

Union Calendar No. 92

106TH CONGRESS
1ST Session

H. R. 45

[Report No. 106-155, Part I]

A BILL

To amend the Nuclear Waste Policy Act of 1982.

JUNE 2, 1999

The Committees on Resources and the Budget dis-
charged; committed to the Committee of the Whole
House on the State of the Union and ordered to be
printed

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To amend the Nuclear Waste Policy Act of 1982.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1999

Mr. UPTON (for himself, Mr. TOWNS, Mr. BARTON of Texas, Mr. HALL of Texas, Mr. HOLDEN, Mr. NORWOOD, Mr. GORDON, Mr. OXLEY, Mr. BURR of North Carolina, Mr. KLINK, Mr. WHITFIELD, Mr. SPRATT, Mr. HOEKSTRA, Mr. LIVINGSTON, Mr. KANJORSKI, Mr. BILIRAKIS, Mr. GRAHAM, Mr. PETERSON of Pennsylvania, Mr. CANADY of Florida, Mr. MANZULLO, Mr. RAMSTAD, Mr. HUTCHINSON, Mr. PICKERING, Mr. GUTKNECHT, Mr. LOBIONDO, Mr. SHIMKUS, Mr. NETHERCUTT, Mr. ROHRABACHER, Mr. FOLEY, Mr. TAYLOR of North Carolina, Mr. BEREUTER, Mr. OBERSTAR, Mr. LIPINSKI, Mr. STUPAK, Mr. RUSH, Mr. SMITH of Michigan, Mr. EHLERS, Mr. KNOLLENBERG, Mr. PORTER, Mr. SISISKY, Mr. BONIOR, Mr. CAMP, Mr. KILDEE, Mr. BARCIA, Ms. STABENOW, Mr. PETERSON of Minnesota, Ms. JACKSON-LEE of Texas, and Mr. ALLEN) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Resources, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MAY 20, 1999

Reported from the Committee on Commerce with an amendment

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

MAY 20, 1999

The Committee on Transportation and Infrastructure discharged

MAY 20, 1999

Referral to the Committee on Resources extended for a period ending not later than June 2, 1999

MAY 20, 1999

Referred to the Committee on the Budget for a period ending not later than June 2, 1999, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(e), rule X

JUNE 2, 1999

Additional sponsors: Mr. CALLAHAN, Mr. STEARNS, Mr. GILLMOR, Mr. BAKER, Mrs. MEEK of Florida, Mr. BOEHLERT, Ms. KILPATRICK, Mr. BORSKI, Mr. SKEEN, Mr. BALLENGER, Mr. FRANK of Massachusetts, Mr. CHAMBLISS, Mr. WICKER, Mr. WELLER, Mr. BOUCHER, Mr. SAM JOHNSON of Texas, Mr. JEFFERSON, Ms. PRYCE of Ohio, Mr. LEVIN, Mrs. BIGGERT, Mr. SPENCE, Mr. BACHUS, Mr. HASTINGS of Washington, Mr. SNYDER, Mr. HAYES, Mr. COSTELLO, Mr. BOYD, Mr. CRAMER, Mr. SCARBOROUGH, Mr. LINDER, Mr. WELDON of Florida, Mr. DEMINT, Mrs. MYRICK, Mr. EHRLICH, Mr. TURNER, Mr. PICKETT, Mr. HASTINGS of Florida, Mr. BRYANT, Mr. KINGSTON, Mr. TERRY, Mr. TAUZIN, Mr. JOHN, Mr. GREEN of Wisconsin, Mr. BERRY, Mr. GREEN of Texas, Mr. SHOWS, Ms. ROS-LEHTINEN, Mr. SENSENBRENNER, Mrs. CHENOWETH, Mr. CRANE, Mr. CLEMENT, Mr. DOOLITTLE, Mr. SWEENEY, Mr. SHAD-EGG, Mr. SIMPSON, Mr. SESSIONS, Mr. FROST, Mr. BARRETT of Nebraska, Mr. TIAHRT, Mr. MCCRERY, Mr. EDWARDS, Mr. HILLIARD, Mr. CALVERT, Mr. DIAZ-BALART, Mr. GOODE, Mrs. THURMAN, Mr. COBLE, Mr. WAMP, Mr. ETHERIDGE, Mr. GARY MILLER of California, Mr. BARR of Georgia, Mr. EVERETT, Mr. SHAW, Mr. THORNBERRY, Mr. DICKEY, Mr. BISHOP, Mr. DEUTSCH, Mrs. JOHNSON of Connecticut, Mr. RYUN of Kansas, Mr. DAVIS of Illinois, Mr. WEXLER, Mr. CUNNINGHAM, Mr. LAHOOD, Mr. SUNUNU, Mr. MICA, Mr. ISAKSON, Mr. PITTS, Mr. JENKINS, and Mr. ADERHOLT

JUNE 2, 1999

The Committees on Resources and the Budget Discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on January 6, 1999]

A BILL

To amend the Nuclear Waste Policy Act of 1982.

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

1 **SECTION 1. AMENDMENT OF NUCLEAR WASTE POLICY ACT**
 2 **OF 1982.**

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

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

6 *“(a) SHORT TITLE.—This Act may be cited as the ‘Nu-*
 7 *clear Waste Policy Act of 1999’.*

8 *“(b) TABLE OF CONTENTS.—*

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

“Sec. 2. Definitions.

“Sec. 3. Findings and purposes.

“TITLE I—INTEGRATED MANAGEMENT SYSTEM

“Sec. 101. Transportation.

“Sec. 102. Transportation planning.

“Sec. 103. Transportation requirements.

“Sec. 104. Interim storage.

“Sec. 105. Permanent disposal.

“Sec. 106. Land withdrawal.

“Sec. 107. Applicability.

“TITLE II—LOCAL RELATIONS

“Sec. 201. On-site representative.

“Sec. 202. Benefits agreements.

“Sec. 203. Content of agreements.

“Sec. 204. Acceptance of benefits.

“Sec. 205. Restriction on use of funds.

“Sec. 206. Initial land conveyances.

“Sec. 207. Payments in lieu of taxes.

“TITLE III—FUNDING AND ORGANIZATION

“Sec. 301. Nuclear Waste Fund.

“Sec. 302. Office of Civilian Radioactive Waste Management.

“Sec. 303. Defense contribution.

“TITLE IV—GENERAL AND MISCELLANEOUS PROVISIONS

“Sec. 401. Compliance with other laws.

“Sec. 402. Water rights.

“Sec. 403. Judicial review of agency actions.

“Sec. 404. Licensing of facility expansions and transshipments.

“Sec. 405. Siting a second repository.

“Sec. 406. Financial arrangements for low-level radioactive waste site closure.

“Sec. 407. Nuclear Regulatory Commission training authorization.

“Sec. 408. Subseabed or ocean water disposal.

“Sec. 409. Purchase of American-made equipment and products.

“Sec. 410. Separability.

“TITLE V—NUCLEAR WASTE TECHNICAL REVIEW BOARD

“Sec. 501. Definitions.

“Sec. 502. Nuclear Waste Technical Review Board.

“Sec. 503. Functions.

“Sec. 504. Investigatory powers.

“Sec. 505. Compensation of members.

“Sec. 506. Staff.

“Sec. 507. Support services.

“Sec. 508. Report.

“Sec. 509. Authorization of appropriations.

“Sec. 510. Termination of the board.

1 **“SEC. 2. DEFINITIONS.**

2 *“For purposes of this Act:*

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

7 *“(2) AFFECTED INDIAN TRIBE.—The term ‘af-*
 8 *ected Indian tribe’ means an Indian tribe whose res-*
 9 *ervation is surrounded by or borders on an affected*
 10 *unit of local government, or whose federally defined*
 11 *possessory or usage rights to other lands outside of the*
 12 *border of the Indian tribe’s reservation arising out of*
 13 *congressionally ratified treaties may be affected by the*
 14 *locating of an interim storage facility or repository,*
 15 *if the Secretary finds, upon petition of the appro-*
 16 *priate government officials of the Indian tribe, that*
 17 *such affects are both substantial and adverse to the*
 18 *Indian tribe.*

1 “(3) *AFFECTED UNIT OF LOCAL GOVERNMENT.*—

2 *The term ‘affected unit of local government’ means the*
3 *unit of local government with jurisdiction over the*
4 *site of a repository or interim storage facility. Such*
5 *term may, at the discretion of the Secretary, include*
6 *other units of local government that are contiguous*
7 *with such unit.*

8 “(4) *ATOMIC ENERGY DEFENSE ACTIVITY.*—*The*
9 *term ‘atomic energy defense activity’ means any ac-*
10 *tivity of the Secretary performed in whole or in part*
11 *in carrying out any of the following functions:*

12 “(A) *Naval reactors development.*

13 “(B) *Weapons activities including defense*
14 *inertial confinement fusion.*

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

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

17 “(E) *Defense nuclear waste and materials*
18 *byproducts management.*

19 “(F) *Defense nuclear materials security and*
20 *safeguards and security investigations.*

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

22 “(H) *Nuclear nonproliferation.*

23 “(5) *CIVILIAN NUCLEAR POWER REACTOR.*—*The*
24 *term ‘civilian nuclear power reactor’ means a civilian*
25 *nuclear power plant required to be licensed under sec-*

1 *tion 103 or 104 b. of the Atomic Energy Act of 1954*
2 *(42 U.S.C. 2133, 2134(b)).*

3 “(6) COMMISSION.—*The term ‘Commission’*
4 *means the Nuclear Regulatory Commission.*

5 “(7) DEPARTMENT.—*The term ‘Department’*
6 *means the Department of Energy.*

7 “(8) DISPOSAL.—*The term ‘disposal’ means the*
8 *emplacement in a repository of spent nuclear fuel,*
9 *high-level radioactive waste, or other highly radio-*
10 *active material with no foreseeable intent of recovery,*
11 *whether or not such emplacement permits recovery of*
12 *such material for any future purpose.*

13 “(9) DISPOSAL SYSTEM.—*The term ‘disposal sys-*
14 *tem’ means all natural barriers and engineered bar-*
15 *riers, and engineered systems and components, that*
16 *prevent the release of radionuclides from the reposi-*
17 *tory.*

18 “(10) ENGINEERED BARRIERS.—*The term ‘engi-*
19 *neered barriers’ means man-made components of a*
20 *disposal system, including the spent nuclear fuel or*
21 *high-level radioactive waste form, spent nuclear fuel*
22 *package or high-level radioactive waste package, and*
23 *other materials placed over and around such pack-*
24 *ages.*

1 “(11) *HIGH-LEVEL RADIOACTIVE WASTE*.—The
2 *term ‘high-level radioactive waste’ means—*

3 “(A) *the highly radioactive material result-*
4 *ing from the reprocessing in the United States of*
5 *spent nuclear fuel, including liquid waste pro-*
6 *duced directly in reprocessing and any solid ma-*
7 *terial derived from such liquid waste that con-*
8 *tains fission products in sufficient concentra-*
9 *tions;*

10 “(B) *the highly radioactive material result-*
11 *ing from atomic energy defense activities; and*

12 “(C) *any other highly radioactive material*
13 *that the Commission, consistent with existing*
14 *law, determines by rule requires permanent iso-*
15 *lation.*

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

19 “(13) *INDIAN TRIBE*.—The *term ‘Indian tribe’*
20 *means any Indian tribe, band, nation, or other orga-*
21 *nized group or community of Indians recognized as*
22 *eligible for the services provided to Indians by the*
23 *Secretary of the Interior because of their status as In-*
24 *dians including any Alaska Native village, as defined*

1 *in section 3(c) of the Alaska Native Claims Settlement*
2 *Act (43 U.S.C. 1602(c)).*

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

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

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

20 “(17) *LOW-LEVEL RADIOACTIVE WASTE.*—*The*
21 *term ‘low-level radioactive waste’ means radioactive*
22 *material that—*

23 “(A) *is not spent nuclear fuel, high-level ra-*
24 *dioactive waste, transuranic waste, or byproduct*
25 *material as defined in section 11 e.(2) of the*

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

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

5 *“(18) METRIC TONS URANIUM AND MTU.—The*
6 *terms ‘metric tons uranium’ and ‘MTU’ mean the*
7 *amount of uranium in the original unirradiated fuel*
8 *element whether or not the spent nuclear fuel has been*
9 *reprocessed.*

