

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1628

To establish a Defense Nuclear Programs Agency to carry out all defense nuclear programs matters.

---

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 1995

Mr. HOKE introduced the following bill; which was referred to the Committee on National Security

---

## A BILL

To establish a Defense Nuclear Programs Agency to carry out all defense nuclear programs matters.

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 “Defense Nuclear Pro-  
5 grams Agency Organization Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

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

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.
- Sec. 4. Establishment and organization of Defense Nuclear Programs Agency.
- Sec. 5. Functions of Defense Nuclear Programs Agency.
- Sec. 6. Transfers of functions.
- Sec. 7. Limitation on transfers of funds.

- Sec. 8. Transition provisions.
- Sec. 9. Savings provisions.
- Sec. 10. Technical and conforming amendments.
- Sec. 11. Effective date and transition period.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) The term “defense nuclear programs mat-  
4 ters” means matters related to the military use of  
5 nuclear energy and nuclear weapons, including all  
6 such matters that were under the jurisdiction of the  
7 following entities on the day before the date of the  
8 enactment of this Act:

9 (A) The Department of Energy.

10 (B) The Defense Nuclear Agency of the  
11 Department of Defense.

12 (C) The Strategic Systems Programs of  
13 the Department of the Navy.

14 (D) The Defense Nuclear Facilities Safety  
15 Board.

16 (2) The term “Administrator” means the Ad-  
17 ministrator of the Defense Nuclear Programs Agen-  
18 cy.

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

1 **SEC. 4. ESTABLISHMENT AND ORGANIZATION OF DEFENSE**  
2 **NUCLEAR PROGRAMS AGENCY.**

3 (a) ESTABLISHMENT OF DEFENSE NUCLEAR PRO-  
4 GRAMS AGENCY.—There is established an agency to be  
5 known as the Defense Nuclear Programs Agency.

6 (b) ADMINISTRATOR.—The Agency shall be headed  
7 by an Administrator, who shall serve as the principal ad-  
8 viser to the President and the Secretary of Defense on  
9 defense nuclear programs matters. In carrying out his du-  
10 ties under this Act, the Administrator shall, under the di-  
11 rection of the Secretary of Defense, have primary respon-  
12 sibility within the Government for defense nuclear pro-  
13 grams matters. The Administrator shall be appointed by  
14 the President, by and with the advice and consent of the  
15 Senate. A commissioned officer of the Armed Forces serv-  
16 ing on active duty may not be appointed Administrator.  
17 The Administrator shall be compensated at the rate pro-  
18 vided for level II of the Executive Schedule under section  
19 5313 of title 5, United States Code.

20 (c) DEPUTY ADMINISTRATOR.—A Deputy Adminis-  
21 trator of the Agency shall be appointed by the President,  
22 by and with the advice and consent of the Senate. The  
23 Deputy Administrator shall perform such duties and exer-  
24 cise such powers as the Administrator may prescribe. The  
25 Deputy Administrator shall act for, and exercise the pow-  
26 ers of, the Administrator during the Administrator's ab-

1 sence or disability or during a vacancy in such office. A  
2 commissioned officer of the Armed Forces serving on ac-  
3 tive duty may not be appointed Deputy Administrator.  
4 The Deputy Administrator shall be compensated at the  
5 rate provided for level III of the Executive Schedule under  
6 section 5314 of title 5, United States Code.

7 (d) ASSISTANT ADMINISTRATORS.—(1) Four Assist-  
8 ant Administrators of the Agency shall be appointed by  
9 the President, by and with the advice and consent of the  
10 Senate. They shall perform such duties and exercise such  
11 powers as the Administrator may prescribe.

12 (2) One of the Assistant Administrators shall have  
13 as his principal duty the overall supervision of environ-  
14 mental restoration of defense nuclear weapons facilities.

15 (3) One of the Assistant Administrators shall have  
16 as his principal duty the overall supervision of the over-  
17 sight of the defense and nondefense functions and budgets  
18 of the Sandia National Laboratories, the Los Alamos Na-  
19 tional Laboratory, and the Lawrence Livermore National  
20 Laboratory.

