Legislative History

Department of Energy Organization Act

P.L. 95-91

Volume 1 of 6

Department of Energy
Office of Congressional Affairs
Office of Special Counsel

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SYNOPSIS OF ACTION

February 2, 1977

Senator Percy introduced S. 591, the Omnibus Energy and Natural Resources Reorganization Act of 1977. The bill proposed to restructure federal energy agencies, to establish an Energy Policy Council, and a Department of Energy Supply and Natural Resources, to enhance energy conservation programs throughout the executive branch and to study regulatory policies. S. 591 was referred to the Senate Governmental Affairs Committee.

(123 CR S2054 - S2059)

March 1, 1977

President Carter transmitted to Congress proposed legislation to create a cabinet level Department of Energy. The House of Representatives ordered the President's transmittal to be printed as a House Document (House Document No. 95-91). The proposed legislation was referred to the House Government Operations Committee and the Senate Governmental Affairs Committee.

Senator Ribicoff introduced by request S. 826, a bill to establish a Department of Energy by reorganization of energy functions within the federal government and to secure effective management for a coordinated national energy policy. Co-sponsors of the bill were Senators Javits, Percy, Stevenson, Randolph, Humphrey, Bellmon, Cranston, Chiles, Heinz, Roth, Nunn, Pearson, Stennis, Matsunaga, Robert C. Byrd, Inouye, Jackson, and Glenn. The bill was referred to the Senate Governmental Affairs Committee.

(123 CR S3155)

The Senate Governmental Affairs Committee announced that they will begin holding hearings on S. 826 on March 7, 1977.

March 2, 1977

Representative Brooks introduced by request H.R. 4263, the Administration's bill to establish a Department of Energy. The bill was referred to the House Government Operations Committee.

March 3, 1977

The House Committee on Government Operations referred H.R. 4263, to the Subcommittee on Legislation and National Security.

Senators Bellmon and Stennis were added as co-sponsors to S. 826.

March 4, 1977

Senator Matsunaga was added as a co-sponsor to S. 826.

March 7, 1977

The Senate Governmental Affairs Committee began hearings on S. 826 and S. 591. Testimony was given by Administration witnesses James R. Schlesinger, Assistant to the President; and John F. O'Leary, Administrator of the Federal Energy Administration.

March 9, 1977

The Senate Governmental Affairs Committee continued hearings on S. 826. Testimony was given by the following Administration witnesses: Richard L. Dunham, Chairman, Federal Power Commission; Robert W. Fri, Acting Administrator, Energy Research and Development Administration; Cecil D. Andrus, Secretary of the Interior.

March 10, 1977

Representative Brooks introduced H.R. 4806, a bill to establish a Department of Energy. The bill was identical to H.R. 4263 except for the addition of the following co-sponsors: Representatives Breckinridge, Blouin, Cornell, Bevill, Edgar, Bowen, Butler, Cleveland, Fascell, Conte, Coughlin, Ashley, Fenwick, Fithian, Fuqua, Gibbons, Fountain, Ford of Tennessee, Robert W. Daniel, Jr., Duncan of Tennessee, Bedell, Hannaford, and Carney.

Representative Brooks also introduced H.R. 4807 and H.R. 4808, which were identical to H.R. 4806 except for co-sponsors. H.R. 4807 and H.R. 4808 were not printed. Co-sponsors for H.R. 4807 were Representatives Hubbard, Hughes, Hyde, Jenkins, Jones of Oklahoma, Jordan, Kemp, Kostmayer, Lehman, Levitas, McCormack, McHugh, Maguire, Marks, Mazzoli, Mikulski, Mikva, Mitchell of New York, Moakley, Moffett, Moorhead of California, Murtha, M. Myers of Pennsylvania, and Nix.

Co-sponsors of H.R. 4808 were Representatives Nowak, Panetta, Pattison, Pease, Pepper, Pritchard, Rangel, Rinaldo, Rosenthal, Runnels, Ryan, Scheuer, Simon, Skelton, Spellman, Studds, Thone, Tsongas, Udall, Vento, Walker, White, Whitehurst, and Won Pat.

H.R. 4806, H.R. 4807, and H.R. 4808, were referred to the House Government Operations Committee.

Senator Percy inserted in the Congressional Record a Washington Post editorial which stated that energy reorganization is urgently needed. Percy urged support of S. 591, the Omnibus Energy Reorganization Bill.

(123 CR S3973)

March 14, 1977

Senator Pearson was added as a cosponsor to S. 826.

March 15, 1977

The Senate Governmental Affairs Committee continued hearings on S. 826 and S. 591. The Committee heard testimony from four witnesses on the transfer of FPC functions to the Department of Energy. The witnesses were Joseph C. Swidler, former Chairman of the Federal Power Commission; Lee White, former Chairman of the Federal Power Commission; Edward Berlin, Deputy Chairman, New York State Public Service; Robert McDiarmid, formerly Assistant to the General Counsel for the Federal Power Commission.

March 16, 1977

The Senate Governmental Affairs Committee continued hearings on S. 591 and S. 826. Testimony was presented by three witnesses from consumer interest groups. The witnesses were Garry DeLoss from Public Interest Research Group, David Cohen from Common Cause, and James F. Flug from Energy Action.

March 17, 1977

The Senate Committee on Governmental Affairs continued hearings on the proposed Department of Energy bills, S. 591 and S. 826. Testimony was received from the following industry representatives: Carl E. Bagge, President, National Coal Association; Frank N. Ikard,

President, American Petroleum Institute; George H. Lawrence, President, American Gas Association; Clyde A. Lilly, Jr., Chairman of the Board, Atomic Industrial Forum, Inc.; Willis A. Strauss, Chairman, Northern Natural Gas Association; Charles F. Wheatley, Jr., General Counsel, American Public Gas Association.

March 18, 1977

The Senate Committee on Governmental Affairs continued hearings on S. 591 and S. 826. The Honorable Stewart L. Udall, former Secretary of the Interior, testified on leasing and the transfer of Federal Power Commission functions. An environmentalist panel composed of Gregory A. Thomas, Washington Representative for the Sierra Club; Sheldon Kinsel, Executive Vice President, National Wildlife Federation; Jeffrey Knight, Legislative Director, Friends of the Earth; and Ivan J. Tether, Staff Attorney, Environmental Law Institute.

March 21, 1977

Senator Percy inserted in the Congressional Record a statement supporting his bill S. 591, the Omnibus Energy and Natural Resources Reorganization Act.

(123 CR S4501)

March 22, 1977

The Senate Governmental Affairs Committee continued hearings on S. 591 and S. 826. The committee heard testimony from Julian M. Carroll, Governor of the State of Kentucky; John D. Rockefeller IV, Governor of the State of West Virginia; Richard D. Lamm, Governor of the State of Colorado; and Mary O'Halloran, Iowa State Representative, Chairwoman, State-Federal Assembly Energy Committee, National Conference of State Legislatures.

Representative Brooks introduced H.R. 5299, an identical bill to H.R. 4263. Co-sponsors of the measure were Representatives Boland, Corman, Cotter, Emery, Ertel, Gilman, Hammerschmidt, Heftel, Jenrette, Moorhead of Pennsylvania, Nolan, Ottinger, Rinaldo, Walgren, Whitley, Wilson of Texas, and Wirth. The bill was referred to the House Committee on Government Operations. H.R. 5299 was not printed.

March 24, 1977

The Senate Governmental Affairs Committee continued hearings on S. 591 and S. 826. The following witnesses testified: Robert D. Partridge, National Rural Electric Cooperative Association; Alex Radin, American Public Power Association; Alexander J. Kalinski, National Association of Regulatory Commissioners; Vernon T. Jones, Association of Oil Pipelines; William P. Chapman, American Society of Heating, Refrigerating, and Air Conditioning Engineers, Incorporated.

The House Government Operations Committee referred H.R. 4806 to the Subcommittee on Legislation and National Security.

March 25, 1977

The Senate Governmental Affairs Committee continued hearings on S. 591 and S. 826. Testimony was presented by Elmer B. Staats, Comptroller General of the United States; L. M. Pellerzi, General Counsel, American Federation of Government Employees; George E. Pake, President, American Physical Society; Harry J. Breithaupt, Jr., Vice President and General Counsel, Association of American Railroads; and Allen Ogden, U.S. Labor Party.

March 28, 1977

The House Government Operations Committee, Subcommittee on Legislation and National Security began hearings on H.R. 4263, the Administration's energy reorganization bill. Chairman Brooks made an opening statement on the bill. James R. Schlesinger, Assistant to the President, was the only witness. He explained the purpose and function of the proposed legislation.

March 29, 1977

The Senate Governmental Affairs Committee continued hearings on S. 591 and S. 826. The Following witnesses presented testimony: Robert W. Fri, Acting Administrator, Energy Research and Development Administration; Orcutt P. Drury, Acting Director, Office of Energy Programs, Department of Commerce; David A. Hamil, Administrator, Rural Electrification Administration; John J. Bennett, Assistant Secretary for Naval Installations and Logistics, Department of the Navy;

George M. Stafford, Chairman, Interstate Commerce Commission; Edward W. Burman, Member, Rhode Island Utilities Commission; Arnold A. Saltzman, Commissioner, Federal Advisory Committee on National Growth Policy Processes; Herbert B. Cohn, Vice Chairman, American Electric Power Company.

The House Committee on Government Operations, Subcommittee on Legislation and National Security continued hearings on H.R. 4263, Testimony was given by Congressmen Udall, Ottinger and Dingell.

March 30, 1977

Representative Brooks introduced H.R. 5761, an identical bill to H.R. 4263. Co-sponsors were Representatives Baucus, Harrington, Neal and Patten. The Bill was not printed. H.R. 5761 was referred to the House Committee on Government Operations.

March 31, 1977

The Senate Governmental Affairs Committee continued hearings on S. 591 and S. 826. Curtis L. Wagner, Jr., Chairman, Committee on Status and Compensation and Philip A. Loomis, Jr., Commissioner, Securities and Exchange Commission presented testimony.

April 5, 1977

Senator Percy inserted in the Congressional Record excerpts from the testimony of Arnold Saltzman, Chairman, Advisory Committee on National Growth Policy Processes, on S. 826.

(123 CR S5579)

The House Government Operations Committee, Subcommittee on Legislation continued hearings on H.R. 4263. Witnesses included Congressmen Flowers, McCormack, and Wydler. Testimony was also received from Alex Radin, Executive Director, American Public Power Association; Paul Reichardt of the American Gas Association, and Robert McDiarmid, Attorney for Municipal Electric Utilities and Rural Electric Cooperatives.

April 6, 1977

The House Government Operations Committee, Subcommittee on Legislation continued hearings on H.R. 4263. Testimony was given by Robert A. Partridge, Executive Vice President, National Rural Electric Cooperative Association; David Cohen, President, Common Cause; Charles F. Wheatley, General Counsel, American Public Gas Association; Harvey J. Breithaupt, Vice President, American Railroad Association; Jeffrey Knight, Legislative Director, Friends of the Earth.

April 7, 1977

Senator Kennedy submitted an amendment (Amendment No. 186) to S. 826, the proposed Department of Energy bill. The amendment proposed the creation of an Office of the Assistant Secretary for Competition and Consumer Affairs within the proposed new Department of Energy.

(123 CR S5787)

April 8, 1977

The Senate Governmental Affairs Committee held a final day of hearings on S. 591 and S. 826. This session concentrated on the impact of the formation of the Department of Energy on nuclear waste management. Testimony was given by the following witnesses: Robert W. Fri, Acting Administrator, Energy Research and Development Administration; Mason Willrich, Director, International Studies, Rockefeller Foundation; Clifford V. Smith, Director, Division of Fuel Cycle and Material Safety, Nuclear Regulatory Commission; Rustrom Roy, Director, Materials Research Laboratory, Pennsylvania State University; Edway R. Johnson, E. R. Johnson Associates Incorporated.

April 18, 1977

The House Government Operations Committee, Subcommittee on Legislation and National Security continued hearings on H.R. 4263. Witnesses were Vernon Jones, President, Association of Oil Pipe Lines; Stephen Sklar, Delegate, Maryland General Assembly; Walter Rogers, President, Interstate Natural Gas Association; Herbert Cohn, Vice-Chairman of the Board, American Electric Power; Ruth Kobell, Legislative Assistant, National Farmers Union;

James Snyder, Director, United Transportation Union; Gregory A. Thomas, Washington Representative, Sierra Club.

April 19, 1977

The House Government Operations Committee, Subcommittee on Legislation and National Security held a final day of hearings on H.R. 4263. Witnesses were Elmer B. Staats, Comptroller General of the United States; Congressman Clarence J. Brown; James F. Flug, Director, Energy Action Committee; John O'Leary, Administrator, Federal Energy Administration; Frank Ikard, American Petroleum Institute; Carl Bagge, National Coal Association.

The House Post Office and Civil Service Committee, Subcommittee on Employee Ethics and Utilization held a hearing on the personnel aspects of H.R. 4263. Testimony was presented by Raymond Jacobsen, Executive Director, Civil Service Commission and by Robert F. Allnutt, Acting Assistant Administrator for Administration, Energy Research and Development Administration.

April 21, 1977

Senator Domenici submitted an amendment to S. 826 (Amendment No. 201). The amendment sought to assure active participation of colleges and universities in implementing the national energy program. Senator Nunn co-sponsored the amendment.

(123 CR S6154)

April 22, 1977

The Senate Governmental Affairs Committee began consideration of S. 826, the Administration's energy reorganization bill. The members discussed the major issues prior to actual markup. A side-by-side committee print of the Administration bill, the committee amendments, and various other amendments was ordered to be printed for use during mark-up.

April 26, 1977

The Senate Committee on Governmental Affairs met to begin markup of S. 826. The Committee determined to postpone markup because insufficient time had been made available to consider the committee print which is being used for markup.

Senators Clark and Cranston were added as co-sponsors of the Kennedy Admendment to S. 826 (Amendment No. 186).

(123 CR S6415)

The Subcommittee on Legislation and National Security of the House Committee on Government Operations began markup of the bill H.R. 4263.

April 27, 1977

The Subcommittee on Legislation of the House Government Operations Committee concluded markup of H.R. 4263 and ordered a clean bill reported to the full committee.

April 29, 1977

Senator Ribicoff inserted in the Congressional Record an analysis of S. 826. Ribicoff stated that he was troubled by the economic regulation authority contained in the bill that would require all FPC jurisdiction to be transferred to the Department of Energy and that he planned to offer a correction for these deficiencies during mark up of the legislation. Included is the text of the proposed new Title IV which would provide for an Energy Regulatory Board.

(123 CR S6810)

Senators Haskell and Hart were added as co-sponsors of the Kennedy amendment number 186 to S. 826.

May 2, 1977

H.R. 6804, a clean bill containing the House Subcommittee on Legislation and National Security's amendments to H.R. 4263, was introduced into the House by Representative Brooks. Co-sponsors of the measure were Representatives Erlenborn, Fuqua, Harrington, Fascell, Rosenthal, Pritchard, Horton, and Moorhead of Pennsylvania. H.R. 6804 was referred to the House Committee on Government Operations.

May 3, 1977

The Senate Committee on Governmental Affairs concluded general discussion and began actual markup of the bill S. 826. Titles I, II and III were considered, however, many controversial sections were passed over for later consideration.

May 4, 1977

The Senate Committee on Governmental Affairs continued markup of S. 826. Title III, IV, and VI received consideration.

The full House Committee on Government Operations began markup of the clean bill H.R. 6804. Titles I through III were considered and amended.

May 5, 1977

The Senate Governmental Affairs Committee continued markup of S. 826. Titles VI, VII, and VIII were considered.

The House Committee on Government Operations continued markup of H.R. 6804. Title IV was considered.

May 6, 1977

The Senate Governmental Affairs Committee continued markup of S. 826. The transfer of Federal Power Commission functions and Title IV, Economic Regulation, were considered.

The House Committee on Government Operations, held a final markup session on H.R. 6804. The remaining titles of the bill were considered and amended. The bill as amended was ordered to be reported by a vote of 37 ayes to 2 noes. Chairman Brooks instructed that the bill be submitted to the House Rules Committee for its consideration and then be brought before the full House.

May 9, 1977

The Senate Governmental Affairs Committee completed markup of S. 826. The bill as amended by the Committee was ordered to be reported to the full Senate by an unanimous vote.

May 10, 1977

Senator Domenici submitted Amendment No. 267 to S. 826. The amendment sought to assure that in the formulation of national energy policy consideration will be given to pre-existing state energy programs and plans. Senator Schmitt co-sponsored the amendment.

