

112TH CONGRESS
1ST SESSION

S. 892

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

IN THE SENATE OF THE UNITED STATES

MAY 5, 2011

Mr. BURR (for himself, Mr. DEMINT, Mr. ENZI, Mr. THUNE, Mr. MCCAIN, Mr. COATS, Mr. SHELBY, Mr. BARRASSO, Mr. BLUNT, Mr. BOOZMAN, Mr. COCHRAN, Mrs. HUTCHISON, Mr. VITTER, Mr. HATCH, Mr. JOHNSON of Wisconsin, and Mr. LEE) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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 “Consolidation of Department of Energy and Environ-
6 mental Protection Agency Act of 2011”.

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. Administrative Efficiency Initiative.
 Sec. 907. 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. Targeted watershed grants.
 Sec. 917. U.S.-Mexico Border Water Infrastructure program.
 Sec. 918. Tribal assistance grants.
 Sec. 919. Public water system supervision program.
 Sec. 920. Underground injection control program.
 Sec. 921. Termination of diesel emissions reduction grants.
 Sec. 922. Termination of local government climate change grants.
 Sec. 923. Termination of targeted airshed grants.
 Sec. 924. Termination of targeted water infrastructure grants.
 Sec. 925. Reduction in funding for homeland security activities.
 Sec. 926. Reduction in funding for Great Lakes Initiative.
 Sec. 927. Reduction in funding for nonpoint source management program grants.
 Sec. 928. Savings through maintenance agreements for capital equipment.
 Sec. 929. Savings through electronic emissions reporting.
 Sec. 930. 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.

9 (3) DEPARTMENT.—The term “Department”
 10 means the Department of Energy and the Environ-
 11 ment.

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

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

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

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

18 (C) a rural community, unincorporated
19 town or village, or other public entity.

20 (6) NATIONAL LABORATORY.—The term “Na-
21 tional Laboratory” has the meaning given the term
22 in section 2 of the Energy Policy Act of 2005 (42
23 U.S.C. 15801).

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

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

3 (B) the exercise of any power, authority,
4 right, or privilege.

5 (8) PERSONNEL.—The term “personnel” means
6 officers and employees.

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

9 (10) STATE.—The term “State” means—

10 (A) each of the several States of the
11 United States;

12 (B) the District of Columbia;

13 (C) the Commonwealth of Puerto Rico;

14 (D) Guam;

15 (E) American Samoa;

16 (F) the Commonwealth of the Northern
17 Mariana Islands; and

18 (G) any other territory or possession of the
19 United States.

20 (11) UNITED STATES.—The term “United
21 States”, when used in a geographical sense,
22 means—

23 (A) all of the States; and

24 (B) any waters within the jurisdiction of
25 the United States.

1 **TITLE I—MISSION AND GOALS**

2 **SEC. 101. MISSION.**

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

5 (1) protecting human health;

6 (2) safeguarding the natural environment; and

7 (3) addressing the energy, environmental, and
8 nuclear challenges of the United States through
9 transformative science and technology solutions.

10 **SEC. 102. GOALS.**

11 The goals of the Department are—

12 (1) to catalyze the timely, material, and effi-
13 cient transformation of the energy system of the
14 United States and secure the leadership of the
15 United States in energy technologies;

16 (2) to maintain a vibrant effort in science and
17 engineering as a cornerstone of the economic pros-
18 perity of the United States, with clear leadership in
19 strategic areas;

20 (3) to protect human health and safeguard the
21 natural environment; and

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

1 **SEC. 103. RELATIONSHIP WITH STATES.**

2 (a) IN GENERAL.—If any proposed action by the De-
3 partment conflicts with the energy or environment plan
4 of any State, the Department shall—

5 (1) give due consideration to the needs of the
6 State; and if practicable, attempt to resolve the con-
7 flict through consultations with appropriate State of-
8 ficials.

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

12 **TITLE II—ESTABLISHMENT OF**
13 **DEPARTMENT**

14 **SEC. 201. ESTABLISHMENT.**

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

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

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

25 **SEC. 202. PRINCIPAL OFFICERS.**

26 (a) DEPUTY SECRETARY.—

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

5 (2) DUTIES.—The Deputy Secretary shall act
6 for and exercise the functions of the Secretary dur-
7 ing the absence or disability of the Secretary or in
8 the event the office of Secretary becomes vacant.

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

16 (b) UNDER SECRETARY OF ENVIRONMENT.—

17 (1) IN GENERAL.—There shall be in the De-
18 partment an Under Secretary for Environment, who
19 shall be appointed by the President, by and with the
20 advice and consent of the Senate.

21 (2) DUTIES.—The Under Secretary for Envi-
22 ronment shall perform such functions and duties as
23 the Secretary shall prescribe, consistent with this
24 Act.

25 (c) UNDER SECRETARY OF NUCLEAR SECURITY.—

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

5 (2) QUALIFICATIONS.—The Under Secretary
6 for Nuclear Security shall be appointed from among
7 individuals who—

8 (A) have extensive backgrounds in national
9 security, organizational management, and ap-
10 propriate technical fields; and

11 (B) are well qualified to manage the nu-
12 clear weapons, nonproliferation, and materials
13 disposition programs of the National Nuclear
14 Security Administration in a manner that ad-
15 vances and protects the national security of the
16 United States.

17 (3) ADMINISTRATOR FOR NUCLEAR SECU-
18 RITY.—

19 (A) IN GENERAL.—The Under Secretary
20 for Nuclear Security shall serve as the Adminis-
21 trator for Nuclear Security under section 3212
22 of the National Nuclear Security Administra-
23 tion Act (50 U.S.C. 2402).

24 (B) FUNCTIONS.—

1 (i) IN GENERAL.—In carrying out the
2 functions of the Administrator, the Under
3 Secretary shall be subject to the authority,
4 direction, and control of the Secretary.

5 (ii) DELEGATION.—The authority, di-
6 rection, and control of the Secretary may
7 be delegated only to the Deputy Secretary
8 of Energy and the Environment, without
9 redelegation.

