

112TH CONGRESS
2D SESSION

S. 3469

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

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2012

Mr. BINGAMAN introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

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

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Nuclear Waste Administration Act of 2012”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FINDINGS, PURPOSES, AND DEFINITIONS

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

TITLE II—NUCLEAR WASTE ADMINISTRATION

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

TITLE III—FUNCTIONS

- Sec. 301. Transfer of functions.
- Sec. 302. Transfer of contracts.
- Sec. 303. Additional functions.
- Sec. 304. Siting nuclear waste facilities.
- Sec. 305. Licensing nuclear waste facilities.
- Sec. 306. Limitation on storage.
- Sec. 307. Defense waste.
- Sec. 308. Transportation.

TITLE IV—FUNDING AND LEGAL PROCEEDINGS

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

TITLE V—ADMINISTRATIVE AND SAVINGS PROVISIONS

- Sec. 501. Administrative powers of Administrator.
- Sec. 502. Personnel.
- Sec. 503. Offices.
- Sec. 504. Mission plan.
- Sec. 505. Annual reports.
- Sec. 506. Savings provisions; terminations.
- Sec. 507. Technical assistance in the field of spent fuel storage and disposal.
- Sec. 508. Nuclear Waste Technical Review Board.
- Sec. 509. Repeal of volume limitation.

1 **TITLE I—FINDINGS, PURPOSES,** 2 **AND DEFINITIONS**

3 **SEC. 101. FINDINGS.**

4 Congress finds that—

- 5 (1) the Nuclear Waste Policy Act of 1982 (42
6 U.S.C. 10101 et seq.)—

1 (A) made the Federal Government respon-
2 sible for providing for the permanent disposal
3 of nuclear waste;

4 (B) vested the responsibility for siting,
5 constructing, and operating a permanent geo-
6 logic repository for the disposal of nuclear
7 waste in the Secretary of Energy; and

8 (C) required the Secretary to enter into
9 binding contracts with the generators and own-
10 ers of nuclear waste pursuant to which the Sec-
11 retary is obligated to have begun disposing of
12 the nuclear waste in a repository not later than
13 January 31, 1998;

14 (2) in 1987, Congress designated the Yucca
15 Mountain site as the site for the repository and pre-
16 cluded consideration of other sites;

17 (3) in 2002, the Secretary found the Yucca
18 Mountain site to be suitable for the development of
19 the repository, the President recommended the site
20 to Congress, and Congress enacted a joint resolution
21 approving the Yucca Mountain site for the reposi-
22 tory;

23 (4) in 2008, the Secretary applied to the Nu-
24 clear Regulatory Commission for a license to con-
25 struct a repository at the Yucca Mountain site;

1 (5) in 2009, the Secretary found the Yucca
2 Mountain site to be unworkable and abandoned ef-
3 forts to construct a repository;

4 (6) in 2010, the Secretary, at the request of the
5 President, established the Blue Ribbon Commission
6 on America's Nuclear Future to conduct a com-
7 prehensive review of the nuclear waste management
8 policies of the United States and recommend a new
9 strategy for managing the nuclear waste of the
10 United States; and

11 (7) the Blue Ribbon Commission has rec-
12 ommended that Congress establish a new nuclear
13 waste management organization and adopt a new
14 consensual approach to siting nuclear waste manage-
15 ment facilities.

16 **SEC. 102. PURPOSES.**

17 The purposes of this Act are—

18 (1) to establish a new nuclear waste manage-
19 ment organization;

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

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

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

3 (5) to ensure that—

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

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

8 **SEC. 103. DEFINITIONS.**

9 In this Act:

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

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

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

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

21 (B) that has federally defined possessory
22 or usage rights to other land outside of the res-
23 ervation boundaries that—

24 (i) arise out of a congressionally rati-
25 fied treaty; and

1 (ii) the Secretary of the Interior finds,
2 on petition of an appropriate governmental
3 official of the Indian tribe, may be sub-
4 stantially and adversely affected by the re-
5 pository or storage facility.

6 (4) AFFECTED UNIT OF GENERAL LOCAL GOV-
7 ERNMENT.—

8 (A) IN GENERAL.—The term “affected
9 unit of general local government” means the
10 unit of general local government that has juris-
11 diction over the site of a repository or storage
12 facility.

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

19 (5) CIVILIAN NUCLEAR POWER REACTOR.—The
20 term “civilian nuclear power reactor” has the mean-
21 ing given the term in section 2 of the Nuclear Waste
22 Policy Act of 1982 (42 U.S.C. 10101).

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

1 (7) CONTRACT HOLDER.—The term “contract
2 holder” means any person who—

3 (A) generates or holds title to nuclear
4 waste generated at a civilian nuclear power re-
5 actor; and

6 (B) has entered into a contract for the dis-
7 posal of nuclear waste under section 302(a) of
8 the Nuclear Waste Policy Act of 1982 (42
9 U.S.C. 10222(a)) or this Act.

10 (8) DEFENSE WASTE.—The term “defense
11 waste” means nuclear waste generated by an atomic
12 energy defense activity (as defined in section 2 of
13 the Nuclear Waste Policy Act of 1982 (42 U.S.C.
14 10101)).

15 (9) DISPOSAL.—The term “disposal” has the
16 meaning given the term in section 2 of the Nuclear
17 Waste Policy Act of 1982 (42 U.S.C. 10101).

18 (10) HIGH-LEVEL RADIOACTIVE WASTE.—The
19 term “high-level radioactive waste” has the meaning
20 given the term in section 2 of the Nuclear Waste
21 Policy Act of 1982 (42 U.S.C. 10101).

22 (11) INDIAN TRIBE.—The term “Indian tribe”
23 has the meaning given the term in section 2 of the
24 Nuclear Waste Policy Act of 1982 (42 U.S.C.
25 10101).

1 (12) NUCLEAR WASTE.—The term “nuclear
2 waste” means—

3 (A) spent nuclear fuel; and

4 (B) high-level radioactive waste.

5 (13) NUCLEAR WASTE ACTIVITIES.—The term
6 “nuclear waste activities” has the meaning given the
7 term in section 11 of the Atomic Energy Act of
8 1954 (42 U.S.C. 2014).

