POLICY ACT OF  
10 1969.—

11 “(1) The Secretary shall comply with any envi-  
12 ronmental requirements imposed by Commission reg-  
13 ulations applicable to the licensing of independent  
14 spent fuel storage installations, including the re-  
15 quired submission of environmental reports, in like  
16 manner as a private applicant. No activity of the  
17 Secretary under this section, including the selection  
18 of a site for the interim storage facility, the prepara-  
19 tion and submittal of a license application for such  
20 facility, and the construction and operation of such  
21 facility shall be considered a major Federal action  
22 significantly affecting the quality of the human envi-  
23 ronment for purposes of the National Environmental  
24 Policy Act of 1969 (42 U.S.C. 4321 et seq.). No  
25 such activity shall require the preparation of an en-

1 vironmental impact statement under section  
2 102(2)(C) of the National Environmental Policy Act  
3 of 1969 (42 U.S.C. 4332(2)(C)) or require any envi-  
4 ronmental review under subparagraph (E) or (F) of  
5 such Act.

6 “(2)(A) Any licensing action by the Commission  
7 under this section shall be accompanied by an Envi-  
8 ronmental Impact Statement prepared under section  
9 102(2)(C) of the National Environmental Policy Act  
10 of 1969 (42 U.S.C. 4332(2)(C)). In preparing such  
11 Environmental Impact Statement, the Commis-  
12 sion—

13 “(i) shall assume that 100,000 MTU will  
14 be stored at the facility; and

15 “(ii) shall analyze the impacts of the trans-  
16 portation of spent nuclear fuel to the interim  
17 storage facility in a generic manner.

18 “(B) Such Environmental Impact Statement  
19 shall not consider—

20 “(i) the need for the interim storage facil-  
21 ity, including any individual component thereof;

22 “(ii) the time of the initial availability of  
23 the interim storage facility;

1           “(iii) any alternatives to the storage of  
2 spent nuclear fuel at the interim storage facil-  
3 ity;

4           “(iv) any alternatives to the site of the fa-  
5 cility as designated by the Secretary in accord-  
6 ance with subsection (a);

7           “(v) any alternatives to the design criteria  
8 for such facility or any individual component  
9 thereof, as specified by the Secretary in the li-  
10 cense application; or

11           “(vi) the environmental impacts of the  
12 storage of spent nuclear fuel at the interim  
13 storage facility beyond the initial term of the li-  
14 cense or the term of the renewal period for  
15 which a license renewal application is made.

16           “(g) STORAGE OF SPENT NUCLEAR FUEL.—The  
17 Secretary shall begin storing spent nuclear fuel at the in-  
18 terim storage facility at the earliest practicable date, but  
19 no later than January 31, 1998. Subject to the budget  
20 priorities established in section 401, all actions by the Sec-  
21 retary, the Commission, the Secretary of the Interior, or  
22 any Federal agency or officer with respect to consideration  
23 of applications or requests for the issuance or grant of  
24 any authorization related to the interim storage facility,  
25 including the certification of multi-purpose canister sys-

1 tems, shall be expedited, and any such application or re-  
2 quest shall take precedence over any other activity not re-  
3 lated to the interim storage facility.

4 “(h) JUDICIAL REVIEW.—

5 “(1) The Secretary’s actions under this section,  
6 including to the Secretary’s siting and design of the  
7 interim storage facility, application for a facility li-  
8 cense, issuance of a Safety Analysis Report and En-  
9 vironmental Report, and construction of the facility,  
10 shall not be subject to judicial review under any law.

11 “(2) Judicial review of the Commission’s Envi-  
12 ronmental Impact Statement shall be consolidated  
13 with judicial review of the Commission’s licensing  
14 decision.

15 “(3) No court shall have jurisdiction to enjoin  
16 the construction or operation of the interim storage  
17 facility prior to its final decision on review of the  
18 Commission’s licensing action.

19 “(i) WASTE CONFIDENCE.—The Secretary’s obliga-  
20 tion to construct and operate the interim storage facility  
21 in accordance with this section and the Secretary’s obliga-  
22 tion to develop an integrated spent nuclear fuel manage-  
23 ment system in accordance with the provisions of this Act,  
24 shall provide sufficient and independent grounds for any  
25 further findings by the Commission of reasonable assur-

1    ance that spent nuclear fuel and high-level radioactive  
2    waste will be disposed of safely for purposes of the Com-  
3    mission’s decision to grant or amend any license to operate  
4    any civilian nuclear power reactor under the Atomic En-  
5    ergy Act of 1954 (42 U.S.C. 2011 et seq.).

6           “(j) STORAGE OF MATERIAL OTHER THAN COMMERCIAL SPENT NUCLEAR FUEL.—

8                   “(1) Nothing contained in this section shall  
9           prohibit—

10                           “(A) the Commission from establishing cri-  
11                           teria for the issuance of an amendment to the  
12                           interim storage facility license authorizing stor-  
13                           age of high-level radioactive waste or spent nu-  
14                           clear fuel from atomic energy defense activities  
15                           in the interim storage facility; and

16                           “(B) the Secretary from seeking a license  
17                           amendment to allow for the storage of high-  
18                           level radioactive waste or spent nuclear fuel  
19                           from atomic energy defense activities at the in-  
20                           terim storage facility.

21                           “(2) The acceptance at the interim storage fa-  
22                           cility of high-level radioactive waste or spent nuclear  
23                           fuel resulting from atomic energy defense activities  
24                           shall not affect the acceptance of spent nuclear fuel  
25                           in accordance with the acceptance schedule.

1 **“SEC. 207. PERMANENT DISPOSAL.**

2 “(a) SITE CHARACTERIZATION.—

3 “(1) The guidelines promulgated by the Sec-  
4 retary and published at 10 CFR part 960 are an-  
5 nulled and revoked and the Secretary shall make no  
6 assumptions or conclusions about the licenseability  
7 of the Yucca Mountain site as a repository by ref-  
8 erence to such guidelines.

9 “(2) The Secretary shall carry out appropriate  
10 site characterization activities at the Yucca Moun-  
11 tain site in accordance with the Secretary’s program  
12 approach to site characterization provided that the  
13 Secretary modifies or eliminates those site character-  
14 ization activities designed to demonstrate the suit-  
15 ability of the site under the guidelines referenced in  
16 paragraph (1).

17 “(3) No later than December 31, 2001, the  
18 Secretary shall apply to the Commission for author-  
19 ization to construct the repository and shall comply  
20 with the provisions of section 208(b)(4). If, at any  
21 time prior to the filing of such application, the Sec-  
22 retary determines that the Yucca Mountain site can-  
23 not satisfy the Commission’s regulations applicable  
24 to the licensing of a geologic repository, the Sec-  
25 retary shall terminate site characterization activities  
26 at the site, notify Congress and the State of Nevada

1 of the Secretary's determination and the reasons  
2 therefor, and recommend to Congress not later than  
3 6 months after such determination further actions,  
4 including the enactment of legislation, that may be  
5 needed to manage the nation's high-level radioactive  
6 waste and spent nuclear fuel.

7 “(4) In developing an application for authoriza-  
8 tion to construct the repository, the Secretary shall  
9 seek to maximize the capacity of the repository.