10 (d) UNDER SECRETARY FOR SCIENCE.—

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

15 (2) QUALIFICATIONS.—The Under Secretary
16 for Science shall be appointed from among individ-
17 uals who—

18 (A) have extensive background in scientific
19 or engineering fields; and

20 (B) are well qualified to manage the civil-
21 ian research and development programs of the
22 Department.

23 (3) DUTIES.—The Under Secretary for Science
24 shall—

1 (A) serve as the Science and Technology
2 Advisor to the Secretary;

3 (B) monitor the research and development
4 programs of the Department in order to advise
5 the Secretary with respect to any undesirable
6 duplication or gaps in the programs;

7 (C) advise the Secretary with respect to
8 the well-being and management of the multi-
9 purpose laboratories under the jurisdiction of
10 the Department;

11 (D) advise the Secretary with respect to
12 education and training activities required for ef-
13 fective short- and long-term basic and applied
14 research activities of the Department;

15 (E) advise the Secretary with respect to
16 grants and other forms of financial assistance
17 required for effective short- and long-term basic
18 and applied research activities of the Depart-
19 ment;

20 (F) advise the Secretary with respect to
21 long-term planning, coordination, and develop-
22 ment of a strategic framework for Department
23 research and development activities; and

24 (G) carry out such additional duties that
25 the Secretary assigns to the Under Secretary

1 relating to basic and applied research, including
2 supervision or support of research activities car-
3 ried out by any of the Assistant Secretaries des-
4 igned by section 203, as the Secretary deter-
5 mines appropriate.

6 (e) UNDER SECRETARY OF ENERGY.—

7 (1) IN GENERAL.—There shall be in the De-
8 partment an Under Secretary of Energy, who shall
9 be appointed by the President, by and with the ad-
10 vice and consent of the Senate.

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

14 (f) GENERAL COUNSEL.—

15 (1) IN GENERAL.—There shall be in the De-
16 partment a General Counsel, who shall be appointed
17 by the President, by and with the advice and consent
18 of the Senate.

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

22 **SEC. 203. ASSISTANT SECRETARIES.**

23 (a) IN GENERAL.—There shall be in the Department
24 18 Assistant Secretaries, each of whom shall be appointed

1 by the President, by and with the advice and consent of
2 the Senate.

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

6 (1) Air and radiation functions.

7 (2) Enforcement and compliance assurance
8 functions.

9 (3) Legacy management functions.

10 (4) Solid waste and emergency response func-
11 tions.

12 (5) Environmental research and development
13 functions.

14 (6) Water functions.

15 (7) Chemical safety and pollution prevention
16 functions.

17 (8) Environmental management functions.

18 (9) Energy resource applications, including
19 functions dealing with management of all forms of
20 energy production and utilization, including fuel sup-
21 ply, electric power supply, enriched uranium produc-
22 tion, energy technology programs, and the manage-
23 ment of energy resource leasing procedures on Fed-
24 eral land.

1 (10) Energy research and development func-
2 tions, including the responsibility for policy and
3 management of research and development for all as-
4 pects of—

5 (A) solar energy resources;

6 (B) geothermal energy resources;

7 (C) recycling energy resources;

8 (D) the fuel cycle for fossil energy re-
9 sources; and

10 (E) the fuel cycle for nuclear energy re-
11 sources.

12 (11) Environmental responsibilities and func-
13 tions, including—

14 (A) advising the Secretary with respect to
15 the conformance of the activities of the Depart-
16 ment to environmental protection laws and
17 principles; and

18 (B) conducting a comprehensive program
19 of research and development on the environ-
20 mental effects of energy technologies and pro-
21 grams.

22 (12) International programs and international
23 policy functions, including functions that assist in
24 promoting international energy.

1 (13) Intergovernmental policies and relations,
2 including responsibilities for ensuring that—

3 (A) national energy policies are reflective
4 of and responsible to the needs of State and
5 local governments; and

6 (B) other components of the Department
7 coordinate activities with State and local gov-
8 ernments, if appropriate, and develop intergov-
9 ernmental communications with State and local
10 governments.

11 (14) Competition and consumer affairs, includ-
12 ing responsibilities for—

13 (A) the promotion of competition in the en-
14 ergy industry;

15 (B) the protection of the consuming public
16 in the energy policymaking processes; and

17 (C) assisting the Secretary in the formula-
18 tion and analysis of policies, rules, and regula-
19 tions relating to competition and consumer af-
20 fairs.

21 (15) Nuclear waste management responsibil-
22 ities, including—

23 (A) the establishment of control over exist-
24 ing Federal Government facilities for the treat-
25 ment and storage of nuclear wastes, including

1 all containers, casks, buildings, vehicles, equip-
2 ment, and all other materials associated with
3 the facilities;

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

12 (C) the establishment of temporary and
13 permanent facilities for storage, management,
14 and ultimate disposal of nuclear wastes;

15 (D) the establishment of facilities for the
16 treatment of nuclear wastes;

17 (E) the establishment of programs for the
18 treatment, management, storage, and disposal
19 of nuclear wastes;

20 (F) the establishment of fees or user
21 charges for nuclear waste treatment or storage
22 facilities, including fees to be charged Federal
23 Government agencies; and

24 (G) the promulgation of rules and regula-
25 tions to implement the authority described in

1 this paragraph, except that nothing in this sec-
2 tion grants to the Department regulatory func-
3 tions of the Nuclear Regulatory Commission, or
4 any additional related functions, as of the date
5 of enactment of this Act.

6 (16) Energy conservation functions, including—

7 (A) the development of comprehensive en-
8 ergy conservation strategies for the United
9 States;

10 (B) the planning and implementation of
11 major research and demonstration programs for
12 the development of technologies and processes
13 to reduce total energy consumption;

14 (C) the administration of voluntary and
15 mandatory energy conservation programs; and

16 (D) the dissemination to the public of all
17 available information on energy conservation
18 programs and measures.

19 (17) Power marketing functions, including re-
20 sponsibility for marketing and transmission of Fed-
21 eral power.

22 (18) Public and congressional relations func-
23 tions, including responsibilities for providing a con-
24 tinuing liaison between the Department and Con-
25 gress and the Department and the public.

