

Union Calendar No. 411

114TH CONGRESS
2^D SESSION

H. R. 5055

[Report No. 114–532]

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2017, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2016

Mr. SIMPSON, 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

A BILL

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2017, 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 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated, for en-
5 ergy and water development and related agencies for the
6 fiscal year ending September 30, 2017, and for other pur-
7 poses, namely:

8 TITLE I

9 CORPS OF ENGINEERS—CIVIL

10 DEPARTMENT OF THE ARMY

11 CORPS OF ENGINEERS—CIVIL

12 The following appropriations shall be expended under
13 the direction of the Secretary of the Army and the super-
14 vision of the Chief of Engineers for authorized civil func-
15 tions of the Department of the Army pertaining to river
16 and harbor, flood and storm damage reduction, shore pro-
17 tection, aquatic ecosystem restoration, and related efforts.

18 INVESTIGATIONS

19 For expenses necessary where authorized by law for
20 the collection and study of basic information pertaining
21 to river and harbor, flood and storm damage reduction,
22 shore protection, aquatic ecosystem restoration, and re-
23 lated needs; for surveys and detailed studies, and plans
24 and specifications of proposed river and harbor, flood and
25 storm damage reduction, shore protection, and aquatic

1 ecosystem restoration projects, and related efforts prior to
2 construction; for restudy of authorized projects; and for
3 miscellaneous investigations, and, when authorized by law,
4 surveys and detailed studies, and plans and specifications
5 of projects prior to construction, \$120,000,000, to remain
6 available until expended: *Provided*, That the Secretary
7 may initiate up to, but not more than, six new study starts
8 during fiscal year 2017: *Provided further*, That the new
9 study starts will consist of five studies where the majority
10 of the benefits are derived from navigation transportation
11 savings or from flood and storm damage reduction and
12 one study where the majority of benefits are derived from
13 environmental restoration: *Provided further*, That the Sec-
14 retary shall not deviate from the new starts proposed in
15 the work plan, once the plan has been submitted to the
16 Committees on Appropriations of both Houses of Con-
17 gress.

18 CONSTRUCTION

19 For expenses necessary for the construction of river
20 and harbor, flood and storm damage reduction, shore pro-
21 tection, aquatic ecosystem restoration, and related
22 projects authorized by law; for conducting detailed studies,
23 and plans and specifications, of such projects (including
24 those involving participation by States, local governments,
25 or private groups) authorized or made eligible for selection

1 by law (but such detailed studies, and plans and specifica-
2 tions, shall not constitute a commitment of the Govern-
3 ment to construction); \$1,945,580,000, to remain avail-
4 able until expended; of which such sums as are necessary
5 to cover the Federal share of construction costs for facili-
6 ties under the Dredged Material Disposal Facilities pro-
7 gram shall be derived from the Harbor Maintenance Trust
8 Fund as authorized by Public Law 104–303; and of which
9 such sums as are necessary to cover one-half of the costs
10 of construction, replacement, rehabilitation, and expansion
11 of inland waterways projects shall be derived from the In-
12 land Waterways Trust Fund, except as otherwise specifi-
13 cally provided for in law: *Provided*, That the Secretary
14 may initiate up to, but not more than, four new construc-
15 tion starts during fiscal year 2017: *Provided further*, That
16 the new construction starts will consist of three projects
17 where the majority of the benefits are derived from naviga-
18 tion transportation savings or from flood and storm dam-
19 age reduction and one project where the majority of the
20 benefits are derived from environmental restoration: *Pro-*
21 *vided further*, That for new construction projects, project
22 cost sharing agreements shall be executed as soon as prac-
23 ticable but no later than August 31, 2017: *Provided fur-*
24 *ther*, That no allocation for a new start shall be considered
25 final and no work allowance shall be made until the Sec-

1 retary provides to the Committees on Appropriations of
2 both Houses of Congress an out-year funding scenario
3 demonstrating the affordability of the selected new starts
4 and the impacts on other projects: *Provided further*, That
5 the Secretary may not deviate from the new starts pro-
6 posed in the work plan, once the plan has been submitted
7 to the Committees on Appropriations of both Houses of
8 Congress.

9 MISSISSIPPI RIVER AND TRIBUTARIES

10 For expenses necessary for flood damage reduction
11 projects and related efforts in the Mississippi River allu-
12 vial valley below Cape Girardeau, Missouri, as authorized
13 by law, \$345,000,000, to remain available until expended,
14 of which such sums as are necessary to cover the Federal
15 share of eligible operation and maintenance costs for in-
16 land harbors shall be derived from the Harbor Mainte-
17 nance Trust Fund.

18 OPERATION AND MAINTENANCE

19 For expenses necessary for the operation, mainte-
20 nance, and care of existing river and harbor, flood and
21 storm damage reduction, aquatic ecosystem restoration,
22 and related projects authorized by law; providing security
23 for infrastructure owned or operated by the Corps, includ-
24 ing administrative buildings and laboratories; maintaining
25 harbor channels provided by a State, municipality, or

1 other public agency that serve essential navigation needs
2 of general commerce, where authorized by law; surveying
3 and charting northern and northwestern lakes and con-
4 necting waters; clearing and straightening channels; and
5 removing obstructions to navigation, \$3,157,000,000, to
6 remain available until expended, of which such sums as
7 are necessary to cover the Federal share of eligible oper-
8 ation and maintenance costs for coastal harbors and chan-
9 nels, and for inland harbors shall be derived from the Har-
10 bor Maintenance Trust Fund; of which such sums as be-
11 come available from the special account for the Corps of
12 Engineers established by the Land and Water Conserva-
13 tion Fund Act of 1965 shall be derived from that account
14 for resource protection, research, interpretation, and
15 maintenance activities related to resource protection in the
16 areas at which outdoor recreation is available; and of
17 which such sums as become available from fees collected
18 under section 217 of Public Law 104–303 shall be used
19 to cover the cost of operation and maintenance of the
20 dredged material disposal facilities for which such fees
21 have been collected: *Provided*, That 1 percent of the total
22 amount of funds provided for each of the programs,
23 projects, or activities funded under this heading shall not
24 be allocated to a field operating activity prior to the begin-
25 ning of the fourth quarter of the fiscal year and shall be

1 available for use by the Chief of Engineers to fund such
2 emergency activities as the Chief of Engineers determines
3 to be necessary and appropriate, and that the Chief of En-
4 gineers shall allocate during the fourth quarter any re-
5 maining funds which have not been used for emergency
6 activities proportionally in accordance with the amounts
7 provided for the programs, projects, or activities.

8 REGULATORY PROGRAM

9 For expenses necessary for administration of laws
10 pertaining to regulation of navigable waters and wetlands,
11 \$200,000,000, to remain available until September 30,
12 2018.

13 FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

14 For expenses necessary to clean up contamination
15 from sites in the United States resulting from work per-
16 formed as part of the Nation's early atomic energy pro-
17 gram, \$103,000,000, to remain available until expended.

18 FLOOD CONTROL AND COASTAL EMERGENCIES

19 For expenses necessary to prepare for flood, hurri-
20 cane, and other natural disasters and support emergency
21 operations, repairs, and other activities in response to
22 such disasters as authorized by law, \$34,000,000, to re-
23 main available until expended.

EXPENSES

1
2 For expenses necessary for the supervision and gen-
3 eral administration of the civil works program in the head-
4 quarters of the Corps of Engineers and the offices of the
5 Division Engineers; and for costs of management and op-
6 eration of the Humphreys Engineer Center Support Activ-
7 ity, the Institute for Water Resources, the United States
8 Army Engineer Research and Development Center, and
9 the United States Army Corps of Engineers Finance Cen-
10 ter allocable to the civil works program, \$180,000,000, to
11 remain available until September 30, 2018, of which not
12 to exceed \$5,000 may be used for official reception and
13 representation purposes and only during the current fiscal
14 year: *Provided*, That no part of any other appropriation
15 provided in this title shall be available to fund the civil
16 works activities of the Office of the Chief of Engineers
17 or the civil works executive direction and management ac-
18 tivities of the division offices: *Provided further*, That any
19 Flood Control and Coastal Emergencies appropriation
20 may be used to fund the supervision and general adminis-
21 tration of emergency operations, repairs, and other activi-
22 ties in response to any flood, hurricane, or other natural
23 disaster.

1 OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
 2 FOR CIVIL WORKS

3 For the Office of the Assistant Secretary of the Army
 4 for Civil Works as authorized by 10 U.S.C. 3016(b)(3),
 5 \$4,750,000, to remain available until September 30, 2018:
 6 *Provided*, That not more than 25 percent of such amount
 7 may be obligated or expended until the Assistant Sec-
 8 retary submits to the Committees on Appropriations of
 9 both Houses of Congress a work plan that allocates at
 10 least 95 percent of the additional funding provided under
 11 each heading in this title (as designated under such head-
 12 ing in the report of the Committee on Appropriations ac-
 13 companying this Act) to specific programs, projects, or ac-
 14 tivities.

15 GENERAL PROVISIONS—CORPS OF
 16 ENGINEERS—CIVIL
 17 (INCLUDING TRANSFER OF FUNDS)

18 SEC. 101. (a) None of the funds provided in this title
 19 shall be available for obligation or expenditure through a
 20 reprogramming of funds that—

- 21 (1) creates or initiates a new program, project,
 22 or activity;
 23 (2) eliminates a program, project, or activity;

1 (3) increases funds or personnel for any pro-
2 gram, project, or activity for which funds have been
3 denied or restricted by this Act;

4 (4) reduces funds that are directed to be used
5 for a specific program, project, or activity by this
6 Act;

7 (5) increases funds for any program, project, or
8 activity by more than \$2,000,000 or 10 percent,
9 whichever is less; or

10 (6) reduces funds for any program, project, or
11 activity by more than \$2,000,000 or 10 percent,
12 whichever is less.

13 (b) Subsection (a)(1) shall not apply to any project
14 or activity authorized under section 205 of the Flood Con-
15 trol Act of 1948, section 14 of the Flood Control Act of
16 1946, section 208 of the Flood Control Act of 1954, sec-
17 tion 107 of the River and Harbor Act of 1960, section
18 103 of the River and Harbor Act of 1962, section 111
19 of the River and Harbor Act of 1968, section 1135 of the
20 Water Resources Development Act of 1986, section 206
21 of the Water Resources Development Act of 1996, or sec-
22 tion 204 of the Water Resources Development Act of
23 1992.

24 (c) The Corps of Engineers shall submit reports on
25 a quarterly basis to the Committees on Appropriations of

1 both Houses of Congress detailing all the funds repro-
2 grammed between programs, projects, activities, or cat-
3 egories of funding. The first quarterly report shall be sub-
4 mitted not later than 60 days after the date of enactment
5 of this Act.

6 SEC. 102. None of the funds made available in this
7 title may be used to award or modify any contract that
8 commits funds beyond the amounts appropriated for that
9 program, project, or activity that remain unobligated, ex-
10 cept that such amounts may include any funds that have
11 been made available through reprogramming pursuant to
12 section 101.