9 (14) NUCLEAR WASTE FACILITY.—The term
10 “nuclear waste facility” means—

11 (A) a repository; and

12 (B) a storage facility.

13 (15) NUCLEAR WASTE FUND.—The term “Nu-
14 clear Waste Fund” means the separate fund in the
15 Treasury established by section 302(c) of the Nu-
16 clear Waste Policy Act of 1982 (42 U.S.C.
17 10222(c)).

18 (16) OVERSIGHT BOARD.—The term “Oversight
19 Board” means the Nuclear Waste Oversight Board
20 established by section 205.

21 (17) PUBLIC LIABILITY.—The term “public li-
22 ability” has the meaning given the term in section
23 11 of the Atomic Energy Act of 1954 (42 U.S.C.
24 2014).

1 (18) REPOSITORY.—The term “repository” has
2 the meaning given the term in section 2 of the Nu-
3 clear Waste Policy Act of 1982 (42 U.S.C. 10101).

4 (19) RESERVATION.—The term “reservation”
5 has the meaning given the term in section 2 of the
6 Nuclear Waste Policy Act of 1982 (42 U.S.C.
7 10101).

8 (20) SECRETARY.—The term “Secretary”
9 means the Secretary of Energy.

10 (21) SITE CHARACTERIZATION.—

11 (A) IN GENERAL.—The term “site charac-
12 terization” means the site-specific activities that
13 the Administrator determines necessary to sup-
14 port an application to the Commission for a li-
15 cense to construct a repository or storage facil-
16 ity under section 305(c).

17 (B) REPOSITORY SITE CHARACTERIZA-
18 TION.—In the case of a site for a repository,
19 the term “site characterization” may include
20 borings, surface excavations, excavations of ex-
21 ploratory shafts, limited subsurface lateral exca-
22 vations and borings, and in situ testing needed
23 to evaluate the suitability of a candidate site for
24 the location of a repository.

1 (C) STORAGE SITE CHARACTERIZATION.—

2 In the case of a site for an above-ground stor-
3 age facility, the term “site characterization”
4 does not include subsurface borings and exca-
5 vations that the Administrator determines are
6 uniquely associated with underground disposal
7 and unnecessary to evaluate the suitability of a
8 candidate site for the location of an above-
9 ground storage facility.

10 (D) PRELIMINARY ACTIVITIES.—The term
11 “site characterization” does not include prelimi-
12 nary borings and geophysical testing needed to
13 assess whether site characterization should be
14 undertaken.

15 (22) SPENT NUCLEAR FUEL.—The term “spent
16 nuclear fuel” has the meaning given the term in sec-
17 tion 2 of the Nuclear Waste Policy Act of 1982 (42
18 U.S.C. 10101).

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

22 (24) STORAGE FACILITY.—The term “storage
23 facility” means a facility for the storage of nuclear
24 waste from multiple contract holders or the Sec-

1 retary pending the disposal of the spent nuclear fuel
2 in a repository.

3 (25) TEST AND EVALUATION FACILITY.—The
4 term “test and evaluation facility” means an at-
5 depth, prototypic underground cavity used to develop
6 data and experience for the safe handling and dis-
7 posal of nuclear waste in a repository.

8 (26) UNIT OF GENERAL LOCAL GOVERN-
9 MENT.—The term “unit of general local govern-
10 ment” has the meaning given the term in section 2
11 of the Nuclear Waste Policy Act of 1982 (42 U.S.C.
12 10101).

13 (27) WORKING CAPITAL FUND.—The term
14 “Working Capital Fund” means the Nuclear Waste
15 Administration Working Capital Fund established by
16 section 401.

17 **TITLE II—NUCLEAR WASTE**
18 **ADMINISTRATION**

19 **SEC. 201. ESTABLISHMENT.**

20 (a) ESTABLISHMENT.—There is established an inde-
21 pendent agency in the executive branch to be known as
22 the “Nuclear Waste Administration”.

23 (b) PURPOSE.—The purposes of the Administration
24 are—

1 (1) to discharge the responsibility of the Fed-
2 eral Government to provide for the permanent dis-
3 posal of nuclear waste;

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

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

10 **SEC. 202. PRINCIPAL OFFICERS.**

11 (a) ADMINISTRATOR.—

12 (1) APPOINTMENT.—There shall be at the head
13 of the Administration a Nuclear Waste Adminis-
14 trator, who shall be appointed by the President, by
15 and with the advice and consent of the Senate, from
16 among persons who are, by reason of education, ex-
17 perience, and attainments, exceptionally well quali-
18 fied to perform the duties of the Administrator.

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

22 (3) SUPERVISION AND DIRECTION.—The Ad-
23 ministration shall be administrated under the super-
24 vision and direction of the Administrator, who shall

1 be responsible for the efficient and coordinated man-
2 agement of the Administration.

3 (4) DELEGATION.—The Administrator may,
4 from time to time and to the extent permitted by
5 law, delegate such functions of the Administrator as
6 the Administrator determines to be appropriate.

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

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

14 (B) does not exceed the total annual com-
15 pensation paid to the Chief Executive Officer of
16 the Tennessee Valley Authority.

17 (b) DEPUTY ADMINISTRATOR.—

18 (1) APPOINTMENT.—There shall be in the Ad-
19 ministration a Deputy Administrator, who shall be
20 appointed by the President, by and with the advice
21 and consent of the Senate, from among persons who
22 are, by reason of education, experience, and attain-
23 ments, exceptionally well qualified to perform the
24 duties of the Deputy Administrator.

1 (2) DUTIES.—The Deputy Administrator
2 shall—

3 (A) perform such functions as the Admin-
4 istrator shall from time to time assign or dele-
5 gate; and

6 (B) act as the Administrator during the
7 absence or disability of the Administrator or in
8 the event of a vacancy in the office of the Ad-
9 ministrator.

10 (3) COMPENSATION.—The President shall fix
11 the total annual compensation of the Deputy Admin-
12 istrator in an amount that—

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

17 (B) does not exceed the total annual com-
18 pensation paid to the Administrator.

