

104TH CONGRESS
2D SESSION

H. R. 3375

To amend the Internal Revenue Code of 1986 to repeal the 1993 increase in motor fuels tax, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 1, 1996

Mr. ROYCE introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Commerce, National Security, Government Reform and Oversight, Rules, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to repeal the 1993 increase in motor fuels tax, and for other purposes.

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

3 **SECTION 1. SHORT TITLES.**

4 (a) SHORT TITLE FOR ACT.—This Act may be cited
5 as the “Repeal of the 1993 Gas Tax Act”.

6 (b) SHORT TITLE FOR TITLES I–VIII.—Titles I
7 through VIII of this Act may be cited as the “Department
8 of Energy Abolishment Act”.

1 **SEC. 2. TABLE OF CONTENTS.**

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

- Sec. 1. Short titles.
- Sec. 2. Table of contents.
- Sec. 3. Repeal of 4.3 cent increase in motor fuel taxes.

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 SEC. 3. REPEAL OF 4.3 CENT INCREASE IN MOTOR FUEL

2 TAXES.

3 (a) GASOLINE.—Clause (i) of section 4081(a)(2)(A)

4 of the Internal Revenue Code of 1986 is amended by strik-

5 ing “18.3 cents” and inserting “14 cents”.

1 (b) DIESEL FUEL.—Clause (ii) of section
2 4081(a)(2)(A) of such Code is amended by striking “24.3
3 cents” and inserting “20 cents”.

4 (c) AVIATION FUEL.—Paragraph (1) of section
5 4091(b) of such Code is amended by striking “21.8 cents”
6 and inserting “17.5 cents”.

7 (d) FUEL USED ON INLAND WATERWAYS.—

8 (1) Paragraph (1) of section 4042(b) of such
9 Code is amended by adding “and” at the end of sub-
10 paragraph (A), by striking “, and” at the end of
11 subparagraph (B) and inserting a period, and by
12 striking subparagraph (C).

13 (2) Paragraph (2) of section 4042(b) of such
14 Code is amended by striking subparagraph (C).

15 (e) TECHNICAL AMENDMENTS.—

16 (1) Clause (ii) of section 4041(a)(1)(C) of the
17 Internal Revenue Code of 1986 is amended by strik-
18 ing subclauses (I), (II), and (III) and inserting the
19 following new subclauses:

20 “(I) 1.25 cents per gallon on and
21 after the date of the enactment of the
22 Repeal of the 1993 Gas Tax Act and
23 before October 1, 1999, and

24 “(II) zero after September 30,
25 1999.”

1 (2) Subclause (I) of section 4041(a)(1)(C)(iii)
2 of such Code is amended by striking “7.3 cents” and
3 inserting “3 cents” and by striking “4.3 cents per
4 gallon” and inserting “zero”.

5 (3) Clause (i) of section 4041(a)(1)(D) of such
6 Code is amended by striking “24.3 cents” and in-
7 serting “20 cents”.

8 (4) Subsection (a) of section 4041 of such Code
9 is amended by striking paragraph (3).

10 (5) Paragraph (5) of section 4041(c) of such
11 Code is amended by striking the last sentence.

12 (6) Clauses (i) and (ii) of section
13 4041(m)(1)(A) of such Code are amended to read as
14 follows:

15 “(i) 7 cents per gallon on and after
16 the date of the enactment of the Repeal of
17 the 1993 Gas Tax Act and before October
18 1, 1999, and

19 “(ii) zero after September 30, 1999,
20 and”.

21 (7) Subsection (c) of section 4081 of the Inter-
22 nal Revenue Code of 1986 is amended by striking
23 paragraph (6) and by redesignating paragraphs (7)
24 and (8) as paragraphs (6) and (7), respectively.

1 (8) Paragraph (1) of section 4081(d) of such
2 Code is amended by striking “4.3 cents per gallon”
3 and inserting “zero”.

4 (9) Subparagraph (A) of section 4091(b)(3) of
5 such Code is amended to read as follows:

6 “(A) On and after the date of the enact-
7 ment of the Repeal of the 1993 Gas Tax Act,
8 the rate of tax specified in paragraph (1) shall
9 be zero.”

10 (10) Subsection (c) of section 4091 of such
11 Code is amended—

12 (A) by striking “13.4 cents” in paragraph
13 (1) and inserting “9.1 cents”,

14 (B) by striking “14 cents” in paragraph
15 (1) and inserting “9.7 cents”,

16 (C) by striking paragraph (4), and

17 (D) by redesignating paragraph (5) as
18 paragraph (4).

19 (11) Subsection (b) of section 4092 of such
20 Code is amended by striking “attributable to” and
21 all that follows through “section 4041(c)(4).” and
22 inserting “attributable to the Leaking Underground
23 Storage Tank Trust Fund financing rate imposed by
24 such section. For purposes of the preceding sen-
25 tence, the term ‘commercial aviation’ means any use

1 of an aircraft other than in noncommercial aviation
2 (as defined in section 4041(c)(4)).”

3 (12) Clause (iv) of section 6421(e)(2)(B) of
4 such Code is amended by striking “apply to—” and
5 all that follows and inserting “apply to the taxes
6 under sections 4041(a)(1) and 4081 for the period
7 after December 31, 1993, and before January 1,
8 2000.”

9 (13) Subparagraph (B) of section 6421(f)(2) of
10 such Code is amended by striking “and,” and all
11 that follows to the period.

12 (14) Subparagraph (B) of section 6421(f)(3) of
13 such Code is amended by striking clauses (i), (ii),
14 and (iii) and inserting the following new clauses:

15 “(i) 1.25 cents per gallon on and after
16 the date of the enactment of the Repeal of
17 the 1993 Gas Tax Act and before October
18 1, 1999, and

19 “(ii) zero after September 30, 1999.”

20 (15) Subparagraph (A) of section 6427(b)(2) of
21 such Code is amended by striking “7.4 cents” and
22 inserting “3.1 cents”.

23 (16) Subparagraph (B) of section 6427(l)(3) of
24 such Code is amended by striking clauses (i), (ii),
25 and (iii) and inserting the following new clauses:

1 “(i) 1.25 cents per gallon on and after
2 the date of the enactment of the Repeal of
3 the 1993 Gas Tax Act and before October
4 1, 1999, and

5 “(ii) zero after September 30, 1999.”

6 (17) Paragraph (4) of section 6427(l) of such
7 Code is amended by striking “attributable to” and
8 all that follows through the period and inserting “at-
9 tributable to the Leaking Underground Storage
10 Tank Trust Fund financing rate imposed by such
11 section.”

12 (18) Paragraph (2) of section 9502(f) of such
13 Code is amended by striking “is the excess of” and
14 all that follows and inserting “is the rate of tax de-
15 termined under such section.”

16 (19) Paragraph (2) of section 9503(f) of such
17 Code is amended by striking subparagraph (D) and
18 by redesignating subparagraph (E) as subparagraph
19 (D).

20 (20) Clauses (i) and (ii) of section
21 9503(f)(3)(A) of such Code are amended to read as
22 follows:

23 “(i) 2.5 cents per gallon on and after
24 the date of the enactment of the Repeal of

1 the 1993 Gas Tax Act and before October
2 1, 1999, and

3 “(ii) zero after September 30, 1999.”

4 (21) Paragraph (3) of section 9503(f) of such
5 Code is amended by striking subparagraph (C).

6 (f) EFFECTIVE DATE.—The amendments made by
7 this section shall take effect on the date of the enactment
8 of this Act.

9 **TITLE I—ABOLISHMENT OF**
10 **DEPARTMENT OF ENERGY**

11 **SEC. 101. REESTABLISHMENT OF DEPARTMENT AS ENERGY**
12 **PROGRAMS RESOLUTION AGENCY.**

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

17 (b) ADMINISTRATOR.—

18 (1) IN GENERAL.—There shall be at the head
19 of the Agency an Administrator of the Agency, who
20 shall be appointed by the President, by and with the
21 advice and consent of the Senate. The Agency shall
22 be administered under the supervision and direction
23 of the Administrator. The Administrator shall re-
24 ceive compensation at the rate prescribed for level II

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

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

15 (c) DUTIES.—The Administrator shall be responsible
16 for—

17 (1) the administration and wind-up, during the
18 wind-up period, of all functions of the Administrator
19 pursuant to section 102 and the other provisions of
20 this Act;

21 (2) the administration and wind-up, during the
22 wind-up period, of any outstanding obligations of the
23 Federal Government under any programs terminated
24 or repealed by this Act; and

1 or until the end of the 120-day period provided for in sec-
2 tion 3348 of title 5, United States Code (relating to limita-
3 tions on the period of time a vacancy may be filled tempo-
4 rarily), whichever is earlier.

5 (b) CONTINUATION OF SERVICE OF OTHER OFFI-
6 CERS.—An individual serving on the effective date speci-
7 fied in section 109(a) as an officer of the Department of
8 Energy other than the Secretary of Energy may continue
9 to serve and act in an equivalent capacity in the Agency
10 until the date an individual is appointed under this title
11 to the position of Administrator, or until the end of the
12 120-day period provided for in section 3348 of title 5,
13 United States Code (relating to limitations on the period
14 of time a vacancy may be filled temporarily) with respect
15 to that appointment, whichever is earlier.

16 (c) COMPENSATION FOR CONTINUED SERVICE.—Any
17 person—

18 (1) who acts as the Administrator under sub-
19 section (a), or

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

21 after the effective date specified in section 109(a) and be-
22 fore the first appointment of a person as Administrator
23 shall continue to be compensated for so serving at the rate
24 at which such person was compensated before such effec-
25 tive date.