13 SEC. 103. The Secretary of the Army may transfer
14 to the Fish and Wildlife Service, and the Fish and Wildlife
15 Service may accept and expend, up to \$5,400,000 of funds
16 provided in this title under the heading “Operation and
17 Maintenance” to mitigate for fisheries lost due to Corps
18 of Engineers projects.

19 SEC. 104. None of the funds in this Act shall be used
20 for an open lake placement alternative for dredged mate-
21 rial, after evaluating the least costly, environmentally ac-
22 ceptable manner for the disposal or management of
23 dredged material originating from Lake Erie or tributaries
24 thereto, unless it is approved under a State water quality
25 certification pursuant to section 401 of the Federal Water

1 Pollution Control Act (33 U.S.C. 1341); *Provided further*,
2 That until an open lake placement alternative for dredged
3 material is approved under a State water quality certifi-
4 cation, the Corps of Engineers shall continue upland
5 placement of such dredged material consistent with the re-
6 quirements of section 101 of the Water Resources Devel-
7 opment Act of 1986 (33 U.S.C. 2211).

8 SEC. 105. None of the funds made available in this
9 title may be used for any acquisition that is not consistent
10 with 48 CFR 225.7007.

11 SEC. 106. None of the funds made available by this
12 Act may be used to carry out any water supply reallocation
13 study under the Wolf Creek Dam, Lake Cumberland, Ken-
14 tucky, project authorized under the Act of July 24, 1946
15 (60 Stat. 636, ch. 595).

16 SEC. 107. The Secretary of the Army, acting through
17 the Chief of Engineers, may accept from the Trinity River
18 Authority of Texas, if received by September 30, 2016,
19 \$31,233,401 as payment in full for amounts owed to the
20 United States, including any accrued interest, for the ap-
21 proximately 61,747.1 acre-feet of water supply storage
22 space in Joe Pool Lake, Texas (previously known as
23 Lakeview Lake) for which payment has not commenced
24 under Article 5.a. (relating to project investment costs)

1 of contract number DACW63-76-C-0106 as of the date
2 of enactment of this section.

3 SEC. 108. None of the funds made available in this
4 or any other Act making appropriations for Energy and
5 Water Development for any fiscal year may be used by
6 the Corps of Engineers to develop, adopt, implement, ad-
7 minister, or enforce any change to the regulations in effect
8 on October 1, 2012, pertaining to the definitions of the
9 terms “fill material” or “discharge of fill material” for the
10 purposes of the Federal Water Pollution Control Act (33
11 U.S.C. 1251 et seq.).

12 SEC. 109. Notwithstanding section 404(f)(2) of the
13 Federal Water Pollution Control Act (33 U.S.C.
14 1344(f)(2)), none of the funds made available by this Act
15 may be used to require a permit for the discharge of
16 dredged or fill material under the Federal Water Pollution
17 Control Act (33 U.S.C. 1251 et seq.) for the activities
18 identified in subparagraphs (A) and (C) of section
19 404(f)(1) of the Act (33 U.S.C. 1344(f)(1)(A), (C)).

20 SEC. 110. None of the funds made available in this
21 or any other Act making appropriations for Energy and
22 Water Development for any fiscal year may be used by
23 the Corps of Engineers to develop, adopt, implement, ad-
24 minister, or enforce any change to the regulations and
25 guidance in effect on October 1, 2012, pertaining to the

1 definition of waters under the jurisdiction of the Federal
2 Water Pollution Control Act (33 U.S.C. 1251 et seq.), in-
3 cluding the provisions of the rules dated November 13,
4 1986, and August 25, 1993, relating to such jurisdiction,
5 and the guidance documents dated January 15, 2003, and
6 December 2, 2008, relating to such jurisdiction.

7 SEC. 111. As of the date of enactment of this Act
8 and each fiscal year thereafter, the Secretary of the Army
9 shall not promulgate or enforce any regulation that pro-
10 hibits an individual from possessing a firearm, including
11 an assembled or functional firearm, at a water resources
12 development project covered under section 327.0 of title
13 36, Code of Federal Regulations (as in effect on the date
14 of enactment of this Act), if—

15 (1) the individual is not otherwise prohibited by
16 law from possessing the firearm; and

17 (2) the possession of the firearm is in compli-
18 ance with the law of the State in which the water
19 resources development project is located.

20 TITLE II

21 DEPARTMENT OF THE INTERIOR

22 CENTRAL UTAH PROJECT

23 CENTRAL UTAH PROJECT COMPLETION ACCOUNT

24 For carrying out activities authorized by the Central
25 Utah Project Completion Act, \$11,000,000, to remain

1 available until expended, of which \$1,300,000 shall be de-
 2 posited into the Utah Reclamation Mitigation and Con-
 3 servation Account for use by the Utah Reclamation Miti-
 4 gation and Conservation Commission: *Provided*, That of
 5 the amount provided under this heading, \$1,350,000 shall
 6 be available until September 30, 2018, for expenses nec-
 7 essary in carrying out related responsibilities of the Sec-
 8 retary of the Interior: *Provided further*, That for fiscal
 9 year 2017, of the amount made available to the Commis-
 10 sion under this Act or any other Act, the Commission may
 11 use an amount not to exceed \$1,500,000 for administra-
 12 tive expenses.

13 BUREAU OF RECLAMATION

14 The following appropriations shall be expended to
 15 execute authorized functions of the Bureau of Reclama-
 16 tion:

17 WATER AND RELATED RESOURCES

18 (INCLUDING TRANSFERS OF FUNDS)

19 For management, development, and restoration of
 20 water and related natural resources and for related activi-
 21 ties, including the operation, maintenance, and rehabilita-
 22 tion of reclamation and other facilities, participation in
 23 fulfilling related Federal responsibilities to Native Ameri-
 24 cans, and related grants to, and cooperative and other
 25 agreements with, State and local governments, federally

1 recognized Indian tribes, and others, \$982,972,000, to re-
2 main available until expended, of which \$22,000 shall be
3 available for transfer to the Upper Colorado River Basin
4 Fund and \$5,551,000 shall be available for transfer to the
5 Lower Colorado River Basin Development Fund; of which
6 such amounts as may be necessary may be advanced to
7 the Colorado River Dam Fund: *Provided*, That such trans-
8 fers may be increased or decreased within the overall ap-
9 propriation under this heading: *Provided further*, That of
10 the total appropriated, the amount for program activities
11 that can be financed by the Reclamation Fund or the Bu-
12 reau of Reclamation special fee account established by 16
13 U.S.C. 6806 shall be derived from that Fund or account:
14 *Provided further*, That funds contributed under 43 U.S.C.
15 395 are available until expended for the purposes for
16 which the funds were contributed: *Provided further*, That
17 funds advanced under 43 U.S.C. 397a shall be credited
18 to this account and are available until expended for the
19 same purposes as the sums appropriated under this head-
20 ing: *Provided further*, That of the amounts provided here-
21 in, funds may be used for high-priority projects which
22 shall be carried out by the Youth Conservation Corps, as
23 authorized by 16 U.S.C. 1706.

1 CENTRAL VALLEY PROJECT RESTORATION FUND

2 For carrying out the programs, projects, plans, habi-
3 tat restoration, improvement, and acquisition provisions of
4 the Central Valley Project Improvement Act, \$55,606,000,
5 to be derived from such sums as may be collected in the
6 Central Valley Project Restoration Fund pursuant to sec-
7 tions 3407(d), 3404(c)(3), and 3405(f) of Public Law
8 102–575, to remain available until expended: *Provided*,
9 That the Bureau of Reclamation is directed to assess and
10 collect the full amount of the additional mitigation and
11 restoration payments authorized by section 3407(d) of
12 Public Law 102–575: *Provided further*, That none of the
13 funds made available under this heading may be used for
14 the acquisition or leasing of water for in-stream purposes
15 if the water is already committed to in-stream purposes
16 by a court adopted decree or order.

17 CALIFORNIA BAY-DELTA RESTORATION

18 (INCLUDING TRANSFERS OF FUNDS)

19 For carrying out activities authorized by the Water
20 Supply, Reliability, and Environmental Improvement Act,
21 consistent with plans to be approved by the Secretary of
22 the Interior, \$36,000,000, to remain available until ex-
23 pended, of which such amounts as may be necessary to
24 carry out such activities may be transferred to appropriate
25 accounts of other participating Federal agencies to carry

1 out authorized purposes: *Provided*, That funds appro-
2 priated herein may be used for the Federal share of the
3 costs of CALFED Program management: *Provided fur-*
4 *ther*, That CALFED implementation shall be carried out
5 in a balanced manner with clear performance measures
6 demonstrating concurrent progress in achieving the goals
7 and objectives of the Program.

8 POLICY AND ADMINISTRATION

9 For expenses necessary for policy, administration,
10 and related functions in the Office of the Commissioner,
11 the Denver office, and offices in the five regions of the
12 Bureau of Reclamation, to remain available until Sep-
13 tember 30, 2018, \$59,000,000, to be derived from the
14 Reclamation Fund and be nonreimbursable as provided in
15 43 U.S.C. 377: *Provided*, That no part of any other appro-
16 priation in this Act shall be available for activities or func-
17 tions budgeted as policy and administration expenses.

18 ADMINISTRATIVE PROVISION

19 Appropriations for the Bureau of Reclamation shall
20 be available for purchase of not to exceed five passenger
21 motor vehicles, which are for replacement only.

1 GENERAL PROVISIONS—DEPARTMENT OF THE
2 INTERIOR

3 SEC. 201. (a) None of the funds provided in this title
4 shall be available for obligation or expenditure through a
5 reprogramming of funds that—

6 (1) creates or initiates a new program, project,
7 or activity;

8 (2) eliminates a program, project, or activity;

9 (3) increases funds for any program, project, or
10 activity for which funds have been denied or re-
11 stricted by this Act;

12 (4) restarts or resumes any program, project or
13 activity for which funds are not provided in this Act,
14 unless prior approval is received from the Commit-
15 tees on Appropriations of both Houses of Congress;

16 (5) transfers funds in excess of the following
17 limits—

18 (A) 15 percent for any program, project or
19 activity for which \$2,000,000 or more is avail-
20 able at the beginning of the fiscal year; or

21 (B) \$300,000 for any program, project or
22 activity for which less than \$2,000,000 is avail-
23 able at the beginning of the fiscal year;

24 (6) transfers more than \$500,000 from either
25 the Facilities Operation, Maintenance, and Rehabili-

1 tation category or the Resources Management and
2 Development category to any program, project, or
3 activity in the other category; or

4 (7) transfers, where necessary to discharge legal
5 obligations of the Bureau of Reclamation, more than
6 \$5,000,000 to provide adequate funds for settled
7 contractor claims, increased contractor earnings due
8 to accelerated rates of operations, and real estate de-
9 ficiency judgments.

10 (b) Subsection (a)(5) shall not apply to any transfer
11 of funds within the Facilities Operation, Maintenance, and
12 Rehabilitation category.

13 (c) For purposes of this section, the term “transfer”
14 means any movement of funds into or out of a program,
15 project, or activity.

16 (d) The Bureau of Reclamation shall submit reports
17 on a quarterly basis to the Committees on Appropriations
18 of both Houses of Congress detailing all the funds repro-
19 grammed between programs, projects, activities, or cat-
20 egories of funding. The first quarterly report shall be sub-
21 mitted not later than 60 days after the date of enactment
22 of this Act.

