

Comparing the base document H.R. 3053, as reported, with the Rules Committee Print 115-69

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Section 1. Short title; table of contents

(a) SHORT TITLE.— This Act may be cited as the "Nuclear Waste Policy Amendments Act of 2017~~8~~".

(b) TABLE OF CONTENTS.—

The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MONITORED RETRIEVABLE STORAGE

- Sec. 101. Monitored retrievable storage.
- Sec. 102. Authorization and priority.
- Sec. 103. Conditions for MRS agreements.
- Sec. 104. Survey.
- Sec. 105. Site selection.
- Sec. 106. Benefits agreement.
- Sec. 107. Licensing.
- Sec. 108. Financial assistance.

TITLE II—PERMANENT REPOSITORY

- Sec. 201. Land withdrawal, jurisdiction, and reservation.
- Sec. 202. Application procedures and infrastructure activities.
- Sec. 203. Pending repository license application.
- Sec. 204. Limitation on planning, development, or construction of defense waste repository.
- Sec. 205. Sense of Congress regarding transportation routes.

TITLE III—DOE CONTRACT PERFORMANCE

- Sec. 301. Title to material.

TITLE IV—BENEFITS TO HOST COMMUNITY

- Sec. 401. Consent.
- Sec. 402. Content of agreements.
- Sec. 403. Covered units of local government.
- Sec. 404. Termination.
- Sec. 405. Priority funding for certain institutions of higher education.

Sec. 406. Disposal of spent nuclear fuel.

Sec. 407. Updated report.

TITLE V—FUNDING

Sec. 501. Assessment and collection of fees.

Sec. 502. Use of Waste Fund.

Sec. 503. Annual multiyear budget proposal.

Sec. 504. Availability of certain amounts.

TITLE VI—MISCELLANEOUS

Sec. 601. Certain standards and criteria.

Sec. 602. Application.

Sec. 603. Transportation safety assistance.

Sec. 604. Office of Civilian Radioactive Waste Management.

Sec. 605. West Lake Landfill.

Sec. 606. Subseabed or ocean water disposal.

Sec. 607. Sense of Congress regarding storage of nuclear waste near the Great Lakes.

Sec. 608. Budgetary effects.

Title I—Monitored Retrievable Storage

Sec. 101. Monitored retrievable storage

(a) PROPOSAL.— Section 141(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10161(b)) is amended—

(1) in paragraph (1)—

(A) by striking "1985" and inserting "2019"; and

(B) by striking "the construction of";

(2) in paragraph (2)—

(A) by amending subparagraph (C) to read as follows:

"(C) designs, specifications, and cost estimates sufficient to—

(i) solicit bids for the construction of one or more such facilities; and

(ii) enable completion and operation of such a facility as soon as practicable;";

(B) in subparagraph (D), by striking "this Act." and inserting "this Act; and"; and

(C) by adding at the end the following:

"(E) options to enter into MRS agreements with respect to one or more monitored retrievable storage facilities."; and

(3) by amending paragraph (4) to read as follows:

"(4) The Secretary shall, not later than 90 days after the date of enactment of the Nuclear Waste Policy Amendments Act of 2017~~8~~, publish a request for information to help the Secretary evaluate options for the Secretary to enter into MRS agreements with respect to one or more monitored retrievable storage facilities."

(b) ADDITIONAL AMENDMENTS.—

(1) IN GENERAL.— Section 141 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10161) is further amended—

(A) in subsection (c)(2)—

(i) by striking "If the Congress" and all that follows through "monitored retrievable storage facility, the" and inserting "The"; and

(ii) by striking "construction of such facility" and inserting "construction of a monitored retrievable storage facility"; and

(B) by striking subsections (d) through (h).

(2) DEFINITIONS.— Section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101) is amended—

(A) in paragraph (34), by striking "the storage facility" and inserting "a storage facility"; and

(B) by adding at the end the following:

"(35) The term 'MRS agreement' means a cooperative agreement, contract, or other mechanism that the Secretary considers appropriate to support the storage of Department-owned civilian waste in one or more monitored retrievable storage facilities as authorized under section 142(b)(2).

"(36) The term 'Department-owned civilian waste' means high-level radioactive waste, or spent nuclear fuel, resulting from civilian nuclear activities, to which the Department holds title. "

(3) TECHNICAL AMENDMENTS.— Section 146 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10166) is amended—

(A) in subsection (a), by striking "such subsection" and inserting "subsection (f) of such section"; and

(B) in subsection (b), by striking "this subsection" and inserting "this section".

Sec. 102. Authorization and priority

Section 142 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10162) is amended by striking subsection (b) and inserting the following:

"(b) AUTHORIZATION.— Subject to the requirements of this subtitle, the Secretary is authorized to—

"(1) site, construct, and operate one or more monitored retrievable storage facilities; and

"(2) store, pursuant to an MRS agreement, Department-owned civilian waste at a monitored retrievable storage facility for which a non-Federal entity holds a license described in section 143(1).

"(c) PRIORITY.—

"(1) IN GENERAL.— Except as provided in paragraph (2), the Secretary shall prioritize storage of Department-owned civilian waste at a monitored retrievable storage facility authorized under subsection (b)(2).

"(2) EXCEPTION.—

"(A) DETERMINATION.— Paragraph (1) shall not apply if the Secretary determines that it will be faster and less expensive to site, construct, and operate a facility authorized under subsection (b)(1), in comparison to a facility authorized under subsection (b)(2).

"(B) NOTIFICATION.— Not later than 30 days after the Secretary makes a determination described in subparagraph (A), the Secretary shall submit to Congress written notification of such determination."