19 **SEC. 203. OTHER OFFICERS.**

20 (a) ESTABLISHMENT.—There shall be in the Admin-
21 istration—

22 (1) a General Counsel;

23 (2) a Chief Financial Officer, who shall be ap-
24 pointed from among individuals who possess dem-
25 onstrated ability in general management of, and

1 knowledge of and extensive practical experience in,
2 financial management practices in large govern-
3 mental or business entities; and

4 (3) not more than 3 Assistant Administrators,
5 who shall perform such functions as the Adminis-
6 trator shall specify from time to time.

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

9 (1) be appointed by the Administrator;

10 (2) be considered career appointees; and

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

13 (c) ORDER OF SUCCESSION.—The Administrator
14 may designate the order in which the officers appointed
15 pursuant to this section shall act for, and perform the
16 functions of, the Administrator during the absence or dis-
17 ability of the Administrator and the Deputy Administrator
18 or in the event of vacancies in the offices of the Adminis-
19 trator and the Deputy Administrator.

20 **SEC. 204. INSPECTOR GENERAL.**

21 There shall be in the Administration an Inspector
22 General, who shall be appointed by the President, by and
23 with the advice and consent of the Senate, in accordance
24 with section 3 of the Inspector General Act of 1978 (5
25 U.S.C. App.).

1 **SEC. 205. NUCLEAR WASTE OVERSIGHT BOARD.**

2 (a) ESTABLISHMENT.—There is established an inde-
3 pendent establishment in the executive branch, to be
4 known as the “Nuclear Waste Oversight Board”, to over-
5 see the administration of this Act and protect the public
6 interest in the implementation of this Act.

7 (b) MEMBERS.—The Oversight Board shall consist
8 of—

9 (1) the Deputy Director of the Office of Man-
10 agement and Budget;

11 (2) the Chief of Engineers of the Army Corps
12 of Engineers; and

13 (3) the Deputy Secretary of Energy.

14 (c) CHAIR.—The President shall designate 1 of the
15 3 members as chair.

16 (d) FUNCTIONS.—The Oversight Board shall—

17 (1) review, on an ongoing basis—

18 (A) the progress made by the Adminis-
19 trator to site, construct, and operate nuclear
20 waste facilities under this Act;

21 (B) the use of funds made available to the
22 Administrator under this Act;

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

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

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

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

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

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

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

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

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

22 (h) ADDITIONAL STAFF.—

23 (1) APPOINTMENT.—The Oversight Board may
24 appoint and fix the compensation of such additional

1 clerical and professional staff as may be necessary to
2 discharge the responsibilities of the Oversight Board.

3 (2) LIMITATION.—The Oversight Board may
4 appoint not more than 10 clerical or professional
5 staff members under this subsection.

6 (3) SUPERVISION AND DIRECTION.—The cler-
7 ical and professional staff of the Oversight Board
8 shall be under the supervision and direction of the
9 Executive Secretary.

10 (i) ACCESS TO INFORMATION.—

11 (1) DUTY TO INFORM.—The Administrator
12 shall keep the Oversight Board fully and currently
13 informed on all of the activities of the Administra-
14 tion.

15 (2) PRODUCTION OF DOCUMENTS.—The Ad-
16 ministrator shall provide the Oversight Board with
17 such records, files, papers, data, or information as
18 may be requested by the Oversight Board.

19 (j) SUPPORT SERVICES.—To the extent permitted by
20 law and requested by the Oversight Board, the Adminis-
21 trator of General Services shall provide the Oversight
22 Board with necessary administrative services, facilities,
23 and support on a reimbursable basis.

24 (k) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to the Oversight Board

1 from amounts in the Nuclear Waste Fund to carry out
 2 this section such sums as are necessary.

3 **SEC. 206. CONFORMING AMENDMENTS.**

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

6 “(R) The Nuclear Waste Administration.”.

7 (b) Section 12 of the Inspector General Act of 1978
 8 (5 U.S.C. App.) is amended—

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

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

15 **TITLE III—FUNCTIONS**

16 **SEC. 301. TRANSFER OF FUNCTIONS.**

17 There are transferred to and vested in the Adminis-
 18 trator all functions vested in the Secretary by—

19 (1) the Nuclear Waste Policy Act of 1982 (42
 20 U.S.C. 10101 et seq.) relating to—

21 (A) the construction and operation of a re-
 22 pository;

23 (B) entering into and performing contracts
 24 for the disposal of nuclear waste under section
 25 302 of that Act (42 U.S.C. 10222);

1 (C) the collection, adjustment, deposition,
2 and use of fees to offset expenditures for the
3 management of nuclear waste; and

4 (D) the issuance of obligations under sec-
5 tion 302(e)(5) of the Nuclear Waste Policy Act
6 of 1982 (42 U.S.C. 10222(e)(5)); and

7 (2) section 312 of the Energy and Water Devel-
8 opment and Related Agencies Appropriations Act,
9 2013, relating to the pilot program for the construc-
10 tion and operation of one or more storage facilities
11 to the extent provided in a cooperative agreement
12 transferred to the Administrator pursuant to section
13 302(b).

14 **SEC. 302. TRANSFER OF CONTRACTS.**

15 (a) DISPOSAL CONTRACTS.—Each contract for the
16 disposal of nuclear waste entered into by the Secretary
17 before the date of enactment of this Act shall continue
18 in effect according to the terms of the contract with the
19 Administrator substituted for the Secretary.

20 (b) COOPERATIVE AGREEMENT.—Each cooperative
21 agreement entered into by the Secretary pursuant to sec-
22 tion 312 of the Energy and Water Development and Re-
23 lated Agencies Appropriations Act, 2013, before the date
24 of enactment of this Act shall continue in effect according

1 to the terms of the agreement with the Administrator sub-
2 stituted for the Secretary.

3 **SEC. 303. ADDITIONAL FUNCTIONS.**

4 In addition to the functions transferred to the Ad-
5 ministrator under section 301, the Administrator may
6 site, construct, and operate—

7 (1) additional repositories if the Administrator
8 determines that additional disposal capacity is nec-
9 essary to meet the disposal obligations of the Admin-
10 istrator;

11 (2) a test and evaluation facility in connection
12 with a repository if the Administrator determines a
13 test and evaluation facility is necessary to develop
14 data and experience for the safe handling and dis-
15 posal of nuclear waste at a repository; and

16 (3) additional storage facilities if the Adminis-
17 trator determines that additional storage capacity is
18 necessary pending the availability of adequate dis-
19 posal capacity.

