

107TH CONGRESS
1ST SESSION

H. R. 376

To abolish the Department of Energy.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 2001

Mr. ROYCE introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Armed Services, Science, Government Reform, Rules, and Resources, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Department of Energy
5 Elimination and National Security Protection Act of
6 2001”.

7 **SEC. 2. TABLE OF CONTENTS.**

8 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.
- Sec. 104. Continuation of service of Department officers.
- Sec. 105. Reorganization.
- Sec. 106. Abolishment of Energy Programs Resolution Agency.
- Sec. 107. GAO report.
- Sec. 108. Conforming amendments.
- Sec. 109. Effective date.

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.
- Sec. 204. Implementation of reconfiguration, privatization, and closure actions.
- Sec. 205. Account.
- Sec. 206. Reports on implementation.
- Sec. 207. Congressional consideration of Commission report.
- Sec. 208. Definitions.

TITLE III—PRIVATIZATION OF FEDERAL POWER MARKETING ADMINISTRATIONS

- Sec. 301. Short title.
- Sec. 302. Findings.
- Sec. 303. Sale of assets.
- Sec. 304. Time of sales.
- Sec. 305. Rate stabilization for affected customers.
- Sec. 306. Licensing of projects to preserve current operating conditions.
- Sec. 307. Enabling Federal studies.
- Sec. 308. Definitions.

TITLE IV—TRANSFER AND DISPOSAL OF RESERVES

- Sec. 401. Strategic Petroleum Reserve.
- Sec. 402. Disposal of remaining naval petroleum reserves.

TITLE V—NATIONAL SECURITY AND ENVIRONMENTAL MANAGEMENT PROGRAMS

Subtitle A—Defense Nuclear Programs Administration

- Sec. 501. Establishment and organization of Defense Nuclear Programs Administration.
- Sec. 502. Officers.
- Sec. 503. Transfers of functions.
- Sec. 504. Limitation on transfers of funds.
- Sec. 505. Transition provisions.
- Sec. 506. Technical and conforming amendments.
- Sec. 507. 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. 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. Effective date.

TITLE VII—CIVILIAN RADIOACTIVE WASTE MANAGEMENT

- Sec. 701. Nuclear waste repository.
 Sec. 702. Reaffirmation of obligation to accept radioactive waste and spent nuclear fuel.
 Sec. 703. Initial storage facility.

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

1 advice and consent of the Senate. The Agency shall
2 be administered under the supervision and direction
3 of the Administrator. The Administrator shall re-
4 ceive compensation at the rate prescribed for level II
5 of the Executive Schedule under section 5313 of title
6 5, United States Code.

7 (2) INITIAL APPOINTMENT OF ADMINIS-
8 TRATOR.—Notwithstanding any other provision of
9 this Act or any other law, the President may, at any
10 time after the date of the enactment of this Act, ap-
11 point an individual to serve as Administrator of the
12 Energy Programs Resolution Agency (who may be
13 the Secretary of Energy), as such position is estab-
14 lished under paragraph (1). An appointment under
15 this paragraph may not be construed to affect the
16 position of Secretary of Energy or the authority of
17 the Secretary before the effective date specified in
18 section 109(a).

19 (c) DUTIES.—The Administrator shall be responsible
20 for—

21 (1) the administration and wind-up, during the
22 wind-up period, of all functions of the Administrator
23 pursuant to section 102 and the other provisions of
24 this Act;

1 (2) the administration and wind-up, during the
2 wind-up period, of any outstanding obligations of the
3 Federal Government under any programs terminated
4 or repealed by this Act; and

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

8 **SEC. 102. FUNCTIONS.**

9 Except as otherwise provided in this Act, the Admin-
10 istrator shall perform all functions that, immediately be-
11 fore the effective date of this section, were functions of
12 the Department of Energy (or any office of the Depart-
13 ment) or were performed by the Secretary of Energy or
14 any other officer or employee of the Department in the
15 capacity as such officer or employee.

16 **SEC. 103. DEPUTY ADMINISTRATOR.**

17 The Agency shall have a Deputy Administrator, who
18 shall—

19 (1) be appointed by and report to the Adminis-
20 trator; and

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

1 **SEC. 104. CONTINUATION OF SERVICE OF DEPARTMENT OF-**
2 **FICERS.**

3 (a) CONTINUATION OF SERVICE OF SECRETARY.—
4 The individual serving on the effective date specified in
5 section 109(a) as the Secretary of Energy may serve and
6 act as Administrator until the date an individual is ap-
7 pointed under this title to the position of Administrator,
8 or until the end of the 210-day period provided for in sec-
9 tion 3348 of title 5, United States Code (relating to limita-
10 tions on the period of time a vacancy may be filled tempo-
11 rarily), whichever is earlier.

12 (b) CONTINUATION OF SERVICE OF OTHER OFFI-
13 CERS.—An individual serving on the effective date speci-
14 fied in section 109(a) as an officer of the Department of
15 Energy other than the Secretary of Energy may continue
16 to serve and act in an equivalent capacity in the Agency
17 until the date an individual is appointed under this title
18 to the position of Administrator, or until the end of the
19 210-day period provided for in section 3348 of title 5,
20 United States Code (relating to limitations on the period
21 of time a vacancy may be filled temporarily) with respect
22 to that appointment, whichever is earlier.

23 (c) COMPENSATION FOR CONTINUED SERVICE.—Any
24 person—

25 (1) who acts as the Administrator under sub-
26 section (a), or

1 (c) PLAN FOR WINDING UP AFFAIRS.—Not later
2 than the effective date specified in section 109(a), the
3 President shall submit to the Congress a plan for winding
4 up the affairs of the Agency in accordance with this Act
5 and not by later than the termination date under sub-
6 section (d).

7 (d) TERMINATION DATE.—The termination date
8 under this subsection is the date that is 3 years after the
9 date of the enactment of this Act.

10 **SEC. 107. GAO REPORT.**

11 Not later than 180 days after the date of enactment
12 of this Act, the Comptroller General of the United States
13 shall submit to the Congress a report which shall include
14 recommendations for the most efficient means of achiev-
15 ing, in accordance with this Act—

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

18 (2) the termination or transfer or other con-
19 tinuation of the functions of the Department of En-
20 ergy.

21 **SEC. 108. CONFORMING AMENDMENTS.**

22 (a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1)
23 of title 3, United States Code, is amended by striking
24 “Secretary of Energy,”.

1 (b) EXECUTIVE DEPARTMENTS.—Section 101 of title
2 5, United States Code, is amended by striking the fol-
3 lowing item:

4 “The Department of Energy.”.

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

8 “Secretary of Energy.”.

9 (d) DEPUTY SECRETARY’S COMPENSATION.—Section
10 5313 of title 5, United States Code, is amended by strik-
11 ing the following item:

12 “Deputy Secretary of Energy.”.

13 (e) UNDER SECRETARY’S COMPENSATION.—Section
14 5314 of title 5, United States Code, is amended by strik-
15 ing the following item:

16 “Under Secretaries of Energy (2).”.

17 (f) MISCELLANEOUS OFFICERS’ COMPENSATION.—
18 (1) Section 5315 of title 5, United States Code, is
19 amended—

20 (A) by striking the following items:

21 “Assistant Secretaries of Energy (6).

22 “General Counsel of the Department of Energy.

23 “Administrator, Economic Regulatory Adminis-
24 tration, Department of Energy.

1 “Administrator, Energy Information Adminis-
2 tration, Department of Energy.

3 “Inspector General, Department of Energy.

4 “Director, Office of Science, Department of En-
5 ergy.”;

6 (B) by striking the following item:

7 “Chief Financial Officer, Department of En-
8 ergy.”; and

9 (C) by striking the following item:

10 “Chief Information Officer, Department of En-
11 ergy.”.

12 (2) Section 5316 of title 5, United States Code, is
13 amended by striking the following item:

14 “Additional Officers, Department of Energy
15 (14).”.

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

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
25 provisions of the Department of Energy Organization Act

1 (42 U.S.C. 7101 et seq.), and the items relating thereto
2 in the table of contents of that Act, are repealed:

3 (1) Sections 1 and 2.

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

5 (i) NATIONAL NUCLEAR SECURITY ADMINISTRATION
6 ACT.—The National Nuclear Security Administration Act
7 (title XXXII of Public Law 106–65; 50 U.S.C. 2401 note)
8 is repealed.

9 **SEC. 109. EFFECTIVE DATE.**

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

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

16 (1) Section 101(b).

17 (2) Section 106(c).

18 (3) Section 107.

19 **TITLE II—ENERGY LABORATORY**
20 **FACILITIES**

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

22 (a) ESTABLISHMENT.—There is established an inde-
23 pendent commission to be known as the “Energy Labora-
24 tory Facilities Commission”, for the purpose of reducing
25 the number of energy laboratories and programs at those

1 laboratories, through reconfiguration, privatization, and
2 closure, while preserving the traditional role the energy
3 laboratories have contributed to the national defense.

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

6 (c) APPOINTMENT.—

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

14 (2) CONSULTATION.—In selecting individuals
15 for nominations for appointments to the Commis-
16 sion, the President should consult with—

17 (A) the Speaker of the House of Rep-
18 resentatives concerning the appointment of 2
19 members; and

20 (B) the majority leader of the Senate con-
21 cerning the appointment of 2 members.

