

Union Calendar No. 152

104TH CONGRESS
1ST Session

H. R. 1020

[Report No. 104-254, Part 1]

A BILL

To amend the Nuclear Waste Policy Act of 1982.

OCTOBER 24, 1995

Committed to the Whole House on the State of the
Union and ordered to be printed

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To amend the Nuclear Waste Policy Act of 1982.

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

SEPTEMBER 20, 1995

Reported from the Committee on Commerce with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 20, 1995

Referral to the Committees on Resources and Budget extended for a period ending not later than October 20, 1995

SEPTEMBER 20, 1995

The Committee on Transportation and Infrastructure discharged

OCTOBER 19, 1995

Referral to the Committees on Resources and the Budget extended for a period ending not later than October 24, 1995

OCTOBER 24, 1995

Additional sponsors: Mr. WELLER, Mrs. COLLINS of Illinois, Mr. EWING, Mr. PETERSON of Minnesota, Mr. BARCIA, Mr. CONYERS, Mr. SPRATT, Mr. FAWELL, Mr. PETERSON of Florida, Mr. CANADY of Florida, Mr. POR-

TER, Mr. HYDE, Mr. STUPAK, Mrs. FOWLER, Mr. GUNDERSON, Mr. ROHRABACHER, Mr. KNOLLENBERG, Mr. CRAPO, Mr. BALLENGER, Mr. FRELINGHUYSEN, Mr. JEFFERSON, Mr. MINGE, Mr. HUTCHINSON, Mr. SCARBOROUGH, Mr. BACHUS, Mr. CHRYSLER, Mr. COBLE, Mr. FOLEY, Mr. COLLINS of Georgia, Mr. LAHOOD, Mr. CLYBURN, Mr. PICKETT, Mr. EHLERS, Mr. FOGLIETTA, Mr. ZELIFF, Mr. CALLAHAN, Mr. SENSENBRENNER, Mr. FUNDERBURK, Mrs. MYRICK, Mr. HEINEMAN, Mr. FOX of Pennsylvania, Mr. SPENCE, Mr. BORSKI, Mr. LATOURETTE, Mr. RUSH, Mr. KLINK, Ms. ROS-LEHTINEN, Mr. HILLIARD, Mr. LIPINSKI, Ms. BROWN of Florida, Mr. TAUZIN, Mr. MCCRERY, Mr. CAMP, Mr. BAKER of Louisiana, Mr. WELDON of Florida, Mr. HEFNER, Mr. BISHOP, Mr. PAYNE of Virginia, Mr. TAYLOR of North Carolina, Mr. BLUTE, Mr. LINDER, Mr. FRISA, Mr. EVERETT, Mr. ROTH, Mr. DEAL of Georgia, Mr. KINGSTON, Ms. RIVERS, Mr. CRAMER, Mr. HAYES, Mr. MONTGOMERY, Mr. SISISKY, Mr. SAXTON, Mr. HOLDEN, Mr. KING, Mr. LAZIO of New York, Mr. JONES, Mr. CHAPMAN, Mr. STUMP, Mr. TRAFICANT, Mr. BURTON of Indiana, Mr. ROSE, Mr. SOLOMON, Mrs. MEYERS of Kansas, Mr. MCCOLLUM, Mr. ROGERS, Mr. OXLEY, Mr. TORKILDSEN, Mr. GOODLATTE, Mr. BARTLETT of Maryland, Mrs. JOHNSON of Connecticut, Mr. CREMEANS, Mr. GUTKNECHT, Mr. MCHALE, Mr. PETRI, Mr. QUILLEN, Mr. GUTIERREZ, Mr. BUNNING of Kentucky, Mr. YOUNG of Florida, Mr. MANZULLO, Mr. RAHALL, Mr. MCINTOSH, Mr. ROBERTS, Mr. SKEEN, Mr. DUNCAN, Mr. BARTON of Texas, Mrs. CLAYTON, Mr. CLINGER, Mr. FLANAGAN, Mr. DEUTSCH, Mr. PACKARD, Miss COLLINS of Michigan, Mr. BROWDER, Mr. POSHARD, Ms. PRYCE, Mr. LAUGHLIN, Mr. TALENT, Mr. KLUG, Mr. COSTELLO, Mr. WELDON of Pennsylvania, Mr. PAXON, Mr. GALLEGLY, Mr. POMEROY, Mrs. LINCOLN, Mr. ACKERMAN, Mr. GOSS, Mr. MCHUGH, Mr. CHAMBLISS, Mr. BOUCHER, Mr. HASTINGS of Florida, Mr. MARTINI, Mr. COOLEY, Mr. GEKAS, Mr. SMITH of New Jersey, Mr. MFUME, Mr. BONIOR, Mr. KILDEE, Mr. LOBIONDO, Mr. MICA, Mr. FATTAH, Mr. CRANE, Mr. SHAW, Mr. EHRlich, Mr. KANJORSKI, Mr. FROST, Mr. WICKER, Mr. TAYLOR of Mississippi, Mr. NETHERCUTT, Mr. GREENWOOD, Mrs. MEEK of Florida, Mr. BRYANT of Tennessee, Mr. LEACH, Mr. BALDACCI, Mr. BARR of Georgia, Mr. ALLARD, Mr. WATT of North Carolina, Mr. STOCKMAN, Mr. WALSH, Mr. RAMSTAD, Mr. JOHNSON of South Dakota, Mr. DAVIS, Mr. STENHOLM, Mr. BROWNBACk, Mr. PARKER, Mr. FLAKE, Mr. SCOTT, Mr. LATHAM, Mr. SAM JOHNSON of Texas, Mr. ROYCE, Mr. WAMP, Mr. HOKE, Mr. BATEMAN, and Mr. HASTINGS of Washington

OCTOBER 24, 1995

The Committees on Resources and the Budget discharged from further consideration; committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on February 23, 1995]

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. AMENDMENT OF NUCLEAR WASTE POLICY ACT**
 4 **OF 1982.**

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

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

8 *“(a) SHORT TITLE.—This Act may be cited as the ‘Nu-*
 9 *clear Waste Policy Act of 1995’.*

10 *“(b) TABLE OF CONTENTS.—*

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

“Sec. 2. Definitions.

“Sec. 3. Findings and purposes.

“TITLE I—OBLIGATIONS

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

“TITLE II—INTEGRATED MANAGEMENT SYSTEM

“Sec. 201. Railroad.

“Sec. 202. Transportation planning.

“Sec. 203. Transportation requirements.

“Sec. 204. Interim storage.

“Sec. 205. Permanent disposal.

“Sec. 206. Land withdrawal.

“Sec. 207. Private storage facilities.

“TITLE III—STATE AND LOCAL RELATIONS

“Sec. 301. Financial assistance.

“Sec. 302. State consultation.

“Sec. 303. Benefits agreements.

“Sec. 304. Content of agreements.

“Sec. 305. Review panel.

“Sec. 306. Consideration in siting facilities.

“Sec. 307. Acceptance of benefits.

“Sec. 308. Restriction on use of funds.

“TITLE IV—FUNDING AND ORGANIZATION

- “Sec. 401. Program funding.
 “Sec. 402. Office of Civilian Radioactive Waste Management.
 “Sec. 403. Defense contribution.

“TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

- “Sec. 501. Compliance with other laws.
 “Sec. 502. Effect on water rights.
 “Sec. 503. Judicial review of agency actions.
 “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 authorization.
 “Sec. 508. Acceptance schedule.
 “Sec. 509. Subseabed or ocean water disposal.

“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) ACCEPT, ACCEPTANCE.—The terms ‘accept’
 4 and ‘acceptance’ mean the Secretary’s act of taking
 5 possession of spent nuclear fuel or high-level radio-
 6 active waste.

7 “(2) ACCEPTANCE SCHEDULE.—The term ‘ac-
 8 ceptance schedule’ means the schedule established by
 9 the Secretary for acceptance of spent nuclear fuel and
 10 high-level radioactive waste.

1 “(3) *AFFECTED INDIAN TRIBE.*—*The term ‘af-*
2 *ected Indian tribe’ means any Indian tribe—*

3 “(A) *within whose reservation boundaries*
4 *the interim storage facility or a repository for*
5 *spent nuclear fuel or high-level radioactive waste,*
6 *or both, is proposed to be located; or*

7 “(B) *whose federally defined possessory or*
8 *usage rights to other lands outside of the reserva-*
9 *tion’s boundaries arising out of congressionally*
10 *ratified treaties may be substantially and ad-*
11 *versely affected by the locating of such a facility*
12 *if the Secretary of the Interior finds, upon the*
13 *petition of the appropriate governmental officials*
14 *of the tribe, that such effects are both substantial*
15 *and adverse to the tribe.*

16 “(4) *AFFECTED UNIT OF LOCAL GOVERNMENT.*—
17 *The term ‘affected unit of local government’ means the*
18 *unit of local government with jurisdiction over the*
19 *site of a repository or interim storage facility. Such*
20 *term may, at the discretion of the Secretary, include*
21 *other units of local government that are contiguous*
22 *with such unit.*

23 “(5) *ATOMIC ENERGY DEFENSE ACTIVITY.*—*The*
24 *term ‘atomic energy defense activity’ means any ac-*

1 *tivity of the Secretary performed in whole or in part*
2 *in carrying out any of the following functions:*

3 *“(A) Naval reactors development.*

4 *“(B) Weapons activities including defense*
5 *inertial confinement fusion.*

6 *“(C) Verification and control technology.*

7 *“(D) Defense nuclear materials production.*

8 *“(E) Defense nuclear waste and materials*
9 *byproducts management.*

10 *“(F) Defense nuclear materials security and*
11 *safeguards and security investigations.*

12 *“(G) Defense research and development.*

13 *“(6) CIVILIAN NUCLEAR POWER REACTOR.—The*
14 *term ‘civilian nuclear power reactor’ means a civilian*
15 *nuclear power plant required to be licensed under sec-*
16 *tion 103 or 104 b. of the Atomic Energy Act of 1954*
17 *(42 U.S.C. 2133, 2134(b)).*

18 *“(7) COMMISSION.—The term ‘Commission’*
19 *means the Nuclear Regulatory Commission.*

20 *“(8) DEPARTMENT.— The term ‘Department’*
21 *means the Department of Energy.*

22 *“(9) DISPOSAL.—The term ‘disposal’ means the*
23 *emplacement in a repository of spent nuclear fuel,*
24 *high-level radioactive waste, or other highly radio-*
25 *active material with no foreseeable intent of recovery,*

1 *whether or not such emplacement permits recovery of*
2 *such material for any future purpose.*

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

8 “(11) *ENGINEERED BARRIERS.*—*The term ‘engi-*
9 *neered barriers’ and ‘engineered systems and compo-*
10 *nents,’ means man made components of a disposal*
11 *system. Such term includes the spent nuclear fuel or*
12 *high-level radioactive waste form, spent nuclear fuel*
13 *package or high-level radioactive waste, and other*
14 *materials placed over and around such packages.*

15 “(12) *HIGH-LEVEL RADIOACTIVE WASTE.*—*The*
16 *term ‘high-level radioactive waste’ means—*

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

23 “(B) *other highly radioactive material that*
24 *the Commission, consistent with existing law, de-*
25 *termines by rule requires permanent isolation.*

1 “(13) *FEDERAL AGENCY*.—The term ‘Federal
2 agency’ means any Executive agency, as defined in
3 section 105 of title 5, United States Code.

4 “(14) *INDIAN TRIBE*.—The term ‘Indian tribe’
5 means any Indian tribe, band, nation, or other orga-
6 nized group or community of Indians recognized as
7 eligible for the services provided to Indians by the
8 Secretary of the Interior because of their status as In-
9 dians including any Alaska Native village, as defined
10 in section 3(c) of the Alaska Native Claims Settlement
11 Act (43 U.S.C. 1602(c)).

12 “(15) *INTEGRATED MANAGEMENT SYSTEM*.—The
13 term ‘integrated management system’ means the sys-
14 tem developed by the Secretary for the acceptance,
15 transportation, storage, and disposal of spent nuclear
16 fuel and high-level radioactive waste.

17 “(16) *INTERIM STORAGE FACILITY*.—The term
18 ‘interim storage facility’ means a facility designed
19 and constructed for the receipt, handling, possession,
20 safeguarding, and storage of spent nuclear fuel and
21 high-level radioactive waste in accordance with title
22 II of this Act.

