

7TH REFERENCE of Level 1 printed in FULL format.

FULL TEXT OF BILLS

105TH CONGRESS; 1ST SESSION  
IN THE SENATE OF THE UNITED STATES  
PUBLIC PRINT - Includes amendments incorporated

S. 104

1997 S. 104; 105 S. 104

<=A1> Retrieve Bill Tracking Report

SYNOPSIS:

AN ACT To amend the Nuclear Waste Policy Act of 1982.

DATE OF INTRODUCTION: JANUARY 21, 1997

DATE OF VERSION: MAY 7, 1997 -- VERSION: 4

SPONSOR(S):

Sponsor not included in this printed version.

TEXT:

\* Be it enacted by the Senate and House of Representatives of the United\*  
\*States of America in Congress assembled, \*That the Nuclear Waste Policy  
Act of 1982 is amended to read as follows:

"SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

"(a) SHORT TITLE.-THIS ACT MAY BE CITED AS THE 'NUCLEAR WASTE POLICY  
ACT OF 1997'.

"(B) TABLE OF CONTENTS.-

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

"Sec. 2. Definitions.

"TITLE I-OBLIGATIONS

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

"TITLE II-INTEGRATED MANAGEMENT SYSTEM

"Sec. 201. Intermodal transfer.

"Sec. 202. Transportation planning.

"Sec. 203. Transportation requirements.

"Sec. 204. Viability assessment and Presidential determination

"Sec. 205. Interim storage facility.

"Sec. 206. Permanent repository.

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

"Sec. 208. Land withdrawal.

"TITLE III-LOCAL RELATIONS

"Sec. 301. Financial assistance.

"Sec. 302. On-Site Representative.

"Sec. 303. Acceptance of benefits.

"Sec. 304. Restrictions on use of funds.

"Sec. 305. Land conveyances.

"TITLE IV-FUNDING AND ORGANIZATION

- "Sec. 401. Program funding.
- "Sec. 402. Office of Civilian Radioactive Waste Management.
- "Sec. 403. Federal contribution.
- "TITLE V-GENERAL AND MISCELLANEOUS PROVISIONS
- "Sec. 501. Compliance with other laws.
- "Sec. 502. Judicial review of agency actions.
- "Sec. 503. Licensing of facility expansions and transshipments.
- "Sec. 504. Siting a second repository.
- "Sec. 505. Financial arrangements for low-level radioactive waste site closure.
- "Sec. 506. Nuclear Regulatory Commission training authority.
- "Sec. 507. Emplacement schedule.
- "Sec. 508. Transfer of title.
- "Sec. 509. Decommissioning Pilot Program.
- "Sec. 510. Water rights.
- "TITLE VI-NUCLEAR WASTE TECHNICAL REVIEW BOARD
- "Sec. 601. Definitions.
- "Sec. 602. Nuclear Waste Technical Review Board.
- "Sec. 603. Functions.
- "Sec. 604. Investigatory powers.
- "Sec. 605. Compensation of members.
- "Sec. 606. Staff.
- "Sec. 607. Support services.
- "Sec. 608. Report.
- "Sec. 609. Authorization of appropriations.
- "Sec. 610. Termination of the board.
- "TITLE VII-MANAGEMENT REFORM
- "Sec. 701. Management reform initiatives.
- "Sec. 702. Reporting.
- "TITLE VIII-MISCELLANEOUS
- "Sec. 801. Sense of the Senate.
- "Sec. 802. Effective date.
- "SEC. 2. DEFINITIONS.
- "For purposes of this Act:
- "(1) ACCEPT, ACCEPTANCE.-THE TERMS 'ACCEPT' AND 'ACCEPTANCE' MEAN THE SECRETARY'S ACT OF TAKING POSSESSION OF SPENT NUCLEAR FUEL OR HIGH-LEVEL RADIOACTIVE WASTE.
- "(2) AFFECTED INDIAN TRIBE.-THE TERM 'AFFECTED INDIAN TRIBE' MEANS ANY INDIAN TRIBE-
- "(A) WHOSE RESERVATION IS SURROUNDED BY OR BORDERS AN AFFECTED UNIT OF LOCAL GOVERNMENT, OR
- "(B) WHOSE FEDERALLY DEFINED POSSESSORY OR USAGE RIGHTS TO OTHER LANDS OUTSIDE OF THE RESERVATION'S BOUNDARIES ARISING OUT OF CONGRESSIONALLY RATIFIED TREATIES MAY BE SUBSTANTIALLY AND ADVERSELY AFFECTED BY THE LOCATING OF AN INTERIM STORAGE FACILITY OR A REPOSITORY IF THE SECRETARY OF THE INTERIOR FINDS, UPON THE PETITION OF THE APPROPRIATE GOVERNMENTAL OFFICIALS OF THE TRIBE, THAT SUCH EFFECTS ARE BOTH SUBSTANTIAL AND ADVERSE TO THE TRIBE.
- "(3) AFFECTED UNIT OF LOCAL GOVERNMENT.-THE TERM 'AFFECTED UNIT OF LOCAL GOVERNMENT' MEANS THE UNIT OF LOCAL GOVERNMENT WITH JURISDICTION OVER THE SITE OF A REPOSITORY OR INTERIM STORAGE FACILITY. SUCH TERM MAY, AT THE DISCRETION OF THE SECRETARY, INCLUDE OTHER UNITS OF LOCAL GOVERNMENT THAT ARE CONTIGUOUS WITH SUCH UNIT.
- "(4) ATOMIC ENERGY DEFENSE ACTIVITY.-THE TERM 'ATOMIC ENERGY

