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(Original Signature of Member)

112TH CONGRESS  
2D SESSION

# H. R.

To establish the Department of Energy and the Environment, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mrs. BLACKBURN introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# A BILL

To establish the Department of Energy and the Environment, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Consolidate Heavy-handed and Outdated Programs Act  
6 of 2012”.

7 (b) TABLE OF CONTENTS.—The table of contents of  
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.

TITLE I—MISSION AND GOALS

- Sec. 101. Mission.
- Sec. 102. Goals.
- Sec. 103. Relationship with States.

TITLE II—ESTABLISHMENT OF DEPARTMENT

- Sec. 201. Establishment.
- Sec. 202. Principal officers.
- Sec. 203. Assistant Secretaries.
- Sec. 204. Other officers.
- Sec. 205. Federal Energy Regulatory Commission.
- Sec. 206. Energy and Environmental Information Administration.
- Sec. 207. Comptroller General functions.
- Sec. 208. Office of Science.
- Sec. 209. Establishment of policy for National Nuclear Security Administration.
- Sec. 210. Establishment of security, counterintelligence, and intelligence policies.
- Sec. 211. Office of Intelligence and Counterintelligence.
- Sec. 212. Office of Indian Energy Policy and Programs.

TITLE III—TRANSFER OF FUNCTIONS

- Sec. 301. Transfer of functions.
- Sec. 302. Power Administrations.

TITLE IV—FEDERAL ENERGY REGULATORY COMMISSION

- Sec. 401. Appointment and administration.
- Sec. 402. Jurisdiction of Commission.
- Sec. 403. Initiation of rulemaking proceedings before Commission.
- Sec. 404. Referral of other rulemaking proceedings to Commission.
- Sec. 405. Right of Secretary to intervene in Commission proceedings.
- Sec. 406. Reorganization.
- Sec. 407. Access to information.

TITLE V—ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

- Sec. 501. Procedures.
- Sec. 502. Judicial review.
- Sec. 503. Remedial orders.
- Sec. 504. Requests for adjustments.
- Sec. 505. Review and effect.

TITLE VI—ADMINISTRATIVE PROVISIONS

Subtitle A—Personnel Provisions

- Sec. 601. Officers and employees.
- Sec. 602. Senior positions.
- Sec. 603. Experts and consultants.
- Sec. 604. Advisory committees.

Subtitle B—General Administrative Provisions

- Sec. 611. General authority.

- Sec. 612. Delegation.
- Sec. 613. Reorganization.
- Sec. 614. Rules.
- Sec. 615. Subpoena.
- Sec. 616. Contracts.
- Sec. 617. Acquisition and maintenance of property.
- Sec. 618. Facilities construction.
- Sec. 619. Use of facilities.
- Sec. 620. Field offices.
- Sec. 621. Copyrights.
- Sec. 622. Capital fund.
- Sec. 623. Seal of Department.
- Sec. 624. Regional energy advisory boards.
- Sec. 625. Designation of conservation officers.
- Sec. 626. Annual report.
- Sec. 627. Transfer of funds.
- Sec. 628. Guards for Strategic Petroleum Reserve facilities.
- Sec. 629. Trespass on Strategic Petroleum Reserve facilities.
- Sec. 630. Annual assessment and report on vulnerability of facilities to terrorist attack.

#### TITLE VII—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

- Sec. 701. Transfer and allocations of appropriations and personnel.
- Sec. 702. Effect on personnel.
- Sec. 703. Agency terminations.
- Sec. 704. Incidental transfers.
- Sec. 705. Savings provisions.
- Sec. 706. Reference.
- Sec. 707. Presidential authority.
- Sec. 708. Transition.
- Sec. 709. Administrative amendments.
- Sec. 710. Director of Office of Personnel Management report.
- Sec. 711. Investigations and reports on duplicative programs and activities.
- Sec. 712. Environmental impact statements.
- Sec. 713. Conforming amendments.

#### TITLE VIII—ENERGY PLANNING

- Sec. 801. National energy policy plan.
- Sec. 802. Congressional review.

#### TITLE IX—ELIMINATION OR REDUCTION OF CERTAIN PROGRAMS

##### Subtitle A—Energy Programs

- Sec. 901. Elimination of grants to States for energy conservation and weatherization.
- Sec. 902. Reduction of Department funding for energy technology development.
- Sec. 903. Prohibition on refurbishment of the Los Alamos Neutron Science Center (LANSCE).
- Sec. 904. Repeal of ultra-deepwater and unconventional natural gas and other petroleum resources research and development program.
- Sec. 905. Reduction in fossil energy research and development.
- Sec. 906. Chemistry and Metallurgy Research Replacement (CMRR) facility.
- Sec. 907. Reduction in Second Line of Defense (SLD) funding.

- Sec. 908. Administrative Efficiency Initiative.
- Sec. 909. Do Not Pay Fraud Prevention Activities.

Subtitle B—Environmental Programs

- Sec. 911. State water pollution control revolving funds.
- Sec. 912. State drinking water revolving funds.
- Sec. 913. Performance partnership grants.
- Sec. 914. Pollution control programs.
- Sec. 915. Nonpoint source management programs.
- Sec. 916. State Indoor Radon Grant Program.
- Sec. 917. Targeted watershed grants.
- Sec. 918. U.S.-Mexico Border Water Infrastructure program.
- Sec. 919. Tribal assistance grants.
- Sec. 920. Public water system supervision program.
- Sec. 921. Underground injection control program.
- Sec. 922. Termination of diesel emissions reduction grants.
- Sec. 923. Termination of beach grants.
- Sec. 924. Termination of Clean Automotive Technology (CAT) Program.
- Sec. 925. Termination of local government climate change grants.
- Sec. 926. Termination of targeted airshed grants.
- Sec. 927. Termination of targeted water infrastructure grants.
- Sec. 928. Reduction in funding for homeland security activities.
- Sec. 929. Reduction in funding for Great Lakes Initiative.
- Sec. 930. Reduction in funding for nonpoint source management program grants.
- Sec. 931. Chemical Risk Management Fibers program.
- Sec. 932. Environmental Education program.
- Sec. 933. Reduction in funding for Superfund remedial program.
- Sec. 934. Termination of Superfund support to other Federal agencies.
- Sec. 935. Savings through maintenance agreements for capital equipment.
- Sec. 936. Savings through electronic emissions reporting.
- Sec. 937. Savings through reducing travel costs through videoconferencing.

TITLE X—EFFECTIVE DATE AND INTERIM APPOINTMENTS

- Sec. 1001. Effective date.
- Sec. 1002. Interim appointments.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ASSETS.—The term “assets” includes con-  
 4 tracts, facilities, property, records, unobligated or  
 5 unexpended balances of appropriations, and other  
 6 funds or resources (other than personnel).

7 (2) COMMISSION.—The term “Commission”  
 8 means the Federal Energy Regulatory Commission.

1           (3) DEPARTMENT.—The term “Department”  
2 means the Department of Energy and the Environ-  
3 ment.

4           (4) FUNCTION.—The term “function” includes  
5 any authority, power, right, privilege, immunity, pro-  
6 gram, project, activity, duty, and responsibility.

7           (5) LOCAL GOVERNMENT.—The term “local  
8 government” means—

9                   (A) a county, municipality, city, town,  
10 township, local public authority, school district,  
11 special district, intrastate district, council of  
12 governments (regardless of whether the council  
13 of governments is incorporated as a nonprofit  
14 corporation under State law), regional or inter-  
15 state government entity, or agency or instru-  
16 mentality of a local government;

17                   (B) an Indian tribe or authorized tribal or-  
18 ganization or, in the State of Alaska, a Native  
19 village or Alaska Regional Native Corporation;  
20 and

21                   (C) a rural community, unincorporated  
22 town or village, or other public entity.

23           (6) NATIONAL LABORATORY.—The term “Na-  
24 tional Laboratory” has the meaning given the term

1 in section 2 of the Energy Policy Act of 2005 (42  
2 U.S.C. 15801).

3 (7) PERFORM.—The term “perform”, with re-  
4 spect to a function, includes—

5 (A) the undertaking, fulfillment, or execu-  
6 tion of any duty or obligation; and

7 (B) the exercise of any power, authority,  
8 right, or privilege.

9 (8) PERSONNEL.—The term “personnel” means  
10 officers and employees.

11 (9) SECRETARY.—The term “Secretary” means  
12 the Secretary of Energy and the Environment.

13 (10) STATE.—The term “State” means—

14 (A) each of the several States of the  
15 United States;

16 (B) the District of Columbia;

17 (C) the Commonwealth of Puerto Rico;

18 (D) Guam;

19 (E) American Samoa;

20 (F) the Commonwealth of the Northern  
21 Mariana Islands; and

22 (G) any other territory or possession of the  
23 United States.

1           (11) UNITED STATES.—The term “United  
2 States”, when used in a geographical sense,  
3 means—

4           (A) all of the States; and

5           (B) any waters within the jurisdiction of  
6 the United States.

## 7       **TITLE I—MISSION AND GOALS**

### 8       **SEC. 101. MISSION.**

9       The primary mission of the Department is to ensure  
10 the security and prosperity of the United States by—

11           (1) protecting human health;

12           (2) safeguarding the natural environment; and

13           (3) addressing the energy, environmental, and  
14 nuclear challenges of the United States through  
15 transformative science and technology solutions.

### 16       **SEC. 102. GOALS.**

17       The goals of the Department are—

18           (1) to catalyze the timely, material, and effi-  
19 cient transformation of the energy system of the  
20 United States and secure the leadership of the  
21 United States in energy technologies;

22           (2) to maintain a vibrant effort in science and  
23 engineering as a cornerstone of the economic pros-  
24 perity of the United States, with clear leadership in  
25 strategic areas;

1           (3) to protect human health and safeguard the  
2           natural environment; and

3           (4) to enhance nuclear security through de-  
4           fense, nonproliferation, and environmental efforts.

5 **SEC. 103. RELATIONSHIP WITH STATES.**

6           (a) IN GENERAL.—If any proposed action by the De-  
7           partment conflicts with the energy or environment plan  
8           of any State, the Department shall give due consideration  
9           to the needs of the State, and if practicable, attempt to  
10          resolve the conflict through consultations with appropriate  
11          State officials.

12          (b) STATE MATTERS.—Nothing in this Act shall af-  
13          fect the authority of any State over matters exclusively  
14          within the jurisdiction of the State.

15                   **TITLE II—ESTABLISHMENT OF**  
16                                   **DEPARTMENT**

17 **SEC. 201. ESTABLISHMENT.**

18           (a) ESTABLISHMENT.—There is established at the  
19           seat of government an executive department to be known  
20           as the Department of Energy and the Environment.

21           (b) SECRETARY.—There shall be at the head of the  
22           Department a Secretary of Energy and the Environment,  
23           who shall be appointed by the President by and with the  
24           advice and consent of the Senate.



1           (c) ADMINISTRATION.—The Department shall be ad-  
2 ministered, in accordance with this Act, under the super-  
3 vision and direction of the Secretary.

4 **SEC. 202. PRINCIPAL OFFICERS.**

5           (a) DEPUTY SECRETARY.—

6               (1) IN GENERAL.—There shall be in the De-  
7 partment a Deputy Secretary, who shall be ap-  
8 pointed by the President, by and with the advice and  
9 consent of the Senate.

10              (2) DUTIES.—The Deputy Secretary shall act  
11 for and exercise the functions of the Secretary dur-  
12 ing the absence or disability of the Secretary or in  
13 the event the office of Secretary becomes vacant.

14              (3) ORDER OF SUCCESSION.—The Secretary  
15 shall designate the order in which the Under Secre-  
16 taries and other officials shall act for and perform  
17 the functions of the Secretary during the absence or  
18 disability of both the Secretary and Deputy Sec-  
19 retary or in the event of vacancies in both of those  
20 offices.

21           (b) UNDER SECRETARY OF ENVIRONMENT.—

22               (1) IN GENERAL.—There shall be in the De-  
23 partment an Under Secretary for Environment, who  
24 shall be appointed by the President, by and with the  
25 advice and consent of the Senate.

1           (2) DUTIES.—The Under Secretary for Envi-  
2           ronment shall perform such functions and duties as  
3           the Secretary shall prescribe, consistent with this  
4           Act.

5           (c) UNDER SECRETARY OF NUCLEAR SECURITY.—

6           (1) IN GENERAL.—There shall be in the De-  
7           partment an Under Secretary for Nuclear Security,  
8           who shall be appointed by the President, by and  
9           with the advice and consent of the Senate.

10          (2) QUALIFICATIONS.—The Under Secretary  
11          for Nuclear Security shall be appointed from among  
12          individuals who—

13                 (A) have extensive backgrounds in national  
14                 security, organizational management, and ap-  
15                 propriate technical fields; and

16                 (B) are well qualified to manage the nu-  
17                 clear weapons, nonproliferation, and materials  
18                 disposition programs of the National Nuclear  
19                 Security Administration in a manner that ad-  
20                 vances and protects the national security of the  
21                 United States.

22          (3) ADMINISTRATOR FOR NUCLEAR SECU-  
23          RITY.—

24                 (A) IN GENERAL.—The Under Secretary  
25                 for Nuclear Security shall serve as the Adminis-

1           trator for Nuclear Security under section 3212  
2           of the National Nuclear Security Administra-  
3           tion Act (50 U.S.C. 2402).

4           (B) FUNCTIONS.—

5           (i) IN GENERAL.—In carrying out the  
6           functions of the Administrator, the Under  
7           Secretary shall be subject to the authority,  
8           direction, and control of the Secretary.

9           (ii) DELEGATION.—The authority, di-  
10          rection, and control of the Secretary may  
11          be delegated only to the Deputy Secretary  
12          of Energy and the Environment, without  
13          redelegation.

14          (d) UNDER SECRETARY FOR SCIENCE.—

15          (1) IN GENERAL.—There shall be in the De-  
16          partment an Under Secretary for Science, who shall  
17          be appointed by the President, by and with the ad-  
18          vice and consent of the Senate.

19          (2) QUALIFICATIONS.—The Under Secretary  
20          for Science shall be appointed from among individ-  
21          uals who—

22                  (A) have extensive background in scientific  
23                  or engineering fields; and

1           (B) are well qualified to manage the civil-  
2           ian research and development programs of the  
3           Department.

4           (3) DUTIES.—The Under Secretary for Science  
5           shall—

6           (A) serve as the Science and Technology  
7           Advisor to the Secretary;

8           (B) monitor the research and development  
9           programs of the Department in order to advise  
10          the Secretary with respect to any undesirable  
11          duplication or gaps in the programs;

12          (C) advise the Secretary with respect to  
13          the well-being and management of the multi-  
14          purpose laboratories under the jurisdiction of  
15          the Department;

16          (D) advise the Secretary with respect to  
17          education and training activities required for ef-  
18          fective short- and long-term basic and applied  
19          research activities of the Department;

20          (E) advise the Secretary with respect to  
21          grants and other forms of financial assistance  
22          required for effective short- and long-term basic  
23          and applied research activities of the Depart-  
24          ment;

1 (F) advise the Secretary with respect to  
2 long-term planning, coordination, and develop-  
3 ment of a strategic framework for Department  
4 research and development activities; and

5 (G) carry out such additional duties that  
6 the Secretary assigns to the Under Secretary  
7 relating to basic and applied research, including  
8 supervision or support of research activities car-  
9 ried out by any of the Assistant Secretaries des-  
10 ignated by section 203, as the Secretary deter-  
11 mines appropriate.

12 (e) UNDER SECRETARY OF ENERGY.—

13 (1) IN GENERAL.—There shall be in the De-  
14 partment an Under Secretary of Energy, who shall  
15 be appointed by the President, by and with the ad-  
16 vice and consent of the Senate.

17 (2) DUTIES.—The Under Secretary of Energy  
18 shall perform such functions and duties as the Sec-  
19 retary shall prescribe, consistent with this Act.

20 (f) GENERAL COUNSEL.—

21 (1) IN GENERAL.—There shall be in the De-  
22 partment a General Counsel, who shall be appointed  
23 by the President, by and with the advice and consent  
24 of the Senate.

1           (2) DUTIES.—The General Counsel shall per-  
2           form such functions and duties as the Secretary  
3           shall prescribe, consistent with this Act.

4 **SEC. 203. ASSISTANT SECRETARIES.**

5           (a) IN GENERAL.—There shall be in the Department  
6           18 Assistant Secretaries, each of whom shall be appointed  
7           by the President, by and with the advice and consent of  
8           the Senate.

9           (b) FUNCTIONS.—The Assistant Secretaries shall  
10          perform such functions of the Secretary as are prescribed  
11          by the Secretary, including the following:

12               (1) Air and radiation functions.

13               (2) Enforcement and compliance assurance  
14          functions.

15               (3) Legacy management functions.

16               (4) Solid waste and emergency response func-  
17          tions.

18               (5) Environmental research and development  
19          functions.

20               (6) Water functions.

21               (7) Chemical safety and pollution prevention  
22          functions.

23               (8) Environmental management functions.

24               (9) Energy resource applications, including  
25          functions dealing with management of all forms of

1 energy production and utilization, including fuel sup-  
2 ply, electric power supply, enriched uranium produc-  
3 tion, energy technology programs, and the manage-  
4 ment of energy resource leasing procedures on Fed-  
5 eral land.

6 (10) Energy research and development func-  
7 tions, including the responsibility for policy and  
8 management of research and development for all as-  
9 pects of—

10 (A) solar energy resources;

11 (B) geothermal energy resources;

12 (C) recycling energy resources;

13 (D) the fuel cycle for fossil energy re-  
14 sources; and

15 (E) the fuel cycle for nuclear energy re-  
16 sources.

17 (11) Environmental responsibilities and func-  
18 tions, including—

19 (A) advising the Secretary with respect to  
20 the conformance of the activities of the Depart-  
21 ment to environmental protection laws and  
22 principles; and

23 (B) conducting a comprehensive program  
24 of research and development on the environ-

1           mental effects of energy technologies and pro-  
2           grams.

3           (12) International programs and international  
4           policy functions, including functions that assist in  
5           promoting international energy.

6           (13) Intergovernmental policies and relations,  
7           including responsibilities for ensuring that—

8                   (A) national energy policies are reflective  
9                   of and responsible to the needs of State and  
10                  local governments; and

11                  (B) other components of the Department  
12                  coordinate activities with State and local gov-  
13                  ernments, if appropriate, and develop intergov-  
14                  ernmental communications with State and local  
15                  governments.

16           (14) Competition and consumer affairs, includ-  
17           ing responsibilities for—

18                   (A) the promotion of competition in the en-  
19                   ergy industry;

20                   (B) the protection of the consuming public  
21                   in the energy policymaking processes; and

22                   (C) assisting the Secretary in the formula-  
23                   tion and analysis of policies, rules, and regula-  
24                   tions relating to competition and consumer af-  
25                   fairs.



1           (15) Nuclear waste management responsibil-  
2           ities, including—

3                   (A) the establishment of control over exist-  
4                   ing Federal Government facilities for the treat-  
5                   ment and storage of nuclear wastes, including  
6                   all containers, casks, buildings, vehicles, equip-  
7                   ment, and all other materials associated with  
8                   the facilities;

9                   (B) the establishment of control over all  
10                  existing nuclear waste in the possession or con-  
11                  trol of the Federal Government and all commer-  
12                  cial nuclear waste presently stored on site  
13                  (other than the site of a licensed nuclear power  
14                  electric generating facility), except that nothing  
15                  in this paragraph shall alter or effect title to  
16                  the waste;

17                  (C) the establishment of temporary and  
18                  permanent facilities for storage, management,  
19                  and ultimate disposal of nuclear wastes;

20                  (D) the establishment of facilities for the  
21                  treatment of nuclear wastes;

22                  (E) the establishment of programs for the  
23                  treatment, management, storage, and disposal  
24                  of nuclear wastes;

1 (F) the establishment of fees or user  
2 charges for nuclear waste treatment or storage  
3 facilities, including fees to be charged Federal  
4 Government agencies; and

5 (G) the promulgation of rules and regula-  
6 tions to implement the authority described in  
7 this paragraph, except that nothing in this sec-  
8 tion grants to the Department regulatory func-  
9 tions of the Nuclear Regulatory Commission, or  
10 any additional related functions, as of the date  
11 of enactment of this Act.

12 (16) Energy conservation functions, including—

13 (A) the development of comprehensive en-  
14 ergy conservation strategies for the United  
15 States;

16 (B) the planning and implementation of  
17 major research and demonstration programs for  
18 the development of technologies and processes  
19 to reduce total energy consumption;

20 (C) the administration of voluntary and  
21 mandatory energy conservation programs; and

22 (D) the dissemination to the public of all  
23 available information on energy conservation  
24 programs and measures.

1           (17) Power marketing functions, including re-  
2           sponsibility for marketing and transmission of Fed-  
3           eral power.

4           (18) Public and congressional relations func-  
5           tions, including responsibilities for providing a con-  
6           tinuing liaison between the Department and Con-  
7           gress and the Department and the public.

8           (c) SPECIFIC FUNCTIONS.—At the time the name of  
9           any individual is submitted for confirmation to the posi-  
10          tion of Assistant Secretary, the President shall identify  
11          with particularity the one or more functions described in  
12          subsection (b) (or any portion of the function) for which  
13          the individual will be responsible.

14   **SEC. 204. OTHER OFFICERS.**

15          (a) INSPECTOR GENERAL.—There is an Inspector  
16          General of the Department, who shall be appointed as pro-  
17          vided in section 3(a) of the Inspector General Act of 1978  
18          (5 U.S.C. App.).

19          (b) OTHER OFFICERS.—To assist the Secretary in  
20          the performance of the functions of the Secretary, there  
21          are the following officers of the Department, who shall be  
22          appointed by the Secretary:

23                  (1) A Chief Financial Officer.

