

106TH CONGRESS  
1ST SESSION

# H. R. 1649

To abolish the Department of Energy.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 1999

Mr. TIAHRT (for himself, Mr. ROYCE, Mr. ROHRABACHER, Mr. SANFORD, Mrs. MYRICK, Mr. PITTS, Mr. DOOLITTLE, Mr. SUNUNU, Mr. POMBO, Mr. COBURN, Mr. SHADEGG, Mr. GOSS, Mr. RYUN of Kansas, Mr. KASICH, Mr. FOLEY, Mr. MILLER of Florida, Mrs. KELLY, Mr. WELDON of Florida, Mr. PAUL, Mr. BARTLETT of Maryland, Mr. DELAY, Mr. EHRLICH, Mr. BLUNT, and Mr. MCINTOSH) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Armed Services, Science, Resources, Rules, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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# A BILL

To abolish the Department of Energy.

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

**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.

## TITLE I—ABOLISHMENT OF DEPARTMENT OF ENERGY

Sec. 101. Reestablishment of Department as Energy Programs Resolution Agency.

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## TITLE II—ENERGY LABORATORY FACILITIES

Sec. 201. Energy Laboratory Facilities Commission.

Sec. 202. Procedure for making recommendations for laboratory facilities.

Sec. 203. Reconfiguration, privatization, and closure of energy laboratories.

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## TITLE III—PRIVATIZATION OF FEDERAL POWER MARKETING ADMINISTRATIONS

Sec. 301. Short title.

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## TITLE IV—TRANSFER AND DISPOSAL OF RESERVES

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## TITLE V—NATIONAL SECURITY AND ENVIRONMENTAL MANAGEMENT PROGRAMS

### Subtitle A—Defense Nuclear Programs Administration

Sec. 501. Establishment and organization of Defense Nuclear Programs Administration.

Sec. 502. Officers.

Sec. 503. Transfers of functions.

Sec. 504. Limitation on transfers of funds.

Sec. 505. Transition provisions.

Sec. 506. Technical and conforming amendments.

Sec. 507. Effective date and transition period.

Sec. 508. Report on civilian counterpart for Naval Nuclear Propulsion Program.

Subtitle B—Environmental Restoration Activities at Defense Nuclear Facilities

Sec. 521. Environmental restoration activities at Defense nuclear facilities.

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

Sec. 601. Energy research and development.

Sec. 602. Energy Information Administration.

Sec. 603. Energy Regulatory Administration.

Sec. 604. Effective date.

**TITLE VII—CIVILIAN RADIOACTIVE WASTE MANAGEMENT**

Sec. 701. Nuclear waste repository.

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 and assignment.

Sec. 806. Authority of Office of Management and Budget with respect to functions transferred.

Sec. 807. Proposed changes in law.

Sec. 808. Certain vesting of functions considered transfer.

Sec. 809. Definitions.

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

**3    SEC. 101. REESTABLISHMENT OF DEPARTMENT AS ENERGY**

**4                   PROGRAMS RESOLUTION AGENCY.**

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

9                   (b) ADMINISTRATOR.—

(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 the enactment of this Act, appoint an individual to serve as Administrator of the Energy Programs Resolution Agency (who may be the Secretary of Energy), as such position is established under paragraph (1). An appointment under this paragraph may not be construed to affect the position of Secretary of Energy or the authority of the Secretary before the effective date specified in section 109(a).

22 (c) DUTIES.—The Administrator shall be responsible  
23 for—

24 (1) the administration and wind-up, during the  
25 wind-up period, of all functions of the Administrator

1 pursuant to section 102 and the other provisions of  
2 this Act;

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

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

10 **SEC. 102. FUNCTIONS.**

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

18 **SEC. 103. DEPUTY ADMINISTRATOR.**

19 The Agency shall have a Deputy Administrator, who  
20 shall—

21 (1) be appointed by and report to the Adminis-  
22 trator; and

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

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

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

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

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

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

## 7 SEC. 105. REORGANIZATION.

8        The Administrator may allocate or reallocate any  
9 function of the Agency pursuant to this Act among the  
10 officers of the Agency, and may establish, consolidate,  
11 alter, or discontinue in the Energy Programs Resolution  
12 Agency any organizational entities that were entities of  
13 the Department of Energy, as the Administrator considers  
14 necessary or appropriate.

## 15 SEC. 106. ABOLISHMENT OF ENERGY PROGRAMS RESOLU-

16 TION AGENCY.

17 (a) IN GENERAL.—Effective on the termination date  
18 under subsection (d), the Energy Programs Resolution  
19 Agency is abolished.

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

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

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

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

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

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

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

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

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

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

4            “The Department of Energy.”.

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

8            “Secretary of Energy.”.

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

12            “Deputy Secretary of Energy.”.

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

16            “Under Secretary, Department of Energy.”.

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

20            (A) by striking the following items:

21            “Assistant Secretaries of Energy (8).

22            “General Counsel of the Department of Energy.

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

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

3           “Inspector General, Department of Energy.

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

6           (B) by striking the following item:

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

9           (C) by striking the following item:

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

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

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

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

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

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

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

23           (h) DEPARTMENT OF ENERGY ORGANIZATION  
24 Act.—Effective on the termination date, the following  
25 provisions of the Department of Energy Organization Act

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

3 (1) Sections 1 and 2.  
4 (2) Titles I, II, and III.

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

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

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

12 (1) Section 101(b).  
13 (2) Section 106(c).  
14 (3) Section 107.