(123 CR S7321)

May 14, 1977

The Senate Governmental Affairs Committee reported S. 826 as amended to the Senate (Senate Report No. 95-164).

May 16, 1977

Senator Javits submitted an amendment to S. 826 (Amendment No. 271). The amendment established a statutory procedure for administrative enforcement of remedial orders issued by the Secretary of Energy under the Emergency Petroleum Allocation Act.

Senator Mathias co-sponsored the amendment.

(123 CR S7668)

H.R. 6804 was reported to the House as amended by the House Committee on Government Operations. (House Report No. 95-346, Part I). The bill was then referred to the House Committee on the Post Office and Civil Service for consideration and markup of the public employee provisions.

May 18, 1977

Senator Ribicoff brought S. 826 as reported by the Senate Governmental Affairs Committee to the floor of the Senate for consideration, and explained the major provisions of the bill.

(123 CR S7914)

Senators Jackson, Percy, Glenn and Javits made general statements on the bill prior to consideration of floor amendments.

(123 CR S7916)

The Senate then began consideration of floor amendments. The following amendments were approved:

1) The Leahy amendment requiring DOE to maintain an audit of fuel and energy needs for rural areas and agriculture.

(123 CR S7921)

2) The Domenici amendment requiring DOE to take the States role into consideration in formulating energy policy.

(123 CR S7926)

3) The Metzenbaum technical amendment clarifying language.

(123 CR S7934)

4) The Glenn motion deleting from the reported bill instructions to the President on long-term energy planning.

(123 CR S7934)

5) The Javits amendment requiring review of remedial orders by the Energy Regulatory Board.

(123 CR S7934)

6) The Randolph amendment allowing co-chairmen of regional commissions to participate as observers in deliberations of the Regional Energy Advisory Boards.

(123 CR S7937)

7) The Ribicoff amendment restricting contracting authority of the Secretary of the Department of Energy.

(123 CR S7937)

8) The McIntyre amendment requiring the DOE to promote the participation of small business in the energy field.

(123 CR S7938)

9) The McGovern amendment that cost allocations for multi-purpose reclamation and power projects not be changed because jurisdiction

9) (Cont.)

will be shared between the Department of Interior and the Department of Energy.

(123 CR S7940)

10) Six Helms amendments dealing with administrative details in Title VII, energy planning provisions.

(123 CR S7941)

11) The Stevens amendment requiring Congressional review of transfer of ICC's authority for oil pipeline transportation to DOE.

(123 CR S7942)

12) The Huddleston amendment requiring DOE's annual report to detail foreign ownership and control of domestic energy sources and supplies.

(123 CR S7946)

13) The Mathias amendment which consolidates responsibility for nuclear waste management in DOE.

(123 CR S7948)

14) The Metzenbaum motion assuring that passage of S. 826 will not affect any pending legislation.

(123 CR S7969)

The Senate rejected the following amendments:

1) The McIntyre amendment which sought to establish an Office of Small Business Affairs within the Department of Energy.

(123 CR S7939)

2) The Kennedy amendment which sought to authorize the awarding of reasonable attorneys' fees and other costs of public participation in proceedings required by the Act.

(123 CR S7922)

3) The Schweiker amendment which would have required Congressional approval of Department of Energy regulations.

(123 CR S7945)

Major statements were made on the bill prior to the final vote by Senators McClure, Schmitt, Percy, Helms, Cannon, Hollings, Eagleton, Muskie, Kennedy, Stevenson, Randolph, Metcalf, C. Hansen and Durkin.

(123 CR S7950)

The Senate passed S. 826 as previously amended by a vote of 74 yeas to 10 noes.

(123 CR S7959)

The House Committee on Post Office and Civil Service held a markup session on H.R. 6804. The bill was ordered to be reported as amended.

May 19, 1977

Senator Wallop explained that he did not vote for S. 826 because he was concerned about concentrating all major energy research and development within one department and about the merger of Interior leasing authority with the Department of Energy.

(123 CR S8079)

May 20, 1977

Senator Dole commented that he was in favor of the changes to S. 826 which provided for the administrative offices of the Southwest Power Administration to be located in the region served and for the

administrator of the Rural Electrification Administration to have more authority over REA loans.

(123 CR S8229)

May 24, 1977

Senator Inouye spoke in favor of the section of S. 826 which requires DOE to submit an annual report to Congress on activities of foreign direct investors in the energy sector.

The House Committee on the Post Office and Civil Service reported H.R. 6804 (House Report 95-346, Part II). The bill was placed on the Union Calendar (Calendar No. 193).

The Subcommittee on Energy and Power of the House Interstate and Foreign Commerce Committee held a hearing on the Impact of H.R. 6804, the Department of Energy bill, on H.R. 6831, the National Energy Act. Testimony was given by Richard L. Dunham, Chairman of the Federal Power Commission; Eric J. Fygi, Acting General Counsel, Federal Energy Administration; Drexel D. Journey, General Counsel, Federal Power Commission; and John F. O'Leary, Administrator, Federal Energy Administration.

May 26, 1977

The House Rules Committee reported House Resolution 603 to the House (House Report 95-370). The resolution granted an open rule providing for three hours of general debate on H.R. 6804, and the Senate companion bill S. 826, bills to create a Department of Energy.

Representative Moss submitted an amendment to H.R. 6804.

(123 CR H5191)

June 1, 1977

Representative Moss stated his intention to offer an amendment to H.R. 6804. The amendment would transfer authority for regulating the first sale of natural gas to the proposed Federal Energy Regulatory Commission, and would limit the rulemaking authority of the Secretary of the DOE.

(123 CR H5247)

Amendments to H.R. 6804 were submitted by Representatives Dingell, Dodd, Hughes, Meeds, Rose, Rousselot, and Udall.

(123 CR H5260)

Representative Conyers inserted a statement in favor of three amendments he intends to offer to H.R. 6804. The first amendment would eliminate Section 205 of the bill, the Economic Regulatory Administration. The second would replace the Federal Energy Regulatory Commission with a National Energy Board. The third would create a Public Energy Administration which would become the sole importer of foreign petroleum and the implementer of a new leasing policy under which the Federal government would retain control over fuels extracted from public lands.

(123 CR E3426)

Representative Rousselot inserted a statement urging complete decontrol of all energy prices rather than the creation of the Department of Energy.

(123 CR E3410)

Representative Armstrong inserted a statement urging delay of consideration of H.R. 6804 and criticizing the new Department for having too much power over energy producers and consumers.

(123 CR E3399)

June 1, 1977 - (Cont.)

Representative Bauman opposed creation of the Department of Energy.

(123 CR E3440)

June 2, 1977

House Resolution 603, the rule to consider H.R. 6804, was passed by the House.

(123 CR H5263)

The House began consideration of H.R. 6804 as reported. No final action was taken on the bill, however, the following amendments were approved.

1) The Rose Amendment calling for the consideration of urban and rural needs in the development of energy policy.

(123 CR H5298)

2) The Brooks Amendment requiring to the maximum extent practicable the productive capacity of the private sector shall be utilized in the development and achievement of the policies and purposes of H.R. 6804.

(123 CR H5289)

3) Six amendments by the Committee on Post Office and Civil Service dealing with the personnel sections of the bill.

(123 CR H5301)

4) The Moss Amendment which establishes an Office of Energy Research within the Department.

(123 CR H5303)

5) A C. H. Wilson amendment changing the title of the Assistant Secretary for Resource Applications to the Assistant Secretary for Energy Production and Resource Applications.

(123 CR H5307)

6) The Moss Amendment which places the authority for wellhead price regulation in the Federal Energy Regulatory Commission and limits the Secretary's authority to issue rules.

(123 CR H5316)

7) The Meeds amendment to transfer transmission line functions from the Bureau of Reclamation to DOE and to provide that any change in cost allocation for milti-purpose water resource facilities would be subject to Congressional approval.

(123 CR H5320)

8) The Edgar Amendment which transfers Federal Energy Administration functions relating to carpooling and van pooling to the Department of Energy.

(123 CR H5321)

9) The Volkmer Amendment which limits data gathering activities to the Secretary rather than to the Secretary and the Federal Energy Regulatory Commission.

(123 CR H5322)

10) The Moss Amendment establishing the Federal Energy Regulatory Commission as an independent regulatory agency.

(123 CR H5324)

11) Two Tucker Amendments clarifying the provisions concerning the Federal Energy Regulatory Commission.

(123 CR H5324)

12) A Dingell Amendment clarifying language concerning administrative procedures and judicial review.

(123 CR H5325)

13) A Levitas Amendment providing for congressional veto of rules and regulations issued by the Department of Energy.

(123 CR H5334)

The House rejected the following amendments:

1) An Erlenborn Amendments that sought to strike the provisions creating the Federal Energy Regulatory Commission.

(123 CR H5287)

2) A Conyers Amendment that would have established a National Energy Board which would have been responsible for energy pricing.

(123 CR H5307)

3) A Dingell Amendment which would have removed from the bill the Secretary's authority to establish and review priorities for the curtailment of natural gas deliveries.

(123 CR H5320)

Representatives Brooks, Horton, Levitas, Armstrong, Fuqua, Rose, Skelton, Schroeder, Gilman, Harris, and Boland made statements urging passage of the bill.

(123 CR H5269)

Representatives Rudd and Symms made statements opposing passage of the bill.

(123 CR H5274)

Consideration of the bill continued the following day.

Congressman Dingell submitted an amendment to Title V of H.R. 6804 dealing with Administrative Procedures and Judicial Review.

(123 CR H5366)

Congressman Eckhardt and Congressman Mathias also submitted amendments to Title V of H.R. 6804.

(123 CR H5367)

Representative Mikva submitted an explanation of his position on missed roll call votes on the amendments to H.R. 6804.

(123 CR H5335)

June 3, 1977

The House continued floor debates on H.R. 6804. The bill as amended was passed by a final vote of 310 yeas to 20 noes.

(123 CR H5406)

Prior to passage, the House approved the following amendments:

1) The Eckhardt amendment that provides the right to a hearing to any person desiring to contest a remedial order issue under the Emergency Petroleum Allocation Act.

(123 CR H5372)

2) The Brooks amendment which prohibits the agency from entering into contracts or making payments which have not been provided

for in advance in the appropriations acts.

(123 CR H5375)

3) The Thone amendment to direct the Secretary of DOE to include a summary of efforts to promote conservation and recycling and recommendations in his annual report to Congress.

(123 CR H5375)

4) The Fuqua perfecting amendment relating to advisory committees chartered by the Department of Energy.

(123 CR H5376)

5) The McCloskey amendment directing the other Cabinet Departments and GSA to designate a principal energy conservation officer responsible for coordination with the Department of Energy on energy matters.

(123 CR H5376)

6) The Rose amendment requiring the Secretary of DOE to include a study and summary of rural energy needs in his annual report to Congress.

(123 CR H5378)

7) A Hughes amendment that includes Executive Schedule employees within the conflict-of-interest provisions of the bill.

(123 CR H5378)

8) The Volkmer amendment that prohibits any previous supervisory employee of the DOE from appearing before the Department in any professional capacity for a period of two years following termination of employment.

(123 CR H5382)

9) The Tsongas amendment requiring the Secretary to include in his annual report to Congress a summary of supportive and monitoring activities related to environmental research programs.

(123 CR H5383)

10) The Moss technical and conforming amendment relating to the Director of Energy Research.

(123 CR H5385)

11) The Fuqua amendment giving full time temporary employees transferred to the Department under this Act the option of converting to permanent full time status within 120 days.

(123 CR H5385)

12) The Spellman amendment which extends reemployment rights to two years time.

(123 CR H5387)

13) The Broyhill amendment that terminates the provisions of this Act on December 31, 1982.

(123 CR H5392)

The following amendments to H.R. 6804 were rejected prior to final passage in the House:

1) The Hughes amendment which would have prohibited former supervisory employees of the department from accepting for a period of two years employment from a person if the employee had personally and substantially participated in the Department's regulation of that person.

(123 CR H5378)

2) The Symms amendment which would have placed a ceiling on the total number of people employed by the DOE for a period of three years.

(123 CR H5386)

3) The Conyers amendment which sought to give the President the authority to designate the Department of Energy the sole importer of foreign oil and gas.

(123 CR H5371)

Statements opposing passage of H.R. 6804 were made by Representatives Findley, Kemp, and Rousselot.

(123 CR H5392)

Subsequent to the passage of H.R. 6804, the House passed S. 826 after striking all after the enacting clause and inserting in lieu thereof the text of H.R. 6804 as passed. H.R. 6804 was then laid on the table.

(123 CR H5397)

Congressman Harris inserted a discussion of management and implementation of H.R. 6804. He states that authority for natural gas pricing should be placed in the Federal Energy Regulatory Commission rather than the Economic Regulatory Administration.

(123 CR H5424)

June 7, 1977

Representative Cunningham inserted his remarks in favor of the Broyhill amendment to the DOE Act which calls for the termination of the provisions of the bill on December 31, 1982 if it has not been proven effective.

(123 CR E3555)

June 9, 1977

The Senate disagreed to the House amendments to S. 826 and asked for a conference. Senators Ribicoff, Jackson, Muskie, Metcalf, Church, Percy, Javits, Roth, C. Hansen,

and Hatfield were appointed Senate conferees on S. 826, the Department of Energy Organization Act.

(123 CR S9255)

June 21, 1977

The House insisted on its amendments to S. 826 and agreed to the Senate request for a conference. Representatives Brooks, Moss, Fascell, W. Moorhead, Rosenthal, Fuqua, Conyers, Horton, Erlenborn, C. Brown, Udall, Schroeder, and Gilman were appointed as House conferees. The House agreed to a Broyhill motion to instruct the House conferees to insist on the language which calls for the termination of the provisions of the act on December 31, 1982.

(123 CR H6236)

June 22, 1977

Senator Glenn was appointed as a conferee on S. 826 in order to consider the following issues: responsibility-sharing for building conservation standards program between HUD and DOE, and automobile efficiency standards program between DOE and DOT.

(123 CR S10380)

June 29, 1977

Conferees on S. 826 held their first session on the bill.

July 12, 1977

Conferees met to resolve differences in the House and Senate passed versions of S. 826.

July 14, 1977

Conferees met to resolve differences in the House and Senate passed versions of S. 826.

July 20, 1977

Conferees met to resolve differences in the House and Senate passed versions of S. 826.

July 21, 1977

Conferees met to resolve differences in the House and Senate passed versions of S. 826.

July 22, 1977

Conferees on S. 826 resolved the differences between the House and Senate versions of the bill.

July 27, 1977

Representative Brooks submitted the conference report on S. 826, the Department of Energy Organization Act, to the House (House Report 95-539).

(123 CR H7831)

July 27, 1977

Senator Ribicoff submitted the conference report on S. 826, the Department of Energy Organization Act, to the Senate (Senate Report 95-367)

(123 CR S12878)

August 1, 1977

The House Rules committee reported favorably on House Resolution 731, which provided for the consideration of the conference report on S. 826 and waived certain points of order against the report (House Report 95-558). House Resolution 731 as reported was placed on the House Calendar (House Calendar No. 161).

(123 CR H8244)

August 2, 1977

The House agreed to the conference report on S. 826 by a vote of 355 yeas to 57 noes and 1 voting "present".

(123 CR H8263)

Prior to the consideration of the conference report the House approved House Resolution 731, waiving

certain points of order against the report, by a vote of 294 yeas to 115 noes and 1 voting "present".

(123 CR H8252)

The House defeated a motion made by Representative Kindness to recommit the report by a vote of 157 yeas to 257 noes and 1 voting "present".

(123 CR H8263)

Major statements supporting the report were made by Representatives Brooks, Findley, Horton, C. Brown, Gilman, Dingell, and W. Moorhead.

(123 CR H8252)

Subsequent to the passage of the conference report, the House passed House Concurrent Resolution 320, authorizing corrections in the enrollment of S. 826.

(123 CR H8264)

Representative Moss inserted in the Congressional Record a statement supporting the conferee's decision to retain his two amendments to the Department of Energy Act. One amendment created an Office of Energy Research. The other provided for the transfer of Federal Power Commission functions to the independent Federal Energy Regulatory Commission.

(123 CR E5055)

The Senate approved the conference report on S. 826 by a vote of 76 yeas to 14 noes.

(123 CR S13291)

Major statements supporting the report were made by Senators Ribicoff, Jackson, Percy, C. Hansen, and Javits.

(123 CR S13280)

Major statements opposing the report were made by Senators Stevens, McClure, Bartlett and Tower.

(123 CR S12386)

The Senate agreed to House Concurrent Resolution 320 authorizing corrections in the enrollment of S. 826.

