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A BILL

191  
To transfer the functions of the Department of Energy to  
other agencies, to maintain continuity in vital programs  
and relationships, to recognize the Federal Energy  
Regulatory Commission as a separate independent regu-  
latory agency, and for other purposes.

file  
Be it enacted by the Senate and House of Representatives  
of the United States of America in Congress assembled, That  
this Act may be cited as the "Federal Energy Reorganization  
Act of 1982".

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15                   TITLE I -- FINDINGS AND PURPOSES; DEFINITIONS

16                   FINDINGS AND PURPOSES

17   SEC. 101. (a) The Congress finds that --

18                   (1) ensuring that the American people have the

19                   ability to plan for and meet their present and future

20                   energy needs remains a national priority and is essen-

21                   tial if we are to meet our economic and social objec-

22                   tives and provide for our Nation's defense;

23                   (2) experience has demonstrated that the ability of

24                   the American people to determine and satisfy their

25                   energy needs will be enhanced by increasing our reliance

1 on the marketplace to allocate resources and reducing  
2 our dependence on the Federal Government as energy  
3 planner, manager, and regulator;

4 (3) increased reliance on market mechanisms will  
5 permit the Federal Government to concentrate its efforts  
6 on the efficient and effective performance of a more  
7 clearly defined set of important energy  
8 responsibilities, including --

9 (A) creating, through sound and stable fiscal,  
10 monetary, and regulatory policies, a climate that  
11 encourages businesses and individuals to produce  
12 and use energy and other resources efficiently;

13 (B) integrating the development of energy  
14 policy with the Government's overall economic  
15 policymaking process to assure consistency and to  
16 improve the likelihood that policies will be  
17 attuned to the needs of energy producers, business  
18 at large, and energy consumers;

19 (C) supporting national defense needs;

20 (D) reducing the Nation's vulnerability to  
21 major energy supply disruptions;

22 (E) providing support to the private sector  
23 for research and development not otherwise likely  
24 to be undertaken but which is essential to  
25 achieving national objectives;

(F) performing functions which traditionally have been viewed as governmental in nature, such as stewardship of Federal resource reserves and utility regulation required by law; and

(G) working in harmony with other nations to achieve solutions to shared energy problems; and

(4) recognizing that the Federal Government should concentrate its efforts on these essential tasks while leaving the rest to private decision and initiative and recognizing further that these tasks can be performed by other Federal agencies eliminates the justification for the expenditure of public funds to maintain the Department of Energy as an independent Federal entity.

(b) The purposes of this Act are --

(1) to transfer the functions of the Department of Energy to the Department of Commerce, the Department of the Interior, the Department of Justice, the Department of Agriculture, and an independent Federal Energy Regulatory Commission; and

(2) to maintain continuity in vital programs and to increase the efficiency of their operations.

#### DEFINITIONS

SEC. 102. As used in this Act, unless otherwise indicated by the context of the term -

(1) "Commission" means the Federal Energy

1 Regulatory Commission;

2 (2) "Department" means the Department of Commerce,  
3 the Department of the Interior, the Department of  
4 Agriculture, or the Department of Justice for purposes  
5 of titles VI, VII, and VIII , as appropriately  
6 determined by the context of the Act.

7 (3) "function" includes any duty, obligation,  
8 power, authority, responsibility, right, privilege,  
9 activity, or program; and

10 (4) "perform" or "performance", when used in  
11 relation to a function, includes the exercise of power,  
12 authority, rights, and privileges.

13 (5) "Secretary" means the Secretary of Commerce,  
14 the Secretary of the Interior, the Secretary of  
15 Agriculture, or the Attorney General, for purposes of  
16 titles VI, VII, and VIII, as appropriately determined by  
17 the context.

#### 18 RELATIONSHIP WITH STATES

19 SEC. 103. Whenever any proposed action by the Depart-  
20 ment of Commerce conflicts with the energy plan of any State,  
21 the Department shall give due consideration to the needs of  
22 such State, and where practicable, shall attempt to resolve  
23 such conflict through consultations with appropriate State  
24 officials. Nothing in this Act shall affect the authority of  
25 any State over matters exclusively within its jurisdiction.

TITLE II -- TRANSFERS OF FUNCTIONS

TRANSFERS TO THE DEPARTMENT OF COMMERCE

SEC. 201. (a) There are transferred to, and vested in, the Secretary of Commerce all functions vested in, or delegated to, the Secretary of Energy and the Department of Energy under or with respect to -

(1) the Atomic Energy Act of 1954 (42 U.S.C. §§2011-2296);

(2) the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. §§5901-5920);

(3) the Energy Reorganization Act of 1974 (42 U.S.C. §§5801, 5811-20, 5871-79, and 5891);

(4) the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. §§1101-1164);

(5) the Solar Energy Research, Development, and Demonstration Act of 1974 (42 U.S.C. §§5551-5566);

(6) the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. §§5501-5517);

(7) the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. §§2501-2514);

(8) the Automotive Propulsion Research and Development Act of 1978 (15 U.S.C. §§2701-2710);

(9) the Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978 (42 U.S.C.

1        §§5581-5594);

2            (10) section 112 of the Energy Research and  
3        Development Administration Authorization Act of 1977 (42  
4        U.S.C. §5907a);

5            (11) sections 105, 106, and 107 of the Department  
6        of Energy Act of 1978 -- Civilian Applications (92 Stat.  
7        53, 54, and 22 U.S.C. §3224a);

8            (12) the Geothermal Energy Act of 1980 (30 U.S.C.  
9        §§1501-1542);

10           (13) the Magnetic Fusion Engineering Act of 1980  
11        (42 U.S.C. §§9301-9312);

12           (14) the Wind Energy Systems Act of 1980 (42 U.S.C.  
13        §§9201-9213);

14           (15) the Ocean Thermal Energy Conversion Research,  
15        Development and Demonstration Act (42 U.S.C.  
16        §§9001-9009);

17           (16) the Ocean Thermal Energy Conversion Act of  
18        1980 (42 U.S.C. §9101-9167);

19           (17) the Methane Transportation Research,  
20        Development, and Demonstration Act of 1980 (15 U.S.C.  
21        §§3801-3810);

22           (18) titles VIII and sections 901-907 of the  
23        Surface Mining Control and Reclamation Act of 1977,  
24        relating to university coal research laboratories, and  
25        energy resource graduate fellowships (30 U.S.C. §§

1 1311-16 and 1321-27);

2 (19) chapter 641 of title 10, United States Code,  
3 relating to the Naval Petroleum Reserves;

4 (20) the Nuclear Safety Research, Development and  
5 Demonstration Act of 1980 (42 U.S.C. §§9701-9708);

6 (21) the Atomic Energy Community Act of 1955 (42  
7 U.S.C. §§2301-2394);

8 (22) the Nuclear Non-Proliferation Act of 1978 (22  
9 U.S.C. §§3201-3282);

10 (23) the West Valley Demonstration Project Act (42  
11 U.S.C. §2021a nt);

12 (24) the Euratom Cooperation Act of 1958 (42 U.S.C.  
13 §§2291-2296);

14 (25) the Atomic Weapons and Special Nuclear  
15 Materials Rewards Act of 1955 (50 U.S.C. § 47a-47f);

16 (26) the Uranium Mill Tailings Radiation Control  
17 Act of 1978 (42 U.S.C. §§2014, 2021-22, 2111, 2113-14,  
18 2201, 7901, 7911-25, 7941-42);

19 (27) title II of the Act of June 16, 1972, Pub. L.  
20 No. 92-314 (86 Stat. 226), relating to financial  
21 assistance for the State of Colorado to limit exposure  
22 to radiation from uranium mill tailings in Grand  
23 Junction, Colorado;

24 (28) section 102, title II, and title III of the  
25 Energy Policy and Conservation Act (42 U.S.C. §§6211,

1 6261-62, 6271-75, 6291-6317, 6321-27, 6341-46, 6361-63,  
2 6371-71i, and 6372-72i, and 15 U.S.C. §§2001-12);

3 (29) the National Energy Conservation Policy Act,  
4 Pub. L. No. 95-619 (codified in scattered sections of  
5 12, 15, 23 and 42 U.S.C.), including section 641 thereof  
6 notwithstanding the provisions of section 709(a) of this  
7 Act;

8 (30) the Emergency Energy Conservation Act of 1979  
9 (42 U.S.C. §§6261-62, 6422, 8501-8541);

10 (31) the Energy Conservation and Production Act,  
11 Pub. L. No. 94-385 (codified in scattered sections of  
12 12, 15, and 42 U.S.C.), including section 304 of that  
13 Act (42 U.S.C. §6833) relating to development and  
14 promulgation of energy conservation standards for new  
15 buildings;

16 (32) section 509 of the Housing and Urban Develop-  
17 ment Act of 1970 (12 U.S.C. §1701z-8);

18 (33) the Federal Energy Administration Act of 1974,  
19 as amended by this Act (15 U.S.C. §§761-790h);

20 (34) sections 2, 11 and 12 of the Energy Supply and  
21 Environmental Coordination Act of 1974 (15 U.S.C. §§792,  
22 796 and 797);

23 (35) the National Energy Extension Service Act (42  
24 U.S.C. §§7001-7011);

25 (36) the Energy Security Act, Pub. L. No. 96-294

1 (codified in scattered sections of 7, 10, 12, 15, 16,  
2 30, 42 and 50 App. U.S.C.) except for functions  
3 transferred to the Secretary of Agriculture by section  
4 203(1) of this Act;

5 (37) the Alaska Federal-Civilian Energy Efficiency  
6 Swap Act of 1980 (40 U.S.C. §§795-795d);

7 (38) section 106 of the Act of October 15, 1977,  
8 Pub. L. No. 95-134 as added by section 102 of the Act of  
9 March 12, 1980, Pub. L. No. 96-205 (48 U.S.C. §1681 nt),  
10 relating to a medical care program for certain Marshall  
11 Islanders;

12 (39) section 604(c)-(e) of the Act of December 24,  
13 1980, Pub. L. No. 96-597 (48 U.S.C. §1492(c)-(e)),  
14 relating to a comprehensive energy plan for insular  
15 areas;

16 (40) section 232 of the Trade Expansion Act of 1962  
17 (19 U.S.C. §§1862);

18 (41) part B of Title I of the Energy Policy and  
19 Conservation Act (42 U.S.C. §§6231-6246) relating to the  
20 Strategic Petroleum Reserve;

21 (42) the Public Utility Regulatory Policies Act of  
22 1978, Pub. L. No. 95-617 (codified in scattered sections  
23 of 15, 16, 30, 42, and 43 U.S.C.), except for funtions  
24 transferred to the Commission by section 503 of this  
25 Act;

1           (43) the Powerplant and Industrial Fuel Use Act of  
2           1978, Pub. L. No. 95-620 (codified in scattered sections  
3           of 15, 42, 45 and 49 U.S.C.);

4           (44) the Defense Production Act of 1950 (50 U.S.C.  
5           App. §§2061-2169);

6           (45) the Act of May 16, 1910, and other  
7           authorities, formerly exercised by the Bureau of Mines,  
8           but limited to fuel supply and demand analysis and data  
9           gathering, and coal preparation and analysis;

10          (46) the Natural Gas Act (15 U.S.C. §§717-717w),  
11          insofar as it pertains to the import and export of  
12          natural gas;

13          (47) the Federal Power Act (16 U.S.C.  
14          §§791a-828(c)), insofar as it pertains to export of  
15          electricity.

16          (48) sections 207 and 504(b)(3) of the Natural Gas  
17          Policy Act of 1978 (15 U.S.C. §§3347, 3414(b)(3))  
18          insofar as they pertain to imported natural gas;

19          (49) the establishment and review of priorities for  
20          curtailments of natural gas as set forth in the Natural  
21          Gas Act and the Natural Gas Policy Act;

22          (50) the functions set forth in the Interstate  
23          Commerce Act (codified in scattered sections of 15 and  
24          49 U.S.C.), and other statutes which formerly vested  
25          authority in the Interstate Commerce Commission or the

1 chairman and members thereof, relating to transportation  
2 of oil by pipeline, except as provided in section  
3 503(a)(4) of this Act;

4 (51) title X of the Omnibus Budget Reconciliation  
5 Act of 1981, Pub. L. No. 97-35, insofar as it applies to  
6 the functions transferred by this section; and

7 (52) any other law or authority, except as  
8 otherwise provided for in this Act.

9 (b) The Secretary may exercise any power of the Commis-  
10 sion --

11 (1) under sections 8, 9, 13 through 17, 20 and 21  
12 of the Natural Gas Act (15 U.S.C. §§717g, 717h,  
13 717l-717p, 717s, 717t), to the extent he determines it  
14 necessary to the exercise of the functions vested in him  
15 under the Natural Gas Act by this Act; and

16 (2) under sections 4, 301, 302, 306 through 309,  
17 and 312 through 316 of the Federal Power Act (16 U.S.C.  
18 §§797, 825, 825a, 825e-825h, 825k-825o), to the extent  
19 he determines it necessary to the exercise of the  
20 functions vested in him by section 201(a)(47) of this  
21 Act.

22 (c) All functions of the Secretary of Energy and the  
23 Department of Energy with respect to --

24 (1) establishing and implementing policies  
25 regarding international energy issues that affect energy

1 research, development, utilization, supply and conser-  
2 vation in the United States, and

3 (2) undertaking activities involving the inte-  
4 gration of foreign and domestic energy policy, including  
5 the provision of independent technical advice to the  
6 President on international negotiations involving energy  
7 resources, energy technologies and nuclear weapons  
8 are transferred to the Secretary of Commerce and are to be  
9 exercised in a manner that assures continued coordination  
10 with the Secretary of State, the Secretary of Defense and the  
11 Secretary of the Treasury. With respect to functions trans-  
12 ferred by this section, the Secretary of State shall exercise  
13 primary authority for the conduct of foreign policy.

14 TRANSFERS TO THE DEPARTMENT OF THE INTERIOR

15 SEC. 202. There are transferred to, and vested in, the  
16 Secretary of the Interior all functions vested in, or  
17 delegated to the Secretary of Energy and the Department of  
18 Energy under or with respect to -

19 (1) section 5 of the Flood Control Act of 1944 (16  
20 U.S.C. §825s), and all other functions of the Secretary  
21 of Energy and the Department of Energy, with respect  
22 to --

- 23 (A) the Southeastern Power Administration;  
24 (B) the Southwestern Power Administration;  
25 (C) the Alaska Power Administration;

1 (D) the Bonneville Power Administration  
2 including, but not limited to, the authority  
3 contained in the Bonneville Project Act of 1937,  
4 the Federal Columbia River Transmission System Act,  
5 and the Pacific Northwest Electric Power Planning  
6 and Conservation Act; and

7 (E) the Western Area Power Administration.  
8 The Southeastern Power Administration, the Southwestern  
9 Power Administration, the Bonneville Power Adminis-  
10 tration, the Alaska Power Administration, and the  
11 Western Area Power Administration shall be preserved as  
12 separate and distinct bureaus within the Department of  
13 the Interior. Each of them shall be headed by an  
14 Administrator appointed by the Secretary of the  
15 Interior. The functions transferred to the Secretary of  
16 the Interior in paragraphs (1)(A), (1)(B), (1)(C),  
17 (1)(D), and (1)(E) shall be exercised by the Secretary  
18 of the Interior, acting by and through the appropriate  
19 Administrator. Each Administrator shall maintain his  
20 principal office at a location in the region served by  
21 the Administrator's respective Federal power marketing  
22 entity;

23 (2) the Outer Continental Shelf Lands Act Amend-  
24 ments, Pub. L. No. 95-372, 99 Stat. 629, and any other  
25 authority of the Secretary of Energy relating to the

1       award or administration of Federal leases not previously  
2       transferred to the Secretary of the Interior by the  
3       Department of the Interior and Related Agencies Appro-  
4       priations Act for FY 1982, Pub. L. No. 97-100, 95 Stat.  
5       1391, which repealed sections 302(b), 302(c) and 303(c)  
6       of the Department of Energy Organization Act;

7               (3) section 5 of the Flood Control Act of 1944 (16  
8       U.S.C. §825s), section 2 of the Eklutna Project Act,  
9       Pub. L. No. 628, 81st Congress (64 Stat. 382), and  
10      section 1 of the Act of June 18, 1954, Pub. L. No. 406,  
11      83rd Congress (68 Stat. 255), as amended by section 1 of  
12      the Act of December 23, 1963, Pub. L. No. 88-237 (77  
13      Stat. 475), insofar as they relate to the confirmation  
14      and approval of rates for the sale of Federal power;

15              (4) the Act of May 16, 1910, and other authorities  
16      formerly exercised by the Bureau of Mines, but limited  
17      to research and development relating to increased  
18      efficiency of production technology of solid fuel  
19      minerals;

20              (5) section 908 of the Surface Mining Control and  
21      Reclamation Act of 1977, relating to research and  
22      development concerning alternative coal mining techno-  
23      logies (30 U.S.C. §1328); and

24              (6) title X of the Omnibus Budget Reconciliation  
25      Act of 1981, Pub. L. No. 97-35, insofar as it relates to

1 the functions transferred by this section.