10 *“(19) NUCLEAR WASTE FUND.—The term ‘Nu-*
11 *clear Waste Fund’ means the Nuclear Waste Fund es-*
12 *tablished in the United States Treasury before the*
13 *date of enactment of this Act under section 302(c) of*
14 *the Nuclear Waste Policy Act of 1982.*

15 *“(20) OFFICE.—The term ‘Office’ means the Of-*
16 *fice of Civilian Radioactive Waste Management estab-*
17 *lished within the Department before the date of enact-*
18 *ment of this Act under section 304(a) of the Nuclear*
19 *Waste Policy Act of 1982.*

20 *“(21) PACKAGE.—The term ‘package’ means the*
21 *primary container that holds, and is in direct contact*
22 *with, solidified high-level radioactive waste, spent nu-*
23 *clear fuel, or other radioactive materials and any*
24 *overpack that are emplaced at a repository.*

1 “(22) *PROGRAM APPROACH.*—*The term ‘program*
2 *approach’ means the Civilian Radioactive Waste*
3 *Management Program Plan, dated July 1998, as*
4 *modified by this Act, and as amended from time to*
5 *time by the Secretary in accordance with this Act.*

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

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

16 “(25) *SITE CHARACTERIZATION.*—*The term ‘site*
17 *characterization’ means activities, whether in a lab-*
18 *oratory or in the field, undertaken to establish the*
19 *geologic condition and the ranges of the parameters of*
20 *the Yucca Mountain site relevant to the location of a*
21 *repository, including borings, surface excavations, ex-*
22 *cavations of exploratory facilities, limited subsurface*
23 *lateral excavations and borings, and in situ testing*
24 *needed to evaluate the licensability of the Yucca*
25 *Mountain site for the location of a repository, but not*

1 *including preliminary borings and geophysical test-*
2 *ing needed to assess whether site characterization*
3 *should be undertaken.*

4 “(26) *SPENT NUCLEAR FUEL.*—*The term ‘spent*
5 *nuclear fuel’ means fuel, other than foreign spent nu-*
6 *clear fuel, as defined in section 131 f.(4) of the Atom-*
7 *ic Energy Act of 1954 (42 U.S.C. 2160(f)(4)), that*
8 *has been withdrawn from a nuclear reactor following*
9 *irradiation, the constituent elements of which have*
10 *not been separated by reprocessing.*

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

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

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

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

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

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

6 “(2) while the Federal Government has the re-
7 sponsibility to provide for interim storage and per-
8 manent disposal of spent nuclear fuel and high-level
9 radioactive waste to protect the public health and
10 safety and the environment, the costs of such storage
11 and disposal should be the responsibility of the gen-
12 erators and owners of such waste and fuel, including
13 the Federal Government;

14 “(3) in the interests of protecting the public
15 health and safety and the environment, promoting the
16 Nation’s energy security, and ensuring the Secretary’s
17 ability to commence acceptance of spent nuclear fuel
18 and high-level radioactive waste by June 30, 2003, it
19 is necessary for Congress to authorize the interim
20 storage facility;

21 “(4) deficit-control measures designed to limit
22 appropriation of general revenues have limited the
23 availability of the Nuclear Waste Fund for its in-
24 tended purposes and threaten to undermine the repos-
25 itory program; and

1 “(5) *the Federal Government has the responsi-*
2 *bility to provide for the permanent disposal of waste*
3 *generated from United States atomic energy defense*
4 *activities.*

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

6 “(1) *to direct the Secretary to develop an inte-*
7 *grated management system in accordance with this*
8 *Act so that the Department can accept spent nuclear*
9 *fuel and high-level radioactive waste for interim stor-*
10 *age commencing June 30, 2003, and for permanent*
11 *disposal at a repository commencing January 17,*
12 *2010;*

13 “(2) *to authorize the Secretary to take title to*
14 *spent nuclear fuel and store it on civilian nuclear*
15 *power reactor sites in order to provide relief from the*
16 *financial and other burdens imposed on the owners*
17 *and operators of such reactors by the Secretary’s fail-*
18 *ure to accept spent nuclear fuel in accordance with*
19 *section 302(a)(5)(B) of the Nuclear Waste Policy Act*
20 *of 1982;*

21 “(3) *to provide for the siting, construction, and*
22 *operation of a repository for permanent geologic dis-*
23 *posal of spent nuclear fuel and high-level radioactive*
24 *waste in order to adequately protect the public health*
25 *and safety and the environment;*

1 “(4) to ensure that consumers’ contributions to
2 the Nuclear Waste Fund are solely dedicated to the
3 purposes for which the Fund was established; and

4 “(5) to provide a schedule and process for the ex-
5 peditious and safe development and commencement of
6 operation of an integrated management system and
7 any necessary modifications to the transportation in-
8 frastructure to ensure that the Secretary can accept
9 spent nuclear fuel and high-level radioactive waste.

10 **“TITLE I—INTEGRATED**
11 **MANAGEMENT SYSTEM**

12 **“SEC. 101. TRANSPORTATION.**

13 “(a) *IN GENERAL.*—The Secretary shall take those ac-
14 tions that are necessary and appropriate to ensure that the
15 Secretary is able to accept and transport spent nuclear fuel
16 and high-level radioactive waste by June 30, 2003. The Sec-
17 retary shall make use of the most safe and efficient method
18 available to transport spent nuclear fuel and high-level ra-
19 dioactive waste to the interim storage facility and the Yucca
20 Mountain site. To the extent practicable, the Secretary shall
21 avoid the shipment of spent nuclear fuel and high-level ra-
22 dioactive waste through the Las Vegas metropolitan area.

23 “(b) *INTERMODAL TRANSFER.*—In the event the Sec-
24 retary determines there is a need for rail to truck inter-
25 modal transfer, the Secretary shall do the following:

1 “(1) *Develop the capability to commence rail to*
2 *truck intermodal transfer at Caliente, Nevada, by*
3 *June 30, 2003.*

4 “(2) *Acquire lands and rights-of-way necessary*
5 *to commence intermodal transfer at Caliente, Nevada.*

6 “(3) *Acquire and develop on behalf of, and dedi-*
7 *cate to, the City of Caliente, Nevada, parcels of land*
8 *and rights-of-way as required to facilitate replace-*
9 *ment of land and city wastewater disposal activities*
10 *necessary to commence intermodal transfer pursuant*
11 *to this Act. Replacement of land and city wastewater*
12 *disposal activities shall occur by June 30, 2003.*

13 “(4) *Within 6 months of the Secretary’s deter-*
14 *mination of a need for rail to truck intermodal*
15 *transfer—*

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

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

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

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

6 *For purposes of carrying out this subsection, the Commis-*
7 *sion shall enter into a Memorandum of Understanding with*
8 *the City of Caliente and Lincoln County, Nevada, to pro-*
9 *vide advice to the Commission regarding intermodal trans-*
10 *fer and to facilitate on-site representation. Reasonable ex-*
11 *penses of such representation shall be paid by the Secretary.*

12 “(c) *HEAVY-HAUL TRANSPORTATION ROUTE.*—

13 “(1) *DESIGNATION OF ROUTE.*—*The route for the*
14 *heavy-haul truck transport of spent nuclear fuel and*
15 *high-level radioactive waste shall be as designated in*
16 *the map dated July 21, 1997 (referred to as ‘Heavy-*
17 *Haul Route’)* and on file with the Secretary.

18 “(2) *TRUCK TRANSPORTATION.*—*The Secretary,*
19 *in consultation with the State of Nevada and appro-*
20 *priate counties and local jurisdictions, shall establish*
21 *reasonable terms and conditions pursuant to which*
22 *the Secretary may utilize heavy-haul truck transport*
23 *to move spent nuclear fuel and high-level radioactive*
24 *waste from Caliente, Nevada, to the interim storage*
25 *facility site.*

1 “(d) *IMPROVEMENTS AND MAINTENANCE OF TRUCK*
 2 *TRANSPORT ROUTE.*—*Notwithstanding any other law—*

3 “(1) *the Secretary shall be responsible for—*

4 “(A) *making improvements to existing*
 5 *roadways in Nevada, and*

6 “(B) *any costs related to improving or up-*
 7 *grading Federal, State, and local roads within*
 8 *the heavy-haul transportation route utilized, and*
 9 *performing any maintenance activities on such*
 10 *roads,*

11 *as necessary, to facilitate year-round safe transport of*
 12 *spent nuclear fuel and high-level radioactive waste;*
 13 *and*

14 “(2) *any such improvement, upgrading, or*
 15 *maintenance activity shall be funded solely by appro-*
 16 *priations made pursuant to sections 301 and 303 of*
 17 *this Act.*

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

21 “(f) *DESIGNATED ROUTE.*—*Consistent with the re-*
 22 *quirements of subsection (a), the Secretary may, in lieu of*
 23 *any other route designation under this section, enter into*
 24 *discussions with the heads of other Federal agencies regard-*
 25 *ing alternate routes between Caliente, Nevada and the*

1 *Yucca Mountain Site and running through the Nevada Test*
 2 *Site and other Federal lands.*

3 **“SEC. 102. TRANSPORTATION PLANNING.**

4 “(a) *TRANSPORTATION READINESS.*—

5 “(1) *IN GENERAL.*—As soon as is practicable fol-
 6 *lowing the date of enactment of this Act, the Secretary*
 7 *shall analyze each specific reactor facility and develop*
 8 *a logistical plan to assure the Secretary’s ability to*
 9 *transport spent nuclear fuel and high-level radio-*
 10 *active waste, using routes that minimize, to the max-*
 11 *imum practicable extent and consistent with Federal*
 12 *requirements governing transportation of hazardous*
 13 *materials, transportation of spent nuclear fuel and*
 14 *high-level radioactive waste through populated areas.*

15 “(2) *INSTITUTIONAL PLANS.*—In conjunction
 16 *with the development of the logistical plan in accord-*
 17 *ance with paragraph (1), the Secretary shall update*
 18 *and modify, as necessary, the Secretary’s transpor-*
 19 *tation institutional plans to ensure that institutional*
 20 *issues are addressed and resolved on a schedule to*
 21 *support the commencement of transportation of spent*
 22 *nuclear fuel and high-level radioactive waste to the*
 23 *interim storage facility by June 30, 2003. Among*
 24 *other things, such planning shall provide a schedule*
 25 *and process for addressing and implementing, as nec-*

1 *essary, transportation routing plans, transportation*
2 *contracting plans, transportation training in accord-*
3 *ance with section 103, and transportation tracking*
4 *programs.*

5 *“(b) RAIL ROUTES.—Not later than one year after the*
6 *date of enactment of this Act, the Secretary of Transpor-*
7 *tation shall establish procedures for the selection of preferred*
8 *rail routes for the transportation of spent nuclear fuel and*
9 *high-level radioactive waste to the interim storage facility*
10 *site and the Yucca Mountain site. Such procedures shall*
11 *be established in consultation with the designated emer-*
12 *gency services planning management official for any State*
13 *or Indian tribe affected by the rail routes selected.*

14 **“SEC. 103. TRANSPORTATION REQUIREMENTS.**

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

19 *“(b) STATE NOTIFICATION.—The Secretary shall abide*
20 *by regulations of the Commission regarding advance notifi-*
21 *cation of State and local governments before transportation*
22 *of spent nuclear fuel or high-level radioactive waste under*
23 *this Act.*

24 *“(c) TECHNICAL ASSISTANCE.—*

1 “(1) *IN GENERAL.*—*The Secretary shall provide*
2 *technical assistance and funds to States, affected units*
3 *of local government, and Indian tribes through whose*
4 *jurisdiction the Secretary plans to transport substan-*
5 *tial amounts of spent nuclear fuel or high-level radio-*
6 *active waste for training for public safety officials of*
7 *appropriate units of local government. Training shall*
8 *cover procedures required for safe routine transpor-*
9 *tation of these materials, as well as procedures for*
10 *dealing with emergency response situations. The Sec-*
11 *retary’s duty to provide technical and financial as-*
12 *sistance under this subsection shall be limited to*
13 *amounts specified in annual appropriations.*

14 “(2) *EMPLOYEE ORGANIZATIONS.*—

15 “(A) *IN GENERAL.*—*The Secretary shall*
16 *provide technical assistance and funds for train-*
17 *ing directly to nonprofit employee organizations,*
18 *voluntary emergency response organizations, and*
19 *joint labor-management organizations that dem-*
20 *onstrate experience in implementing and oper-*
21 *ating worker health and safety training and edu-*
22 *cation programs and demonstrate the ability to*
23 *reach and involve in training programs target*
24 *populations of workers who are or will be di-*
25 *rectly engaged in the transportation of spent nu-*

1 *clear fuel and high-level radioactive waste or*
2 *emergency response or post-emergency response*
3 *with respect to such transportation.*

4 “(B) TRAINING.—Training under this
5 paragraph—

6 “(i) shall cover procedures required for
7 safe routine transportation of materials and
8 procedures for dealing with emergency re-
9 sponse situations;

10 “(ii) shall be consistent with any
11 training standards established by the Sec-
12 retary of Transportation; and

13 “(iii) shall include—

14 “(I) a training program applica-
15 ble to persons responsible for respond-
16 ing to emergency situations occurring
17 during the removal and transportation
18 of spent nuclear fuel and high-level ra-
19 dioactive waste;

20 “(II) instruction of public safety
21 officers in procedures for the command
22 and control of the response to any inci-
23 dent involving such fuel or waste; and

24 “(III) instruction of radiological
25 protection and emergency medical per-

1 sonnel in procedures for responding to
2 an incident involving spent nuclear
3 fuel or high-level radioactive waste
4 being transported.

