



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

AUG 29 1980

MEMORANDUM FOR: Chairman Ahearne
Commissioner Gilinsky
Commissioner Hendrie
Commissioner Bradford

FROM: Carlton Kammerer, Director
Office of Congressional Affairs

SUBJECT: UPDATE ON NUCLEAR WASTE LEGISLATION

You will find attached copies of Report No. 96-1156 (Part II) to accompany H.R. 7418, "Nuclear Waste Disposal Act." This report originated in the House Committee on Interior and Insular Affairs.

The Interior Committee rejected the original version of H.R. 7418, as reported by the House Committee on Science and Technology in Part I of Report No. 96-1156, and accepted a substitute provision offered by Congressman Udall (D-ARIZ).

Enclosure:
As stated

cc: Sheldon Trubatch, OGC
Jack Martin, NMSS
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NUCLEAR WASTE DISPOSAL ACT

AUGUST 27, 1980.—Ordered to be printed

Mr. UDALL, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany H.R. 7418]

[Including cost estimate of the Congressional Budget Office]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 7418) to establish a research, development, and demonstration program for the disposal of radioactive wastes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Nuclear Waste Disposal Act".

FINDINGS AND PURPOSES

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) Federal efforts made during the past 30 years to devise a permanent solution to the problems of nuclear waste disposal have not been adequate.

(2) The accumulation of nuclear waste from military activities, commercial reactors, and activities related to medical research, diagnosis, and treatment, as well as nuclear waste from other sources, has created a national problem which can be resolved only with the cooperation of the Federal Government and the States.

(3) The construction and operation of repositories for the disposal of high-level waste and spent fuel is a Federal responsibility and is in the national interest.

(4) The disposal of nuclear waste is a potentially hazardous operation which should be subject to appropriate oversight by affected State and local governments.

(5) Public participation in planning and development of repositories for the disposal of nuclear waste is essential in order to promote confidence among the public with regard to the safety of disposal of nuclear waste.

(6) The implementation of a waste repository development program in accordance with this Act would provide reasonable assurance that methods of safe permanent disposal of high-level waste can be available when such methods are needed.

(7) By order issued December 23, 1977, the Nuclear Regulatory Commission terminated the proceedings related to the Generic Environmental Statement on Mixed Oxide Fuel (GESMO) in response to concerns that the continuation of such proceedings would negatively affect the nonproliferation initiatives of the Federal Government. As a consequence, the option to reprocess spent nuclear fuel is presently foreclosed to the nuclear industry. In recognition of the need to move forward with a waste management plan, it is necessary at this time to do preliminary planning on the basis of geologic disposal of spent fuel. The Congress recognizes, however, that this policy with regard to reprocessing may change, and the Congress hereby encourages the Secretary to take this possibility into account in subsequent planning with regard to the disposal of nuclear wastes.

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

(1) set forth the responsibilities of the Secretary of Energy, the Nuclear Regulatory Commission, the Congress, and the President with respect to the development and construction of licensed repositories for the permanent disposal of nuclear high-level waste and spent fuel, including the dates by which certain activities must be carried out; and

(2) provide for State participation in decisionmaking on waste repository site development and for Federal assistance for States impacted by repository construction or operation.

DEFINITIONS

SEC. 3. For purposes of this Act:

(1) The term "disposal" means the emplacement of radioactive waste with no foreseeable intent of recovery, whether or not such emplacement permits the recovery of such materials.

(2) The term "high-level waste" means (A) liquid wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuel, and (B) solids into which such liquid wastes have been converted.

(3) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native village, as defined in section 3 of the Alaska Native Claims Settlement Act (85 Stat. 688).

(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 "Secretary" means the Secretary of Energy.

(6) The term "site characterization" means the program of exploration and research, both in the laboratory and in the field, undertaken to establish the geologic conditions and the ranges of those parameters of a particular site relevant to the procedures required under this Act. Site characterization includes borings, surface excavations, excavations of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing needed to determine the suitability of the site for a geologic repository, but does not include preliminary borings and geophysical testing needed to decide whether site characterization should be undertaken.

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

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

(9) The term "State Review Board" means any Nuclear Waste Repository Impact Review Board that meets the requirements under section 6(a).

RESPONSIBILITIES OF THE SECRETARY OF ENERGY

SEC. 4. (a) SELECTION OF REPOSITORY SITES.—(1) The Secretary shall carry out a program to construct and operate licensed repositories for the permanent disposal of high-level waste and spent fuel. Under the program, the Secretary shall identify and recommend to the Congress at least four potential repository sites which the Secretary considers suitable for development as licensed repositories. Such sites shall be located, to the maximum extent practicable, in four different geologic media. Recommendations for the four sites shall be submitted to the Congress by December 31, 1985.

(2) Sites which shall be examined under this subsection shall include those consisting of the following geologic media: basalt, tuff, granite, bedded salt, domed salt, and such other media as the Secretary may consider suitable. No site shall be recommended to the Congress under paragraph (1) unless the Secretary considers such site potentially suitable for future use as a licensed repository for the disposal of high-level waste and spent fuel.

(3) After identification of the four initial potential repository sites under paragraph (1), the Secretary shall continue to conduct screening at other locations to determine the availability of additional potential repository sites in the geologic media described in paragraph (2).

(4) The recommendation of a repository site under this subsection shall not be considered to be a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969.

(b) SITE SELECTION CRITERIA.—Not later than February 15, 1981, the Secretary shall, in consultation with the Council on Environmental Quality, the Environmental Protection Agency, the Nuclear Regulatory Commission, and the United States Geological Survey, issue guidelines for site qualification. Such guidelines shall include criteria for the elimination of sites from consideration for repository development, including criteria with respect to such factors as association of the sites with valuable natural resources, proximity to populations, hydrogeophysics, seismic activity, defense nuclear activities, and such other factors as the Secretary considers appropriate. The Secretary shall use these guidelines in screening sites for selection under subsection (a) for characterization for possible development into licensed repositories. The development of these guidelines shall be considered a preliminary decision-making activity and shall not be considered to be a major Federal action under 102(2)(C) of the National Environmental Policy Act of 1969.

(c) REPOSITORY SITE CHARACTERIZATION.—(1) Before proceeding to sink shafts at any repository site selected under subsection (a), the Secretary shall submit to the Nuclear Regulatory Commission for such site—

(A) an environmental assessment of nonradiological impacts of planned site characterization activities and a discussion of alternative procedures and any mitigating measures relating to such impacts; and

(B) a characterization plan which includes at least the following items—

(i) a description of the site to be characterized;

(ii) a description of the planned site characterization program, including the extent of planned excavations, plans for any on-site testing of radioactive or non-radioactive material, investigation activities which may affect the ability of the site to isolate wastes and spent fuel, and provisions to control any adverse, safety-related impacts from site characterization including appropriate quality assurance programs;

(iii) plans for decommissioning of the site if it is determined unsuitable for application for licensing as a permanent repository;

(iv) criteria and associated data used to arrive at candidate areas; and

(v) any other information required by the Nuclear Regulatory Commission prior to the sinking of shafts at potential repository sites; and

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

(2) In carrying out activities at each proposed repository site, the Secretary shall consult on a continual basis with the Nuclear Regulatory Commission. Opportunities shall be provided for participation by the public and the affected States with respect to such consultations.

(3) At proposed repository sites for which environmental assessments and site characterization plans have been submitted under this subsection, the Secretary shall conduct such tests as may be necessary to provide data sufficient to validate a license application and to comply with the National Environmental Policy Act of 1969, except that—

(A) the Secretary shall not use radioactive wastes for site characterization unless the Nuclear Regulatory Commission and the Secretary concur that such use is necessary to provide data for geologic repository licensing activities;

(B) if radioactive materials are placed in the site, the Secretary shall place the smallest quantity necessary to determine the suitability of the site for a repository;

(C) in no case shall tests at any site involve the use of an amount of high-level waste or spent fuel which contains more than the curie equivalent of 10 metric tons of spent fuel; and

(D) any radioactive wastes used or placed on the site shall be fully retrievable.

(4) The Secretary shall not continue characterization activities at any site if the Secretary determines that site to be unsuitable for eventual development as a licensed repository, unless the Secretary determines that continued activity would provide information which could requalify the site for possible licensing. If the Secretary makes any such determinations, the Secretary shall submit a report containing the reasons therefor to the Congress. If characterization activities are terminated at a site for any reason, the Secretary shall remove any nuclear waste or other radioactive materials at or in the site as promptly as practicable.

(d) RECOMMENDATION OF PERMANENT REPOSITORY SITES.—(1)(A) Not later than March 30, 1988, the Secretary shall submit to the President for his review under section 8(b) a recommendation of the site which the Secretary considers qualified for application for license as a permanent repository for high-level waste and spent fuel and which conforms to the criteria developed pursuant to subsection (b). After such date, the Secretary may submit to the President recommendations for other sites which the Secretary also considers suitable for such purpose. Together with any recommendation of a site under this paragraph, the Secretary shall submit to the President a report containing the following:

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

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

(iii) A discussion of data, obtained in site characterization activities, relating to the safety of the repository site.

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

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

(vi) The views of any State Review Board, and any governing body of an Indian tribe, which is affected by such site, as determined by the Secretary, together with the Secretary's response to such views.

(vii) Such other information as the Secretary considers appropriate to provide a complete statement of the basis for the recommendation of the site for licensing as a repository for the disposal of high-level waste and spent fuel.

(B) If the approval of a site recommendation for the initial repository proposed as required under subparagraph (A) does not take effect as a result of the operation of section 8(b) or 8(c), the Secretary shall resubmit to the President under section 8(b), within one year after the disapproval of the recommendation, a recommendation of another site for an initial repository, together with a report as described under subparagraph (A).

(2) The Secretary shall submit an application for an authorization under the Atomic Energy Act of 1954 for the construction of a repository for high-level waste and spent fuel at any repository site recommended as qualified for application for license under paragraph (1) as soon as possible after the date on which the recommendation of the designation of such site is effective in accordance with section 8.

RESPONSIBILITIES OF THE NUCLEAR REGULATORY COMMISSION AND THE ENVIRONMENTAL PROTECTION AGENCY

SEC. 5. (a) PROMULGATION OF STANDARDS.—(1) Not later than June 30, 1981, the Nuclear Regulatory Commission shall, by rule, promulgate standards and requirements for the licensing and regulation of the disposal of high-level waste and spent fuel. Such standards and requirements shall be consistent with the applicable general standards promulgated by the Administrator of the Environmental Protection Agency under paragraph (2).

(2) As soon as practicable, but not later than January 31, 1981, the Administrator of the Environmental Protection Agency shall, by rule, promulgate standards and

requirements of general application pertaining to the licensing and regulation of the disposal of high-level waste and spent fuel. The Administrator shall consult with the Nuclear Regulatory Commission before promulgating any rule under this paragraph.

(b) **STATUS REPORT FOR CONSTRUCTION PERMIT AUTHORIZATION.**—No later than 2 years after the date on which an application for a construction authorization is submitted under section 4(d)(2), the Nuclear Regulatory Commission shall submit a report to the Congress describing the proceedings undertaken through such date with regard to the authorization application submitted, including a description of—

- (1) major unresolved safety issues, and the Secretary's explanation of design and operation plans for resolving such issues;
- (2) matters of contention regarding the application;
- (3) any Nuclear Regulatory Commission actions regarding the granting or denial of the authorization.

(c) **DECISION REGARDING CONSTRUCTION AUTHORIZATION APPLICATION.**—Not later than 4 years after the date the initial construction authorization application is submitted under section 4(d)(2), the Nuclear Regulatory Commission shall issue a final decision granting or denying such authorization, subject to such terms and conditions as may be required or permitted by law.

STATE PARTICIPATION

SEC. 6. (a) **STATE REVIEW BOARDS.**—(1) The provisions of this section shall be applicable only in the case of any Nuclear Waste Repository Impact Review Board that—

- (A) has the composition and authorities described in this subsection;
- (B) is established under State law by any State in which there is located a site recommended to the Congress by the Secretary under section 4(a) as a potential repository site for which a characterization study should be done, or recommended under section 4(d) as the site for a repository; and
- (C) is determined by the Secretary to be established in accordance with this section.

(2) Each State Review Board referred to in paragraph (1) of this subsection shall be composed as determined by the State under State law, except that the following shall be provided for by such law:

- (A) The general public, any affected Indian tribe, and affected local governments shall be represented by members on the Board.
- (B) The State Review Board shall have the authority to—
 - (i) study and determine for purposes of carrying out the Board's functions under this Act the possible economic, environmental, and social impacts, and possible impacts on public health and safety, of a repository for the disposal of high-level waste and spent fuel;
 - (ii) draft proposals suggesting assistance which would be required to be provided by the Federal Government to remedy or lessen the impacts identified under clause (i); and
 - (iii) review the activities undertaken by Federal agencies with respect to possible repository sites within the State and, as appropriate, submit relevant suggestions with regard to such activities to the Congress or appropriate Federal agencies.
- (C) The State Review Board shall hold meetings open to the public not less than once every 2 months, at which meetings the Board shall receive and to the extent practicable place on its agenda matters submitted by any Board members.

(b) **PARTICIPATION IN REPOSITORY LICENSING DECISIONS.**—Upon the submission to the President of the recommendation of a site for a repository for the disposal of high-level waste and spent fuel, the State Review Board of the State in which the site is located may, by majority vote of the membership of the Board, submit a petition to the Congress requesting that the Congress disapprove the site designation. A State Review Board may submit such a petition to the Congress not later than the 30th day after the date that the President approves the site recommendation under section 8(b) and submits the recommendation and report of the Secretary to the Congress. A petition shall be considered to be submitted to the Congress on the date of the transmittal of the petition to the Speaker of the House and the President Pro

temore of the Senate. The petition shall be accompanied by a statement of reasons explaining why the petition should be granted.

(c) **IMPACT ASSISTANCE.**—(1) After the effective date of the approval of a permit for the construction of a repository for the disposal of high-level waste and spent fuel, the State Review Board of the affected State may submit to the Congress and to the Secretary, the Secretary of Transportation, or the head of any other appropriate Federal agency a detailed request for technical or economic assistance, in such form

or manner as the Board considers necessary, to mitigate the adverse impacts which will likely result from the construction or operation of the repository and to protect the health and safety of the public, together with such requests for legislative changes as the Board may consider necessary to mitigate such impacts. The Board shall submit with any such request a report which contains a detailed explanation of the anticipated adverse impacts from the repository and the reasons that the Board has requested the assistance or legislative changes specified in the report.

(2) The head of any Federal agency which has received, within the 90-day period beginning on the effective date of the construction permit for the repository, a request for assistance under paragraph (1) from a State Review Board, or from the governing body of an Indian tribe as provided under section 7, shall submit to the Congress an evaluation of such request, including evaluations pertaining to the cost of the proposals and their feasibility, together with such recommendations for alternative or supplementary assistance or legislative changes as the agency involved may consider to be appropriate. Such evaluation and recommendations shall be submitted to the Congress within 90 days after the date of the receipt of such a request.

(d) FUNDING.—(1) Subject to paragraph (2) and to the availability of funds to carry out this section, the Secretary shall provide to each State Review Board such funds as may be necessary to provide technical assistance to the Board and to permit the Board to carry out its duties, except that at least 10 percent of the total budget of the Board shall be provided by the State from non-Federal funds as its State share. Salaries and travel expenses which would ordinarily be incurred by any State or local government shall not be considered part of the budget of the Board and shall not be eligible for payment under this section.

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

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

(B) such funds as may be necessary to support Board activities pursuant to agreements or contracts for assistance entered into under subsection (c) by the Board with the Federal Government before the end of such one-year period.

(e) PARTICIPATION IN LICENSING.—A State Review Board may participate in any licensing proceedings related to repositories for the disposal of high-level waste and spent fuel which are to be located in or adjacent to the State in which the Board is constituted.

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

(2) In performing any study of an area within a State for the purpose of determining the suitability of the area for a repository and in subsequently developing and loading any repository within a State, the Secretary shall consult and cooperate with the State Review Board of the State in an effort to resolve the State's concerns regarding the public health and safety, environmental, economic, and social impacts of any such repository. In carrying out his duties under this Act, the Secretary shall take such concerns into account to the maximum extent feasible.

(3) As soon as possible after notifying a State of his decision to study an area within such State as a possible repository site, the Secretary shall seek to enter into a written agreement with the State Review Board of the State setting forth the procedures under which the requirements of paragraphs (1) and (2) shall be carried out. The written agreement shall provide for—

(A) the right of the State to study, determine, comment on, and make recommendations with regard to the possible health and safety, environmental, economic, and social impacts of any such repository;

(B) procedures, including specific time periods, for the Secretary to receive, consider, resolve, and act upon comments and recommendations made by the State Review Board; and

(C) procedures by which the Secretary and the State Review Board of such State may review or modify the agreement periodically.

(g) STUDY TO PROVIDE IMPACT ASSISTANCE TO LOCAL COMMUNITIES.—The Secretary shall conduct a study to determine the desirability of and possible methods of imposing fees on users of the repositories to make sums available for assistance to those communities impacted by licensed repositories for the disposal of high-level

waste and spent fuel. The study shall be designed to determine (1) the amount of any fee to be levied and the manner in which it would be assessed, (2) the process for determining which communities should be eligible to receive assistance with amounts generated by the fees, and (3) appropriate conditions which should be required with respect to the expenditure of assistance grants.

