

106TH CONGRESS  
1ST SESSION

# S. 608

To amend the Nuclear Waste Policy Act of 1982.

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IN THE SENATE OF THE UNITED STATES

MARCH 15, 1999

Mr. MURKOWSKI (for himself, Mr. CRAIG, Mr. GRAMS, and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To amend the Nuclear Waste Policy Act of 1982.

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

3 **SECTION 1. AMENDMENT TO NUCLEAR WASTE POLICY ACT**  
4 **OF 1982.**

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

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

8 “(a) SHORT TITLE.—This Act may be cited as the  
9 ‘Nuclear Waste Policy Act of 1999’.

10 “(b) TABLE OF CONTENTS.—

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

“Sec. 2. Definitions.

“Sec. 3. Findings and Purposes.

“TITLE I—OBLIGATIONS

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

“TITLE II—INTEGRATED MANAGEMENT SYSTEM

“Sec. 201. Intermodal transfer.

“Sec. 202. Transportation planning.

“Sec. 203. Transportation requirements.

“Sec. 204. Interim Storage.

“Sec. 205. Permanent Repository.

“Sec. 206. Compliance with the National Environmental Policy Act.

“Sec. 207. Land withdrawal.

“Sec. 208. Applicability.

“TITLE III—LOCAL RELATIONS

“Sec. 303. Financial assistance.

“Sec. 302. Onsite representative.

“Sec. 303. Benefits agreements.

“Sec. 304. Contents of agreements.

“Sec. 305. Acceptance of benefits.

“Sec. 306. Restriction on use of funds.

“Sec. 307. Initial land conveyances.

“Sec. 308. Payments equal to taxes.

“TITLE IV—FUNDING AND ORGANIZATION

“Sec. 401. Program funding.

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

“Sec. 403. Federal contribution.

“TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

“Sec. 501. Compliance with other laws.

“Sec. 502. Water rights.

“Sec. 503. Judicial review of agency actions.

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

“Sec. 505. Siting a second repository.

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

“Sec. 507. Nuclear Regulatory Commission training authorization.

“Sec. 508. Acceptance schedule.

“Sec. 509. Subseabed or ocean water disposal.

“Sec. 510. Transfer of Title.

“Sec. 511. Separability.

“Sec. 512. Purchase of American-made equipment and products.

“TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

“Sec. 601. Definitions.

“Sec. 602. Nuclear Waste Technical Review Board.

“Sec. 603. Functions.

“Sec. 604. Investigatory powers.

“Sec. 605. Compensation of members.

“Sec. 606. Staff.

“Sec. 607. Support services.

“Sec. 608. Report.

“Sec. 609. Authorization of appropriations.

“Sec. 610. Termination of the board.

#### “TITLE VII—MANAGEMENT REFORM

“Sec. 701. Management reform initiatives.

“Sec. 702. Reporting.

### 1 **“SEC. 2 DEFINITIONS.**

2 “For purposes of this Act:

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

7 “(2) ACCEPTANCE SCHEDULE.—The term ‘ac-  
8 ceptance schedule’ means the schedule established in  
9 section 508 for acceptance of spent nuclear fuel and  
10 high-level radioactive waste.

11 “(3) AFFECTED INDIAN TRIBE.—The term ‘af-  
12 fected Indian tribe’ means an Indian tribe whose  
13 reservation is surrounded by or borders on an af-  
14 fected unit of local government, or whose federally  
15 defined possessory or usage rights to other lands  
16 outside of the border of the Indian tribe’s reserva-  
17 tion arising out of congressionally ratified treaties  
18 may be affected by the locating of an interim storage  
19 facility or repository, if the Secretary finds, upon pe-  
20 tition of the appropriate government officials of the  
21 Indian tribe, that such affects are both substantial  
22 and adverse to the Indian tribe.

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

8           “(5) ATOMIC ENERGY DEFENSE ACTIVITY.—  
 9           The term ‘atomic energy defense activity’ means any  
 10          activity of the Secretary performed in whole or in  
 11          part 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 produc-  
 17                   tion.

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

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

22                   “(G) Defense research and development.

23                   “(H) Nuclear nonproliferation.

24           “(6) CIVILIAN NUCLEAR POWER REACTOR.—  
 25          The term ‘civilian nuclear power reactor’ means a ci-

1 vilian nuclear power plant required to be licensed  
2 under section 103 or 104b. of the Atomic Energy  
3 Act of 1954 (42 U.S.C. 2133, 2134(b)).

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

6 “(8) CONTRACTS.—The term ‘contracts’ means  
7 the contracts, executed prior to the date of enact-  
8 ment of the Nuclear Waste Policy Act of 1999,  
9 under section 302(a) of the Nuclear Waste Policy  
10 Act of 1982, by the Secretary and any person who  
11 generates or holds title to spent nuclear fuel or high-  
12 level radioactive waste of domestic origin for accept-  
13 ance of such waste or fuel by the Secretary and the  
14 payment of fees to offset the Secretary’s expendi-  
15 tures, and any subsequent contracts executed by the  
16 Secretary pursuant to section 401(a) of this Act.

17 “(9) CONTRACT HOLDERS.—The term ‘contract  
18 holders’ means parties (other than the Secretary) to  
19 contracts.

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

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

1       covery, whether or not such emplacement permits re-  
2       covery of such material for any future purpose.

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

8           “(13) ENGINEERED BARRIERS.—The terms ‘en-  
9       gineered barriers’ and ‘engineered systems and com-  
10      ponents,’ mean man made components of a disposal  
11      system. These terms include the spent nuclear fuel  
12      or high-level radioactive waste form, spent nuclear  
13      fuel package or high-level radioactive waste package,  
14      and other materials placed over and around such  
15      packages.

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

18           “(A) the highly radioactive material result-  
19      ing from the reprocessing in the United States  
20      of spent nuclear fuel, including liquid waste  
21      produced directly in reprocessing and any solid  
22      material derived from such liquid waste that  
23      contains fission products in sufficient con-  
24      centrations;

1           “(B) the highly radioactive material result-  
2           ing from atomic energy defense activities; and

3           “(C) any other highly radioactive material  
4           that the Commission, consistent with existing  
5           law, determines by rule requires permanent iso-  
6           lation, which includes any low-level radioactive  
7           waste with concentrations of radionuclides that  
8           exceed the limits established by the Commission  
9           for class C radioactive water, as defined by sec-  
10          tion 61.55 of title 10, Code of Federal Regula-  
11          tions, as in effect on January 26, 1983.

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

15          “(16) INDIAN TRIBE.—The term ‘Indian tribe’  
16          means any Indian tribe, band, nation, or other orga-  
17          nized group or community of Indians recognized as  
18          eligible for the services provided to Indians by the  
19          Secretary of the interior because of their status as  
20          Indians including any Alaska Native village, as de-  
21          fined in section 3(c) of the Alaska Native Claims  
22          Settlement Act (43 U.S.C. 1602(c)).

23          “(17) INTEGRATED MANAGEMENT SYSTEM.—  
24          The term ‘integrated management system’ means  
25          the system developed by the Secretary for the ac-

1        ceptance, transportation, storage, and disposal of  
2        spent nuclear fuel and high-level radioactive waste.

3            “(18) INTERIM STORAGE FACILITY.—The term  
4        ‘interim storage facility’ means a facility designed  
5        and constructed for the receipt, handling, possession,  
6        safeguarding, and storage of spent nuclear fuel and  
7        high-level radioactive waste in accordance with title  
8        II of this Act.

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

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

18                “(A) is not spent nuclear fuel, high-level  
19                radioactive waste, transuranic waste, or byprod-  
20                uct material as defined in section 11 e.(2) of  
21                the Atomic Energy Act of 1954 (42 U.S.C.  
22                2014(e)(2)); and

23                “(B) the Commission, consistent with ex-  
24                isting law, classifies as low-level radioactive  
25                waste.

1           “(21) METRIC TONS URANIUM AND MTU.—The  
2       terms ‘metric tons uranium’ and ‘MTU’ mean the  
3       amount of uranium in the original unirradiated fuel  
4       element whether or not the spent nuclear fuel has  
5       been reprocessed. The value of ‘metric tons uranium’  
6       or ‘MTU’ for high-level waste forms is defined to be  
7       one-sixth of one MTU per high-level waste canister.

8           “(22) NUCLEAR WASTE FUND.—The term ‘Nu-  
9       clear Waste Fund’ means the nuclear waste fund es-  
10      tablished in the United States Treasury prior to the  
11      date of enactment of this Act under section 302(c)  
12      of the Nuclear Waste Policy Act of 1982.

13          “(23) OFFICE.—The term ‘Office’ means the  
14      Office of Civilian Radioactive Waste Management es-  
15      tablished within the Department prior to the date of  
16      enactment of this Act under the provisions of the  
17      Nuclear Waste Policy Act of 1982.

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

23          “(25) PROGRAM APPROACH.—The term ‘pro-  
24      gram approach’ means the Civilian Radioactive  
25      Waste Management Program Plan, dated May 6,

1 1996, as modified by this Act, and as amended from  
2 time to time by the Secretary in accordance with  
3 this Act.

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

12 “(27) SECRETARY.—The term ‘Secretary’  
13 means the Secretary of Energy.

14 “(28) SITE CHARACTERIZATION.—The term  
15 ‘site characterization’ means activities, whether in a  
16 laboratory or in the field, undertaken to establish a  
17 geologic condition and the ranges of the parameters  
18 of a candidate site relevant to the location of a re-  
19 pository, including borings, surface excavations, ex-  
20 cavations of exploratory facilities, limited subsurface  
21 lateral excavations and borings, and in situ testing  
22 needed to evaluate the licensability of candidate site  
23 for the location of repository, but not including pre-  
24 liminary borings and geophysical testing needed to

1        assess whether site characterization should be under-  
2        taken.

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

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

12           “(31) WITHDRAWAL.—The term ‘withdrawal’  
13       has the same definition as that set forth in the Fed-  
14       eral Land Policy and Management Act (43 U.S.C.  
15       1702 et seq.).

16           “(32) YUCCA MOUNTAIN SITE.—The term  
17       ‘Yucca Mountain site’ means the area in the State  
18       of Nevada that is withdrawn and reserved in accord-  
19       ance with this Act for the location of a repository.

20           “(33) ADMINISTRATOR.—The term ‘Adminis-  
21       trator’ means the Administrator of the Environ-  
22       mental Protection Agency.

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

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

1           “(1) while spent nuclear fuel can be safely  
2 stored at reactor sites, the expeditious movement to  
3 and storage of such spent nuclear fuel at a central-  
4 ized Federal facility will enhance the Nation’s envi-  
5 ronmental protection;

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

14           “(3) in the interests of protecting the public  
15 health and safety, enhancing the Nation’s environ-  
16 mental protection, promoting the Nation’s energy se-  
17 curity, and ensuring the Secretary’s ability to com-  
18 mence acceptance of spent nuclear fuel and high-  
19 level radioactive waste no later than June 30, 2003,  
20 it is necessary for Congress to authorize the interim  
21 storage facility;

22           “(4) deficit-control measures designed to limit  
23 appropriation of general revenues have limited the  
24 availability of the Nuclear Waste Fund for its in-  
25 tended purposes; 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 no later than June 30, 2003, and  
11          for permanent disposal at a repository commencing  
12          no later than January 17, 2010;

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

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

1           “(4) to provide a schedule and process for the  
2           expeditious and safe development and commence-  
3           ment of operation of an integrated management sys-  
4           tem to ensure that the Secretary can commence ac-  
5           ceptance of spent nuclear fuel and high-level radio-  
6           active waste no later than June 30, 2003.

7                           **“TITLE I—OBLIGATIONS**

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

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

12          “(b) ACCEPTANCE.—The Secretary shall accept spent  
13          nuclear fuel and high-level radioactive waste for storage  
14          at the interim storage facility pursuant to section 204 in  
15          accordance with the acceptance schedule, beginning not  
16          later than June 30, 2003.

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

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

1       “(e) PRIVATE SECTOR PARTICIPATION.—In admin-  
2   istering the Integrated Management System, the Sec-  
3   retary shall, to the maximum extent possible, utilize, em-  
4   ploy, procure and contract with, the private sector to fulfill  
5   the Secretary’s obligations and requirements under this  
6   Act.

7       “(f) PRE-EXISTING RIGHTS.—Nothing in the Nu-  
8   clear Waste Policy Act of 1999 is intended to or shall be  
9   construed to modify—

10           “(1) any right of a contract holder under sec-  
11   tion 302(a) of the Nuclear Waste Policy Act of  
12   1982, or under a contract executed prior to the date  
13   of enactment of this Act under that section; or

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

18       “(g) LIABILITY.—Subject to subsection (f), nothing  
19   in the Nuclear Waste Policy Act of 1999 shall be con-  
20   strued to subject the United States to financial liability  
21   for the Secretary’s failure to meet any deadline for the  
22   acceptance or emplacement of spent nuclear fuel or high-  
23   level radioactive waste for storage or disposal under the  
24   Nuclear Waste Policy Act of 1999.