(123 CR S13291)

The measure, S. 826, was cleared for action by the President.

August 3, 1977

S. 826, an enrolled bill, was signed by the President pro tempore of the House of Representatives.

(123 CR H13433)

S. 826, an enrolled bill, was signed by the Secretary of the Senate and delivered to the President of the United States for his signature.

(123 CR S13435)

The Senate Energy and Natural Resources Committee held a hearing on the nomination of Dr. James R. Schlesinger to be the nation's first Secretary of Energy. David Cohen, President of Common Cause; James F. Flug Director of Energy Action; the Honorable Henry M. Jackson, U.S. Senator from the State of Washington; Martin Rogol of Congress Watch; James R. Schlesinger, nominee; and Lee White, Chairman of the Consumer Federation of America.

Representative Broyhill inserted in the Congressional Record his statement supporting the creation of the Department of Energy but calling for safeguards to make the new department responsive to Congress.

(123 CR E5108)

Representative Levitas inserted in the Congressional Record his comments on S. 826.

(123 CR E5111)

August 4, 1977

The President signed S. 826, The Department of Energy Organization Act (Public Law 95-91).

(Weekly Compilation of Presidential Documents, Vol. 13, No. 32: Aug. 4, Presidential Statement.)

The Senate confirmed the nomination of Dr. James R. Schlesinger to be the first Secretary of Energy.

(123 CR S13639)

The Congressional Record of August 2 page S13282 is corrected concerning the omitted C. Hansen and Ribicoff remarks during debate on the conference report on S. 826.

(123 CR S13821)

September 13, 1977

President Carter issued Executive Order 12009, which designated October 1, 1977 as the effective date of the Department of Energy Organization Act.

(Weekly Compilation of Presidential Documents, Vol. 13, No. 38: Sept. 13, Executive Orders.)

II. S. 591. Omnibus Energy and Natural Resources Reorganization Act of 1977. Introduced by Senator Percy.

95TH CONGRESS
1ST SESSION

S. 591

IN THE SENATE OF THE UNITED STATES

FEBRUARY 2 (legislative day, FEBRUARY 1), 1977

Mr. PERCY introduced the following bill; which was read twice and referred to the Committee on Government Operations

A BILL

To reorganize the executive branch of the Federal Government to restructure Federal energy agencies, to establish an Energy Policy Council and a Department of Energy Supply and Natural Resources, to enhance energy conservation programs throughout the executive branch, to study energy regulatory policies, and for other purposes.

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 "Omnibus Energy and Natural Resources Reorganization Act of 1977".

DECLARATION OF PURPOSE

SEC. 2. (a) The Congress hereby determines that—

(1) the Nation's first energy need is to complete the development of a new national energy policy through

an organizational mechanism which is independent of existing programmatic and economic interests;

(2) energy conservation options must be forced up to parity with supply options in formulating and implementing national energy policy so that conservation can play a much larger role in all major sectors of our society;

(3) primary energy data collection activities must be strengthened with minimal duplication of effort;

(4) energy regulatory reform is dependent on prior resolution of energy policy issues; and

(5) energy research, development, and demonstration is most productive when closely associated with those organizations which will use its results.

(b) The purpose of this Act is to reorganize Federal energy-related activities in accordance with these findings to provide mechanisms for the development and implementation of a national energy policy in which energy conservation is as important as energy supply, Federal moneys spent on research, development, and demonstration result in economical and socially viable technologies acceptable to potential users, and wasteful duplication in Federal activities is reduced.

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Energy Policy Formulation Act of 1977".

ENERGY POLICY COUNCIL

SEC. 102. (a) There is established in the Executive Office of the President an Energy Policy Council (hereinafter called the "Council"). The Council shall be composed of three members, who shall be appointed by the President by and with the advice and consent of the Senate. Each of the members, except the Chairman, shall be compensated at the rate provided for level I of the Executive Schedule under section 5313 of title 5, United States Code. The President shall designate one of the members of the Council to serve as Chairman. The Chairman shall be compensated at the rate provided for level II of the Executive Schedule under section 5312 of title 5, United States Code. Each member shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret energy trends and information of all kinds; to integrate these trends and data into recommendations for energy policy for delivery to the President; to appraise programs and activities of the Federal

Government with respect to existing and recommended energy policies; to be conscious of and responsive to the economic, environmental, cultural, social, esthetic, and international needs and interests of the Nation; and to be especially sensitive to opportunities for furthering programs for the conservation of energy in all walks of life. Members of the Council shall not simultaneously serve in any other appointive or elective Federal office except as specified in section 107 (a) (1) of this title.

(b) The Council shall have a Director who shall be appointed by the President upon the recommendation of the Chairman by and with the advice and consent of the Senate. The compensation of the Director shall be fixed by the President at a rate not in excess of the rate of compensation payable to the Director of the Office of Management and Budget.

(c) The Chairman is authorized to employ such officers and employees (including experts and consultants not to exceed twenty-five including the ten provided for in the exception in this subsection) as may be necessary to enable the Council to carry out its functions under this title—

(1) unless he submits a request to the Committees

on Government Operations of the Senate and the House of Representatives for such additional staff as may be necessary; and

(2) no resolution stating in substance that either House disapproves any such increase is passed within the first thirty legislative days after the date of the transmission of such request to the committees provided for in paragraph (1).

The Council may employ no more than ten specialists and other experts without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and pay such specialists and experts without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no such specialist or expert shall be paid at a rate in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of title 5.

(d) The Director is authorized to contract with public or private agencies, institutions, and organizations and with individuals without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5) in carrying out his functions.

DUTIES AND FUNCTIONS

SEC. 103. It shall be the duty and function of the Council—

(a) to assist and advise the President in the preparation of the energy report required by section 105;

(b) to develop and recommend to the President policies designed to integrate energy supply and conservation policies developed within the Council and elsewhere in the Federal Government with other national policies to meet the social, economic, environmental, cultural, esthetic, and international goals and requirements of the Nation;

(c) to assist the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government;

(d) to review the adequacy of existing systems for monitoring and predicting energy supplies and demand in order to achieve effective coverage and efficient use of research facilities and other resources;

(e) to assist in coordinating among the Federal departments and agencies those programs and activities which affect energy policy;

(f) to assist the executive departments and agencies of the Federal Government and of the State in the

development of energy and energy related policies within the jurisdictions of the various departments and agencies so as to insure that these policies are in accordance with overall national policies and goals;

(g) to conduct investigations, studies, surveys, and analyses as necessary to develop national energy policies and to determine their viability with respect to other national policies and goals; and

(h) to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

ADMINISTRATIVE REPORT TO THE PRESIDENT

SEC. 104. The Council shall make an annual report to the President in December of each year concerning its activities and functions under this title.

ENERGY REPORT OF THE PRESIDENT

SEC. 105. (a) The President shall transmit to the Congress within sixty days after the beginning of each regular session an energy report (hereinafter referred to as the "energy report") setting forth all aspects of major policy questions including but not limited to—

(1) the levels of supply and demand for the various energy forms obtained in the United States;

(2) current and foreseeable trends in the levels of supply and demand;

(3) a review of the energy programs of the United States, their objectives, and the extent to which those objectives are being achieved;

(4) a set of forecasts for energy supply and demand in the United States for the ensuing five, ten, and twenty-five years;

(5) a program of action required in order for the United States to assure optimum development of domestic energy resources for the purpose of reducing dependence on imported energy materials to levels of zero, 10 per centum, and 25 per centum of the total forecast energy demand and such other levels of dependency as may be deemed appropriate by the President;

(6) a set of recommendations for Presidential and congressional actions required to achieve the level of dependency determined to be in the national interest; and

(7) such other information as may be deemed worthy of inclusion.

(b) The President may transmit from time to time to the Congress reports supplementary to the energy report, each of which shall include such supplementary or revised recommendations as he may deem necessary or advisable to achieve the policy of the Nation.

TERMINATION

SEC. 106. The Commission shall terminate three years after the date on which the last of the initial three members is appointed and qualifies.

CABINET COMMITTEE ON CONSERVATION

SEC. 107. (a) There is hereby created in the Executive Office of the President a Committee on Conservation (hereinafter called the "Committee"). The Committee shall be composed of the following members:

(1) the Secretary of State;

(2) the Secretary of Defense;

(3) the Secretary of Agriculture;

(4) the Secretary of Commerce;

(5) the Secretary of Health, Education, and Welfare;

(6) the Secretary of Housing and Urban Development;

(7) the Secretary of Transportation;

(8) the Secretary of the Department of Energy Supply and Natural Resources established by title II of this Act;

(9) the Chairman of the Energy Policy Council; and

(10) the Administrator of General Services.

The Chairman of the Energy Policy Council shall be the Chairman of the Committee. The President shall designate one of the members of the Committee as Vice Chairman.

(b) It shall be the duty and function of the Committee—

(1) to assist and advise the President in the preparation of the energy report with respect to conservation;

(2) to gather timely and authoritative information concerning national energy conservation policy particularly such information as may be useful in furnishing the basis for the effective coordination of effort and activity between and among executive departments and agencies;

(3) to study individual and collective impact of Federal energy conservation programs on the economy, employment, and quality of life; and

(4) to make and furnish such studies, reports thereon, and recommendations with respect to matters of Federal energy conservation policy and programs and proposed legislation as the President may request.

(c) The Committee shall make an annual report on Federal energy conservation activities to the President in December of each year.

(d) In exercising its powers, functions and duties under this Act the Committee—

(1) may constitute such advisory committees and

may consult with such representatives of industry, agriculture, labor, consumers, State and local governments and other groups, as it deems advisable;

(2) shall, to the fullest extent possible, utilize the services, facilities, and information (including statistical information) of other Government agencies as well as of private research agencies, in order that duplication of effort and expense may be avoided;

(3) shall utilize the staff of the Energy Policy Council for administrative support as may be necessary; and

(4) shall use staffs of all Federal agencies for technical support as necessary.

TERMINATION

SEC. 108. The Committee shall terminate three years after the date on which the members appointed under section 107 (a) (8) is appointed and qualifies.

AUTHORIZATION OF APPROPRIATIONS

SEC. 109. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "Department of Energy Supply and Natural Resources Act".

ESTABLISHMENT OF DEPARTMENT

SEC. 202. (a) There is hereby established at the seat of government an executive department to be known as the Department of Energy Supply and Natural Resources (hereinafter referred to in this Act as the "Department"). There shall be at the head of the Department a Secretary of Energy Supply and Natural Resources (hereinafter referred to in this Act as the "Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) There shall be in the Department a Deputy Secretary of Energy Supply and Natural Resources, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary (or, during the absence or disability of the Deputy Secretary, or in the event of a vacancy in the office of Deputy Secretary, an Under Secretary, an Assistant Secretary or the Solicitor, determined according to such order as the Secretary shall prescribe) shall act for, and exercise the powers of the Secretary, during the absence or disability of the Secretary or in the event of a vacancy in the office of the Secretary. The Deputy Secretary shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(c) (1) There shall be in the Department the following Under Secretaries:

(A) Under Secretary for Management of Public Lands;

(B) Under Secretary for Program Planning and Budget;

(C) Under Secretary for Data Collection and Analysis; and

(D) Under Secretary for Development of Energy, Water, and Natural Resources.

(2) Each Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated as provided for level III of the Executive Schedule under section 5314 of title V, United States Code.

(d) (1) There shall be in the Department the following Assistant Secretaries and officers:

(A) Assistant Secretary for Fish, Wildlife, and Parks, who shall be under the supervision of the Under Secretary for Management of Public Lands;

(B) Assistant Secretary for Land and Water Management, who shall be under the supervision of the Under Secretary for Management of Public Lands;

(C) Assistant Secretary for Conservation of Energy, who shall be under the supervision of the Under Secretary for Program Planning and Budget;

(D) Assistant Secretary for Program Management, who shall be under the supervision of the Under Secretary for Program Planning and Budget;

(E) Assistant Secretary for Research and Development, who shall be under the supervision of the Under Secretary for Development of Energy, Water, and Natural Resources;

(F) Assistant Secretary for Environment and Safety, who shall be under the supervision of the Under Secretary for Development of Energy, Water, and Natural Resources;

(G) Assistant Secretary for Development of Supply, who shall be under the supervision of the Under Secretary for Development of Energy, Water, and Natural Resources;

(H) an Administrator for Energy Supply and Natural Resources Data and Analysis, who shall be under the supervision of the Under Secretary for Data Collection and Analysis; and

(I) the Solicitor of the Department of Energy Supply and Natural Resources.

(2) Each such Assistant Secretary, the Administrator, and the Solicitor shall be appointed by the President by and with the advice and consent of the Senate, and shall be com-

pensated as provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(e) There shall also be established under the general authority of the Deputy Secretary of Energy Supply and National Resources the following internal administrative offices—

(1) Office of Internal Management;

(2) Office of Territorial Affairs and Regional Projects;

(3) Office of Public Information;

(4) Office of Minerals Policy Development;

(5) The Commissioner of Indian Affairs and the Bureau of Indian Affairs; and

(6) The Office of the Solicitor for Energy Supply and Natural Resources.

(f) (1) There are hereby established the following Assistant Secretaries and an Assistant Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the level provided for under section 5315 of title 5, United States Code.

(1) Assistant Secretary of State for Energy Conservation, Department of State;

(2) Assistant Secretary of Defense for Energy Conservation, Department of Defense;

(3) Assistant Secretary of Agriculture for Energy Conservation, Department of Agriculture;

(4) Assistant Secretary of Commerce for Energy Conservation, Department of Commerce;

(5) Assistant Secretary of Health, Education, and Welfare for Energy Conservation, Department of Health, Education, and Welfare;

(6) Assistant Secretary of Housing and Urban Development for Energy Conservation, Department of Housing and Urban Development;

(7) Assistant Secretary of Transportation for Energy Conservation, Department of Transportation; and

(8) Assistant Administrator of General Services for Energy Conservation, General Services Administration.

(2) Each such Assistant Secretary and the Assistant Administrator shall supervise all activities of their respective Executive Departments or Administrations with respect to energy conservation.

DUTIES OF THE SECRETARY

SEC. 203. (a) The Secretary in carrying out the purposes of this title shall, among his responsibilities, exercise leadership under the direction of the President in energy

supply and natural resource matters including public lands and waters, including those affecting the national defense and those involving national or regional emergencies; provide leadership in the development of efficient national energy supply and natural resource policies, programs, and systems, and make recommendations to the Energy Policy Council, Cabinet Committee on Conservation, the President and the Congress for their consideration and implementation; promote and undertake development, collection, and dissemination of technological, statistical, economic, and other information relevant to domestic and international energy supply and natural resource matters; consult and cooperate with the Secretary of Labor in promoting industrial harmony and stable employment conditions in all phases of energy industries; promote and undertake research and development relating to energy supply and natural resources; consult with the heads of other Federal departments and agencies on the energy supply and natural resource requirements of the Government, including the procurement of energy or the operation of their own facilities for energy generation in order to encourage them to establish and observe policies consistent with the maintenance of a coordinated energy supply and natural resource system; and consult and cooperate with State and local governments,

labor, and other interested parties, including, when appropriate, holding informal public hearings.

(b) (1) Nothing in this title shall be construed to authorize, without appropriate action by Congress, the adoption, revision, or implementation of any energy supply or natural resource policy.

(2) In exercising the functions, powers, and duties conferred or transferred to the Secretary, the Deputy Secretary, or an Under Secretary or Assistant Secretary by this title, each such officer shall give full consideration to the need for operational continuity of the functions transferred, to the need for effectiveness, efficiency and safety in energy supply and natural resource systems, and to the needs of the national defense.

(c) Orders and actions of the Secretary, the Deputy Secretary, or an Under Secretary or Assistant Secretary in the exercise of functions, powers, and duties transferred under this title shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the department or agency exercising such functions, powers, and duties immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this title shall apply to the

exercise of such functions by the Secretary, the Deputy Secretary, or an Under Secretary or Assistant Secretary.

(d) In the exercise of the functions, powers, and duties transferred under this title, the Secretary, the Deputy Secretary, or an Under Secretary or Assistant Secretary shall have the same authority as that vested in the department or agency exercising such functions, powers, and duties immediately preceding their transfer, and their actions in exercising such functions, powers, and duties shall have the same force and effect as when exercised by such department or agency.

(e) The Secretary, the Deputy Secretary, or an Under Secretary or Assistant Secretary shall cooperate and consult with the Energy Policy Council, the Secretaries of the several executive departments and other agencies and instrumentalities of the Federal Government and with the States in developing energy supply and natural resource plans and programs.

