


EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SPECIAL

May 5, 1982

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer-

Department of Energy
Office of Science and Technology Policy
Department of the Interior
Nuclear Regulatory Commission
Federal Emergency Management Agency 
Department of Transportation
Department of the Treasury
Department of Justice
Environmental Protection Agency
Department of Defense
Department of State
Council on Environmental Quality
Department of Commerce

SUBJECT: S. 1662, the "National Nuclear Waste Policy Act of 1982," as passed by the Senate on April 29, 1982.

Please review the subject bill and advise this office if it contains any objectionable provisions from your agency's point of view. We will assume that your agency has no objection to the bill if you have not responded by May 19, 1982. Telephone comments are acceptable.

Questions should be referred to Jim Murr (395-3386), the legislative analyst in this office.

Ronald K. Peterson

RONALD K. PETERSON FOR
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Legislative Reference

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97TH CONGRESS
1ST SESSION

S. 1662

To establish a limited program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy, initiate a program, and establish a national schedule for the disposal of nuclear waste from civilian activities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 24 (legislative day, SEPTEMBER 9), 1981

Mr. McCLURE (for himself, Mr. STAFFORD, Mr. DOMENICI, Mr. SIMPSON, and Mr. SYMMS) introduced the following bill; which was read twice and referred jointly to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works, with the proviso that if either committee reports the bill, the other committee shall be obligated to report the bill in thirty calendar days (not including days on which the Senate is in recess for more than three days) or be discharged from further consideration thereof

A BILL

To establish a limited program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy, initiate a program, and establish a national schedule for the disposal of nuclear waste from civilian activities, 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,*

1 That this Act may be cited as the "National Nuclear Waste
2 Policy Act of 1981".

3 TITLE I—FINDINGS AND PURPOSE

4 FINDINGS

5 SEC. 101. The Congress finds and declares that—

6 (a) a reliable system adequate to provide sufficient
7 electrical energy to meet the Nation's current and an-
8 ticipated needs is an essential part of a comprehensive
9 national energy policy and is vital to national security
10 and public welfare;

11 (b) an adequate electrical system requires a diver-
12 sified base of primary energy sources in order to avoid
13 excessive reliance upon any single alternative energy
14 source;

15 (c) a diverse base of primary energy sources can
16 be achieved only if each available source competes on
17 an equal footing in decisions on the siting and con-
18 struction of facilities for generating commercial electric
19 power;

20 (d) nuclear energy can—

21 (1) make a significant contribution to na-
22 tional supplies of electricity;

23 (2) offer site-specific advantages in environ-
24 mental impact, cost, and fuel availability over
25 other primary sources of energy; and

1 (3) help reduce United States dependence on
2 insecure sources of foreign oil;

3 (e) lack of an effective Federal policy for the in-
4 terim storage of spent fuel and disposal of nuclear
5 waste from civilian nuclear activities unreasonably bur-
6 dens the choice of nuclear energy as an alternative pri-
7 mary source in decisions on siting and construction and
8 operation of powerplants and unduly constrains efforts
9 to establish a diverse base of primary energy sources;

10 (f) the persons owning and operating civilian nu-
11 clear powerplants have the primary responsibility for
12 providing for the interim storage of spent fuel from ci-
13 vilian nuclear powerplants, but the Federal Govern-
14 ment has the responsibility to provide sufficient capac-
15 ity for interim storage of spent fuel for those civilian
16 nuclear powerplants that cannot reasonably provide
17 adequate onsite storage capacity when needed to
18 assure the continued, orderly operation of the power-
19 plant;

20 (g) the Federal Government has the responsibility
21 for the disposal of high-level radioactive waste from ci-
22 vilian nuclear activities in order to protect the public
23 health and the safety, the environment, and the
24 common defense and security;

1 (h) the costs associated with the storage and dis-
2 posal of nuclear waste from civilian activities should, to
3 the greatest extent possible, be borne by the direct
4 beneficiaries of such activities and should be considered
5 in the selection or rejection of nuclear energy over al-
6 ternative primary energy sources;

7 (i) the technology exists and is under development
8 which would provide reasonable assurance that spent
9 fuel and high-level radioactive waste can be safely dis-
10 posed of and that disposal facilities for spent fuel and
11 high-level wastes can be available when needed;

12 (j) nuclear wastes generated in the national de-
13 fense program have been accumulating for more than
14 thirty years, and spent nuclear fuel and nuclear wastes
15 from the commercial industry are increasing rapidly;

16 (k) nuclear waste has become a major issue of
17 public concern, and stringent precautions must be
18 taken to ensure that nuclear wastes do not adversely
19 affect the public health and safety of this or future gen-
20 erations;

21 (l) the siting, development, and loading of nuclear
22 waste repositories are responsibilities of the Federal
23 Government;

24 (m) confidence in the ability of the Federal Gov-
25 ernment to manage a program providing for the safe

1 and permanent disposal of nuclear wastes must be sub-
2 stantially increased if nuclear power is to contribute
3 significantly to meeting the energy needs of the United
4 States in the future;

5 (n) Federal nuclear waste disposal programs have
6 been ineffective due to—

7 (A) inadequate coordination among the var-
8 ious Federal agencies and departments which
9 have responsibilities relating to nuclear waste
10 management;

11 (B) the lack of a policymaking process which
12 integrates the views of all Federal agencies and
13 departments into a comprehensive Government-
14 wide policy; and

15 (o) the Secretary must increase his efforts to con-
16 sult and cooperate with States and localities concern-
17 ing Federal repository siting, development, and loading
18 activities;

19 (p) a successful nuclear waste management strat-
20 egy requires the full participation of State and local of-
21 ficials, Indian representatives and the public in a step-
22 by-step, technologically sound program, to promote
23 public confidence in the safe disposal of nuclear waste,
24 consistent with the responsibility of the Federal Gov-

1 ernment to determine public health and safety matters
2 related to such program; and

3 (q) the first step in a successful nuclear waste
4 management strategy is the establishment of a national
5 schedule for the development of programs and facilities
6 for the storage and disposal of high-level radioactive
7 waste and spent fuel in a timely manner.

8 PURPOSE

9 SEC. 102. The purpose of this Act is to—

10 (a) assume the Federal responsibility for the ac-
11 quisition and interim storage of spent fuel from civilian
12 nuclear powerplants where needed to assure the
13 orderly operation of such plants, and for the disposal of
14 high-level radioactive waste from civilian nuclear
15 activities;

16 (b) establish a definite Federal policy for the dis-
17 posal of high-level radioactive waste from civilian nu-
18 clear activities and a national schedule for developing
19 the facilities and programs needed to carry out that
20 policy in a timely manner;

21 (c) authorize the Secretary to—

22 (1) acquire or construct at least one facility
23 for the interim storage of spent fuel from civilian
24 nuclear powerplants not to exceed a specified
25 total storage capacity; and

1 (2) establish systems for the long-term stor-
2 age and disposal of high-level radioactive waste
3 generated by civilian nuclear activities, and to de-
4 velop, construct and put in operation the facilities
5 comprising these systems;

6 (d) establish a system for financing the construc-
7 tion, operation, and maintenance of Federal storage
8 and disposal facilities for high-level radioactive waste
9 and spent fuel from civilian nuclear activities;

10 (e) improve coordination of Federal nuclear waste
11 management programs; and

12 (f) provide for improved consultation and coopera-
13 tion between the Department of Energy and States
14 and localities concerning Federal storage and reposi-
15 tory siting and development activities, consistent with
16 the responsibility of the Federal Government to deter-
17 mine public health and safety matters related to such
18 activities.