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

3     **“SEC. 201. INTERMODAL TRANSFER.**

4             “(a) TRANSPORTATION.—The Secretary shall utilize  
5 truck transport to move spent nuclear fuel and high-level  
6 radioactive waste from the mainline rail line at Caliente,  
7 Nevada, to the interim storage facility site. If direct rail  
8 access becomes available to the interim storage facility  
9 site, the Secretary may use rail transportation to meet the  
10 requirements of this title.

11           “(b) CAPABILITY DATE.—The Secretary shall de-  
12 velop the capability to commence rail to truck intermodal  
13 transfer at Caliente, Nevada, no later than June 30, 2003.

14           “(c) ACQUISITIONS.—The Secretary shall acquire  
15 land and rights-of-way necessary to commence intermodal  
16 transfer at Caliente, Nevada.

17           “(d) REPLACEMENTS.—The Secretary shall acquire  
18 and develop on behalf of, and dedicate to, the City of  
19 Caliente, Nevada, parcels of land and rights-of-way as re-  
20 quired to facilitate replacement of land and city waste-  
21 water disposal activities necessary to commence inter-  
22 modal transfer pursuant to this Act. Replacement of land  
23 and city wastewater disposal activities shall occur no later  
24 than June 30, 2003.

1       “(e) NOTICE AND MAP.—Within 6 months of the  
2 date of enactment of this Act, the Secretary shall—

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

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

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

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

23       “(g) HEAVY HAUL TRANSPORTATION ROUTE.—

24               “(1) DESIGNATION OF ROUTE.—The route for  
25 the heavy haul truck transport of spent nuclear fuel

1 and high-level radioactive waste shall be as des-  
2 ignated in the map dated July 21, 1997 (referred to  
3 as ‘Heavy Haul Route’) and on file with the Sec-  
4 retary.

5 “(2) TRUCK TRANSPORTATION.—The Secretary,  
6 in consultation with the State of Nevada and appro-  
7 priate counties and local jurisdictions, shall establish  
8 reasonable terms and conditions pursuant to which  
9 the Secretary may utilize heavy haul truck transport  
10 to move spent nuclear fuel and high-level radioactive  
11 waste from Caliente, Nevada, to the interim storage  
12 facility site.

13 “(3) IMPROVEMENTS AND MAINTENANCE.—  
14 Notwithstanding any other law—

15 “(A) the Secretary shall be responsible for  
16 any incremental costs related to improving or  
17 upgrading Federal, State, and local roads with-  
18 in the heavy haul transportation route utilized,  
19 and performing any maintenance activities on  
20 such roads, as necessary, to facilitate year-  
21 round safe transport of spent nuclear fuel and  
22 high-level radioactive waste; and

23 “(B) any such improvement, upgrading, or  
24 maintenance activity shall be funded solely by

1           appropriations made pursuant to sections 401  
2           and 403 of this Act.

3           “(h) LOCAL GOVERNMENT INVOLVEMENT.—The  
4 Commission shall enter into a Memorandum of Under-  
5 standing with the City of Caliente and Lincoln County,  
6 Nevada, to provide advice to the Commission regarding  
7 intermodal transfer and to facilitate on-site representa-  
8 tion. Reasonable expenses of such representation shall be  
9 paid by the Secretary.

10 **“SEC. 202. TRANSPORTATION PLANNING.**

11           “(a) TRANSPORTATION READINESS.—The  
12 Secretary—

13           “(1) shall take such actions as are necessary  
14 and appropriate to ensure that the Secretary is able  
15 to transport safely spent nuclear fuel and high-level  
16 radioactive waste from Department of Energy sites  
17 and the sites designated by the contract holders to  
18 mainline transportation facilities and from the main-  
19 line transportation facilities to the interim storage  
20 facility or repository, using routes that minimize, to  
21 the maximum practicable extent and consistent with  
22 Federal requirements governing transportation of  
23 hazardous materials, transportation of spent nuclear  
24 fuel and high-level radioactive waste through popu-  
25 lated areas; and

1           “(2) as soon as is practicable following the en-  
2           actment of this Act, the Secretary shall, in consulta-  
3           tion with the Secretary of Transportation and af-  
4           fected States and tribes, and after an opportunity  
5           for public comment, develop and implement a com-  
6           prehensive management plan that ensures safe  
7           transportation of spent nuclear fuel and high-level  
8           radioactive waste from Department of Energy sites  
9           and the sites designated by the contract holders to  
10          the interim storage facility site.

11          “(b) TRANSPORTATION PLANNING.—

12               “(1) IN GENERAL.—In conjunction with the de-  
13           velopment of the comprehensive management plan in  
14           accordance with subsection (a), the Secretary shall  
15           update and modify, as necessary, the Secretary’s  
16           transportation institutional plans to ensure that in-  
17           stitutional issues are addressed and resolved on a  
18           schedule to support the commencement of transpor-  
19           tation of spent nuclear fuel and high-level radio-  
20           active waste to the interim storage facility no later  
21           than June 30, 2003. Among other things, such plan-  
22           ning shall provide a schedule and process for ad-  
23           dressing and implementing, as necessary, transpor-  
24           tation routing plans, transportation contracting  
25           plans, transportation training in accordance with

1 section 203, public education regarding transpor-  
2 tation of spent nuclear fuel and high-level radio-  
3 active waste, and transportation tracking programs.

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

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

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

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

1           “(B) be consistent with the principles and  
2           procedures developed for the safest transpor-  
3           tation of transuranic waste to the Waste Isola-  
4           tion Pilot Plant (unless the Secretary certifies  
5           in the plan that a specific principle or proce-  
6           dure is inconsistent with a provision of this  
7           Act).

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

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

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

23          “(3) DESIGNATION OF PREFERRED SHIPPING  
24          ROUTE AND MODE.—Following the evaluation under  
25          paragraph (1), the Secretary shall designate pre-

ferred shipping routes and modes from each civilian nuclear power reactor and Department of Energy facility that stores spent nuclear fuel or other high-level defense waste.

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

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

“(6) TRAINING AND TECHNICAL ASSISTANCE.—Following selection of the primary shipping routes,

1 or State-designated alternative routes, the Secretary  
2 shall focus training and technical assistance under  
3 section 203(c) on those routes.

4 “(7) PREFERRED RAIL ROUTES.—

5 “(A) REGULATION.—Not later than 1 year  
6 after the date of enactment of the Nuclear  
7 Waste Policy Act of 1999, the Secretary of  
8 Transportation, pursuant to authority under  
9 other provisions of law, shall promulgate a reg-  
10 ulation establishing procedures for the selection  
11 of preferred routes for the transportation of  
12 spent nuclear fuel and nuclear waste by rail.

13 “(B) INTERIM PROVISION.—During the pe-  
14 riod beginning on the date of enactment of the  
15 Nuclear Waste Policy Act of 1999 and ending  
16 on the date of issuance of a final regulation  
17 under subparagraph (A), rail transportation of  
18 spent nuclear fuel and high-level radioactive  
19 waste shall be conducted in accordance with  
20 regulatory requirements in effect on that date  
21 and with this section.

22 **“SEC. 203. TRANSPORTATION REQUIREMENTS.**

23 “(a) PACKAGE CERTIFICATION.—No spent nuclear  
24 fuel or high-level radioactive waste may be transported by

1 or for the Secretary under this Act except in packages that  
2 have been certified for such purposes by the Commission.

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

8 “(c) TECHNICAL ASSISTANCE.—

9 “(1) IN GENERAL.—

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

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

1 and demonstrate the ability to reach and in-  
2 volve in training programs target populations of  
3 workers who are or will be directly engaged in  
4 the transportation of spent nuclear fuel and  
5 high-level radioactive waste or emergency re-  
6 sponse or post-emergency response with respect  
7 to such transportation.

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

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

14 “(ii) shall be consistent with any  
15 training standards established by the Sec-  
16 retary of Transportation under subsection  
17 (h); and

18 “(iii) shall include—

19 “(I) a training program applica-  
20 ble to persons responsible for respond-  
21 ing to emergency situations occurring  
22 during the removal and transportation  
23 of spent nuclear fuel and high-level  
24 radioactive waste;

1                   “(II) instruction public safety of-  
2                   ficers procedures for the command  
3                   and control of the response to any in-  
4                   cident involving the waste; and

5                   “(III) instruction of radiological  
6                   protection and emergency medical per-  
7                   sonnel in procedures for responding to  
8                   an incident involving spent nuclear  
9                   fuel or high-level radioactive waste  
10                  being transported.

11               “(2) NO SHIPMENTS IF NO TRAINING.—

12               “(A) There will be no shipments of spent  
13               nuclear fuel and high-level radioactive waste  
14               through the jurisdiction of any State or the res-  
15               ervation lands of any Indian tribe eligible for  
16               grants under paragraph (3)(B) until the Sec-  
17               retary has made a determination that personnel  
18               in all State, local, and tribal jurisdictions on  
19               primary and alternative shipping routes have  
20               met acceptable standards of training for emer-  
21               gency responses to accidents involving spent nu-  
22               clear fuel and high-level nuclear waste, as es-  
23               tablished by the Secretary, and unless technical  
24               assistance and funds to implement procedures  
25               for the safe routine transportation and for deal-

1 ing with emergency response situations under  
2 paragraph (1)(A) have been available to a State  
3 or Indian tribe for at least 3 years prior to any  
4 shipment: *Provided, however,* That the Sec-  
5 retary may ship spent nuclear fuel and high-  
6 level radioactive waste if technical assistance or  
7 funds have not been made available due to—

8 “(i) an emergency, including the sud-  
9 den and unforeseen closure of a highway or  
10 rail line or the sudden and unforeseen need  
11 to remove spent fuel from a reactor be-  
12 cause of an accident, or

13 “(ii) the refusal to accept technical as-  
14 sistance by a State or Indian tribe, or

15 “(iii) fraudulent actions which violate  
16 Federal law governing the expenditure of  
17 Federal funds.

18 “(B) In the event the Secretary is required  
19 to transport spent fuel or high-level radioactive  
20 waste through a jurisdiction prior to 3 years  
21 after the provision of technical assistance or  
22 funds to such jurisdiction, the Secretary shall,  
23 prior to such shipment, hold meetings in each  
24 State and Indian reservation through which the  
25 shipping route passes in order to present initial

1 shipment plans and receive comments. Depart-  
2 ment of Energy personnel trained in emergency  
3 response shall escort each shipment. Funds and  
4 all Department of Energy training resources  
5 shall be made available to States and Indian  
6 tribes along the shipping route no later than  
7 three months prior to the commencement of  
8 shipments; *Provided, however,* That in no event  
9 shall such shipments exceed 1,000 metric tons  
10 per year: *Provided further,* That no such ship-  
11 ments shall be conducted more than four years  
12 after the effective date of the Nuclear Waste  
13 Policy Act of 1999.

14 “(3) GRANTS.—

15 “(A) IN GENERAL.—To implement this  
16 section, grants shall be made under section  
17 401(d).

18 “(B) GRANTS FOR DEVELOPMENT OF  
19 PLANS.—

20 “(i) IN GENERAL.—The Secretary  
21 shall make a grant of at least \$150,000 to  
22 each State through the jurisdiction of  
23 which and each federally recognized Indian  
24 tribe through the reservation lands of  
25 which a shipment of spent nuclear fuel or

1 high-level radioactive waste will be made  
2 under this Act for the purpose of devel-  
3 oping a plan to prepare for such ship-  
4 ments.

5 “(ii) LIMITATION.—A grant shall be  
6 made under clause (i) only to a State or a  
7 federally recognized Indian tribe that has  
8 the authority to respond to incidents in-  
9 volving shipments of hazardous material.

10 “(C) GRANTS FOR IMPLEMENTATION OF  
11 PLANS.—

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

1           “(I) the funds requested by  
2 States and federally recognized Indian  
3 tribes to implement this subsection;

4           “(II) the amount requested by  
5 the President for implementation; and

6           “(III) the rationale for any dis-  
7 crepancies between the amounts re-  
8 quested by States and federally recog-  
9 nized Indian tribes and the amounts  
10 requested by the President.

11           “(ii) ALLOCATION.—Of funds avail-  
12 able for grants under this subparagraph  
13 for any fiscal year—

14           “(I) 25 percent shall be allocated  
15 by the Secretary to ensure minimum  
16 funding and program capability levels  
17 in all States and Indian tribes based  
18 on plans developed under subpara-  
19 graph (B); and

20           “(II) 75 percent shall be allo-  
21 cated to States and Indian tribes in  
22 proportion to the number of shipment  
23 miles that are projected to be made in  
24 total shipments under this Act  
25 through each jurisdiction.