1 **SEC. 105. REORGANIZATION.**

2 The Administrator may allocate or reallocate any
3 function of the Agency pursuant to this Act among the
4 officers of the Agency, and may establish, consolidate,
5 alter, or discontinue in the Energy Programs Resolution
6 Agency any organizational entities that were entities of
7 the Department of Energy, as the Administrator considers
8 necessary or appropriate.

9 **SEC. 106. ABOLISHMENT OF ENERGY PROGRAMS RESOLU-**
10 **TION AGENCY.**

11 (a) **IN GENERAL.**—Effective on the termination date
12 under subsection (d), the Energy Programs Resolution
13 Agency is abolished.

14 (b) **ABOLITION OF FUNCTIONS.**—Except for func-
15 tions transferred or otherwise continued by this Act, all
16 functions that, immediately before the termination date,
17 were functions of the Energy Programs Resolution Agency
18 are abolished effective on the termination date.

19 (c) **PLAN FOR WINDING UP AFFAIRS.**—Not later
20 than the effective date specified in section 109(a), the
21 President shall submit to the Congress a plan for winding
22 up the affairs of the Agency in accordance with this Act
23 and not by later than the termination date under sub-
24 section (d).

1 (d) **TERMINATION DATE.**—The termination date
2 under this subsection is the date that is 3 years after the
3 date of the enactment of this Act.

4 **SEC. 107. GAO REPORT.**

5 Not later than 180 days after the date of enactment
6 of this Act, the Comptroller General of the United States
7 shall submit to the Congress a report which shall include
8 recommendations for the most efficient means of achiev-
9 ing, in accordance with this Act—

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

12 (2) the termination or transfer or other con-
13 tinuation of the functions of the Department of En-
14 ergy.

15 **SEC. 108. CONFORMING AMENDMENTS.**

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

19 (b) **EXECUTIVE DEPARTMENTS.**—Section 101 of title
20 5, United States Code, is amended by striking the follow-
21 ing item:

22 “The Department of Energy.”.

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

1 “Secretary of Energy.”.

2 (d) DEPUTY SECRETARY’S COMPENSATION.—Section
3 5313 of title 5, United States Code, is amended by strik-
4 ing the following item:

5 “Deputy Secretary of Energy.”.

6 (e) UNDER SECRETARY’S COMPENSATION.—Section
7 5314 of title 5, United States Code, is amended by strik-
8 ing the following item:

9 “Under Secretary, Department of Energy.”.

10 (f) MISCELLANEOUS OFFICERS’ COMPENSATION.—
11 Section 5315 of title 5, United States Code, is amended—

12 (1) by striking the following items:

13 “Assistant Secretaries of Energy (8).

14 “General Counsel of the Department of Energy.

15 “Administrator, Economic Regulatory Adminis-
16 tration, Department of Energy.

17 “Administrator, Energy Information Adminis-
18 tration, Department of Energy.

19 “Inspector General, Department of Energy.

20 “Director, Office of Energy Research, Depart-
21 ment of Energy.”; and

22 (2) by striking the following item:

23 “Chief Financial Officer, Department of En-
24 ergy.”.

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

4 (1) in section 9(a)(1), by striking subparagraph
5 (E);

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

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

8 (h) DEPARTMENT OF ENERGY ORGANIZATION
9 ACT.—Effective on the termination date, the following
10 provisions of the Department of Energy Organization Act
11 (42 U.S.C. 7101 et seq.) are repealed:

12 (1) Sections 1 and 2.

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

14 **SEC. 109. EFFECTIVE DATE.**

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

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

21 (1) Section 101(b).

22 (2) Section 106(c).

23 (3) Section 107.

1 **TITLE II—ENERGY LABORATORY**
2 **FACILITIES**

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

4 (a) ESTABLISHMENT.—There is established an inde-
5 pendent commission to be known as the “Energy Labora-
6 tory Facilities Commission”, for the purpose of reducing
7 the number of energy laboratories and programs at those
8 laboratories, through reconfiguration, privatization, and
9 closure, while preserving the traditional role the energy
10 laboratories have contributed to the national defense.

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

13 (c) APPOINTMENT.—

14 (1) IN GENERAL.—The Commission shall be
15 composed of 7 members appointed by the President,
16 by and with the advice and consent of the Senate.
17 The President shall transmit to the Senate the
18 nominations for appointment to the Commission not
19 later than 3 months after the date of the enactment
20 of this Act.

21 (2) CONSULTATION.—In selecting individuals
22 for nominations for appointments to the Commis-
23 sion, the President should consult with—

1 (A) the Speaker of the House of Rep-
2 representatives concerning the appointment of 2
3 members; and

4 (B) the majority leader of the Senate con-
5 cerning the appointment of 2 members.

6 (3) CHAIRPERSON.—At the time the President
7 nominates individuals for appointment to the Com-
8 mission, the President shall designate one such indi-
9 vidual who shall serve as Chairperson of the Com-
10 mission.

11 (d) TERMS.—The term of each member of the Com-
12 mission shall expire on the termination of the Commission
13 under subsection (l).

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

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

19 (g) PAY AND TRAVEL EXPENSES.—

20 (1) BASIC PAY.—

21 (A) PAY OF MEMBERS.—Each member,
22 other than the Chairperson, shall be paid at a
23 rate equal to the daily equivalent of the mini-
24 mum annual rate of basic pay payable for level
25 IV of the Executive Schedule under section

1 5315 of title 5, United States Code, for each
2 day (including travel time) during which the
3 member is engaged in the actual performance of
4 duties vested in the Commission.

5 (B) PAY OF CHAIRPERSON.—The Chair-
6 person shall be paid for each day referred to in
7 subparagraph (A) at a rate equal to the daily
8 equivalent of the minimum annual rate of basic
9 pay payable for level III of the Executive
10 Schedule under section 5314 of title 5, United
11 States Code.

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

16 (h) DIRECTOR.—

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

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

23 (B) has not been an employee of an energy
24 laboratory during the 5-year period preceding
25 the date of such appointment; and

1 (C) has not been an employee of a contrac-
2 tor operating an energy laboratory during the
3 5-year period preceding the date of such ap-
4 pointment.

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

9 (i) STAFF.—

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

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

1 (3) LIMITATIONS.—Not more than one-third of
2 the personnel employed by or detailed to the Com-
3 mission shall be individuals employed by the Depart-
4 ment of Energy on the day before the date of the
5 enactment of this Act. No employee of an energy
6 laboratory, or of a contractor who operates an en-
7 ergy laboratory, may be detailed to the Commission.

8 (4) SUPPORT FROM OTHER AGENCIES.—Upon
9 request of the Director, the head of a Federal agen-
10 cy may detail any of the personnel of that agency to
11 the Commission to assist the Commission in carry-
12 ing out its duties under this title.

13 (5) SUPPORT FROM COMPTROLLER GENERAL.—
14 The Comptroller General of the United States shall
15 provide assistance, including the detailing of employ-
16 ees, to the Commission in accordance with an agree-
17 ment entered into with the Commission.

18 (j) OTHER AUTHORITY.—

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

24 (2) AUTHORITY TO LEASE SPACE AND ACQUIRE
25 CERTAIN PROPERTY.—The Commission may lease

1 space and acquire personal property to the extent
2 funds are available. To the extent practicable, the
3 Commission shall use suitable real property available
4 under the most recent inventory of real property as-
5 sets published by the Resolution Trust Corporation
6 under section 21A(b)(11)(F) of the Federal Home
7 Loan Bank Act (12 U.S.C. 1441a(b)(12)(F)).

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

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

15 **SEC. 202. PROCEDURE FOR MAKING RECOMMENDATIONS**
16 **FOR LABORATORY FACILITIES.**

17 (a) SELECTION CRITERIA.—In making recommenda-
18 tions for the reconfiguration, privatization, and closure of
19 energy laboratories and termination of programs at such
20 laboratories under this section, the Secretary or the Ad-
21 ministrator, as appropriate, and the Commission shall—

22 (1) give strong consideration to the closure or
23 reconfiguration of energy laboratories;

24 (2) eliminate duplication of effort by energy
25 laboratories and reduce overhead costs as a propor-

1 tion of program benefits distributed through an en-
2 ergy laboratory;

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

5 (4) define appropriate missions for each energy
6 laboratory, and ensure that the activities of each
7 such laboratory are focused on its mission or mis-
8 sions;

9 (5) consider the program costs and program
10 distributions on a State and county basis, including
11 real and personal property costs associated with
12 each energy laboratory considered;

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

16 (7) estimate the cost savings and increases that
17 would accrue through the reconfiguration of energy
18 laboratories;

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

21 (9) consider the transfer of energy laboratories
22 to other Federal agencies;

23 (10) consider the privatization of the energy
24 laboratories as an alternative to closure or reconfig-
25 uration; and

1 (11) be subject to the requirements of section
2 601 of this Act.

3 (b) RECOMMENDATIONS.—

4 (1) PUBLICATION AND TRANSMITTAL.—Not
5 later than 3 months after the date of the enactment
6 of this Act, the Secretary or the Administrator, as
7 appropriate, shall publish in the Federal Register
8 and transmit to the congressional energy committees
9 and to the Commission a list of the energy labora-
10 tories that the Secretary or the Administrator, as
11 appropriate, recommends for reconfiguration, privat-
12 ization, and closure.

13 (2) SUMMARY OF SELECTION PROCESS.—The
14 Secretary or the Administrator, as appropriate, shall
15 include, with the list of recommendations published
16 and transmitted pursuant to paragraph (1), a sum-
17 mary of the selection process that resulted in the
18 recommendation for each energy laboratory, includ-
19 ing a justification for each recommendation.