S. 104 MAY 7, 1997 -- VERSION: 4

" (3) A PLAN AND COST ESTIMATE FOR THE REMAINING WORK REQUIRED TO COMPLETE THE LICENSE APPLICATION UNDER SECTION 206(C) OF THIS ACT, AND

" (4) AN ESTIMATE OF THE COSTS TO CONSTRUCT AND OPERATE THE REPOSITORY IN ACCORDANCE WITH THE PRELIMINARY DESIGN CONCEPT IN PARAGRAPH (1) OF THIS SUBSECTION.

" (B) PRESIDENTIAL DETERMINATION. -NO LATER THAN MARCH 1, 1999, THE PRESIDENT, IN HIS SOLE AND UNREVIEWABLE DISCRETION, MAY MAKE A DETERMINATION DISQUALIFYING THE **YUCCA MOUNTAIN** SITE AS A REPOSITORY, BASED ON THE PRESIDENT'S VIEWS THAT THE PREPONDERANCE OF INFORMATION AVAILABLE AT SUCH TIME INDICATES THAT THE **YUCCA MOUNTAIN** SITE IS NOT SUITABLE FOR DEVELOPMENT OF A REPOSITORY OF USEFUL SIZE. IF THE PRESIDENT MAKES A DETERMINATION UNDER THIS SUBSECTION-

" (1) THE SECRETARY SHALL CEASE ALL ACTIVITIES (EXCEPT NECESSARY TERMINATION ACTIVITIES) AT THE **YUCCA MOUNTAIN** SITE AND SECTION 206 OF THIS ACT SHALL CEASE TO BE IN EFFECT; AND

" (2) NO LATER THAN 6 MONTHS AFTER SUCH DETERMINATION, THE SECRETARY SHALL REPORT TO CONGRESS ON THE NEED FOR ADDITIONAL LEGISLATION RELATING TO THE PERMANENT DISPOSAL OF **NUCLEAR** WASTE.

" (C) PRELIMINARY SECRETARIAL DESIGNATION OF INTERIM STORAGE FACILITY SITES. -

" (1) IF THE PRESIDENT DOES NOT MAKE A DETERMINATION UNDER SUBSECTION (B) OF THIS SECTION, NO LATER THAN MARCH 31, 1999, THE SECRETARY SHALL MAKE A PRELIMINARY DESIGNATION OF A SPECIFIC SITE WITHIN AREA 25 OF THE NEVADA TEST SITE FOR PLANNING AND CONSTRUCTION OF AN INTERIM STORAGE FACILITY UNDER SECTION 205.

