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 regulatory agency, and for other purposes.

IN THE SENATE OF THE UNITED STATES

May 24 (legislative day, May 11), 1982

Mr. Roth (for himself, Mr. Baker, Mr. McClure, Mr. Packwood, and Mr. Tower) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

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 regulatory agency, and for other purposes.

1

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2

That this Act may be cited as the “Federal Energy Reorganization Act of 1982”.

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1 TITLE I—FINDINGS AND PURPOSES;
2 DEFINITIONS
3 FINDINGS AND PURPOSES
4 SEC. 101. (a) The Congress finds that—
5 (1) ensuring that the American people have the ability to plan for and meet their present and future energy needs remains a national priority and is essential if we are to meet our economic and social objectives and provide for our Nation’s defense;
6 (2) experience has demonstrated that the ability of the American people to determine and satisfy their energy needs will be enhanced by increasing our reliance on the marketplace to allocate resources and re-
ducing our dependence on the Federal Government as energy planner, manager, and regulator;

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

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

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

(C) supporting national defense needs;

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

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

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

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

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

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

RELATIONSHIP WITH STATES

SEC. 103. Whenever any proposed action by the Department of Commerce conflicts with the energy plan of any State, the Department shall give due consideration to the
needs of such State, and where practicable, shall attempt to resolve such conflict through consultations with appropriate State officials. Nothing in this Act shall affect the authority of 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. (1) the Atomic Energy Act of 1954 (42 U.S.C. 2011–2296);
2. (2) the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901–5920);
3. (3) the Energy Reorganization Act of 1974 (42 U.S.C. 5801, 5811–20, 5871–79, and 5891);
4. (4) the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1101–1164);
5. (5) the Solar Energy Research, Development, and Demonstration Act of 1974 (42 U.S.C. 5551–5566);
6. (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. 5581–5594);

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


(12) the Geothermal Energy Act of 1980 (30 U.S.C. 1501–1542);

(13) the Magnetic Fusion Engineering Act of 1980 (42 U.S.C. 9301–9312);

(14) the Wind Energy Systems Act of 1980 (42 U.S.C. 9201–9213);

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

(16) the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101–9167);
(17) the Methane Transportation Research, Development, and Demonstration Act of 1980 (15 U.S.C. 3801-3810);

(18) titles VIII and sections 901-907 of the Surface Mining Control and Reclamation Act of 1977, relating to university coal research laboratories, and energy resource graduate fellowships (30 U.S.C. 1311-1316, 1321-1327);

(19) chapter 641 of title 10, United States Code, relating to the naval petroleum reserves;

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

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

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

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

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

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

(27) title II of the Act of June 16, 1972 (Public Law 92–314; 86 Stat. 226), relating to financial assistance for the State of Colorado to limit exposure to radiation from uranium mill tailings in Grand Junction, Colorado;


(29) the National Energy Conservation Policy Act (Public Law 95–619 (codified in scattered sections of titles 12, 15, 23, and 42 U.S.C.)), including section 641 thereof notwithstanding the provisions of section 709(a) of this Act;


(31) the Energy Conservation and Production Act (Public Law 94–385 (codified in scattered sections of titles 12, 15, and 42 U.S.C.)), including section 304 of that Act (42 U.S.C. 6833) relating to development and
promulgation of energy conservation standards for new buildings;

(32) section 509 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-8);

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

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

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

(36) the Energy Security Act (Public Law 96-294 (codified in scattered sections of 7, 10, 12, 15, 16, 30, 42, and 50 App. U.S.C.)), except for functions transferred to the Secretary of Agriculture by section 203(1) of this Act;

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

(38) section 106 of the Act of October 15, 1977 (Public Law 95-134 as added by section 102 of the Act of March 12, 1980; Public Law 96-205 (48 U.S.C. 1681 nt)), relating to a medical care program for certain Marshall Islanders;

(39) section 604 (c)-(e) of the Act of December 24, 1980 (Public Law 96-597; 48 U.S.C. 1492 (c)-
(e), relating to a comprehensive energy plan for insular areas;

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

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

(42) the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617 (codified in scattered sections of titles 15, 16, 30, 42, and 43 U.S.C.)), except for functions transferred to the Commission by section 503 of this Act;

(43) the Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95-620 (codified in scattered sections of titles 15, 42, 45, and 49 U.S.C.));

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

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

(46) the Natural Gas Act (15 U.S.C. 717-717w), insofar as it pertains to the import and export of natural gas;
(47) the Federal Power Act (16 U.S.C. 791a–828(c)), insofar as it pertains to export of electricity.