20 (c) EQUAL CONSIDERATION OF LABORATORIES.—In
21 considering energy laboratories for reconfiguration, privat-
22 ization, and closure, the Secretary or the Administrator,
23 as appropriate, shall consider all such laboratories equally
24 without regard to whether a laboratory has been pre-

1 viously considered or proposed for reconfiguration, privat-
2 ization, or closure by the Secretary of Energy.

3 (d) AVAILABILITY OF INFORMATION.—The Secretary
4 or the Administrator, as appropriate, shall make available
5 to the Commission and the Comptroller General of the
6 United States all information used by the Secretary or the
7 Administrator, as appropriate, in making recommenda-
8 tions under this section.

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

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

17 (3) Within 90 days after the date of the enactment
18 of this Act, the Director of the Office of Management and
19 Budget shall enter into a contract with an independent
20 financial consulting firm for an audit of the energy labora-
21 tories and their programs, facilities, and assets. Such
22 audit shall assess the commercial potential of the energy
23 labs and their programs and make recommendations on
24 how the Government could best realize such potential. The
25 audit shall be completed and transmitted to the Commis-

1 sion, the Secretary or the Administrator, as appropriate,
2 and the congressional energy committees within 6 months
3 after the contract is entered into under this subsection.

4 (f) REVIEW AND RECOMMENDATIONS BY THE COM-
5 MISSION.—

6 (1) PUBLIC HEARINGS.—After receiving the
7 recommendations from the Secretary or the Admin-
8 istrator, as appropriate, pursuant to subsection (b),
9 the Commission shall provide an opportunity for
10 public comment on the recommendations for a 30-
11 day period.

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

24 (3) DEVIATION FROM RECOMMENDATIONS.—In
25 making its recommendations, the Commission may

1 make changes in any of the recommendations made
2 by the Secretary or the Administrator, as appro-
3 priate, if the Commission determines that the Sec-
4 retary or the Administrator, as appropriate, deviated
5 substantially from the criteria described in sub-
6 section (a) in making recommendations. The Com-
7 mission shall explain and justify in the report any
8 recommendation made by the Commission that is
9 different from the recommendations made by the
10 Secretary or the Administrator, as appropriate.

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

20 (5) PROVISION OF CERTAIN INFORMATION.—
21 After transmitting the final report under paragraph
22 (4), the Commission shall promptly provide, upon re-
23 quest, to any Member of Congress information used
24 by the Commission in making its recommendations.

1 (g) ASSISTANCE FROM COMPTROLLER GENERAL.—

2 The Comptroller General of the United States shall—

3 (1) assist the Commission, to the extent re-
4 quired, in the Commission’s review and analysis of
5 the recommendations made by the Secretary or the
6 Administrator, as appropriate, pursuant to sub-
7 section (b); and

8 (2) not later than 6 months after the date of
9 the enactment of this Act, transmit to the congres-
10 sional energy committees and to the Commission a
11 report containing a detailed analysis of the re-
12 commendations of the Secretary or the Adminis-
13 trator, as appropriate, and the selection process.

14 **SEC. 203. RECONFIGURATION, PRIVATIZATION, AND CLO-**
15 **SURE OF ENERGY LABORATORIES.**

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

18 (1) reconfigure, within 1 year after the date of
19 the transmittal of the final report under section
20 202(f)(4), all energy laboratories recommended for
21 reconfiguration by the Commission in such report;

22 (2) provide for and complete the privatization,
23 within 18 months after the date of the transmittal
24 of the final report under section 202(f)(4), of all en-

1 energy laboratories recommended for privatization by
2 the Commission in such report; and

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

9 (b) CONGRESSIONAL DISAPPROVAL.—

10 (1) IN GENERAL.—The Secretary or the Admin-
11 istrator, as appropriate, may not carry out any re-
12 configuration, privatization, or closure of an energy
13 laboratory recommended by the Commission in the
14 report transmitted pursuant to section 202(f)(4) if a
15 joint resolution is enacted, in accordance with the
16 provisions of section 207, disapproving the rec-
17 ommendations of the Commission before the earlier
18 of—

19 (A) the end of the 45-day period beginning
20 on the date on which the Commission transmits
21 the report; or

22 (B) the adjournment of Congress sine die
23 for the session during which the report is trans-
24 mitted.

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

7 **SEC. 204. IMPLEMENTATION OF RECONFIGURATION, PRI-**
8 **VATIZATION, AND CLOSURE ACTIONS.**

9 (a) IMPLEMENTATION.—In reconfiguring,
10 privatizing, or closing an energy laboratory under this
11 title, the Secretary or the Administrator, as appropriate,
12 shall—

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

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

18 (3) reimburse other Federal agencies for ac-
19 tions performed at the request of the Secretary or
20 the Administrator, as appropriate, with respect to
21 any such reconfiguration, privatization, or closure,
22 and may use for such purpose funds in the Account
23 or funds appropriated to the Department of Energy
24 and available for such purpose.

25 (b) MANAGEMENT AND DISPOSAL OF PROPERTY.—

1 (1) IN GENERAL.—The Administrator of Gen-
2 eral Services shall delegate to the Secretary or the
3 Administrator, as appropriate, with respect to excess
4 and surplus real property and facilities located at an
5 energy laboratory reconfigured, privatized, or closed
6 under this title—

7 (A) the authority of the Secretary or the
8 Administrator, as appropriate, to utilize excess
9 property under section 202 of the Federal
10 Property and Administrative Services Act of
11 1949 (40 U.S.C. 483);

12 (B) the authority of the Secretary or the
13 Administrator, as appropriate, to dispose of
14 surplus property under section 203 of that Act
15 (40 U.S.C. 484);

16 (C) the authority of the Secretary or the
17 Administrator, as appropriate, to grant approv-
18 als and make determinations under section
19 13(g) of the Surplus Property Act of 1944 (50
20 U.S.C. App. 1622(g)); and

21 (D) the authority of the Secretary or the
22 Administrator, as appropriate, to determine the
23 availability of excess or surplus real property
24 for wildlife conservation purposes in accordance

1 with the Act of May 19, 1948 (16 U.S.C.
2 667b).

3 (2) EXERCISE OF AUTHORITY.—

4 (A) IN GENERAL.—Subject to subpara-
5 graph (C), the Secretary or the Administrator,
6 as appropriate, shall exercise the authority dele-
7 gated to the Secretary or the Administrator, as
8 appropriate, pursuant to paragraph (1) in ac-
9 cordance with—

10 (i) all regulations in effect on the date
11 of the enactment of this Act governing the
12 utilization of excess property and the dis-
13 posal of surplus property under the Fed-
14 eral Property and Administrative Services
15 Act of 1949; and

16 (ii) all regulations in effect on the
17 date of the enactment of this Act govern-
18 ing the conveyance and disposal of prop-
19 erty under section 13(g) of the Surplus
20 Property Act of 1944 (50 U.S.C. App.
21 1622(g)).

22 (B) REGULATIONS.—The Secretary or the
23 Administrator, as appropriate, after consulting
24 with the Administrator of General Services,
25 may issue regulations that are necessary to

1 carry out the delegation of authority required
2 by paragraph (1).

3 (C) LIMITATION.—The authority required
4 to be delegated by paragraph (1) to the Sec-
5 retary or the Administrator, as appropriate, by
6 the Administrator of General Services shall not
7 include the authority to prescribe general poli-
8 cies and methods for utilizing excess property
9 and disposing of surplus property.

10 (c) WAIVER.—The Secretary or the Administrator, as
11 appropriate, may reconfigure, privatize, or close energy
12 laboratories under this title without regard to any provi-
13 sion of law restricting the use of funds for reconfiguring,
14 privatizing, or closing such energy laboratories included
15 in any appropriations or authorization Act.

16 **SEC. 205. ACCOUNT.**

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

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

24 (1) funds authorized for and appropriated to
25 the Account;

1 (2) any funds that the Secretary or the Admin-
2 istrator, as appropriate, may, subject to approval in
3 an appropriation Act, transfer to the Account from
4 funds appropriated to the Department of Energy for
5 any purpose, except that such funds may be trans-
6 ferred only after the date on which the Secretary or
7 the Administrator, as appropriate, transmits written
8 notice of, and justification for, such transfer to the
9 congressional energy committees; and

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

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

16 (d) REPORTS.—

17 (1) IN GENERAL.—Not later than 60 days after
18 the end of each fiscal year in which the Secretary or
19 the Administrator, as appropriate, carries out activi-
20 ties under this title, the Secretary or the Adminis-
21 trator, as appropriate, shall transmit a report to the
22 congressional energy committees of the amount and
23 nature of the deposits into, and the expenditures
24 from, the Account during such fiscal year and of the

1 amount and nature of other expenditures made pur-
2 suant to section 204(a) during such fiscal year.

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

5 **SEC. 206. REPORTS ON IMPLEMENTATION.**

6 As part of the budget request for each fiscal year in
7 which the Secretary or the Administrator, as appropriate,
8 is authorized to carry out activities under this title, the
9 Secretary or the Administrator, as appropriate, shall
10 transmit to the congressional energy committees—

11 (1) a schedule of the reconfiguration, privatiza-
12 tion, and closure actions to be carried out under this
13 title in the fiscal year for which the request is made
14 and an estimate of the total expenditures required
15 and cost savings to be achieved by each such recon-
16 figuration, privatization, or closure and of the time
17 period in which these savings are to be achieved in
18 each case; and

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

22 **SEC. 207. CONGRESSIONAL CONSIDERATION OF COMMIS-**
23 **SION REPORT.**

24 (a) TERMS OF THE RESOLUTION.—For purposes of
25 section 203(b), the term “joint resolution” means only a

1 joint resolution which is introduced within the 10-day pe-
2 riod beginning on the date on which the Commission
3 transmits the report to the Congress under section
4 202(f)(4), and—

5 (1) which does not have a preamble;

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

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

14 (b) REFERRAL.—A resolution described in subsection
15 (a) that is introduced in the House of Representatives
16 shall be referred to the Committee on National Security
17 and the Committee on Science of the House of Represent-
18 atives. A resolution described in subsection (a) introduced
19 in the Senate shall be referred to the Committee on Armed
20 Services and the Committee on Energy and Natural Re-
21 sources of the Senate.

