

DEC 12 1980

MEMORANDUM FOR: Chairman Ahearne

THRU: William J. Dircks (Signed) William J. Dircks,  
Executive Director for Operations

FROM: John G. Davis, Director  
Office of Nuclear Material Safety and Safeguards

SUBJECT: COMMENTS ON SENATE COUNTER <sup>PROPOSAL</sup> ~~PROPOSAL~~ TO H.R. 8378

The Division of Waste Management prefers the House Bill. The Senate substitute received on December 5, 1980, is not acceptable principally because it would bifurcate the national high-level waste management program into separate tracks for military and civilian wastes. This would be inadvisable for several reasons. First, between Section 3(a)(1) and Section 105(n)(1), it is unclear whether military wastes are to be licensed, and it is therefore conceivable that there would be separate licensing processes for each, since only the civilian waste licensing process is articulated in this Bill. Second, the vagueness of the approval process for military waste repositories invites an amendment exempting them from licensing altogether. Finally, the Senate provision prohibiting disposal of civilian wastes in military repositories could significantly limit the available choice of sites for civilian wastes, since the Hanford, Nevada Test Site and former Waste Isolation Pilot Project sites would probably be reserved for exclusive military use.

The Senate Bill would be rendered acceptable if the programmatic separation of military and civilian wastes were removed, but the resulting compromise would still fall short of being desirable. One reason is that the Commission's Waste Confidence Proceeding would be undermined if not mooted by the Congressional finding in Section 10(a)(6) that the mere establishment of a repository program in accordance with this Bill "provides reasonable assurance that methods of safe (high-level waste) disposal...can be available when such methods are needed." Another more pervasive difficulty is that there are so many inconsistencies remaining from the drafters' attempt to splice separately conceived provisions that if the Bill were enacted in its present form, the need for clarifying technical amendments could reopen the entire legislation to an exhaustive review by the 97th Congress. Examples of these inconsistencies follow below:

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1. The specifications for the civilian waste repository siting process in Section 105 do not comport with several provisions in other sections preceding it.
  - a. Section 105(b)(1) would require the Secretary to submit a report directly to Congress after he determines to propose a site for a repository. Under Section 104(a) and (b), however, the Secretary is required to submit a recommendation to the President to approve a site for development of a repository, and the President is to transmit the recommendation and the report supporting it to Congress only after Presidential review and approval.
  - b. With the Secretary's recommendation of a site to the President, the Secretary is required under Section 104(a)(1)(E) to transmit the preliminary comments of the Commission on the sufficiency of DOE's site characterization analysis and waste form proposal for inclusion in a license application. In the development of all other reports to Congress under Section 105, however, the Secretary is not even required to consult the Commission, let alone transmit any of its comments.
  - c. Section 105(c)(3)(C) requires the Secretary, in preparing Repository Development Report, to solicit the comments of "the Council" which is nowhere specified or defined in the Bill.
2. Section 105(b)(1) requires the Secretary to submit a Proposed Site Report to Congress when he determines that a site should be selected as the location for a repository. Section 105(c)(1) requires the Secretary to submit a Repository Development Report to Congress "at the earliest feasible time" prior to the intended submission of a license application to the Commission. These reports appear to be redundant.
3. The Bill elaborates a procedure for Congressional action to suspend further work on a repository after review of the Repository Development Report, but there is no clear indication whether there is to be any similar Congressional review and approval of the Proposed Site Report or Repository Loading Report.

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- 4. In Section 301(1), the definition of "permanent disposal" is linked to the time determined by the Commission to be necessary in order for the radioactivity, heat generation, and toxicity of the radioactive waste not to exceed that for naturally occurring uranium. Not only would such a point be exceedingly difficult to determine, but the concept is technically questionable

(Signed) John G. Davis

John G. Davis, Director  
Office of Nuclear Material Safety  
and Safeguards

cc: Commissioner Gilinsky  
Commissioner Hendrie  
Commissioner Bradford  
SECY (3)  
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SUMMARY OF H.R. 8378

(Draft Substitute for H.R. 6390)

Purpose: To establish a schedule for the siting, construction, and operation of licensed permanent repositories for the disposal of TRU, HLW, and spent fuel and to establish a policy for the disposal of LLW on a regional basis.

Identification of Sites: Not later than June 30, 1981, DOE shall, in consultation with CEQ, NRC, EPA and U.S.G.S., issue guidelines for the recommendation of sites. Factors that would disqualify a site shall be specified. To the extent practicable, such sites shall be located in different geologic media.

Recommendations by DOE: Not later than January 1, 1982, DOE shall recommend to the President at least two sites which are suitable for site characterization. Not later than February 1, 1985, DOE shall recommend at least two additional sites. Before recommending any site, DOE shall hold public hearings in the vicinity of the site to inform the residents.

Presidential Review of Recommended Sites: Within 60 days after the submission of DOE's recommendation, the President shall either approve or disapprove the site. Upon written notice to Congress, the President may delay action for not more than 6 months. If the President fails to act, the site shall be considered approved.

Site Characterization of Approved Sites: Before proceeding to sink shafts at any site, DOE shall submit to NRC and the State Review Board of the State in which the site is located, or to the governing body of any Indian Tribe on whose reservation the site is located, for their review and comment, an environmental assessment, a plan for site characterization, and proposals for the form or packaging of waste material. Throughout the characterization, DOE shall report to NRC and the State Review Board or Indian Tribe. DOE shall not use radioactive materials at a site unless the NRC and DOE concur that such use is necessary. If such material is needed, only the smallest quantity necessary and not more than the curie equivalent of 10 metric tons of spent fuel shall be used. Any radioactive material used shall be fully retrievable.

Site Selection and Approval: After completion of site characterization activities at a site, DOE shall hold public hearings in the vicinity of the site, and upon completion of the hearings, DOE shall recommend that the President approve the site for development. With any recommendation, DOE shall submit a report containing a description of the proposed repository, a final environmental impact statement, comments of NRC, and views of the State Review Board. Not later than March 30, 1987, the President shall submit to Congress a site recommendation.

Congressional Review of Approved Site: The President's site recommendation shall be effective at the end of 30 days beginning on the date that the recommendation is submitted to Congress, unless a State Review Board or Indian Tribe has submitted to Congress a petition for disapproval of the site. If such a petition is submitted, the designated site shall be effective at the end of 90 days of continuous session, unless either House passes a resolution approving the petition and disapproving the site.

Construction Authorization: If the site designation is permitted to take effect, DOE shall submit to NRC an application for a construction authorization. Not later than 2 years after the date of application, NRC shall submit a status report to Congress describing the proceedings undertaken. The NRC shall issue a final decision concerning the site not later than January 1, 1990 or the expiration of four years after the date of application whichever occurs later.

State Participation: State Review Boards shall be established under State law in which there is located a site recommended for site characterization activities. The Board shall have the right to petition Congress for disapproval of a site and to participate in licensing decisions. Once DOE notifies a State of its decision to study an area within the State, DOE shall enter into a written agreement with the State Review Board and, when appropriate, a separate agreement with the governing body of an affected Indian Tribe, setting forth the procedures under which participation and consultation shall be implemented.

Judicial Review: A civil action for judicial review of an administrative action may be brought no later than 180th day following the date of such action.

Standards and Criteria: Not later than November 1, 1981, EPA shall promulgate generally applicable standards for protection of the general environment. Not later than November 1, 1981 NRC shall promulgate criteria which it will apply in reviewing applications for construction authorizations.

Retrievability of Spent Fuel: Notwithstanding any other provision, any repository for the disposal of spent fuel constructed under this act shall be designed to permit the spent fuel to be retrieved for any reasons pertaining to public safety or for the purpose of recovering economically valuable contents of the spent fuel.

Low-level Waste Disposal: LLW can be most safely and efficiently managed on a regional basis. In order to implement this policy, the States may enter into such compacts for the operation of regional disposal facilities. Such compacts shall not take effect until Congress has consented to the compacts.

Uranium Mill Site at Edgemont: DOE shall undertake an investigation to determine whether Federal funding is appropriate for 90% of the cost of remedial and decommissioning activities at the mill site.

*Sumner  
Franklin  
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[Draft of the Substitute for H.R. 6396]

96th CONGRESS  
2d Session

H. R. \_\_\_\_\_

IN THE HOUSE OF REPRESENTATIVES

Mr. \_\_\_\_\_ introduced the following bill; which was referred to the Committee on \_\_\_\_\_.

A BILL

bill to establish licensed permanent repositories for transuranic waste, high-level radioactive waste, and spent fuel, to authorize State compacts for the establishment and operation of regional repositories for low-level radioactive waste, and for other purposes.

1 Be it enacted by the Senate and House of Representatives  
2 of the United States of America in Congress assembled,

Short Title

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Section 1. This Act may be cited as the "Nuclear Waste Policy Act".

Definitions

Sec. 2. As used in this Act--

(1) The term "Commission" means the Nuclear Regulatory Commission.

(2) The term "disposal" means the long-term isolation of radioactive waste.

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(3) The term "high-level radioactive waste" means the highly radioactive wastes resulting from the reprocessing of spent nuclear fuel. Such term includes both liquid waste which is produced directly in reprocessing, dry solid material derived from such liquid waste, and such other material as the Commission designates as high-level radioactive waste for purposes of protecting the public health and safety.

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(4) The term "Indian reservation" means--

(A) the Indian reservations and dependent Indian communities referred to in clauses (a) and (b) of section 1151 of title 18, United States Code; and

(B) lands selected by Alaska Native villages or regional corporations under the provisions of the Alaska Native Claims Settlement Act.

(5) The term "Indian tribe" means any Indian

1 tribe, band, nation, or other organized group or  
 2 community of Indians recognized as eligible for the  
 3 services provided to Indians by the Secretary of the  
 4 Interior because of their status as Indians, including  
 5 any Alaska Native village, as defined in section 3(c) of  
 6 the Alaska Native Claims Settlement Act (43 U.S.C.  
 7 1602).

8 (6) The term "low-level radioactive waste" means  
 9 radioactive waste not classified as high-level  
 10 radioactive waste, transuranic waste, spent nuclear  
 11 fuel, or byproduct material as defined in section 11 e.  
 12 (2) of the Atomic Energy Act of 1954. OK

13 (7) The term "repository" means any facility for  
 14 the permanent disposal of transuranic waste, high-level  
 15 radioactive waste, spent nuclear fuel, or any  
 16 combination of such wastes or fuel, whether or not such  
 17 facility is designed to permit the subsequent recovery  
 18 of the materials placed in the repository. //

19 (8) The term "Secretary" means the Secretary of  
 20 Energy.

21 (9) The term "site characterization" means  
 22 activities undertaken to determine the geologic  
 23 characteristics of a site and to otherwise determine if  
 24 a site meets the requirements applicable to sites for  
 25 repositories. Such term includes borings, surface



1 excavations, excavations of exploratory shafts, and in  
2 situ testing needed to determine the suitability of a  
3 site for a geologic repository, but does not include  
4 preliminary borings and geophysical testing needed to  
5 decide whether site characterization should be  
6 undertaken.

7 (10) The term "spent nuclear fuel" means fuel that  
8 has been withdrawn from a nuclear reactor following  
9 irradiation, the constituent elements of which have not  
10 been separated by reprocessing.

11 (11) The term "State" means any State of the United  
12 States, the District of Columbia, the Commonwealth of  
13 Puerto Rico, the Virgin Islands, Guam, the Northern  
14 Mariana Islands, the Trust Territory of the Pacific  
15 Islands, and any other territory or possession of the  
16 United States.

17 (12) The term "State Review Board" means any State  
18 Review Board that meets the requirements under section  
19 106, as so determined by the Secretary.

20 (13) The term "transuranic waste" means material  
21 contaminated with elements which have an atomic number  
22 greater than 92, including neptunium, plutonium,  
23 americium, and curium, which have a half life greater  
24 than 5 years, and which are in concentrations greater  
25 than 10 nanocuries per gram or in such other

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1 concentrations as the Commission may prescribe to *OK*  
2 protect the public health and safety.

3 TITLE I--DISPOSAL OF TRANSURANIC WASTE, HIGH-LEVEL  
4 RADIOACTIVE WASTE, AND SPENT NUCLEAR FUEL

5 Findings and Purpose

6 Sec. 101. (a) Findings.--The Congress finds that--

7 (1) radioactive waste creates potential risks and  
8 requires safe and environmentally acceptable methods of  
9 disposal;

10 (2) the accumulation of spent nuclear fuel from  
11 nuclear power reactors, radioactive waste from  
12 commercial nuclear reprocessing, activities related to  
13 medical research, diagnosis, and treatment, and nuclear  
14 research and development activities, and radioactive  
15 waste from other sources, has created a national  
16 problem;

17 (3) Federal efforts during the past 37 years to  
18 devise a permanent solution to the problems of  
19 radioactive waste disposal have not been adequate;

20 (4) the Federal Government has the responsibility to  
21 provide for the permanent disposal of transuranic waste,  
22 high level radioactive waste, and spent nuclear fuel in  
23 order to protect the public health and safety and the  
24 common defense and security;

25 (5) the primary objective of repositories for such

waste is to isolate them from the biosphere;

(6) State and public participation in the planning and development of permanent repositories for the disposal of radioactive waste is essential in order to promote confidence among the public with regard to the safety of disposal of radioactive waste;

(7) the implementation of a radioactive waste repository program in accordance with this title would provide reasonable assurance that methods of safe disposal of transuranic waste, high-level radioactive waste, and spent nuclear fuel can be available when such methods are needed; and

(8) radioactive waste has become a major issue of public concern, and stringent precautions must be taken to ensure that radioactive waste does not adversely affect the public health and safety of this or future generations.

(b) Purpose.--It is the purpose of this title to--

(1) establish a schedule for the siting, construction, and operation of licensed permanent repositories for transuranic waste, high-level radioactive waste, and spent nuclear fuel which will provide the Congress with a reasonable assurance that the public will be adequately protected from the hazards posed by such wastes;

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1 (2) establish the Federal responsibility for the  
 2 disposal of such wastes from nuclear activities; and

3 (3) establish a definite Federal policy for the  
 4 disposal of such wastes.

5 Identification of sites for repositories

6 Sec. 102. (a) Guidelines.--Not later than June 30, 1981,  
 7 the Secretary shall, in consultation with the Council on  
 8 Environmental Quality, the Environmental Protection Agency,  
 9 the Nuclear Regulatory Commission, and the United States  
 10 Geological Survey, issue guidelines for the recommendation  
 11 of sites for repositories. Under the guidelines the  
 12 Secretary shall specify factors that would disqualify a site  
 13 development as a repository, including factors pertaining to  
 14 the location of valuable natural resources, proximity to  
 15 populations, hydrogeophysics, seismic activity, and nuclear  
 16 defense activities. The guidelines shall require the  
 17 Secretary to consider the various geologic media in which  
 18 sites for repositories may be located and, to the extent  
 19 practicable, to recommend sites in different geologic media.  
 20 The Secretary shall use guidelines established under this  
 21 subsection in considering sites to be recommended under  
 22 subsection (b). The development of guidelines under this  
 23 subsection shall be considered a preliminary decisionmaking  
 24 activity and shall not be subject to the requirements of  
 25 section 102(2)(C) of the National Environmental Policy Act

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1 of 1969.  
2 (b) Recommendations by the Secretary.--(1) Not later than  
3 January 1, 1982, the Secretary shall identify and recommend  
4 to the President at least two sites which the Secretary  
5 determines are suitable for site characterization. Not later  
6 than February 1, 1985, the Secretary shall identify and  
7 recommend to the President at least two additional sites  
8 which the Secretary determines are suitable for such  
9 purpose. Each recommendation of a site shall include a  
10 detailed statement of the basis for the recommendation. If  
11 the Secretary recommends a site to the President, the  
12 Secretary shall notify the State Review Board of the State  
13 in which the site is located, or the governing body of any  
14 Indian tribe on whose reservation the site is located, of  
15 the Secretary's recommendation and the basis for such  
16 recommendation.

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18 (2) Before recommending any site for a repository to the  
19 President, the Secretary shall hold public hearings in the  
20 vicinity of the site to inform the residents of the area in  
21 which the site is located of the proposed recommendation and  
22 to receive their comments.

23 (c) Presidential Review of Recommended Sites.--(1) The  
24 President shall review each site recommended by the  
25 Secretary under subsection (b). Within 60 days after the

1 submission of a recommendation for a site, the President  
 2 shall either approve or disapprove the site, and transmit  
 3 his decision to the Secretary and the State Review Board of  
 4 the State in which the site is located. If the President  
 5 fails to approve or disapprove the site in accordance with  
 6 this paragraph during such 60-day period, or within such  
 7 period fails to invoke his authority under paragraph (2) to  
 8 delay the determination, the site shall be considered to be  
 9 approved.

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10 (2) The President may delay for not more than 6 months  
 11 his decision under paragraph (1) to approve or disapprove a  
 12 site upon determining that the information provided with the  
 13 recommendation is not sufficient to permit a decision within  
 14 the 60-day period referred to in paragraph (1). The  
 15 President may invoke his authority under this paragraph by  
 16 submitting written notice to the Congress, within such  
 17 period, of his intent to utilize the authority provided  
 18 under this paragraph. If the President invokes his authority  
 19 under this paragraph but fails to approve or disapprove a  
 20 site at the end of such 6-month period, the site shall be  
 21 considered to be approved.

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22 (d) Continuation of Site Screening.--After the  
 23 identification of sites under subsection (b), the Secretary  
 24 shall continue to screen other sites to determine their  
 25 suitability for site characterization.

Site Characterization

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Sec. 103. (a) In General.--The Secretary shall carry out in accordance with this section appropriate site characterization activities at each site approved under section 102.

(b) Nuclear Regulatory Commission and State Review Boards.--(1) Before proceeding to sink shafts at any site, the Secretary shall submit for such site to the Commission and to the State Review Board of the State in which the site is located, or to the governing body of any Indian tribe on whose reservation the site is located, for their review and comment--

(A) an environmental assessment of the nonradiological impacts of the site characterization activities planned for such site and a discussion of alternative activities which may be undertaken to avoid such impacts;

*already planned.*

(B) a plan for site characterization activities to be conducted at such site which plan shall include--

- (i) a description of the site;
- (ii) a description of the site characterization activities, including the extent of planned excavations, plans for any on-site testing of radioactive or nonradioactive material, investigation activities which may affect the

1 ability of the site to isolate radioactive wastes  
 2 and spent fuel, and provisions to control any  
 3 adverse, safety-related impacts from site  
 4 characterization activities;

5 (iii) plans for the decontaminating and  
 6 decommissioning of the site if it is determined  
 7 unsuitable for application for licensing as a  
 8 repository;

9 (iv) criteria to be used to determine if the  
 10 site is acceptable as a site for a repository; and

11 (v) any other information required by the  
 12 Commission; and

13 (C) proposals describing the possible form or  
 14 packaging for the waste material and spent fuel which  
 15 would be emplaced in the repository.

16 (2) During the conduct of site characterization  
 17 activities at a site, the Secretary shall report to the  
 18 Commission and to the State Review Board of the State in  
 19 which the site is located, or the governing body of any  
 20 Indian tribe on whose reservation the site is located, on  
 21 the nature and extent of such activities and the information  
 22 developed from such activities.

23 (c) Tests.--The Secretary shall conduct at sites at  
 24 which site characterization activities are being conducted  
 25 such tests as may be necessary to provide the necessary data

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1 for an application for a construction authorization for a  
 2 repository at the site and for compliance with the National  
 3 Environmental Policy Act of 1969. The Secretary shall  
 4 report to the Commission on the tests conducted at a site  
 5 pursuant to this subsection and on the information developed  
 6 from such tests.

7 (d) Restrictions.--(1) In conducting site  
 8 characterization activities or tests pursuant to subsection  
 9 (c)--

10 (A) the Secretary may not use radioactive materials  
 11 at a site unless the Commission and the Secretary concur  
 12 that such use is necessary to provide data for the  
 13 submission of an application for a construction  
 14 authorization for a repository at the site;

*OK*

15 (B) if radioactive materials are placed in a site,  
 16 the Secretary shall place the smallest quantity  
 17 necessary to determine the suitability of the site for a  
 18 repository, but in no event more than the curie  
 19 equivalent of 10 metric tons of spent fuel; and

20 (C) any radioactive material used or placed on a  
 21 site shall be fully retrievable.