5 “(3) GRANTS.—To implement this subsection,
6 grants shall be made from the Nuclear Waste Fund.

7 “(4) MINIMIZING DUPLICATION OF EFFORT AND
8 EXPENSES.—The Secretaries of Transportation,
9 Labor, and Energy, Directors of the Federal Emer-
10 gency Management Agency and National Institute of
11 Environmental Health Sciences, the Nuclear Regu-
12 latory Commission, and Administrator of the Envi-
13 ronmental Protection Agency shall review periodi-
14 cally, with the head of each department, agency, or
15 instrumentality of the Government, all emergency re-
16 sponse and preparedness training programs of that
17 department, agency, or instrumentality to minimize
18 duplication of effort and expense of the department,
19 agency, or instrumentality in carrying out the pro-
20 grams and shall take necessary action to minimize
21 duplication.

22 “(d) USE OF PRIVATE CARRIERS.—The Secretary, in
23 providing for the transportation of spent nuclear fuel and
24 high-level radioactive waste under this Act, shall by con-
25 tract use private industry to the fullest extent possible in

1 0 each aspect of such transportation. The Secretary shall
 2 use direct Federal services for such transportation only
 3 upon a determination by the Secretary of Transportation,
 4 in consultation with the Secretary, that private industry
 5 is unable or unwilling to provide such transportation serv-
 6 ices at a reasonable cost.

7 “(e) *EMPLOYEE PROTECTION.*—Any person engaged in
 8 the interstate commerce of spent nuclear fuel or high-level
 9 radioactive waste under contract to the Secretary pursuant
 10 to this Act shall be subject to and comply fully with the
 11 employee protection provisions of section 20109 of title 49,
 12 United States Code (in the case of employees of railroad
 13 carriers), and section 31105 of title 49, United States Code
 14 (in the case of employees operating commercial motor vehi-
 15 cles), or the Commission (in the case of all other employees).

16 “(f) *TRAINING STANDARD.*—

17 “(1) *REGULATION.*—No later than 12 months
 18 after the date of enactment of this Act, the Secretary
 19 of Transportation, pursuant to authority under other
 20 provisions of law, in consultation with the Secretary
 21 of Labor and the Commission, shall promulgate a reg-
 22 ulation establishing training standards applicable to
 23 workers directly involved in the removal and trans-
 24 portation of spent nuclear fuel and high-level radio-
 25 active waste. The regulation shall specify minimum

1 *training standards applicable to workers, including*
2 *managerial personnel. The regulation shall require*
3 *that the employer possess evidence of satisfaction of*
4 *the applicable training standard before any indi-*
5 *vidual may be employed in the removal and transpor-*
6 *tation of spent nuclear fuel and high-level radioactive*
7 *waste.*

8 “(2) *SECRETARY OF TRANSPORTATION.—If the*
9 *Secretary of Transportation determines, in promul-*
10 *gating the regulation required by paragraph (1), that*
11 *existing Federal regulations establish adequate train-*
12 *ing standards for workers, then the Secretary of*
13 *Transportation can refrain from promulgating addi-*
14 *tional regulations with respect to worker training in*
15 *such activities. The Secretary of Transportation and*
16 *the Commission shall use their Memorandum of Un-*
17 *derstanding to ensure coordination of worker training*
18 *standards and to avoid duplicative regulation.*

19 “(3) *TRAINING STANDARDS CONTENT.—If train-*
20 *ing standards are required to be promulgated under*
21 *paragraph (1), such standards shall, among other*
22 *things deemed necessary and appropriate by the Sec-*
23 *retary of Transportation, provide for—*

24 “(A) *a specified minimum number of hours*
25 *of initial off-site instruction and actual field ex-*

1 *perience under the direct supervision of a*
2 *trained, experienced supervisor;*

3 *“(B) a requirement that on-site managerial*
4 *personnel receive the same training as workers,*
5 *and a minimum number of additional hours of*
6 *specialized training pertinent to their manage-*
7 *rial responsibilities; and*

8 *“(C) a training program applicable to per-*
9 *sons responsible for responding to and cleaning*
10 *up emergency situations occurring during the re-*
11 *moval and transportation of spent nuclear fuel*
12 *and high-level radioactive waste.*

13 *The Secretary of Transportation may specify an ap-*
14 *propriate combination of knowledge, skills, and prior*
15 *training to fulfill the minimum number of hours re-*
16 *quirements of subparagraphs (A) and (B).*

17 *“(4) EMERGENCY RESPONDER TRAINING STAND-*
18 *ARDS.—The training standards for persons respon-*
19 *sible for responding to emergency situations occurring*
20 *during the removal and transportation of spent nu-*
21 *clear fuel and high-level radioactive waste shall, in*
22 *accordance with existing regulations, ensure their*
23 *ability to protect nearby persons, property, or the en-*
24 *vironment from the effects of accidents involving spent*
25 *nuclear fuel and high-level radioactive waste.*

1 “(5) *AUTHORIZATION.*—*There are authorized to*
2 *be appropriated to the Secretary of Transportation,*
3 *from general revenues, such sums as may be necessary*
4 *to perform his duties under this subsection.*

5 **“SEC. 104. INTERIM STORAGE.**

6 “(a) *AUTHORIZATION.*—*The Secretary shall design,*
7 *construct, and operate a facility for the interim storage of*
8 *spent nuclear fuel and high-level radioactive waste at the*
9 *interim storage facility site. The interim storage facility*
10 *shall be subject to licensing pursuant to the Atomic Energy*
11 *Act of 1954 (42 U.S.C. 2011 et seq.) in accordance with*
12 *the Commission’s regulations governing the licensing of*
13 *independent spent fuel storage installations and shall com-*
14 *mence operation in phases by June 30, 2003. The interim*
15 *storage facility shall store spent nuclear fuel and high-level*
16 *radioactive waste until the Secretary is able to dispose of*
17 *such fuel and waste in the repository. The annual accept-*
18 *ance rate at the interim storage facility shall be as follows:*
19 *600 MTU in 2003, 1200 MTU in 2004, 2000 MTU in 2005,*
20 *2000 MTU in 2006, 2700 MTU in 2007, and 3000 MTU*
21 *annually thereafter.*

22 “(b) *DESIGN.*—*The design of the interim storage facil-*
23 *ity shall provide for the use of storage technologies licensed*
24 *or certified by the Commission for use at the interim storage*
25 *facility as necessary to ensure compatibility between the in-*

1 *terim storage facility and contract holders' spent nuclear*
2 *fuel and facilities, and to facilitate the Secretary's ability*
3 *to meet the Secretary's obligations under this Act.*

4 “(c) *LICENSING.*—

5 “(1) *PHASES.*—*The interim storage facility shall*
6 *be licensed by the Commission in order to commence*
7 *operations in phases by June 30, 2003.*

8 “(2) *FIRST PHASE.*—*No later than 12 months*
9 *after the date of enactment of this Act, the Secretary*
10 *shall submit to the Commission an application for a*
11 *license for the first phase of the interim storage facil-*
12 *ity. The license for the first phase of the interim stor-*
13 *age facility shall have a term of 20 years. The first*
14 *phase of the interim storage facility shall have a ca-*
15 *capacity of not more than 10,000 MTU. The Commis-*
16 *sion shall issue a final decision granting or denying*
17 *the application for the first phase license no later*
18 *than 36 months from the date of the submittal of the*
19 *application for such license.*

20 “(3) *SECOND PHASE.*—*The Secretary shall sub-*
21 *mit to the Commission an application for a license*
22 *for the second phase of the interim storage facility.*
23 *The license for the second phase of the interim storage*
24 *facility shall have an additional storage capacity of*
25 *30,000 MTU. The license for the second phase of the*

1 *interim storage facility shall have an initial term of*
2 *up to 100 years and shall be renewable for additional*
3 *terms upon application of the Secretary.*

4 *“(d) ADDITIONAL AUTHORITY.—*

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

19 *“(2) FACILITY USE.—Notwithstanding any oth-*
20 *erwise applicable licensing requirement, the Secretary*
21 *may utilize any facility, owned by the Federal Gov-*
22 *ernment on the date of enactment of this Act and*
23 *within the boundaries of Area 25 of the Nevada Test*
24 *Site, to protect the public health and safety or the en-*

1 *vironment before commencement of operations of the*
 2 *second phase of the interim storage facility.*

3 “(e) *NATIONAL ENVIRONMENTAL POLICY ACT OF*
 4 *1969.—*

5 “(1) *PRELIMINARY DECISIONMAKING ACTIVITIES*
 6 *OF THE SECRETARY.—The designation by the Sec-*
 7 *retary of the interim storage facility site, the prepara-*
 8 *tion and submittal by the Secretary of any license ap-*
 9 *plication for the interim storage facility, the construc-*
 10 *tion and operation by the Secretary of the interim*
 11 *storage facility, or any other activity of the Secretary*
 12 *(other than under subsection (i)) under this section*
 13 *shall be considered preliminary decisionmaking ac-*
 14 *tivities for purposes of the National Environmental*
 15 *Policy Act of 1969 (42 U.S.C. 4321 et seq.). No such*
 16 *activity shall require the preparation of an environ-*
 17 *mental impact statement under section 102(2)(C) of*
 18 *the National Environmental Policy Act of 1969 (42*
 19 *U.S.C. 4332(2)(C)) or require any environmental re-*
 20 *view under subparagraph (E) or (F) of such Act.*

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

22 “(A) *FINAL DECISION OF THE COMMIS-*
 23 *SION.—A final decision of the Commission to*
 24 *grant or deny a license application for the first*
 25 *or second phase of the interim storage facility*

1 *shall be accompanied by an Environmental Im-*
2 *pact Statement prepared under section 102(2)(C)*
3 *of the National Environmental Policy Act of*
4 *1969 (42 U.S.C. 4332(2)(C)). In preparing such*
5 *Environmental Impact Statement, the*
6 *Commission—*

7 “(i) *shall assume that 40,000 MTU*
8 *will be stored at the interim storage facility;*
9 *and*

10 “(ii) *shall analyze the impacts of the*
11 *transportation of spent nuclear fuel and*
12 *high-level radioactive waste to the interim*
13 *storage facility in a generic manner.*

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

16 “(i) *the need for the interim storage fa-*
17 *cility, including any individual component*
18 *thereof;*

19 “(ii) *the time of the initial availability*
20 *of the interim storage facility;*

21 “(iii) *any alternatives to the storage of*
22 *spent nuclear fuel and high-level radioactive*
23 *waste at the interim storage facility;*

1 “(iv) *any alternatives to the site of the*
2 *interim storage facility as designated by the*
3 *Secretary;*

4 “(v) *any alternatives to the design cri-*
5 *teria for the interim storage facility or any*
6 *individual component thereof, as specified*
7 *by the Secretary in the license application;*
8 *or*

9 “(vi) *the environmental impacts of the*
10 *storage of spent nuclear fuel and high-level*
11 *radioactive waste at the interim storage fa-*
12 *cility beyond the initial term of the license*
13 *or the term of the renewal period for which*
14 *a license renewal application is made.*