22 (c) DISCHARGE.—If the committee to which a resolu-
23 tion described in subsection (a) is referred has not re-
24 ported such resolution (or an identical resolution) by the
25 end of the 20-day period beginning on the date on which

1 the Commission transmits the report to the Congress
2 under section 202(f)(4), such committee shall be, at the
3 end of such period, discharged from further consideration
4 of such resolution, and such resolution shall be placed on
5 the appropriate calendar of the House involved.

6 (d) CONSIDERATION.—

7 (1) IN GENERAL.—On or after the third day
8 after the date on which the committee to which such
9 a resolution is referred has reported, or has been
10 discharged (under subsection (c)) from further con-
11 sideration of, such a resolution, it is in order (even
12 though a previous motion to the same effect has
13 been disagreed to) for any Member of the respective
14 House to move to proceed to the consideration of the
15 resolution (but only on the day after the calendar
16 day on which such Member announces to the House
17 concerned the Member's intention to do so). All
18 points of order against the resolution (and against
19 consideration of the resolution) are waived. The mo-
20 tion is highly privileged in the House of Representa-
21 tives and is privileged in the Senate and is not de-
22 batable. The motion is not subject to amendment,
23 or to a motion to postpone, or to a motion to pro-
24 ceed to the consideration of other business. A motion
25 to reconsider the vote by which the motion is agreed

1 to or disagreed to shall not be in order. If a motion
2 to proceed to the consideration of the resolution is
3 agreed to, the respective House shall immediately
4 proceed to consideration of the joint resolution with-
5 out intervening motion, order, or other business, and
6 the resolution shall remain the unfinished business
7 of the respective House until disposed of.

8 (2) DEBATE.—Debate on the resolution, and on
9 all debatable motions and appeals in connection
10 therewith, shall be limited to not more than 2 hours,
11 which shall be divided equally between those favoring
12 and those opposing the resolution. An amendment to
13 the resolution is not in order. A motion further to
14 limit debate is in order and not debatable. A motion
15 to postpone, or a motion to proceed to the consider-
16 ation of other business, or a motion to recommit the
17 resolution is not in order. A motion to reconsider the
18 vote by which the resolution is agreed to or dis-
19 agreed to is not in order.

20 (3) QUORUM CALL.—Immediately following the
21 conclusion of the debate on a resolution described in
22 subsection (a) and a single quorum call at the con-
23 clusion of the debate if requested in accordance with
24 the rules of the appropriate House, the vote on final
25 passage of the resolution shall occur.

1 (4) APPEALS FROM DECISION OF CHAIR.—Ap-
2 peals from the decisions of the Chair relating to the
3 application of the rules of the Senate or the House
4 of Representatives, as the case may be, to the proce-
5 dure relating to a resolution described in subsection
6 (a) shall be decided without debate.

7 (e) CONSIDERATION BY OTHER HOUSE.—

8 (1) IN GENERAL.—If, before the passage by one
9 House of a resolution of that House described in
10 subsection (a), that House receives from the other
11 House a resolution described in subsection (a), then
12 the following procedures shall apply:

13 (A) The resolution of the other House shall
14 not be referred to a committee and may not be
15 considered in the House receiving it except in
16 the case of final passage as provided in sub-
17 paragraph (B)(ii).

18 (B) With respect to a resolution described
19 in paragraph (1) of the House receiving the res-
20 olution—

21 (i) the procedure in that House shall
22 be the same as if no resolution had been
23 received from the other House; but

24 (ii) the vote on final passage shall be
25 on the resolution of the other House.

1 (2) CONSIDERATION AFTER DISPOSITION BY
2 OTHER HOUSE.—Upon disposition of the resolution
3 received from the other House, it shall no longer be
4 in order to consider the resolution that originated in
5 the receiving House.

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

8 (1) as an exercise of the rulemaking power of
9 the Senate and House of Representatives, respec-
10 tively, and as such it is deemed a part of the rules
11 of each House, respectively, but applicable only with
12 respect to the procedure to be followed in that
13 House in the case of a resolution described in sub-
14 section (a), and it supersedes other rules only to the
15 extent that it is inconsistent with such rules; and

16 (2) with full recognition of the constitutional
17 right of either House to change the rules (so far as
18 relating to the procedure of that House) at any time,
19 in the same manner, and to the same extent as in
20 the case of any other rule of that House.

21 **SEC. 208. DEFINITIONS.**

22 For purposes of this title:

23 (1) The term “Account” means the Energy
24 Laboratory Facility Closure Account established in
25 section 205(a).

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

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

5 (4) The term “congressional energy commit-
6 tees” means the Committee on Armed Services of
7 the Senate, the Committee on National Security of
8 the House of Representatives, the Committee on
9 Science of the House of Representatives, and the
10 Committee on Energy and Natural Resources of the
11 Senate.

12 (5) The term “energy laboratory” means the
13 Lawrence Livermore National Laboratory, the Los
14 Alamos National Laboratory, the Sandia National
15 Laboratories, the Argonne National Laboratory, the
16 Brookhaven National Laboratory, the Idaho Na-
17 tional Engineering Laboratory, the Lawrence Berke-
18 ley Laboratory, the Oak Ridge National Laboratory,
19 the Pacific Northwest Laboratory, the National Re-
20 newable Energy Laboratory, the Ames Laboratory,
21 the Bates Linear Accelerator Laboratory, the Bettis
22 Atomic Power Laboratory, the Continuous Electron
23 Beam Accelerator Facility, the Energy Technology
24 Engineering Center, the Environmental Measure-
25 ments Laboratory, the Fermi National Accelerator

1 Laboratory, the Inhalation Toxicology Research In-
2 stitute, the Knolls Atomic Power Laboratory, the
3 Laboratory of Radiobiology and Environmental
4 Health, the Morgantown Energy Technology Center,
5 the National Renewable Energy Laboratory, the
6 New Brunswick Laboratory, the Oak Ridge Institute
7 for Science and Education, the Pittsburgh Energy
8 Technology Center, the Princeton Plasma Physics
9 Laboratory, the Savannah River Ecology Labora-
10 tory, the Savannah River Technology Center, the
11 Specific Manufacturing Capability Facility, or the
12 Stanford Linear Accelerator Facility.

13 (6) The term “the Secretary or the Adminis-
14 trator, as appropriate” means the Secretary of En-
15 ergy, or, after the effective date stated in section
16 109(a), the Administrator.

17 **TITLE III—PRIVATIZATION OF**
18 **FEDERAL POWER MARKET-**
19 **ING ADMINISTRATIONS**

20 **SEC. 301. SHORT TITLE.**

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

23 **SEC. 302. FINDINGS.**

24 The Congress finds that:

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

4 (2) they have done so with the investment of
5 the American taxpayer;

6 (3) the necessity of federally owned power gen-
7 eration and transmission facilities has passed and
8 halting this practice is in the best national interest
9 of the United States;

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

13 (5) the taxpayers, through investing in the con-
14 struction and operation, have established equity in
15 the facilities; and

16 (6) this equity entitles the American taxpayer
17 to expect the highest possible return in the sale
18 process.

19 **SEC. 303. SALE OF ASSETS.**

20 (a) SALE OF ASSETS.—The Secretary is authorized
21 and directed to take such steps as necessary to sell all
22 electric power generation facilities and transmission facili-
23 ties, that are currently owned and operated by Federal
24 departments and agencies under the supervision of, or co-
25 ordination with, the Federal Power Marketing Administra-

1 tions other than the Bonneville Power Administration. No
2 foreign person or corporation may purchase any such fa-
3 cilities; such facilities may be sold only to a United States
4 citizen or to a corporation or partnership organized under
5 the laws of a State. After such sales are completed the
6 Secretary shall terminate the operations of the Federal
7 Power Marketing Administrations other than the Bonne-
8 ville Power Administration. The heads of other affected
9 Federal departments and agencies shall assist the Sec-
10 retary of Energy in implementing the sales authorized by
11 this section.

12 (b) PRICE; STRUCTURE OF SALE.—

13 (1) PRICE.—The Secretary shall obtain the
14 highest possible price for such facilities. In determin-
15 ing the highest possible price, the value of future tax
16 revenues shall be included.

17 (2) RETENTION OF FINANCIAL ADVISOR.—In
18 order to conduct the sales authorized by this section
19 in such manner as will produce the highest possible
20 price for the facilities to be sold consistent with this
21 title, within 30 days of enactment of this section, the
22 Secretary shall, through a competitive bidding proc-
23 ess, retain an experienced private sector firm to
24 serve as financial advisor to the Secretary with re-
25 spect to such sales.

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

5 (A) a description of those assets described
6 in subsection (a) which, in the opinion of the fi-
7 nancial advisor, can be successfully transferred
8 to private sector ownership or operation;

9 (B) the value of each such asset, calculated
10 on the basis of the valuation method or meth-
11 ods which the financial advisor deems most ap-
12 propriate to a particular asset;

13 (C) the appropriate alternative trans-
14 actional methods for transferring each such
15 asset to private sector ownership or operation;

16 (D) the amount of proceeds which the fi-
17 nancial advisor estimates would be paid to the
18 United States Government as a result of such
19 transaction, including the present value of fu-
20 ture revenue from taxes and any other future
21 payments to be made to the United States Gov-
22 ernment; and

23 (E) an estimate of the average market rate
24 for wholesale electric power sales within each

1 region served by a Federal Power Marketing
2 Administration.