22 (2) If characterization activities are terminated at a  
 23 site for any reason, the Secretary shall remove any nuclear  
 24 waste, spent nuclear fuel, or other radioactive materials at  
 25 or in the site as promptly as practicable.

## 1 Site Approval and Construction Authorizations

2 Sec. 184. (a) In General.--If after completion of site  
3 characterization activities at a site--

4 (1) the Secretary determines that the site meets the  
5 requirements applicable to repositories, the Secretary  
6 shall proceed in accordance with this section to secure  
7 approval of the site and a construction authorization  
8 for construction of a repository at the site, or

9 (2) the Secretary determines that the site does not  
10 meet such requirements, the Secretary shall notify the  
11 State Review Board of the State in which the site is  
12 located of such determination.

13 (b) Hearings and Presidential Recommendation.--(1) If  
14 after completion of site characterization activities at a  
15 site the Secretary determines that the site meets the  
16 requirements applicable to repositories, the Secretary shall  
17 hold public hearings in the vicinity of the site to inform  
18 the residents of the area in which the site is located of  
19 the determination of the Secretary and to receive their  
20 comments. If upon completion of the hearings the Secretary  
21 affirms the determination, the Secretary shall submit to the  
22 President a recommendation that the President approve the  
23 site for the development of a repository. Together with any  
24 recommendation of a site under this paragraph, the Secretary  
25 shall submit to the President a report containing the

1 following:

2 (A) A description of the proposed repository,  
 3 including engineering plans for the facility.

4 (B) A description of the waste form or packaging  
 5 proposed for use at the repository.

6 (C) A discussion of data, obtained in site  
 7 characterization activities, relating to the safety of  
 8 the repository site. *Source: too early*

9 (D) A ~~final~~ environmental impact statement for the  
 10 site and the design of the repository as required under  
 11 the National Environmental Policy Act of 1969 together  
 12 with comments made concerning the environmental impact  
 13 statement by the Department of the Interior, the Council  
 14 on Environmental Quality, the Environmental Protection  
 15 Agency, and the Nuclear Regulatory Commission.

16 (E) Preliminary comments of the Nuclear Regulatory  
 17 Commission concerning the extent to which the at-depth  
 18 site characterization analysis and the waste form  
 19 proposal for the site seem to be sufficient for  
 20 inclusion in any application to be submitted by the  
 21 Department of Energy for licensing of the site as a  
 22 permanent repository for high-level radioactive waste  
 23 and spent fuel.

24 (F) The views of any State Review Board, or  
 25 governing body of any Indian tribe, which is affected by

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1 such site, as determined by the Secretary together with  
2 the Secretary's response to such views.

3 (G) Such other information as the Secretary  
4 considers appropriate to provide a complete statement of  
5 the basis for the recommendation of the site for  
6 licensing as a repository for the disposal of high-level  
7 radioactive waste and spent fuel.

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8 (2) Not later than March 30, 1987, the President shall  
9 submit to the Congress a recommendation of a site which the  
10 President considers qualified for application for license as  
11 a repository. The President shall submit with such  
12 recommendation a copy of the report for such site prepared  
13 by the Secretary under paragraph (1). After such date, the  
14 President may submit to the Congress recommendations for  
15 other sites which the President also considers suitable for  
16 such purpose, together with such reports.

17 (3) If the approval of a site recommendation for the  
18 initial repository proposed as required under paragraph (2)  
19 does not take effect as a result of a disapproval by the  
20 Congress under section 105, the President shall submit to  
21 the Congress, within one year after the disapproval of the  
22 recommendation, a recommendation of another site for an  
23 initial repository. The President may not recommend the  
24 approval of any site under this paragraph unless the  
25 Secretary has recommended to the President under paragraph

1 (1) approval of such site and has submitted to the President  
2 a report for the site as required under such paragraph.

3 (c) Submission of Application.--If the President  
4 recommends to the Congress a site for a repository under  
5 subsection (b) and the site designation is permitted to take  
6 effect under section 105 (pertaining to Congressional  
7 disapproval), the Secretary shall submit to the Commission a  
8 license application for the construction of a repository at  
9 the site within 90 days after the date on which the  
10 recommendation of the site designation is effective under  
11 such section and shall provide the State Review Board of the  
12 State in which the site is located, or the governing body of  
13 any Indian tribe on whose reservation the site is located, a  
14 copy of the application.

15 (d) Status Report for Construction Permit Authorization--  
16 ~~No later than 2 years after the date on which an application~~  
17 ~~for a license application is submitted under subsection (c),~~  
18 the Commission shall submit a report to the Congress  
19 describing the proceedings undertaken through such date with  
20 regard to the authorization application submitted, including  
21 a description of--

22 (1) major unresolved safety issues, and the  
23 Secretary's explanation of design and operation plans  
24 for resolving such issues;

25 (2) matters of contention regarding the application;

1 (3) any Commission actions regarding the granting or  
 2 denial of the authorization.

3 (e) Commission Action.--The Commission shall consider a  
 4 license application for the construction of a repository in  
 5 accordance with the laws applicable to such applications,  
 6 except that the Commission shall issue a final decision  
 7 approving or disapproving the first such application not  
 8 later than--

9 (1) January 1, 1990, or

10 (2) the expiration of four years after the date of  
 11 the submission of the application,  
 12 whichever occurs later.

*OK*

13 Review of Repository Site Selection

14 Sec. 105. (a) In General.--The designation of a site for  
 15 a repository shall be effective at the end of the 30-day  
 16 period beginning on the date that the President recommends  
 17 the site to the Congress under section 104 unless a State  
 18 Review Board has submitted to the Congress a petition for  
 19 disapproval under section 106 or the governing body of an  
 20 Indian tribe has submitted such a petition under section  
 21 107. If any such petition has been submitted, the approval  
 22 of the designation shall not be effective except as provided  
 23 under subsection (b).

24 (b) Congressional Review of Sites.--(1) If the President  
 25 submits to the Congress under section 104 a recommendation

1 for approval of a site as a repository and either a State  
2 Review Board submits to the Congress a petition for  
3 disapproval under section 106 or the governing body of an  
4 Indian tribe submits to the Congress such a petition under  
5 section 107, the designation of such site for a repository  
6 shall be effective at the end of the first period of 90  
7 calendar days of continuous session of the Congress after  
8 the date of transmittal of the recommendation of approval by  
9 the President to the Congress, unless, during such period,  
10 either House of the Congress passes a resolution the matter  
11 after the resolving clause of which reads as follows: "The  
12 ----- approves the petition submitted by -----  
13 regarding the disapproval of the site at ----- for a  
14 repository for the disposal of high-level radioactive waste,  
15 transuranic waste, and spent fuel."; (the first blank space  
16 being filled with the designation of the appropriate house  
17 of the Congress; the second blank space being filled with  
18 the name of the State Review Board or Indian tribe governing  
19 body the petition of which is approved; the third blank  
20 space being filled with the geographic location of the  
21 proposed repository site). For purposes of paragraphs (3)  
22 through (7) of this subsection, the term "resolution"  
23 means a resolution described by this paragraph.

24 (2) Paragraphs (3) through (7) of this subsection are  
25 enacted by Congress--

1 (A) as an exercise of the rulemaking power of the  
2 Senate and the House of Representatives, respectively,  
3 and as such are deemed a part of the rules of each  
4 House, respectively, but applicable only with respect to  
5 the procedure to be followed in that House in the case  
6 of resolutions described by paragraph (1) of this  
7 subsection; and the provisions of such paragraphs  
8 supersede other rules only to the extent that they are  
9 inconsistent therewith; and

10 (B) with full recognition of the constitutional  
11 right of either House to change the rules (so far as  
12 relating to the procedure of that House) at any time, in  
13 the same manner and to the same extent as in the case of  
14 any other rule of the House.

15 (3) A resolution once introduced with respect to any  
16 site designation shall immediately be referred to a  
17 committee (and all resolutions with respect to the same site  
18 designation shall be referred to the same committee) by the  
19 President of the Senate or the Speaker of the House of  
20 Representatives, as the case may be.

21 (4)(A) If the committee to which a resolution with  
22 respect to a site designation has been referred has not  
23 reported it at the end of 20 calendar days after its  
24 referral, it shall be in order to move either to discharge  
25 the committee from further consideration of such resolution



1 or to discharge the committee from further consideration of  
 2 any other resolution with respect to such site designation  
 3 which has been referred to the committee.

4 (B) A motion of discharge may be made only by an  
 5 individual favoring the resolution, shall be highly  
 6 privileged (except that it may not be made after the  
 7 committee has reported a resolution with respect to the same  
 8 site designation) and debate thereon shall be limited to not  
 9 more than one hour, to be divided equally between those  
 10 favoring and those opposing the resolution. An amendment to  
 11 the motion shall not be in order, and it shall not be in  
 12 order to move to reconsider the vote by which the motion was  
 13 agreed to or disagreed to.

14 (C) If the motion to discharge is agreed to or disagreed  
 15 to, the motion may not be renewed, nor may another motion to  
 16 discharge the committee be made with respect to any other  
 17 resolution with respect to the same site designation.

18 (5)(A) When the committee has reported, or has been  
 19 discharged from further consideration of, a resolution it  
 20 shall be at any time thereafter in order (even though a  
 21 previous motion to the same effect has been disagreed to) to  
 22 move to proceed to the consideration of the resolution. The  
 23 motion shall be highly privileged and shall not be  
 24 debatable. An amendment to the motion shall not be in  
 25 order, and it shall not be in order to move to reconsider

1 the vote by which the motion was agreed to or disagreed to.

2 (B) Debate on the resolution referred to in subparagraph  
3 (A) of this paragraph shall be limited to not more than 5  
4 hours, which shall be divided equally between those favoring  
5 and those opposing such resolution. A motion further to  
6 limit debate shall not be debatable. An amendment to, or  
7 motion to recommit, the resolution shall not be in order,  
8 and it shall not be in order to move to reconsider the vote  
9 by which such resolution was agreed to or disagreed to.

10 (6)(A) Motions to postpone, made with respect to the  
11 discharge from committee, or the consideration of, a  
12 resolution, and motions to proceed to the consideration of  
13 other business, shall be decided without debate.

14 (B) Appeals from the decision of the Chair relating to  
15 the application of the rules of the Senate or the House of  
16 Representatives, as the case may be, to the procedure  
17 relating to a resolution shall be decided without debate.

18 (7) Notwithstanding any of the provisions of this  
19 subsection, if a House has approved a resolution with  
20 respect to a site designation, then it shall not be in order  
21 to consider in that House any other resolution with respect  
22 to the same such site designation.

23 (c) Computation of Days.--For purposes of subsections  
24 (a) and (b) of this section--

25 (1) continuity of session of Congress is broken only

1 by an adjournment sine die; and

2 (2) the days on which either House is not in session  
3 because of an adjournment of more than 3 days to a day  
4 certain are excluded in the computation of the 90-day  
5 period.

6 State Review Boards

7 Sec. 106. (a) Definition.--(1) For purposes of this  
8 title, a State Review Board of a State is an entity of the  
9 State which is--

10 (A) created under State law with the authority  
11 described in paragraph (2) and the composition  
12 prescribed by paragraph (3); and

*more power  
to act*

13 (B) determined by the Secretary to be established in  
14 accordance with this section.

15 (2) A State Review Board shall be authorized under State  
16 law to--

17 (A) review activities under this title and  
18 activities of the Commission with respect to any site in  
19 the State for a repository to determine the potential  
20 economic, environmental, social, and public health and  
21 safety impacts of the repository on the State and its  
22 residents;

23 (B) be a representative of the State in any  
24 proceeding before the Commission respecting a site for a  
25 repository in the State; and

1 (C) submit, in accordance with subsection (b), to  
 2 the Congress petitions requesting the Congress to  
 3 disapprove, in accordance with section 105, construction  
 4 of repositories in the State.

5 (3) The State Review Board shall consist of members  
 6 representing the interests of the general public in the  
 7 State, including members appointed to represent the  
 8 interests of any Indian tribes and local governments which  
 9 would be affected by the repository.

10 (4) The State Review Board shall hold meetings open for  
 11 public participation not less than once every 4 months, at  
 12 which meetings the Board shall receive and to the extent  
 13 practicable place on its agenda matters submitted by Board  
 14 members.

15 (5) The authority of State Review Boards shall not be  
 16 applicable with respect to sites located on Indian  
 17 reservations. Any references contained in this section so  
 18 sites located within a State shall not be deemed to include  
 19 sites located on Indian reservations within the State.

20 (b) Participation in Repository Licensing Decisions.--  
 21 Upon the submission by the President to the Congress of the  
 22 recommendation of a site for a repository, the State Review  
 23 Board of the State in which the site is located may, by  
 24 majority vote of the membership of the Board, submit a  
 25 petition to the Congress requesting that the Congress

1 disapprove the site designation. A State Review Board may  
2 submit such a petition to the Congress not later than the  
3 30th day after the date that the President recommends the  
4 site to the Congress under section 104. A petition shall be  
5 considered to be submitted to the Congress on the date of  
6 the transmittal of the petition to the Speaker of the House  
7 and the President Pro Tempore of the Senate. The petition  
8 shall be accompanied by a statement of reasons explaining  
9 why the petition should be granted.

10 (c) Financial Assistance.--(1) Subject to paragraph (2),  
11 and to the availability of funds to carry out this  
12 paragraph, the Secretary shall make grants to the State  
13 Review Boards of each State in which a site for a repository  
14 has been approved under section 102(c). Grants under this  
15 paragraph shall be made under such terms and conditions as  
16 the Secretary may prescribe, and the amount of funds  
17 provided a Board under this paragraph in any fiscal year may  
18 not exceed 75 percent of the costs of the operation of the  
19 Board in such year as determined by the Secretary. Salaries  
20 and travel expenses which would ordinarily be incurred by  
21 any State or local government shall not be considered part  
22 of the budget of the Board and shall not be eligible for  
23 payment under this section.

24 (2) A State Review Board may not receive any grant after  
25 the expiration of one year after--

1 (A) the date the Secretary notifies the State Review  
2 Board under section 104(a)(2) that a site in the State  
3 does not meet the requirements applicable to  
4 repositories,

5 (B) the date on which the site is disapproved by the  
6 Congress under section 105, or

7 (C) the date on which the Commission disapproves an  
8 application for a construction authorization for a  
9 repository at a site in the State,

10 whichever occurs first unless there is another site in the  
11 State approved under section 102(c) with respect to which  
12 the actions described in subparagraphs (A), (B), and (C)  
13 have not been taken.

14 (3) At the end of the one-year period beginning on the  
15 effective date of any operating license for a repository in  
16 a State, no Federal funds shall be made available under this  
17 subsection for the State Review Board of the State in which  
18 the repository is located, except for--

19 (A) such funds as may be necessary to support Board  
20 activities related to any other repository located in,  
21 or proposed to be located in, such State, and for which  
22 an operating license has not been effective for more  
23 than one year; and

24 (B) such funds as may be necessary to support Board  
25 activities pursuant to agreements or contracts for

1 assistance entered into under subsection (c) by the  
2 Board with the Federal Government before the end of such  
3 one-year period.

4 (d) Consultation.--(1) The Secretary, the Nuclear  
5 Regulatory Commission, and other agencies involved in the  
6 construction or operation of a waste repository in a State  
7 shall provide to the State Review Board of such State, and  
8 to the governing body of any Indian tribe on or adjacent to  
9 whose reservation the repository site is located, timely and  
10 complete information regarding determinations or plans made  
11 with respect to the siting, development, design,  
12 construction, operation, or regulation of the repository.

13 (2) In performing any study of an area within a State  
14 for the purpose of determining the suitability of the area  
15 for a repository and in subsequently developing and loading  
16 any repository within a State, the Secretary shall consult  
17 and cooperate with the State Review Board of the State and  
18 the governing body of any affected Indian tribe in an effort  
19 to resolve the concerns of the State and any affected Indian  
20 tribe regarding the public health and safety, environmental,  
21 and economic impacts of any such repository. In carrying out  
22 his duties under this Act, the Secretary shall take such  
23 concerns into account to the maximum extent feasible.

24 (3) As soon as possible after notifying a State of his  
25 decision to study an area within such State as a possible

1 repository site, the Secretary shall seek to enter into a  
 2 written agreement with the State Review Board of the State  
 3 and, where appropriate, a separate agreement with the  
 4 governing body of any affected Indian tribe, setting forth  
 5 the procedures under which the requirements of paragraphs  
 6 (1) and (2) shall be carried out. The written agreement  
 7 shall specify procedures--

8 (A) by which the State or the governing body of the  
 9 Indian tribe (as the case may be) may study, determine,  
 10 comment on, and make recommendations with regard to the  
 11 possible health and safety, environmental, and economic  
 12 impacts of any such repository;

13 (B) by which the Secretary may consider and respond  
 14 to comments and recommendations made by the State Review  
 15 Board or the governing body of the Indian tribe (as the  
 16 case may be), including the period in which the  
 17 Secretary may so respond;

18 (C) by which the Secretary and either the State  
 19 Review Board or the Indian tribe may review or modify  
 20 the agreement periodically; and

21 (D) for public notification of the procedures  
 22 specified under subparagraphs (A) through (C).

23 Participation of Indian Tribes

24 Sec. 187. (a) Authorities of Tribal Governing  
 25 Bodies.--The governing body of any Indian tribe on whose



1 reservation is located a site approved for site  
2 characterization under section 102(c) shall have the  
3 authorities described under sections 106(a)(2)(A) and  
4 106(a)(2)(C).

5 (D) Assistance to Tribes.--(1) Subject to the  
6 availability of funds to carry out this section, the  
7 Secretary shall provide to the governing body of each Indian  
8 tribe referred to in subsection (a) such funds as may be  
9 necessary to provide technical assistance to the tribe, and  
10 to assist the tribe in conducting the activities described  
11 under sections 106(a)(2)(A) and 106(a)(2)(C) and other  
12 similar activities related to the repository.

13 (2) No funds may be made available to the governing body  
14 of an Indian tribe under this section with respect to a site  
15 located on the reservation of such tribe after the  
16 expiration of one year after--

17 (A) the date the Secretary notifies such governing  
18 body under section 104(a)(2) that the site does not meet  
19 the requirements applicable to repositories,

20 (B) the date on which the site is disapproved by the  
21 Congress under section 105, or

22 (C) the date on which the Commission disapproves an  
23 application for a construction authorization for a  
24 repository at the site,

25 whichever occurs first unless there is another site located

1 on the reservation of such tribe and approved under section  
2 102(c) with respect to which the actions described in  
3 subparagraphs (A), (B), and (C) have not been taken.

4 (3) At the end of the one-year period beginning on the  
5 effective date of any operating license for a repository  
6 located on a reservation, no Federal funds shall be made  
7 available under this subsection to the governing body of the  
8 Indian tribe on whose reservation the repository is located,  
9 except for--

10 (A) such funds as may be necessary to support  
11 activities related to any other repository located in,  
12 or proposed to be located in, such reservation, and for  
13 which an operating license has not been effective for  
14 more than one year; and

15 (B) such funds as may be necessary to support  
16 activities pursuant to agreements or contracts for  
17 assistance entered into by the governing body of the  
18 Indian tribe with the Federal Government before the end  
19 of such one-year period.

#### 20 Judicial Review of Agency Actions

21 Sec. 108. (a) In General.--Notwithstanding any other  
22 provision of law, the actions taken by the Secretary to  
23 recommend a site for approval by the President and in  
24 connection with the site characterization of a site, any  
25 actions taken by the Commission in granting or denying any

1 construction authorization application submitted under  
 2 section 174 or for any operating permit for a repository,  
 3 and any actions described in section 178 shall not be  
 4 subject to judicial review except as authorized by  
 5 subsection (b).

