

104TH CONGRESS
1ST SESSION

H. R. 1993

To abolish the Department of Energy.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 1995

Mr. TIAHRT (for himself, Mr. BROWNBACK, Mr. BASS, Mr. BARTLETT of Maryland, Mr. COBURN, Mr. CREMEANS, Mr. FOLEY, Mr. SHADEGG, Mr. ARMEY, Mr. DELAY, Mr. BOEHNER, Mr. KASICH, Mr. SOLOMON, Mr. SCARBOROUGH, Mr. NEUMANN, Mr. HOSTETTLER, Mr. EWING, Mrs. WALDHOLTZ, Mrs. MYRICK, Mr. SMITH of Michigan, Mr. PACKARD, Mr. PARKER, Mr. CHRISTENSEN, Mr. CRANE, Mr. DORNAN, Mr. LOBIONDO, Mr. STOCKMAN, Mr. HANCOCK, Mr. HOEKSTRA, Mr. WICKER, Mrs. SEASTRAND, Mr. ROYCE, Mr. GUTKNECHT, Mr. CHRYSLER, Mrs. LOWEY, Mr. MILLER of Florida, Mr. HUTCHINSON, Mr. KLUG, Mr. FUNDERBURK, Mr. LINDER, Mr. HOKE, Ms. DUNN of Washington, Mr. TATE, Mr. WHITE, Mr. NETHERCUTT, Mr. METCALF, Mrs. CUBIN, Mrs. CHENOWETH, Mr. SAM JOHNSON of Texas, and Mrs. SMITH of Washington) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on National Security, Science, Resources, Rules, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To abolish the Department of Energy.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Department of Energy
3 Abolishment Act”.

4 **SEC. 2. TABLE OF CONTENTS.**

5 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—ABOLISHMENT OF DEPARTMENT OF ENERGY

- Sec. 101. Reestablishment of Department as Energy Programs Resolution Agency.
- Sec. 102. Functions.
- Sec. 103. Deputy Administrator.
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TITLE II—ENERGY LABORATORY FACILITIES

- Sec. 201. Energy Laboratory Facilities Commission.
- Sec. 202. Procedure for making recommendations for laboratory facilities.
- Sec. 203. Reconfiguration, privatization, and closure of energy laboratories.
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TITLE III—PRIVATIZATION OF FEDERAL POWER MARKETING ADMINISTRATIONS

- Sec. 301. Short title.
- Sec. 302. Findings.
- Sec. 303. Sale of assets.
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TITLE IV—TRANSFER AND DISPOSAL OF RESERVES

- Sec. 401. Strategic Petroleum Reserve.
- Sec. 402. Transfer of naval petroleum reserves to Department of the Interior; sale of Naval Petroleum Reserve Numbered 1 (Elk Hills).

Sec. 403. Study regarding future of naval petroleum reserves (other than Naval Petroleum Reserve Numbered 1).

TITLE V—NATIONAL SECURITY AND ENVIRONMENTAL
MANAGEMENT PROGRAMS

Subtitle A—Defense Nuclear Programs Agency

- Sec. 501. Definitions.
- Sec. 502. Establishment and organization of Defense Nuclear Programs Agency.
- Sec. 503. Functions of Defense Nuclear Programs Agency.
- Sec. 504. Transfers of functions.
- Sec. 505. Limitation on transfers of funds.
- Sec. 506. Transition provisions.
- Sec. 507. Technical and conforming amendments.
- Sec. 508. Effective date and transition period.

Subtitle B—Environmental Restoration Activities at Defense Nuclear
Facilities

- Sec. 521. Environmental restoration activities at Defense nuclear facilities.
- Sec. 522. Conforming amendment.
- Sec. 523. Renegotiation of compliance agreements.

TITLE VI—DISPOSITION OF MISCELLANEOUS PARTICULAR
PROGRAMS, FUNCTIONS, AND AGENCIES OF DEPARTMENT

- Sec. 601. Energy research and development.
- Sec. 602. Energy Information Administration.
- Sec. 603. Energy Regulatory Administration.
- Sec. 604. Effective date.

TITLE VII—CIVILIAN RADIOACTIVE WASTE MANAGEMENT

- Sec. 701. Nuclear waste repository.

TITLE VIII—MISCELLANEOUS PROVISIONS

- Sec. 801. References.
- Sec. 802. Exercise of authorities.
- Sec. 803. Savings provisions.
- Sec. 804. Transfer of assets.
- Sec. 805. Delegation and assignment.
- Sec. 806. Authority of Office of Management and Budget with respect to functions transferred.
- Sec. 807. Proposed changes in law.
- Sec. 808. Certain vesting of functions considered transfer.
- Sec. 809. Definitions.

1 **TITLE I—ABOLISHMENT OF**
2 **DEPARTMENT OF ENERGY**

3 **SEC. 101. REESTABLISHMENT OF DEPARTMENT AS ENERGY**
4 **PROGRAMS RESOLUTION AGENCY.**

5 (a) REESTABLISHMENT.—The Department of En-
6 ergy is hereby redesignated as the Energy Programs Reso-
7 lution Agency, which shall be an independent agency in
8 the executive branch of the Government.

9 (b) ADMINISTRATOR.—

10 (1) IN GENERAL.—There shall be at the head
11 of the Agency an Administrator of the Agency, who
12 shall be appointed by the President, by and with the
13 advice and consent of the Senate. The Agency shall
14 be administered under the supervision and direction
15 of the Administrator. The Administrator shall re-
16 ceive compensation at the rate prescribed for level II
17 of the Executive Schedule under section 5313 of title
18 5, United States Code.

19 (2) INITIAL APPOINTMENT OF ADMINIS-
20 TRATOR.—Notwithstanding any other provision of
21 this Act or any other law, the President may, at any
22 time after the date of the enactment of this Act, ap-
23 point an individual to serve as Administrator of the
24 Energy Programs Resolution Agency (who may be
25 the Secretary of Energy), as such position is estab-

1 lished under paragraph (1). An appointment under
2 this paragraph may not be construed to affect the
3 position of Secretary of Energy or the authority of
4 the Secretary before the effective date specified in
5 section 109(a).

6 (c) DUTIES.—The Administrator shall be responsible
7 for—

8 (1) the administration and wind-up, during the
9 wind-up period, of all functions of the Administrator
10 pursuant to section 102 and the other provisions of
11 this Act;

12 (2) the administration and wind-up, during the
13 wind-up period, of any outstanding obligations of the
14 Federal Government under any programs terminated
15 or repealed by this Act; and

16 (3) taking such other actions as may be nec-
17 essary, before the termination date, to wind up any
18 outstanding affairs of the Department of Energy.

19 **SEC. 102. FUNCTIONS.**

20 Except as otherwise provided in this Act, the Admin-
21 istrator shall perform all functions that, immediately be-
22 fore the effective date of this section, were functions of
23 the Department of Energy (or any office of the Depart-
24 ment) or were performed by the Secretary of Energy or

1 any other officer or employee of the Department in the
2 capacity as such officer or employee.

3 **SEC. 103. DEPUTY ADMINISTRATOR.**

4 The Agency shall have a Deputy Administrator, who
5 shall—

6 (1) be appointed by and report to the Adminis-
7 trator; and

8 (2) shall perform such functions as may be del-
9 egated by the Administrator.

10 **SEC. 104. CONTINUATION OF SERVICE OF DEPARTMENT OF-**
11 **FICERS.**

12 (a) CONTINUATION OF SERVICE OF SECRETARY.—
13 The individual serving on the effective date specified in
14 section 109(a) as the Secretary of Energy may serve and
15 act as Administrator until the date an individual is ap-
16 pointed under this title to the position of Administrator,
17 or until the end of the 120-day period provided for in sec-
18 tion 3348 of title 5, United States Code (relating to limita-
19 tions on the period of time a vacancy may be filled tempo-
20 rarily), whichever is earlier.

21 (b) CONTINUATION OF SERVICE OF OTHER OFFI-
22 CERS.—An individual serving on the effective date speci-
23 fied in section 109(a) as an officer of the Department of
24 Energy other than the Secretary of Energy may continue
25 to serve and act in an equivalent capacity in the Agency

1 until the date an individual is appointed under this title
2 to the position of Administrator, or until the end of the
3 120-day period provided for in section 3348 of title 5,
4 United States Code (relating to limitations on the period
5 of time a vacancy may be filled temporarily) with respect
6 to that appointment, whichever is earlier.

7 (c) COMPENSATION FOR CONTINUED SERVICE.—Any
8 person—

9 (1) who acts as the Administrator under sub-
10 section (a), or

11 (2) who serves under subsection (b),

12 after the effective date specified in section 109(a) and be-
13 fore the first appointment of a person as Administrator
14 shall continue to be compensated for so serving at the rate
15 at which such person was compensated before such effec-
16 tive date.

17 **SEC. 105. REORGANIZATION.**

18 The Administrator may allocate or reallocate any
19 function of the Agency pursuant to this Act among the
20 officers of the Agency, and may establish, consolidate,
21 alter, or discontinue in the Energy Programs Resolution
22 Agency any organizational entities that were entities of
23 the Department of Energy, as the Administrator considers
24 necessary or appropriate.

1 **SEC. 106. ABOLISHMENT OF ENERGY PROGRAMS RESOLU-**
2 **TION AGENCY.**

3 (a) IN GENERAL.—Effective on the termination date
4 under subsection (d), the Energy Programs Resolution
5 Agency is abolished.

6 (b) ABOLITION OF FUNCTIONS.—Except for func-
7 tions transferred or otherwise continued by this Act, all
8 functions that, immediately before the termination date,
9 were functions of the Energy Programs Resolution Agency
10 are abolished effective on the termination date.

11 (c) PLAN FOR WINDING UP AFFAIRS.—Not later
12 than the effective date specified in section 109(a), the
13 President shall submit to the Congress a plan for winding
14 up the affairs of the Agency in accordance with this Act
15 and not by later than the termination date under sub-
16 section (d).

17 (d) TERMINATION DATE.—The termination date
18 under this subsection is the date that is 3 years after the
19 date of the enactment of this Act.

20 **SEC. 107. GAO REPORT.**

21 Not later than 180 days after the date of enactment
22 of this Act, the Comptroller General of the United States
23 shall submit to the Congress a report which shall include
24 recommendations for the most efficient means of achiev-
25 ing, in accordance with this Act—

1 (1) the complete abolishment of the Depart-
2 ment of Energy; and

3 (2) the termination or transfer or other con-
4 tinuation of the functions of the Department of En-
5 ergy.

6 **SEC. 108. CONFORMING AMENDMENTS.**

7 (a) **PRESIDENTIAL SUCCESSION.**—Section 19(d)(1)
8 of title 3, United States Code, is amended by striking
9 “Secretary of Energy.”.

10 (b) **EXECUTIVE DEPARTMENTS.**—Section 101 of title
11 5, United States Code, is amended by striking the follow-
12 ing item:

13 “The Department of Energy.”.

14 (c) **SECRETARY’S COMPENSATION.**—Section 5312 of
15 title 5, United States Code, is amended by striking the
16 following item:

17 “Secretary of Energy.”.

18 (d) **DEPUTY SECRETARY’S COMPENSATION.**—Section
19 5313 of title 5, United States Code, is amended by strik-
20 ing the following item:

21 “Deputy Secretary of Energy.”.

22 (e) **UNDER SECRETARY’S COMPENSATION.**—Section
23 5314 of title 5, United States Code, is amended by strik-
24 ing the following item:

25 “Under Secretary, Department of Energy.”.

1 (f) MISCELLANEOUS OFFICERS' COMPENSATION.—
2 Section 5315 of title 5, United States Code, is amended—

3 (1) by striking the following items:

4 “Assistant Secretaries of Energy (8).

5 “General Counsel of the Department of Energy.

6 “Administrator, Economic Regulatory Adminis-
7 tration, Department of Energy.

8 “Administrator, Energy Information Adminis-
9 tration, Department of Energy.

10 “Inspector General, Department of Energy.

11 “Director, Office of Energy Research, Depart-
12 ment of Energy.”; and

13 (2) by striking the following item:

14 “Chief Financial Officer, Department of En-
15 ergy.”.

16 (g) INSPECTOR GENERAL ACT OF 1978.—The In-
17 spector General Act of 1978 (5 U.S.C. App.) is amend-
18 ed—

19 (1) in section 9(a)(1), by striking subparagraph
20 (E);

21 (2) in section 11(1), by striking “Energy,”;

22 (3) in section 11(2), by striking “Energy,”;

23 (h) DEPARTMENT OF ENERGY ORGANIZATION
24 ACT.—Effective on the termination date, the following

1 provisions of the Department of Energy Organization Act
2 (42 U.S.C. 7101 et seq.) are repealed:

3 (1) Sections 1 and 2.

4 (2) Titles I, II, and III.

5 **SEC. 109. EFFECTIVE DATE.**

6 (a) IN GENERAL.—Except as provided in subsection
7 (b), this title shall take effect on the date that is 6 months
8 after the date of the enactment of this Act.

9 (b) PROVISIONS EFFECTIVE ON DATE OF ENACT-
10 MENT.—The following provisions of this title shall take ef-
11 fect on the date of the enactment of this Act:

12 (1) Section 101(b).

13 (2) Section 106(c).

14 (3) Section 107.

15 **TITLE II—ENERGY LABORATORY**
16 **FACILITIES**

17 **SEC. 201. ENERGY LABORATORY FACILITIES COMMISSION.**

18 (a) ESTABLISHMENT.—There is established an inde-
19 pendent commission to be known as the “Energy Labora-
20 tory Facilities Commission”, for the purpose of reducing
21 the number of energy laboratories and programs at those
22 laboratories, through reconfiguration, privatization, and
23 closure, while preserving the traditional role the energy
24 laboratories have contributed to the national defense.

