

106TH CONGRESS
1ST SESSION

S. 896

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

IN THE SENATE OF THE UNITED STATES

APRIL 28, 1999

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

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

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

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

TITLE I—ABOLISHMENT OF DEPARTMENT OF ENERGY

- Sec. 101. Reestablishment of department as Energy Programs Resolution Agency.
- Sec. 102. Functions.
- Sec. 103. Deputy Administrator.
- Sec. 104. Continuation of service of department officers.
- Sec. 105. Reorganization.
- Sec. 106. Abolishment of Energy Programs Resolution Agency.
- Sec. 107. Restoration of the Federal Energy Regulatory Commission as an independent agency.
- Sec. 108. Disposition of the Energy Information Administration and of certain energy research programs.
- Sec. 109. Disposition of the Energy Regulatory Administration.
- Sec. 110. GAO report.
- Sec. 111. Conforming amendments.
- Sec. 112. Effective date.

TITLE II—ENERGY LABORATORIES

Subtitle A—National Defense Laboratories

- Sec. 201. Transfer and discharge of functions.

Subtitle B—Nondefense Energy Laboratories

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

TITLE III—POWER MARKETING ADMINISTRATIONS

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

TITLE IV—TRANSFER AND DISPOSAL OF RESERVES

Subtitle A—Strategic Petroleum Reserve

- Sec. 401. Strategic Petroleum Reserve.

Subtitle B—Naval Petroleum Reserves

- Sec. 411. Naval Petroleum Reserves.

TITLE V—NATIONAL SECURITY AND ENVIRONMENTAL MANAGEMENT PROGRAMS

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

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

TITLE VI—ENVIRONMENTAL RESTORATION ACTIVITIES AT DEFENSE NUCLEAR FACILITIES

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

TITLE VII—CIVILIAN RADIOACTIVE WASTE MANAGEMENT

- Sec. 701. Transfer of authority to the Secretary of the Army.
- Sec. 702. Reaffirmation of obligation to accept radioactive waste and spent nuclear fuel by 2000.
- Sec. 703. Interim storage program.

TITLE VIII—MISCELLANEOUS PROVISIONS

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

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) ADMINISTRATOR.—

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

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

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

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

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

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

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

19 **SEC. 102. FUNCTIONS.**

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

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

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

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

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

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

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

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

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

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

1 **SEC. 105. REORGANIZATION.**

2 The Administrator may, as the Administrator con-
3 siders necessary or appropriate—

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

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

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

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

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

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

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

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

7 The Department of Energy Organization Act is
 8 amended—

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

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

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

14 (B) in subsection (c), by striking the sec-
 15 ond sentence;

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

17 (D) in subsection (j)—

18 (i) in the first sentence—

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

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

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

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

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

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

7 (B) by striking subsection (b);

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

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

11 (A) in subsection (a)—

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

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

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

18 (7) in section 501(a) (42 U.S.C. 7191(a))—

19 (A) in paragraph (1), by striking “(1)”;

20 and

21 (B) by striking paragraph (2).

1 **SEC. 108. DISPOSITION OF THE ENERGY INFORMATION AD-**
2 **MINISTRATION AND OF CERTAIN ENERGY RE-**
3 **SEARCH PROGRAMS.**

4 (a) TRANSFER OF FUNCTIONS.—There are trans-
5 ferred to the Secretary of the Interior—

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

8 (2)(A) the civilian energy research programs
9 under the Assistant Secretary of Energy for Fossil
10 Energy and the Assistant Secretary of Energy for
11 Energy Efficiency and Renewable Energy; and

12 (B) the science and technology programs
13 under—

14 (i) the Office of Energy Research;

15 (ii) the Office of Nuclear Energy Science
16 and Technology;

17 (iii) the Office of Science Education and
18 Technical Information; and

19 (iv) the Office of Energy Research.

20 (b) BASIC SCIENCE PROGRAMS.—If the Secretary of
21 the Interior determines that any of the programs trans-
22 ferred under subsection (a)(2) is a program that performs
23 basic science research that should be considered by the
24 Nondefense Energy Laboratory Commission under section
25 213, the President shall transfer the programs to the Na-
26 tional Science Foundation.

1 (c) RECOMMENDATIONS FOR FURTHER DISPOSI-
2 TION.—Not later than the date that is 1 year after the
3 date of enactment of this Act, the Secretary of the Interior
4 shall submit to Congress a report making recommenda-
5 tions for the permanent disposition of the functions and
6 programs transferred by subsection (a).

7 **SEC. 109. DISPOSITION OF THE ENERGY REGULATORY AD-**
8 **MINISTRATION.**

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

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

19 **SEC. 110. GAO REPORT.**

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

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

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

5 **SEC. 111. CONFORMING AMENDMENTS.**

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

9 (b) **EXECUTIVE DEPARTMENTS.**—Section 101 of title
10 5, United States Code, is amended by striking the item
11 relating to the Department of Energy.

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

15 (d) **DEPUTY SECRETARY’S COMPENSATION.**—Section
16 5313 of title 5, United States Code, is amended by strik-
17 ing the item relating to the Deputy Secretary of Energy.

18 (e) **UNDER SECRETARY’S COMPENSATION.**—Section
19 5314 of title 5, United States Code, is amended by strik-
20 ing the item relating to the Under Secretary, Department
21 of Energy.

22 (f) **MISCELLANEOUS OFFICERS’ COMPENSATION.**—
23 Section 5315 of title 5, United States Code, is amended
24 by striking the items relating to the Assistant Secretaries
25 of Energy, General Counsel of the Department of Energy,

1 Administrator, Economic Regulatory Administration, De-
 2 partment of Energy, Administrator, Energy Information
 3 Administration, Department of Energy, Inspector Gen-
 4 eral, Department of Energy, Director, Office of Energy
 5 Research, Department of Energy, and Chief Financial Of-
 6 ficer, Department of Energy.

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

10 (1) in section 9(a)(1), by striking subparagraph
 11 (E);

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

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

14 (h) DEPARTMENT OF ENERGY ORGANIZATION
 15 ACT.—Effective on the termination date, the following
 16 provisions of the Department of Energy Organization Act
 17 (42 U.S.C. 7101 et seq.) are repealed:

18 (1) Sections 1 and 2.

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

20 **SEC. 112. EFFECTIVE DATE.**

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

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

4 **TITLE II—ENERGY**
5 **LABORATORIES**
6 **Subtitle A—National Defense**
7 **Laboratories**

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

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

- 11 (1) the Lawrence Livermore National Labora-
12 tory;
13 (2) the Los Alamos National Laboratory; and
14 (3) the Sandia National Laboratories.

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

Subtitle B—Nondefense Energy Laboratories

SEC. 211. DEFINITIONS.

In this title:

(1) ACCOUNT.—The term “Account” means the Energy Laboratory Facility Closure Account established under section 207(a).

(2) BASIC SCIENCE PROGRAM.—The term “basic science program” means a program transferred to the National Science Foundation under section 108(b).

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

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

(5) NONDEFENSE ENERGY LABORATORY.—The term “nondefense energy laboratory” means the Ames Laboratory, the Argonne National Laboratory, the Bates Linear Accelerator Laboratory, the Bettis

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

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

23 (A) that is introduced within the 10-day
24 period beginning on the date on which the Com-

1 mission transmits the report to Congress under
2 section 204(f)(4);

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

6 (C) that does not have a preamble;

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

13 (E) that contains no other matter.

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

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

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

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

1 privatization, rather than being closed in accordance with
2 section 220.

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

5 (c) APPOINTMENT.—

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

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

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

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

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

22 (B) the majority leader of the Senate con-
23 cerning the appointment of 2 members.