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

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

(50) the functions set forth in the Interstate Commerce Act (codified in scattered sections of titles 15 and 49 U.S.C.), and other statutes which formerly vested authority in the Interstate Commerce Commission or the Chairman and members thereof, relating to transportation of oil by pipeline, except as provided in section 503(a)(4) of this Act;

(51) title X of the Omnibus Reconciliation Act of 1981 insofar as it applies to the functions transferred by this section; and

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

(b) The Secretary may exercise any power of the Commission—

(1) under sections 8, 9, 13 through 17, 20, and 21 of the Natural Gas Act (15 U.S.C. 717g, 717h, 717l–717p, 717s, 717t), to the extent he determines it
necessary to the exercise of the functions vested in him
under the Natural Gas Act by this Act; and
(2) under sections 4, 301, 302, 306 through 309,
and 312 through 316 of the Federal Power Act (16
U.S.C. 797, 825, 825a, 825e–825h, 825k–825o), to
the extent he determines it necessary to the exercise of
the functions vested in him by section 201(a)(47) of
this Act.
(c) All functions of the Secretary of Energy and the De-
partment of Energy with respect to—
(1) establishing and implementing policies regard-
ing international energy issues that affect energy re-
search, development, utilization, supply, and conserva-
tion in the United States; and
(2) undertaking activities involving the integration
of foreign and domestic energy policy, including the
provision of independent technical advice to the Presi-
dent on international negotiations involving energy re-
sources, energy technologies, and nuclear weapons
are transferred to the Secretary of Commerce and are to be
exercised in a manner that assures continued coordination
with the Secretary of State, the Secretary of Defense, and
the Secretary of the Treasury. With respect to functions
transferred by this section, the Secretary of State shall exer-
cise primary authority for the conduct of foreign policy.
SEC. 202. There are transferred to, and invested in, the Secretary of the Interior all functions vested in, or delegated to, the Secretary of Energy and the Department of Energy under or with respect to—

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

(A) the Southeastern Power Administration;

(B) the Southwestern Power Administration;

(C) the Alaska Power Administration;

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

(E) the Western Area Power Administration.

The Southeastern Power Administration, the Southwestern Power Administration, the Bonneville Power Administration, the Alaska Power Administration, and the Western Area Power Administration shall be preserved as separate and distinct bureaus within the Department of the Interior. Each of them shall be headed...
by an Administrator appointed by the Secretary of the Interior. The functions transferred to the Secretary of the Interior in paragraphs (1)(A), (1)(B), (1)(C), (1)(D), and (1)(E) shall be exercised by the Secretary of the Interior, acting by and through the appropriate Administrator. Each Administrator shall maintain his principal office at a location in the region served by the Administrator's respective Federal power marketing entity;

(2) the Outer Continental Shelf Lands Act Amendments (Public Law 95–372; 99 Stat. 629), and any other authority of the Secretary of Energy relating to the award or administration of Federal leases not previously transferred to the Secretary of the Interior by the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1982 (Public Law 97–100; 95 Stat. 1391), which repealed sections 302(b), 302(c), and 303(c) of the Department of Energy Organization Act;

77 Stat. 475), insofar as they relate to the confirmation and approval of rates for the sale of Federal power;

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

(5) section 908 of the Surface Mining Control and Reclamation Act of 1977, relating to research and development concerning alternative coal mining technologies (30 U.S.C. 1328); and

(6) title X of the Omnibus Reconciliation Act of 1981 insofar as it applies to the functions transferred by this section.

TRANSFERS TO THE DEPARTMENT OF AGRICULTURE

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

(1) subtitle A of the Biomass Energy and Alcohol Fuels Act of 1980 (42 U.S.C. 8811-8821);

(2) section 221 of the Energy Tax Act of 1978 (26 U.S.C. 4041 nt); and
(3) title X of the Omnibus Reconciliation Act of 1981 insofar as it applies to the functions transferred by this section.

TRANSFER TO THE DEPARTMENT OF JUSTICE

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

(b) Notwithstanding any other provision of law, the conduct of any litigation in which the United States, an agency, or officer thereof is a party or is interested, arising from any function or authority transferred under sections 201, 202, or 203 of this Act, is reserved to officers of the Department of Justice, under the direction of the Attorney General.