1 (b) DUTIES.—The Commission shall carry out the
2 duties specified for the Commission in this title.

3 (c) APPOINTMENT.—

4 (1) IN GENERAL.—The Commission shall be
5 composed of 7 members appointed by the President,
6 by and with the advice and consent of the Senate.
7 The President shall transmit to the Senate the
8 nominations for appointment to the Commission not
9 later than 3 months after the date of the enactment
10 of this Act.

11 (2) CONSULTATION.—In selecting individuals
12 for nominations for appointments to the Commis-
13 sion, the President should consult with—

14 (A) the Speaker of the House of Rep-
15 resentatives concerning the appointment of 2
16 members; and

17 (B) the majority leader of the Senate con-
18 cerning the appointment of 2 members.

19 (3) CHAIRPERSON.—At the time the President
20 nominates individuals for appointment to the Com-
21 mission, the President shall designate one such indi-
22 vidual who shall serve as Chairperson of the Com-
23 mission.

1 (d) TERMS.—The term of each member of the Com-
2 mission shall expire on the termination of the Commission
3 under subsection (l).

4 (e) MEETINGS.—Each meeting of the Commission,
5 other than meetings in which classified information is to
6 be discussed, shall be open to the public.

7 (f) VACANCIES.—A vacancy in the Commission shall
8 be filled in the same manner as the original appointment.

9 (g) PAY AND TRAVEL EXPENSES.—

10 (1) BASIC PAY.—

11 (A) PAY OF MEMBERS.—Each member,
12 other than the Chairperson, shall be paid at a
13 rate equal to the daily equivalent of the mini-
14 mum annual rate of basic pay payable for level
15 IV of the Executive Schedule under section
16 5315 of title 5, United States Code, for each
17 day (including travel time) during which the
18 member is engaged in the actual performance of
19 duties vested in the Commission.

20 (B) PAY OF CHAIRPERSON.—The Chair-
21 person shall be paid for each day referred to in
22 subparagraph (A) at a rate equal to the daily
23 equivalent of the minimum annual rate of basic
24 pay payable for level III of the Executive

1 Schedule under section 5314 of title 5, United
2 States Code.

3 (2) TRAVEL EXPENSES.—Members shall receive
4 travel expenses, including per diem in lieu of subsist-
5 ence, in accordance with sections 5702 and 5703 of
6 title 5, United States Code.

7 (h) DIRECTOR.—

8 (1) IN GENERAL.—The Commission shall, with-
9 out regard to section 5311(b) of title 5, United
10 States Code, appoint a Director who—

11 (A) has not served as a civilian employee
12 of the Department of Energy during the 2-year
13 period preceding the date of such appointment;

14 (B) has not been an employee of an energy
15 laboratory during the 5-year period preceding
16 the date of such appointment; and

17 (C) has not been an employee of a contrac-
18 tor operating an energy laboratory during the
19 5-year period preceding the date of such ap-
20 pointment.

21 (2) PAY.—The Director shall be paid at the
22 rate of basic pay payable for level IV of the Execu-
23 tive Schedule under section 5315 of title 5, United
24 States Code.

25 (i) STAFF.—

1 (1) APPOINTMENT BY DIRECTOR.—Subject to
2 paragraphs (2) and (3), the Director, with the ap-
3 proval of the Commission, may appoint and fix the
4 pay of additional personnel.

5 (2) APPLICABILITY OF CERTAIN CIVIL SERVICE
6 LAWS.—The Director may make such appointments
7 without regard to the provisions of title 5, United
8 States Code, governing appointments in the competi-
9 tive service, and any personnel so appointed may be
10 paid without regard to the provisions of chapter 51
11 and subchapter III of chapter 53 of that title relat-
12 ing to classification and General Schedule pay rates,
13 except that an individual so appointed may not re-
14 ceive pay in excess of the annual rate of basic pay
15 payable for level IV of the Executive Schedule under
16 section 5315 of title 5, United States Code.

17 (3) LIMITATIONS.—Not more than one-third of
18 the personnel employed by or detailed to the Com-
19 mission shall be individuals employed by the Depart-
20 ment of Energy on the day before the date of the
21 enactment of this Act. No employee of an energy
22 laboratory, or of a contractor who operates an en-
23 ergy laboratory, may be detailed to the Commission.

24 (4) SUPPORT FROM OTHER AGENCIES.—Upon
25 request of the Director, the head of a Federal agen-

1 cy may detail any of the personnel of that agency to
2 the Commission to assist the Commission in carry-
3 ing out its duties under this title.

4 (5) SUPPORT FROM COMPTROLLER GENERAL.—
5 The Comptroller General of the United States shall
6 provide assistance, including the detailing of employ-
7 ees, to the Commission in accordance with an agree-
8 ment entered into with the Commission.

9 (j) OTHER AUTHORITY.—

10 (1) TEMPORARY AND INTERMITTENT SERV-
11 ICES.—The Commission may procure by contract, to
12 the extent funds are available, the temporary or
13 intermittent services of experts or consultants pursu-
14 ant to section 3109 of title 5, United States Code.

15 (2) AUTHORITY TO LEASE SPACE AND ACQUIRE
16 CERTAIN PROPERTY.—The Commission may lease
17 space and acquire personal property to the extent
18 funds are available. To the extent practicable, the
19 Commission shall use suitable real property available
20 under the most recent inventory of real property as-
21 sets published by the Resolution Trust Corporation
22 under section 21A(b)(11)(F) of the Federal Home
23 Loan Bank Act (12 U.S.C. 1441a(b)(12)(F)).

24 (k) FUNDING.—There are authorized to be appro-
25 priated to the Commission such funds as are necessary

1 to carry out its duties under this title. Such funds shall
2 remain available until expended.

3 (l) TERMINATION.—The Commission shall terminate
4 not later than 30 days after the date on which it transmits
5 its final recommendations under section 202(f)(4).

6 **SEC. 202. PROCEDURE FOR MAKING RECOMMENDATIONS**
7 **FOR LABORATORY FACILITIES.**

8 (a) SELECTION CRITERIA.—In making recommenda-
9 tions for the reconfiguration, privatization, and closure of
10 energy laboratories and termination of programs at such
11 laboratories under this section, the Secretary or the Ad-
12 ministrator, as appropriate, and the Commission shall—

13 (1) give strong consideration to the closure or
14 reconfiguration of energy laboratories;

15 (2) eliminate duplication of effort by energy
16 laboratories and reduce overhead costs as a propor-
17 tion of program benefits distributed through an en-
18 ergy laboratory;

19 (3) seek to achieve cost savings for the overall
20 budget for such laboratories;

21 (4) define appropriate missions for each energy
22 laboratory, and ensure that the activities of each
23 such laboratory are focused on its mission or mis-
24 sions;

1 (5) consider the program costs and program
2 distributions on a State and county basis, including
3 real and personal property costs associated with
4 each energy laboratory considered;

5 (6) consider the number of participants in pro-
6 grams conducted through an energy laboratory and
7 staff resources involved;

8 (7) estimate the cost savings and increases that
9 would accrue through the reconfiguration of energy
10 laboratories;

11 (8) consider the potential of each energy labora-
12 tory to generate revenues or to offset costs;

13 (9) consider the transfer of energy laboratories
14 to other Federal agencies;

15 (10) consider the privatization of the energy
16 laboratories as an alternative to closure or reconfig-
17 uration; and

18 (11) be subject to the requirements of section
19 601 of this Act.

20 (b) RECOMMENDATIONS.—

21 (1) PUBLICATION AND TRANSMITTAL.—Not
22 later than 3 months after the date of the enactment
23 of this Act, the Secretary or the Administrator, as
24 appropriate, shall publish in the Federal Register
25 and transmit to the congressional energy committees

1 and to the Commission a list of the energy labora-
2 tories that the Secretary or the Administrator, as
3 appropriate, recommends for reconfiguration, privat-
4 ization, and closure.

5 (2) SUMMARY OF SELECTION PROCESS.—The
6 Secretary or the Administrator, as appropriate, shall
7 include, with the list of recommendations published
8 and transmitted pursuant to paragraph (1), a sum-
9 mary of the selection process that resulted in the
10 recommendation for each energy laboratory, includ-
11 ing a justification for each recommendation.

12 (c) EQUAL CONSIDERATION OF LABORATORIES.—In
13 considering energy laboratories for reconfiguration, privat-
14 ization, and closure, the Secretary or the Administrator,
15 as appropriate, shall consider all such laboratories equally
16 without regard to whether a laboratory has been pre-
17 viously considered or proposed for reconfiguration, privat-
18 ization, or closure by the Secretary of Energy.

19 (d) AVAILABILITY OF INFORMATION.—The Secretary
20 or the Administrator, as appropriate, shall make available
21 to the Commission and the Comptroller General of the
22 United States all information used by the Secretary or the
23 Administrator, as appropriate, in making recommenda-
24 tions under this section.

1 (e) INDEPENDENT AUDIT.—(1) Within 30 days after
2 the date of the enactment of this Act, the Director of the
3 Office of Management and Budget shall issue a request
4 for proposals for the performance of an audit under para-
5 graph (3).

6 (2) Within 60 days after the date of the enactment
7 of this Act, proposals shall be due in response to the re-
8 quest under paragraph (1).

9 (3) Within 90 days after the date of the enactment
10 of this Act, the Director of the Office of Management and
11 Budget shall enter into a contract with an independent
12 financial consulting firm for an audit of the energy labora-
13 tories and their programs, facilities, and assets. Such
14 audit shall assess the commercial potential of the energy
15 labs and their programs and make recommendations on
16 how the Government could best realize such potential. The
17 audit shall be completed and transmitted to the Commis-
18 sion, the Secretary or the Administrator, as appropriate,
19 and the congressional energy committees within 6 months
20 after the contract is entered into under this subsection.

21 (f) REVIEW AND RECOMMENDATIONS BY THE COM-
22 MISSION.—

23 (1) PUBLIC HEARINGS.—After receiving the
24 recommendations from the Secretary or the Admin-
25 istrator, as appropriate, pursuant to subsection (b),

1 the Commission shall provide an opportunity for
2 public comment on the recommendations for a 30-
3 day period.

4 (2) INITIAL REPORT.—Not later than 1 year
5 after the date of the enactment of this Act, the
6 Commission shall publish in the Federal Register an
7 initial report containing the Commission’s findings
8 and conclusions based on a review and analysis of
9 the recommendations made by the Secretary or the
10 Administrator, as appropriate, and the audit con-
11 ducted pursuant to subsection (e), together with the
12 Commission’s recommendations for reconfiguration,
13 privatization, and closure of energy laboratories. In
14 conducting such review and analysis, the Commis-
15 sion shall consider all energy laboratories.

16 (3) DEVIATION FROM RECOMMENDATIONS.—In
17 making its recommendations, the Commission may
18 make changes in any of the recommendations made
19 by the Secretary or the Administrator, as appro-
20 priate, if the Commission determines that the Sec-
21 retary or the Administrator, as appropriate, deviated
22 substantially from the criteria described in sub-
23 section (a) in making recommendations. The Com-
24 mission shall explain and justify in the report any
25 recommendation made by the Commission that is

1 different from the recommendations made by the
2 Secretary or the Administrator, as appropriate.

3 (4) FINAL REPORT.—After providing a 30-day
4 period for public comment following publication of
5 the initial report under paragraph (2), and after full
6 consideration of such public comments, the Commis-
7 sion shall, within 15 months after the date of the
8 enactment of this Act, transmit to the Secretary or
9 the Administrator, as appropriate, and the congres-
10 sional energy committees a final report containing
11 the recommendations of the Commission.

12 (5) PROVISION OF CERTAIN INFORMATION.—
13 After transmitting the final report under paragraph
14 (4), the Commission shall promptly provide, upon re-
15 quest, to any Member of Congress information used
16 by the Commission in making its recommendations.

17 (g) ASSISTANCE FROM COMPTROLLER GENERAL.—
18 The Comptroller General of the United States shall—

19 (1) assist the Commission, to the extent re-
20 quested, in the Commission's review and analysis of
21 the recommendations made by the Secretary or the
22 Administrator, as appropriate, pursuant to sub-
23 section (b); and

24 (2) not later than 6 months after the date of
25 the enactment of this Act, transmit to the congres-

1 sional energy committees and to the Commission a
2 report containing a detailed analysis of the rec-
3 ommendations of the Secretary or the Adminis-
4 trator, as appropriate, and the selection process.

5 **SEC. 203. RECONFIGURATION, PRIVATIZATION, AND CLO-**
6 **SURE OF ENERGY LABORATORIES.**

7 (a) IN GENERAL.—Subject to subsection (b), the
8 Secretary or the Administrator, as appropriate, shall—

9 (1) reconfigure, within 1 year after the date of
10 the transmittal of the final report under section
11 202(f)(4), all energy laboratories recommended for
12 reconfiguration by the Commission in such report;

13 (2) provide for and complete the privatization,
14 within 18 months after the date of the transmittal
15 of the final report under section 202(f)(4), of all en-
16 ergy laboratories recommended for privatization by
17 the Commission in such report; and

18 (3) except as necessary to achieve the privatiza-
19 tion of an energy laboratory under paragraph (2),
20 close, within 1 year after the date of the transmittal
21 of the final report under section 202(f)(4), all en-
22 ergy laboratories recommended for closure by the
23 Commission in such report.

24 (b) CONGRESSIONAL DISAPPROVAL.—

1 (1) IN GENERAL.—The Secretary or the Admin-
2 istrator, as appropriate, may not carry out any re-
3 configuration, privatization, or closure of an energy
4 laboratory recommended by the Commission in the
5 report transmitted pursuant to section 202(f)(4) if a
6 joint resolution is enacted, in accordance with the
7 provisions of section 207, disapproving the rec-
8 ommendations of the Commission before the earlier
9 of—

10 (A) the end of the 45-day period beginning
11 on the date on which the Commission transmits
12 the report; or

13 (B) the adjournment of Congress sine die
14 for the session during which the report is trans-
15 mitted.