23 “(17) *INTERIM STORAGE FACILITY SITE*.—The
24 term ‘interim storage facility site’ means the specific
25 site within Area 25 of the Nevada Test Site that is

1 *designated by the Secretary and withdrawn and re-*
2 *reserved in accordance with this Act for the location of*
3 *the interim storage facility.*

4 “(18) *LOW-LEVEL RADIOACTIVE WASTE.*—*The*
5 *term ‘low-level radioactive waste’ means radioactive*
6 *material that—*

7 “(A) *is not spent nuclear fuel, high-level ra-*
8 *dioactive waste, transuranic waste, or byproduct*
9 *material as defined in section 11 e.(2) of the*
10 *Atomic Energy Act of 1954 (42 U.S.C.*
11 *2014(e)(2)); and*

12 “(B) *the Commission, consistent with exist-*
13 *ing law, classifies as low-level radioactive waste.*

14 “(19) *METRIC TONS URANIUM.*—*The terms ‘met-*
15 *ric tons uranium’ and ‘MTU’ means the amount of*
16 *uranium in the original unirradiated fuel element*
17 *whether or not the spent nuclear fuel has been repro-*
18 *cessed.*

19 “(20) *NUCLEAR WASTE FUND.*—*The terms ‘Nu-*
20 *clear Waste Fund’ and ‘waste fund’ mean the nuclear*
21 *waste fund established in the United States Treasury*
22 *prior to the date of enactment of this Act under sec-*
23 *tion 302(c) of the Nuclear Waste Policy Act of 1982.*

24 “(21) *OFFICE.*—*The term ‘Office’ means the Of-*
25 *fice of Civilian Radioactive Waste Management estab-*

1 *lished within the Department prior to the date of en-*
2 *actment of this Act under the provisions of the Nu-*
3 *clear Waste Policy Act of 1982.*

4 “(22) *PROGRAM APPROACH.*—*The term ‘program*
5 *approach’ means the Civilian Radioactive Waste*
6 *Management Program Plan, dated December 19,*
7 *1994, as modified by this Act, and as amended from*
8 *time to time by the Secretary in accordance with this*
9 *Act.*

10 “(23) *REPOSITORY.*—*The term ‘repository’*
11 *means a system designed and constructed under title*
12 *II of this Act for the permanent geologic disposal of*
13 *spent nuclear fuel and high-level radioactive waste,*
14 *including both surface and subsurface areas at which*
15 *spent nuclear fuel and high-level radioactive waste re-*
16 *ceipt, handling, possession, safeguarding, and storage*
17 *are conducted.*

18 “(24) *SECRETARY.*—*The term ‘Secretary’ means*
19 *the Secretary of Energy.*

20 “(25) *SITE CHARACTERIZATION.*—*The term ‘site*
21 *characterization’ means activities, whether in a lab-*
22 *oratory or in the field, undertaken to establish the*
23 *geologic condition and the ranges of the parameters of*
24 *a candidate site relevant to the location of a reposi-*
25 *tory, including borings, surface excavations, exca-*

1 *vations of exploratory facilities, limited subsurface*
2 *lateral excavations and borings, and in situ testing*
3 *needed to evaluate the licensability of a candidate site*
4 *for the location of a repository, but not including pre-*
5 *liminary borings and geophysical testing needed to*
6 *assess whether site characterization should be under-*
7 *taken.*

8 “(26) *SPENT NUCLEAR FUEL.*—*The term ‘spent*
9 *nuclear fuel’ means fuel that has been withdrawn*
10 *from a nuclear reactor following irradiation, the con-*
11 *stituent elements of which have not been separated by*
12 *reprocessing.*

13 “(27) *STORAGE.*—*The term ‘storage’ means re-*
14 *tention of spent nuclear fuel or high-level radioactive*
15 *waste with the intent to recover such waste or fuel for*
16 *subsequent use, processing, or disposal.*

17 “(28) *WITHDRAWAL.*—*The term ‘withdrawal’ has*
18 *the same definition as that set forth in the Federal*
19 *Land Policy and Management Act (43 U.S.C. 1702*
20 *and following).*

21 “(29) *YUCCA MOUNTAIN SITE.*—*The term ‘Yucca*
22 *Mountain site’ means the area in the State of Nevada*
23 *that is withdrawn and reserved in accordance with*
24 *this Act for the location of a repository.*

1 **“SEC. 3. FINDINGS AND PURPOSES.**

2 “(a) *FINDINGS.—The Congress finds that—*

3 “(1) *while spent nuclear fuel can be safely stored*
4 *at reactor sites, the expeditious movement to and stor-*
5 *age of such spent nuclear fuel at a centralized Federal*
6 *facility will enhance the nation’s environmental pro-*
7 *tection;*

8 “(2) *while the Federal Government has the re-*
9 *sponsibility to provide for the centralized interim*
10 *storage and permanent disposal of spent nuclear fuel*
11 *and high-level radioactive waste to protect the public*
12 *health and safety and the environment, the costs of*
13 *such storage and disposal should be the responsibility*
14 *of the generators and owners of such waste and fuel,*
15 *including the Federal Government;*

16 “(3) *in the interests of protecting the public*
17 *health and safety, enhancing the nation’s environ-*
18 *mental protection, promoting the nation’s energy se-*
19 *curity, and ensuring the Secretary’s ability to com-*
20 *mence acceptance of spent nuclear fuel and high-level*
21 *radioactive waste no later than January 31, 1998, it*
22 *is necessary for Congress to authorize the interim*
23 *storage facility; and*

24 “(4) *deficit-control measures designed to limit*
25 *appropriation of general revenues have limited the*

1 *availability of the Nuclear Waste Fund for its in-*
2 *tended purposes.*

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

4 “(1) *to direct the Secretary to develop an inte-*
5 *grated management system in accordance with this*
6 *Act so that the Department can accept spent nuclear*
7 *fuel or high-level radioactive waste for interim storage*
8 *commencing no later than January 31, 1998, and for*
9 *permanent disposal at a repository commencing no*
10 *later than January 17, 2010;*

11 “(2) *to provide for the siting, construction, and*
12 *operation of a repository for permanent geologic dis-*
13 *posal of spent nuclear fuel and high-level radioactive*
14 *waste in order to adequately protect the public and*
15 *the environment;*

16 “(3) *to take those actions necessary to ensure*
17 *that the consumers of nuclear energy, who are fund-*
18 *ing the Secretary’s activities under this Act, receive*
19 *the services to which they are entitled and realize the*
20 *benefits of enhanced protection of public health and*
21 *safety, and the environment, that will ensue from the*
22 *Secretary’s compliance with the obligations imposed*
23 *by this Act; and*

24 “(4) *to provide a schedule and process for the ex-*
25 *peditious and safe development and commencement of*

1 *operation of an integrated management system and*
2 *any necessary modifications to the transportation in-*
3 *frastructure to ensure that the Secretary can com-*
4 *mence acceptance of spent nuclear fuel and high-level*
5 *radioactive waste no later than January 31, 1998.*

6 **“TITLE I—OBLIGATIONS**

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

8 *“(a) DISPOSAL.—The Secretary shall develop and op-*
9 *erate a repository for the permanent geologic disposal of*
10 *spent nuclear fuel and high-level radioactive waste.*

11 *“(b) ACCEPTANCE.—The Secretary shall accept spent*
12 *nuclear fuel and high-level radioactive waste for storage at*
13 *the interim storage facility pursuant to section 204 in ac-*
14 *cordance with the acceptance schedule, beginning not later*
15 *than January 31, 1998.*

16 *“(c) TRANSPORTATION.—The Secretary shall provide*
17 *for the transportation of spent nuclear fuel and high-level*
18 *radioactive waste accepted by the Secretary.*

19 *“(d) INTEGRATED MANAGEMENT SYSTEM.—The Sec-*
20 *retary shall expeditiously pursue the development of each*
21 *component of the integrated management system, and in*
22 *so doing shall seek to utilize effective private sector manage-*
23 *ment and contracting practices in accordance with title VII*
24 *of this Act.*

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

3 **“SEC. 201. RAILROAD.**

4 “(a) *AUTHORIZATION.*—*The Secretary shall develop*
5 *and commence operation of a rail spur originating in Lin-*
6 *coln County, Nevada, and terminating at the interim stor-*
7 *age facility site. The Secretary shall acquire rights-of-way*
8 *within the corridor designated in subsection (b) as provided*
9 *in this section and shall construct and operate, or cause*
10 *to be constructed and operated, a railroad and such facili-*
11 *ties as are required to transport spent nuclear fuel and*
12 *high-level radioactive waste from existing rail systems to*
13 *the interim storage facility and the repository.*

14 “(b) *ROUTE DESIGNATION.*—

15 “(1) *RIGHTS-OF-WAY AND FACILITIES.*—*The Sec-*
16 *retary shall acquire such rights-of-way and develop*
17 *such facilities within the corridor (referred to as the*
18 *‘Caliente Route’) depicted on the map dated July 28,*
19 *1995 and on file with the Secretary.*

20 “(2) *RECOMMENDATIONS.*—*The Secretary shall*
21 *consider specific alignment proposals for the Caliente*
22 *Route made by the State of Nevada and the units of*
23 *local government within whose jurisdiction passes*
24 *such route.*

1 “(3) *NOTICE AND DESCRIPTION.*—*Within 6*
2 *months of the date of enactment of this Act, the Sec-*
3 *retary shall—*

4 “(A) *publish in the Federal Register a no-*
5 *tice containing a legal description of the cor-*
6 *ridor; and*

7 “(B) *file copies of the map referred to in*
8 *paragraph (1) and the legal description of the*
9 *corridor with the Congress, the Secretary of the*
10 *Interior, the Governor of Nevada, the Board of*
11 *Lincoln County Commissioners, the Board of*
12 *Nye County Commissioners, and the Archivist of*
13 *the United States.*

14 “(4) *CONSTRUCTION.*—*The map and legal de-*
15 *scription referred to in paragraph (2) shall have the*
16 *same force and effect as if they were included in this*
17 *Act. The Secretary may correct clerical and typo-*
18 *graphical errors in the map and legal description and*
19 *make minor adjustments in the boundaries of the cor-*
20 *ridor.*

21 “(c) *WITHDRAWAL AND RESERVATION.*—

22 “(1) *PUBLIC LANDS.*—*Subject to valid existing*
23 *rights, the public lands depicted on such map are*
24 *withdrawn from all forms of entry, appropriation,*
25 *and disposal under the public land laws, including*

1 *the mineral leasing laws, the geothermal laws, the*
2 *material sale laws, and the mining laws.*

3 “(2) *ADMINISTRATIVE JURISDICTION.*—*Adminis-*
4 *trative jurisdiction of such land is transferred from*
5 *the Secretary of the Interior to the Secretary.*

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

10 “(4) *MEMORANDUM OF UNDERSTANDING.*—*The*
11 *Secretary may also enter into a Memorandum of Un-*
12 *derstanding with the head of any other department*
13 *having administrative jurisdiction over other Federal*
14 *lands used for purposes of the corridor referred to in*
15 *this section.*

16 “(d) *NATIONAL ENVIRONMENTAL POLICY ACT.*—

17 “(1) *PRELIMINARY DECISIONMAKING ACTIVI-*
18 *TIES.*—*The Secretary’s activities in connection with*
19 *the designation of a route and the acquisition of*
20 *rights-of-way under this section shall be considered*
21 *preliminary decisionmaking activities for purposes of*
22 *the National Environmental Policy Act of 1969. Such*
23 *activities 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 (42*

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

6 “(2) *TRANSPORTATION FACILITIES.—Construction*
7 *and operation of transportation facilities within*
8 *the corridor shall constitute a major Federal action*
9 *significantly affecting the quality of the human envi-*
10 *ronment for purposes of the National Environmental*
11 *Policy Act of 1969. The Secretary shall prepare an*
12 *environmental impact statement on the construction*
13 *and operation of such facilities prior to commence-*
14 *ment of construction. In preparing such statement,*
15 *the Secretary shall adopt, to the extent practicable,*
16 *relevant environmental reports that have been devel-*
17 *oped by other Federal and State agencies.*

18 “(3) *CONSIDERATIONS.—For purposes of comply-*
19 *ing with the requirements of the National Environ-*
20 *mental Policy Act of 1969 and this section, the Sec-*
21 *retary need not consider the need for the development*
22 *or improvement of transportation facilities, the tim-*
23 *ing of the initial availability of the transportation fa-*
24 *cilities, alternative routes, or alternative means of*
25 *transportation.*

1 “(e) *CONSTRUCTION.*—*Notwithstanding any State or*
2 *Federal statute, regulation or orders to the contrary, or the*
3 *pendency of any judicial proceeding, the Secretary shall be*
4 *authorized to commence construction of transportation fa-*
5 *cilities upon compliance with the requirements of sub-*
6 *sections (a) through (d). No court shall have jurisdiction*
7 *to enjoin the construction of the transportation facilities au-*
8 *thorized by this section except upon its entry of a final*
9 *order that the construction is not in accord with the provi-*
10 *sions of applicable law.*

11 “(f) *EXEMPTION.*—*Neither the Secretary nor any per-*
12 *son constructing or operating railroad facilities under con-*
13 *tract with the Secretary under this section shall be consid-*
14 *ered a rail carrier within the meaning of section 10102(22)*
15 *of title 49, United States Code, and shall not be subject to*
16 *the jurisdiction of the Interstate Commerce Commission.*

17 “(g) *INTERMODAL TRANSFER.*—

18 “(1) *BEFORE ACCESS.*—*Until such time as direct*
19 *rail access is available to the interim storage facility*
20 *site, the Secretary shall utilize heavy-haul truck*
21 *transport to move spent nuclear fuel and high-level*
22 *radioactive waste from the mainline rail line at*
23 *Caliente, Nevada, to the interim storage facility site.*

24 “(2) *CAPABILITY DATE.*—*The Secretary shall de-*
25 *velop the capability to commence rail to truck inter-*

1 *modal transfer at Caliente, Nevada, no later than*
2 *January 31, 1998.*

3 “(3) *ACQUISITIONS.*—*The Secretary shall acquire*
4 *lands and rights-of-way necessary to commence inter-*
5 *modal transfer at Caliente, Nevada.*

6 “(4) *REPLACEMENTS.*—*The Secretary shall ac-*
7 *quire and develop on behalf of, and dedicate to, the*
8 *City of Caliente, Nevada, parcels of land and rights-*
9 *of-way as required to facilitate replacement of land*
10 *and city wastewater disposal activities necessary to*
11 *commence intermodal transfer pursuant to this Act.*
12 *Replacement of land and city wastewater disposal ac-*
13 *tivities shall occur no later than January 31, 1998.*

14 “(5) *NOTICE AND MAP.*—*Within 6 months of the*
15 *date of enactment of this Act, the Secretary shall—*

