

GENERAL PROVISIONS—DEPARTMENT OF ENERGY
(INCLUDING TRANSFER AND CANCELLATION OF FUNDS)

SEC. 301. (a) No appropriation, funds, or authority made available by this title for the Department of Energy shall be used to initiate or resume any program, project, or activity or to prepare or initiate Requests For Proposals or similar arrangements (including Requests for Quotations, Requests for Information, and Funding Opportunity Announcements) for a program, project, or activity if the program, project, or activity has not been funded by Congress.

(b)(1) Unless the Secretary of Energy notifies the Committees on Appropriations of both Houses of Congress at least 3 full business days in advance, none of the funds made available in this title may be used to—

- (A) make a grant allocation or discretionary grant award totaling \$1,000,000 or more;
- (B) make a discretionary contract award or Other Transaction Agreement totaling \$1,000,000 or more, Including a contract covered by the Federal Acquisition Regulation;
- (C) issue a letter of intent to make an allocation, award, or Agreement in excess of the limits in subparagraph (A) or (B); or
- (D) announce publicly the intention to make an allocation, award, or Agreement in excess of the limits in subparagraph (A) or (B).

(2) The Secretary of Energy shall submit to the Committees on Appropriations of both Houses of Congress within 15 days of the conclusion of each quarter a report detailing each grant allocation or discretionary grant award totaling less than \$1,000,000 provided during the previous quarter.

(3) The notification required by paragraph (1) and the report required by paragraph (2) shall include the recipient of the award, the amount of the award, the fiscal year for which the funds for the award were appropriated, the account and program, project, or activity from which the funds are being drawn, the title of the award, and a brief description of the activity for which the award is made.

(c) The Department of Energy may not, with respect to any program, project, or activity that uses budget authority made available in this title under the heading "Department of Energy-Energy Programs", enter into a multiyear contract, award a multiyear grant, or enter into a multiyear cooperative agreement unless—

- (1) the contract, grant, or cooperative agreement is funded for the full period of performance as anticipated at the time of award; or
- (2) the contract, grant, or cooperative agreement includes a clause conditioning the Federal Government's obligation on the availability of future year budget authority and the Secretary notifies the Committees on Appropriations of both Houses of Congress at least 3 days in advance.

(d) Except as provided in subsections (e), (f), [and] (g), and (h), the amounts made available by this title shall be expended as authorized by law for the programs, projects, and activities specified in the "Final Bill" column in the "Department of Energy" table included under the heading "Title III-Department of Energy" in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

(e) The amounts made available by this title may be reprogrammed for any program, project, or activity, and the Department shall notify, and obtain the prior approval of, the Committees on Appropriations of both Houses of Congress at least 30 days prior to the use of any proposed reprogramming that would cause any program, project, or activity funding level to increase or decrease by more than \$5,000,000 or 10 percent, whichever is less, during the time period covered by this Act.

(f) None of the funds provided in this title shall be available for obligation or expenditure through a reprogramming of funds that—

- (1) creates, initiates, or eliminates a program, project, or activity;
- (2) increases funds or personnel for any program, project, or activity for which funds are denied or restricted by this Act; or
- (3) reduces funds that are directed to be used for a specific program, project, or activity by this Act.

(g) (1) The Secretary of Energy may waive any requirement or restriction in this section that applies to the use of funds made available for the Department of Energy if compliance with such requirement or restriction would pose a substantial risk to human health, the environment, welfare, or national security.

(2) The Secretary of Energy shall notify the Committees on Appropriations of both Houses of Congress of any waiver under paragraph (1) as soon as practicable, but not later than 3 days after the date of the activity to which a requirement or restriction would otherwise have applied. Such notice shall include an explanation of the substantial risk under paragraph (1) that permitted such waiver.

(h) *EXCLUSIONS.*—Subsections (d), (e), and (f) shall not apply to applied energy program funds transferred or reprogrammed under —

(1) *the small business innovation research program under section 9 of the Small Business Act (15 U.S.C 638); or*
(2) *the small business technology transfer program under that section.*

([h]i) The unexpended balances of prior appropriations provided for activities in this Act may be available to the same appropriation accounts for such activities established pursuant to this title. Available balances may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 302. Funds appropriated by this or any other Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 3094) during fiscal year 2020 until the enactment of the Intelligence Authorization Act for fiscal year 2020.

