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105TH CONGRESS
2D SESSION

H. R. 4060

[Report No. 105–581]

Making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 1998

Mr. MCDADE, from the Committee on Appropriations, reported the following bill; which was committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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A BILL

Making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1999, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $162,823,000, to remain available until expended, of which funds are provided for the following projects in the amounts specified:

Delaware Bay Coastline, Delaware and New Jersey, $570,000;

Tampa Harbor, Alafia Channel, Florida, $200,000;

Barnegat Inlet to Little Egg Harbor Inlet, New Jersey, $322,000;

Brigantine Inlet to Great Egg Harbor Inlet, New Jersey, $313,000;

Great Egg Harbor Inlet to Townsends Inlet, New Jersey, $300,000;

Lower Cape May Meadows—Cape May Point, New Jersey, $100,000;

Manasquan Inlet to Barnegat Inlet, New Jersey, $400,000;

Raritan Bay to Sandy Hook Bay, New Jersey, $1,100,000;

Townsends Inlet to Cape May Inlet, New Jersey, $500,000: *Provided,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $700,000 of the funds appropriated in Public Law 102–377 for the Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, project for the feasibility phase of the Red River Navigation, Southwest Arkansas, study: *Provided further,* That the Secretary of the Army is directed to use $500,000 of the funds appropriated herein to implement section 211(f)(7) of Public Law 104–303 (110 Stat. 3684) and to reimburse the non-Federal sponsor a portion of the Federal share of project

costs for the Hunting Bayou element of the project for flood control, Buffalo Bayou and tributaries, Texas: *Provided further,* That the Secretary of the Army is directed to use $300,000 of the funds appropriated herein to implement section 211(f)(8) of Public Law 104–303 (110 Stat. 3684) and to reimburse the non-Federal sponsor a portion of the Federal share of project costs for the project for flood control, White Oak Bayou watershed, Texas.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,456,529,000, to remain available until expended, of which such sums as are necessary for the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund, as authorized by Public Law 104–303; and of which such sums as are necessary pursuant to Public Law 99–662 shall be derived

from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri; Lock and Dam 14, Mississippi River, Iowa; Lock and Dam 24, Part 1, Mississippi River, Illinois and Missouri; and Lock and Dam 3, Mississippi River, Minnesota, projects, and of which funds are provided for the following projects in the amounts specified:

Norco Bluffs, California, $4,400,000;

Tybee Island, Georgia, $1,200,000;

Indianapolis Central Waterfront, Indiana, $4,000,000;

Indiana Shoreline Erosion, Indiana, $700,000;

Ohio River Flood Protection, Indiana, $1,700,000;

Harlan/Clover Fork, Williamsburg, Middlesboro, Martin County, Pike County, and Town of Martin elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River, Kentucky, $26,730,000;

Southern and Eastern Kentucky, Kentucky, $4,000,000;

Lake Pontchartrain and Vicinity (Hurricane Protection), Louisiana, $18,000,000;

Lake Pontchartrain (Jefferson Parish) Stormwater Discharge, Louisiana, $3,000,000;

Southeast Louisiana, Louisiana, $85,200,000;

Jackson County, Mississippi, $7,000,000;

Passaic River Streambank Restoration, New Jersey, $5,000,000;

Lackawanna River, Olyphant, Pennsylvania, $14,400,000;

Lackawanna River, Scranton, Pennsylvania, $43,551,000;

South Central Pennsylvania Environment Improvement Program, $45,000,000, of which $15,000,000 shall be available only for water-related environmental infrastructure and resource protection and development projects in Lackawanna, Lycoming, Susquehanna, Wyoming, Pike, and Monroe counties in Pennsylvania in accordance with the purposes of subsection (a) and requirements of subsections (b) through (e) of section 313 of the Water Resources Development Act of 1992, as amended;

Wallisville Lake, Texas, $5,500,000;

Virginia Beach, Virginia (Hurricane Protection), $13,000,000;

