

105TH CONGRESS
1ST SESSION

S. 236

To abolish the Department of Energy, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 30, 1997

Mr. GRAMS (for himself, Mr. ABRAHAM, Mr. ASHCROFT, Mr. FAIRCLOTH, Mr. HUTCHINSON, Mr. KYL, Mr. MCCAIN, Mr. STEVENS, and Mr. HAGEL) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To abolish the Department of Energy, 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 TITLE.**

4 This Act may be cited as the “Department of Energy
5 Abolishment Act”.

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

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

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.

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. Restoration of the Federal Energy Regulatory Commission as an independent agency.
- Sec. 108. Disposition of the Energy Information Administration and of certain energy research programs.
- Sec. 109. Disposition of the Energy Regulatory Administration.
- Sec. 110. GAO report.
- Sec. 111. Conforming amendments.
- Sec. 112. Effective date.

TITLE II—ENERGY LABORATORIES

Subtitle A—National Defense Laboratories

- Sec. 201. Transfer and discharge of functions.

Subtitle B—Nondefense Energy Laboratories

- Sec. 211. Definitions.
- Sec. 212. Transfer to National Science Foundation.
- Sec. 213. Energy Laboratory Facilities Commission.
- Sec. 214. Procedure for making recommendations for laboratory facilities.
- Sec. 215. Fast track congressional consideration of Commission report.
- Sec. 216. Closure, reconfiguration, transfer, and privatization of energy laboratories.
- Sec. 217. Implementation of closure, reconfiguration, transfer, and privatization actions.
- Sec. 218. Account.
- Sec. 219. Reports on implementation.

TITLE III—POWER MARKETING ADMINISTRATIONS

- Sec. 301. Findings.
- Sec. 302. Definitions.
- Sec. 303. Transfer to Army Corps of Engineers.

TITLE IV—TRANSFER AND DISPOSAL OF RESERVES

Subtitle A—Strategic Petroleum Reserve

- Sec. 401. Strategic Petroleum Reserve.

Subtitle B—Naval Petroleum Reserves

- Sec. 411. Naval Petroleum Reserves.

TITLE V—NATIONAL SECURITY AND ENVIRONMENTAL MANAGEMENT PROGRAMS

- Sec. 501. Establishment and organization of Defense Nuclear Programs Agency.
- Sec. 502. Functions of Defense Nuclear Programs Agency.

- Sec. 503. Transfers of functions.
- Sec. 504. Limitation on transfers of funds.
- Sec. 505. Transition provisions.
- Sec. 506. Technical and conforming amendments.
- Sec. 507. Effective date and transition period.

TITLE VI—ENVIRONMENTAL RESTORATION ACTIVITIES AT DEFENSE NUCLEAR FACILITIES

- Sec. 601. Environmental restoration activities at Defense nuclear facilities.
- Sec. 602. Conforming amendment.
- Sec. 603. Renegotiation of compliance agreements.

TITLE VII—CIVILIAN RADIOACTIVE WASTE MANAGEMENT

- Sec. 701. Transfer of authority to the Secretary of the Army.
- Sec. 702. Reaffirmation of obligation to accept radioactive waste and spent nuclear fuel by 1998.
- Sec. 703. Initial storage facility.

TITLE VIII—MISCELLANEOUS PROVISIONS

- Sec. 801. References.
- Sec. 802. Exercise of authorities.
- Sec. 803. Savings provisions.
- Sec. 804. Transfer of assets.
- Sec. 805. Delegation.
- 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.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

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

6 (2) **AGENCY.**—The term “Agency” means the
7 Energy Programs Resolution Agency.

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

1 (4) OFFICE.—The term “office” includes any
2 office, administration, agency, institute, council,
3 unit, and organizational entity and any component
4 thereof.

5 (5) SECRETARY.—The term “Secretary” means
6 the Secretary of Energy.

7 (6) SECRETARY OR ADMINISTRATOR.—The
8 term “Secretary or Administrator” means—

9 (A) with respect to any time prior to the
10 effective date of this Act, the Secretary of En-
11 ergy; and

12 (B) with respect to any time after the ef-
13 fective date of this Act, the Administrator.

14 (7) TERMINATION DATE.—The term “termi-
15 nation date” means the termination date under sec-
16 tion 106(d).

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

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

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

(a) REDESIGNATION.—The Department of Energy is redesignated as the Energy Programs Resolution Agency, which shall be an independent agency in the executive branch of the Government.

(b) ADMINISTRATOR.—

(1) IN GENERAL.—There shall be at the head of the Agency an Administrator of the Agency, who shall be appointed by the President by and with the advice and consent of the Senate. The Agency shall be administered under the supervision and direction of the Administrator. The Administrator shall receive compensation at the rate prescribed for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(2) INITIAL APPOINTMENT OF ADMINISTRATOR.—Notwithstanding any other provision of this Act or any other law, the President may, at any time after the date of enactment of this Act, appoint an individual to serve as Administrator of the Energy Programs Resolution Agency (who may be the person holding the position of Secretary of Energy

1 on the day before the effective date of this Act). An
2 appointment under this paragraph shall not be con-
3 strued to affect the position of Secretary of Energy
4 or the authority of the Secretary before the effective
5 date of this Act.

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

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

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

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

19 **SEC. 102. FUNCTIONS.**

20 Except as otherwise provided in this Act, the Admin-
21 istrator shall perform all functions that, on the day before
22 the effective date of this Act, were functions of the De-
23 partment of Energy (or any office of the Department) or
24 were performed by the Secretary or any other officer or

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

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

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

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

8 (2) perform such functions as may be delegated
 9 by the Administrator.

10 **SEC. 104. CONTINUATION OF SERVICE OF DEPARTMENT**
 11 **OFFICERS.**

12 The person holding the position of Secretary of En-
 13 ergy on the day before the effective date of this Act and
 14 persons holding positions in the Department of Energy on
 15 that date whose appointment is not vested in the Secretary
 16 of Energy—

17 (1) shall be treated as persons designated to
 18 perform the duties of their offices under sections
 19 3345 and 3346, respectively, of title 5, United
 20 States Code, for the purpose of establishing the pe-
 21 riod of time during which those officers may con-
 22 tinue to serve under section 3348 of that title; and

23 (2) shall continue to be compensated for serving
 24 in those positions at the rate at which those persons
 25 were compensated on that day.

1 **SEC. 105. REORGANIZATION.**

2 The Administrator may, as the Administrator consid-
3 ers necessary or appropriate—

4 (1) allocate or reallocate any function of the
5 Agency under this Act among the officers of the
6 Agency; and

7 (2) establish, consolidate, alter, or discontinue
8 in the Agency any organizational entities that were
9 entities of the Department of Energy.

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

12 (a) IN GENERAL.—Effective on the termination date
13 of this Act, the Energy Programs Resolution Agency is
14 abolished.

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

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

1 (d) TERMINATION DATE.—The termination date of
 2 this Act is the date that is 3 years after the date of enact-
 3 ment of this Act.

4 **SEC. 107. RESTORATION OF THE FEDERAL ENERGY REGU-**
 5 **LATORY COMMISSION AS AN INDEPENDENT**
 6 **AGENCY.**

7 The Department of Energy Organization Act is
 8 amended—

9 (1) in the first sentence of section 204 (42
 10 U.S.C. 7134) by striking “within the Department,”;

11 (2) in section 401 (42 U.S.C. 7171)—

12 (A) in subsection (a) by striking “within
 13 the Department”;

14 (B) in subsection (c) by striking the second
 15 sentence;

16 (C) by striking subsection (d); and

17 (D) in subsection (j)—

18 (i) in the first sentence—

19 (I) by striking “under this Act,
 20 the Secretary” and inserting “by the
 21 Commission, the Commission”; and

22 (II) by striking “to the Secretary
 23 and”; and

24 (ii) in the second sentence by striking
 25 “the Secretary,”;

1 (3) in section 402 (42 U.S.C. 7172) by striking
 2 subsections (c), (d), (e), (f), and (g);

3 (4) in section 403 (42 U.S.C. 7173)—

4 (A) in subsection (a) by striking “Sec-
 5 retary and the Commission are authorized to”
 6 and inserting “Commission may”; and

7 (B) by striking subsection (b);

8 (5) by striking sections 404, 405, and 406 (42
 9 U.S.C. 7174, 7175, and 7176);

10 (6) in section 407 (42 U.S.C. 7177)—

11 (A) in subsection (a)—

12 (i) by striking “The Secretary, each
 13 officer of the Department, and each” and
 14 inserting “Each”; and

15 (ii) by striking “of the Department
 16 or”; and

17 (B) by striking subsection (b); and

18 (7) by striking section 501(a)(2) (42 U.S.C.
 19 7191(a)(2)).

20 **SEC. 108. DISPOSITION OF THE ENERGY INFORMATION**
 21 **ADMINISTRATION AND OF CERTAIN ENERGY**
 22 **RESEARCH PROGRAMS.**

23 (a) **TRANSFER OF FUNCTIONS.**—There are trans-
 24 ferred to the Secretary of the Interior—

1 (1) all of the functions of the Administrator of
2 the Energy Information Administration; and

3 (2)(A) the civilian energy research programs
4 under the Assistant Secretary of Energy for Fossil
5 Energy and the Assistant Secretary of Energy for
6 Energy Efficiency and Renewable Energy; and

7 (B) the science and technology programs
8 under—

9 (i) the Office of Energy Research;

10 (ii) the Office of Nuclear Energy Science
11 and Technology;

12 (iii) the Office of Science Education and
13 Technical Information; and

14 (iv) the Office of Energy Research.

15 (b) BASIC SCIENCE PROGRAMS.—If the Secretary of
16 the Interior determines that any of the programs trans-
17 ferred under subsection (a)(2) is a program that performs
18 basic science research that should be considered by the
19 Nondefense Energy Laboratory Commission under section
20 213, the President shall transfer the programs to the Na-
21 tional Science Foundation.

22 (c) RECOMMENDATIONS FOR FURTHER DISPOSI-
23 TION.—Not later than the date that is 1 year after the
24 date of enactment of this Act, the Secretary of the Interior

1 shall submit to Congress a report making recommenda-
2 tions for the permanent disposition of the functions and
3 programs transferred by subsection (a).

4 **SEC. 109. DISPOSITION OF THE ENERGY REGULATORY**
5 **ADMINISTRATION.**

6 (a) TRANSFER OF FUNCTIONS.—There are trans-
7 ferred to the Attorney General all of the functions of the
8 Administrator of the Energy Regulatory Administration.

9 (b) RESOLUTION OF PENDING CASES.—The Attor-
10 ney General shall make best efforts to resolve all cases
11 pending before, or being litigated on behalf of, the Energy
12 Regulatory Administration by the date that is 1 year after
13 the date of enactment of this Act, achieving such resolu-
14 tion by means of the alternate dispute resolution process
15 to the extent possible.

16 **SEC. 110. GAO REPORT.**

17 Not later than 180 days after the date of enactment
18 of this Act, the Comptroller General of the United States
19 shall submit to Congress a report that includes rec-
20 ommendations for the most efficient means of achieving,
21 in accordance with this Act—

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

24 (2) the termination, transfer, or other disposi-
25 tion of the functions of the Department of Energy.

1 **SEC. 111. CONFORMING AMENDMENTS.**

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

5 (b) EXECUTIVE DEPARTMENTS.—Section 101 of title
6 5, United States Code, is amended by striking the item
7 relating to the Department of Energy.

8 (c) SECRETARY’S COMPENSATION.—Section 5312 of
9 title 5, United States Code, is amended by striking the
10 item relating to the Secretary of Energy.

11 (d) DEPUTY SECRETARY’S COMPENSATION.—Section
12 5313 of title 5, United States Code, is amended by strik-
13 ing the item relating to the Deputy Secretary of Energy.

