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.

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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. 509. Repeal of volume limitation.

1 TITLE I—FINDINGS, PURPOSES, AND DEFINITIONS

2 SEC. 101. FINDINGS.

3 Congress finds that—
(1) the Nuclear Waste Policy Act of 1982 (42
U.S.C. 10101 et seq.)—

(A) made the Federal Government responsi-
ble for providing for the permanent disposal
of nuclear waste;

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

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

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

(3) in 2002, the Secretary found the Yucca
Mountain site to be suitable for the development of
the repository, the President recommended the site
to Congress, and Congress enacted a joint resolution
approving the Yucca Mountain site for the reposi-
tory;
(4) in 2008, the Secretary applied to the Nuclear Regulatory Commission for a license to construct a repository at the Yucca Mountain site;

(5) in 2009, the Secretary found the Yucca Mountain site to be unworkable and abandoned efforts to construct a repository;

(6) in 2010, the Secretary, at the request of the President, established the Blue Ribbon Commission on America’s Nuclear Future to conduct a comprehensive review of the nuclear waste management policies of the United States and recommend a new strategy for managing the nuclear waste of the United States; and

(7) the Blue Ribbon Commission has recommended that Congress establish a new nuclear waste management organization and adopt a new consensual approach to siting nuclear waste management facilities.

**SEC. 102. PURPOSES.**

The purposes of this Act are—

(1) to establish a new nuclear waste management organization;

(2) to transfer to the new organization the functions of the Secretary relating to the siting, li-
censing, construction, and operation of nuclear waste
management facilities;
(3) to establish a new consensual process for
the siting of nuclear waste management facilities;
(4) to provide for centralized storage of nuclear
waste pending completion of a repository; and
(5) to ensure that—
(A) the generators and owners of nuclear
waste pay the full cost of the program; and
(B) funds collected for the program are
used for that purpose.

SEC. 103. DEFINITIONS.

In this Act:
(1) ADMINISTRATION.—The term “Administration” means the Nuclear Waste Administration es-
tablished by section 201.
(2) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Administra-

(3) AFFECTED INDIAN TRIBE.—The term “af-
fected Indian Tribe” means any Indian Tribe—
(A) within the reservation boundaries of
which a repository or storage facility is pro-
posed to be located; or
(B) that has federally defined possessory
or usage rights to other land outside of the res-
ervation boundaries that—

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

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

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

(A) IN GENERAL.—The term "affected
unit of general local government" means the
unit of general local government that has juris-
diction over the site of a repository or storage
facility.

(B) INCLUSION.—The term "affected unit
of general local government" may include, at
the discretion of the Administrator, units of
general local government that are contiguous
with the unit that has jurisdiction over the site
of a repository or storage facility.

(5) CIVILIAN NUCLEAR POWER REACTOR.—The
term "civilian nuclear power reactor" has the mean-

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

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

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

(A) generates or holds title to nuclear waste generated at a civilian nuclear power reactor; and

(B) has entered into a contract for the disposal of nuclear waste under section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) or this Act.

(9) DEFENSE WASTE.—The term “defense waste” means nuclear waste generated by an atomic energy defense activity (as defined in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101)).
(10) DISPOSAL.—The term "disposal" has the meaning given the term in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(11) EMERGENCY DELIVERY.—

(A) IN GENERAL.—The term "emergency delivery" means nuclear waste accepted by the Administrator for storage prior to the date provided in the contractual delivery commitment schedule pursuant to article V.D. of the standard contract for disposal of nuclear waste codified in section 961.11 of title 10, Code of Federal Regulations.

(B) INCLUSION.—The term "emergency delivery" may include, at the discretion of the Administrator, defense waste that is required to be removed from a Department of Energy facility—

(i) pursuant to a compliance agreement; or

(ii) to eliminate an imminent and serious threat to the health and safety of the public or the common defense and security.

(12) HIGH-LEVEL RADIOACTIVE WASTE.—The term "high-level radioactive waste" has the meaning

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

(14) MISSION PLAN.—The term "mission plan" means the comprehensive report required under section 504.

(15) NONPRIORITY WASTE.—The term "nonpriority waste" means nuclear waste that does not qualify as priority waste.

(16) NUCLEAR WASTE.—The term "nuclear waste" means—

(A) spent nuclear fuel; and

(B) high-level radioactive waste.

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

(18) NUCLEAR WASTE FACILITY.—The term "nuclear waste facility" means—

(A) a repository; and

(B) a storage facility.
(19) **NUCLEAR WASTE FUND.**—The term "Nuclear Waste Fund" means the separate fund in the Treasury established by section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)).

(20) **OVERSIGHT BOARD.**—The term "Oversight Board" means the Nuclear Waste Oversight Board established by section 205.

(21) **PILOT FACILITY.**—The term "pilot facility" means the storage facility for priority waste authorized by section 303(1).

(22) **PRIORITY WASTE.**—The term "priority waste" means—

(A) any emergency delivery; and

(B) spent nuclear fuel removed from a civilian nuclear power reactor that has been permanently shut down.

(23) **PUBLIC LIABILITY.**—The term "public liability" has the meaning given the term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

(24) **REPOSITORY.**—The term "repository" has the meaning given the term in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).
(25) **Reservation.**—The term "reservation" has the meaning given the term in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(26) **Secretary.**—The term "Secretary" means the Secretary of Energy.

