

United States and a State or Indian tribe negotiated under subsection (a) of this section and an environmental assessment prepared under section 10244(a) of this title for the site concerned.

(2) Any such proposed agreement shall contain such terms and conditions (including such financial and institutional arrangements) as the Negotiator and the host State or Indian tribe determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of such State, affected unit of local government, or Indian tribe under sections 10136(c), 10137, and 10138(b) of this title.

(3)(A) No proposed agreement entered into under this section shall have legal effect unless enacted into Federal law.

(B) A State or Indian tribe shall enter into an agreement under this section in accordance with the laws of such State or tribe. Nothing in this section may be construed to prohibit the disapproval of a proposed agreement between a State and the United States under this section by a referendum or an act of the legislature of such State.

(4) Notwithstanding any proposed agreement under this section, the Secretary may construct a repository or monitored retrievable storage facility at a site agreed to under this subchapter only if authorized by the Nuclear Regulatory Commission in accordance with the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], title II of the Energy Reorganization Act of 1982 (42 U.S.C. 5841 et seq.) and any other law applicable to authorization of such construction.

(Pub. L. 97-425, title IV, § 403, as added Pub. L. 100-202, § 101(d) [title III], Dec. 22, 1987, 101 Stat. 1329-104, 1329-121; Pub. L. 100-203, title V, § 5041, Dec. 22, 1987, 101 Stat. 1330-244.)

#### REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (d)(4), 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 1982, referred to in subsec. (d)(4), probably means the Energy Reorganization Act of 1974, Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, as amended. Title II of the Energy Reorganization Act of 1974 is classified generally to subchapter II (§ 5841 et seq.) of chapter 73 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.

#### CODIFICATION

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

### § 10244. Environmental assessment of sites

#### (a) In general

Upon the request of the Negotiator, the Secretary shall prepare an environmental assessment of any site that is the subject of negotiations under section 10243(a) of this title.

#### (b) Contents

(1) Each environmental assessment prepared for a repository site shall include a detailed

statement of the probable impacts of characterizing such site and the construction and operation of a repository at such site.

(2) Each environmental assessment prepared for a monitored retrievable storage facility site shall include a detailed statement of the probable impacts of construction and operation of such a facility at such site.

#### (c) Judicial review

The issuance of an environmental assessment under subsection (a) of this section shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5 and section 10139 of this title.

#### (d) Public hearings

(1) In preparing an environmental assessment for any repository or monitored retrievable storage facility site, the Secretary shall hold public hearings in the vicinity of such site to inform the residents of the area in which such site is located that such site is being considered and to receive their comments.

(2) At such hearings, the Secretary shall solicit and receive any recommendations of such residents with respect to issues that should be addressed in the environmental assessment required under subsection (a) of this section and the site characterization plan described in section 10133(b)(1) of this title.

#### (e) Public availability

Each environmental assessment prepared under subsection (a) of this section shall be made available to the public.

#### (f) Evaluation of sites

(1) In preparing an environmental assessment under subsection (a) of this section, the Secretary shall use available geophysical, geologic, geochemical and hydrologic, and other information and shall not conduct any preliminary borings or excavations at any site that is the subject of such assessment unless—

(A) such preliminary boring or excavation activities were in progress on or before December 22, 1987; or

(B) the Secretary certifies that, in the absence of preliminary borings or excavations, adequate information will not be available to satisfy the requirements of this chapter or any other law.

(2) No preliminary boring or excavation conducted under this section shall exceed a diameter of 40 inches.

(Pub. L. 97-425, title IV, § 404, as added Pub. L. 100-202, § 101(d) [title III], Dec. 22, 1987, 101 Stat. 1329-104, 1329-121; Pub. L. 100-203, title V, § 5041, Dec. 22, 1987, 101 Stat. 1330-245.)