PARTICIPATION OF INDIAN TRIBES

SEC. 7. (a) **AUTHORITIES OF TRIBAL GOVERNING BODIES.**—The governing body of any Indian tribe on whose reservation is located a site recommended to the Congress by the Secretary under section 4(a) as a potential repository site for which a characterization study should be done, or recommended under section 4(d) as the site for a permanent repository, shall—

(1) have the same authorities provided to State Review Boards under section 6(a)(2)(B) and section 6(b); and

(2) be eligible for impact assistance as described in section 6(c)(1) in the same manner as State Review Boards.

(b) **ASSISTANCE TO TRIBES.**—Subject to the availability of funds to carry out this section, the Secretary shall provide to the governing body of each Indian tribe referred to in subsection (a) such funds as may be necessary to provide technical assistance to the tribe and to conduct the activities described under sections 6(a)(2)(B) and (C) and other similar activities related to the repository. At the end of the one-year period beginning on the effective date of any operating license for a repository located on a reservation, no Federal funds shall be made available under this subsection to the governing body of the Indian tribe on whose reservation the repository is located, except for—

(1) such funds as may be necessary to support activities related to any other repository located in, or proposed to be located in, such reservation, and which has not been operating under license for more than one year; and

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

(c) **PARTICIPATION IN LICENSING.**—The governing body of any Indian tribe shall be eligible to participate in any licensing proceedings related to repositories for the disposal of high-level waste and spent fuel which are to be located in or adjacent to the reservation of such tribe.

REVIEW OF REPOSITORY SITE SELECTION

SEC. 8. (a) **POTENTIAL REPOSITORY SITES.**—The designation by the Secretary, pursuant to a recommendation submitted to the Congress under section 4(a), of a site for characterization for possible disposal of high-level waste and spent fuel shall be effective unless, during the first period of 90 calendar days of continuous session of the Congress after the date of transmittal of the recommendation to the Congress, the Congress passes a concurrent resolution on the matter after the resolving clause of which reads as follows: "The Congress disapproves the designation of the site at _____ for characterization for possible disposal of high-level waste and spent fuel." (the blank space being filled with the geographic location of the proposed repository site).

(b) **PRESIDENTIAL REVIEW OF SITES.**—(1) The President shall review each recommendation for the location of a repository submitted by the Secretary under section 4(d), together with the accompanying report. Within 60 days after the submission of the recommendation and report, the President shall either approve the site and transmit such recommendation and report to the Congress, together with a statement recommending approval of the site for the repository, or shall disapprove the site and submit notice of the disapproval to the Secretary and to the Congress.

(2) The President may delay for not more than 6 months his decision under paragraph (1) for recommending approval or disapproval of a site upon determining that the information provided under the environmental impact statement or the characterization plan for the site is not sufficient to permit a decision within the 30 days referred to in paragraph (1).

(3) The designation of a site for a repository for high-level waste and spent fuel shall be effective at the end of the 30-day period beginning on the date that the President approves the site designation under paragraph (1) unless a State Review Board has submitted to the Congress a petition for disapproval under section 6(b) or the governing body of an Indian tribe has submitted such a petition under section 7.

If any such petition has been submitted, the approval of the designation shall not be effective except as provided under subsection (c).

(c) CONGRESSIONAL REVIEW OF SITES.—(1) If the President submits to the Congress under subsection (b) a recommendation for approval of a site as a repository and either a State Review Board submits to the Congress a petition for disapproval under section 6(b) or the governing body of an Indian tribe submits to the Congress such a petition under section 7, the designation of such site for a repository for high-level waste and spent fuel shall be effective at the end of the first period of 90 calendar days of continuous session of the Congress after the date of transmittal of the recommendation of approval by the President to the Congress, unless, during such period, either House of the Congress passes a resolution the matter after the resolving clause of which reads as follows: "The _____ approves the petition submitted by _____ regarding the disapproval of the site at _____ for a repository for the disposal of high-level waste and spent fuel."; (the first blank space being filled with the designation of the appropriate House of the Congress; the second blank space being filled with the name of the State Review Board or Indian tribe governing body the petition of which is approved; the third blank space being filled with the geographic location of the proposed repository site). For purposes of paragraphs (3) through (7) of this subsection, the term "resolution" means a resolution described by this paragraph.

(2) Paragraphs (3) through (7) of this subsection are enacted by Congress—

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

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

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

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

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

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

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

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

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

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

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

(d) COMPUTATION OF DAYS.—For purposes of subsections (a) and (b) of this section—

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

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

JUDICIAL REVIEW OF AGENCY ACTIONS

SEC. 9. Notwithstanding any other provision of law, the actions taken by the Department of Energy in designating any site for characterization, in designating an initial site as a repository for the disposal of high-level waste and spent fuel, or in characterizing a site, any actions taken by the Nuclear Regulatory Commission in granting or denying any construction permit application submitted to such a facility under section 4(d)(2) or any operating permit for such a facility, and any actions described under section 10 shall not be subject to judicial review except as provided in this section as follows:

(1) Claims regarding any such action may be brought not later than the 60th day following the date of such action, except that if a party shows that the party 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 alleging the invalidity of such action on the grounds stated above not later than the 60th day following the date of his acquiring actual or constructive knowledge of such action.

(2) A claim under paragraph (1) of this subsection shall be barred unless a complaint is filed before the expiration of such time limits in the United States Court of Appeals for the District of Columbia, acting as a special court. Such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States or of any State shall have jurisdiction of any such claim.

(3) Any proceeding under paragraph (2) shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court, and such court shall render its decision relative to any claim within 90 days from the date such claim is brought unless such court determines that a longer period of time is required to satisfy requirements of the United States Constitution.

EXPEDITED AUTHORIZATIONS

SEC. 10. (a) ISSUANCE OF AUTHORIZATIONS.—(1) Subject to paragraph (2), to the extent that the taking of any action related to the characterization, construction, or initial operation of any site recommended under this Act and not disapproved under this Act for the disposal of high-level waste and spent fuel requires a certificate, right-of-way, permit, lease, or other authorization from a Federal officer or agency, such officer or agency shall issue or grant any such authorization at the earliest practicable date, to the extent permitted by the applicable provisions of law administered by such officer or agency. All actions of a Federal officer or agency with respect to consideration of applications or requests for the issuance or grant of any such authorization shall be expedited, and any such application or request shall take precedence over any similar applications or requests not related to such repositories.

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

(b) TERMS OF AUTHORIZATIONS.—(1) Any authorization issued or granted under subsection (a) shall include such terms and conditions as may be required by law, and may include terms and conditions permitted by law.

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

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

WASTE DISPOSAL FEES

SEC. 11. COLLECTION OF FEES.—(a)(1) The Secretary shall collect fees sufficient, as determined by rule promulgated by the Secretary, to offset all reasonable construction, operation, administrative, and other costs incurred by the Secretary in providing for the disposal, interim storage, and management of nuclear wastes and spent fuel. The fee shall be sufficient to offset all reasonable costs of waste treatment and encapsulation, repository development programs (including research and development costs), decontamination and decommissioning of repository facilities, any reasonable costs incurred by the Secretary in transporting nuclear wastes or spent fuel to storage or disposal sites, and the costs of providing adequate security protection for nuclear wastes or spent fuel (as determined by the Nuclear Regulatory Commission) during the period such nuclear wastes and spent fuel are transported to storage or disposal sites and during the period such wastes are stored at such sites. The research and development costs for which the fees shall be assessed shall include those incurred during all site specific investigations directly related to storage or disposal sites, and such other costs as the Secretary by rule determines to be directly related to management, storage, and disposal of nuclear wastes and spent fuel. From fees collected under this section, the Secretary shall reimburse State and local governments for any reasonable costs incurred by them in connection with, and during the period of, the transportation of nuclear wastes or spent fuel to disposal sites.

(2) The Secretary shall collect such fees from the persons or entities, whether public or private, who hold title to the nuclear wastes or spent fuel which is subject to disposal by the Secretary. The Secretary may require such fees to be paid in a lump sum or in such installments as the Secretary determines to be appropriate, and the fees levied under this subsection shall be subject to reassessment by the Secretary to the extent necessary to ensure that the total amount of the fees required to be paid reflects the actual reasonable costs incurred by the Secretary, as determined pursuant to paragraph (1) of this subsection.

(3) As used in this subsection, the term "nuclear wastes" means any radioactive material (other than spent fuel) for which interim storage or disposal is provided by the Secretary.

(b) USE OF FEES.—Section 111(h) of the Energy Reorganization Act of 1974 is amended—

- (1) in paragraph (1), by striking out "and" after the semicolon;
- (2) in paragraph (2), by striking out the period and inserting in lieu thereof "and"; and
- (3) by adding at the end the following:
 "(3) revenues received by the Secretary of Energy under section 11(a) of the Nuclear Waste Disposal Act shall, when so specified in appropriation Acts, be retained and used for the specific purpose of offsetting costs incurred by the Secretary in providing for the disposal, interim storage, and management of nuclear wastes and spent fuel."

AFFECT ON OTHER LAWS

SEC. 12. Nothing contained in this Act shall be construed to affect in any way the provisions of section 605 of Public Law 96-205 (94 Stat. 84; 48 U.S.C. 1491).

DISPOSAL OF SPENT FUEL

SEC. 13. Notwithstanding any other provision of this Act, any repository for the disposal of high-level waste and spent fuel which is designed and constructed under this Act shall be so designed and constructed that the spent fuel may be retrieved, during an appropriate period of operation of the facility, for any reasons pertaining to the public safety or for the purpose of permitting the recovery of the economically valuable contents of the spent fuel. The Secretary shall not dispose of spent fuel

in a manner which would not allow for its recovery in accordance with the preceding sentence unless specifically authorized to do so by the President.

TERMINATION OF AUTHORITY

SEC. 14. (a) The provisions of sections 9 and 10 shall cease to have effect at such time as the Secretary commences licensed operation of at least one repository for the permanent disposal of high-level waste and spent fuel.

(b) The provisions of this subtitle, other than sections 9 through 13, shall not have effect after December 31, 1999. Amend the title so as to read: "A bill to provide for repositories for the disposal of nuclear high-level waste and spent fuel, and for other purposes."

PURPOSE OF THE BILL

H.R. 7418 provides for planning and programming for the development of facilities for the permanent disposal of radioactive wastes produced by commercial nuclear power reactors, other industrial facilities, and by national defense programs.

BACKGROUND

H.R. 7418 was introduced by Rep. Mike McCormack and referred exclusively to the Committee on Science and Technology, which reported the bill on July 2, 1980. (Rept. 96-1156, Part I). Most of the programmatic content of the bill had been reported by that Committee in actions on Department of Energy authorizing legislation for fiscal year 1981 (H.R. 6627 and H.R. 7449). The Interior Committee and the Committee on Interstate and Foreign Commerce sought sequential referral of H.R. 7418. A referral was made to both Committees.

The state of art in nuclear waste facility technology and the nature of this has resulted in a mixed jurisdiction regarding this legislation. With regard to facilities for permanent technology. With regard to facilities for permanent high level waste disposal in particular, certain activities have been recommended by the Science Committee to be conducted at sites and in deep geologic structures which are at the same time sites and structures which would be developed for use as operating permanent waste repositories. Conflicts arise between the exemption from licensing accorded to primarily research and development activities by Sec. 202 of the Energy Reorganization Act, and the important procedures and regulations for protection, data collection and construction activities at sites being developed for full-scale operation being promulgated by the Nuclear Regulatory Commission.

Such conflicts between licensing requirements and research and development exemptions do not arise when research activities are conducted at sites which are not part of a national bank of geologic locations being studied and preserved due to their apparent suitability for use as full-scale repositories. The Department of Energy is now conducting purely R. & D., unlicensed geologic repository research activities at the Near Surface Test Facility at Hanford, Washington and at the Nevada Nuclear Waste Storage Investigations Climax site. It would be possible to conduct tests such as those required by H.R. 7418 as reported by the Committee on Science and Technology also in a manner primarily oriented toward research and development. To do so, however, would result in either the threat of compromising or damaging the integrity of a

candidate full-scale site and therefore its potential use for licensed operation, or an unnecessary waste of Federal funds and a loss of some of the most useful data collection objectives, through at-depth activities at sites which were devoted to research and eliminated from candidacy for licensing.

The geologic site itself is one of the two most important barriers affording protection from the hazards of nuclear high level waste material after its disposal. The materials will be deposited from 1,500 to 2,000 feet underground in rock formations which have characteristics highly likely to prohibit the movement of the hazardous elements back into the biosphere. The form of the waste itself and engineered barriers will provide the first level of defense against release of radionuclides. But locating appropriate rock formations, and gathering data to adequately confirm their ability to provide protection over very long periods of time, are crucial elements of the repository development program.

The Department of Energy and its predecessors, the Atomic Energy Commission and the Energy Research and Development Administration, have been investigating sites for this use since at least the late 1950's. Attention was then focused for about 25 years on bedded salt deposits as the most likely rock formation type to serve as a host for high level wastes. Site investigation activities were accelerated in 1975, and in 1979 the President mandated that at least four rock types be fully investigated before one was selected for repository use. During these years, three sites have been recommended for development into repositories, and each has been eliminated due to technical or political problems. The state of site investigations is such that by 1983, if current predictions are not overly optimistic, three or possibly four site locations may be adequately understood to support a commitment to invest resources in them for thorough testing. About 6 sites may be available for nomination for testing by 1985.

In order for four of these sites to be set aside for work primarily or purely devoted to research and development, therefore, would mean a substantial period of delay before four additional sites could be located which would be suitable for development primarily for licensing and construction of operating full-scale repositories. In addition to time delay, devoting sites to primarily research activities would result in the commitment of substantial work and the collection of data which would have to be duplicated at sites being developed for use as licensed facilities. Such activities would include the construction of large shafts for equipment access and ventilation, construction of buildings and other facilities on the surface of the site, construction of facilities at repository depth, and the conduct of tests on the rock and related hydrologic systems, most of which would be chiefly of site-specific rather than generically applicable value. The potential loss of these resources and duplication of effort argue against setting aside a number of valuable sites for primarily research purposes.

To conduct research activities using sites ultimately to be developed for full-scale operations, however, could involve significant risks if such activities were conducted outside the procedures promulgated for site development by the Nuclear Regulatory Commission. The Commission has promulgated guidelines for the initial phase of excavation and data collection for the repository licensing

process which are intended to protect the site from being adversely impacted by the activities, to assure that appropriate tests are conducted and that all necessary data is collected, and to guard against the construction of facilities in a manner which would not conform to health and safety criteria and which could therefore adversely prejudice the site once formal licensing proceedings are initiated. Formal license application is required by the Commission prior to major construction of facilities at repository depth. Shaft excavation, testing and other preliminary work is expected to be conducted in a "site characterization" process in which the Commission provides guidelines and oversight for site development activities.

The necessity for developing licensed full-scale repositories is evident, and the desirability of accomplishing this feat, and resolving the attendant technical, political and institutional problems, should also be apparent. There are also certain objectives which could be accomplished by the construction of small-scale research and demonstration facilities. Mason Willrich, Director of International Relations for the Rockefeller Foundation, a noted national authority on waste management and adviser to national waste policy groups, noted these benefits and their limitations in "Radioactive Waste Management and Regulation":

What are the technical benefits from operation of a pilot-scale plant before it is converted into a permanent repository? Experience will be gained in the handling of packaged solid waste; in the construction and operation of surface and underground facilities for receiving waste; in the emplacement of waste in the geologic formation; and in the measurement of the physical effects of waste emplacement caused by heat and radiation fields and mining stresses. It will, of course, be impossible to "demonstrate," with high assurance of validity, the capability of the repository to contain HL [high level] waste over the period for which it constitutes a potential radiological hazard. What can be demonstrated is the ability to receive and emplace solid waste in the repository * * *. It is possible that a demonstration will satisfy the public that the task of radioactive waste management can be dealt with safely. But if this occurs, the demonstration will have created the "illusion of certainty" (to quote Kenneth Boulding's phrase). Even those who have great confidence in the ability of our society to dispose of radioactive waste in a safe manner would not claim that the operation of a waste repository for a few years will, in itself, provide substantial evidence to support a conclusion that the waste is very unlikely to harm man or the environment thousands of years in the future.

Willrich further notes that a demonstration phase may have highly undesirable consequences:

A third possibility is that there will be a public reaction against what is seen as an attempt to manipulate opinion with the demonstration. In this event, the obstacle which the radioactive waste problem poses to public acceptance of nuclear power will become even greater. Should we pro-

ceed on the basis of such an illusion of certainty in the public mind, even if the illusion is not shared by those in authority? Finally, it may be concluded from this discussion that it would be unwise to rely too heavily on the successful demonstration of pilot permanent waste repositories to obtain public acceptance of the waste management program.

Given the limited generic applicability of much of the data which would be collected at a repository site, the possibility of conducting most of such work at sites which would not be candidates for licensing, the perils of conducting demonstrations—both technical and non-technical—and the limited availability of adequate sites, it would seem inadvisable at this time for the Federal program for permanent isolation of high-level wastes to focus its resources on a primarily research and demonstration program involving construction at candidate full-scale sites. As they become available potential repository sites must be protected and managed primarily as such.

It is, however, necessary to proceed with research and testing as early licensing activities proceed. This complex interplay of research and commercialization goals, alongside a sensitive situation related to the credibility of the waste program, argue for a carefully structured cooperative approach in waste policy and management of all resources.

The Committee addressed H.R. 7418 with these considerations foremost in its priorities.