(27) **Site Characterization.**—

(A) **In General.**—The term "site characterization" means the site-specific activities that the Administrator determines necessary to support an application to the Commission for a license to construct a repository or storage facility under section 305(c).

(B) **Repository Site Characterization.**—In the case of a site for a repository, the term "site characterization" may include borings, surface excavations, excavations of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the suitability of a candidate site for the location of a repository.

(C) **Storage Site Characterization.**—In the case of a site for an above-ground storage facility, the term "site characterization" does not include subsurface borings and excava-
vations that the Administrator determines are
uniquely associated with underground disposal
and unnecessary to evaluate the suitability of a
candidate site for the location of an above-
ground storage facility.

(D) PRELIMINARY ACTIVITIES.—The term
"site characterization" does not include prelimi-
ary borings and geophysical testing needed to
assess whether site characterization should be
undertaken.

(28) SPENT NUCLEAR FUEL.—The term "spent
nuclear fuel" has the meaning given the term in sec-
tion 2 of the Nuclear Waste Policy Act of 1982 (42

(29) STORAGE.—The term "storage" means the
temporary retention of nuclear waste pending the
disposal of the nuclear waste in a repository.

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

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


TITLE II—NUCLEAR WASTE ADMINISTRATION

SEC. 201. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is established an independent agency in the executive branch to be known as the “Nuclear Waste Administration”.

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

(1) to discharge the responsibility of the Federal Government to provide for the permanent disposal of nuclear waste;

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

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

SEC. 202. PRINCIPAL OFFICERS.

(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
9 (2) TERM.—The term of service of the Admin-
10 istrator shall be 6 years.
11
12 (3) REAPPOINTMENT.—An Administrator may
13 serve more than 1 term.
14
15 (4) FUNCTIONS AND POWERS.—The functions
16 and powers of the Administration shall be vested in
17 and exercised by the Administrator.
18
19 (5) SUPERVISION AND DIRECTION.—The Ad-
20 ministration shall be administrated under the super-
21 vision and direction of the Administrator, who shall
22 be responsible for the efficient and coordinated man-
23 24 25
(7) Compensation.—The President shall fix the total annual compensation of the Administrator in an amount that—

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

(B) does not exceed the total annual compensation paid to the Chief Executive Officer of the Tennessee Valley Authority.

(b) Deputy Administrator.—

(1) Appointment.—There shall be in the Administration a Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, from among persons who are, by reason of education, experience, and attainments, exceptionally well qualified to perform the duties of the Deputy Administrator.

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

(3) Reappointment.—A Deputy Administrator may serve more than 1 term.

(4) Duties.—The Deputy Administrator shall—
(A) perform such functions as the Administrator shall from time to time assign or delegate; and

(B) act as the Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of the Administrator.

(5) Compensation.—The President shall fix the total annual compensation of the Deputy Administrator in an amount that—

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

(B) does not exceed the total annual compensation paid to the Administrator.

SEC. 203. OTHER OFFICERS.

(a) Establishment.—There shall be in the Administration—

(1) a General Counsel;

(2) a Chief Financial Officer, who shall be appointed from among individuals who possess demonstrated ability in general management of, and knowledge of and extensive practical experience in,
financial management practices in large governmental or business entities; and

(3) not more than 3 Assistant Administrators, who shall perform such functions as the Administrator shall specify from time to time.

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

(1) be appointed by the Administrator;  
(2) be considered career appointees; and  
(3) be subject to section 161 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(d)).

c) ORDER OF SUCCESSION.—The Administrator may designate the order in which the officers appointed pursuant to this section shall act for, and perform the functions of, the Administrator during the absence or disability of the Administrator and the Deputy Administrator or in the event of vacancies in the offices of the Administrator and the Deputy Administrator.

SEC. 204. INSPECTOR GENERAL.

There shall be in the Administration an Inspector General, who shall be appointed by the President, by and with the advice and consent of the Senate, in accordance with section 3 of the Inspector General Act of 1978 (5 U.S.C. App.).
SEC. 205. NUCLEAR WASTE OVERSIGHT BOARD.

(a) ESTABLISHMENT.—There is established an independent establishment in the executive branch, to be known as the “Nuclear Waste Oversight Board”—

(1) to oversee—

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

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

(C) the performance of the Administrator in—

(i) fulfilling contracts with contract holders; and

(ii) complying with the mission plan;

and

(2) to review the annual management reports and financial statements submitted by the Administrator under section 505.

(b) MEMBERS.—The Oversight Board shall be composed 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
7 (c) POLITICAL AFFILIATION.—Not more than 3
8 members of the Oversight Board may be members of the
9 same political party.
10
11 (d) TERMS.—
12
13 (1) IN GENERAL.—Except as provided in para-
14 graphs (2) and (3), each member shall serve a term
15 of 5 years.
16
17 (2) INITIAL TERMS.—
18
19 (A) STARTING DATE.—The term of the
20 first 5 members appointed to the Oversight
21 Board shall be treated as having started on the
22 first July 1 after the date of enactment of this
23 Act.
24
25 (B) STAGGERED TERM.—Of the 5 mem-
26 bers first appointed to the Board under sub-
27 paragraph (A)—
28
29 (i) 1 shall be appointed for a term of
30 1 year;
31
32 (ii) 1 shall be appointed for a term of
33 2 years;
(iii) I shall be appointed for a term of 3 years;

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

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

(3) Extension of term.—

(A) In general.—Subject to subparagraph (B), a member of the Oversight Board may continue to serve after the expiration of the term of the member until a successor is appointed, has been confirmed, and has taken the oath of office.