16 (2) For purposes of paragraph (1) of this sub-
17 section and subsections (a) and (c) of section 207,
18 the days on which either House of Congress is not
19 in session because of an adjournment of more than
20 three days to a day certain shall be excluded in the
21 computation of a period.

22 **SEC. 204. IMPLEMENTATION OF RECONFIGURATION, PRI-**
23 **VATIZATION, AND CLOSURE ACTIONS.**

24 (a) IMPLEMENTATION.—In reconfiguring,
25 privatizing, or closing an energy laboratory under this

1 title, the Secretary or the Administrator, as appropriate,
2 shall—

3 (1) take such actions as may be necessary to
4 reconfigure, privatize, or close the energy laboratory;

5 (2) take such steps as may be necessary to en-
6 sure the safe keeping of all records stored at the en-
7 ergy laboratory; and

8 (3) reimburse other Federal agencies for ac-
9 tions performed at the request of the Secretary or
10 the Administrator, as appropriate, with respect to
11 any such reconfiguration, privatization, or closure,
12 and may use for such purpose funds in the Account
13 or funds appropriated to the Department of Energy
14 and available for such purpose.

15 (b) MANAGEMENT AND DISPOSAL OF PROPERTY.—

16 (1) IN GENERAL.—The Administrator of Gen-
17 eral Services shall delegate to the Secretary or the
18 Administrator, as appropriate, with respect to excess
19 and surplus real property and facilities located at an
20 energy laboratory reconfigured, privatized, or closed
21 under this title—

22 (A) the authority of the Secretary or the
23 Administrator, as appropriate, to utilize excess
24 property under section 202 of the Federal

1 Property and Administrative Services Act of
2 1949 (40 U.S.C. 483);

3 (B) the authority of the Secretary or the
4 Administrator, as appropriate, to dispose of
5 surplus property under section 203 of that Act
6 (40 U.S.C. 484);

7 (C) the authority of the Secretary or the
8 Administrator, as appropriate, to grant approv-
9 als and make determinations under section
10 13(g) of the Surplus Property Act of 1944 (50
11 U.S.C. App. 1622(g)); and

12 (D) the authority of the Secretary or the
13 Administrator, as appropriate, to determine the
14 availability of excess or surplus real property
15 for wildlife conservation purposes in accordance
16 with the Act of May 19, 1948 (16 U.S.C.
17 667b).

18 (2) EXERCISE OF AUTHORITY.—

19 (A) IN GENERAL.—Subject to subpara-
20 graph (C), the Secretary or the Administrator,
21 as appropriate, shall exercise the authority dele-
22 gated to the Secretary or the Administrator, as
23 appropriate, pursuant to paragraph (1) in ac-
24 cordance with—

1 (i) all regulations in effect on the date
2 of the enactment of this Act governing the
3 utilization of excess property and the dis-
4 posal of surplus property under the Fed-
5 eral Property and Administrative Services
6 Act of 1949; and

7 (ii) all regulations in effect on the
8 date of the enactment of this Act govern-
9 ing the conveyance and disposal of prop-
10 erty under section 13(g) of the Surplus
11 Property Act of 1944 (50 U.S.C. App.
12 1622(g)).

13 (B) REGULATIONS.—The Secretary or the
14 Administrator, as appropriate, after consulting
15 with the Administrator of General Services,
16 may issue regulations that are necessary to
17 carry out the delegation of authority required
18 by paragraph (1).

19 (C) LIMITATION.—The authority required
20 to be delegated by paragraph (1) to the Sec-
21 retary or the Administrator, as appropriate, by
22 the Administrator of General Services shall not
23 include the authority to prescribe general poli-
24 cies and methods for utilizing excess property
25 and disposing of surplus property.

1 (c) WAIVER.—The Secretary or the Administrator, as
2 appropriate, may reconfigure, privatize, or close energy
3 laboratories under this title without regard to any provi-
4 sion of law restricting the use of funds for reconfiguring,
5 privatizing, or closing such energy laboratories included
6 in any appropriations or authorization Act.

7 **SEC. 205. ACCOUNT.**

8 (a) ESTABLISHMENT.—There is hereby established
9 on the books of the Treasury an account to be known as
10 the “Energy Laboratory Facility Closure Account” which
11 shall be administered by the Secretary or the Adminis-
12 trator, as appropriate, as a single account.

13 (b) CONTENT OF ACCOUNT.—There shall be depos-
14 ited into the Account—

15 (1) funds authorized for and appropriated to
16 the Account;

17 (2) any funds that the Secretary or the Admin-
18 istrator, as appropriate, may, subject to approval in
19 an appropriation Act, transfer to the Account from
20 funds appropriated to the Department of Energy for
21 any purpose, except that such funds may be trans-
22 ferred only after the date on which the Secretary or
23 the Administrator, as appropriate, transmits written
24 notice of, and justification for, such transfer to the
25 congressional energy committees; and

1 (3) proceeds received from the transfer or dis-
2 posal of any property at an office reconfigured,
3 privatized, or closed under this section.

4 (c) USE OF FUNDS.—The Secretary or the Adminis-
5 trator, as appropriate, may use the funds in the Account
6 only for the purposes described in section 204(a).

7 (d) REPORTS.—

8 (1) IN GENERAL.—Not later than 60 days after
9 the end of each fiscal year in which the Secretary or
10 the Administrator, as appropriate, carries out activi-
11 ties under this title, the Secretary or the Adminis-
12 trator, as appropriate, shall transmit a report to the
13 congressional energy committees of the amount and
14 nature of the deposits into, and the expenditures
15 from, the Account during such fiscal year and of the
16 amount and nature of other expenditures made pur-
17 suant to section 204(a) during such fiscal year.

18 (2) UNOBLIGATED FUNDS.—Unobligated funds
19 shall be held in the Account until transferred by law.

20 **SEC. 206. REPORTS ON IMPLEMENTATION.**

21 As part of the budget request for each fiscal year in
22 which the Secretary or the Administrator, as appropriate,
23 is authorized to carry out activities under this title, the
24 Secretary or the Administrator, as appropriate, shall
25 transmit to the congressional energy committees—

1 (1) a schedule of the reconfiguration, privatiza-
2 tion, and closure actions to be carried out under this
3 title in the fiscal year for which the request is made
4 and an estimate of the total expenditures required
5 and cost savings to be achieved by each such recon-
6 figuration, privatization, or closure and of the time
7 period in which these savings are to be achieved in
8 each case; and

9 (2) a description of the energy laboratories to
10 which functions are to be transferred as a result of
11 such reconfigurations, privatizations, and closures.

12 **SEC. 207. CONGRESSIONAL CONSIDERATION OF COMMIS-**
13 **SION REPORT.**

14 (a) **TERMS OF THE RESOLUTION.**—For purposes of
15 section 203(b), the term “joint resolution” means only a
16 joint resolution which is introduced within the 10-day pe-
17 riod beginning on the date on which the Commission
18 transmits the report to the Congress under section
19 202(f)(4), and—

20 (1) which does not have a preamble;

21 (2) the matter after the resolving clause of
22 which is as follows: “That Congress disapproves the
23 recommendations of the Energy Laboratory Facili-
24 ties Commission as submitted on _____”, the blank
25 space being filled in with the appropriate date; and

1 (3) the title of which is as follows: “Joint reso-
2 lution disapproving the recommendations of the En-
3 ergy Laboratory Facilities Commission.”.

4 (b) REFERRAL.—A resolution described in subsection
5 (a) that is introduced in the House of Representatives
6 shall be referred to the Committee on National Security
7 and the Committee on Science of the House of Represent-
8 atives. A resolution described in subsection (a) introduced
9 in the Senate shall be referred to the Committee on Armed
10 Services and the Committee on Energy and Natural Re-
11 sources of the Senate.

12 (c) DISCHARGE.—If the committee to which a resolu-
13 tion described in subsection (a) is referred has not re-
14 ported such resolution (or an identical resolution) by the
15 end of the 20-day period beginning on the date on which
16 the Commission transmits the report to the Congress
17 under section 202(f)(4), such committee shall be, at the
18 end of such period, discharged from further consideration
19 of such resolution, and such resolution shall be placed on
20 the appropriate calendar of the House involved.

21 (d) CONSIDERATION.—

22 (1) IN GENERAL.—On or after the third day
23 after the date on which the committee to which such
24 a resolution is referred has reported, or has been
25 discharged (under subsection (c)) from further con-

1 sideration of, such a resolution, it is in order (even
2 though a previous motion to the same effect has
3 been disagreed to) for any Member of the respective
4 House to move to proceed to the consideration of the
5 resolution (but only on the day after the calendar
6 day on which such Member announces to the House
7 concerned the Member's intention to do so). All
8 points of order against the resolution (and against
9 consideration of the resolution) are waived. The mo-
10 tion is highly privileged in the House of Representa-
11 tives and is privileged in the Senate and is not de-
12 batable. The motion is not subject to amendment,
13 or to a motion to postpone, or to a motion to pro-
14 ceed to the consideration of other business. A motion
15 to reconsider the vote by which the motion is agreed
16 to or disagreed to shall not be in order. If a motion
17 to proceed to the consideration of the resolution is
18 agreed to, the respective House shall immediately
19 proceed to consideration of the joint resolution with-
20 out intervening motion, order, or other business, and
21 the resolution shall remain the unfinished business
22 of the respective House until disposed of.

23 (2) DEBATE.—Debate on the resolution, and on
24 all debatable motions and appeals in connection
25 therewith, shall be limited to not more than 2 hours,

1 which shall be divided equally between those favoring
2 and those opposing the resolution. An amendment to
3 the resolution is not in order. A motion further to
4 limit debate is in order and not debatable. A motion
5 to postpone, or a motion to proceed to the consider-
6 ation of other business, or a motion to recommit the
7 resolution is not in order. A motion to reconsider the
8 vote by which the resolution is agreed to or dis-
9 agreed to is not in order.

10 (3) QUORUM CALL.—Immediately following the
11 conclusion of the debate on a resolution described in
12 subsection (a) and a single quorum call at the con-
13 clusion of the debate if requested in accordance with
14 the rules of the appropriate House, the vote on final
15 passage of the resolution shall occur.

16 (4) APPEALS FROM DECISION OF CHAIR.—Ap-
17 peals from the decisions of the Chair relating to the
18 application of the rules of the Senate or the House
19 of Representatives, as the case may be, to the proce-
20 dure relating to a resolution described in subsection
21 (a) shall be decided without debate.

22 (e) CONSIDERATION BY OTHER HOUSE.—

23 (1) IN GENERAL.—If, before the passage by one
24 House of a resolution of that House described in
25 subsection (a), that House receives from the other

1 House a resolution described in subsection (a), then
2 the following procedures shall apply:

3 (A) The resolution of the other House shall
4 not be referred to a committee and may not be
5 considered in the House receiving it except in
6 the case of final passage as provided in sub-
7 paragraph (B)(ii).

8 (B) With respect to a resolution described
9 in paragraph (1) of the House receiving the res-
10 olution—

11 (i) the procedure in that House shall
12 be the same as if no resolution had been
13 received from the other House; but

14 (ii) the vote on final passage shall be
15 on the resolution of the other House.

16 (2) CONSIDERATION AFTER DISPOSITION BY
17 OTHER HOUSE.—Upon disposition of the resolution
18 received from the other House, it shall no longer be
19 in order to consider the resolution that originated in
20 the receiving House.

21 (f) RULES OF THE SENATE AND HOUSE.—This sec-
22 tion is enacted by Congress—

23 (1) as an exercise of the rulemaking power of
24 the Senate and House of Representatives, respec-
25 tively, and as such it is deemed a part of the rules

1 of each House, respectively, but applicable only with
2 respect to the procedure to be followed in that
3 House in the case of a resolution described in sub-
4 section (a), and it supersedes other rules only to the
5 extent that it is inconsistent with such rules; and

6 (2) with full recognition of the constitutional
7 right of either House to change the rules (so far as
8 relating to the procedure of that House) at any time,
9 in the same manner, and to the same extent as in
10 the case of any other rule of that House.

11 **SEC. 208. DEFINITIONS.**

12 For purposes of this title:

13 (1) The term “Account” means the Energy
14 Laboratory Facility Closure Account established in
15 section 205(a).

16 (2) The term “Administrator” has the meaning
17 given such term in section 809(1) of this Act.

18 (3) The term “Commission” means the Energy
19 Laboratory Facilities Commission.

20 (4) The term “congressional energy commit-
21 tees” means the Committee on Armed Services of
22 the Senate, the Committee on National Security of
23 the House of Representatives, the Committee on
24 Science of the House of Representatives, and the

1 Committee on Energy and Natural Resources of the
2 Senate.

3 (5) The term “energy laboratory” means the
4 Lawrence Livermore National Laboratory, the Los
5 Alamos National Laboratory, the Sandia National
6 Laboratories, the Argonne National Laboratory, the
7 Brookhaven National Laboratory, the Idaho Na-
8 tional Engineering Laboratory, the Lawrence Berke-
9 ley Laboratory, the Oak Ridge National Laboratory,
10 the Pacific Northwest Laboratory, the National Re-
11 newable Energy Laboratory, the Ames Laboratory,
12 the Bates Linear Accelerator Laboratory, the Bettis
13 Atomic Power Laboratory, the Continuous Electron
14 Beam Accelerator Facility, the Energy Technology
15 Engineering Center, the Environmental Measure-
16 ments Laboratory, the Fermi National Accelerator
17 Laboratory, the Inhalation Toxicology Research In-
18 stitute, the Knolls Atomic Power Laboratory, the
19 Laboratory of Radiobiology and Environmental
20 Health, the Morgantown Energy Technology Center,
21 the National Renewable Energy Laboratory, the
22 New Brunswick Laboratory, the Oak Ridge Institute
23 for Science and Education, the Pittsburgh Energy
24 Technology Center, the Princeton Plasma Physics
25 Laboratory, the Savannah River Ecology Labora-

1 tory, the Savannah River Technology Center, the
2 Specific Manufacturing Capability Facility, or the
3 Stanford Linear Accelerator Facility.