6 (d) Judicial Review of Actions.--(1) A civil action for  
 7 judicial review of an administrative action described in  
 8 subsection (a) may be brought not later than the 180th day  
 9 following the date of such action, except that the court  
 10 referred to in paragraph (2) may extend the time for  
 11 bringing such a civil action if the court determines that  
 12 the facts on which the civil action is based were not  
 13 reasonably available within the applicable 180-day time  
 14 limit.

15 (2) A civil action for judicial review of any such  
 16 administrative action shall be barred unless a complaint is  
 17 filed before the expiration of the time limit prescribed by  
 18 paragraph (1) in the United States Court of Appeals for the  
 19 District of Columbia Circuit, acting as a special court. No  
 20 other court of the United States, or any State, territory,  
 21 or possession of the United States, or of the District of  
 22 Columbia, shall have jurisdiction of any such civil action.

23 Expedited Authorizations

24 Sec. 109. (a) Issuance of Authorizations.--(1) Subject  
 25 to paragraph (2), to the extent that the taking of any

1 action related to the characterization of a site or the  
 2 construction or initial operation of a repository under this  
 3 title requires a certificate, right-of-way, permit, lease,  
 4 or other authorization from a Federal officer or agency,  
 5 such officer or agency shall issue or grant any such  
 6 authorization at the earliest practicable date, to the  
 7 extent permitted by the applicable provisions of law  
 8 administered by such officer or agency. All actions of a  
 9 Federal officer or agency with respect to consideration of  
 10 applications or requests for the issuance or grant of any  
 11 such authorization shall be expedited, and any such  
 12 application or request shall take precedence over any  
 13 similar applications or requests not related to such  
 14 repositories.

15 (2) The requirements of paragraph (1) shall not be  
 16 applicable in the case of any action related to any permit  
 17 or other authorization issued or granted by, or requested  
 18 from, the Nuclear Regulatory Commission.

19 (d) Terms of Authorizations.--(1) Any authorization ..  
 20 issued or granted under subsection (a) shall include such  
 21 terms and conditions as may be required by law, and may  
 22 include terms and conditions permitted by law.

23 (2) Except as provided in the second sentence of this  
 24 subsection, nothing contained in this section shall be  
 25 construed to impair the authority of any Federal officer or

1 agency to add to, amend, or abrogate any term or condition  
 2 included in any authorization issued or granted pursuant to  
 3 subsection (a) if such action is otherwise permitted under  
 4 applicable laws administered by such officer or agency. In  
 5 the case of any such action which is permitted but not  
 6 required by law, the Federal officer or agency shall have no  
 7 authority to take such action if the terms and conditions to  
 8 be so added, or as so amended, would have the effect of  
 9 terminating the characterization, construction, or initial  
 10 operation of the potential or permanent repository which the  
 11 authorization affects.

12 Schedule for Certain Standards and Criteria

13 Sec. 110. (a) EPA Standards.--Not later than November 1,  
 14 1981, the Administrator of the Environmental Protection  
 15 Agency, pursuant to authority under other provisions of law,  
 16 shall, by rule, promulgate generally applicable standards  
 17 for protection of the general environment from radioactive  
 18 material.

19 (b) Criteria.--Not later than November 1, 1981, the  
 20 Commission, pursuant to authority under other provisions of  
 21 law, shall, by rule, promulgate criteria which it will apply  
 22 in reviewing under the Atomic Energy Act of 1954 and the  
 23 Energy Reorganization Act of 1974, applications for  
 24 construction authorizations for the construction of  
 25 repositories.

*light*

## 1 Disposal of spent fuel

2 Sec. 111. Notwithstanding any other provision of this  
3 Act, any repository for the disposal of high-level  
4 radioactive waste and spent fuel which is designed and  
5 constructed under this title shall be so designed and  
6 constructed that the spent fuel may be retrieved, during an  
7 appropriate period of operation of the facility, for any  
8 reasons pertaining to the public safety or for the purpose  
9 of permitting the recovery of the economically valuable  
10 contents of the spent fuel.

## 11 Authorization of Appropriations; Contract Authority

12 Sec. 112. (a) Authorization.--There are authorized to be  
13 appropriated to the Secretary to carry out this title  
14 \$5,000,000 for the fiscal year ending September 30, 1981.

15 (b) Contracts.--The authority of the Secretary to enter  
16 into contracts under this title shall be effective for any  
17 fiscal year only to such extent or in such amounts as are  
18 provided in advance by appropriation Acts.

## 19 Accounting of Expenditures

20 Sec. 113. (a) Record of Expenditures.--The Secretary  
21 shall maintain adequate records of all expenditures made  
22 under this title which, together with expenditures made by  
23 the United States under other laws in connection with the  
24 management, interim storage, and disposal of nuclear wastes  
25 and spent fuel, shall provide the basis for any fees to be

1 assessed as described under subsection (b).

2 (b) Fee Collection.--Not later than the date the  
3 Secretary submits to the Commission under section 104 a  
4 license application for the construction of an initial  
5 repository, the Secretary shall submit to the Congress a  
6 report proposing fees to be collected to offset all  
7 construction, operation, administrative, and other costs  
8 incurred by the Secretary in providing for the management,  
9 interim storage, and disposal of nuclear wastes and spent  
10 fuel. The fees specified in the report would be collected  
11 from the persons or entities who hold title to any nuclear  
12 waste or spent fuel which is subject to interim storage or  
13 disposal by the Secretary.

14 Termination of title

15 Sec. 114. (a) Sections 108 and 109.--Sections 108 and  
16 109 shall cease to have effect at such time as the Secretary  
17 commences licensed commercial operation of at least one  
18 repository.

19 (c) Remainder of Title.--The provisions of this title,  
20 other than sections 108, 109, 111, and 113, shall cease to  
21 have effect after December 31, 1999.

22 TITLE II--LOW-LEVEL RADIOACTIVE WASTE

23 low-level radioactive waste disposal

24 Sec. 201. (a)(1) It is the policy of the Federal  
25 Government that--

1 (A) each State is responsible for the disposal of  
2 non-Federal low-level radioactive waste generated within  
3 its borders; and

4 (B) non-Federal low-level radioactive waste can be  
5 most safely and efficiently managed on a regional basis.

6 (2)(A) To carry out the policy set forth in paragraph  
7 (1), the States may enter into such compacts as may be  
8 necessary to provide for the establishment and operation of  
9 facilities for the disposal of low-level radioactive waste.

10 (B) A compact entered into under subparagraph (A) shall  
11 not take effect until the Congress has by law consented to  
12 the compact. Each such compact shall provide that every 5  
13 years after the compact has taken effect the Congress may by  
14 law withdraw its consent. After January 1, 1987, any such  
15 compact may restrict the use of the regional disposal  
16 facilities under the compact to the disposal of non-Federal  
17 low-level radioactive waste generated within the region.

18 (b)(1) In order to assist the States in carrying out the  
19 policy set forth in subsection (a)(1), the Secretary shall  
20 prepare and submit to Congress and to each of the States  
21 within 120 days after the date of the enactment of this Act  
22 a report which--

23 (A) defines the disposal capacity needed for present  
24 and future low-level radioactive waste on a regional  
25 basis;



1 (B) defines the status of all commercial low-level  
2 radioactive waste disposal sites and includes an  
3 evaluation of the license status of each such site, the  
4 state of operation of each site, including operating  
5 history, an analysis of the adequacy of disposal  
6 technology employed at each site to contain low-level  
7 radioactive wastes for their hazardous lifetimes, and  
8 such recommendations as the Secretary considers  
9 appropriate to assure protection of the public health  
10 and safety from wastes transported to such sites;

11 (C) evaluates the transportation requirements on a  
12 regional basis and in comparison with performance of  
13 present transportation practices for the shipment of  
14 low-level radioactive wastes, including an inventory of  
15 types and quantities of low-level wastes, and evaluation  
16 of shipment requirements for each type of waste and an  
17 evaluation of the ability of generators, shippers, and  
18 carriers to meet such requirements; and

19 (D) evaluates the capability of the low-level  
20 radioactive waste disposal facilities owned and operated  
21 by the Department of Energy to provide interim storage  
22 for commercially generated low level waste and estimates  
23 the costs associated with such interim storage.

24 (2) In carrying out his subsection, the Secretary shall  
25 consult with the Governors of the States, the Nuclear

1 Regulatory Commission, the Environmental Protection Agency,  
2 the United States Geological Survey, and the Secretary of  
3 Transportation, and such other agencies and departments as  
4 he finds appropriate.

5 (3) This subsection does not authorize appropriations  
6 for the fiscal year ending September 30, 1980.

7 Uranium mill site at edgemont

8 Sec. 202. (a) The Secretary shall undertake an  
9 investigation to determine whether Federal funding is  
10 appropriate for 90 percent of the cost of any stabilization,  
11 decommissioning, and decontamination action necessary for  
12 off-site contamination resulting from the uranium mill  
13 tailings site owned by the Tennessee Valley Authority and  
14 located at Edgemont, South Dakota. The investigation shall  
15 take into consideration whether such tailings resulted all  
16 or in part from activities conducted under Federal contract;  
17 and shall include an analysis of the total costs which would  
18 be required to undertake such actions with respect to such  
19 off-site contamination, including the costs of acquiring and  
20 managing any facilities which may be necessary to protect  
21 the public health and safety from such contamination.

22 (b) Not later than 120 days after the date of the  
23 enactment of this section, the Secretary shall complete the  
24 investigation prescribed by subsection (a) and shall submit  
25 a report to the Congress of the results of the

1 investigation. The report shall include any recommendation  
2 for legislation to provide for Federal funding. Any such  
3 recommended legislation shall be consistent with the  
4 provisions of the Uranium Mill Tailings Radiation Control  
5 Act of 1978. The report shall also contain the comments and  
6 recommendations of the Tennessee Valley Authority.

*Joh  
Xtra*

*Tightening of MIFSTER I  
circulated over the weekend.  
Maybe offered to an omnibus  
to the House version*

JACK IN BOSTON  
NMSS  
12/8

96TH CONGRESS  
2D SESSION

**H. R. 8378** by JACKSON/Johnson/McClure  
*(this excludes milk waste)*

To establish licensed permanent repositories for transuranic waste, high-level radioactive waste, and spent fuel, to authorize State compacts for the establishment and operation of regional repositories for low-level radioactive waste, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 21, 1980

Mr. UDALL (for himself, Mr. BROWN of Ohio, Mr. CLAUSEN, Mr. STAGGERS, Mr. DINGELL, and Mr. LUJAN) introduced the following bill; which was referred jointly to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Rules

**A BILL**

To establish licensed permanent repositories for transuranic waste, high-level radioactive waste, and spent fuel, to authorize State compacts for the establishment and operation of regional repositories for low-level radioactive waste, and for other purposes.

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

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the "Nuclear  
5 Waste Policy Act".

DEFINITIONS

SEC. 2. As used in this Act— Titles I and II of

(1) The term "Commission" means the Nuclear Regulatory Commission.

(2) The term "disposal" means the long-term isolation of radioactive waste.

(3) The term "high-level radioactive waste" means the highly radioactive wastes resulting from the reprocessing of spent nuclear fuel, ~~Such term includes both liquid waste which is produced directly in reprocessing, dry solid material derived from such liquid~~

highly radioactive

~~waste, and such other material as the Commission designates as high-level radioactive waste for purposes of protecting~~ the public health and safety.

Following a determination that such designation is necessary to protect

(4) The term "Indian reservation" means—

(A) the Indian reservations and dependent Indian communities referred to in clauses (a) and (b) of section 1151 of title 18, United States Code; and

(B) lands selected by Alaska Native villages or regional corporations under the provisions of the Alaska Native Claims Settlement Act.

~~(5) The term "Indian tribe" means any Indian~~  
~~tribe~~ "Indian tribe" means an Indian tribe, as defined in the Indian Self-Determination and Education

any solid material into which such liquid waste is made

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~~(5) The term "Indian tribe" means any Indian~~

~~tribe~~ "Indian tribe" means an Indian tribe, as defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 1300-1306).

any solid material into which such liquid waste is made

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1 ~~ices provided to Indians by the Secretary of the Interior~~  
2 ~~rior because of their status as Indians, including any~~  
3 ~~Alaska Native village, as defined in section 3(c) of the~~  
4 ~~Alaska Native Claims Settlement Act (48 U.S.C.~~  
5 ~~1602).~~

6 (6) The term "low-level radioactive waste" means  
7 radioactive waste not classified as high-level radioac-  
8 tive waste, transuranic waste, spent nuclear fuel, or  
9 byproduct material as defined in section 11 e. (2) of the  
10 Atomic Energy Act of 1954.

11 (7) The term "repository" means any facility for  
12 the permanent disposal of transuranic waste, high-level  
13 radioactive waste, spent nuclear fuel, or any combina-  
14 tion of such wastes or fuel, whether or not such facility  
15 is designed to permit the subsequent recovery of the  
16 materials placed in the repository.

17 (8) The term "Secretary" means the Secretary of  
18 Energy.

19 (9) The term "site characterization" means activities *evaluate*  
20 undertaken to determine the geologic characteristics *and other*  
21 of a site ~~and to otherwise determine if a site meets~~  
22 ~~the requirements applicable to sites for repositories.~~

23 Such term includes borings, surface excavations, exca-  
24 vations of exploratory shafts, and in situ testing needed  
*evaluate* 25 to determine the suitability of a site for a geologic re-

1        pository, but does not include preliminary borings and  
2        geophysical testing needed to decide whether site char- <sup>assess</sup>  
3        acterization should be undertaken.

4        (10) The term "spent nuclear fuel" means fuel  
5        that has been withdrawn from a nuclear reactor follow-  
6        ing irradiation, the constituent elements of which have  
7        not been separated by reprocessing.

*and, subject  
to the  
provisions  
of Public  
Law 96-205,*

8        (11) The term "State" means any State of the  
9        United States, the District of Columbia, the Common-  
10        wealth of Puerto Rico, the Virgin Islands, Guam, the  
11        Northern Mariana Islands, the Trust Territory of the  
12        Pacific Islands, and any other territory or possession of  
13        the United States.

*"Review Panel"*

14        (12) The term "~~State Review Board~~" means any  
15        *Nuclear Waste Repository Review Panel*  
16        ~~State Review Board~~ that meets the requirements under  
17        section 106, as so determined by the Secretary.

18        (13) The term "transuranic waste" means mate-  
19        rial contaminated with elements which have an atomic  
20        number greater than 92, including neptunium, pluto-  
21        nium, americium, and curium, which have a half-life  
22        greater than 5 years, and which are in concentrations  
23        greater than 10 nanocuries per gram or in such other <sup>determ</sup>  
24        concentrations as the Commission ~~may prescribe~~ to  
      protect the public health and safety.



4a

APPLICATION

SEC. 3.

(a) (1) The provisions of this Act shall not apply to the siting, construction or operation of repositories dedicated exclusively to the disposal of high-level radioactive waste, transuranic waste, low-level radioactive waste and spent fuel resulting from the atomic energy defense activities of the Secretary.

(2) The Secretary may not dispose of high-level radioactive waste, transuranic waste, low-level radioactive waste or spent fuel resulting from any activity other than the atomic energy defense activities of the Secretary in a repository to which the provisions of this Act do not apply by virtue of paragraph (1).

(3) The Secretary may not dispose of high-level radioactive waste, transuranic waste, low-level radioactive waste or spent fuel resulting from atomic energy defense activities of the Secretary in any repository subject to the provisions of this Act.

(b) The provisions of this Act shall not apply to the siting, construction or operation of facilities of the Secretary used exclusively for research and development purposes which contain materials with a curie equivalent of not more than 10 metric tons of spent fuel.

40

(c) For purposes of this section the term "atomic energy defense activities of the Secretary" includes those activities and facilities of the Department of Energy carrying out the function of Naval reactors development and propulsion, weapons activities, verification and control technology, materials production, inertial confinement fusion, defense waste management and nuclear materials, security and safeguards, as included in the Department of Energy appropriations account in any fiscal year for atomic energy defense activities.

1 TITLE I—DISPOSAL OF TRANSURANIC WASTE,  
 2 HIGH-LEVEL RADIOACTIVE WASTE, AND  
 3 SPENT NUCLEAR FUEL

4 FINDINGS AND PURPOSE

5 SEC. 101. (a) FINDINGS.—The Congress finds that—

6 (1) radioactive waste creates potential risks and  
 7 requires safe and environmentally acceptable methods  
 8 of disposal;

9 (2) the accumulation of spent nuclear fuel from  
 10 nuclear power reactors, radioactive waste from com-  
 11 mercial nuclear reprocessing, activities related to medi-  
 12 cal research, diagnosis, and treatment, and nuclear re-  
 13 search and development activities, and radioactive

14 waste from other sources, ~~has~~ <sup>have</sup> created a national  
 15 problem;

16 (3) Federal efforts during the past 30 years to  
 17 devise a permanent solution to the problems of radioac-  
 18 tive waste disposal have not been adequate;

19 (4) the Federal Government has the responsibility  
 20 to provide for the permanent disposal of transuranic  
 21 waste, high-level radioactive waste, and spent nuclear  
 22 fuel in order to protect the public health and safety and  
 23 the common defense and security;

24 ~~(5) the primary objective of repositories for such~~  
 25 ~~waste is to isolate them from the biosphere;~~

1 (6) State and public participation in the planning  
2 and development of permanent repositories for the dis-  
3 posal of radioactive waste is essential in order to pro-  
4 mote confidence among the public with regard to the  
5 safety of disposal of radioactive waste;

establishment

6 (7) the implementation of a radioactive waste re-  
7 pository program in accordance with this title ~~would~~  
8 ~~provide~~ reasonable assurance that methods of safe dis-  
9 posal of transuranic waste, high-level radioactive  
10 waste, and spent nuclear fuel can be available when  
11 such methods are needed; and

provides

12 (8) radioactive waste has become a major issue of  
13 public concern; and stringent precautions must be  
14 taken to ensure that radioactive waste does not ad-  
15 versely affect the public health and safety of this or  
16 future generations.

appropriate

17 (b) PURPOSE.—It is the purpose of this title to—

18 (1) establish a schedule for the siting, construc-  
19 tion, and operation of licensed permanent repositories  
20 for transuranic waste, high-level radioactive waste, and  
21 spent nuclear fuel which will provide the Congress  
22 with a reasonable assurance that the public will be  
23 adequately protected from the hazards posed by such  
24 wastes;

1 (2) establish the Federal responsibility for the dis-  
2 posal of such wastes from nuclear activities; and

3 (3) establish a definite Federal policy for the dis-  
4 posal of such wastes.

5 IDENTIFICATION OF SITES FOR REPOSITORIES

6 SEC. 102. (a) GUIDELINES.—Not later than June 30,  
7 1981, the Secretary shall, in consultation with the Council  
8 on Environmental Quality, the Environmental Protection  
9 Agency, the Nuclear Regulatory Commission, and the United

10 States Geological Survey, issue general guidelines for the recommen-

11 dation of sites for repositories. Under such guidelines the Sec-

12 retary shall specify factors that would disqualify a site from

13 development as a repository, including factors pertaining to the

14 location of valuable natural resources, proximity to popula-

15 tions, hydrogeophysics, seismic activity, and nuclear defense

16 activities. The guidelines shall require the Secretary to con-

17 sider the various geologic media in which sites for reposito-

18 ries may be located and, to the extent practicable, to recom-

19 mend sites in different geologic media. The Secretary shall

20 use guidelines established under this subsection in consider-

21 ing sites to be recommended under subsection (b). ~~The devel-~~

22 ~~opment of guidelines under this subsection shall be consid-~~

23 ~~ered a preliminary decisionmaking activity and shall not be~~

24 ~~subject to the requirements of section 102(2)(C) of the Na-~~

25 ~~tional Environmental Policy Act of 1969.~~

1 (b) RECOMMENDATIONS BY THE SECRETARY.—(1) Not  
 2 later than January 1, 1982, the Secretary shall identify and  
 3 recommend to the President at least two sites which the Sec-  
 4 retary determines are suitable for site characterization. Not  
 5 later than February 1, 1985, the Secretary shall identify and  
 6 recommend to the President at least two additional sites  
 7 which the Secretary determines are suitable for such pur-  
 8 pose. Each recommendation of a site shall include a detailed  
 9 statement of the basis for the recommendation. If the Secre-

10 tary recommends a site to the President, the Secretary shall

11 notify the State Review Board of the State in which the site  
 12 is located, ~~of the governing body of any Indian tribe on~~<sup>affected</sup>  
 13 ~~whose reservation the site is located,~~ of the Secretary's rec-  
 14 ommendation and the basis for such recommendation.