22 (3) CHAIRPERSON.—At the time the President
23 nominates individuals for appointment to the Com-
24 mission, the President shall designate one such indi-

1 vidual who shall serve as Chairperson of the Com-
2 mission.

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

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

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

11 (g) PAY AND TRAVEL EXPENSES.—

12 (1) BASIC PAY.—

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

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

1 pay payable for level III of the Executive
2 Schedule under section 5314 of title 5, United
3 States Code.

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

8 (h) DIRECTOR.—

9 (1) IN GENERAL.—The Commission shall ap-
10 point a Director who—

11 (A) has not served as a civilian employee
12 of the Department of Energy during the 4-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 con-
18 tractor operating an energy laboratory during
19 the 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 car-
3 rying 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.

19 (k) FUNDING.—There are authorized to be appro-
20 priated to the Commission such funds as are necessary
21 to carry out its duties under this title. Such funds shall
22 remain available until expended.

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

1 **SEC. 202. PROCEDURE FOR MAKING RECOMMENDATIONS**
2 **FOR LABORATORY FACILITIES.**

3 (a) **SELECTION CRITERIA.**—In making recommenda-
4 tions for the reconfiguration, privatization, and closure of
5 energy laboratories and termination of programs at such
6 laboratories under this section, the Secretary or the Ad-
7 ministrator, as appropriate, and the Commission shall—

8 (1) emphasize the importance of establishing
9 the security of defense research and activities;

10 (2) give strong consideration to closure or pri-
11 vatization of activities performed by the private sec-
12 tor;

13 (3) give strong emphasis in transferring or sell-
14 ing non-defense research laboratories to universities
15 and private organizations that currently manage and
16 operate such laboratories;

17 (4) give strong consideration to the closure or
18 reconfiguration of energy laboratories;

19 (5) eliminate duplication of effort by energy
20 laboratories and reduce overhead costs as a propor-
21 tion of program benefits distributed through an en-
22 ergy laboratory;

23 (6) seek to achieve cost savings for the overall
24 budget for such laboratories;

25 (7) define appropriate missions for each energy
26 laboratory, and ensure that the activities of each

1 such laboratory are focused on its mission or mis-
2 sions;

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

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

9 (10) consider the potential of each energy lab-
10 oratory to generate revenues or to offset costs;

11 (11) consider the transfer of energy laboratories
12 to other Federal agencies;

13 (12) consider the privatization of the energy
14 laboratories as an alternative to closure or reconfig-
15 uration; and

16 (13) be subject to the requirements of section
17 601 of this Act.

18 (b) RECOMMENDATIONS.—

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

1 appropriate, recommends for reconfiguration, privat-
2 ization, and closure.

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

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

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

23 (e) INDEPENDENT AUDIT.—(1) Within 30 days after
24 the date of the enactment of this Act, the Director of the
25 Office of Management and Budget shall issue a request

1 for proposals for the performance of an audit under para-
2 graph (3).

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

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

18 (f) REVIEW AND RECOMMENDATIONS BY THE COM-
19 MISSION.—

20 (1) PUBLIC HEARINGS.—After receiving the
21 recommendations from the Secretary or the Admin-
22 istrator, as appropriate, pursuant to subsection (b),
23 the Commission shall provide an opportunity for
24 public comment on the recommendations for a 30-
25 day period.

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

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

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

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

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

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

22 (2) not later than 6 months after the date of
23 the enactment of this Act, transmit to the congres-
24 sional energy committees and to the Commission a
25 report containing a detailed analysis of the rec-

1 ommendations of the Secretary or the Adminis-
2 trator, as appropriate, and the selection process.

3 **SEC. 203. RECONFIGURATION, PRIVATIZATION, AND CLO-**
4 **SURE OF ENERGY LABORATORIES.**

5 (a) IN GENERAL.—Subject to subsection (b), the Sec-
6 retary or the Administrator, as appropriate, shall—

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

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

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

22 (b) CONGRESSIONAL DISAPPROVAL.—

23 (1) IN GENERAL.—The Secretary or the Admin-
24 istrator, as appropriate, may not carry out any re-
25 configuration, privatization, or closure of an energy

1 laboratory recommended by the Commission in the
2 report transmitted pursuant to section 202(f)(4) if a
3 joint resolution is enacted, in accordance with the
4 provisions of section 207, disapproving the rec-
5 ommendations of the Commission before the earlier
6 of—

7 (A) the end of the 45-day period beginning
8 on the date on which the Commission transmits
9 the report; or

10 (B) the adjournment of Congress sine die
11 for the session during which the report is trans-
12 mitted.

13 (2) EXCLUDED DAYS.—For purposes of para-
14 graph (1) of this subsection and subsections (a) and
15 (c) of section 207, the days on which either House
16 of Congress is not in session because of an adjourn-
17 ment of more than three days to a day certain shall
18 be excluded in the computation of a period.

19 **SEC. 204. IMPLEMENTATION OF RECONFIGURATION, PRI-**
20 **VATIZATION, AND CLOSURE ACTIONS.**

21 (a) IMPLEMENTATION.—In reconfiguring,
22 privatizing, or closing an energy laboratory under this
23 title, the Secretary or the Administrator, as appropriate,
24 shall—

1 (1) take such actions as may be necessary to re-
2 configure, privatize, or close the energy laboratory;

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

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

13 (b) MANAGEMENT AND DISPOSAL OF PROPERTY.—

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

20 (A) the authority of the Secretary or the
21 Administrator, as appropriate, to utilize excess
22 property under section 202 of the Federal
23 Property and Administrative Services Act of
24 1949 (40 U.S.C. 483);

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

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

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

16 (2) EXERCISE OF AUTHORITY.—

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

23 (i) all regulations in effect on the date
24 of the enactment of this Act governing the
25 utilization of excess property and the dis-

1 posal of surplus property under the Fed-
2 eral Property and Administrative Services
3 Act of 1949; and

4 (ii) all regulations in effect on the
5 date of the enactment of this Act gov-
6 erning the conveyance and disposal of
7 property under section 13(g) of the Sur-
8 plus Property Act of 1944 (50 U.S.C. App.
9 1622(g)).

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

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

23 (c) WAIVER.—The Secretary or the Administrator, as
24 appropriate, may reconfigure, privatize, or close energy
25 laboratories under this title without regard to any provi-

1 sion of law restricting the use of funds for reconfiguring,
2 privatizing, or closing such energy laboratories included
3 in any appropriations or authorization Act.

4 **SEC. 205. ACCOUNT.**

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

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

12 (1) funds authorized for and appropriated to
13 the Account;

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

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

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

4 (d) REPORTS.—

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

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

17 **SEC. 206. REPORTS ON IMPLEMENTATION.**

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

23 (1) a schedule of the reconfiguration, privatiza-
24 tion, and closure actions to be carried out under this
25 title in the fiscal year for which the request is made

1 and an estimate of the total expenditures required
2 and cost savings to be achieved by each such recon-
3 figuration, privatization, or closure and of the time
4 period in which these savings are to be achieved in
5 each case; and

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

9 **SEC. 207. CONGRESSIONAL CONSIDERATION OF COMMIS-**
10 **SION REPORT.**

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

17 (1) which does not have a preamble;

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

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

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

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

18 (d) CONSIDERATION.—

19 (1) IN GENERAL.—On or after the third day
20 after the date on which the committee to which such
21 a resolution is referred has reported, or has been
22 discharged (under subsection (c)) from further con-
23 sideration of, such a resolution, it is in order (even
24 though a previous motion to the same effect has
25 been disagreed to) for any Member of the respective

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

20 (2) DEBATE.—Debate on the resolution, and on
21 all debatable motions and appeals in connection
22 therewith, shall be limited to not more than 2 hours,
23 which shall be divided equally between those favoring
24 and those opposing the resolution. An amendment to
25 the resolution is not in order. A motion further to

1 limit debate is in order and not debatable. A motion
2 to postpone, or a motion to proceed to the consider-
3 ation of other business, or a motion to recommit the
4 resolution is not in order. A motion to reconsider the
5 vote by which the resolution is agreed to or dis-
6 agreed to is not in order.

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

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

19 (e) CONSIDERATION BY OTHER HOUSE.—

20 (1) IN GENERAL.—If, before the passage by one
21 House of a resolution of that House described in
22 subsection (a), that House receives from the other
23 House a resolution described in subsection (a), then
24 the following procedures shall apply:

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

6 (B) With respect to a resolution described
7 in paragraph (1) of the House receiving the
8 resolution—

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

12 (ii) the vote on final passage shall be
13 on the resolution of the other House.

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

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

21 (1) as an exercise of the rulemaking power of
22 the Senate and House of Representatives, respec-
23 tively, and as such it is deemed a part of the rules
24 of each House, respectively, but applicable only with
25 respect to the procedure to be followed in that

1 House in the case of a resolution described in sub-
2 section (a), and it supersedes other rules only to the
3 extent that it is inconsistent with such rules; and

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

9 **SEC. 208. DEFINITIONS.**

10 For purposes of this title:

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

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

16 (3) The term “Commission” means the Energy
17 Laboratory Facilities Commission.