14 (e) UNDER SECRETARY’S COMPENSATION.—Section
15 5314 of title 5, United States Code, is amended by strik-
16 ing the item relating to the Under Secretary, Department
17 of Energy.

18 (f) MISCELLANEOUS OFFICERS’ COMPENSATION.—
19 Section 5315 of title 5, United States Code, is amended
20 by striking the items relating to the Assistant Secretaries
21 of Energy, General Counsel of the Department of Energy,
22 Administrator, Economic Regulatory Administration, De-
23 partment of Energy, Administrator, Energy Information
24 Administration, Department of Energy, Inspector Gen-
25 eral, Department of Energy, Director, Office of Energy

1 Research, Department of Energy, and Chief Financial Of-
 2 ficer, Department of Energy.

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

6 (1) in section 9(a)(1) by striking subparagraph
 7 (E);

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

9 (3) in section 11(2) by striking “Energy,”.

10 (h) DEPARTMENT OF ENERGY ORGANIZATION
 11 ACT.—Effective on the termination date, the following
 12 provisions of the Department of Energy Organization Act
 13 (42 U.S.C. 7101 et seq.) are repealed:

14 (1) Sections 1 and 2.

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

16 **SEC. 112. EFFECTIVE DATE.**

17 (a) IN GENERAL.—Except as provided in subsection
 18 (b), this title shall take effect on the date that is 180 days
 19 after the date of enactment of this Act.

20 (b) PROVISIONS EFFECTIVE ON DATE OF ENACT-
 21 MENT.—Sections 101, 106(c), and 107 shall take effect
 22 on the date of enactment of this Act.

1 **TITLE II—ENERGY**
2 **LABORATORIES**
3 **Subtitle A—National Defense**
4 **Laboratories**

5 **SEC. 201. TRANSFER AND DISCHARGE OF FUNCTIONS.**

6 (a) DEFINITION.—In this section, the term “national
7 defense laboratories” means—

8 (1) the Lawrence Livermore National Labora-
9 tory;

10 (2) the Los Alamos National Laboratory; and

11 (3) the Sandia National Laboratories.

12 (b) TRANSFER OF FUNCTIONS.—The functions of the
13 national defense laboratories are transferred to the Under
14 Secretary of Defense for Defense Nuclear Programs under
15 title V of this Act (relating to national security and envi-
16 ronmental management programs of the Department of
17 Energy), who shall carry out such functions in accordance
18 with that title through the Defense Nuclear Programs
19 Agency established by that title.

20 **Subtitle B—Nondefense Energy**
21 **Laboratories**

22 **SEC. 211. DEFINITIONS.**

23 In this title:

1 (1) ACCOUNT.—The term “Account” means the
2 Energy Laboratory Facility Closure Account estab-
3 lished under section 207(a).

4 (2) BASIC SCIENCE PROGRAM.—The term
5 “basic science program” means a program trans-
6 ferred to the National Science Foundation under
7 section 108(b).

8 (3) COMMISSION.—The term “Commission”
9 means the Energy Laboratory Facilities Commis-
10 sion.

11 (4) CONGRESSIONAL ENERGY COMMITTEES.—
12 The term “congressional energy committees” means
13 the Committee on Armed Services of the Senate, the
14 Committee on National Security of the House of
15 Representatives, the Committee on Science of the
16 House of Representatives, and the Committee on
17 Energy and Natural Resources of the Senate.

18 (5) NONDEFENSE ENERGY LABORATORY.—The
19 term “nondefense energy laboratory” means the
20 Ames Laboratory, the Argonne National Laboratory,
21 the Bates Linear Accelerator Laboratory, the Bettis
22 Atomic Power Laboratory, the Brookhaven National
23 Laboratory, the Continuous Electron Beam Accel-
24 erator Facility, the Energy Technology Engineering

1 Center, the Environmental Measurements Labora-
 2 tory, the Fermi National Accelerator Laboratory,
 3 the Idaho National Engineering Laboratory, the In-
 4 halation Toxicology Research Institute, the Knolls
 5 Atomic Power Laboratory, the Laboratory of
 6 Radiobiology and Environmental Health, the Law-
 7 rence Berkeley Laboratory, the Morgantown Energy
 8 Technology Center, the National Renewable Energy
 9 Laboratory, the New Brunswick Laboratory, the
 10 Oak Ridge Institute for Science and Education, the
 11 Oak Ridge National Laboratory, the Pacific North-
 12 west Laboratory, the Pittsburgh Energy Technology
 13 Center, the Princeton Plasma Physics Laboratory,
 14 the Savannah River Ecology Laboratory, the Savan-
 15 nah River Technology Center, the Specific Manufac-
 16 turing Capability Facility, or the Stanford Linear
 17 Accelerator Facility.

18 (6) RESOLUTION OF APPROVAL.—The term
 19 “resolution of approval” means a joint resolution—

20 (A) that is introduced within the 10-day
 21 period beginning on the date on which the Com-
 22 mission transmits the report to the Congress
 23 under section 204(f)(4);

1 (B) the title of which is as follows: “Joint
 2 resolution approving the recommendations of
 3 the Energy Laboratory Facilities Commission.”;

4 (C) that does not have a preamble;

5 (D) the matter after the resolving clause of
 6 which is as follows: “That Congress approves
 7 the recommendations of the Energy Laboratory
 8 Facilities Commission as submitted on ”,
 9 the blank space being filled in with the appro-
 10 priate date; and

11 (E) that contains no other matter.

12 **SEC. 212. TRANSFER TO NATIONAL SCIENCE FOUNDATION.**

13 There are transferred to the National Science Foun-
 14 dation all of the functions of the Secretary relating to the
 15 nondefense energy laboratories.

16 **SEC. 213. ENERGY LABORATORY FACILITIES COMMISSION.**

17 (a) ESTABLISHMENT.—There is established an inde-
 18 pendent commission, to be known as the “Nondefense En-
 19 ergy Laboratory Commission”, for the purpose of making
 20 recommendations to Congress whether any of the non-
 21 defense energy laboratories or programs at nondefense en-
 22 ergy laboratories or any of the basic science programs
 23 should be continued through reconfiguration, transfer, or
 24 privatization, rather than being closed in accordance with
 25 section 220.

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

3 (c) APPOINTMENT.—

4 (1) IN GENERAL.—The Commission shall be
 5 composed of 7 members appointed by the President,
 6 by and with the advice and consent of the Senate.

7 (2) NOMINATIONS.—The President shall trans-
 8 mit to the Senate the nominations for appointment
 9 to the Commission not later than 90 days after the
 10 date of enactment of this Act.

11 (3) DISQUALIFICATION OF GOVERNMENT EM-
 12 PLOYEES.—An employee of the United States shall
 13 not be eligible to serve on the Commission.

14 (4) CONSULTATION.—In selecting persons for
 15 nominations for appointments to the Commission,
 16 the President shall consult with—

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

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

22 (5) CHAIRPERSON.—At the time at which the
 23 President submits nominations for appointment to
 24 the Commission, the President shall designate 1 of

1 the nominees for appointment as Chairperson of the
2 Commission.

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

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

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

11 (g) PAY AND TRAVEL EXPENSES.—

12 (1) BASIC PAY.—

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

22 (B) CHAIRPERSON.—The Chairperson of
23 the Commission shall be paid for each day re-
24 ferred to in subparagraph (A) at a rate equal
25 to the daily equivalent of the minimum annual

1 rate of basic pay payable for level III of the Ex-
2 ecutive Schedule under section 5314 of title 5,
3 United States Code.

4 (2) TRAVEL EXPENSES.—A member of the
5 Commission shall receive travel expenses, including
6 per diem in lieu of subsistence, in accordance with
7 sections 5702 and 5703 of title 5, United States
8 Code.

9 (h) DIRECTOR.—

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

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

16 (B) has not been an employee of an energy
17 laboratory of the Department of Energy during
18 the 5-year period preceding the date of appoint-
19 ment; and

20 (C) has not been an employee of a contrac-
21 tor operating an energy laboratory of the De-
22 partment of Energy during the 5-year period
23 preceding the date of appointment.

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

5 (i) STAFF.—

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

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

22 (3) LIMITATIONS.—

23 (A) DOE EMPLOYEES.—Not more than
24 one-third of the personnel employed by or de-
25 tailed to the Commission shall be persons who

1 were employed by the Department of Energy on
2 the day before the date of enactment of this
3 Act.

4 (B) LABORATORY EMPLOYEES.—No em-
5 ployee of a nondefense laboratory or of any
6 other energy laboratory of the Department of
7 Energy or of a contractor that operates an en-
8 ergy laboratory of the Department of Energy
9 may be detailed to the Commission.

10 (4) SUPPORT FROM OTHER AGENCIES.—At the
11 request of the Director, the head of a Federal agen-
12 cy may detail any of the personnel of the agency to
13 the Commission to assist the Commission in carry-
14 ing out its duties.

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

20 (j) OTHER AUTHORITY.—

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

1 (2) AUTHORITY TO LEASE SPACE AND ACQUIRE
2 CERTAIN PROPERTY.—

3 (A) IN GENERAL.—The Commission may
4 lease space and acquire personal property to the
5 extent funds are available.

6 (B) RTC PROPERTIES.—To the extent
7 practicable, the Commission shall use suitable
8 real property available under the most recent
9 inventory of real property assets published by
10 the Resolution Trust Corporation under section
11 21A(b)(11)(F) of the Federal Home Loan
12 Bank Act (12 U.S.C. 1441a(b)(11)(F)).

13 (k) FUNDING.—There are authorized to be appro-
14 priated to the Commission such sums as are necessary to
15 carry out its duties under this subtitle, to remain available
16 until expended.

17 (l) TERMINATION.—The Commission shall terminate
18 on the date that is 45 days after the date on which the
19 Commission submits a final report under section
20 204(f)(4).

21 **SEC. 214. PROCEDURE FOR MAKING RECOMMENDATIONS**
22 **FOR LABORATORY FACILITIES.**

23 (a) SELECTION CRITERIA.—In making a rec-
24 ommendation for the reconfiguration, transfer, or privat-
25 ization of a nondefense energy laboratory or program at

1 a nondefense energy laboratory or of a basic science pro-
2 gram, the Secretary or Administrator and the Commission
3 shall—

4 (1) presume that a nondefense energy labora-
5 tory or basic science program should be closed un-
6 less the laboratory performs a function that is essen-
7 tial to the needs of the United States, particularly
8 a national security need;

9 (2) take into account the recommendations
10 made in the report entitled “Alternative Fixtures for
11 the Department of Energy Laboratories”, submitted
12 to the Secretary of Energy in February 1995 (com-
13 monly known as the “Galvin Report”;

14 (3) eliminate duplication of effort by nondefense
15 energy laboratories and basic science programs and
16 reduce overhead costs as a proportion of program
17 benefits distributed through a nondefense energy
18 laboratory or basic science program;

19 (4) seek to achieve cost savings for the overall
20 budget for the nondefense energy laboratories and
21 basic programs;

22 (5) define appropriate missions for each non-
23 defense energy laboratory and basic science program

1 and ensure that the activities of each such labora-
 2 tory and basic science program are focused on its
 3 mission;

4 (6) consider the program costs and program
 5 distributions on a State and county basis, including
 6 real and personal property costs associated with
 7 each nondefense energy laboratory and basic science
 8 program considered;

9 (7) consider the number of participants in pro-
 10 grams conducted through a nondefense energy lab-
 11 oratory and basic science program and staff re-
 12 sources engaged in those programs;

13 (8) estimate the cost savings and increases that
 14 would accrue through the reconfiguration of non-
 15 defense energy laboratories and basic science pro-
 16 grams;

17 (9) consider the potential of each nondefense
 18 energy laboratory and basic science program to gen-
 19 erate revenues or to offset costs; and

20 (10) consider the reconfiguration, transfer, or
 21 privatization of nondefense energy laboratories and
 22 basic science programs as an alternative to closure.