15 “(3) *ON-SITE STORAGE.*—*Activities of the Sec-*
16 *retary under subsection (i) are not major Federal ac-*
17 *tions subject to the National Environmental Policy*
18 *Act of 1969 (42 U.S.C. 4321 et seq.).*

19 “(f) *JUDICIAL REVIEW.*—*Judicial review of the Com-*
20 *mission’s environmental impact statement under the Na-*
21 *tional Environmental Policy Act of 1969 (42 U.S.C. 4321*
22 *et seq.) shall be consolidated with judicial review of the*
23 *Commission’s licensing decision. No court shall have juris-*
24 *diction to enjoin the construction or operation of the in-*

1 *terim storage facility before its final decision on review of*
2 *the Commission’s licensing action.*

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

15 “(h) *SAVINGS CLAUSE.—Nothing in this Act shall af-*
16 *fect the Commission’s procedures for the licensing of any*
17 *technology for the dry storage of spent nuclear fuel at the*
18 *site of any civilian nuclear power reactor as adopted by*
19 *the Commission under section 218 of the Nuclear Waste Pol-*
20 *icy Act of 1982, as in effect before the date of enactment*
21 *of this Act. The establishment of such procedures shall not*
22 *preclude the licensing, under any applicable procedures or*
23 *rules of the Commission in effect before such establishment,*
24 *of any technology for the storage of spent nuclear fuel at*
25 *the site of any civilian nuclear power reactor.*

1 “(i) *STORAGE ON-SITE BY THE GOVERNMENT.*—In
 2 *order to provide relief from the financial and other burdens*
 3 *imposed on owners and operators of civilian nuclear power*
 4 *reactors by the Secretary’s failure to accept spent nuclear*
 5 *fuel in accordance with section 302(a)(5)(B) of the Nuclear*
 6 *Waste Policy Act of 1982, the Secretary may take title to*
 7 *spent nuclear fuel generated by civilian nuclear power reac-*
 8 *tors for storage on the site of such reactors.*

9 **“SEC. 105. PERMANENT DISPOSAL.**

10 “(a) *SITE CHARACTERIZATION.*—

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

17 “(2) *SITE CHARACTERIZATION ACTIVITIES.*—*The*
 18 *Secretary shall carry out appropriate site character-*
 19 *ization activities at the Yucca Mountain site in ac-*
 20 *cordance with the Secretary’s program approach.*

21 “(3) *DATE.*—*By December 31, 2002, the Sec-*
 22 *retary shall apply to the Commission for authoriza-*
 23 *tion to construct a repository that will commence op-*
 24 *erations by January 17, 2010. If, at any time before*
 25 *the filing of such application, the Secretary deter-*

1 *mines that the Yucca Mountain site cannot satisfy the*
2 *Commission’s regulations applicable to the licensing*
3 *of a geologic repository, the Secretary shall terminate*
4 *site characterization activities at the site, notify Con-*
5 *gress and the State of Nevada of the Secretary’s deter-*
6 *mination and the reasons therefor, and recommend to*
7 *Congress not later than 6 months after such deter-*
8 *mination further actions, including the enactment of*
9 *legislation, that may be needed to manage the Na-*
10 *tion’s spent nuclear fuel and high-level radioactive*
11 *waste.*

12 *“(4) MAXIMIZING CAPACITY.—In developing an*
13 *application for authorization to construct the reposi-*
14 *tory, the Secretary shall seek to maximize the capac-*
15 *ity of the repository.*

16 *“(b) LICENSING.—Within one year of the date of enact-*
17 *ment of this Act, the Commission shall amend its regula-*
18 *tions governing the disposal of spent nuclear fuel and high-*
19 *level radioactive waste in geologic repositories to the extent*
20 *necessary to comply with this Act. Subject to subsection (c),*
21 *such regulations shall provide for the licensing of the reposi-*
22 *tory according to the following procedures:*

23 *“(1) CONSTRUCTION AUTHORIZATION.—The*
24 *Commission shall grant the Secretary a construction*
25 *authorization for the repository upon determining*

1 *that there is reasonable assurance that spent nuclear*
2 *fuel and high-level radioactive waste can be disposed*
3 *of in the repository—*

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

7 “(B) *with adequate protection of the health*
8 *and safety of the public; and*

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

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

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

21 “(B) *with adequate protection of the health*
22 *and safety of the public; and*

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

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

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

16 “(B) with adequate protection of the health
17 and safety of the public; and

18 “(C) consistent with the common defense
19 and security.

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

1 “(A) breaching the repository’s engineered
2 or geologic barriers; or

3 “(B) increasing the exposure of individual
4 members of the public to radiation beyond the re-
5 lease standard established in subsection (d)(1).

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

16 “(d) *LICENSING STANDARDS.—Notwithstanding any*
17 *other provision of law, the Administrator of the Environ-*
18 *mental Protection Agency shall not promulgate, by rule or*
19 *otherwise, standards for protection of the public from re-*
20 *leases of radioactive materials or radioactivity from the re-*
21 *pository and any such standards existing on the date of*
22 *enactment of this Act shall not be incorporated in the Com-*
23 *mission’s licensing regulations. The Commission’s reposi-*
24 *tory licensing determinations for the protection of the pub-*
25 *lic shall be based solely on a finding whether the repository*

1 *can be operated in conformance with the overall system per-*
2 *formance standard established in paragraph (1)(A) and ap-*
3 *plied in accordance with the provisions of paragraph*
4 *(1)(B). The Commission shall amend its regulations in ac-*
5 *cordance with subsection (b) to incorporate each of the fol-*
6 *lowing licensing standards:*

7 “(1) *RELEASE STANDARD.—*

8 “(A) *ESTABLISHMENT OF OVERALL SYSTEM*
9 *PERFORMANCE STANDARD.—The standard for*
10 *protection of the public from release of radio-*
11 *active material or radioactivity from the reposi-*
12 *tory shall prohibit releases that would expose an*
13 *average member of the general population in the*
14 *vicinity of the Yucca Mountain site to an annual*
15 *dose in excess of 100 millirems unless the Com-*
16 *mission, in consultation with the Administrator*
17 *of the Environmental Protection Agency, deter-*
18 *mines by rule that such standard will not pro-*
19 *vide for adequate protection of the health and*
20 *safety of the public and establishes by rule an-*
21 *other standard which will provide for adequate*
22 *protection of the health and safety of the public.*
23 *Such standard shall constitute an overall system*
24 *performance standard.*

1 “(B) *APPLICATION OF OVERALL SYSTEM*
2 *PERFORMANCE STANDARD.—The Commission*
3 *shall issue the license if it finds reasonable assur-*
4 *ance that—*

5 “(i) *for the first 1,000 years following*
6 *the commencement of repository operations,*
7 *the overall system performance standard*
8 *will be met based on a deterministic or*
9 *probabilistic evaluation of the overall per-*
10 *formance of the disposal system; and*

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

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

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

4 “(B) *prevent any increase in the exposure of*
 5 *individual members of the public to radiation*
 6 *beyond allowable limits as specified in para-*
 7 *graph (1).*

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

9 “(1) *COMMISSION REGULATIONS.—The promul-*
 10 *gation of standards or criteria by the Commission in*
 11 *accordance with the provisions of this section shall*
 12 *not require the preparation of an environmental im-*
 13 *pact statement under section 102(2)(C) of the Na-*
 14 *tional Environmental Policy Act of 1969 (42 U.S.C.*
 15 *4332(2)(C)) or require any environmental review*
 16 *under subparagraph (E) or (F) of section 102(2) of*
 17 *such Act.*

18 “(2) *SUBMISSION OF STATEMENT.—Construction*
 19 *and operation of the repository shall be considered a*
 20 *major Federal action significantly affecting the qual-*
 21 *ity of the human environment for purposes of the Na-*
 22 *tional Environmental Policy Act of 1969 (42 U.S.C.*
 23 *4321 et seq.). The Secretary shall submit an environ-*
 24 *mental impact statement on the construction and op-*

1 *eration of the repository to the Commission with the*
2 *application for construction authorization.*

3 “(3) *CONSIDERATIONS.—For purposes of com-*
4 *plying with the requirements of the National Envi-*
5 *ronmental Policy Act of 1969 and this section, the*
6 *Secretary shall not consider in the environmental im-*
7 *pect statement the need for the repository, the time of*
8 *the initial availability of the repository, alternate*
9 *sites for the Yucca Mountain site, or any alternatives*
10 *to the disposal of spent nuclear fuel and high-level ra-*
11 *dioactive waste in a repository.*

12 “(4) *ADOPTION BY COMMISSION.—The Sec-*
13 *retary’s environmental impact statement and any*
14 *supplements thereto shall, to the extent practicable, be*
15 *adopted by the Commission in connection with the*
16 *issuance by the Commission of a construction author-*
17 *ization under subsection (b)(1), a license under sub-*
18 *section (b)(2), or a license amendment under sub-*
19 *section (b)(3). To the extent such statement or supple-*
20 *ment is adopted by the Commission, such adoption*
21 *shall be deemed to also satisfy the responsibilities of*
22 *the Commission under the National Environmental*
23 *Policy Act of 1969, and no further consideration shall*
24 *be required, except that nothing in this subsection*
25 *shall affect any independent responsibilities of the*

1 *Commission to protect the public health and safety*
 2 *under the Atomic Energy Act of 1954 (42 U.S.C.*
 3 *2011 et seq.). In any such statement prepared with*
 4 *respect to the repository, the Commission shall not*
 5 *consider the need for a repository, the time of initial*
 6 *availability of the repository, alternate sites for the*
 7 *Yucca Mountain site, or any alternatives to the dis-*
 8 *posal of spent nuclear fuel and high-level radioactive*
 9 *waste in a repository.*

10 “(f) *JUDICIAL REVIEW.*—No court shall have jurisdic-
 11 *tion to enjoin issuance of the Commission repository licens-*
 12 *ing regulations before its final decision on review of such*
 13 *regulations.*

14 **“SEC. 106. LAND WITHDRAWAL.**

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

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

23 “(2) *JURISDICTION.*—Jurisdiction over land
 24 *within the interim storage facility site and the Yucca*
 25 *Mountain site managed by the Secretary of the Inte-*

1 rior or any other Federal officer is transferred to the
2 Secretary.

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

9 “(b) *LAND DESCRIPTION.*—

10 “(1) *BOUNDARIES FOR INTERIM STORAGE FACIL-*
11 *ITY SITE.*—*The Secretary shall establish the bound-*
12 *aries and have maps drawn for the interim storage*
13 *facility site.*

14 “(2) *BOUNDARIES FOR THE YUCCA MOUNTAIN*
15 *SITE.*—*The boundaries depicted on the map entitled*
16 *‘Yucca Mountain Site Withdrawal Map’, dated July*
17 *28, 1995, and on file with the Secretary, are estab-*
18 *lished as the boundaries of the Yucca Mountain site.*

19 “(3) *NOTICE AND MAPS FOR THE INTERIM STOR-*
20 *AGE FACILITY SITE.*—*Within 6 months of the date of*
21 *enactment of this Act, the Secretary shall—*

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

1 “(B) file copies of the legal description (in-
2 cluding maps) of the interim storage facility site
3 with the Congress, the Secretary of the Interior,
4 the Governor of Nevada, and the Archivist of the
5 United States.

6 “(4) NOTICE AND MAPS FOR THE YUCCA MOUN-
7 TAIN SITE.—Concurrent with the Secretary’s applica-
8 tion to the Commission for authority to construct the
9 repository, the Secretary shall—

10 “(A) publish in the Federal Register a no-
11 tice containing a legal description of the Yucca
12 Mountain site; and

13 “(B) file copies of the maps described in
14 paragraph (2), and the legal description of the
15 Yucca Mountain site with the Congress, the Sec-
16 retary of the Interior, the Governor of Nevada,
17 and the Archivist of the United States.

18 “(5) CONSTRUCTION.—The legal descriptions of
19 the interim storage facility site and the Yucca Moun-
20 tain site referred to in this subsection shall have the
21 same force and effect as if they were included in this
22 Act. The Secretary may correct clerical and typo-
23 graphical errors in the maps and legal descriptions
24 and make minor adjustments in the boundaries of the
25 sites.