COMMITTEE ACTION

DEVELOPMENT OF PERMANENT REPOSITORIES

As reported by the Committee on Science and Technology, H.R. 7418 required the Secretary of Energy to nominate two geologic sites by 1981 and two more by 1983 for development into demonstration high-level waste disposal facilities. The sites were required to be selected on the basis of their regional location as well as on geologic criteria. Demonstration facilities were required to be mined at depths and constructed with methods which would permit subsequent development of the facilities into full-scale repositories. All activities conducted at the sites during the demonstration phase were noted to be exempted from licensing by the Nuclear Regulatory Commission. Detailed criteria were set out for the conduct of tests at the sites with solidified high-level wastes.

The Interior Committee amended the bill so that four sites would be nominated by 1985. The extension of that deadline would enable the Department to choose four sites from among five or six possible geologic media and more sites within each media type. The Secretary is required to develop criteria for site selections which include such factors as hydrogeophysics, proximity to populations, natural resources and seismic factors.

Excavation, construction and other activities at each site are required to be carried out consistent with the Nuclear Regulatory Commission's site characterization program guidelines.

The Secretary is permitted to conduct such tests at the site as are determined, with the concurrence of the Commission, to be nec-

essary to validate a license application or to meet the requirements of the National Environmental Policy Act. A limit is put on the amount of high-level radioactive wastes which may be used in any such tests. The tests are not to use amounts of radioactive materials in excess of the curie equivalent of 10 metric tons of spent reactor fuel (roughly half to one-third the spent fuel output for one year of a standard reactor operating at 70 per cent capacity). The Committee excluded criteria for the tests recommended by the Science Committee.

The exclusion of large amounts of waste and detailed test criteria was made in order to assure that waste handling and testing activities neither threaten the integrity of the repository in the early stages of construction, nor encourage the design of facilities or tests in line with criteria which may not be consistent with the standards and criteria for licensing being developed by the Commission and by the Environmental Protection Agency. While adequate space and resources may be available for the conduct of useful research, the Committee notes the importance of guiding the attention and resource of programs at these candidate sites primarily on licensing and NEPA activities to avoid delays in the development of full-scale operating repositories.

REPOSITORY DEVELOPMENT SCHEDULE

Deadlines for agency actions and requirements for review of agency decisions related to repository development are provided in the Committee amendment. The schedule represented by the amendment is as follows:

By 1985—DOE selects four sites potentially suitable for development as licensed high level waste repositories and reports to Congress regarding selection. This selection is declared not to be a major Federal action under NEPA. DOE continues search for new sites for future repositories. Sites are deemed approved for expedited permitting unless Congress passes a resolution of disapproval of a site.

1982-87—For each site selected above, DOE submits to NRC required site characterization plans and waste form proposals. All shaft sinking and testing conducted in consultation with NRC within the Commission's licensing procedural requirements.

March 30, 1988¹—DOE submits to President a report nominating a site for license application along with a final EIS on the site and an explanation of how the site was chosen.

April 30, 1988—The President approves or disapproves the nomination by DOE, or may delay decision 60 days. If President disapproves, DOE must submit new recommendation within one year. President reports to Congress regarding decision.

May 30, 1988—State Board or Indian Tribe may have exercised right to object to approval of repository site. If so, if either House of Congress affirms the objection by resolution within 90 days, the site selection is not approved and another must be nominated.

¹ The approval system remains available for all repository site nominations through December 31, 1999.

August, 1988—If site is not disapproved, DOE submits license application to NRC.² For approved sites, all subsequent Federal permits or judicial challenges are subject to expedited treatment.

August, 1990—NRC reports to Congress on status of construction permit.

August, 1992—NRC must make final decision on construction permit.

Late 1996—Repository in operation, subject to construction contingencies.

PARTICIPATION BY STATES AND INDIAN TRIBES

States, including territories and protectorates, and Indian tribal governments, are provided with financial assistance and procedural mechanisms for participation in decision-making regarding site selection and development activities. Such assistance and appeal mechanisms are available to governing entities if sites are located within their territories.

AUTHORIZATIONS AND JUDICIAL REVIEW

The Committee amended H.R. 7418 to provide for expedited Federal agency decisions and expedited judicial review of such decisions regarding candidate repository sites. Neither agency nor judicial decisions are limited in scope under the amendment, but permits and court challenges are required to be treated as very high priorities. The Committee notes that repository site development and licensing are expected to be technically cumbersome. Expediting provisions as included in the amendment will be necessary to prevent constant slippage in repository development schedules.

Licensing action by the Nuclear Regulatory Commission is exempted from the expediting language applicable to other Federal agencies. A specific deadline is set, however, by which the Commission must have made a final decision regarding a repository license application, four years after such application is applied for.

INTERIM SPENT FUEL STORAGE

The Committee deleted a program recommended by the Science and Technology Committee which would have required the Department of Energy to provide storage in Department facilities for commercial nuclear spent reactor fuel. The Science Committee recommended the construction within existing Department facilities of dry storage capacity of 1,000 metric tons of spent reactor fuel. The Secretary was required to obtain spent fuel from commercial utilities and store it in the new facilities, which were recommended by the Science Committee, however, to be research and development facilities and therefore exempt from any Commission licensing requirement.

Although dry spent fuel storage is a new and important interim spent fuel management technology, the program recommended by the Science Committee would have initiated Federal intervention in an on-going commercial responsibility of electric utilities which

² Expedited permitting provisions for approved sites remain applicable until at least one licensed repository is operating.

possess spent fuel. The question whether Federal facilities should be provided for interim spent fuel management is a highly controversial issue which has been debated by the committees of jurisdiction, this committee and the Committee on Interstate and Foreign Commerce, for more than three years. To date, neither Committee has recommended authorization of such a program. Legitimate research should be conducted on dry storage technology, and such research programs are now being funded by Congress in the Department's budget. The program entailed in H.R. 7418 as reported by the Science Committee represented a radical intervention in commercial activities, however, by providing for Federal receipt, storage and management of an amount of spent fuel roughly equivalent to the output of all commercial reactors in the U.S. for more than a year. This activity would have been undertaken without Federal cost recovery for provision of the service and would, therefore, have resulted in a direct Federal subsidy for the commercial nuclear sector without approval of the appropriate Congressional committees. The Interior Committee has voted in the context of H.R. 7418 and is considering in the context of H.R. 6390 that all costs of any Federal waste management programs should be directly recovered from the beneficiaries of those programs.

The Office of Technology Assessment in preliminary reports on a comprehensive waste management study has recommended that the most important development now needed for the implementation of dry storage technology is to obtain licensing of such facilities, at or away from nuclear reactor sites. The committee is considering this issue in the context of H.R. 6390.

INFLATIONARY IMPACT STATEMENT

In accordance with rule XI, clause (2)(4) of the Rules of the House of Representatives, this legislation is assessed to have a minimal inflationary effect on prices and costs in the operation of the national economy.

Impacts of the national nuclear waste management program which would be enacted by this legislation will be distributed among a great diversity of regions and types of business institutions, and is not likely to particularly affect any single segment of the economy. Resolution of the permanent nuclear waste disposal problem should provide certainty and stability for waste disposal charges levied on electricity consumption.

COMMITTEE COST ESTIMATE AND BUDGET ACT COMPLIANCE

In accordance with Rule XIII, clause 7(a) of the Rules of the House of Representatives, the committee has made an estimate of the budget authority which would be required to carry out the provisions of H.R. 7418 for the fiscal year beginning on October 1, 1981.

The programs specifically required under this recommendation represent ongoing programs of the Department of Energy, the Nuclear Regulatory Commission and the Environmental Protection Agency expected to be included in the budget requests of these agencies for fiscal year 1981. Certain programs to provide technical or financial assistance to States or Indian tribes may require new

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Although dry spent fuel storage is a new and important interim spent fuel management technology, the program recommended by the Science Committee would have initiated Federal intervention in an on-going commercial responsibility of electric utilities which

² Expedited permitting provisions for approved sites remain applicable until at least one licensed repository is operating.

or increased budget authority after fiscal year 1981, when waste repository sites may be officially nominated, triggering a need for new Federal assistance programs. The recommendations should not significantly affect budget projections for fiscal year 1981.

At such time as waste repositories constructed under the Act become operational, and when the Secretary begins to collect fees for such disposal as required under the legislation, such fees will be used to offset the costs of the program to the Federal government which have been incurred under the program.

The analysis of the Congressional Budget Office follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., August 27, 1980.

Hon. MORRIS K. UDALL,
*Chairman, Committee on Interior and Insular Affairs,
U.S. House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 7418, the Nuclear Waste Research Development and Demonstration Act of 1980, as ordered reported by the House Committee on Interior and Insular Affairs, August 22, 1980.

The bill establishes procedures for the selection and approval of a federally owned high-level nuclear waste repository. Specifically, the bill directs the Department of Energy (DOE) to prepare site selection criteria by February 1981, to identify four possible repository sites by 1985 and to select a site for development by 1988. Congress may disapprove with a concurrent resolution the final site selection proposed by the President. State participation in the site selection process is also provided by the bill. State review boards are to be established in those states where the initial four sites are identified. The boards are to advise the Secretary of Energy and are to receive federal technical and financial assistance. In addition, the Environmental Protection Agency (EPA) and the Nuclear Regulatory Commission (NRC) are required to develop regulations regarding high-level nuclear waste repository licensing.

The Department of Energy is directed to collect a waste disposal fee to cover all directly related costs for the selection, development, and construction of a waste repository. The use of such funds will be subject to annual authorization and appropriations action. The Department is also to study the advisability of imposing a fee on repository users to fund an impact assistance program for communities where repositories are located.

The bill does not authorize the appropriation of funds to carry out the required activities. Existing and planned efforts by DOE, EPA, and NRC are apparently in accordance with the intent of this legislation, and no additional funds are expected to be sought for fiscal year 1981. Site characterization costs by 1985, however, could be significant. Depending on how extensive exploratory drilling and testing activities are and the nature of the sites selected, characterizations could cost up to \$125 million per site, or a total of up to \$500 million.

Design and construction costs are highly uncertain pending the selection of an actual site and storage method. Preliminary estimates for demonstration facilities, however, suggest that such costs for a full scale facility will be over \$200 million. No significant ex-

penditure for design and construction are expected prior to 1985. The cost to provide assistance to the state review boards is projected to total \$3 to \$6 million after 1985.

While the bill directs DOE to collect a waste disposal fee from users, no receipts are expected before 1985. Department plans regarding this fee are not expected to be developed until more is known about the configuration of the selected site and storage method.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

JAMES BLUM
(For Alice M. Rivlin, Director).

OVERSIGHT STATEMENT

In connection with its responsibilities under the rules of the House, the Committee on Interior and Insular Affairs has conducted hearings on nuclear waste management issues and the development of a national nuclear waste management program. The committee would exercise continued oversight over programs developed pursuant to H.R. 7418 to assure compliance with the requirements of the legislation. No recommendations were transmitted to the committee pursuant to rule X, clause 2(b)(2).

COMMITTEE RECOMMENDATION

The committee recommended, by voice vote, that H.R. 7418, as amended, be enacted.

SECTION-BY-SECTION ANALYSIS OF H.R. 7418

(As ordered reported by the Committee on Interior and Insular Affairs)

Sec. 2 sets out findings and purposes for the Title.

Sec. 3 sets out definitions for the Title.

Sec. 4(a) directs the Secretary of Energy to select four sites for possible development as licensed high-level waste repositories by December 31, 1985. This selection is declared not to be a major Federal action under the National Environmental Policy Act. The Secretary is directed to continue looking for additional sites after this initial selection.

Sec. 4(b) requires the Secretary to develop criteria for selecting sites for consideration for repositories.

Sec. 4(c) requires the Secretary to comply with procedures set out by the Nuclear Regulatory Commission for characterization (studying and testing) of repository sites. Section 103(c)(3) limits the amount of high-level waste which can be used in site characterization activities, and requires that any such waste be removed from sites which are not licensed for operation.

Sec. 4(d) requires the Secretary to select, not later than March 30, 1988, a site from among those characterized to be recommended

for application for licensing for construction and commercial operation as a permanent waste disposal facility. The Secretary is required to provide a report to the President explaining this recommendation. If the site so recommended is disapproved under other sections of this Act, the Secretary is required to provide a report to the President explaining this recommendation. If the site so recommended is disapproved under other sections of this Act, the Secretary is required to propose a new site for license application.

Sec. 5 sets deadlines for agency actions concerning licensing and regulation of high-level waste repositories.

Sec. 5(a)(1) requires the Nuclear Regulatory Commission to promulgate standards and requirements for licensing for high-level waste repositories no later than June 30, 1981.

Sec. 5(a)(2) requires the Administration of the EPA to promulgate general standards for repository licensing by January 31, 1981.

Sec. 5(b) requires the Commission to report to the Congress on the status of the application for repository licensing submitted under section 102 not later than 2 years after the application is received by the Commission.

Sec. 5(c) requires the Commission to make a final decision on the license application submitted under section 202 not later than 4 years after the application is received by the Commission.

Sec. 6 provides criteria for participation in repository development and impact assistance for states affected by repository development.

Sec. 6(a) provides criteria for constitution by States of State Review Boards which would be eligible for authorities and benefits under the Act. Such Boards could be constituted as determined by the State under State law, except that the general public, affected Indian Tribes and affected local governments must be represented, and the Board must hold meetings open to the public at least once every two months. A State Review Board would have authority to represent the State in participating in waste repository development planning, petitioning Congress to block development of waste repositories, and developing requests for impact assistance.

Sec. 6(b) provides that a State Review Board may, by a majority vote of its members, petition the Congress seeking disapproval of the selection of a site within the state for application for licensing for permanent waste disposal facilities.

Sec. 6(c) provides that a Board may request financial, technical or legislative assistance to mitigate impacts of waste repository development.

Sec. 6(d) directs the Secretary to provide funds for the operations of State Review Boards, except that at least 10 percent of the costs of the Board must be provided by the State. Funding for a Board is terminated one year after a repository commences commercial operation in the pertinent state.

Sec. 6(e) recognizes that a Board may participate in proceedings relating to licensing of a waste repository.

Sec. 6(f) requires Federal agencies to provide complete and timely information to State Review Boards, and requires the Secretary to enter into cooperative agreements with States to further cooperation.

Sec. 6(g) directs the Secretary to conduct a study regarding collection of fees from nuclear utilities to be made available to communities affected by waste repository development.

Sec. 7 provides that Indian tribal governments have the same authorities as State Review Boards and are eligible for the same assistance, except that the Federal government would pay 100 per cent of the costs of the pertinent activities.

Sec. 8 provides for approval or disapproval of repository sites by affected States, the President and the Congress.

Sec. 8(a) provides for Congressional disapproval of sites selected for characterization for possible use as repositories through passage of a concurrent resolution.

Sec. 8(b) provides that the President may approve a repository site for license application, thereby rendering that site eligible for expedited procedures under the Act, unless a State Review Board or Indian Tribal Government submits a petition of disapproval to the Congress. The President may also either delay a decision on the site nomination, or disapprove a nominated site. (If the President were to disapprove a site, the Secretary would be required under Section 102(d) to propose another site for approval within one year.)

Sec. 8(c) provides for Congressional disapproval of nomination of a repository site for license application. The Congress may disapprove the nomination if either House approves a resolution affirming the petition of a State. Such a resolution is provided expedited rules as a highly privileged motion.

Sec. 9 provides expedited judicial review of any agency actions relating to construction and permitting of high-level waste repositories under the Act. The section does not limit the scope of challenges be brought within 60 days of the action complained. Claims must be filed in the U.S. Court of Appeals in the District of Columbia, which has exclusive jurisdiction in the proceeding, and which is required to expedite consideration of any such claims.

Sec. 10 provides for expedited permitting of repositories developed under the Act, except that permits issued by the Commission are not affected by the Section.

Sec. 10(a) requires Federal officers or agencies to grant permits affecting characterization or development of waste repository sites under the Act as soon as practicable, to the extent permitted by applicable law. (No officer or agency is required to issue a grant or permit which would be in violation of applicable law.) The Nuclear Regulatory Commission is exempted from the section.

Sec. 10(b) provides that any permits or other authorizations issued or granted under section 108(a) shall include terms and conditions permitted by law. Permits or authorizations issued or granted under Section 108(a) may subsequently be amended by the relevant officer or agency, except that if an amendment is only permitted and not required by law, and if the change would have the effect of terminating activities at a site provided for under the act, the officer or agency is prohibited from making such changes.

Sec. 11 requires the Secretary to collect fees covering all costs of waste disposal and management from users of Federal waste repositories. Such fees are required to be used directly to offset waste management program costs, but expenditure of the funds by the

Secretary are subject to annual authorizations and appropriations by Congress.

Sec. 12 clarifies that nothing in this Act should be construed to affect provisions of Public Law 96-205 which prohibit licensing of any nuclear waste disposal or storage facilities in certain U.S. territories without Congressional authorization.

Sec. 13 requires the Secretary to design and construct facilities for permanent disposal of high-level waste in a manner which provides that for an appropriate period of time the wastes placed in such facility will be retrievable for reasons of safety or for recovery of the material for economic purposes. The Secretary is prohibited from disposing of spent fuel in an irretrievable manner unless expressly authorized to do so by the President.

Sec. 14 sets dates at which parts of the subtitle will cease to have effect.

Sec. 14(a) provides that sections 107 and 108, which provide expedited permitting and judicial review for high-level waste repository development, will terminate as soon as at least one licensed repository is in commercial operation.