" (2) WITHIN 18 MONTHS OF A DETERMINATION BY THE PRESIDENT THAT THE **YUCCA MOUNTAIN** SITE IS UNSUITABLE FOR DEVELOPMENT AS A REPOSITORY UNDER SUBSECTION (B), THE PRESIDENT SHALL DESIGNATE A SITE FOR THE CONSTRUCTION OF AN INTERIM STORAGE FACILITY. THE PRESIDENT SHALL NOT DESIGNATE THE HANFORD **NUCLEAR** RESERVATION IN THE STATE OF WASHINGTON, AND THE SAVANNAH RIVER SITE AND BARNWELL COUNTY IN THE STATE OF SOUTH CAROLINA, OR THE OAK RIDGE RESERVATION IN THE STATE OF TENNESSEE, AS A SITE FOR CONSTRUCTION OF AN INTERIM STORAGE FACILITY. IF THE PRESIDENT DOES NOT DESIGNATE A SITE FOR THE CONSTRUCTION OF AN INTERIM STORAGE FACILITY, OR THE CONSTRUCTION OF AN INTERIM STORAGE FACILITY AT THE DESIGNATED SITE IS NOT APPROVED BY LAW WITHIN 24 MONTHS OF THE PRESIDENT'S DETERMINATION THAT THE **YUCCA MOUNTAIN** SITE IS NOT SUITABLE FOR DEVELOPMENT AS A REPOSITORY, THE INTERIM STORAGE FACILITY SITE AS DEFINED IN SECTION 2(19) OF THIS ACT IS DESIGNATED AS THE INTERIM STORAGE FACILITY SITE FOR PURPOSES OF SECTION 205. THE INTERIM STORAGE FACILITY SITE SHALL BE DEEMED TO BE APPROVED BY LAW FOR PURPOSES OF THIS PARAGRAPH.

"SEC. 205. INTERIM STORAGE FACILITY.

" (a) NON-SITE-SPECIFIC ACTIVITIES. -AS SOON AS PRACTICABLE AFTER THE DATE OF ENACTMENT OF THE **NUCLEAR** WASTE POLICY ACT OF 1997, THE SECRETARY SHALL SUBMIT TO THE COMMISSION A TOPICAL SAFETY ANALYSIS REPORT CONTAINING A GENERIC DESIGN FOR AN INTERIM STORAGE FACILITY. IF THE SECRETARY HAS SUBMITTED SUCH A REPORT PRIOR TO SUCH DATE OF ENACTMENT, THE REPORT SHALL BE DEEMED TO HAVE SATISFIED THE REQUIREMENT IN THE PRECEDING SENTENCE. NO LATER THAN DECEMBER 31, 1998, THE COMMISSION SHALL ISSUE A SAFETY EVALUATION REPORT APPROVING OR DISAPPROVING THE GENERIC DESIGN SUBMITTED BY THE SECRETARY.

" (B) SITE-SPECIFIC AUTHORIZATION. -THE SECRETARY SHALL DESIGN,

S. 104 MAY 7, 1997 -- VERSION: 4

CONSTRUCT, AND OPERATE A FACILITY FOR THE INTERIM STORAGE OF SPENT **NUCLEAR** FUEL AND HIGH-LEVEL RADIOACTIVE WASTE AT THE INTERIM STORAGE FACILITY SITE DESIGNATED UNDER SECTION 204 AND LICENSED BY THE COMMISSION UNDER THIS SECTION. THE COMMISSION SHALL LICENSE THE INTERIM STORAGE FACILITY IN ACCORDANCE WITH THE COMMISSION'S REGULATIONS GOVERNING THE LICENSING OF INDEPENDENT STORAGE OF SPENT **NUCLEAR** FUEL AND HIGH-LEVEL RADIOACTIVE WASTE (10 CFR PART 72). SUCH REGULATIONS SHALL BE AMENDED BY THE COMMISSION AS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS ACT. THE COMMISSION MAY AMEND PART 72 OF TITLE 10, CODE OF FEDERAL REGULATIONS WITH REGARD TO FACILITIES NOT COVERED BY THIS ACT AS DEEMED APPROPRIATE BY THE COMMISSION.

"(C) LIMITATIONS AND CONDITIONS.-

"(1) THE SECRETARY SHALL NOT COMMENCE CONSTRUCTION OF AN INTERIM STORAGE FACILITY (WHICH SHALL MEAN TAKING ACTIONS WITHIN THE MEANING OF THE TERM 'COMMENCEMENT OF CONSTRUCTION' CONTAINED IN THE COMMISSION'S REGULATIONS IN SECTION 72.3 OF TITLE 10, CODE OF FEDERAL REGULATIONS) BEFORE THE COMMISSION, OR AN APPROPRIATE OFFICER OR BOARD OF THE COMMISSION, MAKES THE FINDING UNDER SECTION 72.40(B) OF TITLE 10, CODE OF FEDERAL REGULATIONS.