10 “(b) LICENSING.—Within one year of the date of en-  
11 actment of this Act, the Commission shall amend its regu-  
12 lations governing the disposal of spent nuclear fuel and  
13 high-level radioactive waste in geologic repositories as may  
14 be necessary to reflect the program approach and the pro-  
15 visions of this Act, including the licensing provisions set  
16 forth in this section. Any provision of such regulations in  
17 effect on the date of enactment of this Act that is incon-  
18 sistent with the provisions of this Act is annuled and re-  
19 voked. Subject to subsection (c), such regulations shall  
20 provide for the licensing of the repository according to the  
21 following procedures—

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

1       radioactive waste and spent nuclear fuel can be dis-  
2       posed of in the repository—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 “(d) LICENSING STANDARDS.—Notwithstanding any  
20 other provision of law, the Administrator of the Environ-  
21 mental Protection Agency shall not promulgate, by rule  
22 or otherwise, standards for protection of the public from  
23 releases of radioactive materials or radioactivity from the  
24 repository and any such standards existing on the date  
25 of enactment of this Act shall not be incorporated in the

1 Commission's licensing regulations. The Commission's re-  
2 pository licensing determinations shall be based solely on  
3 a finding whether the repository can be operated in con-  
4 formance with the overall system performance standard  
5 established in paragraph (1)(A), applied in accordance  
6 with the provisions of paragraph (1)(B). The Commission  
7 shall amend its regulations in accordance with subsection  
8 (b) to incorporate the following licensing standards:

9           “(1) RELEASE STANDARD.—

10                   “(A) ESTABLISHMENT OF OVERALL SYS-  
11                   TEM PERFORMANCE STANDARD.—In accordance  
12                   with the provisions of subparagraph (B), the  
13                   Commission shall find that the repository will  
14                   not constitute an unreasonable risk to the  
15                   health and safety of the public if there is rea-  
16                   sonable assurance that the amount of radio-  
17                   active materials and radioactivity released from  
18                   the site (excluding background radiation and  
19                   other radiation arising from the natural geologi-  
20                   cal characteristics of the site) shall not result in  
21                   an annual dose to an average member of the  
22                   general population in the vicinity of the site in  
23                   excess of one-third of the annual dose received  
24                   from natural background sources by an average  
25                   member of the general population in the United

1 States. Such release standard shall constitute  
2 an overall system performance standard.

3 “(B) APPLICATION OF OVERALL SYSTEM  
4 PERFORMANCE STANDARD.—The Commission  
5 shall issue the license if it finds reasonable as-  
6 surance that—

7 “(i) for the first 1,000 years following  
8 the commencement of repository oper-  
9 ations, the overall system performance  
10 standard will be met based on a deter-  
11 ministic evaluation of the overall perform-  
12 ance of the disposal system; and

13 “(ii) for the period commencing after  
14 the first 1,000 years of operation of the re-  
15 pository and terminating at 10,000 years  
16 after the commencement of operation of  
17 the repository, there is likely to be compli-  
18 ance with the overall system performance  
19 standard based on regulatory insight  
20 gained through the use of a probabilistic  
21 integrated performance model that uses  
22 best estimate assumptions, data, and  
23 methods.

24 “(2) HUMAN INTRUSION.—The Commission  
25 shall assume that, following repository closure, the

1 inclusion of engineered barriers and the Secretary's  
2 post-closure actions at the Yucca Mountain site, in  
3 accordance with subsection (b)(3), shall be sufficient  
4 to —

5 “(A) prevent any activity at the site that  
6 poses an unreasonable risk of breaching the re-  
7 pository's engineered or geologic barriers; and

8 “(B) prevent any increase in the exposure  
9 of individual members of the public to radiation  
10 beyond allowable limits as specified in this sec-  
11 tion.

12 “(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

13 “(1) Construction and operation of the reposit-  
14 ory shall be considered a major Federal action sig-  
15 nificantly affecting the quality of the human envi-  
16 ronment for purposes of the National Environmental  
17 Policy Act of 1969 (42 U.S.C. 4321 et seq.). The  
18 Secretary shall submit an environmental impact  
19 statement on the construction and operation of the  
20 repository to the Commission with the license appli-  
21 cation.

22 “(2) For purposes of complying with the re-  
23 quirements of the National Environmental Policy  
24 Act of 1969 and this section, the Secretary shall not  
25 consider in the environmental impact statement the

1 need for the repository, alternative sites or designs  
2 for the repository, the time of the initial availability  
3 of the repository, or any alternatives to the isolation  
4 of high-level radioactive waste and spent nuclear fuel  
5 in a repository.

6 “(3) The Secretary’s environmental impact  
7 statement and any supplements thereto shall, to the  
8 extent practicable, be adopted by the Commission in  
9 connection with the issuance by the Commission of  
10 a construction authorization under subsection (b)(1),  
11 a license under subsection (b)(2), or a license  
12 amendment under subsection (b)(3). To the extent  
13 such statement or supplement is adopted by the  
14 Commission, such adoption shall be deemed to also  
15 satisfy the responsibilities of the Commission under  
16 the National Environmental Policy Act of 1969, and  
17 no further consideration shall be required, except  
18 that nothing in this subsection shall affect any inde-  
19 pendent responsibilities of the Commission to protect  
20 the public health and safety under the Atomic En-  
21 ergy Act of 1954. In any such statement prepared  
22 with respect to the repository, the Commission shall  
23 not consider the need for a repository, the time of  
24 initial availability of the repository, alternate sites to

1 the Yucca Mountain site, or nongeologic alternatives  
2 to such site.

3 “(f) JUDICIAL REVIEW.—No court shall have juris-  
4 diction to enjoin issuance of the Commission repository  
5 licensing regulations prior to its final decision on review  
6 of such regulations.

7 **“SEC. 208. LAND WITHDRAWAL.**

8 “(a) WITHDRAWAL AND RESERVATION.—

9 “(1) Subject to valid existing rights, the interim  
10 storage facility site and the Yucca Mountain site, as  
11 described in subsection (b), are withdrawn from all  
12 forms of entry, appropriation, and disposal under  
13 the public land laws, including without limitation the  
14 mineral leasing laws, the geothermal leasing laws,  
15 the material sale laws, and the mining laws.

16 “(2) Jurisdiction of any land within the interim  
17 storage facility site and the Yucca Mountain site  
18 managed by the Secretary of the Interior, the Sec-  
19 retary of Defense, or any other Federal officer is  
20 transferred to the Secretary.

21 “(3) The interim storage facility site and the  
22 Yucca Mountain site are reserved for the use of the  
23 Secretary for the construction and operation, respec-  
24 tively, of the interim storage facility and the reposi-

1 tory and activities associated with the purposes of  
2 this title.

3 “(b) LAND DESCRIPTION.—

4 “(1) The boundaries depicted on the map enti-  
5 tled ‘Interim Storage Facility Site Withdrawal Map,’  
6 dated \_\_\_\_\_, and on file with the Secretary, are es-  
7 tablished as the boundaries of the Interim Storage  
8 Facility site.

9 “(2) The boundaries depicted on the map enti-  
10 tled ‘Yucca Mountain Site Withdrawal Map,’ dated  
11 \_\_\_\_\_, and on file with the Secretary, are estab-  
12 lished as the boundaries of the Yucca Mountain site.

13 “(3) Within 6 months of the date of the enact-  
14 ment of this Act, the Secretary shall—

15 “(A) publish in the Federal Register a no-  
16 tice containing a legal description of the interim  
17 storage facility site; and

18 “(B) file copies of the maps described in  
19 paragraph (1), and the legal description of the  
20 interim storage facility site with the Congress,  
21 the Secretary of the Interior, the Governor of  
22 Nevada, and the Archivist of the United States.

23 “(4) Concurrent with the Secretary’s applica-  
24 tion to the Commission for authority to construct  
25 the repository, the Secretary shall—

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

4           “(B) file copies of the maps described in  
5           paragraph (2), and the legal description of the  
6           Yucca Mountain site with the Congress, the  
7           Secretary of the Interior, the Governor of Ne-  
8           vada, and the Archivist of the United States.

9           “(5) The maps and legal descriptions of the in-  
10          terim storage facility site and the Yucca Mountain  
11          site referred to in this subsection shall have the  
12          same force and effect as if they were included in this  
13          Act. The Secretary may correct clerical and typo-  
14          graphical errors in the maps and legal descriptions  
15          and make minor adjustments in the boundaries of  
16          the sites.

17   **“SEC. 209. PRIVATE STORAGE FACILITIES**

18          “(a) COMMISSION ACTION.—Upon application by one  
19          or more private entities for a license for an independent  
20          spent fuel storage installation not located at the site of  
21          a power reactor, the Commission shall review such license  
22          applications and issue a license for one or more such facili-  
23          ties at the earliest practicable date, to the extent permitted  
24          by the applicable provisions of law and regulation. Any  
25          Environmental Impact Statement prepared by the Com-

1 mission under section 102(2)(C) of the National Environ-  
2 mental Policy Act of 1969 (42 U.S.C 4332(2)(C)) in con-  
3 junction with any such licensing proceeding shall not con-  
4 sider—

5           “(1) the need for the private storage facility, in-  
6 cluding any individual component thereof;

7           “(2) any alternatives to the site of the private  
8 storage facility selected by the applicant;

9           “(3) any alternatives to the design criteria for  
10 such facility or any individual component thereof in  
11 the license application;

12           “(4) the environmental impacts of storage of  
13 spent nuclear fuel at the facility beyond the term of  
14 the license or the term of the renewal period for  
15 which application is made; or

16           “(5) the status of implementation of the Inte-  
17 grated Spent Nuclear Fuel Management System.