TITLE III—ORGANIZATION OF ENERGY AND DEFENSE PROGRAM FUNCTIONS

DEPUTY SECRETARIES

SEC. 301. (a) There shall be established by this section within 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. The Deputy Sec-
retaries shall be compensated at the rate provided for level II of the Executive Schedule under section 5313 of title 5, United States Code. The Deputy Secretaries shall perform those functions transferred or delegated to, or vested in, the Secretary of Commerce that the Secretary may prescribe, and shall report to the Secretary; or upon a written delegation by the Secretary to the Deputy Secretary of Commerce.

(b)(1) One of the Deputy Secretaries shall be the Deputy Secretary for Defense Programs who shall perform, in addition to such other functions as the Secretary may prescribe, nuclear-related functions that support the Department of Defense in meeting its defense objectives. Those functions include defense-related intelligence activities; management and implementation of the national security and nuclear weapons programs, such as nuclear weapons research, development, testing, and production; and the performance of functions of the Department of Energy with respect to the Military Liaison Committee established by section 27 of the Atomic Energy Act of 1954 (42 U.S.C. 2037). (2) In accordance with procedures prescribed by the President, the Deputy Secretary whose functions are described in paragraph (1) of this subsection shall provide the President with such technical advice as the President may require on all matters related to nuclear weapons which are the responsibility of the Department of Commerce.
(3) The Deputy Secretary whose functions are described in paragraph (1) of this subsection shall be an individual who, by demonstrated ability, background, training, and experience is specially qualified to understand and assess fairly the issues, problems, and concerns relating to nuclear defense programs.

c) One of the Deputy Secretaries shall be the Deputy Secretary for Energy who shall perform, in addition to such other functions as the Secretary may prescribe, those functions relating to domestic and international energy policy formulation and implementation, energy emergency planning, energy planning and analysis authorized or required by laws in section 201 (other than analysis assigned to the Bureau of Energy information pursuant to title IV), any regulatory function transferred to the Department of Commerce pursuant to section 201 or any other provision of this Act, nuclear nonproliferation responsibilities transferred to the Department of Commerce pursuant to section 201, civilian nuclear power, naval nuclear propulsion, long-term basic and applied energy research, development and demonstration activities of the Department of Commerce, energy conservation, utilization of alternate or renewable energy sources and fossil fuel technology.
SEC. 302. (a) There shall be within the Department of Commerce an Associate Deputy Secretary for Energy Policy and Research who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The Associate Deputy Secretary for Energy Policy and Research shall report to the Secretary through the Deputy Secretary whose functions are described in section 301(c), shall perform such duties as the Secretary or that Deputy Secretary may from time to time prescribe, and shall act for and exercise the functions of that Deputy Secretary during the absence or disability of such person or in the event such office becomes vacant.

(b) There shall be within the Department of Commerce an Associate Deputy Secretary for Defense Programs who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The Associate Deputy Secretary for Defense Programs shall report to the Secretary through the Deputy Secretary whose functions are described in section 301(b), shall perform such duties as the Secretary or that Deputy Secretary may from
time to time prescribe, and shall act for and exercise the
time to time prescribe, and shall act for and exercise the
functions of that Deputy Secretary during the absence or dis-
ability of such person or in the event such office becomes
vacant.

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

(2) One of the Assistant Secretaries shall be the Assist-
ant Secretary for Nuclear Materials who shall perform, in
addition to such other functions as the Secretary may pre-
scribe, those functions which relate to production of nuclear
materials for nuclear weapons research, development, test-
ing, and production, and to the management of defense nu-
clear waste. The Assistant Secretary for Nuclear Materials
shall report to the Deputy Secretary whose functions are de-
scribed in section 301(b) of this Act.

(3) One of the Assistant Secretaries shall be the Assist-
ant Secretary for Energy Research who shall perform, in ad-
dition to such other functions as the Secretary may prescribe,
those functions which relate to developing magnetic fusion
technology, and managing the long-term basic and
applied energy research programs, including research in both
the basic energy sciences and the high energy and nuclear
physics programs.

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

(5) One of the Assistant Secretaries shall be the Assistant Secretary for Nuclear Energy who shall perform, in addition to such other functions as the Secretary may prescribe, those functions which relate to managing the Federal program of research on and development of the technology for nuclear power production, including research on and development of breeder reactor systems, naval nuclear propulsion, and disposal of nondefense generated nuclear waste.

(6) One of the Assistant Secretaries shall be the Assistant Secretary for Energy Emergency Planning who shall perform, in addition to such other functions as the Secretary may prescribe, those functions relating to reducing United States vulnerability to energy supply interruptions and plan-
ning for energy emergencies. These functions shall include operation of the strategic petroleum reserve and the naval petroleum reserve.