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

7           “(5) MINIMIZING DUPLICATION OF EFFORT  
8           AND 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) PUBLIC EDUCATION.—The Secretary shall con-  
23          duct a program to educate the public regarding the trans-  
24          portation of spent nuclear fuel and high-level radioactive  
25          waste, with an emphasis on those States, units of local

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

4 “(e) USE OF PRIVATE CARRIERS.—The Secretary, in  
5 providing for the transportation of spent nuclear fuel and  
6 high-level radioactive waste under this Act, shall contract  
7 with private industry to the fullest extent possible in each  
8 aspect of such transportation. The Secretary shall use di-  
9 rect Federal services for such transportation only upon a  
10 determination by the Secretary of Transportation, in con-  
11 sultation with the Secretary, that private industry is un-  
12 able or unwilling to provide such transportation services  
13 at a reasonable cost.

14 “(f) COMPLIANCE WITH TRANSPORTATION REGULA-  
15 TIONS.—Any person that transports spent nuclear fuel or  
16 high-level radioactive waste under the Nuclear Waste Pol-  
17 icy Act of 1999, pursuant to a contract with the Secretary,  
18 shall comply with all requirements governing such trans-  
19 portation issued by the Federal, State and local govern-  
20 ments, and Indian tribes, in the same way and to the same  
21 extent that any person engaging in that transportation  
22 that is in or affects interstate commerce must comply with  
23 such requirements, as required by section 5126 of title 49,  
24 United States Code.

1       “(g) EMPLOYEE PROTECTION.—Any person engaged  
2 in the interstate commerce of spent nuclear fuel or high-  
3 level radioactive waste under contract to the Secretary  
4 pursuant to this Act shall be subject to and comply fully  
5 with the employee protection provisions of section 20109  
6 of title 49, United States Code (in the case of employees  
7 of railroad carriers) and section 31105 of title 49, United  
8 States Code (in the case of employees operating commer-  
9 cial motor vehicles), or the Commission (in the case of all  
10 other employees).

11       “(h) TRAINING STANDARD.—

12               “(1) No later than 12 months after the date of  
13 enactment of the Nuclear Waste Policy Act of 1999,  
14 the Secretary of Transportation, pursuant to author-  
15 ity under other provisions of law, in consultation  
16 with the Secretary of Labor and the Commission,  
17 shall promulgate a regulation establishing training  
18 standards applicable to workers directly involved in  
19 the removal and transportation of spent nuclear fuel  
20 and high-level radioactive waste. The regulation shall  
21 specify minimum training standards applicable to  
22 workers, including managerial personnel. The regu-  
23 lation shall require that the employer possess evi-  
24 dence of satisfaction of the applicable training  
25 standard before any individual may be employed in

1 the removal and transportation of spent nuclear fuel  
2 and high-level radioactive waste.

3 “(2) SECRETARY OF TRANSPORTATION.—If the  
4 Secretary of Transportation determines, in promul-  
5 gating the regulation required by paragraph (1),  
6 that existing Federal regulations establish adequate  
7 training standards for workers, then the Secretary  
8 of Transportation can refrain from promulgating ad-  
9 ditional regulations with respect to worker training  
10 in such activities. The Secretary of Transportation  
11 and the Commission shall use their Memorandum of  
12 Understanding to ensure coordination of worker  
13 training standards and to avoid duplicative regula-  
14 tion.

15 “(3) TRAINING STANDARDS CONTENT.—If  
16 training standards are required to be promulgated  
17 under paragraph (1), such standards shall, among  
18 other things deemed necessary and appropriate by  
19 the Secretary of Transportation, provide for—

20 “(A) a specified minimum number of hours  
21 of initial off site instruction and actual field ex-  
22 perience under the direct supervision of a  
23 trained, experienced supervisor;

24 “(B) a requirement that onsite managerial  
25 personnel receive the same training as workers,

1 and a minimum number of additional hours of  
2 specialized training pertinent to their manage-  
3 rial responsibilities; and

4 “(C) a training program applicable to per-  
5 sons responsible for responding to and cleaning  
6 up emergency situations occurring during the  
7 removal and transportation of spent nuclear  
8 fuel and high-level radioactive waste.

9 The Secretary of Transportation may specify an ap-  
10 propriate combination of knowledge, skills, and prior  
11 training to fulfill the minimum number of hours re-  
12 quirements of subparagraphs (A) and (B).

13 “(4) EMERGENCY RESPONDER TRAINING  
14 STANDARDS.—The training standards for persons  
15 responsible for responding to emergency situations  
16 occurring during the removal and transportation of  
17 spent nuclear and high-level radioactive waste shall,  
18 in accordance with existing regulations, ensure their  
19 ability to protect nearby persons, property, or the  
20 environment from the effects of accidents involving  
21 spent nuclear fuel and high-level radioactive waste.

22 “(5) AUTHORIZATION.—There is authorized to  
23 be appropriated to the Secretary of Transportation,  
24 from general revenues, such sums as may be nec-  
25 essary to perform his duties under this subsection.

1 **“SEC. 204. INTERIM STORAGE.**

2       “(a) AUTHORIZATION.—The Secretary shall design,  
3 construct, and operate a facility for the interim storage  
4 of spent nuclear fuel and high-level radioactive waste at  
5 the interim storage facility site. The interim storage facil-  
6 ity shall be subject to licensing pursuant to the Atomic  
7 Energy Act of 1954 (42 U.S.C. 2011 et seq.) in accord-  
8 ance with the Commission’s regulations governing the li-  
9 censing of independent spent fuel storage installations and  
10 shall commence operation by June 30, 2003. The Commis-  
11 sion’s regulations shall be amended by the Commission as  
12 necessary to implement the provisions of this Act. The  
13 Commission may amend part 72 of title 10, Code of Fed-  
14 eral Regulations with regard to facilities not covered by  
15 this Act as deemed appropriate by the Commission.

16       “(b) DESIGN.—The design for the interim storage fa-  
17 cility shall provide for the use of storage technologies  
18 which are licensed, approved, or certified by the Commis-  
19 sion, to ensure compatibility between the interim storage  
20 facility and contract holders’ spent nuclear fuel and facili-  
21 ties, and to facilitate the Secretary’s ability to meet the  
22 Secretary’s obligations under this Act.

23       “(c) LICENSE APPLICATION.—No later than 12  
24 months after the date of enactment of this Act, the Sec-  
25 retary shall submit a license application and an environ-  
26 mental report in accordance with applicable regulations

1 (subpart B of part 72 of title 10, Code of Federal Regula-  
 2 tions, and subpart A of part 51 of title 10, Code of Fed-  
 3 eral Regulations, respectively). The license application—

4 “(1) shall be for a term of 40 years, and shall  
 5 be renewable for additional terms upon application  
 6 of the Secretary; and

7 “(2) shall be for a quantity of spent nuclear  
 8 fuel or high-level radioactive waste equal to the  
 9 quantity that would be accepted under section 508  
 10 prior to the date that the Secretary estimates, in the  
 11 license application, to be the date on which the Sec-  
 12 retary will receive and store spent nuclear fuel and  
 13 high-level radioactive waste at the permanent reposi-  
 14 tory: *Provided*, That the quantity shall not exceed  
 15 30,000 MTU.

16 “(d) ADDITIONAL AUTHORITY.—

17 “(1) CONSTRUCTION.—For the purpose of com-  
 18 plying with subsection (a), the Secretary may com-  
 19 mence site data acquisition activities and design ac-  
 20 tivities necessary to complete license application  
 21 under subsection (c) of this section. The Secretary  
 22 shall not commence construction of an interim stor-  
 23 age facility (which shall mean taking actions within  
 24 the meaning of the term ‘commencement of con-  
 25 struction’ contained in the Commission’s regulations

1 in section 72.3 of title 10, Code of Federal Regula-  
2 tions) before the Commission, or an appropriate offi-  
3 cer or Board of the Commission, makes the finding  
4 under section 72.40(b) of title 10, Code of Federal  
5 Regulations.

6 “(2) FACILITY USE.—Notwithstanding any  
7 other applicable licensing requirement, the Secretary  
8 may utilize facilities owned by the Federal Govern-  
9 ment on the date of enactment of the Nuclear Waste  
10 Policy Act of 1999 and located within the bound-  
11 aries of the interim storage site, in connection with  
12 addressing any imminent and substantial  
13 endangerment to public health and safety at the in-  
14 terim storage facility site, prior to receiving a license  
15 from the Commission for the interim storage facility,  
16 for purposes of fulfilling requirements for  
17 retrievability during the first five years of operation  
18 of the interim storage facility.

19 “(e) LICENSE AMENDMENTS.—

20 “(1) The Secretary may seek such amendments  
21 to the license for the interim storage facility as the  
22 Secretary may deem appropriate, including, but not  
23 limited to, amendments to use new storage tech-  
24 nologies licensed by the Commission or to respond to  
25 changes in Commission regulations.

1           “(2) After the Commission issues a license to  
2       dispose of spent nuclear fuel and high-level radio-  
3       active waste in the permanent repository, the Sec-  
4       retary may seek such amendments to the license for  
5       the interim storage facility as are necessary to en-  
6       sure the efficient operation of the integrated man-  
7       agement system.

8       “(f) ENVIRONMENTAL IMPACT STATEMENT.—

9           “(1) FINAL DECISION.—A final decision of the  
10      Commission to grant or deny a license application  
11      for the interim storage facility shall be accompanied  
12      by an Environmental Impact Statement prepared  
13      under section 102(2)(C) of the National Environ-  
14      mental Policy Act of 1969 (42 U.S.C. 4332(2)(C))  
15      the Commission’s regulations, and section 207 of  
16      this Act. In preparing such Environmental Impact  
17      Statement, the Commission—

18           “(A) shall assume that no more than  
19      30,000 MTU will be stored at the facility; and

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

24       “(g) WASTE CONFIDENCE.—The Secretary’s obliga-  
25      tion to construct and operate the interim storage facility

1 in accordance with this section and the Secretary's obliga-  
2 tion to develop an integrated management system in ac-  
3 cordance with the provisions of this Act, shall provide suf-  
4 ficient and independent grounds for any further findings  
5 by the Commission of reasonable assurance that spent nu-  
6 clear fuel and high-level radioactive waste will be disposed  
7 of safely and on a timely basis for purposes of the Com-  
8 mission's decision to grant or amend any license to operate  
9 any civilian nuclear power reactor under the Atomic En-  
10 ergy Act of 1954 (42 U.S.C. 2011 et seq.).

11       “(h) SAVINGS CLAUSE.—Nothing in this Act shall af-  
12 fect the Commission's procedures for the licensing of any  
13 technology for the dry storage of spent nuclear fuel at the  
14 site of any civilian nuclear power reactor as adopted by  
15 the Commission under section 218 of the Nuclear Waste  
16 Policy Act of 1982, as in effect prior to the date of the  
17 enactment of this Act. The establishment of such proce-  
18 dures shall not preclude the licensing, under any applica-  
19 ble procedures or rules of the Commission in effect prior  
20 to such establishment, of any technology for the storage  
21 of civilian spent nuclear fuel at the site of any civilian nu-  
22 clear power reactor.

23       “(i) FINAL DECISION.—The Commission shall issue  
24 a final decision granting or denying a license for an in-

1 interim storage facility not later than 32 months after the  
2 date of submittal of the application for such license.

3 “(j) AMENDMENTS TO REGULATION.—No later than  
4 32 months following the date of enactment of the Nuclear  
5 Waste Policy Act of 1999, the Commission shall make any  
6 amendments necessary to the definition of ‘spent nuclear  
7 fuel’ in section 72.3 of title 10, Code of Federal Regula-  
8 tions, to allow an interim storage facility to accept (subject  
9 to such conditions as the Commission may require in a  
10 subsequent license)—

11 “(1) spent nuclear fuel and associated nuclear  
12 materials from research reactors;

13 “(2) spent nuclear fuel from naval reactors; and

14 “(3) spent nuclear fuel and associated nuclear  
15 materials and high-level radioactive waste from  
16 atomic energy defense activities. Following any such  
17 amendments, the Secretary shall seek authority, as  
18 necessary, to store such fuel and waste at the in-  
19 terim storage facility.

20 None of the activities carried out pursuant to this para-  
21 graph shall delay, or otherwise affect, the development, li-  
22 censing, construction, or operation of the interim storage  
23 facility.

