

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

# H. R. 1993

To abolish the Department of Energy.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 1995

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

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## A BILL

To abolish the Department of Energy.

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

1 **SECTION 1. SHORT TITLE.**

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

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

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

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

TITLE I—ABOLISHMENT OF DEPARTMENT OF ENERGY

- Sec. 101. Reestablishment of Department as Energy Programs Resolution Agency.
- Sec. 102. Functions.
- Sec. 103. Deputy Administrator.
- 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. Bonneville Power Administration.
- Sec. 309. Definitions.

TITLE IV—TRANSFER AND DISPOSAL OF RESERVES

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

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

TITLE V—NATIONAL SECURITY AND ENVIRONMENTAL  
MANAGEMENT PROGRAMS

Subtitle A—Defense Nuclear Programs Agency

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

Subtitle B—Environmental Restoration Activities at Defense Nuclear  
Facilities

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

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

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

TITLE VII—CIVILIAN RADIOACTIVE WASTE MANAGEMENT

- Sec. 701. Nuclear waste repository.

TITLE VIII—MISCELLANEOUS PROVISIONS

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

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

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

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

9           (b) ADMINISTRATOR.—

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

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

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

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

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

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

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

19 **SEC. 102. FUNCTIONS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 **SEC. 105. REORGANIZATION.**

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

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

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

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

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

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

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

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

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

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

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

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

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

13 “The Department of Energy.”.

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

17 “Secretary of Energy.”.

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

21 “Deputy Secretary of Energy.”.

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

25 “Under Secretary, Department of Energy.”.

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

3 (1) by striking the following items:

4 “Assistant Secretaries of Energy (8).

5 “General Counsel of the Department of Energy.

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

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

10 “Inspector General, Department of Energy.

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

13 (2) by striking the following item:

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

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

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

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

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

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

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

3 (1) Sections 1 and 2.

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

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

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

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

12 (1) Section 101(b).

13 (2) Section 106(c).

14 (3) Section 107.

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

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

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

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

3 (c) APPOINTMENT.—

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

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

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

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

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

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

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

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

9 (g) PAY AND TRAVEL EXPENSES.—

10 (1) BASIC PAY.—

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

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

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

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

7 (h) DIRECTOR.—

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

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

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

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

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

25 (i) STAFF.—

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

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

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

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

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

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

9 (j) OTHER AUTHORITY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20          (b) RECOMMENDATIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (b) CONGRESSIONAL DISAPPROVAL.—

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

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

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

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

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

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

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

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

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

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

15 (b) MANAGEMENT AND DISPOSAL OF PROPERTY.—

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

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

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

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

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

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

18 (2) EXERCISE OF AUTHORITY.—

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

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

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

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

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

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

7 **SEC. 205. ACCOUNT.**

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

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

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

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

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

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

7           (d) REPORTS.—

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

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

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

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

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

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

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

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

20                 (1) which does not have a preamble;

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

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

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

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

21          (d) CONSIDERATION.—

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

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

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

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

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

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

22 (e) CONSIDERATION BY OTHER HOUSE.—

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

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

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

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

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

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

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

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

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

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

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

11 **SEC. 208. DEFINITIONS.**

12 For purposes of this title:

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

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

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

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

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

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

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

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

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

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

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

14 **SEC. 302. FINDINGS.**

15 The Congress finds that:

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

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

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

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

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

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

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

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

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

3 (b) PRICE; STRUCTURE OF SALE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 **SEC. 309. DEFINITIONS.**

7 For purposes of this title:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 “(2) In this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4           (3) Lease of the naval petroleum reserves.

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

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

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

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

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

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

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

12 **SEC. 501. DEFINITIONS.**

13 In this subtitle:

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

20 (A) The Department of Energy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 **AGENCY.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (e) CONFORMING REPEALS.—

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

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

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

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

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

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

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

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

18 (b) AUTHORITIES TO WIND UP AFFAIRS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Subtitle A—General Provisions

“Sec. 401. Applicability.

“Sec. 402. Definitions.

“Subtitle B—Selection of Remedial Action

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

“Sec. 412. Selection of remedial action.

“Sec. 413. Site-specific risk assessment.

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

## 1     **“Subtitle A—General Provisions**

### 2     **“SEC. 401. APPLICABILITY.**

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

### 6     **“SEC. 402. DEFINITIONS.**

7             “For purposes of this title:

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

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

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

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

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

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

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

22 “(i) is no longer in operation;

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (a) AUTHORIZATION.—

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

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

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

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

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

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

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

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

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

7 (c) TERMINATION OF PROGRAMS.—

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

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

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

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

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

19 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1                                   “ARMY CORPS OF ENGINEERS

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

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

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

## 4       **TITLE VIII—MISCELLANEOUS** 5                                   **PROVISIONS**

### 6       **SEC. 801. REFERENCES.**

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

11               (1) to the Secretary of Energy or an officer of  
12       the Department of Energy, is deemed to refer to the  
13       head of the department or office to which such func-  
14       tion is transferred; or

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

### 18       **SEC. 802. EXERCISE OF AUTHORITIES.**

19       Except as otherwise provided by law, a Federal offi-  
20 cial to whom a function is transferred by this Act may,  
21 for purposes of performing the function, exercise all au-  
22 thorities under any other provision of law that were avail-  
23 able with respect to the performance of that function to  
24 the official responsible for the performance of the function

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 **SEC. 809. DEFINITIONS.**

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

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

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

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

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

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

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

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