23 SEC. 202. (a) None of the funds appropriated or oth-
24 erwise made available by this Act may be used to deter-
25 mine the final point of discharge for the interceptor drain

1 for the San Luis Unit until development by the Secretary
2 of the Interior and the State of California of a plan, which
3 shall conform to the water quality standards of the State
4 of California as approved by the Administrator of the En-
5 vironmental Protection Agency, to minimize any detri-
6 mental effect of the San Luis drainage waters.

7 (b) The costs of the Kesterson Reservoir Cleanup
8 Program and the costs of the San Joaquin Valley Drain-
9 age Program shall be classified by the Secretary of the
10 Interior as reimbursable or nonreimbursable and collected
11 until fully repaid pursuant to the “Cleanup Program—
12 Alternative Repayment Plan” and the “SJVDP—Alter-
13 native Repayment Plan” described in the report entitled
14 “Repayment Report, Kesterson Reservoir Cleanup Pro-
15 gram and San Joaquin Valley Drainage Program, Feb-
16 ruary 1995”, prepared by the Department of the Interior,
17 Bureau of Reclamation. Any future obligations of funds
18 by the United States relating to, or providing for, drainage
19 service or drainage studies for the San Luis Unit shall
20 be fully reimbursable by San Luis Unit beneficiaries of
21 such service or studies pursuant to Federal reclamation
22 law.

23 SEC. 203. Section 205(2) of division D of Public Law
24 114–113 is amended by striking “2016” and inserting
25 “2017”.

SEC. 204. (a) To maximize water supplies for the Central Valley Project and the State Water Project, in implementing the provisions of the smelt biological opinion or salmonid biological opinion, or any successor biological opinions or court orders, pertaining to management of reverse flow in the Old and Middle Rivers, the Secretary of the Interior shall—

(1) consider the relevant provisions of the applicable biological opinions or any successor biological opinions;

(2) manage export pumping rates to achieve a reverse OMR flow rate of -5,000 cubic feet per second unless existing information or that developed by the Secretary of the Interior under paragraphs (3) and (4) leads the Secretary to reasonably conclude, using the best scientific and commercial data available, that a less negative OMR flow rate is necessary to avoid a significant negative impact on the long-term survival of the species covered by the smelt biological opinion or salmonid biological opinion. If the best scientific and commercial data available to the Secretary indicates that a reverse OMR flow rate more negative than -5,000 cubic feet per second can

1 be established without an imminent negative impact
2 on the long-term survival of the species covered by
3 the smelt biological opinion or salmonid biological
4 opinion, the Secretary shall manage export pumping
5 rates to achieve that more negative OMR flow rate;

6 (3) document, in writing, any significant facts
7 about real-time conditions relevant to the determina-
8 tions of OMR reverse flow rates, including—

9 (A) whether targeted real-time fish moni-
10 toring pursuant to this section, including moni-
11 toring in the vicinity of Station 902, indicates
12 that a significant negative impact on the long-
13 term survival of species covered by the smelt bi-
14 ological opinion or salmonid biological opinion is
15 imminent; and

16 (B) whether near-term forecasts with avail-
17 able models show under prevailing conditions
18 that OMR flow of -5,000 cubic feet per second
19 or higher will cause a significant negative im-
20 pact on the long-term survival of species cov-
21 ered by the smelt biological opinion or salmonid
22 biological opinion;

23 (4) show, in writing, that any determination to
24 manage OMR reverse flow at rates less negative
25 than -5,000 cubic feet per second is necessary to

1 avoid a significant negative impact on the long-term
2 survival of species covered by the smelt biological
3 opinion or salmonid biological opinion, and provide,
4 in writing, an explanation of the data examined and
5 the connection between those data and the choice
6 made, after considering—

7 (A) the distribution of Delta smelt
8 throughout the Delta;

9 (B) the potential effects of documented,
10 quantified entrainment on subsequent Delta
11 smelt abundance;

12 (C) the water temperature;

13 (D) other significant factors relevant to
14 the determination; and

15 (E) whether any alternative measures
16 could have a substantially lesser water supply
17 impact; and

18 (5) for any subsequent smelt biological opinion
19 or salmonid biological opinion, make the showing re-
20 quired in paragraph (4) for any determination to
21 manage OMR reverse flow at rates less negative
22 than the most negative limit in the biological opinion
23 if the most negative limit in the biological opinion is
24 more negative than -5,000 cubic feet per second.

1 (b) NO REINITIATION OF CONSULTATION.—In imple-
2 menting or at the conclusion of actions under subsection
3 (a), the Secretary of the Interior or the Secretary of Com-
4 merce shall not reinitiate consultation on those adjusted
5 operations unless there is a significant negative impact on
6 the long-term survival of the species covered by the smelt
7 biological opinion or salmonid biological opinion. Any ac-
8 tion taken under subsection (a) that does not create a sig-
9 nificant negative impact on the long-term survival to spe-
10 cies covered by the smelt biological opinion or salmonid
11 biological opinion will not alter application of the take per-
12 mitted by the incidental take statement in the biological
13 opinion under section 7(o)(2) of the Endangered Species
14 Act of 1973.

15 (c) CALCULATION OF REVERSE FLOW IN OMR.—
16 Within 90 days of the enactment of this title, the Sec-
17 retary of the Interior is directed, in consultation with the
18 California Department of Water Resources to revise the
19 method used to calculate reverse flow in Old and Middle
20 Rivers, for implementation of the reasonable and prudent
21 alternatives in the smelt biological opinion and the
22 salmonid biological opinion, and any succeeding biological
23 opinions, for the purpose of increasing Central Valley
24 Project and State Water Project water supplies. The
25 method of calculating reverse flow in Old and Middle Riv-

1 ers shall be reevaluated not less than every five years
 2 thereafter to achieve maximum export pumping rates
 3 within limits established by the smelt biological opinion,
 4 the salmonid biological opinion, and any succeeding bio-
 5 logical opinions.

6 TEMPORARY OPERATIONAL FLEXIBILITY FOR FIRST FEW
 7 STORMS OF THE WATER YEAR

8 SEC. 205. (a) IN GENERAL.—Consistent with avoid-
 9 ing an immediate significant negative impact on the long-
 10 term survival upon listed fish species over and above the
 11 range of impacts authorized under the Endangered Spe-
 12 cies Act of 1973 and other environmental protections
 13 under subsection (d), the Secretary of the Interior and the
 14 Secretary of Commerce shall authorize the Central Valley
 15 Project and the California State Water Project, combined,
 16 to operate at levels that result in negative OMR flows at
 17 -7,500 cubic feet per second (based on United States Geo-
 18 logical Survey gauges on Old and Middle Rivers) daily av-
 19 erage as described in subsections (b) and (c) to capture
 20 peak flows during storm events.

21 (b) DAYS OF TEMPORARY OPERATIONAL FLEXI-
 22 BILITY.—The temporary operational flexibility described
 23 in subsection (a) shall be authorized on days that the Cali-
 24 fornia Department of Water Resources determines the net
 25 Sacramento-San Joaquin River Delta outflow index is at,
 26 or above, 13,000 cubic feet per second.

1 (c) COMPLIANCE WITH ENDANGERED SPECIES ACT

2 AUTHORIZATIONS.—In carrying out this section, the Sec-
3 retary of the Interior and the Secretary of Commerce may
4 continue to impose any requirements under the smelt bio-
5 logical opinion and salmonid biological opinion during any
6 period of temporary operational flexibility as they deter-
7 mine are reasonably necessary to avoid additional signifi-
8 cant negative impacts on the long-term survival of a listed
9 fish species over and above the range of impacts author-
10 ized under the Endangered Species Act of 1973, provided
11 that the requirements imposed do not reduce water sup-
12 plies available for the Central Valley Project and the Cali-
13 fornia State Water Project.

14 (d) OTHER ENVIRONMENTAL PROTECTIONS.—

15 (1) STATE LAW.—The actions of the Secretary
16 of the Interior and the Secretary of Commerce under
17 this section shall be consistent with applicable regu-
18 latory requirements under State law. The foregoing
19 does not constitute a waiver of sovereign immunity.

20 (2) FIRST SEDIMENT FLUSH.—During the first
21 flush of sediment out of the Sacramento-San Joa-
22 quin River Delta in each water year, and provided
23 that such determination is based upon objective evi-
24 dence, OMR flow may be managed at rates less neg-
25 ative than -5,000 cubic feet per second for a min-

imum duration to avoid movement of adult Delta smelt (*Hypomesus transpacificus*) to areas in the southern Sacramento-San Joaquin River Delta that would be likely to increase entrainment at Central Valley Project and California State Water Project pumping plants.

(3) APPLICABILITY OF OPINION.—This section shall not affect the application of the salmonid biological opinion from April 1 to May 31, unless the Secretary of Commerce finds, based on the best scientific and commercial data available, that some or all of such applicable requirements may be adjusted during this time period to provide emergency water supply relief without resulting in additional adverse effects over and above the range of impacts authorized under the Endangered Species Act of 1973. In addition to any other actions to benefit water supply, the Secretary of the Interior and the Secretary of Commerce shall consider allowing through-Delta water transfers to occur during this period if they can be accomplished consistent with section 3405(a)(1)(H) of the Central Valley Project Improvement Act. Water transfers solely or exclusively through the California State Water Project that do not require any use of Reclamation facilities or ap-

1 proval by Reclamation are not required to be con-
2 sistent with section 3405(a)(1)(H) of the Central
3 Valley Project Improvement Act.

4 (4) MONITORING.—During operations under
5 this section, the Commissioner of Reclamation, in
6 coordination with the United States Fish and Wild-
7 life Service, National Marine Fisheries Service, and
8 California Department of Fish and Wildlife, shall
9 undertake expanded monitoring programs and other
10 data gathering to improve Central Valley Project
11 and California State Water Project water supplies,
12 to ensure incidental take levels are not exceeded, and
13 to identify potential negative impacts, if any, and ac-
14 tions necessary to mitigate impacts of the temporary
15 operational flexibility to species listed under the En-
16 dangered Species Act of 1973 (16 U.S.C. 1531 et
17 seq.).

18 (e) EFFECT OF HIGH OUTFLOWS.—In recognition of
19 the high outflow levels from the Sacramento-San Joaquin
20 River Delta during the days this section is in effect under
21 subsection (b), the Secretary of the Interior and the Sec-
22 retary of Commerce shall not count such days toward the
23 5-day and 14-day running averages of tidally filtered daily
24 Old and Middle River flow requirements under the smelt
25 biological opinion and salmonid biological opinion, as long

1 as the Secretaries avoid significant negative impact on the
2 long-term survival of listed fish species over and above the
3 range of impacts authorized under the Endangered Spe-
4 cies Act of 1973.

5 (f) LEVEL OF DETAIL REQUIRED FOR ANALYSIS.—
6 In articulating the determinations required under this sec-
7 tion, the Secretary of the Interior and the Secretary of
8 Commerce shall fully satisfy the requirements herein but
9 shall not be expected to provide a greater level of sup-
10 porting detail for the analysis than feasible to provide
11 within the short timeframe permitted for timely decision
12 making in response to changing conditions in the Sac-
13 ramento-San Joaquin River Delta.