3 (c) TIME OF SALE.—Sales of facilities under this sec-
4 tion shall be conducted in accordance with the time of sale
5 schedule set forth in section 304. At least one year before
6 the date of any sale specified in such schedule, the Sec-
7 retary, in consultation with the Secretary of the Army and
8 the Secretary of the Interior, and based on the rec-
9 ommendations of the financial advisor, shall select the fa-
10 cilities or groups of facilities to be sold and establish the
11 terms and conditions of the sale.

12 (d) FORMER EMPLOYEES OF PMAS.—It is the sense
13 of the Congress that the purchaser of any such facilities
14 should offer to employ, where possible, former employees
15 of the Federal Power Marketing Administrations in con-
16 nection with the operation of the facilities following their
17 purchase.

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

21 (f) PREPARATION.—The Secretary of Energy is au-
22 thorized to use funds appropriated to the Department of
23 Energy for the Federal Power Marketing Administrations
24 and funds otherwise appropriated to other Federal agen-
25 cies for power generation and related activities in order

1 to prepare these assets for sale and conveyance. Such
2 preparation shall provide sufficient title to ensure the ben-
3 efiticial use, enjoyment, and occupancy to the purchasers
4 of the assets to be sold and shall include identification of
5 all associated laws and regulations to be amended for the
6 purpose of these sales. The Secretary of Energy shall un-
7 dertake a study of the effect of sales of facilities under
8 this title on existing contracts for the sale of electric power
9 generated at such facilities.

10 (g) REPORTING OF SALES.—Not later than one year
11 after the sale of the assets of each Federal Power Market-
12 ing Administration (other than the Bonneville Power Ad-
13 ministration) in accordance with this title, the Secretary
14 of Energy shall—

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

17 (2) prepare and submit to Congress a report
18 documenting the sales.

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

23 (1) Section 203 of the Federal Property and
24 Administrative Services Act of 1949 (40 U.S.C.
25 484).

1 above the baseline price at a rate greater than 10 percent
2 annually. For purposes of this section, the term “baseline
3 price” means the price for the sale of electric power to
4 a consumer that is in effect on the date of the sale of
5 the facility. The preceding sentence shall cease to apply
6 when the price at which electric power is sold to a
7 consumer is at least equal to the average market rate for
8 wholesale electric power sales within the region concerned,
9 as determined by the Financial Advisor.

10 **SEC. 306. LICENSING OF PROJECTS TO PRESERVE CUR-**
11 **RENT OPERATING CONDITIONS.**

12 (a) ORIGINAL LICENSE.—Simultaneously with the
13 sale of hydroelectric generation facility under this title, the
14 Federal Energy Regulatory Commission shall issue an
15 original license under part 1 of the Federal Power Act
16 (16 U.S.C. 791a–823b) to the purchaser for the construc-
17 tion, operation, and maintenance of such facility. Such li-
18 cense shall expire on the date 10 years after the date of
19 the sale of the facility and shall contain standard terms
20 and conditions for hydroelectric power licenses issued
21 under part 1 of such Act for facilities installed at Federal
22 water projects, together with such additional terms and
23 conditions as the Commission deems necessary, in con-
24 sultation with the department or agency which operates
25 such water project, to further the project purposes and

1 insure that the project will continue operations in the
2 same manner and subject to the same procedures, con-
3 tracts, and other requirements as were applicable prior to
4 the sale. The Commission shall publish such license terms
5 and conditions for each facility to be sold under this title
6 as promptly as practicable after the date of the enactment
7 of this Act but not later than one year prior to the date
8 established for the sale of the facility.

9 (b) LICENSE REQUIRED.—Notwithstanding any
10 other provision of law, the Federal Energy Regulatory
11 Commission shall have jurisdiction under part 1 of the
12 Federal Power Act over any hydroelectric generation facil-
13 ity sold under this title.

14 **SEC. 307. ENABLING FEDERAL STUDIES.**

15 Section 505 of the Energy and Water Development
16 Appropriations Act of 1993 (Public Law 102–377) is
17 hereby repealed.

18 **SEC. 308. BONNEVILLE POWER ADMINISTRATION.**

19 (a) TRANSFER OF FUNCTIONS.—There are hereby
20 transferred to the Secretary of the Interior all functions
21 performed by the Department of Energy with respect to
22 the Bonneville Power Administration (BPA) on the day
23 before the effective date of this section.

24 (b) STUDY REGARDING FUTURE OF BONNEVILLE
25 POWER ADMINISTRATION.—The Secretary of the Interior

1 shall conduct a study, taking into consideration any rel-
2 evant factor, including debt, statutory or treaty obliga-
3 tions, to determine which option regarding the future dis-
4 position of BPA represents the most cost-effective option
5 for both the Pacific Northwest and United States as a
6 whole.

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

12 **SEC. 309. DEFINITIONS.**

13 For purposes of this title:

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

1 cility used for navigation, flood control, irrigation,
2 water supply, or recreation.

3 (2) The term “Secretary” means the Secretary
4 of Energy or any successor agency. If any such
5 agency terminates prior to the complete execution of
6 all duties vested in the Secretary of Energy under
7 this title, such duties shall be vested in the Secretary
8 of the Interior.

9 **TITLE IV—TRANSFER AND**
10 **DISPOSAL OF RESERVES**

11 **SEC. 401. STRATEGIC PETROLEUM RESERVE.**

12 (a) TRANSFER OF FUNCTIONS.—There are hereby
13 transferred to the Secretary of the Interior all functions
14 performed by the Department of Energy with respect to
15 the Strategic Petroleum Reserve on the day before the ef-
16 fective date of this section.

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

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

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

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

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

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

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

1 **SEC. 402. TRANSFER OF NAVAL PETROLEUM RESERVES TO**
2 **DEPARTMENT OF THE INTERIOR; SALE OF**
3 **NAVAL PETROLEUM RESERVE NUMBERED 1**
4 **(ELK HILLS).**

5 (a) **TRANSFER OF JURISDICTION.**—The Secretary of
6 Energy shall transfer the naval petroleum reserves (as de-
7 fined in section 7420(2) of title 10, United States Code)
8 from the jurisdiction and control of the Department of En-
9 ergy to the jurisdiction and control of the Department of
10 the Interior. The transfer required by this subsection shall
11 be made without compensation or reimbursement.

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

16 (c) **SALE OF ELK HILLS UNIT REQUIRED.**—Chapter
17 641 of title 10, United States Code, is amended by insert-
18 ing after section 7421 the following new section:

19 **“§ 7421a. Sale of Naval Petroleum Reserve Numbered**
20 **1 (Elk Hills)**

21 “(a) **SALE REQUIRED.**—(1) Notwithstanding any
22 other provision of this chapter, the Secretary shall sell all
23 right, title, and interest of the United States in and to
24 lands owned or controlled by the United States inside
25 Naval Petroleum Reserve Numbered 1, commonly referred
26 to as the Elk Hills Unit, located in Kern County, Califor-

1 nia, and established by Executive order of the President,
2 dated September 2, 1912. Within one year after the effec-
3 tive date, the Secretary shall enter into one or more con-
4 tracts for the sale of all of the interest of the United
5 States in the reserve.

6 “(2) In this section:

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

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

13 “(C) The term ‘effective date’ means the date
14 of the enactment of the Department of Energy Abol-
15 ishment Act.

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

21 “(2) The Secretary shall retain the services of an
22 independent petroleum engineer, mutually acceptable to
23 the equity owners, who shall prepare a recommendation
24 on final equity figures. The Secretary may accept the rec-
25 ommendation of the independent petroleum engineer for

1 final equity in each known oil and gas zone and establish
2 final equity interest in the Naval Petroleum Reserve Num-
3 bered 1 in accordance with such recommendation, or the
4 Secretary may use such other method to establish final
5 equity interest in the reserve as the Secretary considers
6 appropriate.

7 “(3) If, on the effective date, there is an ongoing eq-
8 uity redetermination dispute between the equity owners
9 under section 9(b) of the unit plan contract, such dispute
10 shall be resolved in the manner provided in the unit plan
11 contract within five months after the effective date. Such
12 resolution shall be considered final for all purposes under
13 this section.

14 “(c) TIMING AND ADMINISTRATION OF SALE.—(1)
15 Not later than two months after the effective date, the
16 Secretary shall retain the services of five independent ex-
17 perts in the valuation of oil and gas fields to conduct sepa-
18 rate assessments, in a manner consistent with commercial
19 practices, of the fair market value of the interest of the
20 United States in Naval Petroleum Reserve Numbered 1.
21 In making their assessments, the independent experts
22 shall consider (among other factors) all equipment and fa-
23 cilities to be included in the sale, the net present value
24 of the reserve, and the net present value of the anticipated
25 revenue stream that the Secretary determines the Treas-

1 ury would receive from the reserve if the reserve were not
2 sold, adjusted for any anticipated increases in tax reve-
3 nues that would result if the reserve were sold. The inde-
4 pendent experts shall complete their assessments within
5 five months after the effective date. In setting the mini-
6 mum acceptable price for the reserve, the Secretary shall
7 consider the average of the five assessments or, if more
8 advantageous to the Government, the average of three as-
9 sessments after excluding the high and low assessments.

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

16 “(3) Not later than five months after the effective
17 date, the sales administrator selected under paragraph (2)
18 shall complete a draft contract for the sale of Naval Petro-
19 leum Reserve Numbered 1, which shall accompany the in-
20 vitation for bids and describe the terms and provisions of
21 the sale of the interest of the United States in the reserve.
22 The draft contract shall identify all equipment and facili-
23 ties to be included in the sale. The draft contract, includ-
24 ing the terms and provisions of the sale of the interest
25 of the United States in the reserve, shall be subject to

1 review and approval by the Secretary, the Secretary of the
2 Treasury, and the Director of the Office of Management
3 and Budget.