Sec. 14(b) provides that all the provisions of the title except for sections 107 and 108, which are addressed in section 209(a), will terminate December 31, 1999.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 111 OF THE ENERGY REORGANIZATION ACT OF 1974

PROVISIONS APPLICABLE TO ANNUAL AUTHORIZATION ACTS

SEC. 111. (a) * * *

(h) When so specified in appropriation Acts, any moneys received by the Administration may be retained and used for operating expenses, and may remain available until expended, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484); except that—

(1) this subsection shall not apply with respect to sums received from disposal of property under the Atomic Energy Community Act of 1955 or the Strategic and Critical Materials Stockpiling Act, as amended, or with respect to fees received for tests or investigations under the Act of May 16, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7); [and]

(2) revenues received by the Administration from the enrichment of uranium shall (when so specified) be retained and used for the specific purpose of offsetting costs incurred by the Administration in providing uranium enrichment service activities[.]; and

(3) revenues received by the Secretary of Energy under section 11(a) of the Nuclear Waste Disposal Act shall, when so specified in appropriation Acts, be retained and used for the specific purpose of offsetting costs incurred by the Secretary in providing for the disposal, interim storage, and management of nuclear wastes and spent fuel.

PROGRAMMATIC IMPACTS OF H.R. 7418

As Approved by the House Interstated and Foreign Commerce Committee

August 27, 1980

Summary of Impacts

Because this Bill requires the Secretary of the Department of Energy to select sites for high-level waste disposal demonstration facilities "as soon as practicable," it would entail some near-term redirection of NRC resources from providing regulatory guidance for permanent geologic disposal to guidance for disposal demonstration with intent to retrieve the waste by the year 2000. The need for such guidance on these demonstration facilities is underlined by the requirements both for NRC concurrence before the beginning of excavation for the demonstration facility, and for NRC orders to stop any on-going or proposed DOE activities that the Commission determines a present danger to public health and safety. This guidance would differ from that for permanent geologic disposal because the demonstration facilities are to be discontinued within 20 years.

While the Bill suggests an intent that the four demonstration facilities be sited to permit eventual permanent disposal, the co-location of such facilities with repositories cannot be presumed, particularly if both H.R. 7418 and H.R. 6390 are enacted as reported by the Commerce Committee. There are two reasons for doubt that demonstration and permanent disposal will be undertaken at the same site. First, given the Ottinger amendment authorizing NRC stop-work orders for any danger to public health and safety during demonstration activities -- with no reference to kind or degree of danger -- DOE may wish to avoid giving the Commission such sweeping operational control over its characterization activities for a permanent repository. More important, H.R. 6390 limits the use of radioactive materials during

site characterization to the curie equivalent of ten metric tons of spent fuel (compared to 40 tons of waste allowed for demonstration), and the Commission must concur that the use of such materials is necessary to provide data to support a license application. Thus, it would be difficult, if not impossible, to conduct demonstration activities under the time and quantity constraints of site characterization. This is to say that the two Bills in their present form may well result in the selection of eight sites instead of four, and a corresponding increase in NRC requirements for regulatory capability.

Alternatively, if no Bill comparable to H.R. 6390 is enacted, the programmatic impact of H.R. 7418 on NRC high-level waste management activities could be considerable. Sufficient demonstration of a technology for waste disposal would blunt the impetus for licensing a full-scale facility, and DOE might well conclude that it would be easier to get a license to expand an operating facility after several years of demonstration than to press ahead now for a full-scale repository at a separate and comparatively untested site. This strategy would, in turn, tend to moot the need to develop NRC regulatory requirements in the near-term, particularly since it is reasonable to expect advances in waste form and near-field containment technology, more refined assessment of disposal alternatives, and better knowledge of geologic behavior under disposal conditions by the turn of the century. Enactment of H.R. 7418 as approved by the House Commerce Committee without more comprehensive companion legislation would thus tend to make an early and significant expansion of NRC waste management program resources unnecessary if not unwise.

Outline of Major Provisions of House Commerce Committee H.R. 7418 Affecting NRC

I. Site Selection

- A. The Secretary shall identify four potential sites for high-level waste repositories in the continental United States, two no later than the fourth quarter of FY 1981, the remaining two by the end of FY 1983 [Sec. 3(b)(1)]
- B. The Secretary shall, as soon as practicable, make the final selection of sites for demonstration repositories under the program. Selection shall be made soon enough to permit attainment of deadlines for commencement of operation [Sec. 3(b)(4)]

II. Program Establishment

- A. Not later than 60 days after date of enactment, the Secretary of Energy shall establish research, development, and demonstration program for the disposal of high-level waste (HLW), which program shall include integrated technology demonstrations [Sec. 3(a)]
- B. The Secretary shall design, construct, and operate at each of the four selected sites a demonstration repository for HLW. The first such repository shall be in operation by the end of FY 1986, the second shall be in operation by the end of FY 1987, and the third and fourth shall be in operation as prescribed by subsequent legislation.
- C. Demonstration Repositories:
 - 1. Shall be no larger than appropriate to conduct the necessary research and development to demonstrate the safe disposal of HLW.
 - 2. Shall be designed for a maximum of fourth metric tons of HLW.

3. May be mined at depths and constructed by methods similar to those used in full-scale repositories [Sec. 3(c)(2)]
 - D. No waste may be placed in a demonstration facility unless:
 1. The waste is owned by the federal government and is the result of unlicensed activities;
 2. The waste may be retrieved;
 3. A place certain that is physically capable of receiving the wastes, as determined by the Secretary, has been identified to receive the waste after termination of the program.
[Sec. 3(c)(3)]
 - E. The operation of any demonstration repository may not extend beyond the year 2000 [Sec. 3(c)(5)]
 - F. The Secretary may place in such repositories canisters of solidified HLW contained in engineered barriers. The Secretary shall consult with the Commission with respect to the development of such barriers.
[Sec. 3(d)]
 - G. None of the activities under the program preceding excavation of repository shafts shall be considered a major federal action under the National Environmental Policy Act (NEPA). [Sec. 3(c)(4)]
- III. Site Characterization
- A. Within one year from date of enactment, the Secretary shall enter into an agreement with the Commission to establish arrangements for review and consultation by the Commission on the Program.
[Sec. 3(3)]

- B. The Secretary shall submit to the Commission for review and comment:
 - 1. A plan describing how site characterization activities will not disturb the geologic integrity of the site; and
 - 2. A plan describing the form and manner in which HLW will be placed in repositories under the program. [Sec. 3(e)(1)]
- C. The Secretary shall conduct at the potential sites such tests as may be necessary to provide the necessary data for compliance with NEPA, and shall report to the Commission on such tests and the information developed from them. [Sec. 3(b)(3)(B)]
- D. The Commission shall specify with precision its objectives to any provision of the plan. [Sec. 3(c)] If the Secretary does not revise a plan to meet objections specified in Commission comments, the Secretary shall publish in the Federal Register a detailed statement for not so revising the plan [Sec. 3(e)]
- E. The Secretary shall submit to the Commission safety analysis reports and such other information as the Commission may require to identify any danger to the public health and safety. [Sec. 3(e)(2)]
- F. The Secretary shall not undertake any excavation of a site for a demonstration repository before receiving Commission concurrence. [Sec. 3(e)(3)]
- G. The Secretary shall afford the Commission access to the demonstration repositories to enable the Commission to monitor to assure public health and safety. [Sec. 3(e)(4)]

IV. Demonstration Facility Construction and Operation

- A. All demonstration facilities authorized by this section shall be constructed and operated as research, development, and demonstration facilities pursuant to Section 202 of the Energy Reorganization Act, and shall be constructed and operated in accordance with all other applicable law. [Sec. 3(g)]
- B. If the Commission determines that any activity or proposed activity of the Secretary under the program presents a danger to the public health and safety, the Commission shall issue an order directing the Secretary to cease or not undertake such activity. [Sec. 3(h)(1)]
- C. If the Commission issues such an order, the Commission shall publish it in the Federal Register after giving notice to hold a public hearing on such order as soon as practicable. [Sec. 3(h)(2)]
- D. The Secretary may not conduct any activity prohibited by a Commission order and shall take such actions as may be required by such order. [Sec. 3(h)(3)]

V. Annual Reports

- A. The Secretary, in consultation with the Commission, shall make an annual report to Congress on the program. Such report shall include:
 - 1. A description of the activities undertaken and costs incurred;
 - 2. Activities proposed to be undertaken and costs proposed to be incurred;
 - 3. A description of problems encountered in program implementation;
 - 4. A description of hearings held;
 - 5. Such separate views and recommendations as the Commission may include in the report;
 - 6. Such other information as the Secretary determines appropriate.[Sec. 3(k)]

File

Union Calendar No. 782

96TH CONGRESS
2D SESSION

H. R. 7418 (*See H.R. 6396*)

[Report No. 96-1156, Parts I, II, and III] *Review made by H. K. 6396*

To establish a research, development, and demonstration program for the disposal of radioactive wastes.

Not approved by Mr. McCormack

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 1980

Mr. McCORMACK (for himself, Mr. GOLDWATER, Mr. FUQUA, and Mr. WYDLER) introduced the following bill; which was referred to the Committee on Science and Technology

JULY 2, 1980

Additional sponsors: Mr. ROE, Mr. FORSYTHE, Mr. WINN, Mr. BADHAM, Mr. BURGNER, Mr. CLEVELAND, Mr. DOUGHERTY, Mr. EMERY, Mr. EVANS of Georgia, Mr. HEFTTEL, Mr. MARKS, Mr. MARTIN, Mr. MITCHELL of New York, Mr. MURPHY of Pennsylvania, Mr. MUSTO, Mr. ROYER, Mr. SEBELIUS, Mr. SPENCE, Mr. STANGELAND, Mr. WALKER, Mr. WHITEHURST, Mr. WON PAT, Mr. PICKLE, Mr. PREYER, Mr. CHAPPELL, and Mr. McCLORY

JULY 2, 1980

Reported with amendments, referred to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce for a period ending not later than August 1, 1980 for consideration of such portions of the bill and amendments as fall within those committees' jurisdiction over the regulation of the domestic nuclear energy industry under clauses 1(k) and 1(l), rule X

[Omit the part in brackets and insert the part printed in *italic*]

JULY 30, 1980

Referral to the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce extended for an additional period ending no later than August 22, 1980, and August 27, 1980, respectively

AUGUST 22, 1980

Referral to the Committee on Interior and Insular Affairs extended for an additional period ending no later than August 27, 1980

AUGUST 27, 1980

Referral to the Committee on Interstate and Foreign Commerce extended for an additional period ending no later than September 3, 1980

AUGUST 27, 1980

Reported from the Committee on Interior and Insular Affairs with amendments
[Strike all after the enacting clause and the part printed in italic and insert the part printed in boldface roman]

SEPTEMBER 3, 1980

Reported from the Committee on Interstate and Foreign Commerce with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike all after the enacting clause and the part printed in italic and insert the part printed in boldface italic]

A BILL

To establish a research, development, and demonstration program for the disposal of radioactive wastes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Nuclear Waste Research,
4 Development, and Demonstration Act of 1980".

FINDINGS AND PURPOSE

5
6 SEC. 2. (a) The Congress hereby finds that—

7 (1) nuclear energy is a relatively safe and environ-
8 mentally clean means of generating electricity, and nu-
9 clear medicine is a vital part of resolving almost every
10 conceivable medical problem;

(2) the wastes generated through the use of nuclear technology can, according to recent scientific studies and a large majority of scientists, be disposed of safely with no significant impact upon the public health and welfare; and

(3) research, development, and demonstration is an essential prerequisite to confirming the existence of safe and reliable processes for the permanent disposal of high-level radioactive wastes, and to establishing advanced techniques for disposing of low-level radioactive wastes;

(4) until reprocessing or adequate away-from-reactor storage is available to receive spent fuel, offsite transitional storage is needed to maintain onsite full core reserves, and suitable methods for such transitional storage should be developed and demonstrated;

(5) the oldest spent fuel assemblies at those reactors in need of transitional storage have generally been in storage a decade or more;

(6) compared to fuel discharged for one year, the oldest assemblies are considerably less radioactive, are about seven times lower in heat emission, and pose considerably less risk of leakage of radioactive gases; and

1 (7) for such spent fuel, dry storage in air in gal-
2 leries at existing Federal sites designed for radioactive
3 materials should be demonstrated as comparatively in-
4 expensive, safe storage alternatives to other storage
5 methods under development."

6 (b) The purposes of this Act are—

7 (1) to establish a directed and orderly research,
8 development, and demonstration program in the De-
9 partment of Energy for the disposal of high- and low-
10 level radioactive wastes;

11 (2) to confirm the existence of technological solu-
12 tions for safely disposing of high-level radioactive
13 wastes;

14 (3) to develop the experience, data, and informa-
15 tion necessary for the Department to build and operate
16 full-scale high-level radioactive waste repositories; and

17 (4) to develop advanced techniques for reducing
18 the volume and disposing of low-level radioactive
19 wastes;

20 (5) to undertake a research, development and
21 demonstration program in the Department for transi-
22 tional dry storage of spent fuel in galleries;

23 (6) to confirm the existence of technological meth-
24 ods and adaptable facilities for such storage of fuel;
25 and

(7) to use technology-demonstration facilities for such storage for the purpose of developing the experience, data, and information necessary for the Department to adapt facilities and to operate larger-size facilities for transitional dry storage in galleries.

HIGH-LEVEL WASTES

SEC. 3. The Secretary of Energy (hereinafter referred to as the "Secretary") shall, not later than sixty days after the date of the enactment of this Act, establish a research, development, and demonstration program for the disposal of high-level radioactive waste (in this section called "waste"), to include integrated technology demonstrations, and to be implemented as follows:

(1) The Secretary shall identify four regionally distributed repository sites in the continental United States, at least one of which shall be located in each of the eastern, central, and western regions of the United States. At each site the Secretary shall excavate to provide shafts for site characterization, suitable for further development into demonstration repositories. Such sites shall be suitable for future full-scale repositories, but in no event shall be used for commercial activities without further legislative action. For purposes of minimizing delays in the program, emphasis shall be given to federally owned sites, including but not limited to

1 sites where waste has been stored or deposited. Sites
2 considered shall include but not be limited to the fol-
3 lowing geologic media: Basalt, tuff, granite, and salt.
4 Site selection shall be based upon the principle that the
5 wastes involved shall be isolated from the biosphere by
6 engineered barriers, developed pursuant to paragraph
7 (3), with subsequent isolation by geologic containment.
8 The locations of the first two sites shall be identified
9 not later than the end of the first quarter of fiscal year
10 1981 and the third and fourth sites by the end of fiscal
11 year 1983. *None of the activities in this subparagraph*
12 *including the excavation for shafts shall be considered*
13 *to be a major Federal action pursuant to subsection*
14 *102(2)(C) of the National Environmental Policy Act*
15 *of 1969.*

16 (2) The Secretary shall design, construct, and op-
17 erate four technology-demonstration repository facilities
18 (herein referred to as "demonstration repositories") for
19 research and development purposes at the sites se-
20 lected on the basis of the site characterization under
21 paragraph (1). The demonstration repositories shall be
22 in operation by the end of fiscal year 1986 for the first
23 and fiscal year 1987 for the second, with operation of
24 the third and fourth anticipated by the end of fiscal
25 year 1990. Such demonstration repositories shall be

1 mined at depths and constructed with methods suitable
2 for development into full-scale repositories, and they
3 shall be no larger than is appropriate to conduct the
4 necessary research and development activities to dem-
5 onstrate the safe disposal of wastes, taking into consid-
6 eration the necessary handling, engineering, space,
7 configurations, and heat dissipation of such wastes.
8 Each repository shall be designed with a capacity for
9 receiving a minimum of forty full-size canisters of vitri-
10 fied waste produced pursuant to paragraph (2). These
11 forty canisters shall be designed such that the maxi-
12 mum surface temperature of the overpack canister is in
13 the range ninety to one hundred degrees centigrade
14 when emplaced in demonstration repositories. All such
15 waste stored in any demonstration repository author-
16 ized by this Act shall be fully retrievable. The oper-
17 ation of the demonstration repositories shall terminate
18 by the year 2000. The demonstration repositories shall
19 contain wastes owned or acquired by the Federal
20 Government and primarily resulting from unlicensed
21 activities.

22 (3) The Secretary shall design, construct, and op-
23 erate technology-demonstration facilities to solidify
24 wastes in canisters by any suitable technique, including
25 but not limited to vitrification. Canisters of solidified

1 wastes shall be contained in engineered barriers which
2 shall include but not be limited to overpack canisters.
3 Such barriers shall be designed to prevent the move-
4 ment of radionuclides out of the container for the time
5 needed for the health hazard of such wastes to become
6 comparable to the health hazard of the uranium ore
7 mined to generate such wastes. Canisters of solidified
8 waste shall be prototypical of that suitable for perma-
9 nent placement in a full-scale repository and shall be
10 ready for placement in any demonstration repository at
11 the designated time of completion of such repository.
12 ~~【The waste at West Valley, New York, may be uti-~~
13 ~~lized for all purposes under this section.】~~

14 (4) As soon as is practicable, and on a continuing
15 basis, the Secretary shall consult and coordinate with
16 the appropriate State officials regarding the Depart-
17 ment's plans for, and construction of, the technology
18 demonstration repositories which are planned to be
19 sited in each State.

20 (5) Consistent with existing law, all demonstration
21 facilities authorized in this section shall be constructed
22 and operated as nonlicensed research, development,
23 and demonstration facilities.

