

116TH CONGRESS
1ST SESSION

S. _____

To establish a new organization to manage nuclear waste, provide a consensual process for siting nuclear waste facilities, ensure adequate funding for managing nuclear waste, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. MURKOWSKI (for herself, Mr. ALEXANDER, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To establish a new organization to manage nuclear waste, provide a consensual process for siting nuclear waste facilities, ensure adequate funding for managing nuclear waste, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Nuclear Waste Administration Act of 2019”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FINDINGS, PURPOSES, AND DEFINITIONS

- Sec. 101. Findings.
- Sec. 102. Purposes.
- Sec. 103. Definitions.

TITLE II—NUCLEAR WASTE ADMINISTRATION

- Sec. 201. Establishment.
- Sec. 202. Principal officers.
- Sec. 203. Other officers.
- Sec. 204. Inspector General.
- Sec. 205. Nuclear Waste Oversight Board.
- Sec. 206. Conforming amendments.

TITLE III—FUNCTIONS

- Sec. 301. Transfer of functions.
- Sec. 302. Transfer of contracts.
- Sec. 303. Nuclear waste facilities.
- Sec. 304. Siting nuclear waste facilities.
- Sec. 305. Storage facilities.
- Sec. 306. Repositories.
- Sec. 307. Licensing nuclear waste facilities.
- Sec. 308. Defense waste.
- Sec. 309. Transportation.

TITLE IV—FUNDING AND LEGAL PROCEEDINGS

- Sec. 401. Working Capital Fund.
- Sec. 402. Nuclear Waste Fund.
- Sec. 403. Full cost recovery.
- Sec. 404. Judicial review.
- Sec. 405. Litigation authority.
- Sec. 406. Liabilities.

TITLE V—ADMINISTRATIVE AND SAVINGS PROVISIONS

- Sec. 501. Administrative powers of Administrator.
- Sec. 502. Personnel.
- Sec. 503. Offices.
- Sec. 504. Mission plan.
- Sec. 505. Annual reports.
- Sec. 506. Savings provisions; terminations.
- Sec. 507. Technical assistance in the field of spent fuel storage and disposal.
- Sec. 508. Nuclear Waste Technical Review Board.
- Sec. 509. Repeal of volume limitation.

1 **TITLE I—FINDINGS, PURPOSES,**
 2 **AND DEFINITIONS**

3 **SEC. 101. FINDINGS.**

4 Congress finds that—

1 (1) the Nuclear Waste Policy Act of 1982 (42
2 U.S.C. 10101 et seq.)—

3 (A) made the Federal Government respon-
4 sible for providing for the permanent disposal
5 of nuclear waste;

6 (B) vested the responsibility for siting,
7 constructing, and operating a permanent geo-
8 logic repository for the disposal of nuclear
9 waste in the Secretary of Energy; and

10 (C) required the Secretary to enter into
11 binding contracts with the generators and own-
12 ers of nuclear waste pursuant to which the Sec-
13 retary is obligated to have begun disposing of
14 the nuclear waste in a repository not later than
15 January 31, 1998;

16 (2) in 1987, Congress designated the Yucca
17 Mountain site as the site for the repository and pre-
18 cluded consideration of other sites;

19 (3) in 2002, the Secretary found the Yucca
20 Mountain site to be suitable for the development of
21 the repository, the President recommended the site
22 to Congress, and Congress enacted a joint resolution
23 approving the Yucca Mountain site for the reposi-
24 tory;

1 (4) in 2008, the Secretary applied to the Nu-
2 clear Regulatory Commission for a license to con-
3 struct a repository at the Yucca Mountain site;

4 (5) in 2009, the Secretary found the Yucca
5 Mountain site to be unworkable and abandoned ef-
6 forts to construct a repository;

7 (6) in 2010, the Secretary, at the request of the
8 President, established the Blue Ribbon Commission
9 on America's Nuclear Future to conduct a com-
10 prehensive review of the nuclear waste management
11 policies of the United States and recommend a new
12 strategy for managing the nuclear waste of the
13 United States; and

14 (7) the Blue Ribbon Commission has rec-
15 ommended that Congress establish a new nuclear
16 waste management organization and adopt a new
17 consensual approach to siting nuclear waste manage-
18 ment facilities.

19 **SEC. 102. PURPOSES.**

20 The purposes of this Act are—

21 (1) to establish a new nuclear waste manage-
22 ment organization;

23 (2) to transfer to the new organization the
24 functions of the Secretary relating to the siting, li-

1 censing, construction, and operation of nuclear waste
2 management facilities;

3 (3) to establish a new consensual process for
4 the siting of nuclear waste management facilities;

5 (4) to provide for centralized storage of nuclear
6 waste pending completion of a repository; and

7 (5) to ensure that—

8 (A) the generators and owners of nuclear
9 waste pay the full cost of the program; and

10 (B) funds collected for the program are
11 used for that purpose.

12 **SEC. 103. DEFINITIONS.**

13 In this Act:

14 (1) **ADMINISTRATION.**—The term “Administra-
15 tion” means the Nuclear Waste Administration es-
16 tablished by section 201.

17 (2) **ADMINISTRATOR.**—The term “Adminis-
18 trator” means the Administrator of the Administra-
19 tion.

20 (3) **AFFECTED INDIAN TRIBE.**—The term “af-
21 fected Indian Tribe” means any Indian Tribe—

22 (A) within the reservation boundaries of
23 which a repository or storage facility is pro-
24 posed to be located; or

1 (B) that has federally defined possessory
2 or usage rights to other land outside of the res-
3 ervation boundaries that—

4 (i) arise out of a congressionally rati-
5 fied treaty; and

6 (ii) the Secretary of the Interior finds,
7 on petition of an appropriate governmental
8 official of the Indian Tribe, may be sub-
9 stantially and adversely affected by the re-
10 pository or storage facility.

11 (4) AFFECTED UNIT OF GENERAL LOCAL GOV-
12 ERNMENT.—

13 (A) IN GENERAL.—The term “affected
14 unit of general local government” means the
15 unit of general local government that has juris-
16 diction over the site of a repository or storage
17 facility.

18 (B) INCLUSION.—The term “affected unit
19 of general local government” may include, at
20 the discretion of the Administrator, units of
21 general local government that are contiguous
22 with the unit that has jurisdiction over the site
23 of a repository or storage facility.

24 (5) CIVILIAN NUCLEAR POWER REACTOR.—The
25 term “civilian nuclear power reactor” has the mean-

1 ing given the term in section 2 of the Nuclear Waste
2 Policy Act of 1982 (42 U.S.C. 10101).

3 (6) COMMISSION.—The term “Commission”
4 means the Nuclear Regulatory Commission.

5 (7) COMPLIANCE AGREEMENT.—The term
6 “compliance agreement” means a legally enforceable
7 agreement between the Secretary and a Federal or
8 State agency requiring the removal of defense waste
9 from a Department of Energy facility.

10 (8) CONTRACT HOLDER.—The term “contract
11 holder” means any person who—

12 (A) generates or holds title to nuclear
13 waste generated at a civilian nuclear power re-
14 actor; and

15 (B) has entered into a contract for the dis-
16 posal of nuclear waste under section 302(a) of
17 the Nuclear Waste Policy Act of 1982 (42
18 U.S.C. 10222(a)) or this Act.

19 (9) DEFENSE WASTE.—The term “defense
20 waste” means nuclear waste generated by an atomic
21 energy defense activity (as defined in section 2 of
22 the Nuclear Waste Policy Act of 1982 (42 U.S.C.
23 10101)).

1 (10) DISPOSAL.—The term “disposal” has the
2 meaning given the term in section 2 of the Nuclear
3 Waste Policy Act of 1982 (42 U.S.C. 10101).

4 (11) EMERGENCY DELIVERY.—

5 (A) IN GENERAL.—The term “emergency
6 delivery” means nuclear waste accepted by the
7 Administrator for storage prior to the date pro-
8 vided in the contractual delivery commitment
9 schedule pursuant to article V.D. of the stand-
10 ard contract for disposal of nuclear waste codi-
11 fied in section 961.11 of title 10, Code of Fed-
12 eral Regulations.

13 (B) INCLUSION.—The term “emergency
14 delivery” may include, at the discretion of the
15 Administrator, defense waste that is required to
16 be removed from a Department of Energy facil-
17 ity—

18 (i) pursuant to a compliance agree-
19 ment; or

20 (ii) to eliminate an imminent and seri-
21 ous threat to the health and safety of the
22 public or the common defense and security.

23 (12) HIGH-LEVEL RADIOACTIVE WASTE.—The
24 term “high-level radioactive waste” has the meaning

1 given the term in section 2 of the Nuclear Waste
2 Policy Act of 1982 (42 U.S.C. 10101).

3 (13) INDIAN TRIBE.—The term “Indian Tribe”
4 has the meaning given the term “Indian tribe” in
5 section 2 of the Nuclear Waste Policy Act of 1982
6 (42 U.S.C. 10101).

7 (14) MISSION PLAN.—The term “mission plan”
8 means the comprehensive report required under sec-
9 tion 504.

10 (15) NONPRIORITY WASTE.—The term “nonpri-
11 ority waste” means nuclear waste that does not
12 qualify as priority waste.

13 (16) NUCLEAR WASTE.—The term “nuclear
14 waste” means—

15 (A) spent nuclear fuel; and

16 (B) high-level radioactive waste.