14 (g) OMR FLOWS.—The Secretary of the Interior and
15 the Secretary of Commerce shall, through the adaptive
16 management provisions in the salmonid biological opinion,
17 limit OMR reverse flow to -5,000 cubic feet per second
18 based on date-certain triggers in the salmonid biological
19 opinions only if using real-time migration information on
20 salmonids demonstrates that such action is necessary to
21 avoid a significant negative impact on the long-term sur-
22 vival of listed fish species over and above the range of im-
23 pacts authorized under the Endangered Species Act of
24 1973.

18 SEC. 206. (a) OFFSET FOR STATE WATER
19 PROJECT.—

(1) IMPLEMENTATION IMPACTS.—The Secretary of the Interior shall confer with the California Department of Fish and Wildlife in connection with the implementation of this section on potential impacts to any consistency determination for operations of the State Water Project issued pursuant to California Fish and Game Code section 2080.1.

1 (2) ADDITIONAL YIELD.—If, as a result of the
2 application of this section, the California Depart-
3 ment of Fish and Wildlife—

4 (A) determines that operations of the State
5 Water Project are inconsistent with the consist-
6 ency determinations issued pursuant to Cali-
7 fornia Fish and Game Code section 2080.1 for
8 operations of the State Water Project; or

9 (B) requires take authorization under Cali-
10 fornia Fish and Game Code section 2081 for
11 operation of the State Water Project in a man-
12 ner that directly or indirectly results in reduced
13 water supply to the State Water Project as
14 compared with the water supply available under
15 the smelt biological opinion and the salmonid
16 biological opinion; and as a result, Central Val-
17 ley Project yield is greater than it otherwise
18 would have been, then that additional yield
19 shall be made available to the State Water
20 Project for delivery to State Water Project con-
21 tractors to offset that reduced water supply.

22 (3) NOTIFICATION RELATED TO ENVIRON-
23 MENTAL PROTECTIONS.—The Secretary of the Inte-
24 rior and Secretary of Commerce shall—

1 (A) notify the Director of the California
2 Department of Fish and Wildlife regarding any
3 changes in the manner in which the smelt bio-
4 logical opinion or the salmonid biological opin-
5 ion is implemented; and

6 (B) confirm that those changes are con-
7 sistent with the Endangered Species Act of
8 1973 (16 U.S.C. 1531 et seq.).

9 (b) AREA OF ORIGIN AND WATER RIGHTS PROTEC-
10 TIONS.—

11 (1) IN GENERAL.—The Secretary of the Inte-
12 rior and the Secretary of Commerce, in carrying out
13 the mandates of this section, shall take no action
14 that—

15 (A) diminishes, impairs, or otherwise af-
16 fects in any manner any area of origin, water-
17 shed of origin, county of origin, or any other
18 water rights protection, including rights to
19 water appropriated before December 19, 1914,
20 provided under State law;

21 (B) limits, expands or otherwise affects the
22 application of section 10505, 10505.5, 11128,
23 11460, 11461, 11462, 11463 or 12200 through
24 12220 of the California Water Code or any
25 other provision of State water rights law, with-

1 out respect to whether such a provision is spe-
2 cifically referred to in this section; or

3 (C) diminishes, impairs, or otherwise af-
4 fects in any manner any water rights or water
5 rights priorities under applicable law.

6 (2) SECTION 7 OF THE ENDANGERED SPECIES
7 ACT.—Any action proposed to be undertaken by the
8 Secretary of the Interior and the Secretary of Com-
9 merce pursuant to both this section and section 7 of
10 the Endangered Species Act of 1973 (16 U.S.C.
11 1531 et seq.) shall be undertaken in a manner that
12 does not alter water rights or water rights priorities
13 established by California law or it shall not be un-
14 dertaken at all. Nothing in this subsection affects
15 the obligations of the Secretary of the Interior and
16 the Secretary of Commerce under section 7 of the
17 Endangered Species Act of 1973.

18 (3) EFFECT OF ACT.—

19 (A) Nothing in this section affects or modi-
20 fies any obligation of the Secretary of the Inte-
21 rior under section 8 of the Act of June 17,
22 1902 (32 Stat. 390, chapter 1093).

23 (B) Nothing in this section diminishes, im-
24 pairs, or otherwise affects in any manner any
25 Project purposes or priorities for the allocation,

1 delivery or use of water under applicable law,
2 including the Project purposes and priorities es-
3 tablished under section 3402 and section 3406
4 of the Central Valley Project Improvement Act
5 (Public Law 102–575; 106 Stat. 4706).

6 (c) NO REDIRECTED ADVERSE IMPACTS.—

7 (1) IN GENERAL.—The Secretary of the Inte-
8 rior and Secretary of Commerce shall not carry out
9 any specific action authorized under this section that
10 will directly or through State agency action indi-
11 rectly result in the involuntary reduction of water
12 supply to an individual, district, or agency that has
13 in effect a contract for water with the State Water
14 Project or the Central Valley Project, including Set-
15 tlement and Exchange contracts, refuge contracts,
16 and Friant Division contracts, as compared to the
17 water supply that would be provided in the absence
18 of action under this section, and nothing in this sec-
19 tion is intended to modify, amend or affect any of
20 the rights and obligations of the parties to such con-
21 tracts.

22 (2) ACTION ON DETERMINATION.—If, after ex-
23 ploring all options, the Secretary of the Interior or
24 the Secretary of Commerce makes a final determina-
25 tion that a proposed action under this section cannot

1 be carried out in accordance with paragraph (1),
 2 that Secretary—

3 (A) shall document that determination in
 4 writing for that action, including a statement of
 5 the facts relied on, and an explanation of the
 6 basis, for the decision;

7 (B) may exercise the Secretary’s existing
 8 authority, including authority to undertake the
 9 drought-related actions otherwise addressed in
 10 this title, or to otherwise comply with other ap-
 11 plicable law, including the Endangered Species
 12 Act of 1973 (16 U.S.C. 1531 et seq.); and

13 (C) shall comply with subsection (a).

14 (d) ALLOCATIONS FOR SACRAMENTO VALLEY WATER
 15 SERVICE CONTRACTORS.—

16 (1) DEFINITIONS.—In this subsection:

17 (A) EXISTING CENTRAL VALLEY PROJECT
 18 AGRICULTURAL WATER SERVICE CONTRACTOR
 19 WITHIN THE SACRAMENTO RIVER WATER-
 20 SHED.—The term “existing Central Valley
 21 Project agricultural water service contractor
 22 within the Sacramento River Watershed”
 23 means any water service contractor within the
 24 Shasta, Trinity, or Sacramento River division of
 25 the Central Valley Project that has in effect a

1 water service contract on the date of enactment
2 of this section that provides water for irriga-
3 tion.

4 (B) YEAR TERMS.—The terms “Above
5 Normal”, “Below Normal”, “Dry”, and “Wet”,
6 with respect to a year, have the meanings given
7 those terms in the Sacramento Valley Water
8 Year Type (40–30–30) Index.

9 (2) ALLOCATIONS OF WATER.—

10 (A) ALLOCATIONS.—Subject to subsection
11 (c), the Secretary of the Interior shall make
12 every reasonable effort in the operation of the
13 Central Valley Project to allocate water pro-
14 vided for irrigation purposes to each existing
15 Central Valley Project agricultural water service
16 contractor within the Sacramento River Water-
17 shed in accordance with the following:

18 (i) Not less than 100 percent of the
19 contract quantity of the existing Central
20 Valley Project agricultural water service
21 contractor within the Sacramento River
22 Watershed in a “Wet” year.

23 (ii) Not less than 100 percent of the
24 contract quantity of the existing Central
25 Valley Project agricultural water service

1 Contractor within the Sacramento River
2 Watershed in an “Above Normal” year.

3 (iii) Not less than 100 percent of the
4 contract quantity of the existing Central
5 Valley Project agricultural water service
6 contractor within the Sacramento River
7 Watershed in a “Below Normal” year that
8 is preceded by an “Above Normal” or
9 “Wet” year.

10 (iv) Not less than 50 percent of the
11 contract quantity of the existing Central
12 Valley Project agricultural water service
13 contractor within the Sacramento River
14 Watershed in a “Dry” year that is pre-
15 ceded by a “Below Normal”, “Above Nor-
16 mal”, or “Wet” year.

17 (v) Subject to clause (ii), in any other
18 year not identified in any of clauses (i)
19 through (iv), not less than twice the alloca-
20 tion percentage to south-of-Delta Central
21 Valley Project agricultural water service
22 contractors, up to 100 percent.

23 (B) EFFECT OF CLAUSE.—Nothing in
24 clause (A)(v) precludes an allocation to an ex-
25 isting Central Valley Project agricultural water

1 service contractor within the Sacramento River
2 Watershed that is greater than twice the alloca-
3 tion percentage to a south-of-Delta Central Val-
4 ley Project agricultural water service con-
5 tractor.

6 (3) PROTECTION OF ENVIRONMENT, MUNICIPAL
7 AND INDUSTRIAL SUPPLIES, AND OTHER CONTRAC-
8 TORS.—

9 (A) ENVIRONMENT.—Nothing in para-
10 graph (2) shall adversely affect—

11 (i) the cold water pool behind Shasta
12 Dam;

13 (ii) the obligation of the Secretary of
14 the Interior to make water available to
15 managed wetlands pursuant to section
16 3406(d) of the Central Valley Project Im-
17 provement Act (Public Law 102–575; 106
18 Stat. 4722); or

19 (iii) any obligation—

20 (I) of the Secretary of the Inte-
21 rior and the Secretary of Commerce
22 under the smelt biological opinion, the
23 salmonid biological opinion, or any
24 other applicable biological opinion; or

1 (II) under the Endangered Spe-
2 cies Act of 1973 (16 U.S.C. 1531 et
3 seq.) or any other applicable law (in-
4 cluding regulations).

5 (B) MUNICIPAL AND INDUSTRIAL SUP-
6 PLIES.—Nothing in paragraph (2)—

7 (i) modifies any provision of a water
8 Service contract that addresses municipal
9 or industrial water shortage policies of the
10 Secretary of the Interior and the Secretary
11 of Commerce;

12 (ii) affects or limits the authority of
13 the Secretary of the Interior and the Sec-
14 retary of Commerce to adopt or modify
15 municipal and industrial water shortage
16 policies;

17 (iii) affects or limits the authority of
18 the Secretary of the Interior and the Sec-
19 retary of Commerce to implement a munic-
20 ipal or industrial water shortage policy;

21 (iv) constrains, governs, or affects, di-
22 rectly or indirectly, the operations of the
23 American River division of the Central Val-
24 ley Project or any deliveries from that divi-

1 sion or a unit or facility of that division;
2 or

3 (v) affects any allocation to a Central
4 Valley Project municipal or industrial
5 water service contractor by increasing or
6 decreasing allocations to the contractor, as
7 compared to the allocation the contractor
8 would have received absent paragraph (2).