1 **“SEC. 107. APPLICABILITY.**

2 *“Nothing in this Act shall affect the application of*
 3 *chapter 51 of title 49, United States Code; part A of subtitle*
 4 *V of title 49, United States Code; part B of subtitle VI of*
 5 *title 49, United States Code; and title 23, United States*
 6 *Code.*

7 **“TITLE II—LOCAL RELATIONS**

8 **“SEC. 201. ON-SITE REPRESENTATIVE.**

9 *“The Secretary shall offer to Nye County, Nevada, an*
 10 *opportunity to designate a representative to conduct on-site*
 11 *oversight activities at the Yucca Mountain site. Reasonable*
 12 *expenses of such representatives shall be paid by the Sec-*
 13 *retary.*

14 **“SEC. 202. BENEFITS AGREEMENTS.**

15 *“(a) IN GENERAL.—*

16 *“(1) SEPARATE AGREEMENTS.—The Secretary*
 17 *shall offer to enter into separate agreements with Nye*
 18 *County, Nevada, and Lincoln County, Nevada, con-*
 19 *cerning the integrated management system.*

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

1 *ticipation or compensation of Nye County, Nevada,*
 2 *and Lincoln County, Nevada.*

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

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

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

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

15 **“SEC. 203. CONTENT OF AGREEMENTS.**

16 “(a) *IN GENERAL.*—

17 “(1) *SCHEDULE.*—*The Secretary, subject to ap-*
 18 *propriations, shall make payments to the party of a*
 19 *benefits agreement under section 202(a) in accordance*
 20 *with the following schedule:*

“BENEFITS SCHEDULE

[Amounts in millions]

<i>Event</i>	<i>Amount</i>
<i>(A) Annual payments before first spent fuel receipt</i>	<i>\$2.5</i>
<i>(B) Payment upon first spent fuel receipt</i>	<i>\$5</i>
<i>(C) Annual payments after first spent fuel receipt until closure of fa-</i> <i>cility</i>	<i>\$5</i>

1 “(2) *DEFINITION.*—For purposes of this section,
2 the term ‘first spent fuel receipt’ means the acceptance
3 of spent nuclear fuel or high-level radioactive waste
4 for storage at the interim storage facility or disposal
5 at the repository but does not include acceptance for
6 purposes of testing or operational demonstration.

7 “(3) *ANNUAL PAYMENTS.*—Annual payments be-
8 fore first spent fuel receipt under line (A) of the bene-
9 fits schedule shall be made on the date of execution of
10 the benefits agreement and thereafter on the anniver-
11 sary date of such execution. Annual payments after
12 the first spent fuel receipt until closure of the facility
13 under line (C) of the benefits schedule shall be made
14 on the anniversary date of such first spent fuel re-
15 ceipt.

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

1 “(b) *CONTENTS.*—*A benefits agreement under section*
 2 *202 shall provide that—*

3 “(1) *the parties to the agreement shall share with*
 4 *one another information relevant to the licensing*
 5 *process for the interim storage facility or repository,*
 6 *as it becomes available; and*

7 “(2) *the affected unit of local government that is*
 8 *party to such agreement may comment on the devel-*
 9 *opment of the integrated management system and on*
 10 *documents required under law or regulations gov-*
 11 *erning the effects of the system on the public health*
 12 *and safety.*

13 “(c) *CONSTRUCTION.*—*The signature of the Secretary*
 14 *on a valid benefits agreement under section 202 shall con-*
 15 *stitute a commitment by the United States to make pay-*
 16 *ments in accordance with such agreement.*

17 **“SEC. 204. ACCEPTANCE OF BENEFITS.**

18 “(a) *CONSENT.*—*The acceptance or use of any of the*
 19 *benefits provided under this title by any affected unit of*
 20 *local government shall not be deemed to be an expression*
 21 *of consent, express or implied, either under the Constitution*
 22 *of the State of Nevada or any law thereof, to the siting of*
 23 *the interim storage facility or repository in the State of Ne-*
 24 *vada.*

1 “(b) *ARGUMENTS.*—Neither the United States nor any
 2 other entity may assert any argument based on legal or eq-
 3 uitable estoppel, acquiescence, waiver, or consensual in-
 4 volvement, in response to any decision by the State of Ne-
 5 vada to oppose the siting in the State of Nevada of the in-
 6 terim storage facility or repository premised upon or re-
 7 lated to the acceptance or use of benefits under this title.

8 “(c) *LIABILITY.*—No liability of any nature may be
 9 asserted against the State of Nevada, its Governor, any offi-
 10 cial thereof, or any official of any governmental unit there-
 11 of, premised solely upon the acceptance or use of benefits
 12 under this title.

13 **“SEC. 205. RESTRICTION ON USE OF FUNDS.**

14 “None of the funding provided under section 203 may
 15 be used—

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

20 “(2) for litigation purposes; or

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

1 **“SEC. 206. INITIAL LAND CONVEYANCES.**

2 “(a) *CONVEYANCE OF PUBLIC LANDS.*—Within 120
3 *days after October 1, 2000, the Secretary of the Interior,*
4 *or other agency with jurisdiction over the public lands de-*
5 *scribed in subsection (b), shall convey the public lands de-*
6 *scribed in subsection (b) to the appropriate county or the*
7 *City of Caliente, Nevada, unless the county or city notifies*
8 *the Secretary of the Interior or the head of such other appro-*
9 *priate agency in writing within 60 days of such date of*
10 *enactment that it elects not to take title to all or any part*
11 *of the property, except that any lands conveyed to the Coun-*
12 *ty of Nye, County of Lincoln, or the City of Caliente in*
13 *Nevada under this subsection that are subject to a Federal*
14 *grazing permit or a similar federally granted privilege shall*
15 *be conveyed between 60 and 120 days of the earliest time*
16 *the Federal agency administering or granting the privilege*
17 *would be able to legally terminate such privilege under the*
18 *statutes and regulations existing on October 1, 2000, unless*
19 *the Federal agency, county or city, and the affected holder*
20 *of the privilege negotiate an agreement that allows for an*
21 *earlier conveyance, but in no case to occur earlier than Oc-*
22 *tober 1, 2000.*

23 “(b) *SPECIAL CONVEYANCES.*—Subject to valid exist-
24 *ing rights and notwithstanding any other law, the Sec-*
25 *retary of the Interior or the head of the other appropriate*
26 *agency shall convey:*

1 “(1) *To the County of Nye, Nevada, the following*
2 *public lands depicted on the maps dated October 11,*
3 *1995, and on file with the Secretary:*

4 “*Map 1: Proposed Pahrump Industrial*
5 *Park Site*

6 “*Map 2: Proposed Lathrop Wells (Gate 510)*
7 *Industrial Park Site*

8 “*Map 3: Pahrump Landfill Sites*

9 “*Map 4: Amargosa Valley Regional Landfill*
10 *Site*

11 “*Map 5: Amargosa Valley Municipal Land-*
12 *fill Site*

13 “*Map 6: Beatty Landfill/Transfer Station*
14 *Site*

15 “*Map 7: Round Mountain Landfill Site*

16 “*Map 8: Tonopah Landfill Site*

17 “*Map 9: Gabbs Landfill Site.*

18 “(2) *To the County of Lincoln, Nevada, the fol-*
19 *lowing public lands depicted on the maps dated Octo-*
20 *ber 11, 1995, and on file with the Secretary:*

21 “*Map 2: Lincoln County, Parcel M, Indus-*
22 *trial Park Site, Jointly with the City of Caliente*

23 “*Map 3: Lincoln County, Parcels F and G,*
24 *Mixed Use, Industrial Sites*

1 *“Map 4: Lincoln County, Parcels H and I,*
 2 *Mixed Use and Airport Expansion Sites*

3 *“Map 5: Lincoln County, Parcels J and K,*
 4 *Mixed Use, Airport and Landfill Expansion*
 5 *Sites*

6 *“Map 6: Lincoln County, Parcels E and L,*
 7 *Mixed Use, Airport and Industrial Expansion*
 8 *Sites.*

9 *“(3) To the City of Caliente, Nevada, the fol-*
 10 *lowing public lands depicted on the maps dated Octo-*
 11 *ber 11, 1995, and on file with the Secretary:*

12 *“Map 1: City of Caliente, Parcels A, B, C*
 13 *and D, Community Growth, Landfill Expansion*
 14 *and Community Recreation Sites*

15 *“Map 2: City of Caliente, Parcel M, Indus-*
 16 *trial Park Site, jointly with Lincoln County.*

17 *“(c) NATIONAL ENVIRONMENTAL POLICY ACT OF*
 18 *1969.—The activities of the Secretary and the head of any*
 19 *other Federal agency in connection with subsections (a) and*
 20 *(b) shall be considered preliminary decision making activi-*
 21 *ties. No such activity shall require the preparation of an*
 22 *environmental impact statement under section 102(2)(C) of*
 23 *the National Environmental Policy Act of 1969 (42 U.S.C.*
 24 *4332(2)(C)) or any environmental review under subpara-*
 25 *graph (E) or (F) of section 102(2) of such Act.*

1 **“SEC. 207. PAYMENTS IN LIEU OF TAXES.**

2 “(a) *TAXABLE AMOUNTS.*—*In addition to financial*
 3 *assistance provided under this title, the Secretary is author-*
 4 *ized to grant to any affected Indian tribe or affected unit*
 5 *of local government an amount each fiscal year equal to*
 6 *the amount such affected Indian tribe or affected unit of*
 7 *local government, respectively, would receive if authorized*
 8 *to tax integrated management system activities, as such af-*
 9 *ected Indian tribe or affected unit of local government taxes*
 10 *the non-Federal real property and industrial activities oc-*
 11 *curing within such affected unit of local government.*

12 “(b) *TERMINATION.*—*Such grants shall continue until*
 13 *the Secretary permanently closes the repository.*

14 “(c) *ASSISTANCE TO INDIAN TRIBES AND UNITS OF*
 15 *LOCAL GOVERNMENT.*—

16 “(1) *PERIOD.*—*Any affected Indian tribe or af-*
 17 *ected unit of local government may not receive any*
 18 *grant under subsection (a) after the expiration of the*
 19 *1-year period following the date on which the Sec-*
 20 *retary notifies the affected Indian tribe or affected*
 21 *unit of local government of the termination of the op-*
 22 *eration of the integrated management system.*

23 “(2) *ACTIVITIES.*—*Any affected Indian tribe or*
 24 *affected unit of local government may not receive any*
 25 *further assistance under this section if the integrated*
 26 *management system activities at such site are termi-*

1 *nated by the Secretary or if such activities are per-*
 2 *manently enjoined by any court.*

3 **“TITLE III—FUNDING AND**
 4 **ORGANIZATION**

5 **“SEC. 301. NUCLEAR WASTE FUND.**

6 “(a) *CONTRACTS.—*

7 “(1) *IN GENERAL.—In the performance of the*
 8 *Secretary’s functions under this Act, the Secretary is*
 9 *authorized to enter into contracts with any person*
 10 *who generates or holds title to high-level radioactive*
 11 *waste or spent nuclear fuel for the acceptance of title,*
 12 *on-site storage, subsequent transportation, interim*
 13 *storage, and disposal of such waste or spent fuel. Such*
 14 *contracts shall provide for payment to the Secretary*
 15 *of fees pursuant to paragraphs (2) and (3) sufficient*
 16 *to offset expenditures for the integrated management*
 17 *system.*

18 “(2) *FEE FOR ELECTRICITY GENERATED.—For*
 19 *electricity generated by a civilian nuclear power reac-*
 20 *tor and sold after the date of enactment of this Act,*
 21 *the fee under paragraph (1) shall be equal to 1.0 mill*
 22 *per kilowatt-hour.*

23 “(3) *ONE-TIME FEE.—The one-time fee collected*
 24 *under contracts executed under section 302(a) of the*
 25 *Nuclear Policy Waste Act of 1982 after the date of en-*

1 *actment of this Act on spent nuclear fuel or high-level*
2 *radioactive waste derived from spent nuclear fuel,*
3 *which fuel was used to generate electricity in a civil-*
4 *ian nuclear power reactor before April 7, 1983, shall*
5 *be paid to the Nuclear Waste Fund. In paying such*
6 *a fee to the Secretary, the person delivering such*
7 *spent nuclear fuel or high-level radioactive waste de-*
8 *rived from spent nuclear fuel shall have no further fi-*
9 *nancial obligation to the Federal Government for the*
10 *long-term storage and permanent disposal of such*
11 *spent nuclear fuel or high-level radioactive waste.*

