

**May 6, 1997**

**Ordered to be printed as passed**

105TH CONGRESS  
1ST SESSION

**S. 104**

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**AN ACT**

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,*

1 That the Nuclear Waste Policy Act of 1982 is amended  
 2 to read as follows:

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

4 “(a) SHORT TITLE.—This Act may be cited as the  
 5 ‘Nuclear Waste Policy Act of 1997’.

6 “(b) TABLE OF CONTENTS.—

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

“Sec. 2. Definitions.

“TITLE I—OBLIGATIONS

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

“TITLE II—INTEGRATED MANAGEMENT SYSTEM

“Sec. 201. Intermodal transfer.

“Sec. 202. Transportation planning.

“Sec. 203. Transportation requirements.

“Sec. 204. Viability assessment and Presidential determination

“Sec. 205. Interim storage facility.

“Sec. 206. Permanent repository.

“Sec. 207. Compliance with the National Environmental Policy Act.

“Sec. 208. Land withdrawal.

“TITLE III—LOCAL RELATIONS

“Sec. 301. Financial assistance.

“Sec. 302. On-Site Representative.

“Sec. 303. Acceptance of benefits.

“Sec. 304. Restrictions on use of funds.

“Sec. 305. Land conveyances.

“TITLE IV—FUNDING AND ORGANIZATION

“Sec. 401. Program funding.

“Sec. 402. Office of Civilian Radioactive Waste Management.

“Sec. 403. Federal contribution.

“TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

“Sec. 501. Compliance with other laws.

“Sec. 502. Judicial review of agency actions.

“Sec. 503. Licensing of facility expansions and transshipments.

“Sec. 504. Siting a second repository.

“Sec. 505. Financial arrangements for low-level radioactive waste site closure.

“Sec. 506. Nuclear Regulatory Commission training authority.

“Sec. 507. Emplacement schedule.

“Sec. 508. Transfer of title.

“Sec. 509. Decommissioning Pilot Program.

“Sec. 510. Water rights.

“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.

“TITLE VIII—MISCELLANEOUS

- “Sec. 801. Sense of the Senate.
- “Sec. 802. Effective date.

1   **“SEC. 2. DEFINITIONS.**

2       “For purposes of this Act:

3           “(1) ACCEPT, ACCEPTANCE.—The terms ‘ac-

4       cept’ and ‘acceptance’ mean the Secretary’s act of

5       taking possession of spent nuclear fuel or high-level

6       radioactive waste.

7           “(2) AFFECTED INDIAN TRIBE.—The term ‘af-

8       fected Indian tribe’ means any Indian tribe—

9           “(A) whose reservation is surrounded by or

10       borders an affected unit of local government, or

11          “(B) whose federally defined possessory or

12       usage rights to other lands outside of the res-

13       ervation’s boundaries arising out of congres-

14       sionally ratified treaties may be substantially

15       and adversely affected by the locating of an in-

16       terim storage facility or a repository if the Sec-

1           retary of the Interior finds, upon the petition of  
2           the appropriate governmental officials of the  
3           tribe, that such effects are both substantial and  
4           adverse to the tribe.

5           “(3) AFFECTED UNIT OF LOCAL GOVERN-  
6           MENT.—The term ‘affected unit of local government’  
7           means the unit of local government with jurisdiction  
8           over the site of a repository or interim storage facil-  
9           ity. Such term may, at the discretion of the Sec-  
10          retary, include other units of local government that  
11          are contiguous with such unit.

12          “(4) ATOMIC ENERGY DEFENSE ACTIVITY.—  
13          The term ‘atomic energy defense activity’ means any  
14          activity of the Secretary performed in whole or in  
15          part in carrying out any of the following functions:

16                 “(A) Naval reactors development.

17                 “(B) Weapons activities including defense  
18                 inertial confinement fusion.

19                 “(C) Verification and control technology.

20                 “(D) Defense nuclear materials produc-  
21                 tion.

22                 “(E) Defense nuclear waste and materials  
23                 byproducts management.

24                 “(F) Defense nuclear materials security  
25                 and safeguards and security investigations.

1                   “(G) Defense research and development.

2                   “(5) CIVILIAN NUCLEAR POWER REACTOR.—

3                   The term ‘civilian nuclear power reactor’ means a ci-  
4                   vilian nuclear power plant required to be licensed  
5                   under section 103 or 104 b. of the Atomic Energy  
6                   Act of 1954 (42 U.S.C. 2133, 2134(b)).

7                   “(6) COMMISSION.—The term ‘Commission’  
8                   means the Nuclear Regulatory Commission.

9                   “(7) CONTRACTS.—The term ‘contracts’ means  
10                  the contracts, executed prior to the date of enact-  
11                  ment of the Nuclear Waste Policy Act of 1997,  
12                  under section 302(a) of the Nuclear Waste Policy  
13                  Act of 1982, by the Secretary and any person who  
14                  generates or holds title to spent nuclear fuel or high-  
15                  level radioactive waste of domestic origin for accept-  
16                  ance of such waste or fuel by the Secretary and the  
17                  payment of fees to offset the Secretary’s expendi-  
18                  tures, and any subsequent contracts executed by the  
19                  Secretary pursuant to section 401(a) of this Act.

20                  “(8) CONTRACT HOLDERS.—The term ‘contract  
21                  holders’ means parties (other than the Secretary) to  
22                  contracts.

23                  “(9) DEPARTMENT.—The term ‘Department’  
24                  means the Department of Energy.

1           “(10) DISPOSAL.—The term ‘disposal’ means  
2           the emplacement in a repository of spent nuclear  
3           fuel, high-level radioactive waste, or other highly ra-  
4           dioactive material with no foreseeable intent of re-  
5           covery, whether or not such emplacement permits re-  
6           covery of such material for any future purpose.

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

12          “(12) EMPLACEMENT SCHEDULE.—The term  
13          ‘emplacement schedule’ means the schedule estab-  
14          lished by the Secretary in accordance with section  
15          507(a) for emplacement of spent nuclear fuel and  
16          high-level radioactive waste at the interim storage  
17          facility.

18          “(13) ENGINEERED BARRIERS AND ENGI-  
19          NEERED SYSTEMS AND COMPONENTS.—The terms  
20          ‘engineered barriers’ and ‘engineered systems and  
21          components’, mean man-made components of a dis-  
22          posal system. These terms include the spent nuclear  
23          fuel or high-level radioactive waste form, spent nu-  
24          clear fuel package or high-level radioactive waste

1 package, and other materials placed over and around  
2 such packages.

3 “(14) HIGH-LEVEL RADIOACTIVE WASTE.—The  
4 term ‘high-level radioactive waste’ means—

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

11 “(B) other highly radioactive material that  
12 the Commission, consistent with existing law,  
13 determines by rule requires permanent isola-  
14 tion, which includes any low-level radioactive  
15 waste with concentrations of radionuclides that  
16 exceed the limits established by the Commission  
17 for class C radioactive waste, as defined by sec-  
18 tion 61.55 of title 10, Code of Federal Regula-  
19 tions, as in effect on January 26, 1983.

20 “(15) FEDERAL AGENCY.—The term ‘Federal  
21 agency’ means any Executive agency, as defined in  
22 section 105 of title 5, United States Code.

23 “(16) INDIAN TRIBE.—The term ‘Indian tribe’  
24 means any Indian tribe, band, nation, or other orga-  
25 nized group or community of Indians recognized as

1 eligible for the services provided to Indians by the  
2 Secretary of the Interior because of their status as  
3 Indians including any Alaska Native village, as de-  
4 fined in section 3(c) of the Alaska Native Claims  
5 Settlement Act (43 U.S.C. 1602(c)).

6 “(17) INTEGRATED MANAGEMENT SYSTEM.—  
7 The term ‘integrated management system’ means  
8 the system developed by the Secretary for the ac-  
9 ceptance, transportation, storage, and disposal of  
10 spent nuclear fuel and high-level radioactive waste  
11 under title II of this Act.

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

18 “(19) INTERIM STORAGE FACILITY SITE.—The  
19 term ‘interim storage facility site’ means the specific  
20 site within Area 25 of the Nevada Test Site that is  
21 designated by the Secretary and withdrawn and re-  
22 served in accordance with this Act for the location  
23 of the interim storage facility.



1           “(20) LOW-LEVEL RADIOACTIVE WASTE.—The  
2           term ‘low-level radioactive waste’ means radioactive  
3           material that—

4                   “(A) is not spent nuclear fuel, high-level  
5                   radioactive waste, transuranic waste, or byprod-  
6                   uct material as defined in section 11 e.(2) of  
7                   the Atomic Energy Act of 1954 (42 U.S.C.  
8                   2014(e)(2)); and

9                   “(B) the Commission, consistent with ex-  
10                  isting law, classifies as low-level radioactive  
11                  waste.

12           “(21) METRIC TONS URANIUM.—The terms  
13           ‘metric tons uranium’ and ‘MTU’ means the amount  
14           of uranium in the original unirradiated fuel element  
15           whether or not the spent nuclear fuel has been re-  
16           processed.

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

23           “(23) OFFICE.—The term ‘Office’ means the  
24           Office of Civilian Radioactive Waste Management es-  
25           tablished within the Department prior to the date of

1 enactment of this Act under the provisions of the  
2 Nuclear Waste Policy Act of 1982.

3 “(24) PROGRAM APPROACH.—The term ‘pro-  
4 gram approach’ means the Civilian Radioactive  
5 Waste Management Program Plan, dated May 6,  
6 1996, as modified by this Act, and as amended from  
7 time to time by the Secretary in accordance with  
8 this Act.

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

17 “(26) SECRETARY.—The term ‘Secretary’  
18 means the Secretary of Energy.

19 “(27) SITE CHARACTERIZATION.—The term  
20 ‘site characterization’ means activities, whether in a  
21 laboratory or in the field, undertaken to establish  
22 the geologic condition and the ranges of the param-  
23 eters of a candidate site relevant to the location of  
24 a repository, including borings, surface excavations,  
25 excavations of exploratory facilities, limited sub-

1 surface lateral excavations and borings, and in situ  
2 testing needed to evaluate the licensability of a can-  
3 didate site for the location of a repository, but not  
4 including preliminary borings and geophysical test-  
5 ing needed to assess whether site characterization  
6 should be undertaken.

7 “(28) SPENT NUCLEAR FUEL.—The term  
8 ‘spent nuclear fuel’ means fuel that has been with-  
9 drawn from a nuclear reactor following irradiation,  
10 the constituent elements of which have not been sep-  
11 arated by reprocessing.

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

16 “(30) WITHDRAWAL.—The term ‘withdrawal’  
17 has the same definition as that set forth in section  
18 103(j) of the Federal Land Policy and Management  
19 Act of 1976 (43 U.S.C. 1702(j)).

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

1           “(32) ADMINISTRATOR.—The term ‘Adminis-  
2           trator’ means the Administrator of the Environ-  
3           mental Protection Agency.

4           “(33) SUITABLE.—The term ‘suitable’ means  
5           that there is reasonable assurance that the site fea-  
6           tures of a repository and the engineered barriers  
7           contained therein will allow the repository, as an  
8           overall system, to provide containment and isolation  
9           of radionuclides sufficient to meet applicable stand-  
10          ards for protection of public health and safety.

11                   **“TITLE I—OBLIGATIONS**

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

13          “(a) DISPOSAL.—The Secretary shall develop and op-  
14          erate an integrated management system for the storage  
15          and permanent disposal of spent nuclear fuel and high-  
16          level radioactive waste.

17          “(b) INTERIM STORAGE.—The Secretary shall store  
18          spent nuclear fuel and high-level radioactive waste from  
19          facilities designated by contract holders at an interim stor-  
20          age facility pursuant to section 205 in accordance with  
21          the emplacement schedule, beginning no later than 18  
22          months after issuance of a license for an interim storage  
23          facility under section 205(g).

24          “(c) TRANSPORTATION.—The Secretary shall provide  
25          for the transportation of spent nuclear fuel and high-level

1 radioactive waste accepted by the Secretary. The Sec-  
2 retary shall procure all systems and components necessary  
3 to transport spent nuclear fuel and high-level radioactive  
4 waste from facilities designated by contract holders to and  
5 among facilities comprising the Integrated Management  
6 System. Consistent with the Buy American Act (41 U.S.C.  
7 10a–10c), unless the Secretary shall determine it to be  
8 inconsistent with the public interest, or the cost to be un-  
9 reasonable, all such systems and components procured by  
10 the Secretary shall be manufactured in the United States,  
11 with the exception of any transportable storage systems  
12 purchased by contract holders prior to the effective date  
13 of the Nuclear Waste Policy Act of 1997 and procured  
14 by the Secretary from such contract holders for use in the  
15 integrated management system.

16 “(d) INTEGRATED MANAGEMENT SYSTEM.—The  
17 Secretary shall expeditiously pursue the development of  
18 each component of the integrated management system,  
19 and in so doing shall seek to utilize effective private sector  
20 management and contracting practices.

21 “(e) PRIVATE SECTOR PARTICIPATION.—In admin-  
22 istering the Integrated Management System, the Sec-  
23 retary shall, to the maximum extent possible, utilize, em-  
24 ploy, procure and contract with, the private sector to fulfill

1 the Secretary's obligations and requirements under this  
2 Act.

3 “(f) PRE-EXISTING RIGHTS.—Nothing in this Act is  
4 intended to or shall be construed to modify—

5 “(1) any right of a contract holder under sec-  
6 tion 302(a) of the Nuclear Waste Policy Act of  
7 1982, or under a contract executed prior to the date  
8 of enactment of this Act under that section; or

9 “(2) obligations imposed upon the Federal Gov-  
10 ernment by the United States District Court of  
11 Idaho in an order entered on October 17, 1995 in  
12 United States v. Batt (No. 91-0054-S-EJL).

13 “(g) LIABILITY.—Subject to subsection (f), nothing  
14 in this Act shall be construed to subject the United States  
15 to financial liability for the Secretary's failure to meet any  
16 deadline for the acceptance or emplacement of spent nu-  
17 clear fuel or high-level radioactive waste for storage or dis-  
18 posal under this Act.

## 19 **“TITLE II—INTEGRATED MANAGEMENT** 20 **SYSTEM**

### 21 **“SEC. 201. INTERMODAL TRANSFER.**

22 “(a) ACCESS.—The Secretary shall utilize heavy-haul  
23 truck transport to move spent nuclear fuel and high-level  
24 radioactive waste from the mainline rail line at Caliente,  
25 Nevada, to the interim storage facility site.

1       “(b) CAPABILITY DATE.—The Secretary shall de-  
2 velop the capability to commence rail to truck intermodal  
3 transfer at Caliente, Nevada, no later than 18 months  
4 after issuance of a license under section 205(g) for an in-  
5 terim storage facility designated under section 204(c)(1).  
6 Intermodal transfer and related activities are incidental to  
7 the interstate transportation of spent nuclear fuel and  
8 high-level radioactive waste.

9       “(c) ACQUISITIONS.—The Secretary shall acquire  
10 lands and rights-of-way necessary to commence intermodal  
11 transfer at Caliente, Nevada.