23 (b) RECOMMENDATIONS.—

24 (1) PUBLICATION AND TRANSMITTAL.—Not
 25 later than 90 days after the date of enactment of

1 this Act, the Secretary or Administrator shall pub-
2 lish in the Federal Register and transmit to the con-
3 gressional energy committees and the Commission a
4 list of the nondefense energy laboratories and basic
5 science programs that the Secretary or Adminis-
6 trator recommends for reconfiguration, transfer, and
7 privatization, respectively.

8 (2) SUMMARY OF SELECTION PROCESS.—The
9 Secretary or Administrator shall include with the list
10 under paragraph (1) a summary of the selection
11 process that resulted in the recommendation for
12 each nondefense energy laboratory and basic science
13 program, including a justification for each rec-
14 ommendation.

15 (c) EQUAL CONSIDERATION OF LABORATORIES.—In
16 considering nondefense energy laboratories and basic
17 science programs for reconfiguration, transfer, or privat-
18 ization, the Secretary or Administrator shall consider all
19 nondefense energy laboratories and basic science programs
20 equally without regard to whether a nondefense energy
21 laboratory or basic science program has been previously
22 considered or proposed for reconfiguration, transfer, pri-
23 vatization, or closure by the Secretary of Energy.

24 (d) AVAILABILITY OF INFORMATION.—The Secretary
25 or Administrator shall make available to the Commission

1 and the Comptroller General of the United States all in-
2 formation used by the Secretary or Administrator in mak-
3 ing recommendations under this section.

4 (e) INDEPENDENT AUDIT.—

5 (1) REQUEST FOR PROPOSALS.—Not later than
6 30 days after the date of enactment of this Act, the
7 Director of the Office of Management and Budget
8 shall issue a request for proposals for the perform-
9 ance of an audit under paragraph (3).

10 (2) SUBMISSION OF PROPOSALS.—Proposals
11 shall be due in response to the request for proposals
12 under paragraph (1) on a date specified in the re-
13 quest for proposals, which shall be a date not later
14 than 60 days after the date of enactment of this
15 Act.

16 (3) CONTRACT.—Not later than 90 days after
17 the date of enactment of this Act, the Director of
18 the Office of Management and Budget shall enter
19 into a contract with an independent financial con-
20 sulting firm for an audit of the nondefense energy
21 laboratories and basic science programs and their
22 programs, facilities, and assets.

23 (4) ASSESSMENT OF COMMERCIAL POTEN-
24 TIAL.—The audit shall assess the commercial poten-
25 tial of the nondefense energy laboratories and their

1 programs and of the basic science programs and
2 make recommendations on how the Government
3 could best realize that potential.

4 (5) SUBMISSION.—The audit shall be completed
5 and submitted to the Commission, the Secretary or
6 Administrator and the congressional energy commit-
7 tees not later than 270 days after the date of enact-
8 ment of this Act.

9 (f) REVIEW AND RECOMMENDATIONS BY THE
10 COMMISSION.—

11 (1) PUBLIC HEARINGS.—After receiving the
12 recommendations from the Secretary or Adminis-
13 trator under subsection (b), the Commission shall
14 provide an opportunity for public comment on the
15 recommendations for a 30-day period.

16 (2) INITIAL REPORT.—Not later than 1 year
17 after the date of enactment of this Act, the Commis-
18 sion shall publish in the Federal Register an initial
19 report containing the Commission's findings and
20 conclusions based on a review and analysis of the
21 recommendations made by the Secretary or Adminis-
22 trator and the audit under subsection (e), including
23 the Commission's recommendations for reconfigura-
24 tion, privatization, or closure of each nondefense en-
25 ergy laboratory.

1 (3) DEVIATION FROM RECOMMENDATIONS.—

2 (A) IN GENERAL.—In making its rec-
3 ommendations, the Commission may make
4 changes in any of the recommendations made
5 by the Secretary or Administrator if the Com-
6 mission determines that the Secretary or Ad-
7 ministrator deviated substantially from the cri-
8 teria described in subsection (a) in making
9 recommendations.

10 (B) JUSTIFICATION.—The Commission
11 shall justify in the report any recommendation
12 made by the Commission that is different from
13 a recommendation made by the Secretary or
14 Administrator.

15 (4) FINAL REPORT.—After providing a 30-day
16 period for public comment following publication of
17 the initial report under paragraph (2), and after full
18 consideration of such public comments, the Commis-
19 sion shall, not later than 15 months after the date
20 of enactment of this Act, transmit to the Adminis-
21 trator and the congressional energy committees a
22 final report containing the recommendations of the
23 Commission.

24 (5) PROVISION OF CERTAIN INFORMATION.—

25 After transmitting the final report under paragraph

1 (4), the Commission shall, promptly at the request
 2 of a member of Congress, provide the member infor-
 3 mation used by the Commission in making rec-
 4 ommendations.

5 (g) ASSISTANCE FROM COMPTROLLER GENERAL.—

6 The Comptroller General of the United States shall—

7 (1) assist the Commission, to the extent re-
 8 quested, in the Commission’s review and analysis of
 9 the recommendations made by the Secretary or Ad-
 10 ministrator pursuant to subsection (b); and

11 (2) not later than 30 days after the date of
 12 transmittal of the final report under section
 13 204(f)(4), transmit to the congressional energy com-
 14 mittees and to the Commission a report containing
 15 a detailed analysis of the recommendations of the
 16 Secretary or Administrator and the selection
 17 process.

18 **SEC. 215. FAST TRACK CONGRESSIONAL CONSIDERATION**

19 **OF COMMISSION REPORT.**

20 (a) REFERRAL.—

21 (1) HOUSE.—A resolution of approval that is
 22 introduced in the House of Representatives shall be
 23 referred to the Committee on National Security and
 24 the Committee on Science of the House of Rep-
 25 resentatives.

1 (2) SENATE.—A resolution of approval that is
 2 introduced in the Senate shall be referred to the
 3 Committee on Armed Services and the Committee on
 4 Energy and Natural Resources of the Senate.

5 (b) DISCHARGE.—If the committee to which a resolu-
 6 tion of approval is referred has not reported the resolution
 7 of approval by the end of the 20-day period beginning on
 8 the date on which the Commission transmits the report
 9 to Congress under section 204(f)(4), the committee shall,
 10 at the end of that period, be discharged from further con-
 11 sideration of the resolution of approval, and the resolution
 12 of approval shall be placed on the appropriate calendar
 13 of the House of Representatives or the Senate, as the case
 14 may be.

15 (c) CONSIDERATION.—

16 (1) MOTION TO PROCEED TO CONSIDER-
 17 ATION.—

18 (A) MOTION IN ORDER.—On or after the
 19 third day after the date on which the committee
 20 to which a resolution of approval is referred has
 21 reported, or has been discharged (under sub-
 22 section (b)) from further consideration of, the
 23 resolution of approval, it is in order (even
 24 though a previous motion to the same effect has
 25 been disagreed to) for any member of the

1 House of Representatives or the Senate, respec-
 2 tively, to move to proceed to the consideration
 3 of the resolution of approval (but only on the
 4 date after the calendar day on which the mem-
 5 ber announces to the House of Congress con-
 6 cerned the member's intention to do so).

7 (B) WAIVER OF POINTS OF ORDER.—All
 8 points of order against a resolution of approval
 9 (and against consideration of the resolution of
 10 approval) are waived.

11 (C) PRIVILEGE.—A motion to proceed to
 12 the consideration of a resolution of approval is
 13 highly privileged in the House of Representa-
 14 tives and is privileged in the Senate and is not
 15 debatable.

16 (D) NO AMENDMENT OR POSTPONE-
 17 MENT.—A motion described in subparagraph
 18 (C) is not subject to amendment, to a motion
 19 to postpone consideration of the resolution of
 20 approval, or to a motion to proceed to the con-
 21 sideration of other business.

22 (E) NO MOTION TO RECONSIDER.—A mo-
 23 tion to reconsider the vote by which a motion
 24 described in subparagraph (C) is agreed to or
 25 not agreed to shall not be in order.

1 (F) CONSIDERATION.—If a motion de-
2 scribed in subparagraph (C) is agreed to, the
3 House of Representatives or the Senate, as the
4 case may be, shall immediately proceed to con-
5 sideration of the resolution of approval without
6 intervening motion, order, or other business,
7 and the resolution of approval shall remain the
8 unfinished business of the House of Represent-
9 atives or the Senate, as the case may be, until
10 disposed of.

11 (2) DEBATE.—

12 (A) TIME.—Debate on a resolution of ap-
13 proval and on all debatable motions and appeals
14 in connection with a resolution of approval shall
15 be limited to not more than 2 hours, which
16 shall be divided equally between those favoring
17 and those opposing the resolution of approval.

18 (B) NO AMENDMENT.—No amendment to
19 a resolution of approval is in order, except an
20 amendment that strikes a recommendation that
21 a nondefense energy laboratory or basic science
22 program be reconfigured, transferred, or
23 privatized.

1 (C) MOTION TO LIMIT DEBATE.—A motion
 2 further to limit debate on a resolution of ap-
 3 proval is in order and not debatable.

4 (D) NO MOTION TO POSTPONE.—A motion
 5 to postpone consideration of a resolution of ap-
 6 proval, a motion to proceed to the consideration
 7 of other business, or a motion to recommit the
 8 resolution of approval is not in order.

9 (E) NO MOTION TO RECONSIDER.—A mo-
 10 tion to reconsider the vote by which a resolution
 11 of approval is agreed to or not agreed to is not
 12 in order.

13 (3) VOTE ON FINAL PASSAGE.—Immediately
 14 following the conclusion of the debate on a resolu-
 15 tion of approval and a single quorum call at the con-
 16 clusion of the debate if requested in accordance with
 17 the rules of the House of Representatives or the
 18 Senate, as the case may be, the vote on final passage
 19 of the resolution of approval shall occur.

20 (4) APPEALS FROM DECISION OF CHAIR.—Ap-
 21 peals from the decisions of the Chair relating to the
 22 application of the rules of the House of Representa-
 23 tives or of the Senate, as the case may be, to the
 24 procedure relating to a resolution of approval shall
 25 be decided without debate.

1 (d) CONSIDERATION BY OTHER HOUSE.—

2 (1) PROCEDURE.—If, before the passage by one
3 House of Congress of a resolution of approval that
4 was introduced in that House, that House receives
5 from the other House a resolution of approval—

6 (A) the resolution of approval of the other
7 House shall not be referred to a committee and
8 may not be considered in the House that re-
9 ceives it otherwise than on final passage under
10 subparagraph (B)(ii); and

11 (B)(i) the procedure in the House that re-
12 ceives such a resolution of approval with respect
13 to the resolution of approval that was intro-
14 duced in that House shall be the same as if no
15 resolution of approval had been received from
16 the other House; but

17 (ii) the vote on final passage shall be on
18 the resolution of approval of the other House.

19 (2) NO CONSIDERATION.—On disposition of a
20 resolution of approval that is received by one House
21 from the other House, it shall no longer be in order
22 to consider such a resolution of approval that was
23 introduced in the receiving House.

24 (e) RULES OF THE HOUSE OF REPRESENTATIVES
25 AND SENATE.—This section is enacted by Congress—

1 (1) as an exercise of the rulemaking power of
 2 the House of Representatives and Senate, respec-
 3 tively, and is deemed to be part of the rules of each
 4 House, respectively, but applicable only with respect
 5 to the procedure to be followed in that House in the
 6 case of a resolution of approval, and it supersedes
 7 other rules only to the extent that it is inconsistent
 8 with those rules; and

9 (2) with full recognition of the constitutional
 10 right of either House to change the rules (so far as
 11 they relate to the procedure of that House) at any
 12 time, in the same manner, and to the same extent
 13 as in the case of any other rule of that House.