21 (4) Each Assistant Administrator shall be com-  
22 pensated at the rate provided for level IV of the Executive  
23 Schedule under section 5315 of title 5, United States  
24 Code.

1 (e) INSPECTOR GENERAL.—There shall be an Inspec-  
2 tor General of the Agency, who shall be appointed as pro-  
3 vided in section 3 of the Inspector General Act of 1978  
4 (5 U.S.C. App. 3). The Inspector General shall perform  
5 the duties, have the responsibilities, and exercise the pow-  
6 ers specified in the Inspector General Act of 1978 (5  
7 U.S.C. App. 3).

8 (f) GENERAL COUNSEL.—There shall be a General  
9 Counsel of the Agency, who shall be appointed by the Ad-  
10 ministrator. The General Counsel shall be the chief legal  
11 officer for all legal matters arising from the conduct of  
12 the functions of the Agency. The General Counsel shall  
13 be compensated at the rate provided for level V of the Ex-  
14 ecutive Schedule under section 5316 of title 5, United  
15 States Code.

16 **SEC. 5. FUNCTIONS OF DEFENSE NUCLEAR PROGRAMS**  
17 **AGENCY.**

18 (a) IN GENERAL.—The Administrator shall be re-  
19 sponsible for the exercise of all powers and the discharge  
20 of all duties of the Agency.

21 (b) TRANSFERRED FUNCTIONS.—The Administrator  
22 shall carry out all functions transferred to the Adminis-  
23 trator pursuant to section 6.

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

4 “(2) The Administrator of the Defense Nuclear Pro-  
5 grams Agency shall be the Staff Director of the Council.”.

6 **SEC. 6. TRANSFERS OF FUNCTIONS.**

7 (a) DEPARTMENT OF ENERGY.—(1) There are here-  
8 by transferred to the Administrator all functions per-  
9 formed by the Department of Energy on the day before  
10 the date of the enactment of this Act relating to the na-  
11 tional security functions of the Department, including de-  
12 fense, nonproliferation, and defense-related environmental  
13 management programs.

14 (2) There are hereby transferred to the Adminis-  
15 trator all functions performed by the Department of En-  
16 ergy on the day before the date of the enactment of this  
17 Act relating to the oversight of the defense and nondefense  
18 functions and budgets of the following laboratories:

19 (A) Sandia National Laboratories, Albuquerque,  
20 New Mexico, and Livermore, California.

21 (B) Los Alamos National Laboratory, Los Ala-  
22 mos, New Mexico.

23 (C) Lawrence Livermore National Laboratory,  
24 California.

1 (b) DEFENSE NUCLEAR AGENCY.—There are hereby  
2 transferred to the Administrator all functions performed  
3 by the Defense Nuclear Agency of the Department of De-  
4 fense on the day before the date of the enactment of this  
5 Act.

6 (c) DEPARTMENT OF THE NAVY.—There are hereby  
7 transferred to the Administrator all functions performed  
8 by the Department of the Navy on the day before the date  
9 of the enactment of this Act relating to its Strategic Sys-  
10 tems Programs.

11 (d) DEFENSE NUCLEAR FACILITIES SAFETY  
12 BOARD.—There are hereby transferred to the Adminis-  
13 trator all functions performed by the Defense Nuclear Fa-  
14 cilities Safety Board on the day before the date of the en-  
15 actment of this Act.

16 (e) OTHER NUCLEAR WEAPONS-RELATED FUNC-  
17 TIONS.—The Secretary of Defense may transfer to the Ad-  
18 ministrator such other functions performed in the Depart-  
19 ment of Defense on the day before the date of the enact-  
20 ment of this Act relating to nuclear weapons as the Sec-  
21 retary considers appropriate.