12       “(d) REPLACEMENTS.—The Secretary shall acquire  
13 and develop on behalf of, and dedicate to, the City of  
14 Caliente, Nevada, parcels of land and right-of-way within  
15 Lincoln County, Nevada, as required to facilitate replace-  
16 ment of land and city wastewater disposal facilities nec-  
17 essary to commence intermodal transfer pursuant to this  
18 Act. Replacement of land and city wastewater disposal ac-  
19 tivities shall occur no later than 2 years after the effective  
20 date of this section.

21       “(e) NOTICE AND MAP.—No later than 6 months  
22 after the effective date of this section, the Secretary  
23 shall—

1           “(1) publish in the Federal Register a notice  
2           containing a legal description of the sites and rights-  
3           of-way to be acquired under this subsection; and

4           “(2) file copies of a map of such sites and  
5           rights-of-way with the Congress, the Secretary of the  
6           Interior, the State of Nevada, the Archivist of the  
7           United States, the Board of Lincoln County Com-  
8           missioners, the Board of Nye County Commis-  
9           sioners, and the Caliente City Council.

10   Such map and legal description shall have the same force  
11   and effect as if they were included in this Act. The Sec-  
12   retary may correct clerical and typographical errors and  
13   legal descriptions and make minor adjustments in the  
14   boundaries.

15       “(f) IMPROVEMENTS.—The Secretary shall make im-  
16   provements to existing roadways selected for heavy-haul  
17   truck transport between Caliente, Nevada, and the interim  
18   storage facility site as necessary to facilitate year-round  
19   safe transport of spent nuclear fuel and high-level radio-  
20   active waste.

21       “(g) LOCAL GOVERNMENT INVOLVEMENT.—The  
22   Commission shall enter into a Memorandum of Under-  
23   standing with the City of Caliente and Lincoln County,  
24   Nevada, to provide advice to the Commission regarding  
25   intermodal transfer and to facilitate on-site representa-



1 tion. Reasonable expenses of such representation shall be  
2 paid by the Secretary.

3 “(h) BENEFITS AGREEMENT.—

4 “(1) IN GENERAL.—The Secretary shall offer to  
5 enter into an agreement with the City of Caliente  
6 and Lincoln County, Nevada concerning the inte-  
7 grated management system.

8 “(2) AGREEMENT CONTENT.—Any agreement  
9 shall contain such terms and conditions, including  
10 such financial and institutional arrangements, as the  
11 Secretary and agreement entity determine to be rea-  
12 sonable and appropriate and shall contain such pro-  
13 visions as are necessary to preserve any right to par-  
14 ticipation or compensation of the City of Caliente  
15 and Lincoln County, Nevada.

16 “(3) AMENDMENT.—An agreement entered into  
17 under this subsection may be amended only with the  
18 mutual consent of the parties to the amendment and  
19 terminated only in accordance with paragraph (4).

20 “(4) TERMINATION.—The Secretary shall ter-  
21 minate the agreement under this subsection if any  
22 major element of the integrated management system  
23 may not be completed.

24 “(5) LIMITATION.—Only 1 agreement may be  
25 in effect at any one time.

1           “(6) JUDICIAL REVIEW.—Decisions of the Sec-  
 2           retary under this section are not subject to judicial  
 3           review.

4           “(i) CONTENT OF AGREEMENT.—

5           “(1) SCHEDULE.—In addition to the benefits to  
 6           which the City of Caliente and Lincoln County is en-  
 7           titled to under this title, the Secretary shall make  
 8           payments under the benefits agreement in accord-  
 9           ance with the following schedule:

BENEFITS SCHEDULE

(amounts in millions)

Event	Payment
(A) Annual payments prior to first receipt of spent fuel .....	\$2.5
(B) Annual payments beginning upon first spent fuel receipt .....	\$5
(C) Payment upon closure of the intermodal transfer facility .....	\$5

10           “(2) DEFINITIONS.—For purposes of this sec-  
 11           tion, the term—

12           “(A) ‘spent fuel’ means high-level radio-  
 13           active waste or spent nuclear fuel; and

14           “(B) ‘first spent fuel receipt’ does not in-  
 15           clude receipt of spent fuel or high-level radio-  
 16           active waste for purposes of testing or oper-  
 17           ational demonstration.

18           “(3) ANNUAL PAYMENTS.—Annual payments  
 19           prior to first spent fuel receipt under paragraph  
 20           (1)(A) shall be made on the date of execution of the  
 21           benefits agreement and thereafter on the anniver-  
 22           sary date of such execution. Annual payments after

1 the first spent fuel receipt until closure of the facil-  
2 ity under paragraph (1)(C) shall be made on the an-  
3 niversary date of such first spent fuel receipt.

4 “(4) REDUCTION.—If the first spent fuel pay-  
5 ment under paragraph (1)(B) is made within 6  
6 months after the last annual payment prior to the  
7 receipt of spent fuel under paragraph (1)(A), such  
8 first spent fuel payment under paragraph (1)(B)  
9 shall be reduced by an amount equal to 1/12 of such  
10 annual payment under paragraph (1)(A) for each  
11 full month less than 6 that has not elapsed since the  
12 last annual payment under paragraph (1)(A).

13 “(5) RESTRICTIONS.—The Secretary may not  
14 restrict the purposes for which the payments under  
15 this section may be used.

16 “(6) DISPUTE.—In the event of a dispute con-  
17 cerning such agreement, the Secretary shall resolve  
18 such dispute, consistent with this Act and applicable  
19 State law.

20 “(7) CONSTRUCTION.—The signature of the  
21 Secretary on a valid benefits agreement under this  
22 section shall constitute a commitment by the United  
23 States to make payments in accordance with such  
24 agreement under section 401(c)(2).

25 “(j) INITIAL LAND CONVEYANCES.—

1           “(1) CONVEYANCES OF PUBLIC LANDS.—One  
2       hundred and twenty days after enactment of this  
3       Act, all right, title and interest of the United States  
4       in the property described in paragraph (2), and im-  
5       provements thereon, together with all necessary  
6       easements for utilities and ingress and egress to  
7       such property, including, but not limited to, the  
8       right to improve those easements, are conveyed by  
9       operation of law to the County of Lincoln, Nevada,  
10      unless the county notifies the Secretary of the Inte-  
11      rior or the head of such other appropriate agency in  
12      writing within 60 days of such date of enactment  
13      that it elects not to take title to all or any part of  
14      the property, except that any lands conveyed to the  
15      County of Lincoln under this subsection that are  
16      subject to a Federal grazing permit or lease or a  
17      similar federally granted permit or lease shall be  
18      conveyed between 60 and 120 days of the earliest  
19      time the Federal agency administering or granting  
20      the permit or lease would be able to legally termi-  
21      nate such right under the statutes and regulations  
22      existing at the date of enactment of this Act, unless  
23      Lincoln County and the affected holder of the permit  
24      or lease negotiate an agreement that allows for an  
25      earlier conveyance.

1           “(2) SPECIAL CONVEYANCES.—Notwithstanding  
2           any other law, the following public lands depicted on  
3           the maps and legal descriptions dated October 11,  
4           1995, shall be conveyed under paragraph (1) to the  
5           County of Lincoln, Nevada:

6                     Map 10: Lincoln County, Parcel M, Indus-  
7                     trial Park Site

8                     Map 11: Lincoln County, Parcel F, Mixed  
9                     Use Industrial Site

10                    Map 13: Lincoln County, Parcel J, Mixed  
11                    Use, Alamo Community Expansion Area

12                    Map 14: Lincoln County, Parcel E, Mixed  
13                    Use, Pioche Community Expansion Area

14                    Map 15: Lincoln County, Parcel B, Land-  
15                    fill Expansion Site.

16           “(3) CONSTRUCTION.—The maps and legal de-  
17           scriptions of special conveyances referred to in para-  
18           graph (2) shall have the same force and effect as if  
19           they were included in this Act. The Secretary may  
20           correct clerical and typographical errors in the maps  
21           and legal descriptions and make minor adjustments  
22           in the boundaries of the sites.

23           “(4) EVIDENCE OF TITLE TRANSFER.—Upon  
24           the request of the County of Lincoln, Nevada, the

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

3 “(k) This section shall become effective on the date  
4 on which the Secretary submits a license application under  
5 section 205 for an interim storage facility at a site des-  
6 ignated under section 204(c)(1).

7 **“SEC. 202. TRANSPORTATION PLANNING.**

8 “(a) TRANSPORTATION READINESS.—The Sec-  
9 retary—

10 “(1) shall take such actions as are necessary  
11 and appropriate to ensure that the Secretary is able  
12 to transport safely spent nuclear fuel and high-level  
13 radioactive waste from sites designated by the con-  
14 tract holders to mainline transportation facilities  
15 and from the mainline transportation facilities to the  
16 interim storage facility or repository, using routes  
17 that minimize, to the maximum practicable extent  
18 consistent with Federal requirements governing  
19 transportation of hazardous materials, transpor-  
20 tation of spent nuclear fuel and high-level radio-  
21 active waste through populated areas; and

22 “(2) not later than 24 months after the Sec-  
23 retary submits a license application under section  
24 205 for an interim storage facility shall, in consulta-  
25 tion with the Secretary of Transportation and af-

1        fected States and tribes, and after an opportunity  
2        for public comment, develop and implement a com-  
3        prehensive management plan that ensures safe  
4        transportation of spent nuclear fuel and high-level  
5        radioactive waste from the sites designated by the  
6        contract holders to the interim storage facility site.

7        “(b) TRANSPORTATION PLANNING.—

8                “(1) IN GENERAL.—In conjunction with the de-  
9        velopment of the logistical plan in accordance with  
10       subsection (a), the Secretary shall update and mod-  
11       ify, as necessary, the Secretary’s transportation in-  
12       stitutional plans to ensure that institutional issues  
13       are addressed and resolved on a schedule to support  
14       the commencement of transportation of spent nu-  
15       clear fuel and high-level radioactive waste to the in-  
16       terim storage facility.

17               “(2) MATTERS TO BE ADDRESSED.—Among  
18       other things, planning under paragraph (1) shall  
19       provide a schedule and process for addressing and  
20       implementing, as necessary—

21                        “(A) transportation routing plans;

22                        “(B) transportation contracting plans;

23                        “(C) transportation training in accordance  
24       with section 203;

1 “(D) public education regarding transpor-  
2 tation of spent nuclear fuel and high-level ra-  
3 dioactive waste; and

4 “(E) transportation tracking programs.

5 “(c) SHIPPING CAMPAIGN TRANSPORTATION  
6 PLANS.—

7 “(1) IN GENERAL.—The Secretary shall develop  
8 a transportation plan for the implementation of each  
9 shipping campaign (as that term is defined by the  
10 Secretary) from each site at which high-level nuclear  
11 waste is stored, consistent with the principles and  
12 procedures stated in Department of Energy Order  
13 No. 460.2 and the Program Manager’s Guide.

14 “(2) REQUIREMENTS.—A shipping campaign  
15 transportation plan shall—

16 “(A) be fully integrated with State and  
17 tribal government notification, inspection, and  
18 emergency response plans along the preferred  
19 shipping route or State-designated alternative  
20 route identified under subsection (d) (unless the  
21 Secretary certifies in the plan that the State or  
22 tribal government has failed to cooperate in  
23 fully integrating the shipping campaign trans-  
24 portation plan with the applicable State or trib-  
25 al government plans); and



1           “(B) be consistent with the principles and  
2           procedures developed for the safe transportation  
3           of transuranic waste to the Waste Isolation  
4           Pilot Plant (unless the Secretary certifies in the  
5           plan that a specific principle or procedure is in-  
6           consistent with a provision of this Act).

7           “(d) SAFE SHIPPING ROUTES AND MODES.—

8           “(1) IN GENERAL.—The Secretary shall evalu-  
9           ate the relative safety of the proposed shipping  
10          routes and shipping modes from each shipping origin  
11          to the interim storage facility or repository com-  
12          pared with the safety of alternative modes and  
13          routes.

14          “(2) CONSIDERATIONS.—The evaluation under  
15          paragraph (1) shall be conducted in a manner con-  
16          sistent with regulations promulgated by the Sec-  
17          retary of Transportation under authority of chapter  
18          51 of title 49, United States Code, and the Nuclear  
19          Regulatory Commission under authority of the  
20          Atomic Energy Act of 1954 (42 U.S.C. 2011 et  
21          seq.), as applicable.

22          “(3) DESIGNATION OF PREFERRED SHIPPING  
23          ROUTE AND MODE.—Following the evaluation under  
24          paragraph (1), the Secretary shall designate pre-  
25          ferred shipping routes and modes from each civilian

1 nuclear power reactor and Department of Energy fa-  
2 cility that stores spent nuclear fuel or other high-  
3 level defense waste.

4 “(4) SELECTION OF PRIMARY SHIPPING  
5 ROUTE.—If the Secretary designates more than 1  
6 preferred route under paragraph (3), the Secretary  
7 shall select a primary route after considering, at a  
8 minimum, historical accident rates, population, sig-  
9 nificant hazards, shipping time, shipping distance,  
10 and mitigating measures such as limits on the speed  
11 of shipments.

12 “(5) USE OF PRIMARY SHIPPING ROUTE AND  
13 MODE.—Except in cases of emergency, for all ship-  
14 ments conducted under this Act, the Secretary shall  
15 cause the primary shipping route and mode or  
16 State-designated alternative route under chapter 51  
17 of title 49, United States Code, to be used. If a  
18 route is designated as a primary route for any reac-  
19 tor or Department of Energy facility, the Secretary  
20 may use that route to transport spent nuclear fuel  
21 or high-level radioactive waste from any other reac-  
22 tor or Department of Energy facility.

23 “(6) TRAINING AND TECHNICAL ASSISTANCE.—  
24 Following selection of the primary shipping routes,  
25 or State-designated alternative routes, the Secretary

1 shall focus training and technical assistance under  
2 section 203(c) on those routes.

3 “(7) PREFERRED RAIL ROUTES.—

4 “(A) REGULATION.—Not later than 1 year  
5 after the date of enactment of the Nuclear  
6 Waste Policy Act of 1997, the Secretary of  
7 Transportation, pursuant to authority under  
8 other provisions of law, shall promulgate a reg-  
9 ulation establishing procedures for the selection  
10 of preferred routes for the transportation of  
11 spent nuclear fuel and nuclear waste by rail.

12 “(B) INTERIM PROVISION.—During the pe-  
13 riod beginning on the date of enactment of the  
14 Nuclear Waste Policy Act of 1997 and ending  
15 on the date of issuance of a final regulation  
16 under subparagraph (A), rail transportation of  
17 spent nuclear fuel and high-level radioactive  
18 waste shall be conducted in accordance with  
19 regulatory requirements in effect on that date  
20 and with this section.

21 **“SEC. 203. TRANSPORTATION REQUIREMENTS.**

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

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

6       “(c) TECHNICAL ASSISTANCE.—

7           “(1) IN GENERAL.—

8               “(A) STATES AND INDIAN TRIBES.—As  
9 provided in paragraph (3), the Secretary shall  
10 provide technical assistance and funds to States  
11 and Indian tribes for training of public safety  
12 officials of appropriate units of State, local, and  
13 tribal government. A State shall allocate to  
14 local governments within the State a portion of  
15 any funds that the Secretary provides to the  
16 State for technical assistance and funding.