Panel  
 Tribal Council  
 and

15 (2) Before recommending to the President any site for  
 16 characterization, the Secretary shall hold public hearings in  
 17 the vicinity of the site to inform the residents of the area in  
 18 which the site is located of the proposed recommendation and  
 19 to receive their comments.

20 (c) PRESIDENTIAL REVIEW OF RECOMMENDED

21 SITES.—(1) The President shall review each site recom-  
 22 mended by the Secretary under subsection (b). Within 60  
 23 days after the submission of a recommendation for a site, the

24 President shall either approve or disapprove the site, and  
 25 transmit his decision to the Secretary and the State Review  
 in his discretion

and in  
of any affected  
Indian tribe

Panel

1 Board of the State in which the site is located. If the Presi-  
2 dent fails to approve or disapprove the site in accordance  
3 with this paragraph during such 60-day period, or within  
4 such period fails to invoke his authority under paragraph (2)  
5 to delay the determination, the site shall be considered to be  
6 approved.

7 (2) The President may delay for not more than 6 months  
8 his decision under paragraph (1) to approve or disapprove a  
9 site upon determining that the information provided with the  
10 recommendation is not sufficient to permit a decision within  
11 the 60-day period referred to in paragraph (1). The President  
12 may invoke his authority under this paragraph by submitting  
13 written notice to the Congress, within such period, of his  
14 intent to utilize the authority provided under this paragraph.  
15 If the President invokes his authority under this paragraph  
16 but fails to approve or disapprove a site at the end of such 6-  
17 month period, the site shall be considered to be approved.

18 (d) CONTINUATION OF SITE SCREENING.—After the  
19 identification of sites under subsection (b), the Secretary shall  
20 continue to screen other sites to determine their suitability  
21 for site characterization.

identify  
and  
study

SITE CHARACTERIZATION

22  
23 SEC. 103. (a) IN GENERAL.—The Secretary shall carry  
24 out in accordance with this section appropriate site charac-  
25 terization activities at each site approved under section 102.

(c) Any activity of the President or the Secretary under this section shall be considered a preliminary decisionmaking activity

panels

1 (b) NUCLEAR REGULATORY COMMISSION AND STATE  
 2 REVIEW ~~BOARDS~~.—(1) Before proceeding to sink shafts at  
 3 any site, the Secretary shall submit for such site to the Com-  
 4 mission and to the ~~State Review Board~~ of the State in which  
 5 the site is located, ~~or~~ to the governing body of any Indian  
 6 tribe on whose reservation the site is located, for their review  
 7 and comment—

Panel

and

8 (A) an environmental assessment of the nonradio-  
 9 logical impacts of the site characterization activities  
 10 planned for such site and a discussion of alternative  
 11 activities which may be undertaken to avoid such  
 12 impacts;

for purposes of site characterization

13 (B) a plan for site characterization activities to be  
 14 conducted at such site which plan shall include—

gener

- 15 (i) a description of the site;
- 16 (ii) a description of the site characterization
- 17 activities, including the extent of planned excava-
- 18 tions, plans for any onsite testing of radioactive or
- 19 nonradioactive material, investigation activities
- 20 which may affect the ability of the site to isolate
- 21 radioactive wastes and spent fuel, and provisions
- 22 to control ~~any~~ adverse, safety-related impacts
- 23 from site characterization activities;

likely

24 (iii) plans for the decontaminating and  
 25 decommissioning of the site if it is determined



1 unsuitable for application for licensing as a  
2 repository; ~~and~~

3 ~~(iv) criteria to be used to determine if the~~  
4 ~~site is acceptable as a site for a repository; and~~

5 (v) any other information required by the  
6 Commission; and

7 (C) proposals describing the possible form or pack-  
8 aging for the waste material and spent fuel which  
9 would be emplaced in the repository;

10 (2) During the conduct of site characterization activities  
11 at a site, the Secretary shall report to the Commission, and  
12 to either the State Review Board of the State in which the  
13 site is located or the governing body of any Indian tribe on  
14 whose reservation the site is located, on the nature and  
15 extent of such activities and the information developed from  
16 such activities.

*panel*

17 (c) TESTS. The Secretary shall conduct at sites at  
18 which site characterization activities are being conducted

*the Secretary  
deems*

19 such tests as may be necessary to provide the necessary data  
20 for an application for a construction authorization for a re-

*by the  
Commission*

21 pository at the site and for compliance with the National En-  
22 vironmental Policy Act of 1969. The Secretary shall report  
23 to the Commission on the tests conducted at a site pursuant  
24 to this subsection and on the information developed from such  
25 tests.

1 (d) RESTRICTIONS.—(1) In conducting site character-  
2 ization activities or tests pursuant to subsection (c)—

3 (A) the Secretary may not use radioactive materi-  
4 als at a site unless the Commission ~~and the Secretary~~  
5 *concur* that such use is necessary to provide data for  
6 the submission of an application for a construction au-  
7 thorization for a repository at the site;

8 (B) if radioactive materials are placed in a site,  
9 the Secretary shall place the smallest quantity neces-  
10 sary to determine the suitability of the site for a re-  
11 pository, but in no event more than the curie equiva-  
12 lent of 10 metric tons of spent fuel; and

13 (C) any radioactive material used or placed on a  
14 site shall be fully retrievable.

15 (2) If characterization activities are terminated at a site  
16 for any reason, the Secretary shall remove any nuclear  
17 waste, spent nuclear fuel, or other radioactive materials at or  
18 in the site as promptly as practicable.

19 SITE APPROVAL AND CONSTRUCTION AUTHORIZATIONS

20 ~~Sec. 104 (a) In General. If after completion of site~~  
21 ~~characterization activities at a site~~

22 ~~(1) the Secretary determines that the site meets~~  
23 ~~the requirements applicable to repositories, the Secre-~~

24 ~~tary shall proceed in accordance with this section to~~

CONCURS

1 ~~secure approval of the site and a construction authori-~~  
 2 ~~zation for construction of a repository at the site, or~~  
 3 (2) the Secretary determines that the site does not  
 4 meet such requirements, the Secretary shall notify the  
 5 State Review Board of the State in which the site is  
 6 located, or the governing body of the Indian tribe on  
 7 whose reservation the site is located, of such  
 8 ~~determination.~~

SEC. 104 (k)

9 ~~(1) HEARINGS AND PRESIDENTIAL RECOMMENDA-~~  
 10 ~~TION.—(1) If after completion of site characterization activi-~~  
 11 ~~ties at a site the Secretary determines that the site meets the~~  
 12 ~~requirements applicable to repositories,~~ the Secretary shall  
 13 hold public hearings in the vicinity of the site to inform the  
 14 residents of the area in which the site is located of the deter-

Upon

15 mination of the Secretary and to receive their comments. ~~If~~  
 16 ~~upon~~ completion of the hearings, ~~the Secretary affirms the~~  
 17 ~~determination,~~ the Secretary ~~shall~~ submit to the President a ~~(may)~~  
 18 recommendation that the President approve the site for the  
 19 development of a repository. Together with any recommen-  
 20 dation of a site under this paragraph, the Secretary shall  
 21 submit to the President a ~~report containing the following:~~

- 22 (A) ~~A description of the proposed repository, in-~~  
 23 ~~cluding engineering plans for the facility.~~
- 24 (B) A description of the waste form or packaging  
 25 ~~proposed for use at the repository.~~

(1) Prior to submitting a recommendation to the President for approval of a site,

Repository Development Report under

1 ~~(C) A discussion of data, obtained in site charac-~~  
 2 terization activities, relating to the safety of the reposi-  
 3 tory site.

4 (D) A final environmental impact statement for  
 5 the site and the design of the repository as required  
 6 under the National Environmental Policy Act of 1969  
 7 together with comments made concerning the environ-  
 8 mental impact statement by the Department of the In-  
 9 terior, the Council on Environmental Quality, the En-  
 10 vironmental Protection Agency, and the Nuclear Regu-  
 11 latory Commission.

12 (E) Preliminary comments of the Nuclear Regula-  
 13 tory Commission concerning the extent to which the  
 14 at-depth site characterization analysis and the waste  
 15 form proposal for the site seem to be sufficient for in-  
 16 clusion in any application to be submitted by the De-  
 17 partment of Energy for licensing of the site as a per-  
 18 manent repository for high-level radioactive waste and  
 19 spent fuel.

20 ~~(F) The~~ views of any State Review Board, or the  
 21 governing body of any Indian tribe, which is affected  
 22 by such site, as determined by the Secretary, together  
 23 with the Secretary's response to such views.

24 ~~(G) Such other information as the Secretary con-~~  
 25 sider appropriate to provide a complete statement of

Repository Development Report under section 105(c) for

1 ~~the basis for the recommendation of the site for licens-~~  
2 ~~ing as a repository for the disposal of high-level radio-~~  
3 ~~active waste and spent fuel.~~

4 (2) Not later than March 30, 1987, the President shall  
5 submit to the Congress a ~~recommendation~~ of a site which the  
6 President considers qualified for application for license as a  
7 repository. ~~The President shall submit with such recommen-~~  
8 ~~ation a copy of the report for such site prepared by the~~  
9 ~~Secretary under paragraph (1).~~ After such date, the President

10 may submit to the Congress ~~recommendations~~ for other sites  
11 which the President also considers suitable for such purpose,  
12 together with such reports.

a Repository Development Report under section 105(c) for

13 (3) If the approval of a site ~~recommendation~~ for the ini-  
14 tial repository proposed as required under paragraph (2) does  
15 not take effect as a result of a disapproval by the Congress  
16 under section 105, the President shall submit to the Con-  
17 gress, within one year after <sup>such</sup> the disapproval of the ~~recommen-~~

18 ~~ation, a recommendation~~ of another site for an initial  
19 repository. The President may not ~~recommend the approval~~  
20 ~~of any~~ site under this paragraph unless the Secretary has  
21 recommended to the President under paragraph (1) approval  
22 of such site and has submitted to the President a report for  
23 the site as required under such paragraph.

a Repository Development Report for a

24 (4) SUBMISSION OF APPLICATION.—If the President  
25 recommends to the Congress a site for a repository under

Submission of the first Repository Development Report

a Repository Development Report

submit to the Congress

1 subsection (j) and the site designation is permitted to take  
 2 effect under section 105 (pertaining to congressional ~~dispos-~~ review)  
 3 ~~provid~~, the Secretary shall submit to the Commission a li-  
 4 cense application for the construction of a repository at the  
 5 site within 90 days after the date on which the recommenda-  
 6 tion of the site designation is effective under such section and  
 7 shall provide the ~~State Review Board~~ State Review ~~Board~~ Panel of the State in which  
 8 the site is located, or the governing body of any Indian tribe  
 9 on whose reservation the site is located, a copy of the  
 10 application.

c) 11 (j) STATUS REPORT FOR CONSTRUCTION PERMIT AU-  
 12 THORIZATION.—No later than 2 years after the date on  
 13 which an application for a license application is submitted  
 b) 14 under subsection (j), the Commission shall submit a report to  
 15 the Congress describing the proceedings undertaken through  
 16 such date with regard to the authorization application sub-  
 17 mitted, including a description of—

18 (1) major unresolved safety issues, and the Secre-  
 19 tary's explanation of design and operation plans for re-  
 20 solving such issues;

21 (2) matters of contention regarding the ap-  
 22 plication;

23 (3) any Commission actions regarding the grant-  
 24 ing or denial of the authorization.

1 (d) COMMISSION ACTION.—The Commission shall con-  
2 sider a license application for the construction of a repository  
3 in accordance with the laws applicable to such applications,  
4 except that the Commission shall issue a final decision ap-  
5 proving or disapproving the first such application not later  
6 than—

- 7 (1) January 1, 1990, or
- 8 (2) the expiration of four years after the date of
- 9 the submission of the application,
- 10 whichever occurs later.

11 REVIEW OF REPOSITORY SITE SELECTION

SEC. 105.(A)(1) The Secretary shall identify the States  
9 with one or more potentially acceptable sites for a repository,  
10 including test disposal of high-level or transuranic wastes.  
11 Within ninety days of such identification, or within ninety  
12 days of enactment of this Act, the Secretary shall notify the  
13 Governor, the State legislature, and the Tribal Council of  
14 any affected Indian tribe in any affected State of the poten-  
15 tially acceptable sites within such State.

2 16 (e) Each affected State and affected Indian tribe notified  
17 under subsection (a) shall have the right to participate in a  
18 process of consultation and concurrence, based on public  
19 health and safety concerns, in all stages of the planning,  
20 siting, development, construction, and operation of

In addition to the requirements of section 102(b), the

paragraph (1)

21 tory. The Secretary is authorized and directed promptly to  
22 enter into negotiations with each Repository Review Panel *section 106*  
23 described in ~~title X~~ to establish a cooperative agreement  
24 under which the Repository Review Panel may exercise such  
25 right. Public participation in the negotiation of such agree-

---



1 ment shall be provided for and encouraged by the Secretary,  
 2 the States and the Indian tribes. The Secretary, in coopera-  
 3 tion with the States and Indian tribes, shall develop and pub-  
 4 lish minimum guidelines for public participation in such nego-  
 5 tiations, but the adequacy of such guidelines or any failure to  
 6 comply with these guidelines shall not be a basis for judicial  
 7 review.

3) 8 (f) The cooperative agreement may include, but need  
 9 not be limited to, the sharing in accordance with applicable  
 10 law of all technical and licensing information, the utilization  
 11 of available expertise, the facilitating of permitting proce-  
 12 dures, joint project review, and the formulation of joint sur-  
 13 veillance and monitoring arrangements to carry out applica-  
 14 ble Federal and State laws. Such cooperative agreement  
 15 shall provide procedures for negotiating and resolving objec-  
 16 tions of the ~~Repository~~ Review Panel in any stage of the  
 17 planning, siting, development, construction or operation of  
 18 such a facility within the State: *Provided, however,* That any  
 19 such agreement shall not affect the Nuclear Regulatory Com-  
 20 mission's authority under existing law.

4) 21 (g) For the purpose of this part of this title "process of  
 22 consultation and concurrence" means a methodology by  
 23 which the Secretary (A) keeps the ~~Repository~~ Review Panel  
 24 fully and currently informed about the aspects of the project  
 25 related to any potential impact on the public health and

1 safety, (B) solicits, receives, and evaluates concerns and ob-  
2 jections of the Review Panel with regard to such aspects of  
3 the project on an ongoing basis, and (C) works diligently and  
4 cooperatively to resolve such concerns and objections.

5 ~~(d)~~ The Secretary and the ~~Repository~~ Review Panel  
6 shall seek to conclude the agreement required by ~~subsection~~ *paragraph 1*

~~(b)~~ not later than one year after the date of notification under  
7 ~~subsection (a)~~. The Secretary shall report to the Congress  
8 ~~annually thereafter on the status of the agreement approved~~  
9 ~~under subsection (c)~~. Any report to the Congress on the

10 status of negotiations under ~~subsection (b)~~ or the agreement *paragraph (2)*  
11 ~~under subsection (c)~~ by the Secretary shall be accompanied

12 by comments solicited by the Secretary from the Review  
13 Panel.  
14 Panel.

15 PROPOSED SITE REPORTS

*(b)(1)* ~~Sec. 902. (a)~~ At such time as the Secretary, following  
16 detailed site characterization ~~and investigation activities~~ *under* ~~at~~ *Section 103*

17 one or more specific possible repository sites, proposes that  
18 for the purposes of further Department repository develop-  
19 ment activities any such site be selected as the location for a  
20 repository, the Secretary shall prepare and submit to the  
21 Congress a Proposed Site Report describing the site in ques-  
22 tion, the alternatives considered, if any, and his reasons for  
23 the selection of the proposed repository site from among any  
24 such alternatives.  
25

*paragraph (1)*  
*paragraph (3)*  
*paragraph (3)*

(2) 1 (1) The Secretary shall not undertake further work  
 2 toward the development of a repository at any proposed site  
 3 as described in ~~subsection (a)~~, including the preparation of *paragraph (1)*  
 4 any necessary license application for any such repository,  
 5 until forty-five days of continuous session (as defined in ~~sec~~ *subsection (e)*)  
 6 ~~tion 905~~) shall have elapsed following his submission to the  
 7 Congress of the Proposed Site Report specified in ~~subsection~~ *paragraph (1)*  
 8 ~~(a)~~ The Congress by concurrent resolution may waive this  
 9 time period.

3 10 (1) Prior to his submission to the Congress of the Pro- *paragraph (1)*  
 11 posed Site Report specified in ~~subsection (a)~~ the Secretary  
 12 shall prepare a draft of such report and solicit the views  
 13 thereon of—

A 14 (1) the ~~Repository~~: Review Panel convened in the  
 15 State containing the repository site;

B 16 (2) other interested States, including specifically,  
 17 the views of the Governor (or other appropriate State  
 18 officials as may be specified by State law) of other ad-  
 19 jacent States that the Secretary determines may be di-  
 20 rectly and substantially affected by a repository at the  
 21 proposed site;

C 22 (3) the public; and  
 23 ~~(4) the Council; and~~

D 24 (5) other ~~Federal agencies and departments~~ *as determined*  
 25 ~~named in section 901.~~ *the Secretary deems appropriate*

1 The Secretary shall permit at least ninety days for such  
2 review and comment.

3 (d) The Secretary shall prepare a final Proposed Site  
4 Report after considering the comments he receives pursuant  
5 to subsection (c) and shall submit such final Proposed Site  
6 Report together with such comments to the Congress.

7 ~~REPOSITORY DEVELOPMENT REPORTS~~

8 ~~Sec. 103.~~ (a) The Secretary shall—

9 (1) at the earliest feasible time prior to the in-  
10 tended submission by the Secretary to the Nuclear  
11 Regulatory Commission of an application for a license  
12 to construct the main shaft of a nuclear waste reposi-  
13 tory, or

14 (2) in the event that the Secretary is not required  
15 by law to obtain a license from the Nuclear Regulatory  
16 Commission for the construction of the main shaft of  
17 such repository, at the earliest feasible time prior to  
18 undertaking site preparation work leading to construc-  
19 tion of the main shaft of such repository,

20 prepare a Repository Development Report. The Secretary  
21 shall immediately notify the Repository Review Panel of the  
22 State in which such proposed repository would be located of  
23 his decision to prepare the Repository Development Report.

24 (b) The Repository Development Report shall contain—

*for submission to the President  
in accordance with Section 104 (a).*

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24

(c)

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B

2

\* 22

A 1 (2) the license application for the repository pre-  
 2 pared by the Secretary for the Nuclear Regulatory  
 3 Commission, including any relevant environmental  
 4 impact statements, or, in the event the Secretary is not  
 5 required by law to obtain a license from the Commis-  
 6 sion for the construction of the main shaft of such re-  
 7 pository, a document containing comparable informa-  
 8 tion and analysis;

B 9 (3) a plan for the transport of high-level or trans-  
 10 uranic contaminated waste or spent nuclear fuel to the  
 11 repository, including an assessment of anticipated envi-  
 12 ronmental, health, and safety impacts and a description  
 13 of emergency planning procedures; and

C 14 (4) any plan to provide financial assistance to  
 15 State or local governments or Indian tribes with re-  
 16 spect to health, safety, environmental, economic, or  
 17 social impacts arising from the proposed repository.