24 (6) *There is authorized to be appropriated to the*
25 *Secretary to carry out this section (1) for the fiscal*

1 *year ending September 30, 1981, the sum of*
2 *\$96,406,000 reduced by such sums as may be author-*
3 *ized for the same purposes in any Department of*
4 *Energy fiscal year 1981 annual authorization Act,*
5 *and (2) for subsequent fiscal years such sums as may*
6 *be authorized by legislation hereafter enacted.*

7 LOW-LEVEL WASTES

8 SEC. 4. The Secretary shall—

9 (1) conduct research, development, and demon-
10 stration on advanced techniques for disposing of low-
11 level radioactive wastes;

12 (2) conduct a study which shall include an analy-
13 sis of the advantages and disadvantages of (A) using a
14 glass furnace, or other appropriate device, to consume
15 and reduce the volume of low-level wastes while at the
16 same time appropriately containing such waste; (B) lo-
17 cating any such volume reduction and solidification
18 facilities at nuclear power plants to serve as regional
19 processing facilities prior to shipment for final disposal
20 of all low-level wastes generated in the regions in-
21 volved; (C) using existing underground caverns pro-
22 duced by nuclear explosive detonations for disposing of
23 low-level wastes; and (D) allowing short-lived, low-
24 level wastes to be held in storage until safe for disposal
25 as nonradioactive wastes; and

1 (3) submit a report by February 1, 1981, contain-
2 ing the findings, conclusions, and recommendations re-
3 sulting from the study required by paragraph (2), to the
4 Committee on Science and Technology of the House of
5 Representatives and the Committee on Energy and
6 Natural Resources of the Senate.

7 (4) *There is authorized to be appropriated to the Secre-*
8 *tary to carry out this section (4) for the fiscal year ending*
9 *September 30, 1981, the sum of \$2,000,000, reduced by such*
10 *sums as may be authorized for the same purposes in any*
11 *Department of Energy fiscal year 1981 annual authorization*
12 *Act, and (2) for subsequent fiscal years such sums as may be*
13 *authorized by legislation hereafter enacted.*

14 TRANSITIONAL STORAGE OF SPENT FUEL

15 SEC. 5. *The Secretary shall, not later than sixty days*
16 *after the enactment of this Act, establish a research, develop-*
17 *ment, and demonstration program for transitional dry storage*
18 *of spent fuel in galleries, to include integrated technology*
19 *demonstrations, and to be implemented as follows:*

20 (1) *The Secretary shall identify available space*
21 *or spaces in an existing facility or facilities of the De-*
22 *partment that were built, and are maintained, for pur-*
23 *poses primarily other than transitional storage of com-*
24 *mercial spent fuels. Such space may be rooms, bays,*
25 *chambers, or reprocessing-plant canyons that can be*

1 *adapted to contain galleries for safe, dry storage of*
2 *spent fuel under properly shielded conditions. Such*
3 *galleries shall be able to initially accommodate a total*
4 *of about 500 tonnes of spent fuel. Each facility shall*
5 *have initial capacity to hold at least 100 tonnes of*
6 *spent fuel and shall have sufficient space to permit*
7 *later expansion to at least 500 tonnes capacity. For*
8 *purposes of providing a variety of development and*
9 *demonstration experiences, the Secretary shall identify*
10 *at least two such facilities, if such spaces in such facil-*
11 *ities are reasonably adaptable.*

12 *(2) The Secretary shall modify, rebuild, or correct*
13 *such space to build galleries to permit demonstration of*
14 *the level of air tightness, air cooling, air filtering,*
15 *visual and instrumentation monitoring, and mainte-*
16 *nance necessary to technologically demonstrate transi-*
17 *tional storage of spent fuel.*

18 *(3) The Secretary shall acquire and install racks*
19 *or other appropriate apparatus for containing a total of*
20 *about 500 tonnes of spent fuel in galleries in such*
21 *space.*

22 *(4) In such spaces, the Secretary shall place an*
23 *appropriate number of spent fuel elements to test dry*
24 *storage in galleries. The Secretary shall give preference*
25 *to using spent fuel from reactors that have lost, or are*

1 *facing impending loss, of full core reserve in their on-*
2 *site storage.*

3 (5) *The Secretary shall modify, if necessary, and*
4 *adapt existing equipment at each such facility, or a*
5 *suitable close-by facility, to demonstrate receiving, un-*
6 *loading, decontaminating, and transferring spent fuel*
7 *for transitional storage in the galleries described in*
8 *paragraphs (2) and (3).*

9 (6) *One year after the enactment of this Act and*
10 *each year thereafter the Secretary shall report to the*
11 *Congress on progress in research, development, and*
12 *demonstration in dry transitional storage of spent fuel*
13 *in galleries and on the expected costs for the completion*
14 *of such demonstrations.*

15 (7) *As soon as is practicable, and on a continuing*
16 *basis, the Secretary shall consult and coordinate with*
17 *the appropriate State officials regarding the Depart-*
18 *ment's plans for, and construction of, the demonstra-*
19 *tion of transitional storage facilities.*

20 (8) *Consistent with existing law, all demonstra-*
21 *tion facilities authorized in this section shall be con-*
22 *structed and operated as nonlicensed research, develop-*
23 *ment, and demonstration facilities.*

24 (9) *There is authorized to be appropriated to the*
25 *Secretary to carry out this section (1) for the fiscal*

1 *year ending September 30, 1981, the sum of*
2 *\$4,000,000, reduced by such sums as may be author-*
3 *ized for the same purposes in any Department of*
4 *Energy fiscal year 1981 annual authorization Act,*
5 *and (2) for subsequent fiscal years such sums as may*
6 *be authorized by legislation hereafter enacted.*

7 **USE OF FUNDS**

8 **SEC. 5:** 6. The Secretary shall utilize all funds appropri-
9 ated pursuant to this Act for purposes consistent with the
10 expeditious completion of each authorized activity, and shall
11 not provide funds, either directly or indirectly, to any person
12 (as defined by paragraph 11(s) of the Atomic Energy Act of
13 1954, as amended), advocating a position on such activity.

14 **CONSTRUCTION OF LANGUAGE**

15 **SEC. 7:** *Nothing in this Act shall be construed to au-*
16 *thorize remedial action activities or the construction or oper-*
17 *ation of commercial waste management facilities.*

18 **AUTHORIZATION OF APPROPRIATIONS**

19 **[SEC. 6:** There is authorized to be appropriated to the
20 Secretary to carry out this Act (1) for the fiscal year ending
21 September 30, 1981, the sum of \$176,989,000, reduced by
22 such sums as may be authorized for the same purposes in any
23 Department of Energy fiscal year 1981 annual authorization
24 Act, and (2) for subsequent fiscal years such sums as may be
25 authorized by legislation hereafter enacted.]

1 SHORT TITLE

2 SECTION 1. This Act may be cited as the "Nu-
3 clear Waste Disposal Act".

4 FINDINGS AND PURPOSES

5 SEC. 2. (a) FINDINGS.—The Congress finds
6 that—

7 (1) Federal efforts made during the past
8 30 years to devise a permanent solution to
9 the problems of nuclear waste disposal have
10 not been adequate.

11 (2) The accumulation of nuclear waste
12 from military activities, commercial reactors,
13 and activities related to medical research, di-
14 agnosis, and treatment, as well as nuclear
15 waste from other sources, has created a na-
16 tional problem which can be resolved only
17 with the cooperation of the Federal Govern-
18 ment and the States.

19 (3) The construction and operation of re-
20 positories for the disposal of high-level waste
21 and spent fuel is a Federal responsibility and
22 is in the national interest.

23 (4) The disposal of nuclear waste is a po-
24 tentially hazardous operation which should

1 be subject to appropriate oversight by affect-
2 ed State and local governments.

3 (5) Public participation in planning and
4 development of repositories for the disposal
5 of nuclear waste is essential in order to pro-
6 mote confidence among the public with
7 regard to the safety of disposal of nuclear
8 waste.

9 (6) The implementation of a waste reposi-
10 tory development program in accordance
11 with this Act would provide reasonable assur-
12 ance that methods of safe permanent disposal
13 of high-level waste can be available when
14 such methods are needed.

15 (7) By order issued December 23, 1977,
16 the Nuclear Regulatory Commission termi-
17 nated the proceedings related to the Generic
18 Environmental Statement on Mixed Oxide
19 Fuel (GESMO) in response to concerns that
20 the continuation of such proceedings would
21 negatively affect the nonproliferation initia-
22 tives of the Federal Government. As a conse-
23 quence, the option to reprocess spent nuclear
24 fuel is presently foreclosed to the nuclear in-
25 dustry. In recognition of the need to move

1 forward with a waste management plan, it is
2 necessary at this time to do preliminary plan-
3 ning on the basis of geologic disposal of
4 spent fuel. The Congress recognizes, however,
5 that this policy with regard to reprocessing
6 may change, and the Congress hereby en-
7 courages the Secretary to take this possibility
8 into account in subsequent planning with
9 regard to the disposal of nuclear wastes.

10 (b) PURPOSE.—It is the purpose of this Act
11 to—

12 (1) set forth the responsibilities of the
13 Secretary of Energy, the Nuclear Regulatory
14 Commission, the Congress, and the President
15 with respect to the development and con-
16 struction of licensed repositories for the per-
17 manent disposal of nuclear high-level waste
18 and spent fuel, including the dates by which
19 certain activities must be carried out; and

20 (2) provide for State participation in
21 decisionmaking on waste repository site de-
22 velopment and for Federal assistance for
23 States impacted by repository construction or
24 operation.

DEFINITIONS

SEC. 3. For purposes of this Act:

(1) The term "disposal" means the emplacement of radioactive waste with no foreseeable intent of recovery, whether or not such emplacement permits the recovery of such materials.

(2) The term "high-level waste" means (A) liquid wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuel, and (B) solids into which such liquid wastes have been converted.

(3) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native village, as defined in section 3 of the Alaska Native Claims Settlement Act (85 Stat. 688).

1 (4) The term "Indian reservation"
2 means—

3 (A) the Indian reservations and de-
4 pendent Indian communities referred to
5 in clauses (a) and (b) of section 1151 of
6 title 18, United States Code; and

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

11 (5) The term "Secretary" means the Sec-
12 retary of Energy.

13 (6) The term "site characterization"
14 means the program of exploration and re-
15 search, both in the laboratory and in the
16 field, undertaken to establish the geologic
17 conditions and the ranges of those param-
18 eters of a particular site relevant to the
19 procedures required under this Act. Site char-
20 acterization includes borings, surface excava-
21 tions, excavations of exploratory shafts, lim-
22 ited subsurface lateral excavations and bor-
23 ings, and in situ testing needed to determine
24 the suitability of the site for a geologic re-
25 pository, but does not include preliminary

1 borings and geophysical testing needed to
2 decide whether site characterization should
3 be undertaken.

4 (7) The term "spent fuel" means that fuel
5 that has been withdrawn from a nuclear reac-
6 tor following irradiation and the constituent
7 elements of which have not been separated by
8 reprocessing.

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

16 (9) The term "State Review Board"
17 means any Nuclear Waste Repository Impact
18 Review Board that meets the requirements
19 under section 6(a).

20 **RESPONSIBILITIES OF THE SECRETARY OF ENERGY**

21 **SEC. 4. (a) SELECTION OF REPOSITORY SITES.—**

22 (1) The Secretary shall carry out a program to
23 construct and operate licensed repositories for the
24 permanent disposal of high-level waste and spent
25 fuel. Under the program, the Secretary shall iden-

1 tify and recommend to the Congress at least four
2 potential repository sites which the Secretary con-
3 siders suitable for development as licensed reposi-
4 tories. Such sites shall be located, to the maximum
5 extent practicable, in four different geologic
6 media. Recommendations for the four sites shall
7 be submitted to the Congress by^s December 31,
8 1985.

9 (2) Sites which shall be examined under this
10 subsection shall include those consisting of the
11 following geologic media: basalt, tuff, granite,
12 bedded salt, domed salt, and such other media as
13 the Secretary may consider suitable. No site shall
14 be recommended to the Congress under paragraph
15 (1) unless the Secretary considers such site poten-
16 tially suitable for future use as a licensed reposi-
17 tory for the disposal of high-level waste and spent
18 fuel.

19 (3) After identification of the four initial po-
20 tential repository sites under paragraph (1), the
21 Secretary shall continue to conduct screening at
22 other locations to determine the availability of ad-
23 ditional potential repository sites in the geologic
24 media described in paragraph (2).

1 (4) The recommendation of a repository site
2 under this subsection shall not be considered to be
3 a major Federal action under section 102(2)(C) of
4 the National Environmental Policy Act of 1969.

5 (b) SITE SELECTION CRITERIA.—Not later than
6 February 15, 1981, the Secretary shall, in consulta-
7 tion with the Council on Environmental Quality,
8 the Environmental Protection Agency, the Nucle-
9 ar Regulatory Commission, and the United States
10 Geological Survey, issue guidelines for site qualifi-
11 cation. Such guidelines shall include criteria for
12 the elimination of sites from consideration for re-
13 pository development, including criteria with re-
14 spect to such factors as association of the sites
15 with valuable natural resources, proximity to pop-
16 ulations, hydrogeophysics, seismic activity, de-
17 fense nuclear activities, and such other factors as
18 the Secretary considers appropriate. The Secre-
19 tary shall use these guidelines in screening sites
20 for selection under subsection (a) for character-
21 ization for possible development into licensed re-
22 positories. The development of these guidelines
23 shall be considered a preliminary decision-making
24 activity and shall not be considered to be a major

1 Federal action under 102(2)(C) of the National En-
2 vironmental Policy Act of 1969.

3 (c) REPOSITORY SITE CHARACTERIZATION.—

4 (1) Before proceeding to sink shafts at any reposi-
5 tory site selected under subsection (a), the Secre-
6 tary shall submit to the Nuclear Regulatory Com-
7 mission for such site—

8 (A) an environmental assessment of non-
9 radiological impacts of planned site charac-
10 terization activities and a discussion of
11 alternative procedures and any mitigating
12 measures relating to such impacts; and

13 (B) a characterization plan which in-
14 cludes at least the following items—

15 (i) a description of the site to be
16 characterized;

17 (ii) a description of the planned site
18 characterization program, including the
19 extent of planned excavations, plans for
20 any onsite testing of radioactive or non-
21 radioactive material, investigation activi-
22 ties which may affect the ability of the
23 site to isolate wastes and spent fuel, and
24 provisions to control any adverse, safety-
25 related impacts from site characteriza-

1 tion including appropriate quality assur-
2 ance programs;

3 (iii) plans for decommissioning of
4 the site if it is determined unsuitable for
5 application for licensing as a permanent
6 repository;

7 (iv) criteria and associated data used
8 to arrive at candidate areas; and

9 (v) any other information required
10 by the Nuclear Regulatory Commission
11 prior to the sinking of shafts at potential
12 repository sites; and

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

17 (2) In carrying out activities at each proposed
18 repository site, the Secretary shall consult on a
19 continual basis with the Nuclear Regulatory Com-
20 mission. Opportunities shall be provided for par-
21 ticipation by the public and the affected States
22 with respect to such consultations.

23 (3) At proposed repository sites for which en-
24 vironmental assessments and site characterization
25 plans have been submitted under this subsection,

1 the Secretary shall conduct such tests as may be
2 necessary to provide data sufficient to validate a
3 license application and to comply with the Nation-
4 al Environmental Policy Act of 1969, except that—

5 (A) the Secretary shall not use radioac-
6 tive wastes for site characterization unless
7 the Nuclear Regulatory Commission and the
8 Secretary concur that such use is necessary
9 to provide data for geologic repository licens-
10 ing activities;

11 (B) if radioactive materials are placed in
12 the site, the Secretary shall place the smallest
13 quantity necessary to determine the suitabil-
14 ity of the site for a repository;

15 (C) in no case shall tests at any site in-
16 volve the use of an amount of high-level
17 waste or spent fuel which contains more than
18 the curie equivalent of 10 metric tons of
19 spent fuel; and

20 (D) any radioactive wastes used or placed
21 on the site shall be fully retrievable.

22 (4) The Secretary shall not continue charac-
23 terization activities at any site if the Secretary
24 determines that site to be unsuitable for eventual
25 development as a licensed repository, unless the

1 Secretary determines that continued activity
2 would provide information which could requalify
3 the site for possible licensing. If the Secretary
4 makes any such determinations, the Secretary
5 shall submit a report containing the reasons there-
6 for to the Congress. If characterization activities
7 are terminated at a site for any reason, the Secre-
8 tary shall remove any nuclear waste or other ra-
9 dioactive materials at or in the site as promptly
10 as practicable.

11 (d) RECOMMENDATION OF PERMANENT RE-
12 POSITORY SITES.—(1)(A) Not later than March 30,
13 1988, the Secretary shall submit to the President
14 for his review under section 8(b) a recommenda-
15 tion of the site which the Secretary considers
16 qualified for application for license as a perma-
17 nent repository for high-level waste and spent fuel
18 and which conforms to the criteria developed pur-
19 suant to subsection (b). After such date, the Secre-
20 tary may submit to the President recommenda-
21 tions for other sites which the Secretary also con-
22 siders suitable for such purpose. Together with
23 any recommendation of a site under this para-
24 graph, the Secretary shall submit to the President
25 a report containing the following:

1 (i) A description of the proposed reposi-
2 tory, including engineering plans for the
3 facility.

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

6 (iii) A discussion of data, obtained in site
7 characterization activities, relating to the
8 safety of the repository site.

9 (iv) A final environmental impact state-
10 ment for the site and the design of the reposi-
11 tory as required under the National Environ-
12 mental Policy Act of 1969 together with com-
13 ments made concerning the environmental
14 impact statement by the Department of the
15 Interior, the Council on Environmental Qual-
16 ity, the Environmental Protection Agency,
17 and the Nuclear Regulatory Commission.

18 (v) Preliminary comments of the Nuclear
19 Regulatory Commission concerning the
20 extent to which the at-depth site character-
21 ization analysis and the waste form proposal
22 for the site seem to be sufficient for inclusion
23 in any application to be submitted by the De-
24 partment of Energy for licensing of the site

1 as a permanent repository for high-level
2 waste and spent fuel.