17 (17) NUCLEAR WASTE ACTIVITIES.—The term
18 “nuclear waste activities” has the meaning given the
19 term in section 11 of the Atomic Energy Act of
20 1954 (42 U.S.C. 2014).

21 (18) NUCLEAR WASTE FACILITY.—The term
22 “nuclear waste facility” means—

23 (A) a repository; and

24 (B) a storage facility.

1 (19) NUCLEAR WASTE FUND.—The term “Nu-
2 clear Waste Fund” means the separate fund in the
3 Treasury established by section 302(e) of the Nu-
4 clear Waste Policy Act of 1982 (42 U.S.C.
5 10222(c)).

6 (20) OVERSIGHT BOARD.—The term “Oversight
7 Board” means the Nuclear Waste Oversight Board
8 established by section 205.

9 (21) PILOT FACILITY.—The term “pilot facil-
10 ity” means the storage facility for priority waste au-
11 thorized by section 303(1).

12 (22) PRIORITY WASTE.—The term “priority
13 waste” means—

14 (A) any emergency delivery; and

15 (B) spent nuclear fuel removed from a ci-
16 vilian nuclear power reactor that has been per-
17 manently shut down.

18 (23) PUBLIC LIABILITY.—The term “public li-
19 ability” has the meaning given the term in section
20 11 of the Atomic Energy Act of 1954 (42 U.S.C.
21 2014).

22 (24) REPOSITORY.—The term “repository” has
23 the meaning given the term in section 2 of the Nu-
24 clear Waste Policy Act of 1982 (42 U.S.C. 10101).

1 (25) RESERVATION.—The term “reservation”
2 has the meaning given the term in section 2 of the
3 Nuclear Waste Policy Act of 1982 (42 U.S.C.
4 10101).

5 (26) SECRETARY.—The term “Secretary”
6 means the Secretary of Energy.

7 (27) SITE CHARACTERIZATION.—

8 (A) IN GENERAL.—The term “site charac-
9 terization” means the site-specific activities that
10 the Administrator determines necessary to sup-
11 port an application to the Commission for a li-
12 cense to construct a repository or storage facil-
13 ity under section 305(c).

14 (B) REPOSITORY SITE CHARACTERIZA-
15 TION.—In the case of a site for a repository,
16 the term “site characterization” may include
17 borings, surface excavations, excavations of ex-
18 ploratory shafts, limited subsurface lateral exca-
19 vations and borings, and in situ testing needed
20 to evaluate the suitability of a candidate site for
21 the location of a repository.

22 (C) STORAGE SITE CHARACTERIZATION.—
23 In the case of a site for an above-ground stor-
24 age facility, the term “site characterization”
25 does not include subsurface borings and exca-

1 vations that the Administrator determines are
2 uniquely associated with underground disposal
3 and unnecessary to evaluate the suitability of a
4 candidate site for the location of an above-
5 ground storage facility.

6 (D) PRELIMINARY ACTIVITIES.—The term
7 “site characterization” does not include prelimi-
8 nary borings and geophysical testing needed to
9 assess whether site characterization should be
10 undertaken.

11 (28) SPENT NUCLEAR FUEL.—The term “spent
12 nuclear fuel” has the meaning given the term in sec-
13 tion 2 of the Nuclear Waste Policy Act of 1982 (42
14 U.S.C. 10101).

15 (29) STORAGE.—The term “storage” means the
16 temporary retention of nuclear waste pending the
17 disposal of the nuclear waste in a repository.

18 (30) STORAGE FACILITY.—The term “storage
19 facility” means a facility for the consolidated storage
20 of nuclear waste from multiple contract holders or
21 the Secretary pending the disposal of the spent nu-
22 clear fuel in a repository.

23 (31) UNIT OF GENERAL LOCAL GOVERN-
24 MENT.—The term “unit of general local govern-
25 ment” has the meaning given the term in section 2

1 of the Nuclear Waste Policy Act of 1982 (42 U.S.C.
2 10101).

3 (32) WORKING CAPITAL FUND.—The term
4 “Working Capital Fund” means the Nuclear Waste
5 Administration Working Capital Fund established by
6 section 401.

7 **TITLE II—NUCLEAR WASTE** 8 **ADMINISTRATION**

9 **SEC. 201. ESTABLISHMENT.**

10 (a) ESTABLISHMENT.—There is established an inde-
11 pendent agency in the executive branch to be known as
12 the “Nuclear Waste Administration”.

13 (b) PURPOSE.—The purposes of the Administration
14 are—

15 (1) to discharge the responsibility of the Fed-
16 eral Government to provide for the permanent dis-
17 posal of nuclear waste;

18 (2) to protect the public health and safety and
19 the environment in discharging the responsibility
20 under paragraph (1); and

21 (3) to ensure that the costs of activities under
22 paragraph (1) are borne by the persons responsible
23 for generating the nuclear waste.

24 **SEC. 202. PRINCIPAL OFFICERS.**

25 (a) ADMINISTRATOR.—

1 (1) APPOINTMENT.—There shall be at the head
2 of the Administration a Nuclear Waste Adminis-
3 trator, who shall be appointed by the President, by
4 and with the advice and consent of the Senate, from
5 among persons who are, by reason of education, ex-
6 perience, and attainments, exceptionally well quali-
7 fied to perform the duties of the Administrator.

8 (2) TERM.—The term of service of the Admin-
9 istrator shall be 6 years.

10 (3) REAPPOINTMENT.—An Administrator may
11 serve more than 1 term.

12 (4) FUNCTIONS AND POWERS.—The functions
13 and powers of the Administration shall be vested in
14 and exercised by the Administrator.

15 (5) SUPERVISION AND DIRECTION.—The Ad-
16 ministration shall be administrated under the super-
17 vision and direction of the Administrator, who shall
18 be responsible for the efficient and coordinated man-
19 agement of the Administration.

20 (6) DELEGATION.—The Administrator may,
21 from time to time and to the extent permitted by
22 law, delegate such functions of the Administrator as
23 the Administrator determines to be appropriate.

1 (7) COMPENSATION.—The President shall fix
2 the total annual compensation of the Administrator
3 in an amount that—

4 (A) is sufficient to recruit and retain a
5 person of demonstrated ability and achievement
6 in managing large corporate or governmental
7 organizations; and

8 (B) does not exceed the total annual com-
9 pensation paid to the Chief Executive Officer of
10 the Tennessee Valley Authority.

11 (b) DEPUTY ADMINISTRATOR.—

12 (1) APPOINTMENT.—There shall be in the Ad-
13 ministration a Deputy Administrator, who shall be
14 appointed by the President, by and with the advice
15 and consent of the Senate, from among persons who
16 are, by reason of education, experience, and attain-
17 ments, exceptionally well qualified to perform the
18 duties of the Deputy Administrator.

19 (2) TERM.—The term of service of the Deputy
20 Administrator shall be 6 years.

21 (3) REAPPOINTMENT.—A Deputy Adminis-
22 trator may serve more than 1 term.

23 (4) DUTIES.—The Deputy Administrator
24 shall—

1 (A) perform such functions as the Admin-
2 istrator shall from time to time assign or dele-
3 gate; and

4 (B) act as the Administrator during the
5 absence or disability of the Administrator or in
6 the event of a vacancy in the office of the Ad-
7 ministrator.

8 (5) COMPENSATION.—The President shall fix
9 the total annual compensation of the Deputy Admin-
10 istrator in an amount that—

11 (A) is sufficient to recruit and retain a
12 person of demonstrated ability and achievement
13 in managing large corporate or governmental
14 organizations; and

15 (B) does not exceed the total annual com-
16 pensation paid to the Administrator.

17 **SEC. 203. OTHER OFFICERS.**

18 (a) ESTABLISHMENT.—There shall be in the Admin-
19 istration—

20 (1) a General Counsel;

21 (2) a Chief Financial Officer, who shall be ap-
22 pointed from among individuals who possess dem-
23 onstrated ability in general management of, and
24 knowledge of and extensive practical experience in,

1 financial management practices in large govern-
2 mental or business entities; and

3 (3) not more than 3 Assistant Administrators,
4 who shall perform such functions as the Adminis-
5 trator shall specify from time to time.

6 (b) APPOINTMENT.—Officers appointed under this
7 section shall—

8 (1) be appointed by the Administrator;

9 (2) be considered career appointees; and

10 (3) be subject to section 161 d. of the Atomic
11 Energy Act of 1954 (42 U.S.C. 2201(d)).

12 (c) ORDER OF SUCCESSION.—The Administrator
13 may designate the order in which the officers appointed
14 pursuant to this section shall act for, and perform the
15 functions of, the Administrator during the absence or dis-
16 ability of the Administrator and the Deputy Administrator
17 or in the event of vacancies in the offices of the Adminis-
18 trator and the Deputy Administrator.

19 **SEC. 204. INSPECTOR GENERAL.**

20 There shall be in the Administration an Inspector
21 General, who shall be appointed by the President, by and
22 with the advice and consent of the Senate, in accordance
23 with section 3 of the Inspector General Act of 1978 (5
24 U.S.C. App.).