14 **SEC. 216. CLOSURE, RECONFIGURATION, TRANSFER, AND**
 15 **PRIVATIZATION OF ENERGY LABORATORIES.**

16 Subject to subsection (b), the President shall—

17 (1) not later than 1 year after the date of the
 18 transmittal of the final report under section
 19 204(f)(4), close all nondefense energy laboratories
 20 and basic science programs except those that the
 21 Commission report recommends for reconfiguration,
 22 transfer, or privatization;

23 (2) not later than 1 year after the date of the
 24 transmittal of the final report under section
 25 204(f)(4), close all nondefense energy laboratories

1 and basic science programs that the Commission re-
 2 port recommends for reconfiguration or transfer, un-
 3 less Congress has enacted a resolution of approval
 4 approving a reconfiguration or transfer, in which
 5 case the President shall effect the reconfiguration or
 6 transfer not later than 180 days after the date of
 7 the resolution of approval; and

8 (3) not later than 18 months after the date of
 9 the transmittal of the final report under section
 10 204(f)(4), close all nondefense energy laboratories
 11 and basic science programs that the Commission re-
 12 port recommends for privatization, unless Congress
 13 has enacted a resolution of approval approving the
 14 privatization, in which case the President shall effect
 15 the privatization not later than 180 days after the
 16 date of the resolution of approval.

17 **SEC. 217. IMPLEMENTATION OF CLOSURE, RECONFIGURA-**
 18 **TION, TRANSFER, AND PRIVATIZATION**
 19 **ACTIONS.**

20 (a) IMPLEMENTATION.—

21 (1) IN GENERAL.—In closing, reconfiguring,
 22 transferring, or privatizing a nondefense energy lab-
 23 oratory or basic science program under this title, the
 24 President shall—

1 (A) take such actions as are necessary to
2 close, reconfigure, transfer, or privatize the
3 nondefense energy laboratory or basic science
4 program;

5 (B) take such steps as are necessary to en-
6 sure the safekeeping of all records stored at the
7 nondefense energy laboratory or basic science
8 program; and

9 (C) direct the reimbursement of Federal
10 agencies for actions performed at the request of
11 the President with respect to any such closure,
12 reconfiguration, transfer, or privatization using
13 funds in the Account or funds appropriated to
14 the Department of Energy and available for
15 that purpose.

16 (2) FUNDING.—In carrying out activities re-
17 ferred to in paragraph (1), the Secretary or Admin-
18 istrator may use funds in the Energy Laboratory
19 Facility Closure Account established under section
20 218(a) or funds appropriated to the Department of
21 Energy or the Agency and available for the purpose.

22 (b) MANAGEMENT AND DISPOSAL OF PROPERTY.—

23 (1) IN GENERAL.—The Administrator of Gen-
24 eral Services shall delegate to the Secretary or Ad-
25 ministrator, with respect to excess and surplus real

1 property and facilities located at a nondefense en-
2 ergy laboratory or basic science program that is
3 closed, reconfigured, transferred, or privatized under
4 this title, authority—

5 (A) to utilize excess property under section
6 202 of the Federal Property and Administrative
7 Services Act of 1949 (40 U.S.C. 483);

8 (B) to dispose of surplus property under
9 section 203 of that Act (40 U.S.C. 484);

10 (C) to grant approvals and make deter-
11 minations under section 13(g) of the Surplus
12 Property Act of 1944 (50 U.S.C. App.
13 1622(g)); and

14 (D) to determine the availability of excess
15 or surplus real property for wildlife conserva-
16 tion purposes in accordance with the Act of
17 May 19, 1948 (16 U.S.C. 667b).

18 (2) EXERCISE OF AUTHORITY.—

19 (A) IN GENERAL.—Subject to subpara-
20 graph (C), the Secretary or Administrator shall
21 exercise the authority delegated to the Sec-
22 retary or Administrator under paragraph (1) in
23 accordance with all regulations in effect on the
24 date of enactment of this Act governing—

1 (i) the utilization of excess property
2 and the disposal of surplus property under
3 the Federal Property and Administrative
4 Services Act of 1949 (40 U.S.C. 471 et
5 seq.); and

6 (ii) the conveyance and disposal of
7 property under section 13(g) of the Sur-
8 plus Property Act of 1944 (50 U.S.C. App.
9 1622(g)).

10 (B) REGULATIONS.—The Secretary or Ad-
11 ministrator, after consulting with the Adminis-
12 trator of General Services, may issue regula-
13 tions that are necessary to carry out the delega-
14 tion of authority under paragraph (1).

15 (C) LIMITATION.—The authority required
16 to be delegated by paragraph (1) to the Sec-
17 retary or Administrator by the Administrator of
18 General Services does not include the authority
19 to prescribe general policies and methods for
20 utilizing excess property and disposing of sur-
21 plus property.

22 (c) WAIVER.—The President may close, reconfigure,
23 transfer, or privatize a nondefense energy laboratory or
24 basic science program under this subtitle without regard
25 to any law restricting the use of funds for reconfiguring,

1 transferring, privatizing, or closing energy laboratories or
2 basic science programs included in any appropriations or
3 authorization Act.

4 **SEC. 218. ACCOUNT.**

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

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

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

14 (2) any funds that the President or the Sec-
15 retary or Administrator may, subject to approval in
16 an appropriation Act, transfer to the Account from
17 funds appropriated to the Department of Energy for
18 any purpose, except that such funds may be trans-
19 ferred only after the date on which the President or
20 the Secretary or Administrator transmits written no-
21 tice of, and justification for, such transfer to the
22 congressional energy committees.

23 (c) USE OF FUNDS.—The President or the Secretary
24 or Administrator may use the funds in the Account only
25 for the purposes described in section 217(a).

1 (d) REPORTS.—

2 (1) IN GENERAL.—Not later than 60 days after
 3 the end of each fiscal year in which the President or
 4 the Secretary or Administrator carries out activities
 5 under this title, the President or the Secretary or
 6 Administrator shall transmit a report to the congres-
 7 sional energy committees of the amount and nature
 8 of the deposits into, and the expenditures from, the
 9 Account during the fiscal year and of the amount
 10 and nature of other expenditures made pursuant to
 11 section 204(a) during such fiscal year.

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

14 **SEC. 219. REPORTS ON IMPLEMENTATION.**

15 As part of the budget request for each fiscal year in
 16 which the President or the Secretary or Administrator is
 17 authorized to carry out activities under this subtitle, the
 18 President shall transmit to the congressional energy
 19 committees—

20 (1) a schedule of the closure, reconfiguration,
 21 transfer, and privatization actions to be carried out
 22 under this subtitle in the fiscal year for which the
 23 request is made and an estimate of the total expend-
 24 itures required and cost savings to be achieved by

1 each such closure, reconfiguration, transfer, and pri-
2 vatization and of the time period in which the sav-
3 ings are to be achieved in each case; and

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

8 **TITLE III—POWER MARKETING** 9 **ADMINISTRATIONS**

10 **SEC. 301. FINDINGS.**

11 Congress finds that—

12 (1) the Federal power marketing administra-
13 tions have served over the years to help bring elec-
14 tricity to many areas of the Nation;

15 (2) the receipt of transmission access by all
16 parties resulting from the amendments to section
17 212 of the Federal Power Act (16 U.S.C. 824k)
18 made by section 722 of the Energy Policy Act of
19 1992 (106 Stat. 2916) allows wholesale customers to
20 purchase power from numerous sources;

21 (3) in fairness to longtime consumers of the
22 power marketing administrations, any changes to
23 the current operations of the power marketing ad-
24 ministrations should consider the impact on those

1 customers and provide an opportunity for those cus-
 2 tomers to contribute their expertise in the process.

3 **SEC. 302. DEFINITIONS.**

4 In this title, the term “power marketing administra-
 5 tion” means—

- 6 (1) the Bonneville Power Administration;
- 7 (2) the Southeastern Power Administration;
- 8 (3) the Southwestern Power Administration;
- 9 and
- 10 (4) the Western Area Power Administration.

11 **SEC. 303. TRANSFER TO ARMY CORPS OF ENGINEERS.**

12 (a) TRANSFER OF FUNCTIONS.—There are trans-
 13 ferred to the Secretary of the Army, acting through the
 14 Chief of Engineers of the Army Corps of Engineers, all
 15 of the functions of—

- 16 (1) the Administrator of the Bonneville Power
 17 Administration;
- 18 (2) the Administrator of the Southeastern
 19 Power Administration;
- 20 (3) the Administrator of the Southwestern
 21 Power Administration; and
- 22 (4) the Administrator of the Western Area
 23 Power Administration.

24 (b) STUDY AND RECOMMENDATIONS BY THE COMP-
 25 TROLLER GENERAL.—Not later than 1 year after the date

1 of enactment of this Act, the Comptroller General of the
2 United States shall—

3 (1) perform a study of each power marketing
4 administration that recognizes the uniqueness of
5 each power marketing administration; and

6 (2) submit to Congress a comprehensive report
7 that—

8 (A) catalogues the assets and liabilities of
9 each power marketing administration, including
10 any unrealized obligations to contribute funds
11 or deliver electric power for purposes estab-
12 lished under law in effect on the date of enact-
13 ment of this Act;

14 (B) considers all reasonable options for re-
15 structuring of the power marketing administra-
16 tions;

17 (C) considers how best to protect the eco-
18 nomic interests of current customers of the
19 power marketing administrations while protect-
20 ing the taxpayers; and

21 (D) makes recommendations to Congress
22 for the final disposition of the power marketing
23 administrations.

24 (c) CURRENT CUSTOMER CONTRACTS.—It is the in-
25 tent of Congress that—

1 (1) under any final disposition of the power
 2 marketing administration that Congress may ap-
 3 prove, any purchaser of facilities shall be required to
 4 maintain any contracts with customers that, as of
 5 the effective date, are in force for the remaining life
 6 of the contracts; and

7 (2) any sales of facilities shall be effectuated in
 8 a manner that minimizes the impact on the ultimate
 9 ratepayers.

10 **TITLE IV—TRANSFER AND**
 11 **DISPOSAL OF RESERVES**
 12 **Subtitle A—Strategic Petroleum**
 13 **Reserve**

14 **SEC. 401. STRATEGIC PETROLEUM RESERVE.**

15 (a) DEFINITION.—In this section, the term “Strate-
 16 gic Petroleum Reserve” means petroleum products stored
 17 in storage facilities pursuant to part B of title I of the
 18 Energy Policy and Conservation Act (42 U.S.C. 6231 et
 19 seq.), including the Industrial Petroleum Reserve, the
 20 Early Storage Reserve, and the Regional Petroleum
 21 Reserve.

22 (b) TRANSFER OF FUNCTIONS.—There are trans-
 23 ferred to the Secretary of Defense all functions performed
 24 by the Secretary of Energy with respect to the Strategic

1 Petroleum Reserve on the date before the date of the en-
2 actment of this Act.

3 (c) PLAN FOR DISPOSAL OF RESERVE.—

4 (1) SUBMISSION TO CONGRESS.—Not later than
5 180 days after the date of enactment of this Act, the
6 Secretary of Defense shall submit to Congress a
7 plan for the disposal of the Strategic Petroleum Re-
8 serve (other than the portions of the reserve that the
9 Secretary proposes to retain in order to meet the na-
10 tional security interests of the United States).