1 (c) SPECIFIC FUNCTIONS.—At the time the name of
2 any individual is submitted for confirmation to the posi-
3 tion of Assistant Secretary, the President shall identify
4 with particularity the one or more functions described in
5 subsection (b) (or any portion of the function) for which
6 the individual will be responsible.

7 **SEC. 204. OTHER OFFICERS.**

8 (a) INSPECTOR GENERAL.—There is an Inspector
9 General of the Department, who shall be appointed as pro-
10 vided in section 3(a) of the Inspector General Act of 1978
11 (5 U.S.C. App.).

12 (b) OTHER OFFICERS.—To assist the Secretary in
13 the performance of the functions of the Secretary, there
14 are the following officers of the Department, who shall be
15 appointed by the Secretary:

16 (1) A Chief Financial Officer.

17 (2) A Congressional and Intergovernmental Af-
18 fairs Officer.

19 (3) A Community and Public Affairs Officer.

20 (4) A Management and Human Resources Offi-
21 cer.

22 (5) A Hearings and Appeals Officer.

23 (6) A Chief Information Officer.

24 (7) An Intelligence and Counterintelligence Of-
25 ficer.

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

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

6 (a) IN GENERAL.—There shall be within the Depart-
7 ment, a Federal Energy Regulatory Commission estab-
8 lished in accordance with title III.

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

14 **SEC. 206. ENERGY AND ENVIRONMENTAL INFORMATION**
15 **ADMINISTRATION.**

16 (a) IN GENERAL.—There shall be within the Depart-
17 ment an Energy and Environmental Information Adminis-
18 tration.

19 (b) ADMINISTRATOR.—

20 (1) IN GENERAL.—The Energy and Environ-
21 mental Information Administration shall be headed
22 by an Administrator who shall be appointed by the
23 President, by and with the advice and consent of the
24 Senate.

1 (2) QUALIFICATIONS.—The Administrator shall
2 be a person who, by reason of professional back-
3 ground and experience, is specially qualified to man-
4 age an energy and environmental information sys-
5 tem.

6 (3) DUTIES.—The Administrator shall be re-
7 sponsible for carrying out a central comprehensive,
8 and unified energy data and information program
9 that will collect, evaluate, assemble, analyze, and dis-
10 seminate data and information that is relevant to—

11 (A) energy resource reserves, energy pro-
12 duction, demand, and technology, environmental
13 protection, and related economic and statistical
14 information; or

15 (B) the adequacy of energy resources to
16 meet demands in the near and longer term fu-
17 ture for the economic and social needs of the
18 United States.

19 (c) FUNCTIONS.—

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

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

4 (3) ADDITIONAL FUNCTIONS.—

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

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

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

20 (1) the collection or analysis of any informa-
21 tion; or

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

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

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

9 (g) PUBLIC AVAILABILITY.—

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

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

19 (3) ADMINISTRATION.—Section 11(d) of the
20 Energy Supply and Environmental Coordination Act
21 of 1974 (15 U.S.C. 796(d)), and section 17 of the
22 Federal Nonnuclear Energy Research and Develop-
23 ment Act of 1974 (42 U.S.C. 5916), shall continue
24 to apply to any information obtained by the Admin-
25 istrator under those provisions.

1 (h) MAJOR ENERGY-PRODUCING COMPANIES.—

2 (1) DEFINITIONS.—In this subsection:

3 (A) ENERGY-PRODUCING COMPANY.—The
4 term “energy-producing company” means a
5 person engaged in—

6 (i) ownership or control of mineral
7 fuel resources or nonmineral energy re-
8 sources;

9 (ii) exploration for, or development of,
10 mineral fuel resources;

11 (iii) extraction of mineral fuel or non-
12 mineral energy resources;

13 (iv) refining, milling, or otherwise
14 processing mineral fuels or nonmineral en-
15 ergy resources;

16 (v) storage of mineral fuels or non-
17 mineral energy resources;

18 (vi) the generation, transmission, or
19 storage of electrical energy;

20 (vii) transportation of mineral fuels or
21 nonmineral energy resources by any means
22 whatever; or

23 (viii) wholesale or retail distribution of
24 mineral fuels, nonmineral energy resources
25 or electrical energy.

1 (B) ENERGY INDUSTRY.—The term “en-
2 ergy industry” means all energy-producing com-
3 panies.

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

8 (2) IDENTIFICATION AND DESIGNATION.—

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

21 (B) ADMINISTRATION.—In carrying out
22 this subsection, the Administrator shall—

23 (i) use, to the maximum extent prac-
24 ticable and consistent with this Act, reli-
25 able statistical sampling techniques; and

1 (ii) otherwise give priority to the mini-
2 mization of the reporting of energy infor-
3 mation by small businesses.

4 (3) FINANCIAL REPORT.—

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

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

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

20 (ii) an analysis of the competitive
21 structure of sectors and functional
22 groupings within the energy industry;

23 (iii) the segregation of energy infor-
24 mation, including financial information, de-

1 scribing company operations by energy
2 source and geographic area;

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

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

12 (4) ACCOUNTING PRACTICES.—The Adminis-
13 trator shall—

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

21 (B) ensure, to the maximum extent prac-
22 ticable, that the energy-producing company fi-
23 nancial report described in paragraph (3) is
24 consistent with the accounting practices, if ap-
25 plicable.

1 (5) FREQUENCY.—The Administrator—

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

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

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

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

20 (i) SURVEYS OF ENERGY CONSUMPTION.—

21 (1) IN GENERAL.—The Administrator shall con-
22 duct and publish the results of a survey of energy
23 consumption in the manufacturing industries in the
24 United States at least once every 2 years.

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

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

7 (A) the quantity of fuels consumed;

8 (B) energy expenditures;

9 (C) fuel-switching capabilities; and

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

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

18 (j) COLLECTION AND PUBLICATION OF SURVEY RE-
19 SULTS.—

20 (1) DEFINITION OF RENEWABLE ENERGY RE-
21 SOURCES.—In this subsection, the term “renewable
22 energy resources” includes energy derived from solar
23 thermal, geothermal, biomass, wind, and photo-
24 voltaic resources.