1 **SEC. 205. NUCLEAR WASTE OVERSIGHT BOARD.**

2 (a) **ESTABLISHMENT.**—There is established an inde-
3 pendent establishment in the executive branch, to be
4 known as the “Nuclear Waste Oversight Board”—

5 (1) to oversee—

6 (A) the receipt, disbursement, and use of
7 funds in the Working Capital Fund and the
8 Nuclear Waste Fund;

9 (B) the adequacy of the fees collected
10 under section 302(a) of the Nuclear Waste Pol-
11 icy Act of 1982 (42 U.S.C. 10222(a)) to ensure
12 the full recovery of the costs incurred by the
13 Federal Government in carrying out activities
14 under this Act and the Nuclear Waste Policy
15 Act of 1982 (42 U.S.C. 10101 et seq.); and

16 (C) the performance of the Administrator
17 in—

18 (i) fulfilling contracts with contract
19 holders; and

20 (ii) complying with the mission plan;

21 and

22 (2) to review the annual management reports
23 and financial statements submitted by the Adminis-
24 trator under section 505.

25 (b) **MEMBERS.**—The Oversight Board shall be com-
26 posed of 5 members appointed by the President, by and

1 with the advice and consent of the Senate, from among
2 prominent United States citizens of integrity and reputa-
3 tion who, based on the training, experience, and attain-
4 ments of the individuals, are exceptionally well qualified
5 to evaluate and oversee the administration of this Act.

6 (c) POLITICAL AFFILIATION.—Not more than 3
7 members of the Oversight Board may be members of the
8 same political party.

9 (d) TERMS.—

10 (1) IN GENERAL.—Except as provided in para-
11 graphs (2) and (3), each member shall serve a term
12 of 5 years.

13 (2) INITIAL TERMS.—

14 (A) STARTING DATE.—The term of the
15 first 5 members appointed to the Oversight
16 Board shall be treated as having started on the
17 first July 1 after the date of enactment of this
18 Act.

19 (B) STAGGERED TERM.—Of the 5 mem-
20 bers first appointed to the Board under sub-
21 paragraph (A)—

22 (i) 1 shall be appointed for a term of
23 1 year;

24 (ii) 1 shall be appointed for a term of
25 2 years;

1 (iii) 1 shall be appointed for a term of
2 3 years;

3 (iv) 1 shall be appointed for a term of
4 4 years; and

5 (v) 1 shall be appointed for a term of
6 5 years.

7 (3) EXTENSION OF TERM.—

8 (A) IN GENERAL.—Subject to subpara-
9 graph (B), a member of the Oversight Board
10 may continue to serve after the expiration of
11 the term of the member until a successor is ap-
12 pointed, has been confirmed, and has taken the
13 oath of office.

14 (B) LIMITATION.—No member of the
15 Oversight Board may serve beyond the end of
16 the session of the Congress in which the term
17 of the member expires.

18 (4) VACANCIES.—A member of the Oversight
19 Board appointed to fill a vacancy occurring before
20 the expiration of the term for which the predecessor
21 of the member was appointed shall be appointed only
22 for the remainder of the term of the predecessor.

23 (5) REAPPOINTMENT.—A member of the Over-
24 sight Board may be reappointed for an additional

1 term by the President, by and with the advice and
2 consent of the Senate.

3 (e) REMOVAL.—The President may remove any mem-
4 ber of the Oversight Board for inefficiency, neglect of
5 duty, or malfeasance in office.

6 (f) CHAIR.—The President shall designate 1 member
7 of the Oversight Board as Chair of the Oversight Board.

8 (g) ACTING CHAIR.—The Chair designated under
9 subsection (f) may from time to time designate any other
10 member of the Oversight Board to act in the place and
11 stead of the Chair during the absence.

12 (h) QUORUM.—3 members of the Oversight Board
13 shall constitute a quorum for the purpose of doing busi-
14 ness.

15 (i) EQUAL RESPONSIBILITY AND AUTHORITY.—Each
16 member of the Oversight Board, including the Chair, shall
17 have—

18 (1) equal responsibility and authority in all de-
19 cisions and actions of the Oversight Board;

20 (2) full access to all information relating to the
21 performance of the duties and responsibilities of the
22 member; and

23 (3) 1 vote.

24 (j) CONFLICT OF INTEREST.—No member of the
25 Oversight Board shall—

1 (1) be employed by the Administration or the
2 Department of Energy; or

3 (2) have a financial interest in (including an
4 employment relationship with) any contract holder
5 or contractor of the Administration.

6 (k) COMPENSATION.—

7 (1) IN GENERAL.—Each member of the Over-
8 sight Board shall be paid at the rate of pay payable
9 for level III of the Executive Schedule in subchapter
10 II of chapter 53 of title 5, United States Code, for
11 each day (including travel time) the member is en-
12 gaged in the work of the Oversight Board.

13 (2) TRAVEL EXPENSES.—Each member of the
14 Oversight Board may receive travel expenses, includ-
15 ing per diem in lieu of subsistence, in accordance
16 with sections 5702 and 5703 of title 5, United
17 States Code.

18 (l) MEETINGS.—The Oversight Board shall meet at
19 least once every 90 days.

20 (m) FUNCTIONS.—The Oversight Board shall—

21 (1) review, on an ongoing basis—

22 (A) the progress made by the Adminis-
23 trator in siting, constructing, and operating nu-
24 clear waste facilities under this Act;

1 (B) the use of funds made available to the
2 Administrator under this Act;

3 (C) whether the fees collected from con-
4 tract holders are sufficient to ensure full cost
5 recovery or require adjustment; and

6 (D) the liability of the United States to
7 contract holders;

8 (2) identify any problems that may impede the
9 implementation of this Act; and

10 (3) recommend to the Administrator, the Presi-
11 dent, or Congress, as appropriate, any actions that
12 may be needed to ensure the implementation of this
13 Act.

14 (n) REPORTS.—The Oversight Board shall report the
15 findings, conclusions, and recommendations of the Over-
16 sight Board to the Administrator, the President, and Con-
17 gress not less than once per year.

18 (o) RESPONSE BY THE ADMINISTRATOR.—Not later
19 than 45 days after the date on which the Oversight Board
20 submits a report to the Administrator under subsection
21 (n), the Administrator shall transmit to the Oversight
22 Board, in writing—

23 (1) a statement of whether the Administrator
24 accepts or rejects, in whole or in part, the rec-
25 ommendations submitted by the Oversight Board;

1 (2) a description of the actions taken in re-
2 sponse to the recommendations (or an explanation of
3 the reasons for not acting on the recommendations);
4 and

5 (3) the views of the Administrator on the rec-
6 ommendations.

7 (p) PUBLIC AVAILABILITY.—The Administrator shall
8 make all reports under subsection (n) and all responses
9 from the Administrator under subsection (o) available to
10 the public.

11 (q) EXECUTIVE SECRETARY.—The Oversight Board
12 shall appoint and fix the compensation of an Executive
13 Secretary, who shall—

14 (1) assemble and maintain the reports, records,
15 and other papers of the Oversight Board; and

16 (2) perform such functions as the Oversight
17 Board shall from time to time assign or delegate to
18 the Executive Secretary.

19 (r) ADDITIONAL STAFF.—

20 (1) APPOINTMENT.—The Oversight Board may
21 appoint and fix the compensation of such additional
22 clerical and professional staff as may be necessary to
23 discharge the responsibilities of the Oversight Board.

1 (2) LIMITATION.—The Oversight Board may
2 appoint not more than 10 clerical or professional
3 staff members under this subsection.

4 (3) SUPERVISION AND DIRECTION.—The cler-
5 ical and professional staff of the Oversight Board
6 shall be under the supervision and direction of the
7 Executive Secretary.

8 (s) STAFF COMPENSATION.—

9 (1) CLERICAL STAFF.—Clerical staff shall be
10 appointed subject to the provisions of title 5, United
11 States Code, governing appointments in the competi-
12 tive service, and shall be paid in accordance with the
13 provisions of chapter 51 and subchapter III of chap-
14 ter 53 of such title relating to classification and
15 General Schedule rates.

16 (2) PROFESSIONAL STAFF.—Professional staff
17 members may be appointed without regard to the
18 provisions of title 5, United States Code, governing
19 appointments in the competitive service, and may be
20 paid without regard to the provisions of chapter 51
21 and subchapter III of chapter 53 of that title relat-
22 ing to classification and General Schedule pay rates,
23 except that no individual so appointed may receive
24 pay in excess of the maximum rate of pay under the
25 General Schedule.

1 (t) ACCESS TO INFORMATION.—

2 (1) DUTY TO INFORM.—The Administrator
3 shall keep the Oversight Board fully and currently
4 informed on all of the activities of the Administra-
5 tion.

6 (2) PRODUCTION OF DOCUMENTS.—The Ad-
7 ministrator shall provide the Oversight Board with
8 any records, files, papers, data, or information re-
9 quested by the Oversight Board.

10 (u) SUPPORT SERVICES.—To the extent permitted by
11 law and requested by the Oversight Board, the Adminis-
12 trator of General Services shall provide the Oversight
13 Board with necessary administrative services, facilities,
14 and support on a reimbursable basis.

15 (v) HEALTH, SAFETY, AND ENVIRONMENTAL REGU-
16 LATION.—Nothing in this section gives the Oversight
17 Board jurisdiction to regulate the activities of the Admin-
18 istration to protect the health and safety of the public or
19 the environment.