11 (2) DEADLINE.—The plan under paragraph (1)
12 shall provide for the disposal of the reserve not later
13 than 3 years after the date of the enactment of this
14 Act.

15 (3) CONTENTS.—The plan shall contain—

16 (A) an assessment of the volume of petro-
17 leum products in the Strategic Petroleum Re-
18 serve (other than the reserves held at Weeks Is-
19 land, Louisiana) that the Secretary of Defense
20 proposes to retain in order to meet the national
21 security interests of the United States;

1 (B) a list of the storage facilities (includ-
2 ing the storage facilities of the Strategic Petro-
3 leum Reserve, if appropriate) at which such pe-
4 troleum products will be retained, and the vol-
5 ume of petroleum products that will be retained
6 at each storage facility;

7 (C) a proposal for the disposal of the pe-
8 troleum products in the Strategic Petroleum
9 Reserve on the date of enactment of this Act
10 that will not be retained, including a detailed
11 schedule for the disposal of such petroleum
12 products; and

13 (D) a plan for the disposal of the reserves
14 held at Weeks Island, Louisiana.

15 (d) GAO REPORT.—Not later than 90 days after the
16 date on which the Secretary of Defense submits the plan
17 under subsection (c), the Comptroller General of the
18 United States shall submit to Congress a study that—

19 (1) examines whether the plan provides for the
20 disposal of any portions of the Strategic Petroleum
21 Reserve that may be needed to be retained in order
22 to ensure that the national security interests of the
23 United States are met; and

1 (2) sets forth the costs of retaining portions of
2 the Strategic Petroleum Reserve that should be
3 retained.

4 (e) IMPLEMENTATION OF PLAN.—The Secretary
5 shall carry out the plan under subsection (c) not later than
6 3 years after the date of enactment of this Act.

7 **Subtitle B—Naval Petroleum** 8 **Reserves**

9 **SEC. 411. NAVAL PETROLEUM RESERVES.**

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

15 (b) TRANSFER OF FUNCTIONS.—There are trans-
16 ferred to the Administrator of the Energy Programs Reso-
17 lution Agency all functions performed with respect to the
18 naval petroleum reserves.

19 (c) DISPOSAL OF RESERVES.—

20 (1) DISPOSAL WITHIN 1 YEAR.—The Adminis-
21 trator shall, to the maximum extent practicable, take
22 appropriate actions to carry out the disposal of the
23 reserves of the naval petroleum reserves not later
24 than 1 year after the date of enactment of this Act.

1 (2) JOINT PLAN.—The Administrator shall
2 carry out the disposal in accordance with a plan
3 jointly developed by the Administrator, the Secretary
4 of the Interior, and the Secretary of the Army.

5 (d) TRANSFER OF REMAINING RESERVES.—At the
6 end of the 1-year period beginning on the date of enact-
7 ment of this Act, the Administrator shall transfer to the
8 Secretary of the Interior all functions performed by the
9 Administrator with respect to the portions of the naval
10 petroleum reserves that are not disposed of by the Admin-
11 istrator under subsection (c) during that period.

12 (e) CONFORMING AMENDMENTS.—(1)(A) Chapter
13 641 of title 10, United States Code, is repealed.

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

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

1 **TITLE V—NATIONAL SECURITY**
 2 **AND ENVIRONMENTAL MAN-**
 3 **AGEMENT PROGRAMS**

4 **SEC. 501. ESTABLISHMENT AND ORGANIZATION OF DE-**
 5 **FENSE NUCLEAR PROGRAMS AGENCY.**

6 (a) ESTABLISHMENT OF DEFENSE NUCLEAR PRO-
 7 GRAMS AGENCY.—

8 (1) DEFINITION.—In this subsection, the term
 9 “defense nuclear programs matters” means matters
 10 related to the military use of nuclear energy and nu-
 11 clear weapons, including all such matters that were
 12 under the jurisdiction of the following entities on the
 13 day before the date of enactment of this Act:

14 (A) The Department of Energy.

15 (B) The Defense Nuclear Agency of the
 16 Department of Defense.

17 (C) The Defense Nuclear Facilities Safety
 18 Board.

19 (2) ESTABLISHMENT.—There is established in
 20 the Department of Defense an agency to be known
 21 as the Defense Nuclear Programs Agency, which
 22 shall have primary responsibility within the Govern-
 23 ment for defense nuclear program matters.

1 (b) UNDER SECRETARY.—Chapter 4 of title 10,
2 United States Code, is amended by inserting after section
3 133a the following:

4 **“§ 133b. Under Secretary of Defense for Defense Nu-**
5 **clear Programs**

6 “(a) There is an Under Secretary of Defense for De-
7 fense Nuclear Programs, appointed from civilian life by
8 the President, by and with the advice and consent of the
9 Senate.

10 “(b) The Under Secretary of Defense for Defense
11 Nuclear Programs shall serve as the principal adviser to
12 the President and the Secretary of Defense on all pro-
13 grams and matters related to the military use of nuclear
14 energy and nuclear weapons.

15 “(c) Subject to the authority, direction, and control
16 of the Secretary of Defense, the Under Secretary of De-
17 fense for Defense Nuclear Programs shall have primary
18 responsibility within the Government for the programs and
19 matters referred to in subsection (b).

20 “(d) The Under Secretary of Defense for Defense
21 Nuclear Programs takes precedence in the Department of
22 Defense after the Under Secretary of Defense for Acquisi-
23 tion and Technology.”.

1 (c) DEPUTY UNDER SECRETARY.—Chapter 4 of title
 2 10, United States Code, as amended by subsection (b),
 3 is amended by inserting after section 133b the following:

4 **“§ 133c. Deputy Under Secretary of Defense for De-**
 5 **fense Nuclear Programs**

6 “(a) There is a Deputy Under Secretary of Defense
 7 for Defense Nuclear Programs, appointed from civilian life
 8 by the President, by and with the advice and consent of
 9 the Senate.

10 “(b) The Deputy Under Secretary shall assist the
 11 Under Secretary of Defense for Defense Nuclear Pro-
 12 grams in the performance of his duties. The Deputy
 13 Under Secretary of Defense for Defense Nuclear Pro-
 14 grams shall act for, and exercise the powers of, the Under
 15 Secretary when the Under Secretary is absent or
 16 disabled.”.

17 (d) ASSISTANT SECRETARIES.—Section 138 of title
 18 10, United States Code, is amended—

19 (1) in subsection (a), by striking “eleven” and
 20 inserting “fifteen”; and

21 (2) by adding at the end of subsection (c) the
 22 following:

23 “(6) One of the Assistant Secretaries shall be the As-
 24 sistant Secretary for Defense Nuclear Weapons Facilities

1 Restoration who shall have as his principal duty the over-
 2 all supervision of environmental restoration of defense nu-
 3 clear weapons facilities.

4 “(7) One of the Assistant Secretaries shall be the As-
 5 sistant Secretary for Defense Nuclear Laboratories who
 6 shall have as his principal duty the overall supervision of
 7 the oversight of the functions and budgets of the Sandia
 8 National Laboratories, the Los Alamos National Labora-
 9 tory, and the Lawrence Livermore National Laboratory.”.

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

17 (f) GENERAL COUNSEL.—There shall be a General
 18 Counsel of the Agency, who shall be appointed by the
 19 Under Secretary of Defense for Defense Nuclear Pro-
 20 grams. The General Counsel shall be the chief legal officer
 21 for all legal matters arising from the conduct of the func-
 22 tions of the Agency.

23 (g) CONFORMING AMENDMENTS.—(1) Section 134(c)
 24 of title 10, United States Code, is amended by inserting

1 “the Under Secretary of Defense for Defense Nuclear Pro-
 2 grams,” after “the Under Secretary of Defense for Acqui-
 3 sition and Technology,”.

4 (2) The table of sections at the beginning of chapter
 5 4 of such title is amended by inserting after the item relat-
 6 ing to section 133a the following new items:

“133b. Under Secretary of Defense for Defense Nuclear Programs.

“133c. Deputy Under Secretary of Defense for Defense Nuclear Programs.”.

7 **SEC. 502. FUNCTIONS OF DEFENSE NUCLEAR PROGRAMS**

8 **AGENCY.**

9 (a) IN GENERAL.—The Under Secretary for Defense
 10 Nuclear Programs shall be responsible for the exercise of
 11 all powers and the discharge of all duties of the Defense
 12 Nuclear Programs Agency established under section 501.

13 (b) TRANSFERRED FUNCTIONS.—The Under Sec-
 14 retary for Defense Nuclear Programs shall carry out all
 15 functions transferred to the Under Secretary under sec-
 16 tion 503.

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

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

22 **SEC. 503. TRANSFERS OF FUNCTIONS.**

23 (a) DEPARTMENT OF ENERGY.—

1 (1) NATIONAL SECURITY FUNCTIONS.—There
2 are transferred to the Under Secretary for Defense
3 Nuclear Programs all functions performed by the
4 Department of Energy on the day before the date of
5 enactment of this Act relating to the national secu-
6 rity functions of the Department, including defense,
7 nonproliferation, and defense-related environmental
8 management programs.

9 (2) OVERSIGHT FUNCTIONS.—There are trans-
10 ferred to the Under Secretary for Defense Nuclear
11 Programs all functions performed by the Depart-
12 ment of Energy on the day before the date of enact-
13 ment of this Act relating to the oversight of the de-
14 fense and nondefense functions and budgets of the
15 following energy laboratories:

16 (A) Sandia National Laboratories, Albu-
17 querque, New Mexico, and Livermore,
18 California.

19 (B) Los Alamos National Laboratory, Los
20 Alamos, New Mexico.

21 (C) Lawrence Livermore National Labora-
22 tory, California.

23 (b) DEFENSE NUCLEAR AGENCY.—There are trans-
24 ferred to the Under Secretary for Defense Nuclear Pro-
25 grams all functions performed by the Defense Nuclear

1 Agency of the Department of Defense on the day before
 2 the date of enactment of this Act relating to nuclear weap-
 3 ons systems.

4 (c) DEFENSE NUCLEAR FACILITIES SAFETY
 5 BOARD.—There are transferred to the Under Secretary
 6 for Defense Nuclear Programs all functions performed by
 7 the Defense Nuclear Facilities Safety Board on the day
 8 before the date of enactment of this Act.

9 (d) OTHER NUCLEAR WEAPONS-RELATED FUNC-
 10 TIONS.—The Secretary of Defense may transfer to the
 11 Under Secretary for Defense Nuclear Programs such
 12 other functions performed in the Department of Defense
 13 on the day before the date of enactment of this Act relat-
 14 ing to nuclear weapons as the Secretary considers
 15 appropriate.

16 (e) CONFORMING REPEALS.—

17 (1) ASSISTANT TO THE SECRETARY OF DE-
 18 FENSE FOR ATOMIC ENERGY.—(A) Section 141 of
 19 title 10, United States Code, is repealed.

20 (B) The table of sections at the beginning of
 21 chapter 4 of title 10, United States Code, is amend-
 22 ed by striking the item relating to section 141.

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

1 (3) REFERENCES.—Any reference to the Assist-
 2 ant Secretary of Defense for Atomic Energy or the
 3 Defense Nuclear Facilities Safety Board in any law
 4 or in any rule, regulation, or other paper of the
 5 United States shall be treated as a reference to the
 6 Under Secretary for Defense Nuclear Programs.

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

8 (a) APPROPRIATIONS TO THE DEFENSE NUCLEAR
 9 PROGRAMS AGENCY.—No amount appropriated to the De-
 10 fense Nuclear Programs Agency may be transferred to any
 11 other account (other than another account of the Defense
 12 Nuclear Programs Agency) unless the transfer of such
 13 amount to such account is specifically authorized by law.