17           “(B) EMPLOYEE ORGANIZATIONS.—The  
18 Secretary shall provide technical assistance and  
19 funds for training directly to nonprofit em-  
20 ployee organizations and joint labor-manage-  
21 ment organizations that demonstrate experience  
22 in implementing and operating worker health  
23 and safety training and education programs  
24 and demonstrate the ability to reach and in-  
25 volve in training programs target populations of

workers who are or will be directly engaged in the transportation of spent nuclear fuel and high-level radioactive waste, or emergency response or post-emergency response with respect to such transportation.

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

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

“(ii) shall be consistent with any training standards established by the Secretary of Transportation under subsection (g); and

“(iii) shall include—

“(I) a training program applicable to persons responsible for responding to emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste;

“(II) instruction of public safety officers in procedures for the com-

1                   mand and control of the response to  
2                   any incident involving the waste; and  
3                   “(III) instruction of radiological  
4                   protection and emergency medical per-  
5                   sonnel in procedures for responding to  
6                   an incident involving spent nuclear  
7                   fuel or high-level radioactive waste  
8                   being transported.

9                   “(2) NO SHIPMENTS IF NO TRAINING.—(A)  
10                There will be no shipments of spent nuclear fuel and  
11                high-level radioactive waste through the jurisdiction  
12                of any State or the reservation lands of any Indian  
13                tribe eligible for grants under paragraph (3)(B)  
14                until the Secretary has made a determination that  
15                personnel in all State, local, and tribal jurisdictions  
16                on primary and alternative shipping routes have met  
17                acceptable standards of training for emergency re-  
18                sponses to accidents involving spent nuclear fuel and  
19                high-level nuclear waste, as established by the Sec-  
20                retary, and unless technical assistance and funds to  
21                implement procedures for the safe routine transpor-  
22                tation and for dealing with emergency response situ-  
23                ations under paragraph (1)(A) have been available  
24                to a State or Indian tribe for at least 3 years prior  
25                to any shipment: *Provided, however,* That the Sec-

1       retary may ship spent nuclear fuel and high-level ra-  
2       dioactive waste if technical assistance or funds have  
3       not been made available due to (i) an emergency, in-  
4       cluding the sudden and unforeseen closure of a high-  
5       way or rail line or the sudden and unforeseen need  
6       to remove spent fuel from a reactor because of an  
7       accident, or (ii) the refusal to accept technical assist-  
8       ance by a State or Indian tribe, or (iii) fraudulent  
9       actions which violate Federal law governing the ex-  
10      penditure of Federal funds.

11           “(B) In the event the Secretary is required to  
12      transport spent fuel or high-level radioactive waste  
13      through a jurisdiction prior to 3 years after the pro-  
14      vision of technical assistance or funds to such juris-  
15      diction, the Secretary shall, prior to such shipment,  
16      hold meetings in each State and Indian reservation  
17      through which the shipping route passes in order to  
18      present initial shipment plans and receive comments.  
19      Department of Energy personnel trained in emer-  
20      gency response shall escort each shipment. Funds  
21      and all Department of Energy training resources  
22      shall be made available to States and Indian tribes  
23      along the shipping route no later than three months  
24      prior to the commencement of shipments: *Provided,*  
25      *however,* That in no event shall such shipments ex-

1       ceed 1,000 metric tons per year: *Provided further*,  
2       That no such shipments shall be conducted more  
3       than four years after the effective date of the Nu-  
4       clear Waste Policy Act of 1997.

5               “(3) GRANTS.—

6               “(A) IN GENERAL.—To implement this  
7       section, grants shall be made under section  
8       401(c)(2).

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

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

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



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

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

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

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

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

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

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

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

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

22                  “(d) PUBLIC EDUCATION.—The Secretary shall con-  
23                  duct a program to educate the public regarding the trans-  
24                  portation of spent nuclear fuel and high-level radioactive  
25                  waste, with an emphasis upon those States, units of local

1 government, and Indian tribes through whose jurisdiction  
2 the Secretary plans to transport substantial amounts of  
3 spent nuclear fuel or high-level radioactive waste.

4 “(e) COMPLIANCE WITH TRANSPORTATION REGULA-  
5 TIONS.—Any person that transports spent nuclear fuel or  
6 high-level radioactive waste under the Nuclear Waste Pol-  
7 icy Act of 1997, pursuant to a contract with the Secretary,  
8 shall comply with all requirements governing such trans-  
9 portation issued by the Federal, State and local govern-  
10 ments, and Indian tribes, in the same way and to the same  
11 extent that any person engaging in that transportation  
12 that is in or affects interstate commerce must comply with  
13 such requirements, as required by section 5126 of title 49,  
14 United States Code.

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

1       “(g) TRAINING STANDARD.—(1) No later than 12  
2 months after the date of enactment of the Nuclear Waste  
3 Policy Act of 1997, the Secretary of Transportation, pur-  
4 suant to authority under other provisions of law, in con-  
5 sultation with the Secretary of Labor and the Commission,  
6 shall promulgate a regulation establishing training stand-  
7 ards applicable to workers directly involved in the removal  
8 and transportation of spent nuclear fuel and high-level ra-  
9 dioactive waste. The regulation shall specify minimum  
10 training standards applicable to workers, including mana-  
11 gerial personnel. The regulation shall require that the em-  
12 ployer possess evidence of satisfaction of the applicable  
13 training standard before any individual may be employed  
14 in the removal and transportation of spent nuclear fuel  
15 and high-level radioactive waste.

16       “(2) If the Secretary of Transportation determines,  
17 in promulgating the regulation required by subparagraph  
18 (1), that regulations promulgated by the Commission es-  
19 tablish adequate training standards for workers, then the  
20 Secretary of Transportation can refrain from promulgat-  
21 ing additional regulations with respect to worker training  
22 in such activities. The Secretary of Transportation and the  
23 Commission shall work through their Memorandum of Un-  
24 derstanding to ensure coordination of worker training  
25 standards and to avoid duplicative regulation.

1       “(3) The training standards required to be promul-  
2 gated under subparagraph (1) shall, among other things  
3 deemed necessary and appropriate by the Secretary of  
4 Transportation, include the following provisions—

5           “(A) a specified minimum number of hours of  
6 initial off site instruction and actual field experience  
7 under the direct supervision of a trained, experi-  
8 enced supervisor;

9           “(B) a requirement that onsite managerial per-  
10 sonnel receive the same training as workers, and a  
11 minimum number of additional hours of specialized  
12 training pertinent to their managerial responsibil-  
13 ities; and

14           “(C) a training program applicable to persons  
15 responsible for responding to and cleaning up emer-  
16 gency situations occurring during the removal and  
17 transportation of spent nuclear fuel and high-level  
18 radioactive waste.

19       “(4) There is authorized to be appropriated to the  
20 Secretary of Transportation, from general revenues, such  
21 sums as may be necessary to perform his duties under this  
22 subsection.

1 **“SEC. 204. VIABILITY ASSESSMENT AND PRESIDENTIAL DE-**  
2 **TERMINATION.**

3 “(a) VIABILITY ASSESSMENT.—No later than De-  
4 cember 1, 1998, the Secretary shall provide to the Presi-  
5 dent and to the Congress a viability assessment of the  
6 Yucca Mountain site. The viability assessment shall in-  
7 clude—

8 “(1) the preliminary design concept for the crit-  
9 ical elements of the repository and waste package;

10 “(2) a total system performance assessment,  
11 based upon the preliminary design concept in para-  
12 graph (1) of this subsection and the scientific data  
13 and analysis available on June 30, 1998, describing  
14 the probable behavior of the repository relative to  
15 the overall system performance standard under sec-  
16 tion 206(f) of this Act or, if the standard under sec-  
17 tion 206(f) has not been promulgated, relative to an  
18 estimate by the Secretary of an overall system per-  
19 formance standard that is consistent with section  
20 206(f);

21 “(3) a plan and cost estimate for the remaining  
22 work required to complete the license application  
23 under section 206(c) of this Act, and

24 “(4) an estimate of the costs to construct and  
25 operate the repository in accordance with the pre-

1       liminary design concept in paragraph (1) of this sub-  
2       section.

3       “(b) PRESIDENTIAL DETERMINATION.—No later  
4 than March 1, 1999, the President, in his sole and  
5 unreviewable discretion, may make a determination dis-  
6 qualifying the Yucca Mountain site as a repository, based  
7 on the President’s views that the preponderance of infor-  
8 mation available at such time indicates that the Yucca  
9 Mountain site is not suitable for development of a reposi-  
10 tory of useful size. If the President makes a determination  
11 under this subsection—

12               “(1) the Secretary shall cease all activities (ex-  
13 cept necessary termination activities) at the Yucca  
14 Mountain site and section 206 of this Act shall cease  
15 to be in effect; and

16               “(2) no later than 6 months after such deter-  
17 mination, the Secretary shall report to Congress on  
18 the need for additional legislation relating to the  
19 permanent disposal of nuclear waste.

20       “(c) PRELIMINARY SECRETARIAL DESIGNATION OF  
21 INTERIM STORAGE FACILITY SITES.—

22               “(1) If the President does not make a deter-  
23 mination under subsection (b) of this section, no  
24 later than March 31, 1999, the Secretary shall make  
25 a preliminary designation of a specific site within

1 Area 25 of the Nevada Test Site for planning and  
2 construction of an interim storage facility under sec-  
3 tion 205.

4 “(2) Within 18 months of a determination by  
5 the President that the Yucca Mountain site is un-  
6 suitable for development as a repository under sub-  
7 section (b), the President shall designate a site for  
8 the construction of an interim storage facility. The  
9 President shall not designate the Hanford Nuclear  
10 Reservation in the State of Washington, and the Sa-  
11 vannah River Site and Barnwell County in the State  
12 of South Carolina, or the Oak Ridge Reservation in  
13 the State of Tennessee, as a site for construction of  
14 an interim storage facility. If the President does not  
15 designate a site for the construction of an interim  
16 storage facility, or the construction of an interim  
17 storage facility at the designated site is not approved  
18 by law within 24 months of the President’s deter-  
19 mination that the Yucca Mountain site is not suit-  
20 able for development as a repository, the interim  
21 storage facility site as defined in section 2(19) of  
22 this Act is designated as the interim storage facility  
23 site for purposes of section 205. The interim storage  
24 facility site shall be deemed to be approved by law  
25 for purposes of this paragraph.



1   **“SEC. 205. INTERIM STORAGE FACILITY.**

2       “(a) NON-SITE-SPECIFIC ACTIVITIES.—As soon as  
3 practicable after the date of enactment of the Nuclear  
4 Waste Policy Act of 1997, the Secretary shall submit to  
5 the Commission a topical safety analysis report containing  
6 a generic design for an interim storage facility. If the Sec-  
7 retary has submitted such a report prior to such date of  
8 enactment, the report shall be deemed to have satisfied  
9 the requirement in the preceding sentence. No later than  
10 December 31, 1998, the Commission shall issue a safety  
11 evaluation report approving or disapproving the generic  
12 design submitted by the Secretary.

13       “(b) SITE-SPECIFIC AUTHORIZATION.—The Sec-  
14 retary shall design, construct, and operate a facility for  
15 the interim storage of spent nuclear fuel and high-level  
16 radioactive waste at the interim storage facility site des-  
17 ignated under section 204 and licensed by the Commission  
18 under this section. The Commission shall license the in-  
19 terim storage facility in accordance with the Commission’s  
20 regulations governing the licensing of independent storage  
21 of spent nuclear fuel and high-level radioactive waste (10  
22 CFR part 72). Such regulations shall be amended by the  
23 Commission as necessary to implement the provisions of  
24 this Act. The Commission may amend part 72 of title 10,  
25 Code of Federal Regulations with regard to facilities not

1 covered by this Act as deemed appropriate by the Commis-  
2 sion.

3 “(c) LIMITATIONS AND CONDITIONS.—

4 “(1) The Secretary shall not commence con-  
5 struction of an interim storage facility (which shall  
6 mean taking actions within the meaning of the term  
7 ‘commencement of construction’ contained in the  
8 Commission’s regulations in section 72.3 of title 10,  
9 Code of Federal Regulations) before the Commis-  
10 sion, or an appropriate officer or Board of the Com-  
11 mission, makes the finding under section 72.40(b) of  
12 title 10, Code of Federal Regulations.

13 “(2) After the Secretary makes the preliminary  
14 designation of an interim storage site under section  
15 204, the Secretary may commence site data acquisi-  
16 tion activities and design activities necessary to com-  
17 plete license application and environmental report  
18 under subsection (d) of this section.

19 “(3) Notwithstanding any other applicable li-  
20 censing requirement, the Secretary may utilize facili-  
21 ties owned by the Federal Government on the date  
22 of enactment of the Nuclear Waste Policy Act of  
23 1997 and located within the boundaries of the in-  
24 terim storage site, in connection with addressing any  
25 imminent and substantial endangerment to public

1 health and safety at the interim storage facility site,  
2 prior to receiving a license from the Commission for  
3 the interim storage facility, for purposes of fulfilling  
4 requirements for retrievability during the first five  
5 years of operation of the interim storage facility.

6 “(d) LICENSE APPLICATION.—No later than 30 days  
7 after the date on which the Secretary makes a preliminary  
8 designation of an interim storage facility site under section  
9 204, the Secretary shall submit a license application and  
10 an environmental report in accordance with applicable reg-  
11 ulations (subpart B of part 72 of title 10, Code of Federal  
12 Regulations, and subpart A of part 51 of title 10, Code  
13 of Federal Regulations, respectively). The license applica-  
14 tion—

15 “(1) shall be for a term of 40 years; and

16 “(2) shall be for a quantity of spent nuclear  
17 fuel or high-level radioactive waste equal to the  
18 quantity that would be emplaced under section 507  
19 prior to the date that the Secretary estimates, in the  
20 license application, to be the date on which the Sec-  
21 retary will receive and store spent nuclear fuel and  
22 high-level radioactive waste at the permanent reposi-  
23 tory.

24 “(e) DESIGN.—

1           “(1) The design for the interim storage facility  
2       shall provide for the use of storage technologies  
3       which are licensed, approved, or certified by the  
4       Commission, to ensure compatibility between the in-  
5       terim storage facility and contract holders’ spent nu-  
6       clear fuel and facilities, and to facilitate the Sec-  
7       retary’s ability to meet the Secretary’s obligations  
8       under this Act.

9           “(2) The Secretary shall consent to an amend-  
10      ment to the contracts to provide for reimbursement  
11      to contract holders for transportable storage systems  
12      purchased by contract holders if the Secretary deter-  
13      mines that it is cost effective to use such transport-  
14      able storage systems as part of the integrated man-  
15      agement system: *Provided*, That the Secretary shall  
16      not be required to expend any funds to modify con-  
17      tract holders’ storage or transport systems or to  
18      seek additional regulatory approvals in order to use  
19      such systems.