West Virginia and Pennsylvania Flood Control, West Virginia and Pennsylvania, $750,000: *Pro-*

vided, That the Secretary of the Army is directed to incorporate the economic analyses for the Green Ridge and Plot sections of the Lackawanna River, Scranton, Pennsylvania, project with the economic analysis for the Albright Street section of the project, and to cost-share and implement these combined sections as a single project with no separable elements, except that each section may be undertaken individually when the non-Federal sponsor provides the applicable local cooperation requirements; *Provided further,* That any funds heretofore appropriated and made available in Public Law 103–126 for projects associated with the restoration of the Lackawanna River Basin Greenway Corridor, Pennsylvania, may be utilized by the Secretary of the Army in carrying out other projects and activities on the Lackawanna River in Pennsylvania; *Provided further,* That the Secretary of the Army is directed to use $6,000,000 of the funds appropriated herein to implement section 211(f)(6) of Public Law 104–303 (110 Stat. 3683) and to reimburse the non-Federal sponsor a portion of the Federal share of project construction costs for the flood control components comprising the Brays Bayou element of

the project for flood control, Buffalo Bayou and tributaries, Texas.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g–1), $312,077,000, to remain available until expended.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,637,719,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662, may be derived from that Fund, and of which such sums as become available from the special

account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l), may be derived from that Fund for construction, operation, and maintenance of outdoor recreation facilities, and of which $4,200,000 is provided for repair of Chickamauga Lock, Tennessee, subject to authorization.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $110,000,000, to remain available until expended.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For expenses necessary to clean up contaminated sites throughout the United States where work was performed as part of the Nation's early atomic energy program, $140,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the Office of the Chief of Engineers and offices of the Division Engineers; activities of the Coastal Engineering Research Board, the Humphreys Engineer Center Support Activity, the Water Resources Support Center, and headquarters support functions at the USACE Finance Center; $148,000,000, to remain available until expended: *Provided,* That no part of any

other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the division offices: *Provided further,* That none of these funds shall be available to support an office of congressional affairs within the executive office of the Chief of Engineers.

ADMINISTRATIVE PROVISION

Appropriations in this title shall be available for official reception and representation expenses (not to exceed $5,000); and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, and for activities related to the Uintah and Upalco Units authorized by 43 U.S.C. 620, $39,665,000, to remain available until expended, of which $15,476,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account: *Provided,* That of the amounts deposited into that account,

$5,000,000 shall be considered the Federal contribution authorized by paragraph 402(b)(2) of the Central Utah Project Completion Act and $10,476,000 shall be available to the Utah Reclamation Mitigation and Conservation Commission to carry out activities authorized under that Act.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $1,283,000, to remain available until expended.

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

WATER AND RELATED RESOURCES

(INCLUDING TRANSFER OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian Tribes, and others, $622,054,000, to remain available until expended, of which $1,873,000 shall be available for

transfer to the Upper Colorado River Basin Fund and $49,908,000 shall be available for transfer to the Lower Colorado River Basin Development Fund, and of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund: *Provided,* That such transfers may be increased or decreased within the overall appropriation under this heading: *Provided further,* That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l6a(i) shall be derived from that Fund or account: *Provided further,* That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: *Provided further,* That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: *Provided further,* That of the total appropriated, $25,800,000 shall be derived by transfer of unexpended balances from the Bureau of Reclamation Working Capital Fund.

BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

For the cost of direct loans and/or grants, $12,000,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a–422l): *Provided,* That such costs, including the cost of modifying such

loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $38,000,000.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $425,000, to remain available until expended: *Provided,* That of the total sums appropriated, the amount of program activities that can be financed by the Reclamation Fund shall be derived from that Fund.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $33,130,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102–575, to remain available until expended: *Provided,* That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102–575.