24 (5) CHAIRPERSON.—At the time at which the
25 President submits nominations for appointment to

1 the Commission, the President shall designate 1 of
 2 the nominees for appointment as Chairperson of the
 3 Commission.

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

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

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

12 (g) PAY AND TRAVEL EXPENSES.—

13 (1) BASIC PAY.—

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

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

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

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

10 (h) DIRECTOR.—

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

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

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

21 (C) has not been an employee of a con-
22 tractor operating an energy laboratory of the
23 Department of Energy during the 5-year period
24 preceding the date of appointment.

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

5 (i) STAFF.—

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

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

22 (3) LIMITATIONS.—

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

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

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

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

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

20 (j) OTHER AUTHORITY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (5) define appropriate missions for each non-
23 defense energy laboratory and basic science program
24 and ensure that the activities of each such labora-

1 tory and basic science program are focused on its
2 mission;

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

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

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

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

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

22 (b) RECOMMENDATIONS.—

23 (1) PUBLICATION AND TRANSMITTAL.—Not
24 later than 90 days after the date of enactment of
25 this Act, the Secretary or Administrator shall pub-

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

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

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

23 (d) AVAILABILITY OF INFORMATION.—The Secretary
24 or Administrator shall make available to the Commission
25 and the Comptroller General of the United States all in-

1 formation used by the Secretary or Administrator in mak-
2 ing recommendations under this section.

3 (e) INDEPENDENT AUDIT.—

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

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

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

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

1 make recommendations on how the Government
2 could best realize that potential.

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

8 (f) REVIEW AND RECOMMENDATIONS BY THE COM-
9 MISSION.—

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

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

25 (3) DEVIATION FROM RECOMMENDATIONS.—

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

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

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

23 (5) PROVISION OF CERTAIN INFORMATION.—
24 After transmitting the final report under paragraph
25 (4), the Commission shall, promptly at the request

1 of a member of Congress, provide the member infor-
 2 mation used by the Commission in making rec-
 3 ommendations.

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

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

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

17 **SEC. 215. FAST TRACK CONGRESSIONAL CONSIDERATION**
 18 **OF COMMISSION REPORT.**

19 (a) REFERRAL.—

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

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

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

15 (c) CONSIDERATION.—

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

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

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

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

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

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

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

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

11 (2) DEBATE.—

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

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

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

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

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

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

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

1 (d) CONSIDERATION BY OTHER HOUSE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (a) IMPLEMENTATION.—

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

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

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

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

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

22 (b) MANAGEMENT AND DISPOSAL OF PROPERTY.—

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

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

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

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

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

14 (2) EXERCISE OF AUTHORITY.—

15 (A) IN GENERAL.—Subject to subpara-
16 graph (C), the Secretary or Administrator shall
17 exercise the authority delegated to the Sec-
18 retary or Administrator under paragraph (1) in
19 accordance with all regulations in effect on the
20 date of enactment of this Act governing the uti-
21 lization of excess property and the disposal of
22 surplus property under the Federal Property
23 and Administrative Services Act of 1949 (40
24 U.S.C. 471 et seq.).

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

6 (C) LIMITATION.—The authority required
7 to be delegated by paragraph (1) to the Sec-
8 retary or Administrator by the Administrator of
9 General Services does not include the authority
10 to prescribe general policies and methods for
11 utilizing excess property and disposing of sur-
12 plus property.

13 (c) WAIVER.—The President may close, reconfigure,
14 transfer, or privatize a nondefense energy laboratory or
15 basic science program under this subtitle without regard
16 to any law restricting the use of funds for reconfiguring,
17 transferring, privatizing, or closing energy laboratories or
18 basic science programs included in any appropriations or
19 authorization Act.

20 **SEC. 218. ACCOUNT.**

21 (a) ESTABLISHMENT.—There is established in the
22 Treasury of the United States an account to be known
23 as the “Energy Laboratory Facility Closure Account”,
24 which shall be administered by the Secretary or Adminis-
25 trator as a single account.

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

3 (1) funds authorized for and appropriated to
4 the Account; and

5 (2) any funds that the President or the Sec-
6 retary or Administrator may, subject to approval in
7 an appropriation Act, transfer to the Account from
8 funds appropriated to the Department of Energy for
9 any purpose, except that such funds may be trans-
10 ferred only after the date on which the President or
11 the Secretary or Administrator transmits written no-
12 tice of, and justification for, such transfer to the
13 congressional energy committees.

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

17 (d) REPORTS.—

18 (1) IN GENERAL.—Not later than 60 days after
19 the end of each fiscal year in which the President or
20 the Secretary or Administrator carries out activities
21 under this title, the President or the Secretary or
22 Administrator shall transmit a report to the congres-
23 sional energy committees of the amount and nature
24 of the deposits into, and the expenditures from, the
25 Account during the fiscal year and of the amount

1 and nature of other expenditures made pursuant to
2 section 204(a) during such fiscal year.

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

5 **SEC. 219. REPORTS ON IMPLEMENTATION.**

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

11 (1) a schedule of the closure, reconfiguration,
12 transfer, and privatization actions to be carried out
13 under this subtitle in the fiscal year for which the
14 request is made and an estimate of the total expend-
15 itures required and cost savings to be achieved by
16 each such closure, reconfiguration, transfer, and pri-
17 vatization and of the time period in which the sav-
18 ings are to be achieved in each case; and

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

1 **TITLE III—POWER MARKETING**
2 **ADMINISTRATIONS**

3 **SEC. 301. FINDINGS.**

4 Congress finds that—

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

8 (2) the receipt of transmission access by all
9 parties resulting from the amendments to section
10 212 of the Federal Power Act (16 U.S.C. 824k)
11 made by section 722 of the Energy Policy Act of
12 1992 (106 Stat. 2916) allows wholesale customers to
13 purchase power from numerous sources;

14 (3) in fairness to longtime consumers of the
15 power marketing administrations, any changes to
16 the current operations of the power marketing ad-
17 ministrations should consider the impact on those
18 customers and provide an opportunity for those cus-
19 tomers to contribute their expertise in the process.

20 **SEC. 302. DEFINITIONS.**

21 In this title, the term “power marketing administra-
22 tion” means—

23 (1) the Bonneville Power Administration;

24 (2) the Southeastern Power Administration;

1 (3) the Southwestern Power Administration;
2 and
3 (4) the Western Area Power Administration.

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

5 (a) TRANSFER OF FUNCTIONS.—There are trans-
6 ferred to the Secretary of the Army, acting through the
7 Chief of Engineers of the Army Corps of Engineers, all
8 of the functions of—

9 (1) the Administrator of the Bonneville Power
10 Administration;

11 (2) the Administrator of the Southeastern
12 Power Administration;

13 (3) the Administrator of the Southwestern
14 Power Administration; and

15 (4) the Administrator of the Western Area
16 Power Administration.

17 (b) STUDY AND RECOMMENDATIONS BY THE COMP-
18 TROLLER GENERAL.—Not later than 1 year after the date
19 of enactment of this Act, the Comptroller General of the
20 United States shall—

21 (1) perform a study of each power marketing
22 administration that recognizes the uniqueness of
23 each power marketing administration; and

24 (2) submit to Congress a comprehensive report
25 that—

1 (A) catalogues the assets and liabilities of
2 each power marketing administration, including
3 any unrealized obligations to contribute funds
4 or deliver electric power for purposes estab-
5 lished under law in effect on the date of enact-
6 ment of this Act;

7 (B) considers all reasonable options for re-
8 structuring of the power marketing administra-
9 tions;

10 (C) considers how best to protect the eco-
11 nomic interests of current customers of the
12 power marketing administrations while pro-
13 tecting the taxpayers; and

14 (D) makes recommendations to Congress
15 for the final disposition of the power marketing
16 administrations.