(f) After the effective date of this title, the Secretary shall not approve any program or project which requires the use of any land from a public park, recreation area, wildlife and waterfowl refuge, or historic site unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wild-

life and waterfowl refuge, or historic site resulting from such use.

(g) In addition to the requirements of subsection (c) the Secretary and the Secretaries of the several executive departments shall consult and exchange information regarding their respective energy supply and natural resource policies and activities; carry on joint planning, research, and other activities; and coordinate assistance for local energy supply and natural resource projects. They shall jointly study how Federal policies and programs can assure that energy supply and natural resource systems most effectively serve both national energy supply and natural resource needs and the comprehensively planned development of urban, suburban, and rural areas. They shall, within one year after the effective date of this title, and annually thereafter, report to the President, for submission to the Congress, on their studies and other activities under this subsection, including any legislative recommendations which they determine to be desirable.

TRANSFERS TO THE DEPARTMENT OF ENERGY SUPPLY AND NATURAL RESOURCES

SEC. 204. (a) (1) Except as provided in subsections (b) through (g) there are hereby transferred to and vested in the Secretary all energy supply functions, powers, and duties of—

(A) the Secretary of the Interior and other offices and officers of the Department of the Interior;

(B) the Administrator of the Federal Energy Administration;

(C) the Administrator of the Energy Research and Development Administration.

(2) Except as may otherwise be provided in paragraph (1) of this subsection or in section 205, there are hereby transferred to the following offices and officers the following functions:

(A) to the Assistant Secretary for Fish, Wildlife, and Parks—

(i) all responsibilities and authorities exercised by the National Park Service, the Department of the Interior;

(ii) all responsibilities of and authorities exercised by the United States Fish and Wildlife Service, the Department of the Interior;

(iii) all responsibilities of and authorities exercised by the Bureau of Outdoor Recreation, the Department of the Interior;

(B) to the Assistant Secretary for Land and Water Management—

(i) all responsibilities of and authorities other than the minerals leasing program exercised by

the Bureau of Land Management, the Department of the Interior;

(ii) the Federal lands classification functions exercised by the Geological Survey, the Department of the Interior;

(iii) all responsibilities of and authorities exercised by the Bureau of Reclamation, the Department of the Interior, under the Small Reclamation Projects Act of 1956;

(iv) all responsibilities of and authorities exercised by the Office of Land Use and Water Planning, the Department of the Interior; and

(v) all responsibilities of and authorities exercised by the Forest Service, the Department of Agriculture;

(C) to the Assistant Secretary for Conservation of Energy shall be responsible for all conservation programs related to energy supply now or heretofore carried on by the Federal Energy Administration;

(D) to the Assistant Secretary for Program Management—

(i) all responsibilities of and authorities exercised by the Office of Environmental Quality;

(ii) all responsibilities for congressional and legislative affairs formerly performed by the De-

partment of the Interior, the Federal Energy Administration, or the Energy Research and Development Administration;

(E) to the Administrator for Energy Supply and Natural Resource Data and Analysis—

(i) all responsibilities of and authorities exercised by the Geological Survey, Department of the Interior, related to determination and appraisal of mineral and mineral fuels resources of the United States, and all mapping and related functions;

(ii) all mineral and energy data and related responsibilities of and authorities exercised by the Bureau of Mines, Department of the Interior;

(iii) all responsibilities of and authorities exercised by the Office of Energy Information and Analysis, Federal Energy Administration;

(F) to the Assistant Secretary for Research and Development—

(i) all responsibilities with respect to research and development on energy supply matters from the Energy Research Development Administration including, but not limited to, fossil fuels, solar, geothermal, nuclear, and laser fusion energy sources and laboratory research;

(ii) all responsibilities of and authorities exer-

cised by the Office of Water Research and Technology, Department of the Interior; and

(iii) all mining and mineral processing research and development functions exercised by the Bureau of Mines;

(G) to the Assistant Secretary for Environment and Safety—

(i) all responsibilities of and authorities exercised by the Mining Enforcement and Safety Administration, Department of the Interior; and

(ii) all environment and safety functions exercised by the Energy Research and Development Administration; and

(II) to the Assistant Secretary for the Development of Supply—

(i) all aspects of the minerals leasing program exercised by the Bureau of Land Management, Department of the Interior;

(ii) all mining and leasing functions on the Outer Continental Shelf and other Federal lands exercised by the Geological Survey, Department of the Interior;

(iii) all water and power research, planning, design, construction, and operational projects exer-

cised by the Bureau of Reclamation, Department of the Interior;

(iv) all responsibilities of and authorities exercised by the Bonneville Power Administration, Department of the Interior;

(v) all responsibilities of and authorities exercised by the Alaska Power Administration, Department of the Interior;

(vi) all responsibilities of and authorities exercised by the Southeastern Power Administration. Department of the Interior;

(vii) all responsibilities of and authorities exercised by the Southwestern Power Administration, Department of the Interior;

(viii) all responsibilities of and authorities exercised by the Defense Electric Power Administration. Department of the Interior;

(ix) all responsibilities of and authorities exercised by the Ocean Mining Administration, Department of the Interior; and

(x) all functions of and authorities exercised by the Office of Regulatory Programs and the Office of Resource Development of the Federal Energy Administration.

(b) There are hereby transferred to the Secretary of Commerce all responsibilities, authorities, offices, and officers and personnel under the following provisions of law:

(1) sections 161, 451, and 461 of the Energy Conservation and Production Act;

(2) sections 104, 321 through 339, 361 through 366, and 371 through 376, of the Energy Policy and Conservation Act;

(3) section 5(b)(7) of the Federal Energy Administration Act of 1974; and

(4) all aspects of all activities of the Federal Government associated with the conservation of energy by industry.

(c) There are hereby transferred to the Energy Policy Council established by section 102 of this Act the responsibilities, authorities, offices, and personnel established or operating under the following provisions of law:

(1) section 109 of the Energy Conservation and Production Act; and

(2) paragraphs (1) through (6) and (8) of section 5(b) of the Federal Energy Administration Act of 1974.

(d) There are hereby transferred to the Secretary of Transportation—

(1) the responsibilities, authorities, offices, and per-

sonnel relating to alternative automatic power systems under section 104(g) of the Energy Reorganization Act of 1974; and

(2) all aspects of all activities of the Federal Government associated with the conservation of energy in the transportation sector.

(e) There are hereby transferred to the Secretary of Housing and Urban Development the responsibilities, authorities, offices, and personnel under the following provisions of law:

(1) sections 411 through 422 of the Energy Conservation and Production Act;

(2) section 104(f)(1) of the Energy Reorganization Act of 1974;

(3) all functions and activities of the Federal Government relating to solar heating and cooling; and

(4) all aspects of all activities of the Federal Government associated with the conservation of energy in the housing sector.

(f) There are hereby transferred to the Secretary of Defense—

(1) the responsibilities, authorities, offices, and personnel established or operating under section 102(g) and 104(d) of the Energy Reorganization Act of 1974; and

(2) all aspects of all activities of the Federal Government associated with the conservation of energy by the Department of Defense.

(g) There are hereby transferred to the Administrator of General Services the responsibilities, authorities, offices, and personnel established or operating under section 381 (a) of the Energy Policy and Conservation Act.

(h) In addition to those transfers to the Secretary established under subsection (a), there are hereby specifically transferred to the Secretary the responsibilities, authorities, offices, and personnel determined by the President to be related to energy supply policy.

(i) All executive departments and agencies shall review their respective efforts with respect to primary data collection on energy and energy flow through the sector of the economy for or with respect to which they have any responsibility and report the results of such review at least annually to the Congress.

(j) The provisions of subchapter II of chapter 5 and of chapter 7 of title 5, United States Code, shall be applicable to proceedings by the Department except that notwithstanding this or any other provision of this title, the transfer of functions, powers, and duties to the Secretary or any other officer in the Department shall not include functions vested by subchapter II of chapter 5 of title 5, United

States Code, in hearing examiners employed by any department, agency, or component thereof whose functions are transferred under the provisions of this Act.

(k) Each executive department or agency to which any duty or function is transferred under this title shall assess and study the best and most efficient means by which it can assimilate the responsibilities transferred under this Act without increased manpower or other requirements and shall report to Congress the results of such assessments and studies together with a prepared plan of implementation for the assimilation of such duties within ninety days after the date of enactment of this Act. Each such plan shall vest the supervision of all authorities transferred by this section to the Assistant Secretary or Assistant Administrator, as the case may be, designated by the Secretary or agency head.

ADMINISTRATIVE PROVISIONS

SEC. 205. (a) In addition to the authority contained in any other Act which is transferred to and vested in the Secretary, the Secretary is authorized, subject to the civil service and classification laws, to select, appoint, employ, and fix the compensation of such officers and employees, including investigators, attorneys, and hearing examiners, as are necessary to carry out the provisions of this title and to prescribe their authority and duties.

(b) The Secretary may obtain services as authorized

by section 3109 of title 5 of the United States Code, but at rates not to exceed the highest daily rate for individuals compensated at grade GS–18 under section 5332 of title 5, United States Code.

(c) The Secretary is authorized to provide for participation of military personnel in carrying out the functions of the Department. Members of the Army, the Navy, the Air Force, or the Marine Corps may be detailed for service in the Department by the appropriate Secretary, pursuant to cooperative agreements with the Secretary.

(d) (1) Appointment, detail, or assignment to, acceptance of, and service in any appointive or other position in the Department under the authority of subsection (c) shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy or hold or any emolument, prerequisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, nor shall any member so appointed, detailed, or assigned be charged against any statutory limitation on grades or strengths applicable to the Armed Forces. A person so appointed, detailed, or assigned shall not be subject to direction by or control by his armed force or any officer thereof directly or indirectly with respect to the responsibilities exercised in the position to which appointed, detailed, or assigned.

(2) The Secretary shall report annually in writing to the appropriate committees of the Congress on personnel appointed and agreements entered into under subsection (c) of this section, including the number, rank, and positions of members of the armed services detailed pursuant thereto.

(e) (1) Except where this title vests in any administration, agency or board, specific functions, powers, and duties, the Secretary may, in addition to the authority to delegate and redelegate contained in any other Act in the exercise of the functions transferred to or vested in the Secretary in this title, delegate any of his residual functions, powers, and duties to such officers and employees of the Department as he may designate, may authorize such successive redelegations of such functions, powers, and duties as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties.

(2) In addition to the authority to delegate and redelegate contained in any other Act, in the exercise of the functions transferred to or specified by this title to be carried out by any officer in the Department, such officer may delegate any of such functions, powers, and duties to such other officers and employees of the Department as he may designate; may authorize such successive redelegations

of such functions, powers, and duties as he may deem desirable; and may make such rules and regulations as may be necessary to carry out such functions, powers, and duties.

(3) Prior to his initial exercise of his authorities to reorganize the Department granted in subsection (1) of this section, the Secretary shall submit a comprehensive reorganization plan to the Congress. The Secretary, in developing this reorganization plan, shall insure that conservation, environment, esthetic, and other values shall be given equal consideration to that given to energy supply. The Congress shall have thirty days after receipt of the plan to disapprove it by majority vote in either House. If the Congress fails to act in thirty days, the plan shall automatically become effective.

(f) So much of the positions, personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available in connection with the functions, powers, and duties transferred by this title as the Director of the Office of Management and Budget determines relate to the functions so transferred shall be transferred to the Secretary. Except as provided in subsection (g), personnel engaged in functions, powers, and duties transferred under

this title shall be transferred in accordance with applicable laws and regulations relating to transfer of functions.

(g) The transfer of personnel pursuant to subsection (f) shall be without reduction in classification or compensation for one year after such transfer.

(h) In any case where all of the functions, powers, and duties of any office or agency are transferred pursuant to this title, such office or agency shall lapse. Any person who, on the effective date of this title, held a position compensated in accordance with the Executive Schedule, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in his new position.

(i) The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interest of economy and efficiency in the Department, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole

or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain said fund.

(j) The Secretary shall cause a seal of office to be made for the Department of such device as he shall approve, and judicial notice shall be taken of such seal.

(k) In addition to the authority contained in any other Act which is transferred to and vested in the Secretary, or other officer in the Department, as necessary, and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote localities:

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) messing facilities;

(4) motion picture equipment and film for recreation;

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

(6) living and working quarters and facilities.

The furnishing of medical treatment under paragraph (1) and the furnishing of services and supplies under paragraphs (2) and (3) of this subsection shall be at prices reflecting reasonable value as determined by the Secretary, and the proceeds therefrom shall be credited to the appropriation from which the expenditure was made.

(l) (1) The Secretary is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money

and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(2) For the purpose of Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for use of the United States.

(3) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in paragraph (1). Income accruing from such securities, and from any other property held by the Secretary pursuant to paragraph (1) shall be deposited to the credit of the fund, and shall be disbursed upon order of the Secretary.

(m) (1) The Secretary is authorized, upon the written request of any person, or any State, territory, possession, or political subdivision thereof, to make special statistical studies relating to foreign and domestic energy supply problems and special studies relating to other matters falling within the province of the Department, to prepare from its records special statistical compilations, and to furnish transcripts of its

studies, tables, and other records upon the payment of the actual cost of such work by the person or body requesting it.

(2) All moneys received by the Department in payment of the cost of work under paragraph (1) shall be deposited in a separate account to be administered under the direction of the Secretary. These moneys may be used, in the discretion of the Secretary, for the ordinary expenses incidental to the work and/or to secure in connection therewith the special services of persons who are neither officers nor employees of the United States.

(n) The Secretary is authorized to appoint, without regard to the civil service laws, such advisory committees as shall be appropriate for the purpose of consultation with and advice to the Department in performance of its functions. Members of such committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be paid compensation at rates not exceeding those authorized for individuals under subsection (b) of this section, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(o) (1) Subject to the approval requirement of paragraph (5) the Secretary is authorized to enter into contracts with educational institutions, public or private agencies or organizations, or persons for the conduct of scientific or technological research into any aspect of the problems related to the programs of the Department which are authorized by statute.

(2) The Secretary shall require a showing that the institutions, agencies, organizations, or persons with which he expects to enter into contracts pursuant to this subsection have the capability of doing effective work. He shall furnish such advice and assistance as he believes will best carry out the mission of the Department, participate in coordinating all research initiated under this subsection, indicate the lines of inquiry which seem to him most important, and encourage and assist in establishment and maintenance of cooperation by and between the institutions, agencies, organizations, or persons and between them and other research organizations, the Department, and other Federal agencies.

(3) The Secretary may from time to time disseminate in the form of reports or publications to public or private agencies or organizations, or individuals such information as he deems pertinent on the research carried out pursuant to this section.

(4) Nothing contained in this subsection is intended to amend, modify, or repeal any provisions of law administered by the Department which authorize the making of contracts for research.

(5) All proposed contracts under this subsection shall be submitted to the Committee on Government Operations of the Senate and the House of Representatives and may become effective only if neither such committee, within the first thirty legislative days following the date of submission of any such contract, passes a resolution stating in substance that it disapproves any such contract.

CONFORMING AMENDMENTS TO OTHER LAWS

SEC. 206. (a) Section 19 (d) (1) of title 3, United States Code, as amended, is hereby amended by striking out "Secretary of the Interior" and inserting in lieu thereof the following: "Secretary of Energy Supply and Natural Resources,".

(b) Section 101 of title 5, United States Code, is amended by inserting at the end thereof the following:

"The Department of Energy Supply and Natural Resources".

(c) The amendment made by subsection (b) of this section shall not be construed to make applicable to the Department any provision of law inconsistent with this Act.

(d) Subchapter II (relating to executive schedule pay rates) of chapter 53 of title 5, United States Code, is amended as follows:

(1) Section 5312 is amended by adding at the end thereof the following:

"(13) Secretary of Energy Supply and Natural Resources.".

(2) Section 5313 is amended by adding at the end thereof the following:

"(23) Deputy Secretary of Energy Supply and Natural Resources.".

(3) Section 5314 is amended—

(A) by striking out "(7) Under Secretary of the Interior"; and

(B) by adding at the end thereof the following:

"(65) Under Secretary for Management of Public Lands, Department of Energy Supply and Natural Resources.

"(66) Under Secretary for Program Planning and Budget.

"(67) Under Secretary for Data Collection and Analysis, Department of Energy Supply and Natural Resources.

"(68) Under Secretary for Development of Energy,

Water, and Natural Resources, Department of Energy Supply and Natural Resources.".