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

1 (5) The term “energy laboratory” means the
2 Lawrence Livermore National Laboratory, the Los
3 Alamos National Laboratory, the Sandia National
4 Laboratories, the Argonne National Laboratory, the
5 Brookhaven National Laboratory, the Idaho Na-
6 tional Engineering Laboratory, the Lawrence Berke-
7 ley Laboratory, the Oak Ridge National Laboratory,
8 the Pacific Northwest Laboratory, the National Re-
9 newable Energy Laboratory, the Ames Laboratory,
10 the Bates Linear Accelerator Laboratory, the Con-
11 tinuous Electron Beam Accelerator Facility, the En-
12 ergy Technology Engineering Center, the Environ-
13 mental Measurements Laboratory, the Fermi Na-
14 tional Accelerator Laboratory, the Inhalation Toxi-
15 cology Research Institute, the Laboratory of
16 Radiobiology and Environmental Health, the Mor-
17 gantown Energy Technology Center, the National
18 Renewable Energy Laboratory, the New Brunswick
19 Laboratory, the Oak Ridge Institute for Science and
20 Education, the Pittsburgh Energy Technology Cen-
21 ter, the Princeton Plasma Physics Laboratory, the
22 Savannah River Ecology Laboratory, the Savannah
23 River Technology Center, the Specific Manufac-
24 turing Capability Facility, or the Stanford Linear
25 Accelerator Facility.

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

5 **TITLE III—PRIVATIZATION OF**
6 **FEDERAL POWER MAR-**
7 **KETING ADMINISTRATIONS**

8 **SEC. 301. SHORT TITLE.**

9 This title may be cited as the “Federal Power Asset
10 Privatization Act of 2001”.

11 **SEC. 302. FINDINGS.**

12 The Congress finds that—

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

16 (2) they have done so with the investment of
17 the American taxpayer;

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

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

1 (5) the taxpayers, through investing in the con-
2 struction and operation, have established equity in
3 the facilities; and

4 (6) this equity entitles the American taxpayer
5 to expect the highest possible return in the sale
6 process.

7 **SEC. 303. SALE OF ASSETS.**

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

23 (b) PRICE; STRUCTURE OF SALE.—

24 (1) PRICE.—The Secretary shall obtain the
25 highest possible price for such facilities. In deter-

1 mining the highest possible price, the value of future
2 tax revenues shall be included.

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

12 (3) FINANCIAL ADVISOR'S REPORT.—Within 90
13 days of being retained by the Secretary, the financial
14 advisor shall provide to the Secretary a report
15 containing—

16 (A) a description of those assets described
17 in subsection (a) which, in the opinion of the fi-
18 nancial advisor, can be successfully transferred
19 to private sector ownership or operation;

20 (B) the value of each such asset, calculated
21 on the basis of the valuation method or meth-
22 ods which the financial advisor deems most ap-
23 propriate to a particular asset;

1 (C) the appropriate alternative trans-
2 actional methods for transferring each such
3 asset to private sector ownership or operation;

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

11 (E) an estimate of the average market rate
12 for wholesale electric power sales within each
13 region served by a Federal Power Marketing
14 Administration.

15 (c) TIME OF SALE.—Sales of facilities under this sec-
16 tion shall be conducted in accordance with the time of sale
17 schedule set forth in section 304. At least 1 year before
18 the date of any sale specified in such schedule, the Sec-
19 retary, in consultation with the Secretary of the Army and
20 the Secretary of the Interior, and based on the rec-
21 ommendations of the financial advisor, shall select the fa-
22 cilities or groups of facilities to be sold and establish the
23 terms and conditions of the sale.

24 (d) FORMER EMPLOYEES OF PMAS.—It is the sense
25 of the Congress that the purchaser of any such facilities

1 should offer to employ, where possible, former employees
2 of the Federal Power Marketing Administrations in con-
3 nection with the operation of the facilities following their
4 purchase.

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

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

22 (g) REPORTING OF SALES.—Not later than one year
23 after the sale of the assets of each Federal Power Mar-
24 keting Administration in accordance with this title, the
25 Secretary of Energy shall—

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

3 (2) prepare and submit to Congress a report
4 documenting the sales.

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

9 (1) Section 203 of the Federal Property and
10 Administrative Services Act of 1949 (40 U.S.C.
11 484).

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

14 **SEC. 304. TIME OF SALES.**

15 (a) SCHEDULE.—The Secretary of Energy shall com-
16 plete the sale of the electric power generation and trans-
17 mission assets referred to in section 303 in accordance
18 with the following schedule:

Power Administration	Sale Completion Date
Southeastern	Before September 30, 2001
Southwestern	Before September 30, 2002
Western Area	Before September 30, 2003

19 (b) UNEXPENDED BALANCES.—Following the sale of
20 the assets of each of the Federal Power Marketing Admin-
21 istrations and their associated power generation facilities,
22 the Secretary of Energy shall return the unexpended bal-

1 ances of funds appropriated for that administration to the
2 Treasury of the United States.

3 **SEC. 305. RATE STABILIZATION FOR AFFECTED CON-**
4 **SUMERS.**

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

21 **SEC. 306. LICENSING OF PROJECTS TO PRESERVE CUR-**
22 **RENT OPERATING CONDITIONS.**

23 (a) ORIGINAL LICENSE.—Simultaneously with the
24 sale of hydroelectric generation facility under this title, the
25 Federal Energy Regulatory Commission shall issue an

1 original license under part 1 of the Federal Power Act
2 (16 U.S.C. 791a–823b) to the purchaser for the construc-
3 tion, operation, and maintenance of such facility. Such li-
4 cense shall expire on the date 10 years after the date of
5 the sale of the facility and shall contain standard terms
6 and conditions for hydroelectric power licenses issued
7 under part 1 of such Act for facilities installed at Federal
8 water projects, together with such additional terms and
9 conditions as the Commission deems necessary, in con-
10 sultation with the department or agency which operates
11 such water project, to further the project purposes and
12 insure that the project will continue operations in the
13 same manner and subject to the same procedures, con-
14 tracts, and other requirements as were applicable prior to
15 the sale. The Commission shall publish such license terms
16 and conditions for each facility to be sold under this title
17 as promptly as practicable after the date of the enactment
18 of this Act but not later than one year prior to the date
19 established for the sale of the facility.

20 (b) LICENSE REQUIRED.—Notwithstanding any
21 other provision of law, the Federal Energy Regulatory
22 Commission shall have jurisdiction under part 1 of the
23 Federal Power Act over any hydroelectric generation facil-
24 ity sold under this title.

1 **SEC. 307. ENABLING FEDERAL STUDIES.**

2 Section 505 of the Energy and Water Development
3 Appropriations Act of 1993 (Public Law 102–377) is
4 hereby repealed.

5 **SEC. 308. DEFINITIONS.**

6 For purposes of this title:

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

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

1 **TITLE IV—TRANSFER AND**
2 **DISPOSAL OF RESERVES**

3 **SEC. 401. STRATEGIC PETROLEUM RESERVE.**

4 (a) SALE OF RESERVES.—Notwithstanding section
5 161 of the Energy Policy and Conservation Act, the Sec-
6 retary of the Interior shall sell the reserves of the Stra-
7 tegic Petroleum Reserve, in a manner that provides for
8 minimal disruption of petroleum markets.

9 (b) ADVISORY BOARD.—(1) The Secretary of the In-
10 terior shall appoint an advisory board, consisting of 3 indi-
11 viduals with experience in oil markets and production and
12 international relations, which shall—

13 (A) monitor the sale of reserves under sub-
14 section (a) and its effects on petroleum markets; and

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

18 (2) Notwithstanding section 14 of the Federal Advi-
19 sory Committee Act, the advisory board established under
20 this subsection shall terminate within 30 days after it sub-
21 mits a report under paragraph (1)(B).

22 (c) EFFECTIVE DATE.—This section shall take effect
23 on the effective date stated in section 109(a).

1 **SEC. 402. DISPOSAL OF REMAINING NAVAL PETROLEUM**
2 **RESERVES.**

3 (a) DEFINITION.—For purposes of this section, the
4 term “naval petroleum reserves” has the meaning given
5 that term in section 7420(2) of title 10, United States
6 Code, except that the term does not include Naval Petro-
7 leum Reserve Numbered 1 (Elk Hills).

8 (b) TRANSFER OF FUNCTIONS.—There are trans-
9 ferred to the Administrator of the Energy Programs Reso-
10 lution Agency all functions performed with respect to the
11 naval petroleum reserves.

12 (c) DISPOSAL OF RESERVES.—

13 (1) DISPOSAL WITHIN 1 YEAR.—The Adminis-
14 trator shall, to the maximum extent practicable, take
15 appropriate actions to carry out the disposal of the
16 naval petroleum reserves not later than 1 year after
17 the date of enactment of this Act.

18 (2) PRICE.—In carrying out the disposal, the
19 Administrator shall obtain the highest possible price
20 for the naval petroleum reserves.

21 (3) JOINT PLAN.—The Administrator shall
22 carry out the disposal in accordance with a plan
23 jointly developed by the Administrator and the Sec-
24 retary of the Interior.

25 (d) TRANSFER OF REMAINING RESERVES.—At the
26 end of the 1-year period beginning on the date of enact-

1 ment of this Act, the Administrator shall transfer to the
2 Secretary of the Interior all functions performed by the
3 Administrator with respect to the portions of the naval
4 petroleum reserves that are not disposed of by the Admin-
5 istrator under subsection (c) during that period.

