

1 SEC. 305. CONSOLIDATED STORAGE FACILITIES.

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

9 (b) PILOT PROGRAM FOR THE STORAGE OF PRI-
10 ORITY WASTE.—

11 (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 consolidated 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 consolidated 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—

1 (i) the extent to which the applicable
2 States, affected units of general local gov-
3 ernment, and affected Indian tribes sup-
4 port the proposal;

5 (ii) the likelihood that the proposal
6 would satisfy each applicable requirement
7 for any necessary license from the Nuclear
8 Regulatory Commission and any other
9 Federal or State entity;

10 (iii) the extent to which site character-
11 ization has already occurred at the site
12 subject to the proposal;

13 (iv) the extent to which each proposal
14 would—

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

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

23 (v) any other criteria, including cri-
24 teria relating to technical or safety speci-

1 fications, that the Administrator deter-
2 mines to be appropriate.

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

8 (i) additional storage facilities for
9 nonpriority waste; or

10 (ii) a repository.

11 (3) SITE CHARACTERIZATION.—

12 (A) DETERMINATION OF SUITABILITY.—
13 After conducting a review under paragraph (2)
14 and any additional site investigation that the
15 Administrator determines to be appropriate, the
16 Administrator shall determine whether the site
17 is suitable for site characterization.

18 (B) SELECTION OF SITE FOR CHARACTER-
19 IZATION.—From the sites determined to be
20 suitable for site characterization under subpara-
21 graph (A), the Administrator shall select at
22 least 1 site for site characterization, giving pri-
23 ority to sites that have been proposed to be co-
24 located with a permanent geological repository,
25 after—

- 1 (i) holding public hearings in the vi-
2 cinity of each site and at least 1 other lo-
3 cation within the State in which the site is
4 located; and
5 (ii) notifying Congress.

6 (C) COOPERATIVE AGREEMENT.—On selec-
7 tion of a site for characterization under sub-
8 paragraph (B), the Administrator may enter
9 into a cooperative agreement with the State, af-
10 fected units of general local government, and
11 affected Indian tribes, as applicable, that in-
12 cludes—

- 13 (i) terms of financial and technical as-
14 sistance to enable each applicable unit of
15 government to monitor, review, evaluate,
16 comment on, obtain information on, make
17 recommendations on, and mitigate any im-
18 pacts from, site characterization activities;
19 and

- 20 (ii) any other term that the Adminis-
21 trator determines to be appropriate.

22 (4) SITE SELECTION.—

23 (A) IN GENERAL.—Subject to subpara-
24 graphs (B) and (C), on completion of site char-
25 acterization activities, the Administrator shall—

1 (i) make a final determination for
2 each site of whether the site is suitable for
3 development as a consolidated storage fa-
4 cility; and

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

7 (B) CONSENT-BASED APPROVAL.—Before
8 selecting a site for developing a consolidated
9 storage facility—

10 (i) the Administrator shall enter into
11 a consent agreement to host the facility
12 with—

13 (I) the Governor or other author-
14 ized official of the State in which the
15 site is proposed to be located;

16 (II) each affected unit of general
17 local government; and

18 (III) any affected Indian tribe;
19 and

20 (ii) Congress shall—

21 (I) approve the terms of the con-
22 sent agreement entered into under
23 clause (i);

24 (II) authorize the construction of
25 the storage facility; and

1 (III) authorize the appropriation
2 of amounts from the Nuclear Waste
3 Fund established under section 302 of
4 the Nuclear Waste Policy Act of 1982
5 (42 U.S.C. 10222) to implement the
6 terms of the consent agreement.