19 TITLE II--DEFINITIONS

20 SEC. 201. As used in this Act the term—

21 (1) "civilian nuclear powerplant" means a utiliza-
22 tion or production facility required to be licensed under
23 section 103 or 104 b. of the Atomic Energy Act of
24 1954, as amended;

1 (2) "Commission" means the Nuclear Regulatory
2 Commission;

3 (3) "disposal" means the long-term isolation of ra-
4 dioactive waste as spent fuel in a repository;

5 (4) "environmental impact statement" means any
6 document prepared pursuant to or in compliance with
7 the requirements of section 102(2)(C) of the National
8 Environmental Policy Act of 1969 (83 Stat. 852);

9 (5) "Secretary" means the Secretary of the De-
10 partment of Energy;

11 (6) "spent fuel" means nuclear fuel that has been
12 irradiated in and recovered from a civilian nuclear
13 powerplant or from other civilian nuclear activities;

14 (7) "Department" means the Department of
15 Energy;

16 (8) "Governor" means the Governor of a State,
17 or successors to the Governor, during their respective
18 terms of office, or their designees;

19 (9) "nuclear waste" means high-level waste,
20 transuranic contaminated waste, and low-level waste;

21 (10) "high-level waste" means the highly radioac-
22 tive wastes resulting from the reprocessing of spent
23 nuclear fuel, and includes both the liquid waste which
24 is produced directly in reprocessing and any solid ma-
25 terial into which such liquid waste is made;

1 (11) "repository" means a facility for the perma-
2 ment, deep geologic disposal of high-level waste, trans-
3 uranic contaminated waste, or spent nuclear fuel,
4 whether or not such facility is designed to permit the
5 subsequent recovery of such material, except for facili-
6 ties to be used exclusively for research and develop-
7 ment purposes containing an insignificant amount of
8 such material;

9 (12) "storage" means retention of nuclear waste
10 or spent nuclear fuel with the intent to recover such
11 material for subsequent use, processing, or disposal;

12 (13) "affected State" means the State in which a
13 long-term storage or disposal facility for high-level ra-
14 dioactive waste or spent fuel is proposed to be located;

15 (14) "Indian tribe" means an Indian tribe, as de-
16 fined in the Indian Self-Determination and Education
17 Assistance Act (Public Law 93-638);

18 (15) "affected Indian tribe" means any tribe in an
19 affected State whose rights reserved through statutes,
20 treaties, Executive orders, judicial decision, or other
21 applicable law could reasonably be expected to be ad-
22 versely affected by the development, construction or
23 operation of a facility for the long-term storage or dis-
24 posal of radioactive waste;

1 (16) "nuclear waste and spent nuclear fuel man-
2 agement" means the transport, storage, and disposal of
3 nuclear waste and spent nuclear fuel; and

4 (17) "site characterization" means the program of
5 exploration and research, both in the laboratory and in
6 the field, undertaken to establish the geologic condi-
7 tions and the ranges of those parameters of a particu-
8 lar site relevant to the procedures under this part. Site
9 characterization includes borings, surface excavations,
10 excavation of exploratory shafts, limited subsurface lat-
11 eral excavations and borings, and in situ testing needed
12 to determine the suitability of the site for a geologic
13 repository, but does not include preliminary borings
14 and geophysical testing needed to decide whether site
15 characterization should be undertaken.

16 TITLE III—INTERIM STORAGE OF SPENT FUEL
17 FROM CIVILIAN NUCLEAR POWERPLANTS

18 SEC. 301. (a) It is the policy of the Federal Government
19 that—

20 (1) the persons owning and operating civilian nu-
21 clear powerplants have the primary responsibility for
22 providing interim storage of spent fuel from such
23 powerplants, by maximizing, to the extent practical,
24 the effective use of existing storage facilities at the site
25 of each civilian nuclear powerplant, by adding new

1 onsite storage capacity in a timely manner where prac-
2 tical, and by the use of privately owned and operated
3 offsite storage facilities where practical;

4 (2) the Federal Government has the responsibility
5 to encourage and expedite the effective use of existing
6 storage facilities and the addition of needed new stor-
7 age capacity at the site of each civilian nuclear power-
8 plant; and

9 (3) the Federal Government has the responsibility
10 to provide, as soon as possible, sufficient capacity for
11 interim storage of spent fuel for those civilian nuclear
12 powerplants that cannot reasonably provide adequate
13 storage capacity at the site of the powerplant when
14 needed to assure the continued, orderly operation of
15 the powerplant.

16 (b) The policy under subsection (a) shall provide for—

17 (1) the utilization of available spent fuel pools at
18 the site of each civilian nuclear powerplant to the
19 extent practical and the addition of new spent fuel
20 storage capacity where practical, either at the site of
21 the powerplant or at a privately owned and operated
22 offsite storage facility; and

23 (2) the establishment of a federally owned and op-
24 erated system for the interim storage of spent fuel at
25 one or more away-from-reactor facilities with a limited

1 capacity sufficient to prevent disruptions in the orderly
2 operation of nuclear powerplants that cannot reason-
3 ably provide adequate spent fuel storage capacity at
4 the powerplant site when needed.

5 SEC. 302. (a) The Secretary, consistent with such crite-
6 ria as he prescribes under the policy set forth in section 301
7 and as are required under this section, shall offer to enter
8 into, and may enter into, contracts with persons owning and
9 operating civilian nuclear powerplants that the Secretary de-
10 termines cannot reasonably provide adequate spent fuel stor-
11 age capacity at the powerplant site to ensure the continued
12 orderly operation of the powerplant, through the maintenance
13 of a full core reserve storage capability, either by utilizing
14 available spent fuel pools to the extent practical or by adding
15 new spent fuel storage capacity at the site of the powerplant:
16 *Provided, however,* That the Secretary shall not enter into
17 contracts for spent fuel in amounts in excess of the available
18 storage capacity specified in section 305(a). Those contracts
19 shall provide that the Federal Government will (1) take title
20 to such amounts of spent fuel from the powerplants as the
21 Secretary determines cannot be stored onsite, (2) transport
22 the spent fuel to a federally owned and operated interim
23 away-from-reactor storage facility, and (3) store such fuel in
24 the facility pending further processing, storage, or disposal.

1 (b) Not later than ninety days after the date of enact-
2 ment of this Act, the Secretary shall propose, by rule, proce-
3 dures, and criteria for making the determination required by
4 subsection (a) that a nuclear powerplant cannot reasonably
5 provide adequate spent fuel storage capacity at the power-
6 plant site when needed to ensure the continued orderly oper-
7 ation of the powerplant.

8 (c) Nothing in this Act authorizes the Secretary to take
9 title to spent fuel, transport spent fuel, store or dispose of
10 spent fuel or the waste products associated with spent fuel
11 from a nuclear powerplant not located within the United
12 States.

13 SEC. 303. A contract entered into under section 302
14 shall provide—

15 (a) for a one-time payment at the time the Feder-
16 al Government acquires the spent fuel of a charge per
17 unit of spent fuel, as such unit is defined by the Secre-
18 tary, which charge is determined by the Secretary to
19 be adequate to cover—

20 (1) the cost of transportation of such spent
21 fuel; and

22 (2) the proportion of the costs of the con-
23 struction and operation, maintenance and decom-
24 missioning of Federal interim away-from-reactor

1 storage facilities, which proportion is associated
2 with such spent fuel;

3 (b) for the retention by the owner of such spent
4 fuel of a nontransferable right to the value of the re-
5 maining fuel resource less the costs of recovery, as de-
6 termined at the time of recovery. The right ends when
7 the Federal Government—

8 (1) takes action resulting in the recovery of
9 the remaining fuel resource and gives to the
10 owner of the right an amount of money equal to
11 the value of the recovered fuel less the costs of
12 recovery; or

13 (2) disposes of such fuel in a repository;

14 (c) that title to the spent fuel together with all
15 rights to such fuel, except as otherwise provided in this
16 Act, passes to the Secretary at the site of the power-
17 plant at the time the Secretary takes possession of the
18 spent fuel; and

19 (d) that the contract becomes effective when the
20 interim away-from-reactor storage facility is available
21 as determined by the Secretary by notice in the Feder-
22 al Register.