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

(d) There shall be within the Department of Commerce a Assistant Secretary for Security Affairs who shall be appointed by the President and who shall receive compensation at the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code. The Assistant Secretary for Security Affairs shall report to the Secretary through the Deputy Secretary whose functions are described in section 301(b) and shall perform such of those functions that relate to security affairs as the Secretary or that Deputy Secretary may from time to time prescribe.

NAVAL REACTOR AND MILITARY APPLICATION PROGRAMS

Sec. 303. (a) There shall be in the Department of Commerce a Division of Naval Reactors which shall perform the research, design, development, health, and safety functions
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relating to naval nuclear propulsion and assigned civilian power reactor programs vested in the Secretary by this Act.

The head of this Division shall report to the Assistant Secretary for Nuclear Energy, whose functions are described in section 302(e) of this Act.

(b) There shall be in the Department of Commerce the Division of Military Application, established by section 25 of the Atomic Energy Act of 1954 (42 U.S.C. 2035). The Director of this Division shall perform, in addition to such other functions as the Secretary may prescribe, functions relating to nuclear weapons research, development, testing, and production. The Director of this Division shall report to the Deputy Secretary whose functions are described in section 301(b) of this Act and shall be an active commissioned officer of the Armed Forces in general or flag rank or grade, as appropriate.

TITLE IV—ENERGY INFORMATION AND STRATEGIC PLANNING

BUREAU OF ENERGY INFORMATION

Sec. 401. (a) There shall be within the Department of Commerce a Bureau of Energy Information (the Bureau) headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for in level V of the Executive Schedule under section 5316 of title 5,
United States Code. The Director shall report to the Secretary through the Under Secretary of Commerce for Economic Affairs.

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

(2) The Director shall not be required to obtain the approval of any other officer or employee of the Department in connection with the analysis of any information; nor shall the Director be required, prior to publication, to obtain the approval of any other officer or employee of the United States with respect to the substance of any statistical or forecasting technical reports which he has prepared in accordance with law: Provided, however, That in performing the functions delegated to him, the Director shall be subject to the Paperwork Reduction Act of 1980.

(3) The Bureau shall be subject to an annual professional audit of performance as described in section 55 of part B of

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

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

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

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

(B) reasonable and binding assurances by the requesting office or component that the information will be used solely for statistical purposes.
(3) For purposes of this section, "statistical purposes" means 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.

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

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

(e) The Secretary, to the maximum extent practicable, shall assign the highest priority to collection and assembly of energy information for the purposes requested by the Commission and shall provide to the Commission such support and facilities as the Commission determines it needs to carry out its functions. All gathering, reporting, and enforcing powers relating to energy information vested in the Secretary under the Federal Energy Administration Act of 1974 and the Energy Supply and Environmental Coordination Act of 1974 shall be available to the extent necessary or appropriate to the exercise of the functions vested in the Commission.
Section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796(d)) applies to any energy information obtained by the Bureau for other than statistical purposes under any law except section 17 of the Federal Nonnuclear Research and Development Act of 1974 (42 U.S.C. 5916). Both section 1905 of title 18, United States Code, and any determination of confidentiality made by the Secretary under section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 apply to any subsequent disclosure of energy information by an agency to whom it is disclosed under section 11(d)(2) of the Energy Supply and Environmental Coordination Act of 1974, except that an agency head may disclose energy information received under section 11(d)(2) of the Energy Supply and Environmental Coordination Act of 1974 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.

(g) Notwithstanding subsection (f) of this section, the Secretary may provide energy information gathered by the
Bureau for other than statistical purposes to any Federal agency, provided that it will be used solely for statistical purposes.

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

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

ASSISTANT SECRETARY FOR STRATEGIC PLANNING

Sec. 402. There shall be within the Department an Assistant Secretary for Strategic Planning who shall be appointed by the President by and with the advice and consent of the Senate. The Assistant Secretary shall be compensated at the rate provided for by level IV of the Executive Schedule under section 5315 of title 5, United States Code. The Assistant Secretary shall be responsible for the activities of the Department of Commerce relating to strategic materials and industrial mobilization that were under the authority of the Department of Commerce prior to the date of enactment of this Act and shall perform such other functions as the Secretary shall designate, not including any function included in title III of the Act.
TITLE V—FEDERAL ENERGY REGULATORY COMMISSION

SHORT TITLE

Sec. 501. This title may be cited as the “Federal Energy Regulatory Commission Act”.