18           “(b) SECRETARY’S ACTIONS.—The Secretary shall  
19 encourage efforts to develop private facilities for the stor-  
20 age of spent fuel by providing any requested information  
21 and assistance, as appropriate, to the developers of such  
22 facilities and to state and local governments and Indian  
23 Tribes within whose jurisdictions such facilities may be lo-  
24 cated, and shall cooperate with the developers of such fa-

1 cilities to facilitate compatibility between such facilities  
2 and the integrated spent nuclear fuel management system.

3 “(c) OBLIGATION.—The Secretary shall satisfy the  
4 Secretary’s obligations under this Act notwithstanding the  
5 development of private facilities for the storage of spent  
6 nuclear fuel.

## 7 **“TITLE III—STATE RELATIONS**

### 8 **“SEC. 301. STATE CONSULTATION AND ASSISTANCE.**

9 “(a) PROVISION OF INFORMATION.—

10 “(1) The Secretary, the Commission, and other  
11 agencies involved in the construction, operation, or  
12 regulation of any aspect of the interim storage facil-  
13 ity, repository, or transportation facilities shall pro-  
14 vide to the Governor and legislature of Nevada time-  
15 ly and complete information regarding determina-  
16 tions or plans made with respect to the site charac-  
17 terization, siting, development, design, licensing,  
18 construction, operation, regulation, or decommission-  
19 ing of the interim storage facility, repository, or  
20 transportation facilities.

21 “(2) Upon written request for information by  
22 the Governor or legislature, the Secretary shall pro-  
23 vide a written response to such request within 30  
24 days of the receipt of such request. Such response  
25 shall provide the information requested or, in the al-

1       ternative, the reasons why the information cannot be  
2       so provided.

3       “(b) CONSULTATION AND COOPERATION.—In per-  
4       forming any study of the Yucca Mountain site for the pur-  
5       pose of determining whether the site can satisfy the Com-  
6       mission’s regulations governing the licensing of a reposi-  
7       tory, in developing and operating the interim storage facil-  
8       ity, in developing and loading the repository, and in devel-  
9       oping transportation facilities, the Secretary shall consult  
10      and cooperate with the Governor and legislature of Nevada  
11      in an effort to resolve the concerns of the State regarding  
12      the public health and safety, environmental, and economic  
13      impacts of the interim storage facility or repository. In  
14      carrying out the Secretary’s duties under this title, the  
15      Secretary shall consider such concerns to the maximum  
16      extent feasible.

17      “(c) FINANCIAL ASSISTANCE.—

18             “(1)(A) The Secretary shall make grants to the  
19      State of Nevada and any affected unit of local gov-  
20      ernment for purpose of participating in activities re-  
21      quired by this section. Any salary or travel expense  
22      that would ordinarily be incurred by such State or  
23      affected unit of local government, may not be con-  
24      sidered eligible for funding under this paragraph.

1           “(B) The Secretary shall make grants to the  
2 State of Nevada and any affected unit of local gov-  
3 ernment under subparagraph (A) for purposes of en-  
4 abling the State or affected unit of local govern-  
5 ment—

6           “(i) to review activities taken under this  
7 title with respect to the Yucca Mountain site  
8 for purposes of determining any potential eco-  
9 nomic, social, public health and safety, and en-  
10 vironmental impacts of the interim storage fa-  
11 cility or repository on the State or affected unit  
12 of local government and its residents;

13           “(ii) to develop a request for impact assist-  
14 ance under paragraph (2);

15           “(iii) to engage in any reasonable monitor-  
16 ing, testing, or evaluation activities with respect  
17 to site characterization programs with regard to  
18 such site;

19           “(iv) to provide information to Nevada  
20 residents regarding any activities of such state,  
21 the Secretary, or the Commission with respect  
22 to such site; and

23           “(v) to request information from, and  
24 make comments and recommendations to, the

1 Secretary regarding such activities taken under  
2 this title with respect to such site.

3 “(C) Any salary or travel expense that would  
4 ordinarily be incurred by the State of Nevada or any  
5 affected unit of local government may not be consid-  
6 ered eligible for funding under this paragraph.

7 “(2)(A)(i) The Secretary shall provide financial  
8 and technical assistance to the State of Nevada and  
9 any affected unit of local government requesting  
10 such assistance in accordance with the agreement  
11 executed in subparagraph (C).

12 “(ii) Such assistance shall be designed to miti-  
13 gate the impact on the State or affected unit of local  
14 government of the development of the interim stor-  
15 age facility or repository and the characterization of  
16 such site.

17 “(iii) Such assistance to the State or affected  
18 unit of local government shall commence upon the  
19 initiation of site characterization activities.

20 “(B) The State of Nevada and any affected  
21 unit of local government may request assistance  
22 under this subsection by preparing and submitting  
23 to the Secretary a report on the economic, social,  
24 public health and safety, and environmental impacts

1 that are likely to result from site characterization  
2 activities at the Yucca Mountain site.

3 “(C) As soon as practicable, the Secretary shall  
4 seek to enter into a binding agreement with the  
5 State of Nevada setting forth—

6 “(i) the amount of assistance to be pro-  
7 vided under this subsection to such state or af-  
8 fected unit of local government; and

9 “(ii) the procedures to be followed in pro-  
10 viding such assistance.

11 “(3)(A) In addition to financial assistance pro-  
12 vided under paragraphs (1) and (2), the Secretary  
13 shall grant to the State of Nevada and any affected  
14 unit of local government an amount each fiscal year  
15 equal to the amount the State or affected unit of  
16 local government, respectively, would receive if au-  
17 thorized to tax site characterization activities at  
18 such site, the development and operation of the in-  
19 terim storage facility, and the development and oper-  
20 ation of the repository, as the State or affected unit  
21 of local government taxes the non-Federal real prop-  
22 erty and industrial activities occurring within the  
23 State or affected unit of local government.

1           “(B) Such grants shall continue until such time  
2 as the respective activities, development, and oper-  
3 ation are terminated at such site.

4           “(4)(A) The State of Nevada or any affected  
5 unit of local government may not receive—

6                   “(i) any grant with respect to the interim  
7 storage facility under paragraph (1) after the  
8 expiration of the one-year period following the  
9 date on which the Commission disapproves an  
10 application for a license to store high-level ra-  
11 dioactive waste and spent nuclear fuel at the  
12 site; or

13                   “(ii) any grant with respect to the site  
14 characterization activities or construction of the  
15 repository under paragraph (1) after the expira-  
16 tion of the one-year period following the earlier  
17 of—

18                           “(I) the date on which the Secretary  
19 notifies the Governor and legislature of the  
20 State of Nevada of the termination of site  
21 characterization activities at the Yucca  
22 Mountain site; or

23                           “(II) the date on which the Commis-  
24 sion disapproves an application for a con-

1           struction authorization for a repository at  
2           such site.

3           “(B) The State of Nevada or any affected unit  
4           of local government may not receive any further as-  
5           sistance under paragraph (2)—

6                   “(i) with respect to the interim storage fa-  
7                   cility if construction or operation of the interim  
8                   storage facility are terminated by the Secretary  
9                   or if such activities are permanently enjoined by  
10                  any court; or

11                   “(ii) with respect to the repository if repos-  
12                   itory construction activities or site characteriza-  
13                   tion activities are terminated by the Secretary  
14                   or if such activities are permanently enjoined by  
15                  any court.

16           “(C) At the end of the 2-year period beginning  
17           on the effective date of any license under section  
18           207, no Federal funds, shall be made available to  
19           the State of Nevada or affected unit of local govern-  
20           ment under paragraph (1) or (2), except for such  
21           funds as may be necessary to support State activi-  
22           ties pursuant to agreements or contracts for impact  
23           assistance entered into under paragraph (2) by the  
24           State with the Secretary during such 2-year period.

1           “(5) Financial assistance authorized in this  
2 subsection shall be made out of amounts held in the  
3 waste fund. Amounts appropriated for the purposes  
4 of such financial assistance shall be provided to the  
5 State of Nevada and any affected unit of local gov-  
6 ernment at the discretion of the Secretary, and may  
7 be withheld in whole or part by the Secretary upon  
8 a determination by the Secretary that such State or  
9 affected unit of local government is not abiding by  
10 the requirements of this section or is taking action  
11 for the purpose of delaying, obstructing, or otherwise  
12 interfering with the Secretary’s ability to construct  
13 and operate any component of the integrated spent  
14 nuclear fuel management system.