2 TRANSFERS TO THE DEPARTMENT OF AGRICULTURE

3 SEC. 203. There are transferred to, and vested in, the  
4 Secretary of Agriculture all functions vested in, or  
5 delegated to the Secretary of Energy and the Department of  
6 Energy under or with respect to--

7 (1) subtitle A of the Biomass Energy and Alcohol  
8 Fuels Act of 1980 (42 U.S.C. §§8811-21);

9 (2) section 221 of the Energy Tax Act of 1978 (26  
10 U.S.C. §4041 nt); and

11 (3) title X of the Omnibus Budget Reconciliation  
12 Act of 1981, Pub. L. No. 97-35, insofar as it applies to  
13 the functions transmitted by this section.

14 TRANSFER TO THE DEPARTMENT OF JUSTICE

15 SEC. 204. (a) There are transferred to, and vested in,  
16 the Attorney General all functions vested in, or delegated to  
17 the Secretary of Energy and the Department of Energy under  
18 the Emergency Petroleum Allocation Act of 1973 (15 U.S.C.  
19 §§751-760h). To the extent he considers it necessary to  
20 carry out functions under this section, the Attorney General  
21 may utilize authorities under section 13 of the Federal  
22 Energy Administration Act of 1974 (15 U.S.C. §772).

23 (b) Notwithstanding any other provision of law, the  
24 conduct of any litigation in which the United States, an  
25 agency, or officer thereof is a party or is interested,

1 arising from any function or authority transferred under  
2 sections 201, 202, or 203 of this Act, is reserved to  
3 officers of the Department of Justice, under the direction of  
4 the Attorney General.

5 TITLE III - ORGANIZATION OF ENERGY AND

6 DEFENSE PROGRAM FUNCTIONS

7 DEPUTY SECRETARIES

8 SEC. 301. (a) There shall be established by this section  
9 within the Department of Commerce two additional Deputy  
10 Secretaries who shall be appointed by the President, by and  
11 with the advice and consent of the Senate. The Deputy  
12 Secretaries shall be compensated at the rate provided for  
13 level II of the Executive Schedule under section 5313 of  
14 title 5, United States Code. The Deputy Secretaries shall  
15 perform those functions transferred or delegated to, or  
16 vested in, the Secretary of Commerce that the Secretary may  
17 prescribe. These Deputy Secretaries shall report either to  
18 the Secretary, or upon a written delegation by the Secretary,  
19 shall report to the Deputy Secretary of Commerce.

20 (b) (1) One of the Deputy Secretaries shall be the  
21 Deputy Secretary for Defense Programs who shall perform, in  
22 addition to such other functions as the Secretary may pre-  
23 scribe, nuclear-related functions that support the Department  
24 of Defense in meeting its defense objectives. Those  
25 functions include defense-related intelligence activities;

1 management and implementation of the national security and  
2 nuclear weapons programs, such as nuclear weapons research,  
3 development, testing, and production; and the performance of  
4 functions of the Department of Energy with respect to the  
5 Military Liaison Committee established by section 27 of the  
6 Atomic Energy Act of 1954 (42 U.S.C. § 2037).

7 (2) In accordance with procedures prescribed by the  
8 President, the Deputy Secretary whose functions are described  
9 in paragraph (1) of this subsection shall provide the Presi-  
10 dent with such technical advice as the President may require  
11 on all matters related to nuclear weapons which are the  
12 responsibility of the Department of Commerce.

13 (3) The Deputy Secretary whose functions are described  
14 in paragraph (1) of this subsection shall be an individual  
15 who, by demonstrated ability, background, training and  
16 experience is specially qualified to understand and assess  
17 fairly the issues, problems and concerns relating to nuclear  
18 defense programs.

19 (c) One of the Deputy Secretaries shall be the Deputy  
20 Secretary for Energy who shall perform, in addition to such  
21 other functions as the Secretary may prescribe, those  
22 functions relating to domestic and international energy  
23 policy formulation and implementation, energy emergency  
24 planning, energy planning and analysis authorized or required  
25 by laws in section 201 (other than analysis assigned to the

1 Bureau of Energy Information pursuant to Title IV), any  
2 regulatory function transferred to the Department of Commerce  
3 pursuant to section 201 or any other provision of this Act,  
4 nuclear non-proliferation responsibilities transferred to the  
5 Department of Commerce pursuant to section 201, civilian  
6 nuclear power, naval nuclear propulsion, long-term basic and  
7 applied energy research, energy conservation, utilization of  
8 alternate or renewable energy sources, and fossil fuel  
9 technology.

10 SENIOR OFFICERS

11 SEC. 302. (a) There shall be within the Department of  
12 Commerce an Associate Deputy Secretary for Energy Policy and  
13 Research who shall be appointed by the President by and with  
14 the advice and consent of the Senate and who shall receive  
15 compensation at the rate prescribed for level IV of the  
16 Executive Schedule under section 5315 of title 5, United  
17 States Code. The Associate Deputy Secretary for Energy  
18 Policy and Research shall report to the Secretary through the  
19 Deputy Secretary whose functions are described in section  
20 301(c), shall perform such duties as the Secretary or that  
21 Deputy Secretary may from time to time prescribe, and shall  
22 act for and exercise the functions of that Deputy Secretary  
23 during the absence or disability of such person or in the  
24 event such office becomes vacant.

25 (b) There shall be within the Department of Commerce an

1 Associate Deputy Secretary for Defense Programs who shall be  
2 appointed by the President by and with the advice and consent  
3 of the Senate and who shall receive compensation at the rate  
4 prescribed for level IV of the Executive Schedule under  
5 section 5315 of title 5, United States Code. The Associate  
6 Deputy Secretary for Defense Programs shall report to the  
7 Secretary through the Deputy Secretary whose functions are  
8 described in section 301(b), shall perform such duties as the  
9 Secretary or that Deputy Secretary may from time to time  
10 prescribe, and shall act for and exercise the functions of  
11 that Deputy Secretary during the absence or disability of  
12 such person or in the event such office becomes vacant.

13 (c)(1) There shall be established by this section within  
14 the Department of Commerce five additional Assistant  
15 Secretaries who shall be appointed by the President, by and  
16 with the advice and consent of the Senate. The Assistant  
17 Secretaries shall be compensated at the rate provided for  
18 level IV of the Executive Schedule under section 5315 of  
19 title 5, United States Code. The Assistant Secretaries shall  
20 perform those functions transferred or delegated to, or  
21 vested in, the Secretary of Commerce that the Secretary may  
22 prescribe.

23 (2) One of the Assistant Secretaries shall be the  
24 Assistant Secretary for Nuclear Materials who shall perform,  
25 in addition to such other functions as the Secretary may pre-

1 scribe, those functions which relate to production of nuclear  
2 materials for nuclear weapons research, development, testing,  
3 and production, and to the management of defense nuclear  
4 waste. The Assistant Secretary for Nuclear Materials shall  
5 report to the Deputy Secretary whose functions are described  
6 in section 301(b) of this Act.

7 (3) One of the Assistant Secretaries shall be the Assis-  
8 tant Secretary for Energy Emergency Planning who shall  
9 perform, in addition to such other functions as the Secretary  
10 may prescribe, those functions relating to reducing U.S.  
11 vulnerability to energy supply interruptions and planning for  
12 energy emergencies. These functions shall include operation  
13 of the Strategic Petroleum Reserve and Naval Petroleum  
14 Reserve.

15 (4) One of the Assistant Secretaries shall be the Assis-  
16 tant Secretary for Energy Technology, Conservation and  
17 Alternative Sources who shall perform, in addition to such  
18 other functions as the Secretary may prescribe, those  
19 functions relating to energy conservation and to the  
20 development of technologies for fossil energy and renewable  
21 energy sources.

22 (5) One of the Assistant Secretaries shall be the Assis-  
23 tant Secretary for Energy Research who shall perform, in  
24 addition to such other functions as the Secretary may  
25 prescribe, those functions which relate to developing

1 magnetic fusion energy technology, and managing the long-term  
2 basic and applied energy research programs, including  
3 research in both the basic energy sciences and the high  
4 energy and nuclear physics programs.

5 (6) One of the Assistant Secretaries shall be the Assis-  
6 tant Secretary for Nuclear Energy who shall perform, in  
7 addition to such other functions as the Secretary may  
8 prescribe, those functions which relate to managing the  
9 Federal program of research on and development of the tech-  
10 nology for nuclear power production, including research on  
11 and development of breeder reactor systems, naval nuclear  
12 propulsion, and disposal of non-defense generated nuclear  
13 waste.

14 (7) The Assistant Secretaries whose functions are  
15 described in sections 302(c)(3), (c)(4), (c)(5), and (c)(6),  
16 shall report to the Deputy Secretary whose functions are  
17 described in section 301(c) of this Act. Notwithstanding  
18 the manner in which the functions of the Assistant  
19 Secretaries are set forth in sections 302(c)(3), (c)(4),  
20 (c)(5), and (c)(6), the Secretary may reassign any of those  
21 functions from any one of those Assistant Secretaries to  
22 either of the others.

23 (d) There shall be within the Department of Commerce an  
24 Assistant Secretary for Security Affairs who shall be  
25 appointed by the President and who shall receive compensation

1 at the rate prescribed for level V of the Executive Schedule  
2 under section 5316 of title 5, United States Code. The  
3 officer so appointed shall report to the Secretary through  
4 the Deputy Secretary whose functions are described in section  
5 301(b) and shall perform such of those functions that relate  
6 to security affairs as the Secretary or that Deputy Secretary  
7 may from time to time prescribe.

8 NAVAL REACTOR AND MILITARY APPLICATION PROGRAMS

9 SEC. 303. (a) There shall be in the Department of  
10 Commerce a Division of Naval Reactors which shall perform the  
11 research, design, development, health, and safety functions  
12 relating to naval nuclear propulsion and assigned civilian  
13 power reactor programs vested in the Secretary by this Act.  
14 The head of this Division shall report to the Assistant  
15 Secretary for Nuclear Energy, whose functions are described  
16 in section 302(c)(6) of this Act.

17 (b) There shall be in the Department of Commerce the  
18 Division of Military Application, established by section 25  
19 of the Atomic Energy Act of 1954 (42 U.S.C. §2035). The  
20 Director of this Division shall perform, in addition to such  
21 other functions as the Secretary may prescribe, functions  
22 relating to nuclear weapons research, development, testing,  
23 and production. The Director of this Division shall report  
24 to the Deputy Secretary whose functions are described in  
25 section 301(b) of this Act, and shall be an active commis-

1 sioned officer of the Armed Forces in general or flag rank or  
2 grade, as appropriate.

3 ASSISTANT SECRETARY FOR STRATEGIC PLANNING

4 SEC. 304. There shall be within the Department an  
5 Assistant Secretary for Strategic Planning who shall be  
6 appointed by the President and with the advice and consent of  
7 the Senate. The Assistant Secretary shall be compensated at  
8 the rate provided for by level IV of the Executive Schedule  
9 under section 5315 of title 5, United States Code. The  
10 Assistant Secretary shall be responsible for the activities  
11 of the Department of Commerce relating to strategic materials  
12 and industrial mobilization that were under the authority of  
13 the Secretary of Commerce as of the date of enactment of this  
14 Act, and shall perform such other functions as the Secretary  
15 shall designate, not including any function included in title  
16 III of the Act.

17 TITLE IV - BUREAU OF ENERGY INFORMATION

18 ESTABLISHMENT; DIRECTOR

19 SEC. 401. (a) There shall be within the Department of  
20 Commerce a Bureau of Energy Information (the Bureau) headed  
21 by a Director who shall be appointed by the President, by and  
22 with the advice and consent of the Senate, and who shall be  
23 compensated at the rate provided for in level V of the  
24 Executive Schedule under section 5316 of title 5, United  
25 States Code. The Director shall report to the Secretary

1 through the Under Secretary of Commerce for Economic Affairs.

2 (b)(1) Under the authority, direction, and control of  
3 the Secretary of Commerce, the Bureau shall carry out a  
4 comprehensive energy data and information program to collect,  
5 evaluate, assemble, analyze, and disseminate data and  
6 information that is relevant to energy resource reserves,  
7 energy production, demand, and technology, and related  
8 economic and statistical information, or that is relevant to  
9 the adequacy of energy resources to meet the Nation's current  
10 and future economic and social needs. The Bureau shall also  
11 perform other functions that the Secretary may prescribe.

12 (2) The Director shall not be required to obtain the  
13 approval of any other officer or employee of the Department  
14 in connection with the analysis of any information, nor shall  
15 the Director be required, prior to publication, to obtain the  
16 approval of any other officer or employee of the United  
17 States with respect to the substance of any statistical or  
18 forecasting technical reports which he has prepared in  
19 accordance with law, provided that in performing the  
20 functions delegated to him, the Director shall be subject to  
21 the provisions of chapter 35 of title 44, United States Code.

22 (3) The Bureau shall be subject to an annual  
23 professional audit of performance as described in section 55  
24 of part B of the Federal Energy Administration Act of 1974  
25 (15 U.S.C. §790d).

1 (c) Information collected by the Bureau shall be  
2 cataloged and, upon request, shall be made available to the  
3 public in a form and manner easily adaptable for public use,  
4 except that this subsection shall not require disclosure of  
5 matters exempted from mandatory disclosure by section 552(b)  
6 of title 5, United States Code.

7 (d)(1) The Secretary, before starting an energy infor-  
8 mation data collection effort, shall determine, after  
9 consultation with the Commission, whether the information is  
10 to be gathered solely for statistical purposes.

11 (2) Data to be gathered solely for statistical purposes  
12 shall be made available in individually identifiable form to  
13 another office or component within the Department or to  
14 another Federal agency only upon receipt of a written request  
15 that the Secretary is satisfied contains --

16 (A) a demonstration of need for the data in  
17 individually identifiable form by that office or  
18 component for the fulfillment of its lawful duties and  
19 responsibilities, and

20 (B) reasonable and binding assurances by the  
21 requesting office or component that the information will  
22 be used solely for statistical purposes.

23 (3) For purposes of this section, "statistical purposes"  
24 means the use of information for developing or reporting  
25 aggregate or anonymous information not intended to be used,

1 in whole or in part, in any way in which the specific  
2 identity of any person is material to the intended use of the  
3 information.

4 (4) Individually identifiable information gathered  
5 solely for statistical purposes under this section shall be  
6 exempt from public disclosure under subsection 552(b)(3) of  
7 title 5, United States Code.

8 (5) Whoever publishes or communicates any information  
9 the disclosure of which is prohibited by this subsection,  
10 shall be fined not more than \$5,000 or imprisoned for not  
11 more than 5 years or both.

12 (e) The Secretary, to the maximum extent practicable,  
13 shall assign the highest priority to collection and assembly  
14 of energy information for the purposes requested by the  
15 Commission and shall provide to the Commission such support  
16 and facilities as the Commission determines it needs to carry  
17 out its functions. All gathering, reporting, and enforcing  
18 powers relating to energy information vested in the Secretary  
19 under the Federal Energy Administration Act of 1974 and the  
20 Energy Supply and Environmental Coordination Act of 1974  
21 shall be available to the extent necessary or appropriate to  
22 the exercise of the functions vested in the Commission.