Sec. 103. Conditions for MRS agreements

(a) AMENDMENT.—

Section 143 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10163) is amended to read as follows:

"Sec. 143. Conditions for MRS agreements

"(a) IN GENERAL.— The Secretary may not enter into an MRS agreement under section 142(b)(2) unless—

"(1) the monitored retrievable storage facility with respect to which the MRS agreement applies has been licensed by the Commission under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

"(2) the non-Federal entity that is a party to the MRS agreement has approval to store Department-owned civilian waste at such facility from each of—

"(A) the Governor of the State in which the facility is located;

"(B) any unit of general local government with jurisdiction over the area in which the facility is located; and

"(C) any affected Indian tribe;

"(3) except as provided in subsection (b), the Commission has issued a final repository decision; and

"(4) the MRS agreement provides that the quantity of high-level radioactive waste and spent nuclear fuel at the site of the facility at any one time will not exceed the limits described in section 148(d)(3) and (4).

"(b) INITIAL AGREEMENT.—

"(1) AUTHORIZATION.— The Secretary may enter into one MRS agreement under section 142(b)(2) before the Commission has issued a final repository decision.

"(2) FUNDING.— There are authorized to be appropriated to carry out this subsection—

"(A) for each of fiscal years 2020 through 2022, the greater of—

"(i) \$50,000,000; or

"(ii) the amount that is equal to 10 percent of the amounts appropriated from the Waste Fund in that fiscal year; and

"(B) for each of fiscal years 2023 through 2025, the amount that is equal to 10 percent of the amounts appropriated from the Waste Fund in that fiscal year.

"(3) PRIORITY.—

"(A) IN GENERAL.— An MRS agreement entered into pursuant to paragraph (1) shall, to the extent allowable under this Act (including under the terms of the standard contract established in section 6961.11 of title 10, Code of Federal Regulations), provide for prioritization of the storage of Department-owned civilian waste that originated from facilities that have ceased commercial operation.

"(B) NO EFFECT ON STANDARD CONTRACT.— Nothing in subparagraph (A) shall be construed to amend or otherwise alter the standard contract established in section 6961.11 of title 10, Code of Federal Regulations.

"(4) CONDITIONS.—

"(A) NO STORAGE.— Except as provided in subparagraph (B), the Secretary may not store any Department-owned civilian waste at the initial MRS facility until the Commission has issued a final repository decision.

"(B) EXCEPTION.—

"(i) FINDING.— The Secretary, ~~in consultation with the Chairman of the Commission,~~ may make a finding that a final repository decision is imminent, which finding shall be updated not less often than quarterly until the date on which the Commission issues a final repository decision.

"(ii) STORAGE.— If the Secretary makes a finding under clause (i), the Secretary may store Department-owned civilian waste at the initial MRS facility in accordance with this section.

"(iii) NOTICE.— Not later than seven days after the Secretary makes or updates a finding under clause (i), the Secretary shall submit to Congress written notification of such finding.

"(iv) REPORTING.— In addition to the requirements of section 114(c), if the Secretary makes a finding under clause (i), the Secretary shall submit to Congress the report described in such section 114(c) not later than 1 month after the Secretary makes such finding and monthly thereafter until the date on which the Commission issues a final repository decision.

"(C) NO EFFECT ON FEDERAL DISPOSAL POLICY.— Nothing in this subsection affects the Federal responsibility for the disposal of high-level radioactive waste and spent nuclear fuel, or the definite Federal policy with regard to the disposal of such waste and spent fuel, established under subtitle A, as described in section 111(b).

"(c) DEFINITIONS.— For purposes of this section:

"(1) FINAL REPOSITORY DECISION.— The term 'final repository decision' means a final decision approving or disapproving the issuance of a construction authorization for a repository under section 114(d)(1).

"(2) INITIAL MRS FACILITY.— The term 'initial MRS facility' means the monitored retrievable storage facility with respect to which an MRS agreement is entered into pursuant to subsection (b)(1)."

(b) CONFORMING AMENDMENT.—

The item relating to section 143 in the table of contents for the Nuclear Waste Policy Act of 1982 is amended to read as follows:

"Sec. 143. Conditions for MRS agreements."

Sec. 104. Survey

Section 144 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10164) is amended—

(1) by striking "After the MRS Commission submits its report to the Congress under section 143, the" and inserting "(a) In general.—The";

(2) in the matter preceding paragraph (1), by striking "for a monitored retrievable storage facility" and inserting "for any monitored retrievable storage facility authorized under section 142";

(3) in paragraph (6), by striking "; and" and inserting a semicolon;

(4) in paragraph (7), by striking the period at the end and inserting "; and"; and

(5) by adding after paragraph (7) the following:

"(8) be acceptable to State authorities, affected units of local government, and affected Indian tribes.

"(b) REQUEST FOR PROPOSALS.— The Secretary shall issue a request for proposals for an MRS agreement authorized under section 142(b)(2) before conducting a survey and evaluation under subsection (a), and shall consider any proposals received in response to such request in making the evaluation."

Sec. 105. Site selection

Section 145 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10165) is amended—

(1) in subsection (a)—

(A) by striking "select the site evaluated" and inserting "select a site evaluated";

(B) by striking "the most"; and

(C) by inserting "authorized under section 142(b)(1)" after "monitored retrievable storage facility"; and

(2) by striking subsection (g).

Sec. 106. Benefits agreement

Section 147 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10167) is amended—

(1) by inserting "the Secretary intends to construct and operate under section 142(b)(1)" after "storage facility"; and

(2) by inserting "or once a non-Federal entity enters into an MRS agreement under section 142(b)(2)," after "section 145,".

Sec. 107. Licensing

(a) REVIEW OF LICENSE APPLICATION.— Section 148(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10168(c)) is amended by striking "section 142(b)" and inserting "section 142(b)(1)".

(b) LICENSING CONDITIONS.— Section 148(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10168(d)) is amended—

(1) in paragraph (1), by striking "has issued a license for the construction of a repository under section 115(d)" and inserting "has issued a final decision approving or disapproving the issuance of a construction authorization for a repository under section 114(d)(1)"; and

(2) in paragraph (2), by striking "or construction of the repository ceases".