4 (6) The term “the Secretary or the Adminis-
5 trator, as appropriate” means the Secretary of En-
6 ergy, or, after the effective date stated in section
7 109(a), the Administrator.

8 **TITLE III—PRIVATIZATION OF**
9 **FEDERAL POWER MARKET-**
10 **ING ADMINISTRATIONS**

11 **SEC. 301. SHORT TITLE.**

12 This title may be cited as the “Federal Power Asset
13 Privatization Act of 1995”.

14 **SEC. 302. FINDINGS.**

15 The Congress finds that:

16 (1) the Federal Power Marketing Administra-
17 tions, over the years, have served to help bring elec-
18 tricity to many areas in the Nation;

19 (2) they have done so with the investment of
20 the American taxpayer;

21 (3) the necessity of federally owned power gen-
22 eration and transmission facilities has passed and
23 halting this practice is in the best national interest
24 of the United States;

1 (4) in fairness to the longtime consumers of
2 Federal Power Marketing Administrations, any proc-
3 ess of sale should be open to them;

4 (5) the taxpayers, through investing in the con-
5 struction and operation, have established equity in
6 the facilities; and

7 (6) this equity entitles the American taxpayer
8 to expect the highest possible return in the sale
9 process.

10 **SEC. 303. SALE OF ASSETS.**

11 (a) SALE OF ASSETS.—The Secretary is authorized
12 and directed to take such steps as necessary to sell all
13 electric power generation facilities and transmission facili-
14 ties, that are currently owned and operated by Federal
15 departments and agencies under the supervision of, or co-
16 ordination with, the Federal Power Marketing Administra-
17 tions other than the Bonneville Power Administration. No
18 foreign person or corporation may purchase any such fa-
19 cilities; such facilities may be sold only to a United States
20 citizen or to a corporation or partnership organized under
21 the laws of a State. After such sales are completed the
22 Secretary shall terminate the operations of the Federal
23 Power Marketing Administrations other than the Bonne-
24 ville Power Administration. The heads of other affected
25 Federal departments and agencies shall assist the Sec-

1 retary of Energy in implementing the sales authorized by
2 this section.

3 (b) PRICE; STRUCTURE OF SALE.—

4 (1) PRICE.—The Secretary shall obtain the
5 highest possible price for such facilities. In determin-
6 ing the highest possible price, the value of future tax
7 revenues shall be included.

8 (2) RETENTION OF FINANCIAL ADVISOR.—In
9 order to conduct the sales authorized by this section
10 in such manner as will produce the highest possible
11 price for the facilities to be sold consistent with this
12 title, within 30 days of enactment of this section, the
13 Secretary shall, through a competitive bidding proc-
14 ess, retain an experienced private sector firm to
15 serve as financial advisor to the Secretary with re-
16 spect to such sales.

17 (3) FINANCIAL ADVISOR'S REPORT.—Within 90
18 days of being retained by the Secretary, the financial
19 advisor shall provide to the Secretary a report con-
20 taining—

21 (A) a description of those assets described
22 in subsection (a) which, in the opinion of the fi-
23 nancial advisor, can be successfully transferred
24 to private sector ownership or operation;

1 (B) the value of each such asset, calculated
2 on the basis of the valuation method or meth-
3 ods which the financial advisor deems most ap-
4 propriate to a particular asset;

5 (C) the appropriate alternative trans-
6 actional methods for transferring each such
7 asset to private sector ownership or operation;

8 (D) the amount of proceeds which the fi-
9 nancial advisor estimates would be paid to the
10 United States Government as a result of such
11 transaction, including the present value of fu-
12 ture revenue from taxes and any other future
13 payments to be made to the United States Gov-
14 ernment; and

15 (E) an estimate of the average market rate
16 for wholesale electric power sales within each
17 region served by a Federal Power Marketing
18 Administration.

19 (c) TIME OF SALE.—Sales of facilities under this sec-
20 tion shall be conducted in accordance with the time of sale
21 schedule set forth in section 304. At least one year before
22 the date of any sale specified in such schedule, the Sec-
23 retary, in consultation with the Secretary of the Army and
24 the Secretary of the Interior, and based on the rec-
25 ommendations of the financial advisor, shall select the fa-

1 cilities or groups of facilities to be sold and establish the
2 terms and conditions of the sale.

3 (d) FORMER EMPLOYEES OF PMAS.—It is the sense
4 of the Congress that the purchaser of any such facilities
5 should offer to employ, where possible, former employees
6 of the Federal Power Marketing Administrations in con-
7 nection with the operation of the facilities following their
8 purchase.

9 (e) PROCEEDS.—The Secretary of Energy shall de-
10 posit sale proceeds in the Treasury of the United States
11 to the credit of miscellaneous receipts.

12 (f) PREPARATION.—The Secretary of Energy is au-
13 thorized to use funds appropriated to the Department of
14 Energy for the Federal Power Marketing Administrations
15 and funds otherwise appropriated to other Federal agen-
16 cies for power generation and related activities in order
17 to prepare these assets for sale and conveyance. Such
18 preparation shall provide sufficient title to ensure the ben-
19 efiticial use, enjoyment, and occupancy to the purchasers
20 of the assets to be sold and shall include identification of
21 all associated laws and regulations to be amended for the
22 purpose of these sales. The Secretary of Energy shall un-
23 dertake a study of the effect of sales of facilities under
24 this title on existing contracts for the sale of electric power
25 generated at such facilities.

1 (g) REPORTING OF SALES.—Not later than one year
 2 after the sale of the assets of each Federal Power Market-
 3 ing Administration (other than the Bonneville Power Ad-
 4 ministration) in accordance with this title, the Secretary
 5 of Energy shall—

6 (1) complete the business of, and close out,
 7 such administration; and

8 (2) prepare and submit to Congress a report
 9 documenting the sales.

10 (h) TREATMENT OF SALES FOR PURPOSES OF CER-
 11 TAIN LAWS.—The sales of assets under this title shall not
 12 be considered a disposal of Federal surplus property under
 13 the following provisions of law:

14 (1) Section 203 of the Federal Property and
 15 Administrative Services Act of 1949 (40 U.S.C.
 16 484).

17 (2) Section 13 of the Surplus Property Act of
 18 1944 (50 U.S.C. App. 1622).

19 **SEC. 304. TIME OF SALES.**

20 (a) SCHEDULE.—During the next 5 years, the Sec-
 21 retary of Energy shall complete the sale of the electric
 22 power generation and transmission assets referred to in
 23 section 303 in accordance with the following schedule:

Power Administration	Sale Completion Date
Alaska	Before September 30, 1996
Southeastern	Before September 30, 1997

Power Administration	Sale Completion Date
Southwestern Western Area	Before September 30, 1998 Before September 30, 1999

1 (b) UNEXPENDED BALANCES.—Following the sale of
2 the assets of each of the Federal Power Marketing Admin-
3 istrations and their associated power generation facilities,
4 the Secretary of Energy shall return the unexpended bal-
5 ances of funds appropriated for that administration to the
6 Treasury of the United States.

7 **SEC. 305. RATE STABILIZATION FOR AFFECTED CONSUM-**
8 **ERS.**

9 So that the affected consumers of the Federal Power
10 Marketing Administrations are not impacted by severe
11 rate increases, each purchaser of electric power generation
12 facilities providing electric power to customers within any
13 region shall be required, as part of the agreement to pur-
14 chase such facilities, to insure that the price at which elec-
15 tric power is sold to such consumers does not increase
16 above the baseline price at a rate greater than 10 percent
17 annually. For purposes of this section, the term “baseline
18 price” means the price for the sale of electric power to
19 a consumer that is in effect on the date of the sale of
20 the facility. The preceding sentence shall cease to apply
21 when the price at which electric power is sold to a
22 consumer is at least equal to the average market rate for

1 wholesale electric power sales within the region concerned,
2 as determined by the Financial Advisor.

3 **SEC. 306. LICENSING OF PROJECTS TO PRESERVE CUR-**
4 **RENT OPERATING CONDITIONS.**

5 (a) ORIGINAL LICENSE.—Simultaneously with the
6 sale of hydroelectric generation facility under this title, the
7 Federal Energy Regulatory Commission shall issue an
8 original license under part 1 of the Federal Power Act
9 (16 U.S.C. 791a–823b) to the purchaser for the construc-
10 tion, operation, and maintenance of such facility. Such li-
11 cense shall expire on the date 10 years after the date of
12 the sale of the facility and shall contain standard terms
13 and conditions for hydroelectric power licenses issued
14 under part 1 of such Act for facilities installed at Federal
15 water projects, together with such additional terms and
16 conditions as the Commission deems necessary, in con-
17 sultation with the department or agency which operates
18 such water project, to further the project purposes and
19 insure that the project will continue operations in the
20 same manner and subject to the same procedures, con-
21 tracts, and other requirements as were applicable prior to
22 the sale. The Commission shall publish such license terms
23 and conditions for each facility to be sold under this title
24 as promptly as practicable after the date of the enactment

1 of this Act but not later than one year prior to the date
2 established for the sale of the facility.

3 (b) LICENSE REQUIRED.—Notwithstanding any
4 other provision of law, the Federal Energy Regulatory
5 Commission shall have jurisdiction under part 1 of the
6 Federal Power Act over any hydroelectric generation facil-
7 ity sold under this title.

8 **SEC. 307. ENABLING FEDERAL STUDIES.**

9 Section 505 of the Energy and Water Development
10 Appropriations Act of 1993 (Public Law 102–377) is
11 hereby repealed.

12 **SEC. 308. BONNEVILLE POWER ADMINISTRATION.**

13 (a) TRANSFER OF FUNCTIONS.—There are hereby
14 transferred to the Secretary of the Interior all functions
15 performed by the Department of Energy with respect to
16 the Bonneville Power Administration (BPA) on the day
17 before the effective date of this section.

18 (b) STUDY REGARDING FUTURE OF BONNEVILLE
19 POWER ADMINISTRATION.—The Secretary of the Interior
20 shall conduct a study, taking into consideration any rel-
21 evant factor, including debt, statutory or treaty obliga-
22 tions, to determine which option regarding the future dis-
23 position of BPA represents the most cost-effective option
24 for both the Pacific Northwest and United States as a
25 whole.

1 (c) REPORT REGARDING STUDY.—The Secretary
2 shall submit to Congress a report describing the results
3 of the study and containing such recommendations as con-
4 sistent with the findings of the report within 1 year after
5 the enactment of this Act.

6 **SEC. 309. DEFINITIONS.**

7 For purposes of this title:

8 (1) The term “power generation facility” means
9 a facility used for the generation of electric energy.
10 If any portion of a structure or other facility is used
11 for flood control, water supply or other purposes in
12 addition to the generation of electric energy, such
13 term refers only to that portion of the structure or
14 facility used exclusively for the generation of electric
15 energy, including turbines, generators, controls, sub-
16 stations, and primary lines used for transmitting
17 electric energy therefrom to the point of juncture
18 with the interconnected primary transmission sys-
19 tem. Such term shall not include any portion of a fa-
20 cility used for navigation, flood control, irrigation,
21 water supply, or recreation.

22 (2) The term “Secretary” means the Secretary
23 of Energy or any successor agency. If any such
24 agency terminates prior to the complete execution of
25 all duties vested in the Secretary of Energy under

1 this title, such duties shall be vested in the Secretary
2 of the Interior.

3 **TITLE IV—TRANSFER AND**
4 **DISPOSAL OF RESERVES**

5 **SEC. 401. STRATEGIC PETROLEUM RESERVE.**

6 (a) TRANSFER OF FUNCTIONS.—There are hereby
7 transferred to the Secretary of the Interior all functions
8 performed by the Department of Energy with respect to
9 the Strategic Petroleum Reserve on the day before the ef-
10 fective date of this section.

11 (b) SALE OF CERTAIN RESERVES.—Notwithstanding
12 section 161 of the Energy Policy and Conservation Act,
13 the Secretary of the Interior shall sell the reserves held
14 at Weeks Island, Louisiana, in a manner that provides for
15 minimal disruption of petroleum markets.

16 (c) ADVISORY BOARD.—(1) The Secretary of the In-
17 terior shall appoint an advisory board, consisting of 3 indi-
18 viduals with experience in oil markets and production and
19 international relations, which shall—

20 (A) monitor the sale of reserves under sub-
21 section (b) and its effects on petroleum markets; and

22 (B) within 60 days after the completion of such
23 sale, submit to the Congress a report containing rec-
24 ommendations as described in paragraph (2).

1 (2) The advisory board shall make recommendations
2 on whether the United States should maintain or dispose
3 of the Strategic Petroleum Reserve, based on information
4 obtained pursuant to paragraph (1)(A) and any other rel-
5 evant information the advisory board obtains. If the advi-
6 sory board recommends maintaining the Strategic Petro-
7 leum Reserve, it shall include recommendations for admin-
8 istering the Reserve, and if it recommends disposing of
9 the Reserve, it shall include recommendations for proce-
10 dures for carrying out such disposal.

11 (3) Notwithstanding section 14 of the Federal Advi-
12 sory Committee Act, the advisory board established under
13 this subsection shall terminate within 30 days after it sub-
14 mits a report under paragraph (1)(B).

15 (d) EFFECTIVE DATE.—This section shall take effect
16 on the effective date stated in section 109(a).