(B) Limitation.—No member of the Oversight Board may serve beyond the end of the session of the Congress in which the term of the member expires.

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

(5) Reappointment.—A member of the Oversight Board may be reappointed for an additional
term by the President, by and with the advice and
consent of the Senate.

(c) Removal.—The President may remove any mem-
ber of the Oversight Board for inefficiency, neglect of
duty, or malfeasance in office.

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

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

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

(i) Equal Responsibility and Authority.—Each
member of the Oversight Board, including the Chair, shall
have—

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

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

(3) 1 vote.

(j) Conflict of Interest.—No member of the
Oversight Board shall—
(1) be employed by the Administration or the Department of Energy; or

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

(k) Compensation.—

(1) In general.—Each member of the Oversight Board shall be paid at the rate of pay payable for level III of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code, for each day (including travel time) the member is engaged in the work of the Oversight Board.

(2) Travel expenses.—Each member of the Oversight Board may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

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

(m) Functions.—The Oversight Board shall—

(1) review, on an ongoing basis—

(A) the progress made by the Administrator in siting, constructing, and operating nuclear waste facilities under this Act;
(B) the use of funds made available to the Administrator under this Act;

(C) whether the fees collected from contract holders are sufficient to ensure full cost recovery or require adjustment; and

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

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

(3) recommend to the Administrator, the President, or Congress, as appropriate, any actions that may be needed to ensure the implementation of this Act.

(n) REPORTS.—The Oversight Board shall report the findings, conclusions, and recommendations of the Oversight Board to the Administrator, the President, and Congress not less than once per year.

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

(1) a statement of whether the Administrator accepts or rejects, in whole or in part, the recommendations submitted by the Oversight Board;
(2) a description of the actions taken in response to the recommendations (or an explanation of the reasons for not acting on the recommendations); and

(3) the views of the Administrator on the recommendations.

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

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

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

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

(r) ADDITIONAL STAFF.—

(1) APPOINTMENT.—The Oversight Board may appoint and fix the compensation of such additional clerical and professional staff as may be necessary to discharge the responsibilities of the Oversight Board.
(2) LIMITATION.—The Oversight Board may appoint not more than 10 clerical or professional staff members under this subsection.

(3) SUPERVISION AND DIRECTION.—The clerical and professional staff of the Oversight Board shall be under the supervision and direction of the Executive Secretary.

(4) STAFF COMPENSATION.—

(1) CLERICAL STAFF.—Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule rates.

(2) PROFESSIONAL STAFF.—Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the maximum rate of pay under the General Schedule.
(t) Access to Information.—

(1) Duty to Inform.—The Administrator shall keep the Oversight Board fully and currently informed on all of the activities of the Administration.

(2) Production of Documents.—The Administrator shall provide the Oversight Board with any records, files, papers, data, or information requested by the Oversight Board.

(u) Support Services.—To the extent permitted by law and requested by the Oversight Board, the Administrator of General Services shall provide the Oversight Board with necessary administrative services, facilities, and support on a reimbursable basis.

(v) Health, Safety, and Environmental Regulation.—Nothing in this section gives the Oversight Board jurisdiction to regulate the activities of the Administration to protect the health and safety of the public or the environment.

(w) Authorization of Appropriations.—There are authorized to be appropriated to the Oversight Board from amounts in the Nuclear Waste Fund such sums as are necessary to carry out this section.
SEC. 206. CONFORMING AMENDMENTS.

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

"(H) The Nuclear Waste Administration.".

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

(1) in paragraph (1), by inserting "the Administrator of the Nuclear Waste Administration;" after "Export-Import Bank;"; and

(2) in paragraph (2), by inserting "the Nuclear Waste Administration," after "Export-Import Bank, ".

TITLE III—FUNCTIONS

SEC. 301. TRANSFER OF FUNCTIONS.

There are transferred to and vested in the Administrator all functions vested in the Secretary by the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) relating to—

(1) the construction and operation of a repository;

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

(3) the collection, adjustment, deposition, and use of fees to offset expenditures for the management of nuclear waste; and
28

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

SEC. 302. TRANSFER OF CONTRACTS.

Each contract for the disposal of nuclear waste entered into by the Secretary before the date of enactment of this Act shall continue in effect according to the terms of the contract with the Administrator substituted for the Secretary.

SEC. 303. NUCLEAR WASTE FACILITIES.

The Administrator shall site, construct, and operate—

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

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

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

SEC. 304. SITING NUCLEAR WASTE FACILITIES.

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

(1) allows affected communities to decide whether, and on what terms, the affected communities will host a nuclear waste facility;
(2) is open to the public and allows interested persons to be heard in a meaningful way;

(3) is flexible and allows decisions to be reviewed and modified in response to new information or new technical, social, or political developments; and

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

SEC. 305. STORAGE FACILITIES.