24                  (2) A Congressional and Intergovernmental Af-  
25          fairs Officer.

1 (3) A Community and Public Affairs Officer.

2 (4) A Management and Human Resources Offi-  
3 cer.

4 (5) A Hearings and Appeals Officer.

5 (6) A Chief Information Officer.

6 (7) An Intelligence and Counterintelligence Of-  
7 ficer.

8 (c) PERFORMANCE OF SPECIFIC FUNCTIONS.—Sub-  
9 ject to this Act, each officer of the Department shall per-  
10 form the functions specified by law for the office of the  
11 official or prescribed by the Secretary.

12 **SEC. 205. FEDERAL ENERGY REGULATORY COMMISSION.**

13 (a) IN GENERAL.—There shall be within the Depart-  
14 ment, a Federal Energy Regulatory Commission estab-  
15 lished in accordance with title IV.

16 (b) QUALIFICATIONS.—The Chair and members of  
17 the Commission shall be individuals who, by demonstrated  
18 ability, background, training, or experience, are specially  
19 qualified to assess fairly the needs and concerns of all in-  
20 terests affected by Federal energy policy.

21 **SEC. 206. ENERGY AND ENVIRONMENTAL INFORMATION**  
22 **ADMINISTRATION.**

23 (a) IN GENERAL.—There shall be within the Depart-  
24 ment an Energy and Environmental Information Adminis-  
25 tration.

1 (b) ADMINISTRATOR.—

2 (1) IN GENERAL.—The Energy and Environ-  
3 mental Information Administration shall be headed  
4 by an Administrator who shall be appointed by the  
5 President, by and with the advice and consent of the  
6 Senate.

7 (2) QUALIFICATIONS.—The Administrator shall  
8 be a person who, by reason of professional back-  
9 ground and experience, is specially qualified to man-  
10 age an energy and environmental information sys-  
11 tem.

12 (3) DUTIES.—The Administrator shall be re-  
13 sponsible for carrying out a central comprehensive,  
14 and unified energy data and information program  
15 that will collect, evaluate, assemble, analyze, and dis-  
16 seminate data and information that is relevant to—

17 (A) energy resource reserves, energy pro-  
18 duction, demand, and technology, environmental  
19 protection, and related economic and statistical  
20 information; or

21 (B) the adequacy of energy resources to  
22 meet demands in the near and longer term fu-  
23 ture for the economic and social needs of the  
24 United States.

25 (c) FUNCTIONS.—

1           (1) IN GENERAL.—The Secretary shall delegate  
2           to the Administrator the functions vested in Federal  
3           law relating to gathering, analysis, and dissemina-  
4           tion of energy and environmental information.

5           (2) ENFORCEMENT.—The Administrator may  
6           act in the name of the Secretary for the purpose of  
7           obtaining enforcement of the delegated functions.

8           (3) ADDITIONAL FUNCTIONS.—

9           (A) IN GENERAL.—There shall be vested in  
10          the Administrator, and the Administrator shall  
11          perform, the functions assigned to the Director  
12          of the Office of Energy Information and Anal-  
13          ysis under part B of the Federal Energy Ad-  
14          ministration Act of 1974 (15 U.S.C. 790 et  
15          seq.).

16          (B) ADMINISTRATION.—Sections 53(d)  
17          and 59 of the Federal Energy Administration  
18          Act of 1974 (15 U.S.C. 790b(d), 790h) shall  
19          apply to the Administrator in the performance  
20          of any function under this Act.

21          (d) APPROVAL.—The Administrator shall not be re-  
22          quired to obtain the approval of any other officer or em-  
23          ployee of the Department in connection with—

24                 (1) the collection or analysis of any informa-  
25                 tion; or

1           (2) prior to publication, the substance of any  
2           statistical or forecasting technical reports that the  
3           Administrator has prepared in accordance with law.

4           (e) AUDIT REVIEWS.—The Energy and Environ-  
5           mental Information Administration shall be subject to an  
6           annual professional audit review of performance.

7           (f) FURNISHING OF INFORMATION TO DEPART-  
8           MENT.—On request, the Administrator shall promptly  
9           provide any information or analysis obtained under this  
10          section to any other administration, commission, or office  
11          within the Department.

12          (g) PUBLIC AVAILABILITY.—

13           (1) IN GENERAL.—Subject to paragraphs (2)  
14           and (3), information collected by the Energy Infor-  
15           mation Administration shall be cataloged and, on re-  
16           quest, promptly made available to the public in a  
17           form and manner easily adaptable for public use.

18           (2) EXEMPTED MATTERS.—This subsection  
19           shall not require disclosure of matters exempted  
20           from mandatory disclosure by section 552(b) of title  
21           5, United States Code.

22           (3) ADMINISTRATION.—Section 11(d) of the  
23           Energy Supply and Environmental Coordination Act  
24           of 1974 (15 U.S.C. 796(d)), and section 17 of the  
25           Federal Nonnuclear Energy Research and Develop-

1       ment Act of 1974 (42 U.S.C. 5916), shall continue  
2       to apply to any information obtained by the Admin-  
3       istrator under those provisions.

4       (h) MAJOR ENERGY-PRODUCING COMPANIES.—

5           (1) DEFINITIONS.—In this subsection:

6               (A) ENERGY-PRODUCING COMPANY.—The  
7               term “energy-producing company” means a  
8               person engaged in—

9                   (i) ownership or control of mineral  
10                  fuel resources or nonmineral energy re-  
11                  sources;

12                  (ii) exploration for, or development of,  
13                  mineral fuel resources;

14                  (iii) extraction of mineral fuel or non-  
15                  mineral energy resources;

16                  (iv) refining, milling, or otherwise  
17                  processing mineral fuels or nonmineral en-  
18                  ergy resources;

19                  (v) storage of mineral fuels or non-  
20                  mineral energy resources;

21                  (vi) the generation, transmission, or  
22                  storage of electrical energy;

23                  (vii) transportation of mineral fuels or  
24                  nonmineral energy resources by any means  
25                  whatever; or



1 (viii) wholesale or retail distribution of  
2 mineral fuels, nonmineral energy resources  
3 or electrical energy.

4 (B) ENERGY INDUSTRY.—The term “en-  
5 ergy industry” means all energy-producing com-  
6 panies.

7 (C) PERSON.—The “person” has the  
8 meaning given the term in section 11(e) of the  
9 Energy Supply and Environmental Coordina-  
10 tion Act of 1974 (15 U.S.C. 796(e)).

11 (2) IDENTIFICATION AND DESIGNATION.—

12 (A) IN GENERAL.—In addition to the ac-  
13 quisition, collection, analysis, and dissemination  
14 of energy information pursuant to this section,  
15 the Administrator shall identify and designate  
16 major energy-producing companies that alone  
17 or with their affiliates are involved in one or  
18 more lines of commerce in the energy industry  
19 in a manner that the energy information col-  
20 lected from the major energy-producing compa-  
21 nies shall provide a statistically accurate profile  
22 of each line of commerce in the energy industry  
23 in the United States.

24 (B) ADMINISTRATION.—In carrying out  
25 this subsection, the Administrator shall—

1 (i) use, to the maximum extent prac-  
2 ticable and consistent with this Act, reli-  
3 able statistical sampling techniques; and

4 (ii) otherwise give priority to the mini-  
5 mization of the reporting of energy infor-  
6 mation by small businesses.

7 (3) FINANCIAL REPORT.—

8 (A) IN GENERAL.—The Administrator  
9 shall develop and make effective for use the for-  
10 mat for an energy-producing company financial  
11 report.

12 (B) USE.—The report shall be designed to  
13 allow comparison on a uniform and standard-  
14 ized basis among energy-producing companies  
15 and shall permit for the energy-related activities  
16 of the energy-producing companies—

17 (i) an evaluation of company revenues,  
18 profits, cash flow, and investments in total,  
19 for the energy-related lines of commerce in  
20 which the company is engaged and for all  
21 significant energy-related functions within  
22 the energy-producing companies;

23 (ii) an analysis of the competitive  
24 structure of sectors and functional  
25 groupings within the energy industry;

1 (iii) the segregation of energy infor-  
2 mation, including financial information, de-  
3 scribing company operations by energy  
4 source and geographic area;

5 (iv) the determination of costs associ-  
6 ated with exploration, development, pro-  
7 duction, processing, transportation, and  
8 marketing and other significant energy-re-  
9 lated functions within the energy-pro-  
10 ducing companies; and

11 (v) such other analysis or evaluations  
12 as the Administrator finds necessary to  
13 carry out this Act.

14 (4) ACCOUNTING PRACTICES.—The Adminis-  
15 trator shall—

16 (A) consult with the Chairman of the Se-  
17 curities and Exchange Commission with respect  
18 to the development of accounting practices re-  
19 quired by the Energy Policy and Conservation  
20 Act (42 U.S.C. 6201 et seq.) to be followed by  
21 persons engaged in whole or in part in the pro-  
22 duction of crude oil and natural gas; and

23 (B) ensure, to the maximum extent prac-  
24 ticable, that the energy-producing company fi-  
25 nancial report described in paragraph (3) is

1 consistent with the accounting practices, if ap-  
2 plicable.

3 (5) FREQUENCY.—The Administrator—

4 (A) shall require each major energy-pro-  
5 ducing company to file with the Administrator  
6 an energy-producing company financial report  
7 on at least an annual basis; and

8 (B) may request energy information de-  
9 scribed in the report on a quarterly basis if the  
10 Administrator determines that the quarterly re-  
11 port of information will substantially assist in  
12 achieving the purposes of this Act.

13 (6) SUMMARY.—A summary of information  
14 gathered pursuant to this section, accompanied by  
15 such analysis as the Administrator considers appro-  
16 priate, shall be included in the annual report of the  
17 Department required by section 626.

18 (7) DISCLOSURE OF CONFIDENTIAL INFORMA-  
19 TION.—Section 1905 of title 18, United States Code,  
20 shall apply to any information obtained by the Ad-  
21 ministration pursuant to this subsection.

22 (i) SURVEYS OF ENERGY CONSUMPTION.—

23 (1) IN GENERAL.—The Administrator shall con-  
24 duct and publish the results of a survey of energy

1 consumption in the manufacturing industries in the  
2 United States at least once every 2 years.

3 (2) CONFIDENTIALITY.—The Administrator  
4 shall conduct the surveys in a manner designed to  
5 protect the confidentiality of individual responses.

6 (3) INFORMATION.—In conducting the survey,  
7 the Administrator shall collect information, including  
8 information on—

9 (A) the quantity of fuels consumed;

10 (B) energy expenditures;

11 (C) fuel-switching capabilities; and

12 (D) the use of nonpurchased sources of en-  
13 ergy, such as solar, wind, biomass, geothermal,  
14 waste by-products, and cogeneration.

15 (4) RELATIONSHIP TO OTHER AUTHORITY.—  
16 This subsection does not affect the authority of the  
17 Administrator to collect data under section 52 of the  
18 Federal Energy Administration Act of 1974 (15  
19 U.S.C. 790a).

20 (j) COLLECTION AND PUBLICATION OF SURVEY RE-  
21 SULTS.—

22 (1) DEFINITION OF RENEWABLE ENERGY RE-  
23 SOURCES.—In this subsection, the term “renewable  
24 energy resources” includes energy derived from solar

1 thermal, geothermal, biomass, wind, and photo-  
2 voltaic resources.

3 (2) SURVEYS.—The Administrator shall annu-  
4 ally collect and publish the results of a survey of  
5 electricity production from domestic renewable en-  
6 ergy resources, including production in kilowatt  
7 hours, total installed capacity, capacity factor, and  
8 any other measures of production efficiency.

9 (3) ENERGY RESOURCES.—The results of the  
10 survey shall distinguish between various renewable  
11 energy resources.

12 (4) ADMINISTRATION.—In carrying out this  
13 subsection, the Administrator shall—

14 (A) use, to the maximum extent prac-  
15 ticable, reliable statistical sampling techniques;  
16 and

17 (B) otherwise take into account the report-  
18 ing burdens of energy information by small  
19 businesses.

20 (k) SURVEY PROCEDURE.—Pursuant to section 52(a)  
21 of the Federal Energy Administration Act of 1974 (15  
22 U.S.C. 790a(a)), the Administrator shall—

23 (1) conduct surveys of residential and commer-  
24 cial energy use at least once every 3 years and make  
25 the results of the surveys available to the public;

1           (2) when surveying electric utilities, collect in-  
2           formation on demand-side management programs  
3           conducted by the utilities, including information re-  
4           garding—

5                   (A) the types of demand-side management  
6           programs being operated;

7                   (B) the quantity of measures installed;

8                   (C) expenditures on demand-side manage-  
9           ment programs; and

10                  (D) estimates of energy savings resulting  
11           from the programs, including whether the sav-  
12           ings estimates were verified; and

13           (3) in carrying out this subsection, take into ac-  
14           count reporting burdens and the protection of pro-  
15           prietary information as required by law.

16           (l) DATA COLLECTION.—In order to improve the abil-  
17           ity to evaluate the effectiveness of the energy efficiency  
18           policies and programs of the United States, the Adminis-  
19           trator shall, in collecting data under subsections (i) and  
20           (k), consider—

21                   (1) expanding the survey instruments to include  
22           questions regarding participation in Federal and  
23           utility conservation programs;

1           (2) expanding fuel-use surveys in order to pro-  
2           vide greater detail on energy use by user subgroups;  
3           and

4           (3) expanding the scope of data collection on  
5           energy efficiency and load-management programs,  
6           including the effects of building construction prac-  
7           tices, such as practices designed to obtain peak load  
8           shifting.

9           (m) RENEWABLE FUELS SURVEY.—

10           (1) IN GENERAL.—To improve the ability to  
11           evaluate the effectiveness of the renewable fuels  
12           mandate of the United States, the Administrator  
13           shall conduct and publish the results of a survey of  
14           renewable fuels demand in the motor vehicle fuels  
15           market in the United States monthly.

16           (2) CONFIDENTIALITY.—The Administrator  
17           shall conduct the survey in a manner designed to  
18           protect the confidentiality of individual responses.

19           (3) INFORMATION.—In conducting the survey,  
20           the Administrator shall collect information both on  
21           a national and regional basis, including each of the  
22           following:

23                   (A) The quantity of renewable fuels pro-  
24                   duced.



1 (B) The quantity of renewable fuels blend-  
2 ed.

3 (C) The quantity of renewable fuels im-  
4 ported.

5 (D) The quantity of renewable fuels de-  
6 manded.

7 (E) Market price data.

8 (F) Such other analyses or evaluations as  
9 the Administrator finds are necessary to achieve  
10 the purposes of this section.

11 (4) PRIOR YEARS.—The Administrator shall  
12 collect or estimate information both on a national  
13 and regional basis, pursuant to subparagraphs (A)  
14 through (F) of paragraph (3), for the 5 years prior  
15 to implementation of this subsection.

16 (5) NATIONAL ENERGY INFORMATION SYS-  
17 TEM.—This subsection does not affect the authority  
18 of the Administrator to collect data under section 52  
19 of the Federal Energy Administration Act of 1974  
20 (15 U.S.C. 790a).

21 **SEC. 207. COMPTROLLER GENERAL FUNCTIONS.**

22 The functions of the Comptroller General of the  
23 United States under section 12 of the Federal Energy Ad-  
24 ministration Act of 1974 (15 U.S.C. 771) shall apply with  
25 respect to the monitoring and evaluation of all functions

1 and activities of the Department under this Act or any  
2 other Act administered by the Department.

3 **SEC. 208. OFFICE OF SCIENCE.**

4 (a) IN GENERAL.—There shall be within the Depart-  
5 ment an Office of Science to be headed by a Director, who  
6 shall be appointed by the President, by and with the advice  
7 and consent of the Senate.

8 (b) DIRECTOR.—It shall be the duty and responsi-  
9 bility of the Director—

10 (1) to advise the Secretary with respect to the  
11 physical research programs of the Department;

12 (2) to monitor the energy and environmental re-  
13 search and development programs of the Secretary  
14 in order to advise the Secretary with respect to any  
15 undesirable duplication or gaps in the programs;

16 (3) to advise the Secretary with respect to the  
17 well-being and management of the multipurpose lab-  
18 oratories under the jurisdiction of the Department,  
19 excluding laboratories that constitute part of the nu-  
20 clear weapons complex;

21 (4) to advise the Secretary with respect to edu-  
22 cation and training activities required for effective  
23 short- and long-term basic and applied research ac-  
24 tivities of the Department;

1           (5) to advise the Secretary with respect to  
2           grants and other forms of financial assistance re-  
3           quired for effective short- and long-term basic and  
4           applied research activities of the Department; and

5           (6) to carry out such additional duties assigned  
6           to the Office by the Secretary.

7   **SEC. 209. ESTABLISHMENT OF POLICY FOR NATIONAL NU-**  
8                                   **CLEAR SECURITY ADMINISTRATION.**

9           (a) IN GENERAL.—The Secretary shall be responsible  
10          for establishing policy for the National Nuclear Security  
11          Administration.

12          (b) REVIEW OF PROGRAMS AND ACTIVITIES.—The  
13          Secretary may direct officials of the Department who are  
14          not within the National Nuclear Security Administra-  
15          tion—

16                 (1) to review the programs and activities of the  
17                 Administration; and

18                 (2) to make recommendations to the Secretary  
19                 regarding administration of those programs and ac-  
20                 tivities, including consistency with other similar pro-  
21                 grams and activities of the Department.

22          (c) STAFF.—The Secretary shall provide adequate  
23          staff to carry out this section.

1 **SEC. 210. ESTABLISHMENT OF SECURITY, COUNTERINTEL-**  
2 **LIGENCE, AND INTELLIGENCE POLICIES.**

3 (a) IN GENERAL.—The Secretary shall be responsible  
4 for developing and promulgating the security, counter-  
5 intelligence, and intelligence policies of the Department.

6 (b) STAFF.—The Secretary may use the immediate  
7 staff of the Secretary to assist in developing and promul-  
8 gating those policies.

9 (c) INTELLIGENCE EXECUTIVE COMMITTEE.—

10 (1) IN GENERAL.—There is within the Depart-  
11 ment an Intelligence Executive Committee.

12 (2) COMPOSITION.—The Committee shall con-  
13 sist of—

14 (A) the Deputy Secretary of Energy and  
15 the Environment, who shall chair the Com-  
16 mittee; and

17 (B) each Under Secretary of the Depart-  
18 ment.

19 (3) STAFF.—The Committee shall be staffed by  
20 the Director of the Office of Intelligence and Coun-  
21 terintelligence.

22 (4) USE.—The Secretary shall use the Com-  
23 mittee to assist in developing and promulgating the  
24 counterintelligence and intelligence policies, require-  
25 ments, and priorities of the Department.

26 (d) BUDGET REQUESTS.—

1           (1) IN GENERAL.—In the budget justification  
2 materials submitted to Congress in support of each  
3 budget submitted by the President to Congress  
4 under title 31, United States Code, the amounts re-  
5 quested for the Department for intelligence func-  
6 tions and the amounts requested for the Department  
7 for counterintelligence functions shall each be speci-  
8 fied in appropriately classified individual, dedicated  
9 program elements.

10           (2) NATIONAL NUCLEAR SECURITY ADMINIS-  
11 TRATION.—Within the amounts requested for coun-  
12 terintelligence functions, the amounts requested for  
13 the National Nuclear Security Administration shall  
14 be specified separately from the amounts requested  
15 for other elements of the Department.

16 **SEC. 211. OFFICE OF INTELLIGENCE AND COUNTERINTEL-**  
17 **LIGENCE.**

18           (a) IN GENERAL.—There is within the Department  
19 an Office of Intelligence and Counterintelligence.

20           (b) DIRECTOR.—

21           (1) IN GENERAL.—The head of the Office shall  
22 be the Director of the Office of Intelligence and  
23 Counterintelligence, who shall be an employee in—

24                   (A) the Senior Executive Service;

25                   (B) the Senior Intelligence Service;

1 (C) the Senior National Intelligence Serv-  
2 ice; or

3 (D) any other Service that the Secretary,  
4 in coordination with the Director of National  
5 Intelligence, considers appropriate.

6 (2) REPORTING TO SECRETARY.—The Director  
7 of the Office shall report directly to the Secretary.

8 (3) QUALIFICATIONS.—The Secretary shall se-  
9 lect the Director of the Office from among individ-  
10 uals who have substantial expertise in matters relat-  
11 ing to foreign intelligence and counterintelligence.

12 (4) DETAILS.—

13 (A) IN GENERAL.—The Director of the  
14 Federal Bureau of Investigation may detail, on  
15 a reimbursable basis, any employee of the Bu-  
16 reau to the Department for service as Director  
17 of the Office.

18 (B) BENEFITS.—The service of an em-  
19 ployee of the Bureau as Director of the Office  
20 shall not result in any loss of status, right, or  
21 privilege by the employee within the Bureau.

22 (c) DUTIES.—The Director of the Office shall—

23 (1) establish policy for intelligence and counter-  
24 intelligence programs and activities at Department  
25 facilities in order to reduce the threat of disclosure

1 or loss of classified and other sensitive information  
2 at the facilities;

3 (2) establish policy for the personnel assurance  
4 programs of the Department;

5 (3) inform the Secretary, the Director of Cen-  
6 tral Intelligence, and the Director of the Federal  
7 Bureau of Investigation on a regular basis, and on  
8 specific request by any such official, regarding the  
9 status and effectiveness of the intelligence and coun-  
10 terintelligence programs and activities at Depart-  
11 ment facilities; and

12 (4) perform such duties and exercise such pow-  
13 ers as the Secretary may prescribe.

14 (d) REPORTS.—

15 (1) IN GENERAL.—Not later than March 1 each  
16 year, the Director of the Office shall submit a report  
17 on the status and effectiveness of the intelligence  
18 and counterintelligence programs and activities at  
19 each Department facility during the preceding year.