20 **SEC. 304. SITING NUCLEAR WASTE FACILITIES.**

21 (a) IN GENERAL.—In siting nuclear waste facilities
22 under this Act, the Administrator shall employ a process
23 that—

1 (1) allows affected communities to decide
2 whether, and on what terms, the affected commu-
3 nities will host a nuclear waste facility;

4 (2) is open to the public and allows interested
5 persons to be heard in a meaningful way;

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

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

12 (b) SITING GUIDELINES.—

13 (1) ISSUANCE.—Not later than 1 year after the
14 date of enactment of this Act, the Administrator
15 shall issue general guidelines for the consideration of
16 candidate sites for—

17 (A) repositories; and

18 (B) storage facilities.

19 (2) REPOSITORIES.—In adopting guidelines for
20 repositories under paragraph (1), the Administrator
21 shall comply with the requirements of section 112(a)
22 of the Nuclear Waste Policy Act of 1992 (42 U.S.C.
23 10132(a)).

24 (3) STORAGE FACILITIES.—

1 (A) IN GENERAL.—In adopting guidelines
2 for storage facilities under paragraph (1), the
3 Administrator shall comply with the require-
4 ments of section 112(a) of the Nuclear Waste
5 Policy Act of 1992 (42 U.S.C. 10132(a)), ex-
6 cept to the extent that section 112(a) of that
7 Act requires consideration of underground geo-
8 physical conditions that the Administrator de-
9 termines do not apply to above-ground storage.

10 (B) OTHER FACTORS.—In addition to the
11 requirements described in subparagraph (A),
12 the guidelines for storage facilities shall require
13 the Administrator to take into account the ex-
14 tent to which a storage facility would—

15 (i) enhance the reliability and flexi-
16 bility of the system for the disposal of nu-
17 clear waste;

18 (ii) minimize the impacts of transpor-
19 tation and handling of nuclear waste; and

20 (iii) unduly burden a State in which
21 significant volumes of—

22 (I) defense wastes are stored; or

23 (II) transuranic wastes are dis-
24 posed.

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

5 (c) IDENTIFICATION OF CANDIDATE SITES.—

6 (1) REVIEW OF POTENTIAL SITES.—As soon as
7 practicable after the date of the issuance of the
8 guidelines under subsection (b), the Administrator
9 shall evaluate potential sites for a nuclear waste fa-
10 cility to determine whether the sites are suitable for
11 site characterization.

12 (2) SITES ELIGIBLE FOR REVIEW.—The Admin-
13 istrator shall select sites for evaluation under para-
14 graph (1) from among sites recommended by—

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

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

19 (C) the governing body of an Indian tribe
20 within the reservation boundaries of which the
21 site is located; or

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

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

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

3 (iii) the governing body of the Indian
4 tribe, if the site is located within the res-
5 ervation of an Indian tribe.

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

10 (A) shall use available geophysical, geologi-
11 cal, geochemical, hydrological, and other infor-
12 mation; and

13 (B) shall not perform any preliminary bor-
14 ings or excavations at the site unless necessary
15 to determine the suitability of the site and au-
16 thorized by the landowner.

17 (4) DETERMINATION OF SUITABILITY.—The
18 Administrator shall determine whether a site is suit-
19 able for site characterization based on an environ-
20 mental assessment of the site, which shall include—

21 (A) an evaluation by the Administrator of
22 whether the site qualifies for development as a
23 nuclear waste facility under the guidelines es-
24 tablished under subsection (b), including a safe-
25 ty case that provides the basis for confidence in

1 the safety of the proposed nuclear waste facility
2 at the proposed site;

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

6 (C) a reasonable comparative evaluation by
7 the Administrator of the site with other sites
8 considered by—

9 (i) the Administrator under this sec-
10 tion; or

11 (ii) the Secretary under the Nuclear
12 Waste Policy Act of 1982 (42 U.S.C.
13 10101 et seq.);

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

16 (E) an assessment of the regional and local
17 impacts of locating a repository or storage facil-
18 ity at the site.

19 (d) SITE CHARACTERIZATION.—

20 (1) SELECTION OF SITES.—From among the
21 sites determined to be suitable for site characteriza-
22 tion under subsection (c), the Administrator shall se-
23 lect—

24 (A) at least 1 site for site characterization
25 as a repository; and

1 (B) at least 1 site for site characterization
2 as a storage facility.

3 (2) PREFERENCE FOR CO-LOCATED REPOSI-
4 TORY AND STORAGE FACILITY.—In selecting sites
5 for site characterization as a storage facility, the Ad-
6 ministrator shall give preference to sites determined
7 to be suitable for co-location of a storage facility and
8 a repository.

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

14 (A) to inform the public of the proposed
15 site characterization; and

16 (B) to solicit public comments and rec-
17 ommendations with respect to the site charac-
18 terization plan of the Administrator.

19 (4) CONSULTATION AND COOPERATION AGREE-
20 MENT.—

21 (A) REQUIREMENT.—Before selecting a
22 site for site characterization, the Administrator
23 shall enter into a consultation and cooperation
24 agreement with—

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

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

5 (iii) the governing body of an affected
6 Indian tribe, in the case of—

7 (I) a site located within the
8 boundaries of a reservation; or

9 (II) an Indian tribe the federally
10 defined possessory or usage rights to
11 land outside of a reservation of which
12 may be substantially and adversely af-
13 fected by the repository or storage fa-
14 cility.

15 (B) CONTENTS.—The consultation and co-
16 operation agreement shall provide—

17 (i) compensation to the State, any af-
18 fected units of local government, and any
19 affected Indian tribes for any potential
20 economic, social, public health and safety,
21 and environmental impacts associated with
22 site characterization; and

23 (ii) financial and technical assistance
24 to enable the State, affected units of local
25 government, and affected Indian tribes to

1 monitor, review, evaluate, comment on, ob-
2 tain information on, and make rec-
3 ommendations on site characterization ac-
4 tivities.

5 (e) FINAL SITE SUITABILITY DETERMINATION.—

6 (1) DETERMINATION REQUIRED.—On comple-
7 tion of site characterization activities, the Adminis-
8 trator shall make a final determination of whether
9 the site is suitable for development as a repository
10 or storage facility.