(a) ESTABLISHMENT OF STORAGE FACILITY PROGRAM.—The Administrator shall establish a storage program to license, construct, and operate through 1 or more non-Federal sector partners, 1 or more government or non-federally owned storage facilities to provide interim storage, as needed, for spent nuclear fuel and high-level radioactive waste.

(b) PILOT PROGRAM FOR THE STORAGE OF PRIORITY WASTE.—

(1) REQUEST FOR PROPOSALS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue a request for proposals for cooperative agreements for a pilot program for the storage of priority waste—
(i) to obtain any license from the Nuclear Regulatory Commission and any other Federal or State entity that is necessary for the construction of 1 or more storage facilities;

(ii) to demonstrate the safe transportation of spent nuclear fuel and high-level radioactive waste, as applicable; and

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

(B) GUIDELINES.—

(i) IN GENERAL.—The request for proposals under subparagraph (A) shall include general guidelines for the consideration of storage facilities consistent with each requirement of section 112(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10132(a)), that the Administrator determines to be applicable to above-ground storage.
(ii) REVISIONS.—The Administrator may revise the general guidelines from time to time, consistent with this section.

(2) REVIEWS OF PROPOSALS.—

(A) IN GENERAL.—The Administrator shall review each proposal submitted under paragraph (1) to evaluate—

(i) the extent to which the applicable States, affected units of general local government, and affected Indian Tribes support the proposal;

(ii) the likelihood that the proposed site is suitable for site characterization under the guidelines under paragraph (1)(B);

(iii) a reasonable comparative evaluation of the proposed site and other proposed sites;

(iv) the extent to which nuclear wastes are, or are planned to be, stored or disposed of within the State;

(v) the extent to which each proposal would—

(I) enhance the reliability and flexibility of the system for the dis-
posal of nuclear waste, including co-
location with a proposed permanent
geological repository; and

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

(vi) potential conflicts with—

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

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

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

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

(i) additional storage facilities for
nonpriority waste; or

(ii) a repository.
(3) Site characterization.—

    (A) Determination of suitability.—

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

    (B) Selection of site for characterization.—From the sites determined to be suitable for site characterization under subparagraph (A), the Administrator shall select at least 1 site for site characterization, giving priority to sites that have been proposed to be co-located with a permanent geological repository, after—

    (i) holding public hearings in the vicinity of each site and at least 1 other location within the State in which the site is located; and

    (ii) notifying Congress.

    (C) Cooperative agreement.—On selection of a site for characterization under subparagraph (B), the Administrator may enter into a cooperative agreement, subject to section 401(e), with the State, affected units of general
local government, and affected Indian Tribes, as applicable, that includes—

(i) terms of financial and technical assistance to enable each applicable unit of government to monitor, review, evaluate, comment on, obtain information on, make recommendations on, and mitigate any impacts from, site characterization activities; and

(ii) any other term that the Administrator determines to be appropriate.

(4) SITE SELECTION.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), on completion of site characterization activities, the Administrator shall—

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

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

(B) CONSENT-BASED APPROVAL.—Before selecting a site for developing a storage facility, the Administrator shall enter into a consent agreement, subject to section 401(e), to host the facility with—
(i) the Governor or other authorized
official of the State in which the site is
proposed to be located;
(ii) each affected unit of general local
government; and
(iii) any affected Indian Tribe.

(C) BINDING EFFECT.—The consent
agreement—
(i) shall be binding on the parties,
subject to section 401(e); and
(ii) shall not be amended or revoked
except by mutual agreement of the parties.

(5) SUBMISSION OF PROGRAM PLAN.—Not less
than 30 days before selecting a site for development
of a storage facility under paragraph (4), the Ad-
ministrator shall submit to Congress a program plan
that includes—
(A) a list of the 1 or more sites the Ad-
ministrator proposes to select for a storage fa-
cility;
(B) an estimate of the cost of licensing,
constructing, and operating each storage facil-
ity, including the transportation costs, on an
annual basis, over the expected lifetime of the
storage facility;
(C) a schedule for—

(i) obtaining from the Nuclear Regulatory Commission any license necessary to construct and operate the storage facility;

(ii) constructing the storage facility;

(iii) transporting spent fuel to the storage facility; and

(iv) removing the spent fuel from, and decommissioning of, the storage facility;

(D) an estimate of the cost of any financial assistance, compensation, or incentives proposed to be paid to the host State, Indian Tribe, or unit of local government;

(E) an estimate of any future reductions in the damages expected to be paid by the United States for the delay of the Department of Energy in accepting spent fuel expected to result from the storage facilities developed under this section; and

(F) recommendations for any additional legislation needed to authorize and implement the program.

(6) Submission of license application.—

On selection of a site under paragraph (4), the applicant (in the case of a non-Federal facility) or the
Administrator (in the case of a federally owned facility) shall submit to the Commission an application for a construction authorization for the storage facility.

(c) ADDITIONAL STORAGE FACILITIES FOR NONPRIORITY WASTE.—

(1) IN GENERAL.—The Administrator shall seek to ensure that efforts to site, construct, and operate a storage facility for nonpriority waste are accompanied by parallel efforts to site, construct, and operate 1 or more repositories.