17 **SEC. 402. TRANSFER OF NAVAL PETROLEUM RESERVES TO**
18 **DEPARTMENT OF THE INTERIOR; SALE OF**
19 **NAVAL PETROLEUM RESERVE NUMBERED 1**
20 **(ELK HILLS).**

21 (a) TRANSFER OF JURISDICTION.—The Secretary of
22 Energy shall transfer the naval petroleum reserves (as de-
23 fined in section 7420(2) of title 10, United States Code)
24 from the jurisdiction and control of the Department of En-
25 ergy to the jurisdiction and control of the Department of

1 the Interior. The transfer required by this subsection shall
2 be made without compensation or reimbursement.

3 (b) TIME FOR TRANSFER.—The transfer required by
4 subsection (a) shall be made as soon as possible after the
5 date of the enactment of this Act, but in no case later
6 than one year after that date.

7 (c) SALE OF ELK HILLS UNIT REQUIRED.—Chapter
8 641 of title 10, United States Code, is amended by insert-
9 ing after section 7421 the following new section:

10 **“§ 7421a. Sale of Naval Petroleum Reserve Numbered**
11 **1 (Elk Hills)**

12 “(a) SALE REQUIRED.—(1) Notwithstanding any
13 other provision of this chapter, the Secretary shall sell all
14 right, title, and interest of the United States in and to
15 lands owned or controlled by the United States inside
16 Naval Petroleum Reserve Numbered 1, commonly referred
17 to as the Elk Hills Unit, located in Kern County, Califor-
18 nia, and established by Executive order of the President,
19 dated September 2, 1912. Within one year after the effec-
20 tive date, the Secretary shall enter into one or more con-
21 tracts for the sale of all of the interest of the United
22 States in the reserve.

23 “(2) In this section:

24 “(A) The term ‘reserve’ means Naval Petroleum
25 Reserve Numbered 1.

1 “(B) The term ‘unit plan contract’ means the
2 unit plan contract between equity owners of the
3 lands within the boundaries of Naval Petroleum Re-
4 serve Numbered 1 entered into on June 19, 1944.

5 “(C) The term ‘effective date’ means the date
6 of the enactment of the Department of Energy Abol-
7 ishment Act.

8 “(b) EQUITY FINALIZATION.—(1) Not later than five
9 months after the effective date, the Secretary shall finalize
10 equity interests of the known oil and gas zones in Naval
11 Petroleum Reserve Numbered 1 in the manner provided
12 by this subsection.

13 “(2) The Secretary shall retain the services of an
14 independent petroleum engineer, mutually acceptable to
15 the equity owners, who shall prepare a recommendation
16 on final equity figures. The Secretary may accept the rec-
17 ommendation of the independent petroleum engineer for
18 final equity in each known oil and gas zone and establish
19 final equity interest in the Naval Petroleum Reserve Num-
20 bered 1 in accordance with such recommendation, or the
21 Secretary may use such other method to establish final
22 equity interest in the reserve as the Secretary considers
23 appropriate.

24 “(3) If, on the effective date, there is an ongoing eq-
25 uity redetermination dispute between the equity owners

1 under section 9(b) of the unit plan contract, such dispute
2 shall be resolved in the manner provided in the unit plan
3 contract within five months after the effective date. Such
4 resolution shall be considered final for all purposes under
5 this section.

6 “(c) TIMING AND ADMINISTRATION OF SALE.—(1)
7 Not later than two months after the effective date, the
8 Secretary shall retain the services of five independent ex-
9 perts in the valuation of oil and gas fields to conduct sepa-
10 rate assessments, in a manner consistent with commercial
11 practices, of the fair market value of the interest of the
12 United States in Naval Petroleum Reserve Numbered 1.
13 In making their assessments, the independent experts
14 shall consider (among other factors) all equipment and fa-
15 cilities to be included in the sale, the net present value
16 of the reserve, and the net present value of the anticipated
17 revenue stream that the Secretary determines the Treas-
18 ury would receive from the reserve if the reserve were not
19 sold, adjusted for any anticipated increases in tax reve-
20 nues that would result if the reserve were sold. The inde-
21 pendent experts shall complete their assessments within
22 five months after the effective date. In setting the mini-
23 mum acceptable price for the reserve, the Secretary shall
24 consider the average of the five assessments or, if more

1 advantageous to the Government, the average of three as-
2 sessments after excluding the high and low assessments.

3 “(2) Not later than two months after the effective
4 date, the Secretary shall retain the services of an invest-
5 ment banker to independently administer, in a manner
6 consistent with commercial practices and in a manner that
7 maximizes sale proceeds to the Government, the sale of
8 Naval Petroleum Reserve Numbered 1 under this section.

9 “(3) Not later than five months after the effective
10 date, the sales administrator selected under paragraph (2)
11 shall complete a draft contract for the sale of Naval Petro-
12 leum Reserve Numbered 1, which shall accompany the in-
13 vitation for bids and describe the terms and provisions of
14 the sale of the interest of the United States in the reserve.
15 The draft contract shall identify all equipment and facili-
16 ties to be included in the sale. The draft contract, includ-
17 ing the terms and provisions of the sale of the interest
18 of the United States in the reserve, shall be subject to
19 review and approval by the Secretary, the Secretary of the
20 Treasury, and the Director of the Office of Management
21 and Budget.

22 “(4) Not later than six months after the effective
23 date, the Secretary shall publish an invitation for bids for
24 the purchase of the reserve.

1 “(5) Not later than nine months after the effective
2 date, the Secretary shall accept the highest responsible
3 offer for purchase of the interest of the United States in
4 Naval Petroleum Reserve Numbered 1 that meets or ex-
5 ceeds the minimum acceptable price determined under
6 paragraph (1).

7 “(d) FUTURE LIABILITIES.—The United States shall
8 hold harmless and fully indemnify the purchaser of the
9 interest of the United States in Naval Petroleum Reserve
10 Numbered 1 from and against any claim or liability as
11 a result of ownership in the reserve by the United States.

12 “(e) TREATMENT OF STATE OF CALIFORNIA
13 CLAIM.—(1) All claims against the United States by the
14 State of California or the Teachers’ Retirement Fund of
15 the State of California with respect to land within the
16 Naval Petroleum Reserve Numbered 1 or production or
17 proceeds of sale from the reserve shall be resolved only
18 as follows:

19 “(A) A payment from funds provided for this
20 purpose in advance in appropriation Acts.

21 “(B) A grant of nonrevenue generating land in
22 lieu of such a payment pursuant to sections 2275
23 and 2276 of the Revised Statutes of the United
24 States (43 U.S.C. 851 and 852).

1 “(C) Any other means that would not be incon-
2 sistent with the Congressional Budget Act of 1974
3 (2 U.S.C. 621 et seq.).

4 “(D) Any combination of subparagraphs (A),
5 (B), and (C).

6 “(2) The value of any payment, grant, or means (or
7 combination thereof) under paragraph (1) may not exceed
8 an amount equal to seven percent of the proceeds from
9 the sale of the reserve, after deducting the costs incurred
10 to conduct the sale.

11 “(f) PRODUCTION ALLOCATION FOR SALE.—(1) As
12 part of the contract for purchase of Naval Petroleum Re-
13 serve Numbered 1, the purchaser of the interest of the
14 United States in the reserve shall agree to make up to
15 25 percent of the purchaser’s share of annual petroleum
16 production from the purchased lands available for sale to
17 small refiners, which do not have their own adequate
18 sources of supply of petroleum, for processing or use only
19 in their own refineries. None of the reserved production
20 sold to small refiners may be resold in kind. The purchaser
21 of the reserve may reduce the quantity of petroleum re-
22 served under this subsection in the event of an insufficient
23 number of qualified bids. The seller of this petroleum pro-
24 duction has the right to refuse bids that are less than the
25 prevailing market price of comparable oil.

1 “(2) The purchaser of the reserve shall also agree to
2 ensure that the terms of every sale of the purchaser’s
3 share of annual petroleum production from the purchased
4 lands shall be so structured as to give full and equal op-
5 portunity for the acquisition of petroleum by all interested
6 persons, including major and independent oil producers
7 and refiners alike.

8 “(g) MAINTAINING ELK HILLS UNIT PRODUC-
9 TION.—Until the sale of Naval Petroleum Reserve Num-
10 bered 1 is completed under this section, the Secretary shall
11 continue to produce the reserve at the maximum daily oil
12 or gas rate from a reservoir, which will permit maximum
13 economic development of the reservoir consistent with
14 sound oil field engineering practices in accordance with
15 section 3 of the unit plan contract. The definition of maxi-
16 mum efficient rate in section 7420(6) of this title shall
17 not apply to the reserve.

18 “(h) EFFECT ON EXISTING CONTRACTS.—(1) In the
19 case of any contract, in effect on the effective date, for
20 the purchase of production from any part of the United
21 States’ share of Naval Petroleum Reserve Numbered 1,
22 the sale of the interest of the United States in the reserve
23 shall be subject to the contract for a period of three
24 months after the closing date of the sale or until termi-
25 nation of the contract, whichever occurs first. The term

1 of any contract entered into after the effective date for
2 the purchase of such production shall not exceed the an-
3 ticipated closing date for the sale of the reserve.

4 “(2) The Secretary shall exercise the termination pro-
5 cedures provided in the contract between the United
6 States and Bechtel Petroleum Operation, Inc., Contract
7 Number DE-ACO1-85FE60520 so that the contract ter-
8 minates not later than the date of closing of the sale of
9 Naval Petroleum Reserve Numbered 1 under subsection
10 (c).

11 “(3) The Secretary shall exercise the termination pro-
12 cedures provided in the unit plan contract so that the unit
13 plan contract terminates not later than the date of closing
14 of the sale of reserve under subsection (c).

15 “(i) EFFECT ON ANTITRUST LAWS.—Nothing in this
16 section shall be construed to alter the application of the
17 antitrust laws of the United States to the purchaser of
18 Naval Petroleum Reserve Numbered 1 or to the lands in
19 the reserve subject to sale under this section upon the
20 completion of the sale.

21 “(j) PRESERVATION OF PRIVATE RIGHT, TITLE, AND
22 INTEREST.—Nothing in this section shall be construed to
23 adversely affect the ownership interest of any other entity
24 having any right, title, and interest in and to lands within

1 the boundaries of Naval Petroleum Reserve Numbered 1
2 and which are subject to the unit plan contract.

3 “(k) CONGRESSIONAL NOTIFICATION.—Section 7431
4 of this title shall not apply to the sale of Naval Petroleum
5 Reserve Numbered 1 under this section. However, the Sec-
6 retary may not enter into a contract for the sale of the
7 reserve until the end of the 31-day period beginning on
8 the date on which the Secretary notifies the Committee
9 on Armed Services of the Senate and the Committee on
10 National Security and the Committee on Commerce of the
11 House of Representatives of the proposed sale.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 at the beginning of such chapter is amended by inserting
14 after the item relating to section 7421 the following new
15 item:

“7421a. Sale of Naval Petroleum Reserve Numbered 1 (Elk Hills).”.

16 (c) CONFORMING AMENDMENTS TO TITLE 10,
17 UNITED STATES CODE.—

18 (1) REFERENCES REGARDING ADMINISTRATION
19 OF RESERVES.—Chapter 641 of title 10, United
20 States Code, is amended—

21 (A) in section 7420(4), by striking “Sec-
22 retary of Energy” and inserting “Secretary of
23 the Interior”;

24 (B) in section 7427, by striking “of the In-
25 terior”;

1 (C) in section 7430(d), by striking “, in
2 consultation with the Secretary of the Inte-
3 rior,”; and

4 (D) in section 7430(j), by striking “he, or
5 the Secretary of the Interior where the author-
6 ity extends to him,”.

7 (2) TRANSITION.—Until such time as the Sec-
8 retary of Energy transfers administration of the
9 naval petroleum reserves to the Secretary of the In-
10 terior, as required by subsection (a), the Secretary
11 of Energy shall continue to be responsible for ad-
12 ministering the reserves.

13 **SEC. 403. STUDY REGARDING FUTURE OF NAVAL PETRO-**
14 **LEUM RESERVES (OTHER THAN NAVAL PE-**
15 **TROLEUM RESERVE NUMBERED 1).**

16 (a) STUDY REQUIRED.—The Secretary of the Inte-
17 rior shall conduct a study to determine which of the follow-
18 ing options regarding the naval petroleum reserves rep-
19 resents the most cost-effective option for the United
20 States:

21 (1) Retention and operation of the naval petro-
22 leum reserves under chapter 641 of title 10, United
23 States Code.

1 (2) Transfer of all or a part of the naval petro-
2 leum reserves to the jurisdiction of another Federal
3 agency.

4 (3) Lease of the naval petroleum reserves.

5 (4) Sale of the interest of the United States in
6 the naval petroleum reserves.

7 (b) CONDUCT OF STUDY.—The Secretary shall retain
8 an independent petroleum consultant to conduct the study.

9 (c) CONSIDERATIONS UNDER STUDY.—An examina-
10 tion of the benefits to be derived by the United States
11 from the sale of the naval petroleum reserves shall include
12 an assessment and estimate, in a manner consistent with
13 commercial practices, of the fair market value of the inter-
14 est of the United States in the naval petroleum reserves.
15 An examination of the benefits to be derived by the United
16 States from the lease of the naval petroleum reserves shall
17 consider full exploration, development, and production of
18 petroleum products in the naval petroleum reserves, with
19 a royalty payment to the United States.

20 (d) REPORT REGARDING STUDY.—Not later than
21 December 31, 1995, the Secretary shall submit to Con-
22 gress a report describing the results of the study and con-
23 taining such recommendations as the Secretary considers
24 necessary to implement the most cost-effective option
25 identified in the study.

1 (e) NAVAL PETROLEUM RESERVES DEFINED.—For
2 purposes of this section, the term “naval petroleum re-
3 serves” has the meaning given that term in section
4 7420(2) of title 10, United States Code, except that such
5 term does not include Naval Petroleum Reserve Numbered
6 1.