16 “(A) *publish in the Federal Register a no-*
17 *tice containing a legal description of the sites*
18 *and rights-of-way to be acquired under this sub-*
19 *section; and*

20 “(B) *file copies of a map of such sites and*
21 *rights-of-way with the Congress, the Secretary of*
22 *the Interior, the State of Nevada, the Archivist*
23 *of the United States, the Board of Lincoln Coun-*
24 *ty Commissioners, the Board of Nye County*
25 *Commissioners, and the Caliente City Council.*

1 *Such map and legal description shall have the same*
2 *force and effect as if they were included in this Act.*

3 *The Secretary may correct clerical and typographical*
4 *errors and legal descriptions and make minor adjust-*
5 *ments in the boundaries.*

6 *“(6) IMPROVEMENTS.—The Secretary shall make*
7 *improvements to existing roadways selected for heavy-*
8 *haul truck transport between Caliente, Nevada, and*
9 *the interim storage facility site as necessary to facili-*
10 *tate year-round safe transport of spent nuclear fuel*
11 *and high-level radioactive waste.*

12 *“(h) LOCAL GOVERNMENT INVOLVEMENT.—The Com-*
13 *mission shall enter into a Memorandum of Understanding*
14 *with the City of Caliente and Lincoln County, Nevada, to*
15 *provide advice to the Commission regarding intermodal*
16 *transfer and to facilitate on-site representation. Reasonable*
17 *expenses of such representation shall be paid by the Sec-*
18 *retary.*

19 **“SEC. 202. TRANSPORTATION PLANNING.**

20 *“(a) TRANSPORTATION READINESS.—The Secretary*
21 *shall take those actions that are necessary and appropriate*
22 *to ensure that the Secretary is able to accept spent nuclear*
23 *fuel and high-level radioactive waste beginning not later*
24 *than January 31, 1998, and transport such fuel or waste*
25 *to mainline transportation facilities. As soon as is prac-*

1 *ticable following the enactment of this Act, the Secretary*
2 *shall analyze each specific reactor facility in the order of*
3 *priority established in the acceptance schedule, and develop*
4 *a logistical plan to assure the Secretary's ability to trans-*
5 *port spent nuclear fuel and high-level radioactive waste.*

6 “(b) *TRANSPORTATION PLANNING.—In conjunction*
7 *with the development of the logistical plan in accordance*
8 *with subsection (a), the Secretary shall update and modify,*
9 *as necessary, the Secretary's transportation institutional*
10 *plans to ensure that institutional issues are addressed and*
11 *resolved on a schedule to support the commencement of*
12 *transportation of spent nuclear fuel and high-level radio-*
13 *active waste to the interim storage facility no later than*
14 *January 31, 1998. Among other things, such planning shall*
15 *provide a schedule and process for addressing and imple-*
16 *menting, as necessary, transportation routing plans, trans-*
17 *portation contracting plans, transportation training in ac-*
18 *cordance with section 203, and transportation tracking pro-*
19 *grams.*

20 **“SEC. 203. TRANSPORTATION REQUIREMENTS.**

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

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

6 “(c) *TECHNICAL ASSISTANCE.*—*The Secretary shall*
7 *provide technical assistance and funds to States, affected*
8 *units of local government, and Indian tribes through whose*
9 *jurisdiction the Secretary plans to transport substantial*
10 *amounts of spent nuclear fuel or high-level radioactive*
11 *waste for training for public safety officials of appropriate*
12 *units of local government. Training shall cover procedures*
13 *required for safe routine transportation of these materials,*
14 *as well as procedures for dealing with emergency response*
15 *situations. The Secretary’s duty to provide technical and*
16 *financial assistance under this subsection shall be limited*
17 *to amounts specified in annual appropriations.*

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

1 *able or unwilling to provide such transportation services*
2 *at a reasonable cost.*

3 “(e) *TRANSFER OF TITLE.*—Acceptance by the Sec-
4 *retary of any spent nuclear fuel or high-level radioactive*
5 *waste shall constitute a transfer of title to the Secretary.*

6 **“SEC. 204. INTERIM STORAGE.**

7 “(a) *AUTHORIZATION.*—The Secretary shall design,
8 *construct, and operate a facility for the interim storage of*
9 *spent nuclear fuel and high-level radioactive waste. The in-*
10 *terim storage facility shall be subject to licensing pursuant*
11 *to the Atomic Energy Act of 1954 in accordance with the*
12 *Commission’s regulations governing the licensing of inde-*
13 *pendent spent fuel storage installations and shall commence*
14 *operation in phases by January 31, 1998. The interim stor-*
15 *age facility shall be designed to store spent nuclear fuel from*
16 *civilian nuclear power reactors until the Secretary is able*
17 *to transfer the spent fuel to the repository.*

18 “(b) *DESIGN.*—The design of the interim storage facil-
19 *ity shall provide for the use of storage technologies licensed*
20 *or certified by the Commission for use at the interim storage*
21 *facility as necessary to ensure compatibility between the in-*
22 *terim storage facility and contract holders’ spent nuclear*
23 *fuel and facilities, and to facilitate the Secretary’s ability*
24 *to meet the Secretary’s obligations under this Act.*

25 “(c) *LICENSING.*—

1 “(1) *PHASES.*—*The interim storage facility shall*
2 *be licensed by the Commission in two phases in order*
3 *to commence operations no later than January 31,*
4 *1998.*

5 “(2) *FIRST PHASE.*—*No later than 12 months*
6 *after the date of enactment of the Nuclear Waste Pol-*
7 *icy Act of 1995, the Secretary shall submit to the*
8 *Commission an application for a license for the first*
9 *phase of the interim storage facility. The license is-*
10 *ssued for the first phase of the interim storage facility*
11 *shall have a term of 20 years. The interim storage fa-*
12 *ility licensed in the first phase shall have a capacity*
13 *of not more than 10,000 MTU. The Commission shall*
14 *issue a final decision granting or denying the appli-*
15 *cation for the first phase license no later than 16*
16 *months from the date of the submittal of the applica-*
17 *tion for such license.*

18 “(3) *SECOND PHASE.*—*The Secretary shall sub-*
19 *mit to the Commission an application for a license*
20 *for the second phase interim storage facility. The li-*
21 *cence for the second phase facility shall authorize a*
22 *storage capacity of 40,000 MTU. The license for the*
23 *second phase shall have an initial term of up to 100*
24 *years, and shall be renewable for additional terms*
25 *upon application of the Secretary.*

1 “(d) *ADDITIONAL AUTHORITY.*—

2 “(1) *CONSTRUCTION.*—*For the purpose of com-*
3 *plying with subsection (a), the Secretary may com-*
4 *mence site preparation for the interim storage facility*
5 *as soon as practicable after the date of enactment of*
6 *the Nuclear Waste Policy Act of 1995 and shall com-*
7 *mence construction of the first phase of the interim*
8 *storage facility subsequent to submittal of the license*
9 *application except that the Commission shall issue an*
10 *order suspending such construction at any time if the*
11 *Commission determines that such construction poses*
12 *an unreasonable risk to public health and safety or*
13 *the environment. The Commission shall terminate all*
14 *or part of such order upon a determination that the*
15 *Secretary has taken appropriate action to eliminate*
16 *such risk.*

17 “(2) *FACILITY USE.*—*Notwithstanding any oth-*
18 *erwise applicable licensing requirement, the Secretary*
19 *may utilize any facility owned by the Federal Gov-*
20 *ernment on the date of enactment of the Nuclear*
21 *Waste Policy Act of 1995 and within the boundaries*
22 *of the interim storage facility site, in connection with*
23 *an imminent and substantial endangerment to public*
24 *health and safety at the interim storage facility prior*

1 to commencement of operations during the second
2 phase.

3 “(3) *ACCEPTANCE OF FUEL AND WASTE.*—Once
4 the Secretary has achieved the spent nuclear fuel ac-
5 ceptance rate provided by the schedule for contracts
6 executed prior to the date of enactment of Nuclear
7 Waste Policy Act of 1995 under section 302(a) of the
8 Nuclear Waste Policy Act of 1982 the Secretary may
9 accept—

10 “(A) *spent nuclear fuel or high-level radio-*
11 *active waste of domestic origin from civilian nu-*
12 *clear power reactors which have permanently*
13 *ceased operation; and*

14 “(B) *spent nuclear fuel from foreign re-*
15 *search reactors, as necessary to promote non-*
16 *proliferation objectives.*

17 “(e) *NATIONAL ENVIRONMENTAL POLICY ACT OF*
18 1969.—

19 “(1) *PRELIMINARY DECISIONMAKING ACTIVI-*
20 *TIES.*—The Secretary’s activities under this section,
21 including the selection of a site for the interim storage
22 facility, the preparation and submittal of any license
23 application, and the construction and operation of
24 any facility shall be considered preliminary decision-
25 making activities for purposes of the National Envi-

1 *ronmental Policy Act of 1969 (42 U.S.C. 4321 et*
2 *seq.). No such activity shall require the preparation*
3 *of an environmental impact statement under section*
4 *102(2)(C) of the National Environmental Policy Act*
5 *of 1969 (42 U.S.C. 4332(2)(C)) or require any envi-*
6 *ronmental review under subparagraph (E) or (F) of*
7 *such Act.*

8 *“(2) ENVIRONMENTAL IMPACT STATEMENT.—*

9 *“(A) FINAL DECISION.—A final decision of*
10 *the Commission to grant or deny a license appli-*
11 *cation for the first or second phase of the interim*
12 *storage facility shall be accompanied by an En-*
13 *vironmental Impact Statement prepared under*
14 *section 102(2)(C) of the National Environmental*
15 *Policy Act of 1969 (42 U.S.C. 4332(2)(C)). In*
16 *preparing such Environmental Impact State-*
17 *ment, the Commission—*

18 *“(i) shall assume that 40,000 MTU*
19 *will be stored at the facility; and*

20 *“(ii) shall analyze the impacts of the*
21 *transportation of spent nuclear fuel and*
22 *high-level radioactive waste to the interim*
23 *storage facility in a generic manner.*

24 *“(B) CONSIDERATIONS.—Such Environ-*
25 *mental Impact Statement shall not consider—*

1 “(i) the need for the interim storage fa-
2 cility, including any individual component
3 thereof;

4 “(ii) the time of the initial availability
5 of the interim storage facility;

6 “(iii) any alternatives to the storage of
7 spent nuclear fuel and high-level radioactive
8 waste at the interim storage facility;

9 “(iv) any alternatives to the site of the
10 facility as designated by the Secretary in
11 accordance with subsection (a);

12 “(v) any alternatives to the design cri-
13 teria for such facility or any individual
14 component thereof, as specified by the Sec-
15 retary in the license application; or

16 “(vi) the environmental impacts of the
17 storage of spent nuclear fuel and high-level
18 radioactive waste at the interim storage fa-
19 cility beyond the initial term of the license
20 or the term of the renewal period for which
21 a license renewal application is made.

22 “(f) *JUDICIAL REVIEW*.—Judicial review of the Com-
23 mission’s environmental impact statement under the Na-
24 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
25 et seq.) shall be consolidated with judicial review of the

1 *Commission’s licensing decision. No court shall have juris-*
2 *isdiction to enjoin the construction or operation of the in-*
3 *terim storage facility prior to its final decision on review*
4 *of the Commission’s licensing action.*

5 “(g) *WASTE CONFIDENCE.—The Secretary’s obligation*
6 *to construct and operate the interim storage facility in ac-*
7 *cordance with this section and the Secretary’s obligation to*
8 *develop an integrated management system in accordance*
9 *with the provisions of this Act, shall provide sufficient and*
10 *independent grounds for any further findings by the Com-*
11 *mission of reasonable assurance that spent nuclear fuel and*
12 *high-level radioactive waste will be disposed of safely and*
13 *on a timely basis for purposes of the Commission’s decision*
14 *to grant or amend any license to operate any civilian nu-*
15 *clear power reactor under the Atomic Energy Act of 1954*
16 *(42 U.S.C. 2011 et seq.).*

17 “(h) *STORAGE OF DEFENSE MATERIAL.—*

18 “(1) *CRITERIA.—The Commission shall establish*
19 *criteria for the issuance of an amendment to the in-*
20 *terim storage facility license authorizing storage of*
21 *spent nuclear fuel or high-level radioactive waste from*
22 *atomic energy defense activities in the interim storage*
23 *facility. The Secretary shall seek a license amendment*
24 *to allow for the storage of spent nuclear fuel or high-*

1 *level radioactive waste from atomic energy defense ac-*
2 *tivities at the interim storage facility.*

3 “(2) *ACCEPTANCE OF OTHER FUEL.*—When the
4 *Secretary has achieved the spent nuclear fuel accept-*
5 *ance rate provided by the schedule for contracts exe-*
6 *cuted under section 302(a) of the Nuclear Waste Pol-*
7 *icy Act of 1982 before the date of enactment of the*
8 *Nuclear Waste Policy Act of 1995, the Secretary may*
9 *accept spent nuclear fuel or high-level radioactive*
10 *waste resulting from atomic energy defense activities.*

11 “(i) *SAVINGS CLAUSE.*—Nothing in this Act shall af-
12 *fect the Commission’s procedures for the licensing of any*
13 *technology for the dry storage of spent nuclear fuel at the*
14 *site of any civilian nuclear power reactor as adopted by*
15 *the Commission under section 218 of the Nuclear Waste Pol-*
16 *icy Act of 1982, as in effect prior to the enactment of the*
17 *Nuclear Waste Policy Act of 1995. The establishment of such*
18 *procedures shall not preclude the licensing, under any ap-*
19 *plicable procedures or rules of the Commission in effect*
20 *prior to such establishment, of any technology for the stor-*
21 *age of civilian spent nuclear fuel at the site of any civilian*
22 *nuclear power reactor.*