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

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

10 (4) ADMINISTRATION.—In carrying out this
11 subsection, the Administrator shall—

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

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

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

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

24 (2) when surveying electric utilities, collect in-
25 formation on demand-side management programs

1 conducted by the utilities, including information re-
2 garding—

3 (A) the types of demand-side management
4 programs being operated;

5 (B) the quantity of measures installed;

6 (C) expenditures on demand-side manage-
7 ment programs; and

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

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

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

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

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

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

6 (m) RENEWABLE FUELS SURVEY.—

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

13 (2) CONFIDENTIALITY.—The Administrator
14 shall conduct the survey in a manner designed to
15 protect the confidentiality of individual responses.

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

20 (A) The quantity of renewable fuels pro-
21 duced.

22 (B) The quantity of renewable fuels blend-
23 ed.

24 (C) The quantity of renewable fuels im-
25 ported.

1 (D) The quantity of renewable fuels de-
2 manded.

3 (E) Market price data.

4 (F) Such other analyses or evaluations as
5 the Administrator finds are necessary to achieve
6 the purposes of this section.

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

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

17 **SEC. 207. COMPTROLLER GENERAL FUNCTIONS.**

18 The functions of the Comptroller General of the
19 United States under section 12 of the Federal Energy Ad-
20 ministration Act of 1974 (15 U.S.C. 771) shall apply with
21 respect to the monitoring and evaluation of all functions
22 and activities of the Department under this Act or any
23 other Act administered by the Department.

1 **SEC. 208. OFFICE OF SCIENCE.**

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

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

8 (1) to advise the Secretary with respect to the
9 physical research programs of the Department;

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

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

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

23 (5) to advise the Secretary with respect to
24 grants and other forms of financial assistance re-
25 quired for effective short- and long-term basic and
26 applied research activities of the Department; and

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

3 **SEC. 209. ESTABLISHMENT OF POLICY FOR NATIONAL NU-**
4 **CLEAR SECURITY ADMINISTRATION.**

5 (a) IN GENERAL.—The Secretary shall be responsible
6 for establishing policy for the National Nuclear Security
7 Administration.

8 (b) REVIEW OF PROGRAMS AND ACTIVITIES.—The
9 Secretary may direct officials of the Department who are
10 not within the National Nuclear Security Administra-
11 tion—

12 (1) to review the programs and activities of the
13 Administration; and

14 (2) to make recommendations to the Secretary
15 regarding administration of those programs and ac-
16 tivities, including consistency with other similar pro-
17 grams and activities of the Department.

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

20 **SEC. 210. ESTABLISHMENT OF SECURITY, COUNTERINTEL-**
21 **LIGENCE, AND INTELLIGENCE POLICIES.**

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

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

4 (c) INTELLIGENCE EXECUTIVE COMMITTEE.—

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

7 (2) COMPOSITION.—The Committee shall con-
8 sist of—

9 (A) the Deputy Secretary of Energy and
10 the Environment, who shall chair the Com-
11 mittee; and

12 (B) each Under Secretary of the Depart-
13 ment.

14 (3) STAFF.—The Committee shall be staffed by
15 the Director of the Office of Intelligence and Coun-
16 terintelligence.

17 (4) USE.—The Secretary shall use the Com-
18 mittee to assist in developing and promulgating the
19 counterintelligence and intelligence policies, require-
20 ments, and priorities of the Department.

21 (d) BUDGET REQUESTS.—

22 (1) IN GENERAL.—In the budget justification
23 materials submitted to Congress in support of each
24 budget submitted by the President to Congress
25 under title 31, United States Code, the amounts re-

1 requested for the Department for intelligence func-
2 tions and the amounts requested for the Department
3 for counterintelligence functions shall each be speci-
4 fied in appropriately classified individual, dedicated
5 program elements.

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

12 **SEC. 211. OFFICE OF INTELLIGENCE AND COUNTERINTEL-**
13 **LIGENCE.**

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

16 (b) DIRECTOR.—

17 (1) IN GENERAL.—The head of the Office shall
18 be the Director of the Office of Intelligence and
19 Counterintelligence, who shall be an employee in—

20 (A) the Senior Executive Service;

21 (B) the Senior Intelligence Service;

22 (C) the Senior National Intelligence Serv-
23 ice; or

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

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

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

10 (4) DETAILS.—

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

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

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

21 (1) establish policy for intelligence and counter-
22 intelligence programs and activities at Department
23 facilities in order to reduce the threat of disclosure
24 or loss of classified and other sensitive information
25 at the facilities;

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

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

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

12 (d) REPORTS.—

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

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

20 (A) The Secretary.

21 (B) The Director of National Intelligence.

22 (C) The Director of the Federal Bureau of
23 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 712), 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 712), 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 concurren-
4 cence 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, 2015.

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 (i) to involve those institutions in the
2 execution of the research and development
3 programs 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, 2012,
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, 2012, 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 ergy 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 2011; and”; and

1 (C) by adding at the end the following:

2 “(4) \$238,000,000 for each of fiscal years 2012
3 through 2016.”; 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 and 2011; and

9 “(2) \$12,500,000 for each of fiscal years 2012
10 through 2016.”.

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 and 2011; and”; and

19 (3) by adding at the end the following:

20 “(5) \$240,750,000 for each of fiscal years 2012
21 through 2016.”.

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 2011; and”; and

6 (3) by adding at the end the following:

7 “(5) \$123,750,000 for each of fiscal years 2012
8 through 2016.”.

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 2011; and”; and

16 (3) by adding at the end the following:

17 “(4) \$160,250,000 for each of fiscal years 2012
18 through 2016.”.

19 (e) OFFICE OF SCIENCE.—Section 971(b) of the En-
20 ergy Policy Act of 2005 (42 U.S.C. 16311(b)) is amend-
21 ed—

22 (1) in paragraph (5), by adding “and” at the
23 end; and

24 (2) by striking paragraphs (6) and (7) and in-
25 serting the following:

1 “(6) \$1,311,750,000 for each of fiscal years
2 2012 through 2016.”.