23 (f) Section 11(d) of the Energy Supply and Environmental  
24 Coordination Act of 1974 (15 U.S.C. §796(d)) applies to any  
25 energy information obtained by the Bureau for other than

1 statistical purposes under any law except section 17 of the  
2 Federal Nonnuclear Research and Development Act of 1974 (42  
3 U.S.C. §5916). Both section 1905 of title 18, United States  
4 Code, and any determination of confidentiality made by the  
5 Secretary under section 11(d) of the Energy Supply and  
6 Environmental Coordination Act of 1974 apply to any  
7 subsequent disclosure of energy information by an agency to  
8 whom it is disclosed under section 11(d)(2) of the Energy  
9 Supply and Environmental Coordination Act of 1974, except  
10 that an agency head may disclose energy information received  
11 under section 11(d)(2) of the Energy Supply and Environmental  
12 Coordination Act of 1974 in any proceeding  
13 if --

14 (1) the agency is a party to the proceeding;

15 (2) the agency head determines that disclosure  
16 of the information in the proceeding is essential to  
17 the agency's effective participation in the proceeding;  
18 and

19 (3) the agency head seeks an order in the pro-  
20 ceeding protecting against disclosure of the informa-  
21 tion beyond that necessary to the agency's effective  
22 participation in the proceeding.

23 (g) Notwithstanding subsection (f) of this section, the  
24 Secretary may provide energy information gathered by the  
25 Bureau for other than statistical purposes to any federal

1 agency, provided that it will be used solely for statistical  
2 purposes.

3 (h) Nothing in this section authorizes the disclosure of  
4 any information furnished to the Bureau by another Federal  
5 agency if such a disclosure is prohibited by statute.

6 (i) Notwithstanding any other provision of this Act, the  
7 authorities of the Secretary under section 4 of the Act of  
8 February 14, 1903, ch. 552, 32 Stat. 826 (15 U.S.C. §1516),  
9 apply to this section.

## 10 TITLE V - FEDERAL ENERGY REGULATORY COMMISSION

### 11 SHORT TITLE

12 SEC. 501. This title may be cited as the "Federal Energy  
13 Regulatory Commission Act."

### 14 APPOINTMENT AND ADMINISTRATION

15 SEC. 502. (a) The Federal Energy Regulatory Commission  
16 shall continue as an independent regulatory agency.

17 (b) The Commission is composed of five members appointed  
18 by the President, by and with the advice and consent of the  
19 Senate. One of the members shall be designated by the  
20 President as Chairman. Members shall hold office for a term  
21 of four years and may be removed by the President only for  
22 inefficiency, neglect of duty, or malfeasance in office. An  
23 incumbent member who is serving on the effective date of this  
24 Act shall continue to serve for the balance of the term for  
25 which he was appointed. The member serving as Chairman on

1 the effective date of this Act shall continue to serve in  
2 that capacity until removed by the President. The Chairman  
3 shall be compensated at the rate provided for level III of  
4 the Executive Schedule under section 5314 of title 5, United  
5 States Code. The other members of the Commission shall be  
6 compensated at the rate provided for level IV of the  
7 Executive Schedule under section 5315 of title 5, United  
8 States Code. The Chairman and other members of the  
9 Commission shall be individuals who, by demonstrated ability,  
10 background, training, or experience, are specifically  
11 qualified to assess fairly the needs and concerns of all  
12 interests affected by federal energy policy. Not more than  
13 three members of the Commission shall be members of the same  
14 political party. A Commissioner appointed to fill a vacancy  
15 occurring prior to the expiration of the term for which his  
16 predecessor was appointed shall be appointed only for the  
17 remainder of the predecessor's term. A Commissioner may  
18 continue to serve after the expiration of his term until his  
19 successor has taken office, except that he may not so  
20 continue to serve for more than one year after the date on  
21 which his term would otherwise expire under this subsection.  
22 A member of the Commission shall not engage in any other  
23 business, vocation, or employment while serving on the  
24 Commission.

25 (c) The Chairman is responsible on behalf of the

1 Commission for the executive and administrative operation of  
2 the Commission, including functions of the Commission with  
3 respect to (1) the appointment and employment of adminis-  
4 trative law judges in accordance with the provisions of title  
5 5, United States Code, (2) the selection, appointment, and  
6 fixing of the compensation of personnel whom he considers  
7 necessary, including an executive director, (3) the super-  
8 vision of personnel employed by or assigned to the  
9 Commission, except that each member of the Commission may  
10 select and supervise personnel for his personal staff, (4)  
11 the distribution of business among personnel and among  
12 administrative units of the Commission, (5) the establish-  
13 ment, alteration, consolidation or termination of organiza-  
14 tional units or components within the Commission, and (6) all  
15 functions enumerated in sections 508, 511, 512, 513, 514, and  
16 515 of this title.

17 (d) The Chairman of the Commission may designate any  
18 other member of the Commission as Acting Chairman to act in  
19 his place during his absence. The Chairman (or the Acting  
20 Chairman in the absence of the Chairman) shall preside at all  
21 sessions of the Commission. A quorum for the transaction of  
22 business consists of at least three members. Each member of  
23 the Commission, including the Chairman, has one vote.  
24 Actions of the Commission shall be determined by a majority  
25 vote of the members present and voting. The Commission shall

1 have an official seal which shall be judicially noticed.

2 (e) The Commission may establish procedural and admini-  
3 strative rules that are necessary to the exercise of its  
4 functions and may conduct proceedings in a manner conducive  
5 to the proper dispatch of business and the ends of justice.  
6 Until changed by the Commission, any procedural and admini-  
7 strative rules applicable to particular functions over which  
8 the Commission has jurisdiction shall continue in effect with  
9 respect to those functions.

10 (f) In carrying out its functions, the Commission shall  
11 have the powers authorized by the law under which the  
12 function is exercised to hold hearings, sign and issue  
13 subpoenas, administer oaths, examine witnesses, and receive  
14 evidence at any place in the United States it may designate.  
15 The Commission may, by one or more of its members or by  
16 agents whom it may designate, conduct any hearing or other  
17 inquiry necessary or appropriate to its functions, except  
18 that nothing in this subsection supersedes the provisions of  
19 section 556 of title 5, United States Code relating to  
20 administrative law judges.

21 (g) The principal office of the Commission shall be in  
22 or near the District of Columbia, where its general sessions  
23 shall be held, but the Commission may sit anywhere in the  
24 United States.

25 (h) Except as provided in section 518 of title 28,

1 United States Code, relating to litigation before the Supreme  
2 Court, attorneys designated by the Chairman of the Commission  
3 may appear for, and represent the Commission in, any civil  
4 action brought in connection with a function carried out by  
5 the Commission under this Act or as otherwise authorized by  
6 law.

#### 7 JURISDICTION OF THE COMMISSION

8 SEC. 503. (a) Except as provided in subsection (b) of  
9 this section, there are transferred to, and vested in, the  
10 Commission, as an independent regulatory agency, all  
11 functions vested in the Secretary of Energy, Department of  
12 Energy, or the Federal Energy Regulatory Commission, an  
13 independent regulatory commission within the Department of  
14 Energy, under or with respect to:

15 (1) the Federal Power Act (16 U.S.C.  
16 §§791a-828(c)), except for the regulation of exports of  
17 electricity which is transferred to the Secretary of  
18 Commerce by section 201(a)(47) of this Act;

19 (2) the Natural Gas Act (15 U.S.C. §§717-717w),  
20 except for the regulation of exports or imports of  
21 natural gas which is transferred to the Secretary of  
22 Commerce by section 201(a)(46) of this Act, and the  
23 establishment and review of priorities for curtailments,  
24 which functions are transferred to the Secretary of  
25 Commerce by section 201(a)(49) of this Act;

(3) the Natural Gas Policy Act of 1978 (15 U.S.C. §§3301-3432), except for functions transferred to the Secretary of Commerce by section 201(a)(48) of this Act, and the establishment and review of priorities for curtailments, which functions are transferred to the Secretary of Commerce by section 201(a)(49) of this Act;

(4) establishing rates or charges for the transportation of oil by pipeline or establishing the valuation of such a pipeline;

(5) title II and sections 405, 605, 606 and 608 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§796, 824i, 824j, 824k, 824a-1, 824a, 824d, 824a-2, 824a-3, 825d, 825q, 823a, 2705; 15 U.S.C. §§717x, 717y, and 717f(c)); and

(6) except as otherwise provided by this Act, any other provision of law or authority that vests functions in the Commission.

(b) No function described in this section which regulates the exports or imports of natural gas or electricity shall be within the jurisdiction of the Commission, unless the Secretary assigns such a function pursuant to section 612(b) of this Act.

(c) In addition to the other provisions of this section, the Commission shall have jurisdiction over any other matter which, after public notice, the Secretary may assign to the

1 Commission pursuant to section 612(b) of this Act.

2 (d) The Commission may prescribe rules, regulations, and  
3 statements of policy of general applicability with respect to  
4 any function under its jurisdiction. Any function described  
5 in this title that relates to the establishment of rates and  
6 charges may be conducted by rulemaking procedures. The  
7 procedures in such a rulemaking proceeding shall, consistent  
8 with the provisions of section 553 of title 5, United States  
9 Code, and any other applicable law, assure full consideration  
10 of the issues and an opportunity for interested persons to  
11 present their views.

#### 12 ACCESS TO INFORMATION

13 SEC. 504. Except as otherwise limited by law, each  
14 Federal agency shall provide to the Commission, upon request,  
15 information in its possession that the Commission determines  
16 is necessary to discharge its responsibilities under this  
17 title.

#### 18 DELEGATION

19 SEC. 505. (a) Except as otherwise expressly prohibited  
20 by law, and except as otherwise provided in this title, the  
21 Chairman may delegate any of his administrative functions to  
22 members, officers, or employees of the Commission whom he may  
23 designate, and may authorize successive redelegations within  
24 the Commission of those functions that he considers to be  
25 necessary or appropriate.

1       (b) The Commission may delegate, by published order or  
2 rule, any of its functions to individual Commission members  
3 or to such other officers or employees as it may designate.  
4 The Commission shall retain a discretionary right to review  
5 action authorized or ordered under delegated authority within  
6 the time and in the manner that it prescribes. In the  
7 absence of such a review, action under delegated authority  
8 has the same force as if taken by the Commission.

9                               JUDICIAL REVIEW

10       SEC. 506. (a) Judicial review of agency action taken  
11 under any law the functions of which are vested in, or trans-  
12 ferred to, the Commission or any member, officer, or employee  
13 of the Commission, notwithstanding that vesting or transfer,  
14 shall be made in the manner specified in or for such a law.

15       (b) Notwithstanding the amount in controversy, the  
16 district courts of the United States shall have exclusive  
17 original jurisdiction of all other cases or controversies  
18 arising exclusively under this title, or under rules,  
19 regulations, or orders issued exclusively thereunder, other  
20 than any actions taken to implement or enforce any rule,  
21 regulation, or order by any officer of a State or local  
22 government agency under this title, except that nothing in  
23 this section affects the power of any court of competent  
24 jurisdiction to consider, hear, and determine in any  
25 proceeding before it any issue raised by way of defense

1 (other than a defense based on the unconstitutionality of  
2 this title or the validity of action taken under this title).  
3 If in any such proceeding an issue by way of defense is  
4 raised based on the unconstitutionality of this title or the  
5 validity of agency action under this title, the case shall be  
6 subject to the removal by either party to a district court of  
7 the United States in accordance with the applicable  
8 provisions of chapter 89 of title 28, United States Code.  
9 Cases or controversies arising under any rule, regulation, or  
10 order of any officer of a State or local government agency  
11 may be heard in either (1) any appropriate State court, or  
12 (2) without regard to the amount in controversy, the district  
13 courts of the United States.

#### 14 OFFICERS AND EMPLOYEES

15 SEC. 507. In the performance of its functions, the  
16 Commission may appoint and fix the compensation of officers  
17 and employees, including attorneys, who may be necessary.  
18 Those officers and employees shall be appointed in accordance  
19 with the civil service laws and their compensation fixed in  
20 accordance with title 5, United States Code.

#### 21 ADVISORY COMMITTEES

22 SEC. 508. The Commission may establish in accordance  
23 with the Federal Advisory Committee Act advisory committees  
24 that it considers appropriate to assist in the performance of  
25 its functions. Members of advisory committees, other than

1 full-time employees of the Federal Government, while  
2 attending meetings of the committees or while otherwise  
3 serving at the request of the Commission away from their  
4 homes or regular places of business, may be allowed travel  
5 expenses, including a per diem allowance in lieu of  
6 subsistence, as authorized by section 5703 of title 5, United  
7 States Code, for individuals in the Government serving  
8 without pay.

#### 9 GENERAL AUTHORITY

10 SEC. 509. To the extent necessary or appropriate to  
11 perform any of its functions, the Commission may exercise any  
12 authority available by law, including appropriation Acts, to  
13 the commission, agency, or Department from which the function  
14 was transferred.

#### 15 SUBPOENA

16 SEC. 510. Except as otherwise provided by law, the  
17 Commission or its duly authorized agent or agents, shall have  
18 the same power and authority as the Federal Trade Commission  
19 under section 9 of the Federal Trade Commission Act (15  
20 U.S.C. §49), for purposes of carrying out its functions.

#### 21 CONTRACTS

22 SEC. 511. (a) The Commission may make, enter into, and  
23 perform those contracts, leases, cooperative agreements, or  
24 other similar transactions with public agencies and private  
25 organizations and persons, and to make such payments (in lump

1 sum or installments, and by way of advance or reimbursement)  
2 that it considers necessary or appropriate to carry out  
3 functions vested in the Commission.

4 (b) Notwithstanding any other provision of this title,  
5 the authority to enter into contracts or to make payments  
6 under this title shall be effective only to the extent or in  
7 such amounts as are provided in advance in appropriation  
8 Acts.

#### 9 USE OF FACILITIES

10 SEC. 512. With their consent, the Commission may, with  
11 or without reimbursement, use the research, services, equip-  
12 ment, and facilities of any agency or instrumentality of the  
13 United States or of any State, the District of Columbia, the  
14 Commonwealth of Puerto Rico, or any territory or possession  
15 of the United States, or of any political subdivision  
16 thereof, or of any foreign government, in carrying out any  
17 function now or later vested in the Commission.

#### 18 FIELD OFFICES

19 SEC. 513. The Commission may establish, alter, consoli-  
20 date, maintain or discontinue State, regional, district,  
21 local, or other field offices that it considers necessary to  
22 carry out its functions.

#### 23 EXPERTS AND CONSULTANTS

24 SEC. 514. The Commission may obtain services as autho-  
25 rized by section 3109 of title 5, United States Code, at a

1 rate, not to exceed the daily rate prescribed for grade GS-18  
2 of the General Schedule under section 5332 of title 5, United  
3 States Code, for persons in Government service employed  
4 intermittently.

5 GIFTS AND BEQUESTS

6 SEC. 515. The Commission may accept, administer, and  
7 utilize gifts or donations of money or services for the  
8 purposes of its functions.

9 TITLE VI -- ADMINISTRATIVE PROVISIONS

10 SUBTITLE A - PERSONNEL PROVISIONS

11 OFFICERS AND EMPLOYEES

12 SEC. 601.(a) The Secretary may appoint and fix the  
13 compensation of the officers and employees, including  
14 attorneys, who may be necessary to carry out the functions  
15 now or later vested in him that relate to functions trans-  
16 ferred by this Act. Except as otherwise provided in this  
17 section, those officers and employees shall be appointed in  
18 accordance with the civil service laws and their compensation  
19 fixed in accordance with title 5, United States Code.

20 (b) Subject to the limitations in subsection (c) of this  
21 section, and to the extent that he considers necessary to the  
22 performance of functions now or later vested in him that  
23 relate to functions transferred by this Act, the Secretary of  
24 Commerce may establish scientific, engineering, professional,  
25 and administrative positions, and appoint and subsequently

1 remove from those positions, not more than 5 percent of the  
2 personnel performing those functions described in sections  
3 301(b) and (c), without regard to civil service or veterans'  
4 preference laws. The Secretary of Commerce shall fix the  
5 compensation of personnel so appointed at rates not in excess  
6 of the maximum rate payable for GS-18 of the General Schedule  
7 under section 5332 of title 5, United States Code.

8 (c) Subsection (b) of this section may be used only with  
9 respect to a position involving specialized skills or a  
10 position that is difficult to fill because of its geographic  
11 location.

12 (d) To the extent deemed necessary by the Deputy Secre-  
13 tary whose functions are described in section 301(b) of this  
14 Act, from the standpoint of the effective conduct of the  
15 defense programs and supported by the written determination  
16 of the Deputy Secretary and written approval of the Sec-  
17 retary, officers or employees of the Department who are or  
18 will be engaged in performing functions relating to defense  
19 programs may be employed, and their compensation fixed at  
20 rates not to exceed the maximum rate payable for ES-6 of the  
21 General Schedule under title 5 of the United States Code,  
22 section 5332, without regard to the provisions of said title  
23 5, which provisions shall be utilized as a general guide.