15           **“TITLE IV—FUNDING AND**  
16                                   **ORGANIZATION**

17           **“SEC. 401. BUDGET PRIORITIES.**

18           “(a) THE SECRETARY.—For purposes of preparing  
19 annual requests for appropriations from the Waste Fund  
20 and allocating appropriated funds among competing re-  
21 quirements, the Secretary shall accord—

22                           “(1) the development and deployment of multi-  
23 purpose canister systems under section 205, and the  
24 licensing, construction, and operation of the interim

1 storage facility under section 206 the highest prior-  
2 ity;

3 “(2) the acquisition of rights of way and the  
4 construction and operation of the railroad under sec-  
5 tion 202 the next highest priority; and

6 “(3) the licensing, construction, and operation  
7 of the repository under section 207 the next highest  
8 priority.

9 “(b) THE COMMISSION.—For purposes of preparing  
10 annual requests for appropriations from the waste fund  
11 and allocating appropriated funds among competing re-  
12 quirements, the Commission shall accord—

13 “(1) the certification of multi-purpose canister  
14 systems under section 205 and the licensing of an  
15 interim storage facility under section 206 the high-  
16 est priority;

17 “(2) the licensing of the repository under sec-  
18 tion 207 the next highest priority.

19 **“SEC. 402. ENVIRONMENTAL REQUIREMENTS.**

20 “Notwithstanding any other law or regulation, the  
21 obligations of the Secretary and the Commission pursuant  
22 to the National Environmental Policy Act of 1969 (42  
23 U.S.C. 4321 et. seq.) in connection with the siting, design,  
24 licensing, construction or operation of any component of  
25 the integrated spent nuclear fuel management system are

1 as set forth specifically in this Act and no further actions  
2 other than those specified are required to meet the Sec-  
3 retary's or the Commission's obligations under such Act.

4 **“SEC. 403. NUCLEAR WASTE FUND.**

5 “(a) CONTRACTS.—

6 “(1) In the performance of the Secretary's  
7 functions under this Act, the Secretary is authorized  
8 to enter into contracts with any person who gen-  
9 erates or holds title to high level radioactive waste,  
10 or spent nuclear fuel, of domestic origin for the ac-  
11 ceptance of title, subsequent transportation, and dis-  
12 posal of such waste or spent fuel. Such contracts  
13 shall provide for payment to the Secretary of fees  
14 pursuant to paragraphs (2) and (3) sufficient to off-  
15 set expenditures described in subsection (d).

16 “(2) For electricity generated by a civilian nu-  
17 clear power reactor and sold on or after the date 90  
18 days after January 7, 1983, the fee under para-  
19 graph (1) shall be equal to 1.0 mill per kilowatt-  
20 hour.

21 “(3) For spent nuclear fuel, or solidified high-  
22 level radioactive waste derived from spent nuclear  
23 fuel, which fuel was used to generate electricity in  
24 a civilian nuclear power reactor prior to the applica-  
25 tion of the fee under paragraph (2) to such reactor,

1 the Secretary shall, not later than 90 days after  
2 January 7, 1983, establish a 1 time fee per kilogram  
3 of heavy metal in spent nuclear fuel, or in solidified  
4 high-level radioactive waste. Such fee shall be in an  
5 amount equivalent to an average charge of 1.0 mill  
6 per kilowatt-hour for electricity generated by such  
7 spent nuclear fuel, or such solidified high level radio-  
8 active waste derived therefrom, to be collected from  
9 any person delivering such spent nuclear fuel or  
10 high-level waste, pursuant to the acceptance sched-  
11 ule or section 503, to the Federal government. Such  
12 fee shall be paid to the Treasury of the United  
13 States and shall be deposited in the separate fund  
14 established by subsection (c). In paying such a fee,  
15 the person delivering spent fuel, or solidified high-  
16 level radioactive wastes derived therefrom, to the  
17 Federal government shall have no further financial  
18 obligation to the Federal government for the long-  
19 term storage and permanent disposal of such spent  
20 fuel, or the solidified high-level radioactive waste de-  
21 rived therefrom.

22 “(4) Not later than 180 days after January 7,  
23 1983, the Secretary shall establish procedures for  
24 the collection and payment of the fees established  
25 by paragraphs (2) and (3). The Secretary shall an-

1 nually review the amount of the fees established by  
2 paragraphs (2) and (3) to evaluate whether collec-  
3 tion of the fee will provide sufficient revenues to off-  
4 set the costs as defined in subsection (d). In the  
5 event the Secretary determines that either insuffi-  
6 cient or excess revenues are being collected, in order  
7 to recover the costs incurred by the Federal govern-  
8 ment that are specified in subsection (d), the Sec-  
9 retary shall propose an adjustment to the fee to en-  
10 sure full cost recovery. The Secretary shall imme-  
11 diately transmit this proposal for such an adjust-  
12 ment to Congress. No proposed fee adjustment  
13 under this section shall have legal effect unless en-  
14 acted into Federal law.

15 “(5) The Secretary shall, by rule, amend the  
16 contracts to incorporate criteria setting forth the  
17 terms and conditions under which the Secretary  
18 shall meet its obligations under this Act.

19 “(b) ADVANCE CONTRACTING REQUIREMENT.—

20 “(1)(A) The Commission shall not issue or  
21 renew a license to any person to use a utilization or  
22 production facility under the authority of section  
23 103 or 104 of the Atomic Energy Act of 1954 (42  
24 U.S.C. 2133, 2134) unless—

1           “(i) such person has entered into a con-  
2           tract with the Secretary under this section; or

3           “(ii) the Secretary affirms in writing that  
4           such person is actively and in good faith nego-  
5           tiating with the Secretary for a contract under  
6           this section.

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

16          “(2) Except as provided in paragraph (1), no  
17          spent nuclear fuel or high-level radioactive waste  
18          generated or owned by any person (other than a de-  
19          partment of the United States referred to in section  
20          101 or 102 of title 5, United States Code) may be  
21          disposed of by the Secretary in any repository con-  
22          structed under this Act unless the generator or  
23          owner of such spent fuel or waste has entered into  
24          a contract with the Secretary under this section by  
25          not later than—

1           “(A) June 30, 1983; or

2           “(B) the date on which such generator or  
3           owner commences generation of, or takes title  
4           to, such spent fuel or waste; whichever occurs  
5           later.

6           “(3) The rights and duties of a party to a con-  
7           tract entered into under this section may be assign-  
8           able with transfer of title to the spent nuclear fuel  
9           or high-level radioactive waste involved.

10          “(4) No high-level radioactive waste or spent  
11          nuclear fuel generated or owned by any department  
12          of the United States referred to in section 101 or  
13          102 of title 5, United States Code, may be stored or  
14          disposed of by the Secretary in the integrated spent  
15          nuclear fuel management system developed under  
16          this Act unless such department transfers to the  
17          Secretary, for deposit in the nuclear waste fund, its  
18          appropriate portion of the costs of such storage and  
19          disposal as determined by the Secretary under sec-  
20          tion 405.

21          “(c) ESTABLISHMENT OF NUCLEAR WASTE FUND.—  
22          There is established in the Treasury of the United States  
23          a separate fund, to be known as the Nuclear Waste Fund.  
24          The Waste Fund shall consist of—

1           “(1) all receipts, proceeds, and recoveries real-  
2           ized by the Secretary under subsections (a), (b), and  
3           (f), which shall be deposited in the Waste Fund im-  
4           mediately upon their realization; and

5           “(2) any appropriations made by the Congress  
6           to the Waste Fund.