20 (w) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated to the Oversight Board
22 from amounts in the Nuclear Waste Fund such sums as
23 are necessary to carry out this section.

1 **SEC. 206. CONFORMING AMENDMENTS.**

2 (a) Section 901(b)(2) of title 31, United States Code,
3 is amended by adding at the end the following:

4 “(H) The Nuclear Waste Administration.”.

5 (b) Section 12 of the Inspector General Act of 1978
6 (5 U.S.C. App.) is amended—

7 (1) in paragraph (1), by inserting “the Admini-
8 strator of the Nuclear Waste Administration;” after
9 “Export-Import Bank;”; and

10 (2) in paragraph (2), by inserting “the Nuclear
11 Waste Administration,” after “Export-Import
12 Bank,”.

13 **TITLE III—FUNCTIONS**

14 **SEC. 301. TRANSFER OF FUNCTIONS.**

15 There are transferred to and vested in the Adminis-
16 trator all functions vested in the Secretary by the Nuclear
17 Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) relat-
18 ing to—

19 (1) the construction and operation of a reposi-
20 tory;

21 (2) entering into and performing contracts for
22 the disposal of nuclear waste under section 302 of
23 that Act (42 U.S.C. 10222);

24 (3) the collection, adjustment, deposition, and
25 use of fees to offset expenditures for the manage-
26 ment of nuclear waste; and

1 (4) the issuance of obligations under section
2 302(e)(5) of the Nuclear Waste Policy Act of 1982
3 (42 U.S.C. 10222(e)(5)).

4 **SEC. 302. TRANSFER OF CONTRACTS.**

5 Each contract for the disposal of nuclear waste en-
6 tered into by the Secretary before the date of enactment
7 of this Act shall continue in effect according to the terms
8 of the contract with the Administrator substituted for the
9 Secretary.

10 **SEC. 303. NUCLEAR WASTE FACILITIES.**

11 The Administrator shall site, construct, and oper-
12 ate—

13 (1) a pilot facility for the storage of priority
14 waste;

15 (2) 1 or more additional storage facilities for
16 the storage of nonpriority nuclear waste; and

17 (3) 1 or more repositories for the permanent
18 disposal of nuclear waste.

19 **SEC. 304. SITING NUCLEAR WASTE FACILITIES.**

20 In siting nuclear waste facilities under this Act or
21 performing any function transferred under section 301(1),
22 the Administrator shall employ a process that—

23 (1) allows affected communities to decide
24 whether, and on what terms, the affected commu-
25 nities will host a nuclear waste facility;

1 (2) is open to the public and allows interested
2 persons to be heard in a meaningful way;

3 (3) is flexible and allows decisions to be re-
4 viewed and modified in response to new information
5 or new technical, social, or political developments;
6 and

7 (4) is based on sound science and meets public
8 health, safety, and environmental standards.

9 **SEC. 305. STORAGE FACILITIES.**

10 (a) ESTABLISHMENT OF STORAGE FACILITY PRO-
11 GRAM.—The Administrator shall establish a storage pro-
12 gram to license, construct, and operate through 1 or more
13 non-Federal sector partners, 1 or more government or
14 non-federally owned storage facilities to provide interim
15 storage, as needed, for spent nuclear fuel and high-level
16 radioactive waste.

17 (b) PILOT PROGRAM FOR THE STORAGE OF PRI-
18 ORITY WASTE.—

19 (1) REQUEST FOR PROPOSALS.—

20 (A) IN GENERAL.—Not later than 180
21 days after the date of enactment of this Act,
22 the Administrator shall issue a request for pro-
23 posals for cooperative agreements for a pilot
24 program for the storage of priority waste—

1 (i) to obtain any license from the Nu-
2 clear Regulatory Commission and any
3 other Federal or State entity that is nec-
4 essary for the construction of 1 or more
5 storage facilities;

6 (ii) to demonstrate the safe transpor-
7 tation of spent nuclear fuel and high-level
8 radioactive waste, as applicable; and

9 (iii) to demonstrate the safe storage
10 of spent nuclear and high-level radioactive
11 waste, as applicable, at the 1 or more stor-
12 age facilities, pending the construction and
13 operation of deep geologic disposal capacity
14 for the permanent disposal of the spent
15 nuclear fuel or high-level radioactive waste.

16 (B) GUIDELINES.—

17 (i) IN GENERAL.—The request for
18 proposals under subparagraph (A) shall in-
19 clude general guidelines for the consider-
20 ation of storage facilities consistent with
21 each requirement of section 112(a) of the
22 Nuclear Waste Policy Act of 1982 (42
23 U.S.C. 10132(a)), that the Administrator
24 determines to be applicable to above-
25 ground storage.

1 disposal of nuclear waste, including co-
2 location with a proposed permanent
3 geological repository; and

4 (II) minimize the impacts of
5 transportation and handling of nu-
6 clear waste;

7 (vi) potential conflicts with—

8 (I) a compliance agreement re-
9 quiring removal of nuclear waste from
10 a site; or

11 (II) a statutory prohibition on
12 the storage or disposal of nuclear
13 waste at a site; and

14 (vii) any other criteria, including cri-
15 teria relating to technical or safety speci-
16 fications, that the Administrator deter-
17 mines to be appropriate.

18 (B) PREFERENCE FOR CO-LOCATED RE-
19 POSITORY AND STORAGE FACILITY.—In review-
20 ing proposals submitted under paragraph (1),
21 the Administrator shall give preference to sites
22 proposed to be co-located with—

23 (i) additional storage facilities for
24 nonpriority waste; or

25 (ii) a repository.

1 (3) SITE CHARACTERIZATION.—

2 (A) DETERMINATION OF SUITABILITY.—

3 After conducting a review under paragraph (2)
4 and any additional site investigation that the
5 Administrator determines to be appropriate, the
6 Administrator shall determine whether the site
7 is suitable for site characterization.

8 (B) SELECTION OF SITE FOR CHARACTER-

9 IZATION.—From the sites determined to be
10 suitable for site characterization under subpara-
11 graph (A), the Administrator shall select at
12 least 1 site for site characterization, giving pri-
13 ority to sites that have been proposed to be co-
14 located with a permanent geological repository,
15 after—

16 (i) holding public hearings in the vi-
17 cinity of each site and at least 1 other lo-
18 cation within the State in which the site is
19 located; and

20 (ii) notifying Congress.

21 (C) COOPERATIVE AGREEMENT.—On selec-

22 tion of a site for characterization under sub-
23 paragraph (B), the Administrator may enter
24 into a cooperative agreement, subject to section
25 401(e), with the State, affected units of general

1 local government, and affected Indian Tribes,
2 as applicable, that includes—

3 (i) terms of financial and technical as-
4 sistance to enable each applicable unit of
5 government to monitor, review, evaluate,
6 comment on, obtain information on, make
7 recommendations on, and mitigate any im-
8 pacts from, site characterization activities;
9 and

10 (ii) any other term that the Adminis-
11 trator determines to be appropriate.

12 (4) SITE SELECTION.—

13 (A) IN GENERAL.—Subject to subpara-
14 graphs (B) and (C), on completion of site char-
15 acterization activities, the Administrator shall—

16 (i) make a final determination for
17 each site of whether the site is suitable for
18 development as a storage facility; and

19 (ii) select 1 or more suitable sites for
20 storage facilities.

21 (B) CONSENT-BASED APPROVAL.—Before
22 selecting a site for developing a storage facility,
23 the Administrator shall enter into a consent
24 agreement, subject to section 401(e), to host
25 the facility with—

1 (i) the Governor or other authorized
2 official of the State in which the site is
3 proposed to be located;

4 (ii) each affected unit of general local
5 government; and

6 (iii) any affected Indian Tribe.

7 (C) BINDING EFFECT.—The consent
8 agreement—

9 (i) shall be binding on the parties,
10 subject to section 401(e); and

11 (ii) shall not be amended or revoked
12 except by mutual agreement of the parties.

13 (5) SUBMISSION OF PROGRAM PLAN.—Not less
14 than 30 days before selecting a site for development
15 of a storage facility under paragraph (4), the Ad-
16 ministrators shall submit to Congress a program plan
17 that includes—

18 (A) a list of the 1 or more sites the Ad-
19 ministrators proposes to select for a storage fa-
20 cility;

21 (B) an estimate of the cost of licensing,
22 constructing, and operating each storage facil-
23 ity, including the transportation costs, on an
24 annual basis, over the expected lifetime of the
25 storage facility;

- 1 (C) a schedule for—
- 2 (i) obtaining from the Nuclear Regu-
- 3 latory Commission any license necessary to
- 4 construct and operate the storage facility;
- 5 (ii) constructing the storage facility;
- 6 (iii) transporting spent fuel to the
- 7 storage facility; and
- 8 (iv) removing the spent fuel from, and
- 9 decommissioning of, the storage facility;
- 10 (D) an estimate of the cost of any financial
- 11 assistance, compensation, or incentives proposed
- 12 to be paid to the host State, Indian Tribe, or
- 13 unit of local government;
- 14 (E) an estimate of any future reductions in
- 15 the damages expected to be paid by the United
- 16 States for the delay of the Department of En-
- 17 ergy in accepting spent fuel expected to result
- 18 from the storage facilities developed under this
- 19 section; and
- 20 (F) recommendations for any additional
- 21 legislation needed to authorize and implement
- 22 the program.
- 23 (6) SUBMISSION OF LICENSE APPLICATION.—
- 24 On selection of a site under paragraph (4), the ap-
- 25 plicant (in the case of a non-Federal facility) or the

1 Administrator (in the case of a federally owned facil-
2 ity) shall submit to the Commission an application
3 for a construction authorization for the storage facil-
4 ity.