24 ARMED FORCES PERSONNEL

25 SEC. 602. (a) The Secretary of Commerce may provide for

1 participation of Armed Forces personnel to perform functions  
2 now or later vested in them that relate to functions  
3 transferred by this Act. An officer or enlisted member of an  
4 Armed Force may be detailed for service in the Department of  
5 Commerce by the Secretary concerned (as that term is defined  
6 in 10 U.S.C. § 101) under an interagency agreement with the  
7 Secretary of Commerce.

8 (b) The detail of personnel under this section does not  
9 affect the status, office, rank, or grade that the detailed  
10 personnel occupy or hold, or an emolument, perquisite, right,  
11 privilege, or benefit incident to or arising out of that  
12 status, office, rank, or grade. An officer or enlisted  
13 member so detailed is not subject to direction or control by  
14 his Armed Force or any officer thereof, directly or  
15 indirectly, with respect to the responsibilities exercised in  
16 the position to which detailed.

17 EXPERTS AND CONSULTANTS

18 SEC. 603. The Secretary may obtain services as  
19 authorized by section 3109 of title 5, United States Code, at  
20 rates not to exceed the daily rate prescribed for grade GS-18  
21 of the General Schedule under section 5332 of title 5, United  
22 States Code, for persons in Government service employed  
23 intermittently.

24 SUBTITLE B - GENERAL ADMINISTRATIVE PROVISIONS

25 GENERAL AUTHORITY

SEC. 611. To the extent necessary or appropriate to perform a function now or later vested in him that relates to functions transferred by this Act, the Secretary may exercise, in carrying out the function so transferred, any authority or part thereof available by law, including appropriation Acts, to the official or agency from which the function was transferred.

## DELEGATION AND ASSIGNMENT

SEC. 612. (a) Except as otherwise expressly prohibited by law, the Secretary may delegate any of the functions now or later vested in him that relate to functions transferred by this Act to officers and employees of the Department whom he designates, and may authorize successive redelegation of those functions, as appropriate.

(b) The Secretary of Commerce may, with the consent of the Commission, and following public notice, assign any of the functions now or later vested in him that relate to functions transferred by this Act to the Commission under such terms and conditions, and for such period, as are mutually agreed to by the Secretary of Commerce and the Commission.

## REORGANIZATION

SEC. 613. The authority of the Secretary of Commerce to establish, alter, consolidate, or discontinue organizational units or components in the Department when he considers that

1 action necessary or appropriate does not extend to the  
2 abolition of organizations established by title III of this  
3 Act.

4 RULES

5 Sec. 614. The Secretary may prescribe rules and  
6 regulations that he considers necessary or appropriate to  
7 perform the functions now or later vested in him that relate  
8 to functions transferred by this Act.

9 SUBPOENA

10 SEC. 615. The Secretary, or his duly authorized agent,  
11 shall have the same powers and authorities as the Federal  
12 Trade Commission under section 9 of the Federal Trade  
13 Commission Act (15 U.S.C. § 49) with respect to all functions  
14 now or later vested in, or transferred or delegated to, the  
15 Secretary or such an agent, and that relate to functions  
16 transferred by this Act.

17 CONTRACTS

18 SEC. 616. (a) The Secretary may make, enter into, and  
19 perform those contracts, leases, cooperative agreements,  
20 grants, or other similar transactions with public agencies,  
21 private organizations, and persons, and make payments (in  
22 lump sum or installments, and by way of advance or reimburse-  
23 ment, and, in cases of grants, with necessary adjustments on  
24 account of overpayments and underpayments) as he considers  
25 necessary or appropriate to carry out functions now or later

1 vested in him, that relate to functions transferred by this  
2 Act.

3 (b) Notwithstanding any other provision of this title,  
4 the authority to enter into contracts or to make payments  
5 under this title shall be effective only to the extent or in  
6 such amounts as are provided in advance in appropriation  
7 Acts.

8 (c) Notwithstanding any other law relating to the making  
9 or modification of contracts, the Secretary of Commerce,  
10 under regulations he may prescribe, may award, modify,  
11 extend, or terminate contracts for the operation, management,  
12 or support of facilities owned or controlled by the  
13 Government that are used in the performance of functions now  
14 or later vested in him that relate to functions transferred  
15 by this Act.

16 ACQUISITION AND MAINTENANCE OF PROPERTY

17 SEC. 617. The Secretary of Commerce, in the performance  
18 of functions now or later vested in him that relate to  
19 functions transferred by this Act, may acquire (by purchase,  
20 lease, condemnation, or otherwise), construct, improve,  
21 repair, operate, and maintain real property and interests  
22 therein of a special purpose nature, such as laboratories,  
23 research and testing sites and facilities, quarters and  
24 related accommodations for employees and dependents of  
25 employees of the Department, and provide by contract or

1 otherwise for eating facilities and other necessary  
2 facilities for the health and welfare of employees of the  
3 Department at installations not operated by GSA. General  
4 purpose space which could be used or readily and economically  
5 adapted for use by other Federal agencies shall be obtained  
6 from the Administrator of General Services.

#### 7 FACILITIES CONSTRUCTION

8 SEC. 618. (a) The Secretary of Commerce and the  
9 Secretary of the Interior, may, when considered necessary,  
10 provide for, construct, equip or maintain the following for  
11 employees or their dependents stationed at remote locations  
12 and points outside the continental United States --

- 13 (1) emergency medical services and supplies;
- 14 (2) food and other subsistence supplies;
- 15 (3) messing facilities;
- 16 (4) audio visual equipment, accessories and  
17 supplies for recreation and training;
- 18 (5) furnished living and working quarters and  
19 facilities;
- 20 (6) reimbursement for food, clothing, medicine,  
21 and other supplies furnished by those employees in  
22 emergencies for the temporary relief of distressed  
23 persons;
- 24 (7) transportation of school age dependents of  
25 employees to the nearest appropriate educational faci-

1           lities.

2           (b) The Secretary may provide the services and supplies  
3 under paragraphs (1), (2), and (3) of subsection (a) to  
4 employees of other Federal agencies (including Army, Navy and  
5 Air Force personnel when Army, Navy or Air Force facilities  
6 or supplies are not available and upon request of the service  
7 concerned).

8           (c) The furnishing of services and supplies under  
9 paragraphs (2) and (3) of subsection (a), shall be at prices  
10 reflecting reasonable value as determined by the Secretary.

11           (d) When specified in appropriations acts, funds  
12 received in payment for work or services under this section  
13 may be credited as reimbursement to the appropriations or  
14 funds which initially bore all or part of such costs or may  
15 be used to refund excess sums when necessary. Such payments  
16 may be credited to a working capital fund otherwise estab-  
17 lished by law, and used under the law governing such a fund,  
18 if the fund is available for use by the Department for  
19 performing the work or services for which payment is  
20 received.

#### 21                           USE OF FACILITIES

22           SEC. 619. (a) With their consent, the Secretary, with or  
23 without reimbursement, may use the research, services,  
24 equipment, and facilities of a person, or public or private  
25 non-profit agency or organization, including any agency or

1 instrumentality of the United States or of any State, the  
2 District of Columbia, the Commonwealth of Puerto Rico, or any  
3 territory or possession of the United States, or of any  
4 political subdivision thereof, or of any foreign government,  
5 in carrying out any function now or later vested in the  
6 Secretary that relate to functions transferred by this Act.

7 (b) The Secretary of Commerce, under terms, at rates,  
8 and for periods that he considers to be in the public  
9 interest, may permit the use by public and private agencies,  
10 corporations, associations, or other organizations or by  
11 individuals of any real property, or any facility, structure,  
12 or other improvement thereon, under his custody. The  
13 Secretary of Commerce may require permittees under this  
14 section to recondition and maintain, at their own expense,  
15 the real property, facilities, structures, and improvements  
16 involved to a satisfactory standard.

17 (c) Proceeds from reimbursements under this section  
18 shall be deposited in the Treasury and the Secretary of  
19 Commerce may withdraw them to pay directly the costs of the  
20 equipment, or facilities provided, to repay or make advances  
21 to appropriations or funds which do or will initially bear  
22 all or a part of those costs, or to refund excess sums when  
23 necessary, except that the proceeds may be credited to a  
24 working capital fund otherwise established by law, and used  
25 under the law governing such a fund, if the fund is available

1 for use for providing the equipment or facilities involved.

2 FIELD OFFICES

3 SEC. 620. The Secretary may establish, alter,  
4 consolidate, maintain, or discontinue state, regional,  
5 district, local, or other field offices when he considers it  
6 necessary to carry out functions now or later vested in him  
7 that relate to functions transferred by this Act.

8 INTELLECTUAL PROPERTY RIGHTS

9 SEC. 621. The Secretary of Commerce may acquire the  
10 following described rights if the property so acquired is for  
11 use by or for, or useful to, the Department of Commerce:

12 (1) copyrights, patents, and applications for  
13 patents, designs, processes, and manufacturing data;

14 (2) licenses under copyrights, patents, and  
15 applications for patents; and

16 (3) releases, before suit is brought, for past  
17 infringement of patents or copyrights.

18 RIGHT TO INTERVENE IN COMMISSION PROCEEDINGS

19 SEC. 622. The Secretary of Commerce may as a matter of  
20 right intervene or otherwise participate in any proceeding  
21 before the Commission. The Secretary shall comply with rules  
22 of procedure of general applicability governing the timing of  
23 intervention or participation in such a proceeding or  
24 activity and, upon intervening or participating, shall comply  
25 with rules of procedure of general applicability governing

1 the conduct of the proceeding or activity. The intervention  
2 or participation of the Secretary in any proceeding or  
3 activity shall not affect the obligation of the Commission to  
4 assure procedural fairness to all participants.

5 AUTHORIZATION

6 SEC. 623. There are authorized to be appropriated such  
7 sums as are necessary to carry out the provisions of this  
8 Act.

9 INITIATION OF RULEMAKING PROCEEDINGS BEFORE COMMISSION

10 Sec. 624. (a) The Secretary of Commerce is authorized  
11 to propose rules, regulations, and statements of policy of  
12 general applicability with respect to any function within the  
13 jurisdiction of the Commission under section 503 of this Act.

14 (b) The Commission shall have exclusive jurisdiction  
15 with respect to any proposal made under subsection (a), and  
16 shall consider and take final action on any proposal made by  
17 the Secretary of Commerce under such subsection in an  
18 expeditious manner in accordance with such reasonable time  
19 limits as may be set by the Secretary of Commerce for the  
20 completion of action by the Commission on any such proposal.

21 TITLE VII -- TRANSITIONAL, SAVINGS, AND

22 CONFORMING PROVISIONS

23 TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

24 SEC. 701.(a) Except as provided in sections 701(b),  
25 701(c), and 702 of this Act, the personnel employed in

1 connection with, and the personnel positions, assets,  
2 liabilities, contracts, property, records, and unexpended  
3 balance of appropriations, authorizations, allocations, and  
4 other funds employed, held, used, arising from, available to  
5 or to be made available in connection with functions trans-  
6 ferred by this Act, including all Senior Executive Service  
7 and GS-16, GS-17, and GS-18 positions, subject to section 202  
8 of the Budget and Accounting Procedure Act of 1950, are  
9 transferred to the Department or the Commission for appro-  
10 priate allocation.

11 (b) The personnel employed in the Office of Inspector  
12 General of the Department of Energy, and the personnel  
13 positions, assets, liabilities, contracts, property, records  
14 and unexpended balance of appropriations, authorizations,  
15 allocations, and other funds employed, held, used, arising  
16 from, available to or to be made available to that Office,  
17 subject to section 202 of the Budget and Accounting  
18 Procedures Act of 1950, are transferred, as may be  
19 appropriate, to the Offices of Inspector General of the  
20 Departments listed in section 102(4).

21 (c) The Director of the Office of Management and Budget,  
22 in consultation with the Secretary, shall determine how the  
23 transfers described in subsection (b) shall be allocated  
24 among the Departments listed in section 102(4).

25 EFFECT ON PERSONNEL

1        SEC. 702. Offices established directly by statute or  
2 reorganization plan in the Department of Energy (except those  
3 of the Federal Energy Regulatory Commission) the incumbents  
4 of which are appointed by the President by and with the  
5 advice and consent of the Senate shall terminate on the  
6 effective date of this Act. Employees of the Department of  
7 Energy who were appointed under section 621(d) of the  
8 Department of Energy Organization Act (42 U.S.C. §7231(d))  
9 shall have their appointments continued and those appoint-  
10 ments shall be considered to be appointments under and  
11 subject to section 601(b) of this Act.

#### 12                    INCIDENTAL TRANSFERS

13        SEC. 703.(a) The Director of the Office of Management  
14 and Budget, in consultation with the Secretary and the  
15 Commission, shall make such determinations as may be  
16 necessary with regard to the transfer of functions which  
17 relate to or are utilized by an agency, commission or other  
18 body, or component thereof affected by this Act, to make the  
19 additional incidental dispositions of personnel, assets,  
20 liabilities, contracts, property, records, and unexpended  
21 balances of appropriations, authorizations, allocations, and  
22 other funds held, used, arising from, available to or to be  
23 made available in connection with the functions transferred  
24 by this Act, that he considers necessary to accomplish the  
25 purposes of this Act.

(b) The unexpended balances of prior appropriations provided for activities in the Department of Energy that are transferred to new appropriation accounts may be merged with funds in the applicable newly established accounts, and thereafter may be accounted for as one fund for the same time period as originally enacted.

#### SAVINGS PROVISIONS

SEC. 704. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges --

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act or by Executive Order to the Secretary, Department, or the Commission after the date of enactment of this Act, and

(2) that are in effect when this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, the Commission, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(b)(1) The provisions of this Act shall not affect a proceeding or an application for any license, permit, certi-

1    ficate, or financial assistance pending at the time this Act  
2    takes effect before any department, agency, commission, or  
3    component thereof, functions of which are transferred by this  
4    Act; but such a proceeding or application, to the extent that  
5    it relates to functions transferred, shall be continued.

6    Orders shall be issued in such a proceeding, appeals shall be  
7    taken therefrom, and payments shall be made under such  
8    orders, as if this Act had not been enacted; and orders  
9    issued in such a proceeding shall continue in effect until  
10   modified, terminated, superseded, or revoked by a duly  
11   authorized official, by a court of competent jurisdiction, or  
12   by operation of law. Nothing in this subsection prohibits  
13   the discontinuance or modification of such a proceeding under  
14   the same terms and conditions and to the same extent that  
15   such a proceeding could have been discontinued or modified if  
16   this Act had not been enacted.

17        (2) The Secretary and the Commission may issue  
18   regulations providing for the orderly transfer of such a  
19   proceeding to the Department or the Commission.

20        (c) Except as provided in subsection (e) --

21                (1) the provisions of this Act do not affect a suit  
22   commenced before this Act takes effect, and

23                (2) in such a suit, proceedings shall be had,  
24   appeals taken, and judgments rendered in the same manner  
25   and effect as if this Act had not been enacted.

1 (d) No suit, action, or other proceeding commenced by or  
2 against any officer in his official capacity as an officer of  
3 any department or agency, functions of which are transferred  
4 by this Act, shall abate by reason of the enactment of this  
5 Act. No cause of action by or against any department or  
6 agency, functions of which are transferred by this Act, or by  
7 or against any officer thereof in his official capacity shall  
8 abate by reason of the enactment of this Act. The authority  
9 to impose sanctions and grant waivers with respect to  
10 conflicts of interest occurring before the effective date of  
11 this Act, and the requirement to maintain records relating to  
12 the consideration of conflicts of interest before the  
13 effective date of this Act, do not abate by reason of the  
14 enactment of this Act.

15 (e) If, before the date on which this Act takes effect,  
16 any department or agency, or officer thereof in his official  
17 capacity, is a party to a suit, and under this Act any  
18 function of that department, agency, or officer is  
19 transferred to the Secretary, the Commission, or any other  
20 official, then the suit shall be continued with the  
21 Secretary, the Commission, or other official, as the case may  
22 be, substituted.

#### 23 SEPARABILITY

24 SEC. 705. If a provision of this Act or its application  
25 to any person or circumstance is held invalid, neither the

1 remainder of this Act nor the application of the provision to  
2 other persons or circumstances shall be affected.