23 SEC. 304. (a) The Secretary shall provide notice of
24 intent to enter into such contracts by publishing notice in the
25 Federal Register not later than one hundred and eighty days

1 after the date of enactment of this Act. Such notice shall
2 contain such information as the Secretary considers appropri-
3 ate concerning proposed terms and conditions of such con-
4 tracts.

5 (b) The Secretary shall establish the one-time payment
6 charge per unit of spent fuel required by section 303(a) on an
7 annual basis, based on calculation of the costs listed in sec-
8 tion 303(a), and shall publish such annual one-time payment
9 charge and the calculation thereof in the Federal Register.
10 Each such annual one-time payment charge shall become ef-
11 fective thirty days after publication and shall remain effective
12 for a period thereafter of twelve months as the charge for the
13 costs listed in section 303(a) for any spent fuel, title to which
14 is transferred to the Federal Government during that twelve-
15 month period.

16 SEC. 305. (a) The Secretary shall construct, acquire, or
17 lease one or more away-from-reactor facilities for the interim
18 storage of spent fuel from civilian nuclear powerplants with a
19 total storage capacity at all such facilities of not more than
20 two thousand eight hundred metric tons of uranium. The
21 facilities shall—

22 (1) be made available in a timely manner to ac-
23 commodate all spent fuel for which commitments have
24 been made pursuant to section 302 of this Act; and

1 (2) be subject to a license under the provisions of
2 section 202(3) of the Energy Reorganization Act of
3 1974 (88 Stat. 1233), as amended: *Provided*, That in
4 determining whether to issue a license for such a facili-
5 ty, the Commission shall not consider the need for the
6 facility. The Secretary shall submit to the Commission
7 a license to construct, acquire or lease, and operate
8 such a facility not later than January 1, 1983.

9 (b) The Secretary, in providing for the transportation of
10 spent fuel under this Act, shall utilize by contract private
11 industry to the fullest extent possible in each aspect of such
12 transportation. The Secretary shall use direct Federal serv-
13 ices for such transportation only upon a determination of the
14 Secretary of Transportation, in consultation with the Secre-
15 tary, that private industry is unable or unwilling to provide
16 such transportation services at reasonable cost. The authority
17 of the Secretary to enter into contracts under this section
18 shall be limited to the extent or in such amounts as are pro-
19 vided in appropriations Acts.

20 (c) The Secretary, on a continuing basis, shall analyze
21 and make projections of the availability when needed of spent
22 fuel transportation casks required to support transportation
23 requirements pursuant to subsection (b). The Secretary and
24 the Commission are authorized and directed to take such ac-
25 tions as the Secretary and the Commission, respectively,

1 deem necessary and appropriate to ensure the timely avail-
2 ability when needed of such spent fuel transportation casks.

3 SEC. 306. When an interim away-from-reactor storage
4 facility is available, the Secretary shall take possession of and
5 transport to a designated storage facility any spent fuel cov-
6 ered by a contract made under section 302 of this Act. The
7 Secretary shall take this action within thirty days after the
8 date on which the owner of such spent fuel provides notice in
9 writing to the Secretary that such spent fuel is available.

10 SEC. 307. Funds made available to the Secretary for
11 the purpose of—

12 (a) acquiring plant and capital equipment or land;

13 or

14 (b) for planning, construction, or modification of
15 facilities,

16 to make available facilities for the interim storage of spent
17 fuel from civilian nuclear powerplants away from the reactor
18 under any law making appropriations of funds or authoriza-
19 tions for appropriations of funds for the fiscal year ending
20 September 30, 1979, or the fiscal year ending Septembr 30,
21 1980, including funds authorized and appropriated for Project
22 79-1-p (away-from-reactor spent nuclear fuel storage capac-
23 ity) in legislation authorizing appropriations for the Depart-
24 ment of Energy for the fiscal year ending September 30,

1 1980, shall be available to carry out the purposes of section
2 305.

3 SEC. 308. (a) In carrying out the provisions of sections
4 301 through 307 with regard to any facility for the interim
5 storage of spent fuel from civilian nuclear powerplants which
6 the Secretary is authorized by section 305(a) to construct,
7 acquire or lease, the Secretary shall—

8 (1) as soon as practicable, but not later than
9 ninety days after enactment of this section, notify in
10 writing the Governor and the legislature of any State
11 in which is located a potentially acceptable site for
12 such a facility or an existing facility potentially suitable
13 for interim storage of spent fuel of his intention to in-
14 vestigate that site or facility;

15 (2) during the course of investigation of such site
16 or facility, keep the Governor and the legislature cur-
17 rently informed of the progress of work and results of
18 the investigation;

19 (3) at the time of selection by the Secretary of
20 any site or existing facility, but prior to undertaking
21 any site-specific work or alterations, promptly notify
22 the Governor and the legislature in writing of such se-
23 lection;

24 (4) throughout the course of any subsequent work
25 on that site or existing facility, furnish the Governor

1 all relevant information on a current basis and provide
2 him with the opportunity for review and comment from
3 time to time.

4 (b) If within a reasonable time after the Governor has
5 received notice of selection required by subsection (a)(3), the
6 Governor notifies the Secretary in writing of his objections to
7 the facility, the Secretary shall suspend further work on such
8 facility and promptly transmit the Governor's objections to-
9 gether with the Secretary's comments and recommendations
10 to the President.

11 (c) Unless within ninety days after receipt of the Secre-
12 tary's notification under subsection (b) the President deter-
13 mines that such facility is essential to the national interest,
14 the Secretary shall terminate activities specific to the facility.
15 Such determination shall not be subject to judicial or adminis-
16 trative review.

17 (d) During the regulation and monitoring of the facility,
18 the Governor or his designee shall have the right to be cur-
19 rently informed of all relevant information, and shall have the
20 right to review and comment on such matters from time to
21 time.

22 SEC. 309. Section 202(3) of the Energy Reorganization
23 Act of 1974 is amended to read:

24 "(3) Facilities used primarily for the receipt and
25 storage or disposal of high-level radioactive waste or

1 spent fuel resulting from activities licensed under such
2 Act or spent fuel from foreign reactors transferred
3 under a subsequent arrangement authorized under such
4 Act.”.

5 SEC. 310. Transportation of spent fuel under section
6 303(a) shall be subject to licensing and regulation by the
7 Commission as provided for transportation of commercial
8 spent fuel under existing law.

9 SEC. 311. (a) The Secretary, the Commission, and other
10 appropriate Federal officials shall take such actions as they
11 consider necessary to encourage and expedite the effective
12 use of existing storage facilities and the addition of needed
13 new storage capacity at the site of each civilian nuclear
14 powerplant consistent with—

15 (1) the protection of the public health, safety, and
16 the environment;

17 (2) economic considerations;

18 (3) continued operation of the powerplant;

19 (4) the sensibilities of the population surrounding
20 such powerplant; and

21 (5) otherwise applicable law.