APPOINTMENT AND ADMINISTRATION

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

(b) The Commission is 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 shall hold office for a term of four years and may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office. An incumbent member who is serving on the effective date of this Act shall continue to serve for the balance of the term for which he was appointed. The member serving as Chairman on the effective date of this Act shall continue to serve in that capacity until removed by the President. The Chairman shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code. The other members of the Commission shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The Chairman and other members of the Commission
shall be individuals who, by demonstrated ability, background, training, or experience, are specifically qualified to assess fairly the needs and concerns of all interests affected by Federal energy policy. Not more than three members of the Commission shall be members of the same political party. A Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of the predecessor’s term. A Commissioner may continue to serve after the expiration of his term until his successor has taken office, except that he may not so continue to serve for more than one year after the date on which his term would otherwise expire under this subsection. A member of the Commission shall not engage in any other business, vocation, or employment while serving on the Commission.

(c) The Chairman is responsible on behalf of the Commission for the executive and administrative operation of the Commission, including functions of the Commission with respect to (1) the appointment and employment of administrative law judges in accordance with the provisions of title 5, United States Code, (2) the selection, appointment, and fixing of the compensation of personnel whom he considers necessary, including an executive director, (3) the supervision of personnel employed by or assigned to the Commission, except that each member of the Commission may select and
supervise personnel for his personal staff, (4) the distribution of business among personnel and among administrative units of the Commission, (5) the establishment, alteration, consolidation or termination of organizational units or components within the Commission, and (6) all functions enumerated in sections 508, 511, 512, 513, 514, and 515 of this title.

(d) The Chairman of the Commission may designate any other member of the Commission as Acting Chairman to act in his place during his absence. The Chairman (or the Acting Chairman in the absence of the Chairman) shall preside at all sessions of the Commission. A quorum for the transaction of business consists of at least three members. Each member of the Commission, including the Chairman, has one vote. Actions of the Commission shall be determined by a majority vote of the members present and voting. The Commission shall have an official seal which shall be judicially noticed.

(e) The Commission may establish procedural and administrative rules that are necessary to the exercise of its functions and may conduct proceedings in a manner conducive to the proper dispatch of business and the ends of justice. Until changed by the Commission, any procedural and administrative rules applicable to particular functions over which the Commission has jurisdiction shall continue in effect with respect to those functions.
(f) In carrying out its functions, the Commission shall have the powers authorized by the law under which the function is exercised to hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate. The Commission may, by one or more of its members or by agents whom it may designate, conduct any hearing or other inquiry necessary or appropriate to its functions, except that nothing in this subsection supersedes the provisions of section 556 of title 5, United States Code relating to administrative law judges.

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

(h) Except as provided in section 518 of title 28, United States Code, relating to litigation before the Supreme Court, attorneys designated by the Chairman of the Commission may appear for, and represent the Commission in, any civil action brought in connection with a function carried out by the Commission under this Act or as otherwise authorized by law.

JURISDICTION OF THE COMMISSION

Sec. 503. (a) Except as provided in subsection (b) of this section, there are transferred to, and vested in, the Com-
mission, as an independent regulatory agency, all functions vested in the Secretary of Energy, Department of Energy, or the Federal Energy Regulatory Commission, an independent regulatory commission within the Department of Energy, under or with respect to:

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

(2) the Natural Gas Act (15 U.S.C. 717–717w), except for the regulation of exports or imports of natural gas which is transferred to the Secretary of Commerce by section 201(a)(46) 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;

(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, 824f, 824j, 824k, 824a-1, 824a, 824d, 824a-2, 824a-3, 825a, 825g, 825e, 2705; 15 U.S.C. 717x, 717y, and 717r(eo); 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 Commission pursuant to section 612(b) of this Act.

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

ACCESS TO INFORMATION

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

DELEGATION

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

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

JUDICIAL REVIEW

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

(b) Notwithstanding the amount in controversy, the dis-
trict courts of the United States shall have exclusive original
jurisdiction of all other cases or controversies arising exclu-
sively under this title, or under rules, regulations, or orders
issued exclusively thereunder, other than any actions taken
to implement or enforce any rule, regulation, or order by any
officer of a State or local government agency under this title,
except that nothing in this section affects the power of any
court of competent jurisdiction to consider, hear, and deter-
mine in any proceeding before it any issue raised by way of
defense (other than a defense based on the unconstitutionality
of this title or the validity of action taken under this title). If
in any such proceeding an issue by way of defense is raised
based on the unconstitutionality of this title or the validity of
agency action under this title, the case shall be subject to the
removal by either party to a district court of the United
States in accordance with the applicable provisions of chapter 89 of title 28, United States Code. Cases or controversies arising under any rule, regulation, or order of any officer of a State or local government agency may be heard in either (1) any appropriate State court, or (2) without regard to the amount in controversy, the district courts of the United States.