3 (vi) The views of any State Review
4 Board, and any governing body of an Indian
5 tribe, which is affected by such site, as deter-
6 mined by the Secretary, together with the
7 Secretary's response to such views.

8 (vii) Such other information as the Sec-
9 retary considers appropriate to provide a
10 complete statement of the basis for the rec-
11 ommendation of the site for licensing as a re-
12 pository for the disposal of high-level waste
13 and spent fuel.

14 (B) If the approval of a site recommendation
15 for the initial repository proposed as required
16 under subparagraph (A) does not take effect as a
17 result of the operation of section 8(b) or 8(c), the
18 Secretary shall resubmit to the President under
19 section 8(b), within one year after the disapproval
20 of the recommendation, a recommendation of an-
21 other site for an initial repository, together with a
22 report as described under subparagraph (A).

23 (2) The Secretary shall submit an application
24 for an authorization under the Atomic Energy Act
25 of 1954 for the construction of a repository for

1 high-level waste and spent fuel at any repository
2 site recommended as qualified for application for
3 license under paragraph (1) as soon as possible
4 after the date on which the recommendation of the
5 designation of such site is effective in accordance
6 with section 8.

7 RESPONSIBILITIES OF THE NUCLEAR REGULATORY
8 COMMISSION AND THE ENVIRONMENTAL PRO-
9 TECTION AGENCY

10 SEC. 5. (a) PROMULGATION OF STANDARDS.—

11 (1) Not later than June 30, 1981, the Nuclear Regu-
12 latory Commission shall, by rule, promulgate
13 standards and requirements for the licensing and
14 regulation of the disposal of high-level waste and
15 spent fuel. Such standards and requirements shall
16 be consistent with the applicable general stand-
17 ards promulgated by the Administrator of the En-
18 vironmental Protection Agency under paragraph
19 (2).

20 (2) As soon as practicable, but not later than
21 January 31, 1981, the Administrator of the Envi-
22 ronmental Protection Agency shall, by rule, pro-
23 mulgate standards and requirements of general
24 application pertaining to the licensing and regula-
25 tion of the disposal of high-level waste and spent

1 fuel. The Administrator shall consult with the Nu-
2 clear Regulatory Commission before promulgat-
3 ing any rule under this paragraph.

4 (b) STATUS REPORT FOR CONSTRUCTION
5 PERMIT AUTHORIZATION.—No later than 2 years
6 after the date on which an application for a con-
7 struction authorization is submitted under section
8 4(d)(2), the Nuclear Regulatory Commission shall
9 submit a report to the Congress describing the
10 proceedings undertaken through such date with
11 regard to the authorization application submitted,
12 including a description of—

13 (1) major unresolved safety issues, and
14 the Secretary's explanation of design and op-
15 eration plans for resolving such issues;

16 (2) matters of contention regarding the
17 application;

18 (3) any Nuclear Regulatory Commission
19 actions regarding the granting or denial of
20 the authorization.

21 (c) DECISION REGARDING CONSTRUCTION AU-
22 THORIZATION APPLICATION.—Not later than 4
23 years after the date the initial construction au-
24 thorization application is submitted under section
25 4(d)(2), the Nuclear Regulatory Commission shall

1 issue a final decision granting or denying such au-
2 thorization, subject to such terms and conditions
3 as may be required or permitted by law.

4 STATE PARTICIPATION

5 SEC. 6. (a) STATE REVIEW BOARDS.—(1) The
6 provisions of this section shall be applicable only
7 in the case of any Nuclear Waste Repository
8 Impact Review Board that—

9 (A) has the composition and authorities
10 described in this subsection;

11 (B) is established under State law by any
12 State in which there is located a site recom-
13 mended to the Congress by the Secretary
14 under section 4(a) as a potential repository
15 site for which a characterization study
16 should be done, or recommended under sec-
17 tion 4(d) as the site for a repository; and

18 (C) is determined by the Secretary to be
19 established in accordance with this section.

20 (2) Each State Review Board referred to in
21 paragraph (1) of this subsection shall be composed
22 as determined by the State under State law, except
23 that the following shall be provided for by such
24 law:

1 (A) The general public, any affected
2 Indian tribe, and affected local governments
3 shall be represented by members on the
4 Board.

5 (B) The State Review Board shall have
6 the authority to—

7 (i) study and determine for purposes
8 of carrying out the Board's functions
9 under this Act the possible economic, en-
10 vironmental, and social impacts, and pos-
11 sible impacts on public health and safety,
12 of a repository for the disposal of high-
13 level waste and spent fuel;

14 (ii) draft proposals suggesting assist-
15 ance which would be required to be pro-
16 vided by the Federal Government to
17 remedy or lessen the impacts identified
18 under clause (i); and

19 (iii) review the activities undertaken
20 by Federal agencies with respect to possi-
21 ble repository sites within the State and,
22 as appropriate, submit relevant sugges-
23 tions with regard to such activities to
24 the Congress or appropriate Federal
25 agencies.

1 (C) The State Review Board shall hold
2 meetings open to the public not less than
3 once every 2 months, at which meetings the
4 Board shall receive and to the extent practi-
5 cable place on its agenda matters submitted
6 by any Board members.

7 (b) PARTICIPATION IN REPOSITORY LICENSING
8 DECISIONS.—Upon the submission to the President
9 of the recommendation of a site for a repository
10 for the disposal of high-level waste and spent fuel,
11 the State Review Board of the State in which the
12 site is located may, by majority vote of the mem-
13 bership of the Board, submit a petition to the Con-
14 gress requesting that the Congress disapprove the
15 site designation. A State Review Board may
16 submit such a petition to the Congress not later
17 than the 30th day after the date that the President
18 approves the site recommendation under section
19 8(b) and submits the recommendation and report
20 of the Secretary to the Congress. A petition shall
21 be considered to be submitted to the Congress on
22 the date of the transmittal of the petition to the
23 Speaker of the House and the President pro tem-
24 pore of the Senate. The petition shall be accompa-

1 nied by a statement of reasons explaining why the
2 petition should be granted.

3 (c) **IMPACT ASSISTANCE.**—(1) After the effec-
4 tive date of the approval of a permit for the con-
5 struction of a repository for the disposal of high-
6 level waste and spent fuel, the State Review Board
7 of the affected State may submit to the Congress
8 and to the Secretary, the Secretary of Transporta-
9 tion, or the head of any other appropriate Federal
10 agency a detailed request for technical or econom-
11 ic assistance, in such form or manner as the Board
12 considers necessary, to mitigate the adverse im-
13 pacts which will likely result from the construc-
14 tion or operation of the repository and to protect
15 the health and safety of the public, together with
16 such requests for legislative changes as the Board
17 may consider necessary to mitigate such impacts.
18 The Board shall submit with any such request a
19 report which contains a detailed explanation of
20 the anticipated adverse impacts from the reposi-
21 tory and the reasons that the Board has requested
22 the assistance or legislative changes specified in
23 the report.

24 (2) The head of any Federal agency which has
25 received, within the 90-day period beginning on

1 the effective date of the construction permit for
2 the repository, a request for assistance under
3 paragraph (1) from a State Review Board, or from
4 the governing body of an Indian tribe as provided
5 under section 7, shall submit to the Congress an
6 evaluation of such request, including evaluations
7 pertaining to the cost of the proposals and their
8 feasibility, together with such recommendations
9 for alternative or supplementary assistance or leg-
10 islative changes as the agency involved may con-
11 sider to be appropriate. Such evaluation and rec-
12 ommendations shall be submitted to the Congress
13 within 90 days after the date of the receipt of such
14 a request.

15 (d) FUNDING.—(1) Subject to paragraph (2)
16 and to the availability of funds to carry out this
17 section, the Secretary shall provide to each State
18 Review Board such funds as may be necessary to
19 provide technical assistance to the Board and to
20 permit the Board to carry out its duties, except
21 that at least 10 percent of the total budget of the
22 Board shall be provided by the State from non-
23 Federal funds as its State share. Salaries and
24 travel expenses which would ordinarily be in-
25 curred by any State or local government shall not

1 be considered part of the budget of the Board and
2 shall not be eligible for payment under this
3 section.

4 (2) At the end of the one-year period begin-
5 ning on the effective date of any operating license
6 for a repository in a State, no Federal funds shall
7 be made available under this subsection for the
8 State Review Board of the State in which the re-
9 pository is located, except for—

10 (A) such funds as may be necessary to
11 support Board activities related to any other
12 repository located in, or proposed to be locat-
13 ed in, such State, and which has not been op-
14 erating under license for more than one year;
15 and

16 (B) such funds as may be necessary to
17 support Board activities pursuant to agree-
18 ments or contracts for assistance entered into
19 under subsection (c) by the Board with the
20 Federal Government before the end of such
21 one-year period.

22 (e) PARTICIPATION IN LICENSING.—A State
23 Review Board may participate in any licensing
24 proceedings related to repositories for the disposal
25 of high-level waste and spent fuel which are to be

1 located in or adjacent to the State in which the
2 Board is constituted.

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

14 (2) In performing any study of an area within
15 a State for the purpose of determining the suit-
16 ability of the area for a repository and in subse-
17 quently developing and loading any repository
18 within a State, the Secretary shall consult and co-
19 operate with the State Review Board of the State
20 in an effort to resolve the State's concerns regard-
21 ing the public health and safety, environmental,
22 economic, and social impacts of any such reposi-
23 tory. In carrying out his duties under this Act, the
24 Secretary shall take such concerns into account to
25 the maximum extent feasible.

1 (3) As soon as possible after notifying a State
2 of his decision to study an area within such State
3 as a possible repository site, the Secretary shall
4 seek to enter into a written agreement with the
5 State Review Board of the State setting forth the
6 procedures under which the requirements of para-
7 graphs (1) and (2) shall be carried out. The written
8 agreement shall provide for—

9 (A) the right of the State to study, deter-
10 mine, comment on, and make recommenda-
11 tions with regard to the possible health and
12 safety, environmental, economic, and social
13 impacts of any such repository;

14 (B) procedures, including specific time
15 periods, for the Secretary to receive, consider,
16 resolve, and act upon comments and recom-
17 mendations made by the State Review Board;
18 and

19 (C) procedures by which the Secretary
20 and the State Review Board of such State
21 may review or modify the agreement periodi-
22 cally.

23 (g) STUDY TO PROVIDE IMPACT ASSISTANCE TO
24 LOCAL COMMUNITIES.—The Secretary shall con-
25 duct a study to determine the desirability of and

1 possible methods of imposing fees on users of the
2 repositories to make sums available for assistance
3 to those communities impacted by licensed reposi-
4 tories for the disposal of high-level waste and
5 spent fuel. The study shall be designed to deter-
6 mine (1) the amount of any fee to be levied and the
7 manner in which it would be assessed, (2) the
8 process for determining which communities
9 should be eligible to receive assistance with
10 amounts generated by the fees, and (3) appropri-
11 ate conditions which should be required with re-
12 spect to the expenditure of assistance grants.

13 PARTICIPATION OF INDIAN TRIBES

14 SEC. 7. (a) AUTHORITIES OF TRIBAL GOVERN-
15 ING BODIES.—The governing body of any Indian
16 tribe on whose reservation is located a site recom-
17 mended to the Congress by the Secretary under
18 section 4(a) as a potential repository site for
19 which a characterization study should be done, or
20 recommended under section 4(d) as the site for a
21 permanent repository, shall—

22 (1) have the same authorities provided to
23 State Review Boards under section 6(a)(2)(B)
24 and section 6(b); and

1 (2) be eligible for impact assistance as
2 described in section 6(c)(1) in the same
3 manner as State Review Boards.

4 (b) ASSISTANCE TO TRIBES.—Subject to the
5 availability of funds to carry out this section, the
6 Secretary shall provide to the governing body of
7 each Indian tribe referred to in subsection (a)
8 such funds as may be necessary to provide techni-
9 cal assistance to the tribe and to conduct the activ-
10 ities described under sections 6(a)(2)(B) and (C)
11 and other similar activities related to the reposi-
12 tory. At the end of the one-year period beginning
13 on the effective date of any operating license for a
14 repository located on a reservation, no Federal
15 funds shall be made available under this subsec-
16 tion to the governing body of the Indian tribe on
17 whose reservation the repository is located, except
18 for—

19 (1) such funds as may be necessary to
20 support activities related to any other reposi-
21 tory located in, or proposed to be located in,
22 such reservation, and which has not been op-
23 erating under license for more than one year;
24 and

1 (2) such funds as may be necessary to
2 support activities pursuant to agreements or
3 contracts for assistance entered into by the
4 governing body of the Indian tribe with the
5 Federal Government before the end of such
6 one-year period.

7 (c) PARTICIPATION IN LICENSING.—The gov-
8 erning body of any Indian tribe shall be eligible to
9 participate in any licensing proceedings related to
10 repositories for the disposal of high-level waste
11 and spent fuel which are to be located in or adja-
12 cent to the reservation of such tribe.

13 REVIEW OF REPOSITORY SITE SELECTION

14 SEC. 8. (a) POTENTIAL REPOSITORY SITES.—
15 The designation by the Secretary, pursuant to a
16 recommendation submitted to the Congress under
17 section 4(a), of a site for characterization for pos-
18 sible disposal of high-level waste and spent fuel
19 shall be effective unless, during the first period of
20 90 calendar days of continuous session of the Con-
21 gress after the date of transmittal of the recom-
22 mendation to the Congress, the Congress passes a
23 concurrent resolution the matter after the resolv-
24 ing clause of which reads as follows: "The Con-
25 gress disapproves the designation of the site at

1 ————— for characterization for possible disposal
2 of high-level waste and spent fuel.”; (the blank
3 space being filled with the geographic location of
4 the proposed repository site).

5 (b) PRESIDENTIAL REVIEW OF SITES.—(1) The
6 President shall review each recommendation for
7 the location of a repository submitted by the Sec-
8 retary under section 4(d), together with the ac-
9 companying report. Within 60 days after the sub-
10 mission of the recommendation and report, the
11 President shall either approve the site and trans-
12 mit such recommendation and report to the Con-
13 gress, together with a statement recommending
14 approval of the site for the repository, or shall dis-
15 approve the site and submit notice of the disap-
16 proval to the Secretary and to the Congress.

17 (2) The President may delay for not more than
18 6 months his decision under paragraph (1) for rec-
19 ommending approval or disapproval of a site upon
20 determining that the information provided under
21 the environmental impact statement or the char-
22 acterization plan for the site is not sufficient to
23 permit a decision within the 30 days referred to in
24 paragraph (1).

1 (3) The designation of a site for a repository
2 for high-level waste and spent fuel shall be effective
3 at the end of the 30-day period beginning on
4 the date that the President approves the site designation
5 under paragraph (1) unless a State Review
6 Board has submitted to the Congress a petition for
7 disapproval under section 6(b) or the governing
8 body of an Indian tribe has submitted such a petition
9 under section 7. If any such petition has been
10 submitted, the approval of the designation shall
11 not be effective except as provided under subsection
12 (c).

13 (c) CONGRESSIONAL REVIEW OF SITES.—(1) If
14 the President submits to the Congress under subsection
15 (b) a recommendation for approval of a
16 site as a repository and either a State Review
17 Board submits to the Congress a petition for disapproval
18 under section 6(b) or the governing body
19 of an Indian tribe submits to the Congress such a
20 petition under section 7, the designation of such
21 site for a repository for high-level waste and spent
22 fuel shall be effective at the end of the first period
23 of 90 calendar days of continuous session of the
24 Congress after the date of transmittal of the recommendation
25 of approval by the President to the

1 Congress, unless, during such period, either House
2 of the Congress passes a resolution the matter
3 after the resolving clause of which reads as fol-
4 lows: "The ————— approves the petition sub-
5 mitted by ————— regarding the disapprov-
6 al of the site at ————— for a repository for the
7 disposal of high-level waste and spent fuel."; (the
8 first blank space being filled with the designation
9 of the appropriate House of the Congress; the
10 second blank space being filled with the name of
11 the State Review Board or Indian tribe governing
12 body the petition of which is approved; the third
13 blank space being filled with the geographic loca-
14 tion of the proposed repository site). For purposes
15 of paragraphs (3) through (7) of this subsection,
16 the term "resolution" means a resolution de-
17 scribed by this paragraph.

18 (2) Paragraphs (3) through (7) of this subsec-
19 tion are enacted by Congress—

20 (A) as an exercise of the rulemaking
21 power of the Senate and the House of Repre-
22 sentatives, respectively, and as such are
23 deemed a part of the rules of each House, re-
24 spectively, but applicable only with respect to
25 the procedure to be followed in that House in

1 the case of resolutions described by para-
2 graph (1) of this subsection; and the provi-
3 sions of such paragraphs supersede other
4 rules only to the extent that they are incon-
5 sistent therewith; and

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

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

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

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

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

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

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

1 able. An amendment to the motion shall not be in
2 order, and it shall not be in order to move to re-
3 consider the vote by which the motion was agreed
4 to or disagreed to.

5 (B) Debate on the resolution referred to in
6 subparagraph (A) of this paragraph shall be limit-
7 ed to not more than 10 hours, which shall be divid-
8 ed equally between those favoring and those op-
9 posing such resolution. A motion further to limit
10 debate shall not be debatable. An amendment to,
11 or motion to recommit, the resolution shall not be
12 in order, and it shall not be in order to move to
13 reconsider the vote by which such resolution was
14 agreed to or disagreed to.