6 (e) CONFORMING AMENDMENTS.—(1)(A) Chapter
7 641 of title 10, United States Code, is repealed.

8 (B) The table of chapters at the beginning of subtitle
9 C of title 10, United States Code, and at the beginning
10 of part IV of that subtitle, are each amended by striking
11 the item relating to chapter 641.

12 (2) The amendments made by paragraph (1) shall
13 take effect 1 year after the date of enactment of this Act.

14 **TITLE V—NATIONAL SECURITY**
15 **AND ENVIRONMENTAL MAN-**
16 **AGEMENT PROGRAMS**
17 **Subtitle A—Defense Nuclear**
18 **Programs Administration**

19 **SEC. 501. ESTABLISHMENT AND ORGANIZATION OF DE-**
20 **FENSE NUCLEAR PROGRAMS ADMINISTRA-**
21 **TION.**

22 (a) ESTABLISHMENT.—There is established in the
23 Department of Defense a Defense Nuclear Programs Ad-
24 ministration.

1 (b) UNDER SECRETARY.—The Under Secretary of
2 Defense for Defense Nuclear Programs is the head of the
3 Administration. The Under Secretary is responsible for
4 the exercise of all powers and the discharge of all duties
5 of the Administration.

6 (c) TRANSFERRED FUNCTIONS.—The Under Sec-
7 retary shall carry out the functions transferred to the
8 Under Secretary pursuant to section 503 through the Ad-
9 ministration.

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

19 **SEC. 502. OFFICERS.**

20 (a) UNDER SECRETARY OF DEFENSE.—(1) Chapter
21 4 of title 10, United States Code, is amended by inserting
22 after section 136 the following new section:

1 **“§ 136a. Under Secretary of Defense for Defense Nu-**
2 **clear Programs; Deputy Under Secretary**

3 “(a) There is an Under Secretary of Defense for De-
4 fense Nuclear Programs, appointed from civilian life by
5 the President, by and with the advice and consent of the
6 Senate. A person may not be appointed as Under Sec-
7 retary within 10 years after relief from active duty as a
8 commissioned officer of a regular component of an armed
9 force.

10 “(b)(1) The Under Secretary shall serve as the prin-
11 cipal adviser to the President and the Secretary of Defense
12 on defense nuclear programs matters. In carrying out his
13 duties under the Department of Energy Abolishment Act,
14 the Under Secretary shall, subject to the authority, direc-
15 tion, and control of the Secretary of Defense, have pri-
16 mary responsibility within the Government for defense nu-
17 clear programs matters.

18 “(2) In this subsection, the term “defense nuclear
19 programs matters” means matters related to the military
20 use of nuclear energy and nuclear weapons, including all
21 such matters, other than matters related to naval nuclear
22 propulsion functions of the Department of Energy, that
23 were under the jurisdiction of the following entities on the
24 day before the date of the enactment of the Department
25 of Energy Abolishment Act:

26 “(A) The Department of Energy.

1 “(B) The Defense Threat Reduction Agency of
2 the Department of Defense.

3 “(C) The Defense Nuclear Facilities Safety
4 Board.

5 “(c)(1) There is a Deputy Under Secretary of De-
6 fense for Defense Nuclear Programs, appointed from civil-
7 ian life by the President, by and with the advice and con-
8 sent of the Senate. A person may not be appointed as
9 Under Secretary within 10 years after relief from active
10 duty as a commissioned officer of a regular component of
11 an armed force.

12 “(2) The Deputy Under Secretary shall perform such
13 duties and exercise such powers as the Under Secretary
14 may prescribe. The Deputy Under Secretary shall act for,
15 and exercise the powers of, the Under Secretary during
16 the Under Secretary’s absence or disability or during a
17 vacancy in such office.”.

18 (2) The table of sections at the beginning of such
19 chapter is amended by adding at the end the following
20 new item:

 “136a. Under Secretary of Defense for Defense Nuclear Programs; Deputy
 Under Secretary.”.

21 (b) ASSISTANT SECRETARIES.—Section 138 of title
22 10, United States Code, is amended—

23 (1) in subsection (a), by striking “nine” and in-
24 serting “eleven”; and

1 (2) in subsection (b), by inserting after para-
2 graph (2) the following new paragraph:

3 “(3) Two of the Assistant Secretaries shall report to
4 the Under Secretary of Defense for Defense Nuclear Pro-
5 grams and shall carry out such duties and exercise such
6 powers within the Defense Nuclear Programs Administra-
7 tion as the Under Secretary may prescribe. One of those
8 Assistant Secretaries shall have as his principal duty the
9 overall supervision of environmental restoration of defense
10 nuclear weapons facilities. The other of those Assistant
11 Secretaries shall have as his principal duty the overall su-
12 pervision of the oversight of the defense and nondefense
13 functions and budgets of the Sandia National Labora-
14 tories, the Los Alamos National Laboratory, and the Law-
15 rence Livermore National Laboratory (or whatever labora-
16 tories (or portions of laboratories) carrying out the func-
17 tions of such laboratories remain after reconfiguration,
18 privatization, or closure (if any) pursuant to title II of
19 the Department of Energy Abolishment Act).”.

20 (c) INSPECTOR GENERAL.—There shall be an Inspec-
21 tor General of the Administration, who shall be appointed
22 as provided in section 3 of the Inspector General Act of
23 1978 (5 U.S.C. App. 3). The Inspector General shall per-
24 form the duties, have the responsibilities, and exercise the

1 powers specified in the Inspector General Act of 1978 (5
2 U.S.C. App. 3).

3 (d) GENERAL COUNSEL.—There shall be a General
4 Counsel of the Administration, who shall be appointed by
5 the Under Secretary. The General Counsel shall be the
6 chief legal officer for all legal matters arising from the
7 conduct of the functions of the Administration.

8 (e) PLACEMENT OF POSITIONS IN THE EXECUTIVE
9 SCHEDULE.—Chapter 53 of title 5, United States Code,
10 is amended as follows:

11 (1) Section 5313 is amended by inserting after
12 the item relating to the Under Secretary of Defense
13 for Acquisition and Technology the following:

14 “Under Secretary of Defense for Defense Nu-
15 clear Programs.”.

16 (2) Section 5314 is amended by adding at the
17 end the following:

18 “Deputy Under Secretary of Defense for De-
19 fense Nuclear Programs.”.

20 (3) Section 5315 is amended—

21 (A) by striking “(9)” after “Assistant Sec-
22 retaries of Defense” and inserting “(11)”; and

23 (B) by adding at the end the following:

24 “Inspector General, Defense Nuclear Programs
25 Administration.”.

1 (4) Section 5316 is amended—

2 (A) by striking the item relating to the As-
3 sistant to the Secretary of Defense for Nuclear
4 and Chemical and Biological Defense Programs,
5 Department of Defense; and

6 (B) by adding at the end the following:

7 “General Counsel, Defense Nuclear Programs
8 Administration, Department of Defense.”.

9 **SEC. 503. TRANSFERS OF FUNCTIONS.**

10 (a) DEPARTMENT OF ENERGY.—

11 (1) NATIONAL SECURITY FUNCTIONS.—There
12 are hereby transferred to the Under Secretary of
13 Defense for Defense Nuclear Programs all functions
14 performed by the Department of Energy on the day
15 before the date of the enactment of this Act relating
16 to the national security functions of the Department,
17 including defense, nonproliferation, and defense-re-
18 lated environmental management programs.

19 (2) NATIONAL LABORATORIES.—There are
20 hereby transferred to the Under Secretary all func-
21 tions performed by the Department of Energy on
22 the day before the date of the enactment of this Act
23 relating to the oversight of the defense and non-
24 defense functions and budgets of the following lab-
25 oratories:

1 (A) Sandia National Laboratories, Albu-
2 querque, New Mexico, and Livermore, Cali-
3 fornia.

4 (B) Los Alamos National Laboratory, Los
5 Alamos, New Mexico.

6 (C) Lawrence Livermore National Labora-
7 tory, California.

8 (b) DEFENSE THREAT REDUCTION AGENCY.—There
9 are hereby transferred to the Under Secretary all func-
10 tions performed by the Defense Threat Reduction Agency
11 of the Department of Defense on the day before the date
12 of the enactment of this Act relating to nuclear weapons
13 systems.

14 (c) DEFENSE NUCLEAR FACILITIES SAFETY
15 BOARD.—There are hereby transferred to the Under Sec-
16 retary all functions performed by the Defense Nuclear Fa-
17 cilities Safety Board on the day before the date of the en-
18 actment of this Act.

19 (d) OTHER NUCLEAR WEAPONS-RELATED FUNC-
20 TIONS.—The Secretary of Defense may transfer to the
21 Under Secretary such other functions performed by the
22 Department of Defense on the day before the date of the
23 enactment of this Act relating to nuclear weapons as the
24 Secretary considers appropriate.

1 **SEC. 504. LIMITATION ON TRANSFERS OF FUNDS.**

2 (a) TRANSFERS FROM ACCOUNTS OF THE DNPA.—

3 No amount appropriated to the Defense Nuclear Pro-
4 grams Administration may be transferred to any other ac-
5 count (other than another account of the Administration)
6 unless the transfer of such amount to such account is spe-
7 cifically authorized by law.