"(2) AFTER THE SECRETARY MAKES THE PRELIMINARY DESIGNATION OF AN INTERIM STORAGE SITE UNDER SECTION 204, THE SECRETARY MAY COMMENCE SITE DATA ACQUISITION ACTIVITIES AND DESIGN ACTIVITIES NECESSARY TO COMPLETE LICENSE APPLICATION AND ENVIRONMENTAL REPORT UNDER SUBSECTION (D) OF THIS SECTION.

"(3) NOTWITHSTANDING ANY OTHER APPLICABLE LICENSING REQUIREMENT, THE SECRETARY MAY UTILIZE FACILITIES OWNED BY THE FEDERAL GOVERNMENT ON THE DATE OF ENACTMENT OF THE **NUCLEAR** WASTE POLICY ACT OF 1997 AND LOCATED WITHIN THE BOUNDARIES OF THE INTERIM STORAGE SITE, IN CONNECTION WITH ADDRESSING ANY IMMINENT AND SUBSTANTIAL ENDANGERMENT TO PUBLIC HEALTH AND SAFETY AT THE INTERIM STORAGE FACILITY SITE, PRIOR TO RECEIVING A LICENSE FROM THE COMMISSION FOR THE INTERIM STORAGE FACILITY, FOR PURPOSES OF FULFILLING REQUIREMENTS FOR RETRIEVABILITY DURING THE FIRST FIVE YEARS OF OPERATION OF THE INTERIM STORAGE FACILITY.

"(D) LICENSE APPLICATION.-NO LATER THAN 30 DAYS AFTER THE DATE ON WHICH THE SECRETARY MAKES A PRELIMINARY DESIGNATION OF AN INTERIM STORAGE FACILITY SITE UNDER SECTION 204, THE SECRETARY SHALL SUBMIT A LICENSE APPLICATION AND AN ENVIRONMENTAL REPORT IN ACCORDANCE WITH APPLICABLE REGULATIONS (SUBPART B OF PART 72 OF TITLE 10, CODE OF FEDERAL REGULATIONS, AND SUBPART A OF PART 51 OF TITLE 10, CODE OF FEDERAL REGULATIONS, RESPECTIVELY). THE LICENSE APPLICATION-

"(1) SHALL BE FOR A TERM OF 40 YEARS; AND

"(2) SHALL BE FOR A QUANTITY OF SPENT **NUCLEAR** FUEL OR HIGH-LEVEL RADIOACTIVE WASTE EQUAL TO THE QUANTITY THAT WOULD BE EMPLACED UNDER SECTION 507 PRIOR TO THE DATE THAT THE SECRETARY ESTIMATES, IN THE LICENSE APPLICATION, TO BE THE DATE ON WHICH THE SECRETARY WILL RECEIVE AND STORE SPENT **NUCLEAR** FUEL AND HIGH-LEVEL RADIOACTIVE WASTE AT THE PERMANENT REPOSITORY.

"(E) DESIGN.-

"(1) THE DESIGN FOR THE INTERIM STORAGE FACILITY SHALL PROVIDE FOR THE USE OF STORAGE TECHNOLOGIES WHICH ARE LICENSED, APPROVED, OR CERTIFIED BY THE COMMISSION, TO ENSURE COMPATIBILITY BETWEEN THE INTERIM STORAGE FACILITY AND CONTRACT HOLDERS' SPENT **NUCLEAR** FUEL AND FACILITIES, AND TO FACILITATE THE SECRETARY'S ABILITY TO MEET THE

S. 104 MAY 7, 1997 -- VERSION: 4

SECRETARY'S OBLIGATIONS UNDER THIS ACT.

"(2) THE SECRETARY SHALL CONSENT TO AN AMENDMENT TO THE CONTRACTS TO PROVIDE FOR REIMBURSEMENT TO CONTRACT HOLDERS FOR TRANSPORTABLE STORAGE SYSTEMS PURCHASED BY CONTRACT HOLDERS IF THE SECRETARY DETERMINES THAT IT IS COST EFFECTIVE TO USE SUCH TRANSPORTABLE STORAGE SYSTEMS AS PART OF THE INTEGRATED MANAGEMENT SYSTEM: \*

\* \*Provided,\* That the Secretary shall not be required to expend any funds to modify contract holders' storage or transport systems or to seek additional regulatory approvals in order to use such systems.