23 **“SEC. 205. PERMANENT DISPOSAL.**

24 “(a) *SITE CHARACTERIZATION.*—

1 “(1) *GUIDELINES.*—*The guidelines promulgated*
2 *by the Secretary and published at 10 CFR part 960*
3 *are annulled and revoked and the Secretary shall*
4 *make no assumptions or conclusions about the*
5 *licensability of the Yucca Mountain site as a reposi-*
6 *tory by reference to such guidelines.*

7 “(2) *SITE CHARACTERIZATION ACTIVITIES.*—*The*
8 *Secretary shall carry out appropriate site character-*
9 *ization activities at the Yucca Mountain site in ac-*
10 *cordance with the Secretary’s program approach to*
11 *site characterization if the Secretary modifies or*
12 *eliminates those site characterization activities de-*
13 *signed to demonstrate the suitability of the site under*
14 *the guidelines referenced in paragraph (1).*

15 “(3) *DATE.*—*No later than December 31, 2001,*
16 *the Secretary shall apply to the Commission for au-*
17 *thorization to construct a repository that will com-*
18 *mence operations no later than January 17, 2010. If,*
19 *at any time prior to the filing of such application,*
20 *the Secretary determines that the Yucca Mountain*
21 *site cannot satisfy the Commission’s regulations ap-*
22 *plicable to the licensing of a geologic repository, the*
23 *Secretary shall terminate site characterization activi-*
24 *ties at the site, notify Congress and the State of Ne-*
25 *vada of the Secretary’s determination and the reasons*

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

6 “(4) *MAXIMIZING CAPACITY.*—*In developing an*
7 *application for authorization to construct the reposi-*
8 *tory, the Secretary shall seek to maximize the capac-*
9 *ity of the repository.*

10 “(b) *LICENSING.*—*Within one year of the date of enact-*
11 *ment of the Nuclear Waste Policy Act of 1995, the Commis-*
12 *sion shall amend its regulations governing the disposal of*
13 *spent nuclear fuel and high-level radioactive waste in geo-*
14 *logic repositories to the extent necessary to comply with this*
15 *Act. Subject to subsection (c), such regulations shall provide*
16 *for the licensing of the repository according to the following*
17 *procedures:*

18 “(1) *CONSTRUCTION AUTHORIZATION.*—*The*
19 *Commission shall grant the Secretary a construction*
20 *authorization for the repository upon determining*
21 *that there is reasonable assurance that spent nuclear*
22 *fuel and high-level radioactive waste can be disposed*
23 *of in the repository—*

1 “(A) in conformity with the Secretary’s ap-
2 plication, the provisions of this Act, and the reg-
3 ulations of the Commission;

4 “(B) without unreasonable risk to the health
5 and safety of the public; and

6 “(C) consistent with the common defense
7 and security.

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

15 “(A) in conformity with the Secretary’s ap-
16 plication, the provisions of this Act, and the reg-
17 ulations of the Commission;

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

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

22 “(3) CLOSURE.—After emplacing spent nuclear
23 fuel and high-level radioactive waste in the repository
24 and collecting sufficient confirmatory data on reposi-
25 tory performance to reasonably confirm the basis for

1 *repository closure consistent with the Commission’s*
2 *regulations applicable to the licensing of a repository,*
3 *as modified in accordance with this Act, the Secretary*
4 *shall apply to the Commission to amend the license*
5 *to permit permanent closure of the repository. The*
6 *Commission shall grant such license amendment upon*
7 *finding that there is reasonable assurance that the re-*
8 *pository can be permanently closed—*

9 *“(A) in conformity with the Secretary’s ap-*
10 *plication to amend the license, the provisions of*
11 *this Act, and the regulations of the Commission;*

12 *“(B) without unreasonable risk to the health*
13 *and safety of the public; and*

14 *“(C) consistent with the common defense*
15 *and security.*

16 *“(4) POST-CLOSURE.—The Secretary shall take*
17 *those actions necessary and appropriate at the Yucca*
18 *Mountain site to prevent any activity at the site sub-*
19 *sequent to repository closure that poses an unreason-*
20 *able risk of—*

21 *“(A) breaching the repository’s engineered*
22 *or geologic barriers; or*

23 *“(B) increasing the exposure of individual*
24 *members of the public to radiation beyond the re-*
25 *lease standard established in subsection (d)(1).*

1 “(c) *MODIFICATION OF REPOSITORY LICENSING PRO-*
2 *CEDURE.*—*The Commission’s regulations shall provide for*
3 *the modification of the repository licensing procedure, as*
4 *appropriate, in the event that the Secretary seeks a license*
5 *to permit the emplacement in the repository, on a retriev-*
6 *able basis, of only that quantity of spent nuclear fuel or*
7 *high-level radioactive waste that is necessary to provide the*
8 *Secretary with sufficient confirmatory data on repository*
9 *performance to reasonably confirm the basis for repository*
10 *closure consistent with applicable regulations.*

11 “(d) *LICENSING STANDARDS.*—*Notwithstanding any*
12 *other provision of law, the Administrator of the Environ-*
13 *mental Protection Agency shall not promulgate, by rule or*
14 *otherwise, standards for protection of the public from re-*
15 *leases of radioactive materials or radioactivity from the re-*
16 *pository and any such standards existing on the date of*
17 *enactment of the Nuclear Waste Policy Act of 1995 shall*
18 *not be incorporated in the Commission’s licensing regula-*
19 *tions. The Commission’s repository licensing determina-*
20 *tions for the protection of the public shall be based solely*
21 *on a finding whether the repository can be operated in con-*
22 *formance with the overall system performance standard es-*
23 *tablished in paragraph (1)(A) and applied in accordance*
24 *with the provisions of paragraph (1)(B). The Commission*

1 *shall amend its regulations in accordance with subsection*
2 *(b) to incorporate each of the following licensing standards:*

3 “(1) *RELEASE STANDARD.—*

4 “(A) *ESTABLISHMENT OF OVERALL SYSTEM*
5 *PERFORMANCE STANDARD.—The standard for*
6 *protection of the public from release of radio-*
7 *active material or radioactivity from the reposi-*
8 *tory shall prohibit releases that would expose an*
9 *average member of the general population in the*
10 *vicinity of the Yucca Mountain site to an annual*
11 *dose in excess of 100 millirems unless the Com-*
12 *mission determines by rule that such standard*
13 *would constitute an unreasonable risk to health*
14 *and safety and establishes by rule another stand-*
15 *ard which will protect health and safety. Such*
16 *standard shall constitute an overall system per-*
17 *formance standard.*

18 “(B) *APPLICATION OF OVERALL SYSTEM*
19 *PERFORMANCE STANDARD.—The Commission*
20 *shall issue the license if it finds reasonable assur-*
21 *ance that—*

22 “(i) *for the first 1,000 years following*
23 *the commencement of repository operations,*
24 *the overall system performance standard*
25 *will be met based on a deterministic or*

1 *probabilistic evaluation of the overall per-*
2 *formance of the disposal system; and*

3 “(ii) *for the period commencing after*
4 *the first 1,000 years of operation of the re-*
5 *pository and terminating at 10,000 years*
6 *after the commencement of operation of the*
7 *repository, there is likely to be compliance*
8 *with the overall system performance stand-*
9 *ard based on regulatory insight gained*
10 *through the use of a probabilistic integrated*
11 *performance model that uses best estimate*
12 *assumptions, data, and methods.*

13 “(2) *HUMAN INTRUSION.—The Commission shall*
14 *assume that, following repository closure, the inclu-*
15 *sion of engineered barriers and the Secretary’s post-*
16 *closure actions at the Yucca Mountain site, in accord-*
17 *ance with subsection (b)(3), shall be sufficient to—*

18 “(A) *prevent any human activity at the site*
19 *that poses an unreasonable risk of breaching the*
20 *repository’s engineered or geologic barriers; and*

21 “(B) *prevent any increase in the exposure of*
22 *individual members of the public to radiation*
23 *beyond allowable limits as specified in para-*
24 *graph (1).*

25 “(e) *NATIONAL ENVIRONMENTAL POLICY ACT.—*

1 “(1) *SUBMISSION OF STATEMENT.*—*Construction*
2 *and operation of the repository shall be considered a*
3 *major Federal action significantly affecting the qual-*
4 *ity of the human environment for purposes of the Na-*
5 *tional Environmental Policy Act of 1969 (42 U.S.C.*
6 *4321 et seq.). The Secretary shall submit an environ-*
7 *mental impact statement on the construction and op-*
8 *eration of the repository to the Commission with the*
9 *application for construction authorization.*

10 “(2) *CONSIDERATIONS.*—*For purposes of comply-*
11 *ing with the requirements of the National Environ-*
12 *mental Policy Act of 1969 and this section, the Sec-*
13 *retary shall not consider in the environmental impact*
14 *statement the need for the repository, alternative sites*
15 *or designs for the repository, the time of the initial*
16 *availability of the repository, or any alternatives to*
17 *the isolation of spent nuclear fuel and high-level ra-*
18 *dioactive waste in a repository.*

19 “(3) *ADOPTION BY COMMISSION.*—*The Sec-*
20 *retary’s environmental impact statement and any*
21 *supplements thereto shall, to the extent practicable, be*
22 *adopted by the Commission in connection with the is-*
23 *suance by the Commission of a construction author-*
24 *ization under subsection (b)(1), a license under sub-*
25 *section (b)(2), or a license amendment under sub-*

1 *section (b)(3). To the extent such statement or supple-*
2 *ment is adopted by the Commission, such adoption*
3 *shall be deemed to also satisfy the responsibilities of*
4 *the Commission under the National Environmental*
5 *Policy Act of 1969, and no further consideration shall*
6 *be required, except that nothing in this subsection*
7 *shall affect any independent responsibilities of the*
8 *Commission to protect the public health and safety*
9 *under the Atomic Energy Act of 1954. In any such*
10 *statement prepared with respect to the repository, the*
11 *Commission shall not consider the need for a reposi-*
12 *tory, the time of initial availability of the repository,*
13 *alternate sites to the Yucca Mountain site, or*
14 *nongeologic alternatives to such site.*

15 *“(f) JUDICIAL REVIEW.—No court shall have jurisdic-*
16 *tion to enjoin issuance of the Commission repository licens-*
17 *ing regulations prior to its final decision on review of such*
18 *regulations.*

19 **“SEC. 206. LAND WITHDRAWAL.**

20 *“(a) WITHDRAWAL AND RESERVATION.—*

21 *“(1) WITHDRAWAL.—Subject to valid existing*
22 *rights, the interim storage facility site and the Yucca*
23 *Mountain site, as described in subsection (b), are*
24 *withdrawn from all forms of entry, appropriation,*
25 *and disposal under the public land laws, including*

1 *the mineral leasing laws, the geothermal leasing laws,*
2 *the material sale laws, and the mining laws.*

3 “(2) *JURISDICTION.*—*Jurisdiction of any land*
4 *within the interim storage facility site and the Yucca*
5 *Mountain site managed by the Secretary of the Inte-*
6 *rior or any other Federal officer is transferred to the*
7 *Secretary.*

8 “(3) *RESERVATION.*—*The interim storage facil-*
9 *ity site and the Yucca Mountain site are reserved for*
10 *the use of the Secretary for the construction and oper-*
11 *ation, respectively, of the interim storage facility and*
12 *the repository and activities associated with the pur-*
13 *poses of this title.*

14 “(b) *LAND DESCRIPTION.*—

15 “(1) *BOUNDARIES.*—*The boundaries depicted on*
16 *the map entitled ‘Interim Storage Facility Site With-*
17 *drawal Map,’ dated July 28, 1995, and on file with*
18 *the Secretary, are established as the boundaries of the*
19 *Interim Storage Facility site.*

20 “(2) *BOUNDARIES.*—*The boundaries depicted on*
21 *the map entitled ‘Yucca Mountain Site Withdrawal*
22 *Map,’ dated July 28, 1995, and on file with the Sec-*
23 *retary, are established as the boundaries of the Yucca*
24 *Mountain site.*

1 “(3) *NOTICE AND MAPS.*—*Within 6 months of*
2 *the date of enactment of the Nuclear Waste Policy Act*
3 *of 1995, the Secretary shall—*

4 “(A) *publish in the Federal Register a no-*
5 *tice containing a legal description of the interim*
6 *storage facility site; and*

7 “(B) *file copies of the maps described in*
8 *paragraph (1), and the legal description of the*
9 *interim storage facility site with the Congress,*
10 *the Secretary of the Interior, the Governor of Ne-*
11 *vada, and the Archivist of the United States.*

12 “(4) *NOTICE AND MAPS.*—*Concurrent with the*
13 *Secretary’s application to the Commission for author-*
14 *ity to construct the repository, the Secretary shall—*

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

18 “(B) *file copies of the maps described in*
19 *paragraph (2), and the legal description of the*
20 *Yucca Mountain site with the Congress, the Sec-*
21 *retary of the Interior, the Governor of Nevada,*
22 *and the Archivist of the United States.*

23 “(5) *CONSTRUCTION.*—*The maps and legal de-*
24 *scriptions of the interim storage facility site and the*
25 *Yucca Mountain site referred to in this subsection*

1 *shall have the same force and effect as if they were*
2 *included in this Act. The Secretary may correct clerical*
3 *and typographical errors in the maps and legal*
4 *descriptions and make minor adjustments in the*
5 *boundaries of the sites.*