#### CODIFICATION

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

### § 10245. Site characterization; licensing

#### (a) Site characterization

Upon enactment of legislation to implement an agreement to site a repository negotiated under section 10243(a) of this title, the Secretary

shall conduct appropriate site characterization activities for the site that is the subject of such agreement subject to the conditions and terms of such agreement. Any such site characterization activities shall be conducted in accordance with section 10133 of this title, except that references in such section to the Yucca Mountain site and the State of Nevada shall be deemed to refer to the site that is the subject of the agreement and the State or Indian tribe entering into the agreement.

**(b) Licensing**

(1) Upon the completion of site characterization activities carried out under subsection (a) of this section, the Secretary shall submit to the Nuclear Regulatory Commission an application for construction authorization for a repository at such site.

(2) The Nuclear Regulatory Commission shall consider an application for a construction authorization for a repository or monitored retrievable storage facility in accordance with the laws applicable to such applications, except that the Nuclear Regulatory Commission shall issue a final decision approving or disapproving the issuance of a construction authorization not later than 3 years after the date of the submission of such application.

(Pub. L. 97-425, title IV, §405, as added Pub. L. 100-202, §101(d) [title III], Dec. 22, 1987, 101 Stat. 1329-104, 1329-121; Pub. L. 100-203, title V, §5041, Dec. 22, 1987, 101 Stat. 1330-246.)

CODIFICATION

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

**§ 10246. Monitored retrievable storage**

**(a) Construction and operation**

Upon enactment of legislation to implement an agreement negotiated under section 10243(a) of this title to site a monitored retrievable storage facility, the Secretary shall construct and operate such facility as part of an integrated nuclear waste management system in accordance with the terms and conditions of such agreement.

**(b) Financial assistance**

The Secretary may make grants to any State, Indian tribe, or affected unit of local government to assess the feasibility of siting a monitored retrievable storage facility under this section at a site under the jurisdiction of such State, tribe, or affected unit of local government.

(Pub. L. 97-425, title IV, §406, as added Pub. L. 100-202, §101(d) [title III], Dec. 22, 1987, 101 Stat. 1329-104, 1329-121; Pub. L. 100-203, title V, §5041, Dec. 22, 1987, 101 Stat. 1330-246.)

CODIFICATION

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

**§ 10247. Environmental impact statement**

**(a) In general**

Issuance of a construction authorization for a repository or monitored retrievable storage fa-

cility under section 10245(b) of this title shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

**(b) Preparation**

A final environmental impact statement shall be prepared by the Secretary under such Act and shall accompany any application to the Nuclear Regulatory Commission for a construction authorization.

**(c) Adoption**

(1) Any such environmental impact statement shall, to the extent practicable, be adopted by the Nuclear Regulatory Commission, in accordance with section 1506.3 of title 40, Code of Federal Regulations, in connection with the issuance by the Nuclear Regulatory Commission of a construction authorization and license for such repository or monitored retrievable storage facility.

(2)(A) In any such statement prepared with respect to a repository to be constructed under this subchapter at the Yucca Mountain site, the Nuclear Regulatory Commission need not consider the need for a repository, the time of initial availability of a repository, alternate sites to the Yucca Mountain site, or nongeologic alternatives to such site.

(B) In any such statement prepared with respect to a repository to be constructed under this subchapter at a site other than the Yucca Mountain site, the Nuclear Regulatory Commission need not consider the need for a repository, the time of initial availability of a repository, or nongeologic alternatives to such site but shall consider the Yucca Mountain site as an alternate to such site in the preparation of such statement.

(Pub. L. 97-425, title IV, §407, as added Pub. L. 100-202, §101(d) [title III], Dec. 22, 1987, 101 Stat. 1329-104, 1329-121; Pub. L. 100-203, title V, §5041, Dec. 22, 1987, 101 Stat. 1330-246.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a) and (b), 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.

**§ 10248. Administrative powers of Negotiator**

In carrying out his functions under this subchapter, the Negotiator may—

(1) appoint such officers and employees as he determines to be necessary and prescribe their duties;

(2) obtain services as authorized by section 3109 of title 5, at rates not to exceed the rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5;

(3) promulgate such rules and regulations as may be necessary to carry out such functions;

(4) utilize the services, personnel, and facilities of other Federal agencies (subject to the consent of the head of any such agency);