"(f) LICENSE AMENDMENTS.-

"(1) THE SECRETARY MAY SEEK SUCH AMENDMENTS TO THE LICENSE FOR THE INTERIM STORAGE FACILITY AS THE SECRETARY MAY DEEM APPROPRIATE, INCLUDING AMENDMENTS TO USE NEW STORAGE TECHNOLOGIES LICENSED BY THE COMMISSION OR TO RESPOND TO CHANGES IN COMMISSION REGULATIONS.

"(2) AFTER RECEIVING A LICENSE FROM THE COMMISSION TO RECEIVE AND STORE SPENT **NUCLEAR** FUEL AND HIGH-LEVEL RADIOACTIVE WASTE IN THE PERMANENT REPOSITORY, THE SECRETARY SHALL SEEK SUCH AMENDMENTS TO THE LICENSE FOR THE INTERIM STORAGE FACILITY AS WILL PERMIT THE OPTIMAL USE OF SUCH FACILITY AS AN INTEGRAL PART OF A SINGLE SYSTEM WITH THE REPOSITORY.

"(G) COMMISSION ACTIONS.-

"(1) THE ISSUANCE OF A LICENSE TO CONSTRUCT AND OPERATE AN INTERIM STORAGE FACILITY SHALL BE CONSIDERED A MAJOR FEDERAL ACTION SIGNIFICANTLY AFFECTING THE QUALITY OF THE HUMAN ENVIRONMENT FOR PURPOSES OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (42 U.S.C. 4321 ET SEQ.). PRIOR TO ISSUING A LICENSE UNDER THIS SECTION, THE COMMISSION SHALL PREPARE A FINAL ENVIRONMENTAL IMPACT STATEMENT IN ACCORDANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969, THE COMMISSION'S REGULATIONS, AND SECTION 207 OF THIS ACT. THE COMMISSION SHALL ENSURE THAT THIS ENVIRONMENTAL IMPACT STATEMENT IS CONSISTENT WITH THE SCOPE OF THE LICENSING ACTION AND SHALL ANALYZE THE IMPACTS OF TRANSPORTATION OF SPENT **NUCLEAR** FUEL AND HIGH-LEVEL RADIOACTIVE WASTE TO THE INTERIM STORAGE FACILITY IN A GENERIC MANNER.

"(2) THE COMMISSION SHALL ISSUE A FINAL DECISION GRANTING OR DENYING A LICENSE FOR AN INTERIM STORAGE FACILITY NOT LATER THAN 32 MONTHS AFTER THE DATE OF SUBMITTAL OF THE APPLICATION FOR SUCH LICENSE.

"(3) NO LATER THAN 32 MONTHS FOLLOWING THE DATE OF ENACTMENT OF THE **NUCLEAR** WASTE POLICY ACT OF 1997, THE COMMISSION SHALL MAKE ANY AMENDMENTS NECESSARY TO THE DEFINITION OF 'SPENT **NUCLEAR** FUEL' IN SECTION 72.4 OF TITLE 10, CODE OF FEDERAL REGULATIONS, TO ALLOW AN INTERIM STORAGE FACILITY TO ACCEPT (SUBJECT TO SUCH CONDITIONS AS THE COMMISSION MAY REQUIRE IN A SUBSEQUENT LICENSE) -

"(A) SPENT **NUCLEAR** FUEL FROM RESEARCH REACTORS;

"(B) SPENT **NUCLEAR** FUEL FROM NAVAL REACTORS;

"(C) HIGH-LEVEL RADIOACTIVE WASTE OF DOMESTIC ORIGIN FROM CIVILIAN **NUCLEAR** REACTORS THAT HAVE PERMANENTLY CEASED OPERATION BEFORE SUCH DATE OF ENACTMENT; AND

"(D) SPENT **NUCLEAR** FUEL AND HIGH-LEVEL RADIOACTIVE WASTE FROM ATOMIC ENERGY DEFENSE ACTIVITIES.

FOLLOWING ANY SUCH AMENDMENTS, THE SECRETARY SHALL SEEK AUTHORITY, AS NECESSARY, TO STORE SUCH FUEL AND WASTE AT THE INTERIM STORAGE FACILITY. NONE OF THE ACTIVITIES CARRIED OUT PURSUANT TO THIS

S. 104 MAY 7, 1997 -- VERSION: 4

PARAGRAPH SHALL DELAY, OR OTHERWISE AFFECT, THE DEVELOPMENT, LICENSING, CONSTRUCTION, OR OPERATION OF THE INTERIM STORAGE FACILITY.

"SEC. 206. PERMANENT REPOSITORY.

