

(5) provide a high probability that the facility will meet applicable environmental, health, and safety requirements in a timely fashion;

(6) provide such other benefits to the system for the disposal of spent nuclear fuel and high-level radioactive waste as the Secretary deems appropriate; and

(7) unduly burden a State in which significant volumes of high-level radioactive waste resulting from atomic energy defense activities are stored.

(Pub. L. 97-425, title I, §144, 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, §5021, Dec. 22, 1987, 101 Stat. 1330-234.)

#### CODIFICATION

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

### § 10165. Site selection

#### (a) In general

The Secretary may select the site evaluated under section 10164 of this title that the Secretary determines on the basis of available information to be the most suitable for a monitored retrievable storage facility that is an integral part of the system for the disposal of spent nuclear fuel and high-level radioactive waste established under this chapter.

#### (b) Limitation

The Secretary may not select a site under subsection (a) of this section until the Secretary recommends to the President the approval of a site for development as a repository under section 10134(a) of this title.

#### (c) Site specific activities

The Secretary may conduct such site specific activities at each site surveyed under section 10164 of this title as he determines may be necessary to support an application to the Commission for a license to construct a monitored retrievable storage facility at such site.

#### (d) Environmental assessment

Site specific activities and selection of a site under this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Secretary shall prepare an environmental assessment with respect to such selection in accordance with regulations issued by the Secretary implementing such Act [42 U.S.C. 4321 et seq.]. Such environmental assessment shall be based upon available information regarding alternative technologies for the storage of spent nuclear fuel and high-level radioactive waste. The Secretary shall submit such environmental assessment to the Congress at the time such site is selected.

#### (e) Notification before selection

(1) At least 6 months before selecting a site under subsection (a) of this section, the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe

where such site is located, as the case may be, of such potential selection and the basis for such selection.

(2) Before selecting any site under subsection (a) of this section, the Secretary shall hold at least one public hearing in the vicinity of such site to solicit any recommendations of interested parties with respect to issues raised by the selection of such site.

#### (f) Notification of selection

The Secretary shall promptly notify Congress and the appropriate State or Indian tribe of the selection under subsection (a) of this section.

#### (g) Limitation

No monitored retrievable storage facility authorized pursuant to section 10162(b) of this title may be constructed in the State of Nevada.

(Pub. L. 97-425, title I, §145, 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, §5021, Dec. 22, 1987, 101 Stat. 1330-234.)

#### REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (d), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

#### CODIFICATION

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

### § 10166. Notice of disapproval

#### (a) In general

The selection of a site under section 10165 of this title shall be effective at the end of the period of 60 calendar days beginning on the date of notification under such subsection,<sup>1</sup> unless the governing body of the Indian tribe on whose reservation such site is located, or, if the site is not on a reservation, the Governor and the legislature of the State in which the site is located, has submitted to Congress a notice of disapproval with respect to such site. If any such notice of disapproval has been submitted under this subsection, the selection of the site under section 10165 of this title shall not be effective except as provided under section 10135(c) of this title.

#### (b) References

For purposes of carrying out the provisions of this subsection,<sup>1</sup> references in section 10135(c) of this title to a repository shall be considered to refer to a monitored retrievable storage facility and references to a notice of disapproval of a repository site designation under section 10136(b) or 10138(a) of this title shall be considered to refer to a notice of disapproval under this section.

(Pub. L. 97-425, title I, §146, 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, §5021, Dec. 22, 1987, 101 Stat. 1330-235.)

#### CODIFICATION

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

<sup>1</sup> So in original. Probably should be "section,".