(4) Section 5315 is amended—

(A) by striking out "(18) Assistant Secretaries of the Interior (6).";

(B) by striking out "(42) Solicitor of the Department of the Interior."; and

(C) by adding at the end thereof the following:

"(101) Assistant Secretary for Fish, Wildlife, and Parks, Department of Energy Supply and Natural Resources.

"(102) Assistant Secretary for Land and Water Management, Department of Energy Supply and Natural Resources.

"(103) Assistant Secretary for Conservation of Energy, Department of Energy Supply and Natural Resources.

"(104) Assistant Secretary for Program Management, Department of Energy Supply and Natural Resources.

"(105) Assistant Secretary for Research and Development, Department of Energy Supply and Natural Resources.

"(106) Assistant Secretary for Environment and

Safety, Department of Energy Supply and Natural Resources.

"(107) Assistant Secretary for Development of Supply, Department of Energy Supply and Natural Resources.

"(108) Administrator for Energy Supply and Natural Resources, Department of Energy Supply and Natural Resources.

"(109) Solicitor of the Department of Energy Supply and Natural Resources.

"(110) Assistant Secretary of State, Department of State;

"(111) Assistant Secretary of Defense, Department of Defense;

"(112) Assistant Secretary of Agriculture, Department of Agriculture;

"(113) Assistant Secretary of Commerce, Department of Commerce;

"(114) Assistant Secretary of Health, Education, and Welfare, Department of Health, Education, and Welfare;

"(115) Assistant Secretary of Housing and Urban Development, Department of Housing and Urban Development;

"(116) Assistant Secretary of Transportation for

Energy Conservation, Department of Transportation; and

"(117) Assistant Administrator of General Services for Energy Conservation, General Services Administration.

(e) Section 11 (e) (1) of the Energy Supply and Environmental Coordination Act of 1974 is amended—

(1) by striking out "distribution, and consumption", and

(2) by inserting in lieu thereof the following: "and distribution".

(g) Section 11 of the Energy Supply and Environmental Coordination Act of 1974 is amended—

(1) in subsection (a)—

(A) by striking out "the Federal Energy Administrator," the first time it occurs therein and inserting in lieu thereof "the executive branch,";

(B) by striking out "The Federal Energy Administrator" in the second sentence thereof and inserting in lieu thereof the following: "Each Federal Agency"; and

(C) by striking out "the Federal Energy Administrator" in the second sentence thereof and inserting in lieu thereof "each Federal agency".

(2) in subsection (b) by striking out "the Federal

Energy Administrator" each time it occurs therein and inserting in lieu thereof "each Federal agency";

(h) Section 5(a) of the Federal Energy Administration Act of 1974 is amended by striking out "conservation, use".

(i) Section 13(b) of the Federal Energy Administration Act of 1974 is amended by striking out "or major energy consumption".

(j) Section 108 of the Energy Reorganization Act of 1974 is repealed.

(k) Section 162 and 163 of the Energy Conservation and Production Act are repealed.

(l) Section 381(b) of the Energy Policy and Conservation Act is repealed.

(m) Section 381(c) of the Energy Policy and Conservation Act is redesignated as subsection (b).

(n) Section 381(b), as redesignated by subsection (m) of this section, is amended to read as follows:

"(b) The Administrator of General Services shall submit to Congress an annual report concerning all steps taken under subsection (a) as transferred to him by section 204(i) of the Department of Energy Supply and Natural Resources Act."

ANNUAL REPORT

SEC. 207. The Secretary shall, as soon as practicable after the end of each fiscal year, make a report in writing to the President for submission to the Congress on the activities of the Department during the preceding fiscal year.

SAVINGS PROVISIONS

SEC. 208. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective—

(A) under any provision of law amended by this title, or

(B) in the exercise of duties, powers, or functions which are transferred under this title,

by (i) any department or agency, any functions of which are transferred by this title, or (ii) any court of competent jurisdiction, and

(2) which are in effect at the time this title takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary, by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this title shall not affect any proceedings pending at the time this section takes effect before any department or agency (or component thereof), functions of which are transferred by this title; but such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Department. Such proceedings, to the extent they do not relate to functions so transferred, shall be continued before the department or agency before which they were pending at the time of such transfer. In either case orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary, by a court of competent jurisdiction, or by operation of law.

(c) (1) Except as provided in paragraph (2)—

(A) the provisions of this title shall not affect suits commenced prior to the date this section takes effect, and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this title had not been enacted.

No suit, action, or other proceeding commenced by or against any officer acting in his official capacity as an officer of any

department or agency, functions of which are transferred by this title, shall abate by reason of the enactment of this title. No cause of action by or against any department or agency, functions of which are transferred by this title, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official of the Department as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(2) If before the date on which this title takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this title—

(A) such department or agency is transferred to the Secretary, or

(B) any function of such department, agency, or officer is transferred to the Secretary,

then such suit shall be continued by the Secretary (except in the case of a suit not involving functions transferred to the Secretary, in which case the suit shall be continued by the department, agency, or officer which was a party to the suit prior to the date of enactment of this Act).

(d) With respect to any function, power, or duty trans-

ferred by this title and exercised after the effective date of this title, reference in any other Federal law to any department or agency, officer or office so transferred or functions of which are so transferred shall be deemed to mean the officer or agency in which this title vests such function after such transfer.

SEPARABILITY

SEC. 209. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this title, and the application of such provision to other persons or circumstances shall not be affected thereby.

CODIFICATION

SEC. 210. The Secretary of Energy Supply and Natural Resources is directed to submit to the Congress within two years from the effective date of this Act, a proposed codification of all laws relating to energy and natural resources.

EFFECTIVE DATE; INITIAL APPOINTMENT OF OFFICERS

SEC. 211. (a) This Act shall take effect ninety days after the Secretary of Energy Supply and Natural Resources and the Chairman of the Energy Policy Council first take office, or on such prior date after enactment of this Act as the President shall prescribe and publish in the Federal Register.

(b) Any of the officers provided for in this Act may

(notwithstanding subsection (a)) be appointed in the manner provided for in this Act, at any time after the date of enactment of this Act. Such officers shall be compensated from the date they first take office, at the rates provided for in this Act. Such compensation and related expenses of their offices shall be paid from funds available for the functions to be transferred pursuant to this Act.

ENERGY REGULATORY REORGANIZATION STUDY

SEC. 212. (a) The Comptroller General of the United States shall forthwith undertake a comprehensive study of Federal energy regulatory activities particularly independent regulatory agencies and other instrumentalities of the United States with respect to their statutorily mandated energy regulatory missions and implementation policies and functions including a catalog of their statements of policy and the relationship of the policies and practices to existing national energy policies.

(b) The Comptroller General shall present to the Congress a report embodying the results of the study authorized by subsection (a) together with his recommendations with respect thereto not later than two years after the date of enactment of this Act.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

AGENCY COMPLIANCE

SEC. 213. All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which and shall propose to the President not later than July 1, 1977, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this Act.

POLICY SUPPLEMENTATION

SEC. 214. The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies.

95TH CONGRESS
1ST SESSION

S. 591

A BILL

To reorganize the executive branch of the Federal Government to restructure Federal energy agencies, to establish an Energy Policy Council and a Department of Energy Supply and Natural Resources, to enhance energy conservation programs throughout the executive branch, to study energy regulatory policies, and for other purposes.

By Mr. PERCY

FEBRUARY 2 (legislative day, FEBRUARY 1), 1977

Read twice and referred to the Committee on Government Operations

III. House Document 95-91. Message from the President of the U.S., transmitting proposed legislation to establish a new Cabinet Department of Energy.

95th Congress, 1st Session - - - - - - House Document No. 95-91

DEPARTMENT OF ENERGY ORGANIZATION ACT

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A DRAFT OF PROPOSED LEGISLATION TO ESTABLISH A DEPARTMENT OF ENERGY IN THE EXECUTIVE BRANCH BY THE REORGANIZATION OF ENERGY FUNCTIONS WITHIN THE FEDERAL GOVERNMENT IN ORDER TO SECURE EFFECTIVE MANAGEMENT TO ASSURE A COORDINATED NATIONAL ENERGY POLICY AND FOR OTHER PURPOSES

MARCH 1, 1977.—Message and accompanying papers referred to the Committee on Government Operations and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

89-011 O WASHINGTON : 1977

To the Congress of the United States:

I hereby transmit to the Congress proposed legislation which will create a new Cabinet Department of Energy.

This legislation is a major step in my Administration's program for a comprehensive reorganization of the Executive Branch.

Nowhere is the need for reorganization and consolidation greater than in energy policy. All but two of the Executive Branch's Cabinet departments now have some responsibility for energy policy, but no agency, anywhere in the Federal government, has the broad authority needed to deal with our energy problems in a comprehensive way.

The legislation I am submitting today will bring immediate order to this fragmented system:

—It will abolish the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission, thereby eliminating three agencies whose missions overlap and sometimes conflict, and whose specialized perspectives have impeded progress toward a unified energy policy.

—It will allow us, for the first time, to match our research and development program to our overall energy policies and needs. This is particularly important if we are to make use of renewable energy sources such as solar power.

—It will enable us to move more quickly toward effective energy conservation by combining conservation programs which are now split between FEA and ERDA. And, to make certain that we will see results, the legislation creates an Assistant Secretary for Conservation, who will be personally responsible for seeing that the conservation program is carried out.

—It will place under one roof the powers to regulate fuels and fuel distribution systems, powers which are now shared by the FEA and the FPC along with the Securities and Exchange Commission and the Interstate Commerce Commission. An institutional structure built on the premise that fossil fuels are abundant and cheap no longer serves well in an era of fuel scarcity.

As this winter has shown us, uncoordinated regulatory policies can have serious impacts on our economic and social well-being. This reorganization can help us bring currently fragmented policies into a structure capable of both developing and implementing an overall national energy plan. At the same time, we must guard the quasi-judicial aspects of the regulatory process against improper influence. The legislation meets this concern by establishing a Board of Hearings and Appeals within the Department which is free from the control of the Secretary of Energy.

In addition to abolishing the FEA, ERDA, and the FPC, the legislation submitted today will transfer into the new Department several significant energy-related authorities and programs which now

belong to other departments. These include the building thermal efficiency standards from Housing and Urban Development, the voluntary industrial compliance program from Commerce, and the Navy petroleum and oil shale reserves from Defense. The legislation provides for consultation between the Energy Department and the Department of Transportation on auto fuel efficiency standards, and establishes a role for the Energy Secretary in the REA loan program at Agriculture. Where it is appropriate, these departments will still carry out the program, but the new Energy Department will give them the policy guidance needed to bring unity and rational order to our energy program.

Finally, this legislation transfers certain parts of the Interior Department—those concerning fuels data collection and analysis, and coal mine research and development—into the new Department. Coal mine health and safety research will not be transferred. This will leave the Department of Interior still in charge of leasing energy resources under Federal control. We are leaving those functions in Interior because we believe that the responsibility for multiple-use of public lands, and for their environmental protection, belongs in one department—Interior—that can reflect a broad spectrum of concern. The Energy Department, however, will set long-term production goals and will have policy control over economic aspects of the leases. This will help us foster competition within the energy industries and encourage production of leased resources as expeditiously as possible.

This reorganization will also bring together our energy data gathering and analysis capabilities. More than twenty executive departments and agencies now operate more than 250 energy data programs. The FEA, ERDA, FPC and the Interior Department's Bureau of Mines together have more than 100 such programs. This fragmentation is not only uneconomic and frustrating: it can also have serious consequences. We have seen in recent weeks that, under our present system, we have no single source of information about where natural gas shortages were greatest and where supplies were still available to help make up those shortages. Consolidating these major data programs in an Energy Information Administration within the new department will now give us the ability to compile information which is complete, accurate and believable.

There are many things this legislation does not try to do.

I believe that health, safety and environmental regulation relating to energy—unlike economic regulation—should not be brought into the new Energy Department. Because public concerns about the safety of nuclear power are so serious, we must have a strong, independent voice to ensure that safety does not yield to energy supply pressures. Therefore, the Nuclear Regulatory Commission will remain as an independent body. For similar reasons, the Environmental Protection Agency should remain independent to voice environmental concern.

Even with a new Department of Energy, problems of interdepartmental coordination will remain, since virtually all government activity affects energy to some extent. Establishing this department, however, will give us one government body with sufficient scope and authority to do the massive job that remains to be done. Thus this legis-

lation will abolish the Energy Resources Council. I intend to establish by Executive Order a non-statutory interdepartmental coordinating body, with the Secretary of Energy as its chairman to manage government-wide concerns involving energy.

This legislation contains no new substantive authorities. Instead, by eliminating three agencies and uniting a variety of existing energy authorities, the legislation I am submitting today will help reorganize the Executive Branch in a rational, orderly way. It is long overdue. I hope to work with the Congress to achieve our initial goal of a realistic and effective energy policy.

JIMMY CARTER.

THE WHITE HOUSE, *March 1, 1977.*

A BILL To establish a Department of Energy in the Executive Branch by the reorganization of energy functions within the Federal government in order to secure effective management to assure a coordinated National energy policy and for other purposes

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 "Department of Energy Organization Act".

TITLE I

Declaration of Purposes

Sec. 101. The purposes of this Act are (1) to establish a permanent Department of Energy in the executive branch, (2) to vest in the Secretary of Energy such functions as are vested in or transferred to him by this Act, (3) to achieve, through the Department, effective management of energy functions of the Federal government, and (4) to provide the mechanism through which a coordinated National energy policy can be formulated and implemented to deal with the short-, mid-, and long-term energy problems of the Nation.

TITLE II

Establishment of Department

Sec. 201. There is hereby established at the seat of government an executive department to be known as the Department of Energy (hereinafter in this Act referred to as the "Department"). There shall be at the head of the Department a Secretary of Energy (hereinafter in this Act referred to as the "Secretary") who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

Sec. 202. There shall be in the Department a Deputy Secretary, two Under Secretaries, eight Assistant Secretaries, and a General Counsel, each of whom shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions as the Secretary shall prescribe from time to time. One of the Assistant Secretaries specified by this section shall be an Assistant Secretary for Conservation, another shall be an Assistant Secretary for Environment and another shall be an Assistant Secretary for Energy Technology.

Sec. 203. The Deputy Secretary 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 the Under Secretaries and other officials 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 those offices.

SEC. 204. (a) There shall be within the Department an Energy Information Administration to be headed by an Administrator, who shall be appointed by the President by and with the advice and consent of the Senate.

(b) The Secretary shall delegate to the Administrator (which delegation may be on a nonexclusive basis as the Secretary may determine) the functions vested in him by law to gather energy information (as defined in section 51(c) of the Federal Energy Administration Act of 1974), and the Administrator may act in the name of the Secretary for the purpose of obtaining enforcement of the delegated function.

SEC. 205. (a) There shall be within the Department an Economic Regulatory Administration to be headed by an Administrator, who shall be appointed by the President by and with the advice and consent of the Senate.

(b) The Secretary shall utilize the Economic Regulatory Administration to administer—

(1) any function which may be delegated to the Secretary under the Emergency Petroleum Allocation Act of 1973;

(2) any function transferred to the Secretary by section 301 of this Act which relates to establishment of rates and charges under the Federal Power Act and the Natural Gas Act (subject to the provisions of section 401(a)); and

(3) such other functions as the Secretary may consider appropriate.

TITLE III

TRANSFERS OF FUNCTIONS

SEC. 301. Except as otherwise provided in this Act, there are hereby transferred to and vested in the Secretary all of the functions vested by law in the Administrator of the Federal Energy Administration or the Federal Energy Administration, the Administration of the Energy Research and Development Administration or the Energy Research and Development Administration, and the Federal Power Commission or the Chairman and members of the Commission; and the functions vested by law in the officers and components of either such Administration or in the Commission.

SEC. 302. There are hereby transferred to and vested in the Secretary:

(a) All functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department, to the extent such functions relate to or are utilized by the Southeastern Power Administration, the Southwestern Power Administration, and the Bonneville Power Administration. The authority for the functions so transferred includes, but is not limited to, section 5 of the Flood Control Act of 1944, the Bonneville Project Act of 1937, and the Federal Columbia River Transmission System Act.

(b) Such functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department as relate to or are utilized by the Alaska Power Administration for the transmission and disposition (including acquisition by purchase or exchange) of electric power and energy and by the Bureau of Reclamation for the disposition (including acquisition by purchase or

exchange) of electric power and energy; provided, that the authority for and function of operating the dams constructed pursuant to the Eklutna Project Act and section 204 of the Flood Control Act of 1962 shall remain in the Secretary of the Interior; and provided, further, that the Secretary and the Secretary of the Interior may enter into an agreement whereby functions transferred in this subsection shall be performed by the Department of the Interior in which case employees required for such performance shall be retained by the Department of the Interior. The authority for the functions so transferred includes, but it not limited to, the Eklutna Project Act, section 204 of the Flood Control Act of 1962, the Reclamation Act of 1902, and Acts amendatory thereof and supplementary thereto, including but not limited to the authority for the sale of electric power or lease of power privileges under section 9(c) of the Reclamation Project Act of 1939, and the authority under section 303 of the Colorado River Basin Project Act.