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

19 (1) under any final disposition of the power
20 marketing administration that Congress may ap-
21 prove, any purchaser of facilities shall be required to
22 maintain any contracts with customers that, as of
23 the effective date, are in force for the remaining life
24 of the contracts; and

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

4 **TITLE IV—TRANSFER AND**
 5 **DISPOSAL OF RESERVES**
 6 **Subtitle A—Strategic Petroleum**
 7 **Reserve**

8 **SEC. 401. STRATEGIC PETROLEUM RESERVE.**

9 (a) DEFINITION.—In this section, the term “Stra-
 10 tegic Petroleum Reserve” means petroleum products
 11 stored in storage facilities pursuant to part B of title I
 12 of the Energy Policy and Conservation Act (42 U.S.C.
 13 6231 et seq.), including the Industrial Petroleum Reserve,
 14 the Early Storage Reserve, and the Regional Petroleum
 15 Reserve.

16 (b) TRANSFER OF FUNCTIONS.—There are trans-
 17 ferred to the Secretary of Defense all functions performed
 18 by the Secretary of Energy with respect to the Strategic
 19 Petroleum Reserve on the date before the date of the en-
 20 actment of this Act.

21 (c) PLAN FOR DISPOSAL OF RESERVE.—

22 (1) SUBMISSION TO CONGRESS.—Not later than
 23 180 days after the date of enactment of this Act, the
 24 Secretary of Defense shall submit to Congress a
 25 plan for the disposal of the Strategic Petroleum Re-

1 serve (other than the portions of the reserve that the
2 Secretary proposes to retain in order to meet the na-
3 tional security interests of the United States).

4 (2) DEADLINE.—The plan under paragraph (1)
5 shall provide for the disposal of the reserve not later
6 than 3 years after the date of the enactment of this
7 Act.

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

9 (A) an assessment of the volume of petro-
10 leum products in the Strategic Petroleum Re-
11 serve (other than the reserves held at Weeks Is-
12 land, Louisiana) that the Secretary of Defense
13 proposes to retain in order to meet the national
14 security interests of the United States;

15 (B) a list of the storage facilities (includ-
16 ing the storage facilities of the Strategic Petro-
17 leum Reserve, if appropriate) at which such pe-
18 troleum products will be retained, and the vol-
19 ume of petroleum products that will be retained
20 at each storage facility;

21 (C) a proposal for the disposal of the pe-
22 troleum products in the Strategic Petroleum
23 Reserve on the date of enactment of this Act
24 that will not be retained, including a detailed

1 schedule for the disposal of such petroleum
2 products; and

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

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

9 (1) examines whether the plan provides for the
10 disposal of any portions of the Strategic Petroleum
11 Reserve that may be needed to be retained in order
12 to ensure that the national security interests of the
13 United States are met; and

14 (2) sets forth the costs of retaining portions of
15 the Strategic Petroleum Reserve that should be re-
16 tained.

17 (e) IMPLEMENTATION OF PLAN.—The Secretary
18 shall carry out the plan under subsection (c) not later than
19 3 years after the date of enactment of this Act.

20 **Subtitle B—Naval Petroleum** 21 **Reserves**

22 **SEC. 411. NAVAL PETROLEUM RESERVES.**

23 (a) DEFINITION.—For purposes of this section, the
24 term “naval petroleum reserves” has the meaning given
25 that term in section 7420 of title 10, United States Code,

1 except that the term does not include Naval Petroleum
2 Reserve Numbered 1 (Elk Hills).

3 (b) TRANSFER OF FUNCTIONS.—There are trans-
4 ferred to the Administrator of the Energy Programs Reso-
5 lution Agency all functions performed with respect to the
6 naval petroleum reserves.

7 (c) DISPOSAL OF RESERVES.—

8 (1) DISPOSAL WITHIN 1 YEAR.—The Adminis-
9 trator shall, to the maximum extent practicable, take
10 appropriate actions to carry out the disposal of the
11 reserves of the naval petroleum reserves not later
12 than 1 year after the date of enactment of this Act.

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

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

24 (e) CONFORMING AMENDMENTS.—(1)(A) Chapter
25 641 of title 10, United States Code, is repealed.

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

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

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

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

13 (a) ESTABLISHMENT OF DEFENSE NUCLEAR PRO-
 14 GRAMS ADMINISTRATION.—

15 (1) DEFINITION.—In this subsection, the term
 16 “defense nuclear programs matters” means matters
 17 related to the military use of nuclear energy and nu-
 18 clear weapons, including all such matters that were
 19 under the jurisdiction of the following entities on the
 20 day before the date of enactment of this Act:

21 (A) The Department of Energy.

22 (B) The Defense Threat Reduction Agency
 23 of the Department of Defense.

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

1 (2) ESTABLISHMENT.—There is established in
 2 the Department of Defense an agency to be known
 3 as the “Defense Nuclear Programs Administration”
 4 (referred to in this title as the “Administration”),
 5 which shall have primary responsibility within the
 6 Government for defense nuclear program matters.

7 (b) UNDER SECRETARY.—Chapter 4 of title 10,
 8 United States Code, is amended by inserting after section
 9 133a the following:

10 **“§ 133b. Under Secretary of Defense for Defense Nu-**
 11 **clear Programs**

12 “(a) IN GENERAL.—There is an Under Secretary of
 13 Defense for Defense Nuclear Programs, appointed from
 14 civilian life by the President, by and with the advice and
 15 consent of the Senate.

16 “(b) FUNCTION AS PRINCIPAL ADVISER.—The
 17 Under Secretary of Defense for Defense Nuclear Pro-
 18 grams shall serve as the principal adviser to the President
 19 and the Secretary of Defense on all programs and matters
 20 related to the military use of nuclear energy and nuclear
 21 weapons.

22 “(c) DUTIES.—Subject to the authority, direction,
 23 and control of the Secretary of Defense, the Under Sec-
 24 retary of Defense for Defense Nuclear Programs shall

1 have primary responsibility within the Government for the
 2 programs and matters referred to in subsection (b).

3 “(d) PRECEDENCE.—The Under Secretary of De-
 4 fense for Defense Nuclear Programs takes precedence in
 5 the Department of Defense after the Under Secretary of
 6 Defense for Acquisition and Technology.”.

7 (c) DEPUTY UNDER SECRETARY.—Chapter 4 of title
 8 10, United States Code, as amended by subsection (b),
 9 is amended by inserting after section 133b the following:
 10 **“§ 133c. Deputy Under Secretary of Defense for De-
 11 fense Nuclear Programs**

12 “(a) IN GENERAL.—There is a Deputy Under Sec-
 13 retary of Defense for Defense Nuclear Programs, ap-
 14 pointed from civilian life by the President, by and with
 15 the advice and consent of the Senate.

16 “(b) DUTIES.—The Deputy Under Secretary shall as-
 17 sist the Under Secretary of Defense for Defense Nuclear
 18 Programs in the performance of his duties. The Deputy
 19 Under Secretary of Defense for Defense Nuclear Pro-
 20 grams shall act for, and exercise the powers of, the Under
 21 Secretary when the Under Secretary is absent or dis-
 22 abled.”.

23 (d) ASSISTANT SECRETARIES.—Section 138 of title
 24 10, United States Code, is amended—

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

3 (2) by adding at the end of subsection (c) the
 4 following:

5 “(6) ASSISTANT SECRETARY FOR DEFENSE NU-
 6 CLEAR WEAPONS FACILITIES.—One of the Assistant
 7 Secretaries shall be the Assistant Secretary for De-
 8 fense Nuclear Weapons Facilities Restoration, who
 9 shall have the principal duty of providing overall su-
 10 pervision of environmental restoration of defense nu-
 11 clear weapons facilities.