14 (b) OTHER APPROPRIATIONS.—No amount appro-
 15 priated to the Department of Defense or another depart-
 16 ment or agency may be transferred to the Under Secretary
 17 for Defense Nuclear Programs or to an account for the
 18 Agency unless the transfer of the amount to that account
 19 is specifically authorized by law.

20 **SEC. 505. TRANSITION PROVISIONS.**

21 (a) EXERCISE OF AUTHORITIES.—Except as other-
 22 wise provided by law, the Under Secretary for Defense
 23 Nuclear Programs may, for purposes of performing a
 24 function that is transferred to the Under Secretary by this
 25 Act, exercise all authorities under any other provision of

1 law that were available with respect to the performance
2 of that function to the official responsible for the perform-
3 ance of that function on the day before the date of enact-
4 ment of this Act.

5 (b) AUTHORITIES TO WIND UP AFFAIRS.—

6 (1) IN GENERAL.—

7 (A) DIRECTOR OF OMB.—The Director of
8 the Office of Management and Budget may
9 take such actions as the Director considers nec-
10 essary to wind up any outstanding affairs of—

11 (i) the Department of Energy associ-
12 ated with the functions that are trans-
13 ferred under to section 503(a); and

14 (ii) the Defense Nuclear Facilities
15 Safety Board.

16 (B) SECRETARY OF DEFENSE.—The Sec-
17 retary of Defense may take such actions as the
18 Secretary considers necessary to wind up any
19 outstanding affairs of the Defense Nuclear
20 Agency associated with the functions that are

1 transferred under section 503(b), any outstand-
2 ing affairs of the Department of Defense asso-
3 ciated with any functions that may be trans-
4 ferred under section 503(d), and any outstand-
5 ing affairs of the Assistant to the Secretary of
6 Defense for Atomic Energy.

7 (C) SECRETARY OF THE NAVY.—The Sec-
8 retary of the Navy may take such actions as the
9 Secretary considers necessary to wind up any
10 outstanding affairs of the Strategic Systems
11 Programs of the Department of the Navy asso-
12 ciated with the functions that are transferred
13 under section 503(c).

14 (2) TRANSFER OF ASSETS.—So much of the
15 personnel, property, records, and unexpended bal-
16 ances of appropriations, allocations, and other funds
17 employed, used, held, available, or to be made avail-
18 able in connection with a function transferred to the
19 Under Secretary for Defense Nuclear Programs by
20 this Act are transferred to the Under Secretary for
21 use in connection with the functions transferred.

22 (3) FURTHER MEASURES AND DISPOSITIONS.—
23 Such further measures and dispositions as the Presi-
24 dent considers necessary to effectuate the transfers
25 referred to under section 503(b) shall be carried out

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

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

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

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

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

14 (b) EXECUTIVE SCHEDULE.—(1) Section 5313 of
15 title 5, United States Code, is amended by inserting after
16 the item relating to the Under Secretary of Defense for
17 Acquisition and Technology the following:

18 “Under Secretary of Defense for Defense Nu-
19 clear Programs.”.

20 (2) Section 5314 of title 5, United States Code, is
21 amended by inserting after the item relating to the Deputy
22 Under Secretary of Defense for Acquisition and Tech-
23 nology the following:

24 “Deputy Under Secretary of Defense for De-
25 fense Nuclear Programs.”.

1 (3) Section 5315 of title 5, United States Code, is
 2 amended by striking out the item relating to the Assistant
 3 Secretaries of Defense and inserting in lieu thereof the
 4 following:

5 “Assistant Secretaries of Defense (15).”.

6 (4) Section 5316 of title 5, United States Code, is
 7 amended by inserting after the item relating to the Deputy
 8 General Counsel of the Department of Defense the
 9 following:

10 “General Counsel of the Defense Nuclear Pro-
 11 grams Agency.”.

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

13 (a) EFFECTIVE DATE.—Except as provided in sub-
 14 section (b), this title shall take effect on the date of enact-
 15 ment of this Act.

16 (b) DELAYED EFFECTIVE DATE FOR ESTABLISH-
 17 MENT OF AGENCY AND TRANSFERS OF FUNCTIONS.—
 18 Section 501(a) and section 503 shall take effect on the
 19 date that is year after the date of enactment of this Act.

20 (c) TRANSITION PERIOD.—The Secretary of Defense,
 21 the Secretary of Energy, the Assistant to the Secretary
 22 of Defense for Atomic Energy, and the Defense Nuclear
 23 Facilities Safety Board shall, beginning as soon as prac-
 24 ticable after the date of enactment of this Act, plan for

1 the orderly establishment of, and transfer of functions to,
 2 the Defense Nuclear Programs Agency under this Act.

3 (d) APPOINTMENT AUTHORITY.—The President may
 4 make appointments under section 501 notwithstanding the
 5 delayed effective date under subsection (b) for the estab-
 6 lishment of the Defense Nuclear Programs Agency.

7 **TITLE VI—ENVIRONMENTAL**
 8 **RESTORATION ACTIVITIES AT**
 9 **DEFENSE NUCLEAR FACILI-**
 10 **TIES**

11 **SEC. 601. ENVIRONMENTAL RESTORATION ACTIVITIES AT**
 12 **DEFENSE NUCLEAR FACILITIES.**

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

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

21 **“Subtitle A—General Provisions**

22 **“SEC. 501. APPLICABILITY.**

23 “Notwithstanding section 120, this title shall apply
 24 with respect to selection of remedial actions at defense nu-
 25 clear facilities.

1 **“SEC. 502. DEFINITIONS.**

2 “In this title:

3 “(1) DEFENSE NUCLEAR FACILITY.—The term
4 ‘defense nuclear facility’ means—

5 “(A) a production facility or utilization fa-
6 cility (as those terms are defined in section 11
7 of the Atomic Energy Act of 1954 (42 U.S.C.
8 2014)) that is under the control or jurisdiction
9 of the Under Secretary of Defense for Defense
10 Nuclear Programs and that is operated for na-
11 tional security purposes (including the tritium
12 loading facility at Savannah River, South Caro-
13 lina, the 236 H facility at Savannah River,
14 South Carolina, and the Mound Laboratory,
15 Ohio), but the term does not include any facil-
16 ity that does not conduct atomic energy defense
17 activities and does not include any facility or
18 activity covered by Executive Order Number
19 12344, dated February 1, 1982, pertaining to
20 the naval nuclear propulsion program;

21 “(B) a nuclear waste storage or disposal
22 facility that is under the control or jurisdiction
23 of the Under Secretary of Defense for Defense
24 Nuclear Programs;

25 “(C) a testing and assembly facility that is
26 under the control or jurisdiction of the Under

1 Secretary of Defense for Defense Nuclear Pro-
2 grams and that is operated for national security
3 purposes (including the Nevada Test Site, Ne-
4 vada, the Pinnellas Plant, Florida, and the
5 Pantex facility, Texas);

6 “(D) an atomic weapons research facility
7 that is under the control or jurisdiction of the
8 Under Secretary of Defense for Defense Nu-
9 clear Programs (including the Lawrence Liver-
10 more, Los Alamos, and Sandia National Lab-
11 oratories); or

12 “(E) a facility described in subparagraphs
13 (A) through (D) that—

14 “(i) is no longer in operation;

15 “(ii) was under the control or jurisdic-
16 tion of the Department of Defense, the
17 Atomic Energy Commission, the Energy
18 Research and Development Administration,
19 or the Department of Energy; and

20 “(iii) was operated for national secu-
21 rity purposes.

22 “(2) UNDER SECRETARY.—The term ‘Under
23 Secretary’ means the Under Secretary of Defense
24 for Defense Nuclear Programs.

1 **“Subtitle B—Selection of Remedial**
2 **Action**

3 **“SEC. 511. REVIEW OF ONGOING AND PLANNED REMEDIAL**
4 **ACTIONS.**

5 “(a) IN GENERAL.—Not later than one year after the
6 date of enactment of this title, the Under Secretary shall
7 review each remedial action described in subsection (d) for
8 purposes of determining whether the remedial action was
9 selected in a manner consistent with the requirements of
10 this subtitle.

11 “(b) MODIFICATION OF REMEDIAL ACTIONS.—If the
12 Under Secretary determines the selection was not consist-
13 ent with the requirements of this subtitle, the Under Sec-
14 retary shall modify the remedial action in a manner con-
15 sistent with the requirements of this subtitle.

16 “(c) MINIMIZATION OF DELAYS.—The Under Sec-
17 retary shall, to the maximum extent practicable, ensure
18 the minimization of any delays in the performance of re-
19 medial action that result from the Under Secretary’s ac-
20 tivities under subsection (a).

21 “(d) APPLICATION OF SECTION.—This section ap-
22 plies to any remedial action at a defense nuclear facility—

23 “(1) which is being performed as of the date of
24 enactment of this title, including a facility for which

1 construction is ongoing or has been completed as of
 2 that date; or

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

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

6 “(a) IN GENERAL.—The Under Secretary shall select
 7 a remedial action for a defense nuclear facility based on
 8 consideration of a site-specific risk assessment conducted
 9 in accordance with section 513 and an analysis of risk re-
 10 duction benefits and costs conducted in accordance with
 11 section 514.

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

18 “(1) the incremental benefits of a more expen-
 19 sive remedial action justify incurring the incremental
 20 costs of the more expensive remedy, as set forth in
 21 the analysis of risk reductions cost and benefits for
 22 the remedial action under section 514, in which case
 23 a more expensive remedy may be selected; or

24 “(2) the benefits of the lowest cost remedy
 25 which achieves a residual risk level within the risk

1 range goal are not reasonably related to the costs of
2 such remedy, in which case a less expensive remedy
3 may be selected.

4 “(c) CONSULTATION.—

5 “(1) IN GENERAL.—Before selection of a reme-
6 dial action and before public comment under sub-
7 section (d), the Under Secretary shall consult with
8 the Administrator, officials of State, local, or tribal
9 governments having jurisdiction over the property
10 or, in the case of property which is exclusively under
11 Federal jurisdiction, having jurisdiction over the sur-
12 rounding areas.

13 “(2) MATTERS TO BE ADDRESSED.—Consulta-
14 tion under paragraph (1) shall include discussion of,
15 at a minimum, current area demographics, land and
16 water uses, and currently planned land and water
17 uses, the determination of which shall remain the
18 sole purview of the appropriate State, local, or tribal
19 government with jurisdiction.

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

24 “(e) CERTIFICATION.—When selecting a remedial ac-
25 tion, the Under Secretary shall certify that—

1 “(1) the analysis of risk reduction benefits and
2 costs for the remedial action under section 514 is
3 based on objective and unbiased scientific and eco-
4 nomic evaluations of all significant and relevant in-
5 formation and on risk assessments provided to the
6 Under Secretary by interested parties relating to the
7 costs, risks, and risk reduction and other benefits of
8 the remedial action selected;

9 “(2) the incremental risk reduction or other
10 benefits of the remedial action will be likely to jus-
11 tify, and be reasonably related to, the incremental
12 costs incurred by the Federal Government, by State,
13 local, and tribal governments, and other public and
14 private entities; and

15 “(3) alternative remedial actions identified or
16 considered by the Under Secretary were found to be
17 less cost-effective at achieving a substantially equiva-
18 lent reduction in risk.

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

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

23 “(a) IN GENERAL.—A site-specific risk assessment
24 shall be performed in accordance with this section before

1 the selection of a remedial action at a defense nuclear
2 facility.

3 “(b) PRINCIPLES.—

4 “(1) IN GENERAL.—The Under Secretary shall
5 apply the principles described in paragraph (3) to
6 ensure that a site-specific risk assessment—

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

9 “(B) is, to the extent feasible, scientifically
10 objective, unbiased, and inclusive of all relevant
11 data; and

12 “(C) relies, to the extent available and
13 practicable, on factual site-specific data.