22 (b) The Secretary, in consultation with the Commission,
23 shall establish a cooperative program to assist and encourage
24 the private development of alternate technologies for the
25 storage of spent fuel at the sites of civilian nuclear power-

1 plants, with the objective of developing one or more alternate
2 technologies that can be licensed by the Commission on a
3 generic basis for use at the sites of all civilian nuclear power-
4 plants without the need for additional site-specific approvals
5 by the Commission to the maximum extent practicable. For
6 the purposes of this subsection, "alternate technologies"
7 shall include, but are not limited to, spent fuel storage casks.

8 SEC. 312. (a) Any person filing an application with the
9 Commission after the date of enactment of this Act for a
10 license, or for an amendment to an existing license, to expand
11 the spent fuel storage capacity at the site of a civilian nuclear
12 powerplant, through the use of high-density fuel storage
13 racks, fuel rod compaction, the transshipment of spent fuel to
14 another powerplant within a utility system, the construction
15 of additional spent fuel pool capacity, or by other means, may
16 submit a petition to the Commission for issuance of the li-
17 cense or license amendment on an interim basis prior to the
18 conduct or completion of any required hearing upon such ap-
19 plication.

20 (b) The Commission shall grant the petition submitted
21 under subsection (a) and issue the license or license amend-
22 ment on an interim basis if the Commission or its designee
23 determines that--

1 (1) in all respects other than the conduct or com-
2 pletion of any required hearing, the requirements of
3 law are met; and

4 (2) in accordance with such requirements, there is
5 reasonable assurance that the activities authorized by
6 the license or license amendment during the interim
7 period, in accordance with the terms and conditions of
8 such license or license amendment, will provide ade-
9 quate protection to the public health and safety and the
10 environment during the interim period.

11 SEC. 313. (a) In any Commission hearing pursuant to
12 section 189 of the Atomic Energy Act of 1954, as amended,
13 on an application for a license, or for an amendment to an
14 existing license, filed after the date of enactment of this Act,
15 to expand the spent fuel storage capacity at the site of a
16 civilian nuclear powerplant, through the use of high-density
17 fuel storage racks, fuel rod compaction, the transshipment of
18 spent fuel to another such powerplant within a utility system,
19 the construction of additional spent fuel pool capacity or dry
20 storage capacity, or by other means, the Commission shall
21 first provide the parties to the proceeding an opportunity to
22 submit for the record such written data, views, or arguments
23 as the hearing board may specify. At the request of any
24 party, the hearing board shall provide an opportunity for oral
25 argument with respect to any matter identified in the written

1 submissions which the hearing board determines to be in con-
2 troversy among the parties. The hearing shall be preceded by
3 such discovery procedures as the rules of the Commission
4 shall provide, and as ordered by the hearing board. The hear-
5 ing board shall require each moving party, including the
6 Commission staff, to submit in written form, at the time the
7 proceeding is initiated, all the facts and arguments upon
8 which that party proposes to rely that are known at such
9 time to that party.

10 (b)(1) At the conclusion of any hearing under subsection
11 (a) of this section, the hearing board shall designate any dis-
12 puted question of fact, together with any remaining questions
13 of law, for resolution in an adjudicatory hearing only if it
14 determines that—

15 (A) there is a genuine and substantial dispute of
16 fact involving factual assumptions or methodology upon
17 which expert opinion is based, or concerning the credi-
18 bility or competence of an expert witness significantly
19 relied upon by one or more of the parties to the pro-
20 ceeding, which can only be resolved with sufficient ac-
21 curacy by the introduction of reliable and specifically
22 identified evidence in an adjudicatory hearing; and

23 (B) the decision of the Commission is likely to
24 depend in whole or in part on the resolution of such
25 dispute.

1 (2) In making a determination under this subsection, the
2 hearing board shall designate in writing the specific facts that
3 are in genuine and substantial dispute, the reason why the
4 decision of the agency is likely to depend on the resolution of
5 such facts, and the reason why an adjudicatory hearing is
6 likely to resolve the dispute.

7 (c) No court shall hold unlawful or set aside a decision of
8 the Commission in any proceeding described in subsection (a)
9 because of a failure by it to use a particular procedure pursu-
10 ant to this section unless—

11 (A) an objection to the procedure used was pre-
12 sented to the hearing board in a timely fashion or there
13 are extraordinary circumstances that excuse the failure
14 to present a timely objection, and

15 (B) the court finds that such failure has precluded
16 a fair consideration and informed resolution of a central
17 issue of the proceeding taken as a whole.

18 SEC. 314. In any proceeding on an application for a
19 license, or for an amendment to an existing license, filed after
20 the date of enactment of this Act, to expand the spent fuel
21 storage capacity at the site of a civilian nuclear powerplant,
22 through the use of high-density fuel storage racks, fuel rod
23 compaction, the transshipment of spent fuel to another such
24 powerplant within a utility system, the construction of addi-
25 tional spent fuel pool capacity or dry storage capacity or by

1 other means, the Commission shall not consider as alterna-
2 tives the storage of spent fuel in away-from-reactor storage
3 facilities.

4 TITLE IV—DISPOSAL OF HIGH-LEVEL RADIOAC-
5 TIVE WASTE AND SPENT FUEL FROM CIVIL-
6 IAN NUCLEAR ACTIVITIES

7 SEC. 401. (a) It is the policy of the Federal Government
8 that—

9 (1) the Federal Government has the responsibility
10 to provide for the permanent disposal of solidified high-
11 level radioactive waste and spent fuel from civilian nu-
12 clear activities;

13 (2) spent fuel, unless otherwise processed, and
14 high-level radioactive waste from civilian nuclear activ-
15 ities must be permanently disposed of in a federally
16 owned and operated repository;

17 (3) the Federal Government has the responsibility
18 to assure that repositories capable of safely disposing
19 of solidified high-level radioactive waste and spent fuel
20 from civilian nuclear activities are available with suffi-
21 cient capacity when needed; and

22 (4) the Federal Government has the responsibility
23 to demonstrate as soon as possible that high-level
24 waste and spent fuel from civilian nuclear activities can
25 be disposed of in a manner that provides adequate pro-

1 tection to the public health, safety, and the environ-
2 ment.

3 (b) The policy under subsection (a) shall provide for—

4 (1) the establishment of a federally owned and op-
5 erated program for the siting, development, construc-
6 tion, and operation of repositories capable of safely dis-
7 posing of solidified high-level radioactive waste and
8 spent fuel from civilian nuclear activities, which reposi-
9 tories are to be licensed by the Commission;

10 (2) a national schedule for accomplishing the regu-
11 latory and programmatic actions needed to achieve the
12 objective of obtaining by January 1, 1988, a Commis-
13 sion authorization to construct the first full-scale, oper-
14 ational repository capable of safely disposing of solidi-
15 fied high-level radioactive waste and spent fuel from ci-
16 vilian nuclear activities, and achievement of operational
17 status for the repository as soon thereafter as possible;
18 and

19 (3) the development, construction, and operation
20 of at least one test and evaluation facility for the pur-
21 pose of developing the packaging, handling, and em-
22 placement technology for solidified high-level radioac-
23 tive waste and spent fuel needed to further the demon-
24 stration of disposal of such waste and spent fuel, with

1 the objective of achieving operational status of one
2 such facility by January 1, 1988.

3 DEVELOPMENT OF EPA STANDARDS AND NRC TECHNICAL
4 CRITERIA

5 SEC. 402. (a) EPA STANDARDS.—Not later than
6 June 1, 1982, the Administrator of the Environmental Pro-
7 tection Agency, pursuant to authority under existing law,
8 shall, by rule, promulgate generally applicable standards for
9 offsite releases of radioactivity from repositories capable of
10 disposing of solidified high-level radioactive waste and spent
11 fuel from civilian nuclear activities.