22 (f) CONFORMING REPEALS.—

23 (1) ASSISTANT TO THE SECRETARY OF DE-  
24 FENSE FOR ATOMIC ENERGY.—Section 141 of title  
25 10, United States Code, is hereby repealed. The

1 table of sections at the beginning of chapter 4 of  
2 such title is amended by striking out the item relat-  
3 ing to such section.

4 (2) DEFENSE NUCLEAR FACILITIES SAFETY  
5 BOARD.—Chapter 21 of the Atomic Energy Act of  
6 1954 (42 U.S.C. 2286) is hereby repealed.

7 (3) REFERENCES.—Any reference to the Assist-  
8 ant Secretary of Defense for Atomic Energy or the  
9 Defense Nuclear Facilities Safety Board in any pro-  
10 vision of law or in any rule, regulation, or other  
11 paper of the United States shall be treated as refer-  
12 ring to the Administrator.

13 **SEC. 7. LIMITATION ON TRANSFERS OF FUNDS.**

14 No amount appropriated to the Agency may be trans-  
15 ferred to any other account (other than another account  
16 of the Agency) unless the transfer of such amount to such  
17 account is specifically authorized by law. No amount ap-  
18 propriated to the Department of Defense or another de-  
19 partment or agency may be transferred to the Adminis-  
20 trator or to an account for the Agency unless the transfer  
21 of such amount to such account is specifically authorized  
22 by law.

23 **SEC. 8. TRANSITION PROVISIONS.**

24 (a) EXERCISE OF AUTHORITIES.—Except as other-  
25 wise provided by law, the Administrator may, for purposes

1 of performing a function that is transferred to the Admin-  
2 istrator by this Act, exercise all authorities under any  
3 other provision of law that were available with respect to  
4 the performance of that function to the official responsible  
5 for the performance of that function on the day before  
6 the date of the enactment of this Act.

7 (b) AUTHORITIES TO WIND UP AFFAIRS.—

8 (1) IN GENERAL.—(A) The Director of the Of-  
9 fice of Management and Budget may take such ac-  
10 tions as the Director considers necessary to wind up  
11 any outstanding affairs of the Department of En-  
12 ergy associated with the functions that are trans-  
13 ferred pursuant to section 6(a).

14 (B) The Secretary of Defense may take such  
15 actions as the Secretary considers necessary to wind  
16 up any outstanding affairs of the Defense Nuclear  
17 Agency associated with the functions that are trans-  
18 ferred pursuant to section 6(b), any outstanding af-  
19 fairs of the Department of Defense associated with  
20 any functions that may be transferred pursuant to  
21 section 6(d), and any outstanding affairs of the As-  
22 sistant to the Secretary of Defense for Atomic En-  
23 ergy.

24 (C) The Secretary of the Navy may take such  
25 actions as the Secretary considers necessary to wind

1 up any outstanding affairs of the Strategic Systems  
2 Programs of the Department of the Navy associated  
3 with the functions that are transferred pursuant to  
4 section 6(c).

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

9 (2) TRANSFER OF ASSETS.—So much of the  
10 personnel, property, records, and unexpended bal-  
11 ances of appropriations, allocations, and other funds  
12 employed, used, held, available, or to be made avail-  
13 able in connection with a function transferred to the  
14 Administrator by this Act are transferred to the Ad-  
15 ministrator for use in connection with the functions  
16 transferred.

17 (3) FURTHER MEASURES AND DISPOSITIONS.—  
18 Such further measures and dispositions as the Presi-  
19 dent considers necessary to effectuate the transfers  
20 referred to in subsection (b) shall be carried out in  
21 such manner as the President directs and by the  
22 heads of such agencies as the President designates.