14 “(2) NO REPETITION.—Discussions or expla-
15 nations required under this section need not be re-
16 peated in each risk assessment document if there is
17 a reference to the relevant discussions or explanation
18 in another agency document that is available to the
19 public.

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

23 “(A) HUMAN HEALTH RISKS.—

24 “(i) IN GENERAL.—In connection with
25 a discussion of human health risks, a site-

1 specific risk assessment shall contain a dis-
2 cussion of both relevant laboratory and rel-
3 evant epidemiologic data of sufficient qual-
4 ity which finds, or fails to find, a correla-
5 tion between health risks and a potential
6 toxin or activity.

7 “(ii) CONFLICTS.—If conflicts among
8 those data appear to exist or animal data
9 are used as a basis to assess human
10 health, the site-specific risk assessment
11 shall, to the extent feasible and appro-
12 priate, include discussion of possible rec-
13 onciliation of conflicting information, and,
14 as relevant, differences in study designs,
15 comparative physiology, routes of exposure,
16 bioavailability, pharmacokinetics, and any
17 other relevant factor, including the suffi-
18 ciency of basic data for review.

19 “(iii) RECONCILIATION.—The discus-
20 sion of possible reconciliation should indi-
21 cate whether there is a biological basis to
22 assume a resulting harm in humans.

23 “(iv) ANIMAL DATA.—Animal data
24 shall be reviewed with regard to its rel-
25 evancy to humans.

“(B) DEFAULT VALUE, ASSUMPTION, INFERENCE, OR MODEL.—If a site-specific risk assessment involves selection of any significant default value, assumption, inference, or model, the risk assessment document shall, to the extent feasible—

“(i) present a representative list and explanation of plausible and alternative assumptions, inferences, or models;

“(ii) explain the basis for any choices;

“(iii) identify any policy or value judgments;

“(iv) fully describe any model used in the risk assessment and make explicit the assumptions incorporated in the model; and

“(v) indicate the extent to which any significant model has been validated by, or conflicts with, empirical data.

“(C) RISK CHARACTERIZATION AND COMMUNICATION.—The site-specific risk assessment shall meet each of the following requirements regarding risk characterization and communication:

“(i) RISK CHARACTERIZATION.—

1 “(I) DESCRIPTION OF POPU-
2 LATIONS.—The risk characterization
3 shall describe the populations or natu-
4 ral resources that are the subject of
5 the risk characterization.

6 “(II) NUMERICAL ESTIMATES.—
7 If a numerical estimate of risk is pro-
8 vided, the Under Secretary shall, to
9 the extent feasible, provide—

10 “(aa) the best estimate or
11 estimates for the specific popu-
12 lations or natural resources
13 which are the subject to the char-
14 acterization (based on the infor-
15 mation available to the Under
16 Secretary); and

17 “(bb) a statement of the
18 reasonable range of scientific un-
19 certainties.

20 “(III) OTHER ESTIMATES.—In
21 addition to best estimate or estimates
22 under subclause (I)(aa), the risk char-
23 acterization document may present
24 plausible upper-bound or conservative

1 estimates in conjunction with plau-
2 sible lower-bound estimates.

3 “(IV) MULTIPLE BEST ESTI-
4 MATES.—If appropriate, the risk char-
5 acterization document may present, in
6 lieu of a single best estimate, multiple
7 best estimates based on assumptions,
8 inferences, or models which are equal-
9 ly plausible, given current scientific
10 understanding.

11 “(V) DISTRIBUTION AND PROB-
12 ABILITY OF RISK.—To the extent
13 practicable and appropriate, the risk
14 characterization document shall pro-
15 vide descriptions of the distribution
16 and probability of risk estimates to re-
17 flect differences in exposure variability
18 or sensitivity in populations and at-
19 tendance uncertainties.

20 “(VI) SUBPOPULATIONS.—Sen-
21 sitive subpopulations or highly ex-
22 posed subpopulations include, to the
23 extent relevant and appropriate, chil-
24 dren, the elderly, pregnant women,
25 and disabled persons.

1 “(ii) EXPOSURE SCENARIOS.—

2 “(I) IN GENERAL.—Exposure
3 scenarios shall be based on actual ex-
4 posure pathways and currently
5 planned future land and water uses as
6 established by any local governmental
7 authorities with jurisdiction over the
8 property and shall consider the avail-
9 ability of alternative water supplies.

10 “(II) SIZE OF POPULATION AT
11 RISK.—To the extent feasible, the
12 site-specific risk assessment shall in-
13 clude a statement of the size of the
14 population at risk under any proposed
15 exposure scenario and the likelihood
16 of such scenario.

17 “(III) EXPOSURE PATHWAYS.—
18 Exposure scenarios shall explicitly
19 identify any exposure scenarios that
20 result in plausible completed exposure
21 pathways.

22 “(iii) MAGNITUDE OF RISKS.—

23 “(I) IN GENERAL.—A site-spe-
24 cific risk assessment shall contain a
25 statement that places the magnitude

1 of risks to human health, safety, or
2 the environment in context.

3 “(II) COMPARISONS WITH OTHER
4 RISKS.—A statement under subclause
5 (I) shall, to the extent feasible, pro-
6 vide comparisons with estimates of
7 greater, lesser, and substantially
8 equivalent risks that are familiar to
9 and routinely encountered by the gen-
10 eral public as well as other risks, and
11 to the extent appropriate and mean-
12 ingful, comparisons of those risks with
13 other similar risks regulated by the
14 Under Secretary resulting from com-
15 parable activities and exposure path-
16 ways.

17 “(III) DISTINCTIONS AMONG
18 RISKS.—In formulating comparisons
19 under subclause (II), the Under Sec-
20 retary should consider relevant dis-
21 tinctions among risks, such as the vol-
22 untary or involuntary nature of risks
23 and the preventability or nonprevent-
24 ability of risks.

1 “(iv) RISKS TO HUMAN HEALTH.—
 2 Each site-specific risk assessment shall in-
 3 clude a statement of any significant substi-
 4 tution risks to human health, if informa-
 5 tion on such risks has been provided to the
 6 Under Secretary.

7 “(v) RISK ASSESSMENTS BY COM-
 8 MENTERS.—

9 “(I) IN GENERAL.—If a com-
 10 menter provides the Under Secretary
 11 with a relevant risk assessment and a
 12 summary of the risk assessment in a
 13 timely fashion and the risk assess-
 14 ment is consistent with the principles
 15 and the guidance provided under this
 16 section, the Under Secretary shall, to
 17 the extent feasible, present the sum-
 18 mary in connection with the presen-
 19 tation of the site-specific risk assess-
 20 ment.

21 “(II) RULE OF CONSTRUC-
 22 TION.—Nothing in subclause (I) shall
 23 be construed to limit the inclusion of
 24 any comments or material supplied by

1 any person to the administrative
2 record of any proceeding.

3 “(D) INCORPORATION BY REFERENCE.—A
4 site-specific risk assessment may satisfy the re-
5 quirements of subparagraph (C) (iii), (iv), or
6 (v) by reference to information or material oth-
7 erwise available to the public if the document
8 provides a brief summary of the information or
9 material.

10 **“SEC. 514. ANALYSIS OF RISK REDUCTION BENEFITS AND**
11 **COSTS.**

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

16 “(b) CONTENTS OF ANALYSIS.—An analysis of risk
17 reduction benefits and costs for a remedial action shall
18 contain—

19 “(1) an identification of reasonable alternative
20 strategies, including strategies that are proposed
21 during a public comment period;

22 “(2) an analysis of the incremental costs and
23 incremental risk reduction or other benefits associ-
24 ated with each alternative remedial action identified
25 or considered, which costs and benefits shall be

1 quantified to the extent feasible and appropriate and
2 may otherwise be qualitatively described;

3 “(3) a statement that places in context the na-
4 ture and magnitude of the risks to be addressed and
5 the residual risks likely to remain for each alter-
6 native strategy identified or considered by the Under
7 Secretary, which statement shall, to the extent fea-
8 sible, provide comparisons with estimates of greater,
9 lesser, and substantially equivalent risks that are fa-
10 miliar to and routinely encountered by the general
11 public as well as other risks and, to the extent ap-
12 propriate and meaningful, comparisons of those risks
13 with other similar risks regulated by the Federal
14 Government resulting from comparable activities and
15 exposure pathways, and which comparisons should
16 reflect consideration of relevant distinctions among
17 risks, such as the voluntary or involuntary nature of
18 risks and the preventability or nonpreventability of
19 risks; and

20 “(4) an analysis of whether the identified bene-
21 fits of the remedial action are likely to exceed the
22 identified costs of the remedial action.”.

23 **SEC. 602. CONFORMING AMENDMENT.**

24 Section 120(a)(3) of the Comprehensive Environ-
25 mental Response, Compensation, and Liability Act of

1 1980 (42 U.S.C. 9620(a)(3)) is amended by inserting
2 after the second sentence the following: “This subsection
3 shall not apply to the extent otherwise provided in title
4 IV with respect to selection of remedial actions at defense
5 nuclear facilities.”.

6 **SEC. 603. RENEGOTIATION OF COMPLIANCE AGREEMENTS.**

7 (a) DEFINITION.—In this section, the term “defense
8 nuclear facility” has the meaning stated in section 502
9 of the Comprehensive Environmental Response, Com-
10 pensation, and Liability Act of 1980, as amended by sec-
11 tion 601.

12 (b) REQUIREMENT.—For each defense nuclear facil-
13 ity with respect to which a compliance agreement has been
14 entered into by the Secretary, the Administrator of the
15 Environmental Protection Agency, and a State as of the
16 date of enactment of this Act, the Under Secretary of De-
17 fense for Defense Nuclear Programs shall enter into nego-
18 tiations with the Environmental Protection Agency and
19 the State concerned to renegotiate the terms of the compli-
20 ance agreement to reflect title IV of the Comprehensive
21 Environmental Response, Compensation, and Liability Act
22 of 1980, as added by section 601.

23 (c) DEADLINE.—The Under Secretary of Defense for
24 Defense Nuclear Programs shall complete renegotiation of
25 compliance agreements as required by subsection (a) not

1 later than the date that is 1 year after date of enactment
 2 of this Act.

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

5 **SEC. 701. TRANSFER OF AUTHORITY TO THE SECRETARY** 6 **OF THE ARMY.**

7 (a) TRANSFER.—Effective at the expiration of the 3d
 8 calendar month beginning after the date of enactment of
 9 this Act, section 304 of the Nuclear Waste Policy Act of
 10 1982 (42 U.S.C. 10224) is amended to read as follows:

11 “ARMY CORPS OF ENGINEERS

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

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

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

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

13 (b) CONFORMING AMENDMENTS.—

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

“Sec. 304. Army Corps of Engineers.”.

19 (2) REFERENCES TO THE SECRETARY OF
 20 ENERGY.—

21 (A) DEFINITION.—Section 2(20) of the
 22 Nuclear Waste Policy Act of 1982 (42 U.S.C.
 23 10101(20)) is amended by striking “Secretary
 24 of Energy” and inserting “Secretary of the
 25 Army”.

1 (B) SECTION 111.—Section 111(a)(5) of
 2 the Nuclear Waste Policy Act of 1982 (42
 3 U.S.C. 10131(a)(5)) is amended by striking
 4 “Secretary of Energy” and inserting “Sec-
 5 retary”.

6 (3) REFERENCES TO THE DEPARTMENT OF
 7 ENERGY.—

8 (A) DEFINITION.—Section 2(8) of the Nu-
 9 clear Waste Policy Act of 1982 (42 U.S.C.
 10 10101(8)) is amended by striking “Department
 11 of Energy” and inserting “Department of the
 12 Army”.