20 (2) RECIPIENTS.—Each such report shall be  
21 submitted to the following:

22 (A) The Secretary.

23 (B) The Director of National Intelligence.

24 (C) The Director of the Federal Bureau of  
25 Investigation.

1           (D) The Committee on Armed Services  
2           and the Permanent Select Committee on Intel-  
3           ligence of the House of Representatives.

4           (E) The Committee on Armed Services and  
5           the Select Committee on Intelligence of the  
6           Senate.

7           (3) CONTENTS.—Each such report shall include  
8           for the year covered by the report the following:

9           (A) A description of the status and effec-  
10          tiveness of the intelligence and counterintel-  
11          ligence programs and activities at Department  
12          facilities.

13          (B) A description of any violation of law or  
14          other requirement relating to intelligence, coun-  
15          terintelligence, or security at such facilities, in-  
16          cluding—

17               (i) the number of violations that were  
18               investigated; and

19               (ii) the number of violations that re-  
20               main unresolved.

21          (C) A description of the number of foreign  
22          visitors to Department facilities, including the  
23          locations of the visits of the visitors.

24          (D) The adequacy of the procedures and  
25          policies of the Department for protecting na-



1           tional security information, making such rec-  
2           ommendations to Congress as may be appro-  
3           priate.

4                   (E) A determination of whether each Na-  
5           tional Laboratory is in full compliance with all  
6           departmental security requirements and, in the  
7           case of any such National Laboratory that is  
8           not in full compliance, what measures are being  
9           taken to bring the National Laboratory into  
10          compliance.

11                   (4) CERTIFICATION BY NATIONAL LABORA-  
12          TORIES.—Not later than 30 days before the date  
13          that the report required by paragraph (1) is sub-  
14          mitted, the director of each National Laboratory  
15          shall certify in writing to the Director of the Office  
16          whether the National Laboratory is in full compli-  
17          ance with all departmental security requirements  
18          and, if not, what measures are being taken to bring  
19          that laboratory into compliance and a schedule for  
20          implementing those measures.

21                   (5) FORM.—Each report under this subsection  
22          as submitted to the committees referred to in sub-  
23          paragraphs (D) and (E) of paragraph (2) shall be  
24          submitted in unclassified form, but may include a  
25          classified annex.

1 **SEC. 212. OFFICE OF INDIAN ENERGY POLICY AND PRO-**  
2 **GRAMS.**

3 (a) IN GENERAL.—There is established within the  
4 Department an Office of Indian Energy Policy and Pro-  
5 grams (referred to in this section as the “Office”).

6 (b) DIRECTOR.—The Office shall be headed by a Di-  
7 rector, who shall be appointed by the Secretary.

8 (c) DUTIES.—The Director, in accordance with Fed-  
9 eral policies promoting Indian self-determination and the  
10 purposes of this Act, shall provide, direct, foster, coordi-  
11 nate, and implement energy and environmental planning,  
12 education, management, conservation, and delivery pro-  
13 grams of the Department that—

14 (1) promote Indian tribal energy development,  
15 efficiency, and use;

16 (2) reduce or stabilize energy costs;

17 (3) enhance and strengthen Indian tribal energy  
18 and economic infrastructure relating to natural re-  
19 source development and electrification; and

20 (4) bring electrical power and service to Indian  
21 land and the homes of tribal members located on In-  
22 dian land or acquired, constructed, or improved (in  
23 whole or in part) with Federal funds.

1                   **TITLE III—TRANSFER OF**  
2                   **FUNCTIONS**

3   **SEC. 301. TRANSFER OF FUNCTIONS.**

4           Except as otherwise provided in this Act, there are  
5 transferred to, and vested in, the Secretary all of the func-  
6 tions provided by law (as of the date of enactment of this  
7 Act) to—

8                   (1) the Secretary of Energy;

9                   (2) the Administrator of the Environmental  
10           Protection Agency; and

11                   (3) the officers and components of the Depart-  
12           ment of Energy and the Environmental Protection  
13           Agency.

14   **SEC. 302. POWER ADMINISTRATIONS.**

15           (a) IN GENERAL.—There are transferred to, and  
16 vested in, the Secretary all functions of the Secretary of  
17 Energy with respect to—

18                   (1) the Southeastern Power Administration;

19                   (2) the Southwestern Power Administration;

20                   (3) the Bonneville Power Administration, in-  
21           cluding the authority contained in the Bonneville  
22           Project Act of 1937 (16 U.S.C. 832 et seq.) and the  
23           Federal Columbia River Transmission System Act  
24           (16 U.S.C. 838 et seq.);

1           (4) the power marketing functions of the Bu-  
2       reau of Reclamation, including the construction, op-  
3       eration, and maintenance of transmission lines and  
4       attendant facilities; and

5           (5) the transmission and disposition of the elec-  
6       tric power and energy generated at Falcon Dam and  
7       Amistad Dam, international storage reservoir  
8       projects on the Rio Grande, pursuant to the Act of  
9       June 18, 1954 (68 Stat. 255, chapter 310).

10       (b) ADMINISTRATION.—

11           (1) IN GENERAL.—The Southeastern Power  
12       Administration, the Southwestern Power Adminis-  
13       tration, and the Bonneville Power Administration,  
14       shall be preserved as separate and distinct organiza-  
15       tional entities within the Department.

16           (2) ADMINISTRATOR.—Each entity shall be  
17       headed by an Administrator appointed by the Sec-  
18       retary.

19           (3) FUNCTIONS.—The functions transferred to  
20       the Secretary in paragraphs (1) through (4) of sub-  
21       section (a) shall be exercised by the Secretary, act-  
22       ing by and through the Administrators.

23           (4) OFFICE.—Each Administrator shall main-  
24       tain the principal office of the Administrator at a

1 place located in the region served by the respective  
2 Federal power marketing entity.

3 (c) DAMS.—

4 (1) IN GENERAL.—The functions transferred  
5 under subsection (a)(5) shall be exercised by the  
6 Secretary, acting by and through a separate and dis-  
7 tinct Administration within the Department which  
8 shall be headed by an Administrator appointed by  
9 the Secretary.

10 (2) REGIONAL OFFICES.—The Administrator  
11 shall establish and maintain such regional offices as  
12 necessary to facilitate the performance of the func-  
13 tions.

14 (3) REALLOCATION OF COSTS.—Neither the  
15 transfer of functions effected by subsection (a)(5)  
16 nor any changes in cost allocation or project evalua-  
17 tion standards shall be considered to authorize the  
18 reallocation of joint costs of multipurpose facilities  
19 allocated unless and to the extent that the change is  
20 approved by Congress.

1       **TITLE IV—FEDERAL ENERGY**  
2       **REGULATORY COMMISSION**

3       **SEC. 401. APPOINTMENT AND ADMINISTRATION.**

4       (a) IN GENERAL.—There is established within the  
5 Department an independent regulatory commission to be  
6 known as the Federal Energy Regulatory Commission.

7       (b) COMPOSITION.—

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

11           (2) CHAIR.—Of the members of the Commis-  
12 sion, 1 member shall be designated by the President  
13 as Chair.

14           (3) TERM.—Subject to section 401(b)(2) of the  
15 Department of Energy Organization Act (42 U.S.C.  
16 7171(b)(2)) (as that Act existed before the amend-  
17 ment made by section 713), a member of the Com-  
18 mission—

19                   (A) shall hold office for a term of 5 years;

20                   and

21                   (B) may be removed by the President only  
22 for inefficiency, neglect of duty, or malfeasance  
23 in office.

1           (4) POLITICAL PARTIES.—Not more than 3  
2 members of the Commission shall be members of the  
3 same political party.

4           (5) VACANCIES.—

5           (A) IN GENERAL.—Any Commissioner ap-  
6 pointed to fill a vacancy occurring prior to the  
7 expiration of the term for which the predecessor  
8 of the Commissioner was appointed shall be ap-  
9 pointed only for the remainder of the term.

10           (B) EXPIRATION OF TERM.—A Commis-  
11 sioner may continue to serve after the expira-  
12 tion of the term of the Commissioner until the  
13 successor of the Commissioner is appointed and  
14 has been confirmed and taken the oath of Of-  
15 fice, except that the Commissioner shall not  
16 serve beyond the end of the session of the Con-  
17 gress in which the term expires.

18           (6) OTHER BUSINESS OR EMPLOYMENT.—A  
19 member of the Commission shall not engage in any  
20 other business, vocation, or employment while serv-  
21 ing on the Commission.

22           (c) DUTIES.—

23           (1) IN GENERAL.—The Chair shall be respon-  
24 sible, on behalf of the Commission, for the executive  
25 and administrative operation of the Commission, in-

1 including functions of the Commission with respect  
2 to—

3 (A) the appointment and employment of  
4 hearing examiners in accordance with title 5,  
5 United States Code;

6 (B) the selection, appointment, and fixing  
7 of the compensation of such personnel as the  
8 Chair considers necessary, including an execu-  
9 tive director;

10 (C) the supervision of personnel employed  
11 by or assigned to the Commission, except that  
12 each member of the Commission may select and  
13 supervise personnel for the personal staff of the  
14 member;

15 (D) the distribution of business among  
16 personnel and among administrative units of  
17 the Commission; and

18 (E) the procurement of services of experts  
19 and consultants in accordance with section  
20 3109 of title 5, United States Code.

21 (2) SUPPORT AND FACILITIES.—The Secretary  
22 shall provide to the Commission such support and  
23 facilities as the Commission determines necessary to  
24 carry out the functions of the Commission.



1 (d) RELATIONSHIP TO DEPARTMENT.—In the per-  
2 formance of functions of the Commission, the members,  
3 employees, or other personnel of the Commission shall not  
4 be responsible to, or subject to the supervision or direction  
5 of, any officer, employee, or agent of any other part of  
6 the Department.

7 (e) ADMINISTRATION.—

8 (1) ACTING CHAIR.—The Chair of the Commis-  
9 sion may designate any other member of the Com-  
10 mission as Acting Chair to act in the place of the  
11 Chair during the absence of the Chair.

12 (2) MEETINGS.—

13 (A) IN GENERAL.—The Chair (or the Act-  
14 ing Chair in the absence of the Chair) shall pre-  
15 side at all sessions of the Commission.

16 (B) QUORUM.—A quorum for the trans-  
17 action of business of the Commission shall con-  
18 sist of at least 3 members present.

19 (C) SINGLE VOTE.—Each member of the  
20 Commission, including the Chair, shall have 1  
21 vote.

22 (D) MAJORITY VOTE.—Actions of the  
23 Commission shall be determined by a majority  
24 vote of the members present.

1           (3) SEAL.—The Commission shall have an offi-  
2           cial seal which shall be judicially noticed.

3           (f) PROCEDURAL AND ADMINISTRATIVE RULES.—

4           (1) IN GENERAL.—The Commission may estab-  
5           lish such procedural and administrative rules as are  
6           necessary to the exercise of the functions of the  
7           Commission.

8           (2) CONTINUATION.—Until changed by the  
9           Commission, any procedural and administrative  
10          rules applicable to particular functions over which  
11          the Commission has jurisdiction shall continue in ef-  
12          fect with respect to the particular functions.

13          (g) HEARINGS AND SUBPOENA.—

14          (1) IN GENERAL.—In carrying out any of the  
15          functions of the Commission, the Commission shall  
16          have the powers authorized by the law under which  
17          the function is exercised—

18                 (A) to hold hearings;

19                 (B) to sign and issue subpoenas;

20                 (C) to administer oaths;

21                 (D) to examine witnesses; and

22                 (E) to receive evidence at any place in the  
23          United States the Commission may designate.

24          (2) HEARINGS.—The Commission may, by one  
25          or more of the members of the Commission or by

1 such agents as the Commission may designate, con-  
2 duct any hearing or other inquiry appropriate to the  
3 functions of the Commission, except that nothing in  
4 this subsection supersedes the provisions of section  
5 556 of title 5, United States Code, relating to hear-  
6 ing examiners.

7 (h) PRINCIPAL OFFICE.—The principal office of the  
8 Commission shall be in or near the District of Columbia,  
9 where the general sessions of the Commission shall be  
10 held, except that the Commission may sit anywhere in the  
11 United States.

12 (i) AGENCY.—

13 (1) IN GENERAL.—For the purpose of section  
14 552b of title 5, United States Code, the Commission  
15 shall be considered an agency.

16 (2) ATTORNEY FOR COMMISSION.—Except as  
17 provided in section 518 of title 28, United States  
18 Code, attorneys designated by the Chair of the Com-  
19 mission may appear for, and represent the Commis-  
20 sion in, any civil action brought in connection with  
21 any function carried out by the Commission pursu-  
22 ant to this Act or as otherwise authorized by law.

23 (j) ANNUAL AUTHORIZATION AND APPROPRIATION  
24 REQUEST.—

1           (1) IN GENERAL.—In each annual authorization  
2           and appropriation request under this Act, the Sec-  
3           retary shall—

4                   (A) identify the portion of the request in-  
5                   tended for the support of the Commission; and

6                   (B) include—

7                           (i) a statement by the Commission of  
8                           the amount requested by the Commission  
9                           in the budgetary presentation of the Com-  
10                          mission to the Secretary and the Office of  
11                          Management and Budget; and

12                           (ii) an assessment of the budgetary  
13                          needs of the Commission.

14           (2) COPY TO COMMITTEES.—If the Commission  
15           submits to the Secretary, the President, or the Of-  
16           fice of Management and Budget, any legislative rec-  
17           ommendation or testimony, or comments on legisla-  
18           tion, prepared for submission to Congress, the Com-  
19           mission shall concurrently transmit a copy to the ap-  
20           propriate committees of Congress.

21 **SEC. 402. JURISDICTION OF COMMISSION.**

22           (a) FUNCTIONS.—

23                   (1) IN GENERAL.—There are transferred to,  
24                   and vested in, the Commission the following func-  
25                   tions of the Federal Power Commission or of any

1 member of the Commission or any officer or compo-  
2 nent of the Commission:

3 (A) The investigation, issuance, transfer,  
4 renewal, revocation, and enforcement of licenses  
5 and permits for the construction, operation, and  
6 maintenance of dams, water conduits, res-  
7 ervoirs, powerhouses, transmission lines, or  
8 other works for the development and improve-  
9 ment of navigation and for the development and  
10 utilization of power across, along, from, or in  
11 navigable waters under part I of the Federal  
12 Power Act (16 U.S.C. 791a et seq.).

13 (B) The establishment, review, and en-  
14 forcement of rates and charges for the trans-  
15 mission or sale of electric energy, including de-  
16 terminations on—

17 (i) construction work in progress  
18 under part II of the Federal Power Act  
19 (16 U.S.C. 824 et seq.); and

20 (ii) the interconnection under section  
21 202(b) of that Act (16 U.S.C. 824a(b)) of  
22 facilities for the generation, transmission,  
23 and sale of electric energy (other than  
24 emergency interconnection).

1           (C) The establishment, review, and en-  
2           forcement of rates and charges for the trans-  
3           portation and sale of natural gas by a producer  
4           or gatherer or by a natural gas pipeline or nat-  
5           ural gas company under sections 1, 4, 5, and 6  
6           of the Natural Gas Act (15 U.S.C. 717, 717e,  
7           717d, 717e).

8           (D) The issuance of a certificate of public  
9           convenience and necessity, including abandon-  
10          ment of facilities or services, and the establish-  
11          ment of physical connections under section 7 of  
12          the Natural Gas Act (15 U.S.C. 717f).

13          (E) The establishment, review, and en-  
14          forcement of curtailments, other than the estab-  
15          lishment and review of priorities for the curtail-  
16          ments, under the Natural Gas Act (15 U.S.C.  
17          717 et seq.).

18          (F) The regulation of mergers and securi-  
19          ties acquisition under the Federal Power Act  
20          (16 U.S.C. 791a et seq.) and the Natural Gas  
21          Act (15 U.S.C. 717 et seq.).

22          (2) ADDITIONAL POWERS.—The Commission  
23          may exercise any power under the following sections  
24          to the extent the Commission determines the power

1 to be necessary to the exercise of any function with-  
2 in the jurisdiction of the Commission:

3 (A) Sections 4, 301, 302, 306 through  
4 309, and 312 through 316 of the Federal  
5 Power Act (16 U.S.C. 797, 825, 825a, 825e-  
6 825h, 825k-825o).

7 (B) Sections 8, 9, 13 through 17, 20, and  
8 21 of the Natural Gas Act (15 U.S.C. 717g,  
9 717h, 717l-717p, 717s, 717t).

10 (b) AGENCY DETERMINATIONS.—

11 (1) IN GENERAL.—Except as provided in para-  
12 graph (2), the Commission shall have jurisdiction to  
13 hear and determine any other matter arising under  
14 any other function of the Secretary—

15 (A) involving any agency determination re-  
16 quired by law to be made on the record after  
17 an opportunity for an agency hearing; or

18 (B) involving any other agency determina-  
19 tion that the Secretary determines shall be  
20 made on the record after an opportunity for an  
21 agency hearing.

22 (2) CERTAIN LEASE BIDDING ARRANGE-  
23 MENTS.—Nothing in this subsection requires that  
24 functions under section 105 of the Energy Policy  
25 and Conservation Act (42 U.S.C. 6213) shall be

1           within the jurisdiction of the Commission unless the  
2           Secretary assigns the function to the Commission.

3           (c) OTHER MATTERS.—In addition to the other pro-  
4           visions of this section, the Commission shall have jurisdic-  
5           tion over any other matter that the Secretary may assign  
6           to the Commission after public notice, or that is required  
7           to be referred to the Commission pursuant to section 404.

8           (d) LIMITATION.—No function described in this sec-  
9           tion that regulates the exports or imports of natural gas  
10          or electricity shall be within the jurisdiction of the Com-  
11          mission unless the Secretary assigns the function to the  
12          Commission.

13          (e) FINAL AGENCY ACTION.—The decision of the  
14          Commission involving any function within the jurisdiction  
15          of the Commission, other than action by the Commission  
16          on a matter referred to the Commission pursuant to sec-  
17          tion 404—

18                 (1) shall be final agency action (within the  
19                 meaning of section 704 of title 5, United States  
20                 Code); and

21                 (2) shall not be subject to further review by the  
22                 Secretary or any officer or employee of the Depart-  
23                 ment.

24          (f) REGULATIONS.—The Commission may prescribe  
25          rules, regulations, and statements of policy of general ap-



1 plicability with respect to any function under the jurisdic-  
2 tion of the Commission pursuant to this section.

3 **SEC. 403. INITIATION OF RULEMAKING PROCEEDINGS BE-**  
4 **FORE COMMISSION.**

5 (a) IN GENERAL.—The Secretary and the Commis-  
6 sion may propose rules, regulations, and statements of pol-  
7 icy of general applicability with respect to any function  
8 within the jurisdiction of the Commission under section  
9 402.

10 (b) PROPOSALS OF SECRETARY.—The Commission  
11 shall—

12 (1) have exclusive jurisdiction with respect to  
13 any proposal made under subsection (a); and

14 (2) consider and take final action on any pro-  
15 posal made by the Secretary under subsection (a) in  
16 an expeditious manner in accordance with such rea-  
17 sonable time limits as may be established by the  
18 Secretary for the completion of action by the Com-  
19 mission on any such proposal.

20 (c) RATES AND CHARGERS.—

21 (1) IN GENERAL.—Any function described in  
22 section 402 that relates to the establishment of rates  
23 and charges under the Federal Power Act (16  
24 U.S.C. 791a et seq.) or the Natural Gas Act (15

1 U.S.C. 717 et seq.), may be conducted by rule-  
2 making procedures.

3 (2) PROCEDURES.—Except as provided in sub-  
4 section (d), the procedures in such a rulemaking  
5 proceeding shall ensure full consideration of the  
6 issues and an opportunity for interested persons to  
7 present views.

8 (d) SUBMISSION OF WRITTEN QUESTIONS BY INTER-  
9 ESTED PERSONS.—

10 (1) IN GENERAL.—In the case of any rule or  
11 regulation promulgated by the Commission to estab-  
12 lish rates and charges for the first sale of natural  
13 gas by a producer or gatherer to a natural gas pipe-  
14 line under the Natural Gas Act (15 U.S.C. 717 et  
15 seq.), the Commission may afford an interested per-  
16 son a reasonable opportunity to submit written ques-  
17 tions with respect to disputed issues of fact to other  
18 interested persons participating in the rulemaking  
19 proceedings.

20 (2) TIME.—The Commission may establish a  
21 reasonable time for both the submission of questions  
22 and responses.

1 **SEC. 404. REFERRAL OF OTHER RULEMAKING PRO-**  
2 **CEEDINGS TO COMMISSION.**

3 (a) IN GENERAL.—Except as provided in section 403,  
4 if the Secretary proposes to prescribe rules, regulations,  
5 and statements of policy of general applicability in the ex-  
6 ercise of any function that is transferred to the Secretary  
7 under section 301 or 306 of the Department of Energy  
8 Organization Act (42 U.S.C. 7151, 7155) (as that Act ex-  
9 isted before the amendment made by section 713), the  
10 Secretary shall notify the Commission of the proposed ac-  
11 tion.

12 (b) REFERRAL TO COMMISSION.—If the Commission  
13 determines within such period as the Secretary may pre-  
14 scribe that the proposed action may significantly affect  
15 any function within the jurisdiction of the Commission  
16 pursuant to subsections (a)(1), (b), and (c) of section 402  
17 and section 60502 of title 49, United States Code, the  
18 Secretary shall immediately refer the matter to the Com-  
19 mission, which shall provide an opportunity for public  
20 comment.