OFFICERS AND EMPLOYEES

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

ADVISORY COMMITTEES

Sec. 508. The Commission may establish in accordance with the Federal Advisory Committee Act advisory committees that it considers appropriate to assist in the performance of its functions. Members of advisory committees, other than full-time employees of the Federal Government, while attending meetings of the committees or while otherwise serving at the request of the Commission away from their homes or regular places of business, may be allowed travel expenses, including a per diem allowance in lieu of subsistence,
as authorized by section 5703 of title 5, United States Code,
for individuals in the Government serving without pay.

GENERAL AUTHORITY

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

SUBPENA

Sec. 510. Except as otherwise provided by law, the
Commission or its duly authorized agent or agents, shall have
the same power and authority as the Federal Trade Commis-
sion under section 9 of the Federal Trade Commission Act
(15 U.S.C. 49), for purposes of carrying out its functions.

CONTRACTS

Sec. 511. (a) The Commission may make, enter into,
and perform those contracts, leases, cooperative agreements,
or other similar transactions with public agencies and private
organizations and persons, and to make such payments (in
lump sum or installments, and by way of advance or reim-
bursement) that it considers necessary or appropriate to carry
out functions vested in the Commission.

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

USE OF FACILITIES

SEC. 512. With their consent, the Commission may, with or without reimbursement, use the research, services, equipment, and facilities of any agency or instrumentality of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, or of any political subdivision thereof, or of any foreign government, in carrying out any function now or later vested in the Commission.

FIELD OFFICES

SEC. 513. The Commission may establish, alter, consolidate, maintain or discontinue State, regional, district, local, or other field offices that it considers necessary to carry out its functions.

EXPERTS AND CONSULTANTS

SEC. 514. The Commission may obtain services as authorized by section 3109 of title 5, United States Code, at a rate, not to exceed the daily rate prescribed for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, for persons in Government service employed intermittently.
GIFTS AND BEQUESTS

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

TITLE VI—ADMINISTRATIVE PROVISIONS

Subtitle A—Personnel Provisions

OFFICERS AND EMPLOYEES

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

(b) Subject to the limitations on subsection (c) of this section, and to the extent that he considers necessary to the performance of functions now or later vested in him that relate to functions transferred by this Act, the Secretary of Commerce may establish scientific, engineering, professional, and administrative positions, and appoint and subsequently remove from those positions, not more than 5 per centum of the personnel performing those functions described in sections 301 (b) and (c), without regard to civil service or veterans’ preference law. The Secretary of Commerce shall fix the
compensation of personnel so appointed at rates not in excess of the maximum rate payable for GS–18 of the General Schedule under section 5332 of title 5, United States Code.

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

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

ARMED FORCES PERSONNEL

Sec. 602. (a) The Secretary of Commerce may provide for participation of Armed Forces personnel to perform functions now or later vested in him that relate to functions transferred by this Act. An officer or enlisted member of an Armed Force may be detailed for service in the Department of Commerce by the Secretary (as that term is defined in 10
1 U.S.C. 101) under an interagency agreement with the Secretary of Commerce.

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

EXPERTS AND CONSULTANTS

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

Subtitle B—General Administrative Provisions

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

RULES

SEC. 614. The Secretary may prescribe rules and regulations that he considers necessary or appropriate to perform

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the functions now or later vested in him that relate to func-
tions transferred by this Act.

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

SEC. 616. (a) The Secretary may make, enter into, and
perform those contracts, leases, cooperative agreements,
grants, or other similar transactions with public agencies, pri-
ivate organizations, and persons, and make payments (in lump
sum or installments, and by way of advance or reimburse-
ment, and, in cases of grants, with necessary adjustments on
account of overpayments and underpayments) as he considers
necessary or appropriate to carry out functions now or later
vested in him, that relate to functions transferred by this Act.

(b) Notwithstanding any other provision of this title, the
authority to enter into contracts or to make payments under
this title shall be effective only to the extent or in such
amounts as are provided in advance in appropriation Acts.
(c) Notwithstanding any other law relating to the making or modification of contracts, the Secretary of Commerce, under regulations he may prescribe, may award, modify, extend, or terminate contracts for the operation, management, or support of facilities owned or controlled by the Government that are used in the performance of functions now or later vested in him that relate to functions transferred by this Act.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 617. The Secretary of Commerce, in the performance of functions now or later vested in him that relate to functions transferred by this Act, may acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain real property and interests therein of a special purpose nature, such as laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, and provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at installations not operated by GSA. General purpose space which could be used or readily and economically adapted for use by other Federal agencies shall be obtained from the Administrator of General Services.
SEC. 618. (a) The Secretary of Commerce and the Secretary of the Interior, may, when considered necessary, provide for, construct, equip, or maintain the following for employees or their dependents stationed at remote locations and points outside the continental United States—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) messing facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) furnished living and working quarters and facilities;

(6) reimbursement for food, clothing, medicine, and other supplies furnished by those employees in emergencies for the temporary relief of distressed persons;

(7) transportation of school age dependents of employees to the nearest appropriate educational facilities.