(c) All the authority of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department for the transmission and disposition of the electric power and energy generated at Falcon Dam and Amistad Dam, international storage reservoir project constructed on the Rio Grande pursuant to the Act of June 19, 1954, as amended by the Act of December 23, 1963.

(d)(1) The authority of the Secretary of the Interior to prescribe regulations under the Outer Continental Shelf Lands Act, the Mineral Lands Leasing Act, the Mineral Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act, which relate to the (A) fostering of competition for Federal leases (including but not limited to prohibition on bidding for development rights by certain types of joint ventures), (B) implementation of alternative bidding systems authorized for the award of Federal leases, (C) establishment of diligence requirements for operations conducted on Federal leases (including but not limited to procedures relating to the granting or ordering by the Secretary of the Interior of suspension of operations or production as they relate to such requirements), (D) setting rates of production for Federal leases, and (E) specifying the procedures, terms and conditions for the acquisition and disposition of Federal royalty interests taken in kind; provided, that such regulations shall be promulgated by the Secretary only after consultation with the Secretary of the Interior.

(2) The President shall issue an Executive Order specifically describing the authorities transferred by this subsection. Such order may provide that the Secretary and the Secretary of the Interior may enter into one or more agreements specifying which Secretary has authority to issue particular regulations, and may provide that the President may confirm the authority of either Secretary to prescribe a particular regulation.

(3) A regulation prescribed by the Secretary under any authority transferred under this subsection may not be set aside on the ground that authority to issue such regulation was not so transferred if, under such Executive Order (or an agreement or confirmation thereunder), the Secretary has authority to prescribe such regulation.

(4) A regulation of the Secretary of the Interior may not be set aside on the ground that authority to issue such regulation was trans-

ferred to the Secretary by this subsection, if, under such Executive Order (or any agreement or confirmation thereunder) the Secretary of the Interior has authority to issue such regulation.

(e) Those functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department under the Act of May 16, 1910, and other authorities, exercised by the Bureau of Mines, but limited to:

(1) fuel supply and demand analysis and data gathering,

(2) research and development relating to increased efficiency of production technology of solid fuel minerals; provided, that research relating to mine health and safety and research relating to the environmental and leasing consequences of solid fuel mining shall remain in the Department of the Interior, and

(3) coal preparation and analysis.

(f) The functions of the Secretary of the Interior to establish production rates for all Federal leases.

SEC. 303. The Secretary of the Interior shall afford the Secretary a reasonable opportunity, prior to the execution of a Federal lease, to disapprove any term or condition of such Federal lease which relates to the matters with respect to which the Secretary has authority to prescribe regulations under section 302(d). No such term or condition may be included in such a lease if it is disapproved by the Secretary. The Executive Order issued under section 302(d)(2) shall prescribe the manner in which the Secretary shall be afforded such opportunity to disapprove.

SEC. 304. (a) As used in sections 302 and 303 of this Act, "Federal lease" means an agreement which, in consideration of bonuses, rents or royalties conferred and covenants to be observed, grants to a lessee the exclusive right and privilege of exploring for, developing, or producing, or any or all of these, oil and gas, coal, oil shale, tar sands, and geothermal resources on lands or interests in lands under Federal jurisdiction.

SEC. 305. All functions vested by law in the Director of the Office of Energy Information and Analysis by Part B of the Federal Energy Administration Act of 1974 are hereby transferred to the Administrator of the Energy Information Administration.

SEC. 306. Except as provided in section 712(g), there are hereby transferred to and vested in the Secretary all functions vested in the Securities and Exchange Commission, or the Chairman or the members thereof, under the provisions of the Public Utility Holding Company Act of 1935, and under the provisions of Reorganization Plan No. 10 of 1950 and Public Law 87–592, as approved August 20, 1962, insofar as said Reorganization Plan and Public Law 87–592 relate to the administration of the Public Utility Holding Company Act of 1935.

SEC. 307. There are hereby transferred to and vested in the Secretary all of the functions vested in the Secretary of Housing and Urban Development by the Energy Conservation Standards for New Buildings Act of 1976 (title III of the Energy Conservation and Production Act).

SEC. 308. There are hereby transferred to and vested in the Secretary such functions as are set forth in the Interstate Commerce Act and vested by law in the Interstate Commerce Commission or the Chairman and members thereof as relate to transportation of oil and coal by pipeline.

SEC. 309. There are hereby transferred to and vested in the Secretary all functions vested by Chapter 641 of title 10, United States Code, in the Secretary of the Navy as they relate to the administration of, and there is hereby transferred to and vested in the Secretary jurisdiction over—

(1) Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive Order of the President, dated September 2, 1912;

(2) Naval Petroleum Reserve Numbered 2 (Buena Vista), located in Kern County, California, established by Executive Order of the President, dated December 13, 1912;

(3) Naval Petroleum Reserve Numbered 3 (Teapot Dome) located in Wyoming, established by Executive Order of the President, dated April 30, 1915;

(4) Oil Shale Reserve Numbered 1, located in Colorado, established by Executive Order of the President, dated December 6, 1916, as amended by Executive Order dated June 12, 1919;

(5) Oil Shale Reserve Numbered 2, located in Utah, established by Executive Order of the President, dated December 6, 1916; and

(6) Oil Shale Reserve Numbered 3, located in Colorado, established by Executive Order of the President, dated September 27, 1974.

SEC. 310. There are hereby transferred to and vested in the Secretary all functions of the Secretary of Commerce, the Department of Commerce, and officers and components of that Department, as relate to or are utilized by the Office of Energy Programs, but limited to industrial energy conservation programs.

TITLE IV

BOARD OF HEARINGS AND APPEALS

SEC. 401. (a) (1) There is hereby established within the Department a Board of Hearings and Appeals (hereinafter referred to in this title as the "Board").

(2) The Board shall have jurisdiction:

(A) to hear and determine matters arising under any function vested in or delegated to the Secretary involving—

(i) any agency determination required by law to be made on the record after opportunity for an agency hearing, or

(ii) any other agency determination which the Secretary determines shall be made on the record after opportunity for agency hearing, or

(B) to consider any other matter which the Secretary may assign to the Board by rule.

(b) The Board shall be comprised of three 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. The terms of the members first taking office shall expire (as designated by the President at the time of appointment), one at the end of two years, one at the end of three years, and one at the end of four years. Not more than two members of the Board shall be members of the same political party. Upon the expiration of his term of office, a member shall continue to serve until his successor is appointed and shall have qualified.

(c) The Chairman of the Board shall exercise the executive and administrative functions of the Board, including functions of the Board with respect to (1) the supervision of personnel employed by or assigned to the Board; provided, that each member of the Board may select and supervise personnel for his personal staff, (2) the distribution of business among personnel and among administrative units of the Board, and (3) the use and expenditure of funds appropriated or made available to the Board.

(d) In the performance of their functions, the members of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of the Department.

(e) A decision of the Board shall be final agency action within the meaning of section 704 of title 5, United States Code, with respect to matters within the Board's jurisdiction and shall not be subject to further review by the Secretary or any officer or employee of the Department.

(f) The Chairman of the Board may from time to time designate any other member of the Board as Acting Chairman to act in the place and stead of the Chairman during his absence. The Chairman (or the Acting Chairman in the absence of the Chairman) shall preside at all sessions of the Board and a quorum for the transaction of business shall consist of at least two members present. Each member of the Board, including the Chairman, shall have one vote. Actions of the Board shall be determined by a majority vote of the members present. The Board shall have an official seal which shall be judicially noticed.

(g) The Board is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions.

(h) In carrying out its functions, the Board shall have the same powers as are vested in the Secretary to hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate.

SEC. 402. (a) No person in the employ of or holding any official relation to any person, firm, association, or corporation engaged in the production, generation, transmission, distribution, or sale of electric power, petroleum or petroleum products, natural gas, coal, or nuclear material, or owning stock or bonds thereof, or who has a pecuniary interest therein, shall enter upon the duties of or hold the office of Board member. Members shall not engage in any other business, vocation, or employment.

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

TITLE V

Administrative Procedures and Judicial Review

Sec. 501. (a) Subject to the other requirements of this section, the provisions of subchapter II of Chapter 5 of title 5, United States Code, shall apply in accordance with its terms to any rule, regulation, or order issued pursuant to authority vested by law in or delegated to the Secretary or any officer, employee or component of the Department, including any such rule, regulation, or order of a State or local government agency or officer thereof, issued pursuant to authority delegated by the Secretary.

(b) In addition to the requirements of subsection (a), notice of any proposed rule or regulation shall be given by publication of such proposed rule or regulation in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this subsection as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious harm or injury to the public health, safety, or welfare, and such finding is set out in detail in such rule or regulation. In addition, public notice of all rules or regulations described in subsection (a) which are promulgated by officers of a State or local government agency shall be achieved by publication of such rules or regulations in at least two newspapers of statewide circulation, provided that if such publication is not practicable, notice of any rule or regulation shall be given by such other means as the officer promulgating such rule or regulation determines will assure wide public notice.

(c) In addition to the requirements of subsection (b), if any rule or regulation described in subsection (a) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the issuance of such rule or regulation but in all cases such opportunity shall be afforded no later than forty-five days after the issuance of any such rule or regulation. A transcript shall be kept of any oral presentation.

(d) The Secretary or any officer authorized to issue rules, regulations, or orders under the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environmental Coordination Act of 1974, or the Energy Policy and Conservation Act shall provide for the making of such adjustments, consistent with the other purposes of the relevant Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rule, regulation or order.

(e) (1) With respect to any rule or regulation of the Secretary the effects of which, except for indirect effects of an inconsequential nature, are confined to—

(A) a single unit of local government or the residents thereof;

(B) a single geographic area within a State or the residents thereof; or

(C) a single State or the residents thereof;

the Secretary shall, in any case where appropriate, afford an opportunity for a hearing or the oral presentation of views and provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in paragraphs (A) through (C), as the case may be.

(2) For purposes of this subsection—

(A) the term "unit of local government" means a county, municipality, town, township, village, or other unit of general government below the State level; and

(B) the term "geographic area within a State" means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(3) Nothing in this subsection shall be construed as requiring a hearing or an oral presentation of views where none is required by this section.

(f)(1) Judicial review of agency action taken under any law the functions of which are transferred to the Secretary by this Act shall, notwithstanding such transfer, be made in the manner specified in such law.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under rules, regulations, or orders issued exclusively thereunder, except any actions taken to implement or enforce any rule, regulation, or order by any officer of a State or local government agency under this Act: *Provided*, that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the unconstitutionality of this Act or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the unconstitutionality of this Act or the validity of agency action under this Act, the case shall be subject to 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.

(3) The Secretary may, by rule, prescribe procedures for State or local government agencies authorized by the Secretary to carry out such functions as may be permittted under applicable law. Such procedures shall apply to such agencies in lieu of section 501, and shall require that prior to taking any action, such agencies shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) a reasonable time before taking the action.

(4) Notwithstanding any other law, the litigation of the Department shall be subject to the supervision of the Attorney General pursuant to Chapter 31 of title 28, United States Code.

SEC. 502. In lieu of procedures established by section 501, the Secretary may, by rule, if he determines it to be in the public interest, utilize such administrative procedures as may be specified in any other law to carry out functions under that law which are transferred to the Secretary by this Act.

TITLE VI

ADMINISTRATIVE PROVISIONS

SEC. 601. There is hereby established a Leasing Liaison Committee consisting of—

(a) a Chairman, who shall be an officer of the Department designated as Chairman by the President; and

(b) Members, who shall be officers or employees of the Department designated as members by the Secretary. The Committee shall be headed by the Chairman, who may designate one of the members of the Committee as Acting Chairman to serve during his absence. The Chairman and members shall serve as such without additional compensation. The Committee shall obtain from the Department of the Interior such information as is necessary to keep the Secretary fully and currently informed on matters with regard to Federal leasing relating to energy resources. The Committee, through the Secretary, shall have the authority to make recommendations to the Department of the Interior on matters relating to Federal leasing. If the Secretary concludes that any action or failure to act on the part of the Department of the Interior on matters recommended to it is adverse to the responsibilities of the Department, the Secretary may refer the matter to the President.

SEC. 602. (a) Each officer or employee of the Department who has any known financial interest—

(1) in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline, or distributing (other than at the retail level) coal, natural gas, or petroleum products;

(2) in property from which coal, natural gas, crude oil, or nuclear material is commercially produced;

(3) in any person engaged in the production, generation, transmission, distribution or sale of electric power; or

(4) in any person engaged in production, sale, or distribution of nuclear materials;

shall, beginning on February 1, 1978, annually file with the Secretary a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such statement shall be subject to examination, and available for copying, by the public upon request.

(b) The Secretary shall—

(1) act, within 90 days after the effective date of this Act, by rule—

(A) to define the term "known financial interest" for purposes of subsection (a); and

(B) to establish the methods by which the requirements to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) include, as part of the report made pursuant to section 624, a report with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b), the Secretary may identify specific positions, or classes thereof, within the Department which are of a nonregulatory and nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, subsection (a) shall be fined not more than $2,500 or imprisoned not more than one year, or both.

SEC. 603. The Secretary is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in him.

SEC. 604. (a) Except as otherwise expressly prohibited by law, the Secretary may delegate any of his functions to such officers and employees of the Department as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary or appropriate.

(b) Except as otherwise expressly prohibited by law, the Secretary may, with the consent of the head of the department or agency concerned, delegate any function vested in him to the head of such other department or agency, and may authorize such successive redelegation thereof as he may deem to be necessary or appropriate. Funds made available to the Secretary or the Department may be allocated or transferred to any department or agency assisting the Secretary in carrying out any functions delegated pursuant to this subsection. Funds so allocated or transferred shall remain available for such period as may be specified in the Acts making such funds available.

SEC. 605. The Secretary is authorized to establish, alter, consolidate or discontinue and to maintain such State, regional, district, local or other field offices as he may deem to be necessary to carry out functions now or hereafter vested in him.

SEC. 606. The Secretary may, from time to time, establish, alter, consolidate or discontinue such organizational units or components within the Department as he may deem to be necessary or appropriate: Provided, however, that such authority shall not extend to the abolition of organizational units or components established by this Act.

SEC. 607. In the performance of his functions the Secretary is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such 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, except that to the extent the Secretary deems such action necessary to the discharge of his functions, he may appoint not more than six hundred of the scientific, engineering, professional and administrative personnel of the Department without regard to such

laws, and may fix the compensation of such personnel not in excess of the rate for grade 18 of the General Schedule specified in section 5332 of title 5, United States Code.

SEC. 608. (a) There shall be within the Department not more than fourteen additional officers in positions authorized by sections 5315 and 5316 of title 5, United States Code, who shall be appointed by the Secretary and who shall perform such functions as the Secretary shall prescribe from time to time.

(b) In addition to the number of positions which may be placed in GS–16, 17, and 18 under existing law or this Act, not to exceed 150 positions may be placed in GS–16, 17, and 18 to carry out functions under this Act; provided, that positions established by this subsection shall be subject to standards and procedures under Chapter 51 of title 5, United States Code.

SEC. 609. 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 by section 5332 of title 5, United States Code, for persons in Government service employed intermittently.

SEC. 610. The Secretary is authorized to establish in accordance with the Federal Advisory Committee Act such advisory committees as he may deem appropriate to assist in the performance of his functions. Members of such advisory committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or while otherwise serving at the request of the Secretary while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the government serving without pay.

SEC. 611. (a) The Secretary is authorized to recruit, train, accept, and utilize, without regard to the civil service and classification laws, rules, and regulations, the services of individuals without compensation as volunteers for or to aid or facilitate the work of the Department.

(b) The Secretary is authorized to provide for incidental expenses, including but not limited to, transportation, uniforms, lodging, and subsistence for such volunteers.

(c) Except as otherwise provided in this section, a volunteer under this section shall not be deemed to be a Federal employee and shall not be subject to the provisions of laws relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation and Federal employee benefits.

(d) For the purpose of the tort claim provisions of title 28, United States Code, a volunteer under this section shall be considered a Federal employee.