Sec. 108. Financial assistance

Section 149 of the Nuclear Waste Policy Act of 1982 is amended by inserting "authorized under section 142(b)(1)" after "a monitored retrievable storage facility".

Title II—Permanent Repository

Sec. 201. Land withdrawal, jurisdiction, and reservation

(a) LAND WITHDRAWAL, JURISDICTION, AND RESERVATION.—

(1) LAND WITHDRAWAL.— Subject to valid existing rights and except as provided otherwise in this section, the lands described in subsection (c) are withdrawn permanently from all forms of entry, appropriation, and disposal under the public land laws, including the mineral leasing laws, the geothermal leasing laws, and the mining laws.

(2) JURISDICTION.— Except as otherwise provided in this section, jurisdiction over the withdrawal is vested in the Secretary. There are transferred to the Secretary the lands within the withdrawal under the jurisdiction of the Secretary concerned on the effective date described in subsection (j)(1).

(3) RESERVATION.— The withdrawal is reserved for use by the Secretary for development, preconstruction testing and performance confirmation, licensing, construction, management and operation, monitoring, closure, postclosure, and other activities associated with the disposal of high-level radioactive waste and spent nuclear fuel under the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.).

(b) REVOCATION AND MODIFICATION OF PUBLIC LAND ORDERS AND RIGHTS-OF-WAY.—

(1) PUBLIC LAND ORDER REVOCATION.— Public Land Order 6802 of September 25, 1990, as extended by Public Land Order 7534, and any conditions or memoranda of understanding accompanying those land orders, are revoked.

(2) RIGHT-OF-WAY RESERVATIONS.— Project right-of-way reservations N-48602 and N-47748 of January 2001, are revoked.

(c) LAND DESCRIPTION.—

(1) BOUNDARIES.— The lands and interests in lands withdrawn and reserved by this section comprise the approximately 147,000 acres of land in Nye County, Nevada, as generally depicted on the Yucca Mountain Project Map, YMP-03-024.2, entitled "Proposed Land Withdrawal" and dated July 21, 2005.

(2) LEGAL DESCRIPTION AND MAP.— Not later than 120 days after the date of enactment of this Act, the Secretary of the Interior shall—

(A) publish in the Federal Register a notice containing a legal description of the withdrawal; and

(B) file copies of the maps described in paragraph (1) and the legal description of the withdrawal with the Congress, the Governor of the State of Nevada, and the Archivist of the United States.

(3) TECHNICAL CORRECTIONS.— The maps and legal description referred to in this subsection have the same force and effect as if they were included in this section. The Secretary of the Interior may correct clerical and typographical errors in the maps and legal description.

(d) RELATIONSHIP TO OTHER RESERVATIONS.— The provisions of subtitle A of title XXX of the Military Lands Withdrawal Act of 1999 (sections 3011–3023 of Public Law 106–65) and of Public Land Order 2568 do not apply to the lands withdrawn and reserved for use by the Secretary under subsection (a). This Act does not apply to any other lands withdrawn for use by the Department of Defense under subtitle A of title XXX of the Military Lands Withdrawal Act of 1999.

(e) MANAGEMENT RESPONSIBILITIES.—

(1) GENERAL AUTHORITY.— The Secretary shall manage the lands withdrawn by subsection (a) consistent with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), this section, and other applicable law. The Secretary shall consult with the Secretary concerned in discharging that responsibility.

(2) MANAGEMENT PLAN.—

(A) DEVELOPMENT.— The Secretary, after consulting with the Secretary concerned, shall develop a management plan for the use of the withdrawal. Within 3 years after the date of enactment of this Act, the Secretary shall submit the management plan to the Congress and the State of Nevada.

(B) PRIORITY OF YUCCA MOUNTAIN PROJECT-RELATED ISSUES.— Subject to subparagraphs (C) and (D), any use of the withdrawal for activities not associated with the Project is subject to conditions and restrictions that the Secretary considers necessary or desirable to permit the conduct of Project-related activities.

(C) DEPARTMENT OF THE AIR FORCE USES.— The management plan may provide for the continued use by the Department of the Air Force of the portion of the withdrawal within the Nellis Air Force Base Test and Training Range under terms and conditions on which the Secretary and the Secretary of the Air Force agree concerning Air Force activities.

(D) OTHER NON-YUCCA-MOUNTAIN-PROJECT USES.— The management plan shall provide for the maintenance of wildlife habitat and shall provide that the Secretary may permit non-Project-related uses that the Secretary considers appropriate, including domestic livestock grazing and hunting and trapping in accordance with the following requirements:

(i) **GRAZING.**— The Secretary may permit grazing to continue where established before the effective date described in subsection (j)(1), subject to regulations, policies, and practices that the Secretary, after consulting with the Secretary of the Interior, determines to be necessary or appropriate. The management of grazing shall be conducted in accordance with applicable grazing laws and policies, including—

(I) the Act commonly known as the "Taylor Grazing Act" (43 U.S.C. 315 et seq.);

(II) title IV of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751 et seq.); and

(III) the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.).

(ii) **HUNTING AND TRAPPING.**— The Secretary may permit hunting and trapping within the withdrawal where established before the effective date described in subsection (k)(1), except that the Secretary, after consulting with the Secretary of the Interior and the State of Nevada, may designate zones where, and establish periods when, no hunting or trapping is permitted for reasons of public safety, national security, administration, or public use and enjoyment.

(E) **MINING.**—

(i) **IN GENERAL.**— Except as provided in clause (ii), surface or subsurface mining or oil or gas production, including slant drilling from outside the boundaries of the withdrawal, is not permitted at any time on lands on or under the withdrawal. The Secretary of the Interior shall evaluate and adjudicate the validity of all unpatented mining claims on the portion of the withdrawal that, on the date of enactment of this Act, was under the control of the Bureau of Land Management. The Secretary shall provide just compensation for the acquisition of any valid property right.