3 REFERENCE

4 SEC. 706. With respect to any functions transferred by  
5 this Act and exercised after the effective date of this Act,  
6 reference in any other Federal law to any department,  
7 commission, or agency or any officer or office the functions  
8 of which are so transferred shall be considered to refer to  
9 the Secretary, the Commission, or other official or component  
10 of the Department or Commission in which this Act vests those  
11 functions.

12 PRESIDENTIAL AUTHORITY

13 SEC. 707. Nothing in this Act limits, curtails,  
14 abolishes, or terminates any function of, or authority  
15 available to, the President which he had immediately before  
16 the effective date of this Act; or limits, curtails,  
17 abolishes, or terminates his authority to delegate,  
18 redelegate, or terminate any delegation of functions.

19 CONFORMING AND TECHNICAL AMENDMENTS

20 SEC. 708. (a) In 3 U.S.C. § 19(d)(1), strike ", Secre-  
21 tary of Energy".

22 (b) In 5 U.S.C. § 101, strike "The Department of  
23 Energy".

24 (c) In 5 U.S.C. § 5312, strike "Secretary of Energy".

25 (d) In 5 U.S.C. § 5313, strike "Deputy Secretary of

1 Energy" and insert in its place the following:

2 "Deputy Secretaries (3), Department of Commerce".

3 (e) In 5 U.S.C. § 5314, strike "Under Secretary of  
4 Energy".

5 (f) In 5 U.S.C. § 5315, strike "Assistant Secretaries of  
6 Energy (8)" through "Director, Office of Energy Research,  
7 Department of Energy", inclusive, and "Assistant Secretaries  
8 of Commerce (8)," and insert in their place:

9 "Associate Deputy Secretary for Energy Policy and  
10 Research, Department of Commerce."

11 "Associate Deputy Secretary for Defense Programs,  
12 Department of Commerce."

13 "Assistant Secretaries of Commerce (14)."

14 (g) In 5 U.S.C. § 5316, strike "Deputy Inspector  
15 General, Department of Energy" and "Additional Officers,  
16 Department of Energy (14)" and insert in their place the  
17 following:

18 "Director, Bureau of Energy Information, Department  
19 of Commerce."

20 "Assistant Secretary for Security Affairs,  
21 Department of Commerce."

22 (h) Section 58 of the Federal Energy Administration Act  
23 of 1974 (15 U.S.C. § 790g) is amended by --

24 (1) amending subsection (a)(2) to read as follows:

25 "(2) the disclosure of which by the Director under

1 section 401(f) of the Federal Energy Reorganization Act  
2 of 1982 would, as determined by the agency head, impair  
3 significantly the discharge of authorities and responsi-  
4 bilities that have been delegated to, or vested by law  
5 in, the agency.";

6 (2) redesignating subsection (b) as subsection (c);  
7 and

8 (3) adding a new subsection (b) as follows:

9 "(b) The Director, on behalf of the Administrator, may  
10 provide the head of a Federal agency from which energy  
11 information is sought under subsection (a) of this section  
12 with a binding assurance that energy information received  
13 from that agency will not be disclosed except as authorized  
14 by sections 401(d)(2) or 401(g) of the Federal Energy  
15 Reorganization Act of 1982 if the head of the agency from  
16 which the information is sought advises the Director that a  
17 determination has been made under subsection (a)(2) of this  
18 section and that the information will not be provided without  
19 a binding assurance of nondisclosure. Any statutory  
20 restrictions on, or penalties, for the disclosure of energy  
21 information received under this section shall apply to the  
22 Administration to the same extent as to the agency from which  
23 the energy information was received."

24 (i) Section (2)(b)(1) of Reorganization Plan No. 3 of  
25 1979 (93 Stat. 1382) is amended to read as follows:

1 "DEPUTY SECRETARY

2 "There shall be in the Department a Deputy Secretary,  
3 appointed by the President, by and with the advice and  
4 consent of the Senate, who shall be compensated at the rate  
5 provided for level II of the Executive Schedule under section  
6 5313 of title 5, United States Code. The Deputy Secretary  
7 shall perform such duties and exercise such powers as the  
8 Secretary may from time to time prescribe and shall act for  
9 and exercise the functions of the Secretary during the  
10 absence or disability of the Secretary or in the event the  
11 office of Secretary becomes vacant. The Secretary shall  
12 designate the order in which other officers of the Department  
13 appointed by the President, by and with the advice and  
14 consent of the Senate, shall act for and perform the  
15 functions of the Secretary during the absence or disability  
16 of both the Secretary and Deputy Secretary, or in the event  
17 of vacancies in both of these offices, until a successor is  
18 appointed."

19 (j) Section 3(17)(B) of the Federal Power Act (16 U.S.C.  
20 §796) is amended by striking "in consultation with the  
21 Secretary of Energy".

22 (k) The Natural Gas Policy Act of 1978 is amended by --

23 (1) striking "Department of Energy" in section 123  
24 (15 U.S.C. §3333) and inserting in its place  
25 "Commission"; and

(2) amending section 505 (15 U.S.C. 3415) by --

(A) striking "Secretary of Energy" in subsection (a)(1) and inserting in its place "the Commission"; and

(B) striking "Secretary" and "his" wherever they appear in subsection (a)(2), (a)(3) and (b) and inserting in their place "Commission" and "its", respectively.

(1) The Public Utility Regulatory Policies Act of 1978 is amended by --

(1) striking "of the Secretary or" in section 4(2) (16 U.S.C. §2603(2)).

(2) striking the second sentence of section 205(b)(2) (16 U.S.C. §824(a)-1(b)(2)) and inserting in its place "The Commission shall report annually to the President and the Congress regarding any such recommendations and subsequent actions taken by electric utilities and by the Commission under this Act, the Federal Power Act, and any other provisions of law.";

(3) striking "Secretary" in section 210(g)(2) (16 U.S.C. §824a-3(g)(2)) and inserting in its place "Commission";

(4) striking "Secretaries of Energy, the Interior, and Transportation" in section 507(a)(1) (42 U.S.C. §2007(a)(i)) and inserting in its place "Commission and

1 the Secretaries of the Interior, Commerce, and  
2 Transportation"; and

3 (5) amending section 602(b) (16 U.S.C. §824a-4(b))  
4 by --

5 (A) striking "Notwithstanding any transfer of  
6 functions under the first sentence of section  
7 301(b) of the Department of Energy Organization  
8 Act"; and

9 (B) striking "Commission" wherever it appears  
10 and inserting in its place "Secretary of Commerce".

11 (m) Section 209 of the Economic Stabilization Act of  
12 1970 is amended by adding "The right of the Attorney General  
13 to bring such an action shall not be affected by the  
14 commencement or pendency of an administrative proceeding  
15 which encompasses the same violation or violations, provided  
16 that the administrative proceeding is terminated within a  
17 reasonable time after the commencement of the action and  
18 prior to the issuance of a final order.".

19 (n) The Energy Security Act is amended by --

20 (1) amending section 203(16) (42 U.S.C. § 8802(16))  
21 to read as follows:

22 "(16) The term 'Office of Alcohol Fuels' means the  
23 organizational component assigned responsibility for  
24 carrying out the functions of the Secretary of Energy  
25 under subtitle A of this title which relate to

1 alcohol."; and

2 (2) repealing section 220 (42 U.S.C. § 8820).

3 REPEALS

4 SEC. 709. (a) The Department of Energy Organization Act  
5 is repealed. This repeal does not affect functions vested in  
6 the Secretary of Transportation by section 310 of that Act  
7 (42 U.S.C. §7159) or the amendments to other laws in section  
8 709 of that Act.

9 (b) The Federal Energy Administration Act of 1974 is  
10 amended by repealing sections 17, 18, 25, and 32 (15 U.S.C.  
11 §§ 776, 777, 784, and 788), and striking their catchlines.

12 (c) Section 308 of the Energy Research and Development  
13 Administration Authorization Act of 1977 (42 U.S.C. § 5816a)  
14 is repealed.

15 (d) Sections 1 and 2 of the Act of June 5, 1939, ch.  
16 180, 53 Stat. 808 (15 U.S.C. §§ 1502, 1503) are repealed.

17 (e) The Act of October 26, 1949, ch. 733, 63 Stat. 908  
18 (15 U.S.C. § 1514) is repealed.

19 TRANSITION

20 SEC. 710. With the consent of the Secretary of Energy,  
21 the Secretary and the Commission may use the services of  
22 officers, employees, and other personnel of the Department of  
23 Energy for so long as may be needed to facilitate the orderly  
24 transfer of functions under this Act.

25 ENVIRONMENTAL IMPACT STATEMENTS

1        SEC. 711. The transfer of functions under titles II and  
2 V of this Act does not affect the validity of any draft  
3 environmental impact statement published before the effective  
4 date of this Act.

5        TITLE VIII - EFFECTIVE DATE AND INTERIM APPOINTMENT

6                        EFFECTIVE DATE

7        SEC. 801. (a) This Act takes effect on October 1, 1982,  
8 or 120 days after its enactment, whichever is later, except  
9 that section 710 takes effect upon the date of enactment.

10        (b) Notwithstanding subsection (a) of this section, at  
11 any time after this Act becomes law --

12                (1) the officers provided for in titles III, IV,  
13 and V of this Act may be nominated and appointed, as  
14 provided in those titles, and

15                (2) the Secretary and the Commission may issue  
16 regulations under section 704(b)(2) of this Act.

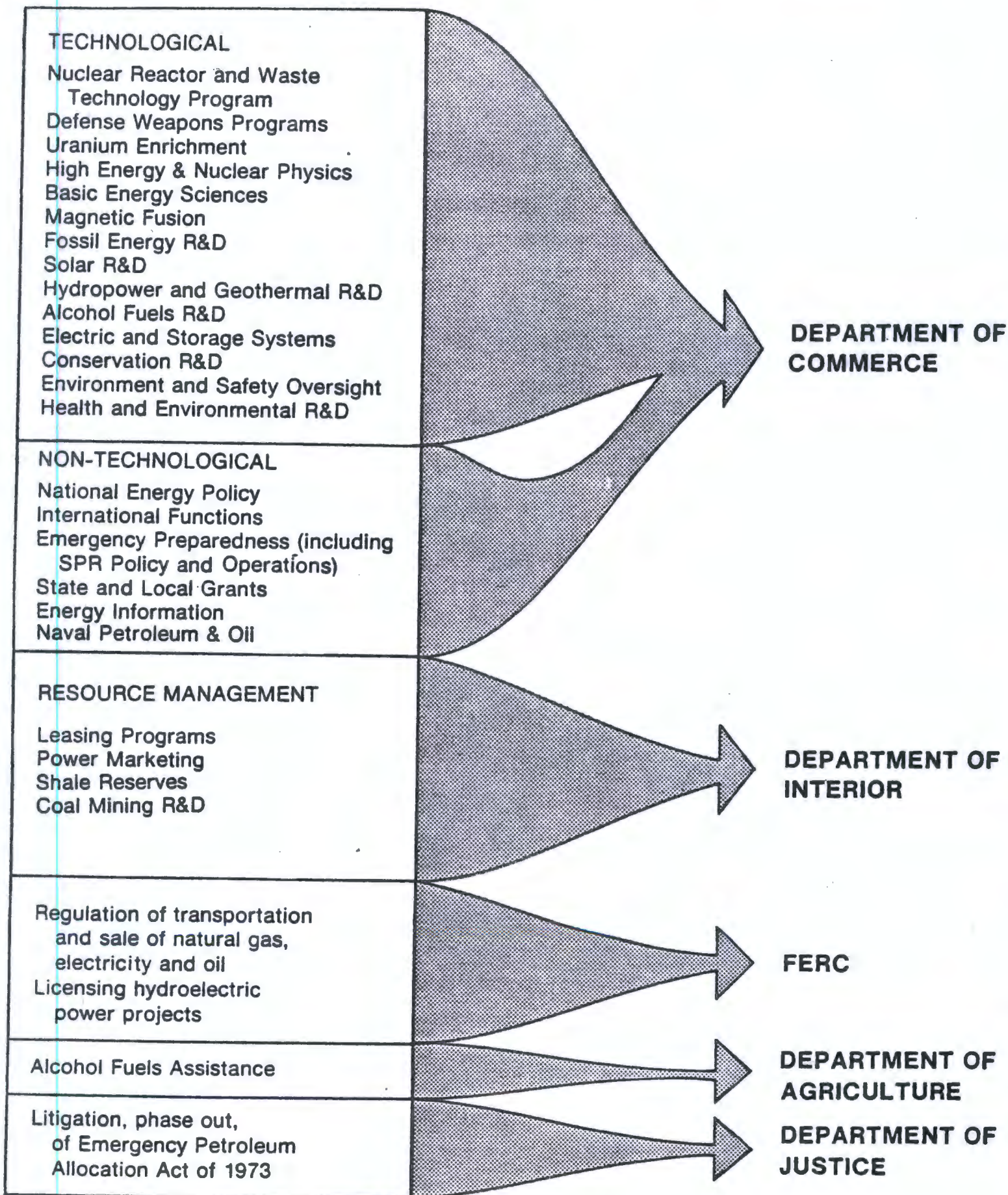
17 Funds available to any Department or agency (or any official  
18 or component thereof), the functions of which are transferred  
19 to the Secretary and the Commission by this Act, may be used,  
20 with the approval of the Director, Office of Management and  
21 Budget, to pay the compensation and expenses of an officer  
22 appointed under this subsection until funds for that purpose  
23 are otherwise available.

24                        INTERIM APPOINTMENTS

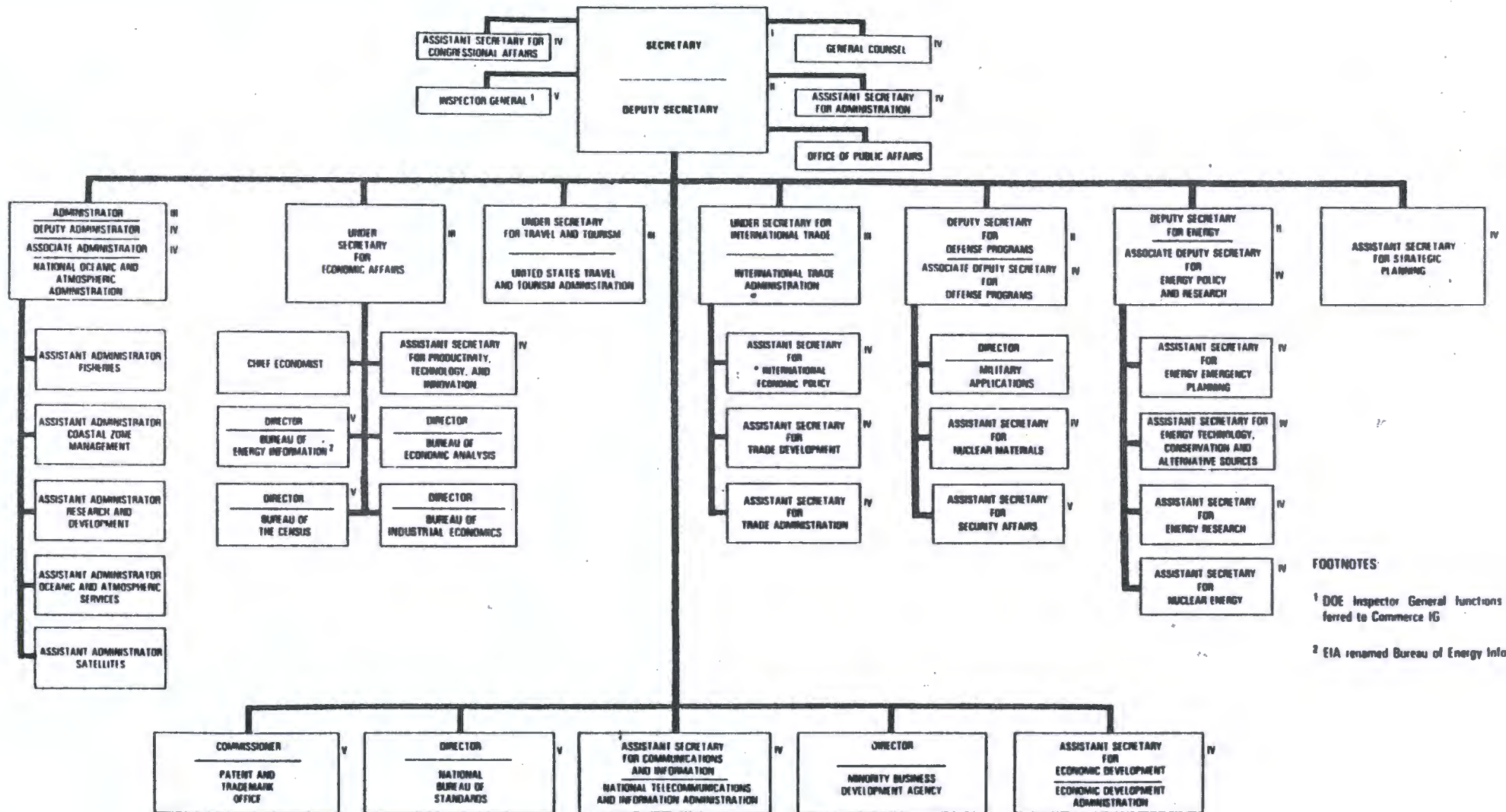
25        SEC. 802. If one or more officers required by this Act

1 to be appointed by and with the advice and consent of the  
2 Senate have not entered upon office on the effective date of  
3 this Act, the President may designate any officer whose  
4 appointment was required to be made by and with the advice  
5 and consent of the Senate, and who was such an officer  
6 immediately before the effective date of this Act, to act in  
7 the office until it is filled as provided in this Act. While  
8 so acting, such an officer shall be compensated at the rate  
9 prescribed by this Act for the office in which the officer  
10 acts.