12 (b) NRC TECHNICAL CRITERIA.—Not later than Janu-
13 ary 1, 1983, the Commission, pursuant to authority under
14 existing law, shall, by rule, promulgate technical criteria for
15 review of an application—

16 (1) for authority to construct a repository capable
17 of disposing of solidified high-level radioactive waste
18 and spent fuel from civilian nuclear activities,

19 (2) for a license to emplace such waste and spent
20 fuel in the repository, or

21 (3) for a license amendment to decommission the
22 repository.

23 Such criteria shall provide for the use of multiple barriers in
24 the design of the repository and shall limit the retrievability
25 of the waste and spent fuel emplaced in the repository unless

1 such action is needed to protect the public health, safety, and
2 the environment.

3 IDENTIFICATION OF SITES FOR REPOSITORIES

4 SEC. 403. (a) GUIDELINES FOR REPOSITORY SITE
5 RECOMMENDATION.—Not later than January 1, 1982, the
6 Secretary, in consultation with the Commission, the Environ-
7 mental Protection Agency, and the United States Geological
8 Survey, shall issue general guidelines for the recommenda-
9 tion of sites for repositories capable of safely disposing of
10 solidified high-level radioactive waste and spent fuel from ci-
11 vilian nuclear activities. Under such guidelines, the Secretary
12 shall specify factors that would disqualify a site from develop-
13 ment as a repository, including factors pertaining to the loca-
14 tion of valuable natural resources, proximity to population,
15 hydrogeophysics, seismic activity, and nuclear defense activi-
16 ties. The guidelines shall require the Secretary to consider
17 the various geologic media in which sites for repositories may
18 be located and, to the extent practicable considering the
19 schedule of actions contained in this title, to recommend sites
20 in different geologic media. The Secretary shall use the
21 guidelines established under this subsection in considering
22 sites to be recommended under subsection (b).

23 (b) SITE RECOMMENDATIONS BY THE SECRETARY.—

24 (1) Not later than June 1, 1982, the Secretary
25 shall identify and recommend to the President at least

1 two sites that the Secretary determines are suitable for
2 site characterization. Not later than January 1, 1983,
3 the Secretary shall identify and recommend to the
4 President at least one additional site which the Secre-
5 tary determines is suitable for such purpose. Each rec-
6 ommendation of a site shall include a detailed state-
7 ment of the basis for the recommendation. If the Sec-
8 retary recommends a site to the President, the Secre-
9 tary shall notify the Governor of the State in which
10 the site is located and the Tribal Council of any affect-
11 ed Indian tribe of the Secretary's recommendation and
12 the basis for such recommendation.

13 (2) Before recommending to the President any site
14 for characterization, the Secretary shall notify the
15 Governor of the State in which the site is located and
16 the Tribal Council of any affected Indian tribe of the
17 proposed recommendation, and the Secretary shall hold
18 public meetings in the vicinity of the site to inform the
19 residents of the area in which the site is located of the
20 proposed recommendation and to receive their com-
21 ments.

22 (c) PRESIDENTIAL REVIEW OF RECOMMENDED
23 SITES.—

24 (1) The President shall review each site recom-
25 mendation of the Secretary under subsection (b).

1 Within sixty days after the submission of a recommen-
2 dation for a site, the President in his discretion shall
3 either approve or disapprove the site, and transmit his
4 decision to the Secretary, to the Governor of the State
5 in which the site is located, and to the Tribal Council
6 of any affected Indian tribe. If the President fails to
7 approve or disapprove the site in accordance with this
8 paragraph during such sixty-day period, or within such
9 period fails to invoke his authority under paragraph (2)
10 to delay the determination, the site shall be considered
11 to be approved.

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

1 (d) Any activity of the President or the Secretary under
2 this section shall be considered a preliminary decisionmaking
3 activity and shall not be subject to the National Environmen-
4 tal Policy Act of 1969 (83 Stat. 852).

5 SITE CHARACTERIZATION

6 SEC. 404. (a) The Secretary shall carry out in accord-
7 ance with this section appropriate site characterization activi-
8 ties at each site approved under section 403.

9 (b)(1) Before proceeding to sink shafts at any site, the
10 Secretary shall submit for such site to the Commission, to the
11 Governor of the State in which the site is located, and to the
12 Tribal Council of any affected Indian tribe, for their review
13 and comment—

14 (A) an environmental assessment of the nonradio-
15 logical impacts of the site characterization activities
16 planned for such site, and a discussion of alternative
17 activities for purposes of site characterization which
18 may be undertaken to avoid such impacts;

19 (B) a general plan for site characterization activi-
20 ties to be conducted at such site, which plan shall in-
21 clude—

22 (i) a description of the site;

23 (ii) a description of the site characterization
24 activities, including the extent of planned excava-
25 tions, plans for any onsite testing of radioactive

1 material or nonradioactive material, investigation
2 activities that may affect the ability of the site to
3 isolate radioactive waste and spent fuel, and pro-
4 visions to control likely adverse, safety-related im-
5 pacts from site characterization activities;

6 (iii) plans for decontaminating and decommis-
7 sioning the site if it is determined unsuitable for
8 application for licensing as a repository; and

9 (iv) any other information required by the
10 Commission; and

11 (C) proposals describing the possible form of pack-
12 aging for the waste material and spent fuel that would
13 be emplaced in the repository.

14 (2) During the conduct of site characterization activities
15 at a site, the Secretary shall report to the Commission, to the
16 Governor of the State in which the site is located, and to the
17 Tribal Council of any affected Indian tribe, on the nature and
18 extent of such activities and the information developed from
19 such activities.

20 (c) The Secretary shall conduct such tests as the Secre-
21 tary deems necessary to provide the necessary data for an
22 application for a construction authorization by the Commis-
23 sion for a repository at the site and for compliance with the
24 National Environmental Policy Act of 1969 (83 Stat. 852).
25 The Secretary shall report to the Commission, to the Gover-

1 nor of the State in which the site is located, and to the Tribal
2 Council of any affected Indian tribe, on the tests conducted at
3 a site pursuant to this subsection and on the information de-
4 veloped from such tests.

5 (d)(1) In conducting site characterization activities or
6 tests pursuant to subsection (c)—

7 (A) the Secretary may not use radioactive materi-
8 als at a site unless the Commission concurs that such
9 use is necessary to provide data for the submission of
10 an application for a construction authorization for a re-
11 pository at the site;

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

17 (C) any radioactive material used or placed on a
18 site shall be fully retrievable: *Provided, however,* That
19 the restrictions of subparagraphs (1)(A) and (1)(B) shall
20 not apply to the test and evaluation facility authorized
21 under section 407.

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

1 SITE APPROVAL AND CONSTRUCTION AUTHORIZATIONS

2 SEC. 405. (a) Prior to submitting a recommendation to
3 the President for approval of a site, the Secretary shall hold
4 public meetings in the vicinity of the site to inform the resi-
5 dents of the area in which the site is located of the determi-
6 nation of the Secretary and to receive their comments. Upon
7 completion of the meetings, the Secretary may submit to the
8 President a recommendation that the President approve the
9 site for the development of a repository.

10 (b) Not later than January 1, 1985, the President shall
11 select at least one site that the President considers qualified
12 for application for license as a repository.

13 (c) The Secretary shall submit to the Commission an
14 application for authorization to construct a repository at a
15 site selected by the President within ninety days after the
16 date on which the President selects a site under subsection
17 (b). The Secretary shall provide a copy of such license appli-
18 cation to the Governor of the State in which the site is locat-
19 ed and to the Tribal Council of any affected Indian tribe.