(2) STORAGE FACILITIES FOR NONPRIORITY WASTE.—Except as provided in paragraphs (3) and (4), the Administrator may issue requests for proposals and select sites for site characterization for 1 or more additional storage facility for nonpriority waste as the Administrator determines to be necessary—

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

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

(3) FIRST 10 YEARS.—During the 10-year period following the date of enactment of this Act, the Administrator may not issue an additional request.
for proposals or select a site for site characterization
for an additional storage facility for nonpriority
waste unless the Administrator has obligated funds
for activities under section 306.

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

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

**SEC. 306. REPOSITORIES.**

(a) **SITING GUIDELINES.**—

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

(A) comply with the requirements of sec-
tion 112(a) of the Nuclear Waste Policy Act of
1982 (42 U.S.C. 10132(a)); and
(B) require the Administrator to take into account the extent to which a repository would—

(i) enhance the reliability and flexibility of the system for the disposal of nuclear waste; and

(ii) minimize the impacts of transportation and handling of nuclear waste.

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

(b) IDENTIFICATION OF CANDIDATE SITES.—

(1) REVIEW OF POTENTIAL SITES.—As soon as practicable after the date of the issuance of the guidelines under subsection (a), the Administrator shall evaluate potential sites for a repository to determine whether the sites are suitable for site characterization.

(2) SITES ELIGIBLE FOR REVIEW.—The Administrator shall select sites for evaluation under paragraph (1) from among sites recommended by—

(A) the Governor or duly authorized official of the State in which the site is located;
(B) the governing body of the affected unit of general local government;
(C) the governing body of an Indian Tribe within the reservation boundaries of which the site is located; or
(D) the Administrator, after consultation with, and with the consent of—
(i) the Governor of the State in which the site is located;
(ii) the governing body of the affected unit of general local government; and
(iii) the governing body of the Indian Tribe, if the site is located within the reservation of an Indian Tribe.

(3) SITE INVESTIGATIONS.—In evaluating a site under this subsection prior to any determination of the suitability of the site for site characterization, the Administrator—
(A) shall use available geophysical, geological, geochemical, hydrological, and other information; and
(B) shall not perform any preliminary borings or excavations at the site unless necessary to determine the suitability of the site and authorized by the landowner.
(4) Determination of Suitability.—The Administrator shall determine whether a site is suitable for site characterization based on an environmental assessment of the site, which shall include—

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

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

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

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

(E) an assessment of the regional and local impacts of locating a repository at the site, including the extent to which nuclear wastes are, or are planned to be, stored or disposed of within the State; and

(F) potential conflicts with—
(i) a compliance agreement requiring
removal of nuclear waste from a site; or
(ii) a statutory prohibition on the
storage or disposal of nuclear waste at a
site.

(c) SITE CHARACTERIZATION.—

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

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

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

(A) to inform the public of the proposed
site characterization; and
(B) to solicit public comments and recommendations with respect to the site characterization plan of the Administrator.

(4) CONSULTATION AND COOPERATION AGREEMENT.—

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

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

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

(iii) the governing body of any affected Indian Tribe.

(B) CONTENTS.—The consultation and cooperation agreement shall provide—

(i) compensation to the State, any affected units of local government, and any affected Indian Tribes for any potential economic, social, public health and safety, and environmental impacts associated with site characterization; and

(ii) financial and technical assistance to enable the State, affected units of local
government, and affected Indian Tribes to
monitor, review, evaluate, comment on, ob-
tain information on, and make rec-
ommendations on site characterization ac-
tivities.

(d) **Final Site Suitability Determination.**—

(1) **Determination Required.**—On comple-
tion of site characterization activities, the Adminis-
trator shall make a final determination of whether
the site is suitable for development as a repository.

(2) **Basis of Determination.**—In making a
determination under paragraph (1), the Adminis-
trator shall determine if—

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

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

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

(I) the radiation protection
standards of the Administrator of the
Environmental Protection Agency;
and
(II) the licensing standards of
the Commission; and

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

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

(e) Consent Agreements.—

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

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

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

(C) if the site is located on a reservation,
the governing body of the affected Indian Tribe.
(2) CONTENTS.—The consent agreement shall—

(A) contain the terms and conditions on which each State, local government, and Indian Tribe, as applicable, consents to host the repository; and

(B) express the consent of each State, local government, and Indian Tribe to host the repository.

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

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

(B) may include—

(i) financial compensation and incentives;

(ii) economic development assistance;

(iii) operational limitations or requirements; and

(iv) regulatory oversight authority.

(4) BINDING EFFECT.—The consent agreement—

(A) shall be binding on the parties, subject to section 401(e); and
(B) shall not be amended or revoked except by mutual agreement of the parties.

(f) Submission of License Application.—On determining that a site is suitable under subsection (d) and ratification of a consent agreement under subsection (e), the Administrator shall submit to the Commission an application for a construction authorization for the repository.

SEC. 307. LICENSING NUCLEAR WASTE FACILITIES.

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

(1) all applicable standards for the protection of the general environment from offsite releases of radioactive material;

(2) the licensing and regulatory jurisdiction of the Commission, including all applicable criteria and requirements issued by the Commission under section 121(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141(b)); and

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

SEC. 308. DEFENSE WASTE.