21 (c) RECOMMENDATIONS OF COMMISSION.—

22 (1) IN GENERAL.—Following the opportunity  
23 for public comment, the Commission, after consulta-  
24 tion with the Secretary, shall—

25 (A) concur in adoption of the rule or state-  
26 ment as proposed by the Secretary;

1 (B) concur in adoption of the rule or state-  
2 ment only with such changes as the Commis-  
3 sion may recommend; or

4 (C) recommend that the rule or statement  
5 not be adopted.

6 (2) PUBLICATION.—The Commission shall  
7 promptly publish—

8 (A) the recommendations of the Commis-  
9 sion adopted under this subsection;

10 (B) an explanation of the reason for the  
11 actions of the Commission; and

12 (C) an analysis of the major comments,  
13 criticisms, and alternatives offered during the  
14 comment period.

15 (d) OPTIONS OF SECRETARY.—

16 (1) IN GENERAL.—Following publication of the  
17 recommendations of the Commission, the Secretary  
18 shall have the option of—

19 (A) issuing a final rule or statement in the  
20 form initially proposed by the Secretary if the  
21 Commission has concurred in the rule pursuant  
22 to subsection (c)(1)(A);

23 (B) issuing a final rule or statement in  
24 amended form so that the rule conforms in all  
25 respects with the changes proposed by the Com-

1 mission if the Commission has concurred in the  
2 rule or statement pursuant to subsection  
3 (c)(1)(B); or  
4 (C) ordering that the rule shall not be  
5 issued.

6 (2) FINAL AGENCY ACTION.—The action taken  
7 by the Secretary pursuant to this subsection shall  
8 constitute a final agency action for purposes of sec-  
9 tion 704 of title 5, United States Code.

10 **SEC. 405. RIGHT OF SECRETARY TO INTERVENE IN COM-**  
11 **MISSION PROCEEDINGS.**

12 (a) IN GENERAL.—The Secretary may, as a matter  
13 of right, intervene or otherwise participate in any pro-  
14 ceeding before the Commission.

15 (b) PROCEDURE.—The Secretary shall comply with—

16 (1) rules of procedure of general applicability  
17 governing the timing of intervention or participation  
18 in the proceeding or activity; and

19 (2) on intervening or participating in the pro-  
20 ceeding or activity, rules of procedure of general ap-  
21 plicability governing the conduct of the proceeding  
22 or activity.

23 (c) FAIRNESS.—The intervention or participation of  
24 the Secretary in any proceeding or activity shall not affect

1 the obligation of the Commission to ensure procedural  
2 fairness to all participants.

3 **SEC. 406. REORGANIZATION.**

4 For the purposes of chapter 9 of title 5, United  
5 States Code, the Commission shall be considered an inde-  
6 pendent regulatory agency.

7 **SEC. 407. ACCESS TO INFORMATION.**

8 (a) IN GENERAL.—The Secretary, each officer of the  
9 Department, and each Federal agency shall provide to the  
10 Commission, on request, such existing information in the  
11 possession of the Department or other Federal agency as  
12 the Commission determines necessary to carry out the re-  
13 sponsibilities of the Commission under this Act.

14 (b) CERTAIN INFORMATION.—In formulating the in-  
15 formation to be requested in the reports or investigations  
16 under sections 304 and 311 of the Federal Power Act (16  
17 U.S.C. 825c, 825j) and sections 10 and 11 of the Natural  
18 Gas Act (15 U.S.C. 717i, 717j), the Secretary shall—

19 (1) include in the reports and investigations  
20 such specific information as requested by the Com-  
21 mission; and

22 (2) furnish copies of all reports, information,  
23 results of investigations and data under those sec-  
24 tions to the Commission.

1 **TITLE V—ADMINISTRATIVE PRO-**  
2 **CEDURES AND JUDICIAL RE-**  
3 **VIEW**

4 **SEC. 501. PROCEDURES.**

5 (a) ADMINISTRATIVE PROCEDURES.—

6 (1) IN GENERAL.—Subject to the other require-  
7 ments of this title, subchapter II of chapter 5 of title  
8 5, United States Code, shall apply in accordance  
9 with the terms of that subchapter to any rule or reg-  
10 ulation, or any order having the applicability and ef-  
11 fect of a rule (as that term is defined in section 551  
12 of title 5, United States Code), issued pursuant to  
13 authority vested by law in, or transferred or dele-  
14 gated to, the Secretary, or required by this Act or  
15 any other Act to be carried out by any other officer,  
16 employee, or component of the Department, other  
17 than the Commission, including any such rule, regu-  
18 lation, or order of a State or local government agen-  
19 cy (or officer of a State or local government agency)  
20 issued pursuant to authority delegated by the Sec-  
21 retary in accordance with this title.

22 (2) ADDITIONAL REQUIREMENTS.—If any pro-  
23 vision of any Act, the functions of which are trans-  
24 ferred, vested, or delegated pursuant to this Act,  
25 provides administrative procedure requirements in

1 addition to the requirements provided in this title,  
2 those additional requirements shall also apply to ac-  
3 tions under that provision.

4 (b) SUBSTANTIAL IMPACT ON THE ECONOMY OF THE  
5 UNITED STATES.—

6 (1) NO SUBSTANTIAL IMPACT.—If the Sec-  
7 retary determines, on the initiative of the Secretary  
8 or in response to any showing made pursuant to  
9 paragraph (2) (with respect to a proposed rule, reg-  
10 ulation, or order described in subsection (a)), that  
11 no substantial issue of fact or law exists and that  
12 the rule, regulation, or order is unlikely to have a  
13 substantial impact on the economy of the United  
14 States or large numbers of individuals or businesses  
15 in the United States, the proposed rule, regulation,  
16 or order may be promulgated in accordance with sec-  
17 tion 553 of title 5, United States Code.

18 (2) SUBSTANTIAL IMPACT.—If the Secretary  
19 determines that a substantial issue of fact or law ex-  
20 ists or that the rule, regulation, or order is likely to  
21 have a substantial impact on the economy of the  
22 United States or large numbers of individuals or  
23 businesses in the United States, an opportunity for  
24 oral presentation of views, data, and arguments shall  
25 be provided before promulgation.



1           (3) SUBMISSION OF MATERIAL.—Any person  
2           who would be adversely affected by the implementa-  
3           tion of any proposed rule, regulation, or order and  
4           who desires an opportunity for oral presentation of  
5           views, data, and arguments, may submit material  
6           supporting the existence of a substantial issue or im-  
7           pact described in paragraph (2).

8           (4) TRANSCRIPT.—A transcript shall be kept of  
9           any oral presentation described in paragraph (2)  
10          with respect to a rule, regulation, or order described  
11          in subsection (a).

12          (c) WAIVER.—

13           (1) IN GENERAL.—The requirements of sub-  
14          section (b) may be waived in any case in which—

15           (A) strict compliance with that subsection  
16          is found by the Secretary to be likely to cause  
17          serious harm or injury to the public health,  
18          safety, or welfare; and

19           (B) the finding of the Secretary described  
20          in subparagraph (A) is set out in detail in the  
21          rule, regulation, or order.

22          (2) SUBSEQUENT SATISFACTION.—If the re-  
23          quirements of subsection (b) are waived under para-  
24          graph (1), the requirements of that subsection shall  
25          be satisfied within a reasonable period of time subse-

1           quent to the promulgation of the rule, regulation, or  
2           order.

3           (d) RULES WITH LOCAL EFFECT.—

4               (1) DEFINITIONS.—In this subsection:

5                   (A) GEOGRAPHIC AREA WITHIN A  
6                   STATE.—The term “geographic area within a  
7                   State” means a special purpose district or other  
8                   region that is recognized for governmental pur-  
9                   poses within the State but is not a unit of local  
10                  government.

11                  (B) RULE WITH LOCAL EFFECT.—The  
12                  term “rule with local effect” means a rule, reg-  
13                  ulation, or order described in subsection (a), the  
14                  effects of which, except for indirect effects of an  
15                  inconsequential nature, are confined to—

16                       (i) a single unit of local government  
17                       or the residents of a single unit of local  
18                       government;

19                       (ii) a single geographic area within a  
20                       State or the residents of a single geo-  
21                       graphic area within a State; or

22                       (iii) a single State or the residents of  
23                       a single State.

24                  (C) UNIT OF LOCAL GOVERNMENT.—The  
25                  term “unit of local government” means a coun-

1           ty, municipality, town, township, village, or  
2           other unit of general government below the  
3           State level.

4           (2) OPPORTUNITY FOR HEARING.—With re-  
5           spect to any rule with local effect, the Secretary  
6           shall, if appropriate, afford an opportunity for a  
7           hearing or the oral presentation of views, and pro-  
8           vide procedures for the holding of the hearing or  
9           oral presentation within the boundaries of the appli-  
10          cable unit of local government, geographic area, or  
11          State.

12          (3) RELATIONSHIP TO OTHER LAW.—Nothing  
13          in this subsection requires a hearing or an oral pres-  
14          entation of views where none is required by this sec-  
15          tion or other provision of law.

16          (e) PROCEDURES FOR STATE AND LOCAL GOVERN-  
17          MENT AGENCIES.—

18           (1) IN GENERAL.—As authorized by any law  
19           vested, transferred, or delegated pursuant to this  
20           Act, the Secretary may, by rule, prescribe proce-  
21           dures for State or local government agencies author-  
22           ized by the Secretary to carry out such functions as  
23           may be permitted under applicable law.

24           (2) REQUIREMENTS.—Procedures prescribed  
25           under paragraph (1) shall—

1 (A) apply to the State or local government  
2 agencies in lieu of this section; and

3 (B) require that prior to taking any action,  
4 the agencies shall—

5 (i) take steps reasonably calculated to  
6 provide notice to persons who may be af-  
7 fected by the action; and

8 (ii) afford an opportunity for presen-  
9 tation of views (including oral presentation  
10 of views where practicable) within a rea-  
11 sonable time before taking the action.

12 **SEC. 502. JUDICIAL REVIEW.**

13 (a) IN GENERAL.—Judicial review of agency action  
14 taken under any law the functions of which are vested by  
15 law in, or transferred or delegated to the Secretary, the  
16 Commission, or any officer, employee, or component of the  
17 Department shall, notwithstanding the vesting, transfer,  
18 or delegation, be made in the manner specified in or for  
19 such law.

20 (b) ORIGINAL JURISDICTION.—

21 (1) IN GENERAL.—Except as provided in para-  
22 graph (2) and notwithstanding the amount in con-  
23 troversy, the district courts of the United States  
24 shall have exclusive original jurisdiction of all other  
25 cases or controversies arising exclusively under this

1 Act, or under rules, regulations, or orders issued ex-  
2 clusively under this Act, other than any actions  
3 taken to implement or enforce any rule, regulation,  
4 or order by any officer of a State or local govern-  
5 ment agency under this Act as described in para-  
6 graph (4).

7 (2) ISSUE RAISED IN DEFENSE.—Nothing in  
8 this section affects the power of any court of com-  
9 petent jurisdiction to consider, hear, and determine  
10 in any proceeding before the court any issue raised  
11 by way of defense, other than a defense based on the  
12 unconstitutionality of this Act or the validity of ac-  
13 tion taken by any agency under this Act as described  
14 in paragraph (3).

15 (3) REMOVAL.—If in any proceeding an issue  
16 by way of defense is raised based on the unconsti-  
17 tutionality of this Act or the validity of agency ac-  
18 tion under this Act, the case shall be subject to re-  
19 moval by either party to a district court of the  
20 United States in accordance with chapter 89 of title  
21 28, United States Code.

22 (4) STATE OR LOCAL GOVERNMENT AGENCY.—  
23 Cases or controversies arising under any rule, regu-  
24 lation, or order of any officer of a State or local gov-  
25 ernment agency may be heard in—

1 (A) any appropriate State court; or

2 (B) without regard to the amount in con-  
3 troversy, the district courts of the United  
4 States.

5 (c) DEPARTMENT LITIGATION.—

6 (1) IN GENERAL.—Subject to section 401(i)  
7 and notwithstanding any other law, the litigation of  
8 the Department shall be subject to the supervision  
9 of the Attorney General pursuant to chapter 31 of  
10 title 28, United States Code.

11 (2) DELEGATION.—The Attorney General may  
12 authorize any attorney of the Department to conduct  
13 any civil litigation of the Department in any Federal  
14 court except the Supreme Court.

15 **SEC. 503. REMEDIAL ORDERS.**

16 (a) IN GENERAL.—If, upon investigation, the Sec-  
17 retary or the authorized representative of the Secretary,  
18 believes that a person has violated any regulation, rule,  
19 or order described in section 501(a), the Secretary may  
20 issue a remedial order to the person.

21 (b) REQUIREMENTS.—Each remedial order shall be  
22 in writing and shall describe with particularity the nature  
23 of the violation, including a reference to the provision of  
24 the rule, regulation, or order alleged to have been violated.

1           (c) FAILURE TO RESPOND.—If, not later than 30  
2 days after the date of receipt of a remedial order issued  
3 by the Secretary, the person fails to notify the Secretary  
4 that the person intends to contest the remedial order, the  
5 remedial order shall become effective and shall be consid-  
6 ered a final order of the Secretary and not subject to re-  
7 view by any court or agency.

8           (d) CONTESTING OF ORDER.—

9           (1) IN GENERAL.—If, not later than 30 days  
10 after the date of receipt of the remedial order issued  
11 by the Secretary, the person notifies the Secretary  
12 that the person intends to contest a remedial order  
13 issued under subsection (a), the Secretary shall im-  
14 mediately advise the Commission of the notification.

15           (2) STAY OF EFFECT.—Upon receiving notice  
16 under paragraph (1), the Commission shall stay the  
17 effect of the remedial order, unless the Commission  
18 finds the public interest requires immediate compli-  
19 ance with the remedial order.

20           (3) OPPORTUNITY FOR A HEARING.—The Com-  
21 mission shall, upon request, afford an opportunity  
22 for a hearing, including, at a minimum, the submis-  
23 sion of briefs, oral or documentary evidence, and  
24 oral arguments.

1           (4) CROSS EXAMINATION.—To the extent that  
2           the Commission, in the discretion of the Commis-  
3           sion, determines that cross examination is required  
4           for a full and true disclosure of the facts, the Com-  
5           mission shall afford the right of cross examination.

6           (5) ORDER BY COMMISSION.—

7           (A) IN GENERAL.—After a hearing, if any,  
8           under this subsection, the Commission shall  
9           issue an order, based on findings of fact, af-  
10          firming, modifying, or vacating the remedial  
11          order of the Secretary, or directing other appro-  
12          priate relief.

13          (B) EFFECT OF ORDER.—Subject to sub-  
14          paragraph (C), an order issued under subpara-  
15          graph (A) shall, for the purpose of judicial re-  
16          view, constitute a final agency action.

17          (C) ENFORCEMENT.—Enforcement and  
18          other judicial review of an action described in  
19          subparagraph (B) shall be the responsibility of  
20          the Secretary.

21          (e) TIME LIMITS.—The Secretary may set reasonable  
22          time limits for the Commission to complete action on a  
23          proceeding referred to the Commission pursuant to this  
24          section.



1 (f) PROCEDURAL ACTIONS.—Nothing in this section  
2 affects any procedural action taken by the Secretary prior  
3 to or incident to initial issuance of a remedial order that  
4 is the subject of a hearing provided in this section, but  
5 such procedures shall be reviewable in the hearing.

6 (g) NOTICE REQUIREMENT.—This section shall be  
7 applicable only with respect to proceedings initiated by a  
8 notice of probable violation issued after the effective date  
9 of this Act.

10 (h) MARKETING OF PETROLEUM PRODUCTS.—With  
11 respect to any person whose sole petroleum industry oper-  
12 ation relates to the marketing of petroleum products, the  
13 Secretary or any person acting on behalf of the Secretary  
14 may not exercise discretion to maintain a civil action  
15 (other than an action for injunctive relief) or issue a reme-  
16 dial order against the person for any violation of any rule  
17 or regulation if—

18 (1) the civil action or order is based on—

19 (A) a retroactive application of the rule or  
20 regulation; or

21 (B) a retroactive interpretation of the rule  
22 or regulation; and

23 (2) the person relied in good faith on rules, reg-  
24 ulations, or ruling in effect on the date of the viola-  
25 tion interpreting the rules or regulations.

1 **SEC. 504. REQUESTS FOR ADJUSTMENTS.**

2 (a) IN GENERAL.—The Secretary or any officer des-  
3 ignated by the Secretary shall—

4 (1) provide for the making of such adjustments  
5 to any rule, regulation, or order described in section  
6 501(a) as may be necessary to prevent special hard-  
7 ship, inequity, or unfair distribution of burdens;

8 (2) by rule, establish procedures that are avail-  
9 able to any person for the purpose of seeking an in-  
10 terpretation, modification, or rescission of, exception  
11 to, or exemption from, such rule, regulation, or  
12 order; and

13 (3) ensure that each decision on any application  
14 or petition requesting an adjustment shall specify—

15 (A) the standards of hardship, inequity, or  
16 unfair distribution of burden by which any dis-  
17 position was made; and

18 (B) the specific application of the stand-  
19 ards to the facts contained in the application or  
20 petition.

21 (b) REVIEW OF DENIAL.—

22 (1) IN GENERAL.—If any person is aggrieved or  
23 adversely affected by a denial of a request for ad-  
24 justment under subsection (a), the person may—

25 (A) request a review of the denial by the  
26 Commission; and

1 (B) obtain judicial review in accordance  
2 with this title when the denial becomes final.

3 (2) PROCEDURES.—The Commission shall, by  
4 rule, establish appropriate procedures, including a  
5 hearing when requested, for review of a denial.

6 (3) COMMISSION ACTION.—Action by the Com-  
7 mission under this section shall be considered final  
8 agency action within the meaning of section 704 of  
9 title 5, United States Code, and shall not be subject  
10 to further review by the Secretary or any officer or  
11 employee of the Department.

12 (4) LITIGATION.—Litigation involving judicial  
13 review of action by the Commission under this sec-  
14 tion shall be the responsibility of the Secretary.

15 **SEC. 505. REVIEW AND EFFECT.**

16 (a) IN GENERAL.—Not later than 1 year after the  
17 effective date of this Act, the Secretary shall submit a re-  
18 port to Congress describing the actions taken to imple-  
19 ment section 501.

20 (b) CONTENTS.—The report under subsection (a)  
21 shall include—

22 (1) a description of the adequacy of section 501  
23 from the standpoint of the Department and the pub-  
24 lic, including a summary of any comments obtained

1 by the Secretary from the public about the section  
2 and implementing regulations; and

3 (2) such recommendations as the Secretary con-  
4 siders appropriate concerning the procedures re-  
5 quired by section 501.

6 (c) ASSESSMENTS.—

7 (1) IN GENERAL.—Not later than January 31  
8 of each year, the Secretary shall submit to Congress  
9 a report on the assessment conducted under sub-  
10 section (a) during the preceding year.

11 (2) CONTENTS.—Each report shall include the  
12 results of the assessment covered by the report, to-  
13 gether with such findings and recommendations as  
14 the Secretary considers appropriate.

## 15 **TITLE VI—ADMINISTRATIVE** 16 **PROVISIONS**

### 17 **Subtitle A—Personnel Provisions**

#### 18 **SEC. 601. OFFICERS AND EMPLOYEES.**

19 (a) AUTHORITY OF SECRETARY TO APPOINT AND  
20 FIX COMPENSATION.—Except as otherwise provided in  
21 this section, the Secretary may appoint and fix the com-  
22 pensation of such officers and employees, including attor-  
23 neys, as the Secretary determines necessary to carry out  
24 the functions of the Department in accordance with chap-  
25 ters 33 and 53 of title 5, United States Code.

1 (b) APPOINTMENT OF SCIENTIFIC, ENGINEERING,  
2 AND OTHER PERSONNEL.—

3 (1) IN GENERAL.—Subject paragraph (2), the  
4 Secretary may—

5 (A) appoint not more than 311 scientific,  
6 engineering, professional, and administrative  
7 personnel of the Department without regard to  
8 the provisions of chapter 33 of title 5, United  
9 States Code, governing appointments in the  
10 competitive service; and

11 (B) fix the compensation of those per-  
12 sonnel at an amount not to exceed the max-  
13 imum rate payable for GS-18 of the General  
14 Schedule under section 5332 of title 5, United  
15 States Code.

16 (2) TERMINATION OF AUTHORITY.—The au-  
17 thority of the Secretary under paragraph (1) shall  
18 terminate on the later of—

19 (A) the date on which an individual who is  
20 appointed under paragraph (1) leaves that posi-  
21 tion; or

22 (B) the date that is 4 years after the date  
23 of enactment of this Act.

24 (c) OTHER POSITIONS ABOVE GS-15.—

1           (1) IN GENERAL.—Subject to the provisions of  
2 chapter 51 of title 5, United States Code, but not-  
3 withstanding section 3324 of title 5, United States  
4 Code, the Secretary may classify not more than 178  
5 positions of the Department as GS–16, GS–17, or  
6 GS–18 without the approval by the Civil Service  
7 Commission.

8           (2) APPROVAL BY CIVIL SERVICE COMMIS-  
9 SION.—Appointments under this subsection may be  
10 made without regard to section 3324 of title 5,  
11 United States Code, if the individual placed in the  
12 position—

13           (A) is transferred to the Department in  
14 connection with a transfer of functions under  
15 this Act; and

16           (B) immediately prior to the effective date  
17 of this Act, held a position and duties com-  
18 parable to those required by the new position.

19           (3) TERMINATION OF AUTHORITY.—The au-  
20 thority of the Secretary under this subsection with  
21 respect to any position shall terminate on the date  
22 on which the first individual who is appointed under  
23 paragraph (1) leaves that position.