8 (b) TRANSFERS TO ACCOUNTS OF THE DNPA.—No

9 amount appropriated to the Department of Defense or an-
10 other department or agency may be transferred to the
11 Under Secretary of Defense for Defense Nuclear Pro-
12 grams or to an account for the Defense Nuclear Programs
13 Administration unless the transfer of such amount to such
14 account is specifically authorized by law.

15 **SEC. 505. TRANSITION PROVISIONS.**

16 (a) AUTHORITIES TO WIND UP AFFAIRS.—

17 (1) DEPARTMENT OF ENERGY.—The Director
18 of the Office of Management and Budget may take
19 such actions as the Director considers necessary to
20 wind up any outstanding affairs of the Department
21 of Energy associated with the functions that are
22 transferred pursuant to section 503(a).

23 (2) DEPARTMENT OF DEFENSE.—The Sec-
24 retary of Defense may take such actions as the Sec-
25 retary considers necessary to wind up any out-
26 standing affairs of the Defense Threat Reduction

1 Agency associated with the functions that are trans-
2 ferred pursuant to section 503(b), any outstanding
3 affairs of the Department of Defense associated with
4 any functions that may be transferred pursuant to
5 section 503(d), and any outstanding affairs of the
6 Assistant to the Secretary of Defense for Nuclear
7 and Chemical and Biological Defense Programs.

8 (3) DEFENSE NUCLEAR FACILITIES SAFETY
9 BOARD.—The Director of the Office of Management
10 and Budget may take such actions as the Director
11 considers necessary to wind up any outstanding af-
12 fairs of the Defense Nuclear Facilities Safety Board.

13 (b) TRANSFER OF ASSETS.—So much of the per-
14 sonnel, property, records, and unexpended balances of ap-
15 propriations, allocations, and other funds employed, used,
16 held, available, or to be made available in connection with
17 a function transferred to the Under Secretary of Defense
18 for Defense Nuclear Programs by this subtitle are trans-
19 ferred to the Under Secretary for use in connection with
20 the function transferred.

21 (c) FURTHER MEASURES AND DISPOSITIONS.—Such
22 further measures and dispositions as the President con-
23 siders necessary to effectuate the transfers referred to in
24 subsections (a) and (b) shall be carried out in such man-

1 ner as the President directs and by the heads of such
2 agencies as the President designates.

3 **SEC. 506. TECHNICAL AND CONFORMING AMENDMENTS.**

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

7 (1) in paragraph (1), by inserting after “Inter-
8 national Development,” the following: “the Defense
9 Nuclear Programs Administration of the Depart-
10 ment of Defense,”; and

11 (2) in paragraph (2), by striking out “Commu-
12 nity Service, or” and inserting “Community Service,
13 the Defense Nuclear Programs Administration of
14 the Department of Defense,”.

15 (b) CONFORMING REPEALS.—

16 (1) ASSISTANT TO THE SECRETARY OF DE-
17 FENSE FOR NUCLEAR AND CHEMICAL AND BIOLOGI-
18 CAL DEFENSE PROGRAMS.—Section 142 of title 10,
19 United States Code, is repealed. The table of sec-
20 tions at the beginning of chapter 4 of such title is
21 amended by striking the item relating to such sec-
22 tion.

23 (2) DEFENSE NUCLEAR FACILITIES SAFETY
24 BOARD.—Chapter 21 of title I of the Atomic Energy
25 Act of 1954 (42 U.S.C. 2286) is repealed.

1 (3) REFERENCES.—Any reference to the Assist-
2 ant to the Secretary of Defense for Nuclear and
3 Chemical and Biological Defense Programs or the
4 Defense Nuclear Facilities Safety Board in any pro-
5 vision of law or in any rule, regulation, or other
6 paper of the United States shall be treated as refer-
7 ring to the Under Secretary of Defense for Defense
8 Nuclear Programs.

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

12 “(2) The Under Secretary of Defense for Defense
13 Nuclear Programs shall designate the Staff Director of the
14 Council.”.

15 **SEC. 507. EFFECTIVE DATE AND TRANSITION PERIOD.**

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

19 (b) DELAYED EFFECTIVE DATE FOR ESTABLISH-
20 MENT OF AGENCY AND TRANSFERS OF FUNCTIONS.—
21 Section 501(a) and section 503 shall take effect one year
22 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 Nuclear and Chemical and Biological De-

1 fense Programs, and the Defense Nuclear Facilities Safety
2 Board shall, beginning as soon as practicable after the
3 date of the enactment of this Act, plan for the orderly
4 establishment of, and transfer of functions to, the Defense
5 Nuclear Programs Administration pursuant to this sub-
6 title.

7 (d) APPOINTMENT AUTHORITY.—The President may
8 make appointments under the amendments made by sec-
9 tion 502 notwithstanding the effective date under sub-
10 section (b) for the establishment of the Defense Nuclear
11 Programs Administration.

12 **Subtitle B—Environmental Res-**
13 **toration Activities at Defense**
14 **Nuclear Facilities**

15 **SEC. 521. ENVIRONMENTAL RESTORATION ACTIVITIES AT**
16 **DEFENSE NUCLEAR FACILITIES.**

17 (a) IN GENERAL.—The Comprehensive Environ-
18 mental Response, Compensation, and Liability Act of
19 1980 (42 U.S.C. 9601 et seq.) is amended by adding at
20 the end the following new title:

1 **“TITLE V—ENVIRONMENTAL**
2 **RESTORATION ACTIVITIES AT**
3 **DEFENSE NUCLEAR FACILI-**
4 **TIES**

5 **“Subtitle A—General Provisions**

6 **“SEC. 501. APPLICABILITY.**

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

10 **“SEC. 502. DEFINITIONS.**

11 “For purposes of this title:

12 “(1) The term ‘defense nuclear facility’ means
13 any of the following:

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

1 activities and does not include any facility or
2 activity covered by Executive Order Number
3 12344, dated February 1, 1982, pertaining to
4 the naval nuclear propulsion program.

5 “(B) A nuclear waste storage or disposal
6 facility that is under the control or jurisdiction
7 of the Under Secretary of Defense for Defense
8 Nuclear Programs.

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

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

22 “(E) Any facility described in subpara-
23 graphs (A) through (D) that—

24 “(i) is no longer in operation;

1 “(ii) was under the control or jurisdic-
2 tion of the Department of Defense, the
3 Atomic Energy Commission, the Energy
4 Research and Development Administration,
5 or the Department of Energy; and

6 “(iii) was operated for national secu-
7 rity purposes.

8 “(2) The term ‘Under Secretary’ means the
9 Under Secretary of Defense for Defense Nuclear
10 Programs.

11 “(3) The term ‘Administrator’ means the Ad-
12 ministrator of the Environmental Protection Agency.

13 **“Subtitle B—Selection of Remedial**
14 **Action**

15 **“SEC. 511. REVIEW OF ONGOING AND PLANNED REMEDIAL**
16 **ACTIONS.**

17 “(a) REVIEW OF ONGOING AND PLANNED ACTIVI-
18 TIES.—Not later than one year after the date of the enact-
19 ment of this title, the Under Secretary shall review each
20 remedial action described in subsection (b) for purposes
21 of determining whether the remedial action was selected
22 in a manner consistent with the requirements of this sub-
23 title. If the Under Secretary determines the selection was
24 not consistent with the requirements of this subtitle, the
25 Under Secretary shall modify the remedial action in a

1 manner consistent with the requirements of this subtitle.
2 The Under Secretary shall, to the maximum extent prac-
3 ticable, ensure the minimization of any delays in the per-
4 formance of the remedial action that result from the
5 Under Secretary's activities under this subsection.

6 “(b) COVERED REMEDIAL ACTIONS.—Subsection (a)
7 applies to any remedial action at a defense nuclear
8 facility—

9 “(1) which is ongoing as of the date of the en-
10 actment of this title, including a facility for which
11 construction is ongoing or has been completed as of
12 such date; or

13 “(2) for which construction is planned but has
14 not yet commenced as of such date of enactment.

15 **“SEC. 512. SELECTION OF REMEDIAL ACTION.**

16 “(a) IN GENERAL.—The Under Secretary shall select
17 a remedial action for a defense nuclear facility based upon
18 consideration of a site-specific risk assessment conducted
19 in accordance with section 513 and an analysis of risk re-
20 duction benefits and costs conducted in accordance with
21 section 514.

22 “(b) REQUIREMENT FOR LOWEST COST ACTION.—
23 In selecting a remedial action, the Under Secretary shall
24 select the lowest cost action which achieves a residual risk
25 that is within the risk range goal established by the Na-

1 tional Contingency Plan for protection of public health
2 and the environment, unless—

3 “(1) the incremental benefits of a more expen-
4 sive remedial action justify incurring the incremental
5 costs of the more expensive remedy, as set forth in
6 the analysis of risk reductions cost and benefits for
7 the remedial action pursuant to section 514, in
8 which case a more expensive remedy may be se-
9 lected, or

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

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

1 the sole purview of the appropriate State, local, or tribal
2 government with jurisdiction.

3 “(d) PUBLIC COMMENT.—Before selection of a reme-
4 dial action, the Under Secretary shall provide a period of
5 not less than 30 days for public comment on the remedial
6 action.