7 (5) SUBMISSION OF PROGRAM PLAN.—Not less
8 than 30 days before selecting a site for development
9 of a consolidated storage facility under paragraph
10 (4), the Administrator shall submit to Congress a
11 program plan that includes—

12 (A) a list of the 1 or more sites the Ad-
13 ministrator proposes to select for a consolidated
14 storage facility;

15 (B) an estimate of the cost of licensing,
16 constructing, and operating each consolidated
17 storage facility, including the transportation
18 costs, on an annual basis, over the expected life-
19 time of the consolidated storage facility;

20 (C) a schedule for—

21 (i) obtaining from the Nuclear Regu-
22 latory Commission any license necessary to
23 construct and operate the consolidated
24 storage facility;

1 (ii) constructing the consolidated stor-
2 age facility;

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

5 (iv) removing the spent fuel from, and
6 decommissioning of, the consolidated stor-
7 age facility;

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

12 (E) an estimate of any future reductions in
13 the damages expected to be paid by the United
14 States for the delay of the Department of En-
15 ergy in accepting spent fuel expected to result
16 from the consolidated storage facilities devel-
17 oped under this section; and

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

21 (6) SUBMISSION OF LICENSE APPLICATION.—

22 On selection of a site under paragraph (4), the ap-
23 plicant (in the case of a non-Federal facility) or the
24 Administrator (in the case of a federally owned facil-
25 ity) shall submit to the Commission an application

1 for a construction authorization for the consolidated
2 storage facility.

3 (7) CONTINUING AUTHORITY.—Subject to the
4 terms and conditions of this section, and in accord-
5 ance with the Mission Plan developed under section
6 504, the Administrator shall be authorized to issue
7 additional requests for proposals and select such ad-
8 ditional consolidated storage facilities for nonpriority
9 nuclear waste as the Administrator determines to be
10 necessary.

11 **SEC. 306. REPOSITORIES.**

12 (a) SITING GUIDELINES.—

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

17 (A) comply with the requirements of sec-
18 tion 112(a) of the Nuclear Waste Policy Act of
19 1982 (42 U.S.C. 10132(a)); and

20 (B) require the Administrator to take into
21 account the extent to which a repository
22 would—

23 (i) enhance the reliability and flexi-
24 bility of the system for the disposal of nu-
25 clear waste; and

1 (ii) minimize the impacts of transpor-
2 tation and handling of nuclear waste.

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

7 (b) IDENTIFICATION OF CANDIDATE SITES.—

8 (1) REVIEW OF POTENTIAL SITES.—As soon as
9 practicable after the date of the issuance of the
10 guidelines under subsection (a), the Administrator
11 shall evaluate potential sites for a repository to de-
12 termine whether the sites are suitable for site char-
13 acterization.

14 (2) SITES ELIGIBLE FOR REVIEW.—The Admin-
15 istrator shall select sites for evaluation under para-
16 graph (1) from among sites recommended by—

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

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

21 (C) the governing body of an Indian tribe
22 within the reservation boundaries of which the
23 site is located; or

24 (D) the Administrator, after consultation
25 with, and with the consent of—

- 1 (i) the Governor of the State in which
2 the site is located;
3 (ii) the governing body of the affected
4 unit of general local government; and
5 (iii) the governing body of the Indian
6 tribe, if the site is located within the res-
7 ervation of an Indian tribe.

8 (3) SITE INVESTIGATIONS.—In evaluating a site
9 under this subsection prior to any determination of
10 the suitability of the site for site characterization,
11 the Administrator—

12 (A) shall use available geophysical, geologi-
13 cal, geochemical, hydrological, and other infor-
14 mation; and

15 (B) shall not perform any preliminary bor-
16 ings or excavations at the site unless necessary
17 to determine the suitability of the site and au-
18 thorized by the landowner.

19 (4) DETERMINATION OF SUITABILITY.—The
20 Administrator shall determine whether a site is suit-
21 able for site characterization based on an environ-
22 mental assessment of the site, which shall include—

23 (A) an evaluation by the Administrator of
24 whether the site qualifies for development as a
25 repository under the guidelines established

1 under subsection (a), including a safety case
 2 that provides the basis for confidence in the
 3 safety of the proposed nuclear waste facility at
 4 the proposed site;

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

8 (C) a reasonable comparative evaluation by
 9 the Administrator of the site with other sites
 10 considered by—

11 (i) the Administrator under this sec-
 12 tion; or

13 (ii) the Secretary under the Nuclear
 14 Waste Policy Act of 1982 (42 U.S.C.
 15 10101 et seq.);

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

18 (E) an assessment of the regional and local
 19 impacts of locating a repository at the site.