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

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

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

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

3       (c) APPOINTMENT.—

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

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

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

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

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

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

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

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

9       (g) PAY AND TRAVEL EXPENSES.—

10       (1) BASIC PAY.—

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

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

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

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

7                   (h) DIRECTOR.—

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

10                   (A) has not served as a civilian employee  
11                   of the Department of Energy during the 4-year  
12                   period preceding the date of such appointment;

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

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

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

24                   (i) STAFF.—

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

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

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

9                   (j) OTHER AUTHORITY.—

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

15                  (2) AUTHORITY TO LEASE SPACE AND ACQUIRE  
16       CERTAIN PROPERTY.—The Commission may lease  
17       space and acquire personal property to the extent  
18       funds are available.

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

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

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

3 (a) SELECTION CRITERIA.—In making recommendations for the reconfiguration, privatization, and closure of energy laboratories and termination of programs at such laboratories under this section, the Secretary or the Administrator, as appropriate, and the Commission shall—

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

10 (2) give strong consideration to consolidating single-purpose laboratories into multipurpose laboratories;

13 (3) eliminate duplication of effort by energy laboratories and reduce overhead costs as a proportion of program benefits distributed through an energy laboratory;

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

19 (5) define appropriate missions for each energy laboratory, and ensure that the activities of each such laboratory are focused on its mission or missions;

23 (6) consider the program costs and program distributions on a State and county basis, including real and personal property costs associated with each energy laboratory considered;

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

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

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

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

14 (12) be subject to the requirements of section  
15 601 of this Act.

16 (b) RECOMMENDATIONS.—

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

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

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

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

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

16       (f) REVIEW AND RECOMMENDATIONS BY THE COM-  
17 MISSION.—

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

24           (2) INITIAL REPORT.—Not later than 1 year  
25 after the date of the enactment of this Act, the

1       Commission shall publish in the Federal Register an  
2       initial report containing the Commission's findings  
3       and conclusions based on a review and analysis of  
4       the recommendations made by the Secretary or the  
5       Administrator, as appropriate, and the audit con-  
6       ducted pursuant to subsection (e), together with the  
7       Commission's recommendations for reconfiguration,  
8       privatization, and closure of energy laboratories. In  
9       conducting such review and analysis, the Commis-  
10      sion shall consider all energy laboratories.

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

23                   (4) FINAL REPORT.—After providing a 30-day  
24       period for public comment following publication of  
25       the initial report under paragraph (2), and after full

1 consideration of such public comments, the Commis-  
2 sion shall, within 15 months after the date of the  
3 enactment of this Act, transmit to the Secretary or  
4 the Administrator, as appropriate, and the congres-  
5 sional energy committees a final report containing  
6 the recommendations of the Commission.

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

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

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

19 (2) not later than 6 months after the date of  
20 the enactment of this Act, transmit to the congres-  
21 sional energy committees and to the Commission a  
22 report containing a detailed analysis of the rec-  
23 ommendations of the Secretary or the Adminis-  
24 trator, as appropriate, and the selection process.

1 **SEC. 203. RECONFIGURATION, PRIVATIZATION, AND CLO-**2 **SURE OF ENERGY LABORATORIES.**3 (a) IN GENERAL.—Subject to subsection (b), the  
4 Secretary or the Administrator, as appropriate, shall—5 (1) reconfigure, within 1 year after the date of  
6 the transmittal of the final report under section  
7 202(f)(4), all energy laboratories recommended for  
8 reconfiguration by the Commission in such report;9 (2) provide for and complete the privatization,  
10 within 18 months after the date of the transmittal  
11 of the final report under section 202(f)(4), of all en-  
12 ergy laboratories recommended for privatization by  
13 the Commission in such report; and14 (3) except as necessary to achieve the privatiza-  
15 tion of an energy laboratory under paragraph (2),  
16 close, within 1 year after the date of the transmittal  
17 of the final report under section 202(f)(4), all en-  
18 ergy laboratories recommended for closure by the  
19 Commission in such report.

20 (b) CONGRESSIONAL DISAPPROVAL.—

21 (1) IN GENERAL.—The Secretary or the Admin-  
22 istrator, as appropriate, may not carry out any re-  
23 configuration, privatization, or closure of an energy  
24 laboratory recommended by the Commission in the  
25 report transmitted pursuant to section 202(f)(4) if a  
26 joint resolution is enacted, in accordance with the

provisions of section 207, disapproving the recommendations of the Commission before the earlier of—

## 16 SEC. 204. IMPLEMENTATION OF RECONFIGURATION, PRI- 17 VATIZATION, AND CLOSURE ACTIONS.

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

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

11 (b) MANAGEMENT AND DISPOSAL OF PROPERTY.—

1 surplus property under section 203 of that Act  
2 (40 U.S.C. 484);

## 14 (2) EXERCISE OF AUTHORITY.—

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

21 (i) all regulations in effect on the date  
22 of the enactment of this Act governing the  
23 utilization of excess property and the dis-  
24 posal of surplus property under the Fed-

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

22 (c) WAIVER.—The Secretary or the Administrator, as  
23 appropriate, may reconfigure, privatize, or close energy  
24 laboratories under this title without regard to any provi-  
25 sion of law restricting the use of funds for reconfiguring,

1 privatizing, or closing such energy laboratories included  
2 in any appropriations or authorization Act.

3 **SEC. 205. ACCOUNT.**

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

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

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

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

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

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

4       (d) REPORTS.—

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

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

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

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

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

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

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

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

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

17 (1) which does not have a preamble;  
18 (2) the matter after the resolving clause of  
19 which is as follows: “That Congress disapproves the  
20 recommendations of the Energy Laboratory Facili-  
21 ties Commission as submitted on \_\_\_\_\_”, the blank  
22 space being filled in with the appropriate date; and  
23 (3) the title of which is as follows: “Joint reso-  
24 lution disapproving the recommendations of the En-  
25 ergy Laboratory Facilities Commission.”.