13 (B) NUCLEAR WASTE TECHNICAL REVIEW
 14 BOARD.—Section 502(b)(3)(C)(iii) of the Nu-
 15 clear Waste Policy Act of 1982 (42 U.S.C.
 16 10262(b)(3)(C)(iii)) is amended to read as fol-
 17 lows:

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

20 “(I) the Department of Defense;

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

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

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

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

6 (ii) Section 224(b).

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

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

12 **SEC. 702. REAFFIRMATION OF OBLIGATION TO ACCEPT RA-**
 13 **DIOACTIVE WASTE AND SPENT NUCLEAR**
 14 **FUEL BY 1998.**

15 (a) FINDINGS AND PURPOSES.—

16 (1) FINDINGS.—Congress finds that—

17 (A) the generation of electricity by nuclear
 18 reactors results in the production of spent nu-
 19 clear fuel;

20 (B) about 24,000 metric tons of spent nu-
 21 clear fuel have been produced by the Nation’s
 22 operating nuclear power plants, and an addi-
 23 tional 50,000 metric tons of spent nuclear fuel
 24 is expected to be produced during the terms of
 25 their current licenses;

1 (C) the vast majority of commercial spent
2 nuclear fuel is currently stored in individual
3 water-filled pools at reactor sites throughout
4 the Nation;

5 (D) the storage pools for the temporary
6 storage of spent nuclear fuel are nearing capac-
7 ity at many of the reactor sites;

8 (E) since the beginning of the commercial
9 nuclear power industry in the 1960's, the Fed-
10 eral Government has had the responsibility to
11 provide for the disposal of commercial spent nu-
12 clear fuel;

13 (F) Congress enacted the Nuclear Waste
14 Policy Act of 1982 (42 U.S.C. 10101 et seq.)
15 in order to codify the Federal responsibility and
16 policy to provide for the safe and timely dis-
17 posal of spent nuclear fuel by establishing a
18 schedule for the siting, construction, and oper-
19 ation of deep geologic repositories, assigning the
20 responsibility for implementation of the pro-
21 gram to the Department of Energy, and estab-
22 lishing the Nuclear Waste Fund to cover the
23 costs of the Federal disposal program to be
24 paid by utility ratepayers and owners;

1 (G) since the enactment of the Nuclear
2 Waste Policy Act of 1982, utility ratepayers
3 and owners have paid more than
4 \$10,000,000,000 into the Nuclear Waste Fund;

5 (H) under the schedule established in the
6 Nuclear Waste Policy Act of 1982, the Depart-
7 ment of Energy, in return for the payment of
8 the fees by utility ratepayers and owners, is di-
9 rected to dispose of spent nuclear fuel begin-
10 ning not later than January 31, 1998;

11 (I) despite the 14 years that have passed
12 since the enactment of the Nuclear Waste Pol-
13 icy Act of 1982 and the expenditure of over
14 \$4,000,000,000, the Department of Energy has
15 fallen behind schedule, and the projected date
16 for commencement of operation of a repository,
17 under optimistic assumptions, is 2010;

18 (J) the Nuclear Waste Policy Act of 1982
19 currently prohibits the selection of a site for a
20 monitored retrievable storage facility until a
21 site for a permanent repository has been
22 selected;

1 (K) the Federal Government, under the
2 Nuclear Waste Policy Act of 1982, has an abso-
3 lute obligation to accept spent nuclear fuel be-
4 ginning not later than January 31, 1998; and

5 (L) the General Accounting Office and
6 other technical experts have indicated that
7 greater privatization would enhance cost
8 efficiencies.

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

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

17 (B) to reaffirm the obligation of the Fed-
18 eral Government under the Nuclear Waste Pol-
19 icy Act of 1982 to provide for the safe disposal
20 of spent nuclear fuel beginning not later than
21 January 31, 1998.

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

1 “(7) The obligation of the Secretary under paragraph
 2 (5) to accept high-level radioactive waste and spent nu-
 3 clear fuel beginning not later than January 31, 1998, is
 4 absolute and is not dependent on the commencement of
 5 operation of a repository or a monitored retrievable stor-
 6 age facility. That obligation shall not be voided or delayed
 7 for any reason.”.

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

10 (1) REPEAL OF SITE SELECTION LIMITATION.—

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

14 (2) REPEAL OF LICENSING CONDITIONS.—Sec-

15 tion 148 of the Nuclear Waste Policy Act of 1982
 16 (42 U.S.C. 10168) is amended by striking sub-
 17 section (d).

18 **SEC. 703. INITIAL STORAGE FACILITY.**

19 (a) LICENSE.—The facility for the initial storage of
 20 not more than 40,000 metric tons of uranium at Area 25
 21 of the Nevada Test Site shall be licensed by the Nuclear
 22 Regulatory Commission for an unspecified period, in ac-
 23 cordance with the Commission’s regulations governing the
 24 licensing of independent spent fuel storage installations,

1 without regard to section 148 (a) or (d) of the Nuclear
 2 Waste Policy Act of 1982 (42 U.S.C. 10168 (a), (d)).

3 (b) EXPANSION.—

4 (1) OPERATION CONSISTENT WITH CURRENT
 5 LAW.—The initial storage facility shall be expand-
 6 able for the subsequent transportation and interim
 7 storage of up to 100,000 metric tons of uranium
 8 and shall be operational in the 1998 timeframe, con-
 9 sistent with sections 135(a) (4), 137(a), 141(a), and
 10 148 (a), (b), and (c) of the Nuclear Waste Policy
 11 Act of 1982 (42 U.S.C. 10155 (4), 10157(a),
 12 10161(a), 10168 (a), (b), (c)).

13 (2) REPEALS.—Sections 131 (a)(3) and (b)(2),
 14 135(a) (1) and (2), 135 (d) and (e), 141(g), 145,
 15 146, and 148(d) (1), (3), and (4) of the Nuclear
 16 Waste Policy Act of 1982 (42 U.S.C. 10151 (a)(3),
 17 (b)(2), 10155 (a)(1), (2), (d), 10161(g), 10165,
 18 10168(d) (1), (3), (4)) are repealed.

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

1 (d) PROGRAM PLAN AND SCHEDULE.—The Secretary
 2 of the Army shall submit to the Congress within 90 days
 3 a revised program plan and schedule, including a new 5-
 4 year budget, that addresses the construction and operation
 5 of the interim storage capability, the revised site charac-
 6 terization program at the Yucca Mountain site, and the
 7 results of the Secretary’s review of the program’s institu-
 8 tional activities.

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

17 **TITLE VIII—MISCELLANEOUS** 18 **PROVISIONS**

19 **SEC. 801. REFERENCES.**

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

24 (1) to the Secretary of Energy or an officer of
 25 the Department of Energy, is deemed to refer to the

1 head of the department or office to which such func-
2 tion is transferred; or

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

6 **SEC. 802. EXERCISE OF AUTHORITIES.**

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

15 **SEC. 803. SAVINGS PROVISIONS.**

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

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

1 (2) that are in effect on the effective date of
2 such transfer (or become effective after such date
3 pursuant to their terms as in effect on such effective
4 date);

5 shall continue in effect according to their terms until
6 modified, terminated, superseded, set aside, or revoked in
7 accordance with law by the President, any other author-
8 ized official, a court of competent jurisdiction, or operation
9 of law.

10 (b) PROCEEDINGS.—

11 (1) NO EFFECT.—This Act shall not affect any
12 proceedings or any application for any benefits, serv-
13 ice, license, permit, certificate, or financial assist-
14 ance pending on the date of enactment of this Act
15 before an office transferred by this Act, but such
16 proceedings and applications shall be continued.

17 (2) ORDERS, APPEALS, AND PAYMENTS.—Or-
18 ders shall be issued in such proceedings, appeals
19 shall be taken therefrom, and payments shall be
20 made under such orders, as if this Act had not been
21 enacted, and orders issued in any such proceeding
22 shall continue in effect until modified, terminated,
23 superseded, or revoked by a duly authorized official,
24 by a court of competent jurisdiction, or by operation
25 of law.

1 (3) RULE OF CONSTRUCTION.—Nothing in this
2 subsection shall be construed to prohibit the dis-
3 continuance or modification of any such proceeding
4 under the same terms and conditions and to the
5 same extent that such proceeding could have been
6 discontinued or modified if this Act had not been
7 enacted.

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

13 (d) NONABATEMENT OF ACTIONS.—No suit, action,
14 or other proceeding commenced by or against the Depart-
15 ment of Energy or the Secretary of Energy, or by or
16 against any individual in the official capacity of such indi-
17 vidual as an officer or employee of an office transferred
18 by this Act, shall abate by reason of the enactment of this
19 Act.

20 (e) CONTINUANCE OF SUITS.—If any officer of the
21 Department of Energy or the Energy Programs Resolu-
22 tion Agency in the official capacity of such officer is party
23 to a suit with respect to a function of the officer, and
24 under this Act such function is transferred to any other
25 officer or office, then such suit shall be continued with

1 the other officer or the head of such other office, as appli-
2 cable, substituted or added as a party.

3 **SEC. 804. TRANSFER OF ASSETS.**

4 Except as otherwise provided in this Act, so much
5 of the personnel, property, records, and unexpended bal-
6 ances of appropriations, allocations, and other funds em-
7 ployed, used, held, available, or to be made available in
8 connection with a function transferred to an official by
9 this Act shall be available to the official at such time or
10 times as the Director of the Office of Management and
11 Budget directs for use in connection with the functions
12 transferred.

13 **SEC. 805. DELEGATION.**

14 (a) IN GENERAL.—Except as otherwise expressly
15 prohibited by law or otherwise provided in this Act, an
16 official to whom functions are transferred under this Act
17 (including the head of any office to which functions are
18 transferred under this Act) may delegate any of the func-
19 tions so transferred to such officers and employees of the
20 office of the official as the official may designate, and may
21 authorize successive redelegations of such functions as
22 may be necessary or appropriate.

23 (b) NO RELIEF FROM RESPONSIBILITY.—No delega-
24 tion of functions under this section or under any other
25 provision of this Act shall relieve the official to whom a

1 function is transferred under this Act of responsibility for
2 the administration of the function.

3 **SEC. 806. AUTHORITY OF OFFICE OF MANAGEMENT AND**
4 **BUDGET WITH RESPECT TO FUNCTIONS**
5 **TRANSFERRED.**

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

9 (b) INCIDENTAL TRANSFERS.—

10 (1) IN GENERAL.—The Director of the Office of
11 Management and Budget, at such time or times as
12 the Director shall provide, may make such deter-
13 minations as may be necessary with regard to the
14 functions transferred by this Act, and to make such
15 additional incidental dispositions of personnel, as-
16 sets, liabilities, grants, contracts, property, records,
17 and unexpended balances of appropriations, author-
18 izations, allocations, and other funds held, used,
19 arising from, available to, or to be made available in
20 connection with such functions, as may be necessary
21 to carry out the provisions of this Act.

22 (2) TERMINATION OF AFFAIRS.—The Director
23 of the Office of Management and Budget shall pro-
24 vide for the termination of the affairs of all entities

1 terminated by this Act and for such further meas-
2 ures and dispositions as may be necessary to effec-
3 tuate the purposes of this Act.

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

5 Not later than 1 year after the date of enactment
6 of this Act, the Director of the Office of Management and
7 Budget shall submit to the Congress a description of any
8 changes in Federal law necessary to reflect abolishment,
9 transfers, terminations, and disposals under this Act.

10 **SEC. 808. CERTAIN VESTING OF FUNCTIONS CONSIDERED**
11 **TRANSFER.**

12 For purposes of this title, the vesting of a function
13 in a department or office pursuant to reestablishment of
14 an office shall be considered to be the transfer of the
15 function.

○