# REORGANIZING ENERGY PROGRAMS



**PROPOSED  
U.S. DEPARTMENT OF COMMERCE**



**FOOTNOTES:**

<sup>1</sup> DOE Inspector General functions transferred to Commerce IG

<sup>2</sup> EIA renamed Bureau of Energy Information

## SECTION-BY-SECTION ANALYSIS

### Section 101. Findings and Purposes

Subsection (a) states that the energy needs of the Nation can best be met by increasing our reliance on the marketplace to allocate resources. The Federal government should not be placed in the role of planner and manager of the nation's energy resources. Rather, the government should concentrate its resources on: fostering a fiscal climate which encourages businesses and individuals to produce and use energy resources efficiently; integrating the nation's energy policy with its overall economic policy; supporting national defense needs; reducing our vulnerability to energy supply disruptions; providing the private sector with support for R&D not otherwise likely to be undertaken, but which is essential to achieving national objectives; performing functions traditionally viewed as governmental in nature, such as stewarding federal resource reserves; and working with other nations to help solve the problem of global energy shortages.

Subsection (b) declares that the purpose of this Act is to transfer the functions of the Department of Energy to other Executive branch departments and to an independent Federal Energy Regulatory Commission ("Commission" or "FERC").

### Section 102. Definitions

This sections defines key terms used throughout the bill. The words which are defined are "Commission," "Department", "function," "perform," "performance," and "Secretary." The definition of "Secretary" and "Department", for purposes of titles VI, VII, and VIII, will vary, depending on the context in which the word is used. "Secretary" may mean the Secretary of Commerce, the Secretary of the Interior, the Secretary of Agriculture, and/or the Attorney General. Similarly, "Department" may mean the Department of Commerce, the Department of the Interior, the Department of Agriculture, and/or the Department of Justice.

### Section 103. Relation with States

This section provides that whenever a proposed action of the Department of Commerce conflicts with the energy plan of any

state, the Department of Commerce will attempt to resolve the conflict.

#### Section 201. Transfers to the Department of Commerce

This section transfers from the Department of Energy to the Department of Commerce most of the functions now vested in the Secretary of Energy and the Department of Energy. The programs being transferred to the Department of Commerce include programs relating to nuclear reactor and waste technology, nuclear weapons, uranium enrichment, high energy and nuclear physics, basic energy sciences, magnetic fusion, fossil energy R&D, solar R&D, hydropower and geothermal R&D, alcohol fuels R&D, electric and storage systems, conservation R&D, environmental and safety oversight, health and environmental R&D, national energy policy, international functions, emergency preparedness (including strategic and naval petroleum reserve policy and operations), state and local grants, regulation of the import and export of natural gas and electricity, establishment and review of priorities for curtailments of natural gas, and other energy laws not transferred specifically to other departments.

Subsection (b) authorizes the Secretary of Commerce to exercise the authorities of the Commission under the Natural Gas Act and Federal Power Act to the extent he determines that necessary to the exercise of the functions vested in him by this Act.

Subsection (c) transfers to the Secretary of Commerce the duties and responsibilities of the Department of Energy with regard to international energy issues, and states that the primary authority for the conduct of foreign policy resides in the Secretary of State.

#### Section 202. Transfers to the Department of the Interior

This section would transfer to the Secretary of the Interior certain functions vested in or delegated to the Secretary of Energy and the Department of Energy under laws governing leasing programs, coal mining R&D, and the power marketing administrations. This latter function includes the authority to confirm rates for the sale of federal power, which authority was formerly exercised by the Commission (except with respect to the Bonneville Power Administration, in which

case the confirmation and approval authority would continue to reside in FERC).

#### Section 203. Transfers to the Department of Agriculture

This section would transfer to the Secretary of Agriculture the alcohol fuels loan guarantee program.

#### Section 204. Transfer to the Department of Justice

This section would transfer to the Attorney General the enforcement functions for oil pricing and allocation violations under the Emergency Petroleum Allocation Act of 1973. In addition, this section provides that the Attorney General shall exercise responsibility for conducting all litigation in connection with functions transferred by Title II of the Act.

#### Section 301. Deputy Secretaries

Subsection (a) establishes in the Department of Commerce two additional Deputy Secretaries who shall be appointed by the President, by and with the advice and consent of the Senate, who shall be compensated at the rate provided for Level II of the Executive Schedule.

Subsection (b)(1) provides that one of the Deputy Secretaries shall be the Deputy Secretary for Defense Programs. This Deputy Secretary shall be responsible for nuclear-related functions that support the Department of Defense in meetings its defense objectives. Those functions include defense-related intelligence activities, the management and implementation of the national security and nuclear weapons program, and certain Military Liaison Committee activities.

Subsection (b)(2) provides that this Deputy Secretary shall serve as technical adviser to the President with regard to all matters related to nuclear weapons which are the responsibility of the Department of Commerce.

Subsection (c) provides that the other Deputy Secretary shall be the Deputy Secretary for Energy. This Deputy Secretary shall perform those functions which relate to domestic and international energy policy formulation and implementation, energy emergency planning, energy planning and analysis

authorized or required by laws set forth in section 201, regulatory functions transferred to the Department of Commerce by section 201, nuclear non-proliferation, civilian nuclear power, naval nuclear propulsion, long-term basic and applied energy research, energy conservation, utilization of alternate or renewable energy sources, and fossil fuel technology.

#### Section 302. Senior Officers

This section provides for the appointment of eight senior officers in the Department of Commerce to perform the functions prescribed for them in the statute or as otherwise prescribed by the Secretary. All would be appointed by the President and, unless otherwise noted below, all would subject to confirmation by the Senate.

Subsection (a) establishes the position of Associate Deputy Secretary for Energy Policy and Research at level IV of the Executive Schedule. The Associate Deputy Secretary would report to the Deputy Secretary described in Section 301(c) and would perform the duties of that office during the absence or disability of that officer or should the office become vacant. Other officers reporting to that Deputy Secretary will normally report through this Associate Deputy Secretary, but sufficient flexibility is preserved to permit alternate reporting arrangements if the Secretary or Deputy Secretary so elect.

Subsection (b) establishes the position of Associate Deputy Secretary for Defense Programs at level IV of the Executive Schedule. This officer will report to the Deputy Secretary described in Section 301(b) and will assume the duties of that office in the event of absence, disability, or vacancy. The same flexibility as that described in the preceding paragraph is preserved.

Subsection (c)(1) provides for five additional Assistant Secretaries in the Department of Commerce at level IV of the Executive Schedule.

Paragraph (c)(2) provides that one of the Assistant Secretaries shall be the Assistant Secretary for Nuclear Materials. This Assistant Secretary shall be responsible for those programs which relate to production of nuclear materials for nuclear weapons R&D, testing, and production, and to the management of defense nuclear waste. This Assis-

tant Secretary shall report to the Deputy Secretary described in section 301(b).

Paragraph (c)(3) provides that one of the Assistant Secretaries shall be the Assistant Secretary for Energy Emergency Planning. This Assistant Secretary shall be responsible for reducing U.S. vulnerability to energy supply interruptions and for planning for energy emergencies. This function shall include establishing policy for and operating the strategic petroleum reserve and naval petroleum reserve.

Paragraph (c)(4) provides that one of the Assistant Secretaries shall be the Assistant Secretary for Energy Technology, Conservation and Alternative Sources. This Assistant Secretary shall be responsible for programs relating to energy conservation and the development of technologies for fossil energy and renewable energy sources.

Paragraph (c)(5) provides that one of the Assistant Secretaries shall be the Assistant Secretary for Energy Research. This Assistant Secretary shall be responsible for those programs relating to magnetic fusion energy technology, and managing the long-term basic and applied energy research programs.

Paragraph (c)(6) provides that one of the Assistant Secretaries shall be the Assistant Secretary for Nuclear Energy. This Assistant Secretary shall be responsible for Federal programs relating to research on and development of the technology for nuclear-power production, including research on and development of reactor systems, naval nuclear propulsion, and management of non-defense generated nuclear waste.

Paragraph (c)(7) provides that the Assistant Secretaries for Energy Research; Energy Technology, Conservation, and Alternative Sources; Nuclear Energy; and Energy Emergency Planning shall report to the Deputy Secretary described in section 301(c). This subsection further provides that any function of any of these four Assistant Secretaries may be reassigned by the Secretary to any one of the others.

Subsection (d) establishes an Assistant Secretary for Security Affairs entitled to compensation at the level V rate. The incumbent will report to the Deputy Secretary described in section 301(b) and will perform such security-related functions as are assigned. This position will not be subject to Senate confirmation.

### Section 303. Naval Reactor and Military Application Programs

Subsection (a) provides that there shall be a Division of Naval Reactors to perform the R&D, development, and health and safety functions relating to naval nuclear propulsion and assigned civilian power reactor programs. The head of this Division shall report to the Assistant Secretary for Nuclear Energy.

Subsection (b) provides that there shall be a Division of Military Application, as established by section 25 of the Atomic Energy Act of 1954. The Director of Military Application shall be a general or admiral, and shall report to the Deputy Secretary described in section 301(b).

### Section 304. Assistant Secretary for Strategic Planning

This section establishes the position of Assistant Secretary for Strategic Planning. The Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for Level IV of the Executive Schedule. The Assistant Secretary for Strategic Planning shall coordinate the activities of the Department of Commerce relating to energy strategic materials and industrial mobilization that were under the authority of the Secretary of Commerce as of the date of enactment of this Act.

### Section 401. Establishment of Bureau of Energy Information; Director

Subsection (a) provides that there shall be within the Department of Commerce a Bureau of Energy Information. The Bureau of Energy Information will perform the functions of the Energy Information Administration, now located in the Department of Energy. This Bureau shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. This Director shall be compensated at the rate provided for in level V of the Executive Schedule.

The Director shall report to the Secretary through the Under Secretary of Commerce for Economic Affairs. By renaming the Energy Information Administration the Bureau of Energy Information, and by compensating its Director at level V of the Executive Schedule, the legislation does not intend to downgrade the importance or status of this organization.

Rather, by placing the Bureau under the Assistant Secretary of Commerce for Economic Affairs, it is envisioned that this Bureau will act as a parallel entity to the Bureau of the Census, a primary data gathering organization now within the Commerce Department, which is also headed by an ES-V who reports to the Assistant Secretary for Economic Affairs. This arrangement allows these two Bureaus to assume positions of equivalent stature within the Department.

Subsection (b) provides that the Bureau shall carry out a comprehensive energy data and information program to collect, evaluate, assemble, analyze, and disseminate energy data information. This provision is virtually identical to the mission description of the Energy Information Administration in the Department of Energy Organization Act. The Bureau acts "under the . . . direction. . . of the Secretary of Commerce," as do all elements of the Department of Commerce.

This subsection also provides that, except for information policies developed a senior Commerce official pursuant to 44 U.S.C. § 3506, the Director shall not be required to obtain the approval of any officer or employee of the Department in connection with the collection or analysis of information. The Director shall not be required to obtain the approval of any officer or employee of the United States with respect to the substance of any statistical or forecasting technical reports prior to publishing that information. This provision is identical to a similar provision in the Department of Energy Organization Act which provides certain autonomy to the head of the Energy Information Administration.

Subsection (b) also provides that the Bureau shall be subject to an annual professional audit of performance as described in section 55 of part B of the Federal Energy Administration Act of 1974. This provision tracks verbatim a provision in the Department of Energy Organization Act.

Subsection (c) provides that information collected by the Bureau shall be catalogued and made available to the public. This section does not, however, require disclosure of matters which are exempted from mandatory disclosure by the exemption section (section 552(b)) of the Freedom of Information Act.

Subsection (d) provides special procedures to protect the confidentiality of individually identifiable data gathered for statistical purposes. The present Department of Energy Organization Act does not distinguish between information gathered for regulatory purposes and that gathered for

statistical purposes. To ensure the integrity of data gathered for statistical purposes, and to ensure respondents that information which they give will not be used for other than statistical purposes, the legislation establishes a series of procedures and safeguards to protect this information.

Subsection (d) provides that before starting an energy information data collection effort, the Secretary shall determine whether the information is to be gathered solely for statistical purposes. This determination shall be made in consultation with FERC. For purposes of section 401, "statistical purposes" is defined to mean "the use of information for developing or reporting aggregate or anonymous information not intended to be used, in whole or in part, in any way in which the specific identity of any person is material to the intended use of the information."

If data is to be gathered solely for statistical purposes, the Secretary may only make such data available in individually identifiable form to another office or component within the Department, or to another Federal agency, if he is satisfied that a written request for such information contains a demonstration of the need for the data in individually identifiable form by that office for fulfillment of its lawful duties, and contains reasonable and binding assurances by the requesting office that the information will be used solely for statistical purposes.

Individually identifiable information gathered solely for statistical purposes shall be exempt from public disclosure under the (b)(3) exemption of the Freedom of Information Act (information exempted from disclosure by statute). Whoever publishes or communicates any information the disclosure of which is prohibited by subsection (d) shall be fined not more than \$5,000 or imprisoned for not more than 5 years, or both.

Subsection (e) provides that to the maximum extent practicable the Secretary shall assign the highest priority to collection of energy information needed by FERC to carry out its responsibilities. This subsection also provides that all powers relating to energy information which are vested in the Secretary under the Federal Energy Administration Act of 1974 and the Energy Supply and Environmental Coordination Act of 1974 (ESECA) shall be available to the extent necessary to the exercise of the functions vested in FERC.

Subsection (f) provides that section 11(d) of ESECA applies to any energy information obtained by the Bureau for other than statistical purposes, except that it shall not apply to section 17 of the Federal Non-Nuclear Research and Development Act of 1974, which has its own special confidentiality provisions.

(Section 11(d) of ESECA provides that information collected under ESECA may be deemed confidential upon a showing that if such information were made public it would divulge methods or processes entitled to protection as trade secrets, except that such trade secret information may nonetheless be disclosed upon request to a number of different executive branch agencies when necessary to carry out those agencies' duties and responsibilities, or may be disclosed to the Congress.)

Any determination of confidentiality made by the Secretary under section 11(d) of ESECA shall apply to any subsequent disclosure of energy information by an agency to whom it was disclosed, except that an agency head may disclose energy information received under section 11(d) in any proceeding if --

1. The agency is a party to the proceeding;
2. The agency head determines that disclosure of the information in the proceeding is essential to the agency's effective participation in the proceeding; and
3. The agency head seeks an order in the proceeding protecting against disclosure of the information beyond that necessary to the agency's effective participation in the proceeding.

Subsection (g) provides that, notwithstanding subsection (f), the Secretary may provide energy information for other than statistical purposes to any other Federal agency, provided that it will be used solely for statistical purposes.

Subsection (h) provides that nothing in section 401 authorizes the disclosure of any information furnished to the Bureau by another Federal agency if such a disclosure is prohibited by statute.

Subsection (i) provides that notwithstanding any other provision of this Act, the Secretary shall retain authority

to reorganize the energy information functions of the Department.

#### Section 501. Short Title

This section provides that this title may be cited as the Federal Energy Regulation Commission Act.