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

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

18       (d) CONSIDERATION.—

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

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

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

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

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

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

19 (e) CONSIDERATION BY OTHER HOUSE.—

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

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

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

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

9 **SEC. 208. DEFINITIONS.**

10 For purposes of this title:

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

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

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

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



5 **TITLE III—PRIVATIZATION OF**  
6 **FEDERAL POWER MARKETING ADMINISTRATIONS**  
7

## 8 SEC. 301. SHORT TITLE.

9        This title may be cited as the “Federal Power Asset  
10 Privatization Act of 1999”.

## 11 SEC. 302. FINDINGS.

12 The Congress finds that—

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

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

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

## 7 SEC. 303. SALE OF ASSETS.

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

25 (b) PRICE; STRUCTURE OF SALE.—

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

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

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

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

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

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

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

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

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

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

22 (g) REPORTING OF SALES.—Not later than one year  
23 after the sale of the assets of each Federal Power Mar-  
24 keting Administration (other than the Bonneville Power

1 Administration) in accordance with this title, the Sec-  
 2 retary of Energy shall—

3                   (1) complete the business of, and close out,  
 4                   such administration; and  
 5                   (2) prepare and submit to Congress a report  
 6                   documenting the sales.

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

11                   (1) Section 203 of the Federal Property and  
 12                   Administrative Services Act of 1949 (40 U.S.C.  
 13                   484).  
 14                   (2) Section 13 of the Surplus Property Act of  
 15                   1944 (50 U.S.C. App. 1622).

16 **SEC. 304. TIME OF SALES.**

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

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

21                   (b) UNEXPENDED BALANCES.—Following the sale of  
 22 the assets of each of the Federal Power Marketing Admin-

1 istrations and their associated power generation facilities,  
2 the Secretary of Energy shall return the unexpended bal-  
3 ances of funds appropriated for that administration to the  
4 Treasury of the United States.

5 **SEC. 305. RATE STABILIZATION FOR AFFECTED CON-**  
6 **SUMERS.**

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

1 **SEC. 306. LICENSING OF PROJECTS TO PRESERVE CUR-**2 **RENT OPERATING CONDITIONS.**

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

25 (b) **LICENSE REQUIRED.**—Notwithstanding any  
26 other provision of law, the Federal Energy Regulatory

1 Commission shall have jurisdiction under part 1 of the  
2 Federal Power Act over any hydroelectric generation facil-  
3 ity sold under this title.

4 **SEC. 307. ENABLING FEDERAL STUDIES.**

5 Section 505 of the Energy and Water Development  
6 Appropriations Act of 1993 (Public Law 102–377) is  
7 hereby repealed.

8 **SEC. 308. BONNEVILLE POWER ADMINISTRATION.**

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

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

22 (c) **REPORT REGARDING STUDY.**—The Secretary  
23 shall submit to Congress a report describing the results  
24 of the study and containing such recommendations as con-

1 sistent with the findings of the report within 1 year after  
2 the enactment of this Act.

3 **SEC. 309. DEFINITIONS.**

4 For purposes of this title:

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

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

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

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

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

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

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

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

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

23                   (2) The advisory board shall make recommendations  
24 on whether the United States should maintain or dispose  
25 of the Strategic Petroleum Reserve, based on information

1 obtained pursuant to paragraph (1)(A) and any other rel-  
2 evant information the advisory board obtains. If the advi-  
3 sory board recommends maintaining the Strategic Petro-  
4 leum Reserve, it shall include recommendations for admin-  
5 istering the Reserve, and if it recommends disposing of  
6 the Reserve, it shall include recommendations for proce-  
7 dures for carrying out such disposal.

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

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

14 **SEC. 402. DISPOSAL OF REMAINING NAVAL PETROLEUM  
15 RESERVES.**

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

21 (b) TRANSFER OF FUNCTIONS.—There are trans-  
22 ferred to the Administrator of the Energy Programs Reso-  
23 lution Agency all functions performed with respect to the  
24 naval petroleum reserves.

25 (c) DISPOSAL OF RESERVES.—

13 (d) TRANSFER OF REMAINING RESERVES.—At the  
14 end of the 1-year period beginning on the date of enact-  
15 ment of this Act, the Administrator shall transfer to the  
16 Secretary of the Interior all functions performed by the  
17 Administrator with respect to the portions of the naval  
18 petroleum reserves that are not disposed of by the Admin-  
19 istrator under subsection (c) during that period.

20 (e) CONFORMING AMENDMENTS.—(1)(A) Chapter  
21 641 of title 10, United States Code, is repealed.

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

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

3 **TITLE V—NATIONAL SECURITY  
4       AND ENVIRONMENTAL MAN-  
5       AGEMENT PROGRAMS**

6 **Subtitle A—Defense Nuclear  
7       Programs Administration**

8 **SEC. 501. ESTABLISHMENT AND ORGANIZATION OF DE-  
9       FENSE NUCLEAR PROGRAMS ADMINISTRA-  
10       TION.**

11       (a) ESTABLISHMENT.—There is established in the  
12 Department of Defense a Defense Nuclear Programs Ad-  
13 ministration.

14       (b) UNDER SECRETARY.—The Under Secretary of  
15 Defense for Defense Nuclear Programs is the head of the  
16 Administration. The Under Secretary is responsible for  
17 the exercise of all powers and the discharge of all duties  
18 of the Administration.

19       (c) TRANSFERRED FUNCTIONS.—The Under Sec-  
20 retary shall carry out the functions transferred to the  
21 Under Secretary pursuant to section 503 through the  
22 Administration.