7           “(d) USE OF WASTE FUND.—The Secretary may  
8           make expenditures from the Waste Fund, subject to sub-  
9           section (f), only for purposes of radioactive waste manage-  
10          ment activities under this Act, including—

11           “(1) the identification, development, licensing,  
12           construction, operation, decommissioning, and post  
13           decommissioning maintenance and monitoring of the  
14           interim storage facility or repository constructed  
15           under this Act;

16           “(2) the conducting of nongeneric research, de-  
17           velopment, and demonstration activities under this  
18           Act;

19           “(3) the administrative cost of the radioactive  
20           waste disposal program;

21           “(4) any costs that may be incurred by the Sec-  
22           retary in connection with development and imple-  
23           mentation of the integrated spent nuclear fuel man-  
24           agement system, including the transportation, treat-  
25           ing, or packaging of spent nuclear fuel or high-level

1 radioactive waste to be disposed of in the repository  
2 or to be stored in the interim storage facility, the  
3 cost of designing, licensing, fabricating, procuring,  
4 and deploying multi-purpose canister systems, the  
5 cost of constructing, maintaining, modifying and op-  
6 erating transportation and transportation related  
7 systems;

8 “(5) the costs associated with acquisition, de-  
9 sign, modification, replacement, operation, and con-  
10 struction of facilities at the repository or interim  
11 storage facility and necessary or incident to such re-  
12 pository or interim storage facility;

13 “(6) the costs associated with the provision of  
14 assistance and benefits to the State of Nevada, and  
15 affected units of local government in accordance  
16 with this Act;

17 “(7) the costs associated with the execution and  
18 implementation of service contracts with private  
19 storage facilities for the storage of spent nuclear  
20 fuel; and

21 “(8) the costs associated with modifications to  
22 contract holders’ site and facilities, including the  
23 near site transportation infrastructure, where such  
24 modifications add significantly to the efficiency of  
25 the integrated spent fuel management system.

1       “(e) PROHIBITION ON USE OF WASTE FUND.—The  
2 Nuclear Waste Fund shall not be used, either directly or  
3 indirectly, for the payment of damages by the Secretary  
4 pursuant to section 102 of this Act.

5       “(f) ADMINISTRATION OF WASTE FUND.—(1) The  
6 Secretary of the Treasury shall hold the Waste Fund and,  
7 after consultation with the Secretary, annually report to  
8 the Congress on the financial condition and operations of  
9 the Waste Fund during the preceding fiscal year.

10       “(2) The Secretary shall submit the budget of the  
11 Waste Fund to the Office of Management and Budget tri-  
12 ennially along with the budget of the Department of En-  
13 ergy submitted at such time in accordance with chapter  
14 11 of title 31, United States Code. The budget of the  
15 Waste Fund shall consist of the estimates made by the  
16 Secretary of expenditures from the Waste Fund and other  
17 relevant financial matters for the succeeding 3 fiscal years,  
18 and shall be included in the Budget of the United States  
19 Government. The Secretary may make expenditures from  
20 the Waste Fund, subject to appropriations which shall re-  
21 main available until expended. Appropriations shall be  
22 subject to triennial authorization.

23       “(3) If the Secretary determines that the Waste  
24 Fund contains at any time amounts in excess of current  
25 needs, the Secretary may request the Secretary of the

1 Treasury to invest such amounts, or any portion of such  
2 amounts as the Secretary determines to be appropriate,  
3 in obligations of the United States—

4           “(A) having maturities determined by the Sec-  
5 retary of the Treasury to be appropriate to the  
6 needs of the Waste Fund; and

7           “(B) bearing interest at rates determined to be  
8 appropriate by the Secretary of the Treasury, taking  
9 into consideration the current average market yield  
10 on outstanding marketable obligations of the United  
11 States with remaining periods to maturity com-  
12 parable to the maturities of such investments, except  
13 that the interest rate on such investments shall not  
14 exceed the average interest rate applicable to exist-  
15 ing borrowings.

16           “(4) Receipts, proceeds, and recoveries realized by  
17 the Secretary under this section, and expenditures of  
18 amounts from the Waste Fund, shall be exempt from an-  
19 nual apportionment under the provisions of subchapter II  
20 of chapter 15 of title 31, United States Code.

21           “(5) If at any time the moneys available in the Waste  
22 Fund are insufficient to enable the Secretary to discharge  
23 the Secretary’s responsibilities under this title, the Sec-  
24 retary shall issue to the Secretary of the Treasury obliga-  
25 tions in such forms and denominations, bearing such ma-

1 turities, and subject to such terms and conditions as may  
2 be agreed to by the Secretary and the Secretary of the  
3 Treasury. The total of such obligations shall not exceed  
4 amounts provided in appropriation Acts. Redemption of  
5 such obligations shall be made by the Secretary from mon-  
6 eys available in the Waste Fund. Such obligations shall  
7 bear interest at a rate determined by the Secretary of the  
8 Treasury, which shall be not less than a rate determined  
9 by taking into consideration the average market yield on  
10 outstanding marketable obligations of the United States  
11 of comparable maturities during the month preceding the  
12 issuance of the obligations under this paragraph. The Sec-  
13 retary of the Treasury shall purchase any issued obliga-  
14 tions, and for such purpose the Secretary of the Treasury  
15 is authorized to use as a public debt transaction the pro-  
16 ceeds from the sale of any securities issued under chapter  
17 31 of title 31, United States Code, and the purposes for  
18 which securities may be issued under such Act are ex-  
19 tended to include any purchase of such obligations. The  
20 Secretary of the Treasury may at any time sell any of the  
21 obligations acquired by him under this paragraph. All re-  
22 demptions, purchases, and sales by the Secretary of the  
23 Treasury of obligations under this paragraph shall be  
24 treated as public debt transactions of the United States.

1       “(6) Any appropriations made available to the Waste  
2 Fund for any purpose described in subsection (d) shall be  
3 repaid into the general fund of the Treasury, together with  
4 interest from the date of availability of the appropriations  
5 until the date of repayment. Such interest shall be paid  
6 on the cumulative amount of appropriations available to  
7 the Waste Fund, less the average undisbursed cash bal-  
8 ance in the Waste Fund account during the fiscal year  
9 involved. The rate of such interest shall be determined by  
10 the Secretary of the Treasury taking into consideration  
11 the average market yield during the month preceding each  
12 fiscal year on outstanding marketable obligations of the  
13 United States of comparable maturity. Interest payments  
14 may be deferred with the approval of the Secretary of the  
15 Treasury, but any interest payments deferred shall them-  
16 selves bear interest.

17 **“SEC. 404. OFFICE OF CIVILIAN RADIOACTIVE WASTE**  
18 **MANAGEMENT.**

19       “(a) ESTABLISHMENT.—There is established within  
20 the Department of Energy an Office of Civilian Radio-  
21 active Waste Management. The Office shall be headed by  
22 a Director, who shall be appointed by the President, by  
23 and with the advice and consent of the Senate. The Direc-  
24 tor’s compensation shall be determined in accordance with  
25 section 701.

1       “(b) FUNCTIONS OF DIRECTOR.—The Director of the  
2 Office shall be responsible for carrying out the functions  
3 of the Secretary under this Act, subject to the general su-  
4 pervision of the Secretary. The Director of the Office shall  
5 be directly responsible to the Secretary.

6       **“SEC. 405. DEFENSE CONTRIBUTION.**

7       “(a) ALLOCATION.—No later than 1 year from the  
8 date of enactment of this Act, acting pursuant to section  
9 553 of title 5, United States Code, the Secretary shall  
10 issue a final rule establishing the appropriate portion of  
11 the costs of managing high-level radioactive waste and  
12 spent nuclear fuel under this Act allocable to the interim  
13 storage or permanent disposal of high-level radioactive  
14 waste and spent nuclear fuel from atomic energy defense  
15 activities. The share of costs allocable to the management  
16 of high-level radioactive waste and spent nuclear fuel from  
17 atomic energy defense activities shall include—

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

22               “(2) interest on the principal amounts due cal-  
23 culated by reference to the appropriate T-bill rate as  
24 if the payments were made at a point in time con-

1       sistent with the payment dates for spent nuclear fuel  
2       and high-level radioactive waste under the contracts.

3       “(b) APPROPRIATION REQUEST.—In addition to any  
4 request for an appropriation from the waste fund under  
5 section 401, the Secretary shall request annual appropria-  
6 tions from general revenues in amounts sufficient to pay  
7 the costs of the management of high-level radioactive  
8 waste and spent nuclear fuel from atomic energy defense  
9 activities as established under subsection (a).

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

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

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

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

4           “(a) IN GENERAL.—The Secretary shall be subject  
5 to and comply with all Federal, State, and local environ-  
6 mental or land use laws, requirements, or orders of gen-  
7 eral applicability not preempted by applicable Federal law,  
8 including those requiring permits or reporting, or those  
9 setting standards, criteria, or limitation.