5 (c) ADDITIONAL STORAGE FACILITIES FOR NONPRI-
6 ORITY WASTE.—

7 (1) IN GENERAL.—The Administrator shall
8 seek to ensure that efforts to site, construct, and op-
9 erate a storage facility for nonpriority waste are ac-
10 companied by parallel efforts to site, construct, and
11 operate 1 or more repositories.

12 (2) STORAGE FACILITIES FOR NONPRIORITY
13 WASTE.—Except as provided in paragraphs (3) and
14 (4), the Administrator may issue requests for pro-
15 posals and select sites for site characterization for 1
16 or more additional storage facility for nonpriority
17 waste as the Administrator determines to be nec-
18 essary—

19 (A) subject to the terms and conditions of
20 this section; and

21 (B) in accordance with the mission plan
22 developed under section 504.

23 (3) FIRST 10 YEARS.—During the 10-year pe-
24 riod following the date of enactment of this Act, the
25 Administrator may not issue an additional request

1 for proposals or select a site for site characterization
2 for an additional storage facility for nonpriority
3 waste unless the Administrator has obligated funds
4 for activities under section 306.

5 (4) AFTER FIRST 10 YEARS.—After the date
6 that is 10 years after the date of enactment of this
7 Act, the Administrator may not issue an additional
8 request for proposals or select a site for site charac-
9 terization for an additional storage facility for non-
10 priority waste until the Administrator has selected a
11 site for evaluation under section 306(b)(2).

12 (5) STORAGE OF PRIORITY WASTE.—Nothing in
13 this section precludes the Administrator from stor-
14 ing priority waste at a storage facility for nonpri-
15 ority waste.

16 **SEC. 306. REPOSITORIES.**

17 (a) SITING GUIDELINES.—

18 (1) ISSUANCE.—Not later than 1 year after the
19 date of enactment of this Act, the Administrator
20 shall issue general guidelines for the consideration of
21 candidate sites for repositories, which shall—

22 (A) comply with the requirements of sec-
23 tion 112(a) of the Nuclear Waste Policy Act of
24 1982 (42 U.S.C. 10132(a)); and

1 (B) require the Administrator to take into
2 account the extent to which a repository
3 would—

4 (i) enhance the reliability and flexi-
5 bility of the system for the disposal of nu-
6 clear waste; and

7 (ii) minimize the impacts of transpor-
8 tation and handling of nuclear waste.

9 (2) REVISIONS.—The Administrator may revise
10 the guidelines in a manner consistent with this sub-
11 section and section 112(a) of the Nuclear Waste
12 Policy Act of 1982 (42 U.S.C. 10132(a)).

13 (b) IDENTIFICATION OF CANDIDATE SITES.—

14 (1) REVIEW OF POTENTIAL SITES.—As soon as
15 practicable after the date of the issuance of the
16 guidelines under subsection (a), the Administrator
17 shall evaluate potential sites for a repository to de-
18 termine whether the sites are suitable for site char-
19 acterization.

20 (2) SITES ELIGIBLE FOR REVIEW.—The Admin-
21 istrator shall select sites for evaluation under para-
22 graph (1) from among sites recommended by—

23 (A) the Governor or duly authorized offi-
24 cial of the State in which the site is located;

1 (B) the governing body of the affected unit
2 of general local government;

3 (C) the governing body of an Indian Tribe
4 within the reservation boundaries of which the
5 site is located; or

6 (D) the Administrator, after consultation
7 with, and with the consent of—

8 (i) the Governor of the State in which
9 the site is located;

10 (ii) the governing body of the affected
11 unit of general local government; and

12 (iii) the governing body of the Indian
13 Tribe, if the site is located within the res-
14 ervation of an Indian Tribe.

15 (3) SITE INVESTIGATIONS.—In evaluating a site
16 under this subsection prior to any determination of
17 the suitability of the site for site characterization,
18 the Administrator—

19 (A) shall use available geophysical, geologi-
20 cal, geochemical, hydrological, and other infor-
21 mation; and

22 (B) shall not perform any preliminary bor-
23 ings or excavations at the site unless necessary
24 to determine the suitability of the site and au-
25 thorized by the landowner.

1 (4) DETERMINATION OF SUITABILITY.—The
2 Administrator shall determine whether a site is suit-
3 able for site characterization based on an environ-
4 mental assessment of the site, which shall include—

5 (A) an evaluation by the Administrator of
6 whether the site is suitable for development as
7 a repository under the guidelines established
8 under subsection (a), including a safety case
9 that provides the basis for confidence in the
10 safety of the proposed nuclear waste facility at
11 the proposed site;

12 (B) an evaluation by the Administrator of
13 the effects of site characterization activities on
14 public health and safety and the environment;

15 (C) a reasonable comparative evaluation of
16 the proposed site and other proposed sites;

17 (D) a description of the decision process by
18 which the site was recommended;

19 (E) an assessment of the regional and local
20 impacts of locating a repository at the site, in-
21 cluding the extent to which nuclear wastes are,
22 or are planned to be, stored or disposed of with-
23 in the State; and

24 (F) potential conflicts with—

- 1 (i) a compliance agreement requiring
2 removal of nuclear waste from a site; or
3 (ii) a statutory prohibition on the
4 storage or disposal of nuclear waste at a
5 site.

6 (c) SITE CHARACTERIZATION.—

7 (1) SELECTION OF SITES.—From among the
8 sites determined to be suitable for site characteriza-
9 tion under subsection (b), the Administrator shall
10 select at least 1 site for site characterization as a re-
11 pository.

12 (2) PREFERENCE FOR CO-LOCATED REPOSI-
13 TORY AND STORAGE FACILITY.—In selecting sites
14 for site characterization as a repository, the Admin-
15 istrator shall give preference and priority to sites de-
16 termined to be suitable for co-location of a storage
17 facility and a repository.

18 (3) PUBLIC HEARINGS.—Before selecting a site
19 for site characterization, the Administrator shall
20 hold public hearings in the vicinity of the site and
21 at least 1 other location within the State in which
22 the site is located—

23 (A) to inform the public of the proposed
24 site characterization; and

1 (B) to solicit public comments and rec-
2 ommendations with respect to the site charac-
3 terization plan of the Administrator.

4 (4) CONSULTATION AND COOPERATION AGREE-
5 MENT.—

6 (A) REQUIREMENT.—Before selecting a
7 site for site characterization, the Administrator
8 shall enter into a consultation and cooperation
9 agreement, subject to section 401(e), with—

10 (i) the Governor of the State in which
11 the site is located;

12 (ii) the governing body of the affected
13 unit of general local government; and

14 (iii) the governing body of any af-
15 fected Indian Tribe.

16 (B) CONTENTS.—The consultation and co-
17 operation agreement shall provide—

18 (i) compensation to the State, any af-
19 fected units of local government, and any
20 affected Indian Tribes for any potential
21 economic, social, public health and safety,
22 and environmental impacts associated with
23 site characterization; and

24 (ii) financial and technical assistance
25 to enable the State, affected units of local

1 government, and affected Indian Tribes to
2 monitor, review, evaluate, comment on, ob-
3 tain information on, and make rec-
4 ommendations on site characterization ac-
5 tivities.

6 (d) FINAL SITE SUITABILITY DETERMINATION.—

7 (1) DETERMINATION REQUIRED.—On comple-
8 tion of site characterization activities, the Adminis-
9 trator shall make a final determination of whether
10 the site is suitable for development as a repository.

11 (2) BASIS OF DETERMINATION.—In making a
12 determination under paragraph (1), the Adminis-
13 trator shall determine if—

14 (A) the site is scientifically and technically
15 suitable for development as a repository, taking
16 into account—

17 (i) whether the site meets the siting
18 guidelines of the Administrator; and

19 (ii) whether there is reasonable assur-
20 ance that a repository at the site will
21 meet—

22 (I) the radiation protection
23 standards of the Administrator of the
24 Environmental Protection Agency;
25 and

1 (II) the licensing standards of
2 the Commission; and

3 (B) development of a repository or storage
4 facility at the site is in the national interest.

5 (3) PUBLIC HEARINGS.—Before making a final
6 determination under paragraph (1), the Adminis-
7 trator shall hold public hearings in the vicinity of
8 the site and at least 1 other location within the
9 State in which the site is located to solicit public
10 comments and recommendations on the proposed de-
11 termination.

12 (e) CONSENT AGREEMENTS.—

13 (1) REQUIREMENT.—On making a final deter-
14 mination of site suitability under subsection (d), but
15 before submitting a license application to the Com-
16 mission under subsection (f), the Administrator shall
17 enter into a consent agreement, subject to section
18 401(e), with—

19 (A) the Governor or other authorized offi-
20 cial of the State in which the site is located;

21 (B) the governing body of the affected unit
22 of general local government; and

23 (C) if the site is located on a reservation,
24 the governing body of the affected Indian Tribe.