(ii) **CIND-R-LITE MINE.**— Patented Mining Claim No. 27–83–0002, covering the Cind–R–Lite Mine, shall not be affected by establishment of the withdrawal set forth in subsection (a)(1). In that event, the Secretary shall provide just compensation.

(F) **LIMITED PUBLIC ACCESS.**— The management plan may provide for limited public access to the portion of the withdrawal under Bureau of Land Management control on the effective date described in subsection (j)(1). Permitted uses may include continuation of the Nye County Early Warning Drilling Program, utility corridors, and other uses the Secretary, after consulting with the Secretary of the Interior, considers consistent with the purposes of the withdrawal.

(3) **CLOSURE.**— If the Secretary, after consulting with the Secretary concerned, determines that the health and safety of the public or the common defense and security require the closure of a road, trail, or other portion of the withdrawal, or the airspace above the withdrawal, the Secretary may effect and maintain the closure and shall provide notice of the closure.

(4) **IMPLEMENTATION.**— The Secretary and the Secretary concerned shall implement the management plan developed under paragraph (2) under terms and conditions on which they agree.

(f) **IMMUNITY.**— The United States and its departments and agencies shall be held harmless and shall not be liable for damages to persons or property suffered in the course of any mining, mineral leasing, or geothermal leasing activity conducted on the withdrawal.

(g) **LAND ACQUISITION.**— The Secretary may acquire lands and interests in lands within the withdrawal. Those lands and interests in lands may be acquired by donation, purchase, lease, exchange, easement, rights-of-way, or other appropriate methods using donated or appropriated funds. The Secretary of the Interior shall conduct any exchange of lands within the withdrawal for Federal lands outside the withdrawal.

(h) **MATERIAL REQUIREMENTS.**— Notwithstanding any other provision of law, no Federal, State, Interstate, or local requirement, either substantive or procedural, that is referred to in section 6001(a) of the Solid Waste Disposal Act (42 U.S.C. 6961(a)) applies with respect to any material—

(1) as such material is transported to a repository for disposal at such repository; or

(2) as, or after, such material is disposed of in a repository.

(i) **DEFINITIONS.**—

(1) **NUCLEAR WASTE POLICY ACT OF 1982 DEFINITIONS.**— For purposes of this section, the terms "disposal", "high-level radioactive waste", "repository", "Secretary", and "spent nuclear fuel" have the meaning given those terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(2) OTHER DEFINITIONS.— For purposes of this section—

(A) the term "withdrawal" means the geographic area consisting of the land described in subsection (c);

(B) the term "Secretary concerned" means the Secretary of the Air Force or the Secretary of the Interior, or both, as appropriate; and

(C) the term "Project" means the Yucca Mountain Project.

(j) EFFECTIVE DATE.—

(1) IN GENERAL.— Except as provided in paragraph (2), this section shall take effect on the date on which the Nuclear Regulatory Commission issues a final decision approving the issuance of a construction authorization for a repository under section 114(d)(1) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) (as so designated by this Act).

(2) EXCEPTIONS.— Subsections (c), (e)(2)(A), (h), (i), and (j) shall take effect on the date of enactment of this Act.

Sec. 202. Application procedures and infrastructure activities

(a) STATUS REPORT ON APPLICATION.— Section 114(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(c)) is amended by striking "the date on which such authorization is granted" and inserting "the date on which the Commission issues a final decision approving or disapproving such application".

(b) APPLICATION PROCEDURES AND INFRASTRUCTURE ACTIVITIES.— Section 114(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) is amended—

(1) by striking "The Commission shall consider" and inserting the following:

"(1) APPLICATIONS FOR CONSTRUCTION AUTHORIZATION.— The Commission shall consider";

(2) by striking "the expiration of 3 years after the date of the submission of such application" and inserting "30 months after the date of enactment of the Nuclear Waste Policy Amendments Act of 2017~~8~~";

(3) by striking "70,000 metric tons" each place it appears and inserting "110,000 metric tons"; and

(4) by adding at the end the following new paragraphs:

"(2) APPLICATIONS TO AMEND.— If the Commission issues a construction authorization for a repository pursuant to paragraph (1) and the Secretary submits an application to amend such authorization, the Commission shall consider the application to amend using expedited, informal procedures, including discovery procedures that minimize the burden on the parties to produce documents. The Commission shall issue a final decision on such application to amend within 1 year after the date of submission of such application, except that the Commission may extend such deadline by not more than 6 months if, not less than 30 days before such deadline, the Commission complies with the reporting requirements established in subsection (e)(2).

"(3) INFRASTRUCTURE ACTIVITIES.—

"(A) IN GENERAL.— At any time before or after the Commission issues a final decision approving or disapproving the issuance of a construction authorization for a repository pursuant to paragraph (1), the Secretary may undertake infrastructure activities that the Secretary considers necessary or appropriate to support construction or operation of a repository at the Yucca Mountain site or transportation to such site of spent nuclear fuel and high-level radioactive waste. Infrastructure activities include safety upgrades, site preparation, the construction of a rail line to connect the Yucca Mountain site with the national rail network (including any facilities to facilitate rail operations), and construction, upgrade, acquisition, or operation of electrical grids or facilities, other utilities, communication facilities, access roads, and nonnuclear support facilities.

"(B) ENVIRONMENTAL ANALYSIS.— If the Secretary determines that an environmental analysis is required under the National Environmental Policy Act of 1969 with respect to an infrastructure activity undertaken under this paragraph, the Secretary need not consider alternative actions or a no-action alternative. To the extent any other Federal agency must consider the potential environmental impact of such an infrastructure activity, the agency shall adopt, to the extent practicable, any environmental analysis prepared by the Secretary under this subparagraph without further action.

Such adoption satisfies the responsibilities of the adopting agency under the National Environmental Policy Act of 1969, and no further action is required by the agency.