20 (d) Not later than eighteen months after the date on
21 which an application is submitted under subsection (c), the
22 Commission shall submit to the Congress a report describing
23 the proceedings on the application undertaken through such
24 date, including a description of—

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

2
3
4 (2) matters of contention regarding the application; and

5
6 (3) any Commission actions regarding the granting or denial of the application.

7
8 (e) The Commission shall consider a license application
9 for the construction of a repository in accordance with the
10 laws applicable to such applications, except that the Commission shall issue a final decision approving or disapproving the
11 first such application not later than January 1, 1988.

12
13 (f) The Commission shall consider an application for authorization to construct a repository in accordance with the
14 laws applicable to such applications, except that—

15
16 (1) the Commission need only consider as alternate sites for the proposed facility those sites approved
17 for site characterization under section 403(c), and

18
19 (2) the Commission shall issue a final decision approving or disapproving the first such application not
20 later than January 1, 1988.

21
22 SEC. 406. The Secretary, the Commission, and other
23 appropriate Federal officials shall take such actions as they
24 consider necessary, consistent with the protection of the
25 public health, safety, and the environment, to achieve oper-

1 ational status of a repository licensed under section 405(e) as
2 soon thereafter as possible.

3 TEST AND EVALUATION FACILITY

4 SEC. 407. (a) Not later than January 1, 1983, the Sec-
5 retary shall transmit to the Congress a proposal for at least
6 one test and evaluation facility for the purpose of developing
7 the packaging, handling, and emplacement technology for so-
8 lidified high-level radioactive waste and spent fuel from civil-
9 ian nuclear activities needed to further the demonstration of
10 disposal of such waste and spent fuel. The proposal shall in-
11 clude site-specific designs, specifications and cost estimates
12 adequate to solicit bids for the construction of an initial facil-
13 ity, and a schedule for the construction of a facility, consist-
14 ent with the objective of achieving facility operation not later
15 than January 1, 1988.

16 (b) The facility shall be designed to—

17 (1) be constructed and operated at a site approved
18 by the President for site characterization in accordance
19 with section 403(c), and in accordance with applicable
20 site characterization requirements, as provided in sec-
21 tion 404, to preserve the availability of the site for use
22 for a repository;

23 (2) accept a total of not more than three hundred
24 packages of solidified high-level radioactive waste and
25 spent fuel;

1 (3) permit continuous monitoring, management,
2 and maintenance of the solidified high-level radioactive
3 waste and spent fuel to be emplaced in the facility;

4 (4) accept waste and spent fuel packages incorpo-
5 rating multiple barrier design; and

6 (5) permit full retrievability of the waste and
7 spent fuel to be emplaced in the facility.

8 (c) In formulating the proposal, the Secretary shall con-
9 sult with the Commission and the Environmental Protection
10 Agency, and shall transmit their comments on the final pro-
11 posal to the Congress together with the proposal.

12 (d)(1) Preparation and transmittal of the proposal to the
13 Congress is not a major Federal action significantly affecting
14 the quality of the human environment within the meaning of
15 section 102(2)(C) of the National Environmental Policy Act
16 of 1969 (83 Stat. 852), but an environmental assessment
17 shall be prepared on the proposal to accompany such trans-
18 mittal.

19 (2) When Congress authorizes construction of the facili-
20 ty, the requirements of the National Environmental Policy
21 Act shall apply, except that any environmental impact state-
22 ment in connection with such facility need not consider any
23 alternative to the design criteria set forth in subsection (b), as
24 may have been amended by such subsequent congressional
25 authorization.

1 (e) Notwithstanding any other provision of law, the test
2 and evaluation facility authorized under this section shall not
3 be subject to a license by the Commission: *Provided, how-*
4 *ever,* That the Secretary shall obtain the concurrence of the
5 Commission in the siting, design, construction, and operation
6 of the facility.

7 NATIONAL SITE SURVEY PROGRAM

8 SEC. 408. (a) The Secretary and the United States Geo-
9 logical Survey shall conduct a national site survey program,
10 to be completed not later than January 1, 1986, for the pur-
11 pose of identifying sites that may be suitable for site charac-
12 terization for a repository in addition to those recommended
13 by the Secretary under section 403(b).

14 (b) The national site survey program established by sub-
15 section (a) shall include every State that may contain accept-
16 able sites for a repository.

17 (c) The Secretary shall use the results of the national
18 site survey program established by subsection (a) in identify-
19 ing and recommending sites for site characterization leading
20 to the development of a repository in addition to the reposi-
21 tory licensed in accordance with section 405: *Provided, That*
22 *in recommending such additional sites for site characteriza-*
23 *tion, the Secretary shall consider the cost and impact of*
24 *transporting to the repository site the solidified high-level ra-*
25 *dioactive waste and spent fuel to be disposed of in the reposi-*

1 tory, and the advantages of geographical distribution in the
2 siting of repositories.

3 TITLE V--LONG-TERM STORAGE OF HIGH-LEVEL
4 RADIOACTIVE WASTE AND SPENT FUEL
5 FROM CIVILIAN NUCLEAR ACTIVITIES

6 SEC. 501. Within one year after the date of enactment
7 of this Act, the Secretary shall transmit to the Congress a
8 proposal for a system consisting of at least one facility for the
9 long-term, retrievable, monitored storage of solidified high-
10 level radioactive waste and spent fuel resulting from civilian
11 nuclear activities. The long-term storage of solidified high-
12 level radioactive waste and spent fuel in such facilities shall
13 not constitute an alternative to the disposal of such waste or
14 spent fuel in a repository. Such facilities shall be designed
15 to—

16 (a) accommodate spent fuel and solidified high-
17 level radioactive waste from civilian nuclear activities;

18 (b) permit continuous monitoring, management,
19 and maintenance of the spent fuel and solidified high-
20 level radioactive waste for the foreseeable future;

21 (c) provide for the ready retrieval of any spent
22 fuel and solidified high-level radioactive waste; and

23 (d) safely contain such solidified high-level radio-
24 active waste and spent fuel so long as may be neces-

1 sary, by means of maintenance, including, but not lim-
2 ited to, replacement as necessary, of such facility.

3 SEC. 502. The proposal shall include—

4 (a) the general description, cost estimates, and
5 construction schedule for a system;

6 (b) site-specific designs, specifications, and cost
7 estimates adequate to solicit bids for the construction
8 of an initial facility within the system which will dem-
9 onstrate the feasibility of long-term, retrievable, moni-
10 tored storage of spent fuel and solidified high-level ra-
11 dioactive waste; and

12 (c) a plan for integrating such long-term, retriev-
13 able, monitored storage facilities with the interim spent
14 fuel storage facilities and repositories authorized by
15 titles III and IV of this Act.

16 SEC. 503. In formulating the proposal, the Secretary
17 shall consult with the Commission and the Environmental
18 Protection Agency, and shall transmit their comments on the
19 final proposal to the Congress together with the proposal.

20 SEC. 504. (a) Preparation and transmittal of the propos-
21 al to the Congress is not a major Federal action significantly
22 affecting the quality of the human environment within the
23 meaning of section 102(2)(C) of the National Environmental
24 Policy Act of 1969 (83 Stat. 852), but an environmental as-
25 sessment shall be prepared on the proposal to accompany

1 such transmittal based upon available information regarding
2 alternative technologies for waste storage.

3 (b) When Congress authorizes construction of the initial
4 facility, the requirements of the National Environmental
5 Policy Act shall apply, except that any environmental impact
6 statement in connection with such facility need not consider
7 any alternative to the design criteria set forth in section 501
8 of this Act as may have been amended by such subsequent
9 congressional authorization.