"(a) REPOSITORY CHARACTERIZATION.-

"(1) CHARACTERIZATION OF THE YUCCA MOUNTAIN SITE.-THE SECRETARY SHALL CARRY OUT SITE CHARACTERIZATION ACTIVITIES AT THE YUCCA MOUNTAIN SITE IN ACCORDANCE WITH THE SECRETARY'S PROGRAM APPROACH TO SITE CHARACTERIZATION. SUCH ACTIVITIES SHALL BE LIMITED TO ONLY THOSE ACTIVITIES WHICH THE SECRETARY CONSIDERS NECESSARY TO PROVIDE THE DATA REQUIRED FOR EVALUATION OF THE SUITABILITY OF SUCH SITE FOR AN APPLICATION TO BE SUBMITTED TO THE COMMISSION FOR A CONSTRUCTION AUTHORIZATION FOR A REPOSITORY AT SUCH SITE, AND FOR COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (42 U.S.C. 4321 ET SEQ.).

"(2) GUIDELINES.-THE SECRETARY SHALL AMEND THE GUIDELINES IN PART 960 OF TITLE 10, CODE OF FEDERAL REGULATIONS, TO BASE ANY CONCLUSIONS REGARDING WHETHER A REPOSITORY SITE IS SUITABLE ON, TO THE EXTENT PRACTICABLE, AN ASSESSMENT OF TOTAL SYSTEM PERFORMANCE OF THE REPOSITORY.

"(B) ENVIRONMENTAL IMPACT STATEMENT.-

"(1) PREPARATION OF ENVIRONMENTAL IMPACT STATEMENT.-CONSTRUCTION AND OPERATION OF THE REPOSITORY SHALL BE CONSIDERED A MAJOR FEDERAL ACTION SIGNIFICANTLY AFFECTING THE QUALITY OF THE HUMAN ENVIRONMENT FOR PURPOSES OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (42 U.S.C. 4321 ET SEQ.). THE SECRETARY SHALL PREPARE AN ENVIRONMENTAL IMPACT STATEMENT ON THE CONSTRUCTION AND OPERATION OF THE REPOSITORY AND SHALL SUBMIT SUCH STATEMENT TO THE COMMISSION WITH THE LICENSE APPLICATION. THE SECRETARY SHALL SUPPLEMENT SUCH ENVIRONMENTAL IMPACT STATEMENT AS APPROPRIATE.

"(2) SCHEDULE.-

"(A) NO LATER THAN SEPTEMBER 30, 2000, THE SECRETARY SHALL PUBLISH THE FINAL ENVIRONMENTAL IMPACT STATEMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION.

"(B) NO LATER THAN OCTOBER 31, 2000, THE SECRETARY SHALL PUBLISH A RECORD OF DECISION ON APPLYING FOR A LICENSE TO CONSTRUCT AND OPERATE A REPOSITORY AT THE YUCCA MOUNTAIN SITE.

"(C) LICENSE APPLICATION.-

"(1) SCHEDULE.-NO LATER THAN OCTOBER 31, 2001, THE SECRETARY SHALL APPLY TO THE COMMISSION FOR AUTHORIZATION TO CONSTRUCT A REPOSITORY AT THE YUCCA MOUNTAIN SITE.

"(2) MAXIMIZING CAPACITY.-IN DEVELOPING AN APPLICATION FOR AUTHORIZATION TO CONSTRUCT THE REPOSITORY, THE SECRETARY SHALL SEEK TO MAXIMIZE THE CAPACITY OF THE REPOSITORY, IN THE MOST COST-EFFECTIVE MANNER, CONSISTENT WITH THE NEED FOR DISPOSAL CAPACITY.

"(3) DECISION NOT TO APPLY FOR A LICENSE FOR THE YUCCA MOUNTAIN SITE.-IF, AT ANY TIME PRIOR TO OCTOBER 31, 2001, THE SECRETARY DETERMINES THAT THE YUCCA MOUNTAIN SITE IS NOT SUITABLE OR CANNOT SATISFY THE COMMISSION'S REGULATIONS APPLICABLE TO THE LICENSING OF A GEOLOGICAL REPOSITORY, THE SECRETARY SHALL-

"(A) NOTIFY THE CONGRESS AND THE STATE OF NEVADA OF THE SECRETARY'S DETERMINATIONS AND THE REASONS THEREFOR; AND

"(B) PROMPTLY TAKE THE ACTIONS DESCRIBED IN PARAGRAPHS (1) AND