24           (d) APPOINTMENT OF ADDITIONAL SCIENTIFIC, EN-  
25 GINEERING, AND OTHER PERSONNEL.—In addition to the

1 number of positions that may be classified above GS–15  
2 under section 5108 of title 5, United States Code, the Sec-  
3 retary may—

4 (1) appoint not more than 200 scientific, engi-  
5 neering, professional, and administrative personnel  
6 without regard to the provisions of chapter 33 of  
7 title 5, United States Code; and

8 (2) fix the compensation of those personnel in  
9 an amount not to exceed the maximum rate payable  
10 for GS–18 of the General Schedule under section  
11 5332 of title 5, United States Code.

12 (e) MAXIMUM NUMBER OF POSITIONS.—Of the posi-  
13 tions described in subsections (b) and (c) and classified  
14 above GS–15 under section 5108(a) of title 5, United  
15 States Code—

16 (1) 63 percent shall be GS–16 positions;

17 (2) 25 percent shall be GS–17 positions; and

18 (3) 12 percent shall be GS–18 positions.

19 (f) INTELLIGENCE POSITIONS.—All individuals ap-  
20 pointed to positions in the Department that the Secretary  
21 determines to be devoted to intelligence and intelligence-  
22 related activities of the Federal Government are excepted  
23 from the competitive service provisions of chapter 33 of  
24 title 5, United States Code while employed in those posi-  
25 tions.

1 **SEC. 602. SENIOR POSITIONS.**

2 In addition to the positions created by title II, there  
3 shall be within the Department 14 additional officers in  
4 positions authorized by section 5316 of title 5, United  
5 States Code, which shall be filled by individuals appointed  
6 by the Secretary who shall perform such functions as the  
7 Secretary shall prescribe from time to time.

8 **SEC. 603. EXPERTS AND CONSULTANTS.**

9 The Secretary may obtain services authorized by sec-  
10 tion 3109 of title 5, United States Code, at rates not to  
11 exceed the daily rate prescribed for grade GS-18 of the  
12 General Schedule under section 5332 of title 5, United  
13 States Code, for persons employed intermittently in Gov-  
14 ernment service.

15 **SEC. 604. ADVISORY COMMITTEES.**

16 (a) IN GENERAL.—The Secretary may establish in  
17 accordance with the Federal Advisory Committee Act (5  
18 U.S.C. App.) such advisory committees as the Secretary  
19 determines necessary to assist in the performance of the  
20 duties of the Secretary.

21 (b) TRAVEL EXPENSES.—Members of an advisory  
22 committee established under subsection (a), other than a  
23 full-time employees of the Federal Government, may be  
24 allowed travel expenses, including per diem in lieu of sub-  
25 sistence, as authorized by section 5703 of title 5, United  
26 States Code, while attending meetings of the advisory



1 committee or otherwise serving at the request of the Sec-  
2 retary away from the homes or places of business of the  
3 members.

## 4 **Subtitle B—General Administrative** 5 **Provisions**

### 6 **SEC. 611. GENERAL AUTHORITY.**

7 To the extent appropriate to perform any function  
8 transferred by this Act, the Secretary or any officer or  
9 employee of the Department may exercise, in carrying out  
10 the function so transferred, any authority available by law  
11 (including appropriations Acts) to the official or agency  
12 from which the function was transferred.

### 13 **SEC. 612. DELEGATION.**

14 Except as otherwise expressly prohibited by law, and  
15 except as otherwise provided in this Act, the Secretary  
16 may, as the Secretary determines to be appropriate—

17 (1) delegate any functions to officers or employ-  
18 ees of the Department; and

19 (2) authorize successive redelegations of func-  
20 tions within the Department.

### 21 **SEC. 613. REORGANIZATION.**

22 (a) IN GENERAL.—Subject to subsection (b), the Sec-  
23 retary may establish, alter, consolidate, or discontinue  
24 such organizational units or components within the De-  
25 partment as the Secretary determines to be appropriate.

1 (b) LIMITATIONS.—

2 (1) IN GENERAL.—The authority of the Sec-  
3 retary under subsection (a) shall not extend to—

4 (A) the abolition of any organizational unit  
5 or component established by this Act; or

6 (B) the transfer of any function vested by  
7 this Act in any organizational unit or compo-  
8 nent.

9 (2) NATIONAL NUCLEAR SECURITY ADMINIS-  
10 TRATION.—The authority of the Secretary under  
11 subsection (a) shall not apply to the National Nu-  
12 clear Security Administration.

13 **SEC. 614. RULES.**

14 The Secretary may promulgate such procedural and  
15 administrative regulations as the Secretary determines to  
16 be appropriate to administer and manage the functions of  
17 the Secretary under this Act.

18 **SEC. 615. SUBPOENA.**

19 (a) IN GENERAL.—For the purpose of carrying out  
20 this Act, the Secretary (or a designee) shall have the same  
21 powers and authorities as the Federal Trade Commission  
22 under section 9 of the Federal Trade Commission Act (15  
23 U.S.C. 49) with respect to all functions vested in, or trans-  
24 ferred or delegated to, the Secretary by this Act.

1           (b) NATURAL GAS.—For purposes of carrying out the  
2 responsibilities of the Federal Trade Commission under  
3 the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et  
4 seq.), the Commission shall have the same powers and au-  
5 thority as the Secretary has under this section.

6 **SEC. 616. CONTRACTS.**

7           (a) IN GENERAL.—The Secretary may enter into and  
8 perform such contracts, leases, cooperative agreements, or  
9 other similar transactions with public agencies, private or-  
10 ganizations, and individuals, and make such payments (in  
11 lump sum or installments, and by way of advance or reim-  
12 bursement), as the Secretary determines to be appropriate  
13 to carry out the functions under this Act.

14           (b) LIMITATION ON AUTHORITY.—Notwithstanding  
15 any other provision of this title, no authority to enter into  
16 contracts or to make payments under this title shall be  
17 effective except to such extent or in such amounts as are  
18 provided in advance in appropriations Acts.

19           (c) LEASING OF EXCESS DEPARTMENT PROPERTY.—  
20 The Secretary may lease, in accordance with such terms  
21 and conditions the Secretary considers to be appropriate  
22 to promote national security or the public interest, any  
23 acquired real property and related personal property  
24 that—

1           (1) is located at a facility of the Department to  
2           be closed or reconfigured;

3           (2) at the time the lease is entered into, is not  
4           needed by the Department; and

5           (3) is under the control of the Department.

6           (d) TERMS OF LEASE.—

7           (1) IN GENERAL.—A lease entered into under  
8           subsection (c) shall be for a term of not more than  
9           10 years, except that the Secretary may enter into  
10          a lease that includes an option to renew for a term  
11          of more than 10 years if the Secretary determines  
12          that entering into such a lease will promote the na-  
13          tional security or be in the public interest.

14          (2) CONSIDERATION.—

15           (A) IN GENERAL.—A lease entered into  
16           under subsection (c) may provide for the pay-  
17           ment (in cash or in kind) by the lessee of con-  
18           sideration in an amount that is less than the  
19           fair market rental value of the leasehold inter-  
20           est.

21           (B) SERVICES.—Services relating to the  
22           protection and maintenance of the leased prop-  
23           erty may constitute all or part of the consider-  
24           ation under this paragraph.

25          (e) ENVIRONMENTAL CONCERNS.—

1           (1) IN GENERAL.—Subject to paragraph (2),  
2           before entering into a lease under subsection (c), the  
3           Secretary shall consult with, and obtain the concu-  
4           rence of, the appropriate State official (with respect  
5           to property located on a site that is not listed on the  
6           National Priorities List) to determine whether the  
7           environmental conditions of the property are such  
8           that leasing the property, and the terms and condi-  
9           tions of the lease agreement, are consistent with  
10          safety and the protection of public health and the  
11          environment.

12          (2) FAILURE TO OBTAIN CONCURRENCE.—The  
13          Secretary may enter into a lease under subsection  
14          (c) without obtaining the concurrence of the appro-  
15          priate State official under paragraph (1) if, by the  
16          date that 60 days after the date on which the Sec-  
17          retary requests the concurrence, the appropriate  
18          State official fails to submit to the Secretary a no-  
19          tice of concurrence with, or rejection of, the deter-  
20          mination.

21          (f) RENTALS.—

22                (1) RETENTION.—

23                    (A) IN GENERAL.—To the extent provided  
24                    in advance in appropriations Acts, the Sec-  
25                    retary may retain and use money received by

1           the Secretary directly from a lease entered into  
2           under subsection (c) in any amount the Sec-  
3           retary considers to be necessary to cover the ad-  
4           ministrative expenses of the lease, the mainte-  
5           nance and repair of the leased property, or en-  
6           vironmental restoration activities at the facility  
7           at which the leased property is located.

8           (B) TREATMENT.—Amounts retained  
9           under this subsection shall be retained in a sep-  
10          arate account established in the Treasury for  
11          that purpose.

12          (2) REPORT.—The Secretary shall submit to  
13          Congress annual reports on the amounts retained  
14          and used under this subsection.

15          (g) ADDITIONAL AUTHORITIES.—

16          (1) IN GENERAL.—In addition to authority  
17          granted to the Secretary under any other provision  
18          of law, the Secretary may exercise the same author-  
19          ity to enter into transactions (other than contracts,  
20          cooperative agreements, and grants), subject to the  
21          same terms and conditions, as the Secretary of De-  
22          fense under section 2371 of title 10, United States  
23          Code (other than subsections (b) and (f) of that sec-  
24          tion).

1           (2) APPLICATION OF TERMS.—In applying sec-  
2           tion 2371 of title 10, United States Code, to the  
3           Secretary under paragraph (1)—

4                   (A) the term “basic” shall be replaced by  
5           the term “research”;

6                   (B) the term “applied” shall be replaced  
7           by the term “development”; and

8                   (C) the terms “advanced research  
9           projects” and “advanced research” shall be re-  
10          placed by the term “demonstration projects”.

11          (3) RELATIONSHIP TO OTHER PROVISIONS.—  
12          The authority of the Secretary under paragraph (1)  
13          shall not be subject to—

14                   (A) section 9 of the Federal Nonnuclear  
15          Energy Research and Development Act of 1974  
16          (42 U.S.C. 5908); or

17                   (B) section 152 of the Atomic Energy Act  
18          of 1954 (42 U.S.C. 2182).

19          (4) COMPETITIVE, MERIT-BASED SELECTION  
20          PROCEDURES.—

21                   (A) IN GENERAL.—The Secretary shall use  
22          such competitive, merit-based selection proce-  
23          dures in entering into transactions under para-  
24          graph (1) as the Secretary determines in writ-  
25          ing to be practicable.

1           (B) LIMITATION.—A transaction under  
2 paragraph (1) shall relate to a research, devel-  
3 opment, or demonstration project only if the  
4 Secretary determines in writing that the use of  
5 a standard contract, grant, or cooperative  
6 agreement for the project is not feasible or ap-  
7 propriate.

8           (5) DISCLOSURE.—The Secretary may protect  
9 from disclosure, for up to 5 years after the date on  
10 which the information is developed, any information  
11 developed pursuant to a transaction under para-  
12 graph (1) that would be protected from disclosure  
13 under section 552(b)(4) of title 5, United States  
14 Code, if obtained from an individual or entity other  
15 than a Federal agency.

16           (6) GUIDELINES.—

17           (A) IN GENERAL.—The Secretary shall  
18 issue guidelines for transactions under para-  
19 graph (1).

20           (B) PUBLICATION.—The guidelines under  
21 subparagraph (A) shall be published in the Fed-  
22 eral Register for public comment in accordance  
23 with rulemaking procedures of the Department.

24           (C) AUTHORITY.—The Secretary shall not  
25 have authority to carry out transactions under



1 paragraph (1) until the guidelines for trans-  
2 actions required under subparagraph (A) are  
3 final.

4 (7) ANNUAL REPORT.—The Secretary shall  
5 submit to Congress the annual report required under  
6 section 2371(h) of title 10, United States Code.

7 (8) DELEGATION.—The authority of the Sec-  
8 retary under this subsection may be delegated only  
9 to an officer of the Department who is appointed by  
10 the President by and with the advice and consent of  
11 the Senate.

12 (9) TERMINATION.—Notwithstanding any other  
13 provision of law, the authority to enter into trans-  
14 actions under paragraph (1) shall terminate on Sep-  
15 tember 30, 2016.

16 **SEC. 617. ACQUISITION AND MAINTENANCE OF PROPERTY.**

17 The Secretary may—

18 (1) acquire (by purchase, lease, condemnation,  
19 or otherwise), construct, improve, repair, operate,  
20 and maintain laboratories, research and testing sites  
21 and facilities, quarters and related accommodations  
22 for employees and dependents of employees of the  
23 Department, personal property (including patents),  
24 or any interest in property, as the Secretary deter-  
25 mines to be necessary; and

1           (2) provide, by contract or otherwise, for eating  
2 facilities and other necessary facilities for the health  
3 and welfare of employees of the Department at in-  
4 stallations (including through the purchase and  
5 maintenance of appropriate equipment).

6 **SEC. 618. FACILITIES CONSTRUCTION.**

7           (a) IN GENERAL.—As necessary and when not other-  
8 wise available, the Secretary may provide for, construct,  
9 or maintain the following for employees and dependents  
10 stationed at remote locations:

11           (1) Emergency medical services and supplies.

12           (2) Food and other subsistence supplies.

13           (3) Messing facilities.

14           (4) Audiovisual equipment, accessories, and  
15 supplies for recreation and training.

16           (5) Reimbursement for food, clothing, medicine,  
17 and other supplies furnished by those employees in  
18 emergencies for the temporary relief of distressed in-  
19 dividuals.

20           (6) Living and working quarters and facilities.

21           (7) Transportation of school-aged dependents of  
22 employees to the nearest appropriate educational fa-  
23 cilities.

24           (b) PRICING.—The furnishing of medical treatment  
25 under subsection (a)(1) and the furnishing of services and

1 supplies under paragraphs (2) and (3) of subsection (a)  
2 shall be at prices reflecting reasonable value, as deter-  
3 mined by the Secretary.

4 (c) TREATMENT.—

5 (1) IN GENERAL.—Proceeds from reimburse-  
6 ments under this section—

7 (A) shall be deposited in the Treasury; and

8 (B) may be withdrawn by the Secretary—

9 (i) to pay directly the cost of work or  
10 services;

11 (ii) to repay or make advances to ap-  
12 propriations of funds that will initially bear  
13 all or a part of that cost; or

14 (iii) to refund excess sums when nec-  
15 essary.

16 (2) CREDITING TO FUNDS.—A payment by the  
17 Secretary under paragraph (1)(B) may be credited  
18 to a working capital fund otherwise established by  
19 law, including the fund established pursuant to sec-  
20 tion 622, and used under the law governing the  
21 fund, if the fund is available for use by the Depart-  
22 ment for performing the work or services for which  
23 payment is received.

1 **SEC. 619. USE OF FACILITIES.**

2 (a) IN GENERAL.—On the consent of the Federal  
3 Government or the government of any foreign country,  
4 State, the District of Columbia, the Commonwealth of  
5 Puerto Rico, or any territory or possession of the United  
6 States, with or without reimbursement, the Secretary and  
7 the Federal Energy Regulatory Commission may use the  
8 research, equipment, and facilities of such a government  
9 (or political subdivision) in carrying out the functions  
10 under this Act.

11 (b) USE OF PROPERTY.—

12 (1) IN GENERAL.—Except as provided in para-  
13 graph (2), in carrying out this Act, the Secretary  
14 may permit the use by public and private individuals  
15 and entities of any real property, facility, structure,  
16 or improvement under the jurisdiction of the Sec-  
17 retary for purposes of the Department, under such  
18 terms and at such rates as the Secretary determines  
19 to be appropriate, for a period of not more than 5  
20 years.

21 (2) RECONDITIONING AND MAINTENANCE.—

22 The Secretary may require any individual or entity  
23 to which a permit is provided under this subsection  
24 to recondition and maintain, at the expense of the  
25 individual or entity, the real property, facilities,

1 structures, and improvements involved to a satisfac-  
2 tory standard.

3 (3) EXCEPTION.—This subsection shall not  
4 apply to excess property (as defined in section 102  
5 of title 40, United States Code).

6 (c) PROCEEDS.—

7 (1) IN GENERAL.—Except as provided in para-  
8 graph (2), the proceeds from reimbursements under  
9 this section—

10 (A) shall be deposited in the Treasury; and

11 (B) may be withdrawn by the Secretary or  
12 the head of the another appropriate Federal de-  
13 partment or agency—

14 (i) to pay directly the costs of the  
15 equipment and facilities provided;

16 (ii) to repay or make advances to ap-  
17 propriations or funds that do or will ini-  
18 tially bear all or a part of those costs; or

19 (iii) to refund excess sums as nec-  
20 essary.

21 (2) EXCEPTION.—The proceeds described in  
22 paragraph (1) may be credited to a working capital  
23 fund otherwise established by law (including the  
24 fund established pursuant to section 622) and used  
25 in accordance the laws governing that fund, if the

1 fund is available for use for providing the equipment  
2 or facilities involved.

3 **SEC. 620. FIELD OFFICES.**

4 The Secretary may establish, alter, consolidate, or  
5 discontinue to maintain such State, regional, district,  
6 local, or other field offices as the Secretary determines to  
7 be necessary to carry out this Act.

8 **SEC. 621. COPYRIGHTS.**

9 The Secretary may acquire any of the following de-  
10 scribed rights if the property so acquired is for use by  
11 or for, or useful to, the Department:

12 (1) Copyrights, patents, and applications for  
13 patents, designs, processes, and manufacturing data.

14 (2) Licenses under copyrights, patents, and ap-  
15 plications for patents.

16 (3) Releases, before suit is brought, for past in-  
17 fringement of patents or copyrights.

18 **SEC. 622. CAPITAL FUND.**

19 (a) ESTABLISHMENT.—The Secretary may establish  
20 a working capital fund, to be available without fiscal year  
21 limitation, for expenses necessary for the maintenance and  
22 operation of such common administrative services as the  
23 Secretary determines to be appropriate in the interests of  
24 economy and efficiency, including services such as—

1           (1) a central supply service for stationery and  
2 other supplies and equipment for which adequate  
3 stocks may be maintained to meet in whole or in  
4 part the requirements of the Department;

5           (2) central messenger, mail, telephone, and  
6 other communications services;

7           (3) office space and central services for docu-  
8 ment reproduction, graphics, and visual aids; and

9           (4) a central library service.

10          (b) TRANSFERS.—The capital of the fund shall con-  
11 sist of—

12           (1) any appropriations made for the purpose of  
13 providing capital; and

14           (2) the fair and reasonable value of such stocks  
15 of supplies, equipment, and other assets and inven-  
16 tories on order as the Secretary may transfer to the  
17 fund, less the related liabilities and unpaid obliga-  
18 tions.

19          (c) REIMBURSEMENT.—Amounts in the fund shall be  
20 reimbursed in advance from available funds of agencies  
21 and offices in the Department, or from other sources, for  
22 supplies and services at rates that approximate the ex-  
23 pense of operation, including the accrual of annual leave  
24 and the depreciation of equipment.

1 (d) CREDITS.—The fund shall be credited with re-  
2 ceipts—

3 (1) from sale or exchange of property; and

4 (2) in payment for loss or damage to property  
5 owned by the fund.

6 (e) SURPLUS AMOUNTS.—There shall be covered into  
7 the Treasury as miscellaneous receipts any surplus  
8 amounts in the fund (all assets, liabilities, and prior losses  
9 considered), in excess of the amounts transferred or ap-  
10 propriated to establish and maintain the fund.

11 **SEC. 623. SEAL OF DEPARTMENT.**

12 (a) IN GENERAL.—The Secretary shall cause a seal  
13 of office to be made for the Department.

14 (b) JUDICIAL NOTICE.—Judicial notice shall be  
15 taken of the seal under this section.

16 **SEC. 624. REGIONAL ENERGY ADVISORY BOARDS.**

17 (a) IN GENERAL.—The Governors of the States in  
18 each region may establish 1 regional energy advisory  
19 board for each region, to include such membership as the  
20 Governors determine to be appropriate.

21 (b) OBSERVERS.—

22 (1) IN GENERAL.—The following officials (or a  
23 designee) may participate as observers in the delib-  
24 erations of any board established under subsection

25 (a):



1 (A) The Secretary.

2 (B) The Secretary of Commerce.

3 (C) The Secretary of the Interior.

4 (D) The Chairman of the Council on Envi-  
5 ronmental Quality.

6 (E) The Commandant of the Coast Guard.

7 (2) OTHER COMMISSIONS.—The Federal co-  
8 chairperson of the Appalachian Regional Commis-  
9 sion or any regional commission under title V of the  
10 Public Works and Economic Development Act of  
11 1965 (42 U.S.C. 3191 et seq.) may participate as an  
12 observer in the deliberations of any board estab-  
13 lished under subsection (a) that includes one or  
14 more States that are members of the regional com-  
15 mission.

16 (c) RECOMMENDATIONS.—

17 (1) IN GENERAL.—Each board established  
18 under subsection (a) may make such recommenda-  
19 tions as are appropriate to programs of the Depart-  
20 ment having a direct effect on the region of the  
21 board.

22 (2) FAILURE TO ADOPT.—If a board makes a  
23 specific recommendation under paragraph (1) that is  
24 not adopted in the implementation of a program de-  
25 scribed in that paragraph, the Secretary shall notify

1 the Board in writing of the reasons for not adopting  
2 the recommendation.

3 **SEC. 625. DESIGNATION OF CONSERVATION OFFICERS.**

4 (a) DESIGNATION.—The Secretary of Defense, the  
5 Secretary of Commerce, the Secretary of Housing and  
6 Urban Development, the Secretary of Transportation, the  
7 Secretary of Agriculture, the Secretary of the Interior, the  
8 head of the United States Postal Service, and the Admin-  
9 istrator of General Services shall each designate 1 Assist-  
10 ant Secretary or Assistant Administrator, as applicable,  
11 as the principal conservation officer of the respective de-  
12 partment or agency.