7 **TITLE V—NATIONAL SECURITY**
8 **AND ENVIRONMENTAL MAN-**
9 **AGEMENT PROGRAMS**

10 **Subtitle A—Defense Nuclear**
11 **Programs Agency**

12 **SEC. 501. DEFINITIONS.**

13 In this subtitle:

14 (1) The term “defense nuclear programs mat-
15 ters” means matters related to the military use of
16 nuclear energy and nuclear weapons, including all
17 such matters that were under the jurisdiction of the
18 following entities on the day before the date of the
19 enactment of this Act:

20 (A) The Department of Energy.

21 (B) The Defense Nuclear Agency of the
22 Department of Defense.

23 (C) The Defense Nuclear Facilities Safety
24 Board.

1 (2) The term “Under Secretary” means the
2 Under Secretary of Defense for Defense Nuclear
3 Programs.

4 (3) The term “Agency” means the Defense Nu-
5 clear Programs Agency.

6 **SEC. 502. ESTABLISHMENT AND ORGANIZATION OF DE-**
7 **FENSE NUCLEAR PROGRAMS AGENCY.**

8 (a) ESTABLISHMENT OF DEFENSE NUCLEAR PRO-
9 GRAMS AGENCY.—There is established an agency in the
10 Department of Defense to be known as the Defense Nu-
11 clear Programs Agency.

12 (b) UNDER SECRETARY.—The Agency shall be head-
13 ed by an Under Secretary for Defense Nuclear Programs,
14 who shall serve as the principal adviser to the President
15 and the Secretary of Defense on defense nuclear programs
16 matters. In carrying out his duties under this Act, the
17 Under Secretary for Defense Nuclear Programs shall, sub-
18 ject to the authority, direction, and control of of the Sec-
19 retary of Defense, have primary responsibility within the
20 Government for defense nuclear programs matters. The
21 Under Secretary shall be appointed by the President, by
22 and with the advice and consent of the Senate. A commis-
23 sioned officer of the Armed Forces serving on active duty
24 may not be appointed Under Secretary. The Under Sec-
25 retary shall be compensated at the rate provided for level

1 II of the Executive Schedule under section 5313 of title
2 5, United States Code.

3 (c) DEPUTY UNDER SECRETARY.—A Deputy Under
4 Secretary for Defense Nuclear Programs shall be ap-
5 pointed by the President, by and with the advice and con-
6 sent of the Senate. The Deputy Under Secretary shall per-
7 form such duties and exercise such powers as the Under
8 Secretary for Defense Nuclear Programs may prescribe.
9 The Deputy Under Secretary shall act for, and exercise
10 the powers of, the Under Secretary during the Under Sec-
11 retary's absence or disability or during a vacancy in such
12 office. A commissioned officer of the Armed Forces serv-
13 ing on active duty may not be appointed Deputy Under
14 Secretary. The Deputy Under Secretary shall be com-
15 pensated at the rate provided for level III of the Executive
16 Schedule under section 5314 of title 5, United States
17 Code.

18 (d) ASSISTANT SECRETARIES.—(1) Four Assistant
19 Secretaries of the Agency shall be appointed by the Presi-
20 dent, by and with the advice and consent of the Senate.
21 They shall perform such duties and exercise such powers
22 as the Under Secretary may prescribe.

23 (2) One of the Assistant Secretaries shall have as his
24 principal duty the overall supervision of environmental res-
25 toration of defense nuclear weapons facilities.

1 (3) One of the Assistant Secretaries shall have as his
2 principal duty the overall supervision of the oversight of
3 the defense and nondefense functions and budgets of the
4 Sandia National Laboratories, the Los Alamos National
5 Laboratory, and the Lawrence Livermore National Lab-
6 oratory (or whatever laboratories (or portions of labora-
7 tories) carrying out the functions of such laboratories re-
8 main after reconfiguration, privatization, or closure (if
9 any) pursuant to title II).

10 (4) Each Assistant Secretary shall be compensated
11 at the rate provided for level IV of the Executive Schedule
12 under section 5315 of title 5, United States Code.

13 (e) INSPECTOR GENERAL.—There shall be an Inspec-
14 tor General of the Agency, who shall be appointed as pro-
15 vided in section 3 of the Inspector General Act of 1978
16 (5 U.S.C. App. 3). The Inspector General shall perform
17 the duties, have the responsibilities, and exercise the pow-
18 ers specified in the Inspector General Act of 1978 (5
19 U.S.C. App. 3).

20 (f) GENERAL COUNSEL.—There shall be a General
21 Counsel of the Agency, who shall be appointed by the
22 Under Secretary. The General Counsel shall be the chief
23 legal officer for all legal matters arising from the conduct
24 of the functions of the Agency. The General Counsel shall
25 be compensated at the rate provided for level V of the Ex-

1 executive Schedule under section 5316 of title 5, United
2 States Code.

3 **SEC. 503. FUNCTIONS OF DEFENSE NUCLEAR PROGRAMS**

4 **AGENCY.**

5 (a) IN GENERAL.—The Under Secretary for Defense
6 Nuclear Programs shall be responsible for the exercise of
7 all powers and the discharge of all duties of the Agency.

8 (b) TRANSFERRED FUNCTIONS.—The Under Sec-
9 retary for Defense Nuclear Programs shall carry out all
10 functions transferred to the Under Secretary pursuant to
11 section 504.

12 (c) STAFF DIRECTOR OF NUCLEAR WEAPONS COUN-
13 CIL.—Paragraph (2) of section 179(c) of title 10, United
14 States Code, is amended to read as follows:

15 “(2) The Under Secretary for Defense Nuclear Pro-
16 grams shall be the Staff Director of the Council.”.

17 **SEC. 504. TRANSFERS OF FUNCTIONS.**

18 (a) DEPARTMENT OF ENERGY.—(1) There are here-
19 by transferred to the Under Secretary for Defense Nuclear
20 Programs all functions performed by the Department of
21 Energy on the day before the date of the enactment of
22 this Act relating to the national security functions of the
23 Department, including defense, nonproliferation, and de-
24 fense-related environmental management programs.

1 (2) There are hereby transferred to the Under Sec-
2 retary for Defense Nuclear Programs all functions per-
3 formed by the Department of Energy on the day before
4 the date of the enactment of this Act relating to the over-
5 sight of the defense and nondefense functions and budgets
6 of the following laboratories:

7 (A) Sandia National Laboratories, Albuquerque,
8 New Mexico, and Livermore, California.

9 (B) Los Alamos National Laboratory, Los Ala-
10 mos, New Mexico.

11 (C) Lawrence Livermore National Laboratory,
12 California.

13 (b) DEFENSE NUCLEAR AGENCY.—There are hereby
14 transferred to the Under Secretary for Defense Nuclear
15 Programs all functions performed by the Defense Nuclear
16 Agency of the Department of Defense on the day before
17 the date of the enactment of this Act relating to nuclear
18 weapons systems.

19 (c) DEFENSE NUCLEAR FACILITIES SAFETY
20 BOARD.—There are hereby transferred to the Under Sec-
21 retary for Defense Nuclear Programs all functions per-
22 formed by the Defense Nuclear Facilities Safety Board on
23 the day before the date of the enactment of this Act.

24 (d) OTHER NUCLEAR WEAPONS-RELATED FUNC-
25 TIONS.—The Secretary of Defense may transfer to the

1 Under Secretary for Defense Nuclear Programs such
2 other functions performed in the Department of Defense
3 on the day before the date of the enactment of this Act
4 relating to nuclear weapons as the Secretary considers ap-
5 propriate.

6 (e) CONFORMING REPEALS.—

7 (1) ASSISTANT TO THE SECRETARY OF DE-
8 FENSE FOR ATOMIC ENERGY.—Section 141 of title
9 10, United States Code, is hereby repealed. The
10 table of sections at the beginning of chapter 4 of
11 such title is amended by striking out the item relat-
12 ing to such section.

13 (2) DEFENSE NUCLEAR FACILITIES SAFETY
14 BOARD.—Chapter 21 of the Atomic Energy Act of
15 1954 (42 U.S.C. 2286) is hereby repealed.

16 (3) REFERENCES.—Any reference to the Assist-
17 ant Secretary of Defense for Atomic Energy or the
18 Defense Nuclear Facilities Safety Board in any pro-
19 vision of law or in any rule, regulation, or other
20 paper of the United States shall be treated as refer-
21 ring to the Under Secretary for Defense Nuclear
22 Programs.

23 **SEC. 505. LIMITATION ON TRANSFERS OF FUNDS.**

24 No amount appropriated to the Agency may be trans-
25 ferred to any other account (other than another account

1 of the Agency) unless the transfer of such amount to such
2 account is specifically authorized by law. No amount ap-
3 propriated to the Department of Defense or another de-
4 partment or agency may be transferred to the Under Sec-
5 retary for Defense Nuclear Programs or to an account for
6 the Agency unless the transfer of such amount to such
7 account is specifically authorized by law.

8 **SEC. 506. TRANSITION PROVISIONS.**

9 (a) EXERCISE OF AUTHORITIES.—Except as other-
10 wise provided by law, the Under Secretary for Defense
11 Nuclear Programs may, for purposes of performing a
12 function that is transferred to the Under Secretary by this
13 Act, exercise all authorities under any other provision of
14 law that were available with respect to the performance
15 of that function to the official responsible for the perform-
16 ance of that function on the day before the date of the
17 enactment of this Act.

18 (b) AUTHORITIES TO WIND UP AFFAIRS.—

19 (1) IN GENERAL.—(A) The Director of the Of-
20 fice of Management and Budget may take such ac-
21 tions as the Director considers necessary to wind up
22 any outstanding affairs of the Department of En-
23 ergy associated with the functions that are trans-
24 ferred pursuant to section 504(a).

1 (B) The Secretary of Defense may take such
2 actions as the Secretary considers necessary to wind
3 up any outstanding affairs of the Defense Nuclear
4 Agency associated with the functions that are trans-
5 ferred pursuant to section 504(b), any outstanding
6 affairs of the Department of Defense associated with
7 any functions that may be transferred pursuant to
8 section 504(d), and any outstanding affairs of the
9 Assistant to the Secretary of Defense for Atomic
10 Energy.

11 (C) The Secretary of the Navy may take such
12 actions as the Secretary considers necessary to wind
13 up any outstanding affairs of the Strategic Systems
14 Programs of the Department of the Navy associated
15 with the functions that are transferred pursuant to
16 section 504(c).

17 (D) The Director of the Office of Management
18 and Budget may take such actions as the Director
19 considers necessary to wind up any outstanding af-
20 fairs of the Defense Nuclear Facilities Safety Board.

21 (2) TRANSFER OF ASSETS.—So much of the
22 personnel, property, records, and unexpended bal-
23 ances of appropriations, allocations, and other funds
24 employed, used, held, available, or to be made avail-
25 able in connection with a function transferred to the

1 Under Secretary for Defense Nuclear Programs by
2 this Act are transferred to the Under Secretary for
3 use in connection with the functions transferred.

4 (3) FURTHER MEASURES AND DISPOSITIONS.—
5 Such further measures and dispositions as the Presi-
6 dent considers necessary to effectuate the transfers
7 referred to in subsection (b) shall be carried out in
8 such manner as the President directs and by the
9 heads of such agencies as the President designates.

10 **SEC. 507. TECHNICAL AND CONFORMING AMENDMENTS.**

11 (a) INSPECTOR GENERAL ACT OF 1978.—Section 11
12 of the Inspector General Act of 1978 (5 U.S.C. App.) is
13 amended—

14 (1) in paragraph (1), by inserting after “Inter-
15 national Development,” the following: “the Defense
16 Nuclear Programs Agency,”; and

17 (2) in paragraph (2), by striking out “or the
18 Social Security Administration;” and inserting in
19 lieu thereof “the Social Security Administration, or
20 the Defense Nuclear Programs Agency;”.

21 (b) EXECUTIVE SCHEDULE.—(1) Section 5313 of
22 title 5, United States Code, is amended by adding at the
23 end the following:

24 “Under Secretary for Defense Nuclear Pro-
25 grams.”.

1 (2) Section 5314 of title 5, United States Code, is
2 amended by adding at the end the following:

3 “Deputy Under Secretary for Defense Nuclear
4 Programs.”.

5 (3) Section 5315 of title 5, United States Code, is
6 amended by adding at the end the following:

7 “Assistant Secretaries, Defense Nuclear Pro-
8 grams Agency (4).

9 “Inspector General, Defense Nuclear Programs
10 Agency.”.

11 (4) Section 5316 of title 5, United States Code, is
12 amended by adding at the end the following:

13 “General Counsel, Defense Nuclear Programs
14 Agency.”.

15 **SEC. 508. EFFECTIVE DATE AND TRANSITION PERIOD.**

16 (a) EFFECTIVE DATE.—Except as provided in sub-
17 section (b), this title shall take effect on the date of the
18 enactment of this Act.

19 (b) DELAYED EFFECTIVE DATE FOR ESTABLISH-
20 MENT OF AGENCY AND TRANSFERS OF FUNCTIONS.—
21 Section 502(a) and section 504 of this Act shall take effect
22 one year after the date of the enactment of this Act.

23 (c) TRANSITION PERIOD.—The Secretary of Defense,
24 the Secretary of Energy, the Assistant to the Secretary
25 of Defense for Atomic Energy, and the Defense Nuclear

1 Facilities Safety Board shall, beginning as soon as prac-
 2 ticable after the date of the enactment of this Act, plan
 3 for the orderly establishment of, and transfer of functions
 4 to, the Agency pursuant to this Act.

5 (d) APPOINTMENT AUTHORITY.—The President may
 6 make appointments under section 2 notwithstanding the
 7 delayed effective date under subsection (b) for the estab-
 8 lishment of the Agency.