20      “(f) LICENSE AMENDMENTS.—

21           “(1) The Secretary may seek such amendments  
22      to the license for the interim storage facility as the  
23      Secretary may deem appropriate, including amend-  
24      ments to use new storage technologies licensed by

1 the Commission or to respond to changes in Com-  
2 mission regulations.

3 “(2) After receiving a license from the Commis-  
4 sion to receive and store spent nuclear fuel and  
5 high-level radioactive waste in the permanent reposi-  
6 tory, the Secretary shall seek such amendments to  
7 the license for the interim storage facility as will  
8 permit the optimal use of such facility as an integral  
9 part of a single system with the repository.

10 “(g) COMMISSION ACTIONS.—

11 “(1) The issuance of a license to construct and  
12 operate an interim storage facility shall be consid-  
13 ered a major Federal action significantly affecting  
14 the quality of the human environment for purposes  
15 of the National Environmental Policy Act of 1969  
16 (42 U.S.C. 4321 et seq.). Prior to issuing a license  
17 under this section, the Commission shall prepare a  
18 final environmental impact statement in accordance  
19 with the National Environmental Policy Act of 1969,  
20 the Commission’s regulations, and section 207 of  
21 this Act. The Commission shall ensure that this en-  
22 vironmental impact statement is consistent with the  
23 scope of the licensing action and shall analyze the  
24 impacts of transportation of spent nuclear fuel and

1 high-level radioactive waste to the interim storage  
2 facility in a generic manner.

3 “(2) The Commission shall issue a final deci-  
4 sion granting or denying a license for an interim  
5 storage facility not later than 32 months after the  
6 date of submittal of the application for such license.

7 “(3) No later than 32 months following the  
8 date of enactment of the Nuclear Waste Policy Act  
9 of 1997, the Commission shall make any amend-  
10 ments necessary to the definition of ‘spent nuclear  
11 fuel’ in section 72.4 of title 10, Code of Federal  
12 Regulations, to allow an interim storage facility to  
13 accept (subject to such conditions as the Commis-  
14 sion may require in a subsequent license)—

15 “(A) spent nuclear fuel from research reac-  
16 tors;

17 “(B) spent nuclear fuel from naval reac-  
18 tors;

19 “(C) high-level radioactive waste of domes-  
20 tic origin from civilian nuclear reactors that  
21 have permanently ceased operation before such  
22 date of enactment; and

23 “(D) spent nuclear fuel and high-level ra-  
24 dioactive waste from atomic energy defense ac-  
25 tivities.

1       Following any such amendments, the Secretary shall  
2       seek authority, as necessary, to store such fuel and  
3       waste at the interim storage facility. None of the ac-  
4       tivities carried out pursuant to this paragraph shall  
5       delay, or otherwise affect, the development, licens-  
6       ing, construction, or operation of the interim storage  
7       facility.

8       **“SEC. 206. PERMANENT REPOSITORY.**

9       “(a) REPOSITORY CHARACTERIZATION.—

10           “(1) CHARACTERIZATION OF THE YUCCA  
11       MOUNTAIN SITE.—The Secretary shall carry out site  
12       characterization activities at the Yucca Mountain  
13       site in accordance with the Secretary’s program ap-  
14       proach to site characterization. Such activities shall  
15       be limited to only those activities which the Sec-  
16       retary considers necessary to provide the data re-  
17       quired for evaluation of the suitability of such site  
18       for an application to be submitted to the Commis-  
19       sion for a construction authorization for a repository  
20       at such site, and for compliance with the National  
21       Environmental Policy Act of 1969 (42 U.S.C. 4321  
22       et seq.).

23           “(2) GUIDELINES.—The Secretary shall amend  
24       the guidelines in part 960 of title 10, Code of Fed-  
25       eral Regulations, to base any conclusions regarding

1       whether a repository site is suitable on, to the extent  
2       practicable, an assessment of total system perform-  
3       ance of the repository.

4       “(b) ENVIRONMENTAL IMPACT STATEMENT.—

5               “(1) PREPARATION OF ENVIRONMENTAL IM-  
6       PACT STATEMENT.—Construction and operation of  
7       the repository shall be considered a major Federal  
8       action significantly affecting the quality of the  
9       human environment for purposes of the National  
10      Environmental Policy Act of 1969 (42 U.S.C. 4321  
11      et seq.). The Secretary shall prepare an environ-  
12      mental impact statement on the construction and  
13      operation of the repository and shall submit such  
14      statement to the Commission with the license appli-  
15      cation. The Secretary shall supplement such environ-  
16      mental impact statement as appropriate.

17              “(2) SCHEDULE.—

18                      “(A) No later than September 30, 2000,  
19              the Secretary shall publish the final environ-  
20              mental impact statement under paragraph (1)  
21              of this subsection.

22                      “(B) No later than October 31, 2000, the  
23              Secretary shall publish a record of decision on  
24              applying for a license to construct and operate  
25              a repository at the Yucca Mountain site.



1 “(c) LICENSE APPLICATION.—

2 “(1) SCHEDULE.—No later than October 31,  
3 2001, the Secretary shall apply to the Commission  
4 for authorization to construct a repository at the  
5 Yucca Mountain site.

6 “(2) 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, in the most cost-effective man-  
10 ner, consistent with the need for disposal capacity.

11 “(3) DECISION NOT TO APPLY FOR A LICENSE  
12 FOR THE YUCCA MOUNTAIN SITE.—If, at any time  
13 prior to October 31, 2001, the Secretary determines  
14 that the Yucca Mountain site is not suitable or can-  
15 not satisfy the Commission’s regulations applicable  
16 to the licensing of a geological repository, the Sec-  
17 retary shall—

18 “(A) notify the Congress and the State of  
19 Nevada of the Secretary’s determinations and  
20 the reasons therefor; and

21 “(B) promptly take the actions described  
22 in paragraphs (1) and (2) of section 204(b).

23 “(d) REPOSITORY LICENSING.—The Commission  
24 shall license the repository according to the following pro-  
25 cedures:

1           “(1) CONSTRUCTION AUTHORIZATION.—The  
2 Commission shall grant the Secretary a construction  
3 authorization for the repository, subject to such re-  
4 quirements or limitations as the Commission may in-  
5 corporate pursuant to its regulations, upon deter-  
6 mining that there is reasonable assurance that spent  
7 nuclear fuel and high-level radioactive waste can be  
8 disposed of in the repository—

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

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

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

16           “(2) LICENSE.—Following the filing by the  
17 Secretary of any additional information needed by  
18 the Commission to issue a license to receive and pos-  
19 sess source, special nuclear, or byproduct material at  
20 a geologic repository operations area the Commis-  
21 sion shall issue a license to dispose of spent nuclear  
22 fuel and high-level radioactive waste in the reposi-  
23 tory, subject to such requirements or limitations as  
24 the Commission may incorporate pursuant to its reg-

1       ulations, if the Commission determines that the re-  
2       pository has been constructed and will operate—

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

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

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

10              “(3) CLOSURE.—After emplacing spent nuclear  
11       fuel and high-level radioactive waste in the reposi-  
12       tory and collecting sufficient confirmatory data on  
13       repository performance to reasonably confirm the  
14       basis for repository closure consistent with the Com-  
15       mission’s regulations applicable to the licensing of a  
16       repository, as modified in accordance with this Act,  
17       the Secretary shall apply to the Commission to  
18       amend the license to permit permanent closure of  
19       the repository. The Commission shall grant such li-  
20       cense amendment, subject to such requirements or  
21       limitations as the Commission may incorporate pur-  
22       suant to its regulations, upon finding that there is  
23       reasonable assurance that the repository can be per-  
24       manently closed—

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

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

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

8           “(4) POST-CLOSURE.—The Secretary shall take  
 9           those actions necessary and appropriate at the  
 10          Yucca Mountain site to prevent any activity at the  
 11          site subsequent to repository closure that poses an  
 12          unreasonable risk of—

13           “(A) breaching the repository’s engineered  
 14           or geologic barriers; or

15           “(B) increasing the risk of the repository  
 16           beyond the standard established in subsection  
 17           (f)(1).

18           “(5) APPLICATION OF HEALTH AND SAFETY  
 19          STANDARDS.—The licensing determination of the  
 20          Commission with respect to risk to the health and  
 21          safety of the public under paragraphs (1), (2), or (3)  
 22          of this subsection shall be based solely on a finding  
 23          whether the repository can be operated in conform-  
 24          ance with the overall performance standard in sub-  
 25          section (f)(1) of this section, applied in accordance

1 with the provisions of subsection (f)(2) of this sec-  
2 tion and the standards established by the Adminis-  
3 trator under section 801 of the Energy Policy Act  
4 of 1992 (42 U.S.C. 10141 note).

5 “(e) MODIFICATION OF THE COMMISSION’S REPOSI-  
6 TORY LICENSING REGULATIONS.—The Commission shall  
7 amend its regulations governing the disposal of spent nu-  
8 clear fuel and high-level radioactive waste (10 CFR part  
9 60), as necessary, to be consistent with the provisions of  
10 this Act. The Commission’s regulations shall provide for  
11 the modification of the repository licensing procedure in  
12 subsection (d) of this section, as appropriate, in the event  
13 that the Secretary seeks a license to permit the emplace-  
14 ment in the repository, on a retrievable basis, of spent nu-  
15 clear fuel or high-level radioactive waste as is necessary  
16 to provide the Secretary with sufficient confirmatory data  
17 on repository performance to reasonably confirm the basis  
18 for repository closure consistent with applicable regula-  
19 tions.

20 “(f) REPOSITORY LICENSING STANDARDS AND ADDI-  
21 TIONAL PROCEDURES.—In complying with the require-  
22 ments of section 801 of the Energy Policy Act of 1992  
23 (42 U.S.C. 10141 note), the Administrator shall achieve  
24 consistency with the findings and recommendations of the  
25 National Academy of Sciences, and the Commission shall

1 amend its regulations with respect to licensing standards  
2 for the repository, as follows:

3 “(1) ESTABLISHMENT OF OVERALL SYSTEM  
4 PERFORMANCE STANDARD.—

5 “(A) RISK STANDARD.—The standard for  
6 protection of the public from releases of radio-  
7 active material or radioactivity from the reposi-  
8 tory shall limit the lifetime risk, to the average  
9 member of the critical group, of premature  
10 death from cancer due to such releases to ap-  
11 proximately, but not greater than, 1 in 1000.  
12 The comparison to this standard shall use the  
13 upper bound of the 95-percent confidence inter-  
14 val for the expected value of lifetime risk to the  
15 average member of the critical group.

16 “(B) FORM OF STANDARD.—The standard  
17 promulgated by the Administrator under section  
18 801 of the Energy Policy Act of 1992 (42  
19 U.S.C. 10141 note) shall be an overall system  
20 performance standard. The Administrator shall  
21 not promulgate a standard for the repository in  
22 the form of release limits or contaminant levels  
23 for individual radionuclides discharged from the  
24 repository.

1           “(C) ASSUMPTIONS USED IN FORMULAT-  
2           ING AND APPLYING THE STANDARD.—In pro-  
3           mulgating the standard under section 801 of  
4           the Energy Policy Act of 1992 (42 U.S.C.  
5           10141 note), the Administrator shall consult  
6           with the Secretary of Energy and the Commis-  
7           sion. The Commission, after consultation with  
8           the Secretary, shall specify, by rule, values for  
9           all of the assumptions considered necessary by  
10          the Commission to apply the standard in a li-  
11          censing proceeding for the repository before the  
12          Commission, including the reference biosphere  
13          and size and characteristics of the critical  
14          group.

15          “(D) DEFINITION.—As used in this sub-  
16          section, the term ‘critical group’ means a small  
17          group of people that is—

18                 “(i) representative of individuals ex-  
19                 pected to be at highest risk of premature  
20                 death from cancer as a result of discharges  
21                 of radionuclides from the permanent repos-  
22                 itory;

23                 “(ii) relatively homogeneous with re-  
24                 spect to expected radiation dose, which  
25                 shall mean that there shall be no more

1 than a factor of ten in variation in individ-  
2 ual dose among members of the group; and  
3 “(iii) selected using reasonable as-  
4 sumptions—concerning lifestyle, occupa-  
5 tion, diet and eating and drinking habits,  
6 technological sophistication, or other rel-  
7 evant social and behavioral factors—that  
8 are based on reasonably available informa-  
9 tion, when the group is defined, on current  
10 inhabitants and conditions in the area of  
11 50-mile radius surrounding Yucca Moun-  
12 tain contained within a line drawn 50  
13 miles beyond each of the boundaries of the  
14 Yucca Moutain site.

15 “(2) APPLICATION OF OVERALL SYSTEM PER-  
16 FORMANCE STANDARD.—The Commission shall issue  
17 the construction authorization, license, or license  
18 amendment, as applicable, if it finds reasonable as-  
19 surance that for the first 10,000 years following the  
20 closure of the repository, the overall system perform-  
21 ance standard will be met based on a probabilistic  
22 evaluation, as appropriate, of compliance with the  
23 overall system performance standard in paragraph  
24 (1).



1           “(3) FACTORS.—For purposes of establishing  
2           the overall system performance standard in para-  
3           graph (1) and making the finding in paragraph  
4           (2)—

5                   “(A) the Administrator and the Commis-  
6                   sion shall not consider climate regimes that are  
7                   substantially different from those that have oc-  
8                   curred during the previous 100,000 years at the  
9                   Yucca Mountain site;

10                   “(B) the Administrator and the Commis-  
11                   sion shall not consider catastrophic events  
12                   where the health consequences of individual  
13                   events themselves to the critical group can be  
14                   reasonably assumed to exceed the health con-  
15                   sequences due to impact of the events on repos-  
16                   itory performance; and

17                   “(C) the Administrator and the Commis-  
18                   sion shall not base the standard in paragraph  
19                   (1) or the finding in paragraph (2) on scenarios  
20                   involving human intrusion into the repository  
21                   following repository closure.

22           “(4) CONGRESSIONAL REVIEW.—

23                   “(A) Any standard promulgated by the Ad-  
24                   ministrator under section 801 of the Energy  
25                   Policy Act of 1992 (42 U.S.C. 10141 note)

1           shall be deemed a major rule within the mean-  
2           ing of section 804(2) of title 5, United States  
3           Code, and shall be subject to the requirements  
4           and procedures pertaining to a major rule in  
5           chapter 8 of such title.

6           “(B) The effective date of the construction  
7           authorization for the repository shall be 90 days  
8           after the issuance of such authorization by the  
9           Commission, unless Congress is standing in ad-  
10          journment for a period of more than one week  
11          on the date of issuance, in which case the effec-  
12          tive date shall be 90 days after the date on  
13          which Congress is expected to reconvene after  
14          such adjournment.