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

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

13 “(d) FUTURE LIABILITIES.—The United States shall
14 hold harmless and fully indemnify the purchaser of the
15 interest of the United States in Naval Petroleum Reserve
16 Numbered 1 from and against any claim or liability as
17 a result of ownership in the reserve by the United States.

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

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

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

7 “(C) Any other means that would not be incon-
8 sistent with the Congressional Budget Act of 1974
9 (2 U.S.C. 621 et seq.).

10 “(D) Any combination of subparagraphs (A),
11 (B), and (C).

12 “(2) The value of any payment, grant, or means (or
13 combination thereof) under paragraph (1) may not exceed
14 an amount equal to seven percent of the proceeds from
15 the sale of the reserve, after deducting the costs incurred
16 to conduct the sale.

17 “(f) PRODUCTION ALLOCATION FOR SALE.—(1) As
18 part of the contract for purchase of Naval Petroleum Re-
19 serve Numbered 1, the purchaser of the interest of the
20 United States in the reserve shall agree to make up to
21 25 percent of the purchaser’s share of annual petroleum
22 production from the purchased lands available for sale to
23 small refiners, which do not have their own adequate
24 sources of supply of petroleum, for processing or use only
25 in their own refineries. None of the reserved production

1 sold to small refiners may be resold in kind. The purchaser
2 of the reserve may reduce the quantity of petroleum re-
3 served under this subsection in the event of an insufficient
4 number of qualified bids. The seller of this petroleum pro-
5 duction has the right to refuse bids that are less than the
6 prevailing market price of comparable oil.

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

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

24 “(h) EFFECT ON EXISTING CONTRACTS.—(1) In the
25 case of any contract, in effect on the effective date, for

1 the purchase of production from any part of the United
2 States' share of Naval Petroleum Reserve Numbered 1,
3 the sale of the interest of the United States in the reserve
4 shall be subject to the contract for a period of three
5 months after the closing date of the sale or until termi-
6 nation of the contract, whichever occurs first. The term
7 of any contract entered into after the effective date for
8 the purchase of such production shall not exceed the an-
9 ticipated closing date for the sale of the reserve.

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

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

21 “(i) EFFECT ON ANTITRUST LAWS.—Nothing in this
22 section shall be construed to alter the application of the
23 antitrust laws of the United States to the purchaser of
24 Naval Petroleum Reserve Numbered 1 or to the lands in

1 the reserve subject to sale under this section upon the
2 completion of the sale.

3 “(j) PRESERVATION OF PRIVATE RIGHT, TITLE, AND
4 INTEREST.—Nothing in this section shall be construed to
5 adversely affect the ownership interest of any other entity
6 having any right, title, and interest in and to lands within
7 the boundaries of Naval Petroleum Reserve Numbered 1
8 and which are subject to the unit plan contract.

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

18 (b) CLERICAL AMENDMENT.—The table of sections
19 at the beginning of such chapter is amended by inserting
20 after the item relating to section 7421 the following new
21 item:

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

22 (c) CONFORMING AMENDMENTS TO TITLE 10,
23 UNITED STATES CODE.—

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

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

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

9 (C) in section 7430(d), by striking “, in
10 consultation with the Secretary of the Inte-
11 rior,”; and

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

15 (2) TRANSITION.—Until such time as the Sec-
16 retary of Energy transfers administration of the
17 naval petroleum reserves to the Secretary of the In-
18 terior, as required by subsection (a), the Secretary
19 of Energy shall continue to be responsible for ad-
20 ministering the reserves.

21 **SEC. 403. STUDY REGARDING FUTURE OF NAVAL PETRO-**
22 **LEUM RESERVES (OTHER THAN NAVAL PE-**
23 **TROLEUM RESERVE NUMBERED 1).**

24 (a) STUDY REQUIRED.—The Secretary of the Inte-
25 rior shall conduct a study to determine which of the follow-

1 ing options regarding the naval petroleum reserves rep-
2 resents the most cost-effective option for the United
3 States:

4 (1) Retention and operation of the naval petro-
5 leum reserves under chapter 641 of title 10, United
6 States Code.

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

10 (3) Lease of the naval petroleum reserves.

11 (4) Sale of the interest of the United States in
12 the naval petroleum reserves.

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

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

1 (d) REPORT REGARDING STUDY.—Not later than
2 December 31, 1995, the Secretary shall submit to Con-
3 gress a report describing the results of the study and con-
4 taining such recommendations as the Secretary considers
5 necessary to implement the most cost-effective option
6 identified in the study.

7 (e) NAVAL PETROLEUM RESERVES DEFINED.—For
8 purposes of this section, the term “naval petroleum re-
9 serves” has the meaning given that term in section
10 7420(2) of title 10, United States Code, except that such
11 term does not include Naval Petroleum Reserve Numbered
12 1.

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

18 **SEC. 501. DEFINITIONS.**

19 In this subtitle:

20 (1) The term “defense nuclear programs mat-
21 ters” means matters related to the military use of
22 nuclear energy and nuclear weapons, including all
23 such matters that were under the jurisdiction of the
24 following entities on the day before the date of the
25 enactment of this Act:

1 (A) The Department of Energy.

2 (B) The Defense Nuclear Agency of the
3 Department of Defense.

4 (C) The Defense Nuclear Facilities Safety
5 Board.

6 (2) The term “Under Secretary” means the
7 Under Secretary of Defense for Defense Nuclear
8 Programs.

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

11 **SEC. 502. ESTABLISHMENT AND ORGANIZATION OF DE-**
12 **FENSE NUCLEAR PROGRAMS AGENCY.**

13 (a) ESTABLISHMENT OF DEFENSE NUCLEAR PRO-
14 GRAMS AGENCY.—There is established an agency in the
15 Department of Defense to be known as the Defense Nu-
16 clear Programs Agency.

17 (b) UNDER SECRETARY.—The Agency shall be head-
18 ed by an Under Secretary for Defense Nuclear Programs,
19 who shall serve as the principal adviser to the President
20 and the Secretary of Defense on defense nuclear programs
21 matters. In carrying out his duties under this Act, the
22 Under Secretary for Defense Nuclear Programs shall, sub-
23 ject to the authority, direction, and control of the Sec-
24 retary of Defense, have primary responsibility within the
25 Government for defense nuclear programs matters. The

1 Under Secretary shall be appointed by the President, by
2 and with the advice and consent of the Senate. A commis-
3 sioned officer of the Armed Forces serving on active duty
4 may not be appointed Under Secretary. The Under Sec-
5 retary shall be compensated at the rate provided for level
6 II of the Executive Schedule under section 5313 of title
7 5, United States Code.

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

23 (d) ASSISTANT SECRETARIES.—(1) Four Assistant
24 Secretaries of the Agency shall be appointed by the Presi-
25 dent, by and with the advice and consent of the Senate.

1 They shall perform such duties and exercise such powers
2 as the Under Secretary may prescribe.

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

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

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

18 (e) INSPECTOR GENERAL.—There shall be an Inspec-
19 tor General of the Agency, who shall be appointed as pro-
20 vided in section 3 of the Inspector General Act of 1978
21 (5 U.S.C. App. 3). The Inspector General shall perform
22 the duties, have the responsibilities, and exercise the pow-
23 ers specified in the Inspector General Act of 1978 (5
24 U.S.C. App. 3).

1 (f) GENERAL COUNSEL.—There shall be a General
2 Counsel of the Agency, who shall be appointed by the
3 Under Secretary. The General Counsel shall be the chief
4 legal officer for all legal matters arising from the conduct
5 of the functions of the Agency. The General Counsel shall
6 be compensated at the rate provided for level V of the Ex-
7 ecutive Schedule under section 5316 of title 5, United
8 States Code.

9 **SEC. 503. FUNCTIONS OF DEFENSE NUCLEAR PROGRAMS**
10 **AGENCY.**

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

14 (b) TRANSFERRED FUNCTIONS.—The Under Sec-
15 retary for Defense Nuclear Programs shall carry out all
16 functions transferred to the Under Secretary pursuant to
17 section 504.

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

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

23 **SEC. 504. TRANSFERS OF FUNCTIONS.**

24 (a) DEPARTMENT OF ENERGY.—(1) There are here-
25 by transferred to the Under Secretary for Defense Nuclear

1 Programs all functions performed by the Department of
2 Energy on the day before the date of the enactment of
3 this Act relating to the national security functions of the
4 Department, including defense, nonproliferation, and de-
5 fense-related environmental management programs.

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

12 (A) Sandia National Laboratories, Albuquerque,
13 New Mexico, and Livermore, California.

14 (B) Los Alamos National Laboratory, Los Ala-
15 mos, New Mexico.

16 (C) Lawrence Livermore National Laboratory,
17 California.

18 (b) DEFENSE NUCLEAR AGENCY.—There are hereby
19 transferred to the Under Secretary for Defense Nuclear
20 Programs all functions performed by the Defense Nuclear
21 Agency of the Department of Defense on the day before
22 the date of the enactment of this Act relating to nuclear
23 weapons systems.

24 (c) DEFENSE NUCLEAR FACILITIES SAFETY
25 BOARD.—There are hereby transferred to the Under Sec-

1 retary for Defense Nuclear Programs all functions per-
2 formed by the Defense Nuclear Facilities Safety Board on
3 the day before the date of the enactment of this Act.

4 (d) OTHER NUCLEAR WEAPONS-RELATED FUNC-
5 TIONS.—The Secretary of Defense may transfer to the
6 Under Secretary for Defense Nuclear Programs such
7 other functions performed in the Department of Defense
8 on the day before the date of the enactment of this Act
9 relating to nuclear weapons as the Secretary considers ap-
10 propriate.