#### Section 502. Appointment and Administration

Subsection (a) recognizes the Federal Energy Regulatory Commission as a separate independent regulatory commission.

Subsection (b) provides that the Commission be composed of five members appointed by the President, by and with the advice and consent of the Senate. One of the members shall be designated by the President as Chairman. Members serve four year terms and may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office. Members serving on the effective date of the Act continue to serve for the balance of their original term and the member serving as Chairman continues to do so until removed by the President. Not more than three members of the Commission may be members of the same political party. Any vacancy occurring prior to the expiration of a term may be filled only for the remaining portion of the unexpired term.

Subsection (c) provides that the Chairman is responsible for the executive and administrative operation of the Commission.

Subsection (d) provides that the Chairman may designate any other member of the Commission as acting Chairman during his absence. Further, this subsection provides that the Chairman, or acting Chairman, shall preside at all sessions of the Commission and that a quorum for transaction of business will consist of at least three members. Each member shall have one vote and activities of the Commission shall be determined by a majority vote of the members present.

Subsection (e) authorizes the Commission to establish such procedural and administrative rules as are necessary to carry out its functions.

Subsection (f) authorizes the Commission to hold hearings, sign and issue subpoenas, administer oaths, and receive evidence at any place in the United States.

Subsection (g) provides that the principal office of the Commission shall be in or near the District of Columbia, but it may sit anywhere in the United States.

Subsection (h) provides that attorneys designated by the Chairman may appear for and represent the Commission in any civil action, other than matters before the Supreme Court. This section is similar to section 401 of the Department of Energy Organization Act (the DoE Act), 42 U.S.C. § 7171.

### Section 503. Jurisdiction of the Commission

Subsection (a) sets forth the jurisdiction of the Commission over energy regulatory matters. It vests in the Commission all functions vested in the Secretary of Energy, Department of Energy, or the Federal Energy Regulatory Commission within the Department of Energy with respect to

(1) the Federal Power Act (16 U.S.C. §§ 791a to 828(c)), except for the regulation of exports of electricity which is transferred to the Secretary of Commerce.

(2) the Natural Gas Act (15 U.S.C. §§ 717-717w), except for the regulation of imports and exports of natural gas and the establishment and review of priorities for curtailments which are transferred to the Secretary of Commerce.

(3) the Natural Gas Policy Act of 1978 (15 U.S.C. §§ 3301-3432), except for certain functions pertaining to imported natural gas and the establishment and review of priorities for curtailments which are transferred to the Secretary of Commerce.

(4) establishing rates or charges for the transportation of oil by pipeline or establishing the valuation of such a pipeline.

(5) certain sections of the Public Utilities Regulatory Policies Act of 1978

pertaining to regulation of gas and electricity.

(6) any other provision of law or authority that vests function in the Commission, except as elsewhere provided in this Act.

The authority to confirm and approve rates for the sale of electricity by Federal Power Marketing agencies, other than the Bonneville Power Administration, is transferred to the Department of the Interior by section 202 of this Act.

Subsection (b) provides that no functions described in this section which relate to exports or imports of natural gas or electricity shall be within the jurisdiction of the Commission unless assigned by the Secretary of Commerce. This is intended to preclude the Commission from engaging in subsequent activities which would have the effect of undermining the authorities of the Secretary in this area. This subsection is similar to section 402(f) of the DoE Act, 42 U.S.C. § 7172(f).

Subsection (c) provides that the Commission has jurisdiction over any matter which the Secretary of Commerce, after public notice, may assign to it. This subsection is similar to section 402(e) of the DoE Act, 42 U.S.C. § 7172(e).

Subsection (d) provides the Commission with authority to prescribe rules, regulations and statements of policy with respect to functions under its jurisdiction and establish rates and charges by rulemaking procedures. This subsection is similar to sections 402(h) and 403(c) of the DoE Act, 42 U.S.C. §§ 7172(h) and 7173(c).

#### Section 504. Access to Information

This section provides that, except as otherwise expressly prohibited by law, the Commission may obtain information in the possession of other Federal agencies that it determines is necessary to discharge its responsibilities. This section is similar to section 407(a) of the DoE Act, 42 U.S.C. § 7177(a).

#### Section 505. Delegation

This section authorizes the Chairman to delegate any of his administrative functions and authorize successive redelegations. The section also authorizes the Commission, by published order or rule, to delegate any of its functions.

#### Section 506. Judicial Review

This section establishes jurisdiction for courts to hear cases arising out of the activities of the Commission. It provides that judicial review of Commission actions taken under any law the functions of which are vested in or transferred to the Commission shall be made in the manner specified in such law. In all other cases or controversies arising exclusively under this title, the district courts of the United States shall have exclusive jurisdiction. This section is similar to sections 502(a) and (b) of the DoE Act, 42 U.S.C. §§ 7192(a) and (b).

#### Sections 507-515

These sections provide general administrative authorities to the Commission. Although title VI contains virtually identical administrative provisions for the Cabinet Departments, this Act seeks to establish, in one title, all authorities which the Commission needs for its operation. Thus, further analysis of many of these sections may be obtained from the section-by-section analysis for title VI.

#### Section 507. Officers and Employees

This section authorizes the Commission to appoint necessary employees in accordance with civil service law.

#### Section 508. Advisory Committees

This section authorizes the Commission to establish advisory committees in accordance with the Federal Advisory Committee Act.

#### Section 509. General Authority

This section permits the Commission to exercise any authority, including appropriation Acts, which was available to the agency from which a function was transferred.

#### Section 510. Subpoenas

This section authorizes the Commission to issue subpoenas.

#### Section 511. Contracts

This section authorizes the Commission to enter into contracts, leases, cooperative agreements or similar transactions.

#### Section 512. Use of Facilities

This section authorizes the Commission to utilize the research, services, equipment and facilities of public agencies.

#### Section 513. Field Offices

This section authorizes the Commission to establish and discontinue field offices.

#### Section 514. Experts and Consultants

This section authorizes the Commission to obtain the services of experts and consultants at rates of pay not to exceed the daily rate for a GS-18.

#### Section 515. Gifts and Bequests

This section authorizes the Commission to accept and utilize gifts or donations of money or services.

#### Section 601. Officers and Employees

This section would authorize the Secretary, in accordance with the civil service laws, to appoint officers and employees to carry out the functions of the Act. Five

percent of the personnel performing those functions described in sections 301(b) and (c) could be appointed to scientific, engineering, professional and administrative positions without regard to the civil service or veterans' preference laws. In addition, this section provides that, upon written determination of the Deputy Secretary and written approval of the Secretary, employees of the Department of Commerce engaged in performing functions relating to defense programs may be paid at a rate not to exceed ES-6 of the General Schedule. This section is similar to § 621 of the DoE Act, 42 U.S.C. § 7231.

#### Section 602. Armed Forces Personnel

This section authorizes the Secretary of Commerce to use Armed Forces personnel to perform functions related to functions transferred by this Act. Military personnel would be detailed to the appropriate Department under an inter-agency agreement between the Secretary and the head of the armed service concerned. This section is similar to section 625 of the DoE Act, 42 U.S.C. § 7235.

#### Section 603. Experts and Consultants

This section would authorize the Secretary to obtain the services of experts and consultants, in accordance with Federal law. This section is similar to section 623 of the DoE Act, 42 U.S.C. § 7233.

#### Section 611. General Authority

This section authorizes the Secretary, in carrying out a function transferred to him by this Act, to utilize the authorities available by law, including appropriation Acts, of the official or agency from which the function was transferred. It is intended to provide the authority necessary to assure continuity in the functions transferred until such time as they are subject to reauthorization. This section is similar to section 641 of the DoE Act, 42 U.S.C. § 7251.

#### Section 612. Delegation and Assignment

Subsection (a) permits the Secretary, unless specifically prohibited by law, to delegate any of the functions vested in

him to officers and employees of his Department and authorize successive redelegations as appropriate. This section is similar to section 642 of the DoE Act, 42 U.S.C. § 7252.

Subsection (b) authorizes the Secretary of Commerce, with the consent of the Commission and after public notice, to assign functions which are vested in him by this Act to the Commission. This section is similar to section 402(e) of the DoE Act, 42 U.S.C. § 7172(e).

This section is intended to provide the Secretary with the necessary flexibility to organize and manage the functions transferred to him. It is expected that he will delegate to appropriate employees (and, in the case of the Secretary of Commerce, assign to the Commission) many of the responsibilities and functions vested in him in this Act, but that he will retain the final responsibility for the effective discharge of the authorities and responsibilities.

#### Section 613. Reorganization

This section provides that the authority of the Secretary of Commerce to reorganize units or components of the Department does not extend to organizations established by title III of this Act. This section is similar to section 643 of the DoE Act, 42 U.S.C. § 7253.

#### Section 614. Rules

This section authorizes the Secretary to prescribe rules and regulations necessary for the administration and management of the functions vested in him. It is expected that, as much as possible, there will be continuity of the procedural and administrative rules of the Department of Energy. This section is similar to section 644 of the DoE Act, 42 U.S.C. § 7254.

#### Section 615. Subpoena

This section grants the Secretary the power to issue a subpoena in carrying out the provisions of this Act. The power is the same as that granted the Federal Trade Commission in section 9 of the Federal Trade Commission Act (15 U.S.C. §49), and applies to all responsibilities vested in the Secretary by this Act.

Although there are several specific subpoena authorities transferred by this Act, they apply only to the specific functions transferred. As with section 645 of the DoE Act

(42 U.S.C. § 7255), this section provides subpoena authority with regard to all matters relating to this Act. Such authority is needed in order for the Secretary to carry out the authorities transferred to him.

#### Section 616. Contracts

This section authorizes the Secretary to enter into and perform contracts, leases, cooperative agreements, grants, or other similar transactions with public agencies and private organizations and persons, and is similar to section 646 of the DoE Act, 42 U.S.C. § 7256. In addition, this section confirms the procedures for handling contract relationships with regard to government-owned, contractor-operated facilities that have existed for over 30 years, and authorizes the Secretary of Commerce to continue these procedures.

#### Section 617. Acquisition and Maintenance of Property

This section authorizes the Secretary of Commerce to acquire, construct, improve, repair, operate, and maintain real property of a special purpose nature such as laboratories, research and testing sites and facilities, as well as quarters and related accommodations for employees and their dependents. Under this provision, the Secretary of Commerce may also provide for eating and other necessary facilities for the welfare of Department employees. This section is intended to apply solely to special purpose facilities and thus expressly provides that general purpose space must be obtained from the Administrator of General Services. This section is similar to section 647 of the DoE Act, 42 U.S.C. § 7257.

#### Section 618. Facilities Construction

This section authorizes the Secretaries of Commerce and the Interior to provide certain specified services and resources necessary for employees and dependents stationed at remote locations or outside the continental United States. Reimbursement for subsistence supplies and messing facilities will be made at a reasonable value as determined by the Secretary. Reimbursements may be credited to a working capital fund if it is available for use in performing the work or services for which payment is received, or, if

specified in an appropriation Act, credited as reimbursement to the appropriation or fund which initially bore the cost. This section is a combination of existing Department of Commerce authority (15 U.S.C. § 1514) and section 648 of the DoE Act (42 U.S.C. § 7258).

#### Section 619. Use of Facilities

Subsection (a) authorizes the Secretary to use private and other governmental facilities or services in carrying out his functions under this Act.

Subsection (b) authorizes the Secretary of Commerce, at a rate he deems to be in the public interest, to permit the use of any real property or facility under his custody by a public or private person or organization, and to require the permittee to recondition and maintain the property at its own expense.

Subsection (c) provides that proceeds from reimbursements be deposited in the Treasury and used to pay the costs of the facility, repay or make advances to appropriations or funds which do or will bear the costs, or be credited to a working capital fund available for use in providing the facility. This section is similar to section 649 of the DoE Act, 42 U.S.C. § 7259.

#### Section 620. Field Offices

This section authorizes the Secretary to establish or discontinue such field offices as he considers necessary. This section is similar to section 650 of the DoE Act, 42 U.S.C. § 7260.

#### Section 621. Intellectual Property Rights

This section authorizes the Secretary of Commerce to acquire patents, copyrights, applications for patents, designs and manufacturing data, licences, and releases. This section is similar to section 651 of the DoE Act, 42 U.S.C. § 7261.

#### Section 622. Right to Intervene in Commission Proceedings

This section authorizes the Secretary of Commerce, as a matter of right, to intervene or otherwise participate in any proceeding before the Commission. This section is similar to section 405 of the DoE Act, 42 U.S.C. § 7175.

### Section 623. Authorization

This section authorizes the appropriation of such sums as are necessary to carry out the provisions of this Act.

### Section 624. Initiation of Rulemaking Proceedings Before Commission

Subsection (a) authorizes the Secretary to propose rules and regulations with respect to any function within the jurisdiction of the Commission.

Subsection (b) provides that the Commission shall have exclusive jurisdiction with respect to any proposal made under subsection (a), and shall take action on any such proposal in an expeditious manner.

### Section 701. Transfer and Allocation of Appropriations and Personnel

Subsection (a) transfers to each Secretary and the Commission all personnel, positions, assets, liabilities, contracts, property, records, unexpended balances of appropriations, authorizations, allocations, and other funds connected with the functions transferred to the Secretary under this Act. This section is similar to section 701 of the DoE Act, 42 U.S.C. § 7291.

Subsection (b) transfers the personnel and assets of the Office of Inspector General, Department of Energy, to the Inspectors General of the Departments listed in section 102 (4) of this Act. The intent of this subsection is to reiterate the independence of the Inspectors General and make clear that these personnel and assets are not subject to the Secretary's authority under subsection (a).

Subsection (c) provides that the Director of the Office of Management and Budget, in consultation with the Secretary, shall determine the allocation between the Departments of transfers described in subsection (b).

### Section 702. Effect on Personnel

This section terminates all Department of Energy positions (except those of the Commission) the incumbents of which are appointed by the President, by and with the advice and consent of the Senate. This section is similar to section 703 of the DoE Act, 42 U.S.C. § 7293.

In addition, this section provides that employees of the Department of Energy who were appointed under § 621(d) of the DoE Act (42 U.S.C. § 7231(d)) shall have their appointments

continued, and the appointments shall be considered to be under and subject to § 601(b) of this Act. Subsection 621(d) of the DoE Act authorized the appointment of up to 200 scientific, engineering, professional, and administrative personnel, without regard to the civil service law, at a rate of pay not to exceed that of a GS-18. There are currently fewer than 10 individuals subject to this provision. This provision is intended to authorize the continued employment of these individuals under § 601(b) of this Act, which replaces § 621 of the DoE Act.

### Section 703. Incidental Transfers

Subsection (a) authorizes the Director of the Office of Management and Budget, in consultation with the Secretary and the Commission, to make determinations concerning dispositions of personnel, assets, liabilities, and other matters involved in connection with the function transferred by this Act. This section is similar to section 704 of the DoE Act, 42 U.S.C. § 7294.

Subsection (b) provides that the unexpended balances of prior appropriations for the Department of Energy that are transferred to new appropriation accounts may be merged with funds in the newly established accounts and accounted for as one fund for the same time period as originally enacted.

### Section 704. Savings Provision

Subsection (a) of this section provides for the continuation of all effective orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges made prior to enactment of this Act in connection with transferred functions, unless they are modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, the Commission, other authorized officials, a court of competent jurisdiction, or by operation of law. This subsection is intended to make clear that rules and regulations adopted under authorities transferred under this Act will continue in effect unless they are revoked or otherwise changed in a manner that is in accordance with law, and that any changes made in existing regulations must be done in accordance with the substantive and procedural requirements imposed by this Act and the underlying statutes.

The other subsections of this section serve to protect the status of proceedings, pending at the time this Act takes effect, before any body whose functions are transferred by the Act. Such a proceeding may be discontinued or modified to the same extent permitted had this Act not been enacted. The Secretary and the Commission are authorized to promulgate regulations to assure the orderly transfer of such proceedings. The Act shall not affect suits commenced prior to the date this Act takes effect, except to substitute the appropriate Department official as a party. The authority to impose sanctions and grant waivers with respect to conflicts of interest occurring before the effective date of the Act would continue. This section is similar to section 705 of the DoE Act, 42 U.S.C. § 7295.

#### Subsection 705. Separability

This section provides that if any provision of this Act is held invalid, the remainder of the Act is not affected. This section is similar to section 706 of the DoE Act, 42 U.S.C. § 7296.