6 **“SEC. 207. PRIVATE STORAGE FACILITIES.**

7 “(a) *COMMISSION ACTION.*—*Upon application by one*
8 *or more private entities for a license for an independent*
9 *spent fuel storage installation not located at the site of a*
10 *civilian nuclear power reactor, the Commission shall review*
11 *such license applications and issue a license for one or more*
12 *such facilities at the earliest practicable date, to the extent*
13 *permitted by the applicable provisions of law and regula-*
14 *tion.*

15 “(b) *SECRETARY’S ACTIONS.*—*The Secretary shall en-*
16 *courage efforts to develop private facilities for the storage*
17 *of spent nuclear fuel by providing any requested informa-*
18 *tion and assistance, as appropriate, to the developers of*
19 *such facilities and to state and local governments and In-*
20 *dian Tribes within whose jurisdictions such facilities may*
21 *be located, and shall cooperate with the developers of such*
22 *facilities to facilitate compatibility between such facilities*
23 *and the integrated management system.*

24 “(c) *OBLIGATION.*—*The Secretary shall satisfy the Sec-*
25 *retary’s obligations under this Act notwithstanding the de-*

1 *velopment of private facilities for the storage of spent nu-*
2 *clear fuel or high-level radioactive waste.*

3 ***“TITLE III—STATE AND LOCAL***
4 ***RELATIONS***

5 ***“SEC. 301. FINANCIAL ASSISTANCE.***

6 *“(a) PAYMENTS.—The Secretary shall make payments*
7 *to the State of Nevada and any affected unit of local govern-*
8 *ment for purposes of enabling such State or affected unit*
9 *of local government—*

10 *“(1) to review activities taken with respect to the*
11 *Yucca Mountain site for purposes of determining any*
12 *potential economic, social, public health and safety,*
13 *and environmental impacts of the integrated manage-*
14 *ment system on such State, or affected unit of local*
15 *government and its residents;*

16 *“(2) to develop a request for impact assistance*
17 *under subsection (c);*

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

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

23 *“(5) to request information from, and make com-*
24 *ments and recommendations to, the Secretary regard-*
25 *ing any activities taken with respect to such site.*

1 “(b) *SALARY AND TRAVEL EXPENSES.*—*Any salary or*
2 *travel expense that would ordinarily be incurred by the*
3 *State of Nevada or any affected unit of local government*
4 *may not be considered eligible for funding under this sec-*
5 *tion.*

6 “(c) *FINANCIAL AND TECHNICAL ASSISTANCE.*—

7 “(1) *ASSISTANCE REQUESTS.*—*The Secretary*
8 *shall offer to provide financial and technical assist-*
9 *ance to the State of Nevada, and any affected unit of*
10 *local government requesting such assistance. Such as-*
11 *sistance shall be designed to mitigate the impact on*
12 *such State or affected unit of local government of the*
13 *development of the integrated management system.*

14 “(2) *REPORT.*—*The State of Nevada and any af-*
15 *ected unit of local government may request assistance*
16 *under this section by preparing and submitting to the*
17 *Secretary a report on the economic, social, public*
18 *health and safety, and environmental impacts that*
19 *are likely to result from activities of the integrated*
20 *management system.*

21 “(d) *OTHER ASSISTANCE.*—

22 “(1) *TAXABLE AMOUNTS.*—*In addition to finan-*
23 *cial assistance provided under this subsection, the*
24 *Secretary shall grant to the State of Nevada and any*
25 *affected unit of local government an amount each fis-*

1 *cal year equal to the amount such State or affected*
2 *unit of local government, respectively, would receive if*
3 *authorized to tax integrated management system ac-*
4 *tivities, as such State or affected unit of local govern-*
5 *ment taxes the non-Federal real property and indus-*
6 *trial activities occurring within such State or affected*
7 *unit of local government.*

8 *“(2) TERMINATION.—Such assistance shall con-*
9 *tinue until such time as all such activities, develop-*
10 *ment, and operations are terminated at the Yucca*
11 *Mountain site.*

12 *“(3) ASSISTANCE TO NEVADA AND UNITS OF*
13 *LOCAL GOVERNMENT.—*

14 *“(A) PERIOD.—The State of Nevada or any*
15 *affected unit of local government may not receive*
16 *any grant under paragraph (1) after the expira-*
17 *tion of the 1-year period following the date on*
18 *which the Secretary notifies the Governor and*
19 *legislature of the State of Nevada of the termi-*
20 *nation of the operation of the integrated manage-*
21 *ment system.*

22 *“(B) ACTIVITIES.—The State of Nevada or*
23 *any affected unit of local government may not*
24 *receive any further assistance under this section*
25 *if the integrated management system activities*

1 *at such site are terminated by the Secretary or*
2 *if such activities are permanently enjoined by*
3 *any court.*

4 ***“SEC. 302. STATE CONSULTATION.***

5 ***“(a) PROVISION OF INFORMATION.—***

6 ***“(1) TIMELY AND COMPLETE INFORMATION.—***

7 *The Secretary, the Commission, and other agencies*
8 *involved in the construction, operation, or regulation*
9 *of any aspect of the integrated management system in*
10 *the State of Nevada shall provide to the Governor and*
11 *legislature of the State of Nevada timely and complete*
12 *information regarding determinations or plans made*
13 *with respect to the site characterization siting, devel-*
14 *opment, design, licensing, construction, operation,*
15 *regulation, or decommissioning of facilities associated*
16 *with the integrated management system.*

17 ***“(2) WRITTEN RESPONSE.—****Upon written re-*
18 *quest for such information by the Governor or legisla-*
19 *ture of the State of Nevada, the Secretary shall pro-*
20 *vide a written response to such request within 30*
21 *days of the receipt of such request. Such response shall*
22 *provide the information requested or, in the alter-*
23 *native, the reasons why the information cannot be so*
24 *provided. If the Secretary fails to so respond within*
25 *such 30 days, the Governor or legislature may trans-*

1 *mit a formal written objection to such failure to re-*
2 *spond to the President. If the President or Secretary*
3 *fails to respond to such written request within 30*
4 *days of the receipt by the President of such formal*
5 *written objection, the Secretary shall immediately*
6 *suspend all activities in the State of Nevada author-*
7 *ized by this Act, and shall not renew such activities*
8 *until the Governor or legislature has received the*
9 *written response to such written request required by*
10 *this subsection.*

11 *“(b) CONSULTATION AND COOPERATION.—The Sec-*
12 *retary shall consult and cooperate with the Governor and*
13 *legislature of the State of Nevada and with the Board of*
14 *Nye County Commissioners in an effort to resolve concerns*
15 *regarding the public health and safety, environmental, and*
16 *economic impacts of any activities authorized by this Act.*
17 *In carrying out the Secretary’s duties under this Act, the*
18 *Secretary shall take such concerns into account to the maxi-*
19 *mum extent feasible and as specified in written agreements*
20 *entered into under this section.*

21 *“(c) CONTINUATION.—Written agreements established*
22 *under section 117(c) of the Nuclear Waste Policy Act of*
23 *1982 as constituted prior to the date of enactment of the*
24 *Nuclear Waste Policy Act of 1995, shall continue in effect*

1 *subsequent to the date of enactment of the Nuclear Waste*
2 *Policy Act of 1995.*

3 “(d) *ON-SITE REPRESENTATIVE.*—*The Secretary shall*
4 *offer to the State of Nevada and Nye County, Nevada, an*
5 *opportunity to designate a representative to conduct on-site*
6 *oversight activities at such site. Reasonable expenses of such*
7 *representatives shall be paid by the Secretary.*

8 **“SEC. 303. BENEFITS AGREEMENTS.**

9 “(a) *IN GENERAL.*—

10 “(1) *SEPARATE AGREEMENTS.*—*The Secretary*
11 *shall offer to enter into separate agreements with the*
12 *State of Nevada, Nye County, Nevada, and Lincoln*
13 *County, Nevada, concerning the integrated manage-*
14 *ment system.*

15 “(2) *AGREEMENT WITH NEVADA.*—*Any agree-*
16 *ment with the State of Nevada under this section*
17 *shall be negotiated in consultation with any affected*
18 *units of local government in the State.*

19 “(3) *AGREEMENT CONTENT.*—*Any agreement*
20 *shall contain such terms and conditions, including*
21 *such financial and institutional arrangements, as the*
22 *Secretary and agreement entity determine to be rea-*
23 *sonable and appropriate and shall contain such pro-*
24 *visions as are necessary to preserve any right to par-*
25 *ticipation or compensation of the State of Nevada or*

1 *affected units of local government, Nye County, Ne-*
 2 *vada, and Lincoln County, Nevada.*

3 “(b) *AMENDMENT.*—*An agreement entered into under*
 4 *subsection (a) may be amended only with the mutual con-*
 5 *sent of the parties to the amendment and terminated only*
 6 *in accordance with subsection (c).*

7 “(c) *TERMINATION.*—*The Secretary shall terminate an*
 8 *agreement under subsection (a) if any element of the inte-*
 9 *grated management system may not be completed.*

10 “(d) *LIMITATION.*—*Only 1 agreement each for the*
 11 *State of Nevada, Nye County, Nevada, and Lincoln County,*
 12 *Nevada, may be in effect at any one time.*

13 “(e) *JUDICIAL REVIEW.*—*Decisions of the Secretary*
 14 *under this section are not subject to judicial review.*

15 **“SEC. 304. CONTENT OF AGREEMENTS.**

16 “(a) *IN GENERAL.*—

17 “(1) *SCHEDULE.*—*In addition to the benefits to*
 18 *which the State of Nevada or affected units of local*
 19 *government are entitled under this title, the Secretary*
 20 *shall make payments to the party of a benefits agree-*
 21 *ment in accordance with the following schedule:*

“*BENEFITS SCHEDULE*

[Amounts in millions]

<i>Event</i>	<i>State</i>	<i>County</i>
<i>(A) Annual payments prior to first receipt of fuel .</i>	<i>\$5</i>	<i>\$2.5</i>
<i>(B) Upon first spent fuel receipt</i>	<i>\$10</i>	<i>\$5</i>
<i>(C) Annual payments after first spent fuel receipt</i> <i>until closure of facility</i>	<i>\$10</i>	<i>\$5</i>

1 “(2) *DEFINITIONS.*—*For purposes of this section,*
2 *the term—*

3 “(A) *‘spent fuel’ means high-level radio-*
4 *active waste or spent nuclear fuel; and*

5 “(B) *‘first spent fuel receipt’ does not in-*
6 *clude receipt of spent fuel or high-level radio-*
7 *active waste for purposes of testing or oper-*
8 *ational demonstration.*

9 “(3) *ANNUAL PAYMENTS.*—*Annual payments*
10 *prior to first spent fuel receipt under paragraph*
11 *(1)(A) shall be made on the date of execution of the*
12 *benefits agreement and thereafter on the anniversary*
13 *date of such execution. Annual payments after the*
14 *first spent fuel receipt until closure of the facility*
15 *under paragraph (1)(C) shall be made on the anni-*
16 *versary date of such first spent fuel receipt.*

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

1 “(5) *LINCOLN COUNTY.*—*At the conclusion of the*
2 *15-year period after the Secretary’s first payment to*
3 *Lincoln County, Nevada, under the benefits schedule*
4 *in paragraph (1), the payment of funds to such coun-*
5 *ty shall terminate. Such funding as would have been*
6 *allocated to Lincoln County shall be incorporated into*
7 *the payment to the State of Nevada under the benefits*
8 *schedule. Any benefits agreement with the State of Ne-*
9 *vada shall be modified to reflect the requirements of*
10 *paragraph (7).*

11 “(6) *RESTRICTION.*—*Except as provided in*
12 *paragraph (7), the Secretary may not restrict the*
13 *purposes for which the payments under this section*
14 *may be used.*

15 “(7) *TRANSFERS.*—

16 “(A) *UNITS OF LOCAL GOVERNMENT.*—*Any*
17 *State receiving a payment under this section*
18 *shall transfer an amount equal to not less than*
19 *$\frac{1}{3}$ of the amount of such payment to affected*
20 *units of local government of such State.*

21 “(B) *PLAN.*—*A plan for this transfer and*
22 *appropriate allocation of such portion among*
23 *such governments shall be included in the bene-*
24 *fits agreement under section 303 covering such*
25 *payments.*

1 “(C) *DISPUTE.*—*In the event of a dispute*
2 *concerning such plan or transfer, the Secretary*
3 *shall resolve such dispute, consistent with this*
4 *Act and applicable State law.*

5 “(b) *CONTENTS.*—*A benefits agreement under section*
6 303 *shall provide that—*

7 “(1) *the parties to the agreement shall share with*
8 *one another information relevant to the licensing*
9 *process for the interim storage facility or repository,*
10 *as it becomes available;*

11 “(2) *the State or affected unit of local govern-*
12 *ment that is party to such agreement may comment*
13 *on the development of the integrated management sys-*
14 *tem and on documents required under law or regula-*
15 *tions governing the effects of the system on the public*
16 *health and safety; and*

17 “(3) *the State or affected unit of local govern-*
18 *ment may waive its rights, if any, to impact assist-*
19 *ance under sections 301(a) and 301(c).*

20 “(c) *CONSTRUCTION.*—*The signature of the Secretary*
21 *on a valid benefits agreement under section 303 shall con-*
22 *stitute a commitment by the United States to make pay-*
23 *ments in accordance with such agreement.*

1 **“SEC. 305. REVIEW PANEL.**

2 “(a) *IN GENERAL.*—*There shall be established a Re-*
3 *view Panel consisting of 7 members as follows:*