SEC. 303. None of the funds made available in this title shall be used for the construction of facilities classified as high-hazard nuclear facilities under 10 CFR Part 830 unless independent oversight is conducted by the Office of Enterprise Assessments to ensure the project is in compliance with nuclear safety requirements.

SEC. 304. None of the funds made available in this title may be used to approve critical decision–2 or critical decision–3 under Department of Energy Order 413.3B, or any successive departmental guidance, for construction projects where the total project cost exceeds \$100,000,000, until a separate independent cost estimate has been developed for the project for that critical decision.

SEC. 305. (a) None of the funds made available in this or any prior Act under the heading "Defense Nuclear Nonproliferation" may be made available to enter into new contracts with, or new agreements for Federal assistance to, the Russian Federation.

(b) The Secretary of Energy may waive the prohibition in subsection (a) if the Secretary determines that such activity is in the national security interests of the United States. This waiver authority may not be delegated.

(c) A waiver under subsection (b) shall not be effective until 15 days after the date on which the Secretary submits to the Committees on Appropriations of both Houses of Congress, in classified form if necessary, a report on the justification for the waiver.

SEC. 306. Notwithstanding section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241), upon a determination by the President in this fiscal year that a regional supply shortage of refined petroleum product of significant scope and duration exists, that a severe increase in the price of refined petroleum product will likely result from such shortage, and that a draw down and sale of refined petroleum product would assist directly and significantly in reducing the adverse impact of such shortage, the Secretary of Energy may draw down and sell refined petroleum product from the Strategic Petroleum Reserve. Proceeds from a sale under this section shall be deposited into the SPR Petroleum Account established in section 167 of the Energy Policy and Conservation Act (42 U.S.C. 6247), and such amounts shall be available for obligation, without fiscal year limitation, consistent with that section.

[SEC. 307. Of the offsetting collections, including unobligated balances of such collections, in the "Department of Energy-Power Marketing Administration-Colorado River Basins Power Marketing Fund, Western Area Power Administration", \$21,400,000 shall be transferred to the "Department of Interior-Bureau of Reclamation-Upper Colorado River Basin Fund" for the Bureau of Reclamation to carry out environmental stewardship and endangered species recovery efforts.]

[SEC. 308. (a) Of the unobligated balances available from amounts appropriated in prior Acts under the heading "Title III-Department of Energy-Energy Programs", \$12,723,000 is hereby rescinded.

(b) No amounts may be rescinded under (a) from amounts that were designated by the Congress as an emergency requirement pursuant to a concurrent resolution on the budget or the Balanced Budget and Emergency Deficit Control Act of 1985.]

[SEC. 309. Beginning in fiscal year 2021 and for each fiscal year thereafter, fees collected pursuant to subsection (b)(1) of section 6939f of title 42, United States Code, shall be deposited in "Department of Energy-Energy Programs-Non-Defense Environmental Cleanup" as discretionary offsetting collections.]

[SEC. 310. During fiscal year 2020 and each fiscal year thereafter, notwithstanding any provision of title 5, United States Code, relating to classification or rates of pay, the Southeastern Power Administration shall pay any power system dispatcher employed by the Administration a rate of basic pay and premium pay based on those prevailing for similar occupations in the electric power industry. Basic pay and premium pay may not be paid under this section to any individual during a calendar year so as to result in a total rate in excess of the rate of basic pay for level V of the Executive Schedule (section 5316 of such title).]

SEC. 307. Section 611 of the Energy and Water Development Appropriations Act, 2000 (P.L. 106-60; 10 U.S.C 2701 note) is amended as follows:

(a) *In subsection (a) in the matter preceding paragraph (1), by striking "the Army, acting through the Chief of Engineers" and inserting "Energy".*

(b) *In subsection (a)(6), by striking "by the Secretary of the Army, acting through the Chief of Engineers," and striking ", which may be transferred upon completion of remediation to the administrative jurisdiction of the Secretary of Energy".*

(c) *In subsection (a), by adding after paragraph (6) the following undesignated matter: "Upon completion of remediation of a site acquired by the Secretary of the Army prior to fiscal year 2021, the Secretary of the Army may transfer administrative jurisdiction of such site to the Secretary of Energy."*

(d) *In subsection (b), by striking "the Army, acting through the Chief of Engineers," and inserting "Energy".*

(e) *In subsection (c), by striking "amounts made available to carry out that program and shall be available until expended for costs of response actions for any eligible site" and inserting "'Other Defense Activities' appropriation account or successor appropriation account and shall be available until expended for costs of response actions for any eligible Formerly Utilized Sites Remedial Action Program Site".*

(f) *By redesignating subsection (f) as subsection (g).*

(g) *By inserting after subsection (e) the following new subsection:*

"(f) The Secretary of Energy, in carrying out subsection (a), shall enter into an agreement with the Secretary of the Army to carry out the remediation functions and activities described in subsections (a)(1) through (a)(6)."