15          “(5) REPORT TO CONGRESS.—At the time that  
16          the Commission issues a construction authorization  
17          for the repository, the Commission shall submit a re-  
18          port to Congress—

19                 “(A) analyzing the overall system perform-  
20                 ance of the repository through the use of prob-  
21                 abilistic evaluations that use best estimate as-  
22                 sumptions, data, and methods for the period  
23                 commencing after the first 10,000 years after  
24                 repository closure and including the time after  
25                 repository closure of maximum risk to the criti-

1 cal group of premature death from cancer due  
2 to repository releases;

3 “(B) analyzing the consequences of a sin-  
4 gle instance of human intrusion into the reposi-  
5 tory, during the first 1,000 years after reposi-  
6 tory closure, on the ability of the repository to  
7 perform its intended function.

8 “(g) ADDITIONAL ACTIONS BY THE COMMISSION.—  
9 The Commission shall take final action on the Secretary’s  
10 application for construction authorization for the reposi-  
11 tory no later than 40 months after submission of the appli-  
12 cation.

13 **“SEC. 207. COMPLIANCE WITH THE NATIONAL ENVIRON-**  
14 **MENTAL POLICY ACT.**

15 “(a) PRELIMINARY ACTIVITIES.—Each activity of the  
16 Secretary under sections 203, 204, 205(a), 205(c),  
17 205(d), and 206(a) shall be considered a preliminary deci-  
18 sion making activity. No such activity shall be considered  
19 final agency action for purposes of judicial review. No ac-  
20 tivity of the Secretary or the President under sections 203,  
21 204, 205, or 206(a) shall require the preparation of an  
22 environmental impact statement under section 102(2)(C)  
23 of the National Environmental Policy Act of 1969 (42  
24 U.S.C. 4332(2)(C)) or any environmental review under

1 subparagraph (E) or (F) of section 102(2) of such Act  
2 (42 U.S.C. 4332(2)(E) or (F)).

3 “(b) STANDARDS AND CRITERIA.—The promulgation  
4 of standards or criteria in accordance with the provisions  
5 of this title, or under section 801 of the Energy Policy  
6 Act of 1992 (42 U.S.C. 10141 note), shall not require the  
7 preparation of an environmental impact statement under  
8 section 102(2)(C) of the National Environmental Policy  
9 Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental  
10 review under subparagraph (E) or (F) of section 102(2)  
11 of such Act (42 U.S.C. 4332(2)(E) or (F)).

12 “(c) REQUIREMENTS RELATING TO ENVIRONMENTAL  
13 IMPACT STATEMENTS.—

14 “(1) With respect to the requirements imposed  
15 by the National Environmental Policy Act of 1969  
16 (42 U.S.C. 4321 et seq.)—

17 “(A) in any final environmental impact  
18 statement under section 205 or 206, the Sec-  
19 retary or the Commission, as applicable, shall  
20 not be required to consider the need for a re-  
21 pository or an interim storage facility; the time  
22 of initial availability of a repository or interim  
23 storage facility; the alternatives to geological  
24 disposal or centralized interim storage; or alter-  
25 native sites to the Yucca Mountain site or the

1 interim storage facility site designated under  
2 section 204(c)(1); and

3 “(B) compliance with the procedures and  
4 requirements of this title shall be deemed ade-  
5 quate consideration of the need for centralized  
6 interim storage or a repository; the time of ini-  
7 tial availability of centralized interim storage or  
8 the repository or centralized interim storage;  
9 and all alternatives to centralized interim stor-  
10 age and permanent isolation of high-level radio-  
11 active waste and spent nuclear fuel in an in-  
12 terim storage facility or a repository, respec-  
13 tively.

14 “(2) The final environmental impact statement  
15 for the repository prepared by the Secretary and  
16 submitted with the license application for a reposi-  
17 tory under section 206(c) shall, to the extent prac-  
18 ticable, be adopted by the Commission in connection  
19 with the issuance by the Commission of a construc-  
20 tion authorization and license for such repository.  
21 To the extent such statement is adopted by the  
22 Commission, such adoption shall be deemed to sat-  
23 isfy the responsibilities of the Commission under the  
24 National Environmental Policy Act of 1969 and no  
25 further consideration shall be required, except that

1 nothing in this subsection shall affect any independ-  
2 ent responsibilities of the Commission to protect the  
3 public health and safety under the Atomic Energy  
4 Act of 1954 (42 U.S.C. 2011 et seq.).

5 “(c) CONSTRUCTION WITH OTHER LAWS.—Nothing  
6 in this Act shall be construed to amend or otherwise de-  
7 tract from the licensing requirements of the Nuclear Reg-  
8 ulatory Commission established in title II of the Energy  
9 Reorganization Act of 1974 (42 U.S.C. 5841 et seq.).

10 “(d) JUDICIAL REVIEW.—Judicial review under sec-  
11 tion 502 of this Act of any environmental impact state-  
12 ment prepared or adopted by the Commission shall be con-  
13 solidated with the judicial review of the licensing decision  
14 to which it relates.

15 **SEC. 208. LAND WITHDRAWAL.**

16 “(a) WITHDRAWAL AND RESERVATION.—

17 “(1) WITHDRAWAL.—Subject to valid existing  
18 rights, the interim storage facility site and the  
19 Yucca Mountain site, as described in subsection (b),  
20 are withdrawn from all forms of entry, appropria-  
21 tion, and disposal under the public land laws, includ-  
22 ing the mineral leasing laws, the geothermal leasing  
23 laws, the material sale laws, and the mining laws.

24 “(2) JURISDICTION.—Jurisdiction of any land  
25 within the interim storage facility site and the Yucca

1 Mountain site managed by the Secretary of the Inte-  
2 rior or any other Federal officer is transferred to the  
3 Secretary.

4 “(3) RESERVATION.—The interim storage facil-  
5 ity site and the Yucca Mountain site are reserved for  
6 the use of the Secretary for the construction and op-  
7 eration, respectively, of the interim storage facility  
8 and the repository and activities associated with the  
9 purposes of this title.

10 “(b) LAND DESCRIPTION.—

11 “(1) BOUNDARIES.—The boundaries depicted  
12 on the map entitled ‘Interim Storage Facility Site  
13 Withdrawal Map’, dated March 13, 1996, and on file  
14 with the Secretary, are established as the boundaries  
15 of the Interim Storage Facility site.

16 “(2) BOUNDARIES.—The boundaries depicted  
17 on the map entitled ‘Yucca Mountain Site With-  
18 drawal Map’, dated July 9, 1996, and on file with  
19 the Secretary, are established as the boundaries of  
20 the Yucca Mountain site.

21 “(3) NOTICE AND MAPS.—Concurrent with the  
22 Secretary’s designation of an interim storage facility  
23 site under section 204(c)(1), the Secretary shall—

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

4           “(B) file copies of the maps described in  
5           paragraph (1), and the legal description of the  
6           interim storage facility site with the Congress,  
7           the Secretary of the Interior, the Governor of  
8           Nevada, and the Archivist of the United States.

9           “(4) NOTICE AND MAPS.—Concurrent with the  
10          Secretary’s application to the Commission for au-  
11          thority to construct the repository, the Secretary  
12          shall—

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

16               “(B) file copies of the maps described in  
17               paragraph (2), and the legal description of the  
18               Yucca Mountain site with the Congress, the  
19               Secretary of the Interior, the Governor of Ne-  
20               vada, and the Archivist of the United States.

21           “(5) CONSTRUCTION.—The maps and legal de-  
22          scriptions of the interim storage facility site and the  
23          Yucca Mountain site referred to in this subsection  
24          shall have the same force and effect as if they were  
25          included in this Act. The Secretary may correct cler-



1 ical and typographical errors in the maps and legal  
 2 descriptions and make minor adjustments in the  
 3 boundaries of the sites.

#### 4 **“TITLE III—LOCAL RELATIONS**

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

6 “(a) GRANTS.—The Secretary is authorized to make  
 7 grants to any affected Indian tribe or affected unit of local  
 8 government for purposes of enabling the affected Indian  
 9 tribe or affected unit of local government—

10 “(1) to review activities taken with respect to  
 11 the Yucca Mountain site for purposes of determining  
 12 any potential economic, social, public health and  
 13 safety, and environmental impacts of the integrated  
 14 management system on the affected Indian tribe or  
 15 the affected unit of local government and its resi-  
 16 dents;

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

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

21 “(4) to provide information to residents regard-  
 22 ing any activities of the Secretary, or the Commis-  
 23 sion with respect to such site; and

24 “(5) to request information from, and make  
 25 comments and recommendations to, the Secretary

1        regarding any activities taken with respect to such  
2        site.

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

8        “(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

9                “(1) ASSISTANCE REQUESTS.—The Secretary is  
10        authorized to offer to provide financial and technical  
11        assistance to any affected Indian tribe or affected  
12        unit of local government requesting such assistance.  
13        Such assistance shall be designed to mitigate the im-  
14        pact on the affected Indian tribe or affected unit of  
15        local government of the development of the inte-  
16        grated management system.

17               “(2) REPORT.—Any affected Indian tribe or af-  
18        fected unit of local government may request assist-  
19        ance under this section by preparing and submitting  
20        to the Secretary a report on the economic, social,  
21        public health and safety, and environmental impacts  
22        that are likely to result from activities of the inte-  
23        grated management system.

24        “(d) OTHER ASSISTANCE.—

1           “(1) TAXABLE AMOUNTS.—In addition to finan-  
 2           cial assistance provided under this subsection, the  
 3           Secretary is authorized to grant to any affected In-  
 4           dian tribe or affected unit of local government an  
 5           amount each fiscal year equal to the amount such  
 6           affected Indian tribe or affected unit of local govern-  
 7           ment, respectively, would receive if authorized to tax  
 8           integrated management system activities, as such af-  
 9           fected Indian tribe or affected unit of local govern-  
 10          ment taxes the non-Federal real property and indus-  
 11          trial activities occurring within such affected unit of  
 12          local government.

13           “(2) TERMINATION.—Such grants shall con-  
 14          tinue until such time as all such activities, develop-  
 15          ment, and operations are terminated at such site.

16           “(3) ASSISTANCE TO INDIAN TRIBES AND  
 17          UNITS OF LOCAL GOVERNMENT.—

18           “(A) PERIOD.—Any affected Indian tribe  
 19          or affected unit of local government may not re-  
 20          ceive any grant under paragraph (1) after the  
 21          expiration of the 1-year period following the  
 22          date on which the Secretary notifies the af-  
 23          fected Indian tribe or affected unit of local gov-  
 24          ernment of the termination of the operation of  
 25          the integrated management system.

1           “(B) ACTIVITIES.—Any affected Indian  
2           tribe or affected unit of local government may  
3           not receive any further assistance under this  
4           section if the integrated management system  
5           activities at such site are terminated by the  
6           Secretary or if such activities are permanently  
7           enjoined by any court.

8   **“SEC. 302. ON-SITE REPRESENTATIVE.**

9           “The Secretary shall offer to the unit of local govern-  
10          ment within whose jurisdiction a site for an interim stor-  
11          age facility or repository is located under this Act an op-  
12          portunity to designate a representative to conduct onsite  
13          oversight activities at such site. The Secretary is author-  
14          ized to pay the reasonable expenses of such representative.

15   **“SEC. 303. ACCEPTANCE OF BENEFITS.**

16          “(a) CONSENT.—The acceptance or use of any of the  
17          benefits provided under this title by any affected Indian  
18          tribe or affected unit of local government shall not be  
19          deemed to be an expression of consent, express, or implied,  
20          either under the Constitution of the State or any law  
21          thereof, to the siting of an interim storage facility or re-  
22          pository in the State of Nevada, any provision of such  
23          Constitution or laws to the contrary notwithstanding.

24          “(b) ARGUMENTS.—Neither the United States nor  
25          any other entity may assert any argument based on legal

1 or equitable estoppel, or acquiescence, or waiver, or con-  
 2 sensual involvement, in response to any decision by the  
 3 State to oppose the siting in Nevada of an interim storage  
 4 facility or repository premised upon or related to the ac-  
 5 ceptance or use of benefits under this title.

6 “(c) LIABILITY.—No liability of any nature shall ac-  
 7 crue to be asserted against any official of any govern-  
 8 mental unit of Nevada premised solely upon the accept-  
 9 ance or use of benefits under this title.

10 **“SEC. 304. RESTRICTIONS ON USE OF FUNDS.**

11 “None of the funding provided under this title may  
 12 be used—

13 “(1) directly or indirectly to influence legislative  
 14 action on any matter pending before Congress or a  
 15 State legislature or for any lobbying activity as pro-  
 16 vided in section 1913 of title 18, United States  
 17 Code;

18 “(2) for litigation purposes; and

19 “(3) to support multistate efforts or other coal-  
 20 ition-building activities inconsistent with the purposes  
 21 of this Act.

22 **“SEC. 305. LAND CONVEYANCES.**

23 “(a) CONVEYANCES OF PUBLIC LANDS.—One hun-  
 24 dred and twenty days after the effective date of the con-  
 25 struction authorization issued by the Commission for the

1 repository under section 206(g), all right, title and interest  
2 of the United States in the property described in sub-  
3 section (b), and improvements thereon, together with all  
4 necessary easements for utilities and ingress and egress  
5 to such property, including, but not limited to, the right  
6 to improve those easements, are conveyed by operation of  
7 law to the County of Nye, Nevada, unless the county noti-  
8 fies the Secretary of the Interior or the head of such other  
9 appropriate agency in writing within 60 days of such date  
10 that it elects not to take title to all or any part of the  
11 property, except that any lands conveyed to the County  
12 of Nye under this subsection that are subject to a Federal  
13 grazing permit or lease or a similar federally granted per-  
14 mit or lease shall be conveyed between 60 and 120 days  
15 of the earliest time the Federal agency administering or  
16 granting the permit or lease would be able to legally termi-  
17 nate such right under the statutes and regulations existing  
18 at the date of enactment of this Act, unless Nye County  
19 and the affected holder of the permit or lease negotiate  
20 an agreement that allows for an earlier conveyance.

21 “(b) SPECIAL CONVEYANCES.—Notwithstanding  
22 any other law, the following public lands depicted on the  
23 maps and legal descriptions dated October 11, 1995, and  
24 on file with the Secretary shall be conveyed under sub-  
25 section (a) to the County of Nye, Nevada:

1 Map 1: Proposed Pahrump Industrial Park Site

2 Map 2: Proposed Lathrop Wells (Gate 510) In-  
3 dustrial Park Site

4 Map 3: Pahrump Landfill Sites

5 Map 4: Amargosa Valley Regional Landfill Site

6 Map 5: Amargosa Valley Municipal Landfill  
7 Site

8 Map 6: Beatty Landfill/Transfer Station Site

9 Map 7: Round Mountain Landfill Site

10 Map 8: Tonopah Landfill Site

11 Map 9: Gabbs Landfill Site.

12 “(c) CONSTRUCTION.—The maps and legal descrip-  
13 tions of special conveyances referred to in subsection (b)  
14 shall have the same force and effect as if they were in-  
15 cluded in this Act. The Secretary may correct clerical and  
16 typographical errors in the maps and legal descriptions  
17 and make minor adjustments in the boundaries of the  
18 sites.

19 “(d) EVIDENCE OF TITLE TRANSFER.—Upon the re-  
20 quest of the County of Nye, Nevada, the Secretary of the  
21 Interior shall provide evidence of title transfer.