9 (C) OTHER CONTRACTORS.—Nothing in
10 subsection (b)—

11 (i) affects the priority of any indi-
12 vidual or entity with Sacramento River
13 water rights, including an individual or en-
14 tity with a Sacramento River settlement
15 contract, that has priority to the diversion
16 and use of Sacramento River water over
17 water rights held by the United States for
18 operations of the Central Valley Project;

19 (ii) affects the obligation of the
20 United States to make a substitute supply
21 of water available to the San Joaquin
22 River exchange contractors;

23 (iii) affects the allocation of water to
24 Friant division contractors of the Central
25 Valley Project;

1 (iv) results in the involuntary reduc-
2 tion in contract water allocations to indi-
3 viduals or entities with contracts to receive
4 water from the Friant division; or
5 (v) authorizes any actions inconsistent
6 with State water rights law.

7 SEC. 207. None of the funds in this Act shall be avail-
8 able to implement the Stipulation of Settlement (Natural
9 Resources Defense Council, et al. v. Kirk Rodgers, et al.,
10 Eastern District of California, No. Civ. 9 S-88-1658
11 LKK/GGH) or subtitle A of title X of Public Law 111-
12 11.

13 SEC. 208. None of the funds in this Act shall be avail-
14 able for the purchase of water in the State of California
15 to supplement instream flow within a river basin that has
16 suffered a drought within the last two years.

17 SEC. 209. The Commissioner of Reclamation is di-
18 rected to work with local water and irrigation districts in
19 the Stanislaus River Basin to ascertain the water storage
20 made available by the Draft Plan of Operations in New
21 Melones Reservoir (DRPO) for water conservation pro-
22 grams, conjunctive use projects, water transfers, resched-
23 uled project water and other projects to maximize water
24 storage and ensure the beneficial use of the water re-
25 sources in the Stanislaus River Basin. All such programs

1 and projects shall be implemented according to all applica-
2 ble laws and regulations. The source of water for any such
3 storage program at New Melones Reservoir shall be made
4 available under a valid water right, consistent with the
5 State water transfer guidelines and any other applicable
6 State water law. The Commissioner shall inform the Con-
7 gress within 18 months setting forth the amount of stor-
8 age made available by the DRPO that has been put to
9 use under this program, including proposals received by
10 the Commissioner from interested parties for the purpose
11 of this section.

12 TITLE III

13 DEPARTMENT OF ENERGY

14 ENERGY PROGRAMS

15 ENERGY EFFICIENCY AND RENEWABLE ENERGY

16 For Department of Energy expenses including the
17 purchase, construction, and acquisition of plant and cap-
18 ital equipment, and other expenses necessary for energy
19 efficiency and renewable energy activities in carrying out
20 the purposes of the Department of Energy Organization
21 Act (42 U.S.C. 7101 et seq.), including the acquisition or
22 condemnation of any real property or any facility or for
23 plant or facility acquisition, construction, or expansion,
24 \$1,825,000,000, to remain available until expended: *Pro-*

1 *vided*, That of such amount, \$149,500,000 shall be avail-
2 able until September 30, 2018, for program direction.

3 ELECTRICITY DELIVERY AND ENERGY RELIABILITY

4 For Department of Energy expenses including the
5 purchase, construction, and acquisition of plant and cap-
6 ital equipment, and other expenses necessary for elec-
7 tricity delivery and energy reliability activities in carrying
8 out the purposes of the Department of Energy Organiza-
9 tion Act (42 U.S.C. 7101 et seq.), including the acquisi-
10 tion or condemnation of any real property or any facility
11 or for plant or facility acquisition, construction, or expan-
12 sion, \$225,000,000, to remain available until expended:

13 *Provided*, That of such amount, \$28,000,000 shall be
14 available until September 30, 2018, for program direction.

15 NUCLEAR ENERGY

16 For Department of Energy expenses including the
17 purchase, construction, and acquisition of plant and cap-
18 ital equipment, and other expenses necessary for nuclear
19 energy activities in carrying out the purposes of the De-
20 partment of Energy Organization Act (42 U.S.C. 7101 et
21 seq.), including the acquisition or condemnation of any
22 real property or any facility or for plant or facility acquisi-
23 tion, construction, or expansion and the purchase of no
24 more than three emergency service vehicles for replace-
25 ment only, \$1,011,616,000, to remain available until ex-

1 pended: *Provided*, That of such amount, \$80,000,000 shall
 2 be available until September 30, 2018, for program direc-
 3 tion.

4 FOSSIL ENERGY RESEARCH AND DEVELOPMENT

5 For Department of Energy expenses necessary in car-
 6 rying out fossil energy research and development activi-
 7 ties, under the authority of the Department of Energy Or-
 8 ganization Act (42 U.S.C. 7101 et seq.), including the ac-
 9 quisition of interest, including defeasible and equitable in-
 10 terests in any real property or any facility or for plant
 11 or facility acquisition or expansion, and for conducting in-
 12 quiries, technological investigations and research con-
 13 cerning the extraction, processing, use, and disposal of
 14 mineral substances without objectionable social and envi-
 15 ronmental costs (30 U.S.C. 3, 1602, and 1603),
 16 \$645,000,000, to remain available until expended: *Pro-*
 17 *vided*, That of such amount \$59,475,000 shall be available
 18 until September 30, 2018, for program direction.

19 OFFICE OF TECHNOLOGY TRANSITIONS

20 For Department of Energy expenses necessary for
 21 technology transitions and commercialization activities in
 22 carrying out the purposes of the Department of Energy
 23 Organization Act (42 U.S.C. 7101 et seq.), section 1001
 24 of the Energy Policy Act of 2005 (42 U.S.C. 16391), and
 25 the Stevenson-Wydler Technology Innovation Act of 1980

1 (15 U.S.C. 3701 et seq.), \$7,000,000, to remain available
2 until September 30, 2018.

3 NAVAL PETROLEUM AND OIL SHALE RESERVES

4 For Department of Energy expenses necessary to
5 carry out naval petroleum and oil shale reserve activities,
6 \$14,950,000, to remain available until expended: *Pro-*
7 *vided*, That notwithstanding any other provision of law,
8 unobligated funds remaining from prior years shall be
9 available for all naval petroleum and oil shale reserve ac-
10 tivities.

11 STRATEGIC PETROLEUM RESERVE

12 For Department of Energy expenses necessary for
13 Strategic Petroleum Reserve facility development and op-
14 erations and program management activities pursuant to
15 the Energy Policy and Conservation Act (42 U.S.C. 6201
16 et seq.), \$257,000,000, to remain available until expended.

17 NORTHEAST HOME HEATING OIL RESERVE

18 For Department of Energy expenses necessary for
19 Northeast Home Heating Oil Reserve storage, operation,
20 and management activities pursuant to the Energy Policy
21 and Conservation Act (42 U.S.C. 6201 et seq.),
22 \$6,500,000, to remain available until expended.

23 ENERGY INFORMATION ADMINISTRATION

24 For Department of Energy expenses necessary in car-
25 rying out the activities of the Energy Information Admin-

1 istration, \$122,000,000, to remain available until ex-
2 pended.

3 NON-DEFENSE ENVIRONMENTAL CLEANUP

4 For Department of Energy expenses, including the
5 purchase, construction, and acquisition of plant and cap-
6 ital equipment and other expenses necessary for non-de-
7 fense environmental cleanup activities in carrying out the
8 purposes of the Department of Energy Organization Act
9 (42 U.S.C. 7101 et seq.), including the acquisition or con-
10 demnation of any real property or any facility or for plant
11 or facility acquisition, construction, or expansion,
12 \$226,745,000, to remain available until expended.

13 URANIUM ENRICHMENT DECONTAMINATION AND
14 DECOMMISSIONING FUND

15 For Department of Energy expenses necessary in car-
16 rying out uranium enrichment facility decontamination
17 and decommissioning, remedial actions, and other activi-
18 ties of title II of the Atomic Energy Act of 1954 (42
19 U.S.C. 2297f et seq.) and title A, subtitle X, of the Energy
20 Policy Act of 1992 (42 U.S.C. 2296a et seq.),
21 \$698,540,000, to be derived from the Uranium Enrich-
22 ment Decontamination and Decommissioning Fund, to re-
23 main available until expended, of which \$32,959,000 shall
24 be available in accordance with title A, subtitle X, of the
25 Energy Policy Act of 1992.

1 SCIENCE

2 For Department of Energy expenses including the
3 purchase, construction, and acquisition of plant and cap-
4 ital equipment, and other expenses necessary for science
5 activities in carrying out the purposes of the Department
6 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
7 cluding the acquisition or condemnation of any real prop-
8 erty or facility or for plant or facility acquisition, construc-
9 tion, or expansion, and purchase of not more than 17 pas-
10 senger motor vehicles for replacement only, including one
11 ambulance and one bus, \$5,400,000,000, to remain avail-
12 able until expended: *Provided*, That of such amount,
13 \$184,697,000 shall be available until September 30, 2018,
14 for program direction.

15 NUCLEAR WASTE DISPOSAL

16 For nuclear waste disposal activities to carry out the
17 purposes of the Nuclear Waste Policy Act of 1982 (Public
18 Law 97–425), including the acquisition of real property
19 or facility construction or expansion, \$150,000,000, to re-
20 main available until expended, and to be derived from the
21 Nuclear Waste Fund: *Provided*, That of the amount pro-
22 vided under this heading, \$5,000,000 shall be made avail-
23 able to affected units of local government, as defined in
24 section 2(31) of the Nuclear Waste Policy Act of 1982

1 (42 U.S.C. 10101(31)), to support the Yucca Mountain
 2 geologic repository, as authorized by such Act.

3 ADVANCED RESEARCH PROJECTS AGENCY—ENERGY

4 For Department of Energy expenses necessary in car-
 5 rying out the activities authorized by section 5012 of the
 6 America COMPETES Act (42 U.S.C. 16538),
 7 \$305,889,000, to remain available until expended: *Pro-*
 8 *vided*, That of such amount, \$29,250,000 shall be avail-
 9 able until September 30, 2018, for program direction.

10 TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE
 11 PROGRAM

12 Such sums as are derived from amounts received
 13 from borrowers pursuant to section 1702(b) of the Energy
 14 Policy Act of 2005 (42 U.S.C. 16512(b)) under this head-
 15 ing in prior Acts, shall be collected in accordance with sec-
 16 tion 502(7) of the Congressional Budget Act of 1974: *Pro-*
 17 *vided*, That for necessary administrative expenses to carry
 18 out this Loan Guarantee program, \$37,000,000 is appro-
 19 priated, to remain available until September 30, 2018:
 20 *Provided further*, That \$30,000,000 of the fees collected
 21 pursuant to section 1702(h) of the Energy Policy Act of
 22 2005 shall be credited as offsetting collections to this ac-
 23 count to cover administrative expenses and shall remain
 24 available until expended, so as to result in a final fiscal
 25 year 2017 appropriation from the general fund estimated

For Department of Energy administrative expenses necessary in carrying out the Advanced Technology Vehicles Manufacturing Loan Program, \$5,000,000, to remain available until September 30, 2018.