10          “(b) APPLICATION OF FEDERAL LAW.—In the event  
11 that the requirements of any Federal law are inconsistent  
12 with or duplicative of the requirements of the Atomic En-  
13 ergy Act and this Act, the Secretary shall comply only with  
14 the requirements of the Atomic Energy Act and this Act  
15 in implementing the integrated spent nuclear fuel manage-  
16 ment system.

17          “(c) EXEMPTION.—(1) Notwithstanding subsection  
18 (a), the President shall exempt the Secretary from any  
19 Federal, State, or local requirement (including any law,  
20 regulation, or order requiring any license, permit, certifi-  
21 cation, authorization, or approval, or setting any standard,  
22 criterion, or limitation) if the President determines, in the  
23 President’s discretion, that—

1           “(A) issuance of the required licensed, permit,  
2           certification, authorization, or approval is being un-  
3           reasonably delayed or denied;

4           “(B) the requirement is not based on credible  
5           scientific data, is not generally applicable, or was  
6           not adopted by formal means; or

7           (C) the cost of complying with the law, require-  
8           ment, or order unreasonably exceeds the benefit to  
9           the public health and safety or the environment.

10          “(2) In the event the President makes a determina-  
11          tion under paragraph (1) with respect to any State re-  
12          quirement (including any requirement of any agency or  
13          subdivision of the State) and further determines, in the  
14          President’s discretion, that such requirement was imposed  
15          for the purpose of delaying or obstructing construction or  
16          operation of the interim storage facility, transportation fa-  
17          cilities, the repository, or associated facilities under this  
18          Act, the President may exempt the Secretary from all  
19          State requirements under this subsection or such portion  
20          thereof as the President determines necessary.

21          “(3) The President’s exercise of the President’s ex-  
22          emption authority under this subsection shall not be sub-  
23          ject to judicial review on any grounds.

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

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

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

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

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

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

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

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

6           “(b) DEADLINE FOR COMMENCING ACTION.—A civil  
7           action for judicial review described under subsection (a)(1)  
8           may be brought not later than the 180th day after the  
9           date of the decision or action or failure to act involved,  
10          as the case may be, except that if a party shows that he  
11          did not know of the decision or action complained of (or  
12          of the failure to act), and that a reasonable person acting  
13          under the circumstances would not have known, such  
14          party may bring a civil action not later than the 180th  
15          day after the date such party acquired actual or construc-  
16          tive knowledge or such decision, action, or failure to act.

17          **“SEC. 503. TITLE TO MATERIAL.**

18          “Upon the request of a contract holder and consistent  
19          with the contract holder’s acceptance date under the ac-  
20          ceptance schedule, if the Secretary cannot accept the con-  
21          tract holder’s spent nuclear fuel or high-level radioactive  
22          waste in accordance with the acceptance schedule, the Sec-  
23          retary shall take title to or possession of such fuel or waste  
24          without removing such fuel or waste from the contract  
25          holder’s designated storage site. Nothing in this section

1 shall be construed to affect in any way the Secretary's ob-  
2 ligation under this Act to commence acceptance of spent  
3 nuclear fuel and high-level radioactive waste no later than  
4 January 31, 1998.

5 **“SEC. 504. LICENSING OF FACILITY EXPANSIONS AND**  
6 **TRANSSHIPMENTS.**

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

1 of the facts, data, and arguments upon which such party  
2 proposes to rely that are known at such time to such  
3 party. Only facts and data in the form of sworn testimony  
4 or written submission may be relied upon by the parties  
5 during oral argument. Of the materials that may be sub-  
6 mitted by the parties during oral argument, the Commis-  
7 sion shall only consider those facts and data that are sub-  
8 mitted in the form of sworn testimony or written submis-  
9 sion.

10 “(b) ADJUDICATORY HEARING.—(1) At the conclu-  
11 sion of any oral argument under subsection (a), the Com-  
12 mission shall designate any disputed question of fact, to-  
13 gether with any remaining questions of law, for resolution  
14 in an adjudicatory hearing only if it determines that—

15 “(A) there is a genuine and substantial dispute  
16 of fact which can only be resolved with sufficient ac-  
17 curacy by the introduction of evidence in an adju-  
18 dicatory hearing; and

19 “(B) the decision of the Commission is likely to  
20 depend in whole or in part on the resolution of such  
21 dispute.

22 “(2) In making a determination under this sub-  
23 section, the Commission—

24 “(A) shall designate in writing the specific facts  
25 that are in genuine and substantial dispute, the rea-

1 son why the decision of the agency is likely to de-  
2 pend on the resolution of such facts, and the reason  
3 why an adjudicatory hearing is likely to resolve the  
4 dispute; and

5 “(B) shall not consider—

6 “(i) any issue relating to the design, con-  
7 struction, or operation of any civilian nuclear  
8 power reactor already licensed to operate at  
9 such site, or any civilian nuclear power reactor  
10 to which a construction permit has been grant-  
11 ed at such site, unless the Commission deter-  
12 mines that any such issue substantially affects  
13 the design, construction, or operation of the fa-  
14 cility or activity for which such license applica-  
15 tion, authorization, or amendment is being con-  
16 sidered; or

17 “(ii) any siting or design issue fully consid-  
18 ered and decided by the Commission in connec-  
19 tion with the issuance of a construction permit  
20 or operating license for a civilian nuclear power  
21 reactor at such site, unless—

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

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

7           “(3) The provisions of paragraph (2)(B) shall apply  
8           only with respect to licenses, authorizations, or amend-  
9           ments to licenses or authorizations, applied for under the  
10          Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) be-  
11          fore December 31, 2005.

12          “(4) The provisions of this section shall not apply to  
13          the first application for a license or license amendment  
14          received by the Commission to expand onsite spent fuel  
15          storage capacity by the use of a new technology not pre-  
16          viously approved for use at any nuclear power plant by  
17          the Commission.

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

23                  “(1) an objection to the procedure used was  
24                  presented to the Commission in a timely fashion or

1       there are extraordinary circumstances that excuse  
2       the failure to present a timely objection; and

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

7       **“SEC. 505. SITING A SECOND REPOSITORY.**

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

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

16       **“SEC. 506. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL**  
17                               **RADIOACTIVE WASTE SITE CLOSURE.**

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

1 mined by the Commission) will be provided by a licensee  
2 to permit completion of all requirements established by the  
3 Commission for the decontamination, decommissioning,  
4 site closure, and reclamation of sites, structures, and  
5 equipment used in conjunction with such low-level radio-  
6 active waste. Such financial arrangements shall be pro-  
7 vided and approved by the Commission, or, in the case  
8 of sites within the boundaries of any agreement State  
9 under section 274 of the Atomic Energy Act of 1954 (42  
10 U.S.C. 2021), by the appropriate State or State entity,  
11 prior to issuance of licenses for low-level radioactive waste  
12 disposal or, in the case of licenses in effect on January  
13 7, 1983, prior to termination of such licenses.

14       “(2) If the Commission determines that any long-  
15 term maintenance or monitoring, or both, will be necessary  
16 at a site described in paragraph (1), the Commission shall  
17 ensure before termination of the license involved that the  
18 licensee has made available such bonding, surety, or other  
19 financial arrangements as may be necessary to ensure that  
20 any necessary long-term maintenance or monitoring need-  
21 ed for such site will be carried out by the person having  
22 title and custody for such site following license termi-  
23 nation.

24       “(b) TITLE AND CUSTODY.—

1           “(1) The Secretary shall have authority to as-  
2           sume title and custody of low-level radioactive waste  
3           and the land on which such waste is disposed of,  
4           upon request of the owner of such waste and land  
5           and following termination of the license issued by  
6           the Commission for such disposal, if the Commission  
7           determines that—

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

13                  “(B) such title and custody will be trans-  
14                  ferred to the Secretary without cost to the Fed-  
15                  eral Government; and

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

20           “(2) If the Secretary assumes title and custody  
21           of any such waste and land under this subsection,  
22           the Secretary shall maintain such waste and land in  
23           a manner that will protect the public health and  
24           safety, and the environment.

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

12       **“SEC. 507. NUCLEAR REGULATORY COMMISSION TRAINING**  
13                                   **AUTHORIZATION.**

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

1 ments for civilian nuclear powerplant licensee personnel  
2 training programs.