4 “(1) *1 member selected by the Governor of the*
5 *State of Nevada.*

6 “(2) *2 members selected by affected units of local*
7 *government.*

8 “(3) *1 member selected by the Board of Nye*
9 *County Commissioners.*

10 “(4) *1 member selected by the Board of Lincoln*
11 *County Commissioners.*

12 “(5) *1 member to represent persons paying fees*
13 *under section 401, to be selected by the Secretary.*

14 “(6) *1 member to represent other public interests,*
15 *to be selected by the Secretary.*

16 “(b) *CHAIRMAN.*—*The chairman of the Review Panel*
17 *shall be selected by the Review Panel from its members.*

18 “(c) *TERMS.*—

19 “(1) *MEMBERS.*—*The members of the Review*
20 *Panel shall serve for terms of 4 years each.*

21 “(2) *PER DIEM.*—*Members of the Review Panel*
22 *who are not full-time employees of the Federal Gov-*
23 *ernment, shall receive a per diem compensation for*
24 *each day spent conducting work of the Review Panel,*
25 *including their necessary travel or other expenses*
26 *while engaged in the work of the Review Panel.*

1 “(3) *EXPENSES.*—*Expenses of the Panel shall be*
2 *paid by the Secretary.*

3 “(d) *DUTIES.*—*The Review Panel shall—*

4 “(1) *advise the Secretary on matters relating to*
5 *the integrated management system including issues*
6 *relating to design, construction, operation, and de-*
7 *commissioning of the system;*

8 “(2) *evaluate performance of the integrated man-*
9 *agement system as it considers appropriate;*

10 “(3) *recommend corrective actions to the Sec-*
11 *retary;*

12 “(4) *assist in the presentation of State and local*
13 *perspectives to the Secretary; and*

14 “(5) *participate in the planning for and the re-*
15 *view of preoperational data on environmental, demo-*
16 *graphic, and socioeconomic conditions of the site and*
17 *the local community.*

18 “(e) *INFORMATION.*—*The Secretary shall make avail-*
19 *able promptly any information in the Secretary’s posses-*
20 *sion requested by the Panel or its Chairman.*

21 “(f) *FEDERAL ADVISORY COMMITTEE ACT.*—*The re-*
22 *quirements of the Federal Advisory Committee Act shall not*
23 *apply to a Review Panel established under this title.*

1 **“SEC. 306. CONSIDERATION IN SITING FACILITIES.**

2 *“The Secretary, in siting Federal research projects,*
3 *shall give special consideration to proposals from the State*
4 *of Nevada.*

5 **“SEC. 307. ACCEPTANCE OF BENEFITS.**

6 *“(a) CONSENT.—The acceptance or use of any of the*
7 *benefits provided under this title, by the State of Nevada*
8 *or any affected unit of local government thereof, shall not*
9 *be deemed to be an expression of consent, express, or denied,*
10 *either under the Constitution of the State or any law there-*
11 *of, to the siting of the interim storage facility or repository*
12 *in the State of Nevada, any provision of such Constitution*
13 *or laws to the contrary notwithstanding.*

14 *“(b) ARGUMENTS.—Neither the United States nor any*
15 *other entity may assert any argument based on legal or eq-*
16 *uitable estoppel, or acquiescence, or waiver, or consensual*
17 *involvement, in response to any decision by the State, to*
18 *oppose the siting in Nevada of the interim storage facility*
19 *or repository premised upon or related to the acceptance*
20 *or use of benefits under this title.*

21 *“(c) LIABILITY.—No liability of any nature shall ac-*
22 *cruer to be asserted against the State of Nevada, its Gov-*
23 *ernor, any official thereof, or any official of any govern-*
24 *mental unit thereof, premised solely upon the acceptance*
25 *or use of benefits under this title.*

1 **“SEC. 308. RESTRICTION ON USE OF FUNDS.**

2 *“None of the funding provided under this title may*
3 *be used—*

4 *“(1) directly or indirectly to influence legislative*
5 *action on any matter pending before Congress or a*
6 *State legislature or for any lobbying activity as pro-*
7 *vided in section 1913 of title 18, United States Code;*

8 *“(2) for litigation purposes; and*

9 *“(3) to support multistate efforts or other coali-*
10 *tion-building activities inconsistent with the purposes*
11 *of this Act.*

12 **“TITLE IV—FUNDING AND**
13 **ORGANIZATION**

14 **“SEC. 401. PROGRAM FUNDING.**

15 *“(a) CONTRACTS.—*

16 *“(1) AUTHORITY OF SECRETARY.—In the per-*
17 *formance of the Secretary’s functions under this Act,*
18 *the Secretary is authorized to enter into contracts*
19 *with any person who generates or holds title to spent*
20 *nuclear fuel or high-level radioactive waste of domes-*
21 *tic origin for the acceptance of title and possession,*
22 *transportation, interim storage, and disposal of such*
23 *waste or spent fuel. Such contracts shall provide for*
24 *the payment of annual fees pursuant to paragraphs*
25 *(2) and (3). Fees assessed pursuant to this paragraph*
26 *shall be paid to the Treasury of the United States and*

1 *shall be available for use by the Secretary pursuant*
2 *to this section until expended.*

3 “(2) *ANNUAL FEES.—*

4 “(A) *ELECTRICITY.—For electricity gen-*
5 *erated by civilian nuclear power reactors and*
6 *sold on or after the date of enactment of the Nu-*
7 *clear Waste Policy Act of 1995, the aggregate*
8 *amount of the fees collected during each fiscal*
9 *year shall be no greater than the annual level of*
10 *appropriations for expenditures on those activi-*
11 *ties consistent with subsection (d) for that fiscal*
12 *year, minus—*

13 “(i) *any unobligated balance collected*
14 *pursuant to this section during the previous*
15 *fiscal year; and*

16 “(ii) *the percentage of such appropria-*
17 *tions required to be funded by the Federal*
18 *Government pursuant to section 403.*

19 *The Secretary shall determine the level of the an-*
20 *nuual fee for each civilian nuclear power reactor*
21 *based on the amount of electricity generated and*
22 *sold, except that for the period commencing with*
23 *fiscal year 1997 and continuing through fiscal*
24 *year 2010, the average annual fee collected under*
25 *this subparagraph shall not exceed 1.0 mill per*

1 *kilowatt-hour generated and sold and for the pe-*
2 *riod commencing after fiscal year 2010, the an-*
3 *nuual fee collected under this subparagraph shall*
4 *not exceed 1.0 mill per kilowatt hour generated*
5 *and sold. Fees assessed pursuant to this subpara-*
6 *graph shall be paid to the Treasury of the Unit-*
7 *ed States and shall be available for use by the*
8 *Secretary pursuant to this section until ex-*
9 *pended.*

10 “(B) *EXPENDITURES IF SHORTFALL.—If,*
11 *during any fiscal year, the aggregate amount of*
12 *fees assessed pursuant to subparagraph (A) is*
13 *less than the annual level of appropriations for*
14 *expenditures on those activities specified in sub-*
15 *section (d) for that fiscal year, minus—*

16 “(i) *any unobligated balance collected*
17 *pursuant to this section during the previous*
18 *fiscal year; and*

19 “(ii) *the percentage of such appropria-*
20 *tions required to be funded by the Federal*
21 *Government pursuant to section 403,*
22 *the Secretary may make expenditures from the*
23 *Nuclear Waste Fund up to the level of the fees*
24 *assessed.*

1 “(C) *RULES.*—*The Secretary shall, by rule,*
2 *establish procedures necessary to implement this*
3 *paragraph.*

4 “(3) *ONE-TIME FEE.*—*The one-time fee collected*
5 *under contracts executed under section 302(a) of the*
6 *Nuclear Waste Policy Act of 1982 before the date of*
7 *enactment of the Nuclear Waste Policy Act of 1995 on*
8 *spent nuclear fuel, or high-level radioactive waste de-*
9 *derived from spent nuclear fuel, which fuel was used to*
10 *generate electricity in a civilian nuclear power reac-*
11 *tor before April 7, 1983, shall be paid to the Treas-*
12 *ury. In paying such a fee, the person delivering such*
13 *spent nuclear fuel or high-level radioactive wastes de-*
14 *derived therefrom, to the Secretary shall have no further*
15 *financial obligation to the Federal Government for the*
16 *long-term storage and permanent disposal of such*
17 *spent nuclear fuel or high-level radioactive waste.*

18 “(b) *ADVANCE CONTRACTING REQUIREMENT.*—

19 “(1) *IN GENERAL.*—

20 “(A) *LICENSE ISSUANCE AND RENEWAL.*—
21 *The Commission shall not issue or renew a li-*
22 *cence to any person to use a utilization or pro-*
23 *duction facility under the authority of section*
24 *103 or 104 of the Atomic Energy Act of 1954 (42*
25 *U.S.C. 2133, 2134) unless—*

1 “(i) such person has entered into a
2 contract under subsection (a) with the Sec-
3 retary; or

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

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

18 “(2) *DISPOSAL IN REPOSITORY.*—*Except as pro-*
19 *vided in paragraph (1), no spent nuclear fuel or high-*
20 *level radioactive waste generated or owned by any*
21 *person (other than a department of the United States*
22 *referred to in section 101 or 102 of title 5, United*
23 *States Code) may be disposed of by the Secretary in*
24 *the repository unless the generator or owner of such*
25 *spent fuel or waste has entered into a contract under*

1 subsection (a) with the Secretary by not later than
2 the date on which such generator or owner commences
3 generation of, or takes title to, such spent fuel or
4 waste.

5 “(3) ASSIGNMENT.—The rights and duties of a
6 party to a contract entered into under this section
7 may be assignable with transfer of title to the spent
8 nuclear fuel or high-level radioactive waste involved.

9 “(4) DISPOSAL CONDITION.—No spent nuclear
10 fuel or high-level radioactive waste generated or
11 owned by any department of the United States re-
12 ferred to in section 101 or 102 of title 5, United
13 States Code, may be stored or disposed of by the Sec-
14 retary at the interim storage facility or repository in
15 the integrated management system developed under
16 this Act unless, each fiscal year, such department
17 funds its appropriate portion of the costs of such stor-
18 age and disposal as specified in section 403.

19 “(c) NUCLEAR WASTE FUND.—

20 “(1) IN GENERAL.—The Nuclear Waste Fund es-
21 tablished in the Treasury of the United States under
22 section 302(c) of the Nuclear Waste Policy Act of 1982
23 shall continue in effect under this Act and shall con-
24 sist of—

1 “(A) all receipts, proceeds, and recoveries
2 realized by the Secretary before the date of enact-
3 ment of the Nuclear Waste Policy Act of 1995;
4 and

5 “(B) any appropriations made by the Con-
6 gress before the date of enactment of the Nuclear
7 Waste Policy Act of 1995 to the Nuclear Waste
8 Fund.

9 “(2) USE.—The Nuclear Waste Fund shall be
10 used only for purposes of the integrated management
11 system.

12 “(3) ADMINISTRATION OF NUCLEAR WASTE
13 FUND.—

14 “(A) IN GENERAL.—The Secretary of the
15 Treasury shall hold the Nuclear Waste Fund
16 and, after consultation with the Secretary, annu-
17 ally report to the Congress on the financial con-
18 dition and operations of the Nuclear Waste Fund
19 during the preceding fiscal year.

20 “(B) AMOUNTS IN EXCESS OF CURRENT
21 NEEDS.—If the Secretary determines that the
22 Nuclear Waste Fund contains at any time
23 amounts in excess of current needs, the Secretary
24 may request the Secretary of the Treasury to in-
25 vest such amounts, or any portion of such

1 *amounts as the Secretary determines to be ap-*
2 *propriate, in obligations of the United States—*

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

7 “(ii) *bearing interest at rates deter-*
8 *mined to be appropriate by the Secretary of*
9 *the Treasury, taking into consideration the*
10 *current average market yield on outstand-*
11 *ing marketable obligations of the United*
12 *States with remaining periods to maturity*
13 *comparable to the maturities of such invest-*
14 *ments, except that the interest rate on such*
15 *investments shall not exceed the average in-*
16 *terest rate applicable to existing borrowings.*

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

24 “(d) *USE OF APPROPRIATED FUNDS.—During each*
25 *fiscal year, the Secretary may make expenditures of funds*

1 *collected after the date of enactment of the Nuclear Waste*
2 *Policy Act of 1995 under this section and section 403, up*
3 *to the level of appropriations for that fiscal year pursuant*
4 *to subsection (f) only for purposes of the integrated manage-*
5 *ment system.*

6 “(e) *PROHIBITION ON USE OF APPROPRIATIONS AND*
7 *NUCLEAR WASTE FUND.—The Secretary shall not make ex-*
8 *penditures of funds collected pursuant to this section or sec-*
9 *tion 403, either directly or indirectly, to design or construct*
10 *systems and components for the transportation, storage, or*
11 *disposal of spent nuclear fuel from civilian nuclear power*
12 *reactors.*

13 “(f) *APPROPRIATIONS.—*

14 “(1) *BUDGET.—The Secretary shall submit the*
15 *budget for implementation of the Secretary’s respon-*
16 *sibilities under this Act to the Office of Management*
17 *and Budget triennially along with the budget of the*
18 *Department of Energy submitted at such time in ac-*
19 *cordance with chapter 11 of title 31, United States*
20 *Code. The budget shall consist of the estimates made*
21 *by the Secretary of expenditures under this Act and*
22 *other relevant financial matters for the succeeding 3*
23 *fiscal years, and shall be included in the budget of the*
24 *United States Government.*

1 “(2) *APPROPRIATIONS.*—Appropriations shall be
2 *subject to triennial authorization. During each fiscal*
3 *year, the Secretary may make expenditures, up to the*
4 *level of appropriations, out of the funds collected pur-*
5 *suant to this section and section 403, if the Secretary*
6 *transmits the amounts appropriated for implementa-*
7 *tion of this Act to the Commission and the Nuclear*
8 *Waste Technical Review Board in appropriate pro-*
9 *portion to the collection of such funds.*

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

12 “(a) *CONTINUATION OF OFFICE OF CIVILIAN RADIO-*
13 *ACTIVE WASTE MANAGEMENT.*—*The Office of Civilian Ra-*
14 *dioactive Waste Management established under section*
15 *304(a) of the Nuclear Waste Policy Act of 1982 as con-*
16 *stituted prior to the date of enactment of the Nuclear Waste*
17 *Policy Act of 1995, shall continue in effect subsequent to*
18 *the date of enactment of the Nuclear Waste Policy Act of*
19 *1995.*

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

1 **“SEC. 403. DEFENSE CONTRIBUTION.**

2 “(a) *ALLOCATION.*—No later than one year from the
3 date of enactment of the Nuclear Waste Policy Act of 1995,
4 acting pursuant to section 553 of title 5, United States
5 Code, the Secretary shall issue a final rule establishing the
6 appropriate portion of the costs of managing spent nuclear
7 fuel and high-level radioactive waste under this Act alloca-
8 ble to the interim storage or permanent disposal of spent
9 nuclear fuel and high-level radioactive waste from atomic
10 energy defense activities. The share of costs allocable to the
11 management of spent nuclear fuel and high-level radioactive
12 waste from atomic energy defense activities shall include—

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

17 “(2) interest on the principal amounts due cal-
18 culated by reference to the appropriate Treasury bill
19 rate as if the payments were made at a point in time
20 consistent with the payment dates for spent nuclear
21 fuel and high-level radioactive waste under the con-
22 tracts.