12 “(7) ASSISTANT SECRETARY FOR DEFENSE NU-
 13 CLEAR LABORATORIES.—One of the Assistant Secre-
 14 taries shall be the Assistant Secretary for Defense
 15 Nuclear Laboratories, who shall have the principal
 16 duty of providing overall supervision of the oversight
 17 of the functions and budgets of the Sandia National
 18 Laboratories, the Los Alamos National Laboratory,
 19 and the Lawrence Livermore National Laboratory.”.

20 (e) INSPECTOR GENERAL.—

21 (1) IN GENERAL.—There shall be an Inspector
 22 General of the Administration, who shall be ap-
 23 pointed as provided in section 3 of the Inspector
 24 General Act of 1978 (5 U.S.C. App. 3).

1 (2) DUTIES.—The Inspector General shall per-
 2 form the duties, have the responsibilities, and exer-
 3 cise the powers specified in the Inspector General
 4 Act of 1978 (5 U.S.C. App. 3).

5 (f) GENERAL COUNSEL.—

6 (1) IN GENERAL.—There shall be a General
 7 Counsel of the Administration, who shall be ap-
 8 pointed by the Under Secretary of Defense for De-
 9 fense Nuclear Programs.

10 (2) DUTIES.—The General Counsel shall be the
 11 chief legal officer for all legal matters arising from
 12 the conduct of the functions of the Administration.

13 (g) CONFORMING AMENDMENTS.—(1) Section 134(c)
 14 of title 10, United States Code, is amended by inserting
 15 “the Under Secretary of Defense for Defense Nuclear Pro-
 16 grams,” after “the Under Secretary of Defense for Acqui-
 17 sition and Technology,”.

18 (2) The table of sections at the beginning of chapter
 19 4 of title 10, United States Code, is amended by inserting
 20 after the item relating to section 133a the following:

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

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

21 **SEC. 502. FUNCTIONS OF DEFENSE NUCLEAR PROGRAMS**
 22 **ADMINISTRATION.**

23 (a) IN GENERAL.—The Under Secretary for Defense
 24 Nuclear Programs shall be responsible for the exercise of

1 all powers and the discharge of all duties of the Defense
2 Nuclear Programs Administration.

3 (b) TRANSFERRED FUNCTIONS.—The Under Sec-
4 retary for Defense Nuclear Programs shall carry out all
5 functions transferred to the Under Secretary under sec-
6 tion 503.

7 (c) STAFF DIRECTOR OF NUCLEAR WEAPONS COUN-
8 CIL.—Section 179(c) of title 10, United States Code, is
9 amended by striking paragraph (2) and inserting the fol-
10 lowing:

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

13 **SEC. 503. TRANSFERS OF FUNCTIONS.**

14 (a) DEPARTMENT OF ENERGY.—

15 (1) NATIONAL SECURITY FUNCTIONS.—There
16 are transferred to the Under Secretary for Defense
17 Nuclear Programs all functions performed by the
18 Department of Energy on the day before the date of
19 enactment of this Act relating to the national secu-
20 rity functions of the Department, including defense,
21 nonproliferation, and defense-related environmental
22 management programs.

23 (2) OVERSIGHT FUNCTIONS.—There are trans-
24 ferred to the Under Secretary for Defense Nuclear
25 Programs all functions performed by the Depart-

1 ment of Energy on the day before the date of enact-
2 ment of this Act relating to the oversight of the de-
3 fense and nondefense functions and budgets of the
4 following energy laboratories:

5 (A) Sandia National Laboratories, Albu-
6 querque, New Mexico, and Livermore, Cali-
7 fornia.

8 (B) Los Alamos National Laboratory, Los
9 Alamos, New Mexico.

10 (C) Lawrence Livermore National Labora-
11 tory, California.

12 (b) DEFENSE NUCLEAR AGENCY.—There are trans-
13 ferred to the Under Secretary for Defense Nuclear Pro-
14 grams all functions performed by the Defense Nuclear
15 Agency of the Department of Defense on the day before
16 the date of enactment of this Act relating to nuclear weap-
17 ons systems.

18 (c) DEFENSE NUCLEAR FACILITIES SAFETY
19 BOARD.—There are transferred to the Under Secretary
20 for Defense Nuclear Programs all functions performed by
21 the Defense Nuclear Facilities Safety Board on the day
22 before the date of enactment of this Act.

23 (d) OTHER NUCLEAR WEAPONS-RELATED FUNC-
24 TIONS.—The Secretary of Defense may transfer to the
25 Under Secretary for Defense Nuclear Programs such

1 other functions performed in the Department of Defense
2 on the day before the date of enactment of this Act relat-
3 ing to nuclear weapons as the Secretary considers appro-
4 priate.

5 (e) CONFORMING REPEALS.—

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

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

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

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

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

22 (a) APPROPRIATIONS TO THE DEFENSE NUCLEAR
23 PROGRAMS ADMINISTRATION.—No amount appropriated
24 to the Defense Nuclear Programs Administration may be
25 transferred to any other account (other than another ac-

1 count of the Defense Nuclear Programs Administration)
 2 unless the transfer of such amount to such account is spe-
 3 cifically authorized by law.

4 (b) OTHER APPROPRIATIONS.—No amount appro-
 5 priated to the Department of Defense or another depart-
 6 ment or agency may be transferred to the Under Secretary
 7 for Defense Nuclear Programs or to an account for the
 8 Administration unless the transfer of the amount to that
 9 account is specifically authorized by law.

10 **SEC. 505. TRANSITION PROVISIONS.**

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

20 (b) AUTHORITIES TO WIND UP AFFAIRS.—

21 (1) IN GENERAL.—

22 (A) DIRECTOR OF OMB.—The Director of
 23 the Office of Management and Budget may
 24 take such actions as the Director considers nec-
 25 essary to wind up any outstanding affairs of—

1 (i) the Department of Energy associ-
2 ated with the functions that are trans-
3 ferred under to section 503(a); and

4 (ii) the Defense Nuclear Facilities
5 Safety Board.

6 (B) SECRETARY OF DEFENSE.—The Sec-
7 retary of Defense may take such actions as the
8 Secretary considers necessary to wind up any
9 outstanding affairs of the Defense Nuclear
10 Agency associated with the functions that are
11 transferred under section 503(b), any out-
12 standing affairs of the Department of Defense
13 associated with any functions that may be
14 transferred under section 503(d), and any out-
15 standing affairs of the Assistant to the Sec-
16 retary of Defense for Atomic Energy.

17 (C) SECRETARY OF THE NAVY.—The Sec-
18 retary of the Navy may take such actions as the
19 Secretary considers necessary to wind up any
20 outstanding affairs of the Strategic Systems
21 Programs of the Department of the Navy asso-
22 ciated with the functions that are transferred
23 under section 503(c).

24 (2) TRANSFER OF ASSETS.—So much of the
25 personnel, property, records, and unexpended bal-

1 ances of appropriations, allocations, and other funds
 2 employed, used, held, available, or to be made avail-
 3 able in connection with a function transferred to the
 4 Under Secretary for Defense Nuclear Programs by
 5 this Act are transferred to the Under Secretary for
 6 use in connection with the functions transferred.

7 (3) FURTHER MEASURES AND DISPOSITIONS.—
 8 Such further measures and dispositions as the Presi-
 9 dent considers necessary to effectuate the transfers
 10 referred to under section 503(b) shall be carried out
 11 in such manner as the President directs and by the
 12 heads of such 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,”; and

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

24 (b) EXECUTIVE SCHEDULE.—(1) Section 5313 of
 25 title 5, United States Code, is amended by inserting after

1 the item relating to the Under Secretary of Defense for
2 Acquisition and Technology the following:

3 “Under Secretary of Defense for Defense Nu-
4 clear Programs.”.

