

(2) For purposes of this chapter, nothing in this section shall be construed to prohibit the Commission from promulgating requirements and criteria under paragraph (1) before the Administrator promulgates standards under subsection (a). If the Administrator promulgates standards under subsection (a) after requirements and criteria are promulgated by the Commission under paragraph (1), such requirements and criteria shall be revised by the Commission if necessary to comply with paragraph (1)(C).

**(c) Environmental impact statement**

The promulgation of standards or criteria in accordance with the provisions of 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)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

(Pub. L. 97-425, title I, § 121, Jan. 7, 1983, 96 Stat. 2228.)

**Editorial Notes**

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (b)(1)(A), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 919, which is classified principally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The Energy Reorganization Act of 1974, referred to in subsec. (b)(1)(A), is Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, as amended, which is classified principally to chapter 73 (§ 5801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

**Statutory Notes and Related Subsidiaries**

NUCLEAR WASTE STORAGE AND DISPOSAL AT YUCCA MOUNTAIN SITE

Pub. L. 102-486, title VIII, § 801, Oct. 24, 1992, 106 Stat. 2921, provided that:

“(a) ENVIRONMENTAL PROTECTION AGENCY STANDARDS.—

“(1) PROMULGATION.—Notwithstanding the provisions of section 121(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141(a)), section 161 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(b)), and any other authority of the Administrator of the Environmental Protection Agency to set generally applicable standards for the Yucca Mountain site, the Administrator shall, based upon and consistent with the findings and recommendations of the National Academy of Sciences, promulgate, by rule, public health and safety standards for protection of the public from releases from radioactive materials stored or disposed of in the repository at the Yucca Mountain site. Such standards shall prescribe the maximum annual effective dose equivalent to individual members of the public from releases to the accessible environment from radioactive materials stored or disposed of in the repository. The standards shall be promulgated not later than 1 year after the Administrator receives the findings and recommendations of the National Academy of Sciences under paragraph (2) and shall be the only such standards applicable to the Yucca Mountain site.

“(2) STUDY BY NATIONAL ACADEMY OF SCIENCES.—Within 90 days after the date of the enactment of this Act [Oct. 24, 1992], the Administrator shall contract with the National Academy of Sciences to conduct a

study to provide, by not later than December 31, 1993, findings and recommendations on reasonable standards for protection of the public health and safety, including—

“(A) whether a health-based standard based upon doses to individual members of the public from releases to the accessible environment (as that term is defined in the regulations contained in subpart B of part 191 of title 40, Code of Federal Regulations, as in effect on November 18, 1985) will provide a reasonable standard for protection of the health and safety of the general public;

“(B) whether it is reasonable to assume that a system for post-closure oversight of the repository can be developed, based upon active institutional controls, that will prevent an unreasonable risk of breaching the repository’s engineered or geologic barriers or increasing the exposure of individual members of the public to radiation beyond allowable limits; and

“(C) whether it is possible to make scientifically supportable predictions of the probability that the repository’s engineered or geologic barriers will be breached as a result of human intrusion over a period of 10,000 years.

“(3) APPLICABILITY.—The provisions of this section shall apply to the Yucca Mountain site, rather than any other authority of the Administrator to set generally applicable standards for radiation protection.

“(b) NUCLEAR REGULATORY COMMISSION REQUIREMENTS AND CRITERIA.—

“(1) MODIFICATIONS.—Not later than 1 year after the Administrator promulgates standards under subsection (a), the Nuclear Regulatory Commission shall, by rule, modify its 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 the Administrator’s standards promulgated under subsection (a).

“(2) REQUIRED ASSUMPTIONS.—The Commission’s requirements and criteria shall assume, to the extent consistent with the findings and recommendations of the National Academy of Sciences, that, following repository closure, the inclusion of engineered barriers and the Secretary’s post-closure oversight of the Yucca Mountain site, in accordance with subsection (c), shall be sufficient to—

“(A) prevent any activity at the site that poses an unreasonable risk of breaching the repository’s engineered or geologic barriers; and

“(B) prevent any increase in the exposure of individual members of the public to radiation beyond allowable limits.

“(c) POST-CLOSURE OVERSIGHT.—Following repository closure, the Secretary of Energy shall continue to oversee the Yucca Mountain site to prevent any activity at the site that poses an unreasonable risk of—

“(1) breaching the repository’s engineered or geologic barriers; or

“(2) increasing the exposure of individual members of the public to radiation beyond allowable limits.”