23       (d) EXERCISE OF AUTHORITIES.—Except as other-  
24 wise provided by law, the Under Secretary of Defense for  
25 Defense Nuclear Programs may, for purposes of per-

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

7 **SEC. 502. OFFICERS.**

8 (a) UNDER SECRETARY OF DEFENSE.—(1) Chapter  
9 4 of title 10, United States Code, is amended by inserting  
10 after section 136 the following new section:

11 **“§ 136a. Under Secretary of Defense for Defense Nu-  
12 clear Programs; Deputy Under Secretary**

13 “(a) There is an Under Secretary of Defense for De-  
14 fense Nuclear Programs, appointed from civilian life by  
15 the President, by and with the advice and consent of the  
16 Senate. A person may not be appointed as Under Sec-  
17 retary within 10 years after relief from active duty as a  
18 commissioned officer of a regular component of an armed  
19 force.

20 “(b)(1) The Under Secretary shall serve as the prin-  
21 cipal adviser to the President and the Secretary of Defense  
22 on defense nuclear programs matters. In carrying out his  
23 duties under the Department of Energy Abolishment Act,  
24 the Under Secretary shall, subject to the authority, direc-  
25 tion, and control of the Secretary of Defense, have pri-

1 mary responsibility within the Government for defense nu-  
2 clear programs matters.

3       “(2) In this subsection, the term “defense nuclear  
4 programs matters” means matters related to the military  
5 use of nuclear energy and nuclear weapons, including all  
6 such matters, other than matters related to naval nuclear  
7 propulsion functions of the Department of Energy, that  
8 were under the jurisdiction of the following entities on the  
9 day before the date of the enactment of the Department  
10 of Energy Abolishment Act:

11           “(A) The Department of Energy.

12           “(B) The Defense Threat Reduction Agency of  
13 the Department of Defense.

14           “(C) The Defense Nuclear Facilities Safety  
15 Board.

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

23       “(2) The Deputy Under Secretary shall perform such  
24 duties and exercise such powers as the Under Secretary  
25 may prescribe. The Deputy Under Secretary shall act for,

1 and exercise the powers of, the Under Secretary during  
2 the Under Secretary's absence or disability or during a  
3 vacancy in such office.”.

4 (2) The table of sections at the beginning of such  
5 chapter is amended by adding at the end the following  
6 new item:

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

7 (b) ASSISTANT SECRETARIES.—Section 138 of title  
8 10, United States Code, is amended—

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

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

13 “(3) Two of the Assistant Secretaries shall report to  
14 the Under Secretary of Defense for Defense Nuclear Pro-  
15 grams and shall carry out such duties and exercise such  
16 powers within the Defense Nuclear Programs Administra-  
17 tion as the Under Secretary may prescribe. One of those  
18 Assistant Secretaries shall have as his principal duty the  
19 overall supervision of environmental restoration of defense  
20 nuclear weapons facilities. The other of those Assistant  
21 Secretaries shall have as his principal duty the overall su-  
22 pervision of the oversight of the defense and nondefense  
23 functions and budgets of the Sandia National Labora-  
24 tories, the Los Alamos National Laboratory, and the Law-

1     rence Livermore National Laboratory (or whatever labora-  
2     tories (or portions of laboratories) carrying out the func-  
3     tions of such laboratories remain after reconfiguration,  
4     privatization, or closure (if any) pursuant to title II of  
5     the Department of Energy Abolishment Act).”.

6         (c) INSPECTOR GENERAL.—There shall be an Inspec-  
7     tor General of the Administration, who shall be appointed  
8     as provided in section 3 of the Inspector General Act of  
9     1978 (5 U.S.C. App. 3). The Inspector General shall per-  
10    form the duties, have the responsibilities, and exercise the  
11    powers specified in the Inspector General Act of 1978 (5  
12    U.S.C. App. 3).

13         (d) GENERAL COUNSEL.—There shall be a General  
14    Counsel of the Administration, who shall be appointed by  
15    the Under Secretary. The General Counsel shall be the  
16    chief legal officer for all legal matters arising from the  
17    conduct of the functions of the Administration.

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

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

24                 “Under Secretary of Defense for Defense Nu-  
25                 clear Programs.”.

3                   “Deputy Under Secretary of Defense for De-  
4                   fense Nuclear Programs.”.

5 (3) Section 5315 is amended—

6 (A) by striking "(9)" after "Assistant Sec-  
7 retaries of Defense" and inserting "(11)"; and

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

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

11 (4) Section 5316 is amended—

12 (A) by striking the item relating to the As-  
13 sistant to the Secretary of Defense for Nuclear  
14 and Chemical and Biological Defense Programs,  
15 Department of Defense; and

16 (B) by adding at the end the following:  
17 "General Counsel, Defense Nuclear Prog  
18 Administration, Department of Defense.".

## 19 SEC. 503. TRANSFERS OF FUNCTIONS.

20 (a) DEPARTMENT OF ENERGY.—

1 to the national security functions of the Department,  
2 including defense, nonproliferation, and defense-re-  
3 lated environmental management programs, but not  
4 including the naval nuclear propulsion program car-  
5 ried out by the Department of Energy.

6 (2) NATIONAL LABORATORIES.—There are  
7 hereby transferred to the Under Secretary all func-  
8 tions performed by the Department of Energy on  
9 the day before the date of the enactment of this Act  
10 relating to the oversight of the defense and non-  
11 defense functions and budgets of the following lab-  
12 oratories:

13 (A) Sandia National Laboratories, Albu-  
14 querque, New Mexico, and Livermore, Cali-  
15 fornia.