15 (6)(A) Motions to postpone, made with respect
16 to the discharge from committee, or the considera-
17 tion of, a resolution, and motions to proceed to the
18 consideration of other business, shall be decided
19 without debate.

20 (B) Appeals from the decision of the Chair re-
21 lating to the application of the rules of the Senate
22 or the House of Representatives, as the case may
23 be, to the procedure relating to a resolution shall
24 be decided without debate.

1 (7) Notwithstanding any of the provisions of
2 this subsection, if a House has approved a resolu-
3 tion with respect to a site designation, then it shall
4 not be in order to consider in that House any
5 other resolution with respect to the same such site
6 designation.

7 (d) COMPUTATION OF DAYS.—For purposes of
8 subsections (a) and (b) of this section—

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

11 (2) the days on which either House is not
12 in session because of an adjournment of
13 more than 3 days to a day certain are ex-
14 cluded in the computation of the 90-day
15 period.

16 JUDICIAL REVIEW OF AGENCY ACTIONS

17 SEC. 9. Notwithstanding any other provision
18 of law, the actions taken by the Department of
19 Energy in designating any site for characteriza-
20 tion, in designating an initial site as a repository
21 for the disposal of high-level waste and spent fuel,
22 or in characterizing a site, any actions taken by
23 the Nuclear Regulatory Commission in granting
24 or denying any construction permit application
25 submitted to such a facility under section 4(d)(2)

1 or any operating permit for such a facility, and
2 any actions described under section 10 shall not be
3 subject to judicial review except as provided in
4 this section as follows:

5 (1) Claims regarding any such action
6 may be brought not later than the 60th day
7 following the date of such action, except that
8 if a party shows that the party did not know
9 of the action complained of, and a reasonable
10 person acting in the circumstances would not
11 have known, he may bring a claim alleging
12 the invalidity of such action on the grounds
13 stated above not later than the 60th day fol-
14 lowing the date of his acquiring actual or
15 constructive knowledge of such action.

16 (2) A claim under paragraph (1) of this
17 subsection shall be barred unless a complaint
18 is filed before the expiration of such time
19 limits in the United States Court of Appeals
20 for the District of Columbia, acting as a spe-
21 cial court. Such court shall have exclusive ju-
22 risdiction to determine such proceeding in
23 accordance with the procedures hereinafter
24 provided, and no other court of the United

1 States or of any State shall have jurisdiction
2 of any such claim.

3 (3) Any proceeding under paragraph (2)
4 shall be assigned for hearing and completed
5 at the earliest possible date, shall, to the
6 greatest extent practicable, take precedence
7 over all other matters pending on the docket
8 of the court at that time, and shall be expedited in every way by such court, and such
9 court shall render its decision relative to any
10 claim within 90 days from the date such
11 claim is brought unless such court determines that a longer period of time is required
12 to satisfy requirements of the United States
13 Constitution.
14
15

16 EXPEDITED AUTHORIZATIONS

17 SEC. 10. (a) ISSUANCE OF AUTHORIZATIONS.—

18 (1) Subject to paragraph (2), to the extent that the
19 taking of any action related to the characteriza-
20 tion, construction, or initial operation of any site
21 recommended under this Act and not disapproved
22 under this Act for the disposal of high-level waste
23 and spent fuel requires a certificate, right-of-way,
24 permit, lease, or other authorization from a Federal officer or agency, such officer or agency shall
25

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

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

16 (b) TERMS OF AUTHORIZATIONS.—(1) Any au-
17 thorization issued or granted under subsection (a)
18 shall include such terms and conditions as may be
19 required by law, and may include terms and condi-
20 tions permitted by law.

21 (2) Except as provided in the second sentence
22 of this paragraph, nothing contained in this sec-
23 tion shall be construed to impair the authority of
24 any Federal officer or agency to add to, amend, or
25 abrogate any term or condition included in any

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

12 WASTE DISPOSAL FEES

13 SEC. 11. COLLECTION OF FEES.—(a)(1) The
14 Secretary shall collect fees sufficient, as deter-
15 mined by rule promulgated by the Secretary, to
16 offset all reasonable construction, operation, ad-
17 ministrative, and other costs incurred by the Sec-
18 retary in providing for the disposal, interim stor-
19 age, and management of nuclear wastes and spent
20 fuel. The fee shall be sufficient to offset all reason-
21 able costs of waste treatment and encapsulation,
22 repository development programs (including re-
23 search and development costs), decontamination
24 and decommissioning of repository facilities, any
25 reasonable costs incurred by the Secretary in

1 transporting nuclear wastes or spent fuel to stor-
2 age or disposal sites, and the costs of providing
3 adequate security protection for nuclear wastes or
4 spent fuel (as determined by the Nuclear Regula-
5 tory Commission) during the period such nuclear
6 wastes and spent fuel are transported to storage or
7 disposal sites and during the period such wastes
8 are stored at such sites. The research and develop-
9 ment costs for which the fees shall be assessed
10 shall include those incurred during all site specific
11 investigations directly related to storage or dispos-
12 al sites, and such other costs as the Secretary by
13 rule determines to be directly related to manage-
14 ment, storage, and disposal of nuclear wastes and
15 spent fuel. From fees collected under this section,
16 the Secretary shall reimburse State and local gov-
17 ernments for any reasonable costs incurred by
18 them in connection with, and during the period of,
19 the transportation of nuclear wastes or spent fuel
20 to disposal sites.

21 (2) The Secretary shall collect such fees from
22 the persons or entities, whether public or private,
23 who hold title to the nuclear wastes or spent fuel
24 which is subject to disposal by the Secretary. The
25 Secretary may require such fees to be paid in a

1 lump sum or in such installments as the Secretary
2 determines to be appropriate, and the fees levied
3 under this subsection shall be subject to reassess-
4 ment by the Secretary to the extent necessary to
5 ensure that the total amount of the fees required
6 to be paid reflects the actual reasonable costs in-
7 curred by the Secretary, as determined pursuant
8 to paragraph (1) of this subsection.

9 (3) As used in this subsection, the term "nucle-
10 ar wastes" means any radioactive material (other
11 than spent fuel) for which interim storage or dis-
12 posal is provided by the Secretary.

13 (b) USE OF FEES.—Section 111(h) of the
14 Energy Reorganization Act of 1974 is amended—

15 (1) in paragraph (1), by striking out
16 "and" after the semicolon;

17 (2) in paragraph (2), by striking out the
18 period and inserting in lieu thereof "; and";
19 and

20 (3) by adding at the end the following:

21 "(3) revenues received by the Secretary
22 of Energy under section 11(a) of the Nuclear
23 Waste Disposal Act shall, when so specified
24 in appropriation Acts, be retained and used
25 for the specific purpose of offsetting costs in-

1 curred by the Secretary in providing for the
2 disposal, interim storage, and management of
3 nuclear wastes and spent fuel.”.

4 AFFECT ON OTHER LAWS

5 SEC. 12. Nothing contained in this Act shall be
6 construed to affect in any way the provisions of
7 section 605 of Public Law 96-205 (94 Stat. 84; 48
8 U.S.C. 1491).

9 DISPOSAL OF SPENT FUEL

10 SEC. 13. Notwithstanding any other provision
11 of this Act, any repository for the disposal of high-
12 level waste and spent fuel which is designed and
13 constructed under this Act shall be so designed
14 and constructed that the spent fuel may be re-
15 trieved, during an appropriate period of operation
16 of the facility, for any reasons pertaining to the
17 public safety or for the purpose of permitting the
18 recovery of the economically valuable contents of
19 the spent fuel. The Secretary shall not dispose of
20 spent fuel in a manner which would not allow for
21 its recovery in accordance with the preceding sen-
22 tence unless specifically authorized to do so by the
23 President.

1 TERMINATION OF AUTHORITY

2 SEC. 14. (a) The provisions of sections 9 and
3 10 shall cease to have effect at such time as the
4 Secretary commences licensed operation of at
5 least one repository for the permanent disposal of
6 high-level waste and spent fuel.

7 (b) The provisions of this subtitle, other than
8 sections 9 through 13, shall not have effect after
9 December 31, 1999.

Amend the title so as to read: "A bill to provide for
repositories for the disposal of nuclear high-level waste and
spent fuel, and for other purposes."

10 SHORT TITLE

11 SECTION 1. *This Act may be cited as the "Nucle-*
12 *ar Waste, Research, Development, and Demonstra-*
13 *tion Act of 1980".*

14 FINDINGS AND PURPOSES

15 SEC. 2. (a) *The Congress finds that—*

16 (1) *the efforts made in the last thirty*
17 *years to devise a permanent solution to the*
18 *problems of high level radioactive waste dis-*
19 *posal have not been adequate;*

20 (2) *only the Federal Government has the*
21 *capability to provide for the permanent dispos-*
22 *al of high level radioactive waste which has*

1 *been produced from military and commercial*
2 *activities;*

3 *(3) the accumulation of such waste from*
4 *military and commercial activities and from*
5 *activities related to medical research, diagno-*
6 *sis, and treatment, as well as such waste from*
7 *other activities, including research and devel-*
8 *opment activities, is a national problem;*

9 *(4) although recent scientific studies and a*
10 *majority of scientists assert that high level ra-*
11 *dioactive waste generated through the use of*
12 *nuclear technologies can be disposed of safely*
13 *with no significant impact upon the public*
14 *health and environment, no method for the per-*
15 *manent disposal of such waste has ever been*
16 *demonstrated;*

17 *(5) research, development, and demonstra-*
18 *tion is a desired prerequisite to confirming the*
19 *existence of a safe and reliable process for the*
20 *permanent disposal of high level radioactive*
21 *waste;*

22 *(6) the development of a safe and timely*
23 *solution to the problem of the permanent dis-*
24 *posal of high level radioactive waste is essen-*
25 *tial if nuclear power is to make a significant*

1 *contribution to meeting the future energy re-*
2 *quirements of the United States; and*

3 *(7) the demonstration of a safe and reli-*
4 *able process for the permanent disposal of high*
5 *level radioactive waste will aid the Nuclear*
6 *Regulatory Commission in establishing regula-*
7 *tions governing the design, construction, and*
8 *operation of repositories.*

9 *(b) The purposes of this Act are—*

10 *(1) to establish a directed and orderly re-*
11 *search, development, and demonstration pro-*
12 *gram in the Department of Energy for the per-*
13 *manent disposal of high level radioactive*
14 *waste;*

15 *(2) to seek to confirm the existence of*
16 *technological solutions for safely disposing of*
17 *high level radioactive waste; and*

18 *(3) to develop the experience, data, and in-*
19 *formation necessary for the Secretary of*
20 *Energy to build and operate full-scale high*
21 *level radioactive waste repositories.*

22 *ESTABLISHMENT OF PROGRAM*

23 *SEC. 3. (a) The Secretary of Energy shall, not*
24 *later than sixty days after the date of the enactment*
25 *of this Act, establish a research, development, and*

1 *demonstration program for the disposal of high level*
2 *radioactive waste, which program shall include inte-*
3 *grated technology demonstrations and which shall*
4 *be implemented in accordance with this section.*

5 **(b)(1)** *Under the program, the Secretary shall*
6 *identify four potential sites for high level radioac-*
7 *tive waste repositories in the continental United*
8 *States. Two potential sites shall be identified not*
9 *later than the fourth quarter of fiscal year 1981, and*
10 *two additional potential sites shall be identified by*
11 *the end of fiscal year 1983.*

12 **(2)** *The potential sites for repositories shall be*
13 *located (A) in different geologic media, such as*
14 *basalt, salt, salt domes, or granite, and (B) to the*
15 *extent practicable, in different regions of the United*
16 *States.*

17 **(3)(A)** *The Secretary shall undertake such site*
18 *characterization activities as are necessary to pro-*
19 *vide data and information in order to determine the*
20 *suitability of the sites for further development into*
21 *demonstration repositories under the program.*

22 **(B)** *The Secretary shall conduct at the potential*
23 *sites such tests as may be necessary to provide the*
24 *necessary data for compliance with the National En-*
25 *vironmental Policy Act of 1969. The Secretary shall*

1 *contribution to meeting the future energy re-*
2 *quirements of the United States; and*

3 *(7) the demonstration of a safe and reli-*
4 *able process for the permanent disposal of high*
5 *level radioactive waste will aid the Nuclear*
6 *Regulatory Commission in establishing regula-*
7 *tions governing the design, construction, and*
8 *operation of repositories.*

9 *(b) The purposes of this Act are—*

10 *(1) to establish a directed and orderly re-*
11 *search, development, and demonstration pro-*
12 *gram in the Department of Energy for the per-*
13 *manent disposal of high level radioactive*
14 *waste;*

15 *(2) to seek to confirm the existence of*
16 *technological solutions for safely disposing of*
17 *high level radioactive waste; and*

18 *(3) to develop the experience, data, and in-*
19 *formation necessary for the Secretary of*
20 *Energy to build and operate full-scale high*
21 *level radioactive waste repositories.*

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3 *grated technology demonstrations and which shall*
4 *be implemented in accordance with this section.*

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6 *identify four potential sites for high level radioac-*
7 *tive waste repositories in the continental United*
8 *States. Two potential sites shall be identified not*
9 *later than the fourth quarter of fiscal year 1981, and*
10 *two additional potential sites shall be identified by*
11 *the end of fiscal year 1983.*

12 (2) *The potential sites for repositories shall be*
13 *located (A) in different geologic media, such as*
14 *basalt, salt, salt domes, or granite, and (B) to the*
15 *extent practicable, in different regions of the United*
16 *States.*

17 (3)(A) *The Secretary shall undertake such site*
18 *characterization activities as are necessary to pro-*
19 *vide data and information in order to determine the*
20 *suitability of the sites for further development into*
21 *demonstration repositories under the program.*

22 (B) *The Secretary shall conduct at the potential*
23 *sites such tests as may be necessary to provide the*
24 *necessary data for compliance with the National En-*
25 *vironmental Policy Act of 1969. The Secretary shall*

1 *report to the Commission on the tests conducted at a*
2 *site pursuant to this subparagraph and on the infor-*
3 *mation developed from such tests.*

4 *(4) The Secretary shall, as soon as practicable,*
5 *make the final selection of sites for demonstration*
6 *repositories under the program. The selection shall*
7 *be made by such date as may be necessary to enable*
8 *the Secretary to meet the time deadlines prescribed*
9 *by subsection (c)(1).*

10 *(c)(1) The Secretary shall design, construct, and*
11 *operate at each of the sites selected under subsection*
12 *(b)(4) a demonstration repository for high level ra-*
13 *dioactive waste. The first demonstration repository*
14 *shall be in operation by the end of fiscal year 1986,*
15 *the second demonstration repository shall be in op-*
16 *eration by the end of fiscal year 1987, and the third*
17 *and fourth demonstration repositories shall be in*
18 *operation as prescribed by legislation enacted after*
19 *the date of the enactment of this Act.*

20 *(2) Demonstration repositories—*

21 *(A) shall be no larger than is appropriate*
22 *to conduct the necessary research and develop-*
23 *ment activities to demonstrate the safe dispos-*
24 *al of high level radioactive waste, taking into*
25 *consideration the necessary handling, engineer-*

1 *ing, space, configurations, and heat dissipation*
2 *of such waste;*

3 *(B) shall be designed with a capacity for*
4 *receiving a maximum of forty metric tons of*
5 *waste; and*

6 *(C) may be mined at depths, and shall be*
7 *constructed with methods, similar to those*
8 *which would be used in the construction of*
9 *full-scale repositories.*

10 *(3) No waste may be placed in a demonstration*
11 *repository under the program unless—*

12 *(A) the waste is high level radioactive*
13 *waste which is owned by the Federal Govern-*
14 *ment and is the result of unlicensed activities;*

15 *(B) the waste may be retrieved; and*

16 *(C) a place certain which is physically ca-*
17 *pable of receiving the waste, as determined by*
18 *the Secretary, has been identified for receiving*
19 *the waste after the termination of the program.*

20 *(4) None of the activities under the program*
21 *preceding the excavation of shafts for demonstra-*
22 *tion repositories shall be considered to be a major*
23 *Federal action for purposes of section 102(2)(C) of*
24 *the National Environmental Policy Act of 1969.*

1 (5) *The operation of any demonstration reposi-*
2 *tory may not extend beyond the year 2000.*

3 (d) *Under the program, the Secretary may place*
4 *in demonstration repositories canisters of solidified*
5 *high level radioactive waste which canisters are con-*
6 *tained in engineered barriers, including overpack*
7 *canisters. The Secretary shall consult with the Com-*
8 *mission with respect to the development of such bar-*
9 *riers.*

10 (e) *Within one year from the date of the enact-*
11 *ment of this Act, the Secretary shall enter into an*
12 *agreement with the Commission to establish ar-*
13 *rangements for review and consultation by the Com-*
14 *mission with respect to the program. The agreement*
15 *shall provide for the following:*

16 (1) *The Secretary shall submit to the Com-*
17 *mission, for its review and comment—*

18 (A) *a plan describing how site charac-*
19 *terization activities carried out under the*
20 *program will not disturb the integrity of*
21 *the geological structure of the site where*
22 *the activities are carried out, and*

23 (B) *a plan describing the form and*
24 *manner in which high level radioactive*

1 *waste will be placed in the demonstration*
2 *repositories under the program.*