1 (2) CONTENTS.—The consent agreement
2 shall—

3 (A) contain the terms and conditions on
4 which each State, local government, and Indian
5 Tribe, as applicable, consents to host the repos-
6 itory; and

7 (B) express the consent of each State, local
8 government, and Indian Tribe to host the re-
9 pository.

10 (3) TERMS AND CONDITIONS.—The terms and
11 conditions under paragraph (2)(A)—

12 (A) shall promote the economic and social
13 well-being of the people living in the vicinity of
14 the repository; and

15 (B) may include—

16 (i) financial compensation and incen-
17 tives;

18 (ii) economic development assistance;

19 (iii) operational limitations or require-
20 ments; and

21 (iv) regulatory oversight authority.

22 (4) BINDING EFFECT.—The consent agree-
23 ment—

24 (A) shall be binding on the parties, subject
25 to section 401(e); and

1 (B) shall not be amended or revoked ex-
2 cept by mutual agreement of the parties.

3 (f) SUBMISSION OF LICENSE APPLICATION.—On de-
4 termining that a site is suitable under subsection (d) and
5 ratification of a consent agreement under subsection (e),
6 the Administrator shall submit to the Commission an ap-
7 plication for a construction authorization for the reposi-
8 tory.

9 **SEC. 307. LICENSING NUCLEAR WASTE FACILITIES.**

10 The construction and operation of a storage facility
11 or repository under this Act shall be subject to—

12 (1) all applicable standards for the protection of
13 the general environment from offsite releases of ra-
14 dioactive material;

15 (2) the licensing and regulatory jurisdiction of
16 the Commission, including all applicable criteria and
17 requirements issued by the Commission under sec-
18 tion 121(b) of the Nuclear Waste Policy Act of 1982
19 (42 U.S.C. 10141(b)); and

20 (3) the terms and conditions of each consent
21 agree entered into under section 305(b)(4) or section
22 306(c).

23 **SEC. 308. DEFENSE WASTE.**

24 (a) DISPOSAL AND STORAGE BY ADMINISTRATION.—
25 The Secretary—

1 (1) shall arrange for the Administrator to dis-
2 pose of defense wastes in a repository developed
3 under this Act; and

4 (2) may arrange for the Administrator to store
5 defense wastes in storage facilities developed under
6 this Act pending disposal in a repository.

7 (b) MEMORANDUM OF AGREEMENT.—The arrange-
8 ments shall be covered by a memorandum of agreement
9 between the Secretary and the Administrator.

10 (c) COSTS.—The portion of the cost of developing,
11 constructing, and operating the repository or storage fa-
12 cilities under this Act that is attributable to defense
13 wastes shall be allocated to the Federal Government and
14 paid by the Federal Government into the Working Capital
15 Fund.

16 (d) PROHIBITION.—No defense waste may be stored
17 or disposed of by the Administrator in any storage facility
18 or repository constructed under this Act until funds are
19 appropriated to the Working Capital Fund in an amount
20 equal to the fees that would be paid by contract holders
21 under section 302 of the Nuclear Waste Policy Act of
22 1982 (42 U.S.C. 10222) if such nuclear waste were gen-
23 erated by a contract holder.

24 (e) COMMINGLING DETERMINATION.—

1 (1) REEVALUATION.—Notwithstanding section
2 8 of the Nuclear Waste Policy Act of 1982 (42
3 U.S.C. 10107), the Secretary may reevaluate the de-
4 cision to commingle defense wastes with nuclear
5 waste from civilian nuclear power reactors.

6 (2) NOTIFICATION.—Not later than 1 year
7 after the date of enactment of this Act, the Sec-
8 retary shall notify the President and the appropriate
9 committees of Congress of whether the Secretary in-
10 tends to reevaluate the decision under paragraph (1)
11 and the reasons for that decision.

12 (3) SEPARATE NUCLEAR WASTE FACILITIES.—
13 If the Secretary finds, after conducting the reevalua-
14 tion under paragraph (1), that the development of
15 separate nuclear waste facilities for the storage or
16 disposal of defenses wastes is necessary or appro-
17 priate for the efficient management of defenses
18 wastes, the Administrator may, with the concurrence
19 of the President, site, construct, and operate 1 or
20 more separate nuclear waste facilities for the storage
21 or disposal of defenses wastes.

22 **SEC. 309. TRANSPORTATION.**

23 (a) IN GENERAL.—The Administrator shall be re-
24 sponsible for transporting nuclear waste—

1 (1) from the site of a contract holder to a stor-
2 age facility or repository;

3 (2) from a storage facility to a repository; and

4 (3) in the case of defense waste, from a Depart-
5 ment of Energy site to a repository.

6 (b) CERTIFIED PACKAGES.—No nuclear waste may
7 be transported under this Act except in packages—

8 (1) the design of which has been certified by
9 the Commission; and

10 (2) that have been determined by the Commis-
11 sion to satisfy the quality assurance requirements of
12 the Commission.

13 (c) NOTIFICATION.—Prior to any transportation of
14 nuclear waste under this Act, the Administrator shall pro-
15 vide advance notification to States and Indian Tribes
16 through whose jurisdiction the Administrator plans to
17 transport the nuclear waste.

18 (d) TRANSPORTATION ASSISTANCE.—

19 (1) PUBLIC EDUCATION.—The Administrator
20 shall conduct a program to provide information to
21 the public about the transportation of nuclear waste.

22 (2) TRAINING.—The Administrator shall pro-
23 vide financial and technical assistance to States and
24 Indian Tribes through whose jurisdiction the Admini-
25 strator plans to transport nuclear waste to train

1 public safety officials and other emergency respond-
 2 ers on—

3 (A) procedures required for the safe, rou-
 4 tine transportation of nuclear waste; and

5 (B) procedures for dealing with emergency
 6 response situations involving nuclear waste, in-
 7 cluding instruction of—

8 (i) government and Tribal officials
 9 and public safety officers in command and
 10 control procedures;

11 (ii) emergency response personnel;
 12 and

13 (iii) radiological protection and emer-
 14 gency medical personnel.

15 (3) EQUIPMENT.—The Administrator shall pro-
 16 vide monetary grants and contributions in-kind to
 17 assist States and Indian Tribes through whose juris-
 18 diction the Administrator plans to transport nuclear
 19 waste for the purpose of acquiring equipment for re-
 20 sponding to a transportation incident involving nu-
 21 clear waste.

22 (4) TRANSPORTATION SAFETY PROGRAMS.—
 23 The Administrator shall provide in-kind, financial,
 24 technical, and other appropriate assistance to States
 25 and Indian Tribes through whose jurisdiction the

1 Administrator plans to transport nuclear waste for
2 transportation safety programs related to shipments
3 of nuclear waste.

4 **TITLE IV—FUNDING AND LEGAL**
5 **PROCEEDINGS**

6 **SEC. 401. WORKING CAPITAL FUND.**

7 (a) ESTABLISHMENT.—There is established in the
8 Treasury a separate fund, to be known as the “Nuclear
9 Waste Administration Working Capital Fund”, which
10 shall be separate from the Nuclear Waste Fund.

11 (b) CONTENTS.—The Working Capital Fund shall
12 consist of—

13 (1) all fees paid by contract holders pursuant to
14 section 302(a) of the Nuclear Waste Policy Act of
15 1982 (42 U.S.C. 10222(a)) on or after the date of
16 enactment of this Act, which shall be paid into the
17 Working Capital Fund—

18 (A) notwithstanding section 302(c)(1) of
19 the Nuclear Waste Policy Act of 1982 (42
20 U.S.C. 10222(c)(1)); and

21 (B) immediately on the payment of the
22 fees;

23 (2) any appropriations made by Congress to
24 pay the share of the cost of the program established
25 under this Act attributable to defense wastes; and

1 (3) interest paid on the unexpended balance of
2 the Working Capital Fund.

3 (c) AVAILABILITY.—All funds deposited in the Work-
4 ing Capital Fund—

5 (1) shall be immediately available to the Admin-
6 istrator to carry out the functions of the Adminis-
7 trator, except to the extent limited in annual author-
8 ization or appropriation Acts;

9 (2) shall remain available until expended; and

10 (3) shall not be subject to apportionment under
11 subchapter II of chapter 15 of title 31, United
12 States Code.

13 (d) USE OF FUND.—Except to the extent limited in
14 annual authorization or appropriation Acts, the Adminis-
15 trator may make expenditures from the Working Capital
16 Fund only for purposes of carrying out functions author-
17 ized by this Act.

18 (e) CONTRACT AUTHORITY.—Any contract or agree-
19 ment that authorizes an expenditure or obligation exceed-
20 ing an amount available in the Working Capital Fund for
21 the expenditure or obligation (including any cooperative
22 agreement, consultation, and cooperation agreement, or
23 consent agreement under section 305 or 306) shall be sub-
24 ject to appropriation.

1 (f) PERFORMANCE-BASED FUNDING.—No fees paid
2 by contract holders pursuant to section 302(a) of the Nu-
3 clear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) shall
4 be paid into the Working Capital Fund after December
5 31, 2029, unless the Administrator is operating a nuclear
6 waste facility by that date.