3 (f) ADVANCED RESEARCH PROJECTS AGENCY—EN-
4 ERGY.—Section 5012(n)(2) of the America COMPETES
5 Act (42 U.S.C. 16538(n)(2)) is amended—

6 (1) in subparagraph (C), by adding “and” at
7 the end; and

8 (2) by striking subparagraphs (D) and (E) and
9 inserting the following:

10 “(D) \$75,000,000 for each of fiscal years
11 2012 through 2016.”.

12 **SEC. 903. PROHIBITION ON REFURBISHMENT OF THE LOS**
13 **ALAMOS NEUTRON SCIENCE CENTER**
14 **(LANSCE).**

15 Notwithstanding any other provision of law, no funds
16 made available under this or any other Act may be used
17 to carry out any refurbishment of the Los Alamos Neutron
18 Science Center of the Los Alamos National Laboratory,
19 Los Alamos, New Mexico.

20 **SEC. 904. REPEAL OF ULTRA-DEEPWATER AND UNCONVEN-**
21 **TIONAL NATURAL GAS AND OTHER PETRO-**
22 **LEUM RESOURCES RESEARCH AND DEVELOP-**
23 **MENT PROGRAM.**

24 Subtitle J of title IX of the Energy Policy Act of
25 2005 (42 U.S.C. 16371 et seq.) is repealed.

1 **SEC. 905. REDUCTION IN FOSSIL ENERGY RESEARCH AND**
2 **DEVELOPMENT.**

3 (a) REPEAL OF OIL AND GAS RESEARCH AND DE-
4 VELOPMENT PROGRAMS.—

5 (1) IN GENERAL.—Section 965 of the Energy
6 Policy Act of 2005 (42 U.S.C. 16295) is repealed.

7 (2) PROHIBITION.—Notwithstanding any other
8 provision of law, no funds may be made available for
9 oil and gas research and development within the fos-
10 sil energy research and development account of the
11 Department.

12 (b) REDUCTION IN FUNDING FOR CARBON CAPTURE
13 AND SEQUESTRATION RESEARCH, DEVELOPMENT, AND
14 DEMONSTRATION.—Section 963(d) of the Energy Policy
15 Act of 2005 (42 U.S.C. 16293(d)) is amended by striking
16 paragraph (5) and inserting the following:

17 “(5) \$184,000,000 for each of fiscal years 2012
18 through 2016.”.

19 **SEC. 906. ADMINISTRATIVE EFFICIENCY INITIATIVE.**

20 Not later than 30 days after the date of enactment
21 of this Act, the President shall issue an Executive order
22 that provides for administrative costs savings across the
23 Federal Government, including savings achieved by—

24 (1) reducing travel and relocation costs, includ-
25 ing through the use of technologies such as webinars
26 and videoconferencing;

1 (2) eliminating unnecessary printing and copy-
2 ing costs;

3 (3) reducing the need to contract for profes-
4 sional and technical services, and, in cases in which
5 such services are necessary, buying less, paying
6 lower rates, and acquiring services using fixed-price
7 arrangements; and

8 (4) reducing spending on supplies and materials
9 by decreasing the overall amount purchased and
10 purchasing more efficiently.

11 **SEC. 907. DO NOT PAY FRAUD PREVENTION ACTIVITIES.**

12 (a) IN GENERAL.—The Secretary of the Treasury
13 shall use funds made available to carry out this section
14 to support the expansion of, and the addition of forensic
15 fraud detection capabilities to, the list established by the
16 Presidential memorandum entitled “Enhancing Payment
17 Accuracy Through a ‘Do Not Pay List’” (75 Fed. Reg.
18 35953 (June 18, 2010)).

19 (b) REQUIREMENTS.—Of funds made available to
20 carry out this section, the Secretary of the Treasury shall
21 use not more than—

22 (1) \$7,000,000—

23 (A) to procure forensic fraud detection
24 technology; and

1 (B) to hire staff to support an operations
2 center to analyze fraud patterns, link public
3 and private sector information, help identify
4 and prevent fraud and improper payments, and
5 refer potential issues to agency management
6 and the relevant Inspector General; and

7 (2) \$3,000,000 to expand the number of data-
8 bases linked to the “Do Not Pay” list and support
9 the underlying platform.

10 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
11 authorized to be appropriated to carry out this section
12 \$10,000,000 for fiscal year 2012.

13 **Subtitle B—Environmental** 14 **Programs**

15 **SEC. 911. STATE WATER POLLUTION CONTROL REVOLVING** 16 **FUNDS.**

17 (a) TERMINATION OF AUTHORITY.—The State water
18 pollution control revolving funds program of the Environ-
19 mental Protection Agency under section 205(m) or title
20 VI of the Federal Water Pollution Control Act (33 U.S.C.
21 1285(m); 33 U.S.C. 1381 et seq.) is terminated.

22 (b) RESCISSION.—Notwithstanding any other provi-
23 sion of law—

24 (1) all amounts made available for the State
25 water pollution control revolving funds program of

1 the Environmental Protection Agency under section
2 205(m) or title VI of the Federal Water Pollution
3 Control Act (33 U.S.C. 1285(m); 33 U.S.C. 1381 et
4 seq.) (as in existence on the day before the date of
5 enactment of this Act) that remain unobligated as of
6 September 30, 2011, are rescinded; and

7 (2) no amounts made available after September
8 30, 2011, for the program referred to in paragraph
9 (1) (as so in existence) shall be expended, other than
10 such amounts as are necessary to cover costs in-
11 curred in terminating ongoing projects and activities
12 under that program, as determined by the Secretary,
13 in consultation with other appropriate Federal agen-
14 cies.

15 **SEC. 912. STATE DRINKING WATER REVOLVING FUNDS.**

16 (a) **TERMINATION OF AUTHORITY.**—The State drink-
17 ing water revolving loan funds program of the Environ-
18 mental Protection Agency under section 1452 of the Safe
19 Drinking Water Act (42 U.S.C. 300j–12) is terminated.