(a) Disposal and Storage by Administration.—

The Secretary—
(1) shall arrange for the Administrator to dispose of defense wastes in a repository developed under this Act; and

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

(b) MEMORANDUM OF AGREEMENT.—The arrangements shall be covered by a memorandum of agreement between the Secretary and the Administrator.

(c) Costs.—The portion of the cost of developing, constructing, and operating the repository or storage facilities under this Act that is attributable to defense wastes shall be allocated to the Federal Government and paid by the Federal Government into the Working Capital Fund.

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

(e) COMINGLING DETERMINATION.—
(1) REEVALUATION.—Notwithstanding section 8 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10107), the Secretary may reevaluate the decision to commingle defense wastes with nuclear waste from civilian nuclear power reactors.

(2) NOTIFICATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall notify the President and the appropriate committees of Congress of whether the Secretary intends to reevaluate the decision under paragraph (1) and the reasons for that decision.

(3) SEPARATE NUCLEAR WASTE FACILITIES.—
If the Secretary finds, after conducting the reevaluation under paragraph (1), that the development of separate nuclear waste facilities for the storage or disposal of defenses wastes is necessary or appropriate for the efficient management of defenses wastes, the Administrator may, with the concurrence of the President, site, construct, and operate 1 or more separate nuclear waste facilities for the storage or disposal of defenses wastes.

SEC. 309. TRANSPORTATION.

(a) IN GENERAL.—The Administrator shall be responsible for transporting nuclear waste—
(1) from the site of a contract holder to a storage facility or repository;
(2) from a storage facility to a repository; and
(3) in the case of defense waste, from a Department of Energy site to a repository.

(b) CERTIFIED PACKAGES.—No nuclear waste may be transported under this Act except in packages—
(1) the design of which has been certified by the Commission; and
(2) that have been determined by the Commission to satisfy the quality assurance requirements of the Commission.

(c) NOTIFICATION.—Prior to any transportation of nuclear waste under this Act, the Administrator shall provide advance notification to States and Indian Tribes through whose jurisdiction the Administrator plans to transport the nuclear waste.

(d) TRANSPORTATION ASSISTANCE.—
(1) PUBLIC EDUCATION.—The Administrator shall conduct a program to provide information to the public about the transportation of nuclear waste.
(2) TRAINING.—The Administrator shall provide financial and technical assistance to States and Indian Tribes through whose jurisdiction the Administrator plans to transport nuclear waste to train
public safety officials and other emergency responders on—

(A) procedures required for the safe, routine transportation of nuclear waste; and

(B) procedures for dealing with emergency response situations involving nuclear waste, including instruction of—

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

(ii) emergency response personnel;

and

(iii) radiological protection and emergency medical personnel.

(3) EQUIPMENT.—The Administrator shall provide monetary grants and contributions in-kind to assist States and Indian Tribes through whose jurisdiction the Administrator plans to transport nuclear waste for the purpose of acquiring equipment for responding to a transportation incident involving nuclear waste.

(4) TRANSPORTATION SAFETY PROGRAMS.—The Administrator shall provide in-kind, financial, technical, and other appropriate assistance to States and Indian Tribes through whose jurisdiction the
Administrator plans to transport nuclear waste for transportation safety programs related to shipments of nuclear waste.

**TITLE IV—FUNDING AND LEGAL PROCEEDINGS**

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

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

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

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

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

(B) immediately on the payment of the fees;

(2) any appropriations made by Congress to pay the share of the cost of the program established under this Act attributable to defense wastes; and
(3) interest paid on the unexpended balance of the Working Capital Fund.

(c) AVAILABILITY.—All funds deposited in the Working Capital Fund—

(1) shall be immediately available to the Administrator to carry out the functions of the Administrator, except to the extent limited in annual authorization or appropriation Acts;

(2) shall remain available until expended; and

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

(d) USE OF FUND.—Except to the extent limited in annual authorization or appropriation Acts, the Administrator may make expenditures from the Working Capital Fund only for purposes of carrying out functions authorized by this Act.

(e) CONTRACT AUTHORITY.—Any contract or agreement that authorizes an expenditure or obligation exceeding an amount available in the Working Capital Fund for the expenditure or obligation (including any cooperative agreement, consultation, and cooperation agreement, or consent agreement under section 305 or 306) shall be subject to appropriation.
(f) PERFORMANCE-BASED FUNDING.—No fees paid by contract holders pursuant to section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) shall be paid into the Working Capital Fund after December 31, 2029, unless the Administrator is operating a nuclear waste facility by that date.

SEC. 402. NUCLEAR WASTE FUND.

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

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

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

(b) ADMINISTRATION OF THE WASTE FUND.—Section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) is amended—

(1) by striking “Secretary” each place it appears (except where it appears in the context of the “Secretary of the Treasury”) and inserting “Administrator of the Nuclear Waste Administration”; and

(2) by striking “the Waste Fund” each place it appears and inserting “the Waste Fund or the
Working Capital Fund established by section 401 of
the Nuclear Waste Administration Act of 2019."

SEC. 403. FULL COST RECOVERY.

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

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

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

SEC. 404. JUDICIAL REVIEW.