7 **SEC. 402. NUCLEAR WASTE FUND.**

8 (a) ELIMINATION OF LEGISLATIVE VETO.—Section
9 302(a)(4) of the Nuclear Waste Policy Act of 1982 (42
10 U.S.C. 10222(a)(4)) is amended—

11 (1) in the third sentence, by striking “insure”
12 and inserting “ensure”; and

13 (2) in the last sentence by striking “transmittal
14 unless” and all that follows through the end of the
15 sentence and inserting “transmittal.”.

16 (b) ADMINISTRATION OF THE WASTE FUND.—Sec-
17 tion 302(e) of the Nuclear Waste Policy Act of 1982 (42
18 U.S.C. 10222(e)) is amended—

19 (1) by striking “Secretary” each place it ap-
20 pears (except where it appears in the context of the
21 “Secretary of the Treasury”) and inserting “Admin-
22 istrator of the Nuclear Waste Administration”; and

23 (2) by striking “the Waste Fund” each place it
24 appears and inserting “the Waste Fund or the

1 Working Capital Fund established by section 401 of
2 the Nuclear Waste Administration Act of 2019”.

3 **SEC. 403. FULL COST RECOVERY.**

4 In determining whether insufficient or excess reve-
5 nues are being collected to ensure full cost recovery under
6 section 302(a)(4) of the Nuclear Waste Policy Act of 1982
7 (42 U.S.C. 10222(a)(4)), the Administrator shall—

8 (1) assume that sufficient funds will be appro-
9 priated to the Nuclear Waste Fund to cover the
10 costs attributable to disposal of defense wastes; and

11 (2) take into account the additional costs re-
12 sulting from the enactment of this Act.

13 **SEC. 404. JUDICIAL REVIEW.**

14 (a) JURISDICTION.—

15 (1) COURTS OF APPEALS.—Except for review in
16 the Supreme Court, a court of appeals of the United
17 States shall have original and exclusive jurisdiction
18 over any civil action—

19 (A) for review of any final decision or ac-
20 tion of the Administrator or the Commission
21 under this Act;

22 (B) alleging the failure of the Adminis-
23 trator or the Commission to make any decision,
24 or take any action, required under this Act;

1 (C) challenging the constitutionality of any
2 decision made, or action taken, under this Act;
3 or

4 (D) for review of any environmental as-
5 sessment or environmental impact statement
6 prepared pursuant to the National Environ-
7 mental Policy Act of 1969 (42 U.S.C. 4321 et
8 seq.) with respect to any action under this Act,
9 or alleging a failure to prepare any such assess-
10 ment or statement with respect to any such ac-
11 tion.

12 (2) VENUE.—The venue of any proceeding
13 under this section shall be in—

14 (A) the judicial circuit in which the peti-
15 tioner involved resides or has the principal of-
16 fice of the petitioner; or

17 (B) the United States Court of Appeals for
18 the District of Columbia Circuit.

19 (b) DEADLINE FOR COMMENCING ACTION.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), a civil action for judicial review described
22 in subsection (a)(1) may be brought not later than
23 the date that is 180 days after the date of the deci-
24 sion or action or failure to act involved.

1 (2) NO KNOWLEDGE OF DECISION OR AC-
2 TION.—If a party shows that the party did not know
3 of the decision or action complained of (or of the
4 failure to act) and that a reasonable person acting
5 under the circumstances would not have known, the
6 party may bring a civil action not later than 180
7 days after the date the party acquired actual or con-
8 structive knowledge of the decision, action, or failure
9 to act.

10 **SEC. 405. LITIGATION AUTHORITY.**

11 (a) SUPERVISION BY ATTORNEY GENERAL.—The liti-
12 gation of the Administration shall be subject to the super-
13 vision of the Attorney General pursuant to chapter 31 of
14 title 28, United States Code.

15 (b) ATTORNEYS OF ADMINISTRATION.—The Attor-
16 ney General may authorize any attorney of the Adminis-
17 tration to conduct any civil litigation of the Administration
18 in any Federal court, except the Supreme Court.

19 **SEC. 406. LIABILITIES.**

20 (a) PENDING LEGAL PROCEEDINGS.—Any suit,
21 cause of action, or judicial proceeding commenced by or
22 against the Secretary relating to functions or contracts
23 transferred to the Administrator by this Act shall—

24 (1) not abate by reason of the enactment of this
25 Act; and

1 (2) continue in effect with the Administrator
2 substituted for the Secretary.

3 (b) SETTLEMENT OF PENDING LITIGATION; CON-
4 TRACT MODIFICATION.—

5 (1) SETTLEMENT.—The Attorney General, in
6 consultation with the Administrator, shall settle all
7 claims against the United States by a contract hold-
8 er for the breach of a contract for the disposal of
9 nuclear waste under section 302(a) of the Nuclear
10 Waste Policy Act of 1982 (42 U.S.C. 10222(a)) as
11 a condition precedent of an agreement of the Admin-
12 istrator to take title to and store the nuclear waste
13 of the contract holder at a storage facility.

14 (2) CONTRACT MODIFICATION.—The Adminis-
15 trator and contract holders shall modify contracts
16 entered into under section 302(a) of the Nuclear
17 Waste Policy Act of 1982 (42 U.S.C. 10222(a)) in
18 accordance with the settlement under paragraph (1).

19 (c) PAYMENT OF JUDGMENTS AND SETTLEMENTS.—
20 Payment of judgments and settlements in cases arising
21 from the failure of the Secretary to meet the deadline of
22 January 31, 1998, to begin to dispose of nuclear waste
23 under contracts entered into under section 302(a)(1) of
24 the Nuclear Waste Policy Act of 1982 (42 U.S.C.
25 10222(a)(1)) shall continue to be paid from the perma-

1 nent judgment appropriation established pursuant to sec-
2 tion 1304 of title 31, United States Code.

3 (d) NEW CONTRACTS.—Notwithstanding section
4 302(a)(5) of the Nuclear Waste Policy Act of 1982 (42
5 U.S.C. 10222(a)(5)), the Administrator shall not enter
6 into any contract after the date of enactment of this Act
7 that obligates the Administrator to begin disposing of nu-
8 clear waste before the Commission has licensed the Ad-
9 ministrator to operate a repository or storage facility.

10 (e) NUCLEAR INDEMNIFICATION.—

11 (1) INDEMNIFICATION AGREEMENTS.—For pur-
12 poses of section 170 of the Atomic Energy Act of
13 1954 (42 U.S.C. 2210) (commonly known as the
14 “Price-Anderson Act”)—

15 (A) any person that conducts nuclear
16 waste activities under a contract with the Ad-
17 ministrator that may involve the risk of public
18 liability shall be treated as a contractor of the
19 Secretary; and

20 (B) the Secretary shall enter into an
21 agreement of indemnification with any person
22 described in subparagraph (A).

23 (2) CONFORMING AMENDMENT.—Section 11 ff.
24 of the Atomic Energy Act of 1954 (42 U.S.C.

1 2014(ff)) is amended by inserting “or the Nuclear
2 Waste Administration” after “Secretary of Energy”.

3 **TITLE V—ADMINISTRATIVE AND**
4 **SAVINGS PROVISIONS**

5 **SEC. 501. ADMINISTRATIVE POWERS OF ADMINISTRATOR.**

6 The Administrator shall have the power—

7 (1) to perform the functions of the Secretary
8 transferred to the Administrator pursuant to this
9 Act;

10 (2) to enter into contracts with any person who
11 generates or holds title to nuclear waste generated
12 in a civilian nuclear power reactor for the acceptance
13 of title, subsequent transportation, storage, and dis-
14 posal of the nuclear waste;

15 (3) to enter into and perform contracts, leases,
16 and cooperative agreements with public agencies,
17 private organizations, and persons necessary or ap-
18 propriate to carry out the functions of the Adminis-
19 trator;

20 (4) to acquire, in the name of the United
21 States, real estate for the construction, operation,
22 and decommissioning of nuclear waste facilities;

23 (5) to obtain from the Administrator of General
24 Services the services the Administrator of General
25 Services is authorized to provide agencies of the

1 United States, on the same basis as those services
2 are provided to other agencies of the United States;

3 (6) to conduct nongeneric research, develop-
4 ment, and demonstration activities necessary or ap-
5 propriate to carrying out the functions of the Ad-
6 ministrator; and

7 (7) to make such rules and regulations, not in-
8 consistent with this Act, as may be necessary to
9 carry out the functions of the Administrator.

10 **SEC. 502. PERSONNEL.**

11 (a) OFFICERS AND EMPLOYEES.—

12 (1) APPOINTMENT.—In addition to the senior
13 officers described in section 203, the Administrator
14 may appoint and fix the compensation of such offi-
15 cers and employees as may be necessary to carry out
16 the functions of the Administration.

17 (2) COMPENSATION.—Except as provided in
18 paragraph (3), officers and employees appointed
19 under this subsection shall be appointed in accord-
20 ance with the civil service laws and the compensation
21 of the officers and employees shall be fixed in ac-
22 cordance with title 5, United States Code.

23 (3) EXCEPTION.—Notwithstanding paragraph
24 (2), the Administrator may, to the extent the Ad-

1 administrator determines necessary to discharge the
2 responsibilities of the Administrator—

3 (A) appoint exceptionally well qualified in-
4 dividuals to scientific, engineering, or other crit-
5 ical positions without regard to the provisions
6 of chapter 33 of title 5, United States Code,
7 governing appointments in the competitive serv-
8 ice; and

9 (B) fix the basic pay of any individual ap-
10 pointed under subparagraph (A) at a rate of
11 not more than level I of the Executive Schedule
12 without regard to the civil service laws, except
13 that the total annual compensation of the indi-
14 vidual shall be at a rate of not more than the
15 highest total annual compensation payable
16 under section 104 of title 3, United States
17 Code.