20 (b) **RESCISSION.**—Notwithstanding any other provi-
21 sion of law—

22 (1) all amounts made available for State drink-
23 ing water revolving loan funds program of the Envi-
24 ronmental Protection Agency under section 1452 of
25 the Safe Drinking Water Act (42 U.S.C. 300j–12)

1 (as in existence on the day before the date of enact-
2 ment of this Act) that remain unobligated as of Sep-
3 tember 30, 2011, are rescinded; and

4 (2) no amounts made available after September
5 30, 2011, for the program referred to in paragraph
6 (1) (as so in existence) shall be expended, other than
7 such amounts as are necessary to cover costs in-
8 curred in terminating ongoing projects and activities
9 under that program, as determined by the Secretary,
10 in consultation with other appropriate Federal agen-
11 cies.

12 **SEC. 913. PERFORMANCE PARTNERSHIP GRANTS.**

13 (a) **TERMINATION OF AUTHORITY.**—The perform-
14 ance partnership grants 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 perform-
19 ance partnership grants program of the Environ-
20 mental Protection Agency (as in existence on the
21 day before the date of enactment of this Act) that
22 remain unobligated as of September 30, 2011, are
23 rescinded; and

24 (2) no amounts made available after September
25 30, 2011, 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 that program, as determined by the Secretary,
5 in consultation with other appropriate Federal agen-
6 cies.

7 **SEC. 914. POLLUTION CONTROL PROGRAMS.**

8 (a) **TERMINATION OF AUTHORITY.**—The pollution
9 control programs of the Environmental Protection Agency
10 under section 106 of the Federal Water Pollution Control
11 Act (33 U.S.C. 1256) are terminated.

12 (b) **RESCISSION.**—Notwithstanding any other provi-
13 sion of law—

14 (1) all amounts made available for the pollution
15 control programs of the Environmental Protection
16 Agency under section 106 of the Federal Water Pol-
17 lution Control Act (33 U.S.C. 1256) (as in existence
18 on the day before the date of enactment of this Act)
19 that remain unobligated as of September 30, 2011,
20 are rescinded; and

21 (2) no amounts made available after September
22 30, 2011, for the programs referred to in paragraph
23 (1) (as so in existence) shall be expended, other than
24 such amounts as are necessary to cover costs in-
25 curred in terminating ongoing projects and activities

1 under those programs, as determined by the Sec-
2 retary, in consultation with other appropriate Fed-
3 eral agencies.

4 **SEC. 915. NONPOINT SOURCE MANAGEMENT PROGRAMS.**

5 (a) **TERMINATION OF AUTHORITY.**—The nonpoint
6 source management program of the Environmental Pro-
7 tection Agency under section 319 of the Federal Water
8 Pollution Control Act (33 U.S.C. 1329) is terminated.

9 (b) **RESCISSION.**—Notwithstanding any other provi-
10 sion of law—

11 (1) all amounts made available for the nonpoint
12 source management program under section 319 of
13 the Federal Water Pollution Control Act (33 U.S.C.
14 1329) of the Environmental Protection Agency (as
15 in existence on the day before the date of enactment
16 of this Act) that remain unobligated as of September
17 30, 2011, are rescinded; and

18 (2) no amounts made available after September
19 30, 2011, 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. 916. TARGETED WATERSHED GRANTS.**

2 (a) **TERMINATION OF AUTHORITY.**—The targeted
3 watershed grants program of the Environmental Protec-
4 tion Agency is terminated.

5 (b) **RESCISSION.**—Notwithstanding any other provi-
6 sion of law—

7 (1) all amounts made available for the targeted
8 watershed grants program of the Environmental
9 Protection Agency (as in existence on the day before
10 the date of enactment of this Act) that remain unob-
11 ligated as of September 30, 2011, are rescinded; and

12 (2) no amounts made available after September
13 30, 2011, 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. 917. U.S.-MEXICO BORDER WATER INFRASTRUCTURE**
21 **PROGRAM.**

22 (a) **TERMINATION OF AUTHORITY.**—The U.S.-Mexico
23 border water infrastructure program of the Environmental
24 Protection Agency is terminated.

25 (b) **RESCISSION.**—Notwithstanding any other provi-
26 sion of law—

1 (1) all amounts made available for the U.S.-
2 Mexico Border Water Infrastructure Program of the
3 Environmental Protection Agency (as in existence on
4 the day before the date of enactment of this Act)
5 that remain unobligated as of September 30, 2011,
6 are rescinded; and

7 (2) no amounts made available after September
8 30, 2011, for the program referred to in paragraph
9 (1) (as so in existence) shall be expended, other than
10 such amounts as are necessary to cover costs in-
11 curred in terminating ongoing projects and activities
12 under those programs, as determined by the Sec-
13 retary, in consultation with other appropriate Fed-
14 eral agencies.

15 **SEC. 918. TRIBAL ASSISTANCE GRANTS.**

16 (a) **TERMINATION OF AUTHORITY.**—The tribal as-
17 sistance grants programs of the Environmental Protection
18 Agency are terminated.

19 (b) **RESCISSION.**—Notwithstanding any other provi-
20 sion of law—

21 (1) all amounts made available for the tribal as-
22 sistance grants programs of the Environmental Pro-
23 tection Agency (as in existence on the day before the
24 date of enactment of this Act) that remain unobli-
25 gated as of September 30, 2011, are rescinded; and

1 (2) no amounts made available after September
2 30, 2011, for the programs 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 those programs, as determined by the Sec-
7 retary, in consultation with other appropriate Fed-
8 eral agencies.

9 **SEC. 919. PUBLIC WATER SYSTEM SUPERVISION PROGRAM.**

10 (a) **TERMINATION OF AUTHORITY.**—The public water
11 system supervision program of the Environmental Protec-
12 tion Agency under section 1443 of the Safe Water Drink-
13 ing Act (42 U.S.C. 300j–2) is terminated.