12 *“(4) PAYMENT PROCEDURES.—The Secretary*
13 *shall annually review the amount of the fees estab-*
14 *lished by paragraph (2) to evaluate whether collection*
15 *of the fee will provide sufficient revenues to offset ex-*
16 *penditures for the integrated management system. In*
17 *the event the Secretary determines that either insuffi-*
18 *cient or excess revenues are being collected, in order*
19 *to recover the costs incurred for the integrated man-*
20 *agement system, the Secretary shall propose an ad-*
21 *justment to the fee to ensure full cost recovery. The*
22 *Secretary shall immediately transmit this proposal*
23 *for such an adjustment to Congress. The adjusted fee*
24 *proposed by the Secretary shall be effective after a pe-*
25 *riod of 90 days of continuous session have elapsed fol-*

1 *lowing the receipt of such transmittal unless during*
 2 *such 90-day period a joint resolution disapproving*
 3 *the Secretary's proposed adjustment is enacted into*
 4 *law.*

5 *“(5) CONTRACTS.—*

6 *“(A) CONTRACTS UNDER SECTION 302.—*

7 *Subsequent to the date of enactment of this Act,*
 8 *the contracts executed under section 302(a) of the*
 9 *Nuclear Waste Policy Act of 1982 shall continue*
 10 *in effect under this Act in accordance with their*
 11 *terms, except to the extent that such contracts*
 12 *have been modified by the parties to such con-*
 13 *tracts.*

14 *“(B) CONTRACTS UNDER THIS ACT.—Con-*

15 *tracts entered into under paragraph (1) of this*
 16 *subsection shall provide that—*

17 *“(i) following commencement of oper-*
 18 *ation of a repository, the Secretary shall*
 19 *take title to the spent nuclear fuel or high-*
 20 *level radioactive waste involved as expedi-*
 21 *tiously as practicable upon the request of*
 22 *the generator or owner of such spent fuel or*
 23 *waste; and*

24 *“(ii) in return for the payment of fees*
 25 *established by this section, the Secretary*

1 *shall as expeditiously as practicable dispose*
2 *of the high-level radioactive waste or spent*
3 *nuclear fuel involved.*

4 “(6) *RIGHTS OF CONTRACT HOLDERS.*—*With re-*
5 *spect to any contract entered into under section*
6 *302(a) of the Nuclear Waste Policy Act of 1982 and*
7 *continued in effect under paragraph (5)(A), either*
8 *party may propose to amend the contract as nec-*
9 *essary to provide for storage of spent nuclear fuel or*
10 *high-level nuclear waste in the interim storage facility*
11 *established under section 104 of this Act or to have*
12 *the Secretary take title under subsection (i) of such*
13 *section to spent nuclear fuel or high-level nuclear*
14 *waste for the purpose of on-site storage. The party*
15 *proposing such an amendment shall notify the other*
16 *party to the contract of its intent to enter into such*
17 *an amendment. Contract amendments may be entered*
18 *into at any time after the date of the enactment of*
19 *this Act.*

20 “(7) *SECRETARY’S OBLIGATION WITH RESPECT*
21 *TO PROPOSED CONTRACT AMENDMENTS.*—*The Sec-*
22 *retary shall—*

23 “(A) *provide notice to the public of any*
24 *offer to amend a contract under paragraph (6);*
25 *and*

1 “(B) provide an initial response to any
2 such offer made by another party within 30 days
3 of the date notice is given under paragraph (6).

4 “(8) *EFFECT ON AUTHORITY TO BRING OR MAIN-*
5 *TAIN AN ACTION.*—Upon the effective date of any con-
6 tract amendment entered into under paragraph (6),
7 the parties to such an amendment shall be deemed to
8 have waived any authority to bring or maintain an
9 action against the Secretary (other than an action for
10 costs incurred before such effective date) for failure to
11 accept its spent nuclear fuel in accordance with sec-
12 tion 302(a)(5)(B) of the Nuclear Waste Policy Act of
13 1982.

14 “(9) *LIABILITY.*—Nothing in this Act shall be
15 construed to subject the United States to financial li-
16 ability for any failure of the Secretary to meet any
17 deadline established in this Act.

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

19 “(1) *LICENSE ISSUANCE AND RENEWAL.*—

20 “(A) *IN GENERAL.*—The Commission shall
21 not issue or renew a license to any person to use
22 a utilization or production facility under the au-
23 thority of section 103 or 104 of the Atomic En-
24 ergy Act of 1954 (42 U.S.C. 2133, 2134)
25 unless—

1 “(i) such person has entered into a
2 contract with the Secretary under this sec-
3 tion; or

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

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

18 “(2) *CONTRACT REQUIREMENT.*—Except as pro-
19 vided in paragraph (1), no spent nuclear fuel or high-
20 level radioactive waste generated or owned by any
21 person (other than a department of the United States
22 referred to in section 101 or 102 of title 5, United
23 States Code) may be stored or disposed of by the Sec-
24 retary in any facility constructed under this Act un-
25 less the generator or owner of such spent fuel or waste

1 *has entered into a contract with the Secretary under*
2 *this section by not later than the date on which such*
3 *generator or owner commences generation of, or takes*
4 *title to, such spent fuel or waste.*

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

10 “(4) *GOVERNMENT FUEL AND WASTE.—No high-*
11 *level radioactive waste or spent nuclear fuel generated*
12 *or owned by any department of the United States re-*
13 *ferred to in section 101 or 102 of title 5, United*
14 *States Code, may be stored or disposed of by the Sec-*
15 *retary in any facility constructed under this Act un-*
16 *less such department transfers to the Secretary, for*
17 *deposit in the Nuclear Waste Fund, amounts equiva-*
18 *lent to the fees that would be paid to the Secretary*
19 *under the contracts referred to in this section if such*
20 *waste or spent fuel were generated by any other per-*
21 *son.*

22 “(c) *NUCLEAR WASTE FUND.—The Nuclear Waste*
23 *Fund established in the Treasury of the United States under*
24 *section 302(c) of the Nuclear Waste Policy Act of 1982 shall*

1 *continue in effect under this Act. The Nuclear Waste Fund*
2 *shall consist of—*

3 “(1) *all receipts, proceeds, and recoveries realized*
4 *by the Secretary under subsections (a), (b), and (e),*
5 *which shall be deposited in the Nuclear Waste Fund*
6 *immediately upon their realization;*

7 “(2) *any appropriations made by the Congress*
8 *to the Nuclear Waste Fund; and*

9 “(3) *any unexpended balances available on the*
10 *date of enactment of this Act for the disposal of spent*
11 *nuclear fuel or high-level radioactive waste, which*
12 *shall automatically be transferred to the Nuclear*
13 *Waste Fund on such date.*

14 “(d) *USE OF NUCLEAR WASTE FUND.—The Secretary*
15 *may make expenditures from the Nuclear Waste Fund, sub-*
16 *ject to subsection (e), only for purposes of the integrated*
17 *management system.*

18 “(e) *ADMINISTRATION OF NUCLEAR WASTE FUND.—*

19 “(1) *SECRETARY OF THE TREASURY.—The Sec-*
20 *retary of the Treasury shall hold the Nuclear Waste*
21 *Fund and, after consultation with the Secretary, an-*
22 *nually report to the Congress on the financial condi-*
23 *tion and operations of the Nuclear Waste Fund dur-*
24 *ing the preceding fiscal year.*

1 “(2) *BUDGET.*—*The Secretary shall submit the*
2 *budget of the Nuclear Waste Fund to the Office of*
3 *Management and Budget annually along with the*
4 *budget of the Department of Energy submitted at such*
5 *time in accordance with chapter 11 of title 31, United*
6 *States Code. The budget of the Nuclear Waste Fund*
7 *shall consist of the estimates made by the Secretary*
8 *of expenditures from the Nuclear Waste Fund and*
9 *other relevant financial matters for the succeeding 3*
10 *fiscal years. The Secretary may make expenditures*
11 *from the Nuclear Waste Fund, subject to appropria-*
12 *tions which shall remain available until expended.*

13 “(3) *INVESTMENT OF EXCESS.*—*If the Secretary*
14 *determines that the Nuclear Waste Fund contains at*
15 *any time amounts in excess of current needs, the Sec-*
16 *retary may request the Secretary of the Treasury to*
17 *invest such amounts, or any portion of such amounts*
18 *as the Secretary determines to be appropriate, in obli-*
19 *gations of the United States—*

20 “(A) *having maturities determined by the*
21 *Secretary of the Treasury to be appropriate to*
22 *the needs of the Nuclear Waste Fund; and*

23 “(B) *bearing interest at rates determined to*
24 *be appropriate by the Secretary of the Treasury,*
25 *taking into consideration the current average*

1 *market yield on outstanding marketable obliga-*
2 *tions of the United States with remaining peri-*
3 *ods to maturity comparable to the maturities of*
4 *such investments, except that the interest rate on*
5 *such investments shall not exceed the average in-*
6 *terest rate applicable to existing borrowings.*

7 “(4) *EXEMPTION.—Receipts, proceeds, and recov-*
8 *eries realized by the Secretary under this section, and*
9 *expenditures of amounts from the Nuclear Waste*
10 *Fund, shall be exempt from annual apportionment*
11 *under the provisions of subchapter II of chapter 15 of*
12 *title 31, United States Code.*

13 “(5) *OBLIGATIONS.—If at any time the moneys*
14 *available in the Nuclear Waste Fund are insufficient*
15 *to enable the Secretary to discharge the Secretary’s re-*
16 *sponsibilities under this Act, the Secretary shall issue*
17 *to the Secretary of the Treasury obligations in such*
18 *forms and denominations, bearing such maturities,*
19 *and subject to such terms and conditions as may be*
20 *agreed to by the Secretary and the Secretary of the*
21 *Treasury. The total of such obligations shall not ex-*
22 *ceed amounts provided in appropriation Acts. Re-*
23 *demption of such obligations shall be made by the*
24 *Secretary from moneys available in the Nuclear*
25 *Waste Fund. Such obligations shall bear interest at a*

1 rate determined by the Secretary of the Treasury,
2 which shall be not less than a rate determined by tak-
3 ing into consideration the average market yield on
4 outstanding marketable obligations of the United
5 States of comparable maturities during the month
6 preceding the issuance of the obligations under this
7 paragraph. The Secretary of the Treasury shall pur-
8 chase any issued obligations, and for such purpose the
9 Secretary of the Treasury is authorized to use as a
10 public debt transaction the proceeds from the sale of
11 any securities issued under chapter 31 of title 31,
12 United States Code, and the purposes for which secu-
13 rities may be issued under such chapter are extended
14 to include any purchase of such obligations. The Sec-
15 retary of the Treasury may at any time sell any of
16 the obligations acquired by him under this para-
17 graph. All redemptions, purchases, and sales by the
18 Secretary of the Treasury of obligations under this
19 paragraph shall be treated as public debt transactions
20 of the United States.