10 (c) Any facility authorized under this title shall be sub-
11 ject to a license under section 202(3) of the Energy Reorga-
12 nization Act of 1974 (88 Stat. 1233), except that in its con-
13 sideration of the application filed by the Secretary for the
14 initial facility, the Commission may not consider any alterna-
15 tive to the design criteria set forth in section 501 of this Act
16 but shall comply with the requirements of the licensing proc-
17 ess as otherwise provided by law.

18 TITLE VI—FINANCIAL ARRANGEMENTS

19 SEC. 601. (a) There is hereby established in the Treas-
20 ury of the United States a separate account to provide for
21 costs directly related to (1) the acquisition, lease or construc-
22 tion, and operation of Federal away-from-reactor interim
23 storage facilities for spent fuel in accordance with title III of
24 this Act; (2) the construction and operation of repositories for
25 the disposal of such spent fuel or solidified high-level radioac-

1 tive waste from civilian nuclear activities in accordance with
2 title IV of this Act; (3) the construction and operation of one
3 or more test and evaluation facilities in accordance with title
4 IV of this Act; (4) the construction and operation of facilities
5 for the long-term storage of such spent fuel or solidified high-
6 level radioactive waste in accordance with title V of this Act;
7 (5) the related handling and transportation of such spent fuel
8 or waste. Amounts appropriated under section 308 or other-
9 wise appropriated to the Secretary to carry out any of the
10 purposes of titles III, IV, V, and VI of this Act, all charges
11 under section 303, receipts derived from the sale of any re-
12 processed fuel, all fees collected under section 603, and the
13 proceeds from any obligations issued pursuant to section 602
14 of this title shall be deposited into the account.

15 (b) To the extent or in such amounts as are provided in
16 appropriations Acts, the Secretary may draw on such ac-
17 count to carry out the purposes of titles III, IV, V, and VI of
18 this Act: *Provided*, That the Secretary shall not construct or
19 acquire any major nuclear waste facility unless the specific
20 expenditure of funds for the initiation of such construction or
21 acquisition is explicitly approved in an appropriation Act.

22 SEC. 602. (a) To carry out the purposes of this Act the
23 Secretary may borrow money from the Treasury of the
24 United States in amounts provided in appropriation Acts.
25 The Secretary and the Secretary of the Treasury shall agree

1 on terms, maturities, and conditions of the obligations, but
2 the maturities may not be more than thirty years. The Secre-
3 tary may redeem the obligations before maturity. The Secre-
4 tary of the Treasury shall decide the interest rate of the obli-
5 gations considering the average market of outstanding mar-
6 ketable obligations of the United States Government of com-
7 parable maturities during the month before the obligations
8 are issued. The interest payments on such obligations may be
9 deferred with the approval of the Secretary of the Treasury
10 but any interest payment so deferred shall bear interest. Such
11 obligations shall be issued in amounts and at prices approved
12 by the Secretary of the Treasury. The Secretary of the
13 Treasury shall purchase any obligations of the Secretary
14 issued under this section and for this purpose the Secretary of
15 the Treasury is authorized to use as a public debt transaction
16 of the United States the proceeds from the sale of any securi-
17 ties issued under the Second Liberty Loan Bond Act. Securi-
18 ties may be issued under that Act to purchase obligations
19 from the Secretary under this section.

20 (b) Appropriations made available pursuant to section
21 307 of this Act and any other appropriations made to the
22 Secretary to carry out the purposes of titles III, IV, V, and
23 VI of this Act shall be repaid into the General Fund of the
24 Treasury out of the account, together with interest until the
25 date of repayment at a rate determined by the Secretary of

1 the Treasury taking into consideration the average market on
2 long-term obligations of the United States during the fiscal
3 year in which appropriations are made. The Secretary shall
4 repay such appropriation together with interest within thirty
5 years from the time at which such appropriations become
6 available for expenditure after the date of enactment of this
7 Act, and no appropriations to the Secretary are authorized to
8 carry out the purposes of titles III, IV, V, and VI of this Act
9 unless the amounts appropriated are deposited into the ac-
10 count established in section 601(a).

11 SEC. 603. (a) There is hereby imposed a mandatory fee
12 in the amount of 1.0 mil per kilowatt-hour on electricity gen-
13 erated by civilian nuclear powerplants and sold on or after
14 the date ninety days after the date of enactment of this Act.
15 Such fee shall be for the purpose of paying the costs to be
16 incurred by the Federal Government for the long-term stor-
17 age and permanent disposal of solidified high-level radioac-
18 tive waste and spent fuel from civilian nuclear activities.

19 (b) The fee imposed by subsection (a) shall be collected
20 by the person owning and operating each civilian nuclear
21 powerplant and shall be paid to the Treasury of the United
22 States and deposited in the separate account established by
23 section 601.

24 (c) Not later than ninety days after the date of enact-
25 ment of this Act, the Secretary shall establish procedures for

1 the collection and payment of the fee established by subsec-
2 tion (a).

3 TITLE VII—STATE PARTICIPATION IN THE DE-
4 VELOPMENT OF REPOSITORIES AND RE-
5 TRIEVABLE, MONITORED STORAGE FACILI-
6 TIES FOR SOLIDIFIED HIGH-LEVEL RADIO-
7 ACTIVE WASTE AND SPENT FUEL

8 SEC. 701. (a) The Secretary shall identify the States
9 with one or more potentially acceptable sites for a repository
10 or for a retrievable, monitored storage facility for solidified
11 high-level radioactive waste or spent fuel. Within ninety days
12 of such identification, or within ninety days of enactment of
13 this Act, the Secretary shall notify the Governor, the State
14 legislature, and the Tribal Council of any affected Indian
15 tribe in any affected State of the potentially acceptable sites
16 within such State.

17 (b) Each affected State and affected Indian tribe notified
18 under subsection (a) shall have the right to participate in a
19 process of consultation and concurrence, based on public
20 health and safety and environmental concerns, in all stages of
21 the planning, siting, development, construction, and oper-
22 ation of a repository or a retrievable, monitored storage fa-
23 cility that is required to be licensed by the Commission. Upon
24 the approval of a site for site characterization for such a re-
25 pository, or upon the designation of a site for such a retriev-

1 able, monitored storage facility, the Secretary shall promptly
2 enter into negotiations with each such State and Indian tribe
3 to establish a cooperative agreement under which the State
4 or Indian tribe may exercise such right. Public participation
5 in the negotiation of such agreement shall be provided for
6 and encouraged by the Secretary, the States and the Indian
7 tribes. The Secretary, in cooperation with the States and
8 Indian tribes, shall develop and publish minimum guidelines
9 for public participation in such negotiations, but the adequacy
10 of such guidelines or any failure to comply with these guide-
11 lines shall not be a basis for judicial review.

12 (c) The cooperative agreement may include, but need
13 not be limited to, the sharing in accordance with applicable
14 law of all technical and licensing information, the utilization
15 of available expertise, the facilitating of permitting proce-
16 dures, joint project review, and the formulation of joint sur-
17 veillance and monitoring arrangements to carry out applica-
18 ble Federal and State laws. Such cooperative agreement
19 shall provide procedures for negotiating and resolving objec-
20 tions of the State or Indian tribe in any stage of the planning,
21 siting, development, construction, or operation of such a fa-
22 cility within the State: *Provided, however,* That any such
23 agreement shall not affect the Nuclear Regulatory Commis-
24 sion's authority under existing law.