14 (b) **RESCISSION.**—Notwithstanding any other provi-
15 sion of law—

16 (1) all amounts made available for the public
17 water system supervision program of the Environ-
18 mental Protection Agency under section 1443 of the
19 Safe Water Drinking Act (42 U.S.C. 300j–2) (as in
20 existence on the day before the date of enactment of
21 this Act) that remain unobligated as of September
22 30, 2011, are rescinded; and

23 (2) no amounts made available after September
24 30, 2011, for the programs 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 those programs, as determined by the Sec-
4 retary, in consultation with other appropriate Fed-
5 eral agencies.

6 **SEC. 920. UNDERGROUND INJECTION CONTROL PROGRAM.**

7 (a) **TERMINATION OF AUTHORITY.**—The under-
8 ground injection control program of the Environmental
9 Protection Agency under part C of the Safe Drinking
10 Water Act (42 U.S.C. 300h et seq.) is terminated.

11 (b) **RESCISSION.**—Notwithstanding any other provi-
12 sion of law—

13 (1) all amounts made available for the under-
14 ground injection control program of the Environ-
15 mental Protection Agency under part C of the Safe
16 Drinking Water Act (42 U.S.C. 300h et seq.) (as in
17 existence on the day before the date of enactment of
18 this Act) that remain unobligated as of September
19 30, 2011, are rescinded; and

20 (2) no amounts made available after September
21 30, 2011, for the program referred to in paragraph
22 (1) (as so in existence) shall be expended, other than
23 such amounts as are necessary to cover costs in-
24 curred in terminating ongoing projects and activities
25 under those programs, as determined by the Sec-

1 retary, in consultation with other appropriate Fed-
2 eral agencies.

3 **SEC. 921. TERMINATION OF DIESEL EMISSIONS REDUCTION**
4 **GRANTS.**

5 Subtitle G of title VII of the Energy Policy Act of
6 2005 (42 U.S.C. 16131 et seq.) is repealed.

7 **SEC. 922. TERMINATION OF LOCAL GOVERNMENT CLIMATE**
8 **CHANGE GRANTS.**

9 (a) AMENDMENT.—In the second proviso of the un-
10 designated matter under the heading “STATE AND TRIBAL
11 ASSISTANCE GRANTS” under the heading “ENVIRON-
12 MENTAL PROTECTION AGENCY” under title II of division
13 A of the Department of the Interior, Environment, and
14 Related Agencies Appropriations Act, 2010 (Public Law
15 111–88; 123 Stat. 2936), strike “\$10,000,000 shall be for
16 competitive grants to communities to develop plans and
17 demonstrate and implement projects which reduce green-
18 house gas emissions”.

19 (b) PROHIBITION.—Notwithstanding any other provi-
20 sion of law (including regulations), the Secretary shall not
21 provide any competitive grants to communities for any of
22 fiscal years 2012 through 2016 to develop plans and dem-
23 onstrate and implement projects that reduce greenhouse
24 gas emissions.

1 **SEC. 923. TERMINATION OF TARGETED AIRSHED GRANTS.**

2 (a) AMENDMENT.—In the second proviso of the un-
3 designated matter under the heading “STATE AND TRIBAL
4 ASSISTANCE GRANTS” under the heading “ENVIRON-
5 MENTAL PROTECTION AGENCY” under title II of division
6 A of the Department of the Interior, Environment, and
7 Related Agencies Appropriations Act, 2010 (Public Law
8 111–88; 123 Stat. 2936), strike “\$20,000,000 shall be for
9 targeted airshed grants in accordance with the terms and
10 conditions of the joint explanatory statement of the man-
11 agers accompanying this Act;”.

12 (b) PROHIBITION.—Notwithstanding any other provi-
13 sion of law (including regulations), the Secretary shall not
14 provide to the State of California for any of fiscal years
15 2012 through 2016 any targeted airshed grant as de-
16 scribed in the joint explanatory statement of the managers
17 accompanying the Department of the Interior, Environ-
18 ment, and Related Agencies Appropriations Act, 2010
19 (Public Law 111–88; 123 Stat. 2904).

20 **SEC. 924. TERMINATION OF TARGETED WATER INFRA-**
21 **STRUCTURE GRANTS.**

22 (a) AMENDMENT.—In the second proviso of the un-
23 designated matter under the heading “STATE AND TRIBAL
24 ASSISTANCE GRANTS” under the heading “ENVIRON-
25 MENTAL PROTECTION AGENCY” under title II of division
26 A of the Department of the Interior, Environment, and

1 Related Agencies Appropriations Act, 2010 (Public Law
2 111–88; 123 Stat. 2936), strike “\$156,777,000 shall be
3 for making special project grants and technical corrections
4 to prior-year grants for the construction of drinking water,
5 wastewater and storm water infrastructure and for water
6 quality protection in accordance with the terms and condi-
7 tions specified for such grants in the joint explanatory
8 statement of the managers accompanying this Act, and,
9 for purposes of these grants, each grantee shall contribute
10 not less than 45 percent of the cost of the project unless
11 the grantee is approved for a waiver by the Agency;”.

12 (b) PROHIBITION.—Notwithstanding any other provi-
13 sion of law (including regulations), the Secretary shall not
14 provide to any State or Indian tribe for any of fiscal years
15 2012 through 2016 any grant to carry out a special
16 project or technical correction to a prior-year grant for
17 the construction of drinking water, wastewater, or storm
18 water infrastructure, or for water quality protection, as
19 described in the joint explanatory statement of the man-
20 agers accompanying the Department of the Interior, Envi-
21 ronment, and Related Agencies Appropriations Act, 2010
22 (Public Law 111–88; 123 Stat. 2904).

1 **SEC. 925. REDUCTION IN FUNDING FOR HOMELAND SECUR-**
2 **RITY ACTIVITIES.**

3 Notwithstanding any other provision of law, for each
4 of fiscal years 2012 through 2016, the Secretary may use
5 not more than \$104,000,000 to carry out activities relat-
6 ing to homeland security.