21 “(6) *REPAYMENT.*—Any appropriations made
22 available to the Nuclear Waste Fund under para-
23 graph (5) shall be repaid into the general fund of the
24 Treasury, together with interest from the date of
25 availability of the appropriations until the date of re-

1 *payment. Such interest shall be paid on the cumu-*
2 *lative amount of appropriations available to the Nu-*
3 *clear Waste Fund, less the average undisbursed cash*
4 *balance in the Nuclear Waste Fund account during*
5 *the fiscal year involved. The rate of such interest shall*
6 *be determined by the Secretary of the Treasury taking*
7 *into consideration the average market yield during*
8 *the month preceding each fiscal year on outstanding*
9 *marketable obligations of the United States of com-*
10 *parable maturity. Interest payments may be deferred*
11 *with the approval of the Secretary of the Treasury,*
12 *but any interest payments so deferred shall themselves*
13 *bear interest.*

14 “(f) *BUDGET STATUS OF NUCLEAR WASTE FUND.—*
15 *Notwithstanding any other provision of law, the receipts*
16 *and disbursements of the Nuclear Waste Fund shall not be*
17 *counted as new budget authority, outlays, receipts, or deficit*
18 *or surplus for purposes of—*

19 “(1) *the budget of the United States Government*
20 *as submitted by the President;*

21 “(2) *the congressional budget; or*

22 “(3) *the Balanced Budget and Emergency Deficit*
23 *Control Act of 1985.*

1 **“SEC. 302. OFFICE OF CIVILIAN RADIOACTIVE WASTE MAN-**
2 **AGEMENT.**

3 “(a) *CONTINUATION OF OFFICE OF CIVILIAN RADIO-*
4 *ACTIVE WASTE MANAGEMENT.—The Office of Civilian Ra-*
5 *dioactive Waste Management established under section*
6 *304(a) of the Nuclear Waste Policy Act of 1982 as con-*
7 *stituted before the date of enactment of this Act, shall con-*
8 *tinue in effect subsequent to the date of enactment of this*
9 *Act.*

10 “(b) *FUNCTIONS OF DIRECTOR.—The Director of the*
11 *Office shall be responsible for carrying out the functions of*
12 *the Secretary under this Act, subject to the general super-*
13 *vision of the Secretary. The Director of the Office shall be*
14 *directly responsible to the Secretary.*

15 “(c) *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 practices*
21 *of private corporations engaged in large nuclear con-*
22 *struction projects consistent with its role in the pro-*
23 *gram.*

24 “(2) *TIME.—The management practices and per-*
25 *formances of the Office of Civilian Radioactive Waste*
26 *Management shall be audited every 5 years by an*

1 *independent management consulting firm with sig-*
2 *nificant experience in similar audits of private cor-*
3 *porations engaged in large nuclear construction*
4 *projects. The first such audit shall be conducted 5*
5 *years after the date of enactment of this Act.*

6 “(3) *COMPTROLLER GENERAL.—The Comptroller*
7 *General of the United States shall annually make an*
8 *audit of the Office, in accordance with such regula-*
9 *tions as the Comptroller General may prescribe. The*
10 *Comptroller General shall have access to such books,*
11 *records, accounts, and other materials of the Office as*
12 *the Comptroller General determines to be necessary*
13 *for the preparation of such audit. The Comptroller*
14 *General shall submit to the Congress a report on the*
15 *results of each audit conducted under this section.*

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

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

23 **“SEC. 303. DEFENSE CONTRIBUTION.**

24 “(a) *ALLOCATION.—No later than one year from the*
25 *date of enactment of this Act, acting pursuant to section*

1 553 of title 5, United States Code, the Secretary shall issue
2 a final rule establishing the appropriate portion of the costs
3 of managing spent nuclear fuel and high-level radioactive
4 waste under this Act allocable to the interim storage or per-
5 manent disposal of spent nuclear fuel and high-level radio-
6 active waste from atomic energy defense activities and spent
7 nuclear fuel from foreign research reactors. The share of
8 costs allocable to the management of spent nuclear fuel and
9 high-level radioactive waste from atomic energy defense ac-
10 tivities and spent nuclear fuel from foreign research reactors
11 shall include—

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

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

22 “(b) APPROPRIATION REQUEST.—In addition to any
23 request for an appropriation from the Nuclear Waste Fund,
24 the Secretary shall request annual appropriations from gen-

1 eral revenues in amounts sufficient to pay the costs of the
 2 management of materials described in subsection (a).

3 “(c) *REPORT.*—The Secretary shall advise the Con-
 4 gress annually of the amount of spent nuclear fuel and high-
 5 level radioactive waste from atomic energy defense activities
 6 and spent nuclear fuel from foreign research reactors requir-
 7 ing management in the integrated management system.

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

14 **“TITLE IV—GENERAL AND**
 15 **MISCELLANEOUS PROVISIONS**

16 **“SEC. 401. COMPLIANCE WITH OTHER LAWS.**

17 “If the requirements of any law are inconsistent with
 18 or duplicative of the requirements of the Atomic Energy Act
 19 of 1954 (42 U.S.C. 2011 *et seq.*) and this Act, the Secretary
 20 shall comply only with the requirements of the Atomic En-
 21 ergy Act of 1954 and this Act in implementing the inte-
 22 grated management system. Any requirement of a State or
 23 political subdivision of a State is preempted if—

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

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

4 **“SEC. 402. WATER RIGHTS.**

5 “(a) *NO FEDERAL RESERVATION.—Nothing in this*
 6 *Act or any other Act of Congress shall constitute or be con-*
 7 *strued to constitute either an express or implied Federal*
 8 *reservation of water or water rights for any purpose arising*
 9 *under this Act.*

10 “(b) *ACQUISITION AND EXERCISE OF WATER RIGHTS*
 11 *UNDER NEVADA LAW.—The United States may acquire*
 12 *and exercise such water rights as it deems necessary to*
 13 *carry out its responsibilities under this Act pursuant to the*
 14 *substantive and procedural requirements of the State of Ne-*
 15 *vada. Nothing in this Act shall be construed to authorize*
 16 *the use of eminent domain by the United States to acquire*
 17 *water rights.*

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

22 **“SEC. 403. JUDICIAL REVIEW OF AGENCY ACTIONS.**

23 “(a) *JURISDICTION OF UNITED STATES COURTS OF*
 24 *APPEALS.—*

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

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

9 “(B) *alleging the failure of the Secretary,*
10 *the President, or the Commission to make any*
11 *decision, or take any action, required under this*
12 *Act;*

13 “(C) *challenging the constitutionality of*
14 *any decision made, or action taken, under any*
15 *provision of this Act; or*

16 “(D) *for review of any environmental im-*
17 *pact statement prepared or environmental assess-*
18 *ment made pursuant to the National Environ-*
19 *mental Policy Act of 1969 (42 U.S.C. 4321 et*
20 *seq.) with respect to any action under this Act*
21 *or alleging a failure to prepare such statement*
22 *with respect to any such action.*

23 “(2) *VENUE.*—*The venue of any proceeding*
24 *under this section shall be in the judicial circuit in*
25 *which the petitioner involved resides or has its prin-*

1 *cipal office, or in the United States Court of Appeals*
 2 *for the District of Columbia.*

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

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

18 **“SEC. 404. LICENSING OF FACILITY EXPANSIONS AND**
 19 **TRANSSHIPMENTS.**

20 “(a) *ORAL ARGUMENT.*—In any Commission hearing
 21 *under section 189 of the Atomic Energy Act of 1954 (42*
 22 *U.S.C. 2239) on an application for a license, or for an*
 23 *amendment to an existing license, filed after January 7,*
 24 *1983, to expand the spent nuclear fuel storage capacity at*
 25 *the site of a civilian nuclear power reactor, through the use*

1 of high-density fuel storage racks, fuel rod compaction, the
2 transshipment of spent nuclear fuel to another civilian nu-
3 clear power reactor within the same utility system, the con-
4 struction of additional spent nuclear fuel pool capacity or
5 dry storage capacity, or by other means, the Commission
6 shall, at the request of any party, provide an opportunity
7 for oral argument with respect to any matter which the
8 Commission determines to be in controversy among the par-
9 ties. The oral argument shall be preceded by such discovery
10 procedures as the rules of the Commission shall provide. The
11 Commission shall require each party, including the Com-
12 mission staff, to submit in written form, at the time of the
13 oral argument, a summary of the facts, data, and argu-
14 ments upon which such party proposes to rely that are
15 known at such time to such party. Only facts and data in
16 the form of sworn testimony or written submission may be
17 relied upon by the parties during oral argument. Of the
18 materials that may be submitted by the parties during oral
19 argument, the Commission shall only consider those facts
20 and data that are submitted in the form of sworn testimony
21 or written submission.

22 “(b) *ADJUDICATORY HEARING.*—

23 “(1) *DESIGNATION.*—At the conclusion of any
24 oral argument under subsection (a), the Commission
25 shall designate any disputed question of fact, together

1 *with any remaining questions of law, for resolution*
2 *in an adjudicatory hearing only if it determines*
3 *that—*

4 “(A) *there is a genuine and substantial dis-*
5 *pute of fact which can only be resolved with suf-*
6 *ficient accuracy by the introduction of evidence*
7 *in an adjudicatory hearing; and*

8 “(B) *the decision of the Commission is like-*
9 *ly to depend in whole or in part on the resolu-*
10 *tion of such dispute.*

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

13 “(A) *shall designate in writing the specific*
14 *facts that are in genuine and substantial dis-*
15 *pute, the reason why the decision of the agency*
16 *is likely to depend on the resolution of such facts,*
17 *and the reason why an adjudicatory hearing is*
18 *likely to resolve the dispute; and*

19 “(B) *shall not consider—*

20 “(i) *any issue relating to the design,*
21 *construction, or operation of any civilian*
22 *nuclear power reactor already licensed to*
23 *operate at such site, or any civilian nuclear*
24 *power reactor to which a construction per-*
25 *mit has been granted at such site, unless the*

1 *Commission determines that any such issue*
2 *substantially affects the design, construc-*
3 *tion, or operation of the facility or activity*
4 *for which such license application, author-*
5 *ization, or amendment is being considered;*
6 *or*

7 *“(ii) any siting or design issue fully*
8 *considered and decided by the Commission*
9 *in connection with the issuance of a con-*
10 *struction permit or operating license for a*
11 *civilian nuclear power reactor at such site,*
12 *unless—*

13 *“(I) such issue results from any*
14 *revision of siting or design criteria by*
15 *the Commission following such deci-*
16 *sion; and*

17 *“(II) the Commission determines*
18 *that such issue substantially affects the*
19 *design, construction, or operation of*
20 *the facility or activity for which such*
21 *license application, authorization, or*
22 *amendment is being considered.*

23 *“(3) APPLICATION.—The provisions of para-*
24 *graph (2)(B) shall apply only with respect to licenses,*
25 *authorizations, or amendments to licenses or author-*

1 *izations, applied for under the Atomic Energy Act of*
 2 *1954 (42 U.S.C. 2011 et seq.) before January 1, 2015.*

3 “(4) *CONSTRUCTION.*—*The provisions of this sec-*
 4 *tion shall not apply to the first application for a li-*
 5 *cence or license amendment received by the Commis-*
 6 *sion to expand on-site spent fuel storage capacity by*
 7 *the use of a new technology not previously approved*
 8 *for use at any nuclear power plant by the Commis-*
 9 *sion.*

10 “(c) *JUDICIAL REVIEW.*—*No court shall hold unlawful*
 11 *or set aside a decision of the Commission in any proceeding*
 12 *described in subsection (a) because of a failure by the Com-*
 13 *mission to use a particular procedure pursuant to this sec-*
 14 *tion unless—*

15 “(1) *an objection to the procedure used was pre-*
 16 *sented to the Commission in a timely fashion or there*
 17 *are extraordinary circumstances that excuse the fail-*
 18 *ure to present a timely objection; and*

19 “(2) *the court finds that such failure has pre-*
 20 *cluded a fair consideration and informed resolution of*
 21 *a significant issue of the proceeding taken as a whole.*

22 **“SEC. 405. SITING A SECOND REPOSITORY.**

23 “(a) *CONGRESSIONAL ACTION REQUIRED.*—*The Sec-*
 24 *retary may not conduct site-specific activities with respect*

1 *to a second repository unless Congress has specifically au-*
 2 *thorized and appropriated funds for such activities.*

3 “(b) *REPORT.*—*The Secretary shall report to the Presi-*
 4 *dent and to Congress on or after January 1, 2007, but not*
 5 *later than January 1, 2010, on the need for a second reposi-*
 6 *tory.*

7 “**SEC. 406. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RA-**
 8 **DIOACTIVE WASTE SITE CLOSURE.**

9 “(a) *FINANCIAL ARRANGEMENTS.*—

10 “(1) *STANDARDS AND INSTRUCTIONS.*—*The Com-*
 11 *mission shall establish by rule, regulation, or order,*
 12 *after public notice, and in accordance with section*
 13 *181 of the Atomic Energy Act of 1954 (42 U.S.C.*
 14 *2231), such standards and instructions as the Com-*
 15 *mission may deem necessary or desirable to ensure in*
 16 *the case of each license for the disposal of low-level ra-*
 17 *dioactive waste that an adequate bond, surety, or*
 18 *other financial arrangement (as determined by the*
 19 *Commission) will be provided by a licensee to permit*
 20 *completion of all requirements established by the*
 21 *Commission for the decontamination, decommis-*
 22 *sioning, site closure, and reclamation of sites, struc-*
 23 *tures, and equipment used in conjunction with such*
 24 *low-level radioactive waste. Such financial arrange-*
 25 *ments shall be provided and approved by the Commis-*