11 (2) BASIS OF DETERMINATION.—In making a
12 determination under paragraph (1), the Adminis-
13 trator shall determine if—

14 (A) the site is scientifically and technically
15 suitable for development as a repository or stor-
16 age facility, taking into account—

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

19 (ii) whether there is reasonable assur-
20 ance that a repository or storage facility at
21 the site will meet—

22 (I) the radiation protection
23 standards of the Administrator of the
24 Environmental Protection Agency;
25 and

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

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

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

12 (f) CONSENT AGREEMENTS.—

13 (1) REQUIREMENT.—On making a final deter-
14 mination of site suitability under subsection (e), but
15 before submitting a license application to the Com-
16 mission under subsection (g), the Administrator
17 shall enter into a consent agreement with—

18 (A) the Governor of the State in which the
19 site is located;

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

22 (C) if the site is located on a reservation,
23 the governing body of the affected Indian tribe.

24 (2) CONTENTS.—The consent agreement
25 shall—

1 (A) contain the terms and conditions on
2 which each State, local government, and Indian
3 tribe consents to host the repository or storage
4 facility; and

5 (B) express the consent of each State, local
6 government, and Indian tribe to host the reposi-
7 tory or storage facility.

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

10 (A) shall promote the economic and social
11 well-being of the people living in the vicinity of
12 the repository or storage facility; and

13 (B) may include—

14 (i) financial compensation and incen-
15 tives;

16 (ii) economic development assistance;

17 (iii) operational limitations or require-
18 ments;

19 (iv) regulatory oversight authority;
20 and

21 (v) in the case of a storage facility, an
22 enforceable deadline for removing nuclear
23 waste from the storage facility.

1 (4) RATIFICATION.—No consent agreement en-
2 tered into under this section shall have legal effect
3 unless ratified by law.

4 (5) BINDING EFFECT.—On ratification by law,
5 the consent agreement—

6 (A) shall be binding on the parties; and

7 (B) shall not be amended or revoked ex-
8 cept by mutual agreement of the parties.

9 (g) SUBMISSION OF LICENSE APPLICATION.—On de-
10 termining that a site is suitable under subsection (e) and
11 ratification of a consent agreement under subsection (f),
12 the Administrator shall submit to the Commission an ap-
13 plication for a construction authorization for the reposi-
14 tory or storage facility.

15 **SEC. 305. LICENSING NUCLEAR WASTE FACILITIES.**

16 (a) RADIATION PROTECTION STANDARDS.—Not later
17 than 1 year after the date of enactment of this Act, the
18 Administrator of the Environmental Protection Agency,
19 pursuant to authority under other provisions of law, shall
20 adopt, by rule, generally applicable standards for protec-
21 tion of the general environment from offsite releases from
22 radioactive material in geological repositories.

23 (b) COMMISSION REGULATIONS.—Not later than 1
24 year after the adoption of generally applicable standards
25 by the Administrator of the Environmental Protection

1 Agency under subsection (a), the Commission, pursuant
2 to authority under other provisions of law, shall amend
3 the regulations of the Commission governing the licensing
4 of geological repositories to be consistent with any com-
5 parable standards adopted by the Administrator of the
6 Environmental Protection Agency under subsection (a).

7 (c) CONSTRUCTION AUTHORIZATION.—

8 (1) APPLICABLE LAWS.—The Commission shall
9 consider an application for a construction authoriza-
10 tion for a nuclear waste facility in accordance with
11 the laws (including regulations) applicable to the ap-
12 plications.

13 (2) FINAL DECISION.—Not later than 3 years
14 after the date of the submission of the application,
15 the Commission shall issue a final decision approv-
16 ing or disapproving the issuance of a construction
17 authorization.

18 (3) EXTENSION.—The Commission may extend
19 the deadline under paragraph (2) by not more than
20 1 year if, not less than 30 days before the deadline,
21 the Commission submits to Congress and the Ad-
22 ministrator a written report that describes—

23 (A) the reason for failing to meet the dead-
24 line; and

1 (B) the estimated time by which the Com-
2 mission will issue a final decision.

3 **SEC. 306. LIMITATION ON STORAGE.**

4 (a) IN GENERAL.—Except as provided in subsection
5 (b), the Administrator may not possess, take title to, or
6 store spent nuclear fuel at a storage facility licensed under
7 this Act before ratification of a consent agreement for a
8 repository under section 304(f)(4).

9 (b) EXCEPTION.—The Administrator may possess,
10 take title to, and store not more than 10,000 metric tons
11 of spent nuclear fuel at a storage facility licensed and con-
12 structed pursuant to a cooperative agreement entered into
13 before the date of enactment of this Act under section 312
14 of the Energy and Water Development and Related Agen-
15 cies Appropriations Act, 2013, before ratification of a con-
16 sent agreement for a repository under section 304(f)(4).

17 **SEC. 307. DEFENSE WASTE.**

18 (a) DISPOSAL AND STORAGE BY ADMINISTRATION.—
19 The Secretary—

20 (1) shall arrange for the Administrator to dis-
21 pose of defense wastes in a repository developed
22 under this Act; and

23 (2) may arrange for the Administrator to store
24 spent nuclear fuel from the naval nuclear propulsion
25 program pending disposal in a repository.

1 (b) MEMORANDUM OF AGREEMENT.—The arrange-
2 ments shall be covered by a memorandum of agreement
3 between the Secretary and the Administrator.

4 (c) COSTS.—The portion of the cost of developing,
5 constructing, and operating the repository or storage fa-
6 cilities under this Act that is attributable to defense
7 wastes shall be allocated to the Federal Government and
8 paid by the Federal Government into the Working Capital
9 Fund.

10 (d) PROHIBITION.—No defense waste may be stored
11 or disposed of by the Administrator in any storage facility
12 or repository constructed under this Act or section 312
13 of the Energy and Water Development and Related Agen-
14 cies Appropriations Act, 2013, until funds are appro-
15 priated to the Working Capital Fund in an amount equal
16 to the fees that would be paid by contract holders under
17 section 302 of the Nuclear Waste Policy Act of 1982 (42
18 U.S.C. 10222) if such nuclear waste were generated by
19 a contract holder.