(e) For the purpose of subchapter I of Chapter 81 of title 5, United States Code, a volunteer under this section shall be deemed a civilian employee of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code.

(f) For the purpose of section 602 of this Act, a volunteer under this section shall be deemed an employee of the Department.

(g) For the purpose of title 18, United States Code, a volunteer shall be deemed to be an employee of the United States.

SEC. 612. (a) The Secretary is authorized to provide for participation of Armed Forces personnel in carrying out his functions. Members of the Armed Forces may be detailed for service in the Department by the Secretary concerned (as said term is defined in 10 U.S.C. 101) pursuant to cooperative agreements with the Secretary.

(b) The detail of any personnel to the Department under this section shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy or hold or any emolument, prerequisite, right, privilege or benefit incident to or arising out of such status, office, rank, or grade, nor shall any member so detailed be charged against any statutory or other limitation on strengths applicable to the Armed Forces or the Department. A member so detailed shall not be 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.

SEC. 613. (a) With their consent, the Secretary may, with or without reimbursement, use the services, equipment, personnel, and facilities of persons or public and private nonprofit agencies and organizations, 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 hereafter vested in him.

(b) The Secretary may, with or without reimbursement, provide service, equipment, personnel, and facilities to public and private nonprofit agencies and organizations, including any agency or instrumentality of the United States or any State, territory, the Commonwealth of Puerto Rico, the District of Columbia, or political subdivision thereof, or to any foreign government whenever he deems such action to be necessary and appropriate to the performance of functions now or hereafter vested in him.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary or the head of the agency or instrumentality of the United States involved, as the case may be, to pay directly the costs of the services, equipment, personnel, or facilities provided, to repay or make advances to appropriations or funds which do or will initially bear all or a part of such costs, or to refund excess sums when necessary: Provided, that such proceeds may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 622 of this Act, and used under the law governing such fund, if the fund is available for use for providing the services, equipment, personnel, or facilities involved.

SEC. 614. The Secretary is authorized to enter into and perform such contracts, leases, grants, 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 reimbursement, and, in cases of grants, with necessary adjustment on account of overpayments and underpayments) as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in the Secretary.

SEC. 615. The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, such other real and personal property (including patents), or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

SEC. 616. Notwithstanding any other provision of law, the Secretary may, whenever he deems such action to be in the public interest, for money or other consideration sell, lease, or otherwise dispose of any interest in any special purpose real property or personal property (including property acquired with grant funds) of the Department and may make conditional or unconditional gifts thereof to any public service institution, Federal, State, local, or foreign agency.

SEC. 617. (a) As necessary and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote locations:

(1) Emergency medical services and supplies;
(2) Food and other subsistence supplies;
(3) Messing facilities;
(4) Audio-visual equipment, accessories, and supplies for recreation and training;
(5) Reimbursement for food, clothing, medicine and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;
(6) Living and working quarters and facilities; and
(7) Transportation of school age dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and 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.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary to pay directly the cost of such work or services, to repay or make advances to appropriations of funds which will initially bear all or a part of such cost, or to refund excess sums when necessary; provided, that such payments may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 622 of this Act, and used under the law governing such fund, if the fund is available for use by the Department for performing the work or services for which payment is received.

SEC. 618. The Secretary, under such terms, at such rates, and for such periods not exceeding fifty years, as he may deem to be in the public interest, is authorized to 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 the custody of the Secretary for Department purposes. The Secretary may require permitees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements involved to a satisfactory standard.

SEC. 619. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(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.

SEC. 620. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests and devises of money and proceeds from sales of other property received as gifts, bequests or devises shall be deposited in the Treasury and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest or devise. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest or devise to the United States.

SEC. 621. The Secretary shall cause a seal of office to be made for the Department of such design as he shall approve and judicial notice shall be taken of such seal.

SEC. 622. The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interests of economy and efficiency. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund in such amounts as may be necessary to provide additional working capital are authorized. The working capital fund shall recover from the appropriations and funds for which services are performed, either in advance or by way of reimbursement, amounts which will approximate the costs incurred, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from the sale or exchange of its property, and receipts in payment for loss or damage to property owned by the fund.

SEC. 623. To the extent necessary or appropriate to perform any function 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 such function was transferred.

SEC. 624. (a) The Secretary shall, as soon as practicable after the end of each fiscal year, commencing with the first complete fiscal year following the effective date of this Act, make a report to the President

for submission to the Congress on the activities of the Department during the preceding fiscal year. Such report shall include a statement of the Secretary's goals, priorities, and plans for the Department together with an assessment of the progress made toward the attainment of those goals, the effective and efficient management of the Department, and progress made in coordination of its functions with other departments and agencies of the Federal Government. In addition, such report shall include:

(1) projected energy needs of the United States to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation;

(2) an estimate of the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives;

(3) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation;

(4) a summary of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, and to encourage conservation practices, and shall include recommendations for developing technologies capable of improving the quality of the environment and increasing efficiency;

(5) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices) employed by Federal, State, and local governments and nongovernmental entities to achieve the purposes of this Act.

(b) Such report shall satisfy the reporting requirements of section 15 of the Federal Energy Administration Act of 1974, section 307 of the Energy Reorganization Act of 1974, and section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974.

SEC. 625. The Secretary, when authorized in an appropriation act, in any fiscal year, may transfer funds from one appropriation to another within the Department; provided, that no appropriation shall be either increased or decreased pursuant to this section more than 5 percent of the appropriation for such fiscal year.

SEC. 626. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE VII

TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

SEC. 701. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available

in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are hereby transferred to the Secretary for appropriate allocation.

(b) Positions expressly specified by statute or Reorganization Plan, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation at the rate prescribed for offices and positions at Level I, II, III, IV, or V of the Executive Schedule (5 U.S.C. 5312–5316) on the effective date of this Act shall be subject to the provisions of section 705 of this Act.

SEC. 702. Except as otherwise provided in this Act, the transfer of full-time personnel (except special government employees) and part-time personnel holding permanent positions pursuant to this title shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of enactment of this Act.

SEC. 703. Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in the new position.

SEC. 704. Employees transferred to the Department holding reemployment rights acquired under section 28 of the Federal Energy Administration Act of 1974 or any other provision of law or regulation may exercise such rights only within 120 days from the effective date of this Act.

SEC. 705. Except as otherwise provided in this Act, whenever all of the functions vested by law in an agency, commission or other body, or any component thereof, have been terminated or transferred from that agency, commission or other body, or component by this Act, the agency, commission or other body, or component, shall terminate. If an agency, commission or other body, or any component thereof, terminates pursuant to the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at Level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313–5316) shall terminate.

SEC. 706. The Director of the Office of Management and Budget in consultation with the Secretary is authorized and directed to 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 such 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 as he may deem necessary to accomplish the purposes of this Act.

SEC. 707. All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(a) which 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 Department after the date of enactment of this Act, and

(b) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Secretary, the Board of Hearings and Appeals, or other authorized officials, a court of competent jurisdiction, or by operation of law.

SEC. 708. (a)(1) The provisions of this Act shall not affect any proceedings 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 proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings 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 shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(b) Except as provided in subsection (d)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as this Act had not been enacted.

(c) 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.

(d) 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 such department, agency, or officer is transfered to the Secretary or any other official, then such suit shall be continued with the Secretary or other official, as the case may be, substituted.

SEC. 709. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

SEC. 710. 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 or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or other official in which this Act vests such functions.

SEC. 711. Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of, or authority available to, the President which he had immediately before the effective date of this Act; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

SEC. 712. (a) The Federal Energy Administration Act of 1974, is hereby amended as follows:

(1) By repealing sections 4, 7 (except paragraph (2)(A) of section 7(i)), 9, 17, 28, 29, and 30;

(2) Section 52(a) is amended by deleting the word "and" in paragraph (2), by deleting the period at the end of paragraph (3), and by adding at the end of the subsection:

"; and

(4) the States to the extent required by the Natural Gas Act and the Federal Power Act,"; and

(3) Section 55(b) is amended by changing the word "seven" to the word "six" and deleting the phrase "one shall be designated by the Chairman of the Federal Power Commission."

(b) The Energy Reorganization Act of 1974 is hereby amended as follows:

(1) By repealing section 108;

(2) By repealing section 305, to the extent that it applies to functions transferred to the Secretary by this Act; and

(3) By repealing section 308.

(c) Section 4(d) of the Federal Power Act is hereby repealed.

(d) The Atomic Energy Act of 1954 is hereby amended as follows:

(1) By repealing section 26; and

(2) By repealing section 161(d) as it relates to functions transferred by this Act.

(e) Section 502 of the Motor Vehicle Information and Cost Savings Act is amended by adding at the end thereof the following:

"(g) The Secretary shall consult with the Secretary of Energy in carrying out his responsibilities under this section.".

(f) The Energy Conservation Standards for New Buildings Act of 1976 is hereby amended as follows:

(1) In section 304 by adding "the Secretary of Housing and Urban Development" to the list of those with whom consultation is required; and

(2) In section 310 by adding "the Secretary of Housing and Urban Development" to the list of those with whom the Secretary shall act in cooperation.

(g)(1) Section 12(e) of the Public Utility Holding Company Act of 1935 is repealed and subsections (f), (g), (h) and (i) of section 12 are redesignated as subsections "(e)", "(f)", "(g)", and "(h)", respectively.

(d) No provision of this title imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or order may, thereunder of the Secretary of

Energy or the Securities and Exchange Commission under this title, notwithstanding that such rule, regulation, or order may, after such act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

(e) Duplicate copies of any information or documents required to be filed with the Secretary of Energy under this title may also be filed with the Securities and Exchange Commission in compliance with the requirements of the Securities Act of 1933, the Securities Exchange Act of 1934, or the Trust Indenture Act of 1939 to the extent specified in such rules and regulations or orders as the Securities and Exchange Commission may deem necessary or appropriate in the public interest or for the protection of investors.

(6) Section 21 of the Public Utility Holding Company Act of 1935 is amended to read as follows:

SEC. 21. Nothing in this title shall affect (1) the jurisdiction of the Securities and Exchange Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940 or Chapter X of the Bankruptcy Act, over any person, security, or contract, or (2) the rights, obligations, duties, or liabilities of any person under such Acts; nor shall anything in this title affect the jurisdiction of any other commission, board, agency, or officer of the United States or of any State or political subdivision of any State, over any person, security, or contract, insofar as such jurisdiction does not conflict with any provision of this title or any rule, regulation, or order thereunder.

(7) The last sentence of section 30 of the Public Utility Holding Company Act of 1935 is repealed.

(8) Section 318 of the Federal Power Act is amended by deleting therefrom the words "Securities and Exchange Commission" and adding in lieu thereof the words "Secretary of Energy."

(9) The Securities and Exchange Commission is authorized, in its discretion, by rule or regulation or order, to retain jurisdiction over any proceeding that may be pending on the effective date of this Act as it deems necessary or appropriate in the public interest and the orderly transition of functions under this Act.

(h) The Rural Electrification Act of 1936 is hereby amended by adding a new section 16 to title I thereof to read as follows:

SEC. 16. In order to insure coordination of electric generation and transmission financing under this Act with national energy policy, no loan for the construction, operation or enlargement of any generating plant or electric transmission line or system shall be made or guaranteed under this Act except after consent by the Secretary of Energy or a determination by the Secretary of Energy that such consent is not necessary.

SEC. 713. (a) Section 101 of title 5, United States Code is amended by adding at the end thereof the following:

"The Department of Energy.".

(b) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(14) Secretary of Energy.".

(c) Section 5313 of title 5, United States Code, is amended by deleting "(22) Administrator of Energy Research and Development Administration," and inserting in lieu thereof:

"(22) Deputy Secretary of Energy.".

(d) Section 5314 of title 5, United States Code, is amended by deleting "(21) Chairman, Federal Power Commission." by deleting "(60) Deputy Administrator, Energy Research and Development Administration," and by adding at the end of the section the following:

"(66) Under Secretaries of Energy (2).

"(67) Administrator of the Economic Regulatory Administration, Department of Energy.".

(e) Section 5315 of title 5, United States Code, is amended by deleting "(60) Members, Federal Power Commission", by deleting "(102) Assistant Administrators, Energy Research and Development Administration (6)." and by adding at the end of the section the following:

"(114) Assistant Secretaries of Energy (8).

"(115) General Counsel of the Department of Energy.

"(116) Administrator of Energy Information Administration, Department of Energy.

"(117) Chairman, Board of Hearings and Appeals, Department of Energy.

"(118) Additional Officers, Department of Energy (4).".

(f) Section 5316 of title 5, United States Code, is amended by deleting "(135) General Counsel, Energy Research and Development Administration", by deleting "(136) Additional Officers, Energy Research and Development Administration (9)" and adding at the end of the section the following:

"(141) Additional Officers, Department of Energy (10).

"(142) Members, Board of Hearings and Appeals, Department of Energy (2).".

SEC. 714. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees and other personnel of the departments and agencies from which functions have been transferred to the Secretary for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

SEC. 715. The transfer of functions under title III of this Act shall not affect the validity of any draft environmental impact published before the effective date of this Act.

SEC. 716. As used in this Act—(1) references to "function" or "functions" shall be deemed to include reference to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and (2) references to "perform," when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

TITLE VIII

EFFECTIVE DATE AND INTERIM APPOINTMENTS

SEC. 801. (a) The provisions of this Act shall take effect one hundred and twenty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the

Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II and title VI of this Act may be nominated and appointed, as provided in those titles, and (2) the Secretary may promulgate regulations pursuant to section 708(a)(2) of this Act at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), functions of which are transferred to the Secretary by this Act, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(b) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have 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 prior to the effective date of the Act, to act in such office until the office is filled as provided in this Act. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

SECTION-BY-SECTION ANALYSIS OF THE DEPARTMENT OF ENERGY ORGANIZATION ACT

TITLE I—DECLARATION OF PURPOSES

SECTION 101

Section 101 states the purposes of the Act as (1) creating a permanent Department of Energy in the executive branch, (2) vesting the Secretary of Energy with his functions, (3) providing for the effective management of energy functions of the Federal government, and (4) establishing a mechanism by which to coordinate the formulation and implementation of a national energy policy.

TITLE II—ESTABLISHMENT OF DEPARTMENT

SECTION 201

Section 201 creates a Department of Energy (Department) in the executive branch to be administered by a Secretary of Energy (Secretary) appointed by the President by and with the advice and consent of the Senate.

SECTION 202

Section 202 creates within the Department the positions of Deputy Secretary, two Under Secretaries, a General Counsel, and eight Assistant Secretaries, including an Assistant Secretary for Conservation, an Assistant Secretary for Environment, and an Assistant Secretary for Energy Technology. Each of these officials shall be appointed by the President by and with the advice and consent of the Senate.

SECTION 203

Section 203 authorizes the Deputy Secretary to act for the Secretary in the event of his absence, or disability, or, in the event that the office becomes vacant. It also requires the Secretary to establish the line of succession in the event the offices of both the Secretary and Deputy Secretary become vacant.

SECTION 204

Section 204 creates an Energy Information Administration within the Department to be headed by an Administrator appointed by the President by and with the advice and consent of the Senate. The Secretary will delegate (on an exclusive or non-exclusive basis) energy information gathering functions to the Administrator.

SECTION 205

Section 205 creates an Economic Regulatory Administration within the Department to be headed by an Administrator appointed by the President by and with the advice and consent of the Senate. The Administration will administer any function delegated to the Secretary under the Emergency Petroleum Allocation Act of 1973 and, except as provided in section 401 of the bill relating to the jurisdiction of the Board of Hearings and Appeals, will exercise the Secretary's authority to establish rates and charges under the Federal Power Act and the Natural Gas Act. The Secretary may also vest other authorities in the Administration.

TITLE III—TRANSFERS OF FUNCTIONS

SECTION 301

Section 301, with limited exceptions, transfers to the Secretary all functions presently vested in the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission, and the functions vested by law in the officers and components of those agencies and commission.

SECTION 302

Section 302 transfers to the Secretary all functions of the Secretary of the Interior, the Department of the Interior, and the officers and components of that Department: (1) as relate to and are utilized by the Southeastern Power Administration, the Southwestern Power Administration, and the Bonneville Power Administration; (2) as relate to and are utilized by the Alaska Power Administration and the Bureau of Reclamation for the transmission and disposition of electric power and energy, except that the Secretary of the Interior will retain authority for the operation of dams constructed pursuant to the Eklutna Project Act and section 204 of the Flood Control Act of 1962; (3) to provide for the transmission and disposition of the electric power and energy generated at Falcon Dam and Amistad Dam; (4) to prescribe regulations after consultation with the Secretary of the Interior concerning bidding, competition, diligence and production requirements relating to Federal energy leases and royalty interests under the Outer Continental Shelf Lands Act, the Mineral Lands Leasing Act, the Mineral Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act; (5) as relate to Bureau of Mines fuel supply and demand analysis and data gathering, and research and development to increase efficiency of production technology of solid fuel minerals, except as it relates to mine health and safety and the leasing consequences of solid fuel mining; and (6) to establish production rates for all Federal leases to the extent the Secretary of Interior would be permitted to establish such rates.