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

9 “Deputy Under Secretary of Defense for De-
10 fense Nuclear Programs.”.

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

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

16 (4) Section 5316 of title 5, United States Code, is
17 amended by inserting after the item relating to the Deputy
18 General Counsel of the Department of Defense the fol-
19 lowing:

20 “General Counsel of the Defense Nuclear Pro-
21 grams Administration.”.

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

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

1 (b) DELAYED EFFECTIVE DATE FOR ESTABLISH-
2 MENT OF ADMINISTRATION AND TRANSFERS OF FUNC-
3 TIONS.—Section 501(a) and section 503 shall take effect
4 on the date that is one year after the date of enactment
5 of this Act.

6 (c) TRANSITION PERIOD.—The Secretary of Defense,
7 the Secretary of Energy, the Assistant to the Secretary
8 of Defense for Atomic Energy, and the Defense Nuclear
9 Facilities Safety Board shall, beginning as soon as prac-
10 ticable after the date of enactment of this Act, plan for
11 the orderly establishment of, and transfer of functions to,
12 the Defense Nuclear Programs Administration under this
13 Act.

14 (d) APPOINTMENT AUTHORITY.—The President may
15 make appointments under section 501 notwithstanding the
16 delayed effective date under subsection (b) for the estab-
17 lishment of the Defense Nuclear Programs Administra-
18 tion.

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

5 **SEC. 601. ENVIRONMENTAL RESTORATION ACTIVITIES AT**
 6 **DEFENSE NUCLEAR FACILITIES.**

7 The Comprehensive Environmental Response, Com-
 8 pensation, and Liability Act of 1980 (42 U.S.C. 9601 et
 9 seq.) is amended by adding at the end the following:

10 **“TITLE V—ENVIRONMENTAL**
 11 **RESTORATION ACTIVITIES AT**
 12 **DEFENSE NUCLEAR FACILI-**
 13 **TIES**

14 **“Subtitle A—General Provisions**

15 **“SEC. 501. APPLICABILITY.**

16 “Notwithstanding section 120, this title shall apply
 17 with respect to selection of remedial actions at defense nu-
 18 clear facilities.

19 **“SEC. 502. DEFINITIONS.**

20 “In this title:

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

23 “(A) a production facility or utilization fa-
 24 cility (as those terms are defined in section 11
 25 of the Atomic Energy Act of 1954 (42 U.S.C.

2014)) that is under the control or jurisdiction of the Under Secretary of Defense for Defense Nuclear Programs and that is operated for national security purposes (including the tritium loading facility at Savannah River, South Carolina, the 236 H facility at Savannah River, South Carolina, and the Mound Laboratory, Ohio), but the term does not include any facility that does not conduct atomic energy defense activities and does not include any facility or activity covered by Executive Order Number 12344, dated February 1, 1982, pertaining to the naval nuclear propulsion program;

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

“(C) a testing and assembly facility that is under the control or jurisdiction of the Under Secretary of Defense for Defense Nuclear Programs and that is operated for national security purposes (including the Nevada Test Site, Nevada, the Pinnellas Plant, Florida, and the Pantex facility, Texas);

1 “(D) an atomic weapons research facility
 2 that is under the control or jurisdiction of the
 3 Under Secretary of Defense for Defense Nu-
 4 clear Programs (including the Lawrence Liver-
 5 more, Los Alamos, and Sandia National Lab-
 6 oratories); and

7 “(E) a facility described in subparagraphs
 8 (A) through (D) that—

9 “(i) is no longer in operation;

10 “(ii) was under the control or jurisdic-
 11 tion of the Department of Defense, the
 12 Atomic Energy Commission, the Energy
 13 Research and Development Administration,
 14 or the Department of Energy; and

15 “(iii) was operated for national secu-
 16 rity purposes.

17 “(2) UNDER SECRETARY.—The term ‘Under
 18 Secretary’ means the Under Secretary of Defense
 19 for Defense Nuclear Programs.

20 **“Subtitle B—Selection of Remedial** 21 **Action**

22 **“SEC. 511. REVIEW OF ONGOING AND PLANNED REMEDIAL** 23 **ACTIONS.**

24 “(a) IN GENERAL.—Not later than 1 year after the
 25 date of enactment of this title, the Under Secretary shall

1 review each remedial action described in subsection (d) for
 2 purposes of determining whether the remedial action was
 3 selected in a manner consistent with the requirements of
 4 this subtitle.

5 “(b) MODIFICATION OF REMEDIAL ACTIONS.—If the
 6 Under Secretary determines the selection was not con-
 7 sistent with the requirements of this subtitle, the Under
 8 Secretary shall modify the remedial action in a manner
 9 consistent with the requirements of this subtitle.

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

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

17 “(1) that is being performed as of the date of
 18 enactment of this title, including a facility for which
 19 construction is ongoing or has been completed as of
 20 that date; or

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

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

24 “(a) IN GENERAL.—The Under Secretary shall select
 25 a remedial action for a defense nuclear facility based on

1 consideration of a site-specific risk assessment conducted
2 in accordance with section 513 and an analysis of risk re-
3 duction benefits and costs conducted in accordance with
4 section 514.

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

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

11 “(1) the incremental benefits of a more expen-
12 sive remedial action justify incurring the incremental
13 costs of the more expensive remedy, as set forth in
14 the analysis of risk reductions cost and benefits for
15 the remedial action under section 514, in which case
16 a more expensive remedy may be selected; or

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

22 “(c) CONSULTATION.—

23 “(1) IN GENERAL.—Before selection of a reme-
24 dial action and before public comment under sub-
25 section (d), the Under Secretary shall consult with

1 the Administrator, officials of State, local, or tribal
2 governments having jurisdiction over the property
3 or, in the case of property which is exclusively under
4 Federal jurisdiction, having jurisdiction over the sur-
5 rounding areas.

6 “(2) MATTERS TO BE ADDRESSED.—Consulta-
7 tion under paragraph (1) shall include discussion of,
8 at a minimum, current area demographics, land and
9 water uses, and currently planned land and water
10 uses, the determination of which shall remain the
11 sole purview of the appropriate State, local, or tribal
12 government with jurisdiction.

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

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

19 “(1) the analysis of risk reduction benefits and
20 costs for the remedial action under section 514 is
21 based on objective and unbiased scientific and eco-
22 nomic evaluations of all significant and relevant in-
23 formation and on risk assessments provided to the
24 Under Secretary by interested parties relating to the

1 costs, risks, and risk reduction and other benefits
2 of the remedial action selected;

3 “(2) the incremental risk reduction or other
4 benefits of the remedial action will be likely to jus-
5 tify, and be reasonably related to, the incremental
6 costs incurred by the Federal Government, by State,
7 local, and tribal governments, and other public and
8 private entities; and

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

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

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

17 “(a) IN GENERAL.—A site-specific risk assessment
18 shall be performed in accordance with this section before
19 the selection of a remedial action at a defense nuclear fa-
20 cility.

21 “(b) PRINCIPLES.—

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

1 “(A) distinguishes scientific findings from
2 other considerations;

3 “(B) is, to the extent feasible, scientifically
4 objective, unbiased, and inclusive of all relevant
5 data; and

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

8 “(2) NO REPETITION.—Discussions or expla-
9 nations required under this section need not be re-
10 peated in each risk assessment document if there is
11 a reference to the relevant discussions or explanation
12 in another agency document that is available to the
13 public.

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

17 “(A) HUMAN HEALTH RISKS.—

18 “(i) IN GENERAL.—In connection with
19 a discussion of human health risks, a site-
20 specific risk assessment shall contain a dis-
21 cussion of both relevant laboratory and rel-
22 evant epidemiologic data of sufficient qual-
23 ity which finds, or fails to find, a correla-
24 tion between health risks and a potential
25 toxin or activity.