20 **SEC. 308. TRANSPORTATION.**

21 (a) IN GENERAL.—The Administrator shall be re-
22 sponsible for transporting nuclear waste—

23 (1) from the site of a contract holder to a stor-
24 age facility or repository;

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

1 (3) in the case of defense waste, from a Depart-
2 ment of Energy site to a repository.

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

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

7 (2) that have been determined by the Commis-
8 sion to satisfy the quality assurance requirements of
9 the Commission.

10 (c) NOTIFICATION.—Prior to any transportation of
11 nuclear waste under this Act, the Administrator shall pro-
12 vide advance notification to States and Indian tribes
13 through whose jurisdiction the Administrator plans to
14 transport the nuclear waste.

15 (d) TRANSPORTATION ASSISTANCE.—

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

19 (2) TRAINING.—The Administrator shall pro-
20 vide financial and technical assistance to States and
21 Indian tribes through whose jurisdiction the Admin-
22 istrator plans to transport nuclear waste to train
23 public safety officials and other emergency respond-
24 ers on—

1 (A) procedures required for the safe, rou-
2 tine transportation of nuclear waste; and

3 (B) procedures for dealing with emergency
4 response situations involving nuclear waste, in-
5 cluding instruction of—

6 (i) government and tribal officials and
7 public safety officers in command and con-
8 trol procedures;

9 (ii) emergency response personnel;
10 and

11 (iii) radiological protection and emer-
12 gency medical personnel.

13 (3) EQUIPMENT.—The Administrator shall pro-
14 vide monetary grants and contributions in-kind to
15 assist States and Indian tribes through whose juris-
16 diction the Administrator plans to transport nuclear
17 waste for the purpose of acquiring equipment for re-
18 sponding to a transportation incident involving nu-
19 clear waste.

20 (4) TRANSPORTATION SAFETY PROGRAMS.—
21 The Administrator shall provide in-kind, financial,
22 technical, and other appropriate assistance to States
23 and Indian tribes through whose jurisdiction the Ad-
24 ministrator plans to transport nuclear waste for

1 transportation safety programs related to shipments
2 of nuclear waste.

3 **TITLE IV—FUNDING AND LEGAL**
4 **PROCEEDINGS**

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

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

10 (b) CONTENTS.—The Working Capital Fund shall
11 consist of—

12 (1) all fees paid by contract holders pursuant to
13 section 302(a) of the Nuclear Waste Policy Act of
14 1982 (42 U.S.C. 10222(a)) on or after the date of
15 enactment of this Act, which shall be paid into the
16 Working Capital Fund—

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

20 (B) immediately on the payment of the
21 fees;

22 (2) any appropriations made by Congress to
23 pay the share of the cost of the program established
24 under this Act attributable to defense wastes; and

1 (3) interest paid on the unexpended balance of
2 the Working Capital Fund.

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

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

9 (2) shall remain available until expended; and

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

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

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

19 (a) ELIMINATION OF LEGISLATIVE VETO.—Section
20 302(a)(4) of the Nuclear Waste Policy Act of 1982 (42
21 U.S.C. 10222(a)(4)) is amended in the last sentence by
22 striking “transmittal unless” and all that follows through
23 the end of the sentence and inserting “transmittal.”.

1 (b) INTEREST ON UNEXPENDED BALANCES.—Sec-
2 tion 302(e)(3) of the Nuclear Waste Policy Act of 1982
3 (42 U.S.C. 10222(e)(3)) is amended—

4 (1) by striking “Secretary” the first, second,
5 and fourth place it appears and inserting “Adminis-
6 trator of the Nuclear Waste Administration”; and

7 (2) by striking “the Waste Fund” each place it
8 appears and inserting “the Waste Fund or the
9 Working Capital Fund established by section 401 of
10 the Nuclear Waste Administration Act of 2012”.

11 **SEC. 403. FULL COST RECOVERY.**

12 In determining whether insufficient or excess reve-
13 nues are being collected to ensure full cost recovery under
14 section 302(a)(4) of the Nuclear Waste Policy Act of 1982
15 (42 U.S.C. 10222(a)(4)), the Administrator shall—

16 (1) assume that sufficient funds will be appro-
17 priated to the Nuclear Waste Fund to cover the
18 costs attributable to disposal of defense wastes; and

19 (2) take into account the additional costs re-
20 sulting from the enactment of this Act.

21 **SEC. 404. JUDICIAL REVIEW.**

22 (a) JURISDICTION.—

23 (1) COURTS OF APPEALS.—Except for review in
24 the Supreme Court, a United States court of appeals

1 shall have original and exclusive jurisdiction over
2 any civil action—

3 (A) for review of any final decision or ac-
4 tion of the Administrator or the Commission
5 under this Act;

6 (B) alleging the failure of the Adminis-
7 trator or the Commission to make any decision,
8 or take any action, required under this Act;

9 (C) challenging the constitutionality of any
10 decision made, or action taken, under this Act;
11 or

12 (D) for review of any environmental as-
13 sessment or environmental impact statement
14 prepared pursuant to the National Environ-
15 mental Policy Act of 1969 (42 U.S.C. 4321 et
16 seq.) with respect to any action under this Act,
17 or alleging a failure to prepare any such assess-
18 ment or statement with respect to any such ac-
19 tion.

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

22 (A) the judicial circuit in which the peti-
23 tioner involved resides or has the principal of-
24 fice of the petitioner; or

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

3 (b) DEADLINE FOR COMMENCING ACTION.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), a civil action for judicial review described
6 in subsection (a)(1) may be brought not later than
7 the date that is 180 days after the date of the deci-
8 sion or action or failure to act involved.

9 (2) NO KNOWLEDGE OF DECISION OR AC-
10 TION.—If a party shows that the party did not know
11 of the decision or action complained of (or of the
12 failure to act) and that a reasonable person acting
13 under the circumstances would not have known, the
14 party may bring a civil action not later than 180
15 days after the date the party acquired actual or con-
16 structive knowledge of the decision, action, or failure
17 to act.