23 **SEC. 9. SAVINGS PROVISIONS.**

24 (a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—  
25 All orders, determinations, rules, regulations, permits,

1 agreements, grants, contracts, certificates, licenses, reg-  
2 istrations, privileges, and other administrative actions—

3 (1) which have been issued, made, granted, or  
4 allowed to become effective by the President, any  
5 Federal agency or official thereof, or by a court of  
6 competent jurisdiction, in the performance of func-  
7 tions which are transferred under this Act, and

8 (2) which are in effect at the time this Act  
9 takes effect, or were final before the effective date  
10 of this Act and are to become effective on or after  
11 the effective date of this Act,

12 shall continue in effect according to their terms until  
13 modified, terminated, superseded, set aside, or revoked in  
14 accordance with law by the President, the Attorney Gen-  
15 eral or other authorized official, a court of competent ju-  
16 risdiction, or by operation of law.

17 (b) PROCEEDINGS NOT AFFECTED.—The provisions  
18 of this Act shall not affect any proceedings, including no-  
19 tices of proposed rulemaking, or any application for any  
20 license, permit, certificate, or financial assistance pending  
21 at the time this Act takes effect, with respect to functions  
22 transferred by this Act but such proceedings and applica-  
23 tions shall be continued. Orders shall be issued in such  
24 proceedings, appeals shall be taken therefrom, and pay-  
25 ments shall be made pursuant to such orders, as if this

1 Act had not been enacted, and orders issued in any such  
2 proceedings shall continue in effect until modified, termi-  
3 nated, superseded, or revoked by a duly authorized official,  
4 by a court of competent jurisdiction, or by operation of  
5 law. Nothing in this subsection shall be deemed to prohibit  
6 the discontinuance or modification of any such proceeding  
7 under the same terms and conditions and to the same ex-  
8 tent that such proceeding could have been discontinued  
9 or modified if this Act had not been enacted.

10 (c) SUITS NOT AFFECTED.—The provisions of this  
11 Act shall not affect suits commenced before the effective  
12 date of this Act, and in all such suits, proceedings shall  
13 be had, appeals taken, and judgments rendered in the  
14 same manner and with the same effect as if this Act had  
15 not been enacted.

16 (d) NONABATEMENT OF ACTIONS.—No suit, action,  
17 or other proceeding commenced by or against a depart-  
18 ment or agency, functions of which are transferred by this  
19 Act, or by or against any individual in the official capacity  
20 of such individual as an officer of a department or agency,  
21 functions of which are transferred by this Act, shall abate  
22 by reason of the enactment of this Act.

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

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

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

8 (2) in paragraph (2), by striking out “or the  
9 Social Security Administration;” and inserting in  
10 lieu thereof “the Social Security Administration, or  
11 the Defense Nuclear Programs Agency;”.

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

15 “Administrator, Defense Nuclear Programs  
16 Agency.”.

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

19 “Deputy Administrator, Defense Nuclear Pro-  
20 grams Agency.”.

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

23 “Assistant Administrators, Defense Nuclear  
24 Programs Agency (4).

25 “Inspector General, Defense Nuclear Programs  
26 Agency.”.

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

3 “General Counsel, Defense Nuclear Programs  
4 Agency.”.

5 **SEC. 11. EFFECTIVE DATE AND TRANSITION PERIOD.**

6 (a) EFFECTIVE DATE.—Except as provided in sub-  
7 section (b), this Act shall take effect on the date of the  
8 enactment of this Act.

9 (b) DELAYED EFFECTIVE DATE FOR ESTABLISH-  
10 MENT OF AGENCY AND TRANSFERS OF FUNCTIONS.—  
11 Section 4(a) and section 6 of this Act shall take effect  
12 one year after the date of the enactment of this Act.

13 (c) TRANSITION PERIOD.—The Secretary of Defense,  
14 the Secretary of Energy, the Assistant to the Secretary  
15 of Defense for Atomic Energy, and the Defense Nuclear  
16 Facilities Safety Board shall, beginning as soon as prac-  
17 ticable after the date of the enactment of this Act, plan  
18 for the orderly establishment of, and transfer of functions  
19 to, the Agency pursuant to this Act.

20 (d) APPOINTMENT AUTHORITY.—The President may  
21 make appointments under section 2 notwithstanding the  
22 delayed effective date under subsection (b) for the estab-  
23 lishment of the Agency.

○