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

13 “(iii) RECONCILIATION.—The discus-
14 sion of possible reconciliation should indi-
15 cate whether there is a biological basis to
16 assume a resulting harm in humans.

17 “(iv) ANIMAL DATA.—Animal data
18 shall be reviewed with regard to its rel-
19 evancy to humans.

20 “(B) DEFAULT VALUE, ASSUMPTION, IN-
21 FERENCE, OR MODEL.—If a site-specific risk
22 assessment involves selection of any significant
23 default value, assumption, inference, or model,
24 the risk assessment document shall, to the ex-
25 tent feasible—

1 “(i) present a representative list and
 2 explanation of plausible and alternative as-
 3 sumptions, inferences, or models;

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

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

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

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

14 “(C) RISK CHARACTERIZATION AND COM-
 15 MUNICATION.—The site-specific risk assessment
 16 shall meet each of the following requirements
 17 regarding risk characterization and communica-
 18 tion:

19 “(i) RISK CHARACTERIZATION.—

20 “(I) DESCRIPTION OF POPU-
 21 LATIONS.—The risk characterization
 22 shall describe the populations or nat-
 23 ural resources that are the subject of
 24 the risk characterization.

1 “(II) NUMERICAL ESTIMATES.—

2 If a numerical estimate of risk is pro-
3 vided, the Under Secretary shall, to
4 the extent feasible, provide—

5 “(aa) the best estimate or
6 estimates for the specific popu-
7 lations or natural resources
8 which are the subject to the char-
9 acterization (based on the infor-
10 mation available to the Under
11 Secretary); and

12 “(bb) a statement of the
13 reasonable range of scientific un-
14 certainties.

15 “(III) OTHER ESTIMATES.—In
16 addition to best estimate or estimates
17 under subclause (I)(aa), the risk char-
18 acterization document may present
19 plausible upper-bound or conservative
20 estimates in conjunction with plau-
21 sible lower-bound estimates.

22 “(IV) MULTIPLE BEST ESTI-
23 MATES.—If appropriate, the risk char-
24 acterization document may present, in
25 lieu of a single best estimate, multiple

1 best estimates based on assumptions,
2 inferences, or models which are equal-
3 ly plausible, given current scientific
4 understanding.

5 “(V) DISTRIBUTION AND PROB-
6 ABILITY OF RISK.—To the extent
7 practicable and appropriate, the risk
8 characterization document shall pro-
9 vide descriptions of the distribution
10 and probability of risk estimates to re-
11 flect differences in exposure variability
12 or sensitivity in populations and at-
13 tendance uncertainties.

14 “(VI) SUBPOPULATIONS.—Sen-
15 sitive subpopulations or highly ex-
16 posed subpopulations include, to the
17 extent relevant and appropriate, chil-
18 dren, the elderly, pregnant women,
19 and disabled persons.

20 “(ii) EXPOSURE SCENARIOS.—

21 “(I) IN GENERAL.—Exposure
22 scenarios shall be based on actual ex-
23 posure pathways and currently
24 planned future land and water uses as
25 established by any local governmental

1 authorities with jurisdiction over the
2 property and shall consider the avail-
3 ability of alternative water supplies.

4 “(II) SIZE OF POPULATION AT
5 RISK.—To the extent feasible, the
6 site-specific risk assessment shall in-
7 clude a statement of the size of the
8 population at risk under any proposed
9 exposure scenario and the likelihood
10 of such scenario.

11 “(III) EXPOSURE PATHWAYS.—
12 Exposure scenarios shall explicitly
13 identify any exposure scenarios that
14 result in plausible completed exposure
15 pathways.

16 “(iii) MAGNITUDE OF RISKS.—

17 “(I) IN GENERAL.—A site-spe-
18 cific risk assessment shall contain a
19 statement that places the magnitude
20 of risks to human health, safety, or
21 the environment in context.

22 “(II) COMPARISONS WITH OTHER
23 RISKS.—A statement under subclause
24 (I) shall, to the extent feasible, pro-
25 vide comparisons with estimates of

1 greater, lesser, and substantially
2 equivalent risks that are familiar to
3 and routinely encountered by the gen-
4 eral public as well as other risks, and
5 to the extent appropriate and mean-
6 ingful, comparisons of those risks with
7 other similar risks regulated by the
8 Under Secretary resulting from com-
9 parable activities and exposure path-
10 ways.

11 “(III) DISTINCTIONS AMONG
12 RISKS.—In formulating comparisons
13 under subclause (II), the Under Sec-
14 retary should consider relevant dis-
15 tinctions among risks, such as the vol-
16 untary or involuntary nature of risks
17 and the preventability or nonprevent-
18 ability of risks.

19 “(iv) RISKS TO HUMAN HEALTH.—
20 Each site-specific risk assessment shall in-
21 clude a statement of any significant substi-
22 tution risks to human health, if informa-
23 tion on such risks has been provided to the
24 Under Secretary.

1 “(v) RISK ASSESSMENTS BY COM-
2 MENTERS.—

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

15 “(II) RULE OF CONSTRUC-
16 TION.—Nothing in subclause (I) shall
17 be construed to limit the inclusion of
18 any comments or material supplied by
19 any person to the administrative
20 record of any proceeding.

21 “(D) INCORPORATION BY REFERENCE.—A
22 site-specific risk assessment may satisfy the re-
23 quirements of subparagraph (C) (iii), (iv), or
24 (v) by reference to information or material oth-
25 erwise available to the public if the document

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

3 **“SEC. 514. ANALYSIS OF RISK REDUCTION BENEFITS AND**
4 **COSTS.**

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

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

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

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

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

1 sible, provide comparisons with estimates of greater,
2 lesser, and substantially equivalent risks that are fa-
3 miliar to and routinely encountered by the general
4 public as well as other risks and, to the extent ap-
5 propriate and meaningful, comparisons of those risks
6 with other similar risks regulated by the Federal
7 Government resulting from comparable activities and
8 exposure pathways, and which comparisons should
9 reflect consideration of relevant distinctions among
10 risks, such as the voluntary or involuntary nature of
11 risks and the preventability or nonpreventability of
12 risks; and

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

16 **SEC. 602. CONFORMING AMENDMENT.**

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

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

2 (a) DEFINITION.—In this section, the term “defense
3 nuclear facility” has the meaning given the term in section
4 502 of the Comprehensive Environmental Response, Com-
5 pensation, and Liability Act of 1980 (as added by section
6 601).

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

18 (c) DEADLINE.—The Under Secretary of Defense for
19 Defense Nuclear Programs shall complete renegotiation of
20 compliance agreements as required by subsection (a) not
21 later than the date that is 1 year after date of enactment
22 of this Act.

1 **TITLE VII—CIVILIAN RADIO-**
 2 **ACTIVE WASTE MANAGEMENT**

3 **SEC. 701. TRANSFER OF AUTHORITY TO THE SECRETARY**
 4 **OF THE ARMY.**

5 (a) TRANSFER.—Effective at the expiration of the 3d
 6 calendar month beginning after the date of enactment of
 7 this Act, the Nuclear Waste Policy Act of 1982 is amend-
 8 ed by striking section 304 (42 U.S.C. 10224) and insert-
 9 ing the following:

10 **“SEC. 304. ARMY CORPS OF ENGINEERS.**

11 “(a) TRANSFER.—

12 “(1) IN GENERAL.—The Office of Civilian Ra-
 13 dioactive Waste Management (referred to in this sec-
 14 tion as the ‘office’) is terminated, and the authority
 15 and assets of the office with respect to its activities
 16 under title I respecting a repository for radioactive
 17 waste and spent nuclear fuel is transferred to the
 18 Army Corps of Engineers (referred to in this section
 19 as the ‘Corps’).