16 (B) Los Alamos National Laboratory, Los  
17 Alamos, New Mexico.

18 (C) Lawrence Livermore National Labora-  
19 tory, California.

20 (b) DEFENSE THREAT REDUCTION AGENCY.—There  
21 are hereby transferred to the Under Secretary all func-  
22 tions performed by the Defense Threat Reduction Agency  
23 of the Department of Defense on the day before the date  
24 of the enactment of this Act relating to nuclear weapons  
25 systems.

1        (c) DEFENSE NUCLEAR FACILITIES SAFETY  
2 BOARD.—There are hereby transferred to the Under Sec-  
3 retary all functions performed by the Defense Nuclear Fa-  
4 cilities Safety Board on the day before the date of the en-  
5 actment of this Act.

6        (d) OTHER NUCLEAR WEAPONS-RELATED FUNC-  
7 TIONS.—The Secretary of Defense may transfer to the  
8 Under Secretary such other functions performed by the  
9 Department of Defense on the day before the date of the  
10 enactment of this Act relating to nuclear weapons as the  
11 Secretary considers appropriate.

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

13        (a) TRANSFERS FROM ACCOUNTS OF THE DNPA.—  
14 No amount appropriated to the Defense Nuclear Pro-  
15 grams Administration may be transferred to any other ac-  
16 count (other than another account of the Administration)  
17 unless the transfer of such amount to such account is spe-  
18 cifically authorized by law.

19        (b) TRANSFERS TO ACCOUNTS OF THE DNPA.—No  
20 amount appropriated to the Department of Defense or an-  
21 other department or agency may be transferred to the  
22 Under Secretary of Defense for Defense Nuclear Pro-  
23 grams or to an account for the Defense Nuclear Programs  
24 Administration unless the transfer of such amount to such  
25 account is specifically authorized by law.

1 **SEC. 505. TRANSITION PROVISIONS.**

## 2 (a) AUTHORITIES TO WIND UP AFFAIRS.—

3 (1) DEPARTMENT OF ENERGY.—The Director  
4 of the Office of Management and Budget may take  
5 such actions as the Director considers necessary to  
6 wind up any outstanding affairs of the Department  
7 of Energy associated with the functions that are  
8 transferred pursuant to section 503(a).

9 (2) DEPARTMENT OF DEFENSE.—The Sec-  
10 retary of Defense may take such actions as the Sec-  
11 retary considers necessary to wind up any out-  
12 standing affairs of the Defense Threat Reduction  
13 Agency associated with the functions that are trans-  
14 ferred pursuant to section 503(b), any outstanding  
15 affairs of the Department of Defense associated with  
16 any functions that may be transferred pursuant to  
17 section 503(d), and any outstanding affairs of the  
18 Assistant to the Secretary of Defense for Nuclear  
19 and Chemical and Biological Defense Programs.

20 (3) DEFENSE NUCLEAR FACILITIES SAFETY  
21 BOARD.—The Director of the Office of Management  
22 and Budget may take such actions as the Director  
23 considers necessary to wind up any outstanding af-  
24 fairs of the Defense Nuclear Facilities Safety Board.

25 (b) TRANSFER OF ASSETS.—So much of the per-  
26 sonnel, property, records, and unexpended balances of ap-

1 propriations, allocations, and other funds employed, used,  
2 held, available, or to be made available in connection with  
3 a function transferred to the Under Secretary of Defense  
4 for Defense Nuclear Programs by this subtitle are trans-  
5 ferred to the Under Secretary for use in connection with  
6 the function transferred.

7 (c) FURTHER MEASURES AND DISPOSITIONS.—Such  
8 further measures and dispositions as the President con-  
9 siders necessary to effectuate the transfers referred to in  
10 subsections (a) and (b) shall be carried out in such man-  
11 ner as the President directs and by the heads of such  
12 agencies as the President designates.

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

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

17 (1) in paragraph (1), by inserting after “Inter-  
18 national Development,” the following: “the Defense  
19 Nuclear Programs Administration of the Depart-  
20 ment of Defense;”; and

21 (2) in paragraph (2), by striking out “Commu-  
22 nity Service, or” and inserting “Community Service,  
23 the Defense Nuclear Programs Administration of  
24 the Department of Defense.”.

25 (b) CONFORMING REPEALS.—

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

22       “(2) The Under Secretary of Defense for Defense  
23 Nuclear Programs shall designate the Staff Director of the  
24 Council.”.

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

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

5 (b) DELAYED EFFECTIVE DATE FOR ESTABLISH-  
6 MENT OF AGENCY AND TRANSFERS OF FUNCTIONS.—  
7 Section 501(a) and section 503 shall take effect one year  
8 after the date of the enactment of this Act.

9 (c) TRANSITION PERIOD.—The Secretary of Defense,  
10 the Secretary of Energy, the Assistant to the Secretary  
11 of Defense for Nuclear and Chemical and Biological De-  
12 fense Programs, and the Defense Nuclear Facilities Safety  
13 Board shall, beginning as soon as practicable after the  
14 date of the enactment of this Act, plan for the orderly  
15 establishment of, and transfer of functions to, the Defense  
16 Nuclear Programs Administration pursuant to this sub-  
17 title.

18 (d) APPOINTMENT AUTHORITY.—The President may  
19 make appointments under the amendments made by sec-  
20 tion 502 notwithstanding the effective date under sub-  
21 section (b) for the establishment of the Defense Nuclear  
22 Programs Administration.