(b) The Secretary may provide the services and supplies under paragraphs (1), (2), and (3) of subsection (a) to employees of other Federal agencies (including Army, Navy, and Air Force personnel when Army, Navy, or Air Force facilities or supplies are not available and upon request of the service concerned).
(c) The furnishing of services and supplies under paragraphs (2) and (3) of subsection (a), shall be at prices reflecting reasonable value as determined by the Secretary.

(d) When specified in appropriations Acts, funds received in payment for work or services under this section may be credited as reimbursement to the appropriations or funds which initially bore all or part of such costs or may be used to refund excess sums when necessary. Such payments may be credited to a working capital fund otherwise established by law, and used under the law governing such a fund, if the fund is available for use by the Department for performing the work or services for which payment is received.

USE OF FACILITIES

SEC. 619. (a) With their consent, the Secretary, with or without reimbursement, may use the research, services, equipment, and facilities of a person, or public or private nonprofit agency or organization, including any agency or instrumentality of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, or of any political subdivision thereof, or of any foreign government, in carrying out any function now or later vested in the Secretary that relate to functions transferred by this Act.

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

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

FIELD OFFICES

Sec. 620. The Secretary may establish, alter, consolidate, maintain, or discontinue State, regional, district, local, or other field offices when he considers it necessary to carry out functions now or later vested in him that relate to functions transferred by this Act.
INTELLECTUAL PROPERTY RIGHTS

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

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

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

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

RIGHT TO INTERVENE IN COMMISSION PROCEEDINGS

SEC. 622. The Secretary of Commerce may as a matter of right intervene or otherwise participate in any proceeding before the Commission. The Secretary shall comply with rules of procedure of general applicability governing the timing of intervention or participation in such a proceeding or activity and, upon intervening or participating, shall comply with rules of procedure of general applicability governing the conduct of the proceeding or activity. The intervention or participation of the Secretary in any proceeding or activity shall not affect the obligation of the Commission to assure procedural fairness to all participants.
AUTHORIZATION

Sec. 623. There are authorized to be appropriated such sums as are necessary to carry out the transfers authorized by this Act.

INITIATION OF RULEMAKING PROCEEDINGS BEFORE COMMISSION

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

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

TITLE VII—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

Sec. 701. (a) Except as provided in sections 701(b), 701(c), and 702 of this Act, the personnel employed in connection with, and the personnel positions, assets, liabilities,
contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with functions transferred by this Act, including all Senior Executive Service and GS-16, GS-17, and GS-18 positions, subject to section 202 of the Budget and Accounting Procedure Act of 1950, are transferred to the Department or the Commission for appropriate allocation.

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

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

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

INCIDENTAL TRANSFERS

SEC. 703. (a) The Director of the Office of Management and Budget, in consultation with the Secretary and the Commission, shall make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an agency, commission or other body, or component thereof affected by this Act, to make the additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, that he considers necessary to accomplish the 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, certificate, or financial assistance pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such a proceeding or application, to the extent that it relates to functions transferred, shall be continued. Orders shall be issued in such a proceeding, appeals shall be taken therefrom, and payments shall be made under such orders, as if this Act had not been enacted; and orders issued in such a proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of such a proceeding under the same terms and conditions and to the same extent that such a proceeding could have been discontinued or modified if this Act had not been enacted.

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

(c) Except as provided in subsection (e)—

(1) the provisions of this Act do not affect a suit commenced before this Act takes effect, and
(2) in such a suit, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

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

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

SEC. 705. If a provision of this Act or its application to any person or circumstance is held invalid, neither the remainder of this Act nor the application of the provision to other persons or circumstances shall be affected.

REFERENCE

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

PRESIDENTIAL AUTHORITY

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

CONFORMING AND TECHNICAL AMENDMENTS

SEC. 708. (a) In section 19(d)(1) of title 3, United States Code, strike “, Secretary of Energy”.

(b) In section 101 of title 5, United States Code, strike "The Department of Energy".