24 **“SEC. 205. PERMANENT DISPOSAL.**

25 “(a) REPOSITORY CHARACTERIZATION.—

1           “(1) CHARACTERIZATION OF THE YUCCA MOUN-  
 2           TAIN SITE.—The Secretary shall carry out site char-  
 3           acterization activities at the Yucca Mountain site in  
 4           accordance with the Secretary’s program approach  
 5           to site characterization. Such activities shall be lim-  
 6           ited to only those activities which the Secretary con-  
 7           siders necessary to provide the data required for  
 8           evaluation of the suitability of such site for an appli-  
 9           cation to be submitted to the Commission for a con-  
 10          struction authorization for a repository at such site,  
 11          and for compliance with the National Environmental  
 12          Policy Act of 1969 (42 U.S.C. 4321 et seq.), con-  
 13          sistent with this Act.

14          “(2) GUIDELINES.—The Secretary shall amend  
 15          10 C.F.R. Part 960 to base any conclusions regard-  
 16          ing site suitability, to the extent practicable, on an  
 17          assessment of total system performance of the repos-  
 18          itory.

19          “(b) ENVIRONMENTAL IMPACT STATEMENTS.—

20          “(1) CONSTRUCTION AND OPERATION.—With  
 21          respect to the Secretary’s decision to file for a li-  
 22          cense application under subsection (c), only the con-  
 23          struction and operation of the repository shall be  
 24          considered a major Federal action significantly af-  
 25          fecting the quality of the human environment for

1 purposes of the National Environmental Policy Act  
2 of 1969 (42 U.S.C. 4321 et seq.). The Secretary  
3 shall prepare an environmental impact statement on  
4 only the construction and operation of the repository  
5 and shall submit such statement to the Commission  
6 with the license application with the license applica-  
7 tion to be filed under subsection (c).

8 “(2) CLOSURE.—With respect to the Sec-  
9 retary’s decision to file for license amendment under  
10 subsection (d), the closure of the repository shall be  
11 considered a major Federal action significantly af-  
12 fecting the quality of the human environment for  
13 purposes of the National Environmental Policy Act  
14 of 1969 (42 U.S.C. 4321 et seq.). The Secretary  
15 shall prepare an environmental impact statement on  
16 the closure of the repository and shall submit such  
17 statement to the Commission with the license appli-  
18 cation to be filed under subsection (d).

19 “(c) LICENSE APPLICATION.—

20 “(1) SCHEDULE.—No later than October 31,  
21 2001, the Secretary shall apply to the Commission  
22 for authorization to construct a repository at the  
23 Yucca Mountain site.

24 “(2) MAXIMIZING CAPACITY.—In developing an  
25 application for authorization to construct the reposi-

1        tory, the Secretary shall seek to maximize the capac-  
2        ity of the repository.

3            “(3) DECISION NOT TO APPLY FOR A LICENSE  
4        FOR THE YUCCA MOUNTAIN SITE.—If, at any time  
5        prior to October 31, 2001, the Secretary determines  
6        that the Yucca Mountain site cannot satisfy the  
7        Commission’s regulations applicable to the licensing  
8        of a geologic repository, the Secretary shall termi-  
9        nate site characterization activities at the site, notify  
10       Congress and the State of Nevada of the Secretary’s  
11       determination and the reasons therefor, and rec-  
12       ommend to Congress not later than 6 months after  
13       such determination further actions, including the en-  
14       actment of legislation, that may be needed to man-  
15       age the Nation’s spent nuclear fuel and high-level  
16       radioactive waste.

17        “(d) LICENSING.—Within one year of the date of en-  
18       actment of this Act, the Commission shall amend its regu-  
19       lations governing the disposal of spent nuclear fuel and  
20       high-level radioactive waste in geologic repositories to the  
21       extent necessary to comply with this Act. Subject to sub-  
22       section (c), such regulations shall provide for the licensing  
23       of the repository according to the following procedures:

24            “(1) CONSTRUCTION AUTHORIZATION.—The  
25        Commission shall grant the Secretary a construction

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

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

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

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

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

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

23 “(B) with adequate protection of the  
24 health and safety of the public; and

1                   “(C) consistent with the common defense  
2                   and security.

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

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

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

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

24                  “(4) POST-CLOSURE.—The Secretary shall take  
25                  those actions necessary and appropriate at the

1 Yucca Mountain site to prevent any activity at the  
 2 site subsequent to repository closure that poses an  
 3 unreasonable risk of—

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

6 “(B) increasing the risk of the repository  
 7 beyond the standard established in subsection  
 8 (f)(1).

9 “(5) APPLICATION OF HEALTH AND SAFETY  
 10 STANDARDS.—The licensing determination of the  
 11 Commission with respect to risk to the health and  
 12 safety of the public under paragraphs (1), (2), or (3)  
 13 of this subsection shall be based solely on a finding  
 14 whether the repository can be operated in conform-  
 15 ance with the overall performance standard in sub-  
 16 section (f)(1) of this section, applied in accordance  
 17 with the provisions of subsection (f)(2) of this sec-  
 18 tion and the standards established by the Adminis-  
 19 trator under section 801 of the Energy Policy Act  
 20 of 1992 (42 U.S.C. 10141 note).

21 “(e) MODIFICATION OF THE COMMISSION’S REPOSI-  
 22 TORY LICENSING REGULATIONS.—The Commission shall  
 23 amend its regulations governing the disposal of spent nu-  
 24 clear fuel and high-level radioactive waste (10 CFR part  
 25 60), as necessary, to be consistent with the provisions of

1 this Act. The Commission's regulations shall provide for  
2 the modification of the repository licensing procedure in  
3 subsection (d) of this section, as appropriate, in the event  
4 that the Secretary seeks a license to permit the emplace-  
5 ment in the repository, on a retrievable basis, of spent nu-  
6 clear fuel or high-level radioactive waste as is necessary  
7 to provide the Secretary with sufficient confirmatory data  
8 on repository performance to reasonably confirm the basis  
9 for repository closure consistent with applicable regula-  
10 tions.

11       “(f) REPOSITORY LICENSING STANDARDS AND ADDI-  
12 TIONAL PROCEDURES.—In complying with the require-  
13 ments of section 801 of the Energy Policy Act of 1992  
14 (42 U.S.C. 10141 note), the Administrator shall achieve  
15 consistency with the findings and recommendations of the  
16 National Academy of Sciences, and the Commission shall  
17 amend its regulations with respect to licensing standards  
18 for the repository, as follows:

19               “(1) ESTABLISHMENT OF OVERALL SYSTEM  
20 PERFORMANCE STANDARD.—

21               “(A) RISK STANDARD.—The standard for  
22 protection of the public from releases of radio-  
23 active material or radioactivity from the reposi-  
24 tory shall limit the lifetime risk, to the average  
25 member of the critical group, of premature

1 death from cancer due to such releases to ap-  
2 proximately, but not greater than, 1 in 1000.  
3 The comparison to this standard shall use the  
4 upper bound of the 95-percent confidence inter-  
5 val for the expected value of lifetime risk to the  
6 average member of the critical group.

7 “(B) FORM OF STANDARD.—The standard  
8 promulgated by the Administrator under section  
9 801 of the Energy Policy Act of 1992 (42  
10 U.S.C. 10141 note) shall be an overall system  
11 performance standard. The Administrator shall  
12 not promulgate a standard for the repository in  
13 the form of release limits or contaminant levels  
14 for individual radionuclides discharged from the  
15 repository.

16 “(C) ASSUMPTIONS USED IN FORMU-  
17 LATING AND APPLYING THE STANDARD.—In  
18 promulgating the standard under section 801 of  
19 the Energy Policy Act of 1992 (42 U.S.C.  
20 10141 note), the Administrator shall consult  
21 with the Secretary of Energy and the Commis-  
22 sion. The Commission, after consultation with  
23 the Secretary, shall specify, by rule, values for  
24 all the assumptions considered necessary by the  
25 Commission to apply the standard in a licensing

1 proceeding for the repository before the Com-  
2 mission, including the reference biosphere and  
3 size and characteristics of the critical group.

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

7 “(i) representative of individuals ex-  
8 pected to be at highest risk of premature  
9 death from cancer as a result of discharges  
10 of radionuclides from the permanent repos-  
11 itory;

12 “(ii) relatively homogeneous with re-  
13 spect to expected radiation dose, which  
14 shall mean that there shall be no more  
15 than a factor of ten in variation in indi-  
16 vidual dose among members of the group;  
17 and

18 “(iii) selected using reasonable as-  
19 sumptions—concerning lifestyle, occupa-  
20 tion, diet and eating and drinking habits,  
21 technological sophistication, or other rel-  
22 evant social and behavior factors—that are  
23 based on reasonably available information,  
24 when the group is defined, on current in-  
25 habitants and conditions in the area of 50-

1                   mile radius surrounding Yucca Mountain  
2                   contained within a line drawn 50 miles be-  
3                   yond each of the boundaries of the Yucca  
4                   Mountain site.

5                   “(2) APPLICATION OF OVERALL SYSTEM PER-  
6                   FORMANCE STANDARD.—The Commission shall issue  
7                   the construction authorization, license, or license  
8                   amendment, as applicable, if it finds reasonable as-  
9                   surance that for the first 10,000 years following the  
10                  closure of the repository, the overall system perform-  
11                  ance standard will be met based on a probabilistic  
12                  evaluation, as appropriate, of compliance with the  
13                  overall system performance standard in paragraph  
14                  (1).

15                  “(3) FACTORS.—For purposes of establishing  
16                  the overall system performance standard in para-  
17                  graph (1) and making the finding in paragraph  
18                  (2)—

19                         “(A) the Administrator and the Commis-  
20                         sion shall not consider climate regimes that are  
21                         substantially different from those that have oc-  
22                         curred during the previous 100,000 years at the  
23                         Yucca Mountain site;

24                         “(B) the Administrator and the Commis-  
25                         sion shall not consider catastrophic events

1 where the health consequences of individual  
2 events themselves to the critical group can be  
3 reasonably assumed to exceed the health con-  
4 sequences due to impact of the events on repos-  
5 itory performance; and

6 “(C) the Administrator and the Commis-  
7 sion shall not base the standard in paragraph  
8 (1) or the finding in paragraph (2) on scenarios  
9 involving human intrusion into the repository  
10 following repository closure.

11 “(4) REVIEW.—

12 “(A) Any standard promulgated by the Ad-  
13 ministrator under section 801 of the Energy  
14 Policy Act of 1992 (42 U.S.C. 10141 note)  
15 shall be deemed a major rule within the mean-  
16 ing of section 804(2) of title 5, United States  
17 Code, and shall be subject to the requirements  
18 and procedures pertaining to a major rule in  
19 chapter 8 of such title.

20 “(B) The effective date of the construction  
21 authorization for the repository shall be 90 days  
22 after the issuance of such authorization by the  
23 Commission, unless Congress is standing in ad-  
24 journment for a period of more than one week  
25 on the date of issuance, in which case the effec-

1           tive date shall be 90 days after the date on  
2           which Congress is expected to reconvene after  
3           such adjournment.

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

8                   “(A) analyzing the overall system perform-  
9                   ance of the repository through the use of prob-  
10                  abilistic evaluations that use best estimate as-  
11                  sumptions, data, and methods for the period  
12                  commencing after the first 10,000 years after  
13                  repository closure and including the time after  
14                  repository closure of maximum risk to the crit-  
15                  ical group of premature death from cancer due  
16                  to repository releases;

17                   “(B) analyzing the consequences of a sin-  
18                   gle instance of human intrusion into the reposi-  
19                  tory, during the first 1,000 years after reposi-  
20                  tory closure, on the ability of the repository to  
21                  perform its intended function.

22           “(g) ADDITIONAL ACTIONS BY THE COMMISSION.—  
23           The Commission shall take final action on the Secretary’s  
24           application for construction authorization for the reposi-

1 tory no later than 40 months after submission of the appli-  
 2 cation.

3 **“SEC. 207. COMPLIANCE WITH THE NATIONAL ENVIRON-  
 4 MENTAL POLICY ACT.**

5 “(a) PRELIMINARY ACTIVITIES.—Each activity of the  
 6 Secretary or the President under sections 201, 202, 203,  
 7 204(b), 204(c), 204(d), and 205(a) shall be considered a  
 8 preliminary decision making activity. No such activity  
 9 shall be considered final agency action for purposes of ju-  
 10 dicial review. No activity of the Secretary or the President  
 11 under sections 203, 204, or 205 shall require the prepara-  
 12 tion of an environmental impact statement under section  
 13 102(2)(C) of the National Environmental Policy Act of  
 14 1969 (42 U.S.C. 4332(2)(C)) or any environmental review  
 15 under subparagraph (E) or (F) of section 102(2) of such  
 16 Act (42 U.S.C. 4332(2)(E) or (F)).