3 18 (5) ~~The~~ Federal agencies and departments named in sec-  
 19 ~~tion 801~~ shall assist the Secretary by coordinating with the  
 20 Secretary's preparation of a Repository Development Report  
 21 for a proposed repository, the preparation by such agencies  
 22 and departments of any pertinent Environmental Impact  
 23 Statements mandated by the National Environmental Policy  
 24 Act so as to avoid unnecessary delay and duplication of  
 25 effort. ~~Nothing in this title shall be construed to relieve any~~

~~1 Federal agency or department of any duty imposed by that~~

~~2 Act~~

(A)

3  
4 (d)(1) The Secretary shall prepare the Repository De-  
5 velopment Report with respect to such proposed repository in  
6 close cooperation with the appropriate Review Panel and  
7 shall incorporate the views of such Panel into such Reposi-  
8 tory Development Report to the maximum extent feasible.

9 (2) The Secretary shall also consult with the Governor  
10 (or other appropriate State officials as specified by State law)  
11 of adjacent States that the Secretary determines may be di-  
12 rectly and substantially affected by the repository described  
13 in the Repository Development Report and with the govern-  
14 ing bodies of Indian tribes in adjacent States that may be so  
15 affected, and shall incorporate the views of such officials into  
16 the Repository Development Report to the maximum extent  
17 feasible.

C

18 (A) Upon completing the Repository Development  
19 Report, the Secretary shall submit the Repository Develop-  
20 ment Report to the Review Panel for final review and to the  
21 Governor (or other appropriate State officials as may be  
22 specified by State law) of adjacent States that may be di-  
23 rectly and substantially affected by the repository described  
24 in the Repository Development Report, and with the govern-  
25 ing bodies of Indian tribes in adjacent States that may be so  
affected, and shall make the Report available for public com-

1 ment. ~~The Secretary shall also solicit the comments of the~~  
 2 ~~Council on such Report.~~ The Secretary shall allow a period  
 3 of ninety days for such comments. The Repository Review  
 4 Panel shall file any formal objections to the Report before the  
 5 completion of such ninety-day period.

6 ~~(c) The Secretary shall submit the Repository Develop-~~  
 7 ment Report for a proposed repository to the Congress, to-  
 8 gether with the objections of the appropriate Review Panel,  
 9 if any, the comments of other interested States, including  
 10 specifically those of adjacent, directly and substantially af-  
 11 fected States, and such other comments as the Secretary has  
 12 ~~received with respect to such report.~~

the requirements of section 104(a) and section 104(b) (pertaining to Congressional

(5)(A)

13 ~~(c)~~ (1) The Secretary may not file an application with the  
 14 Commission for a license to construct the main shaft of a  
 15 repository, or if no such license is required by law, may not  
 16 undertake site preparation work leading to the construction  
 17 of the main shaft of a proposed repository, unless and until  
 18 ~~shall have submitted a Repository Development Report for~~  
 19 ~~such repository to the Congress.~~

B

20 (2) In addition, if the relevant Repository Review Panel  
 21 has filed objections to the Report under ~~subsection (d)~~, the  
 22 Secretary may not file such an application or undertake such  
 23 site preparation work if during the sixty-day period of con-  
 24 tinuous session following submittal of such Report either  
 25 House of Congress passes a resolution pursuant to ~~section~~

paragraph (1)

subsection (b)

1 ~~2006~~ stating in substance that the Repository Development  
 2 Report does not sufficiently address State and local concerns  
 3 to permit the Secretary to apply to the Commission for a  
 4 license to construct such repository or, if such a license is not  
 5 required by law, to proceed with construction of such reposi-  
 6 tory.

6 ~~(f)~~ In the event that either House of Congress passes a  
 14 resolution as specified in paragraph (f) ~~(or both Houses pass~~  
 15 ~~such a resolution pursuant to the proviso in paragraph (f))~~  
 16 with respect to a Repository Development Report the prohibi-  
 17 tion set forth in ~~subsection (f)~~ shall remain in effect until  
 18 such time as—

paragraph (j)

President

A

19 (1) the Secretary shall have submitted to the Con-  
 20 gress a revised Repository Development Report with  
 21 respect to such repository, and

B

22 (2) if the relevant Repository Review Panel has  
 23 filed objections to such revised Report under ~~subsection~~ <sup>paragraph (4)</sup>  
 24 ~~(2)~~ and the following sixty-day period of continuous  
 25 session elapses without either House or both Houses of



1 . . . Congress, as the case may be, passing a resolution as  
 2 specified in ~~subsection (f)~~ paragraph (f) with respect to such revised  
 3 Repository Development Report.

5

4 Each revised Repository Development Report shall be pre-  
 5 pared pursuant to the procedures set forth in this section and  
 6 in section 1003 pertaining to the preparation of Repository  
 7 Development Reports.

106(c)

20 ~~Sec. 1004 (a)~~ The Secretary shall—

(d)(1)

21 (a) at the earliest feasible time prior to the sub-  
 22 mission by any Federal agency or department to the  
 23 Nuclear Regulatory Commission of an application for a  
 24 license to emplace significant quantities of high-level or

A

1 transuranic contaminated waste or spent nuclear fuel  
2 into a repository; or

3 <sup>(?)</sup> in the event that such agency or department is  
4 not required by law to obtain a license from the  
5 Nuclear Regulatory Commission in order to emplace  
6 significant quantities of high-level or transuranic con-  
7 taminated nuclear waste or spent nuclear fuel into such  
8 repository, at the earliest feasible time prior to begin-  
9 ning the emplacement of such waste or spent nuclear  
10 fuel into such repository,

11 prepare a Repository Loading Report with respect to such  
12 repository.

13 <sup>(?)</sup> The Repository Loading Report prepared with re-  
14 spect to such repository shall contain the information re-  
15 quired in the Repository Development Report prepared with  
16 respect to such repository appropriately updated. The Re-  
17 pository Loading Report for such repository shall identify any  
18 significant differences between the plans, descriptions, and  
19 analyses contained therein and those presented in the Reposi-  
20 tory Development Report prepared with respect to such re-  
21 pository. Special emphasis shall be given to assessing the  
22 significance of information collected during the course of the  
23 construction of the repository to the analyses of the antic-  
24 ipated environmental, health, and safety impacts of such re-  
pository. If the foregoing information is contained in an appli-

1 cation prepared by the Secretary for a license from the Nu-  
2 clear Regulatory Commission to load high-level or transur-  
3 anic contaminated waste or spent fuel in such repository,  
4 then such application may serve as a Repository Loading  
5 Report.

6 (c) The Secretary shall—

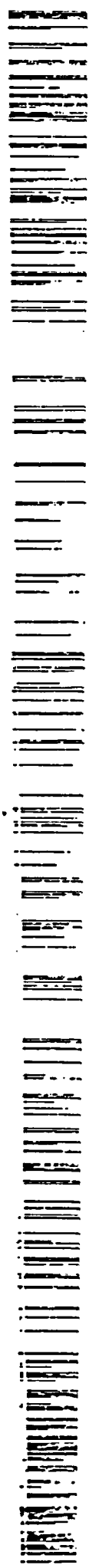
3  
A 7 (1) prepare the Repository Loading Report with  
8 respect to such repository in close cooperation with the  
9 Review Panel of the State in which the repository is  
10 located and shall incorporate the views of such Panel  
11 into such report to the maximum extent feasible;

B 12 (2) the Secretary shall also consult with the Gov-  
13 ernor (or other appropriate State officials as specified  
14 by State law) of such adjacent States as the Secretary  
15 determines may be directly and substantially affected  
16 by the loading of the repository described in the Re-  
17 pository Loading Report and shall incorporate the  
18 views of such officials into the Repository Loading  
19 Report to the maximum extent feasible; and

C 20 (3) upon completing such Repository Loading  
21 Report, the Secretary shall solicit comments on the  
22 report from—

23 (A) the Review Panel,

i 24 (B) other interested States, including specifi-  
ii 25 cally the views of the Governor (or other appro-



1 priate State officials as may be specified by State  
2 law). of other adjacent States that the Secretary  
3 determines may be directly and substantially af-  
4 fected by the loading of the repository,

- 5 *iii* (A) the public, and
- 6 ~~(D) the Council, and~~
- 7 *iv* (B) the other Federal agencies and depart-  
8 *as the Secretary deems appropriate.*  
~~ments, named in section 801.~~

9 The Secretary shall allow a period of ninety days for the  
10 receipt of such comments.

11 *A* (A) The Secretary may not emplace significant quantities  
12 of nuclear wastes or spent nuclear fuel into any repository,  
13 unless and until the Secretary shall have submitted to the  
14 Congress a Repository Loading Report prepared with respect  
15 to such repository, together with the comments of the appro-  
16 priate ~~Nuclear Waste Repository~~ Review Panel, and a period  
17 *section (c)* of forty-five days of continuous session of Congress (as de-  
18 fined in ~~section 905~~) shall have elapsed. Congress may by  
19 concurrent resolution waive this forty-five-day period.

20 ~~CONGRESSIONAL REVIEW PROCEDURES FOR REPOSITORY~~  
21 ~~DEVELOPMENT REPORTS~~

*(B)(1)* 22 ~~SEC. 805.~~ (a) The ~~Secretary~~ shall have a Repository  
23 Development Report delivered to both Houses on the same  
24 day and to each House while it is in session.

*(President)*

2 1 (h) Any time during the period of thirty calendar days of  
 2 continuous session of Congress after the date on which the  
 3 report is transmitted to it, but before any resolution described  
 4 in section 908 has been ordered reported in either House, the  
 5 ~~President~~ <sup>President</sup> may make amendments or modifications to the  
 6 report, to address any concerns raised to it by the appropri-  
 7 ate Repository Review Panel which modifications or revi-  
 8 sions shall thereafter be treated as a part of the Repository  
 9 Development Report originally transmitted and shall not  
 10 affect in any way the time limits otherwise provided for in  
 11 this Act. The President may withdraw the Repository Devel-  
 12 opment report any time prior to the conclusion of sixty calen-  
 13 dar days of continuous session of Congress following the date  
 14 on which the report is submitted to Congress.

15 ~~Sec. 906.~~ For the purpose of the Act (1) continuity of  
 16 session is broken only by an adjournment or Congress sine  
 17 die; and (2) the days on which either House is not in session  
 18 because of an adjournment of more than three days to a day  
 19 certain are excluded in the computation of any period of time  
 20 in which Congress is in continuous session.

21 ~~Sec. 907. Sections 905 through 911 of this Act are~~  
 22 enacted by Congress (1) as an exercise of the rulemaking  
 23 power of the Senate and the House of Representatives, re-  
 24 spectively, and as such they are deemed a part of the rules of  
 25 each House, respectively, but applicable only with respect to

*President*

*this section*

*Subsections (e) through (j) of this section*

4)

1 the procedure to be followed in that House in the case of  
 2 resolutions described by ~~section 905 of this Act~~; and they  
 3 supersede other rules only to the extent that they are incon-  
 4 sistent therewith; and (2) with full recognition of the constitu-  
 5 tional right of either House to change the rules (so far as  
 6 relating to the procedure of that House) at any time, in the  
 7 same manner and to the same extent as in the case of any  
 8 other rule of that House.

subsection (h);

9 ~~Sec. 905.~~ For the purposes of the Act "resolution"

10 means only a resolution of either House of Congress, the  
 11 matter after the resolving clause of which is as follows:

12 "That the \_\_\_\_\_ believes that the Repository De-  
 13 velopment Report relating to the proposed development of a

14 repository at \_\_\_\_\_ within the State of  
 15 \_\_\_\_\_ transmitted to Congress by the ~~Secretary of~~

President  
President

16 ~~Energy~~ on \_\_\_\_\_, 19\_\_\_\_ (as amended by the ~~Secre-~~  
 17 ~~tary of Energy~~ on \_\_\_\_\_, 19\_\_\_\_) does not sufficiently ad-

18 dress State and local concerns to permit the Secretary to  
 19 apply to the Nuclear Regulatory Commission for a license to

20 construct such repository or, if such a license is not required  
 21 by law, to permit the Secretary to proceed with the construc-

22 tion of such repository.", the blank spaces therein being ap-  
 23 propriately filled and the text in parentheses being included if

24 the ~~Secretary~~ has amended the report pursuant to subsection

President

(12)

i(1) ~~SEC. 909 (a)~~ No later than the first day of session fol-  
 2 lowing the day on which a Repository Development Report  
 3 is transmitted to the House of Representatives and the  
 4 Senate under ~~section 905~~, a resolution, as defined in ~~section~~ *subsection (h)*  
 5 908, shall be introduced (by request) in the House by the  
 6 chairman of the committee to which the report is referred, or  
 7 by a Member or Members of the House designated by such  
 8 chairman; and shall be introduced (by request) in the Senate  
 9 by the chairman of the committee to which the report is re-  
 10 ferred, or by a Member or Members of the Senate designated  
 11 by such chairman.

(2) (h) A resolution with respect to a Repository Develop-  
 13 ment Report shall be referred to the appropriate committees  
 14 of the House and Senate (and all resolutions with respect to  
 15 the same report shall be referred to the same committee) by  
 16 the President of the Senate or the Speaker of the House of  
 17 Representatives, as the case may be. The committee shall  
 18 make its recommendations to the House of Representatives  
 19 or the Senate, respectively, within forty-five calendar days of  
 20 continuous session of Congress following the date of such  
 21 resolution's introduction.

(j) ~~SEC. 910~~. If the committee to which is referred a reso-  
 23 lution introduced pursuant to subsection (i) of ~~section 909~~ *(i)*  
 24 (or, in the absence of such a resolution, the first resolution  
 25 introduced with respect to the same Repository Development

1 Report) has not reported such resolution or identical resolu-  
 2 tion at the end of forty-five calendar days of continuous ses-  
 3 sion of Congress after its introduction, such committee shall  
 4 be deemed to be discharged from further consideration of  
 5 such resolution and such resolution shall be placed on the  
 6 appropriate calendar of the House involved.

7 ~~SEC 911~~ (a) When the committee has reported, or has  
 8 been deemed to be discharged (under section ~~910~~ <sup>subsection (j)</sup>) from fur-  
 9 ther consideration of, a resolution with respect to a reorgani-  
 10 zation plan, it is at any time thereafter in order (even though  
 11 a previous motion to the same effect has been disagreed to)  
 12 for any Member of the respective House to move to proceed  
 13 to the consideration of the resolution. The motion is highly  
 14 privileged and is not debatable. The motion shall not be sub-  
 15 ject to amendment, or to a motion to postpone, or a motion to  
 16 proceed to the consideration of other business. A motion to  
 17 reconsider the vote by which the motion is agreed to or dis-  
 18 agreed to shall not be in order. If a motion to proceed to the  
 19 consideration of the resolution is agreed to, the resolution  
 20 shall remain the unfinished business of the respective House  
 21 until disposed of.

22 (b) Debate on the resolution, and on all debatable mo-  
 23 tions and appeals in connection therewith, shall be limited to  
 24 not more than ten hours, which shall be divided equally be-  
 25 tween individuals favoring and individuals opposing the reso-



1 lution. A motion further to limit debate is in order and not  
2 debatable. An amendment to, or a motion to postpone, or a  
3 motion to proceed to the consideration of other business, or a  
4 motion to recommit the resolution is not in order. A motion  
5 to reconsider the vote by which the resolution is agreed to or  
6 disagreed to shall not be in order.

7 (a) Immediately following the conclusion of the debate  
8 on the resolution with respect to a reorganization plan, and a  
9 single quorum call at the conclusion of the debate if requested  
10 in accordance with the rules of the appropriate House, the  
11 vote on final approval of the resolution shall occur.

12 (b) Appeals from the decisions of the Chair relating to  
13 the application of the rules of the Senate or the House of  
14 Representatives, as the case may be, to the procedure relat-  
15 ing to a resolution with respect to a reorganization plan shall  
16 be decided without debate.

17 ~~SEC. 812.~~ In considering any Repository Development  
18 Report submitted to the Congress pursuant to this title, the  
19 Congress may obtain the views and comments of the Nuclear  
20 Regulatory Commission on such report. The provision of  
21 views by the Commission shall not be construed as binding  
22 the Commission with respect to any licensing action pertain-  
23 ing to the repository which is the subject of such Repository  
24 Development Report.

(m) ~~Sec. 013~~ The passage of a resolution by the Congress pursuant to this title shall in no way be considered as binding with respect to any licensing action of the Nuclear Regulatory Commission pertaining to the repository which is the subject of such resolution.

~~EFFECT ON OTHER LAWS~~

(2)(i) ~~Sec. 014 (a)~~ Nothing in this Act shall affect the authority of the Nuclear Regulatory Commission to license and regulate high-level or transuranic contaminated waste or spent nuclear fuel storage and disposal pursuant to section 202 of the Energy Reorganization Act of 1974 or byproduct, source, or special nuclear material pursuant to section 201(f) of such Act.

(a) Except as otherwise expressly provided in this Act,

~~(b)~~ Nothing in this Act shall exempt any Federal department or agency from the requirements of the National Environmental Policy Act.

(c) Nothing in this Act shall affect the authority of States to inspect nuclear facilities as designated pursuant to State law pursuant to section 274 of the Atomic Energy Act.

(d) Nothing in this Act is intended to grant any State any authority with respect to the siting, development, or loading of any repository, except as specifically provided herein.

~~Sec. 015~~ In the event that the site of a proposed repository is located on lands which are (1) owned by an Indian

1 tribe or held in trust for such tribe by the Federal Govern-  
 2 ment and (2) within the boundaries of the reservation of such  
 3 tribe, the tribal organization, as defined in section 4(c) of the  
 4 Indian Self-Determination and Education Assistance Act ex-  
 5 ercising the powers of self-government as defined in section  
 6 201(2) of the Act of April 11, 1968, shall have the same  
 7 rights under this title as the ~~Repository~~ Review Panel for  
 8 such repository.

9 ~~TITLE II ESTABLISHMENT, MEMBERSHIP, AND~~  
 10 ~~FUNCTIONS OF NUCLEAR WASTE REPOSI-~~  
 11 ~~TORY REVIEW PANELS~~

12 ESTABLISHMENT OF NUCLEAR WASTE REPOSITORY .

13 REVIEW PANELS

106(G)(1). A

14 SEC. ~~1021~~ (a) Any governmental organization, task  
 15 force, council, committee or other body established by State  
 16 law to represent such State in its relations with the Federal  
 17 Government concerning the siting, development, and loading  
 18 of nuclear waste and spent fuel repositories shall be deemed  
 19 to be a Nuclear Waste Repository Review Panel for the pur-  
 20 poses of this Act: *Provided, however,* That such panel must  
 21 include representation for affected Indian tribes.

(2)

22 (1) In the event that within one hundred and twenty  
 23 days after receipt by the Governor of a State of notification  
 24 of the Secretary's intention to study an area within such  
 25 State as a possible site for a nuclear waste or spent fuel

105(a)(1)

1 repository, pursuant to section 901(a) such State shall not  
 2 have established by law a governmental body to represent  
 3 the State as described in subsection (a), the Governor of such  
 4 State shall establish a ~~Nuclear Waste Repository Review~~  
 5 Panel pursuant to ~~section 1002~~ *subsection (b).*

6 (a) The requirements of ~~title IX~~ *section 105* concerning the prepara-  
 7 tion of Proposed Site, Repository Development, and Reposi-  
 8 tory Loading Reports and their submission to the Congress,  
 9 and the prohibitions contained in ~~title IX~~ *section 105* on repository devel-  
 10 opment and loading activities of the Secretary shall not apply  
 11 with respect to any repository in a State unless a Review  
 12 Panel shall have been established in such State pursuant to  
 13 this section.

14 (b) A Review Panel established pursuant to section  
 15 901(b) with respect to a proposed repository siting, develop-  
 16 ment, and loading activities in a State shall continue to func-  
 17 tion until—

A (1) the Secretary formally notifies the Review  
 19 Panel that the Federal Government no longer intends  
 20 to site, develop, or load a repository in such State;

B (2) the Secretary formally notifies the Review  
 22 Panel that a Repository Loading Report prepared with  
 23 respect to such repository has been submitted to the  
 24 Congress pursuant to section 903, and the Chairman of

105(c)

1 the Panel thereafter declares the Panel to be ad-  
2 journed; or

3 ~~(2)~~ such time as may be provided by the laws of  
4 the State establishing the Review Panel.