18 **SEC. 405. LITIGATION AUTHORITY.**

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

23 (b) ATTORNEYS OF ADMINISTRATION.—The Attor-
24 ney General may authorize any attorney of the Adminis-

1 tration to conduct any civil litigation of the Administration
2 in any Federal court, except the Supreme Court.

3 **SEC. 406. LIABILITIES.**

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

8 (1) not abate by reason of the enactment of this
9 Act; and

10 (2) continue in effect with the Administrator
11 substituted for the Secretary.

12 (b) SETTLEMENT OF PENDING LITIGATION; CON-
13 TRACT MODIFICATION.—

14 (1) SETTLEMENT.—The Attorney General, in
15 consultation with the Administrator, shall settle all
16 claims against the United States by a contract hold-
17 er for the breach of a contract for the disposal of
18 nuclear waste under section 302(a) of the Nuclear
19 Waste Policy Act of 1982 (42 U.S.C. 10222(a)) as
20 a condition precedent of the agreement of the Ad-
21 ministrator to take title to and store the nuclear
22 waste of the contract holder at a storage facility.

23 (2) CONTRACT MODIFICATION.—The Adminis-
24 trator and contract holders shall modify contracts
25 entered into under section 302(a) of the Nuclear

1 Waste Policy Act of 1982 (42 U.S.C. 10222(a)) in
2 accordance with the settlement under paragraph (1).

3 (c) PAYMENT OF JUDGMENTS AND SETTLEMENTS.—

4 Payment of judgments and settlements in cases arising
5 from the failure of the Secretary to meet the deadline of
6 January 31, 1998, to begin to dispose of nuclear waste
7 under contracts entered into under section 302(a)(1) of
8 the Nuclear Waste Policy Act of 1982 (42 U.S.C.
9 10222(a)(1)) shall continue to be paid from the perma-
10 nent judgment appropriation established pursuant to sec-
11 tion 1304 of title 31, United States Code.

12 (d) NEW CONTRACTS.—Notwithstanding section
13 302(a)(5) of the Nuclear Waste Policy Act of 1982 (42
14 U.S.C. 10222(a)(5)), the Administrator shall not enter
15 into any contract after the date of enactment of this Act
16 that obligates the Administrator to begin disposing of nu-
17 clear waste before the Commission has licensed the Ad-
18 ministrator to operate a repository or storage facility.

19 (e) NUCLEAR INDEMNIFICATION.—

20 (1) INDEMNIFICATION AGREEMENTS.—For pur-
21 poses of section 170 of the Atomic Energy Act of
22 1954 (42 U.S.C. 2210) (commonly known as the
23 “Price-Anderson Act”)—

24 (A) any person that conducts nuclear
25 waste activities under a contract with the Ad-

1 administrator that may involve the risk of public
 2 liability shall be treated as a contractor of the
 3 Secretary; and

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

7 (2) CONFORMING AMENDMENT.—Section 11 ff.
 8 of the Atomic Energy Act of 1954 (42 U.S.C.
 9 2014(ff)) is amended by inserting “or the Nuclear
 10 Waste Administration” after “Secretary of Energy”.

11 **TITLE V—ADMINISTRATIVE AND**
 12 **SAVINGS PROVISIONS**

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

14 The Administrator shall have the power—

15 (1) to perform the functions of the Secretary
 16 transferred to the Administrator pursuant to this
 17 Act;

18 (2) to enter into contracts with any person who
 19 generates or holds title to nuclear waste generated
 20 in a civilian nuclear power reactor for the acceptance
 21 of title, subsequent transportation, storage, and dis-
 22 posal of the nuclear waste;

23 (3) to enter into and perform contracts, leases,
 24 and cooperative agreements with public agencies,
 25 private organizations, and persons necessary or ap-

1 appropriate to carry out the functions of the Adminis-
2 trator;

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

6 (5) to obtain from the Administrator of General
7 Services the services the Administrator of General
8 Services is authorized to provide agencies of the
9 United States, on the same basis as those services
10 are provided to other agencies of the United States;

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

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

18 **SEC. 502. PERSONNEL.**

19 (a) OFFICERS AND EMPLOYEES.—

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

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

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

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

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

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

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

10 (c) ADVISORY COMMITTEES.—

11 (1) ESTABLISHMENT.—The Administrator may
12 establish, in accordance with the Federal Advisory
13 Committee Act (5 U.S.C. App.), such advisory com-
14 mittees as the Administrator may consider appro-
15 priate to assist in the performance of the functions
16 of the Administrator.

17 (2) COMPENSATION.—A member of an advisory
18 committee, other than a full-time employee of the
19 Federal Government, may be allowed travel ex-
20 penses, including per diem in lieu of subsistence, as
21 authorized by section 5703 of title 5, United States
22 Code, for individuals in the Government service
23 without pay, while attending meetings of the advi-
24 sory committee or otherwise serving away from the

1 homes or regular place of business of the member at
2 the request of the Administrator.

3 **SEC. 503. OFFICES.**

4 (a) **PRINCIPAL OFFICE.**—The principal office of the
5 Administration shall be in or near the District of Colum-
6 bia.

7 (b) **FIELD OFFICES.**—The Administrator may main-
8 tain such field offices as the Administrator considers nec-
9 essary to carry out the functions of the Administrator.

10 **SEC. 504. MISSION PLAN.**

11 (a) **IN GENERAL.**—The Administrator shall prepare
12 a comprehensive report (referred to in this section as the
13 “mission plan”), which shall—

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

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

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

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

23 (2) schedules and milestones for carrying out
24 the functions of the Administrator; and

1 (3) an estimate of the amounts that the Admin-
2 istration will need Congress to appropriate from the
3 Nuclear Waste Fund (in addition to amounts ex-
4 pected to be available from the Working Capital
5 Fund) to carry out the functions of the Nuclear
6 Waste Fund, on an annual basis.

7 (c) PROPOSED MISSION PLAN.—Not later than 1
8 year after the date of enactment of this Act, the Adminis-
9 trator shall submit a proposed mission plan for comment
10 to—

11 (1) Congress;

12 (2) the Oversight Board;

13 (3) the Commission;

14 (4) the Nuclear Waste Technical Review Board
15 established by section 502 of the Nuclear Waste Pol-
16 icy Act of 1982 (42 U.S.C. 10262);

17 (5) the States;

18 (6) affected Indian tribes; and

19 (7) such other interested persons as the Admin-
20 istrator considers appropriate.