13 (b) DUTIES.—A principal conservation officer des-  
14 ignated under subsection (a) shall be principally respon-  
15 sible for—

16 (1) the planning and implementation of energy  
17 conservation programs by the applicable department  
18 or agency; and

19 (2) coordination with the Department with re-  
20 spect to energy matters.

21 (c) PUBLICATION.—

22 (1) IN GENERAL.—Each department and agen-  
23 cy described in subsection (a) shall periodically in-  
24 form the Secretary of the identity of the relevant  
25 conservation officer.

1           (2) LIST.—The Secretary shall periodically pub-  
2           lish a list identifying conservation officers under this  
3           section, based on the information provided under  
4           paragraph (1).

5 **SEC. 626. ANNUAL REPORT.**

6           (a) IN GENERAL.—As soon as practicable after the  
7           end of each fiscal year commencing with the first complete  
8           fiscal year following the date of enactment of this Act, the  
9           Secretary shall submit to the President, for inclusion in  
10          a report to Congress, a report on the activities of the De-  
11          partment during the preceding fiscal year.

12          (b) INCLUSIONS.—Each report under subsection (a)  
13          shall include—

14                 (1) a statement of the goals, priorities, and  
15                 plans of the Secretary for the Department, together  
16                 with an assessment of the progress made toward—

17                         (A) the attainment of those goals;

18                         (B) the effective and efficient management  
19                         of the Department; and

20                         (C) progress made in coordination of de-  
21                         partmental functions with other Federal depart-  
22                         ments and agencies;

23          (2) the information required by—

24                         (A) section 15 of the Federal Energy Ad-  
25                         ministration Act of 1974 (15 U.S.C. 774);

1 (B) section 365(c) of the Energy Policy  
2 and Conservation Act (42 U.S.C. 6325(c));

3 (C) section 304(c) of the Nuclear Waste  
4 Policy Act of 1982 (42 U.S.C. 10224(c));

5 (D) section 307 of the Energy Reorganiza-  
6 tion Act of 1974 (42 U.S.C. 5877); and

7 (E) section 15 of the Federal Nonnuclear  
8 Energy Research and Development Act of 1974  
9 (42 U.S.C. 5914);

10 (3) the projected energy needs of the United  
11 States to meet the requirements of the general wel-  
12 fare of the residents and the commercial and indus-  
13 trial entities of the United States, including a com-  
14 prehensive summary of data pertaining to all fuel  
15 and energy needs of residents of the United States  
16 residing in—

17 (A) areas outside standard metropolitan  
18 statistical areas; and

19 (B) areas within such areas that are unin-  
20 corporated or rural areas, as specified by the  
21 Bureau of the Census;

22 (4) an estimate of—

23 (A) the domestic and foreign energy supply  
24 on which the United States will be expected to  
25 rely to meet those needs in an economic man-

1           ner, with due regard for the protection of the  
2           environment, the conservation of natural re-  
3           sources, and the implementation of foreign pol-  
4           icy objectives; and

5                   (B) the quantities of energy expected to be  
6           provided by different sources (including petro-  
7           leum, natural and synthetic gases, coal, ura-  
8           nium, hydroelectric, solar, and other means)  
9           and the expected means of obtaining those  
10          quantities;

11           (5) current and foreseeable trends in the price,  
12          quality, management, and use of energy resources  
13          and the effects of those trends on the social, envi-  
14          ronmental, economic, and other requirements of the  
15          United States;

16           (6) a summary of research and development ef-  
17          forts funded by the Federal Government to develop  
18          new technologies, to forestall energy shortages, to re-  
19          duce waste, to foster recycling, to encourage con-  
20          servation practices, and to increase efficiency, in-  
21          cluding a description of the activities carried out by  
22          the Department in support of environmental, social,  
23          economic, institutional, biomedical, physical, and  
24          safety research, development, demonstration, and  
25          monitoring activities necessary to guarantee that

1 technological programs funded by the Department  
2 are carried out in a manner that is capable of—

3 (A) maintaining or improving the quality  
4 of the environment; and

5 (B) mitigating any undesirable environ-  
6 mental and safety impacts;

7 (7) a review and appraisal of the adequacy and  
8 appropriateness of technologies, procedures, and  
9 practices (including competitive and regulatory prac-  
10 tices) employed by the Federal Government or State  
11 and local governments and nongovernmental entities  
12 to achieve the purposes of this Act;

13 (8) a summary of cooperative and voluntary ef-  
14 forts that have been mobilized to promote conserva-  
15 tion and recycling, together with plans for such ef-  
16 forts during the succeeding fiscal year, and rec-  
17 ommendations for changes in laws and regulations  
18 needed to encourage more conservation and recycling  
19 by all segments of the United States;

20 (9) a summary of substantive measures taken  
21 by the Department—

22 (A) to stimulate and encourage the devel-  
23 opment of new manpower resources through in-  
24 stitutions of higher education in the United  
25 States; and

1 (B) to involve those institutions in the exe-  
2 cution of the research and development pro-  
3 grams of the Department; and

4 (10) to the maximum extent practicable, a sum-  
5 mary of activities in the United States by individuals  
6 or entities that are foreign-owned or -controlled and  
7 that own or control United States energy sources  
8 and supplies, including the magnitude of annual for-  
9 eign direct investment in the energy sector in the  
10 United States and exports of energy resources from  
11 the United States by foreign-owned or -controlled in-  
12 dividuals or entities, and such other related matters  
13 as the Secretary determines to be appropriate.

14 **SEC. 627. TRANSFER OF FUNDS.**

15 (a) IN GENERAL.—Except as provided in subsection  
16 (b), the Secretary, as authorized in an appropriations Act,  
17 may transfer for any fiscal year funds from 1 appropria-  
18 tion to another within the Department.

19 (b) EXCEPTION.—No appropriation shall be in-  
20 creased or decreased pursuant to this section by more than  
21 5 percent of the appropriation for the applicable fiscal  
22 year.

1 **SEC. 628. GUARDS FOR STRATEGIC PETROLEUM RESERVE**  
2 **FACILITIES.**

3 In accordance with guidelines prescribed by the Sec-  
4 retary, in concurrence with the Attorney General, employ-  
5 ees of the Department and employees of contractors and  
6 subcontractors (at any tier) of the Department, in car-  
7 rying out the official duties of protecting the Strategic Pe-  
8 troleum Reserve or a storage or related facility, or of pro-  
9 tecting individuals relating to the Strategic Petroleum Re-  
10 serve or a storage or related facility, may—

11 (1) carry firearms, if designated by the Sec-  
12 retary and qualified for the use of firearms under  
13 the guidelines; and

14 (2) arrest without warrant any individual for an  
15 offense against the United States—

16 (A) in the case of a felony, if the employee  
17 has reasonable grounds to believe that the indi-  
18 vidual—

19 (i) has committed or is committing a  
20 felony; and

21 (ii) is in, or is fleeing from, the imme-  
22 diate area of the felony; and

23 (B) in the case of a felony or mis-  
24 demeanor, if the violation is committed in the  
25 presence of the employee.



1 **SEC. 629. TRESPASS ON STRATEGIC PETROLEUM RESERVE**  
2 **FACILITIES.**

3 (a) REGULATIONS.—

4 (1) IN GENERAL.—The Secretary may promul-  
5 gate regulations relating to the entry on, or car-  
6 rying, transporting, or otherwise introducing or  
7 causing to be introduced any dangerous weapon, ex-  
8 plosive, or other dangerous instrument or material  
9 likely to produce substantial injury or damage to in-  
10 dividuals or property into or onto, the Strategic Pe-  
11 troleum Reserve, a storage or related facility, or real  
12 property subject to the jurisdiction or administra-  
13 tion, or in the custody, of the Secretary under part  
14 B of title I of the Energy Policy and Conservation  
15 Act (42 U.S.C. 6231 et seq.).

16 (2) NOTICE.—The Secretary shall post con-  
17 spicuously on any property subject to the regulations  
18 under paragraph (1) a notification that the property  
19 is subject to the regulations.

20 (b) VIOLATORS.—Any individual who willfully vio-  
21 lates a regulation of the Secretary promulgated pursuant  
22 to subsection (a) shall be—

23 (1) guilty of a misdemeanor; and

24 (2) punished on conviction by a fine of not  
25 more than \$5,000, imprisonment for not more than  
26 1 year, or both.

1 **SEC. 630. ANNUAL ASSESSMENT AND REPORT ON VULNER-**  
2 **ABILITY OF FACILITIES TO TERRORIST AT-**  
3 **TACK.**

4 (a) IN GENERAL.—Not less frequently than once  
5 each year, the Secretary shall conduct a comprehensive as-  
6 sessment of the vulnerability of Department facilities to  
7 a terrorist attack.

8 (b) REPORTS.—Not later than January 31, 2013,  
9 and annually thereafter, the Secretary shall submit to  
10 Congress a report on the assessment conducted under sub-  
11 section (a) for the preceding calendar year, including the  
12 results of the assessment, together with such findings and  
13 recommendations as the Secretary considers to be appro-  
14 priate.

15 **TITLE VII—TRANSITIONAL, SAV-**  
16 **INGS, AND CONFORMING**  
17 **PROVISIONS**

18 **SEC. 701. TRANSFER AND ALLOCATIONS OF APPROPRIA-**  
19 **TIONS AND PERSONNEL.**

20 (a) IN GENERAL.—Except as otherwise provided in  
21 this Act, the personnel employed in connection with, and  
22 the assets, liabilities, contracts, property, records, and un-  
23 expended balance of appropriations authorizations, alloca-  
24 tions, and other funds employed, held, used, arising from,  
25 available to, or to be made available in connection with  
26 the functions transferred by this Act, subject to section

1 1531 of title 31, United States Code, are transferred to  
2 the Secretary for appropriate allocation.

3 (b) USE OF UNEXPENDED FUNDS.—Unexpended  
4 funds transferred pursuant to subsection (a) shall only be  
5 used for the purposes for which the funds were originally  
6 authorized and appropriated.

7 (c) SPECIFIC POSITIONS.—Positions expressly speci-  
8 fied by statute or reorganization plan to carry out func-  
9 tions transferred by this Act, personnel occupying those  
10 positions on the effective date of this Act, and personnel  
11 authorized to receive compensation in those positions at  
12 the rate prescribed for offices and positions at level I, II,  
13 III, IV, or V of the Executive Schedule under subchapter  
14 II of chapter 53 of title 5, United States Code, on the  
15 effective date of this Act, shall be subject to section 703.

16 **SEC. 702. EFFECT ON PERSONNEL.**

17 (a) IN GENERAL.—Except as otherwise provided in  
18 this Act or by the Secretary, the transfer pursuant to this  
19 title of full-time personnel (except special Government em-  
20 ployees) and part-time personnel holding permanent posi-  
21 tions pursuant to this title shall not cause any such em-  
22 ployee to be separated or reduced in grade or compensa-  
23 tion for 1 year after the date of enactment of this Act.

24 (b) COMPENSATION.—Any person who, on the effec-  
25 tive date of this Act, holds a position compensated in ac-

1 cordance with the Executive Schedule prescribed in chap-  
2 ter 53 of title 5, United States Code, and who, without  
3 a break in service, is appointed in the Department to a  
4 position having duties comparable to the duties performed  
5 immediately preceding the appointment shall continue to  
6 be compensated in the new position at not less than the  
7 rate provided for the previous position, for the duration  
8 of service in the new position.

9 (c) REEMPLOYMENT RIGHTS.—

10 (1) IN GENERAL.—An employee transferred to  
11 the Department who holds reemployment rights ac-  
12 quired under any provision of law or regulation may  
13 exercise those rights only during the latter of—

14 (A) the 120-day period beginning on the  
15 effective date of this Act; or

16 (B) the 2-year period beginning on the  
17 date on which the employee acquired the reem-  
18 ployment rights.

19 (2) REQUIREMENT.—Reemployment rights may  
20 only be exercised at the request of the employee.

21 **SEC. 703. AGENCY TERMINATIONS.**

22 (a) IN GENERAL.—Except as otherwise provided in  
23 this Act, whenever all of the functions vested by law in  
24 any agency, commission, or other body, or any component  
25 of an agency, commission, or other body, have been termi-

1 nated or transferred from that agency, commission, or  
2 other body, or component by this Act, the agency, commis-  
3 sion, or other body, or component, shall terminate.

4 (b) **TERMINATION OF POSITIONS AND OFFICES.**—If  
5 an agency, commission, or other body, or any component  
6 of an agency, commission, or other body, terminates pur-  
7 suant to subsection (a), each position and office within  
8 the agency, commission, or other body, or component, that  
9 was expressly authorized by law, or the incumbent of  
10 which was authorized to receive compensation at the rates  
11 prescribed for an office or position at level II, III, IV, or  
12 V of the Executive Schedule under subchapter II of chap-  
13 ter 53 of title 5, United States Code, shall terminate.

14 **SEC. 704. INCIDENTAL TRANSFERS.**

15 The Director of the Office of Management and Budg-  
16 et, in consultation with the Secretary and the Commission,  
17 shall make such determinations as may be necessary with  
18 regard to the transfer of functions that relate to or are  
19 used by an agency, commission or other body, or compo-  
20 nent of an agency, commission, or other body, affected by  
21 this Act, to make such additional incidental dispositions  
22 of personnel, assets, liabilities, contracts, property,  
23 records, and unexpended balances of appropriations, au-  
24 thorizations, allocations, and other funds held, used, aris-  
25 ing from, available to, or to be made available in connec-

1 tion with the functions transferred by this Act, as the Di-  
2 rector considers necessary to accomplish the purposes of  
3 this Act.

4 **SEC. 705. SAVINGS PROVISIONS.**

5 (a) ORDERS TO REMAIN IN EFFECT.—

6 (1) IN GENERAL.—All orders, determinations,  
7 rules, regulations, permits, contracts, certificates, li-  
8 censes, and privileges described in paragraph (2)  
9 shall continue in effect according to their respective  
10 terms until modified, terminated, superseded, set  
11 aside, or revoked in accordance with law by the  
12 President, the Secretary, the Commission, or other  
13 authorized officials, a court of competent jurisdic-  
14 tion, or by operation of law.

15 (2) SPECIFICATION.—Paragraph (1) applies to  
16 all orders, determinations, rules, regulations, per-  
17 mits, contracts, certificates, licenses, and privileges  
18 that—

19 (A) have been issued, made, granted, or al-  
20 lowed to become effective by the President, any  
21 Federal department or agency, official of a Fed-  
22 eral department or agency, or by a court of  
23 competent jurisdiction, in the performance of  
24 functions that are transferred under this Act to

1           the Department or the Commission after the  
2           date of enactment of this Act; and

3                   (B) are in effect on the date on which this  
4           Act takes effect.

5           (b) PENDING PROCEEDINGS.—

6                   (1) IN GENERAL.—This Act shall not affect any  
7           proceedings or any application for any license, per-  
8           mit, certificate, or financial assistance pending be-  
9           fore any department, agency, commission, or compo-  
10          nent of a department, agency, or commission, func-  
11          tions of which are transferred by this Act on the  
12          date on which this Act takes effect.

13                   (2) CONTINUATION.—

14                   (A) IN GENERAL.—To the extent that pro-  
15          ceedings and applications described in para-  
16          graph (1) relate to functions transferred by this  
17          Act—

18                           (i) the proceedings and applications  
19                           shall be continued; and

20                           (ii) orders shall be issued, appeals  
21                           shall be taken, and payments shall be  
22                           made pursuant to the orders, as if this Act  
23                           had not been enacted.

24                   (B) EFFECT.—Orders issued in any pro-  
25          ceeding continued under this paragraph shall

1 continue in effect until modified, terminated,  
2 superseded, or revoked by—

3 (i) a duly authorized official;

4 (ii) a court of competent jurisdiction;

5 or

6 (iii) operation of law.

7 (C) DISCONTINUANCE OR MODIFICA-  
8 TION.—Nothing in this subsection prohibits the  
9 discontinuance or modification of any pro-  
10 ceeding described in paragraph (1) under the  
11 same terms and conditions and to the same ex-  
12 tent that the proceeding could have been dis-  
13 continued or modified if this Act had not been  
14 enacted.

15 (3) REGULATIONS.—The Secretary and the  
16 Commission may promulgate regulations providing  
17 for the orderly transfer of proceedings described in  
18 paragraph (1) to the Department or the Commis-  
19 sion.

20 (c) PENDING SUITS.—

21 (1) IN GENERAL.—Except as provided in para-  
22 graph (3)—

23 (A) this Act shall not affect suits com-  
24 menced prior to the effective date of this Act;  
25 and



1 (B) in all suits described in subparagraph  
2 (A), proceedings shall be had, appeals taken,  
3 and judgments rendered in the same manner  
4 and effect as if this Act had not been enacted.

5 (2) SUITS BY AND AGAINST OFFICERS IN OFFI-  
6 CIAL CAPACITY AND DEPARTMENTS AND AGEN-  
7 CIES.—

8 (A) OFFICES.—No suit, action, or other  
9 proceeding commenced by or against any officer  
10 in the official capacity of the officer as an offi-  
11 cer of any department or agency, functions of  
12 which are transferred by this Act, shall abate  
13 by reason of the enactment of this Act.

14 (B) DEPARTMENTS AND AGENCIES.—No  
15 cause of action by or against any department or  
16 agency, functions of which are transferred by  
17 this Act, or by or against any officer of a de-  
18 partment or agency in the official capacity of  
19 the officer, shall abate by reason of the enact-  
20 ment of this Act.

21 (3) TRANSFER.—If, before the effective date of  
22 this Act, any department or agency, or officer of a  
23 department or agency in the official capacity of the  
24 officer, is a party to a suit, and under this Act any  
25 function of the department, agency, or officer is

1 transferred to the Secretary or any other official,  
2 then the suit shall be continued with the Secretary  
3 or other official, as applicable, substituted.

4 **SEC. 706. REFERENCE.**

5 With respect to any functions transferred by this Act  
6 and exercised after the effective date of this Act, reference  
7 in any other Federal law to any department, commission,  
8 or agency or any officer or office the functions of which  
9 are so transferred shall be deemed to refer to the Sec-  
10 retary, the Commission, or other official or component of  
11 the Department in which this Act vests those functions.

12 **SEC. 707. PRESIDENTIAL AUTHORITY.**

13 Except as provided in title IV, nothing in this Act  
14 limits, curtails, abolishes, or terminates—

15 (1) any function of, or authority available to,  
16 the President that the President had immediately  
17 before the effective date of this Act; or

18 (2) the authority of the President to delegate,  
19 redelegate, or terminate any delegation of functions.

20 **SEC. 708. TRANSITION.**

21 With the consent of the appropriate department or  
22 agency head concerned, the Secretary may use the services  
23 of the officers, employees, and other personnel of the de-  
24 partments and agencies from which functions have been  
25 transferred to the Secretary for such period of time as

1 may reasonably be needed to facilitate the orderly transfer  
2 of functions under this Act.

3 **SEC. 709. ADMINISTRATIVE AMENDMENTS.**

4 (a) EXECUTIVE DEPARTMENTS.—Section 101 of title  
5 5, United States Code is amended by striking “Depart-  
6 ment of Energy” and inserting “Department of Energy  
7 and the Environment”.

8 (b) LEVEL I.—Section 5312 of title 5, United States  
9 Code, is amended by striking “Secretary of Energy” and  
10 inserting “Secretary of Energy and the Environment”.

11 (c) LEVEL II.—Section 5313 of title 5, United States  
12 Code, is amended—

13 (1) by striking “Deputy Secretary of Energy”  
14 and inserting “Deputy Secretary of Energy and the  
15 Environment”; and

16 (2) by striking “Administrator of the Environ-  
17 mental Protection Agency.”.

18 (d) LEVEL III.—Section 5314 of title 5, United  
19 States Code, is amended by striking “Under Secretaries  
20 of Energy (3)” and inserting “Under Secretaries of En-  
21 ergy and the Environment (4)”.

22 (e) LEVEL IV.—Section 5315 of title 5, United  
23 States Code, is amended—

1           (1) by striking “Assistant Secretaries of Energy  
2           (8)” and inserting “Assistant Secretaries of Energy  
3           and the Environment (18)”;

4           (2) by striking “General Counsel of the Depart-  
5           ment of Energy” and inserting “General Counsel of  
6           the Department of Energy and the Environment”;

7           (3) by striking “Administrator, Economic Regu-  
8           latory Administration, Department of Energy.”;

9           (4) by striking “Administrator, Energy Infor-  
10          mation Administration, Department of Energy.” and  
11          inserting “Administrator, Energy and Environment  
12          Information Administration, Department of Energy  
13          and the Environment.”;

14          (5) by striking “Director, Office of Indian En-  
15          ergy Policy and Programs, Department of Energy”;

16          (6) by striking “Director, Office of Science, De-  
17          partment of Energy.”;

18          (7) by striking “Assistant Administrator for  
19          Toxic Substances, Environmental Protection Agen-  
20          cy.”;

21          (8) by striking “Assistant Administrator, Office  
22          of Solid Waste, Environmental Protection Agency.”;

23          (9) by striking “Assistant Administrators, En-  
24          vironmental Protection Agency (8).”;



1 that the Director considers unnecessary due to con-  
2 solidation of functions under this Act;

3 (2) a statement of the number of employees en-  
4 titled to pay savings by reason of the reorganization  
5 under this Act;

6 (3) a statement of the number of employees  
7 who are voluntarily or involuntarily separated by  
8 reason of the reorganization;

9 (4) an estimate of the personnel costs associ-  
10 ated with the reorganization;

11 (5) the effects of the reorganization on labor  
12 management relations; and

13 (6) such legislative and administrative rec-  
14 ommendations for improvements in personnel man-  
15 agement within the Department as the Director con-  
16 siders necessary.