1 (d) For the purpose of this part of this title, "process of
2 consultation and concurrence" means a methodology by
3 which the Secretary (A) keeps the State or affected Indian
4 tribe fully and currently informed about the aspects of the
5 project related to any potential impact on the public health
6 and safety, (B) solicits, receives, and evaluates concerns and
7 objections of the State or affected Indian tribe with regard to
8 such aspects of the project on an ongoing basis, and (C)
9 works diligently and cooperatively to resolve, through arbi-
10 tration or other appropriate mechanisms, such concerns and
11 objections.

12 (e) The Secretary and the State or affected Indian tribe
13 shall seek to conclude the agreement required by subsection
14 (b) not later than one year after the date of notification under
15 section (a). The Secretary shall report to the Congress annu-
16 ally thereafter on the status of the agreement approved under
17 subsection (c). Any report to the Congress on the status of
18 negotiations under subsection (b) of the agreement under sub-
19 section (c) by the Secretary shall be accompanied by com-
20 ments solicited by the Secretary from the State or affected
21 Indian tribe.

22 (f)(1) The Secretary shall notify the Governor, the State
23 legislature, and the Tribal Council of any affected Indian
24 tribe in an affected State at least ninety days prior to submit-
25 ting an application to the Commission for authorization to

1 construct a repository or retrievable, monitored storage facili-
2 ty of the Secretary's intention to file such application.

3 (2) If at any time after the Governor or an affected
4 Indian tribe has received the notice required under paragraph
5 (1), but no later than ninety days after receipt of such notice,
6 the Governor or the Indian tribe notifies the Secretary in
7 writing of objections to the proposed repository or retriev-
8 able, monitored storage facility, the Secretary shall promptly
9 transmit such objections together with the Secretary's com-
10 ments and recommendations to the Congress.

11 (3) If the Governor or the Indian tribe has filed objec-
12 tions in accordance with paragraph (2), the Secretary shall
13 not submit such an application and shall suspend further site-
14 specific activities on the proposed repository or retrievable,
15 monitored storage facility if during the sixty-day period of
16 continuous session following submittal to Congress of the ob-
17 jections, either House of Congress passes a resolution pursu-
18 ant to section 703 stating in substance that the proposal for
19 the repository or retrievable, monitored storage facility does
20 not sufficiently address State and local concerns to permit the
21 Secretary to apply to the Commission for an authorization to
22 construct the facility.

23 SEC. 702. (a) For the purpose of this Act (1) continuity
24 of session is broken only by an adjournment of Congress sine
25 die; and (2) the days on which either House is not in session

1 because of an adjournment of more than three days to a day
 2 certain are excluded in the computation of any period of time
 3 in which Congress is in continuous session.

4 (b) Sections 702 through 706 of this Act are enacted by
 5 Congress (1) as an exercise of the rulemaking power of the
 6 Senate and the House of Representatives, respectively, and
 7 as such they are deemed a part of the rules of each House,
 8 respectively, but applicable only with respect to the proce-
 9 dure to be followed in that House in the case of resolutions
 10 described by section 703 of this Act; and they supersede
 11 other rules only to the extent that they are inconsistent
 12 therewith; and (2) with full recognition of the constitutional
 13 right of either House to change the rules (so far as relating to
 14 the procedure of that House) at any time, in the same
 15 manner and to the same extent as in the case of any other
 16 rule of that House.

17 SEC. 703. For the purposes of this Act "resolution"
 18 means only a resolution of either House of Congress, the
 19 matter after the resolving clause of which is as follows:
 20 "That the _____ believes that the proposed develop-
 21 ment of a repository or retrievable, monitored storage facility
 22 at _____ within the State of _____, which
 23 is the basis of objections transmitted to Congress by the Sec-
 24 retary of Energy on _____, 19 _____ does not sufficient-
 25 ly address State and local concerns to permit the Secretary

1 to apply to the Nuclear Regulatory Commission for an au-
2 thorization to construct such repository or retrievable, moni-
3 tored storage facility, the blank spaces therein being appro-
4 priately filled.

5 SEC. 704. (a) No later than the first day of session fol-
6 lowing the day on which objections by a State or Indian tribe
7 are transmitted to the House of Representatives and the
8 Senate under section 601(f), a resolution, as defined in sec-
9 tion 703, shall be introduced (by request) in the House by the
10 chairman of the committee to which the report is referred, or
11 by a Member or Members of the House designated by such
12 chairman; and shall be introduced (by request) in the Senate
13 by the chairman of the committee to which the report is re-
14 ferred, or by a Member or Members of the Senate designated
15 by such chairman.

16 (b) A resolution with respect to a proposed facility
17 which is the basis of such objections shall be referred to the
18 appropriate committees of the House and Senate (and all res-
19 olutions with respect to the same report shall be referred to
20 the same committee) by the President of the Senate or the
21 Speaker of the House of Representatives, as the case may
22 be. The committee shall make its recommendations to the
23 House of Representatives or the Senate, respectively, within
24 forty-five calendar days of continuous session of Congress fol-
25 lowing the date of such resolution's introduction.

1 SEC. 705. If the committee to which is referred a reso-
2 lution introduced pursuant to subsection (a) of section 604
3 (or, in the absence of such a resolution, the first resolution
4 introduced with respect to the proposed facility which is the
5 basis of such objections, has not reported such resolution or
6 identical resolution at the end of forty-five calendar days of
7 continuous session of Congress after its introduction, such
8 committee shall be deemed to be discharged from further con-
9 sideration of such resolution and such resolution shall be
10 placed on the appropriate calendar of the House involved.

11 SEC. 706. (a) When the committee has reported, or has
12 been deemed to be discharged (under section 705) from fur-
13 ther consideration of, a resolution with respect to a reorgani-
14 zation plan, it is at any time thereafter in order (even though
15 a previous motion to the same effect has been disagreed to)
16 for any Member of the respective House to move to proceed
17 to the consideration of the resolution. The motion is highly
18 privileged and is not debatable. The motion shall not be sub-
19 ject to amendment, or to a motion to postpone, or a motion to
20 proceed to the consideration of other business. A motion to
21 reconsider the vote by which the motion is agreed to or disa-
22 greed to shall not be in order. If a motion to proceed to the
23 consideration of the resolution is agreed to, the resolution
24 shall remain the unfinished business of the respective House
25 until disposed of.

1 (b) Debate on the resolution, and on all debatable mo-
2 tions and appeals in connection therewith, shall be limited to
3 not more than ten hours, which shall be divided equally be-
4 tween individuals favoring and individuals opposing the reso-
5 lution. A motion further to limit debate is in order and not
6 debatable. An amendment to, or a motion to postpone, or a
7 motion to proceed to the consideration of other business, or a
8 motion to recommit the resolution is not in order. A motion
9 to reconsider the vote by which the resolution is agreed to or
10 disagreed to shall not be in order.

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

16 (d) Appeals from the decisions of the Chair relating to
17 the application of the rules of the Senate or the House of
18 Representatives, as the case may be, to the procedure relat-
19 ing to a resolution with respect to a reorganization plan shall
20 be decided without debate.

21 SEC. 707. In considering any objections by a State or
22 Indian tribe submitted to the Congress pursuant to this title,
23 the Congress may obtain the views and comments of the Nu-
24 clear Regulatory Commission on such objections. The provi-
25 sion of views by the Commission shall not be construed as

1 binding the Commission with respect to any licensing action
2 pertaining to the facility which is the subject of such
3 objections.

4 SEC. 708. The passage of a resolution by the Congress
5 pursuant to this title shall in no way be considered as binding
6 with respect to any licensing action of the Nuclear Regula-
7 tory Commission pertaining to the facility which is the sub-
8 ject of such resolution.

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