20 “(2) ASSUMPTION OF OBLIGATIONS.—In con-
 21 nection with the transfer, the Corps shall assume all
 22 contracts and other obligations of the office with re-
 23 spect to the Yucca Mountain site and the permits
 24 from the State of Nevada for the site shall be re-
 25 issued for the Corps.

1 “(b) YUCCA MOUNTAIN SITE.—

2 “(1) IN GENERAL.—The Corps shall review the
3 characterization plan of, and the work undertaken
4 by, the office for the Yucca Mountain site. Effective
5 6 months after the transfer under subsection (a),
6 the Corps shall prepare its own site characterization
7 plan in accordance with section 113.

8 “(2) REVIEW AND COMMENTS.—The plan shall
9 be submitted to the Nuclear Waste Technical Review
10 Board for its review and comments.

11 “(3) DESIGN AND CONSTRUCTION.—If the
12 Yucca Mountain site is found to be suitable, the
13 Corps shall be responsible for managing the design
14 and construction of the site.

15 “(4) OPERATION.—After the site is completed,
16 the site shall be operated by the Corps in accordance
17 with this Act.

18 “(5) BENEFITS.—The Corps shall provide bene-
19 fits to the State of Nevada in accordance with sub-
20 title F of title I.

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

24 (b) CONFORMING AMENDMENTS.—

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

“Sec. 304. Army Corps of Engineers.”.

6 (2) REFERENCES TO THE SECRETARY OF EN-
 7 ERGY.—

8 (A) DEFINITION.—Section 2(20) of the
 9 Nuclear Waste Policy Act of 1982 (42 U.S.C.
 10 10101(20)) is amended by striking “Secretary
 11 of Energy” and inserting “Secretary of the
 12 Army”.

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

18 (3) REFERENCES TO THE DEPARTMENT OF EN-
 19 ERGY.—

20 (A) DEFINITION.—Section 2(8) of the Nu-
 21 clear Waste Policy Act of 1982 (42 U.S.C.
 22 10101(8)) is amended by striking “Department
 23 of Energy” and inserting “Department of the
 24 Army”.

(B) NUCLEAR WASTE TECHNICAL REVIEW BOARD.—Section 502(b)(3)(C) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10262(b)(3)(C)) is amended by striking clause (iii) and inserting the following:

“(iii) LIMITATION ON NOMINATIONS.—No person shall be nominated for appointment to the Board who is an employee of—

“(I) the Department of Defense;

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

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

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

(i) Section 136(f)(2) (42 U.S.C. 10157(f)(2)).

(ii) Section 224(b) (42 U.S.C. 10204(b)).

1 (iii) Section 302(e)(2) (42 U.S.C.
2 10222(e)(2)).

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

7 **SEC. 702. REAFFIRMATION OF OBLIGATION TO ACCEPT RA-**
8 **DIOACTIVE WASTE AND SPENT NUCLEAR**
9 **FUEL BY 2000.**

10 (a) FINDINGS AND PURPOSES.—

11 (1) FINDINGS.—Congress finds that—

12 (A) the generation of electricity by nuclear
13 reactors results in the production of spent nu-
14 clear fuel;

15 (B) about 24,000 metric tons of spent nu-
16 clear fuel have been produced by the Nation's
17 operating nuclear power plants, and an addi-
18 tional 50,000 metric tons of spent nuclear fuel
19 is expected to be produced during the terms of
20 their current licenses;

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

1 (D) the storage pools for the temporary
2 storage of spent nuclear fuel are nearing capac-
3 ity at many of the reactor sites;

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

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

21 (G) since the enactment of the Nuclear
22 Waste Policy Act of 1982, utility ratepayers
23 and owners have paid more than
24 \$10,000,000,000 into the Nuclear Waste Fund;

1 (H) under the schedule established in the
2 Nuclear Waste Policy Act of 1982, the Depart-
3 ment of Energy, in return for the payment of
4 the fees by utility ratepayers and owners, is di-
5 rected to dispose of spent nuclear fuel begin-
6 ning not later than January 31, 2000;

7 (I) despite the 14 years that have passed
8 since the enactment of the Nuclear Waste Pol-
9 icy Act of 1982 and the expenditure of over
10 \$4,000,000,000, the Department of Energy has
11 fallen behind schedule, and the projected date
12 for commencement of operation of a repository,
13 under optimistic assumptions, is 2010;

14 (J) the Nuclear Waste Policy Act of 1982
15 currently prohibits the selection of a site for a
16 monitored retrievable storage facility until a
17 site for a permanent repository has been se-
18 lected;

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

23 (L) the General Accounting Office and
24 other technical experts have indicated that

1 greater privatization would enhance cost effi-
2 ciencies.

3 (2) PURPOSES.—The purposes of this section
4 are—

5 (A) to ensure that the Secretary of the
6 Army fulfills what was formerly the responsi-
7 bility of the Secretary of Energy to site, con-
8 struct, and operate temporary and permanent
9 nuclear waste disposal facilities in a safe and
10 timely manner; and

11 (B) to reaffirm that, as the courts have
12 held, the Federal Government was obligated
13 under the Nuclear Waste Policy Act of 1982 to
14 provide for the safe disposal of spent nuclear
15 fuel beginning not later than January 31, 1998.

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

20 “(7) ABSOLUTE OBLIGATION.—The obligation
21 of the Secretary under paragraph (5) to accept high-
22 level radioactive waste and spent nuclear fuel begin-
23 ning not later than January 31, 2000, is absolute
24 and is not dependent on the commencement of oper-
25 ation of a repository or a monitored retrievable stor-

1 age facility. That obligation shall not be voided or
2 delayed for any reason.”.

3 (c) REPEAL OF LICENSING CONDITIONS.—Section
4 148 of the Nuclear Waste Policy Act of 1982 (42 U.S.C.
5 10168) is amended by striking subsection (d).

6 **SEC. 703. INTERIM STORAGE PROGRAM.**

7 (a) FINDINGS AND PURPOSES.—Section 131 of the
8 Nuclear Waste Policy Act of 1982 (42 U.S.C. 10151) is
9 amended—

10 (1) in subsection (a)—

11 (A) in paragraph (1), by adding “and” at
12 the end;

13 (B) in paragraph (2), by striking “; and”
14 and inserting a period; and

15 (C) by striking paragraph (3); and

16 (2) in subsection (b)—

17 (A) in paragraph (1), by striking “; and”
18 and inserting a period;

19 (B) by striking “PURPOSES” and all that
20 follows through “to provide for the utilization”
21 and inserting “PURPOSE.—The purpose of this
22 subtitle is to provide for the utilization”; and

23 (C) by striking paragraph (2).

24 (b) STORAGE OF SPENT NUCLEAR FUEL.—

1 (1) IN GENERAL.—Section 135 of the Nuclear
2 Waste Policy Act of 1982 (42 U.S.C. 10155) is
3 amended—

4 (A) by striking “STORAGE OF” and all that
5 follows through “135.” and inserting the fol-
6 lowing:

7 **“SEC. 135. STORAGE OF SPENT NUCLEAR FUEL.”;**

8 (B) by striking subsection (a) and insert-
9 ing the following:

10 “(a) STORAGE CAPACITY.—

11 “(1) LICENSE.—The facility for the initial stor-
12 age of not more than 40,000 metric tons of spent
13 nuclear fuel at Area 25 of the Nevada Test Site
14 shall be licensed by the Commission for an unspec-
15 ified period, in accordance with the Commission’s
16 regulations governing the licensing of independent
17 spent fuel storage installations, without regard to
18 section 148(a).