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.), \$233,971,000, to remain available until September 30, 2018, including the hire of passenger motor vehicles and official reception and representation expenses not to exceed \$30,000, plus such additional amounts as necessary to cover increases in the

1 estimated amount of cost of work for others notwith-
2 standing the provisions of the Anti-Deficiency Act (31
3 U.S.C. 1511 et seq.): *Provided*, That such increases in
4 cost of work are offset by revenue increases of the same
5 or greater amount: *Provided further*, That moneys received
6 by the Department for miscellaneous revenues estimated
7 to total \$103,000,000 in fiscal year 2017 may be retained
8 and used for operating expenses within this account, as
9 authorized by section 201 of Public Law 95–238, notwith-
10 standing the provisions of 31 U.S.C. 3302: *Provided fur-*
11 *ther*, That the sum herein appropriated shall be reduced
12 as collections are received during the fiscal year so as to
13 result in a final fiscal year 2017 appropriation from the
14 general fund estimated at not more than \$130,971,000:
15 *Provided further*, That of the total amount made available
16 under this heading, \$31,000,000 is for Energy Policy and
17 Systems Analysis.

18 OFFICE OF THE INSPECTOR GENERAL

19 For expenses necessary for the Office of the Inspector
20 General in carrying out the provisions of the Inspector
21 General Act of 1978, \$44,424,000, to remain available
22 until September 30, 2018.

1 ATOMIC ENERGY DEFENSE ACTIVITIES

2 NATIONAL NUCLEAR SECURITY

3 ADMINISTRATION

4 WEAPONS ACTIVITIES

5 (INCLUDING RESCISSION OF FUNDS)

6 For Department of Energy expenses, including the
7 purchase, construction, and acquisition of plant and cap-
8 ital equipment and other incidental expenses necessary for
9 atomic energy defense weapons activities in carrying out
10 the purposes of the Department of Energy Organization
11 Act (42 U.S.C. 7101 et seq.), including the acquisition or
12 condemnation of any real property or any facility or for
13 plant or facility acquisition, construction, or expansion,
14 \$9,285,147,000, to remain available until expended: *Pro-*
15 *vided*, That of such amount, \$97,118,000 shall be avail-
16 able until September 30, 2018, for program direction: *Pro-*
17 *vided further*, That of the unobligated balances from prior
18 year appropriations available under this heading,
19 \$42,000,000 is hereby rescinded: *Provided further*, That
20 no amounts may be rescinded from amounts that were
21 designated by the Congress as an emergency requirement
22 pursuant to a concurrent resolution on the budget or the
23 Balanced Budget and Emergency Deficit Control Act of
24 1985.

1 DEFENSE NUCLEAR NONPROLIFERATION

2 (INCLUDING RESCISSION OF FUNDS)

3 For Department of Energy expenses, including the
4 purchase, construction, and acquisition of plant and cap-
5 ital equipment and other incidental expenses necessary for
6 defense nuclear nonproliferation activities, in carrying out
7 the purposes of the Department of Energy Organization
8 Act (42 U.S.C. 7101 et seq.), including the acquisition or
9 condemnation of any real property or any facility or for
10 plant or facility acquisition, construction, or expansion,
11 \$1,821,916,000, to remain available until expended: *Pro-*
12 *vided*, That funds provided by this Act for Project 99–
13 D–143, Mixed Oxide Fuel Fabrication Facility, and by
14 prior Acts that remain unobligated for such Project, may
15 be made available only for construction and program sup-
16 port activities for such Project: *Provided further*, That of
17 the unobligated balances from prior year appropriations
18 available under this heading, \$14,000,000 is hereby re-
19 scinded: *Provided further*, That no amounts may be re-
20 scinded from amounts that were designated by the Con-
21 gress as an emergency requirement pursuant to a concur-
22 rent resolution on the budget or the Balanced Budget and
23 Emergency Deficit Control Act of 1985.

For Department of Energy expenses necessary for all reactors activities to carry out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, \$20,120,000, to remain available until expended: *Provided*, That of such amount, \$44,100,000 shall be available until September 30, 2018, for program direction.

For expenses necessary for Federal Salaries and Expenses in the National Nuclear Security Administration, \$2,387,000, to remain available until September 30, 2018, including official reception and representation expenses not to exceed \$12,000.

DEFENSE ENVIRONMENTAL CLEANUP

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 cleanup activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acqui-

1 sition or condemnation of any real property or any facility
2 or for plant or facility acquisition, construction, or expan-
3 sion, and the purchase of not to exceed one fire apparatus
4 pumper truck, one aerial lift truck, one refuse truck, and
5 one semi-truck for replacement only, \$5,226,950,000, to
6 remain available until expended: *Provided*, That of such
7 amount, \$290,050,000 shall be available until September
8 30, 2018, for program direction: *Provided further*, That
9 of such amount, \$26,800,000 shall be available for the
10 purpose of a payment by the Secretary of Energy to the
11 State of New Mexico for road improvements in accordance
12 with section 15(b) of the Waste Isolation Pilot Plant Land
13 Withdrawal Act (Public Law 102–579): *Provided further*,
14 That the amount made available by the previous proviso
15 shall be separate from any appropriations of funds for the
16 Waste Isolation Pilot Plant.

17 OTHER DEFENSE ACTIVITIES

18 For Department of Energy expenses, including the
19 purchase, construction, and acquisition of plant and cap-
20 ital equipment and other expenses, necessary for atomic
21 energy defense, other defense activities, and classified ac-
22 tivities, in carrying out the purposes of the Department
23 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
24 cluding the acquisition or condemnation of any real prop-
25 erty or any facility or for plant or facility acquisition, con-

1 struction, or expansion, \$776,425,000, to remain available
 2 until expended: *Provided*, That of such amount,
 3 \$254,230,000 shall be available until September 30, 2018,
 4 for program direction.

5 POWER MARKETING ADMINISTRATIONS

6 BONNEVILLE POWER ADMINISTRATION FUND

7 Expenditures from the Bonneville Power Administra-
 8 tion Fund, established pursuant to Public Law 93-454,
 9 are approved for official reception and representation ex-
 10 penses in an amount not to exceed \$5,000: *Provided*, That
 11 during fiscal year 2017, no new direct loan obligations
 12 may be made.

13 OPERATION AND MAINTENANCE, SOUTHEASTERN POWER 14 ADMINISTRATION

15 For expenses necessary for operation and mainte-
 16 nance of power transmission facilities and for marketing
 17 electric power and energy, including transmission wheeling
 18 and ancillary services, pursuant to section 5 of the Flood
 19 Control Act of 1944 (16 U.S.C. 825s), as applied to the
 20 southeastern power area, \$1,000,000, including official re-
 21 ception and representation expenses in an amount not to
 22 exceed \$1,500, to remain available until expended: *Pro-*
 23 *vided*, That notwithstanding 31 U.S.C. 3302 and section
 24 5 of the Flood Control Act of 1944, up to \$1,000,000 col-
 25 lected by the Southeastern Power Administration from the

1 sale of power and related services shall be credited to this
2 account as discretionary offsetting collections, to remain
3 available until expended for the sole purpose of funding
4 the annual expenses of the Southeastern Power Adminis-
5 tration: *Provided further*, That the sum herein appro-
6 priated for annual expenses shall be reduced as collections
7 are received during the fiscal year so as to result in a final
8 fiscal year 2017 appropriation estimated at not more than
9 \$0: *Provided further*, That notwithstanding 31 U.S.C.
10 3302, up to \$60,760,000 collected by the Southeastern
11 Power Administration pursuant to the Flood Control Act
12 of 1944 to recover purchase power and wheeling expenses
13 shall be credited to this account as offsetting collections,
14 to remain available until expended for the sole purpose
15 of making purchase power and wheeling expenditures:
16 *Provided further*, That for purposes of this appropriation,
17 annual expenses means expenditures that are generally re-
18 covered in the same year that they are incurred (excluding
19 purchase power and wheeling expenses).

20 OPERATION AND MAINTENANCE, SOUTHWESTERN

21 POWER ADMINISTRATION

22 For expenses necessary for operation and mainte-
23 nance of power transmission facilities and for marketing
24 electric power and energy, for construction and acquisition
25 of transmission lines, substations and appurtenant facili-

1 ties, and for administrative expenses, including official re-
2 ception and representation expenses in an amount not to
3 exceed \$1,500 in carrying out section 5 of the Flood Con-
4 trol Act of 1944 (16 U.S.C. 825s), as applied to the
5 Southwestern Power Administration, \$45,643,000, to re-
6 main available until expended: *Provided*, That notwith-
7 standing 31 U.S.C. 3302 and section 5 of the Flood Con-
8 trol Act of 1944 (16 U.S.C. 825s), up to \$34,586,000 col-
9 lected by the Southwestern Power Administration from
10 the sale of power and related services shall be credited to
11 this account as discretionary offsetting collections, to re-
12 main available until expended, for the sole purpose of
13 funding the annual expenses of the Southwestern Power
14 Administration: *Provided further*, That the sum herein ap-
15 propriated for annual expenses shall be reduced as collec-
16 tions are received during the fiscal year so as to result
17 in a final fiscal year 2017 appropriation estimated at not
18 more than \$11,057,000: *Provided further*, That notwith-
19 standing 31 U.S.C. 3302, up to \$73,000,000 collected by
20 the Southwestern Power Administration pursuant to the
21 Flood Control Act of 1944 to recover purchase power and
22 wheeling expenses shall be credited to this account as off-
23 setting collections, to remain available until expended for
24 the sole purpose of making purchase power and wheeling
25 expenditures: *Provided further*, That for purposes of this

1 appropriation, annual expenses means expenditures that
2 are generally recovered in the same year that they are in-
3 curred (excluding purchase power and wheeling expenses).

4 CONSTRUCTION, REHABILITATION, OPERATION AND
5 MAINTENANCE, WESTERN AREA POWER ADMINIS-
6 TRATION

7 For carrying out the functions authorized by title III,
8 section 302(a)(1)(E) of the Act of August 4, 1977 (42
9 U.S.C. 7152), and other related activities including con-
10 servation and renewable resources programs as author-
11 ized, \$307,144,000, including official reception and rep-
12 resentation expenses in an amount not to exceed \$1,500,
13 to remain available until expended, of which \$299,742,000
14 shall be derived from the Department of the Interior Rec-
15 lamation Fund: *Provided*, That notwithstanding 31 U.S.C.
16 3302, section 5 of the Flood Control Act of 1944 (16
17 U.S.C. 825s), and section 1 of the Interior Department
18 Appropriation Act, 1939 (43 U.S.C. 392a), up to
19 \$211,563,000 collected by the Western Area Power Ad-
20 ministration from the sale of power and related services
21 shall be credited to this account as discretionary offsetting
22 collections, to remain available until expended, for the sole
23 purpose of funding the annual expenses of the Western
24 Area Power Administration: *Provided further*, That the
25 sum herein appropriated for annual expenses shall be re-

1 duced as collections are received during the fiscal year so
2 as to result in a final fiscal year 2017 appropriation esti-
3 mated at not more than \$95,581,000, of which
4 \$88,179,000 is derived from the Reclamation Fund: *Pro-*
5 *vided further*, That notwithstanding 31 U.S.C. 3302, up
6 to \$367,009,000 collected by the Western Area Power Ad-
7 ministration pursuant to the Flood Control Act of 1944
8 and the Reclamation Project Act of 1939 to recover pur-
9 chase power and wheeling expenses shall be credited to
10 this account as offsetting collections, to remain available
11 until expended for the sole purpose of making purchase
12 power and wheeling expenditures: *Provided further*, That
13 for purposes of this appropriation, annual expenses means
14 expenditures that are generally recovered in the same year
15 that they are incurred (excluding purchase power and
16 wheeling expenses).

17 FALCON AND AMISTAD OPERATING AND MAINTENANCE
18 FUND

19 For operation, maintenance, and emergency costs for
20 the hydroelectric facilities at the Falcon and Amistad
21 Dams, \$4,070,000, to remain available until expended,
22 and to be derived from the Falcon and Amistad Operating
23 and Maintenance Fund of the Western Area Power Ad-
24 ministration, as provided in section 2 of the Act of June
25 18, 1954 (68 Stat. 255): *Provided*, That notwithstanding

1 the provisions of that Act and of 31 U.S.C. 3302, up to
2 \$3,838,000 collected by the Western Area Power Adminis-
3 tration from the sale of power and related services from
4 the Falcon and Amistad Dams shall be credited to this
5 account as discretionary offsetting collections, to remain
6 available until expended for the sole purpose of funding
7 the annual expenses of the hydroelectric facilities of these
8 Dams and associated Western Area Power Administration
9 activities: *Provided further*, That the sum herein appro-
10 priated for annual expenses shall be reduced as collections
11 are received during the fiscal year so as to result in a final
12 fiscal year 2017 appropriation estimated at not more than
13 \$232,000: *Provided further*, That for purposes of this ap-
14 propriation, annual expenses means expenditures that are
15 generally recovered in the same year that they are in-
16 curred: *Provided further*, That for fiscal year 2017, the
17 Administrator of the Western Area Power Administration
18 may accept up to \$323,000 in funds contributed by United
19 States power customers of the Falcon and Amistad Dams
20 for deposit into the Falcon and Amistad Operating and
21 Maintenance Fund, and such funds shall be available for
22 the purpose for which contributed in like manner as if said
23 sums had been specifically appropriated for such purpose:
24 *Provided further*, That any such funds shall be available
25 without further appropriation and without fiscal year limi-

1 tation for use by the Commissioner of the United States
2 Section of the International Boundary and Water Com-
3 mission for the sole purpose of operating, maintaining, re-
4 pairing, rehabilitating, replacing, or upgrading the hydro-
5 electric facilities at these Dams in accordance with agree-
6 ments reached between the Administrator, Commissioner,
7 and the power customers.

8 FEDERAL ENERGY REGULATORY COMMISSION

9 SALARIES AND EXPENSES

10 For expenses necessary for the Federal Energy Regu-
11 latory Commission to carry out the provisions of the De-
12 partment of Energy Organization Act (42 U.S.C. 7101 et
13 seq.), including services as authorized by 5 U.S.C. 3109,
14 official reception and representation expenses not to ex-
15 ceed \$3,000, and the hire of passenger motor vehicles,
16 \$346,800,000, to remain available until expended: *Pro-*
17 *vided*, That notwithstanding any other provision of law,
18 not to exceed \$346,800,000 of revenues from fees and an-
19 nual charges, and other services and collections in fiscal
20 year 2017 shall be retained and used for expenses nec-
21 essary in this account, and shall remain available until ex-
22 pended: *Provided further*, That the sum herein appro-
23 priated from the general fund shall be reduced as revenues
24 are received during fiscal year 2017 so as to result in a

3 GENERAL PROVISIONS—DEPARTMENT OF
4 ENERGY

6 SEC. 301. (a) No appropriation, funds, or authority
7 made available by this title for the Department of Energy
8 shall be used to initiate or resume any program, project,
9 or activity or to prepare or initiate Requests For Proposals
10 or similar arrangements (including Requests for
11 Quotations, Requests for Information, and Funding Op-
12 portunity Announcements) for a program, project, or ac-
13 tivity if the program, project, or activity has not been
14 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—

19 (A) make a grant allocation or discretionary
20 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;

1 (C) issue a letter of intent to make an alloca-
2 tion, award, or Agreement in excess of the limits in
3 subparagraph (A) or (B); or

4 (D) announce publicly the intention to make an
5 allocation, award, or Agreement in excess of the lim-
6 its in subparagraph (A) or (B).

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

13 (3) The notification required by paragraph (1) and
14 the report required by paragraph (2) shall include the re-
15 cipient of the award, the amount of the award, the fiscal
16 year for which the funds for the award were appropriated,
17 the account and program, project, or activity from which
18 the funds are being drawn, the title of the award, and
19 a brief description of the activity for which the award is
20 made.

21 (c) The Department of Energy may not, with respect
22 to any program, project, or activity that uses budget au-
23 thority made available in this title under the heading “De-
24 partment of Energy—Energy Programs”, enter into a

1 multiyear contract, award a multiyear grant, or enter into
2 a multiyear cooperative agreement unless—

3 (1) the contract, grant, or cooperative agree-
4 ment is funded for the full period of performance as
5 anticipated at the time of award; or

6 (2) the contract, grant, or cooperative agree-
7 ment includes a clause conditioning the Federal Gov-
8 ernment's obligation on the availability of future
9 year budget authority and the Secretary notifies the
10 Committees on Appropriations of both Houses of
11 Congress at least 3 days in advance.

12 (d) Except as provided in subsections (e), (f), and (g),
13 the amounts made available by this title shall be expended
14 as authorized by law for the programs, projects, and ac-
15 tivities specified in the "Bill" column in the "Department
16 of Energy" table included under the heading "Title III—
17 Department of Energy" in the report of the Committee
18 on Appropriations accompanying this Act.

19 (e) The amounts made available by this title may be
20 reprogrammed for any program, project, or activity, and
21 the Department shall notify the Committees on Appropria-
22 tions of both Houses of Congress at least 30 days prior
23 to the use of any proposed reprogramming that would
24 cause any program, project, or activity funding level to
25 increase or decrease by more than \$5,000,000 or 10 per-

1 cent, whichever is less, during the time period covered by
2 this Act.

3 (f) None of the funds provided in this title shall be
4 available for obligation or expenditure through a re-
5 programming of funds that—

6 (1) creates, initiates, or eliminates a program,
7 project, or activity;

8 (2) increases funds or personnel for any pro-
9 gram, project, or activity for which funds are denied
10 or restricted by this Act; or

11 (3) reduces funds that are directed to be used
12 for a specific program, project, or activity by this
13 Act.

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

20 (2) The Secretary of Energy shall notify the Commit-
21 tees on Appropriations of both Houses of Congress of any
22 waiver under paragraph (1) as soon as practicable, but
23 not later than 3 days after the date of the activity to which
24 a requirement or restriction would otherwise have applied.

1 Such notice shall include an explanation of the substantial
2 risk under paragraph (1) that permitted such waiver.

3 SEC. 302. The unexpended balances of prior appro-
4 priations provided for activities in this Act may be avail-
5 able to the same appropriation accounts for such activities
6 established pursuant to this title. Available balances may
7 be merged with funds in the applicable established ac-
8 counts and thereafter may be accounted for as one fund
9 for the same time period as originally enacted.

10 SEC. 303. Funds appropriated by this or any other
11 Act, or made available by the transfer of funds in this
12 Act, for intelligence activities are deemed to be specifically
13 authorized by the Congress for purposes of section 504
14 of the National Security Act of 1947 (50 U.S.C. 3094)
15 during fiscal year 2017 until the enactment of the Intel-
16 ligence Authorization Act for fiscal year 2017.

17 SEC. 304. None of the funds made available in this
18 title shall be used for the construction of facilities classi-
19 fied as high-hazard nuclear facilities under 10 CFR Part
20 830 unless independent oversight is conducted by the Of-
21 fice of Enterprise Assessments to ensure the project is in
22 compliance with nuclear safety requirements.

23 SEC. 305. None of the funds made available in this
24 title may be used to approve critical decision-2 or critical
25 decision-3 under Department of Energy Order 413.3B, or

1 any successive departmental guidance, for construction
2 projects where the total project cost exceeds
3 \$100,000,000, until a separate independent cost estimate
4 has been developed for the project for that critical deci-
5 sion.

6 SEC. 306. (a) None of the funds made available in
7 this or any prior Act under the heading “Defense Nuclear
8 Nonproliferation” may be made available to enter into new
9 contracts with, or new agreements for Federal assistance
10 to, the Russian Federation.

11 (b) The Secretary of Energy may waive the prohibi-
12 tion in subsection (a) if the Secretary determines that
13 such activity is in the national security interests of the
14 United States. This waiver authority may not be dele-
15 gated.

16 (c) A waiver under subsection (b) shall not be effec-
17 tive until 15 days after the date on which the Secretary
18 submits to the Committees on Appropriations of both
19 Houses of Congress, in classified form if necessary, a re-
20 port on the justification for the waiver.

21 SEC. 307. (a) NEW REGIONAL RESERVES.—The Sec-
22 retary of Energy may not establish any new regional pe-
23 troleum product reserve unless funding for the proposed
24 regional petroleum product reserve is explicitly requested

1 in advance in an annual budget submission and approved
2 by the Congress in an appropriations Act.

3 (b) The budget request or notification shall include—

4 (1) the justification for the new reserve;

5 (2) a cost estimate for the establishment, oper-
6 ation, and maintenance of the reserve, including
7 funding sources;

8 (3) a detailed plan for operation of the reserve,
9 including the conditions upon which the products
10 may be released;

11 (4) the location of the reserve; and

12 (5) the estimate of the total inventory of the re-
13 serve.

14 SEC. 308. (a) Any unobligated balances available
15 from amounts appropriated in prior fiscal years for the
16 following accounts that were apportioned in Category C
17 (as defined in section 120 of Office of Management and
18 Budget Circular No A-11), are hereby rescinded in the
19 specified amounts:

20 (1) “Atomic Energy Defense Activities—National Nu-
21 clear Security Administration—Weapons Activities”,
22 \$64,126,393.

23 (2) “Atomic Energy Defense Activities—National
24 Nuclear Security Administration—Defense Nuclear Non-
25 proliferation”, \$19,127,803.

1 (3) “Atomic Energy Defense Activities—National
2 Nuclear Security Administration—Naval Reactors”,
3 \$307,262.

4 (b) No amounts may be rescinded under subsection
5 (a) from amounts that were designated by the Congress
6 as an emergency requirement pursuant to the Concurrent
7 Resolution on the Budget or the Balanced Budget and
8 Emergency Deficit Control Act of 1985.

9 SEC. 309. Not to exceed \$2,000,000, in aggregate,
10 of the amounts made available by this title may be made
11 available for project engineering and design of the Consoli-
12 dated Emergency Operations Center.

13 TITLE IV

14 INDEPENDENT AGENCIES

15 APPALACHIAN REGIONAL COMMISSION

16 For expenses necessary to carry out the programs au-
17 thorized by the Appalachian Regional Development Act of
18 1965, notwithstanding 40 U.S.C. 14704, and for expenses
19 necessary for the Federal Co-Chairman and the Alternate
20 on the Appalachian Regional Commission, for payment of
21 the Federal share of the administrative expenses of the
22 Commission, including services as authorized by 5 U.S.C.
23 3109, and hire of passenger motor vehicles, \$146,000,000,
24 to remain available until expended.

1 DEFENSE NUCLEAR FACILITIES SAFETY BOARD
2 SALARIES AND EXPENSES

3 For expenses necessary for the Defense Nuclear Fa-
4 cilities Safety Board in carrying out activities authorized
5 by the Atomic Energy Act of 1954, as amended by Public
6 Law 100–456, section 1441, \$31,000,000, to remain
7 available until September 30, 2018.

8 DELTA REGIONAL AUTHORITY
9 SALARIES AND EXPENSES

10 For expenses necessary for the Delta Regional Au-
11 thority and to carry out its activities, as authorized by
12 the Delta Regional Authority Act of 2000, notwith-
13 standing sections 382C(b)(2), 382F(d), 382M, and 382N
14 of said Act, \$15,000,000, to remain available until ex-
15 pended.

16 DENALI COMMISSION

17 For expenses necessary for the Denali Commission
18 including the purchase, construction, and acquisition of
19 plant and capital equipment as necessary and other ex-
20 penses, \$11,000,000, to remain available until expended,
21 notwithstanding the limitations contained in section
22 306(g) of the Denali Commission Act of 1998: *Provided*,
23 That funds shall be available for construction projects in
24 an amount not to exceed 80 percent of total project cost
25 for distressed communities, as defined by section 307 of

1 the Denali Commission Act of 1998 (division C, title III,
2 Public Law 105–277), as amended by section 701 of ap-
3 pendix D, title VII, Public Law 106–113 (113 Stat.
4 1501A–280), and an amount not to exceed 50 percent for
5 non-distressed communities.

6 NORTHERN BORDER REGIONAL COMMISSION

7 For expenses necessary for the Northern Border Re-
8 gional Commission in carrying out activities authorized by
9 subtitle V of title 40, United States Code, \$5,000,000, to
10 remain available until expended: *Provided*, That such
11 amounts shall be available for administrative expenses,
12 notwithstanding section 15751(b) of title 40, United
13 States Code.

14 SOUTHEAST CRESCENT REGIONAL COMMISSION

15 For expenses necessary for the Southeast Crescent
16 Regional Commission in carrying out activities authorized
17 by subtitle V of title 40, United States Code, \$250,000,
18 to remain available until expended.

19 NUCLEAR REGULATORY COMMISSION

20 SALARIES AND EXPENSES

21 For expenses necessary for the Commission in car-
22 rying out the purposes of the Energy Reorganization Act
23 of 1974 and the Atomic Energy Act of 1954,
24 \$936,121,000, including official representation expenses
25 not to exceed \$25,000, to remain available until expended,

1 of which \$20,000,000 shall be derived from the Nuclear
2 Waste Fund: *Provided*, That of the amount appropriated
3 herein, not more than \$7,500,000 may be made available
4 for salaries, travel, and other support costs for the Office
5 of the Commission, to remain available until September
6 30, 2018, of which, notwithstanding section 201(a)(2)(c)
7 of the Energy Reorganization Act of 1974 (42 U.S.C.
8 5841(a)(2)(c)), the use and expenditure shall only be ap-
9 proved by a majority vote of the Commission: *Provided*
10 *further*, That revenues from licensing fees, inspection serv-
11 ices, and other services and collections estimated at
12 \$786,853,000 in fiscal year 2017 shall be retained and
13 used for necessary salaries and expenses in this account,
14 notwithstanding 31 U.S.C. 3302, and shall remain avail-
15 able until expended: *Provided further*, That of the amounts
16 appropriated under this heading, not less than \$5,000,000
17 shall be for activities related to the development of regu-
18 latory infrastructure for advanced nuclear technologies,
19 and \$18,000,000 shall be for international activities, ex-
20 cept that the amounts provided under this proviso shall
21 not be derived from fee revenues, notwithstanding 42
22 U.S.C. 2214: *Provided further*, That the sum herein ap-
23 propriated shall be reduced by the amount of revenues re-
24 ceived during fiscal year 2017 so as to result in a final
25 fiscal year 2017 appropriation estimated at not more than

1 \$149,268,000: *Provided further*, That of the amounts ap-
2 propriated under this heading, \$10,000,000 shall be for
3 university research and development in areas relevant to
4 the Commission's mission, and \$5,000,000 shall be for a
5 Nuclear Science and Engineering Grant Program that will
6 support multiyear projects that do not align with pro-
7 grammatic missions but are critical to maintaining the
8 discipline of nuclear science and engineering.

9 OFFICE OF INSPECTOR GENERAL

10 For expenses necessary for the Office of Inspector
11 General in carrying out the provisions of the Inspector
12 General Act of 1978, \$12,129,000, to remain available
13 until September 30, 2018: *Provided*, That revenues from
14 licensing fees, inspection services, and other services and
15 collections estimated at \$10,044,000 in fiscal year 2017
16 shall be retained and be available until September 30,
17 2018, for necessary salaries and expenses in this account,
18 notwithstanding section 3302 of title 31, United States
19 Code: *Provided further*, That the sum herein appropriated
20 shall be reduced by the amount of revenues received dur-
21 ing fiscal year 2017 so as to result in a final fiscal year
22 2017 appropriation estimated at not more than
23 \$2,085,000: *Provided further*, That of the amounts appro-
24 priated under this heading, \$969,000 shall be for Inspec-
25 tor General services for the Defense Nuclear Facilities

1 Safety Board, which shall not be available from fee reve-
2 nues.

3 NUCLEAR WASTE TECHNICAL REVIEW BOARD

4 SALARIES AND EXPENSES

5 For expenses necessary for the Nuclear Waste Tech-
6 nical Review Board, as authorized by Public Law 100-
7 203, section 5051, \$3,600,000, to be derived from the Nu-
8 clear Waste Fund, to remain available until September 30,
9 2018.

10 GENERAL PROVISIONS—INDEPENDENT

11 AGENCIES

12 SEC. 401. The Nuclear Regulatory Commission shall
13 comply with the July 5, 2011, version of Chapter VI of
14 its Internal Commission Procedures when responding to
15 Congressional requests for information.

16 SEC. 402. (a) The amounts made available by this
17 title for the Nuclear Regulatory Commission may be re-
18 programmed for any program, project, or activity, and the
19 Commission shall notify the Committees on Appropria-
20 tions of both Houses of Congress at least 30 days prior
21 to the use of any proposed reprogramming that would
22 cause any program funding level to increase or decrease
23 by more than \$500,000 or 10 percent, whichever is less,
24 during the time period covered by this Act.

1 (b)(1) The Nuclear Regulatory Commission may
2 waive the notification requirement in subsection (a) if
3 compliance with such requirement would pose a substan-
4 tial risk to human health, the environment, welfare, or na-
5 tional security.

6 (2) The Nuclear Regulatory Commission shall notify
7 the Committees on Appropriations of both Houses of Con-
8 gress of any waiver under paragraph (1) as soon as prac-
9 ticable, but not later than 3 days after the date of the
10 activity to which a requirement or restriction would other-
11 wise have applied. Such notice shall include an explanation
12 of the substantial risk under paragraph (1) that permitted
13 such waiver and shall provide a detailed report to the
14 Committees of such waiver and changes to funding levels
15 to programs, projects, or activities.

16 (c) Except as provided in subsections (a), (b), and
17 (d), the amounts made available by this title for “Nuclear
18 Regulatory Commission—Salaries and Expenses” shall be
19 expended as directed in the report of the Committee on
20 Appropriations accompanying this Act.

21 (d) None of the funds provided for the Nuclear Regu-
22 latory Commission shall be available for obligation or ex-
23 penditure through a reprogramming of funds that in-
24 creases funds or personnel for any program, project, or

1 activity for which funds are denied or restricted by this
2 Act.

3 (e) The Commission shall provide a monthly report
4 to the Committees on Appropriations of both Houses of
5 Congress, which includes the following for each program,
6 project, or activity, including any prior year appropria-
7 tions—

- 8 (1) total budget authority;
- 9 (2) total unobligated balances; and
- 10 (3) total unliquidated obligations.

11 TITLE V

12 GENERAL PROVISIONS

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

19 SEC. 502. (a) None of the funds made available in
20 title III of this Act may be transferred to any department,
21 agency, or instrumentality of the United States Govern-
22 ment, except pursuant to a transfer made by or transfer
23 authority provided in this Act or any other appropriations
24 Act for any fiscal year, transfer authority referenced in
25 the report of the Committee on Appropriations accom-

1 panying this Act, or any authority whereby a department,
2 agency, or instrumentality of the United States Govern-
3 ment may provide goods or services to another depart-
4 ment, agency, or instrumentality.

5 (b) None of the funds made available for any depart-
6 ment, agency, or instrumentality of the United States
7 Government may be transferred to accounts funded in title
8 III of this Act, except pursuant to a transfer made by or
9 transfer authority provided in this Act or any other appro-
10 priations Act for any fiscal year, transfer authority ref-
11 erenced in the report of the Committee on Appropriations
12 accompanying this Act, or any authority whereby a de-
13 partment, agency, or instrumentality of the United States
14 Government may provide goods or services to another de-
15 partment, agency, or instrumentality.

16 (c) The head of any relevant department or agency
17 funded in this Act utilizing any transfer authority shall
18 submit to the Committees on Appropriations of both
19 Houses of Congress a semiannual report detailing the
20 transfer authorities, except for any authority whereby a
21 department, agency, or instrumentality of the United
22 States Government may provide goods or services to an-
23 other department, agency, or instrumentality, used in the
24 previous 6 months and in the year-to-date. This report
25 shall include the amounts transferred and the purposes

1 for which they were transferred, and shall not replace or
2 modify existing notification requirements for each author-
3 ity.

4 SEC. 503. None of the funds made available by this
5 Act may be used in contravention of Executive Order No.
6 12898 of February 11, 1994 (Federal Actions to Address
7 Environmental Justice in Minority Populations and Low-
8 Income Populations).

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

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

17 SEC. 505. None of the funds made available by this
18 Act may be used to conduct closure of adjudicatory func-
19 tions, technical review, or support activities associated
20 with Yucca Mountain geologic repository license applica-
21 tion, or for actions that irrevocably remove the possibility
22 that Yucca Mountain may be a repository option in the
23 future.

24 SEC. 506. None of the funds made available by this
25 Act may be used to further implementation of the coastal

1 and marine spatial planning and ecosystem-based manage-
2 ment components of the National Ocean Policy developed
3 under Executive Order No. 13547 of July 19, 2010.

4 SEC. 507. None of the funds made available by this
5 Act may be used for the removal of any federally owned
6 or operated dam.

7 SPENDING REDUCTION ACCOUNT

8 SEC. 508. The amount by which the applicable alloca-
9 tion of new budget authority made by the Committee on
10 Appropriations of the House of Representatives under sec-
11 tion 302(b) of the Congressional Budget Act of 1974 ex-
12 ceeds the amount of proposed new budget authority is \$0.

13 This Act may be cited as the “Energy and Water De-
14 velopment and Related Agencies Appropriations Act,
15 2017”.

Union Calendar No. 411

114TH CONGRESS
2^D Session

H. R. 5055

[Report No. 114-532]

A BILL

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2017, and for other purposes.

APRIL 26, 2016

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