SEC. 308. Section 2307 of the Energy Policy Act of 1992 (42 U.S.C 13526) is repealed.

SEC. 309. Notwithstanding section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241), the Secretary of Energy shall draw down and sell 15 million barrels of refined petroleum product from the Strategic Petroleum Reserve during fiscal year 2021. Proceeds from sales under this section shall be deposited into the general fund of the Treasury during fiscal year 2021, with the exception of \$242,000,000 from such proceeds to be deposited in the "Naval Petroleum and Oil Shale Reserves" account for comprehensive remediation of the Naval Petroleum Reserve-1 site near Elk Hills, California, to remain available until expended.

SEC. 310. Treatment of Lobbying and Political Activity Costs as Allowable Costs under Department of Energy Contracts. —

(a) *Allowable Costs. —*

(1) *Section 4801(b) of the Atomic Energy Defense Act (50 U.S.C. 2781(b)) is amended—*

(A) *by striking "(1)" and all that follows through "the Secretary" and inserting "The Secretary"; and*

(B) *by striking paragraph (2).*

(2) *Section 305 of the Energy and Water Development Appropriation Act, 1988, as contained in section*

101(d) of Public Law 100–202 (101 Stat. 1329–125), is repealed.

(b) Regulations Revised.—The Secretary of Energy shall revise existing regulations consistent with the repeal of 50 U.S.C. 2781(b)(2) and section 305 of Public Law 100–202 and shall issue regulations to implement 50 U.S.C. 2781(b), as amended by subsection (a) of this section, no later than 150 days after the date of the enactment of this Act. Such regulations shall be consistent with the Federal Acquisition Regulation 48 C.F.R. 31.205–22.

SEC. 311. Pursuant to a request by the Secretary of Defense, and upon determination by the Director of the Office of Management and Budget in consultation with the Secretary of Energy that such action is necessary, the Secretary of Energy may, with the approval of the Office of Management and Budget, transfer not to exceed \$2,500,000,000 of funds made available in this Act to the Department of Energy for National Nuclear Security Administration functions to the Department of Defense, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That the Secretary of Energy shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: Provided further, That this transfer authority is in addition to any other transfer authority provided in this Act.

TITLE V—GENERAL PROVISIONS
(INCLUDING TRANSFER OF FUNDS)

SEC. 501. None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913.

[SEC. 502. (a) None of the funds made available in title III of this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by or transfer authority provided in this Act or any other appropriations Act for any fiscal year, transfer authority referenced in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act), or any authority whereby a department, agency, or instrumentality of the United States Government may provide goods or services to another department, agency, or instrumentality.

(b) None of the funds made available for any department, agency, or instrumentality of the United States Government may be transferred to accounts funded in title III of this Act, except pursuant to a transfer made by or transfer authority provided in this Act or any other appropriations Act for any fiscal year, transfer authority referenced in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act), or any authority whereby a department, agency, or instrumentality of the United States Government may provide goods or services to another department, agency, or instrumentality.

(c) The head of any relevant department or agency funded in this Act utilizing any transfer authority shall submit to the Committees on Appropriations of both Houses of Congress a semiannual report detailing the transfer authorities, except for any authority whereby a department, agency, or instrumentality of the United States Government may provide goods or services to another department, agency, or instrumentality, used in the previous 6 months and in the year-to-date. This report shall include the amounts transferred and the purposes for which they were transferred, and shall not replace or modify existing notification requirements for each authority.]

SEC. 503. None of the funds made available by this Act may be used in contravention of Executive Order No. 12898 of February 11, 1994 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations).

SEC. 504. (a) None of the funds made available in this Act may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.

(b) Nothing in subsection (a) shall limit the use of funds necessary for any Federal, State, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.