7 **SEC. 926. REDUCTION IN FUNDING FOR GREAT LAKES INI-**
8 **TIATIVE.**

9 Notwithstanding any other provision of law, for each
10 of fiscal years 2012 through 2016, the Secretary may
11 transfer not more than \$350,000,000 of the funds made
12 available for the Great Lakes Initiative in an appropria-
13 tions Act under the heading “ENVIRONMENTAL PROGRAMS
14 AND MANAGEMENT” to the head of any Federal depart-
15 ment or agency, with the concurrence of the head—

16 (1) to carry out activities that would support
17 the Great Lakes Restoration Initiative and Great
18 Lakes Water Quality Agreement programs, projects,
19 or activities;

20 (2) to enter into an interagency agreement with
21 the head of the department or agency to carry out
22 those activities; or

23 (3) to make grants to governmental entities,
24 nonprofit organizations, institutions, and individuals
25 for planning, research, monitoring, outreach, and
26 implementation in support of the Great Lakes Res-

1 toration Initiative and the Great Lakes Water Qual-
2 ity Agreement.

3 **SEC. 927. REDUCTION IN FUNDING FOR NONPOINT SOURCE**
4 **MANAGEMENT PROGRAM GRANTS.**

5 Section 319 of the Federal Water Pollution Control
6 Act (33 U.S.C. 1329) is amended by striking subsection
7 (j) and inserting the following:

8 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
9 is authorized to be appropriated to carry out subsections
10 (h) and (i) for each of fiscal years 2012 through 2016
11 \$165,000,000, to remain available until expended.”.

12 **SEC. 928. SAVINGS THROUGH MAINTENANCE AGREEMENTS**
13 **FOR CAPITAL EQUIPMENT.**

14 (a) ESTABLISHMENT OF PROGRAM.—Not later than
15 December 31, 2011, the Secretary, acting through the
16 head of the Office of Acquisition Management (referred
17 to in this section as the “Administrator”), shall establish
18 and carry out an enterprise-wide strategic sourcing pro-
19 gram to improve efficiencies and economies in the acquisi-
20 tion programs of the Environmental Protection Agency.

21 (b) REQUIREMENTS.—In carrying out the program
22 under subsection (a), the Administrator shall—

23 (1) implement strategic sourcing processes
24 throughout the Environmental Protection Agency
25 through—

- 1 (A) strategic planning;
- 2 (B) an in-depth understanding of internal
3 purchasing needs; and
- 4 (C) insight and knowledge of supply mar-
5 kets;
- 6 (2) apply a centralized, cross-functional, cross-
7 business unit strategic approach; and
- 8 (3) seek out opportunities, such as consoli-
9 dating capital equipment maintenance agreements,
10 to create efficiencies and economies of scale and en-
11 hance the value of acquisitions across the Environ-
12 mental Protection Agency.

13 **SEC. 929. SAVINGS THROUGH ELECTRONIC EMISSIONS RE-**
14 **PORTING.**

15 (a) **FINDING.**—Congress finds that electronic report-
16 ing of emissions data to the Environmental Protection
17 Agency will reduce reporting burdens, increase trans-
18 parency, and enable integration of multiple data sets,
19 greatly increasing the ability of the Environmental Protec-
20 tion Agency to monitor and analyze related compliance
21 problems.

22 (b) **EXPANSION OF INVESTMENT.**—Not later than
23 December 31, 2012, the Secretary shall—

- 24 (1) expand investment in converting the paper-
25 based regulatory emissions reporting requirements of

1 the Environmental Protection Agency, as in exist-
 2 ence on the date of enactment of this Act, to an
 3 electronic reporting requirement; and

4 (2) invest in advanced monitoring technologies
 5 to streamline and improve emissions data collection
 6 by the Environmental Protection Agency.

7 **SEC. 930. SAVINGS THROUGH REDUCING TRAVEL COSTS**
 8 **THROUGH VIDEOCONFERENCING.**

9 For fiscal year 2011 and thereafter, the Secretary
 10 shall reduce the costs of the Department to the maximum
 11 extent practicable by expanding the use of videoconferenc-
 12 ing capabilities (including by increasing the number of vid-
 13 eoconferencing locations and interfaces on individual
 14 desktops as an option for employees who frequently travel)
 15 for program staff—

16 (1) to reduce travel costs; and

17 (2) to enhance communication among geo-
 18 graphically dispersed staff.

19 **TITLE X—EFFECTIVE DATE AND**
 20 **INTERIM APPOINTMENTS**

21 **SEC. 1001. EFFECTIVE DATE.**

22 (a) IN GENERAL.—Except as provided in subsections
 23 (b) and (d), this Act shall take effect on the earlier of—

24 (1) 120 days after the Secretary first takes of-
 25 fice; or

1 (2) such date as the President may prescribe
2 and publish in the Federal Register.

3 (b) APPOINTMENTS AND REGULATIONS.—At any
4 time after the date of enactment of this Act—

5 (1) any of the officers provided for in titles II
6 and IV may be nominated and appointed, as pro-
7 vided in those titles; and

8 (2) the Secretary and the Commission may pro-
9 mulgate regulations pursuant to section 705.

10 (c) USE OF FUNDS.—Funds available to any depart-
11 ment or agency (or any official or component of a depart-
12 ment of agency) functions of which are transferred to the
13 Secretary or the Commission by this Act, may with the
14 approval of the Director of the Office of Management and
15 Budget, be used to pay the compensation and expenses
16 of any officer appointed pursuant to subsection (b) until
17 such time as funds for that purpose are otherwise avail-
18 able.

19 (d) ELIMINATION OR REDUCTION OF CERTAIN PRO-
20 GRAMS.—Title IX and the amendments made by title IX
21 take effect on the date of enactment of this Act.

22 **SEC. 1002. INTERIM APPOINTMENTS.**

23 (a) IN GENERAL.—If one or more officers required
24 by this Act to be appointed by and with the advice and
25 consent of the Senate shall not have entered upon office

1 on the effective date of this Act, the President may des-
2 ignate any officer, whose appointment was required to be
3 made by and with the advice and consent of the Senate,
4 and who was such an officer immediately prior to the ef-
5 fective date of the Act, to act in the office until the office
6 is filled as provided in this Act.

7 (b) COMPENSATION.—Any person acting in an office
8 in accordance with subsection (a) shall receive compensa-
9 tion at the rates provided by this Act for the respective
10 office in which the person acts.

○