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

9 “(1) That the analysis of risk reduction benefits
10 and costs for the remedial action pursuant to section
11 514 is based on objective and unbiased scientific and
12 economic evaluations of all significant and relevant
13 information and on risk assessments provided to the
14 agency by interested parties relating to the costs,
15 risks, and risk reduction and other benefits of the
16 remedial action selected.

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

23 “(3) That other alternative remedial actions
24 identified or considered by the agency were found to

1 be less cost-effective at achieving a substantially
2 equivalent reduction in risk.

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

6 **“SEC. 513. SITE-SPECIFIC RISK ASSESSMENT.**

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

13 “(A) distinguishes scientific findings from other
14 considerations;

15 “(B) is, to the extent feasible, scientifically ob-
16 jective, unbiased, and inclusive of all relevant data;
17 and

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

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

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

3 “(1) When discussing human health risks, a
4 site-specific risk assessment shall contain a discus-
5 sion of both relevant laboratory and relevant epi-
6 demiologic data of sufficient quality which finds, or
7 fails to find, a correlation between health risks and
8 a potential toxin or activity. Where conflicts among
9 such data appear to exist, or where animal data is
10 used as a basis to assess human health, the site-spe-
11 cific risk assessment shall, to the extent feasible and
12 appropriate, include discussion of possible reconcili-
13 ation of conflicting information, and, as relevant,
14 differences in study designs, comparative physiology,
15 routes of exposure, bioavailability, pharmacokinetics,
16 and any other relevant factor, including the suffi-
17 ciency of basic data for review. The discussion of
18 possible reconciliation should indicate whether there
19 is a biological basis to assume a resulting harm in
20 humans. Animal data shall be reviewed with regard
21 to its relevancy to humans.

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

1 “(A) present a representative list and ex-
2 planation of plausible and alternative assump-
3 tions, inferences, or models;

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

5 “(C) identify any policy or value judg-
6 ments;

7 “(D) fully describe any model used in the
8 risk assessment and make explicit the assump-
9 tions incorporated in the model; and

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

13 “(3) The site-specific risk assessment shall
14 meet each of the following requirements regarding
15 risk characterization and communication:

16 “(A) The risk characterization shall de-
17 scribe the populations or natural resources
18 which are the subject of the risk characteriza-
19 tion. If a numerical estimate of risk is provided,
20 the agency shall, to the extent feasible,
21 provide—

22 “(i) the best estimate or estimates for
23 the specific populations or natural re-
24 sources which are the subject to the char-

1 acterization (based on the information
2 available to the Federal agency); and

3 “(ii) a statement of the reasonable
4 range of scientific uncertainties.

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

23 “(B) Exposure scenarios shall be based on
24 actual exposure pathways and currently planned
25 future land and water uses as established by

1 any local governmental authorities with jurisdic-
2 tion over the property and shall consider the
3 availability of alternative water supplies. To the
4 extent feasible, the site-specific risk assessment
5 shall include a statement of the size of the pop-
6 ulation at risk under any proposed exposure
7 scenario and the likelihood of such scenario.
8 Exposure scenarios shall explicitly identify
9 those exposure scenarios which result in plau-
10 sible completed exposure pathways.

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

1 and the preventability or nonpreventability of
2 risks.

3 “(D) Each site-specific risk assessment
4 shall include a statement of any significant sub-
5 stitution risks to human health, where informa-
6 tion on such risks has been provided to the
7 Under Secretary.

8 “(E) If a commenter provides the Under
9 Secretary with a relevant risk assessment and a
10 summary thereof in a timely fashion and the
11 risk assessment is consistent with the principles
12 and the guidance provided under this section,
13 the Under Secretary shall, to the extent fea-
14 sible, present such summary in connection with
15 the presentation of the site-specific risk assess-
16 ment. Nothing in this paragraph shall be con-
17 strued to limit the inclusion of any comments or
18 material supplied by any person to the adminis-
19 trative record of any proceeding.

20 “(4) A site-specific risk assessment may satisfy
21 the requirements of subparagraph (C), (D), or (E)
22 of paragraph (3) by reference to information or ma-
23 terial otherwise available to the public if the docu-
24 ment provides a brief summary of such information
25 or material.

1 **“SEC. 514. ANALYSIS OF RISK REDUCTION BENEFITS AND**
2 **COSTS.**

3 “(a) IN GENERAL.—The Under Secretary shall pre-
4 pare an analysis of risk reduction benefits and costs in
5 accordance with this section before the selection of a reme-
6 dial action at a defense nuclear facility.

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

10 “(1) An identification of reasonable alternative
11 strategies, including strategies that are proposed
12 during a public comment period.

13 “(2) An analysis of the incremental costs and
14 incremental risk reduction or other benefits associ-
15 ated with each alternative remedial action identified
16 or considered. Costs and benefits shall be quantified
17 to the extent feasible and appropriate and may oth-
18 erwise be qualitatively described.

19 “(3) A statement that places in context the na-
20 ture and magnitude of the risks to be addressed and
21 the residual risks likely to remain for each alter-
22 native strategy identified or considered by the Under
23 Secretary. Such statement shall, to the extent fea-
24 sible, provide comparisons with estimates of greater,
25 lesser, and substantially equivalent risks that are fa-
26 miliar to and routinely encountered by the general

1 public as well as other risks and, where appropriate
2 and meaningful, comparisons of those risks with
3 other similar risks regulated by the Federal Govern-
4 ment resulting from comparable activities and expo-
5 sure pathways. Such comparisons should consider
6 relevant distinctions among risks, such as the vol-
7 untary or involuntary nature of risks and the pre-
8 ventability or nonpreventability of risks.

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

12 (b) CONFORMING AMENDMENT.—Section 120(a)(3)
13 of the Comprehensive Environmental Response, Com-
14 pensation, and Liability Act of 1980 (42 U.S.C.
15 9620(a)(3)) is amended by inserting after the second sen-
16 tence the following new sentence: “This subsection also
17 shall not apply to the extent otherwise provided in title
18 V with respect to selection of remedial actions at defense
19 nuclear facilities.”.

20 **SEC. 522. RENEGOTIATION OF COMPLIANCE AGREEMENTS.**

21 (a) REQUIREMENT.—For each defense nuclear facil-
22 ity with respect to which a compliance agreement has been
23 entered into by the Secretary of Energy, the Adminis-
24 trator of the Environmental Protection Agency, and a
25 State as of the date of the enactment of this Act, the

1 Under Secretary of Defense for Defense Nuclear Pro-
2 grams shall enter into negotiations with the Administrator
3 of the Environmental Protection Agency and the State
4 concerned to renegotiate the terms of the compliance
5 agreement to reflect title V of the Comprehensive Environ-
6 mental Response, Compensation, and Liability Act of
7 1980, as added by section 521(a).

8 (b) DEADLINE.—The Under Secretary of Defense for
9 Defense Nuclear Programs shall complete renegotiation of
10 compliance agreements as required by subsection (a) not
11 later than one year after the date of the enactment of this
12 Act.

13 **TITLE VI—DISPOSITION OF MIS-**
14 **CELLANEOUS PARTICULAR**
15 **PROGRAMS, FUNCTIONS, AND**
16 **AGENCIES OF DEPARTMENT**

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

18 (a) RECOMMENDATIONS.—Within 1 year of the date
19 of the enactment of this Act, the Energy Laboratory Fa-
20 cilities Commission established under section 201(a) of
21 this Act shall identify in a report to Congress all research
22 and development activities of the Department of Energy
23 carried out at energy laboratories (as such term is defined
24 in section 208(5) of this Act) or at institutions of higher
25 education, that perform a critical research function of im-

1 portance to the long-term economic wellbeing of the
2 United States. Such report shall include recommendations
3 for the transfer of such activities to appropriate Federal
4 agencies.

5 (b) TERMINATION OF PROGRAMS.—

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

10 (2) FOSSIL ENERGY AND ENERGY CONSERVA-
11 TION.—The Secretary of Energy shall terminate all
12 fossil energy research and development activities and
13 energy conservation research and development activi-
14 ties of the Department of Energy.

15 (3) ENERGY SUPPLY RESEARCH AND DEVELOP-
16 MENT.—The Secretary of Energy shall terminate all
17 Energy Supply Research and Development activities
18 of the Department of Energy, including Basic En-
19 ergy Sciences, Magnetic Fusion Energy, Solar and
20 Renewable Energy, Nuclear Fission, and Biological
21 and Environmental Sciences research and develop-
22 ment.

23 (c) TRANSFER OF PROGRAMS.—The following activi-
24 ties of the Department of Energy shall, no later than 60

1 days after the date of the enactment of this Act, be trans-
2 ferred to the Department of Defense:

3 (1) All activities described under the category
4 “Weapons Activities” in the annual budget request
5 of the President for fiscal year 2001, including
6 weapons stockpile stewardship and management.

7 (2) All activities described under the category
8 “Other Defense Activities” in the annual budget re-
9 quest of the President for fiscal year 2001, other
10 than the activity described as “Naval Reactors”.

11 (d) PROGRESS REPORTS.—The Secretary of Energy
12 shall, every 90 days after the date of the enactment of
13 this Act until the completion of the execution of sub-
14 sections (b) and (c), transmit to the Congress a report
15 on the progress made toward such execution.