23 **SEC. 508. REPORT ON CIVILIAN COUNTERPART FOR NAVAL**  
24 **NUCLEAR PROPULSION PROGRAM.**

25 Not later than six months after the date of the enact-  
26 ment of this Act, the Energy Laboratory Facilities Com-

1 mission established under title II shall submit to Congress  
2 a report containing the recommendations of the Commis-  
3 sion for a civilian entity to perform the functions that were  
4 performed by the Department of Energy relating to the  
5 naval nuclear propulsion program on the day before the  
6 date of the enactment of this Act. In preparing the report,  
7 the Commission may not consider recommending for the  
8 performance of those functions the Defense Nuclear Pro-  
9 grams Administration or any other entity within the De-  
10 partment of Defense.

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

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

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

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

5   **“Subtitle A—General Provisions**

6   **“SEC. 501. APPLICABILITY.**

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

10   **“SEC. 502. DEFINITIONS.**

11       “For purposes of this title:

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

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

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

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

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

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

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

24                   “(i) is no longer in operation;

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

6                             “(iii) was operated for national security  
7                             purposes.

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

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

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

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

17                             “(a) REVIEW OF ONGOING AND PLANNED ACTIVITIES.—Not later than one year after the date of the enactment of this title, the Under Secretary shall review each remedial action described in subsection (b) for purposes of determining whether the remedial action was selected in a manner consistent with the requirements of this subtitle. If the Under Secretary determines the selection was not consistent with the requirements of this subtitle, the Under Secretary shall modify the remedial action in a

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In addition to such best estimate or estimates, the risk characterization document may present plausible upper-bound or conservative estimates in conjunction with plausible lower-bound estimates. Where appropriate, the risk characterization document may present, in lieu of a single best estimate, multiple best estimates based on assumptions, inferences, or models which are equally plausible, given current scientific understanding. To the extent practicable and appropriate, the document shall provide descriptions of the distribution and probability of risk estimates to reflect differences in exposure variability or sensitivity in populations and attendance uncertainties. Sensitive subpopulations or highly exposed subpopulations include, where relevant and appropriate, children, the elderly, pregnant women, and disabled persons.

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

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

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

1 and the preventability or nonpreventability of  
2 risks.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (a) AUTHORIZATION.—

19 (1) LIMITATIONS.—The amount which may be  
20 appropriated for Energy Supply Research and De-  
21 velopment activities of the Department of Energy,  
22 including Basic Energy Sciences, Magnetic Fusion  
23 Energy, Solar and Renewable Energy, Nuclear Fis-  
24 sion, and Biological and Environmental Sciences re-  
25 search and development, and all other research and

1 development activities of the Department of Energy  
2 other than General Science and Research activities,  
3 shall not exceed—

4 (A) for fiscal year 2000, 75 percent of the  
5 budget authority available for such purposes for  
6 fiscal year 1999;

7 (B) for fiscal year 2001, 50 percent of the  
8 budget authority available for such purposes for  
9 fiscal year 1999;

10 (C) for fiscal year 2002, 50 percent of the  
11 budget authority available for such purposes for  
12 fiscal year 1999;

13 (D) for fiscal year 2003, 50 percent of the  
14 budget authority available for such purposes for  
15 fiscal year 1999; and

16 (E) for fiscal year 2004, 50 percent of the  
17 budget authority available for such purposes for  
18 fiscal year 1999.

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

23 (b) RECOMMENDATIONS.—Within 1 year of the date  
24 of the enactment of this Act, the Energy Laboratory Fa-  
25 cilities Commission established under section 201(a) of

1 this Act shall identify in a report to Congress all research  
2 and development activities of the Department of Energy  
3 carried out at energy laboratories (as such term is defined  
4 in section 208(5) of this Act) or at institutions of higher  
5 education, that perform a critical research function of im-  
6 portance to the long-term economic wellbeing of the  
7 United States. Such report shall include recommendations  
8 for the transfer of such activities to appropriate Federal  
9 agencies.

10 (c) TERMINATION OF PROGRAMS.—

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

15 (2) FOSSIL ENERGY AND ENERGY CONSERVA-  
16 TION.—The amount which may be appropriated to  
17 the Secretary of Energy—

18 (A) for fossil energy research and develop-  
19 ment activities of the Department of Energy  
20 shall not exceed—

21 (i) for fiscal year 2000, 75 percent of  
22 the budget authority available for such  
23 purposes for fiscal year 1999;

1 (ii) for fiscal year 2001, 50 percent of  
2 the budget authority available for such  
3 purposes for fiscal year 1999; and

4 (iii) for fiscal year 2002, 25 percent  
5 of the budget authority available for such  
6 purposes for fiscal year 1999; and

(B) for energy conservation research and development activities of the Department of Energy shall not exceed—

10 (i) for fiscal year 2000, 75 percent of  
11 the budget authority available for such  
12 purposes for fiscal year 1999;

13 (ii) for fiscal year 2001, 50 percent of  
14 the budget authority available for such  
15 purposes for fiscal year 1999; and

19 The fossil energy and energy conservation research  
20 and development activities of the Department of En-  
21 ergy shall be terminated at the end of fiscal year  
22 2002.

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

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

3 (1) All activities described under the category  
4 “Weapons Activities” in the annual budget request  
5 of the President for fiscal year 2000, including  
6 weapons stockpile stewardship and management.

7 (2) All activities described under the category  
8 “Other Defense Activities” in the annual budget re-  
9 quest of the President for fiscal year 2000, other  
10 than the activity described as “Naval Reactors”.

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

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

17 There are hereby transferred to the Department of  
18 the Treasury all functions performed by the Energy Infor-  
19 mation Administration on the day before the effective date  
20 of this section. There are authorized to be appropriated  
21 for carrying out the activities of the Energy Information  
22 Administration \$40,000,000 for each of the fiscal years  
23 2000 through 2004.