"(C) NO GROUNDS FOR DISAPPROVAL.— The Commission may not disapprove, on the grounds that the Secretary undertook an infrastructure activity under this paragraph—

- "(i) the issuance of a construction authorization for a repository pursuant to paragraph (1);
- "(ii) a license to receive and possess spent nuclear fuel and high-level radioactive waste; or
- "(iii) any other action concerning the repository."

(c) CONNECTED ACTIONS.— Section 114(f)(6) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(f)(6)) is amended by striking "or nongeologic alternatives to such site" and inserting "nongeologic alternatives to such site, or an action connected or otherwise related to the repository to the extent the action is undertaken outside the geologic repository operations area and does not require a license from the Commission".

Sec. 203. Pending repository license application

Nothing in this Act or the amendments made by this Act shall be construed to require the Secretary to amend or otherwise modify an application for a construction authorization described in section 114(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) pending as of the date of enactment of this Act.

Sec. 204. Limitation on planning, development, or construction of defense waste repository

(a) LIMITATION.— The Secretary of Energy may not take any action relating to the planning, development, or construction of a defense waste repository until the date on which the Nuclear Regulatory Commission issues a final decision approving or disapproving the issuance of a construction authorization for a repository under section 114(d)(1) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) (as so designated by this Act).

(b) DEFINITIONS.— In this section—

(1) the terms "atomic energy defense activity", "high-level radioactive waste", "repository", and "spent nuclear fuel" have the meanings given those terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101); and

(2) the term "defense waste repository" means the repository for high-level radioactive waste and spent nuclear fuel derived from the atomic energy defense activities of the Department of Energy, as described in the draft plan of the Department titled "Draft Plan for a Defense Waste Repository" published on December 16, 2016.

Sec. 205. Sense of Congress regarding transportation routes

It is the sense of Congress that the Secretary of Energy should consider routes for the transportation of spent nuclear fuel or high-level radioactive waste transported by or for the Secretary under subtitle A of title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10131 et seq.) to the Yucca Mountain site that, to the extent practicable, avoid Las Vegas, Nevada.

Title III—DOE Contract Performance

Sec. 301. Title to material

Section 123 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10143) is amended—

- (1) by striking "Delivery" and inserting "(a) In general.—Delivery";
- (2) by striking "repository constructed under this subtitle" and inserting "repository or monitored retrievable storage facility"; and
- (3) by adding at the end the following new subsection:

"(b) CONTRACT MODIFICATION.— The Secretary may enter into new contracts or negotiate modifications to existing contracts, with any person who generates or holds title to high-level radioactive waste or spent nuclear fuel of domestic origin, for acceptance of title, subsequent transportation, and storage of such high-level radioactive waste or spent nuclear fuel (including to expedite such acceptance of title, transportation, and storage of such waste or fuel from facilities that have ceased commercial operation) at a monitored retrievable storage facility authorized under subtitle C."

Title IV—Benefits to Host Community

Sec. 401. Consent

Section 170 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10173) is amended—

- (1) in subsection (c), by striking "shall offer" and inserting "may offer";
- (2) in subsection (d), by striking "shall" and inserting "may";
- (3) in subsection (e)—
 - (A) by inserting a comma after "repository"; and
 - (B) by inserting "per State," after "facility"; and
- (4) by adding at the end the following new subsection:

"(g) CONSENT.— The acceptance or use of any of the benefits provided under a benefits agreement under this section by the State of Nevada shall not be considered to be an expression of consent, express or implied, to the siting of a repository in such State."

Sec. 402. Content of agreements

(a) BENEFITS SCHEDULE.—

The table in section 171(a)(1) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10173a(a)(1)) is amended to read as follows:

"BENEFITS SCHEDULE	Event	MRS	Repository	(A) Annual payments prior to first spent fuel receipt	\$5,000,000	\$15,000,000	(B) Upon first spent fuel receipt	\$10,000,000	The amount described in section 302(f)(1)(B)	<u>\$400,000,000</u>	(C) Annual payments after first spent fuel receipt until closure of the facility	\$10,000,000	The amounts described in section 302(f)(1)(C)	<u>\$40,000,000</u> ".
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(b) RESTRICTIONS ON USE.— Section 171(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10173a(a)) is amended—

- (1) in paragraph (6), by striking "paragraph (7)" and inserting "paragraphs (7) and (8)"; and
- (2) by adding at the end the following new paragraph:

"(8) None of the payments under this section may be used—

"(A) directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code;

"(B) for litigation purposes; or

"(C) to support multistate efforts or other coalition-building activities inconsistent with the siting, construction, or operation of the monitored retrievable storage facility or repository concerned."

(c) CONTENTS.— Section 171(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10173a(b)) is amended—

- (1) by striking paragraph (2);
- (2) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and
- (3) in paragraph (3) (as redesignated by paragraph (2) of this subsection), by striking "in the design of the repository or monitored retrievable storage facility and".

(d) PAYMENTS ~~FROM THE WASTE FUND~~ BY SECRETARY.— Section 171(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10173a(c)) is amended ~~by striking the first sentence and inserting the following:~~ "to read as follows:

"(c) PAYMENTS BY SECRETARY.—The Secretary shall make payments to the State of Nevada under a benefits agreement concerning a repository under section 170 from the Waste Fund. The signature of the Secretary on a valid benefits agreement under this subtitle shall constitute a commitment, but only to the extent that all amounts for that purpose are provided in advance in subsequent appropriations Acts, by the Secretary to make payments in accordance with such agreement."

Sec. 403. Covered units of local government

(a) IN GENERAL.—

The Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) is amended by inserting after section 172 the following new section:

"Sec. 172A. Covered units of local government

"(a) BENEFITS AGREEMENT.— Not earlier than 1 year after the date of enactment of this section, the Secretary may enter into a benefits agreement with any covered unit of local government concerning a repository for the acceptance of high-level radioactive waste or spent nuclear fuel in the State of Nevada.