## 22 **“TITLE IV—FUNDING AND ORGANIZATION**

### 23 **“SEC. 401. PROGRAM FUNDING.**

24 “(a) CONTRACTS.—

1           “(1) AUTHORITY OF THE SECRETARY.—In the  
2           performance of the Secretary’s functions under this  
3           Act, the Secretary is authorized to enter into con-  
4           tracts with any person who generates or holds title  
5           to spent nuclear fuel or high-level radioactive waste  
6           of domestic origin for the acceptance of title and  
7           possession, transportation, interim storage, and dis-  
8           posal of such waste or spent fuel. Such contracts  
9           shall provide for payment of fees to the Secretary in  
10          the amounts set under paragraphs (2), (3), and (4),  
11          sufficient to offset expenditures described in sub-  
12          section (c)(2). Subsequent to the enactment of the  
13          Nuclear Waste Policy Act of 1997, the contracts ex-  
14          ecuted under section 302(a) of the Nuclear Waste  
15          Policy Act of 1982 shall continue in effect under this  
16          Act: *Provided*, That the Secretary shall consent to  
17          an amendment to such contracts as necessary to im-  
18          plement the provisions of this Act.

19           “(2) NUCLEAR WASTE OFFSETTING COLLEC-  
20          TION.—

21           “(A) For electricity generated by civilian  
22          nuclear power reactors and sold during an off-  
23          setting collection period, the Secretary shall col-  
24          lect an aggregate amount of fees under this  
25          paragraph equal to the annual level of appro-



priations for expenditures on those activities consistent with subsection (d) for each fiscal year in the offsetting collection period, minus the percentage of such appropriation required to be funded by the Federal Government pursuant to section 403.

“(B) The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold.

“(C) For purposes of this paragraph, the term ‘offsetting collection period’ means—

“(i) the period beginning on October 1, 1998 and ending on September 30, 2001; and

“(ii) the period on and after October 1, 2006.

“(3) NUCLEAR WASTE MANDATORY FEE.—

“(A) Except as provided in subparagraph (C) of this paragraph, for electricity generated by civilian nuclear power reactors and sold on or after January 7, 1983, the fee paid to the Secretary under this paragraph shall be equal to—

1 “(i) 1.0 mill per kilowatt-hour gen-  
 2 erated and sold, minus

3 “(ii) the amount per kilowatt-hour  
 4 generated and sold paid under paragraph  
 5 (2):

6 *Provided*, That if the amount under clause (ii)  
 7 is greater than the amount under clause (i) the  
 8 fee under this paragraph shall be equal to zero.

9 “(B) No later than 30 days after the be-  
 10 ginning of each fiscal year, the Secretary shall  
 11 determine whether insufficient or excess reve-  
 12 nues are being collected under this subsection,  
 13 in order to recover the costs incurred by the  
 14 Federal Government that are specified in sub-  
 15 section (c)(2). In making this determination the  
 16 Secretary shall—

17 “(i) rely on the ‘Analysis of the Total  
 18 System Life Cycle Cost of the Civilian Ra-  
 19 dioactive Waste Management Program’,  
 20 dated September 1995, or on a total sys-  
 21 tem life-cycle cost analysis published by the  
 22 Secretary (after notice and opportunity for  
 23 public comment) after the date of enact-  
 24 ment of the Nuclear Waste Policy Act of  
 25 1997, in making any estimate of the costs

1 to be incurred by the Government under  
2 subsection (c)(2);

3 “(ii) rely on projections from the En-  
4 ergy Information Administration, consist-  
5 ent with the projections contained in the  
6 reference case in the most recent ‘Annual  
7 Energy Outlook’ published by such Admin-  
8 istration, in making any estimate of future  
9 nuclear power generation; and

10 “(iii) take into account projected bal-  
11 ances in, and expenditures from, the Nu-  
12 clear Waste Fund.

13 “(C) If the Secretary determines under  
14 subparagraph (B) that either insufficient or ex-  
15 cess revenues are being collected, the Secretary  
16 shall, at the time of the determination, transmit  
17 to Congress a proposal to adjust the amount in  
18 subparagraph (A)(i) to ensure full cost recov-  
19 ery. The amount in subparagraph (A)(i) shall  
20 be adjusted, by operation of law, immediately  
21 upon enactment of a joint resolution of ap-  
22 proval under paragraph (5) of this subsection.

23 “(D) The Secretary shall, by rule, establish  
24 procedures necessary to implement this para-  
25 graph.

1           “(4) ONE-TIME FEE.—For spent nuclear fuel or  
2       solidified high-level radioactive waste derived from  
3       spent nuclear fuel, which fuel was used to generate  
4       electricity in a civilian nuclear power reactor prior to  
5       January 7, 1983, the fee shall be in an amount  
6       equivalent to an average charge of 1.0 mill per kilo-  
7       watt-hour for electricity generated by such spent nu-  
8       clear fuel, or such solidified high-level waste derived  
9       therefrom. Payment of such one-time fee prior to the  
10      date of enactment of the Nuclear Waste Policy Act  
11      of 1997 shall satisfy the obligation imposed under  
12      this paragraph. Any one-time fee paid and collected  
13      subsequent to the date of enactment of the Nuclear  
14      Waste Policy Act of 1997 pursuant to the contracts,  
15      including any interest due pursuant to the contracts,  
16      shall be paid to the Nuclear Waste Fund no later  
17      than September 30, 2001. The Commission shall  
18      suspend the license of any licensee who fails or re-  
19      fuses to pay the full amount of the fees assessed  
20      under this subsection, on or before the date on  
21      which such fees are due, and the license shall remain  
22      suspended until the full amount of the fees assessed  
23      under this subsection is paid. The person paying the  
24      fee under this paragraph to the Secretary shall have  
25      no further financial obligation to the Federal Gov-

ernment for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spent nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983.

“(5) EXPENDITURES IF SHORTFALL.—If, during any fiscal year on or after October 1, 1997, the aggregate amount of fees assessed under this subsection is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus the percentage of such appropriations required to be funded by the Federal Government pursuant to section 403, the Secretary may make expenditures from the Nuclear Waste Fund up to the level equal to the difference between the amount appropriated and the amount of fees assessed under this subsection.

“(6) EXPEDITED PROCEDURES FOR APPROVAL OF CHANGES TO THE NUCLEAR WASTE MANDATORY FEE.—

“(A) At any time after the Secretary transmits a proposal for a fee adjustment under paragraph (3)(C) of this subsection, a joint resolution may be introduced in either House of Congress, the matter after the resolving clause

1 of which is as follows: ‘That Congress approves  
2 the adjustment to the basis for the nuclear  
3 waste mandatory fee, submitted by the Sec-  
4 retary on \_\_\_\_\_’. (The blank space being  
5 appropriately filled in with a date.)

6 “(B) A joint resolution described in sub-  
7 paragraph (A) shall be referred to the commit-  
8 tees in each House of Congress with jurisdic-  
9 tion.

10 “(C) In the Senate, if the committee to  
11 which is referred a joint resolution described in  
12 subparagraph (A) has not reported such joint  
13 resolution (or an identical joint resolution) at  
14 the end of 20 calendar days after the date on  
15 which it is introduced, such committee may be  
16 discharged from further consideration of such  
17 joint resolution upon a petition supported in  
18 writing by 30 Members of the Senate, and such  
19 joint resolution shall be placed on the calendar.

20 “(D) In the Senate, the procedure under  
21 section 802(d) of title 5, United States Code,  
22 shall apply to a joint resolution described under  
23 subparagraph (A).

24 “(7) POINTS OF ORDER.—Notwithstanding any  
25 other provision of this Act, no points of order, which

1       require 60 votes in order to adopt a motion to waive  
2       such point of order, shall be considered to be waived  
3       during the consideration of a joint resolution under  
4       section 401 of this Act.

5           “(8) LEVEL OF ANNUAL FEE.—Notwithstanding  
6       any other provision of this Act, except as provided  
7       in paragraph (3)(C), the level of annual fee for  
8       each civilian nuclear power reactor shall not exceed  
9       1.0 mill per kilowatt-hour of electricity generated  
10      and sold.

11      “(b) ADVANCE CONTRACTING REQUIREMENT.—

12           “(1) IN GENERAL.—

13           “(A) LICENSE ISSUANCE AND RENEWAL.—

14       The Commission shall not issue or renew a li-  
15       cense to any person to use a utilization or pro-  
16       duction facility under the authority of section  
17       103 or 104 of the Atomic Energy Act of 1954  
18       (42 U.S.C. 2133, 2134) unless—

19           “(i) such person has entered into a  
20       contract under subsection (a) with the Sec-  
21       retary; or

22           “(ii) the Secretary affirms in writing  
23       that such person is actively and in good  
24       faith negotiating with the Secretary for a  
25       contract under this section.

1           “(B) PRECONDITION.—The Commission,  
2           as it deems necessary or appropriate, may re-  
3           quire as a precondition to the issuance or re-  
4           newal of a license under section 103 or 104 of  
5           the Atomic Energy Act of 1954 (42 U.S.C.  
6           2133, 2134) that the applicant for such license  
7           shall have entered into an agreement with the  
8           Secretary for the disposal of spent nuclear fuel  
9           and high-level radioactive waste that may result  
10          from the use of such license.

11          “(2) DISPOSAL IN REPOSITORY.—Except as  
12          provided in paragraph (1), no spent nuclear fuel or  
13          high-level radioactive waste generated or owned by  
14          any person (other than a department of the United  
15          States referred to in section 101 or 102 of title 5,  
16          United States Code) may be disposed of by the Sec-  
17          retary in the repository unless the generator or  
18          owner of such spent fuel or waste has entered into  
19          a contract under subsection (a) with the Secretary  
20          by not later than the date on which such generator  
21          or owner commences generation of, or takes title to,  
22          such spent fuel or waste.

23          “(3) ASSIGNMENT.—The rights and duties of  
24          contract holders are assignable.

25          “(c) NUCLEAR WASTE FUND.—



1           “(1) IN GENERAL.—The Nuclear Waste Fund  
2       established in the Treasury of the United States  
3       under section 302(c) of the Nuclear Waste Policy  
4       Act of 1982 shall continue in effect under this Act  
5       and shall consist of—

6           “(A) the existing balance in the Nuclear  
7       Waste Fund on the date of enactment of the  
8       Nuclear Waste Policy Act of 1997; and

9           “(B) all receipts, proceeds, and recoveries  
10      realized under subsections (a)(3), (a)(4), and  
11      (c)(3) subsequent to the date of enactment of  
12      the Nuclear Waste Policy Act of 1997, which  
13      shall be deposited in the Nuclear Waste Fund  
14      immediately upon their realization.

15          “(2) PURPOSES OF THE NUCLEAR WASTE FUND  
16      AND THE NUCLEAR WASTE OFFSETTING COLLEC-  
17      TION.—Subject to subsections (d) and (e) of this  
18      section, the Secretary may make expenditures from  
19      the Nuclear Waste Fund or the Nuclear Waste Off-  
20      setting Collection in section 401(a)(2) only for—

21          “(A) identification, development, design, li-  
22      censing, construction, acquisition, operation,  
23      modification, replacement, decommissioning,  
24      and post-decommissioning maintenance and

1 monitoring of the integrated management sys-  
2 tem or parts thereof;

3 “(B) the administrative cost of the inte-  
4 grated management system, including the Of-  
5 fice of Civilian Radioactive Waste Management  
6 under section 402, the Nuclear Waste Technical  
7 Review Board under section 602, and those of-  
8 fices under the Commission involved in regula-  
9 tion of the integrated management system or  
10 parts thereof; and

11 “(C) the provision of assistance and bene-  
12 fits to States, units of general local government,  
13 nonprofit organizations, joint labor-manage-  
14 ment organizations, and Indian tribes under  
15 title II of this Act.

16 “(3) ADMINISTRATION OF NUCLEAR WASTE  
17 FUND.—

18 “(A) IN GENERAL.—The Secretary of the  
19 Treasury shall hold the Nuclear Waste Fund  
20 and, after consultation with the Secretary, an-  
21 nually report to the Congress on the financial  
22 condition and operations of the Nuclear Waste  
23 Fund during the preceding fiscal year.

24 “(B) AMOUNTS IN EXCESS OF CURRENT  
25 NEEDS.—If the Secretary determines that the

1 Nuclear Waste Fund contains at any time  
2 amounts in excess of current needs, the Sec-  
3 retary may request the Secretary of the Treas-  
4 ury to invest such amounts, or any portion of  
5 such amounts as the Secretary determines to be  
6 appropriate, in obligations of the United  
7 States—

8 “(i) having maturities determined by  
9 the Secretary of the Treasury to be appro-  
10 priate to the needs of the Nuclear Waste  
11 Fund;

12 “(ii) bearing interest at rates deter-  
13 mined to be appropriate by the Secretary  
14 of the Treasury, taking into consideration  
15 the current average market yield on out-  
16 standing marketable obligations of the  
17 United States with remaining periods to  
18 maturity comparable to the maturities of  
19 such investments, except that the interest  
20 rate on such investments shall not exceed  
21 the average interest rate applicable to ex-  
22 isting borrowings; and

23 “(iii) interest earned on these obliga-  
24 tions shall be credited to the Nuclear  
25 Waste Fund.

1                   “(C) EXEMPTION.—Receipts, proceeds,  
 2                   and recoveries realized by the Secretary under  
 3                   this section, and expenditures of amounts from  
 4                   the Nuclear Waste Fund, shall be exempt from  
 5                   annual apportionment under the provisions of  
 6                   subchapter II of chapter 15 of title 31, United  
 7                   States Code.

8                   “(d) BUDGET.—The Secretary shall submit the budg-  
 9                   et for implementation of the Secretary’s responsibilities  
 10                  under this Act to the Office of Management and Budget  
 11                  annually along with the budget of the Department of En-  
 12                  ergy submitted at such time in accordance with chapter  
 13                  11 of title 31, United States Code. The budget shall con-  
 14                  sist of the estimates made by the Secretary of expendi-  
 15                  tures under this Act and other relevant financial matters  
 16                  for the succeeding 3 fiscal years, and shall be included  
 17                  in the budget of the United States Government.

18                  “(e) APPROPRIATIONS.—The Secretary may make ex-  
 19                  penditures from the Nuclear Waste Fund and the Nuclear  
 20                  Waste Offsetting Collection, subject to appropriations,  
 21                  which shall remain available until expended.

22                  **“SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MAN-**  
 23                  **AGEMENT.**

24                  “(a) ESTABLISHMENT.—There hereby is established  
 25                  within the Department of Energy an Office of Civilian Ra-

1 dioactive Waste Management. The Office shall be headed  
2 by a Director, who shall be appointed by the President,  
3 by and with the advice and consent of the Senate, and  
4 who shall be compensated at the rate payable for level IV  
5 of the Executive Schedule under section 5315 of title 5,  
6 United States Code.

7 “(b) FUNCTIONS OF DIRECTOR.—The Director of the  
8 Office shall be responsible for carrying out the functions  
9 of the Secretary under this Act, subject to the general su-  
10 pervision of the Secretary. The Director of the Office shall  
11 be directly responsible to the Secretary.