9 **Subtitle B—Environmental Res-**
 10 **toration Activities at Defense**
 11 **Nuclear Facilities**

12 **SEC. 521. ENVIRONMENTAL RESTORATION ACTIVITIES AT**
 13 **DEFENSE NUCLEAR FACILITIES.**

14 The Comprehensive Environmental Response, Com-
 15 pensation, and Liability Act of 1980 (42 U.S.C. 9601 et
 16 seq.) is amended by adding at the end the following new
 17 title:

18 **“TITLE IV—ENVIRONMENTAL**
 19 **RESTORATION ACTIVITIES AT**
 20 **DEFENSE NUCLEAR FACILI-**
 21 **TIES**

“Subtitle A—General Provisions

“Sec. 401. Applicability.

“Sec. 402. Definitions.

“Subtitle B—Selection of Remedial Action

“Sec. 411. Review of ongoing and planned remedial actions.

“Sec. 412. Selection of remedial action.

“Sec. 413. Site-specific risk assessment.

“Sec. 414. Analysis of risk reduction benefits and costs.

1 **“Subtitle A—General Provisions**

2 **“SEC. 401. APPLICABILITY.**

3 “Notwithstanding section 120, the provisions of this
4 title shall apply with respect to selection of remedial ac-
5 tions at defense nuclear facilities.

6 **“SEC. 402. DEFINITIONS.**

7 “For purposes of this title:

8 “(1) The term “defense nuclear facility”
9 means—

10 “(A) a production facility or utilization fa-
11 cility (as those terms are defined in section 11
12 of the Atomic Energy Act of 1954 (42 U.S.C.
13 2014)) that is under the control or jurisdiction
14 of the Under Secretary of Defense for Defense
15 Nuclear Programs and that is operated for na-
16 tional security purposes (including the tritium
17 loading facility at Savannah River, South Caro-
18 lina, the 236 H facility at Savannah River,
19 South Carolina; and the Mound Laboratory,
20 Ohio), but the term does not include any facil-
21 ity that does not conduct atomic energy defense
22 activities and does not include any facility or
23 activity covered by Executive Order Number

1 12344, dated February 1, 1982, pertaining to
2 the naval nuclear propulsion program;

3 “(B) a nuclear waste storage or disposal
4 facility that is under the control or jurisdiction
5 of the Under Secretary of Defense for Defense
6 Nuclear Programs;

7 “(C) a testing and assembly facility that is
8 under the control or jurisdiction of the Under
9 Secretary of Defense for Defense Nuclear Pro-
10 grams and that is operated for national security
11 purposes (including the Nevada Test Site, Ne-
12 vada; the Pinnellas Plant, Florida; and the
13 Pantex facility, Texas);

14 “(D) an atomic weapons research facility
15 that is under the control or jurisdiction of the
16 Under Secretary of Defense for Defense Nu-
17 clear Programs (including the Lawrence Liver-
18 more, Los Alamos, and Sandia National Lab-
19 oratories); or

20 “(E) any facility described in paragraphs
21 (1) through (4) that—

22 “(i) is no longer in operation;

23 “(ii) was under the control or jurisdic-
24 tion of the Department of Defense, the
25 Atomic Energy Commission, the Energy

1 formance of the remedial action that result from the
2 Under Secretary's activities under this paragraph.

3 “(2) Paragraph (1) applies to any remedial action at
4 a defense nuclear facility—

5 “(A) which is ongoing as of the date of the en-
6 actment of this title, including a facility for which
7 construction is ongoing or has been completed as of
8 such date; or

9 “(B) for which construction is planned but has
10 not yet commenced as of such date of enactment.

11 **“SEC. 412. SELECTION OF REMEDIAL ACTION.**

12 “(a) IN GENERAL.—The Under Secretary shall select
13 a remedial action for a defense nuclear facility based upon
14 consideration of a site-specific risk assessment conducted
15 in accordance with section 413 and an analysis of risk re-
16 duction benefits and costs conducted in accordance with
17 section 414.

18 “(b) REQUIREMENT FOR LOWEST COST ACTION.—
19 In selecting a remedial action, the Under Secretary shall
20 select the lowest cost action which achieves a residual risk
21 that is within the risk range goal established by the Na-
22 tional Contingency Plan for protection of public health
23 and the environment, unless—

24 “(1) the incremental benefits of a more expen-
25 sive remedial action justify incurring the incremental

1 costs of the more expensive remedy, as set forth in
2 the analysis of risk reductions cost and benefits for
3 the remedial action pursuant to section 414, in
4 which case a more expensive remedy may be se-
5 lected, or

6 “(2) the benefits of the lowest cost remedy
7 which achieves a residual risk level within the risk
8 range goal are not reasonably related to the costs of
9 such remedy, in which case a less expensive remedy
10 may be selected.

11 “(c) CONSULTATION.—Before selection of a remedial
12 action and before public comment under subsection (d),
13 the Under Secretary shall consult with the Administrator,
14 officials of State, local, or tribal governments having juris-
15 diction over the property or, in the case of property which
16 is exclusively under Federal jurisdiction, having jurisdic-
17 tion over the surrounding areas. Such consultation shall
18 include discussion of, at a minimum, current area demo-
19 graphics, land and water uses, and currently planned land
20 and water uses, the determination of which shall remain
21 the sole purview of the appropriate State, local, or tribal
22 government with jurisdiction.

23 “(d) PUBLIC COMMENT.—Before selection of a reme-
24 dial action, the Under Secretary shall provide a period of

1 not less than 30 days for public comment on the remedial
2 action.

3 “(e) CERTIFICATION.—The Under Secretary shall
4 certify the following when selecting a remedial action:

5 “(1) That the analysis of risk reduction benefits
6 and costs for the remedial action pursuant to section
7 414 is based on objective and unbiased scientific and
8 economic evaluations of all significant and relevant
9 information and on risk assessments provided to the
10 agency by interested parties relating to the costs,
11 risks, and risk reduction and other benefits of the
12 remedial action selected.

13 “(2) That the incremental risk reduction or
14 other benefits of the remedial action will be likely to
15 justify, and be reasonably related to, the incremental
16 costs incurred by the Federal Government, by State,
17 local, and tribal governments, and other public and
18 private entities.

19 “(3) That other alternative remedial actions
20 identified or considered by the agency were found to
21 be less cost-effective at achieving a substantially
22 equivalent reduction in risk.

23 “(f) ADMINISTRATIVE RECORD.—All documents con-
24 sidered by the Under Secretary shall be made part of the
25 administrative record for purposes of judicial review.

1 **“SEC. 413. SITE-SPECIFIC RISK ASSESSMENT.**

2 “(a) IN GENERAL.—(1) A site-specific risk assess-
3 ment shall be performed in accordance with this section
4 before the selection of a remedial action at a defense nu-
5 clear facility. The Under Secretary shall apply the prin-
6 ciples set forth in subsection (b) in order to ensure that
7 a site-specific risk assessment—

8 “(A) distinguishes scientific findings from other
9 considerations;

10 “(B) is, to the extent feasible, scientifically ob-
11 jective, unbiased, and inclusive of all relevant data;
12 and

13 “(C) relies, to the extent available and prac-
14 ticable, on factual site-specific data.

15 “(2) Discussions or explanations required under this
16 section need not be repeated in each risk assessment docu-
17 ment as long as there is a reference to the relevant discus-
18 sions or explanation in another agency document which
19 is available to the public.

20 “(b) PRINCIPLES.—The principles to be applied in
21 conducting a site-specific risk assessment are as follows:

22 “(1) When discussing human health risks, a
23 site-specific risk assessment shall contain a discus-
24 sion of both relevant laboratory and relevant epi-
25 demologic data of sufficient quality which finds, or
26 fails to find, a correlation between health risks and

1 a potential toxin or activity. Where conflicts among
2 such data appear to exist, or where animal data is
3 used as a basis to assess human health, the site-spe-
4 cific risk assessment shall, to the extent feasible and
5 appropriate, include discussion of possible reconcili-
6 ation of conflicting information, and, as relevant,
7 differences in study designs, comparative physiology,
8 routes of exposure, bioavailability, pharmacokinetics,
9 and any other relevant factor, including the suffi-
10 ciency of basic data for review. The discussion of
11 possible reconciliation should indicate whether there
12 is a biological basis to assume a resulting harm in
13 humans. Animal data shall be reviewed with regard
14 to its relevancy to humans.

15 “(2) Where a site-specific risk assessment in-
16 volves selection of any significant default value, as-
17 sumption, inference, or model, the risk assessment
18 document shall, to the extent feasible—

19 “(A) present a representative list and ex-
20 planation of plausible and alternative assump-
21 tions, inferences, or models;

22 “(B) explain the basis for any choices;

23 “(C) identify any policy or value judg-
24 ments;

1 “(D) fully describe any model used in the
2 risk assessment and make explicit the assump-
3 tions incorporated in the model; and

4 “(E) indicate the extent to which any sig-
5 nificant model has been validated by, or con-
6 flicts with, empirical data.

7 “(3) The site-specific risk assessment shall
8 meet each of the following requirements regarding
9 risk characterization and communication:

10 “(A) The risk characterization shall de-
11 scribe the populations or natural resources
12 which are the subject of the risk characteriza-
13 tion. If a numerical estimate of risk is provided,
14 the agency shall, to the extent feasible, pro-
15 vide—

16 “(i) the best estimate or estimates for
17 the specific populations or natural re-
18 sources which are the subject to the char-
19 acterization (based on the information
20 available to the Federal agency); and

21 “(ii) a statement of the reasonable
22 range of scientific uncertainties.

23 In addition to such best estimate or estimates,
24 the risk characterization document may present
25 plausible upper-bound or conservative estimates

1 in conjunction with plausible lower-bound esti-
2 mates. Where appropriate, the risk character-
3 ization document may present, in lieu of a sin-
4 gle best estimate, multiple best estimates based
5 on assumptions, inferences, or models which are
6 equally plausible, given current scientific under-
7 standing. To the extent practicable and appro-
8 priate, the document shall provide descriptions
9 of the distribution and probability of risk esti-
10 mates to reflect differences in exposure varia-
11 bility or sensitivity in populations and attend-
12 ance uncertainties. Sensitive subpopulations or
13 highly exposed subpopulations include, where
14 relevant and appropriate, children, the elderly,
15 pregnant women, and disabled persons.

16 “(B) Exposure scenarios shall be based on
17 actual exposure pathways and currently planned
18 future land and water uses as established by
19 any local governmental authorities with jurisdic-
20 tion over the property and shall consider the
21 availability of alternative water supplies. To the
22 extent feasible, the site-specific risk assessment
23 shall include a statement of the size of the pop-
24 ulation at risk under any proposed exposure
25 scenario and the likelihood of such scenario.

1 Exposure scenarios shall explicitly identify
2 those exposure scenarios which result in plau-
3 sible completed exposure pathways.

4 “(C) A site-specific risk assessment shall
5 contain a statement that places the magnitude
6 of risks to human health, safety, or the environ-
7 ment in context. Such statement shall, to the
8 extent feasible, provide comparisons with esti-
9 mates of greater, lesser, and substantially
10 equivalent risks that are familiar to and rou-
11 tinely encountered by the general public as well
12 as other risks, and where appropriate and
13 meaningful, comparisons of those risks with
14 other similar risks regulated by the Federal
15 agency resulting from comparable activities and
16 exposure pathways. Such comparisons should
17 consider relevant distinctions among risks, such
18 as the voluntary or involuntary nature of risks
19 and the preventability or nonpreventability of
20 risks.

21 “(D) Each site-specific risk assessment
22 shall include a statement of any significant sub-
23 stitution risks to human health, where informa-
24 tion on such risks has been provided to the
25 Under Secretary.

1 “(b) CONTENTS OF ANALYSIS.—An analysis of risk
2 reduction benefits and costs for a remedial action shall
3 contain the following:

4 “(1) An identification of reasonable alternative
5 strategies, including strategies that are proposed
6 during a public comment period.

7 “(2) An analysis of the incremental costs and
8 incremental risk reduction or other benefits associ-
9 ated with each alternative remedial action identified
10 or considered. Costs and benefits shall be quantified
11 to the extent feasible and appropriate and may oth-
12 erwise be qualitatively described.

13 “(3) A statement that places in context the na-
14 ture and magnitude of the risks to be addressed and
15 the residual risks likely to remain for each alter-
16 native strategy identified or considered by the Under
17 Secretary. Such statement shall, to the extent fea-
18 sible, provide comparisons with estimates of greater,
19 lesser, and substantially equivalent risks that are fa-
20 miliar to and routinely encountered by the general
21 public as well as other risks and, where appropriate
22 and meaningful, comparisons of those risks with
23 other similar risks regulated by the Federal Govern-
24 ment resulting from comparable activities and expo-
25 sure pathways. Such comparisons should consider

1 relevant distinctions among risks, such as the vol-
2 untary or involuntary nature of risks and the pre-
3 ventability or nonpreventability of risks.

4 “(4) An analysis of whether the identified bene-
5 fits of the remedial action are likely to exceed the
6 identified costs of the remedial action.”.

7 **SEC. 522. CONFORMING AMENDMENT.**

8 Section 120(a)(3) of the Comprehensive Environ-
9 mental Response, Compensation, and Liability Act of
10 1980 (42 U.S.C. 9620(a)(3)) is amended by inserting
11 after the second sentence the following: “This subsection
12 also shall not apply to the extent otherwise provided in
13 title IV with respect to selection of remedial actions at
14 defense nuclear facilities.”.