18 (4) MERIT PRINCIPLES.—The Administrator
19 shall ensure that the exercise of the authority grant-
20 ed under paragraph (3) is consistent with the merit
21 principles of section 2301 of title 5, United States
22 Code.

23 (b) EXPERTS AND CONSULTANTS.—The Adminis-
24 trator may obtain the temporary or intermittent services

1 of experts or consultants as authorized by section 3109
2 of title 5, United States Code.

3 (c) **ADVISORY COMMITTEES.**—

4 (1) **ESTABLISHMENT.**—The Administrator may
5 establish, in accordance with the Federal Advisory
6 Committee Act (5 U.S.C. App.), such advisory com-
7 mittees as the Administrator may consider appro-
8 priate to assist in the performance of the functions
9 of the Administrator.

10 (2) **COMPENSATION.**—A member of an advisory
11 committee, other than a full-time employee of the
12 Federal Government, may be allowed travel ex-
13 penses, including per diem in lieu of subsistence, as
14 authorized by section 5703 of title 5, United States
15 Code, for individuals in the Government service
16 without pay, while attending meetings of the advi-
17 sory committee or otherwise serving away from the
18 homes or regular place of business of the member at
19 the request of the Administrator.

20 **SEC. 503. OFFICES.**

21 (a) **PRINCIPAL OFFICE.**—The principal office of the
22 Administration shall be in or near the District of Colum-
23 bia.

1 (b) FIELD OFFICES.—The Administrator may main-
2 tain such field offices as the Administrator considers nec-
3 essary to carry out the functions of the Administrator.

4 **SEC. 504. MISSION PLAN.**

5 (a) IN GENERAL.—The Administrator shall prepare
6 a mission plan, which shall—

7 (1) provide an informational basis sufficient to
8 permit informed decisions to be made in carrying
9 out the functions of the Administrator; and

10 (2) provide verifiable indicators for oversight of
11 the performance of the Administrator.

12 (b) CONTENTS.—The mission plan shall include—

13 (1) a description of the actions the Adminis-
14 trator plans to take to carry out the functions of the
15 Administrator under this Act;

16 (2) schedules and milestones for carrying out
17 the functions of the Administrator, which shall pro-
18 vide for the operation of—

19 (A) a pilot facility not later than December
20 31, 2025;

21 (B) a storage facility for nonpriority waste
22 not later than December 31, 2029; and

23 (C) a repository not later than December
24 31, 2052; and

1 (3) an estimate of the amounts that the Admin-
2 istration will need Congress to appropriate from the
3 Nuclear Waste Fund (in addition to amounts ex-
4 pected to be available from the Working Capital
5 Fund) to carry out the functions of the Nuclear
6 Waste Fund, on an annual basis.

7 (c) PROPOSED MISSION PLAN.—Not later than 1
8 year after the date of enactment of this Act, the Adminis-
9 trator shall submit a proposed mission plan for comment
10 to—

11 (1) Congress;

12 (2) the Oversight Board;

13 (3) the Commission;

14 (4) the Nuclear Waste Technical Review Board
15 established by section 502 of the Nuclear Waste Pol-
16 icy Act of 1982 (42 U.S.C. 10262);

17 (5) the States;

18 (6) affected Indian Tribes; and

19 (7) such other interested persons as the Admin-
20 istrator considers appropriate.

21 (d) PUBLIC NOTICE AND COMMENT.—On submitting
22 the proposed mission plan for comment under subsection
23 (c), the Administrator shall—

1 (1) publish a notice in the Federal Register of
2 the availability of the proposed mission plan for pub-
3 lic comment; and

4 (2) provide interested persons an opportunity to
5 comment on the proposed plan.

6 (e) SUBMISSION OF FINAL MISSION PLAN.—After
7 consideration of the comments received, the Administrator
8 shall—

9 (1) revise the proposed mission plan to the ex-
10 tent that the Administrator considers appropriate;
11 and

12 (2) submit the final mission plan, along with a
13 general statement responding to any significant
14 issues raised in the comments received on the pro-
15 posed mission plan, to the appropriate committees of
16 Congress, the President, and the Oversight Board.

17 (f) REVISION OF THE MISSION PLAN.—The Adminis-
18 trator shall—

19 (1) revise the mission plan, as appropriate, to
20 reflect major changes in the planned activities,
21 schedules, milestones, and cost estimates reported in
22 the mission plan; and

23 (2) submit the revised mission plan to Con-
24 gress, the President, and the Oversight Board prior
25 to implementing the proposed changes.

1 **SEC. 505. ANNUAL REPORTS.**

2 (a) **IN GENERAL.**—The Administrator shall annually
3 prepare and submit to Congress, the President, and the
4 Oversight Board a comprehensive report on the activities
5 and expenditures of the Administration.

6 (b) **MANAGEMENT REPORT.**—The annual report sub-
7 mitted under subsection (a) shall include—

8 (1) the annual management report required
9 under section 9106 of title 31, United States Code;
10 and

11 (2) the report on any audit of the financial
12 statements of the Administration conducted under
13 section 9105 of title 31, United States Code.

14 **SEC. 506. SAVINGS PROVISIONS; TERMINATIONS.**

15 (a) **COMMISSION PROCEEDINGS.**—This Act shall not
16 affect any proceeding or any application for any license
17 or permit pending before the Commission on the date of
18 enactment of this Act.

19 (b) **AUTHORITY OF THE SECRETARY.**—This Act shall
20 not transfer or affect the authority of the Secretary with
21 respect to—

22 (1) the maintenance, treatment, packaging, and
23 storage of defense wastes at Department of Energy
24 sites prior to delivery to, and acceptance by, the Ad-
25 ministrator for disposal in a repository;

1 ceeding years, the Secretary and the Commission shall up-
2 date and publish in the Federal Register the joint notice
3 required by section 223(b) of the Nuclear Waste Policy
4 Act of 1982 (42 U.S.C. 10203(b)).

5 (b) INFORMING FOREIGN GOVERNMENTS.—As soon
6 as practicable after the date of the publication of the an-
7 nual joint notice described in subsection (a), the Secretary
8 of State shall inform the governments of nations and orga-
9 nizations operating nuclear power plants, solicit expres-
10 sions of interest, and transmit any such expressions of in-
11 terest to the Secretary and the Commission, as provided
12 in section 223(c) of the Nuclear Waste Policy Act of 1982
13 (42 U.S.C. 10203(c)).

14 (c) BUDGET REQUESTS.—The President shall in-
15 clude in the budget request of the President for the Com-
16 mission and the Department of Energy for each of fiscal
17 years 2020 through 2025 such funding requests for a pro-
18 gram of cooperation and technical assistance with nations
19 in the fields of spent nuclear fuel storage and disposal as
20 the President determines appropriate in light of expres-
21 sions of interest in the cooperation and assistance.

22 (d) ELIGIBILITY.—Notwithstanding any limitation on
23 cooperation and technical assistance to non-nuclear weap-
24 on states under section 223 of the Nuclear Waste Policy
25 Act of 1982 (42 U.S.C. 10203), the Secretary and the

1 Commission may cooperate with and provide technical as-
2 sistance to nuclear weapon states, if the Secretary and the
3 Commission determine the cooperation and technical as-
4 sistance is in the national interest.

5 **SEC. 508. NUCLEAR WASTE TECHNICAL REVIEW BOARD.**

6 (a) **ELIGIBILITY.**—Section 502(b)(3)(C)(iii)(I) of the
7 Nuclear Waste Policy Act of 1982 (42 U.S.C.
8 10262(b)(3)(C)(iii)(I)) is amended by inserting “or the
9 Nuclear Waste Administration” after “the Department of
10 Energy”.

11 (b) **FUNCTIONS.**—Section 503 of the Nuclear Waste
12 Policy Act of 1982 (42 U.S.C. 10263) is amended by
13 striking “1987” and inserting “1987 and the Nuclear
14 Waste Administrator”.

15 (c) **PRODUCTION OF DOCUMENTS.**—Section 504(b)
16 of the Nuclear Waste Policy Act of 1982 (42 U.S.C.
17 10264(b)) is amended by striking “Secretary” each place
18 it appears and inserting “Nuclear Waste Administrator”.

19 (d) **REPORTS.**—Section 508 of the Nuclear Waste
20 Policy Act of 1982 (42 U.S.C. 10268) is amended in the
21 first sentence by striking “Congress and the Secretary”
22 and inserting “Congress, the Nuclear Waste Adminis-
23 trator, and the Nuclear Waste Oversight Board”.

24 (e) **TERMINATION.**—Section 510 of the Nuclear
25 Waste Policy Act of 1982 (42 U.S.C. 10270) is amended

1 by striking “Secretary” and inserting “Nuclear Waste Ad-
2 ministrator”.

3 **SEC. 509. REPEAL OF VOLUME LIMITATION.**

4 Section 114(d) of the Nuclear Waste Policy Act of
5 1982 (42 U.S.C. 10134(d)) is amended by striking the
6 second and third sentences.