5 ~~MEMBERSHIP OF REVIEW PANELS~~

6 ~~Sec. 1002:~~ A Review Panel convened pursuant to ~~see~~

7 ~~Sec. 1001(b)~~ shall consist of—

8 (1) the Governor convening the Panel who shall  
9 serve as the Chairman of the Panel; and

10 (2) seven additional individuals from the State of  
11 the convening Governor to be appointed by the Gover-  
12 nor and to serve at the pleasure of the Governor. The  
13 convening Governor shall include on the Panel individ-  
14 uals who are local government or Indian tribe officials  
15 of the area under study by the Department as a possi-  
16 ble site for the proposed repository and may include—

17 (A) other officials of the State's government  
18 including members of the State legislature, and

19 (B) interested residents of the State, except  
20 that such residents shall be selected so as to  
21 ensure representation of a broad range of views  
22 on nuclear waste repository siting, development  
23 and loading issues.

1

~~FUNCTIONS OF REVIEW PANEL~~

(c)(1)

2 ~~SEC. 1003. (a)~~ A Review Panel established pursuant to ~~section 1001~~ shall enter into an agreement with the Secretary as specified in section ~~1001~~ and shall meet regularly to review current and planned actions of the Department with respect to the siting, construction, and operation of the relevant proposed repositories within the State for which the Review Panel has been convened. Representatives of the Secretary shall meet regularly with the Review Panel to explain the Department's activities and to obtain the views of the Panel thereon.

105(a)

(2)(A)

12 .. (b)(1) In accordance with its agreement with the Secretary as described in ~~section 1001~~, a Review Panel shall cooperate closely with the Secretary in the preparation of a Proposed Site, Repository Development and Repository Loading Reports prepared pursuant to sections ~~1002, 1003, and 1004~~.

Section 105

(b), c and

(B)

17 (2) Such Review Panel shall; within ninety days after receipt of such reports review the health, safety, economic and social issues raised in the reports concerning the site or repository discussed therein, and may hold public hearings on the reports in support of such review.

(C)

22 (3) Within ninety days after the Review Panel receives any Proposed Site, Repository Development or Repository Loading Report, the members of the Panel shall submit their

- 1 comments on such report to the Secretary for submission to
- 2 the Congress.

~~Passed the Senate July 30 (legislative day, June 12),~~

~~1880.~~

~~Wm. S. KIMBALL,~~

Secretary.

SEC. 208. Judicial Review

(a) Except for review in the United States Supreme Court, the U. S. Court of Appeals for the District of Columbia shall have original and exclusive civil jurisdiction over any petition--

(1) for review of final agency decisions or actions under this title;

(2) alleging that a Federal or non-Federal agency has failed to take an action, or make a decision, under this Act necessary to the approval, licensing, or construction of a repository or repository site;

(3) challenging the constitutionality of this title;

(4) for an interlocutory appeal from agency decisions or actions where the U. S. Court of Appeals for the District of Columbia will have jurisdiction over the final decision or action, and where the U. S. Court of Appeals for the District of Columbia determines that interlocutory review is appropriate in accordance with applicable law.

In all other cases review shall be in the United States district court or other court as provided in other provisions of law.

(b) The U. S. Court of Appeals for the District of Columbia shall exercise its powers in such manner as to expedite the determination of cases over which it has jurisdiction under this title.



(c) Where the exercise of jurisdiction by a court of the United States over any petition referred to in subsection (a) would be impermissible under the limitations contained in the United States Constitution, the appropriate State court shall have jurisdiction over such petition.

(d) The U.S. Court of Appeals for the District of Columbia may stay that portion of any proceeding in any other Federal, State, or local court, other than the Supreme Court of the United States, which involves a petition for review which is within the exclusive jurisdiction of the U.S. Court of Appeals for the District of Columbia under this title.

(e) Any petition for review under this section of final agency decision or action shall be brought not later than the 180th day following the date of such decision or action, except that if a party shows that he did not know of the action complained of, and a reasonable person acting in the circumstances would not have known, he may bring a claim for judicial review not later than the 180th day following the date of his acquiring actual or constructive knowledge of such decision or action, but in any event not later than 1 year after the date of such decision or action.

1 104 or for any operating permit for a repository, and any  
2 actions described in section 108 shall not be subject to judi-  
3 cial review except as authorized by subsection (b).

4 (b) JUDICIAL REVIEW OF ACTIONS.—(1) A civil action  
5 for judicial review of an administrative action described in  
6 subsection (a) may be brought not later than the 180th day  
7 following the date of such action, except that the court  
8 referred to in paragraph (2) may extend the time for bringing  
9 such a civil action if the court determines that the facts on  
10 which the civil action is based were not reasonably available  
11 within the applicable 180-day time limit.

12 (2) A civil action for judicial review of any such adminis-  
13 trative action shall be barred unless a complaint is filed  
14 before the expiration of the time limit prescribed by para-  
15 graph (1) in the United States Court of Appeals for the Dis-  
16 trict of Columbia Circuit, acting as a special court. No other  
17 court of the United States, or any State, territory, or posses-  
18 sion of the United States, or of the District of Columbia, shall  
19 ~~have jurisdiction of any such civil action.~~

20 EXPEDITED AUTHORIZATIONS

108

21 SEC. 109. (a) ISSUANCE OF AUTHORIZATIONS.—(1)  
22 Subject to paragraph (2), to the extent that the taking of any  
23 action related to the characterization of a site or the con-  
24 struction or initial operation of a repository under this title  
25 requires a certificate right-of-way permit, lease, or other

1 authorization from a Federal officer or agency, such officer or  
 2 agency shall issue or grant any such authorization at the ear-  
 3 liest practicable date, to the extent permitted by the applica-  
 4 ble provisions of law administered by such officer or agency.  
 5 All actions of a Federal officer or agency with respect to  
 6 consideration of applications or requests for the issuance or  
 7 grant of any such authorization shall be expedited, and any  
 8 such application or request shall take precedence over  
 9 any similar applications or requests not related to such  
 10 repositories.

11 (2) The requirements of paragraph (1) shall not be appli-  
 12 cable in the case of any action related to any permit or other  
 13 authorization issued or granted by, or requested from, the  
 14 Nuclear Regulatory Commission.

15 (b) TERMS OF AUTHORIZATIONS.—(1) Any authoriza-  
 16 tion issued or granted under subsection (a) shall include such  
 17 terms and conditions as may be required by law, and may  
 18 include terms and conditions permitted by law.

19 (2) Except as provided in the second sentence of this  
 20 subsection, nothing contained in this section shall be con-  
 21 strued to impair the authority of any Federal officer or  
 22 agency to add to, amend, or abrogate any term or condition  
 23 included in any authorization issued or granted pursuant to  
 24 subsection (a) if such action is otherwise permitted under ap-  
 25 plicable laws administered by such officer or agency. In the

1 case of any such action which is permitted but not required  
 2 by law, the Federal officer or agency shall have no authority  
 3 to take such action if the terms and conditions to be so added,  
 4 or as so amended, would have the effect of terminating the  
 5 characterization, construction, or initial operation of the po-  
 6 tential or permanent repository which the authorization  
 7 affects.

8 SCHEDULE FOR CERTAIN STANDARDS AND CRITERIA

109

9 SEC. 110. (a) EPA STANDARDS.—Not later than No-  
 10 vember 1, 1981, the Administrator of the Environmental  
 11 Protection Agency, pursuant to authority under other provi-  
 12 sions of law, shall, by rule, promulgate generally applicable  
 13 standards for protection of the general environment from ra-

in repositories

14 dioactive material

15 (b) CRITERIA.—Not later than November 1, 1981, the  
 16 Commission, pursuant to authority under other provisions of  
 17 law, shall, by rule, promulgate criteria which it will apply in  
 18 reviewing under the Atomic Energy Act of 1954 and the  
 19 Energy Reorganization Act of 1974, applications for con-  
 20 struction authorizations for the construction of repositories.

21 DISPOSAL OF SPENT FUEL

110

22 SEC. 111. Notwithstanding any other provision of this  
 23 Act, any repository for the disposal of high-level radioactive  
 24 waste and spent fuel which is designed and constructed under  
 25 this title shall be so designed and constructed that the spent

1 fuel may be retrieved, during an appropriate period of oper-  
2 ation of the facility, for any reasons pertaining to the public  
3 safety or for the purpose of permitting the recovery of the  
4 economically valuable contents of the spent fuel.

5 AUTHORIZATION OF APPROPRIATIONS; CONTRACT  
6 AUTHORITY

111 7 SEC. 142. (a) AUTHORIZATION.—There are authorized  
8 to be appropriated to the Secretary to carry out this title  
9 \$5,000,000 for the fiscal year ending September 30, 1982.

10 (b) CONTRACTS.—The authority of the Secretary to  
11 enter into contracts under this title shall be effective for any  
12 fiscal year only to such extent or in such amounts as are  
13 provided in advance by appropriation Acts.

14 ACCOUNTING OF EXPENDITURES

112 15 SEC. 143. (a) RECORD OF EXPENDITURES.—The Sec-  
16 retary shall maintain adequate records of all expenditures  
17 made under this title which, together with expenditures made  
18 by the United States under other laws in connection with the  
19 management, interim storage, and disposal of nuclear wastes

under this  
title

20 and spent fuel shall provide the basis for any fees to be as-  
21 sessed as described under subsection (b).

22 (b) FEE COLLECTION.—Not later than the date the  
23 Secretary submits to the Commission under section 104 a  
24 license application for the construction of an initial reposi-  
25 tory, the Secretary shall submit to the Congress a report

26

1 proposing fees to be collected to offset all construction, oper-  
 2 ation, administrative, and other costs incurred by the Secre-  
 3 tary in providing for the management, ~~interim storage~~, and  
 4 disposal of nuclear wastes and spent fuel. The fees specified  
 5 in the report would be collected from the persons or entities  
 6 who hold title to ~~any~~ nuclear waste or spent fuel which is  
 7 ~~subject to interim storage or disposal by the Secretary.~~

under this title.

such)

TERMINATION OF TITLE

113

9 SEC. 174. (a) SECTIONS 108 AND 109.—Sections 108  
 10 and 109 shall cease to have effect at such time as the Secre-  
 11 tary commences licensed commercial operation of at least one  
 12 repository.

13 (b) REMAINDER OF TITLE.—The provisions of this  
 14 title, other than sections 108, 109, and 113, shall cease  
 15 to have effect after December 31, 1999.

TITLE II—LOW-LEVEL RADIOACTIVE WASTE

LOW-LEVEL RADIOACTIVE WASTE DISPOSURE

18 SEC. 201. (a)(1) It is the policy of the Federal Govern-  
 19 ment that—

20 (A) each State is responsible for the disposal of  
 21 non-Federal low-level radioactive waste generated

22 within its borders) and

23 (B) non-Federal low-level radioactive waste can

24 be most safely and efficiently managed on a regional

25 basis.

1 (2)(A) To carry out the policy set forth in paragraph (1),  
 2 the States may enter into such compacts as may be necessary  
 3 to provide for the establishment and operation of facilities for <sup>regional</sup> disposal  
 4 ~~the disposal of low-level radioactive waste.~~

5 (B) A compact entered into under subparagraph (A)  
 6 shall not take effect until the Congress has by law consented  
 7 to the compact. Each such compact shall provide that every  
 8 5 years after the compact has taken effect the Congress may  
 9 by law withdraw its consent. After January 1, 1987, any  
 10 such compact may restrict the use of the regional disposal  
 11 facilities under the compact to the disposal of ~~non-Federal~~  
 12 low-level radioactive waste generated within the region.

13 (b)(1) In order to assist the States in carrying out the  
 14 policy set forth in subsection (a)(1), the Secretary shall pre-  
 15 pare and submit to Congress and to each of the States within  
 16 120 days after the date of the enactment of this Act a report  
 17 which ~~analyzes low-level radioactive waste disposal~~

18 (A) defines the disposal capacity needed for pres-  
 19 ent and future low-level radioactive waste on a region-  
 20 al basis;

21 (B) defines the status of all commercial low-level  
 22 radioactive waste disposal sites and includes an evalua-  
 23 tion of the license status of each such site, the state of  
 24 operation of each site, including operating history, an  
 25 analysis of the adequacy of disposal technology em-

1986

1       ployed at each site to contain low-level radioactive  
 2       wastes for their hazardous lifetimes, and such recom-  
 3       mendations as the Secretary considers appropriate to  
 4       assure protection of the public health and safety from  
 5       wastes transported to such sites;

6               (C) evaluates the transportation requirements on a  
 7       regional basis and in comparison with performance of  
 8       present transportation practices for the shipment of  
 9       low-level radioactive wastes, including an inventory of  
 10      types and quantities of low-level wastes, and evalua-  
 11      tion of shipment requirements for each type of waste  
 12      and an evaluation of the ability of generators, shippers,  
 13      and carriers to meet such requirements; and

14              (D) evaluates the capability of the low-level radio-  
 15      active waste disposal facilities owned and operated by  
 16      the Department of Energy to provide interim storage  
 17      for commercially generated low-level waste and esti-  
 18      mates the costs associated with such interim storage.

19              (2) In carrying out this subsection, the Secretary shall  
 20      consult with the Governors of the States, the Nuclear Regu-  
 21      latory Commission, the Environmental Protection Agency,  
 22      the United States Geological Survey, and the Secretary of  
 23      Transportation, and such other agencies and departments as  
 24      he finds appropriate.



TITLE III - REPORT  
DEFINITION

SEC. 301. As used in this title--

(1) The term "permanent disposal" means the long-term isolation of radioactive waste for at least such period of time as the Commission determines is necessary in order that the radioactivity, heat generation and toxicity of such waste does not exceed the radioactivity, heat generation and toxicity of naturally occurring uranium.

(2) The term "safe geologic repository" means any underground facility for the permanent disposal of transuranic waste, high-level radioactive waste, spent nuclear fuel or any combination of such wastes or fuel, whether or not such facility is designed to permit the subsequent recovery of the materials placed in the repository, and whether or not such safety is achieved solely by the characteristics of the geologic medium in which the facility is located or by a combination of such characteristics with appropriate engineered structural containment, waste form and packaging, monitoring and maintenance, including replacement as necessary of such facility.

(3) The term "civilian nuclear powerplant" means a utilization or production facility for the generation of commercial power, as that phrase is used in the Atomic Energy Act of 1954, which is or will be licensed under such Act;

(4) The term "high-level radioactive waste" has the same meaning as is assigned that term in section 2(3) of this Act.

) The term "spent fuel" means nuclear fuel that has been irradiated in and recovered from a civilian nuclear powerplant;

SEC. 302. (a) In addition to the actions required under Titles I and II, the Secretary shall prepare and transmit to Congress on or before January 1, 1982 a report describing a system consisting of at least one safe geologic repository for the permanent disposal of spent fuel and high-level radioactive waste resulting from civilian nuclear activities. Such repositories shall be designed to--

- 1 (a) accommodate spent fuel from civilian nuclear
- 2 activities without reprocessing, as well as the high-
- 3 level radioactive waste from other civilian nuclear ac-
- 4 tivities including reprocessing of such spent fuel if

6 (b) permit continuous monitoring, management,  
7 and maintenance of the spent fuel and high-level radio-  
8 active waste for the foreseeable future;

9 (c) provide for the ready retrieval of any spent  
10 fuel and high-level radioactive waste for further proc-  
11 essing or disposal by an alternative method; and

12 (d) safely contain such high-level radioactive  
13 waste and spent fuel so long as may be necessary, by  
14 means of maintenance, including, but not limited to, re-  
15 placement as necessary, of such facility.

(b) ~~Sec. 403.~~ The proposal shall include— *cost-benefit analysis*

17 (a) the general description, cost estimates, and  
18 construction schedule for a system which shall be ini-  
19 tially designed for a capacity adequate at a minimum  
20 to receive in a timely manner the high-level radioactive  
21 waste produced by all ongoing civilian nuclear activi-  
22 ties and the spent fuel from the operation of all civilian  
23 nuclear powerplants for which any application for any  
24 Federal license or permit has been received prior to  
the date of the enactment of this Act; and

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for

(2) site-specific designs, specifications, and cost estimates adequate to solicit bids for the construction of an initial repository within the system which will demonstrate the feasibility of permanent disposal of spent fuel and high-level radioactive waste and which has capacity of at least one thousand spent fuel rods along with a volume of processed high-level radioactive waste from civilian activities limited to the amount sufficient to accomplish the purpose of this subsection.

referred  
to in  
subsecti

(c) In preparing this report, the Secretary shall consult with the Commission and the Environmental Protection Agency, and shall transmit their comments on the final report to the Congress together with the report.

(d) Preparation and transmittal of the report to Congress is not a major Federal action significantly affecting the environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852) but an environmental assessment shall be prepared in connection with the report to accompany such transmittal. Such assessment shall be based upon available information regarding alternative technologies for radioactive waste disposal.

96TH CONGRESS  
2D SESSION

# H. R. 8378

To establish licensed permanent repositories for transuranic waste, high-level radioactive waste, and spent fuel, to authorize State compacts for the establishment and operation of regional repositories for low-level radioactive waste, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 21, 1980

Mr. UDALL (for himself, Mr. BROWN of Ohio, Mr. CLAUSEN, Mr. STAGGERS, Mr. DINGELL, and Mr. LUJAN) introduced the following bill; which was referred jointly to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Rules

---

## A BILL

To establish licensed permanent repositories for transuranic waste, high-level radioactive waste, and spent fuel, to authorize State compacts for the establishment and operation of regional repositories for low-level radioactive waste, and for other purposes.

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

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the "Nuclear  
5 Waste Policy Act".

## DEFINITIONS

1

2

SEC. 2. As used in this Act—

3

(1) The term "Commission" means the Nuclear Regulatory Commission.

4

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(2) The term "disposal" means the long-term isolation of radioactive waste.

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7

(3) The term "high-level radioactive waste" means the highly radioactive wastes resulting from the reprocessing of spent nuclear fuel. Such term includes both liquid waste which is produced directly in reprocessing, dry solid material derived from such liquid waste, and such other material as the Commission designates as high-level radioactive waste for purposes of protecting the public health and safety.

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(4) The term "Indian reservation" means—

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(A) the Indian reservations and dependent Indian communities referred to in clauses (a) and (b) of section 1151 of title 18, United States Code; and

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21

22

(B) lands selected by Alaska Native villages or regional corporations under the provisions of the Alaska Native Claims Settlement Act.

23

24

25

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the serv-

1 ices provided to Indians by the Secretary of the Inte-  
2 rior because of their status as Indians, including any  
3 Alaska Native village, as defined in section 3(c) of the  
4 Alaska Native Claims Settlement Act (43 U.S.C.  
5 1602).

6 (6) The term "low-level radioactive waste" means  
7 radioactive waste not classified as high-level radioac-  
8 tive waste, transuranic waste, spent nuclear fuel, or  
9 byproduct material as defined in section 11 e. (2) of the  
10 Atomic Energy Act of 1954.

11 (7) The term "repository" means any facility for  
12 the permanent disposal of transuranic waste, high-level  
13 radioactive waste, spent nuclear fuel, or any combina-  
14 tion of such wastes or fuel, whether or not such facility  
15 is designed to permit the subsequent recovery of the  
16 materials placed in the repository.

17 (8) The term "Secretary" means the Secretary of  
18 Energy.

19 (9) The term "site characterization" means activi-  
20 ties undertaken to determine the geologic characteris-  
21 tics of a site and to otherwise determine if a site meets  
22 the requirements applicable to sites for repositories.  
23 Such term includes borings, surface excavations, exca-  
24 vations of exploratory shafts, and in situ testing needed  
25 to determine the suitability of a site for a geologic re-

1        pository, but does not include preliminary borings and  
2        geophysical testing needed to decide whether site char-  
3        acterization should be undertaken.

4            (10) The term "spent nuclear fuel" means fuel  
5        that has been withdrawn from a nuclear reactor follow-  
6        ing irradiation, the constituent elements of which have  
7        not been separated by reprocessing.

8            (11) The term "State" means any State of the  
9        United States, the District of Columbia, the Common-  
10       wealth of Puerto Rico, the Virgin Islands, Guam, the  
11       Northern Mariana Islands, the Trust Territory of the  
12       Pacific Islands, and any other territory or possession of  
13       the United States.