(c) In section 5312 of title 5, United States Code, strike "Secretary of Energy".

(d) In section 5313 of title 5, United States Code, strike "Deputy Secretary of Energy" and insert in its place the following: "Deputy Secretaries (3), Department of Commerce".

(e) In section 5314 of title 5, United States Code, strike "Under Secretary of Energy".

(f) In section 5315 of title 5, United States Code, strike "Assistant Secretaries of Energy (8)" through "Director, Office of Energy Research, Department of Energy", inclusive, and "Assistant Secretaries of Commerce (8)", and insert in their place "Associate Deputy Secretary for Energy Policy and Research, Department of Commerce." "Associate Deputy Secretary for Defense Programs, Department of Commerce." "Assistant Secretaries of Commerce (14)."

(g) In section 5316 of title 5, United States Code, strike "Deputy Inspector General, Department of Energy" and "Additional Officers, Department of Energy (14)" and insert in their place the following: "Director, Bureau of Energy Information, Department of Commerce." "Assistant Secretary for Security Affairs, Department of Commerce."
Section 58 of the Federal Energy Administration Act of 1974 (15 U.S.C. 790g) is amended by—

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

“(2) the disclosure of which by the Director under section 401(f) of the Federal Energy Reorganization Act of 1982 would, as determined by the agency head, impair significantly the discharge of authorities and responsibilities that have been delegated to, or vested by law in, the agency.”;

(2) redesignating subsection (b) as subsection (c);

and

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

“(b) The Director, on behalf of the administrator, may provide the head of a Federal agency from which energy information is sought under subsection (a) of this section with a binding assurance that energy information received from that agency will not be disclosed except as authorized by sections 401(d)(2) or 401(g) of the Federal Energy Reorganization Act of 1982 if the head of the agency from which the information is sought advises the Director that a determination has been made under subsection (a)(2) of this section and that the information will not be provided without a binding assurance of nondisclosure. Any statutory restrictions on, or penalties, for the disclosure of energy information received under this section shall apply to the Administration to the same
extent as to the agency from which the energy information was received.’”.

(i) Section (2)(b)(1) of Reorganization Plan Numbered 3 of 1979 (93 Stat. 1382) is amended to read as follows:

“DEPUTY SECRETARY

(b)(1) “There shall be in the Department a Deputy Secretary, 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 under section 5313 of title 5, United States Code. The Deputy Secretary shall perform such duties and exercise such powers as the Secretary may from time to time prescribe and shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Secretary shall designate the order in which other officers of the Department appointed by the President, by and with the advice and consent of the Senate, shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Deputy Secretary, or in the event of vacancies in both of these offices, until a successor is appointed.’”.

(j) Section 3(17)(B) of the Federal Power Act (16 U.S.C. 796) is amended by striking “in consultation with the Secretary of Energy”.
(K) The Natural Gas Policy Act of 1978 is amended by—

(1) striking "Department of Energy" in section 123 (15 U.S.C. 3333) and inserting in its place "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.

(I) 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";


(5) amending section 602(b) (16 U.S.C. 824a–4(b)) by—

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

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

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

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

"(16) The term ‘Office of Alcohol Fuels’ means the organizational component assigned responsibility for carrying out the functions of the Secretary of Energy under subtitle A of this title which relate to alcohol."; and

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

REPEALS

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

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

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


TRANSITION

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

ENVIRONMENTAL IMPACT STATEMENTS

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

TITLE VIII—EFFECTIVE DATE AND INTERIM APPOINTMENT

EFFECTIVE DATE

SEC. 801. (a) This Act takes effect on October 1, 1982, or one hundred and twenty days after its enactment, whichever is later, except that section 710 takes effect upon the date of enactment.

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

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

(2) the Secretary and the Commission may issue regulations under section 704(b)(2) of this Act.
Fund available to any Department or agency (or any official or component thereof), the functions of which are transferred to the Secretary and the Commission by this Act, may be used, with the approval of the Director, Office of Management and Budget, to pay the compensation and expenses of an officer appointed under this subsection until funds for that purpose are otherwise available.

INTERIM APPOINTMENTS

SEC. 802 If one or more officers required by this Act to be appointed by and with the advice and consent of the Senate have not entered upon office on the effective date of this Act, the President may designate any officer whose appointment was required to be made by and with the advice and consent of the Senate, and who was such an officer immediately before the effective date of this Act, to act in the office until it is filled as provided in this Act. While so acting, such an officer shall be compensated at the rate prescribed by this Act for the office in which the officer acts.