17 **SEC. 711. INVESTIGATIONS AND REPORTS ON DUPLICATIVE**  
18 **PROGRAMS AND ACTIVITIES.**

19 The Secretary shall—

20 (1) conduct routine investigations to identify  
21 programs, offices, and initiatives with duplicative  
22 goals and activities within the Department; and

23 (2) report annually to Congress on the findings  
24 from the investigations (including the cost of such  
25 duplication), including recommendations for consoli-

1        dation and elimination to reduce duplication and for  
2        specific rescissions.

3        **SEC. 712. ENVIRONMENTAL IMPACT STATEMENTS.**

4        The transfer of functions under titles III and IV shall  
5        not affect the validity of any draft environmental impact  
6        statement or similar analysis required under the National  
7        Environmental Policy Act of 1969 (42 U.S.C. 4321 et  
8        seq.) and published before the effective date of this Act.

9        **SEC. 713. CONFORMING AMENDMENTS.**

10       The Department of Energy Organization Act (42  
11       U.S.C. 7101 et seq.) is repealed.

12       **TITLE VIII—ENERGY PLANNING**

13       **SEC. 801. NATIONAL ENERGY POLICY PLAN.**

14       (a) IN GENERAL.—The President shall—

15                (1) in accordance with subsection (b), prepare  
16                and submit to Congress a proposed National Energy  
17                Policy Plan (referred to in this title as a “proposed  
18                Plan”);

19                (2) seek the active participation by regional,  
20                State, and local agencies and instrumentalities and  
21                the private sector through public hearings in cities  
22                and rural communities and other appropriate means  
23                to ensure, to the maximum extent practicable, that  
24                the views and proposals of all segments of the econ-

1 omy are taken into account in the formulation and  
2 review of the proposed Plan;

3 (3) include in the proposed Plan a comprehen-  
4 sive summary of data pertaining to all fuel and en-  
5 ergy needs of persons residing in—

6 (A) areas outside standard metropolitan  
7 statistical areas; and

8 (B) areas within standard metropolitan  
9 statistical areas that are unincorporated or are  
10 specified by the Bureau of the Census as rural  
11 areas.

12 (b) CONTENTS OF PROPOSED PLAN.—Not later than  
13 April 1, 2013, and biennially thereafter, the President  
14 shall submit to Congress the proposed Plan, which shall—

15 (1) consider and establish energy production,  
16 use, and conservation objectives, for periods of 5 and  
17 10 years, necessary to satisfy projected energy needs  
18 of the United States to meet the requirements of the  
19 general welfare of the people of the United States  
20 and the commercial and industrial life of the United  
21 States, paying particular attention to the needs  
22 for—

23 (A) full employment;

24 (B) price stability;

25 (C) energy security;



- 1 (D) economic growth;
- 2 (E) environmental protection;
- 3 (F) nuclear nonproliferation;
- 4 (G) special regional needs; and
- 5 (H) the efficient use of public and private
- 6 resources;

7 (2) identify the strategies that should be fol-  
8 lowed and the resources that should be committed to  
9 achieve those objectives, including—

10 (A) forecasting the level of production and  
11 investment necessary in each of the significant  
12 energy supply sectors and the level of conserva-  
13 tion and investment necessary in each con-  
14 suming sector; and

15 (B) outlining the appropriate policies and  
16 actions of the Federal Government that will  
17 maximize the private production and investment  
18 necessary in each of the significant energy sup-  
19 ply sectors consistent with applicable Federal,  
20 State, and local environmental laws, standards,  
21 and requirements; and

22 (3) contain recommendations for legislative and  
23 administrative actions necessary to achieve the ob-  
24 jectives of the proposed Plan, including legislative  
25 recommendations with respect to taxes or tax incen-

1       tives, Federal funding, regulatory actions, antitrust  
2       policy, foreign policy, and international trade.

3       (c) CONTENTS OF REPORT.—The President shall  
4 submit to Congress with the proposed Plan a report that  
5 shall include—

6           (1) any data and analysis necessary to support  
7 the objectives, resource needs, and policy rec-  
8 ommendations contained in the proposed Plan;

9           (2) an estimate of the domestic and foreign en-  
10 energy supplies on which the United States will be ex-  
11 pected to rely to meet projected energy needs in an  
12 economic manner consistent with the need to protect  
13 the environment, conserve natural resources, and im-  
14 plement foreign policy objectives;

15           (3) an evaluation of current and foreseeable  
16 trends in the price, quality, management, and use of  
17 energy resources and the effects of those trends on  
18 the social, environmental, economic, and other re-  
19 quirements of the United States;

20           (4) a summary of research and development ef-  
21 forts funded by the Federal Government—

22                   (A) to forestall energy shortages;

23                   (B) to reduce waste;

24                   (C) to foster recycling;

1 (D) to encourage conservation practices;  
2 and

3 (E) to otherwise protect environmental  
4 quality, including recommendations for devel-  
5 oping technologies to accomplish the purposes  
6 listed in subparagraphs (A) through (D); and

7 (5) a review and appraisal of the adequacy and  
8 appropriateness of technologies, procedures, and  
9 practices (including competitive and regulatory prac-  
10 tices) employed by Federal, State, and local govern-  
11 ments and nongovernmental entities to achieve the  
12 purposes of the proposed Plan.

13 (d) CONSULTATION REQUIRED.—The President shall  
14 ensure that consumers, small businesses, and a wide range  
15 of other interests, including those of individual citizens  
16 who have no financial interest in the energy industry, are  
17 consulted in the development of the proposed Plan.

18 **SEC. 802. CONGRESSIONAL REVIEW.**

19 (a) IN GENERAL.—Each proposed Plan shall be re-  
20 ferred to the appropriate committees of the Senate and  
21 the House of Representatives.

22 (b) COMMITTEE ACTION.—Each committee to which  
23 a proposed Plan is referred shall—

24 (1) review the proposed Plan; and

1           (2) if considered appropriate by the committee,  
2           report to the Senate or the House of Representatives  
3           legislation regarding the proposed Plan, which may  
4           contain such alternatives to, modifications of, or ad-  
5           ditions to the proposed Plan submitted by the Presi-  
6           dent as the committee considers appropriate.

7   **TITLE IX—ELIMINATION OR RE-**  
8   **DUCTION OF CERTAIN PRO-**  
9   **GRAMS**

10   **Subtitle A—Energy Programs**

11   **SEC. 901. ELIMINATION OF GRANTS TO STATES FOR EN-**  
12           **ERGY CONSERVATION AND WEATHERIZA-**  
13           **TION.**

14           (a) WEATHERIZATION ASSISTANCE PROGRAM.—Part  
15   A of title IV of the Energy Conservation and Production  
16   Act (42 U.S.C. 6861 et seq.) is repealed.

17           (b) ENERGY EFFICIENCY CONSERVATION BLOCK  
18   GRANT PROGRAM.—Subtitle E of title V of the Energy  
19   Independence and Security Act of 2007 (42 U.S.C. 17151  
20   et seq.) is repealed.

21           (c) SUSTAINABLE ENERGY RESOURCES FOR CON-  
22   SUMERS GRANTS.—Section 411(b) of the Energy Inde-  
23   pendence and Security Act of 2007 (42 U.S.C. 6872 note;  
24   Public Law 110–140) is repealed.

1 (d) WEATHERIZATION INNOVATION PILOT PRO-  
2 GRAM.—Section 126 of the Energy Policy Act of 2005 (42  
3 U.S.C. 15823) is repealed.

4 (e) STATE ENERGY PROGRAM.—Part D of title III  
5 of the Energy Policy and Conservation Act (42 U.S.C.  
6 6321 et seq.) is repealed.

7 (f) RESCISSION OF FUNDS FOR THE OFFICE OF EN-  
8 ERGY EFFICIENCY AND RENEWABLE ENERGY.—Effective  
9 on the date of enactment of this Act, there are rescinded  
10 all unobligated balances of the amounts made available  
11 under the heading “ENERGY EFFICIENCY AND RENEW-  
12 ABLE ENERGY” under the heading “DEPARTMENT OF  
13 ENERGY ENERGY PROGRAMS” under title IV of divi-  
14 sion A of the American Recovery and Reinvestment Act  
15 of 2009 (Public Law 111–5; 123 Stat. 138).

16 **SEC. 902. REDUCTION OF DEPARTMENT FUNDING FOR EN-**  
17 **ERGY TECHNOLOGY DEVELOPMENT.**

18 (a) ENERGY EFFICIENCY.—Section 911 of the En-  
19 ergy Policy Act of 2005 (42 U.S.C. 16191) is amended—

20 (1) in subsection (b)—

21 (A) in paragraph (2), by striking “and” at  
22 the end;

23 (B) in paragraph (3), by striking “fiscal  
24 year 2009.” and inserting “for each of fiscal  
25 years 2009 through 2012; and”; and

1 (C) by adding at the end the following:

2 “(4) \$238,000,000 for each of fiscal years 2013  
3 through 2017.”; and

4 (2) in subsection (d), by striking “section 912”  
5 and all that follows through the end and inserting  
6 the following: “section 912—

7 “(1) \$50,000,000 for each of fiscal years 2010  
8 through 2012; and

9 “(2) \$12,500,000 for each of fiscal years 2013  
10 through 2017.”.

11 (b) RENEWABLE ENERGY.—Section 931(b) of the  
12 Energy Policy Act of 2005 (42 U.S.C. 16231(b)) is  
13 amended—

14 (1) in paragraph (3), by striking “and” at the  
15 end;

16 (2) in paragraph (4), by striking “fiscal year  
17 2010.” and inserting “for each of fiscal years 2010  
18 through 2012; and”; and

19 (3) by adding at the end the following:

20 “(5) \$240,750,000 for each of fiscal years 2013  
21 through 2017.”.

22 (c) NUCLEAR ENERGY.—Section 951(b) of the En-  
23 ergy Policy Act of 2005 (42 U.S.C. 16271(b)) is amend-  
24 ed—

1 (1) in paragraph (2), by striking “and” at the  
2 end;

3 (2) in paragraph (3), by striking “fiscal year  
4 2009.” and inserting “for each of fiscal years 2009  
5 through 2012; and”; and

6 (3) by adding at the end the following:

7 “(4) \$123,750,000 for each of fiscal years 2013  
8 through 2017.”.

9 (d) FOSSIL ENERGY.—Section 961(b) of the Energy  
10 Policy Act of 2005 (42 U.S.C. 16291(b)) is amended—

11 (1) in paragraph (2), by striking “and” at the  
12 end;

13 (2) in paragraph (3), by striking “fiscal year  
14 2009.” and inserting “for each of fiscal years 2009  
15 through 2012; and”; and

16 (3) by adding at the end the following:

17 “(4) \$160,250,000 for each of fiscal years 2013  
18 through 2017.”.

19 (e) OFFICE OF SCIENCE.—Section 971(b) of the En-  
20 ergy Policy Act of 2005 (42 U.S.C. 16311(b)) is amended  
21 by striking paragraph (7) and inserting the following:

22 “(7) \$1,311,750,000 for each of fiscal years  
23 2013 through 2017.”.

24 (f) ADVANCED RESEARCH PROJECTS AGENCY—EN-  
25 ERGY.—Section 5012(n)(2) of the America COMPETES

1 Act (42 U.S.C. 16538(n)(2)) is amended by striking sub-  
2 paragraph (E) and inserting the following:

3 “(E) \$75,000,000 for each of fiscal years  
4 2013 through 2017.”.

5 **SEC. 903. PROHIBITION ON REFURBISHMENT OF THE LOS**  
6 **ALAMOS NEUTRON SCIENCE CENTER**  
7 **(LANSCE).**

8 Notwithstanding any other provision of law, no funds  
9 made available under this or any other Act may be used  
10 to carry out any refurbishment of the Los Alamos Neutron  
11 Science Center of the Los Alamos National Laboratory,  
12 Los Alamos, New Mexico.

13 **SEC. 904. REPEAL OF ULTRA-DEEPWATER AND UNCONVEN-**  
14 **TIONAL NATURAL GAS AND OTHER PETRO-**  
15 **LEUM RESOURCES RESEARCH AND DEVELOP-**  
16 **MENT PROGRAM.**

17 Subtitle J of title IX of the Energy Policy Act of  
18 2005 (42 U.S.C. 16371 et seq.) is repealed.

19 **SEC. 905. REDUCTION IN FOSSIL ENERGY RESEARCH AND**  
20 **DEVELOPMENT.**

21 (a) REPEAL OF OIL AND GAS RESEARCH AND DE-  
22 VELOPMENT PROGRAMS.—

23 (1) IN GENERAL.—Section 965 of the Energy  
24 Policy Act of 2005 (42 U.S.C. 16295) is repealed.



1           (2) PROHIBITION.—Notwithstanding any other  
2           provision of law, no funds may be made available for  
3           oil and gas research and development within the fos-  
4           sil energy research and development account of the  
5           Department.

6           (b) REDUCTION IN FUNDING FOR CARBON CAPTURE  
7           AND SEQUESTRATION RESEARCH, DEVELOPMENT, AND  
8           DEMONSTRATION.—Section 963(d) of the Energy Policy  
9           Act of 2005 (42 U.S.C. 16293(d)) is amended—

10           (1) in paragraph (4), by striking “and” after  
11           “2011;”;

12           (2) in paragraph (5), by striking “2012.” and  
13           inserting “2012; and”; and

14           (3) by adding at the end the following:

15           “(6) \$184,000,000 for each of fiscal years 2013  
16           through 2017.”.

17           (c) REDUCTION IN OVERALL FUNDING OF FOSSIL  
18           ENERGY RESEARCH AND DEVELOPMENT PROGRAM.—  
19           Notwithstanding any other provision of law, for fiscal year  
20           2013, not more than \$421,000,000 may be made available  
21           for activities within the fossil energy research and develop-  
22           ment account of the Department.

1 **SEC. 906. CHEMISTRY AND METALLURGY RESEARCH RE-**  
2 **PLACEMENT (CMRR) FACILITY.**

3 Notwithstanding any other provision of law, for each  
4 of fiscal years 2013 through 2017, no funds may be made  
5 available for construction of the Chemistry and Metallurgy  
6 Research Replacement facility.

7 **SEC. 907. REDUCTION IN SECOND LINE OF DEFENSE (SLD)**  
8 **FUNDING.**

9 Notwithstanding any other provision of law, for fiscal  
10 year 2013, not more than \$93,000,000 may be made avail-  
11 able to carry out Second Line of Defense radiation detec-  
12 tion equipment installation activities.

13 **SEC. 908. ADMINISTRATIVE EFFICIENCY INITIATIVE.**

14 Not later than 30 days after the date of enactment  
15 of this Act, the President shall issue an Executive order  
16 that provides for administrative costs savings across the  
17 Federal Government, including savings achieved by—

18 (1) reducing travel and relocation costs, includ-  
19 ing through the use of technologies such as webinars  
20 and videoconferencing;

21 (2) eliminating unnecessary printing and copy-  
22 ing costs;

23 (3) reducing the need to contract for profes-  
24 sional and technical services, and, in cases in which  
25 such services are necessary, buying less, paying

1 lower rates, and acquiring services using fixed-price  
2 arrangements; and

3 (4) reducing spending on supplies and materials  
4 by decreasing the overall amount purchased and  
5 purchasing more efficiently.

6 **SEC. 909. DO NOT PAY FRAUD PREVENTION ACTIVITIES.**

7 (a) IN GENERAL.—The Secretary of the Treasury  
8 shall use funds made available to carry out this section  
9 to support the expansion of, and the addition of forensic  
10 fraud detection capabilities to, the list established by the  
11 Presidential memorandum entitled “Enhancing Payment  
12 Accuracy Through a ‘Do Not Pay List’ ” (75 Fed. Reg.  
13 35953 (June 18, 2010)).

14 (b) REQUIREMENTS.—Of funds made available to  
15 carry out this section, the Secretary of the Treasury shall  
16 use not more than—

17 (1) \$7,000,000—

18 (A) to procure forensic fraud detection  
19 technology; and

20 (B) to hire staff to support an operations  
21 center to analyze fraud patterns, link public  
22 and private sector information, help identify  
23 and prevent fraud and improper payments, and  
24 refer potential issues to agency management  
25 and the relevant Inspector General; and

1           (2) \$3,000,000 to expand the number of data-  
2           bases linked to the “Do Not Pay” list and support  
3           the underlying platform.

4           (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
5           authorized to be appropriated to carry out this section  
6           \$10,000,000 for fiscal year 2013.

7                           **Subtitle B—Environmental**  
8                           **Programs**

9           **SEC. 911. STATE WATER POLLUTION CONTROL REVOLVING**  
10                           **FUNDS.**

11           (a) TERMINATION OF AUTHORITY.—The State water  
12           pollution control revolving funds program of the Environ-  
13           mental Protection Agency under section 205(m) or title  
14           VI of the Federal Water Pollution Control Act (33 U.S.C.  
15           1285(m); 33 U.S.C. 1381 et seq.) is terminated.

16           (b) RESCISSION.—Notwithstanding any other provi-  
17           sion of law—

18                           (1) all amounts made available for the State  
19           water pollution control revolving funds program of  
20           the Environmental Protection Agency under section  
21           205(m) or title VI of the Federal Water Pollution  
22           Control Act (33 U.S.C. 1285(m); 33 U.S.C. 1381 et  
23           seq.) (as in existence on the day before the date of  
24           enactment of this Act) that remain unobligated as of  
25           September 30, 2012, are rescinded; and

1           (2) no amounts made available after September  
2           30, 2012, for the program referred to in paragraph  
3           (1) (as so in existence) shall be expended, other than  
4           such amounts as are necessary to cover costs in-  
5           curred in terminating ongoing projects and activities  
6           under that program, as determined by the Secretary,  
7           in consultation with other appropriate Federal agen-  
8           cies.

9   **SEC. 912. STATE DRINKING WATER REVOLVING FUNDS.**

10          (a) **TERMINATION OF AUTHORITY.**—The State drink-  
11          ing water revolving loan funds program of the Environ-  
12          mental Protection Agency under section 1452 of the Safe  
13          Drinking Water Act (42 U.S.C. 300j–12) is terminated.

14          (b) **RESCISSION.**—Notwithstanding any other provi-  
15          sion of law—

16               (1) all amounts made available for State drink-  
17               ing water revolving loan funds program of the Envi-  
18               ronmental Protection Agency under section 1452 of  
19               the Safe Drinking Water Act (42 U.S.C. 300j–12)  
20               (as in existence on the day before the date of enact-  
21               ment of this Act) that remain unobligated as of Sep-  
22               tember 30, 2012, are rescinded; and

23               (2) no amounts made available after September  
24               30, 2012, for the program referred to in paragraph  
25               (1) (as so in existence) shall be expended, other than

1 such amounts as are necessary to cover costs in-  
2 curred in terminating ongoing projects and activities  
3 under that program, as determined by the Secretary,  
4 in consultation with other appropriate Federal agen-  
5 cies.

6 **SEC. 913. PERFORMANCE PARTNERSHIP GRANTS.**

7 (a) **TERMINATION OF AUTHORITY.**—The perform-  
8 ance partnership grants program of the Environmental  
9 Protection Agency is terminated.

10 (b) **RESCISSION.**—Notwithstanding any other provi-  
11 sion of law—

12 (1) all amounts made available for the perform-  
13 ance partnership grants program of the Environ-  
14 mental Protection Agency (as in existence on the  
15 day before the date of enactment of this Act) that  
16 remain unobligated as of September 30, 2012, are  
17 rescinded; and

18 (2) no amounts made available after September  
19 30, 2012, for the program referred to in paragraph  
20 (1) (as so in existence) shall be expended, other than  
21 such amounts as are necessary to cover costs in-  
22 curred in terminating ongoing projects and activities  
23 under that program, as determined by the Secretary,  
24 in consultation with other appropriate Federal agen-  
25 cies.

1 **SEC. 914. POLLUTION CONTROL PROGRAMS.**

2 (a) **TERMINATION OF AUTHORITY.**—The pollution  
3 control programs of the Environmental Protection Agency  
4 under section 106 of the Federal Water Pollution Control  
5 Act (33 U.S.C. 1256) are terminated.

6 (b) **RESCISSION.**—Notwithstanding any other provi-  
7 sion of law—

8 (1) all amounts made available for the pollution  
9 control programs of the Environmental Protection  
10 Agency under section 106 of the Federal Water Pol-  
11 lution Control Act (33 U.S.C. 1256) (as in existence  
12 on the day before the date of enactment of this Act)  
13 that remain unobligated as of September 30, 2012,  
14 are rescinded; and

15 (2) no amounts made available after September  
16 30, 2012, for the programs referred to in paragraph  
17 (1) (as so in existence) shall be expended, other than  
18 such amounts as are necessary to cover costs in-  
19 curred in terminating ongoing projects and activities  
20 under those programs, as determined by the Sec-  
21 retary, in consultation with other appropriate Fed-  
22 eral agencies.

23 **SEC. 915. NONPOINT SOURCE MANAGEMENT PROGRAMS.**

24 (a) **TERMINATION OF AUTHORITY.**—The nonpoint  
25 source management program of the Environmental Pro-

1 tection Agency under section 319 of the Federal Water  
2 Pollution Control Act (33 U.S.C. 1329) is terminated.

3 (b) RESCISSION.—Notwithstanding any other provi-  
4 sion of law—

5 (1) all amounts made available for the nonpoint  
6 source management program under section 319 of  
7 the Federal Water Pollution Control Act (33 U.S.C.  
8 1329) of the Environmental Protection Agency (as  
9 in existence on the day before the date of enactment  
10 of this Act) that remain unobligated as of September  
11 30, 2012, are rescinded; and

12 (2) no amounts made available after September  
13 30, 2012, for the program referred to in paragraph  
14 (1) (as so in existence) shall be expended, other than  
15 such amounts as are necessary to cover costs in-  
16 curred in terminating ongoing projects and activities  
17 under that program, as determined by the Secretary,  
18 in consultation with other appropriate Federal agen-  
19 cies.