23 “(b) *APPROPRIATION REQUEST.*—In addition to any
24 request for an appropriation from the Nuclear Waste Fund,
25 the Secretary shall request annual appropriations from gen-
26 eral revenues in amounts sufficient to pay the costs of the

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

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

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

16 **“TITLE V—GENERAL AND**
17 **MISCELLANEOUS PROVISIONS**

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

19 *“If the requirements of any law are inconsistent with*
20 *or duplicative of the requirements of the Atomic Energy Act*
21 *and this Act, the Secretary shall comply only with the re-*
22 *quirements of the Atomic Energy Act and this Act in imple-*
23 *menting the integrated management system. Any require-*
24 *ment of a State or political subdivision of a State is pre-*
25 *empted if—*

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

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

6 **“SEC. 502. EFFECT ON WATER RIGHTS.**

7 *“The Secretary shall give full consideration whether*
8 *the implementation of this Act may require any purchase*
9 *or other acquisition of water rights that will have a signifi-*
10 *cant adverse effect on the present or future development of*
11 *any area in Nevada. The Secretary shall mitigate any such*
12 *adverse effects to the maximum extent practicable.*

13 **“SEC. 503. JUDICIAL REVIEW OF AGENCY ACTIONS.**

14 “(a) *JURISDICTION OF UNITED STATES COURTS OF*
15 *APPEALS.—*

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

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

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

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

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

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

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

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

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

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

7 **“SEC. 504. LICENSING OF FACILITY EXPANSIONS AND**
8 **TRANSSHIPMENTS.**

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

1 mission staff, to submit in written form, at the time of the
2 oral argument, a summary of the facts, data, and argu-
3 ments upon which such party proposes to rely that are
4 known at such time to such party. Only facts and data in
5 the form of sworn testimony or written submission may be
6 relied upon by the parties during oral argument. Of the
7 materials that may be submitted by the parties during oral
8 argument, the Commission shall only consider those facts
9 and data that are submitted in the form of sworn testimony
10 or written submission.

11 “(b) *ADJUDICATORY HEARING.*—

12 “(1) *DESIGNATION.*—At the conclusion of any
13 oral argument under subsection (a), the Commission
14 shall designate any disputed question of fact, together
15 with any remaining questions of law, for resolution
16 in an adjudicatory hearing only if it determines
17 that—

18 “(A) there is a genuine and substantial dis-
19 pute of fact which can only be resolved with suf-
20 ficient accuracy by the introduction of evidence
21 in an adjudicatory hearing; and

22 “(B) the decision of the Commission is like-
23 ly to depend in whole or in part on the resolu-
24 tion of such dispute.

1 “(2) *DETERMINATION.*—*In making a determina-*
2 *tion under this subsection, the Commission—*

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

9 “(B) *shall not consider—*

10 “(i) *any issue relating to the design,*
11 *construction, or operation of any civilian*
12 *nuclear power reactor already licensed to*
13 *operate at such site, or any civilian nuclear*
14 *power reactor to which a construction per-*
15 *mit has been granted at such site, unless the*
16 *Commission determines that any such issue*
17 *substantially affects the design, construc-*
18 *tion, or operation of the facility or activity*
19 *for which such license application, author-*
20 *ization, or amendment is being considered;*
21 *or*

22 “(ii) *any siting or design issue fully*
23 *considered and decided by the Commission*
24 *in connection with the issuance of a con-*
25 *struction permit or operating license for a*

1 *civilian nuclear power reactor at such site,*
2 *unless—*

3 *“(I) such issue results from any*
4 *revision of siting or design criteria by*
5 *the Commission following such deci-*
6 *sion; and*

7 *“(II) the Commission determines*
8 *that such issue substantially affects the*
9 *design, construction, or operation of*
10 *the facility or activity for which such*
11 *license application, authorization, or*
12 *amendment is being considered.*

13 *“(3) APPLICATION.—The provisions of para-*
14 *graph (2)(B) shall apply only with respect to licenses,*
15 *authorizations, or amendments to licenses or author-*
16 *izations, applied for under the Atomic Energy Act of*
17 *1954 (42 U.S.C. 2011 et seq.) before December 31,*
18 *2005.*

19 *“(4) CONSTRUCTION.—The provisions of this sec-*
20 *tion shall not apply to the first application for a li-*
21 *cence or license amendment received by the Commis-*
22 *sion to expand onsite spent fuel storage capacity by*
23 *the use of a new technology not previously approved*
24 *for use at any nuclear power plant by the Commis-*
25 *sion.*

1 “(1) *STANDARDS AND INSTRUCTIONS.*—*The Com-*
2 *mission shall establish by rule, regulation, or order,*
3 *after public notice, and in accordance with section*
4 *181 of the Atomic Energy Act of 1954 (42 U.S.C.*
5 *2231), such standards and instructions as the Com-*
6 *mission may deem necessary or desirable to ensure in*
7 *the case of each license for the disposal of low-level ra-*
8 *dioactive waste that an adequate bond, surety, or*
9 *other financial arrangement (as determined by the*
10 *Commission) will be provided by a licensee to permit*
11 *completion of all requirements established by the*
12 *Commission for the decontamination, decommission-*
13 *ing, site closure, and reclamation of sites, structures,*
14 *and equipment used in conjunction with such low-*
15 *level radioactive waste. Such financial arrangements*
16 *shall be provided and approved by the Commission,*
17 *or, in the case of sites within the boundaries of any*
18 *agreement State under section 274 of the Atomic En-*
19 *ergy Act of 1954 (42 U.S.C. 2021), by the appropriate*
20 *State or State entity, prior to issuance of licenses for*
21 *low-level radioactive waste disposal or, in the case of*
22 *licenses in effect on January 7, 1983, prior to termi-*
23 *nation of such licenses.*

24 “(2) *BONDING, SURETY, OR OTHER FINANCIAL*
25 *ARRANGEMENTS.*—*If the Commission determines that*

1 *any long-term maintenance or monitoring, or both,*
2 *will be necessary at a site described in paragraph (1),*
3 *the Commission shall ensure before termination of the*
4 *license involved that the licensee has made available*
5 *such bonding, surety, or other financial arrangements*
6 *as may be necessary to ensure that any necessary*
7 *long-term maintenance or monitoring needed for such*
8 *site will be carried out by the person having title and*
9 *custody for such site following license termination.*

10 “(b) *TITLE AND CUSTODY.*—

11 “(1) *AUTHORITY OF SECRETARY.*—*The Secretary*
12 *shall have authority to assume title and custody of*
13 *low-level radioactive waste and the land on which*
14 *such waste is disposed of, upon request of the owner*
15 *of such waste and land and following termination of*
16 *the license issued by the Commission for such dis-*
17 *posal, if the Commission determines that—*

18 “(A) *the requirements of the Commission for*
19 *site closure, decommissioning, and decontamina-*
20 *tion have been met by the licensee involved and*
21 *that such licensee is in compliance with the pro-*
22 *visions of subsection (a);*

23 “(B) *such title and custody will be trans-*
24 *ferred to the Secretary without cost to the Fed-*
25 *eral Government; and*

1 *powerplant operators, supervisors, technicians, and other*
2 *appropriate operating personnel. Such regulations or guid-*
3 *ance shall establish simulator training requirements for ap-*
4 *plicants for civilian nuclear powerplant operator licenses*
5 *and for operator requalification programs; requirements*
6 *governing Commission administration of requalification*
7 *examinations; requirements for operating tests at civilian*
8 *nuclear powerplant simulators, and instructional require-*
9 *ments for civilian nuclear powerplant licensee personnel*
10 *training programs.*

11 ***“SEC. 508. ACCEPTANCE SCHEDULE.***

12 *“The acceptance schedule shall be implemented in ac-*
13 *cordance with the following:*

14 *“(1) Acceptance priority ranking shall be deter-*
15 *mined by the Department’s annual ‘Acceptance Prior-*
16 *ity Ranking’ report.*

17 *“(2) The Secretary’s spent fuel acceptance rate*
18 *shall be no less than the following: 1,200 MTU in*
19 *1998 and 1,200 MTU in 1999; 2,000 MTU in 2000*
20 *and 2,000 MTU in 2001; 2,700 MTU in 2002; and*
21 *3,000 MTU thereafter.*

22 *“(3) If the Secretary is unable to begin accept-*
23 *ance by January 31, 1998 at the rates specified in*
24 *paragraph (2), or if the cumulative amount accepted*
25 *in any year thereafter is less than that which would*

1 *have been accepted under the acceptance rate specified*
2 *in paragraph (2), the acceptance schedule shall be ad-*
3 *justed upward such that within 5 years of the start*
4 *of acceptance by the Secretary—*

5 “(A) *the total quantity accepted by the Sec-*
6 *retary is consistent with the total quantity that*
7 *the Secretary would have accepted if the Sec-*
8 *retary had began acceptance in 1998, and*

9 “(B) *thereafter the acceptance rate is equiv-*
10 *alent to the rate that would be in place pursuant*
11 *to paragraph (2) above if the Secretary had com-*
12 *menced acceptance in 1998.*

13 “(4) *The acceptance schedule shall not be affected*
14 *or modified in any way as a result of the Secretary’s*
15 *acceptance of any material other than contract hold-*
16 *ers’ spent nuclear fuel and high-level radioactive*
17 *waste.*

18 **“SEC. 509. SUBSEABED OR OCEAN WATER DISPOSAL.**

19 *“Notwithstanding any other provision of law—*

20 “(1) *the subseabed or ocean water disposal of*
21 *spent nuclear fuel or high-level radioactive waste is*
22 *prohibited; and*

23 “(2) *no funds shall be obligated for any activity*
24 *relating to the subseabed or ocean water disposal of*
25 *spent nuclear fuel or high-level radioactive waste.*

1 **“TITLE VI—NUCLEAR WASTE**
2 **TECHNICAL REVIEW BOARD**

3 **“SEC. 601. DEFINITIONS.**

4 *“For purposes of this title—*

5 *“(1) CHAIRMAN.—The term ‘Chairman’ means*
6 *the Chairman of the Nuclear Waste Technical Review*
7 *Board.*

8 *“(2) BOARD.—The term ‘Board’ means the Nu-*
9 *clear Waste Technical Review Board continued under*
10 *section 602.*

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

12 *“(a) CONTINUATION OF NUCLEAR WASTE TECHNICAL*
13 *REVIEW BOARD.—The Nuclear Waste Technical Review*
14 *Board, established under section 502(a) of the Nuclear*
15 *Waste Policy Act of 1982 as constituted prior to the date*
16 *of enactment of the Nuclear Waste Policy Act of 1995, shall*
17 *continue in effect subsequent to the date of enactment of*
18 *the Nuclear Waste Policy Act of 1995.*

19 *“(b) MEMBERS.—*

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

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

3 “(3) *NATIONAL ACADEMY OF SCIENCES.*—

4 “(A) *NOMINATIONS.*—*The National Acad-*
5 *emy of Sciences shall, not later than 90 days*
6 *after December 22, 1987, nominate not less than*
7 *22 persons for appointment to the Board from*
8 *among persons who meet the qualifications de-*
9 *scribed in subparagraph (C).*

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

15 “(C) *NOMINEES.*—

16 (i) *Each person nominated for ap-*
17 *pointment to the Board shall be—*

18 “(I) *eminent in a field of science*
19 *or engineering, including environ-*
20 *mental sciences; and*

21 “(II) *selected solely on the basis of*
22 *established records of distinguished*
23 *service.*

24 (ii) *The membership of the Board*
25 *shall be representatives of the broad range of*

1 *scientific and engineering disciplines relat-*
2 *ed to activities under this title.*

3 “(iii) *No person shall be nominated for*
4 *appointment to the Board who is an em-*
5 *ployee of—*