"(b) CONTENT OF AGREEMENTS.— In addition to any benefits ~~to which~~ *hat* a covered unit of local government ~~is entitled~~ *may receive* under this Act, the Secretary shall make payments to such covered unit of local government that is a party to a benefits agreement under subsection (a) to mitigate impacts described in section 175(b).

"(c) PAYMENTS FROM WASTE FUND.— The Secretary shall make payments to a covered unit of local government under a benefits agreement under this section from the Waste Fund.

"(d) RESTRICTION ON USE.— None of the payments made pursuant to a benefits agreement under this section may be used—

"(1) directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code;

"(2) for litigation purposes; or

"(3) to support multistate efforts or other coalition-building activities inconsistent with the siting, construction, or operation of the repository.

"(e) CONSENT.— The acceptance or use of any of the benefits provided under a benefits agreement under this section by any covered unit of local government shall not be considered to be an expression of consent, express or implied, to the siting of a repository in the State of Nevada.

"(f) COVERED UNIT OF LOCAL GOVERNMENT DEFINED.— In this section, the term 'covered unit of local government' means—

"(1) any affected unit of local government with respect to a repository; and

"(2) any unit of general local government in the State of Nevada."

(b) CONFORMING AMENDMENTS.—

(1) BENEFITS AGREEMENT.—

Section 170(a)(4) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10173(a)(4)) is amended—

~~(A) by inserting "made available pursuant to a benefits agreement under this section" after "under this subtitle"; and~~

~~(B) by striking " to read as follows:~~

~~"(4) Benefits and payments under this subtitle made available pursuant to a benefits agreement under this section or section 172A may be made available only in accordance with ~~a~~ such benefits agreement ~~under this section"~~~~

~~and inserting "with such benefits agreement" to the extent that all amounts for that purpose are provided in advance in subsequent appropriations Acts."~~

(2) LIMITATION.— Section 170(e) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10173(e)) is further amended by inserting "under this section" after "may be in effect".

(3) TABLE OF CONTENTS.— The table of contents for the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 note) is amended by adding after the item relating to section 172, the following:

"Sec. 172A. Covered units of local government."

Sec. 404. Termination

Section 173 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10173c) is amended—

(1) in subsection (a)—

(A) by striking "under this title if" and inserting "under this title";

(B) in paragraph (1), by inserting "concerning a repository or a monitored retrievable storage facility, if" before "the site under consideration"; and

(C) in paragraph (2), by striking "the Secretary determines that the Commission cannot license the facility within a reasonable time" and inserting "concerning a repository, if the Commission issues a final decision disapproving the issuance of a construction authorization for a repository under section 114(d)(1)"; and

(2) by amending subsection (b) to read as follows:

"(b) **TERMINATION BY STATE OR INDIAN TRIBE.**— A State, covered unit of local government (as defined in section 172A), or Indian tribe may only terminate a benefits agreement under this title—

"(1) concerning a repository or a monitored retrievable storage facility, if the Secretary disqualifies the site under consideration for its failure to comply with technical requirements established by the Secretary in accordance with this Act; or

"(2) concerning a repository, if the Commission issues a final decision disapproving the issuance of a construction authorization for a repository under section 114(d)(1)."

Sec. 405. Priority funding for certain institutions of higher education

(a) **IN GENERAL.**—

Subtitle G of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10174 et seq.) is amended by adding at the end the following new section:

"Sec. 176. Priority funding for certain institutions of higher education

"(a) **IN GENERAL.**— In providing any funding to institutions of higher education from the Waste Fund, the Secretary shall prioritize institutions of higher education that are located in the State of Nevada.

"(b) **DEFINITION.**— In this section, the term 'institution of higher education' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)."

(b) **CONFORMING AMENDMENT.**—

The table of contents for the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 note) is amended by adding after the item relating to section 175, the following:

"Sec. 176. Priority funding for certain institutions of higher education."

Sec. 406. Disposal of spent nuclear fuel

Section 122 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10142) is amended by adding at the end the following: "Any economic benefits derived from the retrieval of spent nuclear fuel pursuant to this section shall be shared with the State in which the repository is located, affected units of local government, and affected Indian tribes."

Sec. 407. Updated report

Section 175(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10174a(a)) is amended by striking "Nuclear Waste Policy Amendments Act of 1987" and inserting "Nuclear Waste Policy Amendments Act of 2017~~8~~".

Title V—Funding

Sec. 501. Assessment and collection of fees

(a) **IN GENERAL.**— Section 302(a)(4) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)(4)) is amended—

(1) in the first sentence—

(A) by striking "(4) Not later than" and inserting the following:

"(4) **ASSESSMENT, COLLECTION, AND PAYMENT OF FEES.**—

"(A) **ASSESSMENT OF FEES.**— Not later than";

(B) by striking "the date of enactment of this Act" and inserting "the date of enactment of the Nuclear Waste Policy Amendments Act of 2017~~8~~"; and

(C) by striking "collection and payment" and inserting "assessment";

(2) in the second sentence, by striking "collection of the fee" and inserting "such amount";

(3) in the third sentence, by striking "are being collected" and inserting "will result from such amounts";

(4) in the fifth sentence, by striking "a period of 90 days of continuous session" and all that follows through the period at the end and inserting "the date that is 180 days after the date of such transmittal."; and

(5) by adding at the end the following:

"(B) COLLECTION AND PAYMENT OF FEES.—

"(i) IN GENERAL.— Not later than 180 days after the date of enactment of Nuclear Waste Policy Amendments Act of 2017~~8~~, the Secretary shall establish procedures for the collection and payment of the fees established by paragraph (2) and paragraph (3), or adjusted pursuant to subparagraph (A).

"(ii) LIMITATION ON COLLECTION.— The Secretary may not collect a fee established under paragraph (2), including a fee established under paragraph (2) and adjusted pursuant to subparagraph (A)—

"(I) until the date on which the Commission issues a final decision approving or disapproving the issuance of a construction authorization for a repository under section 114(d) (1); and

"(II) after such date, in an amount that will cause the total amount of fees collected under this subsection in any fiscal year to exceed 90 percent of the amounts appropriated for that fiscal year for purposes described in subsection (d).