1 **SEC. 603. ENERGY REGULATORY ADMINISTRATION.**

2 There are hereby transferred to the Attorney General  
3 all functions performed by the Energy Regulatory Admin-  
4 istration on the day before the effective date of this sec-  
5 tion.

6 **SEC. 604. EFFECTIVE DATE.**

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

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

12 **TITLE VII—CIVILIAN RADIO-**  
13 **ACTIVE WASTE MANAGEMENT**

14 **SEC. 701. TRANSFER OF AUTHORITY TO THE SECRETARY**  
15 **OF THE ARMY.**

16 (a) TRANSFER.—Effective at the expiration of the 3d  
17 calendar month beginning after the date of enactment of  
18 this Act, section 304 of the Nuclear Waste Policy Act of  
19 1982 (42 U.S.C. 10224) is amended to read as follows:

20 “ARMY CORPS OF ENGINEERS

21 “SEC. 304. (a) TRANSFER.—The Office of Civilian  
22 Radioactive Waste Management (referred to in this sec-  
23 tion as the ‘office’) is terminated and the authority and  
24 assets of the office with respect to its activities under title  
25 I respecting a repository for radioactive waste and spent  
26 nuclear fuel is transferred to the Army Corps of Engineers

1 (referred to in this section as the ‘Corps’). In connection  
2 with the transfer, the Corps shall assume all contracts and  
3 other obligations of the office with respect to the Yucca  
4 Mountain site and the permits from the State of Nevada  
5 for the site shall be reissued for the Corps.

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

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

22       (b) CONFORMING AMENDMENTS.—

23           (1) TABLE OF CONTENTS.—The table of con-  
24 tents in section 1 of the Nuclear Waste Policy Act  
25 of 1982 (42 U.S.C. prec. 10101) is amended by

1       striking the item relating to section 304 and insert-  
2       ing the following:

“See. 304. Army Corps of Engineers.”.

3                   (2) REFERENCES TO THE SECRETARY OF  
4       ENERGY.—

5                   (A) DEFINITION.—Section 2(20) of the  
6       Nuclear Waste Policy Act of 1982 (42 U.S.C.  
7       10101(20)) is amended by striking “Secretary  
8       of Energy” and inserting “Secretary of the  
9       Army”.

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

15                  (3) REFERENCES TO THE DEPARTMENT OF  
16       ENERGY.—

17                  (A) DEFINITION.—Section 2(8) of the Nu-  
18       clear Waste Policy Act of 1982 (42 U.S.C.  
19       10101(8)) is amended by striking “Department  
20       of Energy” and inserting “Department of the  
21       Army”.

22                  (B) NUCLEAR WASTE TECHNICAL REVIEW  
23       BOARD.—Section 502(b)(3)(C)(iii) of the Nu-  
24       clear Waste Policy Act of 1982 (42 U.S.C.

1           10262(b)(3)(C)(iii)) is amended to read as fol-  
2           lows:

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

5           “(I) the Department of Defense;

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

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

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

15           (i) Section 136(f)(2).

16           (ii) Section 224(b).

17           (iii) Section 302(e)(2).

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

22 **SEC. 702. REAFFIRMATION OF OBLIGATION TO ACCEPT RA-**  
23 **DIOACTIVE WASTE AND SPENT NUCLEAR**  
24 **FUEL BY 1998.**

25 (a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) the generation of electricity by nuclear reactors results in the production of spent nuclear fuel;

(B) about 24,000 metric tons of spent nuclear fuel have been produced by the Nation's operating nuclear power plants, and an additional 50,000 metric tons of spent nuclear fuel is expected to be produced during the terms of their current licenses;

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

(D) the storage pools for the temporary storage of spent nuclear fuel are nearing capacity at many of the reactor sites;

(E) since the beginning of the commercial nuclear power industry in the 1960's, the Federal Government has had the responsibility to provide for the disposal of commercial spent nuclear fuel;

(F) Congress enacted the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) in order to codify the Federal responsibility and

1           policy to provide for the safe and timely dis-  
2           posal of spent nuclear fuel by establishing a  
3           schedule for the siting, construction, and oper-  
4           ation of deep geologic repositories, assigning the  
5           responsibility for implementation of the pro-  
6           gram to the Department of Energy, and estab-  
7           lishing the Nuclear Waste Fund to cover the  
8           costs of the Federal disposal program to be  
9           paid by utility ratepayers and owners;

10           (G) since the enactment of the Nuclear  
11           Waste Policy Act of 1982, utility ratepayers  
12           and owners have paid more than  
13           \$10,000,000,000 into the Nuclear Waste Fund;

14           (H) under the schedule established in the  
15           Nuclear Waste Policy Act of 1982, the Depart-  
16           ment of Energy, in return for the payment of  
17           the fees by utility ratepayers and owners, is di-  
18           rected to dispose of spent nuclear fuel begin-  
19           ning not later than January 31, 1998;

20           (I) despite the 14 years that have passed  
21           since the enactment of the Nuclear Waste Pol-  
22           icy Act of 1982 and the expenditure of over  
23           \$4,000,000,000, the Department of Energy has  
24           fallen behind schedule, and the projected date

1 for commencement of operation of a repository,  
2 under optimistic assumptions, is 2010;

3 (J) the Nuclear Waste Policy Act of 1982  
4 currently prohibits the selection of a site for a  
5 monitored retrievable storage facility until a  
6 site for a permanent repository has been  
7 selected;

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

12 (L) the General Accounting Office and  
13 other technical experts have indicated that  
14 greater privatization would enhance cost  
15 efficiencies.

