

unless Congress has specifically authorized and appropriated funds for such activities.

**(b) Report**

The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

**(c) Termination of granite research**

Not later than 6 months after December 22, 1987, the Secretary shall phase out in an orderly manner funding for all research programs in existence on December 22, 1987, designed to evaluate the suitability of crystalline rock as a potential repository host medium.

**(d) Additional siting criteria**

In the event that the Secretary at any time after December 22, 1987, considers any sites in crystalline rock for characterization or selection as a repository, the Secretary shall consider (as a supplement to the siting guidelines under section 10132 of this title) such potentially disqualifying factors as—

- (1) seasonal increases in population;
- (2) proximity to public drinking water supplies, including those of metropolitan areas; and
- (3) the impact that characterization or siting decisions would have on lands owned or placed in trust by the United States for Indian tribes.

(Pub. L. 97-425, title I, §161, as added Pub. L. 100-202, §101(d) [title III, §300], Dec. 22, 1987, 101 Stat. 1329-104, 1329-121; Pub. L. 100-203, title V, §5012, Dec. 22, 1987, 101 Stat. 1330-231.)

CODIFICATION

Pub. L. 100-202 and Pub. L. 100-203 added identical sections.

PART F—BENEFITS

**§ 10173. Benefits agreements**

**(a) In general**

(1) The Secretary may enter into a benefits agreement with the State of Nevada concerning a repository or with a State or an Indian tribe concerning a monitored retrievable storage facility for the acceptance of high-level radioactive waste or spent nuclear fuel in that State or on the reservation of that tribe, as appropriate.

(2) The State or Indian tribe may enter into such an agreement only if the State Attorney General or the appropriate governing authority of the Indian tribe or the Secretary of the Interior, in the absence of an appropriate governing authority, as appropriate, certifies to the satisfaction of the Secretary that the laws of the State or Indian tribe provide adequate authority for that entity to enter into the benefits agreement.

(3) Any benefits agreement with a State under this section shall be negotiated in consultation with affected units of local government in such State.

(4) Benefits and payments under this part may be made available only in accordance with a benefits agreement under this section.

**(b) Amendment**

A benefits agreement entered into under subsection (a) of this section may be amended only by the mutual consent of the parties to the agreement and terminated only in accordance with section 10173c of this title.

**(c) Agreement with Nevada**

The Secretary shall offer to enter into a benefits agreement with the Governor of Nevada. Any benefits agreement with a State under this subsection shall be negotiated in consultation with any affected units of local government in such State.

**(d) Monitored retrievable storage**

The Secretary shall offer to enter into a benefits agreement relating to a monitored retrievable storage facility with the governing body of the Indian tribe on whose reservation the site for such facility is located, or, if the site is not located on a reservation, with the Governor of the State in which the site is located and in consultation with affected units of local government in such State.

**(e) Limitation**

Only one benefits agreement for a repository and only one benefits agreement for a monitored retrievable storage facility may be in effect at any one time.

**(f) Judicial review**

Decisions of the Secretary under this section are not subject to judicial review.

(Pub. L. 97-425, title I, §170, as added Pub. L. 100-202, §101(d) [title III, §300], Dec. 22, 1987, 101 Stat. 1329-104, 1329-121; Pub. L. 100-203, title V, §5031, Dec. 22, 1987, 101 Stat. 1330-237.)

CODIFICATION

Pub. L. 100-202 and Pub. L. 100-203 added identical sections.

**§ 10173a. Content of agreements**

**(a) In general**

(1) In addition to the benefits to which a State, an affected unit of local government or Indian tribe is entitled under this subchapter, the Secretary shall make payments to a State or Indian tribe that is a party to a benefits agreement under section 10173 of this title in accordance with the following schedule:

BENEFITS SCHEDULE		
(amounts in \$ millions)		
Event	MRS	Repository
(A) Annual payments prior to first spent fuel receipt .....	5	10
(B) Upon first spent fuel receipt ...	10	20
(C) Annual payments after first spent fuel receipt until closure of the facility .....	10	20

(2) For purposes of this section, the term—

- (A) “MRS” means a monitored retrievable storage facility,
- (B) “spent fuel” means high-level radioactive waste or spent nuclear fuel, and
- (C) “first spent fuel receipt” does not include receipt of spent fuel or high-level radio-