11 (e) CONFORMING REPEALS.—

12 (1) ASSISTANT TO THE SECRETARY OF DE-
13 FENSE FOR ATOMIC ENERGY.—Section 141 of title
14 10, United States Code, is hereby repealed. The
15 table of sections at the beginning of chapter 4 of
16 such title is amended by striking out the item relat-
17 ing to such section.

18 (2) DEFENSE NUCLEAR FACILITIES SAFETY
19 BOARD.—Chapter 21 of the Atomic Energy Act of
20 1954 (42 U.S.C. 2286) is hereby repealed.

21 (3) REFERENCES.—Any reference to the Assist-
22 ant Secretary of Defense for Atomic Energy or the
23 Defense Nuclear Facilities Safety Board in any pro-
24 vision of law or in any rule, regulation, or other
25 paper of the United States shall be treated as refer-

1 ring to the Under Secretary for Defense Nuclear
2 Programs.

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

4 No amount appropriated to the Agency may be trans-
5 ferred to any other account (other than another account
6 of the Agency) unless the transfer of such amount to such
7 account is specifically authorized by law. No amount ap-
8 propriated to the Department of Defense or another de-
9 partment or agency may be transferred to the Under Sec-
10 retary for Defense Nuclear Programs or to an account for
11 the Agency unless the transfer of such amount to such
12 account is specifically authorized by law.

13 **SEC. 506. TRANSITION PROVISIONS.**

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

23 (b) AUTHORITIES TO WIND UP AFFAIRS.—

24 (1) IN GENERAL.—(A) The Director of the Of-
25 fice of Management and Budget may take such ac-

1 tions as the Director considers necessary to wind up
2 any outstanding affairs of the Department of En-
3 ergy associated with the functions that are trans-
4 ferred pursuant to section 504(a).

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

15 (C) The Secretary of the Navy may take such
16 actions as the Secretary considers necessary to wind
17 up any outstanding affairs of the Strategic Systems
18 Programs of the Department of the Navy associated
19 with the functions that are transferred pursuant to
20 section 504(e).

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

1 (2) TRANSFER OF ASSETS.—So much of the
2 personnel, property, records, and unexpended bal-
3 ances of appropriations, allocations, and other funds
4 employed, used, held, available, or to be made avail-
5 able in connection with a function transferred to the
6 Under Secretary for Defense Nuclear Programs by
7 this Act are transferred to the Under Secretary for
8 use in connection with the functions transferred.

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

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

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

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

22 (2) in paragraph (2), by striking out “or the
23 Social Security Administration;” and inserting in
24 lieu thereof “the Social Security Administration, or
25 the Defense Nuclear Programs Agency;”.

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

4 “Under Secretary for Defense Nuclear Pro-
5 grams.”.

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

8 “Deputy Under Secretary for Defense Nuclear
9 Programs.”.

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

12 “Assistant Secretaries, Defense Nuclear Pro-
13 grams Agency (4).

14 “Inspector General, Defense Nuclear Programs
15 Agency.”.

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

18 “General Counsel, Defense Nuclear Programs
19 Agency.”.

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

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

24 (b) DELAYED EFFECTIVE DATE FOR ESTABLISH-
25 MENT OF AGENCY AND TRANSFERS OF FUNCTIONS.—

1 Section 502(a) and section 504 of this Act shall take effect
2 one year after the date of the enactment of this Act.

3 (c) TRANSITION PERIOD.—The Secretary of Defense,
4 the Secretary of Energy, the Assistant to the Secretary
5 of Defense for Atomic Energy, and the Defense Nuclear
6 Facilities Safety Board shall, beginning as soon as prac-
7 ticable after the date of the enactment of this Act, plan
8 for the orderly establishment of, and transfer of functions
9 to, the Agency pursuant to this Act.

10 (d) APPOINTMENT AUTHORITY.—The President may
11 make appointments under section 2 notwithstanding the
12 delayed effective date under subsection (b) for the estab-
13 lishment of the Agency.

14 **Subtitle B—Environmental Res-**
15 **toration Activities at Defense**
16 **Nuclear Facilities**

17 **SEC. 521. ENVIRONMENTAL RESTORATION ACTIVITIES AT**
18 **DEFENSE NUCLEAR FACILITIES.**

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

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

5 **“Subtitle A—General Provisions**

6 **“SEC. 401. APPLICABILITY.**

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

10 **“SEC. 402. DEFINITIONS.**

11 “For purposes of this title:

12 “(1) The term “defense nuclear facility”
 13 means—

14 “(A) a production facility or utilization fa-
 15 cility (as those terms are defined in section 11
 16 of the Atomic Energy Act of 1954 (42 U.S.C.
 17 2014)) that is under the control or jurisdiction
 18 of the Under Secretary of Defense for Defense
 19 Nuclear Programs and that is operated for na-
 20 tional security purposes (including the tritium

1 loading facility at Savannah River, South Caro-
2 lina, the 236 H facility at Savannah River,
3 South Carolina; and the Mound Laboratory,
4 Ohio), but the term does not include any facil-
5 ity that does not conduct atomic energy defense
6 activities and does not include any facility or
7 activity covered by Executive Order Number
8 12344, dated February 1, 1982, pertaining to
9 the naval nuclear propulsion program;

10 “(B) a nuclear waste storage or disposal
11 facility that is under the control or jurisdiction
12 of the Under Secretary of Defense for Defense
13 Nuclear Programs;

14 “(C) a testing and assembly facility that is
15 under the control or jurisdiction of the Under
16 Secretary of Defense for Defense Nuclear Pro-
17 grams and that is operated for national security
18 purposes (including the Nevada Test Site, Ne-
19 vada; the Pinnellas Plant, Florida; and the
20 Pantex facility, Texas);

21 “(D) an atomic weapons research facility
22 that is under the control or jurisdiction of the
23 Under Secretary of Defense for Defense Nu-
24 clear Programs (including the Lawrence Liver-

1 more, Los Alamos, and Sandia National Lab-
2 oratories); or

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

5 “(i) is no longer in operation;

6 “(ii) was under the control or jurisdic-
7 tion of the Department of Defense, the
8 Atomic Energy Commission, the Energy
9 Research and Development Administration,
10 or the Department of Energy; and

11 “(iii) was operated for national secu-
12 rity purposes.

13 “(2) The term ‘Under Secretary’ means the Under
14 Secretary of Defense for Defense Nuclear Programs.

15 “(3) The term ‘Administrator’ means the Adminis-
16 trator of the Environmental Protection Agency.

17 **“Subtitle B—Selection of Remedial**
18 **Action**

19 **“SEC. 411. REVIEW OF ONGOING AND PLANNED REMEDIAL**
20 **ACTIONS.**

21 “REVIEW OF ONGOING AND PLANNED ACTIVITIES.—

22 (1) Not later than one year after the date of the enactment
23 of this title, the Under Secretary shall review each reme-
24 dial action described in paragraph (2) for purposes of de-
25 termining whether the remedial action was selected in a

1 manner consistent with the requirements of this subtitle.
2 If the Under Secretary determines the selection was not
3 consistent with the requirements of this subtitle, the
4 Under Secretary shall modify the remedial action in a
5 manner consistent with the requirements of this subtitle.
6 The Under Secretary shall, to the maximum extent prac-
7 ticable, ensure the minimization of any delays in the per-
8 formance of the remedial action that result from the
9 Under Secretary's activities under this paragraph.

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

12 “(A) which is ongoing as of the date of the en-
13 actment of this title, including a facility for which
14 construction is ongoing or has been completed as of
15 such date; or

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

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

19 “(a) IN GENERAL.—The Under Secretary shall select
20 a remedial action for a defense nuclear facility based upon
21 consideration of a site-specific risk assessment conducted
22 in accordance with section 413 and an analysis of risk re-
23 duction benefits and costs conducted in accordance with
24 section 414.

1 “(b) REQUIREMENT FOR LOWEST COST ACTION.—

2 In selecting a remedial action, the Under Secretary shall
3 select the lowest cost action which achieves a residual risk
4 that is within the risk range goal established by the Na-
5 tional Contingency Plan for protection of public health
6 and the environment, unless—

7 “(1) the incremental benefits of a more expen-
8 sive remedial action justify incurring the incremental
9 costs of the more expensive remedy, as set forth in
10 the analysis of risk reductions cost and benefits for
11 the remedial action pursuant to section 414, in
12 which case a more expensive remedy may be se-
13 lected, or

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

19 “(c) CONSULTATION.—Before selection of a remedial
20 action and before public comment under subsection (d),
21 the Under Secretary shall consult with the Administrator,
22 officials of State, local, or tribal governments having juris-
23 diction over the property or, in the case of property which
24 is exclusively under Federal jurisdiction, having jurisdic-
25 tion over the surrounding areas. Such consultation shall

1 include discussion of, at a minimum, current area demo-
2 graphics, land and water uses, and currently planned land
3 and water uses, the determination of which shall remain
4 the sole purview of the appropriate State, local, or tribal
5 government with jurisdiction.

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

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

12 “(1) That the analysis of risk reduction benefits
13 and costs for the remedial action pursuant to section
14 414 is based on objective and unbiased scientific and
15 economic evaluations of all significant and relevant
16 information and on risk assessments provided to the
17 agency by interested parties relating to the costs,
18 risks, and risk reduction and other benefits of the
19 remedial action selected.

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

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

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

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

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

15 “(A) distinguishes scientific findings from other
16 considerations;

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

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

22 “(2) Discussions or explanations required under this
23 section need not be repeated in each risk assessment docu-
24 ment as long as there is a reference to the relevant discus-

1 sions or explanation in another agency document which
2 is available to the public.