16 (2) PURPOSES.—The purposes of this section  
17 are—

18 (A) to ensure that the Secretary of the  
19 Army fulfills what was formerly the responsi-  
20 bility of the Secretary of Energy to site, con-  
21 struct, and operate temporary and permanent  
22 nuclear waste disposal facilities in a safe and  
23 timely manner; and

24 (B) to reaffirm the obligation of the Fed-  
25 eral Government under the Nuclear Waste Pol-

1           icy Act of 1982 to provide for the safe disposal  
2           of spent nuclear fuel beginning not later than  
3           January 31, 1998.

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

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

15           (c) SITING OF MONITORED RETRIEVABLE STORAGE  
16  FACILITY.—

17           (1) REPEAL OF SITE SELECTION LIMITATION.—  
18   Section 145 of the Nuclear Waste Policy Act of  
19   1982 (42 U.S.C. 10165) is amended by striking sub-  
20  section (b).

21           (2) REPEAL OF LICENSING CONDITIONS.—Sec-  
22  tion 148 of the Nuclear Waste Policy Act of 1982  
23  (42 U.S.C. 10168) is amended by striking sub-  
24  section (d).

1 **SEC. 703. INITIAL STORAGE FACILITY.**

2 (a) LICENSE.—The facility for the initial storage of  
3 not more than 40,000 metric tons of uranium at Area 25  
4 of the Nevada Test Site shall be licensed by the Nuclear  
5 Regulatory Commission for an unspecified period, in ac-  
6 cordance with the Commission's regulations governing the  
7 licensing of independent spent fuel storage installations,  
8 without regard to section 148 (a) or (d) of the Nuclear  
9 Waste Policy Act of 1982 (42 U.S.C. 10168 (a), (d)).

10 (b) EXPANSION.—

11 (1) OPERATION CONSISTENT WITH CURRENT  
12 LAW.—The initial storage facility shall be expand-  
13 able for the subsequent transportation and interim  
14 storage of up to 100,000 metric tons of uranium  
15 and shall be operational, consistent with sections  
16 135(a)(4), 137(a), 141(a), and 148 (a), (b), and (c)  
17 of the Nuclear Waste Policy Act of 1982 (42 U.S.C.  
18 10155(4), 10157(a), 10161(a), 10168 (a), (b), (c)).

19 (2) REPEALS.—Sections 131 (a)(3) and (b)(2),  
20 135(a) (1) and (2), 135 (d) and (e), 141(g), 145,  
21 146, and 148(d) (1), (3), and (4) of the Nuclear  
22 Waste Policy Act of 1982 (42 U.S.C. 10151 (a)(3),  
23 (b)(2), 10155 (a)(1), (2), (d), 10161(g), 10165,  
24 10168(d) (1), (3), (4)) are repealed.

25 (c) REVIEW OF PROGRAM.—The Secretary of the  
26 Army shall review the activities of the initial storage facil-

1 ity program, including all cooperative agreements, inter-  
2 national commitments, and university assistance, and  
3 shall make available to those entities amounts, that are  
4 commensurate with the revised program for nuclear waste  
5 disposal activities.

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

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

1       **TITLE VIII—MISCELLANEOUS**  
2                   **PROVISIONS**

3       **SEC. 801. REFERENCES.**

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

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

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

15       **SEC. 802. EXERCISE OF AUTHORITIES.**

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

1 **SEC. 803. SAVINGS PROVISIONS.**

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

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

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

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

21 (b) **PROCEEDINGS.**—This Act shall not affect any  
22 proceedings or any application for any benefits, service,  
23 license, permit, certificate, or financial assistance pending  
24 on the date of the enactment of this Act before an office  
25 transferred by this Act, but such proceedings and applica-  
26 tions shall be continued. Orders shall be issued in such

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

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

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

24 (e) CONTINUANCE OF SUITS.—If any officer of the  
25 Department of Energy or the Energy Programs Resolu-

1 tion Agency in the official capacity of such officer is party  
2 to a suit with respect to a function of the officer, and  
3 under this Act such function is transferred to any other  
4 officer or office, then such suit shall be continued with  
5 the other officer or the head of such other office, as appli-  
6 cable, substituted or added as a party.

7 **SEC. 804. TRANSFER OF ASSETS.**

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

17 **SEC. 805. DELEGATION AND ASSIGNMENT.**

18        Except as otherwise expressly prohibited by law or  
19 otherwise provided in this Act, an official to whom func-  
20 tions are transferred under this Act (including the head  
21 of any office to which functions are transferred under this  
22 Act) may delegate any of the functions so transferred to  
23 such officers and employees of the office of the official as  
24 the official may designate, and may authorize successive  
25 redelegations of such functions as may be necessary or ap-

1 appropriate. No delegation of functions under this section  
2 or under any other provision of this Act shall relieve the  
3 official to whom a function is transferred under this Act  
4 of responsibility for the administration of the function.

5 SEC. 806. AUTHORITY OF OFFICE OF MANAGEMENT AND  
6 BUDGET WITH RESPECT TO FUNCTIONS  
7 TRANSFERRED.

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

(b) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this Act. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

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

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

8 **SEC. 808. CERTAIN VESTING OF FUNCTIONS CONSIDERED**

9                   **TRANSFER.**

10       For purposes of this title, the vesting of a function  
11 in a department or office pursuant to reestablishment of  
12 an office shall be considered to be the transfer of the func-  
13 tion.

14 **SEC. 809. DEFINITIONS.**

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

17                   (1) **ADMINISTRATOR.**—The term “Adminis-  
18 trator” means the Administrator of the Energy Pro-  
19 grams Resolution Agency.

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

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

○