16 **SEC. 602. ENERGY INFORMATION ADMINISTRATION.**

17 There are hereby transferred to the Department of
18 the Treasury all functions performed by the Energy Infor-
19 mation Administration on the day before the effective date
20 of this section. There are authorized to be appropriated
21 for carrying out the activities of the Energy Information
22 Administration \$40,000,000 for each of the fiscal years
23 2002 through 2006.

1 **SEC. 603. EFFECTIVE DATE.**

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

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

7 **TITLE VII—CIVILIAN RADIO-**
8 **ACTIVE WASTE MANAGEMENT**

9 **SEC. 701. TRANSFER OF AUTHORITY TO THE SECRETARY**
10 **OF THE ARMY.**

11 (a) TRANSFER.—Effective at the expiration of the 3d
12 calendar month beginning after the date of enactment of
13 this Act, section 304 of the Nuclear Waste Policy Act of
14 1982 (42 U.S.C. 10224) is amended to read as follows:

15 “ARMY CORPS OF ENGINEERS

16 “SEC. 304. (a) TRANSFER.—The Office of Civilian
17 Radioactive Waste Management (referred to in this sec-
18 tion as the ‘office’) is terminated and the authority and
19 assets of the office with respect to its activities under title
20 I respecting a repository for radioactive waste and spent
21 nuclear fuel is transferred to the Army Corps of Engineers
22 (referred to in this section as the ‘Corps’). In connection
23 with the transfer, the Corps shall assume all contracts and
24 other obligations of the office with respect to the Yucca
25 Mountain site and the permits from the State of Nevada
26 for the site shall be reissued for the Corps.

1 “(b) YUCCA MOUNTAIN SITE.—The Corps shall re-
2 view the characterization plan of, and the work under-
3 taken by, the office for the Yucca Mountain site. Effective
4 6 months after the transfer under subsection (a), the
5 Corps shall prepare its own site characterization plan in
6 accordance with section 113. The plan shall be submitted
7 to the Nuclear Waste Technical Review Board for its re-
8 view and comments. If the Yucca Mountain site is found
9 to be suitable, the Corps shall be responsible for managing
10 the design and construction of the site. Once completed,
11 the site shall be operated by the Corps in accordance with
12 this Act. The Corps shall provide benefits to the State of
13 Nevada in accordance with subtitle F of title I.

14 “(c) OTHER SITE.—If the Yucca Mountain site is
15 found to be unsuitable, the Corps shall undertake a site
16 characterization plan for another site.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) TABLE OF CONTENTS.—The table of con-
19 tents in section 1 of the Nuclear Waste Policy Act
20 of 1982 (42 U.S.C. prec. 10101) is amended by
21 striking the item relating to section 304 and insert-
22 ing the following:

“Sec. 304. Army Corps of Engineers.”.

23 (2) REFERENCES TO THE SECRETARY OF EN-
24 ERGY.—

1 (A) DEFINITION.—Section 2(20) of the
2 Nuclear Waste Policy Act of 1982 (42 U.S.C.
3 10101(20)) is amended by striking “Secretary
4 of Energy” and inserting “Secretary of the
5 Army”.

6 (B) SECTION 111.—Section 111(a)(5) of
7 the Nuclear Waste Policy Act of 1982 (42
8 U.S.C. 10131(a)(5)) is amended by striking
9 “Secretary of Energy” and inserting “Sec-
10 retary”.

11 (3) REFERENCES TO THE DEPARTMENT OF EN-
12 ERGY.—

13 (A) DEFINITION.—Section 2(8) of the Nu-
14 clear Waste Policy Act of 1982 (42 U.S.C.
15 10101(8)) is amended by striking “Department
16 of Energy” and inserting “Department of the
17 Army”.

18 (B) NUCLEAR WASTE TECHNICAL REVIEW
19 BOARD.—Section 502(b)(3)(C)(iii) of the Nu-
20 clear Waste Policy Act of 1982 (42 U.S.C.
21 10262(b)(3)(C)(iii)) is amended to read as fol-
22 lows:

23 “(iii) No person shall be nominated for appointment
24 to the Board who is an employee of—

25 “(I) the Department of Defense;

1 “(II) a national laboratory under contract with
2 the Department of Defense; or

3 “(III) an entity performing high-level radio-
4 active waste or spent nuclear fuel activities under
5 contract with the Department of Defense.”.

6 (C) OTHER PROVISIONS.—The Nuclear
7 Waste Policy Act of 1982 is amended in each
8 of the following provisions by striking “Depart-
9 ment of Energy” and inserting “Department”:

10 (i) Section 136(f)(2).

11 (ii) Section 224(b).

12 (iii) Section 302(e)(2).

13 (4) REFERENCE TO THE OFFICE OF CIVILIAN
14 WASTE MANAGEMENT.—Section 2 of the Nuclear
15 Waste Policy Act of 1982 (42 U.S.C. 10101) is
16 amended by striking paragraph (17).

17 **SEC. 702. REAFFIRMATION OF OBLIGATION TO ACCEPT RA-**

18 **DIOACTIVE WASTE AND SPENT NUCLEAR**

19 **FUEL.**

20 (a) FINDINGS AND PURPOSES.—

21 (1) FINDINGS.—Congress finds that—

22 (A) the generation of electricity by nuclear
23 reactors results in the production of spent nu-
24 clear fuel;

1 (B) about 40,000 metric tons of spent nu-
2 clear fuel have been produced by the Nation's
3 operating nuclear power plants, and an addi-
4 tional 60,000 metric tons of spent nuclear fuel
5 is expected to be produced by 2010;

6 (C) the vast majority of commercial spent
7 nuclear fuel is currently stored in individual
8 water-filled pools at reactor sites throughout
9 the Nation;

10 (D) the storage pools for the temporary
11 storage of spent nuclear fuel are nearing capac-
12 ity at many of the reactor sites;

13 (E) since the beginning of the commercial
14 nuclear power industry in the 1960's, the Fed-
15 eral Government has had the responsibility to
16 provide for the disposal of commercial spent nu-
17 clear fuel;

18 (F) Congress enacted the Nuclear Waste
19 Policy Act of 1982 (42 U.S.C. 10101 et seq.)
20 in order to codify the Federal responsibility and
21 policy to provide for the safe and timely dis-
22 posal of spent nuclear fuel by establishing a
23 schedule for the siting, construction, and oper-
24 ation of deep geologic repositories, assigning the
25 responsibility for implementation of the pro-

1 gram to the Department of Energy, and estab-
2 lishing the Nuclear Waste Fund to cover the
3 costs of the Federal disposal program to be
4 paid by utility ratepayers and owners;

5 (G) since the enactment of the Nuclear
6 Waste Policy Act of 1982, utility ratepayers
7 and owners have paid more than
8 \$13,700,000,000 into the Nuclear Waste Fund;

9 (H) under the schedule established in the
10 Nuclear Waste Policy Act of 1982, the Depart-
11 ment of Energy, in return for the payment of
12 the fees by utility ratepayers and owners, was
13 directed to dispose of spent nuclear fuel begin-
14 ning not later than January 31, 1998;

15 (I) despite the 19 years that have passed
16 since the enactment of the Nuclear Waste Pol-
17 icy Act of 1982 and the expenditure of over
18 \$5,200,000,000, the Department of Energy has
19 fallen behind schedule, and the projected date
20 for commencement of operation of a repository,
21 under optimistic assumptions, is 2010;

22 (J) the Nuclear Waste Policy Act of 1982
23 currently prohibits the selection of a site for a
24 monitored retrievable storage facility until a

1 site for a permanent repository has been se-
2 lected;

3 (K) the Federal Government, under the
4 Nuclear Waste Policy Act of 1982, has an abso-
5 lute obligation to accept spent nuclear fuel; and

6 (L) the General Accounting Office and
7 other technical experts have indicated that
8 greater privatization would enhance cost effi-
9 ciencies.

10 (2) PURPOSES.—The purposes of this section
11 are—

12 (A) to ensure that the Secretary of the
13 Army fulfills what was formerly the responsi-
14 bility of the Secretary of Energy to site, con-
15 struct, and operate temporary and permanent
16 nuclear waste disposal facilities in a safe and
17 timely manner; and

18 (B) to reaffirm the obligation of the Fed-
19 eral Government under the Nuclear Waste Pol-
20 icy Act of 1982 to provide for the safe disposal
21 of spent nuclear fuel.

22 (b) REAFFIRMATION OF OBLIGATION OF SECRETARY
23 OF ENERGY.—Section 302(a) of the Nuclear Waste Policy
24 Act of 1982 (42 U.S.C. 10222(a)) is amended by adding
25 at the end the following:

1 “(7) The obligation of the Secretary under paragraph
2 (5) to accept high-level radioactive waste and spent nu-
3 clear fuel is absolute and is not dependent on the com-
4 mencement of operation of a repository or a monitored re-
5 trievable storage facility. That obligation shall not be void-
6 ed or delayed for any reason.”.

7 (c) SITING OF MONITORED RETRIEVABLE STORAGE
8 FACILITY.—

9 (1) REPEAL OF SITE SELECTION LIMITATION.—

10 Section 145 of the Nuclear Waste Policy Act of
11 1982 (42 U.S.C. 10165) is amended by striking sub-
12 section (b).

13 (2) REPEAL OF LICENSING CONDITIONS.—Sec-
14 tion 148 of the Nuclear Waste Policy Act of 1982
15 (42 U.S.C. 10168) is amended by striking sub-
16 section (d).