**§ 10142. Disposal of spent nuclear fuel**

Notwithstanding any other provision of this part, any repository constructed on a site approved under this part shall be designed and constructed to permit the retrieval of any spent nuclear fuel placed in such repository, during an appropriate period of operation of the facility, for any reason pertaining to the public health and safety, or the environment, or for the purpose of permitting the recovery of the economically valuable contents of such spent fuel. The Secretary shall specify the appropriate period of retrievability with respect to any repository at the time of design of such repository, and such aspect of such repository shall be subject to ap-

proval or disapproval by the Commission as part of the construction authorization process under subsections (b) through (d) of section 10134 of this title.

(Pub. L. 97-425, title I, § 122, Jan. 7, 1983, 96 Stat. 2228.)

#### § 10143. Title to material

Delivery, and acceptance by the Secretary, of any high-level radioactive waste or spent nuclear fuel for a repository constructed under this part shall constitute a transfer to the Secretary of title to such waste or spent fuel.

(Pub. L. 97-425, title I, § 123, Jan. 7, 1983, 96 Stat. 2229.)

#### § 10144. Consideration of effect of acquisition of water rights

The Secretary shall give full consideration to whether the development, construction, and operation of a repository may require any purchase or other acquisition of water rights that will have a significant adverse effect on the present or future development of the area in which such repository is located. The Secretary shall mitigate any such adverse effects to the maximum extent practicable.

(Pub. L. 97-425, title I, § 124, Jan. 7, 1983, 96 Stat. 2229.)

#### § 10145. Termination of certain provisions

Sections 10139 and 10140 of this title shall cease to have effect at such time as a repository developed under this part is licensed to receive and possess high-level radioactive waste and spent nuclear fuel.

(Pub. L. 97-425, title I, § 125, Jan. 7, 1983, 96 Stat. 2229.)

### PART B—INTERIM STORAGE PROGRAM

#### § 10151. Findings and purposes

(a) The Congress finds that—

(1) the persons owning and operating civilian nuclear power reactors have the primary responsibility for providing interim storage of spent nuclear fuel from such reactors, by maximizing, to the extent practical, the effective use of existing storage facilities at the site of each civilian nuclear power reactor, and by adding new onsite storage capacity in a timely manner where practical;

(2) the Federal Government has the responsibility to encourage and expedite the effective use of existing storage facilities and the addition of needed new storage capacity at the site of each civilian nuclear power reactor; and

(3) the Federal Government has the responsibility to provide, in accordance with the provisions of this part, not more than 1,900 metric tons of capacity for interim storage of spent nuclear fuel for civilian nuclear power reactors that cannot reasonably provide adequate storage capacity at the sites of such reactors when needed to assure the continued, orderly operation of such reactors.

(b) The purposes of this part are—

(1) to provide for the utilization of available spent nuclear fuel pools at the site of each ci-

vilian nuclear power reactor to the extent practical and the addition of new spent nuclear fuel storage capacity where practical at the site of such reactor; and

(2) to provide, in accordance with the provisions of this part, for the establishment of a federally owned and operated system for the interim storage of spent nuclear fuel at one or more facilities owned by the Federal Government with not more than 1,900 metric tons of capacity to prevent disruptions in the orderly operation of any civilian nuclear power reactor that cannot reasonably provide adequate spent nuclear fuel storage capacity at the site of such reactor when needed.

(Pub. L. 97-425, title I, § 131, Jan. 7, 1983, 96 Stat. 2229.)

#### § 10152. Available capacity for interim storage of spent nuclear fuel

The Secretary, the Commission, and other authorized Federal officials shall each take such actions as such official considers necessary to encourage and expedite the effective use of available storage, and necessary additional storage, at the site of each civilian nuclear power reactor consistent with—

- (1) the protection of the public health and safety, and the environment;
- (2) economic considerations;
- (3) continued operation of such reactor;
- (4) any applicable provisions of law; and
- (5) the views of the population surrounding such reactor.

(Pub. L. 97-425, title I, § 132, Jan. 7, 1983, 96 Stat. 2230.)

#### § 10153. Interim at-reactor storage

The Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under section 10198(a)<sup>1</sup> of this title for use at the site of any civilian nuclear power reactor. The establishment of such procedures shall not preclude the licensing, under any applicable procedures or rules of the Commission in effect prior to such establishment, of any technology for the storage of civilian spent nuclear fuel at the site of any civilian nuclear power reactor.

(Pub. L. 97-425, title I, § 133, Jan. 7, 1983, 96 Stat. 2230.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 10198(a) of this title, referred to in text, was in the original a reference to section 219(a) of Pub. L. 97-425, which is classified to section 10199(a) of this title, and has been translated as section 10198(a) of this title as the probable intent of Congress in view of the subject matter of section 10198(a) which relates to development of technologies for storage of spent nuclear fuel, and the subject matter of section 10199(a) which relates to payments to States and Indian tribes.

#### § 10154. Licensing of facility expansions and transshipments

##### (a) Oral argument

In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239)

<sup>1</sup> See References in Text note below.