17 “(b) STANDARDS AND CRITERIA.—The promulgation  
 18 of standards or criteria in accordance with the provisions  
 19 of this title, or under section 801 of the Energy Policy  
 20 Act of 1992 (42 U.S.C. 10141 note), shall not require the  
 21 preparation of an environmental impact statement under  
 22 section 102(2)(C) of the National Environmental Policy  
 23 Act of 1969 (42 U.S.C. 4332(2)(2)) or any environmental  
 24 review under subparagraph (E) or (F) of section 102(2)  
 25 of such Act (42 U.S.C. 4332(2)(E) or (F)).

1       “(c) REQUIREMENTS RELATING TO ENVIRONMENTAL  
2 IMPACT STATEMENTS.—

3           “(1) With respect to the requirements imposed  
4 by the National Environmental Policy Act of 1969  
5 (42 U.S.C. 4321 et seq.)—

6           “(A) in any final environmental impact  
7 statement under section 204 or 205, the Sec-  
8 retary or the Commission, as applicable, shall  
9 not be required to consider the need for a re-  
10 pository or an interim storage facility; the time  
11 of initial availability of a repository or interim  
12 storage facility; the alternatives to geological  
13 disposal or centralized interim storage; or alter-  
14 native sites to the Yucca Mountain site or the  
15 interim storage facility site designated under  
16 section 204(a); and

17           “(B) compliance with the procedures and  
18 requirements of this title shall be deemed ade-  
19 quate consideration of the need for centralized  
20 interim storage or a repository; the time of ini-  
21 tial availability of centralized interim storage or  
22 the repository or centralized interim storage;  
23 and all alternatives to centralized interim stor-  
24 age and permanent isolation of high-level radio-  
25 active waste and spent nuclear fuel in an in-

1           terim storage facility or a repository, respec-  
2           tively.

3           “(2) The final environmental impact statement  
4           for the repository prepared by the Secretary and  
5           submitted with the license application for a reposi-  
6           tory under section 206(c) shall, to the extent prac-  
7           ticable, be adopted by the Commission in connection  
8           with the issuance by the Commission of a construc-  
9           tion authorization and license for such repository.  
10          To the extent such statement is adopted by the  
11          Commission, such adoption shall be deemed to sat-  
12          isfy the responsibilities of the Commission under the  
13          National Environmental Policy Act of 1969 and no  
14          further consideration shall be required, except that  
15          nothing in this subsection shall affect any inde-  
16          pendent responsibilities of the Commission to protect  
17          the public health and safety under the Atomic En-  
18          ergy Act of 1954 (42 U.S.C. 2011 et seq.).

19          “(d) CONSTRUCTION WITH OTHER LAWS.—Nothing  
20          in this Act shall be construed to amend or otherwise de-  
21          tract from the licensing requirements of the Nuclear Reg-  
22          ulatory Commission established in title II of the Energy  
23          Reorganization Act of 1974 (42 U.S.C. 5841 et seq.).

24          “(e) JUDICIAL REVIEW.—Judicial review under sec-  
25          tion 503 of this Act of any environmental impact state-

1 ment prepared or adopted by the Commission shall be con-  
 2 solidated with the judicial review of the licensing decision  
 3 to which it relates. No court shall have jurisdiction to en-  
 4 join issuance of the Commission repository licensing regu-  
 5 lations prior to its final decision on review of such regula-  
 6 tions.

7 **“SEC. 207. LAND WITHDRAWAL.**

8 “(a) WITHDRAWAL AND RESERVATION.—

9 “(1) WITHDRAWAL.—Subject to valid existing  
 10 rights, the interim storage facility site and the  
 11 Yucca Mountain site, as described in subsection (b),  
 12 are withdrawn from all forms of entry, appropria-  
 13 tion, and disposal under the public land laws, includ-  
 14 ing the mineral leasing laws, the geothermal leasing  
 15 laws, the material sale laws, and the mining laws.

16 “(2) JURISDICTION.—Jurisdiction of any land  
 17 within the interim storage facility site and the Yucca  
 18 Mountain site managed by the Secretary of the Inte-  
 19 rior or any other Federal officer is transferred to the  
 20 Secretary.

21 “(3) RESERVATION.—The interim storage facil-  
 22 ity site and the Yucca Mountain site are reserved for  
 23 the use of the Secretary for the construction and op-  
 24 eration, respectively, of the interim storage facility

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

3 “(b) LAND DESCRIPTION.—

4 “(1) BOUNDARIES.—The boundaries depicted  
5 on the map entitled ‘Interim Storage Facility Site  
6 Withdrawal Map,’ dated July 28, 1995, and on file  
7 with the Secretary, are established as the boundaries  
8 of the interim storage facility site.

9 “(2) BOUNDARIES.—The boundaries depicted  
10 on the map entitled ‘Yucca Mountain Site With-  
11 drawal Map,’ dated July 28, 1995, and on file with  
12 the Secretary, are established as the boundaries of  
13 the Yucca Mountain site.

14 “(3) NOTICE AND MAPS.—Within 6 months of  
15 the date of enactment of this Act, the Secretary  
16 shall—

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

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

1           “(4) NOTICE AND MAPS.—Concurrent with the  
2       Secretary’s application to the Commission for au-  
3       thority to construct the repository, the Secretary  
4       shall—

5           “(A) publish in the Federal Register a no-  
6       tice containing a legal description of the Yucca  
7       Mountain site; and

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

13          “(5) CONSTRUCTION.—The maps and legal de-  
14      scriptions of the interim storage facility site and the  
15      Yucca Mountain site referred to in this subsection  
16      shall have the same force and effect as if they were  
17      included in this Act. The Secretary may correct cler-  
18      ical and typographical errors in the maps and legal  
19      descriptions and make minor adjustments in the  
20      boundaries of the sites.

21   **“SEC. 208. APPLICABILITY.**

22          “Nothing in this Act shall affect the application of  
23      chapter 51 of title 49, United States Code; part A of sub-  
24      title V of title 49, United States Code; part B of subtitle

1 VI of title 49, United States Code; and title 23, United  
2 States Code.

3 **“TITLE III—LOCAL RELATIONS**

4 **“SEC. 301. ONSITE REPRESENTATIVE.**

5 “The Secretary shall offer to Nye County, Nevada,  
6 an opportunity to designate a representative to conduct  
7 on-site oversight activities at the Yucca Mountain site.  
8 Reasonable expenses of such representatives shall be paid  
9 by the Secretary.

10 **“SEC. 302. FINANCIAL ASSISTANCE.**

11 “(a) GRANTS.—The Secretary is authorized to make  
12 grants to any affected Indian tribe or affected unit of local  
13 government for purposes of enabling the affected Indian  
14 tribe or affected unit of local government—

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

22 “(2) to develop a request for impact assistance  
23 under subsection (c);

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

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

4           “(5) to request information from, and make  
5           comments and recommendations to, the Secretary  
6           regarding any activities taken with respect to such  
7           site.

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

13          “(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

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

22               “(2) REPORT.—Any affected Indian tribe or af-  
23               fected unit of local government may request assist-  
24               ance under this section by preparing and submitting  
25               to the Secretary a report on the economic, social,

1 public health and safety, and environmental impacts  
2 that are likely to result from activities of the inte-  
3 grated management system.

4 “(d) OTHER ASSISTANCE.—

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

17 “(2) ASSISTANCE TO INDIAN TRIBES AND  
18 UNITS OF LOCAL GOVERNMENT.—

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

1           ernment of the termination of the operation of  
2           the integrated management system.

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

10 **“SEC. 303. BENEFITS AGREEMENTS.**

11       “(a) IN GENERAL.—

12           “(1) SEPARATE AGREEMENTS.—The Secretary  
13       shall offer to enter into separate agreements with  
14       Nye County, Nevada, and Lincoln County, Nevada,  
15       concerning the integrated management system.

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

24       “(b) AMENDMENT.—An agreement entered into  
25       under subsection (a) may be amended only with the mu-

1 tual consent of the parties to the amendment and termi-  
 2 nated only in accordance with subsection (c).

3 “(c) TERMINATION.—The Secretary shall terminate  
 4 an agreement under subsection (a) if any element of the  
 5 integrated management system may not be completed.

6 “(d) LIMITATION.—Only 1 agreement each for Nye  
 7 County, Nevada, and Lincoln County, Nevada, may be in  
 8 effect at any one time.

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

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

12 “(a) IN GENERAL.—

13 “(1) SCHEDULE.—The Secretary, subject to ap-  
 14 propriations, shall make payments to the party of a  
 15 benefits agreement under section 303(a) in accord-  
 16 ance with the following schedule:

17 “(A) Annual payments prior to first re-  
 18 ceipt of fuel, \$2.5 million;

19 “(B) Upon first spent fuel receipt, \$5 mil-  
 20 lion; and

21 “(C) Annual payments after first spent  
 22 fuel receipt until closure of facility, \$5 million.

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

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

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

7           “(3) ANNUAL PAYMENTS.—Annual payments  
8           prior to first spent receipt under line (A) of the ben-  
9           efit schedule shall be made on the date of execution  
10          of the benefits agreement and thereafter on the an-  
11          niversary date of such execution. Annual payments  
12          after the first spent fuel receipt until closure of the  
13          facility under line (C) of the benefit schedule shall  
14          be made on the anniversary date of such first spent  
15          fuel receipt.

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 prior to the receipt of spent  
19          fuel under line (A) of the benefit schedule, such first  
20          spent fuel payment under line (B) of the benefit  
21          schedule shall be reduced by an amount equal to  $\frac{1}{12}$   
22          of such annual payment under line (A) of the benefit  
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 benefit schedule.

1       “(b) CONTENTS.—A benefits agreement under sec-  
2 tion 303 shall provide that—

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

7               “(2) the affected unit of local government that  
8 is party to such agreement may comment on the de-  
9 velopment of the integrated management system and  
10 on 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 Sec-  
14 retary on a valid benefits agreement under section 303  
15 shall constitute a commitment by the United States to  
16 make payments in accordance with such agreement.

17 **“SEC. 305. 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 denied, either under the Constitu-  
22 tion of the State of Nevada or any law thereof, to the  
23 siting of the interim storage facility or repository in the  
24 State of Nevada, any provision of such Constitution or  
25 laws to the contrary notwithstanding.

1       “(b) ARGUMENTS.—Neither the United States nor  
 2 any other entity may assert any argument based on legal  
 3 or equitable estoppel, or acquiescence, or waiver, or con-  
 4 sensual involvement, in response to any decision by the  
 5 State of Nevada, to oppose the siting in Nevada of the  
 6 interim 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 shall ac-  
 9 crue to be asserted against the State of Nevada, its Gov-  
 10 ernor, any official thereof, or any official of any govern-  
 11 ment unit thereof, premised solely upon the acceptance or  
 12 use of benefits under this title.

13 **“SEC. 306. RESTRICTION ON USE OF FUNDS.**

14       “None of the funding provided under this title may  
 15 be used—

16           “(1) directly or indirectly to influence legislative  
 17 action on any manner 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  
 20 Code;

21           “(2) for litigation purposes; or

22           “(3) to support multistate efforts or other coali-  
 23 tion-building activities inconsistent with the purposes  
 24 of this Act.

1 **“SEC. 307. INITIAL LAND CONVEYANCES.**

2       “(a) CONVEYANCES OF PUBLIC LANDS.—One hun-  
3 dred and twenty days after October 1, 2000, all right, title  
4 and interest of the United States in the property described  
5 in subsection (b), and improvements thereon, together  
6 with all necessary easements for utilities and ingress and  
7 egress to such property, including, but not limited to, the  
8 right to improve those easements, are conveyed by oper-  
9 ation of law to the County of Nye, County of Lincoln, or  
10 the City of Caliente, Nevada, unless the county notifies  
11 the Secretary of the Interior or the head of such other  
12 appropriate agency in writing within 60 days of such date  
13 that it elects not to take title to all or any part of the  
14 property, except that any lands conveyed to the County  
15 of Nye under this subsection that are subject to a Federal  
16 grazing permit or lease or a similar federally granted per-  
17 mit or lease shall be conveyed between 60 and 120 days  
18 of the earliest time the Federal agency administering or  
19 granting the permit or lease would be able to legally termi-  
20 nate such right under the statutes and regulations existing  
21 at the date of enactment of this Act, unless Nye County  
22 and the affected holder of the permit or lease negotiate  
23 an agreement that allows for an earlier conveyance.