(a) JURISDICTION.—

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

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

(B) alleging the failure of the Adminis-
trator or the Commission to make any decision,
or take any action, required under this Act;
(C) challenging the constitutionality of any
decision made, or action taken, under this Act;
or
(D) for review of any environmental as-
essment or environmental impact statement
prepared pursuant to the National Environ-
mental Policy Act of 1969 (42 U.S.C. 4321 et
seq.) with respect to any action under this Act,
or alleging a failure to prepare any such assess-
ment or statement with respect to any such ac-
tion.

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

(A) the judicial circuit in which the peti-
tioner involved resides or has the principal of-
office of the petitioner; or

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

(b) DEADLINE FOR COMMENCING ACTION.—

(1) IN GENERAL.—Except as provided in para-
graph (2), a civil action for judicial review described
in subsection (a)(1) may be brought not later than
the date that is 180 days after the date of the deci-
sion or action or failure to act involved.
(2) NO KNOWLEDGE OF DECISION OR ACTION.—If a party shows that the party did not know of the decision or action complained of (or of the failure to act) and that a reasonable person acting under the circumstances would not have known, the party may bring a civil action not later than 180 days after the date the party acquired actual or constructive knowledge of the decision, action, or failure to act.

SEC. 405. LITIGATION AUTHORITY.

(a) SUPERVISION BY ATTORNEY GENERAL.—The litigation of the Administration shall be subject to the supervision of the Attorney General pursuant to chapter 31 of title 28, United States Code.

(b) ATTORNEYS OF ADMINISTRATION.—The Attorney General may authorize any attorney of the Administration to conduct any civil litigation of the Administration in any Federal court, except the Supreme Court.

SEC. 406. LIABILITIES.

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

(1) not abate by reason of the enactment of this Act; and
(2) continue in effect with the Administrator substituted for the Secretary.

(b) SETTLEMENT OF PENDING LITIGATION; CONTRACT MODIFICATION.—

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

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

(c) PAYMENT OF JUDGMENTS AND SETTLEMENTS.—Payment of judgments and settlements in cases arising from the failure of the Secretary to meet the deadline of January 31, 1998, to begin to dispose of nuclear waste under contracts entered into under section 302(a)(1) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)(1)) shall continue to be paid from the perma-
nent judgment appropriation established pursuant to section 1304 of title 31, United States Code.

(d) NEW CONTRACTS.—Notwithstanding section 302(a)(5) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10223(a)(5)), the Administrator shall not enter into any contract after the date of enactment of this Act that obligates the Administrator to begin disposing of nuclear waste before the Commission has licensed the Administrator to operate a repository or storage facility.

(e) NUCLEAR INDEMNIFICATION.—

(1) INDEMNIFICATION AGREEMENTS.—For purposes of section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) (commonly known as the "Price-Anderson Act")—

(A) any person that conducts nuclear waste activities under a contract with the Administrator that may involve the risk of public liability shall be treated as a contractor of the Secretary; and

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

(2) CONFORMING AMENDMENT.—Section 11 ff. of the Atomic Energy Act of 1954 (42 U.S.C. 
2014(ff) is amended by inserting "or the Nuclear Waste Administration" after "Secretary of Energy".

TITLE V—ADMINISTRATIVE AND SAVINGS PROVISIONS

SEC. 501. ADMINISTRATIVE POWERS OF ADMINISTRATOR.

The Administrator shall have the power—

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

(2) to enter into contracts with any person who generates or holds title to nuclear waste generated in a civilian nuclear power reactor for the acceptance of title, subsequent transportation, storage, and disposal of the nuclear waste;

(3) to enter into and perform contracts, leases, and cooperative agreements with public agencies, private organizations, and persons necessary or appropriate to carry out the functions of the Administrator;

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

(5) to obtain from the Administrator of General Services the services the Administrator of General Services is authorized to provide agencies of the
United States, on the same basis as those services
are provided to other agencies of the United States;

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

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

SEC. 502. PERSONNEL.

(a) OFFICERS AND EMPLOYEES.—

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

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

(3) EXCEPTION.—Notwithstanding paragraph
(2), the Administrator may, to the extent the Ad-
ministrator determines necessary to discharge the responsibilities of the Administrator—

(A) appoint exceptionally well qualified individuals to scientific, engineering, or other critical positions without regard to the provisions of chapter 33 of title 5, United States Code, governing appointments in the competitive service; and

(B) fix the basic pay of any individual appointed under subparagraph (A) at a rate of not more than level I of the Executive Schedule without regard to the civil service laws, except that the total annual compensation of the individual shall be at a rate of not more than the highest total annual compensation payable under section 104 of title 3, United States Code.

(4) MERIT PRINCIPLES.—The Administrator shall ensure that the exercise of the authority granted under paragraph (3) is consistent with the merit principles of section 2301 of title 5, United States Code.

(b) EXPERTS AND CONSULTANTS.—The Administrator 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
4 (c) ADVISORY COMMITTEES.—
5
6 (1) ESTABLISHMENT.—The Administrator may
7 establish, in accordance with the Federal Advisory
8 Committee Act (5 U.S.C. App.), such advisory com-
9 mittees as the Administrator may consider appro-
10 priate to assist in the performance of the functions
11 of the Administrator.
12
13 (2) COMPENSATION.—A member of an advisory
14 committee, other than a full-time employee of the
15 Federal Government, may be allowed travel ex-
16 penses, including per diem in lieu of subsistence, as
17 authorized by section 5703 of title 5, United States
18 Code, for individuals in the Government service
19 without pay, while attending meetings of the advi-
20 sory committee or otherwise serving away from the
21 homes or regular place of business of the member at
22 the request of the Administrator.
23
24 SEC. 503. OFFICES.
25
26 (a) PRINCIPAL OFFICE.—The principal office of the
27 Administration shall be in or near the District of Colum-
28 bia.
(b) FIELD OFFICES.—The Administrator may maintain such field offices as the Administrator considers necessary to carry out the functions of the Administrator.