CALIFORNIA BAY-DELTA ECOSYSTEM RESTORATION

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Department of the Interior and other participating Federal agencies in carrying out the California Bay-Delta Environmental Enhancement and Water Security Act consistent with plans to be approved by the Secretary of the Interior, in consultation with such Federal agencies, $75,000,000, to remain available until expended, of which such amounts as may be necessary to conform with such plans shall be transferred to appropriate accounts of such Federal agencies: *Provided,* That such funds may be obligated only as non-Federal sources provide their share in accordance with the cost-sharing agreement required under section 102(d) of such Act: *Provided further,* That such funds may be obligated prior to the completion of a final programmatic environmental impact statement only if: (1) consistent with 40 CFR 1506.1(c); and (2) used for purposes that the Secretary finds are of sufficiently high priority to warrant such an expenditure.

POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, $46,000,000, to be derived from the Reclamation Fund

and be nonreimbursable as provided in 43 U.S.C. 377: *Provided,* That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed six passenger motor vehicles for replacement only.

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY SUPPLY

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for energy supply, and uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 22 passenger motor vehicles for replacement only, $882,834,000, of which not to exceed $3,000 may be used for official reception and representation expenses for transparency activities.

NON-DEFENSE ENVIRONMENTAL MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction or expansion, $466,700,000, to remain available until expended.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions and other activities of title II of the Atomic Energy Act of 1954 and title X, subtitle A of the Energy Policy Act of 1992, $225,000,000, to be derived from the Fund, to remain available until expended: *Provided,* That $30,000,000 of amounts derived from the Fund for such expenses shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

SCIENCE

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary

for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of not to exceed 5 passenger motor vehicles for replacement only, $2,399,500,000, to remain available until expended: *Provided,* That in addition, $7,600,000 of the unobligated balances originally available for Superconducting Super Collider termination activities shall be made available for other activities under this heading.

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $160,000,000, to remain available until expended, to be derived from the Nuclear Waste Fund: *Provided,* That none of the funds provided herein shall be distributed to the State of Nevada or affected units of local government (as defined by Public Law 97–425) by direct payment, grant, or other means, for financial assistance under section 116 of the Nuclear Waste Policy Act of 1982, as amended: *Provided further,* That the foregoing proviso shall not apply to payments in lieu of taxes under

section 116(c)(3)(A) of the Nuclear Waste Policy Act of 1982, as amended.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $5,000), $175,365,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided,* That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further,* That moneys received by the Department for miscellaneous revenues estimated to total $136,530,000 in fiscal year 1999 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of 31 U.S.C. 3302: *Provided further,* That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1999 so as

to result in a final fiscal year 1999 appropriation from the General Fund estimated at not more than $38,835,000.

Office of the Inspector General

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $14,500,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

Weapons Activities

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; the purchase of not to exceed one fixed wing aircraft; and the purchase of passenger motor vehicles (not to exceed 32 for replacement only, and one bus), $4,142,100,000, to remain available until expended.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 3 new sedans and 6 for replacement only, of which 3 are sedans, 2 are buses, and 1 is an ambulance), $4,358,554,000, to remain available until expended.

DEFENSE FACILITIES CLOSURE PROJECTS

For expenses of the Department of Energy to accelerate the closure of defense environmental management sites, including the purchase, construction and acquisition of plant and capital equipment and other necessary expenses, $1,038,240,000, to remain available until expended.

DEFENSE ENVIRONMENTAL MANAGEMENT

PRIVATIZATION

For Department of Energy expenses for privatization projects necessary for atomic energy defense environmental management activities authorized by the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), $286,857,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $1,761,260,000, to remain available until expended.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $190,000,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

Bonneville Power Administration Fund

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93–454, are approved for official reception and representation expenses in an amount not to exceed $1,500.

During fiscal year 1999, no new direct loan obligations may be made.

Operation and Maintenance, Southeastern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $8,500,000, to remain available until expended; in addition, notwithstanding 31 U.S.C. 3302, not to exceed $28,000,000 in reimbursements, of which $20,000,000 is for transmission wheeling and ancillary services and $8,000,000 is for power purchases at the Richard B. Russell Project, to remain available until expended.