20 **SEC. 916. STATE INDOOR RADON GRANT PROGRAM.**

21 (a) REPEAL.—Section 306 of the Toxic Substances  
22 Control Act (15 U.S.C. 2666) is repealed.

23 (b) RESCISSION.—Notwithstanding any other provi-  
24 sion of law—



1           (1) all amounts made available for the State in-  
2 door radon grant program of the Environmental  
3 Protection Agency under section 306 of the Toxic  
4 Substances Control Act (15 U.S.C. 2666) (as in ex-  
5 istence on the day before the date of enactment of  
6 this Act) that remain unobligated as of September  
7 30, 2012, are rescinded; and

8           (2) no amounts made available after September  
9 30, 2012, for the program referred to in paragraph  
10 (1) (as so in existence) shall be expended, other than  
11 such amounts as are necessary to cover costs in-  
12 curred in terminating ongoing projects and activities  
13 under that program, as determined by the Secretary,  
14 in consultation with other appropriate Federal agen-  
15 cies.

16 **SEC. 917. TARGETED WATERSHED GRANTS.**

17       (a) **TERMINATION OF AUTHORITY.**—The targeted  
18 watershed grants program of the Environmental Protec-  
19 tion Agency is terminated.

20       (b) **RESCISSION.**—Notwithstanding any other provi-  
21 sion of law—

22           (1) all amounts made available for the targeted  
23 watershed grants program of the Environmental  
24 Protection Agency (as in existence on the day before

1 the date of enactment of this Act) that remain unob-  
2 ligated as of September 30, 2012, are rescinded; and

3 (2) no amounts made available after September  
4 30, 2012, for the program referred to in paragraph  
5 (1) (as so in existence) shall be expended, other than  
6 such amounts as are necessary to cover costs in-  
7 curred in terminating ongoing projects and activities  
8 under those programs, as determined by the Sec-  
9 retary, in consultation with other appropriate Fed-  
10 eral agencies.

11 **SEC. 918. U.S.-MEXICO BORDER WATER INFRASTRUCTURE**  
12 **PROGRAM.**

13 (a) **TERMINATION OF AUTHORITY.**—The U.S.-Mexico  
14 border water infrastructure program of the Environmental  
15 Protection Agency is terminated.

16 (b) **RESCISSION.**—Notwithstanding any other provi-  
17 sion of law—

18 (1) all amounts made available for the U.S.-  
19 Mexico Border Water Infrastructure Program of the  
20 Environmental Protection Agency (as in existence on  
21 the day before the date of enactment of this Act)  
22 that remain unobligated as of September 30, 2012,  
23 are rescinded; and

24 (2) no amounts made available after September  
25 30, 2012, for the program referred to in paragraph

1 (1) (as so in existence) shall be expended, other than  
2 such amounts as are necessary to cover costs in-  
3 curred in terminating ongoing projects and activities  
4 under those programs, as determined by the Sec-  
5 retary, in consultation with other appropriate Fed-  
6 eral agencies.

7 **SEC. 919. TRIBAL ASSISTANCE GRANTS.**

8 (a) **TERMINATION OF AUTHORITY.**—The tribal as-  
9 sistance grants programs of the Environmental Protection  
10 Agency are terminated.

11 (b) **RESCISSION.**—Notwithstanding any other provi-  
12 sion of law—

13 (1) all amounts made available for the tribal as-  
14 sistance grants programs of the Environmental Pro-  
15 tection Agency (as in existence on the day before the  
16 date of enactment of this Act) that remain unobli-  
17 gated as of September 30, 2012, are rescinded; and

18 (2) no amounts made available after September  
19 30, 2012, for the programs referred to in paragraph  
20 (1) (as so in existence) shall be expended, other than  
21 such amounts as are necessary to cover costs in-  
22 curred in terminating ongoing projects and activities  
23 under those programs, as determined by the Sec-  
24 retary, in consultation with other appropriate Fed-  
25 eral agencies.

1 **SEC. 920. PUBLIC WATER SYSTEM SUPERVISION PROGRAM.**

2 (a) TERMINATION OF AUTHORITY.—The public water  
3 system supervision program of the Environmental Protec-  
4 tion Agency under section 1443 of the Safe Water Drink-  
5 ing Act (42 U.S.C. 300j–2) is terminated.

6 (b) RESCISSION.—Notwithstanding any other provi-  
7 sion of law—

8 (1) all amounts made available for the public  
9 water system supervision program of the Environ-  
10 mental Protection Agency under section 1443 of the  
11 Safe Water Drinking Act (42 U.S.C. 300j–2) (as in  
12 existence on the day before the date of enactment of  
13 this Act) that remain unobligated as of September  
14 30, 2012, are rescinded; and

15 (2) no amounts made available after September  
16 30, 2012, for the programs referred to in paragraph  
17 (1) (as so in existence) shall be expended, other than  
18 such amounts as are necessary to cover costs in-  
19 curred in terminating ongoing projects and activities  
20 under those programs, as determined by the Sec-  
21 retary, in consultation with other appropriate Fed-  
22 eral agencies.

23 **SEC. 921. UNDERGROUND INJECTION CONTROL PROGRAM.**

24 (a) TERMINATION OF AUTHORITY.—The under-  
25 ground injection control program of the Environmental

1 Protection Agency under part C of the Safe Drinking  
2 Water Act (42 U.S.C. 300h et seq.) is terminated.

3 (b) RESCISSION.—Notwithstanding any other provi-  
4 sion of law—

5 (1) all amounts made available for the under-  
6 ground injection control program of the Environ-  
7 mental Protection Agency under part C of the Safe  
8 Drinking Water Act (42 U.S.C. 300h et seq.) (as in  
9 existence on the day before the date of enactment of  
10 this Act) that remain unobligated as of September  
11 30, 2012, are rescinded; and

12 (2) no amounts made available after September  
13 30, 2012, for the program referred to in paragraph  
14 (1) (as so in existence) shall be expended, other than  
15 such amounts as are necessary to cover costs in-  
16 curred in terminating ongoing projects and activities  
17 under those programs, as determined by the Sec-  
18 retary, in consultation with other appropriate Fed-  
19 eral agencies.

20 **SEC. 922. TERMINATION OF DIESEL EMISSIONS REDUCTION**  
21 **GRANTS.**

22 Subtitle G of title VII of the Energy Policy Act of  
23 2005 (42 U.S.C. 16131 et seq.) is repealed.

1 **SEC. 923. TERMINATION OF BEACH GRANTS.**

2 (a) **TERMINATION OF AUTHORITY.**—The grant pro-  
3 gram under section 406(b) of the Federal Water Pollution  
4 Control Act (33 U.S.C. 1346(b)) is terminated.

5 (b) **RESCISSION.**—Notwithstanding any other provi-  
6 sion of law—

7 (1) all amounts made available for the grant  
8 program of the Environmental Protection Agency  
9 under section 406(b) of the Federal Water Pollution  
10 Control Act (33 U.S.C. 1346(b)) (as in existence on  
11 the day before the date of enactment of this Act)  
12 that remain unobligated as of September 30, 2012,  
13 are rescinded; and

14 (2) no amounts made available after September  
15 30, 2012, for the grant program referred to in para-  
16 graph (1) (as so in existence) shall be expended,  
17 other than such amounts as are necessary to cover  
18 costs incurred in terminating ongoing projects and  
19 activities under that program, as determined by the  
20 Secretary, in consultation with other appropriate  
21 Federal agencies.

22 **SEC. 924. TERMINATION OF CLEAN AUTOMOTIVE TECH-**  
23 **NOLOGY (CAT) PROGRAM.**

24 (a) **TERMINATION OF AUTHORITY.**—The Clean Auto-  
25 motive Technology program of the Environmental Protec-  
26 tion Agency is terminated.

1 (b) RESCISSION.—Notwithstanding any other provi-  
2 sion of law—

3 (1) all amounts made available for the Clean  
4 Automotive Technology program of the Environ-  
5 mental Protection Agency (as in existence on the  
6 day before the date of enactment of this Act) that  
7 remain unobligated as of September 30, 2012, are  
8 rescinded; and

9 (2) no amounts made available after September  
10 30, 2012, for the program referred to in paragraph  
11 (1) (as so in existence) shall be expended, other than  
12 such amounts as are necessary to cover costs in-  
13 curred in terminating ongoing projects and activities  
14 under that program, as determined by the Secretary,  
15 in consultation with other appropriate Federal agen-  
16 cies.

17 **SEC. 925. TERMINATION OF LOCAL GOVERNMENT CLIMATE**  
18 **CHANGE GRANTS.**

19 (a) AMENDMENT.—In the second proviso of the un-  
20 designated matter under the heading “STATE AND TRIBAL  
21 ASSISTANCE GRANTS” under the heading “ENVIRON-  
22 MENTAL PROTECTION AGENCY” under title II of division  
23 A of the Department of the Interior, Environment, and  
24 Related Agencies Appropriations Act, 2010 (Public Law  
25 111–88; 123 Stat. 2936), strike “\$10,000,000 shall be for

1 competitive grants to communities to develop plans and  
2 demonstrate and implement projects which reduce green-  
3 house gas emissions”.

4 (b) PROHIBITION.—Notwithstanding any other provi-  
5 sion of law (including regulations), the Secretary shall not  
6 provide any competitive grants to communities for any of  
7 fiscal years 2013 through 2017 to develop plans and dem-  
8 onstrate and implement projects that reduce greenhouse  
9 gas emissions.

10 **SEC. 926. TERMINATION OF TARGETED AIRSHED GRANTS.**

11 (a) AMENDMENT.—In the second proviso of the un-  
12 designated matter under the heading “STATE AND TRIBAL  
13 ASSISTANCE GRANTS” under the heading “ENVIRON-  
14 MENTAL PROTECTION AGENCY” under title II of division  
15 A of the Department of the Interior, Environment, and  
16 Related Agencies Appropriations Act, 2010 (Public Law  
17 111–88; 123 Stat. 2936), strike “\$20,000,000 shall be for  
18 targeted airshed grants in accordance with the terms and  
19 conditions of the joint explanatory statement of the man-  
20 agers accompanying this Act;”.

21 (b) PROHIBITION.—Notwithstanding any other provi-  
22 sion of law (including regulations), the Secretary shall not  
23 provide to the State of California for any of fiscal years  
24 2013 through 2017 any targeted airshed grant as de-  
25 scribed in the joint explanatory statement of the managers



1 accompanying the Department of the Interior, Environ-  
2 ment, and Related Agencies Appropriations Act, 2010  
3 (Public Law 111–88; 123 Stat. 2904).

4 **SEC. 927. TERMINATION OF TARGETED WATER INFRA-**  
5 **STRUCTURE GRANTS.**

6 (a) AMENDMENT.—In the second proviso of the un-  
7 designated matter under the heading “STATE AND TRIBAL  
8 ASSISTANCE GRANTS” under the heading “ENVIRON-  
9 MENTAL PROTECTION AGENCY” under title II of division  
10 A of the Department of the Interior, Environment, and  
11 Related Agencies Appropriations Act, 2010 (Public Law  
12 111–88; 123 Stat. 2936), strike “\$156,777,000 shall be  
13 for making special project grants and technical corrections  
14 to prior-year grants for the construction of drinking water,  
15 wastewater and storm water infrastructure and for water  
16 quality protection in accordance with the terms and condi-  
17 tions specified for such grants in the joint explanatory  
18 statement of the managers accompanying this Act, and,  
19 for purposes of these grants, each grantee shall contribute  
20 not less than 45 percent of the cost of the project unless  
21 the grantee is approved for a waiver by the Agency;”.

22 (b) PROHIBITION.—Notwithstanding any other provi-  
23 sion of law (including regulations), the Secretary shall not  
24 provide to any State or Indian tribe for any of fiscal years  
25 2013 through 2017 any grant to carry out a special

1 project or technical correction to a prior-year grant for  
2 the construction of drinking water, wastewater, or storm  
3 water infrastructure, or for water quality protection, as  
4 described in the joint explanatory statement of the man-  
5 agers accompanying the Department of the Interior, Envi-  
6 ronment, and Related Agencies Appropriations Act, 2010  
7 (Public Law 111–88; 123 Stat. 2904).

8 **SEC. 928. REDUCTION IN FUNDING FOR HOMELAND SECU-**  
9 **RITY ACTIVITIES.**

10 Notwithstanding any other provision of law, for each  
11 of fiscal years 2013 through 2017, the Secretary may use  
12 not more than \$104,000,000 to carry out activities relat-  
13 ing to homeland security.

14 **SEC. 929. REDUCTION IN FUNDING FOR GREAT LAKES INI-**  
15 **TIATIVE.**

16 Notwithstanding any other provision of law, for each  
17 of fiscal years 2013 through 2017, the Secretary may  
18 transfer not more than \$350,000,000 of the funds made  
19 available for the Great Lakes Initiative in an appropria-  
20 tions Act under the heading “ENVIRONMENTAL PROGRAMS  
21 AND MANAGEMENT” to the head of any Federal depart-  
22 ment or agency, with the concurrence of the head—

23 (1) to carry out activities that would support  
24 the Great Lakes Restoration Initiative and Great

1 Lakes Water Quality Agreement programs, projects,  
2 or activities;

3 (2) to enter into an interagency agreement with  
4 the head of the department or agency to carry out  
5 those activities; or

6 (3) to make grants to governmental entities,  
7 nonprofit organizations, institutions, and individuals  
8 for planning, research, monitoring, outreach, and  
9 implementation in support of the Great Lakes Res-  
10 toration Initiative and the Great Lakes Water Qual-  
11 ity Agreement.

12 **SEC. 930. REDUCTION IN FUNDING FOR NONPOINT SOURCE**  
13 **MANAGEMENT PROGRAM GRANTS.**

14 Section 319 of the Federal Water Pollution Control  
15 Act (33 U.S.C. 1329) is amended by striking subsection  
16 (j) and inserting the following:

17 “(j) AUTHORIZATION OF APPROPRIATIONS.—There  
18 is authorized to be appropriated to carry out subsections  
19 (h) and (i) for each of fiscal years 2013 through 2017  
20 \$165,000,000, to remain available until expended.”.

21 **SEC. 931. CHEMICAL RISK MANAGEMENT FIBERS PRO-**  
22 **GRAM.**

23 (a) TERMINATION OF AUTHORITY.—The Chemical  
24 Risk Management Fibers program of the Environmental  
25 Protection Agency is terminated.

1 (b) RESCISSION.—Notwithstanding any other provi-  
2 sion of law—

3 (1) all amounts made available for the Chemical  
4 Risk Management Fibers program of the Environ-  
5 mental Protection Agency (as in existence on the  
6 day before the date of enactment of this Act) that  
7 remain unobligated as of September 30, 2012, are  
8 rescinded; and

9 (2) no amounts made available after September  
10 30, 2012, for the program referred to in paragraph

11 (1) (as so in existence) shall be expended, other than  
12 such amounts as are necessary to cover costs in-  
13 curred in terminating ongoing projects and activities  
14 under that program, as determined by the Secretary,  
15 in consultation with other appropriate Federal agen-  
16 cies.

17 **SEC. 932. ENVIRONMENTAL EDUCATION PROGRAM.**

18 (a) TERMINATION OF AUTHORITY.—The Environ-  
19 mental Education program of the Environmental Protec-  
20 tion Agency is terminated.

21 (b) RESCISSION.—Notwithstanding any other provi-  
22 sion of law—

23 (1) all amounts made available for the Environ-  
24 mental Education program of the Environmental  
25 Protection Agency (as in existence on the day before

1 the date of enactment of this Act) that remain unob-  
2 ligated as of September 30, 2012, are rescinded; and

3 (2) no amounts made available after September  
4 30, 2012, for the program referred to in paragraph  
5 (1) (as so in existence) shall be expended, other than  
6 such amounts as are necessary to cover costs in-  
7 curred in terminating ongoing projects and activities  
8 under that program, as determined by the Secretary,  
9 in consultation with other appropriate Federal agen-  
10 cies.

11 **SEC. 933. REDUCTION IN FUNDING FOR SUPERFUND REME-**  
12 **DIAL PROGRAM.**

13 Notwithstanding any other provision of law, for fiscal  
14 year 2013, not more than \$532,000,000 may be made  
15 available to carry out the Superfund remedial program of  
16 the Environmental Protection Agency.

17 **SEC. 934. TERMINATION OF SUPERFUND SUPPORT TO**  
18 **OTHER FEDERAL AGENCIES.**

19 Notwithstanding any other provision of law, the pro-  
20 gram of the Environmental Protection Agency to auto-  
21 matically transfer funds from the Environmental Protec-  
22 tion Agency's Hazardous Substance Superfund account to  
23 other Federal agencies is terminated.

1 **SEC. 935. SAVINGS THROUGH MAINTENANCE AGREEMENTS**  
2 **FOR CAPITAL EQUIPMENT.**

3 (a) ESTABLISHMENT OF PROGRAM.—Not later than  
4 December 31, 2012, the Secretary, acting through the  
5 head of the Office of Acquisition Management (referred  
6 to in this section as the “Administrator”), shall establish  
7 and carry out an enterprise-wide strategic sourcing pro-  
8 gram to improve efficiencies and economies in the acquisi-  
9 tion programs of the Environmental Protection Agency.

10 (b) REQUIREMENTS.—In carrying out the program  
11 under subsection (a), the Administrator shall—

12 (1) implement strategic sourcing processes  
13 throughout the Environmental Protection Agency  
14 through—

15 (A) strategic planning;

16 (B) an in-depth understanding of internal  
17 purchasing needs; and

18 (C) insight and knowledge of supply mar-  
19 kets;

20 (2) apply a centralized, cross-functional, cross-  
21 business unit strategic approach; and

22 (3) seek out opportunities, such as consoli-  
23 dating capital equipment maintenance agreements,  
24 to create efficiencies and economies of scale and en-  
25 hance the value of acquisitions across the Environ-  
26 mental Protection Agency.

1 **SEC. 936. SAVINGS THROUGH ELECTRONIC EMISSIONS RE-**  
2 **PORTING.**

3 (a) FINDING.—Congress finds that electronic report-  
4 ing of emissions data to the Environmental Protection  
5 Agency will reduce reporting burdens, increase trans-  
6 parency, and enable integration of multiple data sets,  
7 greatly increasing the ability of the Environmental Protec-  
8 tion Agency to monitor and analyze related compliance  
9 problems.

10 (b) EXPANSION OF INVESTMENT.—Not later than  
11 December 31, 2013, the Secretary shall—

12 (1) expand investment in converting the paper-  
13 based regulatory emissions reporting requirements of  
14 the Environmental Protection Agency, as in exist-  
15 ence on the date of enactment of this Act, to an  
16 electronic reporting requirement; and

17 (2) invest in advanced monitoring technologies  
18 to streamline and improve emissions data collection  
19 by the Environmental Protection Agency.

20 **SEC. 937. SAVINGS THROUGH REDUCING TRAVEL COSTS**  
21 **THROUGH VIDEOCONFERENCING.**

22 For fiscal year 2012 and thereafter, the Secretary  
23 shall reduce the costs of the Department to the maximum  
24 extent practicable by expanding the use of  
25 videoconferencing capabilities (including by increasing the  
26 number of videoconferencing locations and interfaces on

1 individual desktops as an option for employees who fre-  
2 quently travel) for program staff—

3 (1) to reduce travel costs; and

4 (2) to enhance communication among geo-  
5 graphically dispersed staff.

## 6 **TITLE X—EFFECTIVE DATE AND** 7 **INTERIM APPOINTMENTS**

### 8 **SEC. 1001. EFFECTIVE DATE.**

9 (a) IN GENERAL.—Except as provided in subsections  
10 (b) and (d), this Act shall take effect on the earlier of—

11 (1) 120 days after the Secretary first takes of-  
12 fice; or

13 (2) such date as the President may prescribe  
14 and publish in the Federal Register.

15 (b) APPOINTMENTS AND REGULATIONS.—At any  
16 time after the date of enactment of this Act—

17 (1) any of the officers provided for in titles II  
18 and IV may be nominated and appointed, as pro-  
19 vided in those titles; and

20 (2) the Secretary and the Commission may pro-  
21 mulgate regulations pursuant to section 705.

22 (c) USE OF FUNDS.—Funds available to any depart-  
23 ment or agency (or any official or component of a depart-  
24 ment of agency) functions of which are transferred to the  
25 Secretary or the Commission by this Act, may with the



1 approval of the Director of the Office of Management and  
2 Budget, be used to pay the compensation and expenses  
3 of any officer appointed pursuant to subsection (b) until  
4 such time as funds for that purpose are otherwise avail-  
5 able.

6 (d) ELIMINATION OR REDUCTION OF CERTAIN PRO-  
7 GRAMS.—Title IX and the amendments made by title IX  
8 take effect on the date of enactment of this Act.

9 **SEC. 1002. INTERIM APPOINTMENTS.**

10 (a) IN GENERAL.—If one or more officers required  
11 by this Act to be appointed by and with the advice and  
12 consent of the Senate shall not have entered upon office  
13 on the effective date of this Act, the President may des-  
14 ignate any officer, whose appointment was required to be  
15 made by and with the advice and consent of the Senate,  
16 and who was such an officer immediately prior to the ef-  
17 fective date of the Act, to act in the office until the office  
18 is filled as provided in this Act.

19 (b) COMPENSATION.—Any person acting in an office  
20 in accordance with subsection (a) shall receive compensa-  
21 tion at the rates provided by this Act for the respective  
22 office in which the person acts.