12 **“SEC. 403. FEDERAL CONTRIBUTION.**

13 “(a) ALLOCATION.—No later than one year from the  
14 date of enactment of the Nuclear Waste Policy Act of  
15 1997, acting pursuant to section 553 of title 5, United  
16 States Code, the Secretary shall issue a final rule estab-  
17 lishing the appropriate portion of the costs of managing  
18 spent nuclear fuel and high-level radioactive waste under  
19 this Act allocable to the interim storage or permanent dis-  
20 posal of spent nuclear fuel and high-level radioactive waste  
21 from atomic energy defense activities and spent nuclear  
22 fuel from foreign research reactors. The share of costs al-  
23 locable to the management of spent nuclear fuel and high-  
24 level radioactive waste from atomic energy defense activi-

1 ties and spent nuclear fuel from foreign research reactors  
2 shall include—

3 “(1) an appropriate portion of the costs associ-  
4 ated with research and development activities with  
5 respect to development of an interim storage facility  
6 and repository; and

7 “(2) as appropriate, interest on the principal  
8 amounts due calculated by reference to the appro-  
9 priate Treasury bill rate as if the payments were  
10 made at a point in time consistent with the payment  
11 dates for spent nuclear fuel and high-level radio-  
12 active waste under the contracts.

13 “(b) APPROPRIATION REQUEST.—In addition to any  
14 request for an appropriation from the Nuclear Waste  
15 Fund, the Secretary shall request annual appropriations  
16 from general revenues in amounts sufficient to pay the  
17 costs of the management of spent nuclear fuel and high-  
18 level radioactive waste from atomic energy defense activi-  
19 ties and spent nuclear fuel from foreign research reactors,  
20 as established under subsection (a).

21 “(c) REPORT.—In conjunction with the annual report  
22 submitted to Congress under section 702, the Secretary  
23 shall advise the Congress annually of the amount of spent  
24 nuclear fuel and high-level radioactive waste from atomic  
25 energy defense activities and spent nuclear fuel from for-

1 eign research reactors, requiring management in the inte-  
 2 grated management system.

3 “(d) AUTHORIZATION.—There is authorized to be ap-  
 4 propriated to the Secretary, from general revenues, for  
 5 carrying out the purposes of this Act, such sums as may  
 6 be necessary to pay the costs of the management of spent  
 7 nuclear fuel and high-level radioactive waste from atomic  
 8 energy defense activities and spent nuclear fuel from for-  
 9 eign research reactors, as established under subsection  
 10 (a).

## 11 **“TITLE V—GENERAL AND** 12 **MISCELLANEOUS PROVISIONS**

### 13 **“SEC. 501. COMPLIANCE WITH OTHER LAWS.**

14 “(a) CONFLICTING REQUIREMENTS.—Except as pro-  
 15 vided in subsection (b) of this section, a requirement of  
 16 a State, political subdivision of a State, or Indian tribe  
 17 is preempted if—

18 “(1) complying with a requirement of the State,  
 19 political subdivision, or tribe and a requirement of  
 20 this Act or a regulation prescribed under this Act is  
 21 not possible; or

22 “(2) the requirement of the State, political sub-  
 23 division, or tribe, as applied or enforced, is an obsta-  
 24 cle to accomplishing and carrying out this Act or a  
 25 regulation prescribed under this Act.

1       “(b) SUBJECTS EXPRESSLY PREEMPTED.—Except  
2 as otherwise provided in this Act, a law, regulation, order,  
3 or other requirement of a State, political subdivision of  
4 a State, or Indian tribe about any of the following sub-  
5 jects, that is not substantively the same as a provision of  
6 this Act or a regulation prescribed under this Act, is pre-  
7 empted:

8           “(1) The designation, description, and classi-  
9 fication of spent fuel or high-level radioactive waste.

10          “(2) The packing, repacking, handling, labeling,  
11 marking, and placarding of spent nuclear fuel or  
12 high-level radioactive waste.

13          “(3) The siting, design, or licensing of—

14           “(A) an interim storage facility;

15           “(B) a repository;

16           “(C) the capability to conduct intermodal  
17 transfer of spent nuclear fuel under section  
18 201.

19          “(4) The withdrawal or transfer of the interim  
20 storage facility site, the intermodal transfer site, or  
21 the repository site to the Secretary of Energy.

22          “(5) The design, manufacturing, fabrication,  
23 marking, maintenance, reconditioning, repairing, or  
24 testing of packaging or a container represented,  
25 marked, certified, or sold as qualified for use in



1       transporting or storing spent nuclear fuel or high-  
2       level radioactive waste.

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

4       “(a) JURISDICTION OF THE UNITED STATES COURTS  
5   OF APPEALS.—

6           “(1) ORIGINAL AND EXCLUSIVE JURISDIC-  
7       TION.—Except for review in the Supreme Court of  
8       the United States, and except as otherwise provided  
9       in this Act, the United States courts of appeals shall  
10      have original and exclusive jurisdiction over any civil  
11      action—

12           “(A) for review of any final decision or ac-  
13      tion of the Secretary, the President, or the  
14      Commission under this Act;

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

19           “(C) challenging the constitutionality of  
20      any decision made, or action taken, under any  
21      provision of this Act; or

22           “(D) for review of any environmental im-  
23      pact statement prepared or environmental as-  
24      sessment pursuant to the National Environ-  
25      mental Policy Act of 1969 (42 U.S.C. 4321 et

1           seq.) with respect to any action under this Act  
2           or alleging a failure to prepare such statement  
3           with respect to any such action.

4           “(2) VENUE.—The venue of any proceeding  
5           under this section shall be in the judicial circuit in  
6           which the petitioner involved resides or has its prin-  
7           cipal office, or in the United States Court of Appeals  
8           for the District of Columbia Circuit.

9           “(b) DEADLINE FOR COMMENCING ACTION.—A civil  
10          action for judicial review described under subsection (a)(1)  
11          may be brought no later than 180 days after the date of  
12          the decision or action or failure to act involved, as the  
13          case may be, except that if a party shows that he did not  
14          know of the decision or action complained of (or of the  
15          failure to act), and that a reasonable person acting under  
16          the circumstances would not have known, such party may  
17          bring a civil action no later than 180 days after the date  
18          such party acquired actual or constructive knowledge or  
19          such decision, action, or failure to act.

20          “(c) APPLICATION OF OTHER LAW.—The provisions  
21          of this section relating to any matter shall apply in lieu  
22          of the provisions of any other Act relating to the same  
23          matter.

1 **“SEC. 503. LICENSING OF FACILITY EXPANSIONS AND**  
2 **TRANSSHIPMENTS.**

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

1   mitted by the parties during oral argument, the Commis-  
 2   sion shall only consider those facts and data that are sub-  
 3   mitted in the form of sworn testimony or written submis-  
 4   sion.

5       “(b) ADJUDICATORY HEARING.—

6           “(1) DESIGNATION.—At the conclusion of any  
 7       oral argument under subsection (a), the Commission  
 8       shall designate any disputed question of fact, to-  
 9       gether with any remaining questions of law, for reso-  
 10      lution in an adjudicatory hearing only if it deter-  
 11      mines that—

12           “(A) there is a genuine and substantial  
 13      dispute of fact which can only be resolved with  
 14      sufficient accuracy by the introduction of evi-  
 15      dence in an adjudicatory hearing; and

16           “(B) the decision of the Commission is  
 17      likely to depend in whole or in part on the reso-  
 18      lution of such dispute.

19       “(2) DETERMINATION.—In making a deter-  
 20      mination under this subsection, the Commission—

21           “(A) shall designate in writing the specific  
 22      facts that are in genuine and substantial dis-  
 23      pute, the reason why the decision of the agency  
 24      is likely to depend on the resolution of such

1 facts, and the reason why an adjudicatory hear-  
2 ing is likely to resolve the dispute; and

3 “(B) shall not consider—

4 “(i) any issue relating to the design,  
5 construction, or operation of any civilian  
6 nuclear power reactor already licensed to  
7 operate at such site, or any civilian nuclear  
8 power reactor to which a construction per-  
9 mit has been granted at such site, unless  
10 the Commission determines that any such  
11 issue substantially affects the design, con-  
12 struction, or operation of the facility or ac-  
13 tivity for which such license application,  
14 authorization, or amendment is being con-  
15 sidered; or

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

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

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

7                   “(3) APPLICATION.—The provisions of para-  
8                   graph (2)(B) shall apply only with respect to li-  
9                   censes, authorizations, or amendments to licenses or  
10                  authorizations, applied for under the Atomic Energy  
11                  Act of 1954 (42 U.S.C. 2011 et seq.) before Decem-  
12                  ber 31, 2005.

13                  “(4) CONSTRUCTION.—The provisions of this  
14                  section shall not apply to the first application for a  
15                  license or license amendment received by the Com-  
16                  mission to expand onsite spent fuel storage capacity  
17                  by the use of a new technology not previously ap-  
18                  proved for use at any nuclear power plant by the  
19                  Commission.

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

1 “(1) an objection to the procedure used was  
2 presented to the Commission in a timely fashion or  
3 there are extraordinary circumstances that excuse  
4 the failure to present a timely objection; and

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

9 **“SEC. 504. SITING A SECOND REPOSITORY.**

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

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

18 **“SEC. 505. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL**  
19 **RADIOACTIVE WASTE SITE CLOSURE.**

20 “(a) FINANCIAL ARRANGEMENTS.—

21 “(1) STANDARDS AND INSTRUCTIONS.—The  
22 Commission shall establish by rule, regulation, or  
23 order, after public notice, and in accordance with  
24 section 181 of the Atomic Energy Act of 1954 (42  
25 U.S.C. 2231), such standards and instructions as

1 the Commission may deem necessary or desirable to  
2 ensure in the case of each license for the disposal of  
3 low-level radioactive waste that an adequate bond,  
4 surety, or other financial arrangement (as deter-  
5 mined by the Commission) will be provided by a li-  
6 censee to permit completion of all requirements es-  
7 tablished by the Commission for the decontamina-  
8 tion, decommissioning, site closure, and reclamation  
9 of sites, structures, and equipment used in conjunc-  
10 tion with such low-level radioactive waste. Such fi-  
11 nancial arrangements shall be provided and ap-  
12 proved by the Commission, or, in the case of sites  
13 within the boundaries of any agreement State under  
14 section 274 of the Atomic Energy Act of 1954 (42  
15 U.S.C. 2021), by the appropriate State or State en-  
16 tity, prior to issuance of licenses for low-level radio-  
17 active waste disposal or, in the case of licenses in ef-  
18 fect on January 7, 1983, prior to termination of  
19 such licenses.

20 “(2) BONDING, SURETY, OR OTHER FINANCIAL  
21 ARRANGEMENTS.—If the Commission determines  
22 that any long-term maintenance or monitoring, or  
23 both, will be necessary at a site described in para-  
24 graph (1), the Commission shall ensure before termi-  
25 nation of the license involved that the licensee has



1       made available such bonding, surety, or other finan-  
2       cial arrangements as may be necessary to ensure  
3       that any necessary long-term maintenance or mon-  
4       itoring needed for such site will be carried out by  
5       the person having title and custody for such site fol-  
6       lowing license termination.

7       “(b) TITLE AND CUSTODY.—

8               “(1) AUTHORITY OF SECRETARY.—The Sec-  
9       retary shall have authority to assume title and cus-  
10      tody of low-level radioactive waste and the land on  
11      which such waste is disposed of, upon request of the  
12      owner of such waste and land and following termi-  
13      nation of the license issued by the Commission for  
14      such disposal, if the Commission determines that—

15               “(A) the requirements of the Commission  
16      for site closure, decommissioning, and decon-  
17      tamination have been met by the licensee in-  
18      volved and that such licensee is in compliance  
19      with the provisions of subsection (a);

20               “(B) such title and custody will be trans-  
21      ferred to the Secretary without cost to the Fed-  
22      eral Government; and

23               “(C) Federal ownership and management  
24      of such site is necessary or desirable in order to

1 protect the public health and safety, and the  
2 environment.

3 “(2) PROTECTION.—If the Secretary assumes  
4 title and custody of any such waste and land under  
5 this subsection, the Secretary shall maintain such  
6 waste and land in a manner that will protect the  
7 public health and safety, and the environment.

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

19 **“SEC. 506. NUCLEAR REGULATORY COMMISSION TRAINING**  
20 **AUTHORIZATION.**

21 “The Commission is authorized and directed to pro-  
22 mulgate regulations, or other appropriate regulatory guid-  
23 ance, for the training and qualifications of civilian nuclear  
24 power plant operators, supervisors, technicians, and other  
25 appropriate operating personnel. Such regulations or guid-

1   ance shall establish simulator training requirements for  
 2   applicants for civilian nuclear power plant operator li-  
 3   censes and for operator requalification programs; require-  
 4   ments governing Commission administration of requali-  
 5   fication examinations; requirements for operating tests at  
 6   civilian nuclear power plant simulators, and instructional  
 7   requirements for civilian nuclear power plant licensee per-  
 8   sonnel training programs.

9   **“SEC. 507. EMPLACEMENT SCHEDULE.**

10       “(a) The emplacement schedule shall be implemented  
 11   in accordance with the following:

12           “(1) Emplacement priority ranking shall be de-  
 13       termined by the Department’s annual ‘Acceptance  
 14       Priority Ranking’ report.

15           “(2) Subject to the conditions contained in the  
 16       license for the interim storage facility, the Sec-  
 17       retary’s spent fuel and high-level radioactive waste  
 18       emplacement rate shall be no less than the following:  
 19       1,200 MTU in fiscal year 2003 and 1,200 MTU in  
 20       fiscal year 2004; 2,000 MTU in fiscal year 2005 and  
 21       2000 MTU in fiscal year 2006; 2,700 MTU in fiscal  
 22       year 2007; and 3,000 MTU annually thereafter.

23           “(3) Subject to the conditions contained in the  
 24       license for the interim storage facility, of the

1 amounts provided for in paragraph (2) for each  
2 year, not less than one-sixth shall be—

3 “(A) spent nuclear fuel or high-level radio-  
4 active waste of domestic origin from civilian nu-  
5 clear power reactors that have permanently  
6 ceased operation on or before the date of enact-  
7 ment of the Nuclear Waste Policy Act of 1997.

8 “(B) spent nuclear fuel from foreign re-  
9 search reactors, as necessary to promote non-  
10 proliferation activities; and

11 “(C) spent nuclear fuel, including spent  
12 nuclear fuel from naval reactors, and high-level  
13 radioactive waste from research or atomic en-  
14 ergy defense activities: *Provided, however,* That  
15 the Secretary shall accept not less than five  
16 percent of the total quantity of fuel and high-  
17 level radioactive waste accepted in any year  
18 from the categories of radioactive materials de-  
19 scribed in subparagraphs (B) and (C).