24       “(b) SPECIAL CONVEYANCES.—Subject to valid exist-  
25 ing rights and notwithstanding any other law, the Sec-

1   retary of the Interior or the head of the other appropriate  
2   agency shall convey:

3           “(1) To the County of Nye, Nevada, the fol-  
4   lowing public lands depicted on the maps dated Oc-  
5   tober 11, 1995, and on file with the Secretary:

6           “Map 1: Proposed Pahrump Industrial  
7   Park Site;

8           “Map 2: Proposed Lathrop Wells (Gate  
9   510) Industrial Park Site;

10          “Map 3: Pahrump Landfill Sites;

11          “Map 4: Amargosa Valley Regional Land-  
12   fill Site;

13          “Map 5: Amargosa Valley Municipal Land-  
14   fill Site;

15          “Map 6: Beatty Landfill/Transfer station  
16   Site;

17          “Map 7: Round Mountain Landfill Site;

18          “Map 8: Tonopah Landfill Site; and

19          “Map 9: Gabbs Landfill Site.

20          “(2) To the County of Lincoln, Nevada, the fol-  
21   lowing public lands depicted on the maps dated Oc-  
22   tober 11, 1995, and on file with the Secretary:

23          “Map 2: Lincoln County, Parcel M, Indus-  
24   trial Park Site, Jointly with the City of  
25   Caliente;

1 “Map 3: Lincoln County, Parcels F and G,  
2 Mixed Use, Industrial Sites;

3 “Map 4: Lincoln County, Parcels H and I,  
4 Mixed Use and Airport Expansion Sites;

5 “Map 5: Lincoln County, Parcels J and K,  
6 Mixed Use, Airport and Landfill Expansion  
7 Sites; and

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

11 “(3) To the City of Caliente, Nevada, the fol-  
12 lowing public lands depicted on the maps dated Oc-  
13 tober 11, 1995, and on file with the Secretary:

14 “Map 1: City of Caliente, Parcels A, B, C  
15 and D, Community Growth, Landfill Expansion  
16 and Community Recreation Sites; and

17 “Map 2: City of Caliente, parcel M, Indus-  
18 trial Park Site, jointly with Lincoln County.

19 “(4) To the City of Caliente, Nevada, the fol-  
20 lowing public lands depicted on the maps dated  
21 March 15, 1999, and on file with the Secretary:

22 “Map 1: City of Caliente, Industrial Park  
23 Site Expansion.

24 “(c) CONSTRUCTION.—The maps and legal descrip-  
25 tions of special conveyances referred to in subsection (b)

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

6 “(d) EVIDENCE OF TITLE TRANSFER.—Upon the re-  
 7 quest of the County of Lincoln, Nevada, the Secretary of  
 8 the Interior shall provide evidence of title transfer.

9 **“SEC. 308. PAYMENTS EQUAL TO TAXES.**

10 “(a) TAXABLE AMOUNTS.—In addition to financial  
 11 assistance provided under this title, the Secretary is au-  
 12 thorized to grant to any affected Indian tribe or affected  
 13 unit of local government an amount each fiscal year equal  
 14 to the amount such affected Indian tribe or affected unit  
 15 of local government, respectively, would receive if author-  
 16 ized to tax integrated management system activities, as  
 17 such affected Indian tribe or affected unit of local govern-  
 18 ment taxes the non-Federal real property and industrial  
 19 activities occurring within such affected unit of local gov-  
 20 ernment.

21 “(b) ASSISTANCE TO INDIAN TRIBES AND UNITS OF  
 22 LOCAL GOVERNMENT.—

23 “(1) PERIOD.—Any affected Indian tribe or af-  
 24 fected unit of local government may not receive any  
 25 grant under subsection (a) after the expiration of

1 the 1-year period following the date on which the  
 2 Secretary notifies the affected Indian tribe or af-  
 3 fected unit of local government of the termination of  
 4 the operation of the integrated management system.

5 “(2) ACTIVITIES.—Any affected Indian tribe or  
 6 affected unit of local government may not receive  
 7 any further assistance under this section if the inte-  
 8 grated management system activities at such site are  
 9 terminated by the Secretary or if such activities are  
 10 permanently enjoined by any court.

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

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

13 “(a) CONTRACTS.—

14 “(1) AUTHORITY OF THE SECRETARY.—In the  
 15 performance of the Secretary’s functions under this  
 16 Act, the Secretary is authorized to enter into con-  
 17 tracts with any person who generates or holds title  
 18 to spent nuclear fuel or high-level radioactive waste  
 19 of domestic origin for the acceptance of title and  
 20 possession, transportation, interim storage, and dis-  
 21 posal of such waste or spent fuel. Such contracts  
 22 shall provide for payment of fees to the Secretary in  
 23 the amounts set under paragraphs (2), (3), and (4).  
 24 Subsequent to the enactment of the Nuclear Waste  
 25 Policy Act of 1999, the contracts executed under

1 section 302(a) of the Nuclear Waste Policy Act of  
 2 1982 shall continue in effect under this Act: *Pro-*  
 3 *vided*, That the Secretary shall consent to an amend-  
 4 ment to such contracts as necessary to implement  
 5 the provisions of this Act.

6 “(2) NUCLEAR WASTE OFFSETTING COLLEC-  
 7 TION.—

8 “(A) For electricity generated by civilian  
 9 nuclear power reactors and sold, the Secretary  
 10 shall collect an aggregate amount of fees under  
 11 this paragraph equal to the annual level of ap-  
 12 propriations for expenditures on those activities,  
 13 consistent with subsection (d), for each fiscal  
 14 year beginning October 1, 2000, minus—

15 “(i) the appropriation provided pursu-  
 16 ant to section 403; and

17 “(ii) the amount of the appropriation  
 18 from the Nuclear Waste Fund, as author-  
 19 ized pursuant to paragraph (3)(B).

20 “(B) The Secretary shall determine the  
 21 level of the annual fee for each civilian nuclear  
 22 power reactor based on the amount of elec-  
 23 tricity generated and sold, except that for the  
 24 period commencing with fiscal year 2001 and

continuing through the fiscal year in which disposal at the repository commences—

“(I) the total average annual amount of offsetting collection fees combined with the nuclear waste mandatory fee collected pursuant to paragraph (3), shall not exceed 1.0 mill per-kilowatt hour generated and sold; and

“(II) the total amount of offsetting collection fees combined with the nuclear waste mandatory fee collected pursuant to paragraph (3) in any fiscal year in such period shall not exceed 1.5 mill per kilowatt hour generated and sold:

*Provided,* That the cap on fees established under this subparagraph shall not otherwise result in a reduction to the level of the nuclear waste mandatory fee established pursuant to paragraph (3). Fees assessed pursuant to this subparagraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended.

“(3) NUCLEAR WASTE MANDATORY FEE.—

1           “(A) Except as provided in paragraph  
2           (5)(B) of this paragraph, for electricity gen-  
3           erated by civilian nuclear power reactors and  
4           sold on or after January 7, 1983, the fee paid  
5           to the Secretary under this paragraph shall be  
6           equal to—

7                   “(i) 1.0 mill per kilowatt-hour gen-  
8                   erated and sold for the fiscal year begin-  
9                   ning October 1, 1999;

10                   “(ii) 0.54 mill per kilowatt-hour gen-  
11                   erated and sold for each fiscal year begin-  
12                   ning October 1, 2000 and ending on Sep-  
13                   tember 30, 2004;

14                   “(iii) 0.41 mill per kilowatt-hour gen-  
15                   erated and sold for each fiscal year begin-  
16                   ning October 1, 2004 and ending Sep-  
17                   tember 30, 2009; and,

18                   “(iv) zero mill per kilowatt-hour gen-  
19                   erated and sold for each fiscal year after  
20                   September 30, 2009, unless the Secretary  
21                   makes a determination pursuant to para-  
22                   graph (5)(C), which is adopted pursuant to  
23                   paragraph (7).

24           “(B) There is authorized to be appro-  
25           priated from the Nuclear Waste Fund, for each

1           fiscal year beginning October 1, 1999, amounts  
2           equal to the amounts determined in subpara-  
3           graph (A), as well as such sums as may be nec-  
4           essary from the balances in the Nuclear Waste  
5           Fund.

6           “(4) CAP ON PARAGRAPH (2) AND (3) FEES.—

7           The total annual amount of offsetting collection fees  
8           collected pursuant to paragraph (2) and the nuclear  
9           waste mandatory fee collected pursuant to para-  
10          graph (3) shall not exceed 1.0 mill per-kilowatt hour  
11          generated and sold.

12          “(5) ADJUSTMENTS TO THE CAP ON FEES.—

13                 “(A) No later than 30 days after the be-  
14                 ginning of each fiscal year, the Secretary shall  
15                 determine whether insufficient or excess reve-  
16                 nues are being collected under this subsection,  
17                 in order to recover the costs incurred by the  
18                 Federal Government under subsection (d). In  
19                 making this determination, the Secretary  
20                 shall—

21                         “(i) rely on the ‘Analysis of the Total  
22                         System Life Cycle Cost of the Civilian Ra-  
23                         dioactive Waste Management Program’,  
24                         dated December 1998, or on a total system  
25                         life-cycle costs analysis published by the

1 Secretary (after notice and opportunity for  
2 public comment) after the date of enact-  
3 ment of the Nuclear Waste Policy Act of  
4 1999, in making any estimate of the costs  
5 to be incurred by the Government under  
6 subsection (c)(2);

7 “(ii) rely on projections from the En-  
8 ergy Information Administration, con-  
9 sistent with the projections contained in  
10 the reference case in the most recent ‘An-  
11 nual Energy Outlook’ published by such  
12 Administration, in making any estimate of  
13 future power generation; and

14 “(iii) take into account projected  
15 balances in, and expenditures from the Nu-  
16 clear Waste Fund.

17 “(B) If the Secretary determines under  
18 subparagraph (A) that either insufficient or ex-  
19 cess revenues are being collected, the Secretary  
20 shall, at the time of the determination, transmit  
21 to Congress a proposal to adjust the cap  
22 amount specified in subsection (a)(2)(B) to en-  
23 sure full cost recovery. The amount in sub-  
24 section (a)(2)(B) shall be adjusted, by operation  
25 of law, immediately upon enactment of a joint

1 resolution of approval under paragraph (7) of  
2 this subsection.

3 “(C) For any fiscal year after September  
4 30, 2009, the Secretary shall propose a nuclear  
5 waste mandatory fee only if the Secretary de-  
6 termines that the offsetting collection fee under  
7 subsection (a)(2) is insufficient to recover the  
8 costs incurred by the Government under sub-  
9 section (d), minus the percentage required to be  
10 funded by the Federal Government pursuant to  
11 section 403.

12 “(D) The Secretary shall, by rule, establish  
13 procedures necessary to implement this para-  
14 graph.

15 “(6) ONE-TIME FEE.—

16 “(A) For spent nuclear fuel or solidified  
17 high-level radioactive waste derived from spent  
18 nuclear fuel, which fuel was used to generate  
19 electricity in a civilian nuclear power reactor  
20 prior to January 7, 1983, the fee shall be in an  
21 amount equivalent to an average charge of 1.0  
22 mill per kilowatt-hour for electricity generated  
23 by such spent nuclear fuel, or such solidified  
24 high-level waste derived therefrom. Payment of  
25 such one-time fee prior to the date of enact-

1           ment of the Nuclear Waste Policy Act of 1999  
2           shall satisfy the obligation imposed under this  
3           paragraph.

4           “(B) Any one-time fee paid and collected  
5           subsequent to the date of enactment of the Nu-  
6           clear Waste Policy Act of 1999 pursuant to the  
7           contracts, including any interest due pursuant  
8           to the contracts, shall be paid to the Nuclear  
9           Waste Fund—

10           “(i) for civilian nuclear power reactors  
11           owned by investor-owned and coopera-  
12           tively-owned utilities, an amount not less  
13           than one half the one-time fee shall be paid  
14           no later than September 30, 2004, and the  
15           remaining balance shall be paid no later  
16           than September 30, 2009;

17           “(ii) for civilian nuclear power reac-  
18           tors owned by publicly-owned utilities, the  
19           one time fee shall be paid in four incre-  
20           ments of one-fourth each, in the fiscal  
21           years ending on September 30, 2003,  
22           2004, 2008 and 2009; and

23           “(iii) any unpaid amounts of the one-  
24           time fee shall continue to accrue interest  
25           until the time of payment, pursuant to the

1 terms and conditions established in con-  
2 tracts.

3 “(C) The Commission shall suspend the li-  
4 cense of any licensee who fails or refuses to pay  
5 the full amount of the fees assessed under this  
6 subsection, on or before the date on which fees  
7 are due, and the license shall remain suspended  
8 until the full amount of the fees assessed under  
9 this subsection is paid.

10 “(D) The person paying the fee under this  
11 paragraph to the Secretary shall have no fur-  
12 ther financial obligation to the Federal Govern-  
13 ment for the long-term storage and permanent  
14 disposal of spent fuel or high-level radioactive  
15 waste derived from spent nuclear fuel used to  
16 generate electricity in a civilian power reactor  
17 prior to January 7, 1983.