The limitation in subclause (II) shall not apply during a fiscal year if, at any time during that fiscal year, the Waste Fund has a balance of zero.

"(iii) PAYMENT OF FULL AMOUNTS.— Notwithstanding the noncollection of a fee by the Secretary pursuant to clause (ii) in any fiscal year, a person who has entered into a contract with the Secretary under this subsection shall pay any uncollected amounts when determined necessary by the Secretary, subject to clause (ii), for purposes described in subsection (d). "

(b) AUTHORITY TO MODIFY CONTRACTS.— The Secretary of Energy may seek to modify a contract entered into under section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) before the date of enactment of this Act to ensure that the contract complies with the provisions of such section, as amended by this Act.

(c) TECHNICAL AND CONFORMING AMENDMENTS.— Section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) is amended—

(1) in paragraph (1), by striking "paragraphs (2) and (3)" and inserting "paragraphs (2), (3), and (4)";

(2) in paragraph (3), by striking "126(b)"; and

(3) in paragraph (4), by striking "insure" and inserting "ensure".

Sec. 502. Use of Waste Fund

(a) IN GENERAL.— Section 302(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(d)) is amended—

(1) in paragraph (1), by striking "maintenance and monitoring" and all that follows through the semicolon at the end and inserting "maintenance and monitoring of any repository or test and evaluation facility constructed under this Act;";

(2) in paragraph (4), by striking "to be disposed of" and all that follows through the semicolon at the end and inserting "to be disposed of in a repository or to be used in a test and evaluation facility;";

(3) in paragraph (5), by striking "at a repository site" and all that follows through the end and inserting "at a repository site or a test and evaluation facility site and necessary or incident to such repository or test and evaluation facility;";

(4) in paragraph (6), by striking the period at the end and inserting "; and"; and

(5) by inserting after paragraph (6) the following:

"(7) payments under benefits agreements for a repository entered into under section 170 or 172A."

(b) CONFORMING AMENDMENTS.— Section 117(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10137(d)) is amended by inserting "designated with respect to a repository" after "such representatives".

Sec. 503. Annual multiyear budget proposal

Section 302(e)(2) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(e)(2)) is amended by striking "triennially" and inserting "annually".

[NOTE-- DELETED : ~~Sec. 504. Availability of certain amounts~~

Sec. 504. Availability of certain amounts

Section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) is amended by adding at the end the following:

"(f) LIMITATION ON FUNDING.—

"(1) IN GENERAL.— Beginning on the date of first spent fuel receipt at a repository, no amount may be appropriated in any fiscal year for activities relating to the repository, including transportation of additional spent fuel to the repository and operation of the repository, unless the applicable amount required with respect to the repository under section 171(a)(1)(B) or section 171(a)(1)(C) is appropriated for that fiscal year.

"(2) DEFINITION.— In this subsection, the terms 'spent fuel' and 'first spent fuel receipt' have the meaning given such terms in section 171(a).

"(g) OFFSETTING FUNDING.—

"(1) IN GENERAL.— Fees collected after the date of enactment of the Nuclear Waste Policy Amendments Act of 2018 pursuant to subsection (a) shall be credited to the Waste Fund and available, to the extent provided in advance in appropriation Acts and consistent with the requirements of this section, to carry out activities authorized to be funded from the Waste Fund.

"(2) OFFSETTING COLLECTION.— Fees collected in a fiscal year pursuant to paragraph (1) shall be deposited and credited as offsetting collections to the account providing appropriations for such activities and shall be classified as discretionary appropriations as defined by section 250(c)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(7)).

"(3) ESTIMATES.— For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) and the Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.) and for determining points of order pursuant to that Act or any concurrent resolution on the budget, an estimate provided under those Acts for a provision in a bill or joint resolution, or amendment thereto or conference report thereon, that provides discretionary appropriations, derived from amounts in the Waste Fund, for such activities shall include in that estimate the amount of such fees that will be collected during the fiscal year for which such appropriation is made available. Any such estimate shall not include any change in net direct spending as result in the appropriation of such fees."

Title VI—Miscellaneous

Sec. 601. Certain standards and criteria

(a) GENERALLY APPLICABLE STANDARDS AND CRITERIA.—

(1) ENVIRONMENTAL PROTECTION AGENCY STANDARDS.—

(A) DETERMINATION AND REPORT.— Not later than 2 years after the Nuclear Regulatory Commission has issued a final decision approving or disapproving the issuance of a construction authorization for a repository under section 114(d)(1) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) (as so designated by this Act), the Administrator of the Environmental Protection Agency shall—

(i) determine if the generally applicable standards promulgated under section 121(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141(a)) should be updated; and

(ii) submit to Congress a report on such determination.

(B) **RULE.**— If the Administrator of the Environmental Protection Agency determines, under subparagraph (A), that the generally applicable standards promulgated under section 121(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141(a)) should be updated, the Administrator, not later than 2 years after submission of the report under subparagraph (A)(ii), shall, by rule, promulgate updated generally applicable standards under such section.

(2) **COMMISSION REQUIREMENTS AND CRITERIA.**— Not later than 2 years after the Administrator of the Environmental Protection Agency promulgates updated generally applicable standards pursuant to paragraph (1)(B), the Commission shall, by rule, promulgate updated technical requirements and criteria under section 121(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141(b)) as necessary to be consistent with such updated generally applicable standards.

(b) **SITE-SPECIFIC STANDARDS AND CRITERIA.**— Nothing in this section shall affect the standards, technical requirements, and criteria promulgated by the Administrator of the Environmental Protection Agency and the Nuclear Regulatory Commission for the Yucca Mountain site under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note).

Sec. 602. Application

Section 135 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10155) is amended by striking subsection (h) and redesignating subsection (i) as subsection (h).