1 *sion, or, in the case of sites within the boundaries of*
 2 *any agreement State under section 274 of the Atomic*
 3 *Energy Act of 1954 (42 U.S.C. 2021), by the appro-*
 4 *priate State or State entity, before issuance of licenses*
 5 *for low-level radioactive waste disposal or, in the case*
 6 *of licenses in effect on January 7, 1983, before termi-*
 7 *nation of such licenses.*

8 *“(2) BONDING, SURETY, OR OTHER FINANCIAL*
 9 *ARRANGEMENTS.—If the Commission determines that*
 10 *any long-term maintenance or monitoring, or both,*
 11 *will be necessary at a site described in paragraph (1),*
 12 *the Commission shall ensure before termination of the*
 13 *license involved that the licensee has made available*
 14 *such bonding, surety, or other financial arrangements*
 15 *as may be necessary to ensure that any necessary*
 16 *long-term maintenance or monitoring needed for such*
 17 *site will be carried out by the person having title and*
 18 *custody for such site following license termination.*

19 *“(b) TITLE AND CUSTODY.—*

20 *“(1) AUTHORITY OF SECRETARY.—The Secretary*
 21 *shall have authority to assume title and custody of*
 22 *low-level radioactive waste and the land on which*
 23 *such waste is disposed of, upon request of the owner*
 24 *of such waste and land and following termination of*

1 *the license issued by the Commission for such dis-*
2 *posal, if the Commission determines that—*

3 *“(A) the requirements of the Commission for*
4 *site closure, decommissioning, and decontamina-*
5 *tion have been met by the licensee involved and*
6 *that such licensee is in compliance with the pro-*
7 *visions of subsection (a);*

8 *“(B) such title and custody will be trans-*
9 *ferred to the Secretary without cost to the Fed-*
10 *eral Government; and*

11 *“(C) Federal ownership and management of*
12 *such site is necessary or desirable in order to*
13 *protect the public health and safety and the envi-*
14 *ronment.*

15 *“(2) PROTECTION.—If the Secretary assumes*
16 *title and custody of any such waste and land under*
17 *this subsection, the Secretary shall maintain such*
18 *waste and land in a manner that will protect the*
19 *public health and safety and the environment.*

20 *“(c) SPECIAL SITES.—If the low-level radioactive*
21 *waste involved is the result of a licensed activity to recover*
22 *zirconium, hafnium, and rare earths from source material,*
23 *the Secretary, upon request of the owner of the site involved,*
24 *shall assume title and custody of such waste and the land*
25 *on which it is disposed when such site has been decontami-*

1 *nated and stabilized in accordance with the requirements*
 2 *established by the Commission and when such owner has*
 3 *made adequate financial arrangements approved by the*
 4 *Commission for the long-term maintenance and monitoring*
 5 *of such site.*

6 **“SEC. 407. NUCLEAR REGULATORY COMMISSION TRAINING**
 7 **AUTHORIZATION.**

8 *“The Commission shall promulgate regulations, or*
 9 *other appropriate regulatory guidance, for the training and*
 10 *qualifications of civilian nuclear powerplant operators, su-*
 11 *pervisors, technicians, and other appropriate operating per-*
 12 *sonnel. Such regulations or guidance shall establish simu-*
 13 *lator training requirements for applicants for civilian nu-*
 14 *clear powerplant operator licenses and for operator requali-*
 15 *fication programs; requirements governing Commission ad-*
 16 *ministration of requalification examinations; requirements*
 17 *for operating tests at civilian nuclear powerplant simula-*
 18 *tors, and instructional requirements for civilian nuclear*
 19 *powerplant licensee personnel training programs.*

20 **“SEC. 408. SUBSEABED OR OCEAN WATER DISPOSAL.**

21 *“Notwithstanding any other provision of law—*

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

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

4 **“SEC. 409. PURCHASE OF AMERICAN-MADE EQUIPMENT AND**
5 **PRODUCTS.**

6 “(a) *IN GENERAL.*—It is the sense of the Congress that,
7 to the greatest extent practicable, all equipment and prod-
8 ucts purchased with funds made available under this Act
9 should be American-made.

10 “(b) *NOTICE REQUIREMENT.*—In providing financial
11 assistance to, or entering into any contract with, any entity
12 using funds made available under this Act, the head of each
13 Federal agency, to the greatest extent practicable, shall pro-
14 vide to such entity a notice describing the statement made
15 in subsection (a) by the Congress.

16 “(c) *PROHIBITION OF CONTRACTS WITH PERSONS*
17 *FALSELY LABELING PRODUCTS AS MADE IN AMERICA.*—
18 If it has been finally determined by a court or Federal agen-
19 cy that any person intentionally affixed a label bearing a
20 “Made in America” inscription, or any inscription with
21 the same meaning, to any product sold in or shipped to
22 the United States that is not made in the United States,
23 the person shall be ineligible to receive any contract or sub-
24 contract made with funds made available under this Act,
25 pursuant to the debarment, suspension, and ineligibility

1 *procedures described in sections 9.400 through 9.409 of title*
 2 *48, Code of Federal Regulations.*

3 **“SEC. 410. SEPARABILITY.**

4 *“If any provision of this Act, or the application of such*
 5 *provision to any person or circumstance, is held to be in-*
 6 *valid, the remainder of this Act, or the application of such*
 7 *provision to persons or circumstances other than those as*
 8 *to which it is held to be invalid, shall not be affected there-*
 9 *by.*

10 **“TITLE V—NUCLEAR WASTE**
 11 **TECHNICAL REVIEW BOARD**

12 **“SEC. 501. DEFINITIONS.**

13 *“For purposes of this title—*

14 *“(1) CHAIRMAN.—The term ‘Chairman’ means*
 15 *the Chairman of the Nuclear Waste Technical Review*
 16 *Board.*

17 *“(2) BOARD.—The term ‘Board’ means the Nu-*
 18 *clear Waste Technical Review Board continued under*
 19 *section 502.*

20 **“SEC. 502. NUCLEAR WASTE TECHNICAL REVIEW BOARD.**

21 *“(a) CONTINUATION OF NUCLEAR WASTE TECHNICAL*
 22 *REVIEW BOARD.—The Nuclear Waste Technical Review*
 23 *Board, established under section 502(a) of the Nuclear*
 24 *Waste Policy Act of 1982 as constituted before the date of*

1 *enactment of this Act, shall continue in effect subsequent*
2 *to the date of enactment of this Act.*

3 “(b) *MEMBERS.*—

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

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

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

12 “(A) *NOMINATIONS.*—*The National Acad-*
13 *emy of Sciences shall, not later than 90 days*
14 *after December 22, 1987, nominate not less than*
15 *22 persons for appointment to the Board from*
16 *among persons who meet the qualifications de-*
17 *scribed in subparagraph (C).*

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

23 “(C) *NOMINEES.*—

24 “(i) *Each person nominated for ap-*
25 *pointment to the Board shall be—*

1 “(I) *eminent in a field of science*
2 *or engineering, including environ-*
3 *mental sciences; and*

4 “(II) *selected solely on the basis of*
5 *established records of distinguished*
6 *service.*

7 “(ii) *The membership of the Board*
8 *shall be representatives of the broad range of*
9 *scientific and engineering disciplines re-*
10 *lated to activities under this title.*

11 “(iii) *No person shall be nominated for*
12 *appointment to the Board who is an em-*
13 *ployee of—*

14 “(I) *the Department of Energy;*

15 “(II) *a national laboratory under*
16 *contract with the Department of En-*
17 *ergy; or*

18 “(III) *an entity performing spent*
19 *nuclear fuel or high-level radioactive*
20 *waste activities under contract with*
21 *the Department of Energy.*

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

1 “(5) *TERMS.*—Members of the Board shall be ap-
2 pointed for terms of 4 years, each such term to com-
3 mence 120 days after December 22, 1987, except that
4 of the 11 members first appointed to the Board, 5
5 shall serve for 2 years and 6 shall serve for 4 years,
6 to be designated by the President at the time of ap-
7 pointment, except that a member of the Board whose
8 term has expired may continue to serve as a member
9 of the Board until such member’s successor has taken
10 office.

11 **“SEC. 503. FUNCTIONS.**

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

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

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

19 **“SEC. 504. INVESTIGATORY POWERS.**

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

1 *ister oaths or affirmations to witnesses appearing before the*
 2 *Board.*

3 “(b) *PRODUCTION OF DOCUMENTS.*—

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

11 “(2) *EXTENT.*—Subject to existing law, informa-
 12 *tion obtainable under paragraph (1) shall not be lim-*
 13 *ited to final work products of the Secretary, but shall*
 14 *include drafts of such products and documentation of*
 15 *work in progress.*

16 **“SEC. 505. COMPENSATION OF MEMBERS.**

17 “(a) *IN GENERAL.*—Each member of the Board shall,
 18 *subject to appropriations, be paid at the rate of pay payable*
 19 *for level III of the Executive Schedule for each day (includ-*
 20 *ing travel time) such member is engaged in the work of the*
 21 *Board.*

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

1 **“SEC. 506. STAFF.**

2 “(a) *CLERICAL STAFF.*—

3 “(1) *AUTHORITY OF CHAIRMAN.*—Subject to
4 *paragraph (2), the Chairman may, subject to appro-*
5 *priations, appoint and fix the compensation of such*
6 *clerical staff as may be necessary to discharge the re-*
7 *sponsibilities of the Board.*

8 “(2) *PROVISIONS OF TITLE 5.*—Clerical staff
9 *shall be appointed subject to the provisions of title 5,*
10 *United States Code, governing appointments in the*
11 *competitive service, and shall be paid in accordance*
12 *with the provisions of chapter 51 and subchapter III*
13 *of chapter 3 of such title relating to classification and*
14 *General Schedule pay rates.*

15 “(b) *PROFESSIONAL STAFF.*—

16 “(1) *AUTHORITY OF CHAIRMAN.*—Subject to
17 *paragraphs (2) and (3), the Chairman may, subject*
18 *to appropriations, appoint and fix the compensation*
19 *of such professional staff as may be necessary to dis-*
20 *charge the responsibilities of the Board.*

21 “(2) *NUMBER.*—Not more than 10 professional
22 *staff members may be appointed under this sub-*
23 *section.*

24 “(3) *TITLE 5.*—Professional staff members may
25 *be appointed without regard to the provisions of title*
26 *5, United States Code, governing appointments in the*

1 *competitive service, and may be paid without regard*
 2 *to the provisions of chapter 51 and subchapter III of*
 3 *chapter 53 of such title relating to classification and*
 4 *General Schedule pay rates, except that no individual*
 5 *so appointed may receive pay in excess of the annual*
 6 *rate of basic pay payable for GS-18 of the General*
 7 *Schedule.*

8 **“SEC. 507. SUPPORT SERVICES.**

9 *“(a) GENERAL SERVICES.—To the extent permitted by*
 10 *law and requested by the Chairman, the Administrator of*
 11 *General Services shall provide the Board with necessary ad-*
 12 *ministrative services, facilities, and support on a reimburs-*
 13 *able basis.*

14 *“(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY AS-*
 15 *SESSMENT SERVICES.—The Comptroller General, the Li-*
 16 *brarian of Congress, and the Director of the Office of Tech-*
 17 *nology Assessment shall, to the extent permitted by law and*
 18 *subject to the availability of funds, provide the Board with*
 19 *such facilities, support, funds and services, including staff,*
 20 *as may be necessary for the effective performance of the*
 21 *functions of the Board.*

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

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

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

11 **“SEC. 508. REPORT.**

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

15 **“SEC. 509. AUTHORIZATION OF APPROPRIATIONS.**

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

19 **“SEC. 510. TERMINATION OF THE BOARD.**

20 *“The Board shall cease to exist not later than one year*
21 *after the date on which the Secretary begins disposal of*
22 *spent nuclear fuel or high-level radioactive waste in the re-*
23 *pository.”.*

1 **SEC. 2. EFFECT ON PAYGO SCORECARD.**

2 *Upon the enactment of this Act, the Director of the*
3 *Office of Management and Budget shall not make any esti-*
4 *mates of changes in direct spending outlays and receipts*
5 *under section 252(d) of the Balanced Budget and Emer-*
6 *gency Deficit Control Act of 1985 resulting from the enact-*
7 *ment of section 301 of Nuclear Waste Policy Act of 1999.*