Operation and Maintenance, Southwestern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric

power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $24,710,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $4,200,000 in reimbursements, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, $205,000,000, to remain available until expended, of which $195,787,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided,* That of the amount herein appropriated, $5,036,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant

to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $970,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed $3,000), $166,500,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, not to exceed $166,500,000 of revenues from fees and annual charges, and other services and collections in fiscal year 1999 shall be retained and used for necessary expenses in this account, and shall remain available until

expended: *Provided further,* That the sum herein appropriated from the General Fund shall be reduced as revenues are received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at not more than $0.

GENERAL PROVISIONS

DEPARTMENT OF ENERGY

SEC. 301. (a) None of the funds appropriated by this Act or any prior appropriations Act may be used to award a management and operating contract unless such contract is awarded using competitive procedures or the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the subcommittees of the waiver and setting forth the reasons for the waiver.

SEC. 302. (a) None of the funds appropriated by this Act or any prior appropriations Act may be used to award, amend, or modify a contract in a manner that deviates

from the Federal Acquisition Regulation, unless the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the subcommittees of the waiver and setting forth the reasons for the waiver.

SEC. 303. None of the funds appropriated by this Act or any prior appropriations Act may be used to—

(1) develop or implement a workforce restructuring plan that covers employees of the Department of Energy; or

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy; under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2644; 42 U.S.C. 7274h).

SEC. 304. None of the funds appropriated by this Act or any prior appropriations Act may be used to augment the $29,800,000 made available for obligation by this Act

for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2644; 42 U.S.C. 7274h).

SEC. 305. None of the funds appropriated by this Act or any prior appropriations Act may be used to prepare or initiate Requests For Proposals (RFPs) for a program if the program has not been funded by Congress.

SEC. 306. (a) Except as provided in subsection (b), none of the funds appropriated by this Act or any prior appropriations Act may be used by any program, project, or activity of the Department of Energy to produce or provide articles or services for the purpose of selling the articles or services to a person outside the Federal Government, unless the Secretary of Energy determines that the articles or services are not available from a commercial source in the United States.

(b) Subsection (a) does not apply to the transmission and sale of electricity by any Federal power marketing administration.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 307. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established ac-

counts and thereafter may be accounted for as one fund for the same time period as originally enacted.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, $65,900,000, to remain available until expended.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–456, section 1441, $16,500,000, to remain available until expended.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed $5,000); $462,700,000, to remain available until expended: *Provided,* That of the amount appropriated herein, $14,800,000 shall be derived from the Nuclear Waste Fund: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections estimated at $444,700,000 in fiscal year 1999 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further,* That $3,200,000 of the funds herein appropriated for regulatory reviews and other assistance provided to the Department of Energy and other Federal agencies shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation estimated at not more than $18,000,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,800,000, to remain available until expended: *Provided,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation estimated at not more than $0.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100–203, section 5051, $2,600,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

TITLE V—GENERAL PROVISIONS

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 section 1913 of title 18, United States Code.

SEC. 502. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equip-

ment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 503. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which

shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the ''Cleanup Program—Alternative Repayment Plan'' and the ''SJVDP—Alternative Repayment Plan'' described in the report entitled ''Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995'', prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal Reclamation law.

SEC. 504. None of the funds made available in this or any other Act may be used to restart the High Flux Beam Reactor.

SEC. 505. Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990, as amended, (42 U.S.C.

2214(a)(3)) is amended by striking ''September 30, 1998'' and inserting ''September 30, 1999''.

SEC. 506. (a) Funds appropriated for ''Nuclear Regulatory Commission—Salaries and Expenses'' shall be available to the Commission for the following additional purposes:

(1) Employment of aliens.

(2) Services authorized by section 3109 of title 5, United States Code.

(3) Publication and dissemination of atomic information.

(4) Purchase, repair, and cleaning of uniforms.

(5) Reimbursements to the General Services Administration for security guard services.