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

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

24 “(2) Where a site-specific risk assessment in-
25 volves selection of any significant default value, as-

1 sumption, inference, or model, the risk assessment
2 document shall, to the extent feasible—

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

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

7 “(C) identify any policy or value judg-
8 ments;

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

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

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

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

24 “(i) the best estimate or estimates for
25 the specific populations or natural re-

1 sources which are the subject to the char-
2 acterization (based on the information
3 available to the Federal agency); and

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

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

24 “(B) Exposure scenarios shall be based on
25 actual exposure pathways and currently planned

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

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

1 as the voluntary or involuntary nature of risks
2 and the preventability or nonpreventability of
3 risks.

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

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

21 “(4) A site-specific risk assessment may satisfy the
22 requirements of subparagraph (C), (D), or (E) of
23 paragraph (3) by reference to information or mate-
24 rial otherwise available to the public if the document

1 provides a brief summary of such information or
2 material.

3 **“SEC. 414. ANALYSIS OF RISK REDUCTION BENEFITS AND**
4 **COSTS.**

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

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

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

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

21 “(3) A statement that places in context the na-
22 ture and magnitude of the risks to be addressed and
23 the residual risks likely to remain for each alter-
24 native strategy identified or considered by the Under
25 Secretary. Such statement shall, to the extent fea-

1 sible, provide comparisons with estimates of greater,
2 lesser, and substantially equivalent risks that are fa-
3 miliar to and routinely encountered by the general
4 public as well as other risks and, where appropriate
5 and meaningful, comparisons of those risks with
6 other similar risks regulated by the Federal Govern-
7 ment resulting from comparable activities and expo-
8 sure pathways. Such comparisons should consider
9 relevant distinctions among risks, such as the vol-
10 untary or involuntary nature of risks and the pre-
11 ventability or nonpreventability of risks.

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

15 **SEC. 522. CONFORMING AMENDMENT.**

16 Section 120(a)(3) of the Comprehensive Environ-
17 mental Response, Compensation, and Liability Act of
18 1980 (42 U.S.C. 9620(a)(3)) is amended by inserting
19 after the second sentence the following: “This subsection
20 also shall not apply to the extent otherwise provided in
21 title IV with respect to selection of remedial actions at
22 defense nuclear facilities.”.

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

24 (a) REQUIREMENT.—For each defense nuclear facil-
25 ity with respect to which a compliance agreement has been

1 entered into by the Secretary of Energy, the Environ-
2 mental Protection Agency, and a State as of the date of
3 the enactment of this Act, the Under Secretary of Defense
4 for Defense Nuclear Programs shall enter into negotia-
5 tions with the Environmental Protection Agency and the
6 State concerned to renegotiate the terms of the compliance
7 agreement to reflect title IV of the Comprehensive Envi-
8 ronmental Response, Compensation, and Liability Act of
9 1980, as added by section 521.

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

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

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

20 (a) AUTHORIZATION.—

21 (1) LIMITATIONS.—The amount which may be
22 appropriated for Energy Supply Research and De-
23 velopment activities of the Department of Energy,
24 including Basic Energy Sciences, Magnetic Fusion
25 Energy, Solar and Renewable Energy, Nuclear Fis-

1 sion, and Biological and Environmental Sciences re-
2 search and development, and all other research and
3 development activities of the Department of Energy
4 other than General Science and Research activities,
5 shall not exceed—

6 (A) for fiscal year 1996, 75 percent of the
7 budget authority available for such purposes for
8 fiscal year 1995;

9 (B) for fiscal year 1997, 50 percent of the
10 budget authority available for such purposes for
11 fiscal year 1995;

12 (C) for fiscal year 1998, 50 percent of the
13 budget authority available for such purposes for
14 fiscal year 1995;

15 (D) for fiscal year 1999, 50 percent of the
16 budget authority available for such purposes for
17 fiscal year 1995; and

18 (E) for fiscal year 2000, 50 percent of the
19 budget authority available for such purposes for
20 fiscal year 1995.

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

1 (b) RECOMMENDATIONS.—Within 1 year of the date
2 of the enactment of this Act, the Energy Laboratory Fa-
3 cilities Commission established under section 201(a) of
4 this Act shall identify in a report to Congress all research
5 and development activities of the Department of Energy
6 carried out at energy laboratories (as such term is defined
7 in section 208(5) of this Act) or at institutions of higher
8 education, that perform a critical research function of im-
9 portance to the long-term economic wellbeing of the Unit-
10 ed States. Such report shall include recommendations for
11 the transfer of such activities to appropriate Federal agen-
12 cies.

13 (c) TERMINATION OF PROGRAMS.—

14 (1) CLEAN COAL TECHNOLOGY.—The Secretary
15 of Energy shall terminate all clean coal technology
16 research and development activities of the Depart-
17 ment of Energy.

18 (2) FOSSIL ENERGY AND ENERGY CONSERVA-
19 TION.—There are authorized to be appropriated to
20 the Secretary of Energy—

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

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

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

25 and

1 (iii) \$120,000,000 for fiscal year
2 1998; and

3 (B) for energy conservation research and
4 development activities of the Department of En-
5 ergy—

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

7 (ii) \$412,000,000 for fiscal year 1997;

8 and

9 (iii) \$397,000,000 for fiscal year
10 1998.

11 The fossil energy and energy conservation research
12 and development activities of the Department of En-
13 ergy shall be terminated at the end of fiscal year
14 1998.

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

19 (1) All activities described under the category
20 “Weapons Activities” in the annual budget request
21 of the President for fiscal year 1996, including
22 weapons stockpile stewardship and management.

23 (2) All activities described under the category
24 “Materials Support and Other Defense Programs”

1 in the annual budget request of the President for
2 fiscal year 1996.

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

8 **SEC. 602. ENERGY INFORMATION ADMINISTRATION.**

9 There are hereby transferred to the Department of
10 the Treasury all functions performed by the Energy Infor-
11 mation Administration on the day before the effective date
12 of this section. There are authorized to be appropriated
13 for carrying out the activities of the Energy Information
14 Administration \$40,000,000 for each of the fiscal years
15 1996 through 2000.

16 **SEC. 603. ENERGY REGULATORY ADMINISTRATION.**

17 There are hereby transferred to the Attorney General
18 all functions performed by the Energy Regulatory Admin-
19 istration on the day before the effective date of this sec-
20 tion.

21 **SEC. 604. EFFECTIVE DATE.**

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

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

3 **TITLE VII—CIVILIAN RADIO-**
4 **ACTIVE WASTE MANAGEMENT**

5 **SEC. 701. NUCLEAR WASTE REPOSITORY.**

6 Effective upon the expiration of the 3rd calendar
7 month beginning after the date of the enactment of this
8 Act section 304 of the Nuclear Waste Policy Act of 1982
9 (42 U.S.C. 10224) is amended to read as follows:

10 “ARMY CORPS OF ENGINEERS

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

22 “(b) YUCCA MOUNTAIN SITE.—The Corps shall re-
23 view the characterization plan of, and the work under-
24 taken by, the office for the Yucca Mountain site. Effective
25 6 months after the transfer under subsection (a), the
26 Corps shall prepare its own site characterization plan in

1 accordance with section 113. The plan shall be submitted
2 to the Nuclear Waste Technical Review Board for its re-
3 view and comments. If the Yucca Mountain site is found
4 to be suitable, the Corps shall be responsible for managing
5 the design and construction of the site. Once completed,
6 the site shall be operated by the Corps in accordance with
7 this Act. The Corps shall provide benefits to the State of
8 Nevada in accordance with subtitle F of title I.

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

12 **TITLE VIII—MISCELLANEOUS** 13 **PROVISIONS**

14 **SEC. 801. REFERENCES.**

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

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

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

1 **SEC. 802. EXERCISE OF AUTHORITIES.**

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

10 **SEC. 803. SAVINGS PROVISIONS.**

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

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

21 (2) that are in effect on the effective date of
22 such transfer (or become effective after such date
23 pursuant to their terms as in effect on such effective
24 date),

25 shall continue in effect according to their terms until
26 modified, terminated, superseded, set aside, or revoked in

1 accordance with law by the President, any other author-
2 ized official, a court of competent jurisdiction, or operation
3 of law.

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

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

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

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

16 **SEC. 804. TRANSFER OF ASSETS.**

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

1 **SEC. 805. DELEGATION AND ASSIGNMENT.**

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

14 **SEC. 806. AUTHORITY OF OFFICE OF MANAGEMENT AND**
15 **BUDGET WITH RESPECT TO FUNCTIONS**
16 **TRANSFERRED.**

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

20 (b) INCIDENTAL TRANSFERS.—The Director of the
21 Office of Management and Budget, at such time or times
22 as the Director shall provide, may make such determina-
23 tions as may be necessary with regard to the functions
24 transferred by this Act, and to make such additional inci-
25 dental dispositions of personnel, assets, liabilities, grants,
26 contracts, property, records, and unexpended balances of

1 appropriations, authorizations, allocations, and other
2 funds held, used, arising from, available to, or to be made
3 available in connection with such functions, as may be nec-
4 essary to carry out the provisions of this Act. The Director
5 of the Office of Management and Budget shall provide for
6 the termination of the affairs of all entities terminated by
7 this Act and for such further measures and dispositions
8 as may be necessary to effectuate the purposes of this Act.

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

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

16 **SEC. 808. CERTAIN VESTING OF FUNCTIONS CONSIDERED**
17 **TRANSFER.**

18 For purposes of this title, the vesting of a function
19 in a department or office pursuant to reestablishment of
20 an office shall be considered to be the transfer of the func-
21 tion.

22 **SEC. 809. DEFINITIONS.**

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

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

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

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

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

12 (5) TERMINATION DATE.—The term “termi-
13 nation date” means the termination date under sec-
14 tion 106(d).

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

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