21 (d) PUBLIC NOTICE AND COMMENT.—On submitting
22 the proposed mission plan for comment under subsection
23 (c), the Administrator shall—

1 (1) publish a notice in the Federal Register of
2 the availability of the proposed mission plan for pub-
3 lic comment; and

4 (2) provided interested persons an opportunity
5 to comment on the proposed plan.

6 (e) SUBMISSION OF FINAL MISSION PLAN.—After
7 consideration of the comments received, the Administrator
8 shall—

9 (1) revise the proposed mission plan to the ex-
10 tent that the Administrator considers appropriate;
11 and

12 (2) submit the final mission plan to Congress,
13 the President, and the Oversight Board.

14 (f) REVISION OF THE MISSION PLAN.—The Adminis-
15 trator shall—

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

20 (2) submit the revised mission plan to Con-
21 gress, the President, and the Oversight Board prior
22 to implementing the proposed changes.

23 **SEC. 505. ANNUAL REPORTS.**

24 (a) IN GENERAL.—The Administrator shall annually
25 prepare and submit to Congress, the President, and the

1 Oversight Board a comprehensive report on the activities
2 and expenditures of the Administration.

3 (b) MANAGEMENT REPORT.—The annual report sub-
4 mitted under subsection (a) shall include—

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

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

11 **SEC. 506. SAVINGS PROVISIONS; TERMINATIONS.**

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

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

19 (1) the maintenance, treatment, packaging, and
20 storage of defense wastes at Department of Energy
21 sites prior to delivery to, and acceptance by, the Ad-
22 ministrators for disposal in a repository;

23 (2) the conduct of generic research, develop-
24 ment, and demonstration activities related to nuclear
25 waste management, including proliferation-resistant

1 advanced fuel recycling and transmutation tech-
2 nologies that minimize environmental and public
3 health and safety impacts; and

4 (3) training and workforce development pro-
5 grams relating to nuclear waste management.

6 (c) PILOT PROGRAM.—Notwithstanding section
7 304, the Administrator may proceed with the siting and
8 licensing of one or more consolidated storage facilities
9 under a cooperative agreement entered into by the Sec-
10 retary pursuant to section 312 of the Energy and Water
11 Development and Related Agencies Appropriations Act,
12 2013, before the date of enactment of this Act in accord-
13 ance with—

14 (1) the terms of the cooperative agreement; and

15 (2) section 312 of the Energy and Water Devel-
16 opment and Related Agencies Appropriations Act,
17 2013.

18 (d) TERMINATIONS.—The authority for each function
19 of the Secretary relating to the siting, construction, and
20 operation of repositories, storage facilities, or test and
21 evaluation facilities not transferred to the Administrator
22 under this Act shall terminate on the date of enactment
23 of this Act, including the authority—

24 (1) to provide interim storage or monitored, re-
25 trievable storage under subtitles B and C of title I

1 of the Nuclear Waste Policy Act of 1982 (42 U.S.C.
2 10151 et seq.);

3 (2) to site or construct a test and evaluation fa-
4 cility under title II of the Nuclear Waste Policy Act
5 of 1982 (42 U.S.C. 10191 et seq.); and

6 (3) to issue requests for proposals or enter into
7 agreements under section 312 of the Energy and
8 Water Development and Related Agencies Appro-
9 priations Act, 2013.

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

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

18 (b) **INFORMING FOREIGN GOVERNMENTS.**—As soon
19 as practicable after the date of the publication of the an-
20 nual joint notice described in subsection (a), the Secretary
21 of State shall inform the governments of nations and orga-
22 nizations operating nuclear power plants, solicit expres-
23 sions of interest, and transmit any such expressions of in-
24 terest to the Secretary and the Commission, as provided

1 in section 223(e) of the Nuclear Waste Policy Act of 1982
2 (42 U.S.C. 10203(e)).

3 (c) BUDGET REQUESTS.—The President shall in-
4 clude in the budget request of the President for the Com-
5 mission and the Department of Energy for each of fiscal
6 years 2014 through 2019 such funding requests for a pro-
7 gram of cooperation and technical assistance with nations
8 in the fields of spent nuclear fuel storage and disposal as
9 the President determines appropriate in light of expres-
10 sions of interest in the cooperation and assistance.

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

19 **SEC. 508. NUCLEAR WASTE TECHNICAL REVIEW BOARD.**

20 (a) ELIGIBILITY.—Section 502(b)(3)(C)(iii)(I) of the
21 Nuclear Waste Policy Act of 1982 (42 U.S.C.
22 10262(b)(3)(C)(iii)(I)) is amended by inserting “or the
23 Nuclear Waste Administration” after “the Department of
24 Energy”.

1 (b) FUNCTIONS.—Section 503 of the Nuclear Waste
2 Policy Act of 1982 (42 U.S.C. 10263) is amended by
3 striking “Secretary after the date of the enactment of the
4 Nuclear Waste Policy Amendments Act of 1987” and in-
5 serting “Nuclear Waste Administrator after the date of
6 enactment of the Nuclear Waste Administration Act of
7 2012”.

8 (c) PRODUCTION OF DOCUMENTS.—Section 504(b)
9 of the Nuclear Waste Policy Act of 1982 (42 U.S.C.
10 10264(b)) is amended by striking “Secretary” each place
11 it appears and inserting “Nuclear Waste Administrator”.

12 (d) REPORTS.—Section 508 of the Nuclear Waste
13 Policy Act of 1982 (42 U.S.C. 10268) is amended in the
14 first sentence by striking “Congress and the Secretary”
15 and inserting “Congress, the Nuclear Waste Adminis-
16 trator, and the Nuclear Waste Oversight Board”.

17 (e) TERMINATION.—Section 510 of the Nuclear
18 Waste Policy Act of 1982 (42 U.S.C. 10270) is amended
19 by striking “Secretary” and inserting “Nuclear Waste Ad-
20 ministrator”.

21 **SEC. 509. REPEAL OF VOLUME LIMITATION.**

22 Section 114(d) of the Nuclear Waste Policy Act of
23 1982 (42 U.S.C. 10134(d)) is amended by striking the
24 second and third sentences.

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