#### Section 706. Reference

This section provides that after the effective date of this Act, references in any other law to a department, agency, officer or office from which functions were transferred shall be considered to refer to the Secretary or other appropriate official to whom the functions was transferred. This section is similar to section 707 of the DoE Act, 42 U.S.C. § 7297.

#### Section 707. Presidential Authority

This section preserves for the President all authorities and functions which he possessed immediately before the effective date of this Act. This section is similar to section 708 of the DoE Act, 42 U.S.C. § 7298.

#### Section 708. Conforming Amendments

This section makes a number of conforming amendments to existing laws to bring them into conformity with this Act.

Subsections (a) through (g) delete references to the Department of Energy and its statutorily established officials in titles 3 and 5 of the United States Code and replaces them with the positions established by this Act.

Subsection (h) amends § 58 of the Federal Energy Administration Act of 1974 (15 U.S.C. § 790(g)) to authorize the Director, Bureau of Energy Information (BEI), to provide the head of any agency from which BEI seeks to obtain information with a binding assurance that BEI will not disclose the information in individually identifiable form, except to an agency that will use it solely for statistical purposes.

Subsection (i) amends § 2(b)(1) of Reorganization Plan No. 3 of 1979 (93 Stat. 1382) to provide that the Deputy Secretary shall Act as Secretary of Commerce in the event of the absence or disability of the Secretary or a vacancy in that office, and for an orderly succession of authority if both of those officials are absent or their offices vacant.

Subsection (j)-(1) make minor technical amendments to the Federal Power Act, Natural Gas Policy Act of 1978 and Public Utilities Regulatory Policies Act of 1978, to reflect the slightly different distribution of authorities between the Commission and Department of Commerce than existed between the Commission and the Department of Energy.

Subsection (m) amends § 209 of the Economic Stabilization Act of 1970 to preserve explicitly the Attorney General's right to commence an enforcement action under that Act when an administrative proceeding on the same issue is pending, so long as the administrative proceeding is terminated within a reasonable time after commencement of the court action and prior to issuance of a final order.

Subsection (n) amends Title II of the Energy Security Act to eliminate the statutory requirement for an Office of Alcohol Fuels. It is intended to provide the Secretary of Agriculture with flexibility regarding the organizational structure necessary to accomplish the functions transferred to him by Section 203 of this Act.

#### Section 709. Repeals

Section 709 would repeal certain provisions of Federal law.

Subsection (a) would repeal the Department of Energy Organization Act, which would be replaced by this Act.

Subsection (b) would repeal sections 17, 18, 25, and 32 of the Federal Energy Administration Act of 1974. Section 17 (15 U.S.C. § 776), relating to advisory committee composition and openness of advisory committee meetings, is covered by similar provisions in the Federal Advisory Committee Act. By repealing section 17, the legislation would place all Department of Commerce advisory committees under the same operating rules. Section 18 (15 U.S.C. § 777), relating to economic analysis of proposed actions, is similar in content to Executive Order 12291. By repealing section 18, the legislation would place procedural requirements for economic analyses for proposed actions under the Federal Energy Administration Act on the same basis as economic analyses prepared by other agencies. Section 25 (15 U.S.C. § 784), relating to maintenance or records of all coal or oil export transactions, duplicates records already maintained by the Department of Commerce. This section is deemed unnecessary in light of ongoing Department of Commerce activities. Section 32 (15 U.S.C. § 788), relating to promulgation of commercial standards in rulemaking, places certain rulemaking within the Department of Energy on a different procedural basis than the rulemaking engaged in by other agencies. The procedures required by section 32 are unnecessary, can delay the rulemaking process, impose additional costs on both the private sector and the Federal Government, and impose undesirable variances in the Department of Commerce rule-making procedures.

Subsection (c) would repeal section 308 of the Energy Research and Development Administration Authorization Act of 1977 (42 U.S.C. § 5816a), relating to financial statements of employees. The provisions of section 308 are similar to those in the Ethics in Government Act of 1978 (5 U.S.C. App.), and the Department of Commerce regulations on statements of employment and financial interest (15 C.F.R. Part 0). These latter provisions provide all necessary rules and guidelines on the subject.

Subsection (d) would repeal 15 U.S.C. §§ 1502 and 1503 relating to the Under Secretary of Commerce. This position was abolished by section 2(b)(2) of Reorganization Plan No. 3 of 1979. Section 708(h) of this Act would replace these provisions.

Subsection (e) would repeal 15 U.S.C. § 1514 relating to certain functions and activities of the Department of Commerce in areas outside the continental United States. This provision would be replaced by section 618 of this Act, which combines the Department of Commerce and Department of Energy provisions on use of facilities (15 U.S.C. § 1514 and 42 U.S.C. § 7258).

#### Section 710. Transition

This section provides that, with the consent of the Secretary of Energy, the services of personnel of the Department of Energy may be used for so long as is necessary to facilitate the transfer of functions under this Act. This section is similar to section 722 of the DoE Act, 42 U.S.C. § 7299.

#### Section 711. Environmental Impact Statements

This section provides that the validity of any draft Environmental Impact Statement would not be affected by the transfer of functions under this Act. This section is similar to section 713 of the DoE Act, 42 U.S.C. § 7301.

#### Section 801. Effective Date

This section provides that the Act takes effect on October 1, 1982, or 120 days after enactment, whichever is later. However, section 710, pertaining to utilization of Department of Energy employees to facilitate the transfer of functions, would become effective upon enactment. Further, at any time after enactment, the officers provided for in titles III, IV, and V may be nominated and appointed, and the Secretary and the Commission may issue rules concerning orderly transfer of proceedings under section 704(b)(2).

#### Section 802. Interim Appointments

This section authorizes the President to make interim appointments if officers required to be confirmed by the Senate have not entered office on the effective date of the Act. However, such interim appointees must be officers whose appointment was subject to Senate confirmation. This section is similar to section 902 of the DoE Act, 42 U.S.C. § 7342.



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**Pat Collins**

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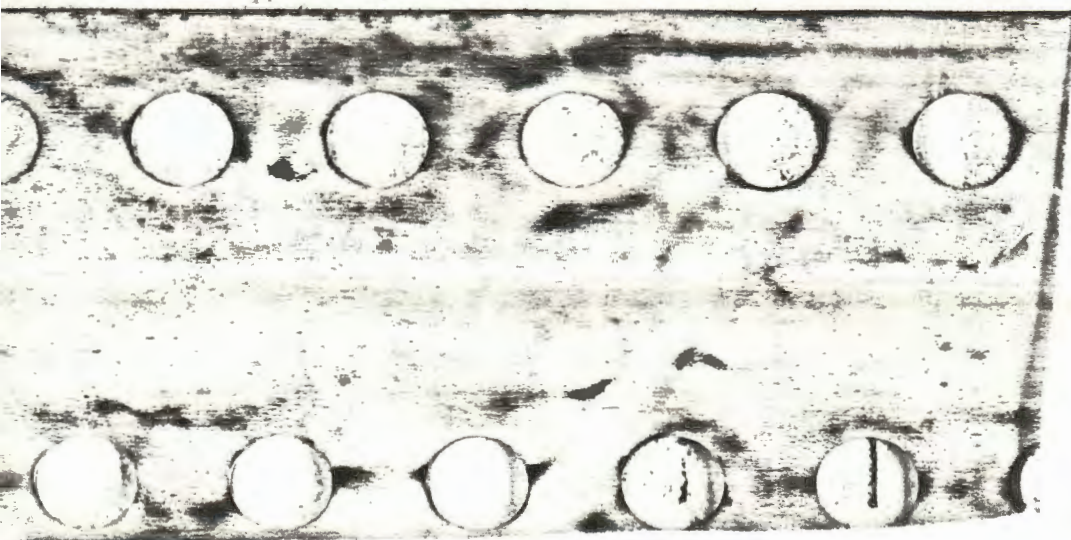


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*Dept. of  
Energy*

*Murphy,  
why we need  
someone with ability +  
fire as Sec of Energy.*

**"Where Will Our Children Live?"**



## The lost momentum on energy

President Reagan's choice as Energy Secretary to succeed James B. Edwards will find the Administration's ambitious energy program in shambles. Whoever fills the job—leading candidates include Interior Under Secretary Donald P. Hodel and retiring Representative James T. Broyhill (R-N. C.)—will inherit a program under heightened attack.

Reagan's program, which aims to cede the government's role in energy planning to industry, has fomented opposition on ideological and national security grounds. But the President's failure to implement his plans is alarming some stalwart backers as well. "The Reagan Administration's energy agenda is slipping away," says Milton R. Copulos, an energy analyst for the Heritage Foundation, a conservative think tank.

**A lackadaisical attitude?** In part, Reagan's loss of momentum can be traced to preoccupation with broader economic issues. But Congress has grown increasingly disturbed about the national security implications of what it views as the President's lackadaisical attitude on energy-related matters. It has moved into the vacuum with initiatives that are

thwarting Reagan's free-market approach.

Congressional pressure has already forced Reagan to back off from his initial plan to kill the Energy Dept. (table).

So far neither house has bought the Administration's new suggestion to spin off Energy's functions to other departments. "I would guess we've made them rethink the real importance to this economy of an energy policy," says Senate Energy Committee Chairman James A. McClure (R-Idaho). McClure, who has led many of the congressional energy initiatives, served as an energy adviser in Reagan's Presidential campaign.

Opposition from the Hill has stymied, probably until early 1983, a White House proposal to accelerate the lifting of price controls on natural gas, probably the most crucial issue on Reagan's agenda. Congress has also quadrupled the \$107 million the Administration sought for coal research in fiscal 1983 while inflating to \$387 million the \$22 million proposed for energy conservation projects. Even Reagan's avowed top energy priority, easing licensing procedures for nuclear power plants, is on hold as Congress struggles with a nuclear waste disposal bill.

**'The next priority.'** The Administration has won some energy points. It has accelerated the decontrol of oil prices begun by President Carter. Interior Secretary James G. Watt is moving to lease 1 billion offshore acres for oil and gas exploration. And Reagan has successfully blocked legislation that would have empowered him to allocate oil during shortages. But these achievements are being diluted by congressional moves.

Some Reagan supporters still expect the President to undertake a more vigorous role. "When he gets done with his budget problems, energy is his next priority," says Michel T. Halbouty, a Texas oil man who headed Reagan's energy transition team in late 1980. "If not," Halbouty warns, "there's going to be a lot of disappointed people down here."

### How Reagan's energy plans are faring

#### President's proposal

#### Congressional response

Accelerated decontrol of natural gas prices

Passage unlikely

Elimination of the Energy Dept.

Action doubtful

Reduction of Energy Dept. research and development funds

Funding increased for 1983

Elimination of special White House powers for dealing with world oil crises

Emergency procedures needed

Streamlined licensing procedures for nuclear power plant construction

Limited program likely

Establishment of a nuclear waste disposal program

Action uncertain

Energy development in wilderness areas

Action doubtful

Restricted federal financing of coal-port dredging

More liberal funding likely

Dates: BW

P. Thomas Cantrell

*Dept of  
Energy*

August 25, 1982

Mr. Morton Blackwell  
Special Asst. to the President  
Rm. 191, OEOB  
Washington, DC 20500

Dear Morton:

It is with a deep sense of both regret and enthusiasm that I want to tell you that as of September 13, 1982, I will be leaving the U.S. Chamber and New York City and returning to Washington, D.C.

I have the privilege of being asked to join the Reagan Administration as Deputy Assistant Secretary of the Department of Energy, working in the Senate liaison area. This is an opportunity that I frankly found too hard to refuse.

My work at the U.S. Chamber has been most rewarding and I look forward to continuing our relationship from this new position.

Please let's keep in touch. Below is my new address and phone and I hope you won't hesitate to call me at any time.

Warmest personal regards,



P. Thomas Cantrell

*Look forward to working  
together*

/il

Deputy Assistant Secretary  
DOE Suite 7B180  
1000 Independence Ave., SE  
Washington, DC 20585  
(202) 252-5468



DEPARTMENT OF ENERGY  
WASHINGTON, D.C. 20585

*C file*

Assistant to the Secretary  
for Public Affairs

MEMO TO: Morton Blackwell  
FROM: Carol Dawson *CD*  
SUBJECT: Attached news releases.

As per your request, we are attaching copies of the news releases on the two new appointees to the National Petroleum Council. I am also sending a copy to the two gentlemen and to Charlie DeGravelles.

# DOE NEWS:

FOR IMMEDIATE RELEASE  
AUGUST 6, 1982

## C. M. McLEAN APPOINTED TO NATIONAL PETROLEUM COUNCIL

C. M. "Mac" McLean, of Lafayette, Louisiana, an independent consulting geologist with more than 33 years experience, has been appointed by Secretary of Energy James B. Edwards as a member of the National Petroleum Council.

The National Petroleum Council is a key federal advisory committee to the Secretary of Energy. Established in 1946, its purpose is to provide advice, information, and recommendations to the Secretary on matters relating to oil and gas and the oil and gas industries.

Its members come from all parts of the country and include a broad representation of industry, environmental, consumer, labor, academic, and state government organizations and institutions. Individual members serve without compensation as representatives of their industry or associated interests as a whole, not as representatives of their particular companies or affiliations.

McLean 57, was a geologist with major oil companies from 1949 to 1959. He has worked as an independent consulting geologist since then and at various times on retainer with independent oil companies. He is credited for numerous significant oil and gas discoveries in South Louisiana.

McLean was born in Nachitoches, Louisiana and is a 1949 graduate of Louisiana State University with a B.S. in geology. He served as a Second Lieutenant and Navigator with the Eighth Air Force during World War II in England.

He is active in civic, professional and political affairs. He is a past chairman and served on the Lafayette Advisory Board of the Salvation Army for the past 17 years. He is a member of the American Association of Petroleum Geologists, Lafayette Geological Society (charter member and past vice president), Louisiana Association of Independent Producers and Royalty Owners (first board of directors), and the Lafayette Petroleum Club (board of directors and first vice president).

(MORE)

McLean has been active at the local, state and national level in Republican party affairs. He was elected in the statewide primary as a Reagan delegate to the 1980 Republican National Convention, and served as the District chairman, Reagan for President, during the primary campaign and the national campaign.

He is married and the father of two children.

- DOE -

News Media Contact: James E. Merna, 202/252-5810

# DOENNEWS:

FOR IMMEDIATE RELEASE  
AUGUST 6, 1982

## CLIFFORD TRICE APPOINTED TO NATIONAL PETROLEUM COUNCIL

Clifford W. Trice, of Longview, Texas, an oil company executive with more than 40 years experience in petroleum engineering, has been appointed by Secretary of Energy James B. Edwards as a member of the National Petroleum Council.

The National Petroleum Council is a key federal advisory committee to the Secretary of Energy. Established in 1946, its purpose is to provide advice, information, and recommendations to the Secretary on matters relating to oil and gas and the oil and gas industries.

Its members come from all parts of the country and include a broad representation of industry, environmental, consumer, labor, academic and state government organizations and institutions. Individual members serve without compensation as representatives of their industry or associated interests as a whole, not as representatives of their particular companies or affiliations.

Trice, 63, is President, Dal-Long Oil Company, involved in oil and gas exploration in Texas, Louisiana, Oklahoma, and Colorado. He has also served as president of a number of oil production and drilling companies, such as the Trice Production Company, the Trans-Tex Drilling Company, the Sunset Drilling Company, and the Sinex Drilling Company.

Trice was Chief Petroleum Engineer for the H. L. Hunt Oil Company in Dallas, and earlier in his career was a petroleum engineer with Standard of Indiana and Standard of New Jersey.

He graduated as Valedictorian of his Waurika, Oklahoma High School class, and was number one academically in the School of Engineering at the University of Oklahoma, earning a B. S. Degree in Petroleum Engineering in 1941.

(MORE)

During World War II, Trice served in the U. S. Army, Ordnance Department, and was discharged with the rank of Major.

He belongs to numerous professional and community organizations including membership in the American Petroleum Institute, the Texas Mid-Continent Oil & Gas Association, the Texas Independent Producers & Royalty Organization, and The Young Presidents Organization.

He was a delegate to the 1976 State Republican Convention, and an alternate to the 1976 National Republican Convention. He also served on the Select Committee-Financial Advisory, Reagan Campaign 1976 and 1980.

He is married to Virginia Stowe Trice, has three children, and resides at 914 Hillcrest Drive, in Longview, Texas.

- DOE -

News Media Contact: James E. Merna, 202/252-5810