20 (c) SITE CHARACTERIZATION.—

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

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

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

12 (A) to inform the public of the proposed
13 site characterization; and

14 (B) to solicit public comments and rec-
15 ommendations with respect to the site charac-
16 terization plan of the Administrator.

17 (4) CONSULTATION AND COOPERATION AGREE-
18 MENT.—

19 (A) REQUIREMENT.—Before selecting a
20 site for site characterization, the Administrator
21 shall enter into a consultation and cooperation
22 agreement with—

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

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

3 (iii) the governing body of any af-
4 fected Indian tribe.

5 (B) CONTENTS.—The consultation and co-
6 operation agreement shall provide—

7 (i) compensation to the State, any af-
8 fected units of local government, and any
9 affected Indian tribes for any potential
10 economic, social, public health and safety,
11 and environmental impacts associated with
12 site characterization; and

13 (ii) financial and technical assistance
14 to enable the State, affected units of local
15 government, and affected Indian tribes to
16 monitor, review, evaluate, comment on, ob-
17 tain information on, and make rec-
18 ommendations on site characterization ac-
19 tivities.

20 (d) FINAL SITE SUITABILITY DETERMINATION.—

21 (1) DETERMINATION REQUIRED.—On comple-
22 tion of site characterization activities, the Adminis-
23 trator shall make a final determination of whether
24 the site is suitable for development as a repository.

1 (2) BASIS OF DETERMINATION.—In making a
2 determination under paragraph (1), the Adminis-
3 trator shall determine if—

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

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

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

12 (I) the radiation protection
13 standards of the Administrator of the
14 Environmental Protection Agency;
15 and

16 (II) the licensing standards of
17 the Commission; and

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

20 (3) PUBLIC HEARINGS.—Before making a final
21 determination under paragraph (1), the Adminis-
22 trator shall hold public hearings in the vicinity of
23 the site and at least 1 other location within the
24 State in which the site is located to solicit public

1 comments and recommendations on the proposed de-
2 termination.

3 (e) CONSENT AGREEMENTS.—

4 (1) REQUIREMENT.—On making a final deter-
5 mination of site suitability under subsection (e), but
6 before submitting a license application to the Com-
7 mission under subsection (g), the Administrator
8 shall enter into a consent agreement with—

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

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

13 (C) if the site is located on a reservation,
14 the governing body of the affected Indian tribe.

15 (2) CONTENTS.—The consent agreement
16 shall—

17 (A) contain the terms and conditions on
18 which each State, local government, and Indian
19 tribe, as applicable, consents to host the reposi-
20 tory; and

21 (B) express the consent of each State, local
22 government, and Indian tribe to host the reposi-
23 tory.

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

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

4 (B) may include—

5 (i) financial compensation and incen-
6 tives;

7 (ii) economic development assistance;

8 (iii) operational limitations or require-
9 ments; and

10 (iv) regulatory oversight authority.

11 (4) RATIFICATION.—No consent agreement en-
12 tered into under this section shall have legal effect
13 unless ratified by law.

14 (5) BINDING EFFECT.—On ratification by law,
15 the consent agreement—

16 (A) shall be binding on the parties; and

17 (B) shall not be amended or revoked ex-
18 cept by mutual agreement of the parties.

19 (f) SUBMISSION OF LICENSE APPLICATION.—On de-
20 termining that a site is suitable under subsection (d) and
21 ratification of a consent agreement under subsection (e),
22 the Administrator shall submit to the Commission an ap-
23 plication for a construction authorization for the reposi-
24 tory.