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

5 **“SEC. 601. DEFINITIONS.**

6 “For purposes of this title—

7 “(a) The term ‘Chairman’ means the Chairman  
8 of the Nuclear Waste Technical Review Board.

9 “(b) The term ‘Board’ means the Nuclear Waste  
10 Technical Review Board established under section 602.

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

12 “(a) ESTABLISHMENT.—There is established a Nu-  
13 clear Waste Technical Review Board that shall be an inde-  
14 pendent establishment within the executive branch.

15 “(b) MEMBERS.—

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

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

23 “(3)(A) The National Academy of Sciences  
24 shall, not later than 90 days after December 22,  
25 1987, nominate not less than 22 persons for ap-

1 pointment to the Board from among persons who  
2 meet the qualifications described in subparagraph  
3 (C).

4 “(B) The National Academy of Sciences shall  
5 nominate not less than 2 persons to fill any vacancy  
6 on the Board from among persons who meet the  
7 qualifications described in subparagraph (C).

8 “(C)(i) Each person nominated for appointment  
9 to the Board shall be—

10 “(I) eminent in a field of science or engi-  
11 neering, including environmental sciences; and

12 “(II) selected solely on the basis of estab-  
13 lished records of distinguished service.

14 “(ii) The membership of the Board shall be rep-  
15 resentatives of the broad range of scientific and en-  
16 gineering disciplines related to activities under this  
17 title.

18 “(iii) No person shall be nominated for appoint-  
19 ment to the Board who is an employee of—

20 “(I) the Department of Energy;

21 “(II) a national laboratory under contract  
22 with the Department of Energy; or

23 “(III) an entity performing high-level ra-  
24 dioactive waste or spent nuclear fuel activities  
25 under contract with the Department of Energy.

1           “(4) Any vacancy on the Board shall be filled  
2           by the nomination and appointment process de-  
3           scribed in paragraphs (1) and (3).

4           “(5) Members of the Board shall be appointed  
5           for terms of 4 years, each such term to commence  
6           120 days after December 22, 1987, except that of  
7           the 11 members first appointed to the Board, 5 shall  
8           serve for 2 years and 6 shall serve for 4 years, to  
9           be designated by the President at the time of ap-  
10          pointment.

11 **“SEC. 603. FUNCTIONS.**

12          “The Board shall evaluate the technical and scientific  
13          validity of activities undertaken by the Secretary after De-  
14          cember 22, 1987, including—

15               “(1) site characterization activities; and

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

19 **“SEC. 604. INVESTIGATORY POWERS.**

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

1 may administer oaths or affirmations to witnesses appear-  
2 ing before the Board.

3 “(b) PRODUCTION OF DOCUMENTS.—(1) Upon the  
4 request of the Chairman or a majority of the members  
5 of the Board, and subject to existing law, the Secretary  
6 (or any contractor of the Secretary) shall provide the  
7 Board with such records, files, papers, data, or informa-  
8 tion as may be necessary to respond to any inquiry of the  
9 Board under this title.

10 “(2) Subject to existing law, information obtainable  
11 under paragraph (1) shall not be limited to final work  
12 products of the Secretary, but shall include drafts of such  
13 products and documentation of work in progress.

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

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

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

24 **“SEC. 606. STAFF.**

25 “(a) CLERICAL STAFF.—

1           “(1) Subject to paragraph (2), the Chairman  
2           may appoint and fix the compensation of such clerical  
3           staff as may be necessary to discharge the re-  
4           sponsibilities of the Board.

5           “(2) Clerical staff shall be appointed subject to  
6           the provisions of title 5, United States Code, govern-  
7           ing appointments in the competitive service, and  
8           shall be paid in accordance with the provisions of  
9           chapter 51 and subchapter III of chapter 3 of such  
10          title relating to classification and General Schedule  
11          pay rates.

12          “(b) PROFESSIONAL STAFF.—

13           “(1) Subject to paragraphs (2) and (3), the  
14           Chairman may appoint and fix the compensation of  
15           such professional staff as may be necessary to dis-  
16           charge the responsibilities of the Board.

17           “(2) Not more than 10 professional staff mem-  
18           bers may be appointed under this subsection.

19           “(3) Professional staff members may be ap-  
20           pointed without regard to the provisions of title 5,  
21           United States Code, governing appointments in the  
22           competitive service, and may be paid without regard  
23           to the provisions of chapter 51 and subchapter III  
24           of chapter 53 of such title relating to classification  
25           and General Schedule pay rates, except that no indi-

1       vidual so appointed may receive pay in excess of the  
2       annual rate of basic pay payable for GS-18 of the  
3       General Schedule.

4       **“SEC. 607. SUPPORT SERVICES.**

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

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

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

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

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

8       **“SEC. 608. REPORT.**

9       “The Board shall report not less than 2 times per  
10 year to Congress and the Secretary its findings, conclu-  
11 sions, and recommendations. The first such report shall  
12 be submitted not later than 12 months after December  
13 22, 1987.

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

15       “Notwithstanding subsection (d) of section 503, and  
16 subject to subsection (e) of such section, there are author-  
17 ized to be appropriated for expenditures from amounts in  
18 the Waste Fund established in subsection (c) of such sec-  
19 tion such sums as may be necessary to carry out the provi-  
20 sions of this title.

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

22       “The Board shall cease to exist not later than 1 year  
23 after the date on which the Secretary begins disposal of  
24 high-level radioactive waste or spent nuclear fuel in the  
25 repository.

1           **“TITLE VII—MANAGEMENT**  
2   **REFORM**

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

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

13          “(b) OFFICE OF CIVILIAN RADIOACTIVE WASTE  
14 MANAGEMENT EMPLOYEES.—

15               “(1) The Secretary shall, without regard to sec-  
16 tion 5301 of title 5, United States Code, fix the  
17 compensation of the Director and the Deputy Direc-  
18 tor of Office of Civilian Radioactive Waste Manage-  
19 ment. The Director shall, without regard to section  
20 5301 of title 5, United States Code, fix the com-  
21 pensation for all other Federal employees assigned  
22 to the Office of Civilian Radioactive Waste Manage-  
23 ment, define their duties, and provide for a system  
24 of organization to fix responsibility and promote effi-  
25 ciency. The Deputy Director may be removed at the

1 Director's discretion without regard to any laws,  
2 rules, or regulations concerning personnel actions in  
3 the Civil Service System or Senior Executive Service.  
4 Any other Federal employee assigned to the Office  
5 of Civilian Radioactive Waste Management may be  
6 removed at the discretion of the Secretary or Direc-  
7 tor without regard to any laws, rules, or regulations  
8 concerning personnel actions in the Civil Service  
9 System or Senior Executive Service. The Secretary  
10 shall ensure that Federal employees assigned to the  
11 Office of Civilian Radioactive Waste Management  
12 are appointed, promoted, and assigned on the basis  
13 of merit and fitness. Other personnel actions shall be  
14 consistent with the principles of fairness and due  
15 process specified in title 5 of the United States  
16 Code, but without regard to those provisions of said  
17 title governing appointments and other personnel ac-  
18 tions in the competitive service.

19       “(2) The provisions of paragraph (1) shall not  
20 apply to Federal employees who may be, from time  
21 to time, temporarily assigned to the Office of Civil-  
22 ian Radioactive Waste Management. The use of tem-  
23 porary assignment of Federal employees to the Of-  
24 fice of Civilian Radioactive Waste Management shall

1 not be used in any manner to circumvent the full ap-  
2 plication of the provisions in paragraph (1).

3 “(3) The Secretary shall transition the Federal  
4 employees assigned to the Office of Civilian Radio-  
5 active Waste Management to the provisions of this  
6 section in an orderly manner allowing for the devel-  
7 opment of the needed procedures. Under no cir-  
8 cumstances shall this transition take longer than six  
9 months from the date of enactment of this section.

10 “(4) Federal employees assigned to the Office  
11 of Civilian Radioactive Waste Management and  
12 transitioned to the provisions of this section shall re-  
13 tain employment benefits in effect immediately prior  
14 to the transition date. Transitioned employees will  
15 continue in the Civil Service System’s retirement  
16 system.