14           (12) The term "State Review Board" means any  
15       State Review Board that meets the requirements under  
16       section 106, as so determined by the Secretary.

17           (13) The term "transuranic waste" means mate-  
18       rial contaminated with elements which have an atomic  
19       number greater than 92, including neptunium, pluto-  
20       nium, americium, and curium, which have a half-life  
21       greater than 5 years, and which are in concentrations  
22       greater than 10 nanocuries per gram or in such other  
23       concentrations as the Commission may prescribe to  
24       protect the public health and safety.



1 TITLE I—DISPOSAL OF TRANSURANIC WASTE,  
2 HIGH-LEVEL RADIOACTIVE WASTE, AND  
3 SPENT NUCLEAR FUEL

4 FINDINGS AND PURPOSE

5 SEC. 101. (a) FINDINGS.—The Congress finds that—

6 (1) radioactive waste creates potential risks and  
7 requires safe and environmentally acceptable methods  
8 of disposal;

9 (2) the accumulation of spent nuclear fuel from  
10 nuclear power reactors, radioactive waste from com-  
11 mercial nuclear reprocessing, activities related to medi-  
12 cal research, diagnosis, and treatment, and nuclear re-  
13 search and development activities, and radioactive  
14 waste from other sources, has created a national  
15 problem;

16 (3) Federal efforts during the past 30 years to  
17 devise a permanent solution to the problems of radioac-  
18 tive waste disposal have not been adequate;

19 (4) the Federal Government has the responsibility  
20 to provide for the permanent disposal of transuranic  
21 waste, high-level radioactive waste, and spent nuclear  
22 fuel in order to protect the public health and safety and  
23 the common defense and security;

24 (5) the primary objective of repositories for such  
25 waste is to isolate them from the biosphere;

1           (6) State and public participation in the planning  
2           and development of permanent repositories for the dis-  
3           posal of radioactive waste is essential in order to pro-  
4           mote confidence among the public with regard to the  
5           safety of disposal of radioactive waste;

6           (7) the implementation of a radioactive waste re-  
7           pository program in accordance with this title would  
8           provide reasonable assurance that methods of safe dis-  
9           posal of transuranic waste, high-level radioactive  
10          waste, and spent nuclear fuel can be available when  
11          such methods are needed; and

12          (8) radioactive waste has become a major issue of  
13          public concern, and stringent precautions must be  
14          taken to ensure that radioactive waste does not ad-  
15          versely affect the public health and safety of this or  
16          future generations.

17          (b) PURPOSE.—It is the purpose of this title to—

18               (1) establish a schedule for the siting, construc-  
19               tion, and operation of licensed permanent repositories  
20               for transuranic waste, high-level radioactive waste, and  
21               spent nuclear fuel which will provide the Congress  
22               with a reasonable assurance that the public will be  
23               adequately protected from the hazards posed by such  
24               wastes;

1 (2) establish the Federal responsibility for the dis-  
2 posal of such wastes from nuclear activities; and

3 (3) establish a definite Federal policy for the dis-  
4 posal of such wastes.

5 IDENTIFICATION OF SITES FOR REPOSITORIES

6 SEC. 102. (a) GUIDELINES.—Not later than June 30,  
7 1981, the Secretary shall, in consultation with the Council  
8 on Environmental Quality, the Environmental Protection  
9 Agency, the Nuclear Regulatory Commission, and the United  
10 States Geological Survey, issue guidelines for the recommen-  
11 dation of sites for repositories. Under the guidelines the Sec-  
12 retary shall specify factors that would disqualify a site devel-  
13 opment as a repository, including factors pertaining to the  
14 location of valuable natural resources, proximity to popula-  
15 tions, hydrogeophysics, seismic activity, and nuclear defense  
16 activities. The guidelines shall require the Secretary to con-  
17 sider the various geologic media in which sites for reposito-  
18 ries may be located and, to the extent practicable, to recom-  
19 mend sites in different geologic media. The Secretary shall  
20 use guidelines established under this subsection in consider-  
21 ing sites to be recommended under subsection (b). The devel-  
22 opment of guidelines under this subsection shall be consid-  
23 ered a preliminary decisionmaking activity and shall not be  
24 subject to the requirements of section 102(2)(C) of the Na-  
25 tional Environmental Policy Act of 1969.

1       (b) RECOMMENDATIONS BY THE SECRETARY.—(1) Not  
2 later than January 1, 1982, the Secretary shall identify and  
3 recommend to the President at least two sites which the Sec-  
4 retary determines are suitable for site characterization. Not  
5 later than February 1, 1985, the Secretary shall identify and  
6 recommend to the President at least two additional sites  
7 which the Secretary determines are suitable for such pur-  
8 pose. Each recommendation of a site shall include a detailed  
9 statement of the basis for the recommendation. If the Secre-  
10 tary recommends a site to the President, the Secretary shall  
11 notify the State Review Board of the State in which the site  
12 is located, or the governing body of any Indian tribe on  
13 whose reservation the site is located, of the Secretary's rec-  
14 ommendation and the basis for such recommendation.

15       (2) Before recommending to the President any site for  
16 characterization, the Secretary shall hold public hearings in  
17 the vicinity of the site to inform the residents of the area in  
18 which the site is located of the proposed recommendation and  
19 to receive their comments.

20       (c) PRESIDENTIAL REVIEW OF RECOMMENDED  
21 SITES.—(1) The President shall review each site recom-  
22 mended by the Secretary under subsection (b). Within 60  
23 days after the submission of a recommendation for a site, the  
24 President shall either approve or disapprove the site, and  
25 transmit his decision to the Secretary and the State Review

1 Board of the State in which the site is located. If the Presi-  
2 dent fails to approve or disapprove the site in accordance  
3 with this paragraph during such 60-day period, or within  
4 such period fails to invoke his authority under paragraph (2)  
5 to delay the determination, the site shall be considered to be  
6 approved.

7 (2) The President may delay for not more than 6 months  
8 his decision under paragraph (1) to approve or disapprove a  
9 site upon determining that the information provided with the  
10 recommendation is not sufficient to permit a decision within  
11 the 60-day period referred to in paragraph (1). The President  
12 may invoke his authority under this paragraph by submitting  
13 written notice to the Congress, within such period, of his  
14 intent to utilize the authority provided under this paragraph.  
15 If the President invokes his authority under this paragraph  
16 but fails to approve or disapprove a site at the end of such 6-  
17 month period, the site shall be considered to be approved.

18 (d) CONTINUATION OF SITE SCREENING.—After the  
19 identification of sites under subsection (b), the Secretary shall  
20 continue to screen other sites to determine their suitability  
21 for site characterization.

22 SITE CHARACTERIZATION

23 SEC. 103. (a) IN GENERAL.—The Secretary shall carry  
24 out in accordance with this section appropriate site charac-  
25 terization activities at each site approved under section 102.

1           (b) NUCLEAR REGULATORY COMMISSION AND STATE  
2 REVIEW BOARDS.—(1) Before proceeding to sink shafts at  
3 any site, the Secretary shall submit for such site to the Com-  
4 mission and to the State Review Board of the State in which  
5 the site is located, or to the governing body of any Indian  
6 tribe on whose reservation the site is located, for their review  
7 and comment—

8           (A) an environmental assessment of the nonradio-  
9 logical impacts of the site characterization activities  
10 planned for such site and a discussion of alternative  
11 activities which may be undertaken to avoid such  
12 impacts;

13           (B) a plan for site characterization activities to be  
14 conducted at such site which plan shall include—

15                   (i) a description of the site;

16                   (ii) a description of the site characterization  
17 activities, including the extent of planned excava-  
18 tions, plans for any onsite testing of radioactive or  
19 nonradioactive material, investigation activities  
20 which may affect the ability of the site to isolate  
21 radioactive wastes and spent fuel, and provisions  
22 to control any adverse, safety-related impacts  
23 from site characterization activities;

24                   (iii) plans for the decontaminating and  
25 decommissioning of the site if it is determined

1           unsuitable for application for licensing as a  
2           repository;

3           (iv) criteria to be used to determine if the  
4           site is acceptable as a site for a repository; and

5           (v) any other information required by the  
6           Commission; and

7           (C) proposals describing the possible form or pack-  
8           aging for the waste material and spent fuel which  
9           would be emplaced in the repository.

10          (2) During the conduct of site characterization activities  
11 at a site, the Secretary shall report to the Commission, and  
12 to either the State Review Board of the State in which the  
13 site is located or the governing body of any Indian tribe on  
14 whose reservation the site is located, on the nature and  
15 extent of such activities and the information developed from  
16 such activities.

17          (c) TESTS.—The Secretary shall conduct at sites at  
18 which site characterization activities are being conducted  
19 such tests as may be necessary to provide the necessary data  
20 for an application for a construction authorization for a re-  
21 pository at the site and for compliance with the National En-  
22 vironmental Policy Act of 1969. The Secretary shall report  
23 to the Commission on the tests conducted at a site pursuant  
24 to this subsection and on the information developed from such  
25 tests.

1 (d) RESTRICTIONS.—(1) In conducting site character-  
2 ization activities or tests pursuant to subsection (c)—

3 (A) the Secretary may not use radioactive materi-  
4 als at a site unless the Commission and the Secretary  
5 concur that such use is necessary to provide data for  
6 the submission of an application for a construction au-  
7 thorization for a repository at the site;

8 (B) if radioactive materials are placed in a site,  
9 the Secretary shall place the smallest quantity neces-  
10 sary to determine the suitability of the site for a re-  
11 pository, but in no event more than the curie equiva-  
12 lent of 10 metric tons of spent fuel; and

13 (C) any radioactive material used or placed on a  
14 site shall be fully retrievable.

15 (2) If characterization activities are terminated at a site  
16 for any reason, the Secretary shall remove any nuclear  
17 waste, spent nuclear fuel, or other radioactive materials at or  
18 in the site as promptly as practicable.

19 **SITE APPROVAL AND CONSTRUCTION AUTHORIZATIONS** ✓

20 **SEC. 104. (a) IN GENERAL.**—If after completion of site  
21 characterization activities at a site—

22 (1) the Secretary determines that the site meets  
23 the requirements applicable to repositories, the Secre-  
24 tary shall proceed in accordance with this section to



1 secure approval of the site and a construction authori-  
2 zation for construction of a repository at the site, or

3 (2) the Secretary determines that the site does not  
4 meet such requirements, the Secretary shall notify the  
5 State Review Board of the State in which the site is  
6 located, or the governing body of the Indian tribe on  
7 whose reservation the site is located, of such  
8 determination.

9 (b) HEARINGS AND PRESIDENTIAL RECOMMENDA-  
10 TION.—(1) If after completion of site characterization activi-  
11 ties at a site the Secretary determines that the site meets the  
12 requirements applicable to repositories, the Secretary shall  
13 hold public hearings in the vicinity of the site to inform the  
14 residents of the area in which the site is located of the deter-  
15 mination of the Secretary and to receive their comments. If  
16 upon completion of the hearings the Secretary affirms the  
17 determination, the Secretary shall submit to the President a  
18 recommendation that the President approve the site for the  
19 development of a repository. Together with any recommen-  
20 dation of a site under this paragraph, the Secretary shall  
21 submit to the President a report containing the following:

22 (A) A description of the proposed repository, in-  
23 cluding engineering plans for the facility.

24 (B) A description of the waste form or packaging  
25 proposed for use at the repository.

1 (C) A discussion of data, obtained in site charac-  
2 terization activities, relating to the safety of the reposi-  
3 tory site.

4 (D) A final environmental impact statement for  
5 the site and the design of the repository as required  
6 under the National Environmental Policy Act of 1969  
7 together with comments made concerning the environ-  
8 mental impact statement by the Department of the In-  
9 terior, the Council on Environmental Quality, the En-  
10 vironmental Protection Agency, and the Nuclear Regu-  
11 latory Commission.

12 (E) Preliminary comments of the Nuclear Regula-  
13 tory Commission concerning the extent to which the  
14 at-depth site characterization analysis and the waste  
15 form proposal for the site seem to be sufficient for in-  
16 clusion in any application to be submitted by the De-  
17 partment of Energy for licensing of the site as a per-  
18 manent repository for high-level radioactive waste and  
19 spent fuel.

20 (F) The views of any State Review Board, or  
21 governing body of any Indian tribe, which is affected  
22 by such site, as determined by the Secretary, together  
23 with the Secretary's response to such views.

24 (G) Such other information as the Secretary con-  
25 siders appropriate to provide a complete statement of

1 the basis for the recommendation of the site for licens-  
2 ing as a repository for the disposal of high-level radio-  
3 active waste and spent fuel.

4 (2) Not later than March 30, 1987, the President shall  
5 submit to the Congress a recommendation of a site which the  
6 President considers qualified for application for license as a  
7 repository. The President shall submit with such recommen-  
8 dation a copy of the report for such site prepared by the  
9 Secretary under paragraph (1). After such date, the President  
10 may submit to the Congress recommendations for other sites  
11 which the President also considers suitable for such purpose,  
12 together with such reports.

13 (3) If the approval of a site recommendation for the ini-  
14 tial repository proposed as required under paragraph (2) does  
15 not take effect as a result of a disapproval by the Congress  
16 under section 105, the President shall submit to the Con-  
17 gress, within one year after the disapproval of the recommen-  
18 dation, a recommendation of another site for an initial  
19 repository. The President may not recommend the approval  
20 of any site under this paragraph unless the Secretary has  
21 recommended to the President under paragraph (1) approval  
22 of such site and has submitted to the President a report for  
23 the site as required under such paragraph.

24 (c) SUBMISSION OF APPLICATION.—If the President  
25 recommends to the Congress a site for a repository under

1 subsection (b) and the site designation is permitted to take  
2 effect under section 105 (pertaining to congressional disap-  
3 proval), the Secretary shall submit to the Commission a li-  
4 cense application for the construction of a repository at the  
5 site within 90 days after the date on which the recommenda-  
6 tion of the site designation is effective under such section and  
7 shall provide the State Review Board of the State in which  
8 the site is located, or the governing body of any Indian tribe  
9 on whose reservation the site is located, a copy of the  
10 application.

11 (d) STATUS REPORT FOR CONSTRUCTION PERMIT AU-  
12 THORIZATION.—No later than 2 years after the date on  
13 which an application for a license application is submitted  
14 under subsection (c), the Commission shall submit a report to  
15 the Congress describing the proceedings undertaken through  
16 such date with regard to the authorization application sub-  
17 mitted, including a description of—

18 (1) major unresolved safety issues, and the Secre-  
19 tary's explanation of design and operation plans for re-  
20 solving such issues;

21 (2) matters of contention regarding the ap-  
22 plication;

23 (3) any Commission actions regarding the grant-  
24 ing or denial of the authorization.

1 (e) **COMMISSION ACTION.**—The Commission shall con-  
2 sider a license application for the construction of a repository  
3 in accordance with the laws applicable to such applications,  
4 except that the Commission shall issue a final decision ap-  
5 proving or disapproving the first such application not later  
6 than—

7 (1) January 1, 1990, or

8 (2) the expiration of four years after the date of  
9 the submission of the application,

10 whichever occurs later.

11 **REVIEW OF REPOSITORY SITE SELECTION**

12 **SEC. 105. (a) IN GENERAL.**—The designation of a site  
13 for a repository shall be effective at the end of the 30-day  
14 period beginning on the date that the President recommends  
15 the site to the Congress under section 104 unless a State  
16 Review Board has submitted to the Congress a petition for  
17 disapproval under section 106 or the governing body of an  
18 Indian tribe has submitted such a petition under section 107.  
19 If any such petition has been submitted, the approval of the  
20 designation shall not be effective except as provided under  
21 subsection (b).

22 (b) **CONGRESSIONAL REVIEW OF SITES.**—(1) If the  
23 President submits to the Congress under section 104 a rec-  
24 ommendation for approval of a site as a repository and either  
25 a State Review Board submits to the Congress a petition for

1 disapproval under section 106 or the governing body of an  
2 Indian tribe submits to the Congress such a petition under  
3 section 107, the designation of such site for a repository shall  
4 be effective at the end of the first period of 90 calendar days  
5 of continuous session of the Congress after the date of trans-  
6 mittal of the recommendation of approval by the President to  
7 the Congress, unless, during such period, either House of the  
8 Congress passes a resolution the matter after the resolving  
9 clause of which reads as follows: "The                      approves  
10 the petition submitted by                      regarding the disap-  
11 proval of the site at                      —for a repository for the  
12 disposal of high-level radioactive waste, transuranic waste,  
13 and spent fuel."; (the first blank space being filled with the  
14 designation of the appropriate House of the Congress; the  
15 second blank space being filled with the name of the State  
16 Review Board or Indian tribe governing body the petition of  
17 which is approved; the third blank space being filled with the  
18 geographic location of the proposed repository site). For pur-  
19 poses of paragraphs (3) through (7) of this subsection, the  
20 term "resolution" means a resolution described by this  
21 paragraph.

22           (2) Paragraphs (3) through (7) of this subsection are en-  
23 acted by Congress—

24                   (A) as an exercise of the rulemaking power of the  
25           Senate and the House of Representatives, respectively,

1 and as such are deemed a part of the rules of each  
2 House, respectively, but applicable only with respect to  
3 the procedure to be followed in that House in the case  
4 of resolutions described by paragraph (1) of this subsection;  
5 and the provisions of such paragraphs supersede  
6 other rules only to the extent that they are inconsistent  
7 therewith; and

8 (B) with full recognition of the constitutional right  
9 of either House to change the rules (so far as relating  
10 to the procedure of that House) at any time, in the  
11 same manner and to the same extent as in the case of  
12 any other rule of the House.

13 (3) A resolution once introduced with respect to any site  
14 designation shall immediately be referred to a committee (and  
15 all resolutions with respect to the same site designation shall  
16 be referred to the same committee) by the President of the  
17 Senate or the Speaker of the House of Representatives, as  
18 the case may be.

19 (4)(A) If the committee to which a resolution with re-  
20 spect to a site designation has been referred has not reported  
21 it at the end of 20 calendar days after its referral, it shall be  
22 in order to move either to discharge the committee from fur-  
23 ther consideration of such resolution or to discharge the com-  
24 mittee from further consideration of any other resolution with

1 respect to such site designation which has been referred to  
2 the committee.

3 (B) A motion of discharge may be made only by an indi-  
4 vidual favoring the resolution, shall be highly privileged  
5 (except that it may not be made after the committee has re-  
6 ported a resolution with respect to the same site designation)  
7 and debate thereon shall be limited to not more than one  
8 hour, to be divided equally between those favoring and those  
9 opposing the resolution. An amendment to the motion shall  
10 not be in order, and it shall not be in order to move to recon-  
11 sider the vote by which the motion was agreed to or disa-  
12 greed to.

13 (C) If the motion to discharge is agreed to or disagreed  
14 to, the motion may not be renewed, nor may another motion  
15 to discharge the committee be made with respect to any  
16 other resolution with respect to the same site designation.

17 (5)(A) When the committee has reported, or has been  
18 discharged from further consideration of, a resolution it shall  
19 be at any time thereafter in order (even though a previous  
20 motion to the same effect has been disagreed to) to move to  
21 proceed to the consideration of the resolution. The motion  
22 shall be highly privileged and shall not be debatable. An  
23 amendment to the motion shall not be in order, and it shall  
24 not be in order to move to reconsider the vote by which the  
25 motion was agreed to or disagreed to.



1 (B) Debate on the resolution referred to in subparagraph  
2 (A) of this paragraph shall be limited to not more than 5  
3 hours, which shall be divided equally between those favoring  
4 and those opposing such resolution. A motion further to limit  
5 debate shall not be debatable. An amendment to, or motion  
6 to recommit, the resolution shall not be in order, and it shall  
7 not be in order to move to reconsider the vote by which such  
8 resolution was agreed to or disagreed to.

9 (6)(A) Motions to postpone, made with respect to the  
10 discharge from committee, or the consideration of, a resolu-  
11 tion, and motions to proceed to the consideration of other  
12 business, shall be decided without debate.