15 **SEC. 523. RENEGOTIATION OF COMPLIANCE AGREEMENTS.**

16 (a) REQUIREMENT.—For each defense nuclear facil-
17 ity with respect to which a compliance agreement has been
18 entered into by the Secretary of Energy, the Environ-
19 mental Protection Agency, and a State as of the date of
20 the enactment of this Act, the Under Secretary of Defense
21 for Defense Nuclear Programs shall enter into negotia-
22 tions with the Environmental Protection Agency and the
23 State concerned to renegotiate the terms of the compliance
24 agreement to reflect title IV of the Comprehensive Envi-

1 ronmental Response, Compensation, and Liability Act of
2 1980, as added by section 521.

3 (b) DEADLINE.—The Under Secretary of Defense for
4 Defense Nuclear Programs shall complete renegotiation of
5 compliance agreements as required by subsection (a) not
6 later than one year after the date of the enactment of this
7 Act.

8 **TITLE VI—DISPOSITION OF**
9 **MISCELLANEOUS PARTICULAR**
10 **PROGRAMS, FUNCTIONS, AND**
11 **AGENCIES OF DEPARTMENT**

12 **SEC. 601. ENERGY RESEARCH AND DEVELOPMENT.**

13 (a) AUTHORIZATION.—

14 (1) LIMITATIONS.—The amount which may be
15 appropriated for Energy Supply Research and De-
16 velopment activities of the Department of Energy,
17 including Basic Energy Sciences, Magnetic Fusion
18 Energy, Solar and Renewable Energy, Nuclear Fis-
19 sion, and Biological and Environmental Sciences re-
20 search and development, and all other research and
21 development activities of the Department of Energy
22 other than General Science and Research activities,
23 shall not exceed—

1 (A) for fiscal year 1996, 75 percent of the
2 budget authority available for such purposes for
3 fiscal year 1995;

4 (B) for fiscal year 1997, 50 percent of the
5 budget authority available for such purposes for
6 fiscal year 1995;

7 (C) for fiscal year 1998, 50 percent of the
8 budget authority available for such purposes for
9 fiscal year 1995;

10 (D) for fiscal year 1999, 50 percent of the
11 budget authority available for such purposes for
12 fiscal year 1995; and

13 (E) for fiscal year 2000, 50 percent of the
14 budget authority available for such purposes for
15 fiscal year 1995.

16 (2) DEFINITION.—For purposes of this sub-
17 section, the term “budget authority” has the mean-
18 ing given such term in section 3(2) of the Congres-
19 sional Budget Act of 1974.

20 (b) RECOMMENDATIONS.—Within 1 year of the date
21 of the enactment of this Act, the Energy Laboratory Fa-
22 cilities Commission established under section 201(a) of
23 this Act shall identify in a report to Congress all research
24 and development activities of the Department of Energy
25 carried out at energy laboratories (as such term is defined

1 in section 208(5) of this Act) or at institutions of higher
2 education, that perform a critical research function of im-
3 portance to the long-term economic wellbeing of the Unit-
4 ed States. Such report shall include recommendations for
5 the transfer of such activities to appropriate Federal agen-
6 cies.

7 (c) TERMINATION OF PROGRAMS.—

8 (1) CLEAN COAL TECHNOLOGY.—The Secretary
9 of Energy shall terminate all clean coal technology
10 research and development activities of the Depart-
11 ment of Energy.

12 (2) FOSSIL ENERGY AND ENERGY CONSERVA-
13 TION.—There are authorized to be appropriated to
14 the Secretary of Energy—

15 (A) for fossil energy research and develop-
16 ment activities of the Department of Energy—

17 (i) \$150,000,000 for fiscal year 1996;

18 (ii) \$135,000,000 for fiscal year 1997;

19 and

20 (iii) \$120,000,000 for fiscal year
21 1998; and

22 (B) for energy conservation research and
23 development activities of the Department of En-
24 ergy—

25 (i) \$427,000,000 for fiscal year 1996;

- 1 (ii) \$412,000,000 for fiscal year 1997;
2 and
3 (iii) \$397,000,000 for fiscal year
4 1998.

5 The fossil energy and energy conservation research
6 and development activities of the Department of En-
7 ergy shall be terminated at the end of fiscal year
8 1998.

9 (d) TRANSFER OF PROGRAMS.—The following activi-
10 ties of the Department of Energy shall, no later than 60
11 days after the date of the enactment of this Act, be trans-
12 ferred to the Department of Defense:

13 (1) All activities described under the category
14 “Weapons Activities” in the annual budget request
15 of the President for fiscal year 1996, including
16 weapons stockpile stewardship and management.

17 (2) All activities described under the category
18 “Materials Support and Other Defense Programs”
19 in the annual budget request of the President for
20 fiscal year 1996.

21 (e) PROGRESS REPORTS.—The Secretary of Energy
22 shall, every 90 days after the date of the enactment of
23 this Act until the completion of the execution of sub-
24 sections (c) and (d), transmit to the Congress a report
25 on the progress made toward such execution.

1 **SEC. 602. ENERGY INFORMATION ADMINISTRATION.**

2 There are hereby transferred to the Department of
3 the Treasury all functions performed by the Energy Infor-
4 mation Administration on the day before the effective date
5 of this section. There are authorized to be appropriated
6 for carrying out the activities of the Energy Information
7 Administration \$40,000,000 for each of the fiscal years
8 1996 through 2000.

9 **SEC. 603. ENERGY REGULATORY ADMINISTRATION.**

10 There are hereby transferred to the Attorney General
11 all functions performed by the Energy Regulatory Admin-
12 istration on the day before the effective date of this sec-
13 tion.

14 **SEC. 604. EFFECTIVE DATE.**

15 (a) GENERAL RULE.—Except as provided in sub-
16 section (b), this title shall take effect on the date specified
17 in section 109(a) of this Act.

18 (b) EXCEPTIONS.—Section 601(c), (d), and (e), shall
19 take effect on the date of the enactment of this Act.

20 **TITLE VII—CIVILIAN RADIO-**
21 **ACTIVE WASTE MANAGEMENT**

22 **SEC. 701. NUCLEAR WASTE REPOSITORY.**

23 Effective upon the expiration of the 3rd calendar
24 month beginning after the date of the enactment of this
25 Act section 304 of the Nuclear Waste Policy Act of 1982
26 (42 U.S.C. 10224) is amended to read as follows:

1 “ARMY CORPS OF ENGINEERS

2 “SEC. 304. (a) TRANSFER.—The Office of Civilian
3 Radioactive Waste Management (referred to in this sec-
4 tion as the ‘office’) is terminated and the authority and
5 assets of the office with respect to its activities under title
6 I respecting a repository for radioactive waste and spent
7 nuclear fuel is transferred to the Army Corps of Engineers
8 (referred to in this section as the ‘Corps’. In connection
9 with the transfer, the Corps shall assume all contracts and
10 other obligations of the office with respect to the Yucca
11 Mountain site and the permits from the State of Nevada
12 for the site shall be reissued for the Corps.

13 “(b) YUCCA MOUNTAIN SITE.—The Corps shall re-
14 view the characterization plan of, and the work under-
15 taken by, the office for the Yucca Mountain site. Effective
16 6 months after the transfer under subsection (a), the
17 Corps shall prepare its own site characterization plan in
18 accordance with section 113. The plan shall be submitted
19 to the Nuclear Waste Technical Review Board for its re-
20 view and comments. If the Yucca Mountain site is found
21 to be suitable, the Corps shall be responsible for managing
22 the design and construction of the site. Once completed,
23 the site shall be operated by the Corps in accordance with
24 this Act. The Corps shall provide benefits to the State of
25 Nevada in accordance with subtitle F of title I.

1 immediately before the effective date of the transfer of the
2 function under this Act.

3 **SEC. 803. SAVINGS PROVISIONS.**

4 (a) LEGAL DOCUMENTS.—All orders, determinations,
5 rules, regulations, permits, grants, loans, contracts, agree-
6 ments, certificates, licenses, and privileges—

7 (1) that have been issued, made, granted, or al-
8 lowed to become effective by the President, the Sec-
9 retary of Energy, any officer or employee of any of-
10 fice transferred by this Act, or any other Govern-
11 ment official, or by a court of competent jurisdic-
12 tion, in the performance of any function that is
13 transferred by this Act, and

14 (2) that are in effect on the effective date of
15 such transfer (or become effective after such date
16 pursuant to their terms as in effect on such effective
17 date),

18 shall continue in effect according to their terms until
19 modified, terminated, superseded, set aside, or revoked in
20 accordance with law by the President, any other author-
21 ized official, a court of competent jurisdiction, or operation
22 of law.

23 (b) PROCEEDINGS.—This Act shall not affect any
24 proceedings or any application for any benefits, service,
25 license, permit, certificate, or financial assistance pending

1 on the date of the enactment of this Act before an office
2 transferred by this Act, but such proceedings and applica-
3 tions shall be continued. Orders shall be issued in such
4 proceedings, appeals shall be taken therefrom, and pay-
5 ments shall be made pursuant to such orders, as if this
6 Act had not been enacted, and orders issued in any such
7 proceeding shall continue in effect until modified, termi-
8 nated, superseded, or revoked by a duly authorized official,
9 by a court of competent jurisdiction, or by operation of
10 law. Nothing in this subsection shall be considered to pro-
11 hibit the discontinuance or modification of any such pro-
12 ceeding under the same terms and conditions and to the
13 same extent that such proceeding could have been discon-
14 tinued or modified if this Act had not been enacted.

15 (c) SUITS.—This Act shall not affect suits com-
16 menced before the date of the enactment of this Act, and
17 in all such suits, proceeding shall be had, appeals taken,
18 and judgments rendered in the same manner and with the
19 same effect as if this Act had not been enacted.

20 (d) NONABATEMENT OF ACTIONS.—No suit, action,
21 or other proceeding commenced by or against the Depart-
22 ment of Energy or the Secretary of Energy, or by or
23 against any individual in the official capacity of such indi-
24 vidual as an officer or employee of an office transferred

1 by this Act, shall abate by reason of the enactment of this
2 Act.

3 (e) CONTINUANCE OF SUITS.—If any officer of the
4 Department of Energy or the Energy Programs Resolu-
5 tion Agency in the official capacity of such officer is party
6 to a suit with respect to a function of the officer, and
7 under this Act such function is transferred to any other
8 officer or office, then such suit shall be continued with
9 the other officer or the head of such other office, as appli-
10 cable, substituted or added as a party.

11 **SEC. 804. TRANSFER OF ASSETS.**

12 Except as otherwise provided in this Act, so much
13 of the personnel, property, records, and unexpended bal-
14 ances of appropriations, allocations, and other funds em-
15 ployed, used, held, available, or to be made available in
16 connection with a function transferred to an official by
17 this Act shall be available to the official at such time or
18 times as the Director of the Office of Management and
19 Budget directs for use in connection with the functions
20 transferred.

21 **SEC. 805. DELEGATION AND ASSIGNMENT.**

22 Except as otherwise expressly prohibited by law or
23 otherwise provided in this Act, an official to whom func-
24 tions are transferred under this Act (including the head
25 of any office to which functions are transferred under this

1 Act) may delegate any of the functions so transferred to
2 such officers and employees of the office of the official as
3 the official may designate, and may authorize successive
4 redelegations of such functions as may be necessary or ap-
5 propriate. No delegation of functions under this section
6 or under any other provision of this Act shall relieve the
7 official to whom a function is transferred under this Act
8 of responsibility for the administration of the function.

9 **SEC. 806. AUTHORITY OF OFFICE OF MANAGEMENT AND**
10 **BUDGET WITH RESPECT TO FUNCTIONS**
11 **TRANSFERRED.**

12 (a) DETERMINATIONS.—If necessary, the Office of
13 Management and Budget shall make any determination of
14 the functions that are transferred under this Act.

15 (b) INCIDENTAL TRANSFERS.—The Director of the
16 Office of Management and Budget, at such time or times
17 as the Director shall provide, may make such determina-
18 tions as may be necessary with regard to the functions
19 transferred by this Act, and to make such additional inci-
20 dental dispositions of personnel, assets, liabilities, grants,
21 contracts, property, records, and unexpended balances of
22 appropriations, authorizations, allocations, and other
23 funds held, used, arising from, available to, or to be made
24 available in connection with such functions, as may be nec-
25 essary to carry out the provisions of this Act. The Director

1 of the Office of Management and Budget shall provide for
2 the termination of the affairs of all entities terminated by
3 this Act and for such further measures and dispositions
4 as may be necessary to effectuate the purposes of this Act.

5 **SEC. 807. PROPOSED CHANGES IN LAW.**

6 Not later than one year after the date of the enact-
7 ment of this Act, the Director of the Office of Manage-
8 ment and Budget shall submit to the Congress a descrip-
9 tion of any changes in Federal law necessary to reflect
10 abolishments, transfers, terminations, and disposals under
11 this Act.

12 **SEC. 808. CERTAIN VESTING OF FUNCTIONS CONSIDERED**
13 **TRANSFER.**

14 For purposes of this title, the vesting of a function
15 in a department or office pursuant to reestablishment of
16 an office shall be considered to be the transfer of the func-
17 tion.

18 **SEC. 809. DEFINITIONS.**

19 Except as otherwise provided in this Act, for purposes
20 of this Act the following definitions apply:

21 (1) ADMINISTRATOR.—The term “Adminis-
22 trator” means the Administrator of the Energy Pro-
23 grams Resolution Agency.

24 (2) AGENCY.—The term “Agency” means the
25 Energy Programs Resolution Agency.

1 (3) FUNCTION.—The term “function” includes
2 any duty, obligation, power, authority, responsibility,
3 right, privilege, activity, or program.

4 (4) OFFICE.—The term “office” includes any
5 office, administration, agency, institute, council,
6 unit, organizational entity, or component thereof.

7 (5) TERMINATION DATE.—The term “termi-
8 nation date” means the termination date under sec-
9 tion 106(d).

10 (6) WIND-UP PERIOD.—The term “wind-up pe-
11 riod” means the period beginning on the effective
12 date specified in section 109(a) and ending on the
13 termination date.

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