17 “(c) AUDITS.—

18 “(1) The Office of Civilian Radioactive Waste  
19 Management, its contractors, and subcontractors at  
20 all tiers, shall conduct, or have conducted, audits  
21 and examinations of their operations in accordance  
22 with the usual and customary practices of private  
23 corporations engaged in large nuclear construction  
24 projects consistent with its role in the program.

1           “(2) The management practices and perform-  
2           ances of the Office of Civilian Radioactive Waste  
3           Management shall be audited every five years by an  
4           independent management consulting firm with sig-  
5           nificant experience in similar audits of private cor-  
6           porations engaged in large nuclear construction  
7           projects. The first such audit shall be conducted five  
8           years after the enactment of this Act.

9           “(3) The Comptroller General of the United  
10          States shall annually make an audit of the Office, in  
11          accordance with such regulations as the Comptroller  
12          General may prescribe. The Comptroller General  
13          shall have access to such books, records, accounts,  
14          and other materials of the Office as the Comptroller  
15          General determines to be necessary for the prepara-  
16          tion of such audit. The Comptroller General shall  
17          submit to the Congress a report on the results of  
18          each audit conducted under this section.

19          “(4) No audit contemplated by this subsection  
20          shall take longer than 30 days to conduct. An audit  
21          report shall be issued in final form no longer than  
22          60 days after the audit is commenced.

23          “(5) All audit reports shall be public documents  
24          and available to any individual upon request.

1       “(d) MILESTONE REPORTING.—Within 30 days of  
2 each milestone listed below, the Secretary shall notify the  
3 Congress whether the milestone has been satisfied and, if  
4 not, the reasons for the Secretary’s failure to meet its obli-  
5 gation:

6           “(1) Submittal to the Commission of applica-  
7 tions for certifications of multi-purpose canister sys-  
8 tems no later than April 1, 1996.

9           “(2) Commencement of deployment of multi-  
10 purpose canister systems or other certified systems  
11 no later than 30 days prior to January 31, 1998.

12           “(3) Compliance with the land withdrawal pro-  
13 visions of this Act.

14           “(4) Submittal to the Commission of a license  
15 application and supporting documentation for an in-  
16 terim storage facility no later than 6 months from  
17 the date of enactment of this Act.

18           “(5) Commencement of operations at an in-  
19 terim storage facility no later than January 31,  
20 1998.

21           “(6) Commencement of acceptance of spent nu-  
22 clear fuel from contract holders in accordance with  
23 the Acceptance Schedule no later than January 31,  
24 1998.

1       “(e) VALUE ENGINEERING.—The Secretary shall cre-  
2     ate a value engineering function within the Office of Civil-  
3     ian Radioactive Waste Management that reports directly  
4     to the Director, which shall carry out value engineering  
5     functions in accordance with the usual and customary  
6     practices of private corporations engaged in large nuclear  
7     construction projects.

8       “(f) SITE CHARACTERIZATION.—The Secretary shall  
9     employ, on an on-going basis, integrated performance  
10    modeling to identify appropriate parameters for the re-  
11    maining site characterization effort and to eliminate stud-  
12    ies of parametters that are shown not to affect long-term  
13    repository performance.

14    **“SEC. 702. REPORTING.**

15       “(a) INITIAL REPORT.—Within 180 days of enact-  
16    ment of this section, the Secretary shall report to Con-  
17    gress on its planned actions for implementing the provi-  
18    sions of this Act, including the development of the Inte-  
19    grated Waste Management System. Such report shall in-  
20    clude, but not be limited to—

21           “(1) an analysis of the Secretary’s progress in  
22           meeting its statutory and contractual obligation to  
23           Accept title to, possession of, and delivery of high-  
24           level waste and spent nuclear fuel beginning no later

1 than January 31, 1998, and in accordance with the  
2 Acceptance Schedule;

3 “(2) a detailed schedule and timeline showing  
4 each action that the Secretary intends to take to  
5 meet the Secretary’s obligations under this Act and  
6 the contracts;

7 “(3) a detailed description of the Secretary’s  
8 contingency plans in the event that the Secretary is  
9 unable to meet the planned schedule and timeline;  
10 and

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

13 “(b) ANNUAL REPORTS.—On each anniversary of the  
14 submittal of the report required by subsection (a), the Sec-  
15 retary shall make annual reports to the Congress for the  
16 purpose of updating the information contained in such re-  
17 port. The annual reports shall be brief and shall notify  
18 the Congress of—

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

22 “(2) the reasons for such modifications, and the  
23 status of the implementation of any of the Sec-  
24 retary’s contingency plans; and

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

3 **SEC. 2. TRANSITION PROVISIONS.**

4           (a) CONTINUATION OF CONTRACTS.—Subsequent to  
5 the date of enactment of this Act, the contracts executed  
6 under section 302(a) of the Nuclear Waste Policy Act of  
7 1982 shall continue in effect under this Act.

8           (b) CONTINUATION OF NUCLEAR WASTE FUND.—  
9 Subsequent to the date of enactment of this Act, the Nu-  
10 clear Waste Fund established in the Treasury of the Unit-  
11 ed States under section 302(c) of the Nuclear Waste Pol-  
12 icy Act of 1982 shall continue in effect under this Act.

13           (c) CONTINUATION OF OFFICE OF CIVILIAN RADIO-  
14 ACTIVE WASTE MANAGEMENT.—The Office of Civilian  
15 Radioactive Waste Management established under section  
16 304(a) of the Nuclear Waste Policy Act of 1982 as con-  
17 stituted prior to the date of enactment of this Act, shall  
18 continue in effect subsequent to the date of enactment of  
19 this Act.

20           (d) CONTINUATION OF NUCLEAR WASTE TECHNICAL  
21 REVIEW BOARD.—The Nuclear Waste Technical Review  
22 Board, established under section 502(a) of the Nuclear  
23 Waste Policy Act of 1982 as constituted prior to the date  
24 of enactment of this Act, shall continue in effect subse-  
25 quent to the date of enactment of this Act.

1 **SEC. 3. AMENDMENTS TO BUDGET LAWS.**

2 (a) TREATMENT OF APPROPRIATIONS.—Amounts in  
3 the Nuclear Waste Fund shall be appropriated exclusively  
4 for the purposes authorized in section 503 of the Nuclear  
5 Waste Policy Act of 1982. Notwithstanding any other law,  
6 any such appropriations, and outlays flowing from such  
7 appropriations, shall not be taken into account for pur-  
8 poses of any budget enforcement procedures under the  
9 Balanced Budget and Emergency Deficit Control Act of  
10 1985.

11 (b) AMENDMENTS.—Section 251(b)(2) of the Bal-  
12 anced Budget and Emergency Deficit Control Act of 1985  
13 is amended by inserting after subparagraph (G) the fol-  
14 lowing new subparagraph:

15 “(H) NUCLEAR WASTE FUNDING.—Funds  
16 appropriated to the Nuclear Waste Fund are  
17 not subject to the discretionary spending limits  
18 or the Appropriations Committee’s Energy and  
19 Water Development Subcommittee’s section  
20 602(b) allocation.”.

21 (c) CONFORMING REDUCTION IN DISCRETIONARY  
22 SPENDING LIMITS.—Upon enactment of this Act, the dis-  
23 cretionary spending limits set forth in section 601(a)(2)  
24 of the Congressional Budget Act of 1974 (2 U.S.C.  
25 665(a)(2)) as adjusted in conformance with section 251  
26 of the Balanced Budget and Emergency Deficit Control

1 Act of 1985 for fiscal years 1996 through 2000 are re-  
 2 duced as follows:

3 (1) For fiscal year 1996, for the discretionary  
 4 category, \_\_\_\_\_ in new budget authority and  
 5 \_\_\_\_\_ in outlays.

6 (2) For fiscal year 1997, for the discretionary  
 7 category, \_\_\_\_\_ in new budget authority and  
 8 \_\_\_\_\_ in outlays.

9 (3) For fiscal year 1998, for the discretionary  
 10 category, \_\_\_\_\_ in new budget authority and  
 11 \_\_\_\_\_ in outlays.

12 (4) For fiscal year 1999, the comparable  
 13 amount for budgetary purposes shall be deemed to  
 14 be \_\_\_\_\_ in new budget authority and \_\_\_\_\_  
 15 in outlays.

16 (5) For fiscal year 2000, the comparable  
 17 amount for budgetary purposes shall be deemed to  
 18 be \_\_\_\_\_ in new budget authority and \_\_\_\_\_  
 19 in outlays.

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