Sec. 603. Transportation safety assistance

Section 180(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10175(c)) is amended—

(1) by striking "(c) The Secretary" and inserting the following:

"(c) **TRAINING AND ASSISTANCE.**—

"(1) **TRAINING.**— The Secretary"; and

(2) by striking "The Waste Fund" and inserting the following:

"(2) **ASSISTANCE.**— The Secretary shall, subject to the availability of appropriations, provide in-kind, financial, technical, and other appropriate assistance, for safety activities related to the transportation of high-level radioactive waste or spent nuclear fuel, to any entity receiving technical assistance or funds under paragraph (1).

"(3) **SOURCE OF FUNDING.**— The Waste Fund".

Sec. 604. Office of Civilian Radioactive Waste Management

(a) **AMENDMENT TO THE NUCLEAR WASTE POLICY ACT OF 1982.**—

Subsection (b) of section 304 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10224(b)) is amended to read as follows:

"(b) **DIRECTOR.**—

"(1) **FUNCTIONS.**— The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act. The Director of the Office shall report directly to the Secretary.

"(2) **QUALIFICATIONS.**— The Director of the Office shall be appointed from among persons who have extensive expertise and experience in organizational and project management.

"(3) **TENURE.**— The Director of the Office may serve not more than two 5-year terms.

"(4) **SERVICE DURING INTERIM PERIOD.**— Upon expiration of the Director's term, the Director may continue to serve until the earlier of—

"(A) the date on which a new Director is confirmed; or

"(B) the date that is one year after the date of such expiration.

"(5) **REMOVAL.**— The President may remove the Director only for inefficiency, neglect of duty, or malfeasance in office. If the President removes the Director, the President shall submit to Congress a statement explaining the reason for such removal."

(b) **TRANSFER OF FUNCTIONS.**—

(1) **AMENDMENT.**— Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended by striking paragraph (8).

(2) TRANSFER OF FUNCTIONS.— The functions described in the paragraph (8) stricken by the amendment made by paragraph (1) shall be transferred to and performed by the Office of Civilian Radioactive Waste Management, as provided in section 304 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10224).

(c) TECHNICAL AMENDMENT.— Section 2(17) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(17)) is amended by striking "section 305" and inserting "section 304".

Sec. 605. West Lake Landfill

Not later than one year after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to Congress a report containing the final remedy to be implemented at the West Lake Landfill and the expected timeline for implementation of such final remedy.

Sec. 606. Subseabed or ocean water disposal

(a) PROHIBITION.— Section 5 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10104) is amended—

(1) by striking "Nothing in this Act " and inserting:

"(a) EFFECT ON MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972.— Nothing in this Act"; and

(2) by adding at the end the following new subsection:

"(b) SUBSEABED OR OCEAN WATER DISPOSAL.— Notwithstanding any other provision of law—

"(1) the subseabed or ocean water disposal of spent nuclear fuel or high-level radioactive waste is prohibited; and

"(2) no funds shall be obligated for any activity relating to the subseabed or ocean water disposal of spent nuclear fuel or high-level radioactive waste.".

(b) REPEAL.— Section 224 of the Nuclear Waste Policy Act of 1982, and the item relating thereto in the table of contents for such Act, are repealed.

Sec. 607. Sense of Congress regarding storage of nuclear waste near the Great Lakes

It is the Sense of Congress that the Governments of the United States and Canada should not allow permanent or long-term storage of spent nuclear fuel or other radioactive waste near the Great Lakes.

Sec. 608. Budgetary effects

(a) STATUTORY PAYGO SCORECARDS.— The budgetary effects of this Act and the amendments made by this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

(b) SENATE PAYGO SCORECARDS.— The budgetary effects of this Act and the amendments made by this Act shall not be entered on any PAYGO scorecard maintained for purposes of section 4106 of H. Con. Res. 71 (115th Congress).

Deleted Sections

Sec. 504. Availability of certain amounts

Section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) is amended by adding at the end the following:

"(f) AVAILABILITY OF CERTAIN AMOUNTS.—

"(1) IN GENERAL.— Notwithstanding any other provision of this section, for the purposes described in subsection (d) that are specified in subparagraphs (A) through (E) of this paragraph, the following amounts from the Waste Fund shall be available to the Secretary without further appropriation:

"(A) An amount equal to 1 percent of 2017 Waste Fund amounts, on the date on which high-level radioactive waste or spent nuclear fuel is received at the Yucca Mountain site, and in each of the 25 years thereafter, for costs associated with construction and operation of a repository or facilities at the Yucca Mountain site.

~~"(B) An amount equal to 1 percent of 2017 Waste Fund amounts, on the date on which high-level radioactive waste or spent nuclear fuel is received at the Yucca Mountain site, to make payments under a benefits agreement entered into under section 170 with the State of Nevada concerning a repository.~~

~~"(C) An amount equal to 0.1 percent of 2017 Waste Fund amounts, on the date that is one year after the date on which high-level radioactive waste or spent nuclear fuel is received at the Yucca Mountain site, and in each year thereafter until closure of the repository, to make payments under a benefits agreement entered into under section 170 with the State of Nevada concerning a repository.~~

~~"(D) An amount equal to 20 percent of 2017 Waste Fund amounts, on the date on which monitoring of the repository during the decommissioning period commences, for waste package and drip shield fabrication activities.~~

~~"(E) An amount equal to the amount of any fee collected pursuant to subsection (a)(3) after the date of enactment of the Nuclear Waste Policy Amendments Act of 2017, on the date on which such fee is collected, for costs associated with construction and operation of a repository or facilities at the Yucca Mountain site.~~

~~"(2) 2017 WASTE FUND AMOUNTS. — For purposes of this subsection, the term '2017 Waste Fund amounts' means the amounts in the Waste Fund on the date of enactment of the Nuclear Waste Policy Amendments Act of 2017."~~