3 *In preparing its comments on any plan, the*
4 *Commission shall specify with precision its ob-*
5 *jections to any provision of the plan. Upon sub-*
6 *mission of a plan to the Commission, the Sec-*
7 *retary shall publish a notice in the Federal*
8 *Register of the submission of the plan and of*
9 *its availability for public inspection, and, upon*
10 *receipt of the comments of the Commission re-*
11 *specting a plan, the Secretary shall publish a*
12 *notice in the Federal Register of the receipt of*
13 *the comments and of the availability of the*
14 *comments for public inspection. If the Secre-*
15 *tary does not revise a plan to meet objections*
16 *specified in the comments of the Commission,*
17 *the Secretary shall publish in the Federal Reg-*
18 *ister a detailed statement for not so revising*
19 *the plan.*

20 *(2) The Secretary shall submit to the Com-*
21 *mission safety analysis reports and such other*
22 *information as the Commission may require to*
23 *identify any danger to the public health and*
24 *safety which may be presented by the program.*

1 (3) *The Secretary shall not undertake any*
2 *excavation of a site for a demonstration reposi-*
3 *tory before receiving the concurrence of the*
4 *Commission for such excavation.*

5 (4) *During the program, the Secretary*
6 *shall afford the Commission access to the dem-*
7 *onstration repositories to enable the Commis-*
8 *sion to monitor the repositories for the purpose*
9 *of assuring the public health and safety.*

10 (f)(1) *The Secretary shall, on a continuing*
11 *basis, consult and coordinate with the officials of*
12 *each State in which the Secretary proposes to con-*
13 *struct a demonstration repository respecting his*
14 *plans for, and his construction of, any such reposi-*
15 *tory. The Secretary shall notify the Governor of the*
16 *State of his intention to locate a demonstration re-*
17 *pository within the State and, if there is no law of*
18 *such State providing for the designation of an offi-*
19 *cial to coordinate activities for the State with re-*
20 *spect to repositories of radioactive waste, the Gover-*
21 *nor shall designate a State official to coordinate ac-*
22 *tivities for the State with respect to any repository*
23 *to be constructed under the program in such State.*

24 (2)(A) *Before identifying under section 3(b)(1)*
25 *a site for a repository for high level radioactive*

1 *waste, the Secretary shall hold public hearings in*
2 *the vicinity of the site for the purpose of informing*
3 *the residents of the area in which the site is located*
4 *of the activities proposed to be undertaken at the*
5 *site and to receive their comments.*

6 *(B) Before making a final selection of a site*
7 *under section 3(b)(4), the Secretary shall hold public*
8 *hearings in the vicinity of the site for the purpose of*
9 *informing the residents of the area in which the site*
10 *is located of the selection of the site and to receive*
11 *their comments.*

12 *(g) All demonstration facilities authorized by*
13 *this section shall be constructed and operated as re-*
14 *search, development, and demonstration facilities*
15 *pursuant to section 202 of the Energy Reorganiza-*
16 *tion Act of 1974. Such facilities shall be constructed*
17 *and operated in accordance with all other applicable*
18 *law.*

19 *(h)(1) If the Commission determines that any*
20 *activity of the Secretary under the program or the*
21 *failure of the Secretary to take specified actions pre-*
22 *sents a danger to the public health and safety, the*
23 *Commission shall issue an order directing the Secre-*
24 *tary to cease such activity or to take such actions,*
25 *and if the Commission determines that any activity*

1 *proposed to be undertaken by the Secretary under*
2 *the program may present a danger to the public*
3 *health and safety, the Commission shall issue an*
4 *order directing the Secretary to not undertake such*
5 *activity.*

6 *(2) If the Commission issues an order under*
7 *paragraph (1), it shall publish the order in the Fed-*
8 *eral Register, give notice of a public hearing on the*
9 *order, and, as soon as practicable, hold such hear-*
10 *ing. Upon completion of the hearing, the Commis-*
11 *sion shall affirm, revise, or rescind, as appropriate,*
12 *the order with respect to which the hearing was*
13 *held.*

14 *(3) The Secretary may not conduct any activity*
15 *which is prohibited by an order of the Commission*
16 *in effect under this subsection and shall take such*
17 *actions as may be required by an order in effect*
18 *under this subsection.*

19 *(i) There is authorized to be appropriated to the*
20 *Secretary to carry out this section—*

21 *(1) \$102,000,000 for the fiscal year ending*
22 *September 30, 1981, and*

23 *(2) for subsequent fiscal years, such sums*
24 *as may be authorized by legislation enacted*
25 *after the date of the enactment of this Act.*

1 (j) *The authority of the Secretary to enter into*
2 *contracts under this section shall be effective for*
3 *any fiscal year only to such extent or in such*
4 *amounts as are provided in advance by appropri-*
5 *ation Acts.*

6 (k) *The Secretary, in consultation with the*
7 *Commission, shall make an annual report to the*
8 *Congress on the program. Each report shall*
9 *include—*

10 (1) *a description of the activities undertak-*
11 *en and the costs incurred in the program in*
12 *the period reported on,*

13 (2) *the activities proposed to be undertaken*
14 *and the costs proposed to be incurred in the*
15 *program in the succeeding period,*

16 (3) *a description of any problems encoun-*
17 *tered in the implementation of the program,*

18 (4) *a description of the hearings held pur-*
19 *suant to subsection (f)(2),*

20 (5) *such separate views and recommenda-*
21 *tions as the Commission may include in the*
22 *report, and*

23 (6) *such other information as the Secre-*
24 *tary determines appropriate.*

1 *LOW LEVEL RADIOACTIVE WASTE STUDY*

2 *SEC. 4. (a) The Secretary shall—*

3 *(1) conduct a study of the advantages and*
4 *disadvantages of (A) using a glass furnace, or*
5 *other appropriate device, to consume and*
6 *reduce the volume of low level radioactive*
7 *waste while at the same time appropriately*
8 *containing such waste; (B) locating any such*
9 *device at nuclear powerplants to serve as proc-*
10 *essing facilities of low level radioactive waste*
11 *generated in the regions in which the plants*
12 *are located before the shipment of the waste*
13 *for permanent disposal; (C) using existing un-*
14 *derground caverns produced by nuclear explo-*
15 *sive detonations for the permanent disposal of*
16 *low level radioactive waste; and (D) allowing*
17 *short-lived, low level radioactive waste to be*
18 *held in storage until safe for permanent dispos-*
19 *al as nonradioactive wastes; and*

20 *(2) submit a report by June 1, 1981, con-*
21 *taining the findings, conclusions, and recom-*
22 *mendations resulting from the study required*
23 *by paragraph (1) to the Speaker of the House*
24 *of Representatives and the President pro tem-*
25 *pore of the Senate.*

1 (b) *There is authorized to be appropriated to*
2 *carry out subsection (a) \$2,000,000.*

3 (c) *The authority of the Secretary to enter into*
4 *contracts under this section shall be effective for*
5 *any fiscal year only to such extent or in such*
6 *amounts as are provided in advance by appropri-*
7 *ation Acts.*

8 DEFINITIONS

9 SEC. 5. (a) *For purposes of this Act:*

10 (1) *The term "Secretary" means the Secre-*
11 *tary of Energy.*

12 (2) *The term "Commission" means the Nu-*
13 *clear Regulatory Commission.*

14 (3) *The term "program" means the pro-*
15 *gram authorized by section 3.*

16 (4) *The term "site characterization" means*
17 *exploration and study, both in the laboratory*
18 *and in the field, undertaken to establish the*
19 *geologic conditions of a particular site. Site*
20 *characterization includes borings, surface exca-*
21 *vations, excavations of exploratory shafts, and*
22 *in situ testing needed to determine the suitabil-*
23 *ity of a site for a geologic repository, but does*
24 *not include preliminary borings and geophysi-*

1 *cal testing needed to decide whether site char-*
2 *acterization should be undertaken.*

3 *(b) For purposes of the program only:*

4 *(1) The term "high level radioactive waste"*
5 *means spent nuclear fuel and the highly radio-*
6 *active wastes resulting from the reprocessing*
7 *of spent nuclear fuel. Such term includes both*
8 *liquid wastes which are produced directly in re-*
9 *processing, dry solid material derived from*
10 *such liquid waste, and such other material as*
11 *the Commission designates as high level waste*
12 *for purposes of protecting the public health and*
13 *safety.*

14 *(2) The term "transuranic waste" means*
15 *material contaminated with elements which*
16 *have an atomic number greater than 92, in-*
17 *cluding neptunium, plutonium, americium, and*
18 *curium, which have a half life greater than 5*
19 *years, and which are in concentrations greater*
20 *than 10 nanocuries per gram or in such other*
21 *concentrations as the Commission may pre-*
22 *scribe to protect the public health and safety.*

23 *(3) The term "low level radioactive waste"*
24 *means radioactive waste not classified as high*
25 *level radioactive waste, transuranic waste, or*

- 1 *byproduct material as defined in section 11 e.*
- 2 *(2) of the Atomic Energy Act of 1954.*

96TH CONGRESS
2D SESSION

H. R. 7418

[Report No. 96-1156, Parts I, II, and III]

A BILL

To establish a research, development, and demonstration program for the disposal of radioactive wastes.

MAY 21, 1980

Referred to the Committee on Science and Technology

JULY 2, 1980

Reported with amendments, referred to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce with instructions

JULY 30, 1980

Referral to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce extended

AUGUST 22, 1980

Referral to the Committee on Interior and Insular Affairs extended

AUGUST 27, 1980

Referral to the Committee on Interstate and Foreign Commerce extended

AUGUST 27, 1980

Reported from the Committee on Interior and Insular Affairs with amendments

SEPTEMBER 3, 1980

Reported from the Committee on Interstate and Foreign Commerce with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

M.R. 7418

WM TECHNICAL FILES
CROSS REFERENCE SHEET

See following files also for further info:

410.2 5-29-80 Testimony

"

7-25-80

"

J

410.4 Q. 72-74

Joe

NUCLEAR RESEARCH, DEVELOPMENT AND
DEMONSTRATION ACT OF 1980

SEPTEMBER 4, 1980.—Ordered to be printed

Mr. UDALL, from the Committee on Interior and Insular Affairs,
submitted the following

SUPPLEMENTAL REPORT

[To accompany H.R. 7418]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 7418) to establish a research, development, and demonstration program for the disposal of radioactive wastes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

(1)

120555029836 1 M6
US NRC
NMSS DIV OF WASTE MANAGEMENT
DIVISION DIRECTOR
905 SS
WASHINGTON DC 20555

ROLE OF THE STATES

This bill does not contain adequate provisions guaranteeing the States will fully participate with the Federal Government in selecting and licensing nuclear waste disposal sites.

Congressman Kostmayer proposed in the Interior Committee, and will do so again on the floor, language requiring both Houses of Congress to override a State's objections to a waste site within its borders. The amendment, which failed by a vote of 21 to 20, would allow an affected State to petition the Congress to block the decision of DOE and the President to proceed with licensing of a waste site. The Federal Government would then have the burden of demonstrating why the State's objections should be overridden, which would require a concurrent resolution of disapproval by Congress. The right of Congress to prevail in the national interest would be preserved.

The threat of a "State Veto" would help to insure that the DOE would aggressively enlist the support and cooperation of the States. This in turn would help to insure the technical soundness of the siting proposal and the political support necessary for its implementation.

This is not a case of the Congress, through a legislative veto, overturning an agency's rules and regulations. We are talking here about one (1) licensing project sometime near the end of the decade involving the permanent disposal of intensely radioactive waste for thousands of years.

Instead, the Committee adopted a weakened amendment upholding a State's objections to selection of a waste site only if approved by at least one House. If a State could not convince one House of Congress that its objections to a waste site were legitimate, the project would proceed over the State's objections.

We also expect that when the bill is considered on the floor, amendments strengthening the role of the States even further than the Kostmayer amendment will be offered. For example, many States which have been considered as possible host States for the Nation's first nuclear waste site oppose any Federal role whatsoever, favoring instead an absolute State veto over site selection. In fact, this has been the position of the National Governors Association (NGA) for the past two years.

Together with the detailed procedures for State participation that the bill already contains, the amendment offered by Mr. Kostmayer is the only way to insure that the States' role will be meaningful and constructive, and not perfunctory. By providing the States with true concurrence in key Federal decisions on nuclear waste, and at the

same time preserving the right of Congress to override the State, the proper balance between Federal and State concerns will be maintained.

PETER H. KOSTMAYER.
JIM SANTINI.
EDWARD J. MARKEY.
JERRY HUCKABY.
PAT WILLIAMS.
BALTAZAR CORRADA.
BRUCE F. VENTO.
MICKEY EDWARDS.
RON MARLENEE.
DAN MARRIOTT.
JAMES WEAVER.
NICK JOE RAHALL II.
RAY KOGOVSEK.
JOHN SEIBERLING.
GEORGE MILLER.
ROBERT W. KASTENMEIER.
BOB WHITTAKER.

PROGRAMMATIC IMPACTS OF H.R. 7418

As Approved by the House Interior Committee

August 22, 1980

Summary of Impacts

With the exception of minor additional requirements for NRC consultation and comments, the provisions of this Bill are generally consistent with NRC's existing program for waste management regulatory development.

Staff expects little difficulty at this point in meeting the June 31, 1981, deadline for promulgation of regulatory standards and requirements, although the requirement for a determination on a construction authorization application within four years of receipt may prove more difficult than is now anticipated.

Outline of Principal Provisions Affecting NRC --

I. Site Recommendation

- A. By December 31, 1985, the Secretary of Energy shall identify and recommend to Congress four potential repository sites suitable for licensing and located, to the maximum extent practicable, in four different geologic media. [Sec. 103(a)(1)]
- B. After identification of the four initial potential repository sites, the Secretary shall continue to conduct screening at other locations to determine the availability of additional potential repository sites. [Sec. 103(a)(3)]
- C. The recommendation of a repository site shall not be considered a major federal action under the National Environmental Policy Act (NEPA).

II. Site Selection Guidelines

- A. No later than February 15, 1981, the Secretary shall, in consultation with the Council on Environmental Quality, the Environmental Protection Agency, the Nuclear Regulatory Commission, and the U.S. Geological Survey, issue guidelines for site qualification. Such guidelines are to be exempt from NEPA, and shall include criteria for the elimination of sites from further consideration taking into account each site's association with valuable natural resources, proximity to populations and nuclear defense-related installations, hydrogeophysics, seismic activity, and other factors the Secretary considers appropriate. [Sec. 103(b)]

III. Site Characterization

- A. Before sinking shafts at any selected repository site, the Secretary shall submit to the Commission for such site:
1. An environmental assessment of non-radiological impacts of planned site characterization activities and a discussion of alternative procedures and any mitigating measures relating to such impacts. [Sec. 103(c)(A)]
 2. A characterization plan including at least:
 - a. a description of the site [Sec. 103(c)(1)(B)]
 - b. a description of the planned site characterization program, including planned excavations, on-site testing, provisions to control adverse safety-related impacts, and investigation activities that may affect the ability of the site to isolate wastes [Sec. 103(c)(1)(B)]

- c. decommissioning plans for the site if it is determined unsuitable for a license application
 - d. criteria and associated data used to arrive at candidate sites
 - e. any other information required by the Commission
3. Proposals describing the possible form or packaging of wastes to be emplaced. [Sec. 103(c)(1)(D)]
- B. In carrying out activities at each site, the Secretary shall consult on a continual basis with the Commission [Sec. 103(c)(1)(B)(2)]
- C. At repository sites for which characterization plans have been submitted, the Secretary shall conduct such tests as may be necessary to provide data sufficient to validate a license application and compliance with NEPA, except that:
- 1. Radioactive wastes shall not be used unless the Commission concurs [Sec. 103(c)(3)(A)] and shall be in the smallest quantity necessary to determine the suitability of the site. [Sec. (c)(3)(B)]
 - 2. In no case shall tests at any site involve an amount of HLW equivalent in curies to more than 10 metric tons of spent fuel [Sec. 103(c)(3)(C)] and all such wastes shall be fully retrievable. [Sec. 103(c)(9)(3)(D)]

- D. The Secretary shall not continue characterization activities at any site if he determines it unsuitable for eventual development as a licensed repository, unless continued activity would provide information that could requalify the site for licensing.

IV. Recommendation of Repository Sites

- A. No later than March 30, 1988, the Secretary shall submit for Presidential review a recommendation of a site. [Sec 103(d)]
Among other things, the report recommending the site shall contain:
 - 1. A final environmental impact statement for the site and repository design, together with comments by the Commission, Department of Interior, Council on Environmental Quality, and Environmental Protection Agency.
 - 2. Preliminary NRC comments on the extent to which the at-depth site characterization analysis and waste form proposal seem sufficient for inclusion in a licensing application.

V. Responsibilities of the Commission

- A. No later than June 30, 1981, the NRC shall promulgate standards and requirements for the licensing and regulation of HLW disposal. Such standards shall be consistent with the applicable general standards of EPA. [Sec. 104(a)(1)]
- B. No later than two years after the date on which an application for construction authorization is submitted to NRC, the Commission shall report to Congress on its proceedings to date. [Sec. 104(b)]
Such report shall include a description of:

1. Major unresolved safety issues, and the Secretary's explanation of design and operating plans for resolving such issues
 2. Matters of contention and Commission actions regarding the application
- C. NRC shall issue a final decision granting or denying an application for construction authorization no later than four years after the date it was submitted. [Sec. 104(c)]

VI. State and Tribal Participation

- A. The Commission shall provide the State Review Board for a proposed repository (and the governing body of any Indian tribe on or adjacent to whose reservation the proposed repository is to be located) timely and complete information regarding determinations or plans made with respect to the siting, development, design, construction, operation, or regulation of the repository. [Sec. 105(f)]
- B. The governing body of any Indian tribe shall be eligible to participate in any licensing proceedings related to repositories to be located on or adjacent to the tribe's reservation. [Sec. 106(c)]