(6) Hire of passenger motor vehicles and aircraft.

(7) Transfers of funds to other agencies of the Federal Government for the performance of the work for which such funds are appropriated, and such transferred funds may be merged with the appropriations to which they are transferred.

(8) Transfers to the Office of Inspector General of the Commission, not to exceed an additional amount equal to 5 percent of the amount otherwise appropriated to the Office for the fiscal year. Notice

of such transfers shall be submitted to the Committees on Appropriations.

(b) Funds appropriated for ''Nuclear Regulatory Commission—Office of Inspector General'' shall be available to the Office for the additional purposes described in paragraphs (2) and (7) of subsection (a).

(c) Moneys received by the Commission for the cooperative nuclear research program, services rendered to State governments, foreign governments, and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169) may be retained and used for salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302, and shall remain available until expended.

(d) This section shall apply to fiscal year 1999 and each succeeding fiscal year.

SEC. 507. Sec. 505 of Public Law 102–377, the Fiscal Year 1993 Energy and Water Development Appropriations Act, and section 208 of Public Law 99–349, the Urgent Supplemental Appropriations Act, 1986, are repealed.

IMPLEMENTATION OF EXTERNAL REGULATION

SEC. 508. (a) TRANSFER OF AUTHORITY.—Notwithstanding any other provision of law, no later than March

31, 1999, the Department of Energy shall not implement and enforce its own regulatory system, through rules, regulations, orders, or standards, with regard to the Ernest Orlando Lawrence Berkeley National Laboratory for environment, safety, and health, but shall be regulated by the appropriate Federal, State, and local agencies as provided by the applicable Federal, State, and local laws and regulations: *Provided,* That for this facility, the Department shall be deemed to be a ''person'' under the Atomic Energy Act of 1954, as amended.

(b) DEPARTMENT OF ENERGY REPORTING REQUIREMENT.—By October 31, 1998, the Secretary of Energy shall transmit to the Congress a plan for termination of its authority to regulate its contractors and to self-regulate its own operations in the areas of environment, safety, and health at the facility named in section (a). The report shall include—

(1) A detailed transition plan, giving the schedule for termination of self-regulation authority as outlined in section (a), including the activities to be coordinated with the Nuclear Regulatory Commission (NRC) and the Occupational Safety and Health Administration (OSHA);

(2) A description of any issues remaining to be resolved with the NRC and OSHA or other external

regulators, and a timetable for resolving such issues before March 31, 1999; and

(3) An estimate of the current annual cost of administering and implementing self-regulation of environment, safety, and health activities at all Department of Energy facilities, and an estimate of the number of Federal and contractor employees currently administering and implementing self-regulation of environment, safety and health activities at each of the facilities. For the Lawrence Berkeley National Laboratory, there should also be an estimate of the cost of the external regulators based on the pilot project of simulated NRC regulation which has already been conducted; an estimate of the cost and number of Federal and contractor employees currently administering and implementing self-regulation of environment, safety and health activities at the Laboratory; and an estimate of the extent and schedule by which the Department and Laboratory staffs will be reduced as a result of implementation of section (a).

(c) NUCLEAR REGULATORY COMMISSION REPORTING REQUIREMENT.—By January 30, 1999, the Chairman of the Nuclear Regulatory Commission shall submit to Congress a plan for regulating accelerator-produced radio-

active material, and ionizing radiation generating machines at Department of Energy facilities. The report shall:

(1) Recommend what statutory changes, if any, would be needed to provide the Commission with the authority to regulate accelerator use at Department of Energy facilities;

(2) Identify what additional Commission resources would be needed to accomplish such regulation; and

(3) Identify any existing technical or regulatory obstacles to the Commission regulation of accelerator use.

This Act may be cited as the ''Energy and Water Development Appropriations Act, 1999''.

Calendar No. 327

105TH CONGRESS
2D SESSION

H. R. 4060

[Report No. 105–581]

A BILL

Making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes.

JUNE 16, 1998

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed