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112TH CONGRESS
2^D SESSION

H. R. 5325

[Report No. 112-462]

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2013, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2012

Mr. FRELINGHUYSEN, 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, 2013, 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, 2013, and for other pur-
7 poses, namely:

8 TITLE I—CORPS OF ENGINEERS—CIVIL

9 DEPARTMENT OF THE ARMY

10 CORPS OF ENGINEERS—CIVIL

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

17 INVESTIGATIONS

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

1 construction; for restudy of authorized projects; and for
2 miscellaneous investigations, and, when authorized by law,
3 surveys and detailed studies, and plans and specifications
4 of projects prior to construction, \$102,000,000, to remain
5 available until expended.

6 CONSTRUCTION

7 For expenses necessary for the construction of river
8 and harbor, flood and storm damage reduction, shore pro-
9 tection, aquatic ecosystem restoration, and related
10 projects authorized by law; for conducting detailed studies,
11 and plans and specifications, of such projects (including
12 those involving participation by States, local governments,
13 or private groups) authorized or made eligible for selection
14 by law (but such detailed studies, and plans and specifica-
15 tions, shall not constitute a commitment of the Govern-
16 ment to construction); \$1,477,284,000, to remain avail-
17 able until expended; of which such sums as are necessary
18 to cover the Federal share of construction costs for facili-
19 ties under the Dredged Material Disposal Facilities pro-
20 gram shall be derived from the Harbor Maintenance Trust
21 Fund as authorized by Public Law 104–303; and of which
22 such sums as are necessary to cover one-half of the costs
23 of construction, replacement, rehabilitation, and expansion
24 of inland waterways projects shall be derived from the In-
25 land Waterways Trust Fund: *Provided*, That the limita-

1 tion concerning total project costs in section 902 of the
2 Water Resources Development Act of 1986, as amended
3 (33 U.S.C. 2280), shall not apply during fiscal year 2013
4 to any project that receives funds provided in this title.

5 MISSISSIPPI RIVER AND TRIBUTARIES

6 For expenses necessary for flood damage reduction
7 projects and related efforts in the Mississippi River allu-
8 vial valley below Cape Girardeau, Missouri, as authorized
9 by law, \$224,000,000, to remain available until expended,
10 of which such sums as are necessary to cover the Federal
11 share of eligible operation and maintenance costs for in-
12 land harbors shall be derived from the Harbor Mainte-
13 nance Trust Fund.

14 OPERATION AND MAINTENANCE

15 For expenses necessary for the operation, mainte-
16 nance, and care of existing river and harbor, flood and
17 storm damage reduction, aquatic ecosystem restoration,
18 and related projects authorized by law; providing security
19 for infrastructure owned or operated by the Corps, includ-
20 ing administrative buildings and laboratories; maintaining
21 harbor channels provided by a State, municipality, or
22 other public agency that serve essential navigation needs
23 of general commerce, where authorized by law; surveying
24 and charting northern and northwestern lakes and con-
25 necting waters; clearing and straightening channels; and

1 removing obstructions to navigation, \$2,507,409,000, to
2 remain available until expended, of which such sums as
3 are necessary to cover the Federal share of eligible oper-
4 ation and maintenance costs for coastal harbors and chan-
5 nels, and for inland harbors shall be derived from the Har-
6 bor Maintenance Trust Fund; of which such sums as be-
7 come available from the special account for the Corps of
8 Engineers established by the Land and Water Conserva-
9 tion Fund Act of 1965 shall be derived from that account
10 for resource protection, research, interpretation, and
11 maintenance activities related to resource protection in the
12 areas at which outdoor recreation is available; and of
13 which such sums as become available from fees collected
14 under section 217 of Public Law 104–303 shall be used
15 to cover the cost of operation and maintenance of the
16 dredged material disposal facilities for which such fees
17 have been collected: *Provided*, That 1 percent of the total
18 amount of funds provided for each of the programs,
19 projects or activities funded under this heading shall not
20 be allocated to a field operating activity prior to the begin-
21 ning of the fourth quarter of the fiscal year and shall be
22 available for use by the Chief of Engineers to fund such
23 emergency activities as the Chief of Engineers determines
24 to be necessary and appropriate, and that the Chief of En-
25 gineers shall allocate during the fourth quarter any re-

1 maining funds which have not been used for emergency
2 activities proportionally in accordance with the amounts
3 provided for the programs, projects or activities.

4 REGULATORY PROGRAM

5 For expenses necessary for administration of laws
6 pertaining to regulation of navigable waters and wetlands,
7 \$190,000,000, to remain available until September 30,
8 2014.

9 FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

10 For expenses necessary to clean up contamination
11 from sites in the United States resulting from work per-
12 formed as part of the Nation's early atomic energy pro-
13 gram, \$104,000,000, to remain available until expended.

14 FLOOD CONTROL AND COASTAL EMERGENCIES

15 For expenses necessary to prepare for flood, hurri-
16 cane, and other natural disasters and support emergency
17 operations, repairs, and other activities in response to
18 such disasters as authorized by law, \$27,000,000, to re-
19 main available until expended.

20 EXPENSES

21 For expenses necessary for the supervision and gen-
22 eral administration of the civil works program in the head-
23 quarters of the Corps of Engineers and the offices of the
24 Division Engineers; and for costs of management and op-
25 eration of the Humphreys Engineer Center Support Activ-

1 ity, the Institute for Water Resources, the United States
2 Army Engineer Research and Development Center, and
3 the United States Army Corps of Engineers Finance Cen-
4 ter allocable to the civil works program, \$177,500,000, to
5 remain available until September 30, 2014, of which not
6 to exceed \$5,000 may be used for official reception and
7 representation purposes and only during the current fiscal
8 year: *Provided*, That no part of any other appropriation
9 provided in title I of this Act shall be available to fund
10 the civil works activities of the Office of the Chief of Engi-
11 neers or the civil works executive direction and manage-
12 ment activities of the division offices: *Provided further*,
13 That any Flood Control and Coastal Emergencies appro-
14 priation may be used to fund the supervision and general
15 administration of emergency operations, repairs, and other
16 activities in response to any flood, hurricane, or other nat-
17 ural disaster.

18 OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY

19 FOR CIVIL WORKS

20 For the Office of the Assistant Secretary of the Army
21 for Civil Works as authorized by 10 U.S.C. 3016(b)(3),
22 \$5,000,000, to remain available until September 30, 2014.

23 ADMINISTRATIVE PROVISION

24 The Revolving Fund, Corps of Engineers, shall be
25 available during the current fiscal year for purchase (not

1 to exceed 100 for replacement only) and hire of passenger
2 motor vehicles for the civil works program.

3 GENERAL PROVISIONS, CORPS OF
4 ENGINEERS—CIVIL
5 (INCLUDING TRANSFER OF FUNDS)

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

9 (1) creates or initiates a new program, project,
10 or activity;

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

12 (3) increases funds or personnel for any pro-
13 gram, project, or activity for which funds are denied
14 or restricted by this Act;

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

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

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

24 (b) Subsection (a)(1) shall not apply to any project
25 or activity authorized under section 205 of the Flood Con-

1 trol Act of 1948, section 14 of the Flood Control Act of
2 1946, section 208 of the Flood Control Act of 1954, sec-
3 tion 107 of the River and Harbor Act of 1960, section
4 103 of the River and Harbor Act of 1962, section 111
5 of the River and Harbor Act of 1968, section 1135 of the
6 Water Resources Development Act of 1986, section 206
7 of the Water Resources Development Act of 1996, or sec-
8 tion 204 of the Water Resources Development Act of
9 1992.

10 (c) The Corps of Engineers shall submit reports on
11 a quarterly basis to the Committees on Appropriations of
12 the House of Representatives and the Senate detailing all
13 the funds reprogrammed between programs, projects, ac-
14 tivities, or categories of funding. The first quarterly report
15 shall be submitted not later than 60 days after the date
16 of enactment of this Act.

17 SEC. 102. None of the funds made available in this
18 title may be used to award or modify any contract that
19 commits funds beyond the amounts appropriated for that
20 program, project, or activity that remain unobligated, ex-
21 cept that such amounts may include any funds that have
22 been made available through reprogramming pursuant to
23 section 101.

24 SEC. 103. None of the funds in this Act, or previous
25 Acts, making funds available for Energy and Water Devel-

1 opment, shall be used to award any continuing contract
2 that commits additional funding from the Inland Water-
3 ways Trust Fund unless or until such time that a long-
4 term mechanism to enhance revenues in this Fund suffi-
5 cient to meet the cost-sharing authorized in the Water Re-
6 sources Development Act of 1986 (Public Law 99–662)
7 is enacted.

8 SEC. 104. Within 120 days of the date of the Chief
9 of Engineers Report on a water resource matter, the As-
10 sistant Secretary of the Army (Civil Works) shall submit
11 the report to the appropriate authorizing and appro-
12 priating committees of the Congress.

13 SEC. 105. During the fiscal year period covered by
14 this Act, the Secretary of the Army is authorized to imple-
15 ment measures recommended in the efficacy study author-
16 ized under section 3061 of the Water Resources Develop-
17 ment Act of 2007 (121 Stat. 1121) or in interim reports,
18 with such modifications or emergency measures as the
19 Secretary of the Army determines to be appropriate, to
20 prevent aquatic nuisance species from dispersing into the
21 Great Lakes by way of any hydrologic connection between
22 the Great Lakes and the Mississippi River Basin.

23 SEC. 106. The Secretary of the Army may transfer
24 to the Fish and Wildlife Service, and the Fish and Wildlife
25 Service may accept and expend, up to \$4,300,000 of funds

1 provided in this title under the heading “Operation and
2 Maintenance” to mitigate for fisheries lost due to Corps
3 of Engineers projects.

4 SEC. 107. None of the funds appropriated in this Act
5 shall be available for use by the Chicago District of the
6 United States Army Corps of Engineers to fund any travel
7 that is outside of the District’s area of operation unless
8 such travel is directly project-related or is specifically re-
9 quested by a Member of Congress.

10 SEC. 108. Of the funds provided for “Olmsted Locks
11 and Dam, Ohio River, IL & KY” in the table under the
12 heading “Corps of Engineers—Civil—Construction” in the
13 report of the Committee on Appropriations accompanying
14 this Act, not more than 50 percent may be available for
15 obligation until—

16 (1) the Corps of Engineers completes a review
17 of the project, including method of construction;

18 (2) the Corps of Engineers develops a plan for
19 the expeditious completion of project construction;

20 (3) the findings of the review and the project
21 completion plan have been communicated to the ap-
22 propriate committees of the Congress.

23 SEC. 109. Amounts made available by this Act for
24 the “Investigations”, “Construction”, and “Operation and
25 Maintenance” accounts of the Corps of Engineers may not

1 be used as provided under the heading “Additional Fund-
2 ing for Ongoing Work” in the matter relating to each such
3 account in the report of the Committee on Appropriations
4 to accompany this Act until the report required under
5 such heading is submitted.

6 SEC. 110. None of the funds made available by this
7 Act or any subsequent Act making appropriations for En-
8 ergy and Water Development may be used by the Corps
9 of Engineers to develop, adopt, implement, administer, or
10 enforce a change or supplement to the rule dated Novem-
11 ber 13, 1986, or guidance documents dated January 15,
12 2003, and December 2, 2008, pertaining to the definition
13 of waters under the jurisdiction of the Federal Water Pol-
14 lution Control Act (33 U.S.C. 1251 et seq.).

15 SEC. 111. As of the date of enactment of this Act
16 and thereafter, the Secretary of the Army shall not pro-
17 mulgate or enforce any regulation that prohibits an indi-
18 vidual from possessing a firearm, including an assembled
19 or functional firearm, at a water resources development
20 project covered under section 327.0 of title 36, Code of
21 Federal Regulations (as in effect on the date of enactment
22 of this Act), if—

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

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

4 **TITLE II—DEPARTMENT OF THE INTERIOR**

5 **CENTRAL UTAH PROJECT**

6 **CENTRAL UTAH PROJECT COMPLETION ACCOUNT**

7 For carrying out activities authorized by the Central
8 Utah Project Completion Act, \$19,700,000, to remain
9 available until expended, of which \$1,200,000 shall be de-
10 posited into the Utah Reclamation Mitigation and Con-
11 servation Account for use by the Utah Reclamation Miti-
12 gation and Conservation Commission. In addition, for nec-
13 essary expenses incurred in carrying out related respon-
14 sibilities of the Secretary of the Interior, \$1,300,000.

15 For fiscal year 2013, the Commission may use an
16 amount not to exceed \$1,500,000 for administrative ex-
17 penses.

18 **BUREAU OF RECLAMATION**

19 The following appropriations shall be expended to
20 execute authorized functions of the Bureau of Reclama-
21 tion:

22 **WATER AND RELATED RESOURCES**

23 **(INCLUDING TRANSFERS OF FUNDS)**

24 For management, development, and restoration of
25 water and related natural resources and for related activi-

1 ties, including the operation, maintenance, and rehabilita-
2 tion of reclamation and other facilities, participation in
3 fulfilling related Federal responsibilities to Native Ameri-
4 cans, and related grants to, and cooperative and other
5 agreements with, State and local governments, federally
6 recognized Indian tribes, and others, \$833,635,000, to re-
7 main available until expended, of which \$29,000 shall be
8 available for transfer to the Upper Colorado River Basin
9 Fund and \$6,985,000 shall be available for transfer to the
10 Lower Colorado River Basin Development Fund; of which
11 such amounts as may be necessary may be advanced to
12 the Colorado River Dam Fund: *Provided*, That such trans-
13 fers may be increased or decreased within the overall ap-
14 propriation under this heading: *Provided further*, That of
15 the total appropriated, the amount for program activities
16 that can be financed by the Reclamation Fund or the Bu-
17 reau of Reclamation special fee account established by 16
18 U.S.C. 6806 shall be derived from that Fund or account:
19 *Provided further*, That funds contributed under 43 U.S.C.
20 395 are available until expended for the purposes for
21 which contributed: *Provided further*, That funds advanced
22 under 43 U.S.C. 397a shall be credited to this account
23 and are available until expended for the same purposes
24 as the sums appropriated under this heading: *Provided*
25 *further*, That of the amounts provided herein, funds may

1 be used for high priority projects which shall be carried
2 out by the Youth Conservation Corps, as authorized by
3 16 U.S.C. 1706.

4 CENTRAL VALLEY PROJECT RESTORATION FUND

5 For carrying out the programs, projects, plans, habi-
6 tat restoration, improvement, and acquisition provisions of
7 the Central Valley Project Improvement Act, \$39,883,000,
8 to be derived from such sums as may be collected in the
9 Central Valley Project Restoration Fund pursuant to sec-
10 tions 3407(d), 3404(c)(3), and 3405(f) of Public Law
11 102–575, to remain available until expended: *Provided*,
12 That the Bureau of Reclamation is directed to assess and
13 collect the full amount of the additional mitigation and
14 restoration payments authorized by section 3407(d) of
15 Public Law 102–575: *Provided further*, That none of the
16 funds made available under this heading may be used for
17 the acquisition or leasing of water for in-stream purposes
18 if the water is already committed to in-stream purposes
19 by a court adopted decree or order.

20 CALIFORNIA BAY-DELTA RESTORATION

21 (INCLUDING TRANSFERS OF FUNDS)

22 For carrying out activities authorized by the Water
23 Supply, Reliability, and Environmental Improvement Act,
24 consistent with plans to be approved by the Secretary of
25 the Interior, \$36,000,000, to remain available until ex-

1 pending, of which such amounts as may be necessary to
2 carry out such activities may be transferred to appropriate
3 accounts of other participating Federal agencies to carry
4 out authorized purposes: *Provided*, That funds appro-
5 priated herein may be used for the Federal share of the
6 costs of CALFED Program management: *Provided fur-*
7 *ther*, That the use of any funds provided to the California
8 Bay-Delta Authority for program-wide management and
9 oversight activities shall be subject to the approval of the
10 Secretary of the Interior: *Provided further*, That CALFED
11 implementation shall be carried out in a balanced manner
12 with clear performance measures demonstrating concur-
13 rent progress in achieving the goals and objectives of the
14 Program.

15 POLICY AND ADMINISTRATION

16 For necessary expenses of policy, administration, and
17 related functions in the Office of the Commissioner, the
18 Denver office, and offices in the five regions of the Bureau
19 of Reclamation, to remain available until September 30,
20 2014, \$57,000,000, to be derived from the Reclamation
21 Fund and be nonreimbursable as provided in 43 U.S.C.
22 377: *Provided*, That no part of any other appropriation
23 in this Act shall be available for activities or functions
24 budgeted as policy and administration expenses.

1 ADMINISTRATIVE PROVISION

2 Appropriations for the Bureau of Reclamation shall
3 be available for purchase of not to exceed five passenger
4 motor vehicles, which are for replacement only.

5 GENERAL PROVISIONS, DEPARTMENT OF THE
6 INTERIOR

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

10 (1) creates or initiates a new program, project,
11 or activity;

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

13 (3) increases funds for any program, project, or
14 activity for which funds have been denied or re-
15 stricted by this Act;

16 (4) restarts or resumes any program, project or
17 activity for which funds are not provided in this Act,
18 unless prior approval is received from the Commit-
19 tees on Appropriations of the House of Representa-
20 tives and the Senate;

21 (5) transfers funds in excess of the following
22 limits—

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

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

4 (6) transfers more than \$500,000 from either
5 the Facilities Operation, Maintenance, and Rehabili-
6 tation category or the Resources Management and
7 Development category to any program, project, or
8 activity in the other category; or

9 (7) transfers, when necessary to discharge legal
10 obligations of the Bureau of Reclamation, more than
11 \$5,000,000 to provide adequate funds for settled
12 contractor claims, increased contractor earnings due
13 to accelerated rates of operations, and real estate de-
14 ficiency judgments.

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

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

21 (d) The Bureau of Reclamation shall submit reports
22 on a quarterly basis to the Committees on Appropriations
23 of the House of Representatives and the Senate detailing
24 all the funds reprogrammed between programs, projects,
25 activities, or categories of funding. The first quarterly re-

1 port shall be submitted not later than 60 days after the
2 date of enactment of this Act.

3 SEC. 202. (a) None of the funds appropriated or oth-
4 erwise made available by this Act may be used to deter-
5 mine the final point of discharge for the interceptor drain
6 for the San Luis Unit until development by the Secretary
7 of the Interior and the State of California of a plan, which
8 shall conform to the water quality standards of the State
9 of California as approved by the Administrator of the En-
10 vironmental Protection Agency, to minimize any detri-
11 mental effect of the San Luis drainage waters.

12 (b) The costs of the Kesterson Reservoir Cleanup
13 Program and the costs of the San Joaquin Valley Drain-
14 age Program shall be classified by the Secretary of the
15 Interior as reimbursable or nonreimbursable and collected
16 until fully repaid pursuant to the “Cleanup Program-Al-
17 ternative Repayment Plan” and the “SJVDP-Alternative
18 Repayment Plan” described in the report entitled “Repay-
19 ment Report, Kesterson Reservoir Cleanup Program and
20 San Joaquin Valley Drainage Program, February 1995”,
21 prepared by the Department of the Interior, Bureau of
22 Reclamation. Any future obligations of funds by the
23 United States relating to, or providing for, drainage serv-
24 ice or drainage studies for the San Luis Unit shall be fully

1 reimbursable by San Luis Unit beneficiaries of such serv-
2 ice or studies pursuant to Federal reclamation law.

3 TITLE III—DEPARTMENT OF ENERGY

4 ENERGY PROGRAMS

5 ENERGY EFFICIENCY AND RENEWABLE ENERGY

6 (INCLUDING RESCISSION OF FUNDS)

7 For Department of Energy expenses including the
8 purchase, construction, and acquisition of plant and cap-
9 ital equipment, and other expenses necessary for energy
10 efficiency and renewable energy activities in carrying out
11 the purposes of the Department of Energy Organization
12 Act (42 U.S.C. 7101 et seq.), including the acquisition or
13 condemnation of any real property or any facility or for
14 plant or facility acquisition, construction, or expansion,
15 \$1,450,960,000 to remain available until expended: *Pro-*
16 *vided*, That of such amount, \$115,000,000 shall be avail-
17 able until September 30, 2014, for program direction: *Pro-*
18 *vided further*, That for the purposes of allocating weather-
19 ization assistance funds to States and tribes during fiscal
20 year 2013, the Secretary of Energy may waive the alloca-
21 tion formula established pursuant to section 414(a) of the
22 Energy Conservation and Production Act (42 U.S.C.
23 6864(a)): *Provided further*, That of the unobligated bal-
24 ances from prior year appropriations available under this
25 heading, \$69,667,000 is hereby permanently rescinded:

1 *Provided further*, That no amounts may be rescinded from
2 amounts that were designated by the Congress as an
3 emergency requirement pursuant to the Concurrent Reso-
4 lution on the Budget or the Balanced Budget and Emer-
5 gency Deficit Control Act of 1985.

6 ELECTRICITY DELIVERY AND ENERGY RELIABILITY

7 For Department of Energy expenses including the
8 purchase, construction, and acquisition of plant and cap-
9 ital equipment, and other expenses necessary for elec-
10 tricity delivery and energy reliability activities in carrying
11 out the purposes of the Department of Energy Organiza-
12 tion Act (42 U.S.C. 7101 et seq.), including the acquisi-
13 tion or condemnation of any real property or any facility
14 or for plant or facility acquisition, construction, or expan-
15 sion, \$123,000,000, to remain available until expended:
16 *Provided*, That of such amount, \$27,600,000 shall be
17 available until September 30, 2014, for program direction.

18 NUCLEAR ENERGY

19 For Department of Energy expenses including the
20 purchase, construction, and acquisition of plant and cap-
21 ital equipment, and other expenses necessary for nuclear
22 energy activities in carrying out the purposes of the De-
23 partment of Energy Organization Act (42 U.S.C. 7101 et
24 seq.), including the acquisition or condemnation of any
25 real property or any facility or for plant or facility acquisi-

1 tion, construction, or expansion, and the purchase of not
2 more than 10 buses and 2 ambulances, all for replacement
3 only, \$765,391,000, to remain available until expended,
4 of which \$10,000,000 shall be derived from the Nuclear
5 Waste Fund established in section 302 (c) of the Nuclear
6 Waste Policy Act of 1982 (42 U.S.C. 10222(c)), to be
7 made available only to support the high-level waste geo-
8 logic repository at Yucca Mountain: *Provided*, That, of the
9 amount made available under this heading, \$90,015,000
10 shall be available until September 30, 2014, for program
11 direction.

12 FOSSIL ENERGY RESEARCH AND DEVELOPMENT

13 For necessary expenses in carrying out fossil energy
14 research and development activities, under the authority
15 of the Department of Energy Organization Act (Public
16 Law 95-91), including the acquisition of interest, includ-
17 ing defeasible and equitable interests in any real property
18 or any facility or for plant or facility acquisition or expan-
19 sion, and for conducting inquiries, technological investiga-
20 tions and research concerning the extraction, processing,
21 use, and disposal of mineral substances without objection-
22 able social and environmental costs (30 U.S.C. 3, 1602,
23 and 1603), \$554,000,000, to remain available until ex-
24 pended: *Provided*, That of such amount, \$115,753,000
25 shall be available until September 30, 2014, for program

1 direction: *Provided further*, That for all programs funded
2 under Fossil Energy appropriations in this Act or any
3 other Act, the Secretary of Energy may vest fee title or
4 other property interests acquired under projects in any en-
5 tity, including the United States.

6 NAVAL PETROLEUM AND OIL SHALE RESERVES

7 For expenses necessary to carry out naval petroleum
8 and oil shale reserve activities, \$14,909,000, to remain
9 available until expended: *Provided*, That, notwithstanding
10 any other provision of law, unobligated funds remaining
11 from prior years shall be available for all naval petroleum
12 and oil shale reserve activities.

13 ELK HILLS SCHOOL LANDS FUND

14 For necessary expenses in fulfilling the final payment
15 under the Settlement Agreement entered into by the
16 United States and the State of California on October 11,
17 1996, as authorized by section 3415 of Public Law 104-
18 106, \$15,579,815, for payment to the State of California
19 for the State Teachers' Retirement Fund, of which
20 \$15,579,815 shall be derived from the Elk Hills School
21 Lands Fund.

22 STRATEGIC PETROLEUM RESERVE

23 For necessary expenses for Strategic Petroleum Re-
24 serve facility development and operations and program
25 management activities pursuant to the Energy Policy and

1 Conservation Act of 1975, as amended (42 U.S.C. 6201
2 et seq.), \$195,609,000, to remain available until expended.

3 NORTHEAST HOME HEATING OIL RESERVE

4 (INCLUDING RESCISSION OF FUNDS)

5 For necessary expenses for Northeast Home Heating
6 Oil Reserve storage, operation, and management activities
7 pursuant to the Energy Policy and Conservation Act,
8 \$10,119,000, to remain available until expended: *Pro-*
9 *vided*, That of the unobligated balances from prior year
10 appropriations available under this heading, \$6,000,000 is
11 hereby permanently rescinded: *Provided further*, That no
12 amounts may be rescinded from amounts that were des-
13 ignated by the Congress as an emergency requirement
14 pursuant to the Concurrent Resolution on the Budget or
15 the Balanced Budget and Emergency Deficit Control Act
16 of 1985.

17 ENERGY INFORMATION ADMINISTRATION

18 For necessary expenses in carrying out the activities
19 of the Energy Information Administration, \$100,000,000
20 to remain available until expended.

21 NON-DEFENSE ENVIRONMENTAL CLEANUP

22 For Department of Energy expenses, including the
23 purchase, construction, and acquisition of plant and cap-
24 ital equipment and other expenses necessary for non-de-
25 fense environmental cleanup activities in carrying out the

1 purposes of the Department of Energy Organization Act
2 (42 U.S.C. 7101 et seq.), including the acquisition or con-
3 demnation of any real property or any facility or for plant
4 or facility acquisition, construction, or expansion,
5 \$198,506,000, to remain available until expended.

6 URANIUM ENRICHMENT DECONTAMINATION AND
7 DECOMMISSIONING FUND

8 For necessary expenses in carrying out uranium en-
9 richment facility decontamination and decommissioning,
10 remedial actions, and other activities of title II of the
11 Atomic Energy Act of 1954, and title X, subtitle A, of
12 the Energy Policy Act of 1992, \$425,493,000 to be de-
13 rived from the Uranium Enrichment Decontamination and
14 Decommissioning Fund, to remain available until ex-
15 pended.

16 SCIENCE
17 (INCLUDING RESCISSION OF FUNDS)

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 science
21 activities in carrying out the purposes of the Department
22 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
23 cluding the acquisition or condemnation of any real prop-
24 erty or facility or for plant or facility acquisition, construc-
25 tion, or expansion, and purchase of not more than 25 pas-

1 senger motor vehicles for replacement only, including one
2 ambulance and one bus, \$4,824,931,000, to remain avail-
3 able until expended: *Provided*, That of such amount,
4 \$185,000,000 shall be available until September 30, 2014,
5 for program direction: *Provided further*, That of the unob-
6 ligated balances from appropriations available under this
7 heading, \$23,500,000 is hereby permanently rescinded:
8 *Provided further*, That no amounts may be rescinded from
9 amounts that were designated by the Congress as an
10 emergency requirement pursuant to the Concurrent Reso-
11 lution on the Budget or the Balanced Budget and Emer-
12 gency Deficit Control Act of 1985.

13 ADVANCED RESEARCH PROJECTS AGENCY—ENERGY

14 For necessary expenses in carrying out the activities
15 authorized by section 5012 of the America COMPETES
16 Act (Public Law 110–69), as amended, \$200,000,000, to
17 remain available until expended: *Provided*, That of such
18 amount, \$20,000,000 shall be available until September
19 30, 2014, for program direction.

20 NUCLEAR WASTE DISPOSAL

21 For nuclear waste disposal activities to carry out the
22 purposes of the Nuclear Waste Policy Act of 1982, Public
23 Law 97-425, as amended (the “NWPA”), \$25,000,000,
24 to remain available until expended, and to be derived from
25 the Nuclear Waste Fund established in section 302(c) of

1 such Act (42 U.S.C. 10222(e)), to be made available only
2 to support the Yucca Mountain license application: *Pro-*
3 *vided*, That not less than \$5,000,000 of funds made avail-
4 able under this heading shall be made available only for
5 assistance to affected units of local government which have
6 given formal consent to the Secretary of Energy to host
7 a high-level waste repository as authorized by the NWPA.

8 TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE
9 PROGRAM

10 Such sums as are derived from amounts received
11 from borrowers pursuant to section 1702(b)(2) of the En-
12 ergy Policy Act of 2005 under this heading in prior Acts,
13 shall be collected in accordance with section 502(7) of the
14 Congressional Budget Act of 1974: *Provided*, That, for
15 necessary administrative expenses to carry out this Loan
16 Guarantee program, \$38,000,000 is appropriated, to re-
17 main available until September 30, 2014: *Provided further*,
18 That \$38,000,000 of the fees collected pursuant to section
19 1702(h) of the Energy Policy Act of 2005 shall be credited
20 as offsetting collections to this account to cover adminis-
21 trative expenses and shall remain available until expended,
22 so as to result in a final fiscal year 2013 appropriation
23 from the general fund estimated at not more than \$0: *Pro-*
24 *vided further*, That fees collected under section 1702(h)

1 in excess of the amount appropriated for administrative
2 expenses shall not be available until appropriated.

3 ADVANCED TECHNOLOGY VEHICLES MANUFACTURING
4 LOAN PROGRAM

5 For administrative expenses in carrying out the Ad-
6 vanced Technology Vehicles Manufacturing Loan Pro-
7 gram, \$6,000,000, to remain available until September 30,
8 2014.

9 DEPARTMENTAL ADMINISTRATION

10 For salaries and expenses of the Department of En-
11 ergy necessary for departmental administration in car-
12 rying out the purposes of the Department of Energy Orga-
13 nization Act (42 U.S.C. 7101 et seq.), including the hire
14 of passenger motor vehicles and official reception and rep-
15 resentation expenses not to exceed \$30,000,
16 \$230,783,000, to remain available until September 30,
17 2014, plus such additional amounts as necessary to cover
18 increases in the estimated amount of cost of work for oth-
19 ers notwithstanding the provisions of the Anti-Deficiency
20 Act (31 U.S.C. 1511 et seq.): *Provided*, That such in-
21 creases in cost of work are offset by revenue increases of
22 the same or greater amount, to remain available until ex-
23 pended: *Provided further*, That moneys received by the De-
24 partment for miscellaneous revenues estimated to total
25 \$108,188,000 in fiscal year 2013 may be retained and

1 used for operating expenses within this account, and may
2 remain available until expended, as authorized by section
3 201 of Public Law 95–238, notwithstanding the provisions
4 of 31 U.S.C. 3302: *Provided further*, That the sum herein
5 appropriated shall be reduced by the amount of miscella-
6 neous revenues received during 2013, and any related ap-
7 propriated receipt account balances remaining from prior
8 years’ miscellaneous revenues, so as to result in a final
9 fiscal year 2013 appropriation from the general fund esti-
10 mated at not more than \$122,595,000.

11 OFFICE OF THE INSPECTOR GENERAL

12 For necessary expenses of the Office of the Inspector
13 General in carrying out the provisions of the Inspector
14 General Act of 1978, as amended, \$43,468,000, to remain
15 available until September 30, 2014.

16 ATOMIC ENERGY DEFENSE ACTIVITIES

17 NATIONAL NUCLEAR SECURITY

18 ADMINISTRATION

19 WEAPONS ACTIVITIES

20 (INCLUDING RESCISSION OF FUNDS)

21 For Department of Energy expenses, including the
22 purchase, construction, and acquisition of plant and cap-
23 ital equipment and other incidental expenses necessary for
24 atomic energy defense weapons activities in carrying out
25 the purposes of the Department of Energy Organization

1 Act (42 U.S.C. 7101 et seq.), including the acquisition or
2 condemnation of any real property or any facility or for
3 plant or facility acquisition, construction, or expansion,
4 and the purchase of not to exceed one ambulance,
5 \$7,577,341,000, to remain available until expended: *Pro-*
6 *vided*, That of the unobligated balances from prior year
7 appropriations available under this heading, \$65,000,000
8 is hereby permanently rescinded: *Provided further*, That
9 no amounts may be rescinded from amounts that were
10 designated by the Congress as an emergency requirement
11 pursuant to the Concurrent Resolution on the Budget or
12 the Balanced Budget and Emergency Deficit Control Act
13 of 1985.

14 DEFENSE NUCLEAR NONPROLIFERATION

15 (INCLUDING RESCISSION OF FUNDS)

16 For Department of Energy expenses, including the
17 purchase, construction, and acquisition of plant and cap-
18 ital equipment and other incidental expenses necessary for
19 defense nuclear nonproliferation 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 and the purchase of not to exceed one passenger motor
25 vehicle for replacement only, \$2,283,024,000, to remain

1 ENVIRONMENTAL AND OTHER DEFENSE
2 ACTIVITIES

3 DEFENSE ENVIRONMENTAL CLEANUP
4 (INCLUDING RESCISSION OF FUNDS)

5 For Department of Energy expenses, including the
6 purchase, construction, and acquisition of plant and cap-
7 ital equipment and other expenses necessary for atomic
8 energy defense environmental cleanup activities in car-
9 rying out the purposes of the Department of Energy Orga-
10 nization Act (42 U.S.C. 7101 et seq.), including the acqui-
11 sition or condemnation of any real property or any facility
12 or for plant or facility acquisition, construction, or expan-
13 sion, and the purchase of not to exceed one ambulance
14 and one fire truck for replacement only, \$4,930,078,000,
15 to remain available until expended: *Provided*, That of such
16 amount, \$315,607,000 shall be available until September
17 30, 2014, for program direction: *Provided further*, That
18 of the unobligated balances from prior year appropriations
19 available under this heading, \$10,000,000 is hereby per-
20 manently rescinded: *Provided further*, That no amounts
21 may be rescinded from amounts that were designated by
22 the Congress as an emergency requirement pursuant to
23 the Concurrent Resolution on the Budget or the Balanced
24 Budget and Emergency Deficit Control Act of 1985.

1 OTHER DEFENSE ACTIVITIES

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 atomic
5 energy defense, other defense activities, and classified ac-
6 tivities, in carrying out the purposes of the Department
7 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
8 cluding the acquisition or condemnation of any real prop-
9 erty or any facility or for plant or facility acquisition, con-
10 struction, or expansion, \$813,364,000, to remain available
11 until expended: *Provided*, That of such amount,
12 \$114,858,000 shall be available until September 30, 2014,
13 for program direction.

14 POWER MARKETING ADMINISTRATION

15 BONNEVILLE POWER ADMINISTRATION FUND

16 Expenditures from the Bonneville Power Administra-
17 tion Fund, established pursuant to Public Law 93-454,
18 are approved for construction of, or participating in the
19 construction of, a high voltage line from Bonneville's high
20 voltage system to the service areas of requirements cus-
21 tomers located within Bonneville's service area in southern
22 Idaho, southern Montana, and western Wyoming; and
23 such line may extend to, and interconnect in, the Pacific
24 Northwest with lines between the Pacific Northwest and
25 the Pacific Southwest, and for John Day Reprogramming

1 and Construction, the Columbia River Basin White Stur-
2 geon Hatchery, and Kelt Reconditioning and Reproductive
3 Success Evaluation Research, and, in addition, for official
4 reception and representation expenses in an amount not
5 to exceed \$7,000: *Provided*, That during fiscal year 2013,
6 no new direct loan obligations may be made.

7 OPERATION AND MAINTENANCE, SOUTHEASTERN POWER
8 ADMINISTRATION

9 For necessary expenses of operation and maintenance
10 of power transmission facilities and of marketing electric
11 power and energy, including transmission wheeling and
12 ancillary services, pursuant to section 5 of the Flood Con-
13 trol Act of 1944 (16 U.S.C. 825s), as applied to the south-
14 eastern power area, and including official reception and
15 representation expenses in an amount not to exceed
16 \$1,500, \$8,732,000, to remain available until expended:
17 *Provided*, That notwithstanding 31 U.S.C. 3302 and sec-
18 tion 5 of the Flood Control Act of 1944, up to \$8,732,000
19 collected by the Southeastern Power Administration from
20 the sale of power and related services shall be credited to
21 this account as discretionary offsetting collections, to re-
22 main available until expended for the sole purpose of fund-
23 ing the annual expenses of the Southeastern Power Ad-
24 ministration: *Provided further*, That the sum herein appro-
25 priated for annual expenses shall be reduced as collections

1 are received during the fiscal year so as to result in a final
2 fiscal year 2013 appropriation estimated at not more than
3 \$0: *Provided further*, That, notwithstanding 31 U.S.C.
4 3302, up to \$87,696,000 collected by the Southeastern
5 Power Administration pursuant to the Flood Control Act
6 of 1944 to recover purchase power and wheeling expenses
7 shall be credited to this account as offsetting collections,
8 to remain available until expended for the sole purpose
9 of making purchase power and wheeling expenditures:
10 *Provided further*, That for purposes of this appropriation,
11 annual expenses means expenditures that are generally re-
12 covered in the same year that they are incurred (excluding
13 purchase power and wheeling expenses).

14 OPERATION AND MAINTENANCE, SOUTHWESTERN
15 POWER ADMINISTRATION

16 For necessary expenses of operation and maintenance
17 of power transmission facilities and of marketing electric
18 power and energy, for construction and acquisition of
19 transmission lines, substations and appurtenant facilities,
20 and for administrative expenses, including official recep-
21 tion and representation expenses in an amount not to ex-
22 ceed \$1,500 in carrying out section 5 of the Flood Control
23 Act of 1944 (16 U.S.C. 825s), as applied to the South-
24 western Power Administration, \$44,200,000, to remain
25 available until expended: *Provided*, That notwithstanding

1 31 U.S.C. 3302 and section 5 of the Flood Control Act
2 of 1944 (16 U.S.C. 825s), up to \$32,308,000 collected
3 by the Southwestern Power Administration from the sale
4 of power and related services shall be credited to this ac-
5 count as discretionary offsetting collections, to remain
6 available until expended, for the sole purpose of funding
7 the annual expenses of the Southwestern Power Adminis-
8 tration: *Provided further*, That the sum herein appro-
9 priated for annual expenses shall be reduced as collections
10 are received during the fiscal year so as to result in a final
11 fiscal year 2013 appropriation estimated at not more than
12 \$11,892,000: *Provided further*, That, notwithstanding 31
13 U.S.C. 3302, up to \$41,000,000 collected by the South-
14 western Power Administration pursuant to the Flood Con-
15 trol Act of 1944 to recover purchase power and wheeling
16 expenses shall be credited to this account as offsetting col-
17 lections, to remain available until expended for the sole
18 purpose of making purchase power and wheeling expendi-
19 tures: *Provided further*, That, for purposes of this appro-
20 priation, annual expenses means expenditures that are
21 generally recovered in the same year that they are in-
22 curred (excluding purchase power and wheeling expenses).

1 CONSTRUCTION, REHABILITATION, OPERATION AND
2 MAINTENANCE, WESTERN AREA POWER ADMINIS-
3 TRATION

4 For carrying out the functions authorized by title III,
5 section 302(a)(1)(E) of the Act of August 4, 1977 (42
6 U.S.C. 7152), and other related activities including con-
7 servation and renewable resources programs as author-
8 ized, including official reception and representation ex-
9 penses in an amount not to exceed \$1,500; \$291,920,000,
10 to remain available until expended, of which \$281,702,000
11 shall be derived from the Department of the Interior Rec-
12 lamation Fund: *Provided*, That notwithstanding 31 U.S.C.
13 3302, section 5 of the Flood Control Act of 1944 (16
14 U.S.C. 825s), and section 1 of the Interior Department
15 Appropriation Act, 1939 (43 U.S.C. 392a), up to
16 \$195,790,000 collected by the Western Area Power Ad-
17 ministration from the sale of power and related services
18 shall be credited to this account as discretionary offsetting
19 collections, to remain available until expended, for the sole
20 purpose of funding the annual expenses of the Western
21 Area Power Administration: *Provided further*, That the
22 sum herein appropriated for annual expenses shall be re-
23 duced as collections are received during the fiscal year so
24 as to result in a final fiscal year 2013 appropriation esti-
25 mated at not more than \$96,130,000, of which

1 \$85,912,000 is derived from the Reclamation Fund: *Pro-*
2 *vided further*, That of the amount herein appropriated, not
3 more than \$3,375,000 is for deposit into the Utah Rec-
4 lamation Mitigation and Conservation Account pursuant
5 to title IV of the Reclamation Projects Authorization and
6 Adjustment Act of 1992: *Provided further*, That notwith-
7 standing 31 U.S.C. 3302, up to \$242,858,000 collected
8 by the Western Area Power Administration pursuant to
9 the Flood Control Act of 1944 and the Reclamation
10 Project Act of 1939 to recover purchase power and wheel-
11 ing expenses shall be credited to this account as offsetting
12 collections, to remain available until expended for the sole
13 purpose of making purchase power and wheeling expendi-
14 tures: *Provided further*, That for purposes of this appro-
15 priation, annual expenses means expenditures that are
16 generally recovered in the same year that they are in-
17 curred (excluding purchase power and wheeling expenses).

18 FALCON AND AMISTAD OPERATING AND MAINTENANCE

19 FUND

20 For operation, maintenance, and emergency costs for
21 the hydroelectric facilities at the Falcon and Amistad
22 Dams, \$5,555,000, to remain available until expended,
23 and to be derived from the Falcon and Amistad Operating
24 and Maintenance Fund of the Western Area Power Ad-
25 ministration, as provided in section 2 of the Act of June

1 18, 1954 (68 Stat. 255) as amended: *Provided*, That not-
2 withstanding the provisions of that Act and of 31 U.S.C.
3 3302, up to \$5,335,000 collected by the Western Area
4 Power Administration from the sale of power and related
5 services from the Falcon and Amistad Dams shall be cred-
6 ited to this account as discretionary offsetting collections,
7 to remain available until expended for the sole purpose
8 of funding the annual expenses of the hydroelectric facili-
9 ties of these Dams and associated Western Area Power
10 Administration activities: *Provided further*, That the sum
11 herein appropriated for annual expenses shall be reduced
12 as collections are received during the fiscal year so as to
13 result in a final fiscal year 2013 appropriation estimated
14 at not more than \$220,000: *Provided further*, That for
15 purposes of this appropriation, annual expenses means ex-
16 penditures that are generally recovered in the same year
17 that they are incurred.

18 FEDERAL ENERGY REGULATORY COMMISSION

19 SALARIES AND EXPENSES

20 For necessary expenses of the Federal Energy Regu-
21 latory Commission to carry out the provisions of the De-
22 partment of Energy Organization Act (42 U.S.C. 7101 et
23 seq.), including services as authorized by 5 U.S.C. 3109,
24 the hire of passenger motor vehicles, and official reception
25 and representation expenses not to exceed \$3,000,

1 \$304,600,000, to remain available until expended: *Pro-*
2 *vided*, That notwithstanding any other provision of law,
3 not to exceed \$304,600,000 of revenues from fees and an-
4 nual charges, and other services and collections in fiscal
5 year 2013 shall be retained and used for necessary ex-
6 penses in this account, and shall remain available until
7 expended: *Provided further*, That the sum herein appro-
8 priated from the general fund shall be reduced as revenues
9 are received during fiscal year 2013 so as to result in a
10 final fiscal year 2013 appropriation from the general fund
11 estimated at not more than \$0.

12 GENERAL PROVISIONS, DEPARTMENT OF
13 ENERGY

14 (INCLUDING TRANSFER OF FUNDS)

15 SEC. 301. (a) No appropriation, funds, or authority
16 made available by this title for the Department of Energy
17 shall be used to initiate or resume any program, project,
18 or activity or to prepare or initiate Requests For Proposals
19 or similar arrangements (including Requests for
20 Quotations, Requests for Information, and Funding Op-
21 portunity Announcements) for a program, project, or ac-
22 tivity if the program, project, or activity has not been
23 funded by Congress.

24 (b) The Department of Energy may not, with respect
25 to any program, project, or activity that uses budget au-

1 thority made available in this title under the heading “De-
2 partment of Energy—Energy Programs”, enter into a
3 multi-year contract, award a multi-year grant, or enter
4 into a multi-year cooperative agreement unless:

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

8 (2) the contract, grant, or cooperative agree-
9 ment includes a clause conditioning the Federal Gov-
10 ernment’s obligation on the availability of future-
11 year budget authority and the Secretary notifies the
12 Committee on Appropriations of the House of Rep-
13 resentatives and the Senate at least 14 days in ad-
14 vance.

15 (c) Except as provided in subsections (d), (e), and
16 (f), the amounts made available by this title shall be ex-
17 pended as authorized by law for the projects and activities
18 specified in the “Bill” column in the “Department of En-
19 ergy” table or the text included under the heading “Title
20 III—Department of Energy” in the report of the Com-
21 mittee on Appropriations accompanying this Act.

22 (d) The amounts made available by this title may be
23 reprogrammed for any program, project, or activity, and
24 the Department shall notify the Committees on Appropria-
25 tions of the House of Representatives and the Senate at

1 least 30 days prior to the use of any proposed reprogram-
2 ming which would cause any program, project, or activity
3 funding level to increase or decrease by more than
4 \$5,000,000 or 10 percent, whichever is less, during the
5 time period covered by this Act.

6 (e) None of the funds provided in this title shall be
7 available for obligation or expenditure through a re-
8 programming of funds that—

9 (1) creates, initiates, or eliminates a program,
10 project, or activity;

11 (2) increases funds or personnel for any pro-
12 gram, project, or activity for which funds are denied
13 or restricted by this Act; or

14 (3) reduces funds that are directed to be used
15 for a specific program, project, or activity by this
16 Act.

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

23 (2) The Secretary of Energy shall notify the Commit-
24 tees on Appropriations of any waiver under paragraph (1)
25 as soon as practicable, but not later than 3 days after the

1 date of the activity to which a requirement or restriction
2 would otherwise have applied. Such notice shall include an
3 explanation of the substantial risk under paragraph (1)
4 that permitted such waiver.

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

12 SEC. 303. Funds appropriated by this or any other
13 Act, or made available by the transfer of funds in this
14 Act, for intelligence activities are deemed to be specifically
15 authorized by the Congress for purposes of section 504
16 of the National Security Act of 1947 (50 U.S.C. 414) dur-
17 ing fiscal year 2013 until the enactment of the Intelligence
18 Authorization Act for fiscal year 2013.

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

1 SEC. 305. None of the funds made available in this
2 title may be used to approve a Critical Decision-2 or Crit-
3 ical Decision-3 under Department of Energy Order
4 413.3B, or any successive departmental guidance, for con-
5 struction projects where the total project cost exceeds
6 \$100,000,000, until a separate independent cost estimate
7 has been developed for the project for that critical deci-
8 sion.

9 SEC. 306. None of the funds made available in this
10 title may be used to make a grant allocation, discretionary
11 grant award, discretionary contract award, or Other
12 Transaction Agreement, or to issue a letter of intent, to-
13 taling in excess of \$1,000,000, or to announce publicly the
14 intention to make such an allocation, award, or Agree-
15 ment, or to issue such a letter, including a contract cov-
16 ered by the Federal Acquisition Regulation, unless the
17 Secretary of Energy notifies the Committees on Appro-
18 priations of the Senate and the House of Representatives
19 at least 3 full business days in advance of making such
20 an allocation, award, or Agreement, or issuing such a let-
21 ter: *Provided*, That if the Secretary of Energy determines
22 that compliance with this section would pose a substantial
23 risk to human life, health, or safety, an allocation, award,
24 or Agreement may be made, or a letter may be issued,
25 without advance notification, and the Secretary shall no-

1 tify the Committees on Appropriations of the Senate and
2 the House of Representatives not later than 5 full business
3 days after the date on which such an allocation, award,
4 or Agreement is made or letter issued: *Provided further*,
5 That the notification shall include the recipient of the
6 award, the amount of the award, the fiscal year for which
7 the funds for the award were appropriated, and the ac-
8 count and program from which the funds are being drawn,
9 the title of the award, and a brief description of the activ-
10 ity for which the award is made.

11 SEC. 307. None of the funds made available by this
12 or any subsequent Act for fiscal year 2013 or any fiscal
13 year hereafter may be used to pay the salaries of Depart-
14 ment of Energy employees to carry out section 407 of divi-
15 sion A of the American Recovery and Reinvestment Act
16 of 2009.

17 SEC. 308. Section 20320(e) of division B of Public
18 Law 109–289, as added by Public Law 110–5, is amended
19 by striking “an annual review” and inserting “a review
20 every 3 years”.

21 SEC. 309. Not later than June 30, 2013, the Sec-
22 retary shall submit to the House and Senate Committees
23 on Appropriations a tritium and enriched uranium man-
24 agement plan that provides:

1 (a) An assessment of the national security demand
2 for tritium through 2060;

3 (b) An assessment of the national security demand
4 for low and highly enriched uranium through 2060;

5 (c) A description of the Department of Energy's plan
6 to provide adequate amounts of tritium for national secu-
7 rity purposes through 2060, including the derivation of
8 adequate supplies of enriched uranium and its use;

9 (d) An analysis of planned and alternative tritium
10 production technologies, including weapons dismantlement;
11

12 (e) An analysis of planned and alternative enriched
13 uranium production technologies, including down-blending,
14 which are available to meet the supply needs for national
15 security programs through 2060.

16 SEC. 310. None of the funds made available in this
17 Act may be used for uranium transactions that do not conform
18 to the excess uranium inventory management plan
19 submitted pursuant to the Consolidated Appropriations
20 Act, 2012.

21 SEC. 311. No funds within this Act shall be expended
22 to promulgate the final rule pursuant to Section 433 of
23 the Energy Independence and Security Act of 2007, Pub.
24 L. No. 110 – 140 (Dec. 19, 2007) (codified at 42 U.S.C.
25 § 6834) and no funds shall be used to implement any final

1 rule implementing Section 433 of the Energy Independ-
2 ence and Security Act of 2007, Pub. L. No. 110 – 140
3 (Dec. 19, 2007) (codified at 42 U.S.C. § 6834).

4 SEC. 312. None of the funds made available in this
5 title or funds available in the Bonneville Power Adminis-
6 tration Fund may be used by the Department of Energy
7 for any new program, project, or activity required by or
8 otherwise proposed in the memorandum from Steven Chu,
9 Secretary of Energy, to the Power Marketing Administra-
10 tors with the subject line “Power Marketing Administra-
11 tions’ Role” and dated March 16, 2012.

12 TITLE IV—INDEPENDENT AGENCIES

13 APPALACHIAN REGIONAL COMMISSION

14 For expenses necessary to carry out the programs au-
15 thorized by the Appalachian Regional Development Act of
16 1965, as amended, notwithstanding 40 U.S.C. 14704, and
17 for necessary expenses for the Federal Co-Chairman and
18 the Alternate on the Appalachian Regional Commission,
19 for payment of the Federal share of the administrative ex-
20 penses of the Commission, including services as authorized
21 by 5 U.S.C. 3109, and hire of passenger motor vehicles,
22 \$75,317,000, to remain available until expended.

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

6 NORTHERN BORDER REGIONAL COMMISSION

7 For necessary expenses of the Northern Border Re-
8 gional Commission in carrying out activities authorized by
9 subtitle V of title 40, United States Code, \$1,425,000, 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 necessary expenses of the Southeast Crescent Re-
16 gional Commission in carrying out activities authorized by
17 subtitle V of title 40, United States Code, \$250,000, to
18 remain available until expended.

19 NUCLEAR REGULATORY COMMISSION

20 SALARIES AND EXPENSES

21 For necessary expenses of the Commission in car-
22 rying out the purposes of the Energy Reorganization Act
23 of 1974, as amended, and the Atomic Energy Act of 1954,
24 as amended, including official representation expenses
25 (not to exceed \$25,000), \$1,038,800,000, to remain avail-

1 able until expended: *Provided*, That of the amount appro-
2 priated herein, not more than \$9,500,000 may be made
3 available for salaries, travel, and other support costs for
4 the Office of the Commission, of which, notwithstanding
5 section 201(a)(2)(c) of the Energy Reorganization Act of
6 1974 (42 U.S.C. 5841(a)(2)(c)), the use and expenditure
7 shall only be approved by a majority vote of the Commis-
8 sion: *Provided further*, That revenues from licensing fees,
9 inspection services, and other services and collections esti-
10 mated at \$911,772,000 in fiscal year 2013 shall be re-
11 tained and used for necessary salaries and expenses in this
12 account, notwithstanding 31 U.S.C. 3302, and shall re-
13 main available until expended: *Provided further*, That the
14 sum herein appropriated shall be reduced by the amount
15 of revenues received during fiscal year 2013 so as to result
16 in a final fiscal year 2013 appropriation estimated at not
17 more than \$127,028,000: *Provided further*, That of the
18 amounts appropriated under this heading, \$10,000,000
19 shall be for university research and development in areas
20 relevant to their respective organization's mission, and
21 \$5,000,000 shall be for a Nuclear Science and Engineer-
22 ing Grant Program that will support multiyear projects
23 that do not align with programmatic missions but are crit-
24 ical to maintaining the discipline of nuclear science and
25 engineering.