19 “(2) EXPANSION.—The initial storage facility
20 shall be—

21 “(A) expandable for the transportation and
22 interim storage of up to 100,000 metric tons of
23 spent nuclear fuel; and

1 “(B) operational not later than December
2 31, 2000, consistent with paragraph (4) and
3 sections 137(a), 141(a), and 148.

4 “(3) OBJECTIVES.—In carrying out this sub-
5 section, the Secretary shall seek to minimize the
6 transportation of spent nuclear fuel, the public
7 health and safety impacts, and the costs of providing
8 storage capacity.

9 “(4) COMPLIANCE WITH REQUIREMENTS.—In
10 carrying out this subsection, the Secretary shall
11 comply with applicable requirements for licensing or
12 authorization.

13 “(5) TIMELY AVAILABILITY OF STORAGE CA-
14 PACITY.—The Secretary shall—

15 “(A) ensure that storage capacity is made
16 available under this subsection when needed, as
17 determined on the basis of the storage needs
18 specified in contracts entered into under section
19 136(a); and

20 “(B) accept, upon request, any spent nu-
21 clear fuel as covered under such contracts.”;

22 (C) in subsection (b)(1), by striking “sub-
23 sections (a) (1) and (d)” and inserting “sub-
24 section (a)”;

25 (D) in subsection (c)—

1 (i) in paragraph (1), by striking “300
2 or more metric tons of storage capacity at
3 any one Federal site under subsection
4 (a)(1)(A)” and inserting “storage capacity
5 under this section”; and

6 (ii) in paragraph (2)(A), by striking
7 “any provision of less than 300 metric tons
8 of storage capacity at any one Federal site
9 under subsection (a)(1)(A) that requires
10 the modification or expansion of any facil-
11 ity at the site,” and inserting “the provi-
12 sion of storage capacity at Area 25 of the
13 Nevada Test Site”;

14 (E) by striking subsections (d) and (e);

15 (F) by redesignating subsections (f)
16 through (i) as subsections (d) through (g), re-
17 spectively;

18 (G) in the first sentence of subsection (e)
19 (as redesignated by subparagraph (F)), by
20 striking “Administrative Procedures Act” and
21 inserting “title 5, United States Code”; and

22 (H) in subsection (g) (as redesignated by
23 subparagraph (F))—

1 (i) in the first sentence, by striking
 2 “section 217” and inserting “section 218”;
 3 and

4 (ii) by striking the second sentence.

5 (2) CONFORMING AMENDMENTS.—

6 (A) Section 141 of the Nuclear Waste Pol-
 7 icy Act of 1982 (42 U.S.C. 10161) is
 8 amended—

9 (i) by striking subsection (g); and

10 (ii) by redesignating subsection (h) as
 11 subsection (g).

12 (B) Section 142(a) of the Nuclear Waste
 13 Policy Act of 1982 (42 U.S.C. 10162(a)) is
 14 amended by striking “sections 144 and 145”
 15 and inserting “section 144”.

16 (C) The Nuclear Waste Policy Act of 1982
 17 is amended by striking sections 145 and 146
 18 (42 U.S.C. 10165, 10166).

19 (D) Section 148 of the Nuclear Waste Pol-
 20 icy Act of 1982 (42 U.S.C. 10168) is
 21 amended—

22 (i) in subsection (a)(1), by striking
 23 “Once the selection of a site is effective
 24 under section 146, the requirements” and
 25 inserting “The requirements”; and

1 (ii) in subsection (b), by striking
2 “Once the selection of a site for a mon-
3 itored retrievable storage facility is effec-
4 tive under section 146, the Secretary” and
5 inserting “The Secretary”.

6 (3) NO EFFECT ON SELECTION OF SITE FOR
7 PERMANENT REPOSITORY.—Enactment of the
8 amendments made by paragraph (1) shall have no
9 effect on selection of a site for a permanent reposi-
10 tory for the storage of spent nuclear fuel.

11 (c) REVIEW OF PROGRAM.—The Secretary of the
12 Army shall review the activities of the initial storage facil-
13 ity program, including all cooperative agreements, inter-
14 national commitments, and university assistance, and
15 shall make available to those entities amounts, that are
16 commensurate with the revised program for nuclear waste
17 disposal activities.

18 (d) PROGRAM PLAN AND SCHEDULE.—Not later
19 than 90 days after the date of enactment of this Act, the
20 Secretary of the Army shall submit to Congress a revised
21 program plan and schedule, including a new 5-year budg-
22 et, that addresses the construction and operation of the
23 interim storage capability, the revised site characterization
24 program at the Yucca Mountain site, and the results of

1 the Secretary's review of the program's institutional ac-
 2 tivities.

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

11 **TITLE VIII—MISCELLANEOUS** 12 **PROVISIONS**

13 **SEC. 801. REFERENCES.**

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

18 (1) to the Secretary of Energy or an officer of
 19 the Department of Energy, shall be deemed to refer
 20 to the head of the department or office to which
 21 such function is transferred; or

22 (2) to the Department of Energy, shall be
 23 deemed to refer to the department or office to which
 24 such function is transferred.

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

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

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

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

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

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

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

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

4 (b) PROCEEDINGS.—

5 (1) NO EFFECT.—This Act shall not affect any
6 proceedings or any application for any benefits, serv-
7 ice, license, permit, certificate, or financial assist-
8 ance pending on the date of enactment of this Act
9 before an office transferred by this Act, but such
10 proceedings and applications shall be continued.

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

20 (3) RULE OF CONSTRUCTION.—Nothing in this
21 subsection prohibits the discontinuance or modifica-
22 tion of any such proceeding under the same terms
23 and conditions and to the same extent that such pro-
24 ceeding could have been discontinued or modified if
25 this Act had not been enacted.

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

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

13 (e) CONTINUANCE OF SUITS.—If any officer of the
14 Department of Energy or the Energy Programs Resolu-
15 tion Agency, in the official capacity of the officer, is a
16 party to a suit with respect to a function of the officer,
17 and under this Act the function is transferred to any other
18 officer or office, the suit shall be continued with the other
19 officer or the head of such other office, as applicable, sub-
20 stituted or added as a party.

21 **SEC. 804. TRANSFER OF ASSETS.**

22 Except as otherwise provided in this Act, so much
23 of the personnel, property, records, and unexpended bal-
24 ances of appropriations, allocations, and other funds em-
25 ployed, used, held, available, or to be made available in

1 connection with a function transferred to an official by
2 this Act shall be available to the official at such time or
3 times as the Director of the Office of Management and
4 Budget directs for use in connection with the functions
5 transferred.

6 **SEC. 805. DELEGATION.**

7 (a) IN GENERAL.—Except as otherwise expressly
8 prohibited by law or otherwise provided in this Act, an
9 official to whom functions are transferred under this Act
10 (including the head of any office to which functions are
11 transferred under this Act) may delegate any of the func-
12 tions so transferred to such officers and employees of the
13 office of the official as the official may designate, and may
14 authorize successive redelegations of such functions as
15 may be necessary or appropriate.

16 (b) NO RELIEF FROM RESPONSIBILITY.—No delega-
17 tion of functions under this section or under any other
18 provision of this Act shall relieve the official to whom a
19 function is transferred under this Act of responsibility for
20 the administration of the function.

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

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

7 (b) INCIDENTAL TRANSFERS.—

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

20 (2) TERMINATION OF AFFAIRS.—The Director
21 of the Office of Management and Budget shall pro-
22 vide for the termination of the affairs of all entities
23 terminated by this Act and for such further meas-
24 ures and dispositions as may be necessary to effec-
25 tuate the purposes of this Act.

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

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

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

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