SEC. 504. MISSION PLAN.

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

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

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

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

(1) a description of the actions the Administrator plans to take to carry out the functions of the Administrator under this Act;

(2) schedules and milestones for carrying out the functions of the Administrator, which shall provide for the operation of—

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

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

(C) a repository not later than December 31, 2052; and
(3) an estimate of the amounts that the Administration will need Congress to appropriate from the Nuclear Waste Fund (in addition to amounts expected to be available from the Working Capital Fund) to carry out the functions of the Nuclear Waste Fund, on an annual basis.

(c) PROPOSED MISSION PLAN.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a proposed mission plan for comment to—

(1) Congress;

(2) the Oversight Board;

(3) the Commission;

(4) the Nuclear Waste Technical Review Board established by section 502 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10262);

(5) the States;

(6) affected Indian Tribes; and

(7) such other interested persons as the Administrator considers appropriate.

(d) PUBLIC NOTICE AND COMMENT.—On submitting the proposed mission plan for comment under subsection (e), the Administrator shall—
(1) publish a notice in the Federal Register of
the availability of the proposed mission plan for pub-
lic comment; and

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

(e) Submission of Final Mission Plan.—After
consideration of the comments received, the Administrator
shall—

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

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

(f) Revision of the Mission Plan.—The Adminis-
trator shall—

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

(2) submit the revised mission plan to Con-
gress, the President, and the Oversight Board prior
to implementing the proposed changes.
SEC. 505. ANNUAL REPORTS.

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

(b) MANAGEMENT REPORT.—The annual report submitted under subsection (a) shall include—

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

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

SEC. 506. SAVINGS PROVISIONS; TERMINATIONS.

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

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

(1) the maintenance, treatment, packaging, and storage of defense wastes at Department of Energy sites prior to delivery to, and acceptance by, the Administrator for disposal in a repository;
(2) the conduct of generic research, development, and demonstration activities related to nuclear waste management, including proliferation-resistant advanced fuel recycling and transmutation technologies that minimize environmental and public health and safety impacts; and

(3) training and workforce development programs relating to nuclear waste management.

c) Terminations.—The authority for each function of the Secretary relating to the siting, construction, and operation of repositories or storage facilities not transferred to the Administrator under this Act shall terminate on the date of enactment of this Act, including the authority—

(1) to provide interim storage or monitored, retrievable storage under subtitles B and C of title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10151 et seq.); and

(2) to site or construct a test and evaluation facility under title II of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10191 et seq.).

Sec. 507. Technical Assistance in the Field of Spent Fuel Storage and Disposal.

(a) Joint Notice.—Not later than 90 days after the date of enactment of this Act and annually for 5 suc-
ceeding years, the Secretary and the Commission shall update and publish in the Federal Register the joint notice required by section 223(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10203(b)).

(b) INFORMING FOREIGN GOVERNMENTS.—As soon as practicable after the date of the publication of the annual joint notice described in subsection (a), the Secretary of State shall inform the governments of nations and organizations operating nuclear power plants, solicit expressions of interest, and transmit any such expressions of interest to the Secretary and the Commission, as provided in section 223(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10203(c)).

(c) BUDGET REQUESTS.—The President shall include in the budget request of the President for the Commission and the Department of Energy for each of fiscal years 2020 through 2025 such funding requests for a program of cooperation and technical assistance with nations in the fields of spent nuclear fuel storage and disposal as the President determines appropriate in light of expressions of interest in the cooperation and assistance.

(d) ELIGIBILITY.—Notwithstanding any limitation on cooperation and technical assistance to non-nuclear weapon states under section 223 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10203), the Secretary and the
1. Commission may cooperate with and provide technical assistance to nuclear weapon states, if the Secretary and the Commission determine the cooperation and technical assistance is in the national interest.

5. SEC. 508. NUCLEAR WASTE TECHNICAL REVIEW BOARD.
   (a) ELIGIBILITY.—Section 502(b)(3)(C)(iii)(I) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10262(b)(3)(C)(iii)(I)) is amended by inserting “or the Nuclear Waste Administration” after “the Department of Energy”.
   (b) FUNCTIONS.—Section 503 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10263) is amended by striking “1987” and inserting “1987 and the Nuclear Waste Administrator”.
   (c) PRODUCTION OF DOCUMENTS.—Section 504(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10264(b)) is amended by striking “Secretary” each place it appears and inserting “Nuclear Waste Administrator”.
   (d) REPORTS.—Section 508 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10268) is amended in the first sentence by striking “Congress and the Secretary” and inserting “Congress, the Nuclear Waste Administrator, and the Nuclear Waste Oversight Board”.
   (e) TERMINATION.—Section 510 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10270) is amended
1 by striking “Secretary” and inserting “Nuclear Waste Admin-
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.