13 (B) Appeals from the decision of the Chair relating to  
14 the application of the rules of the Senate or the House of  
15 Representatives, as the case may be, to the procedure relat-  
16 ing to a resolution shall be decided without debate.

17 (7) Notwithstanding any of the provisions of this subsec-  
18 tion, if a House has approved a resolution with respect to a  
19 site designation, then it shall not be in order to consider in  
20 that House any other resolution with respect to the same  
21 such site designation.

22 (c) COMPUTATION OF DAYS.—For purposes of subsec-  
23 tions (a) and (b) of this section—

24 (1) continuity of session of Congress is broken  
25 only by an adjournment sine die; and

1. (2) the days on which either House is not in ses-  
2 sion because of an adjournment of more than 3 days to  
3 a day certain are excluded in the computation of the  
4 90-day period.

5 STATE REVIEW BOARDS

6 SEC. 106. (a) DEFINITION.—(1) For purposes of this  
7 title, a State Review Board of a State is an entity of the  
8 State which is—

9 (A) created under State law with the authority  
10 described in paragraph (2) and the composition pre-  
11 scribed by paragraph (3); and

12 (B) determined by the Secretary to be established  
13 in accordance with this section.

14 (2) A State Review Board shall be authorized under  
15 State law to—

16 (A) review activities under this title and activities  
17 of the Commission with respect to any site in the State  
18 for a repository to determine the potential economic,  
19 environmental, social, and public health and safety im-  
20 pacts of the repository on the State and its residents;

21 (B) be a representative of the State in any pro-  
22 ceeding before the Commission respecting a site for a  
23 repository in the State; and

24 (C) submit, in accordance with subsection (b), to  
25 the Congress petitions requesting the Congress to dis-

1 approve, in accordance with section 105, construction  
2 of repositories in the State.

3 (3) The State Review Board shall consist of members  
4 representing the interests of the general public in the State,  
5 including members appointed to represent the interests of any  
6 Indian tribes and local governments which would be affected  
7 by the repository.

8 (4) The State Review Board shall hold meetings open  
9 for public participation not less than once every 4 months, at  
10 which meetings the Board shall receive and to the extent  
11 practicable place on its agenda matters submitted by Board  
12 members.

13 (5) The authority of State Review Boards shall not be  
14 applicable with respect to sites located on Indian reserva-  
15 tions. Any references contained in this section to sites located  
16 within a State shall not be deemed to include sites located on  
17 Indian reservations within the State.

18 (b) PARTICIPATION IN REPOSITORY LICENSING DECI-  
19 SIONS.—Upon the submission by the President to the Con-  
20 gress of the recommendation of a site for a repository, the  
21 State Review Board of the State in which the site is located  
22 may, by majority vote of the membership of the Board,  
23 submit a petition to the Congress requesting that the Con-  
24 gress disapprove the site designation. A State Review Board  
25 may submit such a petition to the Congress not later than the

1 30th day after the date that the President recommends the  
2 site to the Congress under section 104. A petition shall be  
3 considered to be submitted to the Congress on the date of the  
4 transmittal of the petition to the Speaker of the House and  
5 the President pro tempore of the Senate. The petition shall  
6 be accompanied by a statement of reasons explaining why the  
7 petition should be granted.

8 (c) FINANCIAL ASSISTANCE.—(1) Subject to paragraph  
9 (2), and to the availability of funds to carry out this para-  
10 graph, the Secretary shall make grants to the State Review  
11 Boards of each State in which a site for a repository has been  
12 approved under section 102(c). Grants under this paragraph  
13 shall be made under such terms and conditions as the Secre-  
14 tary may prescribe, and the amount of funds provided a  
15 Board under this paragraph in any fiscal year may not exceed  
16 75 percent of the costs of the operation of the Board in such  
17 year as determined by the Secretary. Salaries and travel ex-  
18 penses which would ordinarily be incurred by any State or  
19 local government shall not be considered part of the budget of  
20 the Board and shall not be eligible for payment under this  
21 section.

22 (2) A State Review Board may not receive any grant  
23 after the expiration of one year after—

24 (A) the date the Secretary notifies the State  
25 Review Board under section 104(a)(2) that a site in the

1 State does not meet the requirements applicable to re-  
2 positories,

3 (B) the date on which the site is disapproved by  
4 the Congress under section 105, or

5 (C) the date on which the Commission disap-  
6 proves an application for a construction authorization  
7 for a repository at a site in the State,

8 whichever occurs first unless there is another site in the  
9 State approved under section 102(c) with respect to which  
10 the actions described in subparagraphs (A), (B), and (C) have  
11 not been taken.

12 (3) At the end of the one-year period beginning on the  
13 effective date of any operating license for a repository in a  
14 State, no Federal funds shall be made available under this  
15 subsection for the State Review Board of the State in which  
16 the repository is located, except for—

17 (A) such funds as may be necessary to support  
18 Board activities related to any other repository located  
19 in, or proposed to be located in, such State, and for  
20 which an operating license has not been in effect for  
21 more than one year; and

22 (B) such funds as may be necessary to support  
23 Board activities pursuant to agreements or contracts  
24 for assistance entered into under subsection (c) by the

1 Board with the Federal Government before the end of  
2 such one-year period.

3 (d) CONSULTATION.—(1) The Secretary, the Nuclear  
4 Regulatory Commission, and other agencies involved in the  
5 construction or operation of a waste repository in a State  
6 shall provide to the State Review Board of such State, and to  
7 the governing body of any Indian tribe on or adjacent to  
8 whose reservation the repository site is located, timely and  
9 complete information regarding determinations or plans made  
10 with respect to the siting, development, design, construction,  
11 operation, or regulation of the repository.

12 (2) In performing any study of an area within a State for  
13 the purpose of determining the suitability of the area for a  
14 repository and in subsequently developing and loading any  
15 repository within a State, the Secretary shall consult and co-  
16 operate with the State Review Board of the State and the  
17 governing body of any affected Indian tribe in an effort to  
18 resolve the concerns of the State and any affected Indian  
19 tribe regarding the public health and safety, environmental,  
20 and economic impacts of any such repository. In carrying out  
21 his duties under this Act, the Secretary shall take such con-  
22 cerns into account to the maximum extent feasible.

23 (3) As soon as possible after notifying a State of his  
24 decision to study an area within such State as a possible  
25 repository site, the Secretary shall seek to enter into a writ-

1 ten agreement with the State Review Board of the State and,  
2 where appropriate, a separate agreement with the governing  
3 body of any affected Indian tribe, setting forth the procedures  
4 under which the requirements of paragraphs (1) and (2)  
5 shall be carried out. The written agreement shall specify  
6 procedures—

7 (A) by which the State or the governing body of  
8 the Indian tribe (as the case may be) may study, deter-  
9 mine, comment on, and make recommendations with  
10 regard to the possible health and safety, environmental,  
11 and economic impacts of any such repository;

12 (B) by which the Secretary may consider and  
13 respond to comments and recommendations made by  
14 the State Review Board or the governing body of the  
15 Indian tribe (as the case may be), including the period  
16 in which the Secretary may so respond;

17 (C) by which the Secretary and either the State  
18 Review Board or the governing body of the affected  
19 Indian tribe (as the case may be) may review or  
20 modify the agreement periodically; and

21 (D) for public notification of the procedures speci-  
22 fied under subparagraphs (A) through (C).

23 PARTICIPATION OF INDIAN TRIBES

24 SEC. 107. (a) AUTHORITIES OF TRIBAL GOVERNING  
25 BODIES.—The governing body of any Indian tribe on whose

1 reservation is located a site approved for site characterization  
2 under section 102(c) shall have the authorities described  
3 under sections 106(a)(2)(A) and 106(a)(2)(C).

4 (b) ASSISTANCE TO TRIBES.—(1) Subject to the avail-  
5 ability of funds to carry out this section, the Secretary shall  
6 provide to the governing body of each Indian tribe referred to  
7 in subsection (a) such funds as may be necessary to provide  
8 technical assistance to the tribe, and to assist the tribe in  
9 conducting the activities described under sections  
10 106(a)(2)(A) and 106(a)(2)(C) and other similar activities  
11 related to the repository.

12 (2) No funds may be made available to the governing  
13 body of an Indian tribe under this section with respect to a  
14 site located on the reservation of such tribe after the expira-  
15 tion of one year after—

16 (A) the date the Secretary notifies such governing  
17 body under section 104(a)(2) that the site does not  
18 meet the requirements applicable to repositories,

19 (B) the date on which the site is disapproved by  
20 the Congress under section 105, or

21 (C) the date on which the Commission disap-  
22 proves an application for a construction authorization  
23 for a repository at the site,

24 whichever occurs first unless there is another site located on  
25 the reservation of such tribe and approved under section



1 102(c) with respect to which the actions described in subpar-  
2 agraphs (A), (B), and (C) have not been taken.

3 (3) At the end of the one-year period beginning on the  
4 effective date of any operating license for a repository located  
5 on a reservation, no Federal funds shall be made available  
6 under this subsection to the governing body of the Indian  
7 tribe on whose reservation the repository is located, except  
8 for—

9 (A) such funds as may be necessary to support  
10 activities related to any other repository located in, or  
11 proposed to be located in, such reservation, and for  
12 which an operating license has not been in effect for  
13 more than one year; and

14 (B) such funds as may be necessary to support  
15 activities pursuant to agreements or contracts for as-  
16 sistance entered into by the governing body of the  
17 Indian tribe with the Federal Government before the  
18 end of such one-year period.

19 JUDICIAL REVIEW OF AGENCY ACTIONS

20 SEC. 108. (a) IN GENERAL.—Notwithstanding any  
21 other provision of law, the actions taken by the Secretary to  
22 recommend a site for approval by the President and in con-  
23 nection with the site characterization of a site, any actions  
24 taken by the Commission in granting or denying any con-  
25 struction authorization application submitted under section

1 104 or for any operating permit for a repository, and any  
2 actions described in section 108 shall not be subject to judi-  
3 cial review except as authorized by subsection (b).

4 (b) JUDICIAL REVIEW OF ACTIONS.—(1) A civil action  
5 for judicial review of an administrative action described in  
6 subsection (a) may be brought not later than the 180th day  
7 following the date of such action, except that the court  
8 referred to in paragraph (2) may extend the time for bringing  
9 such a civil action if the court determines that the facts on  
10 which the civil action is based were not reasonably available  
11 within the applicable 180-day time limit.

12 (2) A civil action for judicial review of any such adminis-  
13 trative action shall be barred unless a complaint is filed  
14 before the expiration of the time limit prescribed by para-  
15 graph (1) in the United States Court of Appeals for the Dis-  
16 trict of Columbia Circuit, acting as a special court. No other  
17 court of the United States, or any State, territory, or posses-  
18 sion of the United States, or of the District of Columbia, shall  
19 have jurisdiction of any such civil action.

20 EXPEDITED AUTHORIZATIONS

21 SEC. 109. (a) ISSUANCE OF AUTHORIZATIONS.—(1)  
22 Subject to paragraph (2), to the extent that the taking of any  
23 action related to the characterization of a site or the con-  
24 struction or initial operation of a repository under this title  
25 requires a certificate, right-of-way, permit, lease, or other

1 authorization from a Federal officer or agency, such officer or  
2 agency shall issue or grant any such authorization at the ear-  
3 liest practicable date, to the extent permitted by the applica-  
4 ble provisions of law administered by such officer or agency.  
5 All actions of a Federal officer or agency with respect to  
6 consideration of applications or requests for the issuance or  
7 grant of any such authorization shall be expedited, and any  
8 such application or request shall take precedence over  
9 any similar applications or requests not related to such  
10 repositories.

11 (2) The requirements of paragraph (1) shall not be appli-  
12 cable in the case of any action related to any permit or other  
13 authorization issued or granted by, or requested from, the  
14 Nuclear Regulatory Commission.

15 (b) TERMS OF AUTHORIZATIONS.—(1) Any authoriza-  
16 tion issued or granted under subsection (a) shall include such  
17 terms and conditions as may be required by law, and may  
18 include terms and conditions permitted by law.

19 (2) Except as provided in the second sentence of this  
20 subsection, nothing contained in this section shall be con-  
21 strued to impair the authority of any Federal officer or  
22 agency to add to, amend, or abrogate any term or condition  
23 included in any authorization issued or granted pursuant to  
24 subsection (a) if such action is otherwise permitted under ap-  
25 plicable laws administered by such officer or agency. In the

1 case of any such action which is permitted but not required  
2 by law, the Federal officer or agency shall have no authority  
3 to take such action if the terms and conditions to be so added,  
4 or as so amended, would have the effect of terminating the  
5 characterization, construction, or initial operation of the po-  
6 tential or permanent repository which the authorization  
7 affects.

8       **SCHEDULE FOR CERTAIN STANDARDS AND CRITERIA**

9       **SEC. 110. (a) EPA STANDARDS.**—Not later than No-  
10 vember 1, 1981, the Administrator of the Environmental  
11 Protection Agency, pursuant to authority under other provi-  
12 sions of law, shall, by rule, promulgate generally applicable  
13 standards for protection of the general environment from ra-  
14 dioactive material.

15       **(b) CRITERIA.**—Not later than November 1, 1981, the  
16 Commission, pursuant to authority under other provisions of  
17 law, shall, by rule, promulgate criteria which it will apply in  
18 reviewing under the Atomic Energy Act of 1954 and the  
19 Energy Reorganization Act of 1974, applications for con-  
20 struction authorizations for the construction of repositories.

21                       **DISPOSAL OF SPENT FUEL**

22       **SEC. 111.** Notwithstanding any other provision of this  
23 Act, any repository for the disposal of high-level radioactive  
24 waste and spent fuel which is designed and constructed under  
25 this title shall be so designed and constructed that the spent

1 fuel may be retrieved, during an appropriate period of oper-  
2 ation of the facility, for any reasons pertaining to the public  
3 safety or for the purpose of permitting the recovery of the  
4 economically valuable contents of the spent fuel.

5 **AUTHORIZATION OF APPROPRIATIONS; CONTRACT**

6 **AUTHORITY**

7 **SEC. 112. (a) AUTHORIZATION.**—There are authorized  
8 to be appropriated to the Secretary to carry out this title  
9 \$5,000,000 for the fiscal year ending September 30, 1981.

10 **(b) CONTRACTS.**—The authority of the Secretary to  
11 enter into contracts under this title shall be effective for any  
12 fiscal year only to such extent or in such amounts as are  
13 provided in advance by appropriation Acts.

14 **ACCOUNTING OF EXPENDITURES**

15 **SEC. 113. (a) RECORD OF EXPENDITURES.**—The Sec-  
16 retary shall maintain adequate records of all expenditures  
17 made under this title which, together with expenditures made  
18 by the United States under other laws in connection with the  
19 management, interim storage, and disposal of nuclear wastes  
20 and spent fuel, shall provide the basis for any fees to be as-  
21 sessed as described under subsection (b).

22 **(b) FEE COLLECTION.**—Not later than the date the  
23 Secretary submits to the Commission under section 104 a  
24 license application for the construction of an initial reposi-  
25 tory, the Secretary shall submit to the Congress a report

1 proposing fees to be collected to offset all construction, oper-  
2 ation, administrative, and other costs incurred by the Secre-  
3 tary in providing for the management, interim storage, and  
4 disposal of nuclear wastes and spent fuel. The fees specified  
5 in the report would be collected from the persons or entities  
6 who hold title to any nuclear waste or spent fuel which is  
7 subject to interim storage or disposal by the Secretary.

#### 8 TERMINATION OF TITLE

9 SEC. 114. (a) SECTIONS 108 AND 109.—Sections 108  
10 and 109 shall cease to have effect at such time as the Secre-  
11 tary commences licensed commercial operation of at least one  
12 repository.

13 (b) REMAINDER OF TITLE.—The provisions of this  
14 title, other than sections 108, 109, 111, and 113, shall cease  
15 to have effect after December 31, 1999.

#### 16 TITLE II—LOW-LEVEL RADIOACTIVE WASTE

##### 17 LOW-LEVEL RADIOACTIVE WASTE DISPOSAL

18 SEC. 201. (a)(1) It is the policy of the Federal Govern-  
19 ment that—

20 (A) each State is responsible for the disposal of  
21 non-Federal low-level radioactive waste generated  
22 within its borders; and

23 (B) non-Federal low-level radioactive waste can  
24 be most safely and efficiently managed on a regional  
25 basis.

1       (2)(A) To carry out the policy set forth in paragraph (1),  
2 the States may enter into such compacts as may be necessary  
3 to provide for the establishment and operation of facilities for  
4 the disposal of low-level radioactive waste.

5       (B) A compact entered into under subparagraph (A)  
6 shall not take effect until the Congress has by law consented  
7 to the compact. Each such compact shall provide that every  
8 5 years after the compact has taken effect the Congress may  
9 by law withdraw its consent. After January 1, 1987, any  
10 such compact may restrict the use of the regional disposal  
11 facilities under the compact to the disposal of non-Federal  
12 low-level radioactive waste generated within the region.

13       (b)(1) In order to assist the States in carrying out the  
14 policy set forth in subsection (a)(1), the Secretary shall pre-  
15 pare and submit to Congress and to each of the States within  
16 120 days after the date of the enactment of this Act a report  
17 which—

18               (A) defines the disposal capacity needed for pres-  
19 ent and future low-level radioactive waste on a region-  
20 al basis;

21               (B) defines the status of all commercial low-level  
22 radioactive waste disposal sites and includes an evalua-  
23 tion of the license status of each such site, the state of  
24 operation of each site, including operating history, an  
25 analysis of the adequacy of disposal technology em-

1       ployed at each site to contain low-level radioactive  
2       wastes for their hazardous lifetimes, and such recom-  
3       mendations as the Secretary considers appropriate to  
4       assure protection of the public health and safety from  
5       wastes transported to such sites;

6               (C) evaluates the transportation requirements on a  
7       regional basis and in comparison with performance of  
8       present transportation practices for the shipment of  
9       low-level radioactive wastes, including an inventory of  
10      types and quantities of low-level wastes, and evalua-  
11      tion of shipment requirements for each type of waste  
12      and an evaluation of the ability of generators, shippers,  
13      and carriers to meet such requirements; and

14              (D) evaluates the capability of the low-level radio-  
15      active waste disposal facilities owned and operated by  
16      the Department of Energy to provide interim storage  
17      for commercially generated low-level waste and esti-  
18      mates the costs associated with such interim storage.

19              (2) In carrying out this subsection, the Secretary shall  
20      consult with the Governors of the States, the Nuclear Regu-  
21      latory Commission, the Environmental Protection Agency,  
22      the United States Geological Survey, and the Secretary of  
23      Transportation, and such other agencies and departments as  
24      he finds appropriate.



1 (3) This subsection does not authorize appropriations for  
2 the fiscal year ending September 30, 1980.

3 URANIUM MILL SITE AT EDGEMONT

4 SEC. 202. (a) The Secretary shall undertake an investi-  
5 gation to determine whether Federal funding is appropriate  
6 for 90 percent of the cost of any stabilization, decommission-  
7 ing, and decontamination action necessary for offsite con-  
8 tamination resulting from the uranium mill tailings site  
9 owned by the Tennessee Valley Authority and located at  
10 Edgemont, South Dakota. The investigation shall take into  
11 consideration whether such tailings resulted all or in part  
12 from activities conducted under Federal contract; and shall  
13 include an analysis of the total costs which would be required  
14 to undertake such actions with respect to such offsite con-  
15 tamination, including the costs of acquiring and managing  
16 any facilities which may be necessary to protect the public  
17 health and safety from such contamination.

18 (b) Not later than 120 days after the date of the enact-  
19 ment of this section, the Secretary shall complete the investi-  
20 gation prescribed by subsection (a) and shall submit a report  
21 to the Congress of the results of the investigation. The report  
22 shall include any recommendation for legislation to provide  
23 for Federal funding. Any such recommended legislation shall  
24 be consistent with the provisions of the Uranium Mill Tail-  
25 ings Radiation Control Act of 1978. The report shall also

- 1 contain the comments and recommendations of the Tennessee
- 2 Valley Authority.