18 “(7) EXPEDITED PROCEDURES FOR APPROVAL  
19 OF CHANGES TO THE CAP ON NUCLEAR WASTE  
20 FEES.—

21 “(A) At any time after the Secretary  
22 transmits a proposal for a fee adjustment under  
23 paragraph (5)(B) of this subsection, a joint res-  
24 olution may be introduced in either House of  
25 Congress, the matter after the resolving clause

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

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

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

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

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

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

5       “(b) ADVANCE CONTRACTING REQUIREMENT.—

6               “(1) IN GENERAL.—

7                       “(A) LICENSE ISSUANCE AND RENEWAL.—

8       The Commission shall not issue or renew a li-  
9       cense to any person to use a utilization or pro-  
10      duction facility under the authority of section  
11      103 or 104 of the Atomic Energy Act of 1954  
12      (42 U.S.C. 2133, 2134) unless—

13               “(i) such person has entered into a  
14      contract under subsection (a) with the Sec-  
15      retary; or

16               “(ii) the Secretary affirms in writing  
17      that such person is actively and in good  
18      faith negotiating with the Secretary for a  
19      contract under subsection (a).

20               “(B) PRECONDITION.—The Commission,  
21      as it deems necessary or appropriate, may re-  
22      quire as a precondition to the issuance or re-  
23      newal of a license under section 103 or 104 of  
24      the Atomic Energy Act of 1954 (42 U.S.C.  
25      2133, 2134) that the applicant for such license

1           shall have entered into an agreement with the  
2           Secretary for the disposal of spent nuclear fuel  
3           and high-level radioactive waste that may result  
4           from the use of such license.

5           “(2) DISPOSAL IN REPOSITORY.—No spent nu-  
6           clear fuel or high-level radioactive waste generated  
7           or owned by any person (other than a department of  
8           the United States referred to in section 101 or 102  
9           of title 5, United States Code) may be disposed of  
10          by the Secretary in the repository unless the gener-  
11          ator or owner of such spent fuel or waste has en-  
12          tered into a contract under subsection (a) with the  
13          Secretary by not later than June 30, 1983, or the  
14          date on which such generator or owner commences  
15          generation of, or takes title to, such spent fuel or  
16          waste.

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

19          “(4) DISPOSAL CONDITION.—No spent nuclear  
20          fuel or high-level radioactive waste from research or  
21          atomic energy defense activities may be stored or  
22          disposed of by the Secretary at the interim storage  
23          facility or repository unless, in each fiscal year, the  
24          Secretary funds the appropriate portion of the costs  
25          of such storage and disposal as specified in sub-

1 section (a), as well as an amount that will ensure  
 2 that the unpaid balance of the Federal contribution  
 3 from prior years is fully paid no later than the date  
 4 of initial acceptance of spent nuclear fuel and high-  
 5 level radioactive waste at the repository.

6 “(c) NUCLEAR WASTE FUND.—

7 “(1) IN GENERAL.—The Nuclear Waste Fund  
 8 established in the Treasury of the United States  
 9 under section 302(c) of the Nuclear Waste Policy  
 10 Act of 1982 shall continue in effect under this Act  
 11 and shall consist of—

12 “(A) the existing balance in the Nuclear  
 13 Waste Fund on the date of enactment of this  
 14 Act; and

15 “(B) all receipts, proceeds, and recoveries  
 16 realized under subsections (a)(3), (a)(6), and  
 17 (c)(2) subsequent to the date of enactment of  
 18 the Nuclear Waste Policy Act of 1999, which  
 19 shall be deposited in the Nuclear Waste Fund  
 20 immediately upon their realization.

21 “(2) ADMINISTRATION OF NUCLEAR WASTE  
 22 FUND.—

23 “(A) IN GENERAL.—The Secretary of the  
 24 Treasury shall hold the Nuclear Waste Fund  
 25 and, after consultation with the Secretary, an-

1 nually report to the Congress on the financial  
2 condition and operations of the Nuclear Waste  
3 Fund during the proceeding fiscal year.

4 “(B) AMOUNTS IN EXCESS OF CURRENT  
5 NEEDS.—If the Secretary determines that the  
6 Nuclear Waste Fund contains at any time  
7 amounts in excess of current needs, the Sec-  
8 retary may request the Secretary of the Treas-  
9 ury to invest such amounts, or any portion of  
10 such amounts as the Secretary determines to be  
11 appropriate, in obligations of the United  
12 States—

13 “(i) having maturities determined by  
14 the Secretary of the Treasury to be appro-  
15 priate to the needs of the Nuclear Waste  
16 Fund;

17 “(ii) bearing interest at rates deter-  
18 mined to be appropriate by the Secretary  
19 of the Treasury, taking into consideration  
20 the current average market yield on out-  
21 standing marketable obligations of the  
22 United States with remaining periods to  
23 maturity comparable to the maturities of  
24 such investments, except that the interest  
25 rates on such investments shall not exceed

1           the average interest rate applicable to ex-  
2           isting borrowings, and

3           “(iii) interest earned on these obliga-  
4           tions shall be credited to the Nuclear  
5           Waste Fund.

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

13          “(d) USE OF APPROPRIATED FUNDS.—During each  
14          fiscal year, the Secretary may make expenditures of funds  
15          collected after the date of enactment of this Act under  
16          this section and section 403, up to the level of appropria-  
17          tions for that fiscal year pursuant to subsection (f) and  
18          (g) only for purposes of the integrated management sys-  
19          tem.

20          “(e) PROHIBITION ON USE OF APPROPRIATIONS AND  
21          NUCLEAR WASTE FUND.—The Secretary shall not make  
22          expenditures of funds collected pursuant to this section or  
23          section 403 to design or construct packages for the trans-  
24          portation, storage, or disposal of spent nuclear fuel from  
25          civilian nuclear power reactors. Nothing in this subsection

1 shall be construed to prohibit the Secretary from using  
2 funds collected pursuant to this section or section 403 to  
3 procure from private suppliers any package that has been  
4 certified by the Commission for the transportation, stor-  
5 age or disposal of spent nuclear fuel, or to reimburse the  
6 holder of a contract, under subsection (a) for the reason-  
7 able costs of a certified package procured or developed by  
8 the contract holder for use by the contract holder at his  
9 site.

10       “(f) BUDGET.—The Secretary shall submit the budg-  
11 et for implementation of the Secretary’s responsibilities  
12 under this Act to the Office of Management and Budget  
13 annually along with the budget of the Department of En-  
14 ergy submitted at such time in accordance with chapter  
15 11 of title 31, United States Code. The budget shall con-  
16 sist of the estimates made by the Secretary of expendi-  
17 tures under this Act and other relevant financial matters  
18 for the period up to the date of initial acceptance of spent  
19 nuclear fuel or high-level radioactive waste at the perma-  
20 nent repository, and shall be included in the budget of the  
21 United States Government.

22       “(g) APPROPRIATIONS.—The Secretary may make  
23 expenditures from the Nuclear Waste Fund and the Nu-  
24 clear Waste Offsetting Collection, subject to appropria-  
25 tions, which shall remain available until expended.

1   **“SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MAN-**  
2                   **AGEMENT.**

3           “(a) ESTABLISHMENTS.—There hereby is established  
4 within the Department of Energy an Office of Civilian Ra-  
5 dioactive Waste Management. The Office shall be headed  
6 by a Director, who shall be appointed by the President,  
7 by and with the advice and consent of the Senate, and  
8 who shall be compensated at the rate payable for level IV  
9 of the Executive Schedule under section 5315 of title 5,  
10 United States Code.

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

16          “(c) AUDITS.—

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

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

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

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

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

15 **“SEC. 403. FEDERAL CONTRIBUTION.**

16 “(a) ALLOCATION.—No later than one year from the  
17 date of enactment of the Nuclear Waste Policy Act of  
18 1999, acting pursuant to section 553 of title 5, United  
19 States Code, the Secretary shall issue a final rule estab-  
20 lishing the appropriate portion of the costs of managing  
21 spent nuclear fuel and high-level radioactive waste under  
22 this Act allocable to the interim storage or permanent dis-  
23 posal of spent nuclear fuel and high-level radioactive waste  
24 from research and atomic energy defense activities and  
25 spent nuclear fuel from foreign research reactors. The

1 share of costs allocable to the management of spent nu-  
2 clear fuel and high-level radioactive waste from research  
3 and atomic energy defense activities and spent nuclear fuel  
4 from foreign research reactors shall include—

5           “(1) an appropriate portion of the costs associ-  
6 ated with research and development activities with  
7 respect to the development of an interim storage fa-  
8 cility and repository; and

9           “(2) interest on the principal amounts due cal-  
10 culated by reference to the appropriate Treasury bill  
11 rate as if the payments were made at a point in time  
12 consistent with the payment dates for spent nuclear  
13 fuel and high-level radioactive waste under the con-  
14 tracts.

15       “(b) APPROPRIATION REQUEST.—In addition to any  
16 request for an appropriation from the Nuclear Waste  
17 Fund, the Secretary shall request annual appropriations  
18 from general revenues in amounts sufficient to pay the  
19 costs of the management of spent nuclear fuel and high-  
20 level radioactive waste from research and atomic energy  
21 defense activities and spent nuclear fuel from foreign re-  
22 search reactors, as established under subsection (a), in-  
23 cluding amounts necessary to pay the unfunded costs from  
24 prior years, with interest.

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

8       “(d) AUTHORIZATION.—There is authorized to be ap-  
 9 propriated to the Secretary, from general revenues, for  
 10 carrying out the purposes of this Act, such sums as may  
 11 be necessary to pay the costs of the management of spent  
 12 nuclear fuel and high-level radioactive waste from research  
 13 and atomic energy defense activities and spent nuclear fuel  
 14 from foreign research reactors, as established under sub-  
 15 section (a), including amounts necessary to pay the un-  
 16 funded costs from prior years, with interest.

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

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

20       “(a) CONFLICTING REQUIREMENTS.—Except as pro-  
 21 vided in subsection (b) of this section, a requirement of  
 22 a State, political subdivision of a State, or Indian tribe  
 23 is preempted if—

24               “(1) complying with a requirement of the State,  
 25       political subdivision, or tribe and a requirement of

1       this Act or a regulation prescribed under this Act is  
2       not possible; or

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

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

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

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

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

20                      “(A) an interim storage facility;

21                      “(B) a repository;

22                      “(C) the capability to conduct intermodal  
23      transfer of spent nuclear fuel under section  
24      201.

1           “(4) The withdrawal or transfer of the interim  
2           storage facility site, the intermodal transfer site, or  
3           the repository site to the Secretary of Energy.

4           “(5) The design, manufacturing, fabrication,  
5           marking, maintenance, reconditioning, repairing, or  
6           testing of packaging or a container represented,  
7           marked, certified, or sold as qualified for use in  
8           transporting or storing spent nuclear fuel or high-  
9           level radioactive waste.

10   **“SEC. 502. WATER RIGHTS.**

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

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

24           “(c) EXERCISE OF WATER RIGHTS GENERALLY  
25   UNDER NEVADA LAWS.—Nothing in this Act shall be con-

1 strued to limit the exercise of water rights as provided  
 2 under Nevada State laws.

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

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

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

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

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

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

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

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

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

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

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

1 **“SEC. 504. LICENSING OF FACILITY EXPANSIONS AND**  
2 **TRANSSHIPMENTS.**

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

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

5       “(b) ADJUDICATORY HEARING.—

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

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

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

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

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

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

3 “(B) shall not consider—

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

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

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

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

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

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

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

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

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

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

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

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

18   **“SEC. 506. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL**  
19                   **RADIOACTIVE WASTE SITE CLOSURE.**

20          “(a) FINANCIAL ARRANGEMENTS.—

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

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

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

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

7       “(b) TITLE AND CUSTODY.—

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

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

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

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

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

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

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

19 **“SEC. 507. NUCLEAR REGULATORY COMMISSION TRAINING**  
 20 **AUTHORIZATION.**

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

1   ance shall establish simulator training requirements for  
2   applicants for civilian nuclear powerplant operator licenses  
3   and for operator requalification programs; requirements  
4   governing Commission administration of requalification  
5   examinations; requirements for operating tests at civilian  
6   nuclear powerplant simulators, and instructional require-  
7   ments for civilian nuclear powerplant licensee personnel  
8   training programs.

9   **“SEC. 508. ACCEPTANCE SCHEDULE.**

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

12           “(1) PRIORITY RANKING.—Acceptance priority  
13   ranking shall be determined by the Department’s  
14   ‘Acceptance Priority Ranking’ report.

15           “(2) ACCEPTANCE RATE.—Except as provided  
16   in paragraph (5), the Secretary’s acceptance rate for  
17   spent nuclear fuel shall be no less than the fol-  
18   lowing: 1,200 MTU in 2003 and 1,200 MTU in  
19   2004, 2,000 MTU in 2005 and 2,000 MTU in 2006,  
20   2,700 MTU in 2007, and 3,000 MTU annually  
21   thereafter.