17 **SEC. 703. INITIAL STORAGE FACILITY.**

18 (a) LICENSE.—The facility for the initial storage of
19 not more than 40,000 metric tons of uranium at Area 25
20 of the Nevada Test Site shall be licensed by the Nuclear
21 Regulatory Commission for an unspecified period, in ac-
22 cordance with the Commission’s regulations governing the
23 licensing of independent spent fuel storage installations,
24 without regard to section 148 (a) of the Nuclear Waste
25 Policy Act of 1982 (42 U.S.C. 10168 (a)).

1 (b) EXPANSION.—

2 (1) OPERATION CONSISTENT WITH CURRENT
3 LAW.—The initial storage facility shall be expand-
4 able for the subsequent transportation and interim
5 storage of up to 100,000 metric tons of uranium
6 and shall be operational, consistent with sections
7 135(a)(4), 137(a), 141(a), and 148 (a), (b), and (c)
8 of the Nuclear Waste Policy Act of 1982 (42 U.S.C.
9 10155(4), 10157(a), 10161(a), 10168 (a), (b), (c)).

10 (2) REPEALS.—Sections 131 (a)(3) and (b)(2),
11 135(a) (1) and (2), 135 (d) and (e), 141(g), 145,
12 and 146 of the Nuclear Waste Policy Act of 1982
13 (42 U.S.C. 10151 (a)(3), (b)(2), 10155 (a)(1), (2),
14 (d), 10161(g), 10165, and 10166) are repealed.

15 (c) REVIEW OF PROGRAM.—The Secretary of the
16 Army shall review the activities of the initial storage facil-
17 ity program, including all cooperative agreements, inter-
18 national commitments, and university assistance, and
19 shall make available to those entities amounts, that are
20 commensurate with the revised program for nuclear waste
21 disposal activities.

22 (d) PROGRAM PLAN AND SCHEDULE.—The Secretary
23 of the Army shall submit to the Congress within 90 days
24 a revised program plan and schedule, including a new 5-
25 year budget, that addresses the construction and operation

1 of the interim storage capability, the revised site charac-
2 terization program at the Yucca Mountain site, and the
3 results of the Secretary's review of the program's institu-
4 tional activities.

5 (e) GAO REPORT.—Not later than 180 days after the
6 date of enactment of this Act, the Comptroller General
7 of the United States shall conduct a study and submit to
8 Congress a report on the extent to which the management
9 of civilian radioactive waste by the private sector might
10 result in cost efficiencies and the means by which the re-
11 sponsibility for performing management of civilian radio-
12 active waste may be transferred to the private sector.

13 **TITLE VIII—MISCELLANEOUS** 14 **PROVISIONS**

15 **SEC. 801. REFERENCES.**

16 Any reference in any other Federal law, Executive
17 order, rule, regulation, or delegation of authority, or any
18 document of or pertaining to an office from which a func-
19 tion is transferred by this Act—

20 (1) to the Secretary of Energy or an officer of
21 the Department of Energy, is deemed to refer to the
22 head of the department or office to which such func-
23 tion is transferred; or

1 (2) to the Department of Energy is deemed to
2 refer to the department or office to which such func-
3 tion is transferred.

4 **SEC. 802. EXERCISE OF AUTHORITIES.**

5 Except as otherwise provided by law, a Federal offi-
6 cial to whom a function is transferred by this Act may,
7 for purposes of performing the function, exercise all au-
8 thorities under any other provision of law that were avail-
9 able with respect to the performance of that function to
10 the official responsible for the performance of the function
11 immediately before the effective date of the transfer of the
12 function under this Act.

13 **SEC. 803. SAVINGS PROVISIONS.**

14 (a) **LEGAL DOCUMENTS.**—All orders, determinations,
15 rules, regulations, permits, grants, loans, contracts, agree-
16 ments, certificates, licenses, and privileges—

17 (1) that have been issued, made, granted, or al-
18 lowed to become effective by the President, the Sec-
19 retary of Energy, any officer or employee of any of-
20 fice transferred by this Act, or any other Govern-
21 ment official, or by a court of competent jurisdic-
22 tion, in the performance of any function that is
23 transferred by this Act, and

24 (2) that are in effect on the effective date of
25 such transfer (or become effective after such date

1 pursuant to their terms as in effect on such effective
2 date),
3 shall continue in effect according to their terms until
4 modified, terminated, superseded, set aside, or revoked in
5 accordance with law by the President, any other author-
6 ized official, a court of competent jurisdiction, or operation
7 of law.

8 (b) PROCEEDINGS.—This Act shall not affect any
9 proceedings or any application for any benefits, service,
10 license, permit, certificate, or financial assistance pending
11 on the date of the enactment of this Act before an office
12 transferred by this Act, but such proceedings and applica-
13 tions shall be continued. Orders shall be issued in such
14 proceedings, appeals shall be taken therefrom, and pay-
15 ments shall be made pursuant to such orders, as if this
16 Act had not been enacted, and orders issued in any such
17 proceeding shall continue in effect until modified, termi-
18 nated, superseded, or revoked by a duly authorized official,
19 by a court of competent jurisdiction, or by operation of
20 law. Nothing in this subsection shall be considered to pro-
21 hibit the discontinuance or modification of any such pro-
22 ceeding under the same terms and conditions and to the
23 same extent that such proceeding could have been discon-
24 tinued or modified if this Act had not been enacted.

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

6 (d) NONABATEMENT OF ACTIONS.—No suit, action,
7 or other proceeding commenced by or against the Depart-
8 ment of Energy or the Secretary of Energy, or by or
9 against any individual in the official capacity of such indi-
10 vidual as an officer or employee of an office transferred
11 by this Act, shall abate by reason of the enactment of this
12 Act.

13 (e) CONTINUANCE OF SUITS.—If any officer of the
14 Department of Energy or the Energy Programs Resolu-
15 tion Agency in the official capacity of such officer is party
16 to a suit with respect to a function of the officer, and
17 under this Act such function is transferred to any other
18 officer or office, then such suit shall be continued with
19 the other officer or the head of such other office, as appli-
20 cable, substituted or added as a party.

21 **SEC. 804. TRANSFER OF ASSETS.**

22 Except as otherwise provided in this Act, so much
23 of the personnel, property, records, and unexpended bal-
24 ances of appropriations, allocations, and other funds em-
25 ployed, used, held, available, or to be made available in

1 connection with a function transferred to an official by
2 this Act shall be available to the official at such time or
3 times as the Director of the Office of Management and
4 Budget directs for use in connection with the functions
5 transferred.

6 **SEC. 805. DELEGATION AND ASSIGNMENT.**

7 Except as otherwise expressly prohibited by law or
8 otherwise provided in this Act, an official to whom func-
9 tions are transferred under this Act (including the head
10 of any office to which functions are transferred under this
11 Act) may delegate any of the functions so transferred to
12 such officers and employees of the office of the official as
13 the official may designate, and may authorize successive
14 redelegations of such functions as may be necessary or ap-
15 propriate. No delegation of functions under this section
16 or under any other provision of this Act shall relieve the
17 official to whom a function is transferred under this Act
18 of responsibility for the administration of the function.

19 **SEC. 806. AUTHORITY OF OFFICE OF MANAGEMENT AND**
20 **BUDGET WITH RESPECT TO FUNCTIONS**
21 **TRANSFERRED.**

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

1 (b) INCIDENTAL TRANSFERS.—The Director of the
2 Office of Management and Budget, at such time or times
3 as the Director shall provide, may make such determina-
4 tions as may be necessary with regard to the functions
5 transferred by this Act, and to make such additional inci-
6 dental dispositions of personnel, assets, liabilities, grants,
7 contracts, property, records, and unexpended balances of
8 appropriations, authorizations, allocations, and other
9 funds held, used, arising from, available to, or to be made
10 available in connection with such functions, as may be nec-
11 essary to carry out the provisions of this Act. The Director
12 of the Office of Management and Budget shall provide for
13 the termination of the affairs of all entities terminated by
14 this Act and for such further measures and dispositions
15 as may be necessary to effectuate the purposes of this Act.

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

17 Not later than one year after the date of the enact-
18 ment of this Act, the Director of the Office of Manage-
19 ment and Budget shall submit to the Congress a descrip-
20 tion of any changes in Federal law necessary to reflect
21 abolishments, transfers, terminations, and disposals under
22 this Act.

1 **SEC. 808. CERTAIN VESTING OF FUNCTIONS CONSIDERED**
2 **TRANSFER.**

3 For purposes of this title, the vesting of a function
4 in a department or office pursuant to reestablishment of
5 an office shall be considered to be the transfer of the func-
6 tion.

7 **SEC. 809. DEFINITIONS.**

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

10 (1) ADMINISTRATOR.—The term “Adminis-
11 trator” means the Administrator of the Energy Pro-
12 grams Resolution Agency.

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

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

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

21 (5) TERMINATION DATE.—The term “termi-
22 nation date” means the termination date under sec-
23 tion 106(d).

24 (6) WIND-UP PERIOD.—The term “wind-up pe-
25 riod” means the period beginning on the effective

- 1 date specified in section 109(a) and ending on the
- 2 termination date.

○