20 “(b) If the Secretary is unable to begin emplacement  
21 by June 30, 2003 at the rates specified in subsection (a),  
22 or if the cumulative amount emplaced in any year there-  
23 after is less than that which would have been accepted  
24 under the emplacement rate specified in subsection (a),  
25 the Secretary shall, as a mitigation measure, adjust the

1 emplacement schedule upward such that within 5 years  
2 of the start of emplacement by the Secretary—

3 “(1) the total quantity accepted by the Sec-  
4 retary is consistent with the total quantity that the  
5 Secretary would have accepted if the Secretary had  
6 began emplacement in fiscal year 2003, and

7 “(2) thereafter the emplacement rate is equiva-  
8 lent to the rate that would be in place pursuant to  
9 subsection (a) above if the Secretary had commenced  
10 emplacement in fiscal year 2003.

11 **“SEC. 508. TRANSFER OF TITLE.**

12 “(a) Acceptance by the Secretary of any spent nu-  
13 clear fuel or high-level radioactive waste shall constitute  
14 a transfer of title to the Secretary.

15 “(b) No later than 6 months following the date of  
16 enactment of the Nuclear Waste Policy Act of 1997, the  
17 Secretary is authorized to accept all spent nuclear fuel  
18 withdrawn from Dairyland Power Cooperative’s La Crosse  
19 Reactor and, upon acceptance, shall provide Dairyland  
20 Power Cooperative with evidence of the title transfer. Im-  
21 mediately upon the Secretary’s acceptance of such spent  
22 nuclear fuel, the Secretary shall assume all responsibility  
23 and liability for the interim storage and permanent dis-  
24 posal thereof and is authorized to compensate Dairyland  
25 Power Cooperative for any costs related to operating and

1 maintaining facilities necessary for such storage from the  
2 date of acceptance until the Secretary removes the spent  
3 nuclear fuel from the La Crosse Reactor site.

4 **“SEC. 509. DECOMMISSIONING PILOT PROGRAM.**

5       “(a) AUTHORIZATION.—The Secretary is authorized  
6 to establish a Decommissioning Pilot Program to decom-  
7 mission and decontaminate the sodium-cooled fast breeder  
8 experimental test-site reactor located in northwest Arkan-  
9 sas.

10       “(b) FUNDING.—No funds from the Nuclear Waste  
11 Fund may be used for the Decommissioning Pilot Pro-  
12 gram.

13 **“SEC. 510. WATER RIGHTS.**

14       “(a) NO FEDERAL RESERVATION.—Nothing in this  
15 Act or any other Act of Congress shall constitute or be  
16 construed to constitute either an express or implied Fed-  
17 eral reservation of water or water rights for any purpose  
18 arising under this Act.

19       “(b) ACQUISITION AND EXERCISE OF WATER  
20 RIGHTS UNDER NEVADA LAW.—The United States may  
21 acquire and exercise such water rights as it deems nec-  
22 essary to carry out its responsibilities under this Act pur-  
23 suant to the substantive and procedural requirements of  
24 the State of Nevada. Nothing in this Act shall be con-

1 strued to authorize the use of eminent domain by the  
 2 United States to acquire water rights for such lands.

3 “(c) EXERCISE OF WATER RIGHTS GENERALLY  
 4 UNDER NEVADA LAWS.—Nothing in this Act shall be con-  
 5 strued to limit the exercise of water rights as provided  
 6 under Nevada State laws.

7 **“SEC. 511. DRY STORAGE TECHNOLOGY.**

8 “The Commission is authorized to establish, by rule,  
 9 procedures for the licensing of any technology for the dry  
 10 storage of spent nuclear fuel by rule and without, to the  
 11 maximum extent possible, the need for site-specific ap-  
 12 provals by the Commission. Nothing in this Act shall af-  
 13 fect any such procedures, or any licenses or approvals is-  
 14 sued pursuant to such procedures in effect on the date  
 15 of enactment of the Nuclear Waste Policy Act of 1997.

16 **“TITLE VI—NUCLEAR WASTE TECHNICAL**  
 17 **REVIEW BOARD**

18 **“SEC. 601. DEFINITIONS.**

19 “For purposes of this title—

20 “(1) CHAIRMAN.—The term ‘Chairman’ means  
 21 the Chairman of the Nuclear Waste Technical Re-  
 22 view Board.

23 “(2) BOARD.—The term ‘Board’ means the Nu-  
 24 clear Waste Technical Review Board continued  
 25 under section 602.

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

2       “(a) CONTINUATION OF THE NUCLEAR WASTE  
3 TECHNICAL REVIEW BOARD.—The Nuclear Waste Tech-  
4 nical Review Board, established under section 502(a) of  
5 the Nuclear Waste Policy Act of 1982 as constituted prior  
6 to the date of enactment of the Nuclear Waste Policy Act  
7 of 1997, shall continue in effect subsequent to the date  
8 of enactment of the Nuclear Waste Policy Act of 1997.

9       “(b) MEMBERS.—

10           “(1) NUMBER.—The Board shall consist of 11  
11 members who shall be appointed by the President  
12 not later than 90 days after December 22, 1987,  
13 from among persons nominated by the National  
14 Academy of Sciences in accordance with paragraph  
15 (3).

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

18           “(3) NATIONAL ACADEMY OF SCIENCES.—

19           “(A) NOMINATIONS.—The National Acad-  
20 emy of Sciences shall, not later than 90 days  
21 after December 22, 1987, nominate not less  
22 than 22 persons for appointment to the Board  
23 from among persons who meet the qualifica-  
24 tions described in subparagraph (C).

25           “(B) VACANCIES.—The National Academy  
26 of Sciences shall nominate not less than 2 per-



1           sons to fill any vacancy on the Board from  
2           among persons who meet the qualifications de-  
3           scribed in subparagraph (C).

4           “(C) NOMINEES.—

5           “(i) Each person nominated for ap-  
6           pointment to the Board shall be—

7                   “(I) eminent in a field of science  
8                   or engineering, including environ-  
9                   mental sciences; and

10                   “(II) selected solely on the basis  
11                   of established records of distinguished  
12                   service.

13           “(ii) The membership of the Board  
14           shall be representatives of the broad range  
15           of scientific and engineering disciplines re-  
16           lated to activities under this title.

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

20                   “(I) the Department of Energy;

21                   “(II) a national laboratory under  
22                   contract with the Department of En-  
23                   ergy; or

24                   “(III) an entity performing spent  
25                   nuclear fuel or high-level radioactive

1 waste activities under contract with  
2 the Department of Energy.

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

6 “(5) TERMS.—Members of the Board shall be  
7 appointed for terms of 4 years, each such term to  
8 commence 120 days after December 22, 1987, ex-  
9 cept that of the 11 members first appointed to the  
10 Board, 5 shall serve for 2 years and 6 shall serve  
11 for 4 years, to be designated by the President at the  
12 time of appointment, except that a member of the  
13 Board whose term has expired may continue to serve  
14 as a member of the Board until such member’s suc-  
15 cessor has taken office.

16 **“SEC. 603. FUNCTIONS.**

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

20 “(1) site characterization activities; and

21 “(2) activities relating to the packaging or  
22 transportation of high-level radioactive waste or  
23 spent nuclear fuel.

1   **“SEC. 604. INVESTIGATORY POWERS.**

2       “(a) HEARINGS.—Upon request of the Chairman or  
3 a majority of the members of the Board, the Board may  
4 hold such hearings, sit and act at such times and places,  
5 take such testimony, and receive such evidence, as the  
6 Board considers appropriate. Any member of the Board  
7 may administer oaths or affirmations to witnesses appear-  
8 ing before the Board.

9       “(b) PRODUCTION OF DOCUMENTS.—

10       “(1) RESPONSE TO INQUIRIES.—Upon the re-  
11 quest of the Chairman or a majority of the members  
12 of the Board, and subject to existing law, the Sec-  
13 retary (or any contractor of the Secretary) shall pro-  
14 vide the Board with such records, files, papers, data,  
15 or information as may be necessary to respond to  
16 any inquiry of the Board under this title.

17       “(2) AVAILABILITY OF DRAFTS.—Subject to ex-  
18 isting law, information obtainable under paragraph  
19 (1) shall not be limited to final work products of the  
20 Secretary, but shall include drafts of such products  
21 and documentation of work in progress.

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

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

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

6   **“SEC. 606. STAFF.**

7       “(a) CLERICAL STAFF.—

8           “(1) AUTHORITY OF CHAIRMAN.—Subject to  
 9 paragraph (2), the Chairman may appoint and fix  
 10 the compensation of such clerical staff as may be  
 11 necessary to discharge the responsibilities of the  
 12 Board.

13          “(2) PROVISIONS OF TITLE 5.—Clerical staff  
 14 shall be appointed subject to the provisions of title  
 15 5, United States Code, governing appointments in  
 16 the competitive service, and shall be paid in accord-  
 17 ance with the provisions of chapter 51 and sub-  
 18 chapter III of chapter 3 of such title relating to clas-  
 19 sification and General Schedule pay rates.

20       “(b) PROFESSIONAL STAFF.—

21          “(1) AUTHORITY OF CHAIRMAN.—Subject to  
 22 paragraphs (2) and (3), the Chairman may appoint  
 23 and fix the compensation of such professional staff  
 24 as may be necessary to discharge the responsibilities  
 25 of the Board.

1           “(2) NUMBER.—Not more than 10 professional  
2       staff members may be appointed under this sub-  
3       section.

4           “(3) TITLE 5.—Professional staff members may  
5       be appointed without regard to the provisions of title  
6       5, United States Code, governing appointments in  
7       the competitive service, and may be paid without re-  
8       gard to the provisions of chapter 51 and subchapter  
9       III of chapter 53 of such title relating to classifica-  
10      tion and General Schedule pay rates, except that no  
11      individual so appointed may receive pay in excess of  
12      the annual rate of basic pay payable for GS-18 of  
13      the General Schedule.

14   **“SEC. 607. SUPPORT SERVICES.**

15       “(a) GENERAL SERVICES.—To the extent permitted  
16      by law and requested by the Chairman, the Administrator  
17      of General Services shall provide the Board with necessary  
18      administrative services, facilities, and support on a reim-  
19      bursable basis.

20       “(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY  
21      ASSESSMENT SERVICES.—The Comptroller General and  
22      the Librarian of Congress shall, to the extent permitted  
23      by law and subject to the availability of funds, provide the  
24      Board with such facilities, support, funds and services, in-

cluding staff, as may be necessary for the effective performance of the functions of the Board.

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

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

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

**“SEC. 608. REPORT.**

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

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

“Notwithstanding section 401(d), and subject to section 401(e), there are authorized to be appropriated for expenditures from amounts in the Nuclear Waste Fund

1 under section 401(c) such sums as may be necessary to  
2 carry out the provisions of this title.

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

4 “The Board shall cease to exist not later than one  
5 year after the date on which the Secretary begins disposal  
6 of spent nuclear fuel or high-level radioactive waste in the  
7 repository.

8 **“TITLE VII—MANAGEMENT REFORM**

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

10 “(a) IN GENERAL.—The Secretary is directed to take  
11 actions as necessary to improve the management of the  
12 civilian radioactive waste management program to ensure  
13 that the program is operated, to the maximum extent  
14 practicable, in like manner as a private business.

15 “(b) AUDITS.—

16 “(1) STANDARD.—The Office of Civilian Radio-  
17 active Waste Management, its contractors, and sub-  
18 contractors at all tiers, shall conduct, or have con-  
19 ducted, audits and examinations of their operations  
20 in accordance with the usual and customary prac-  
21 tices of private corporations engaged in large nuclear  
22 construction projects consistent with its role in the  
23 program.

24 “(2) TIME.—The management practices and  
25 performances of the Office of Civilian Radioactive

1 Waste Management shall be audited every 5 years  
2 by an independent management consulting firm with  
3 significant experience in similar audits of private  
4 corporations engaged in large nuclear construction  
5 projects. The first such audit shall be conducted 5  
6 years after the enactment of the Nuclear Waste Pol-  
7 icy Act of 1997.

8 “(3) TIME.—No audit contemplated by this  
9 subsection shall take longer than 30 days to con-  
10 duct. An audit report shall be issued in final form  
11 no longer than 60 days after the audit is com-  
12 menced.

13 “(4) PUBLIC DOCUMENTS.—All audit reports  
14 shall be public documents and available to any indi-  
15 vidual upon request.

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

23 “(d) SITE CHARACTERIZATION.—The Secretary shall  
24 employ, on an on-going basis, integrated performance  
25 modeling to identify appropriate parameters for the re-



1 maining site characterization effort and to eliminate stud-  
2 ies of parameters that are shown not to affect long-term  
3 repository performance.

4 **“SEC. 702. REPORTING.**

5       “(a) INITIAL REPORT.—Within 180 days of enact-  
6 ment of this section, the Secretary shall report to Con-  
7 gress on its planned actions for implementing the provi-  
8 sions of this Act, including the development of the Inte-  
9 grated Waste Management System. Such report shall in-  
10 clude—

11               “(1) an analysis of the Secretary’s progress in  
12 meeting its statutory and contractual obligation to  
13 accept title to, possession of, and delivery of spent  
14 nuclear fuel and high-level radioactive waste in ac-  
15 cordance with the emplacement schedule under sec-  
16 tion 507;

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

21               “(3) a detailed description of the Secretary’s  
22 contingency plans in the event that the Secretary is  
23 unable to meet the planned schedule and timeline;  
24 and

1           “(4) an analysis by the Secretary of its funding  
2           needs for the five fiscal years beginning after the fis-  
3           cal year in which the date of enactment of the Nu-  
4           clear Waste Policy Act of 1997 occurs.

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

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

14           “(2) the reasons for such modifications, and the  
15          status of the implementation of any of the Sec-  
16          retary’s contingency plans; and

17           “(3) the Secretary’s analysis of its funding  
18          needs for the ensuing 5 fiscal years.

## 19           **“TITLE VIII—MISCELLANEOUS**

### 20          **“SEC. 801. SENSE OF THE SENATE.**

21           “‘It is the sense of the Senate that the Secretary and  
22          the petitioners in Northern States Power (Minnesota), v.  
23          Department of Energy, pending before the United States  
24          Court of Appeals for the District of Columbia Circuit (No.  
25          97–1064), should enter into a settlement agreement to re-

1 solve the issues pending before the court in that case prior  
2 to the date of enactment of the Nuclear Waste Policy Act  
3 of 1997.

4 **“SEC. 802. EFFECTIVE DATE.**

5 “Except as otherwise provided in this Act, this Act  
6 shall become effective one day after enactment.”.

7 **SEC. 2. SENSE OF THE SENATE REGARDING ASSISTANCE**  
8 **FOR ELDERLY AND DISABLED LEGAL IMMI-**  
9 **GRANTS.**

10 It is the sense of the Senate that elderly and disabled  
11 legal immigrants who are unable to work should receive  
12 assistance essential to their well-being, and that the Presi-  
13 dent, Congress, the States, and faith-based and other or-  
14 ganizations should continue to work together toward that  
15 end.

Passed the Senate April 15, 1997.

Attest:

*Secretary.*

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S 104 PP—7

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S 104 PP—10

105TH CONGRESS  
1ST SESSION

# **S. 104**

## **AN ACT**

To amend the Nuclear Waste Policy Act of 1982.

May 6, 1997

**Ordered to be printed as passed**