6 “(I) *the Department of Energy;*

7 “(II) *a national laboratory under*
8 *contract with the Department of En-*
9 *ergy; or*

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

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

17 “(5) *TERMS.—Members of the Board shall be ap-*
18 *pointed for terms of 4 years, each such term to com-*
19 *mence 120 days after December 22, 1987, except that*
20 *of the 11 members first appointed to the Board, 5*
21 *shall serve for 2 years and 6 shall serve for 4 years,*
22 *to be designated by the President at the time of ap-*
23 *pointment.*

1 **“SEC. 603. FUNCTIONS.**

2 *“The Board shall evaluate the technical and scientific*
3 *validity of activities undertaken by the Secretary after De-*
4 *cember 22, 1987, including—*

5 *“(1) site characterization activities; and*

6 *“(2) activities relating to the packaging or trans-*
7 *portation of spent nuclear fuel or high-level radio-*
8 *active waste.*

9 **“SEC. 604. INVESTIGATORY POWERS.**

10 *“(a) HEARINGS.—Upon request of the Chairman or a*
11 *majority of the members of the Board, the Board may hold*
12 *such hearings, sit and act at such times and places, take*
13 *such testimony, and receive such evidence, as the Board con-*
14 *siders appropriate. Any member of the Board may admin-*
15 *ister oaths or affirmations to witnesses appearing before the*
16 *Board.*

17 *“(b) PRODUCTION OF DOCUMENTS.—*

18 *“(1) RESPONSE TO INQUIRIES.—Upon the re-*
19 *quest of the Chairman or a majority of the members*
20 *of the Board, and subject to existing law, the Sec-*
21 *retary (or any contractor of the Secretary) shall pro-*
22 *vide the Board with such records, files, papers, data,*
23 *or information as may be necessary to respond to any*
24 *inquiry of the Board under this title.*

25 *“(2) EXTENT.—Subject to existing law, informa-*
26 *tion obtainable under paragraph (1) shall not be lim-*

1 *ited to final work products of the Secretary, but shall*
2 *include drafts of such products and documentation of*
3 *work in progress.*

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

5 *“(a) IN GENERAL.—Each member of the Board shall*
6 *be paid at the rate of pay payable for level III of the Execu-*
7 *tive Schedule for each day (including travel time) such*
8 *member is engaged in the work of the Board.*

9 *“(b) TRAVEL EXPENSES.—Each member of the Board*
10 *may receive travel expenses, including per diem in lieu of*
11 *subsistence, in the same manner as is permitted under sec-*
12 *tions 5702 and 5703 of title 5, United States Code.*

13 **“SEC. 606. STAFF.**

14 *“(a) CLERICAL STAFF.—*

15 *“(1) AUTHORITY OF CHAIRMAN.—Subject to*
16 *paragraph (2), the Chairman may appoint and fix*
17 *the compensation of such clerical staff as may be nec-*
18 *essary to discharge the responsibilities of the Board.*

19 *“(2) PROVISIONS OF TITLE 5.—Clerical staff*
20 *shall be appointed subject to the provisions of title 5,*
21 *United States Code, governing appointments in the*
22 *competitive service, and shall be paid in accordance*
23 *with the provisions of chapter 51 and subchapter III*
24 *of chapter 3 of such title relating to classification and*
25 *General Schedule pay rates.*

1 “(b) *PROFESSIONAL STAFF.*—

2 “(1) *AUTHORITY OF CHAIRMAN.*—Subject to
3 *paragraphs (2) and (3), the Chairman may appoint*
4 *and fix the compensation of such professional staff as*
5 *may be necessary to discharge the responsibilities of*
6 *the Board.*

7 “(2) *NUMBER.*—Not more than 10 professional
8 *staff members may be appointed under this sub-*
9 *section.*

10 “(3) *TITLE 5.*—Professional staff members may
11 *be appointed without regard to the provisions of title*
12 *5, United States Code, governing appointments in the*
13 *competitive service, and may be paid without regard*
14 *to the provisions of chapter 51 and subchapter III of*
15 *chapter 53 of such title relating to classification and*
16 *General Schedule pay rates, except that no individual*
17 *so appointed may receive pay in excess of the annual*
18 *rate of basic pay payable for GS-18 of the General*
19 *Schedule.*

20 **“SEC. 607. SUPPORT SERVICES.**

21 “(a) *GENERAL SERVICES.*—To the extent permitted by
22 *law and requested by the Chairman, the Administrator of*
23 *General Services shall provide the Board with necessary ad-*
24 *ministrative services, facilities, and support on a reimburs-*
25 *able basis.*

1 “(b) *ACCOUNTING, RESEARCH, AND TECHNOLOGY AS-*
2 *SESSMENT SERVICES.*—*The Comptroller General, the Li-*
3 *brarian of Congress, and the Director of the Office of Tech-*
4 *nology Assessment shall, to the extent permitted by law and*
5 *subject to the availability of funds, provide the Board with*
6 *such facilities, support, funds and services, including staff,*
7 *as may be necessary for the effective performance of the*
8 *functions of the Board.*

9 “(c) *ADDITIONAL SUPPORT.*—*Upon the request of the*
10 *Chairman, the Board may secure directly from the head*
11 *of any department or agency of the United States informa-*
12 *tion necessary to enable it to carry out this title.*

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

16 “(e) *EXPERTS AND CONSULTANTS.*—*Subject to such*
17 *rules as may be prescribed by the Board, the Chairman may*
18 *procure temporary and intermittent services under section*
19 *3109(b) of title 5 of the United States Code, but at rates*
20 *for individuals not to exceed the daily equivalent of the*
21 *maximum annual rate of basic pay payable for GS–18 of*
22 *the General Schedule.*

1 **“SEC. 608. REPORT.**

2 *“The Board shall report not less than 2 times per year*
 3 *to Congress and the Secretary its findings, conclusions, and*
 4 *recommendations.*

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

6 *“There are authorized to be appropriated for expendi-*
 7 *tures such sums as may be necessary to carry out the provi-*
 8 *sions of this title.*

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

10 *“The Board shall cease to exist not later than one year*
 11 *after the date on which the Secretary begins disposal of*
 12 *spent nuclear fuel or high-level radioactive waste in the re-*
 13 *pository.*

14 **“TITLE VII—MANAGEMENT**
 15 **REFORM**

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

17 *“(a) IN GENERAL.—The Secretary is directed to take*
 18 *actions as necessary to improve the management of the ci-*
 19 *vilian radioactive waste management program to ensure*
 20 *that the program is operated, to the maximum extent prac-*
 21 *ticable, in like manner as a private business. Notwithstand-*
 22 *ing any other provision of law, the civilian radioactive*
 23 *waste management program is not subject to laws or regula-*
 24 *tions concerning the civil service as described in this title.*

25 *“(b) OFFICE OF CIVILIAN RADIOACTIVE WASTE MAN-*
 26 *AGEMENT EMPLOYEES.—*

1 “(1) *COMPENSATION.*—*The Secretary shall, with-*
2 *out regard to section 5301 of title 5, United States*
3 *Code, fix the compensation of the Director and the*
4 *Deputy Director of the Office of Civilian Radioactive*
5 *Waste Management. The Director shall, without re-*
6 *gard to section 5301 of title 5, United States Code,*
7 *fix the compensation for all other Federal employees*
8 *assigned to the Office of Civilian Radioactive Waste*
9 *Management, define their duties, and provide for a*
10 *system of organization to fix responsibility and pro-*
11 *mote efficiency. The Deputy Director may be removed*
12 *at the Director’s discretion without regard to any*
13 *laws, rules, or regulations concerning personnel ac-*
14 *tions in the Civil Service System or Senior Executive*
15 *Service. Any other Federal employee assigned to the*
16 *Office of Civilian Radioactive Waste Management*
17 *may be removed at the discretion of the Secretary or*
18 *Director without regard to any laws, rules, or regula-*
19 *tions concerning personnel actions in the Civil Serv-*
20 *ice System or Senior Executive Service. The Secretary*
21 *shall ensure that Federal employees assigned to the*
22 *Office of Civilian Radioactive Waste Management are*
23 *appointed, promoted, and assigned on the basis of*
24 *merit and fitness. Other personnel actions shall be*
25 *consistent with the principles of fairness and due*

1 *process specified in title 5 of the United States Code,*
2 *but without regard to those provisions of such title*
3 *governing appointments and other personnel actions*
4 *in the competitive service.*

5 “(2) *APPLICATION.*—*The provisions of para-*
6 *graph (1) shall not apply to Federal employees who*
7 *may be, from time to time, temporarily assigned to*
8 *the Office of Civilian Radioactive Waste Management.*
9 *The use of temporary assignment of Federal employ-*
10 *ees to the Office of Civilian Radioactive Waste Man-*
11 *agement shall not be used in any manner to cir-*
12 *cumvent the full application of the provisions in*
13 *paragraph (1).*

14 “(3) *TRANSITION.*—*The Secretary shall transi-*
15 *tion the Federal employees assigned to the Office of*
16 *Civilian Radioactive Waste Management to the provi-*
17 *sions of this section in an orderly manner allowing*
18 *for the development of the needed procedures. Under*
19 *no circumstances shall this transition take longer*
20 *than 6 months from the date of enactment of the Nu-*
21 *clear Waste Policy Act of 1995.*

22 “(4) *RETENTION OF BENEFITS.*—*Federal em-*
23 *ployees assigned to the Office of Civilian Radioactive*
24 *Waste Management and transitioned to the provisions*
25 *of this section shall retain employment benefits in ef-*

1 *fect immediately prior to the transition date.*
2 *Transitioned employees will continue in the Civil*
3 *Service System's retirement system.*

4 *“(c) AUDITS.—*

5 *“(1) STANDARD.—The Office of Civilian Radio-*
6 *active Waste Management, its contractors, and sub-*
7 *contractors at all tiers, shall conduct, or have con-*
8 *ducted, audits and examinations of their operations*
9 *in accordance with the usual and customary practices*
10 *of private corporations engaged in large nuclear con-*
11 *struction projects consistent with its role in the pro-*
12 *gram.*

13 *“(2) TIME.—The management practices and per-*
14 *formances of the Office of Civilian Radioactive Waste*
15 *Management shall be audited every 5 years by an*
16 *independent management consulting firm with sig-*
17 *nificant experience in similar audits of private cor-*
18 *porations engaged in large nuclear construction*
19 *projects. The first such audit shall be conducted 5*
20 *years after the date of enactment of the Nuclear Waste*
21 *Policy Act of 1995.*

22 *“(3) COMPTROLLER GENERAL.—The Comptroller*
23 *General of the United States shall annually make an*
24 *audit of the Office, in accordance with such regula-*
25 *tions as the Comptroller General may prescribe. The*

1 *Comptroller General shall have access to such books,*
2 *records, accounts, and other materials of the Office*
3 *as the Comptroller General determines to be necessary*
4 *for the preparation of such audit. The Comptroller*
5 *General shall submit to the Congress a report on the*
6 *results of each audit conducted under this section.*

7 *“(4) TIME.—No audit contemplated by this sub-*
8 *section shall take longer than 30 days to conduct. An*
9 *audit report shall be issued in final form no longer*
10 *than 60 days after the audit is commenced.*

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

14 *“(d) VALUE ENGINEERING.—The Secretary shall cre-*
15 *ate a value engineering function within the Office of Civil-*
16 *ian Radioactive Waste Management that reports directly*
17 *to the Director, which shall carry out value engineering*
18 *functions in accordance with the usual and customary*
19 *practices of private corporations engaged in large nuclear*
20 *construction projects.*

21 *“(e) SITE CHARACTERIZATION.—The Secretary shall*
22 *employ, on an on-going basis, integrated performance mod-*
23 *eling to identify appropriate parameters for the remaining*
24 *site characterization effort and to eliminate studies of pa-*

1 *rameters that are shown not to affect long-term repository*
2 *performance.*

3 ***“SEC. 702. REPORTING.***

4 *“(a) INITIAL REPORT.—Within 180 days of the date*
5 *of enactment of the Nuclear Waste Policy Act of 1995, the*
6 *Secretary shall report to Congress on its planned actions*
7 *for implementing the provisions of this Act, including the*
8 *development of the Integrated Waste Management System.*
9 *Such report shall include—*

10 *“(1) an analysis of the Secretary’s progress in*
11 *meeting its statutory and contractual obligation to*
12 *accept title to, possession of, and delivery of spent nu-*
13 *clear fuel and high-level radioactive waste beginning*
14 *no later than January 31, 1998, and in accordance*
15 *with the acceptance schedule;*

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

20 *“(3) a detailed description of the Secretary’s con-*
21 *tingency plans in the event that the Secretary is un-*
22 *able to meet the planned schedule and timeline; and*

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

1 “(b) *ANNUAL REPORTS.*—On each anniversary of the
 2 *submittal of the report required by subsection (a), the Sec-*
 3 *retary shall make annual reports to the Congress for the*
 4 *purpose of updating the information contained in such re-*
 5 *port. The annual reports shall be brief and shall notify the*
 6 *Congress of—*

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

10 “(2) *the reasons for such modifications, and the*
 11 *status of the implementation of any of the Secretary’s*
 12 *contingency plans; and*

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

15 **SEC. 2. CONTINUATION OF CONTRACTS.**

16 *Subsequent to the date of enactment of the Nuclear*
 17 *Waste Policy Act of 1995, the contracts executed under sec-*
 18 *tion 302(a) of the Nuclear Waste Policy Act of 1982 shall*
 19 *continue in effect under the Nuclear Waste Policy Act of*
 20 *1995 in accordance with their terms except to the extent*
 21 *that the contracts have been modified by the parties to the*
 22 *contract.*

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