1 OFFICE OF INSPECTOR GENERAL

2 For necessary expenses of the Office of Inspector
3 General in carrying out the provisions of the Inspector
4 General Act of 1978, \$11,020,000, to remain available
5 until September 30, 2014: *Provided*, That revenues from
6 licensing fees, inspection services, and other services and
7 collections estimated at \$9,918,000 in fiscal year 2013
8 shall be retained and be available until September 30,
9 2014, for necessary salaries and expenses in this account,
10 notwithstanding section 3302 of title 31, United States
11 Code: *Provided further*, That the sum herein appropriated
12 shall be reduced by the amount of revenues received dur-
13 ing fiscal year 2013 so as to result in a final fiscal year
14 2013 appropriation estimated at not more than
15 \$1,102,000.

16 NUCLEAR WASTE TECHNICAL REVIEW BOARD

17 SALARIES AND EXPENSES

18 For necessary expenses of the Nuclear Waste Tech-
19 nical Review Board, as authorized by Public Law 100-
20 203, section 5051, \$3,400,000, to be derived from the Nu-
21 clear Waste Fund established in section 302(c) of such
22 Act (42 U.S.C. 10222(c)) and to remain available until
23 expended.

1 OFFICE OF THE FEDERAL COORDINATOR FOR ALASKA
2 NATURAL GAS TRANSPORTATION PROJECTS

3 For necessary expenses for the Office of the Federal
4 Coordinator for Alaska Natural Gas Transportation
5 Projects pursuant to the Alaska Natural Gas Pipeline Act
6 of 2004, \$1,000,000: *Provided*, That any fees, charges, or
7 commissions received pursuant to section 802 of Public
8 Law 110–140 in fiscal year 2013 in excess of \$2,000,000
9 shall not be available for obligation until appropriated in
10 a subsequent Act of Congress.

11 GENERAL PROVISIONS, INDEPENDENT
12 AGENCIES

13 SEC. 401. (a) None of the funds provided for “Nu-
14 clear Regulatory Commission—Salaries and Expenses” in
15 this Act or prior Acts shall be available for obligation or
16 expenditure through a reprogramming of funds that—

17 (1) increases funds or personnel for any pro-
18 gram, project, or activity for which funds are denied
19 or restricted by this Act; or

20 (2) reduces funds that are directed to be used
21 for a specific program, project, or activity by this
22 Act.

23 (b) The Chairman of the Nuclear Regulatory Com-
24 mission may not terminate any program, project, or activ-
25 ity without the approval of a majority vote of the Commis-

1 sioners of the Nuclear Regulatory Commission approving
2 such action.

3 (c) The Nuclear Regulatory Commission may waive
4 the restriction on reprogramming under subsection (a) on
5 a case-by-case basis by certifying to the Committees on
6 Appropriations of the House of Representatives and the
7 Senate that such action is required to address national
8 security or imminent risks to public safety. Each such
9 waiver certification shall include a letter from the Chair-
10 man of the Commission that a majority of Commissioners
11 of the Nuclear Regulatory Commission have voted and ap-
12 proved the reprogramming waiver certification.

13 SEC. 402. The Chairman of the Nuclear Regulatory
14 Commission shall notify the Committees on Appropria-
15 tions of the House of Representatives and the Senate not
16 later than 1 day after the Chairman begins performing
17 functions under the authority of section 3 of Reorganiza-
18 tion Plan No. 1 of 1980, or after a member of the Com-
19 mission who was delegated emergency functions under
20 subsection (b) of that section begins performing those
21 functions. Such notification shall include an explanation
22 of the circumstances warranting the exercise of such au-
23 thority. The Chairman shall report to the Committees, not
24 less frequently than once each week, on the actions taken
25 by the Chairman, or a delegated member of the Commis-

1 sion, under such authority, until the authority is relin-
2 quished. The Chairman shall notify the Committees not
3 later than 1 day after such authority is relinquished. The
4 Chairman shall submit the report required by section 3(d)
5 of the Reorganization Plan No. 1 of 1980 to the Commit-
6 tees not later than 1 day after it was submitted to the
7 Commission.

8 TITLE V—GENERAL PROVISIONS

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

15 SEC. 502. None of the funds made available in this
16 Act may be transferred to any department, agency, or in-
17 strumentality of the United States Government, except
18 pursuant to a transfer made by, or transfer authority pro-
19 vided in this Act or any other appropriation Act.

20 SEC. 503. None of the funds made available under
21 this Act may be expended for any new hire by any Federal
22 agency funded in this Act that is not verified through the
23 E-Verify Program as described in section 403(a) of the
24 Illegal Immigration Reform and Immigrant Responsibility
25 Act of 1996 (8 U.S.C. 1324a note).

1 SEC. 504. None of the funds made available by this
2 Act may be used to enter into a contract, memorandum
3 of understanding, or cooperative agreement with, make a
4 grant to, or provide a loan or loan guarantee to any cor-
5 poration that was convicted (or had an officer or agent
6 of such corporation acting on behalf of the corporation
7 convicted) of a felony criminal violation under any Federal
8 law within the preceding 24 months, where the awarding
9 agency is aware of the conviction, unless the agency has
10 considered suspension or debarment of the corporation, or
11 such officer or agent, and made a determination that this
12 further action is not necessary to protect the interests of
13 the Government.

14 SEC. 505. None of the funds made available by this
15 Act may be used to enter into a contract, memorandum
16 of understanding, or cooperative agreement with, make a
17 grant to, or provide a loan or loan guarantee to, any cor-
18 poration that has any unpaid Federal tax liability that has
19 been assessed, for which all judicial and administrative
20 remedies have been exhausted or have lapsed, and that
21 is not being paid in a timely manner pursuant to an agree-
22 ment with the authority responsible for collecting the tax
23 liability, where the awarding agency is aware of the unpaid
24 tax liability, unless the agency has considered suspension
25 or debarment of the corporation and made a determination

1 that this further action is not necessary to protect the in-
2 terests of the Government.

3 SEC. 506. None of the funds made available by this
4 Act may be used in contravention of Executive Order No.
5 12898 of February 11, 1994 (“Federal Actions to Address
6 Environmental Justice in Minority Populations and Low-
7 Income Populations”).

8 SEC. 507. No funds made available by this Act may
9 be used to pay for mitigation associated with the removal
10 of Federal Energy Regulatory Commission Project num-
11 ber 2342.

12 SEC. 508. None of the funds made available in this
13 Act may be used to conduct closure of adjudicatory func-
14 tions, technical review, or support activities associated
15 with the Yucca Mountain geologic repository license appli-
16 cation, or for actions that irrevocably remove the possi-
17 bility that Yucca Mountain may be a repository option in
18 the future.

19 SPENDING REDUCTION ACCOUNT

20 SEC. 509. The amount by which the applicable alloca-
21 tion of new budget authority made by the Committee on
22 Appropriations of the House of Representatives under sec-
23 tion 302(b) of the Congressional Budget Act of 1974 ex-
24 ceeds the amount of proposed new budget authority is \$0.

1 This Act may be cited as the “Energy and Water De-
2 velopment and Related Agencies Appropriations Act,
3 2013”.

Union Calendar No. 323

112TH CONGRESS
2^D SESSION

H. R. 5325

[Report No. 112-462]

A BILL

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2013, and for other purposes.

MAY 2, 2012

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