22           “(3) OTHER ACCEPTANCES.—Subject to the  
23   conditions contained in the license for the interim  
24   storage facility, of the amounts provided for in para-

1 graph (2) for each year, not less than one-sixth shall  
2 be—

3 “(A) spent nuclear fuel or civilian high-  
4 level radioactive waste of domestic origin from  
5 civilian nuclear power reactors that have perma-  
6 nently ceased operation on or before the date of  
7 enactment of the Nuclear Waste Policy Act of  
8 1999;

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

12 “(C) spent nuclear fuel and high-level ra-  
13 dioactive waste from research and atomic en-  
14 ergy defense activities, including spent nuclear  
15 fuel from naval reactors:

16 *Provided, however,* That the Secretary shall accept  
17 not less than ten percent of the total quantity of fuel  
18 and high-level radioactive waste accepted in any year  
19 from the categories of radioactive materials de-  
20 scribed in subparagraphs (B) and (C) in paragraph  
21 (3). If sufficient amounts of radioactive materials  
22 are not available to utilize this allocation, the Sec-  
23 retary shall allocate this acceptance capacity to other  
24 contract holders.

1           “(4) ADJUSTMENT.—If the Secretary is unable  
 2           to begin acceptance by June 30, 2003 at the rate  
 3           specified in paragraph (2) or if the cumulative  
 4           amount accepted in any year thereafter is less than  
 5           that which would have been accepted under the rate  
 6           specified in paragraph (2), the acceptance schedule  
 7           shall, to the extent practicable, be adjusted upward  
 8           such that within 5 years of the start of acceptance  
 9           by the Secretary—

10                   “(A) the total quantity accepted by the  
 11                   Secretary is consistent with the total quantity  
 12                   that the Secretary would have accepted if the  
 13                   Secretary had begun acceptance in 2003; and

14                   “(B) thereafter the acceptance rate is  
 15                   equivalent to the rate that would be in place  
 16                   pursuant to paragraph (2) if the Secretary had  
 17                   commenced acceptance in 2003.

18           “(5) EFFECT ON SCHEDULE.—The contractual  
 19           acceptance schedule shall not be modified in any way  
 20           as a result of the Secretary’s acceptance of any ma-  
 21           terial other than contract holders’ spent nuclear fuel  
 22           and high-level radioactive waste.

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

24           “Notwithstanding any other provision of law—

1           “(1) the subseabed or ocean water disposal of  
2           spent nuclear fuel or high-level radioactive waste is  
3           prohibited; and

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

7   **“SEC. 510. TRANSFER OF TITLE.**

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

11          “(b) No later than 6 months following the date of  
12          enactment of the Nuclear Waste Policy Act of 1999, the  
13          Secretary is authorized to accept all spent nuclear fuel  
14          withdrawn from Dairyland Power Cooperative’s La Crosse  
15          Reactor and, upon acceptance, shall provide Dairyland  
16          Power Cooperative with evidence of the title transfer. Im-  
17          mediately upon the Secretary’s acceptance of such spent  
18          nuclear fuel, the Secretary shall assume all responsibility  
19          and liability for the interim storage and permanent dis-  
20          posal thereof and is authorized to compensate Dairyland  
21          Power Cooperative for any costs related to operating facili-  
22          ties necessary for such storage from the date of acceptance  
23          until the Secretary removes the spent nuclear fuel from  
24          the La Crosse Reactor site.

1 **“SEC. 511. SEPARABILITY.**

2 “If any provision of this Act, or the application of  
3 such provision to any person or circumstance, is held to  
4 be invalid, the remainder of this Act, or the application  
5 of such provision to persons or circumstances other than  
6 those as to which it is held invalid, shall not be affected  
7 thereby.

8 **“SEC. 512. PURCHASE OF AMERICAN-MADE EQUIPMENT**  
9 **AND PRODUCTS.**

10 “(a) IN GENERAL.—It is the sense of the Congress  
11 that, to the greatest extent practicable, all equipment and  
12 products purchased with funds made available under this  
13 Act should be American-made.

14 “(b) NOTICE REQUIREMENT.—In providing financial  
15 assistance to, or entering into any contract with, any enti-  
16 ty using funds made available under this Act, the head  
17 of each Federal agency, to the greatest extent practicable,  
18 shall provide to such entity a notice describing the state-  
19 ment made in subsection (a) by the Congress.

20 “(c) PROHIBITION OF CONTRACTS WITH PERSONS  
21 FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—  
22 If it has been finally determined by a court or Federal  
23 agency that any person intentionally affixed a label bear-  
24 ing a ‘Made in America’ inscription, or any inscription  
25 with the same meaning, to any product sold in or shipped  
26 to the United States that is not made in the United

1 States, the person shall be ineligible to receive any con-  
 2 tract or subcontract made with funds made available  
 3 under this Act, pursuant to the debarment, suspension,  
 4 and ineligibility procedures described in sections 9.400  
 5 through 9.409 of title 48, Code of Federal Regulations.

6 **“TITLE VI—NUCLEAR WASTE TECHNICAL**  
 7 **REVIEW BOARD**

8 **“SEC. 601. DEFINITIONS.**

9 “For purposes of this title—

10 “(1) CHAIRMAN.—The term ‘Chairman’ means  
 11 the Chairman of the Nuclear Waste Technical Re-  
 12 view Board.

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

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

17 “(a) CONTINUATION OF NUCLEAR WASTE TECH-  
 18 NICAL REVIEW BOARD.—The Nuclear Waste Technical  
 19 Review Board, established under section 502(a) of the Nu-  
 20 clear Waste Policy Act of 1982 as constituted prior to the  
 21 date of enactment of this Act, shall continue in effect sub-  
 22 sequent to the date of enactment of this Act.

23 “(b) MEMBERS.—

24 “(1) NUMBER.—The Board shall consist of 11  
 25 members who shall be appointed by the President

1 not later than 90 days after December 22, 1987,  
2 from among persons nominated by the National  
3 Academy of Sciences in accordance with paragraph  
4 (3).

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

7 “(3) NATIONAL ACADEMY OF SCIENCES.—

8 “(A) NOMINATIONS.—The National Acad-  
9 emy of Sciences shall, not later than 90 days  
10 after December 22, 1987, nominate not less  
11 than 22 persons for appointment to the Board  
12 from among persons who meet the qualifica-  
13 tions described in subparagraph (C).

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

19 “(C) NOMINEES.—

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

22 “(I) eminent in a field of science  
23 or engineering, including environ-  
24 mental sciences; and

1 “(II) selected solely on the basis  
2 of established records of distinguished  
3 service.

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

8 “(iii) No person shall be nominated  
9 for appointment to the Board who is an  
10 employee of—

11 “(I) the Department of Energy;

12 “(II) a national laboratory under  
13 contract with the Department of En-  
14 ergy; or

15 “(III) an entity performing spent  
16 nuclear fuel or high-level radioactive  
17 waste activities under contract with  
18 the Department of Energy.

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

22 “(5) TERMS.—Members of the Board shall be  
23 appointed for terms of 4 years, each such term to  
24 commence 120 days after December 22, 1987, ex-  
25 cept that of the 11 members first appointed to the

1 Board, 5 shall serve for 2 years and 6 shall serve  
2 for 4 years, to be designated by the President at the  
3 time of appointment, except that a member of the  
4 Board whose term has expired may continue to serve  
5 as a member of the Board until such member's suc-  
6 cessor has taken office.

7 **“SEC. 603. FUNCTIONS.**

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

11 “(1) site characterization activities; and

12 “(2) activities relating to the packaging or  
13 transportation of spent nuclear fuel or high-level ra-  
14 dioactive waste.

15 **“SEC. 604. INVESTIGATORY POWERS.**

16 “(a) HEARINGS.—Upon the request of the Chairman  
17 or a majority of the members of the Board, the Board  
18 may hold such hearings, sit and act at such times and  
19 places, take such testimony, and received such evidence,  
20 as the Board considers appropriate. Any member of the  
21 Board may administer oaths or affirmations to witnesses  
22 appearing before the Board.

23 “(b) PRODUCTION OF DOCUMENTS.—

24 “(1) RESPONSE TO INQUIRIES.—Upon the re-  
25 quest of the Chairman or a majority of the members

1 of the Board, and subject to existing law, the Sec-  
2 retary (or any contractor of the Secretary) shall pro-  
3 vide the Board with such records, files, papers, data,  
4 or information as may be necessary to respond to  
5 any inquiry of the Board under this title.

6 “(2) EXTENT.—Subject to existing law, infor-  
7 mation obtainable under paragraph (1) shall not be  
8 limited to final work products of the Secretary, but  
9 shall include drafts of such products and documenta-  
10 tion of work in progress.

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

12 “(a) IN GENERAL.—Each member of the Board  
13 shall, subject to appropriations, be paid at the rate of pay  
14 payable for level III of the Executive Schedule for each  
15 day (including travel time) such member is engaged in the  
16 work of the Board.

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

22 **“SEC. 606. STAFF.**

23 “(a) CLERICAL STAFF.—

24 “(1) AUTHORITY OF CHAIRMAN.—Subject to  
25 paragraph (2), the Chairman may, subject to appro-

1        priations, appoint and fix the compensation of such  
 2        clerical staff as may be necessary to discharge the  
 3        responsibilities of the Board.

4            “(2) PROVISIONS OF TITLE 5.—Clerical staff  
 5        shall be appointed subject to the provisions of title  
 6        5, United States Code, governing appointments in  
 7        the competitive service, and shall be paid in accord-  
 8        ance with the provisions of chapter 51 and sub-  
 9        chapter III of chapter 3 of such title relating to clas-  
 10       sification and General Schedule pay rates.

11        “(b) PROFESSIONAL STAFF.—

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

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

20            “(3) TITLE 5.—Professional staff members may  
 21        be appointed without regard to the provisions of title  
 22        5, United States Code, governing appointments in  
 23        the competitive service, and may be paid without re-  
 24        gard to the provisions of chapter 51 and subchapter  
 25        III of chapter 53 of such title relating to classifica-

1       tion and General Schedule pay rates, except that no  
2       individual so appointed may receive pay in excess of  
3       the annual rate of basic pay payable for GS-18 of  
4       the General Schedule.

5   **“SEC. 607. SUPPORT SERVICES.**

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

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

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

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

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

8       **“SEC. 608. REPORT.**

9       “The Board shall report not less than 2 times per  
10 year to Congress and the Secretary its findings, conclu-  
11 sions, and recommendations.

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

13       “There are authorized to be appropriated for expendi-  
14 tures such sums as may be necessary to carry out the pro-  
15 visions of this title.

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

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

21       **“TITLE VII—MANAGEMENT REFORM**

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

23       “(a) IN GENERAL.—The Secretary is directed to take  
24 actions as necessary to improve the management of the  
25 civilian radioactive waste management program to ensure

1 that the program is operated, to the maximum extent  
2 practical, in like manner as a private business.

3 “(b) SITE CHARACTERIZATION.—The Secretary shall  
4 employ, on an on-going basis, integrated performance  
5 modeling to identify appropriate parameters for the re-  
6 maining site characterization effort and to eliminate stud-  
7 ies of parameters that are shown not to affect long-term  
8 performance.

9 **“SEC. 702. REPORTING.**

10 “(a) INITIAL REPORT.—Within 180 days of the date  
11 of enactment of this Act, the Secretary shall report to  
12 Congress on its planned actions for implementing the pro-  
13 visions of this Act, including the development of the Inte-  
14 grated Waste Management System. Such report shall  
15 include—

16 “(1) an analysis of the Secretary’s progress in  
17 meeting its statutory and contractual obligation to  
18 accept title to, possession of, and delivery of spent  
19 nuclear fuel and high-level radioactive waste begin-  
20 ning no later than June 30, 2003, and in accordance  
21 with the acceptable schedule;

22 “(2) a detailed schedule and timeline showing  
23 each action that the Secretary intends to take to  
24 meet the Secretary’s obligations under this Act and  
25 the contracts;

1           “(3) a detailed description of the Secretary’s  
 2           contingency plans in the event that the Secretary is  
 3           unable to meet the planned schedule and timeline;  
 4           and

5           “(4) an analysis by the Secretary of its funding  
 6           needs for fiscal years 1999 through 2004.

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

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

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

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

21   **SEC. 2. CONTINUATION OF CONTRACTS.**

22          Subsequent to the date of enactment of this Act, the  
 23          contracts executed under section 302(a) of the Nuclear  
 24          Waste Policy Act of 1982 shall continue in effect under  
 25          this Act in accordance with their terms except that the

- 1 contracts have been modified by the parties to the con-
- 2 tract.