SECTION 303

Section 303 requires the Secretary of the Interior to afford the Secretary of Energy a reasonable opportunity to approve terms and conditions which he establishes for Federal leases which affect aspects of

Federal leases and Federal royalty interests relating to bidding, competition, diligence and production requirements.

SECTION 304

Section 304 defines the term "Federal lease" for the purposes of section 302 and section 303 to be an agreement which, in consideration of bonuses, rents or royalties conferred and covenants to be observed, grants to a lessee the exclusive right and privilege of exploring for, developing, or producing, or any or all of these, oil and gas, coal, oil shale, tar sands, and geothermal resources on lands under Federal jurisdiction.

SECTION 305

Section 305 transfers to the Administrator of the Energy Information Administration all functions presently vested in the Director of the Office of Energy Information and Analysis of the Federal Energy Administration by Part B of the Federal Energy Administration Act of 1974.

SECTION 306

Section 306 transfers to the Secretary the functions vested in the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935.

SECTION 307

Section 307 transfers to the Secretary all functions vested in the Secretary of Housing and Urban Development by the Energy Conservation Standards for New Buildings Act of 1976.

SECTION 308

Section 308 transfers to the Secretary the functions relating to transportation of oil and coal by pipeline which are now vested in the Interstate Commerce Commission.

SECTION 309

Section 309 transfers to the Secretary the jurisdiction vested in the Secretary of the Navy under Chapter 641 of title 10, United States Code, over naval petroleum and oil shale reserves (other than NPR-4).

SECTION 310

Section 310 transfers to the Secretary the Industrial Energy Conservation Program from the Department of Commerce.

TITLE IV—BOARD OF HEARINGS AND APPEALS

SECTION 401

Section 401(a) establishes a Board of Hearings and Appeals (Board). The Board will have jurisdiction over any agency determination made on the record after opportunity for an agency hearing and any other matters assigned to the Board by the Secretary.

Subsection (b) provides that the Board is to be comprised of three members to be appointed by the President to serve for 4 years and removable by the President only for inefficiency, neglect of duty, or malfeasance. The initial terms will be shortened to ensure staggered expiration of terms. The President will designate the Chairman.

Subsection (c) invests the Chairman with executive and administrative functions over the Board, including supervising personnel assigned to or employed by the Board; however, each Board member may select and supervise his personal staff.

Subsection (d) affirms the Board's independence from the rest of the Department by making clear the Board members are not subject to the supervision of the Department.

Subsection (e) provides that a decision of the Board represents final agency action within the meaning of 5 U.S.C. 704.

Subsection (f) provides that the Chairman may designate any other member of the Board to act as Chairman in his absence; that the Chairman will preside at all sessions; that a quorum consists of at least 2 members; that each member has one vote; and that actions of the Board shall be determined by a majority vote of the members present. The Board will also have an official seal entitled to be judicially noticed.

Subsection (g) authorizes the Board to adopt administrative and procedural rules.

Subsection (h) empowers the Board to hold hearings, issue subpoenas, administer oaths, examine witnesses and receive evidence.

SECTION 402

Section 402 prohibits the Board members from engaging in outside business or employment, or maintaining financial interests or relationships which create or may create a conflict of interest.

TITLE V—ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

SECTION 501

Section 501(a) establishes that all rules, regulations, or orders issued by the Department or a State or local government under authority delegated by the Secretary must comply with the provisions of the Administrative Procedures Act.

Subsection (b) imposes the additional requirement that notice of any proposed rule or regulation must be made by publication of the rule or regulation in the FederalRegister with a minimum of 10 days to comment, and, in the case of State and local government agencies, requires publication of such notice in newspapers with statewide circulation. Exceptions to the 10-day notice requirement may occur when compliance would cause serious harm or injury to the public health, safety, or welfare.

Subsection (c) provides for oral presentation of views before, if practicable, but in any case within 45 days after the issuance of a rule or regulation which will likely have a substantial impact on the Nation's economy, or a large number of businesses or individuals. A transcript shall be kept of oral presentations.

Subsection (d) requires procedures for making of adjustments to prevent special hardship, inequity or unfair distribution of burdens under the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environmental Coordination Act of 1974 and the Energy Policy and Conservation Act, and orders the establishment of procedures available to those persons for seeking relief or an interpretation.

Subsection (e) provides that when the Secretary determines a hearing is appropriate on any rule or regulation the significant effects of which are confined to a single State, geographic area, or political subdivision, or the residents thereof, the Secretary shall provide for a hearing in the affected locality.

Subsection (f) provides for judicial review of agency action. With respect to review of action taken under a law functions of which are transferred to the Department, the manner of judicial review shall be that which was specified in the law. The district courts will have jurisdiction in all other cases or controversies except to implement or enforce a rule, regulation, or order by any officer of a State or local government agency under this Act. Any court of competent jurisdiction will have the power to consider any issue raised by way of defense, except one based on the unconstitutionality of this Act or the validity of action taken by any agency under this Act. If such issues are raised the case is subject to removal to district court. Cases or controversies arising under action taken by State or local government agencies may be heard in either the appropriate State court or in the district court. The amount in controversy will not bear on the district court's ability to hear a case. Subsection (f) further permits the Secretary to procedures in lieu of those established under Section 501 of this Act for State and local government agencies authorized to carry out functions permitted under applicable law. These procedures must be calculated to provide notice to affected persons and opportunity to present views at least 10 days prior to taking the action.

TITLE VI—ADMINISTRATIVE PROVISIONS

SECTION 601

Section 601 establishes a Leasing Liaison Committee consisting of a Chairman, an officer of the Department to be designated by the President, and other representatives from the Department to be designated by the Secretary. The Chairman may designate one of the Committee members as Acting Chairman in his absence. The Committee will obtain from the Department of the Interior such information as is required to keep the Secretary of Energy fully informed on Federal leasing relating to energy resources. The Committee, through the Secretary, will have authority to make recommendations to the Department of the Interior on matters related to Federal leasing. Section 601 also provides that should the Secretary conclude that any action or failure to act by the Department of the Interior is adverse to the responsibilities of the Department of Energy, the Secretary may refer the matter to the President.

SECTION 602

Section 602 requires that each officer or employee of the Department with a known financial interest in energy related holdings file annually

a public disclosure statement beginning on February 1, 1978. The Secretary is charged with defining the term "known financial interest", with establishing methods to monitor and enforce the reporting requirement, and with reporting annually to Congress on the disclosures and actions taken with respect to such disclosures. A fine of $2,500 or imprisonment may be imposed on an officer or employee who knowingly fails to comply with the disclosure requirement.

SECTION 603

Section 603 grants to the Secretary the authority to prescribe necessary policies, standards, criteria, procedures, rules, and regulations.

SECTION 604

Section 604 permits the Secretary, unless expressly prohibited by law, to delegate any of his functions to officers and employees of the Department or, with the consent of the head of the department or agency concerned, to delegate any of his functions to the head of such other department or agency, and to authorize successive redelegations. The funds allocated to the Department to carry out functions which are delegated to another agency may be transferred to that agency.

SECTION 605

Section 605 gives the Secretary the power to establish and reorganize field offices.

SECTION 606

Section 606 gives the Secretary the authority to change the structure of the Department so long as he does not abolish organizational units established by this Act.

SECTION 607

Section 607 permits the Secretary to appoint and fix the salary for the Department's employees in accordance with the civil service laws. However, he may appoint up to 600 of the scientific, engineering, professional, and administrative personnel of the Department without regard to such laws, although the salaries may not exceed the rate prescribed for grade 18 of the General Schedule.

SECTION 608

Section 608 authorizes positions for not more than fourteen additional officers at Levels IV and V of the Executive Schedule of title 5 of the United States Code, and establishes up to 150 positions to be placed in GS–16, 17, and 18 in addition to the number of positions allowed under existing law or this Act. These 150 positions will be subject to the standards and procedures under Chapter 51 of title 5 of the United States Code.

SECTION 609

Section 609 permits the Secretary to employ the intermittent services of special government employees under Section 3109 of title 5, United States Code.

SECTION 610

Section 610 authorizes the Secretary to establish advisory committees. Members of the committees may be allowed travel and per diem expenses when away from home on advisory committee business.

SECTION 611

Section 611 authorizes the Secretary to utilize volunteers and to provide for their incidental expenses. Generally, a volunteer will not be considered to be a Federal employee. However, such volunteers would be treated as Federal employees for purposes of tort claims and for conflict-of-interest restrictions. Volunteers would also be required to file public disclosure statements pursuant to Section 602.

SECTION 612

Section 612 authorizes the Secretary to provide for the participation through cooperative agreements with the Armed Forces of military personnel in carrying out his functions.

SECTION 613

Section 613 permits the Secretary, with the consent of the involved party, to use the resources of persons, or public and private nonprofit agencies and organizations, with or without reimbursement, in carrying out his functions. The section also permits the Secretary to provide such resources to public and private nonprofit agencies and organizations when necessary and appropriate to the functions vested in him. Proceeds from reimbursements shall be deposited in the Treasury and may be withdrawn to pay directly the costs of resources provided or may be credited to a working capital fund if the fund is used to provide the resources involved.

SECTION 614

Section 614 authorizes the Secretary to enter into and perform such contracts, leases, grants, cooperative agreements and similar transactions with public agencies and private organizations and persons as he deems necessary or appropriate to carry out his functions.

SECTION 615

Section 615 authorizes the Secretary to acquire, construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, quarters and related accommodations for employees and their dependents, and other real and personal property or interest therein which the Secretary deems necessary. The Secretary may also lease or sell real or personal property and provide for eating and other necessary facilities and equipment for the welfare of the Department's employees.

SECTION 616

Section 616 authorizes the Secretary to dispose of any interest of the Department in special purpose real property or personal property

when in the public interest or to make gifts thereof to a public service institution, Federal, State, local or foreign agency.

SECTION 617

Section 617 permits the Secretary to provide services and resources for employees and dependents stationed at remote locations. Reimbursement for medical services and subsistence supplies will be made at a reasonable value as determined by the Secretary. Such funds will be deposited in the Treasury to be used to pay directly the cost of such work or services or credited to a working capital fund if the fund is available for use in performing the work or services for which payment is received.

SECTION 618

Section 618 authorizes the Secretary to permit the use for a period not to exceed fifty years and at a rate which he deems to be in the public interest of any real property or improvement under his custody by a public or private person or organization. The Secretary may require the permittee to recondition and maintain the property at its own expense.

SECTION 619

Section 619 authorizes the Secretary to acquire necessary copyrights, patents, applications for patents, licenses, and releases for past infringement before suit is brought.

SECTION 620

Section 620 authorizes the Secretary to accept, hold, administer and utilize gifts and bequests of real and personal property in order to facilitate the work of the Department. Money and proceeds of sales of other property must be deposited in the Treasury to be disbursed upon the order of the Secretary. For tax purposes such gifts and bequests will be deemed to have been made to the United States.

SECTION 621

Section 621 provides for establishment of an official seal for the Department, to be approved by the Secretary. The seal will be judicially noticed.

SECTION 622

Section 622 authorizes the establishment of a working capital fund without fiscal year limitation for the necessary expenses involved in the operation of common administrative services.

SECTION 623

Section 623 empowers the Secretary in carrying out a function transferred to him by the Act to utilize the authorities available by law to the official or agency from which the function was transferred.

SECTION 624

Section 624 requires an annual report by the Secretary to the President for submission to Congress on the activities of the Department,

United States energy policies, and the status of and outlook for the Nation's energy situation. The report satisfies certain annual reporting requirements of the Federal Energy Administration Act, the Energy Reorganization Act of 1974 and the Federal Nonnuclear Energy Research and Development Act of 1974.

SECTION 625

Section 625 authorizes the Secretary to transfer funds from one appropriation to another within the Department with a maximum increase or decrease of 5 percent in a given fiscal year if he is so authorized in an Appropriation Act.

SECTION 626

Section 626 provides authorization for appropriations to carry out the purposes of the Act.

TITLE VII—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

SECTION 701

Section 701 transfers to the Secretary 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, subject to section 202 of the Budget and Accounting Procedures Act of 1950.

Subsection (b) of this section provides for the abolishing of statutory offices which are transferred by the Act.

SECTION 702

Section 702 povides that, except where otherwise provided in the Act, the transfer of full-time personnel (except special government employees) and part-time personnel holding permanent positions shall not cause such an employee to be separated or reduced in grade for one year.

SECTION 703

Section 703 provides that any person holding a position compensated in accordance with the Executive Schedule and who without a break in service is appointed to a comparable position in the Department, will receive at least the same level of compensation as for his previous position.

SECTION 704

Section 704 allows employees who hold reemployment rights under Section 28 of the Federal Energy Administration Act of 1974 or under other laws to exercise such rights for 120 days following the effective date of this Act.

SECTION 705

Section 705 provides that when the functions vested in an agency, commission, or other body have been terminated or transferred under

Title III of this Act, the body shall terminate. Each position or office expressly authorized by law or whose incumbent was compensated at rates prescribed for Level II, III, IV, or V of the Executive Schedule will also terminate.

SECTION 706

Section 706 directs the Director of the Office of Management and Budget to make the necessary determinations involved in transferring of functions under this Act and to consult with the Secretary in the process.

SECTION 707

Section 707 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 until modified, terminated, superseded, set aside, or revoked by the President, the Secretary, the Board of Appeals, other authorized officials, a court of competent jurisdiction or by operation of law.

SECTION 708

Section 708 protects the status of any 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 is authorized to promulgate regulations to assure orderly transfer of such proceedings to the Department. 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.

SECTION 709

Section 709 provides for severability in the event any part of the Act should be declared invalid.

SECTION 710

Section 710 provides that after the effective date of this Act, references in any other Federal law to a department, agency, officer or office from which functions were transferred shall be deemed to be references to the Secretary or other appropriate official.

SECTION 711

Section 711 preserves for the President all authorities and functions which he possessed immediately before the effective date of this Act.

SECTION 712

Section 712 provides amendments to the Federal Energy Administration Act of 1974 (conforming and technical amendments to the Act made necessary by the transfer of functions); to the Energy Reorganization Act of 1974 (conforming and technical amendments); to the Federal Power Act (repeal of a public report no longer necessary);

to the Motor Vehicle Information and Cost Savings Act (granting the Secretary a consultation right on auto fuel economy standards); to the Energy Conservation Standards for New Buildings Act of 1976 (granting the Secretary of HUD a consultation right); to the Public Utility Holding Company Act of 1935 (technical amendments reflecting amendments made necessary by the transfer of functions); and to the Rural Electrification Act of 1936 (granting the Secretary a concurrence right over certain REA financing).

SECTION 713

Section 713 amends title 5, United States Code making deletions and additions to the Executive Schedule in conformity with other provisions of the Act.

SECTION 714

Section 714 enables the Secretary, with the consent of the appropriate Department or agency head, to use the services of the personnel of the Departments and agencies from which functions have been transferred as needed to facilitate the tansfer of functions under this Act.

SECTION 715

This section provides that the transfer of functions under this Act will not affect the validity of a draft environmental impact statement published before the effective date of this Act.

SECTION 716

Section 716 defines the terms "function" or "functions" to include duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and the term "perform," when used in relation to functions, to include the exercise of power, authority, rights, and privileges.

TITLE VIII—EFFECTIVE DATE AND INTERIM APPOINTMENTS

SECTION 801

Section 801 provides that the Act shall take effect 120 days after the Secreatry takes office or earlier if the President so prescribes and publishes notice in the Federal Register. However, officers may be nominated and appointed and the Secretary may promulgate regulations providing for the orderly transfer of proceedings to the Department at any time after the date of enactment. Funds available to an agency or department whose functions are transferred may be used to pay the compensation and expenses of an officer so appointed with the approval of the Director of the Office of Management and Budget, until funds for that purpose are otherwise aavilable. If an officer has not entered 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 to act in such office until it is filled. His compensation will be at the rate of the office in which he acts.

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IV. S. 826. Department of Energy Organization Act. Introduced by Senator Ribicoff, et al.

95TH CONGRESS
1ST SESSION

S. 826

IN THE SENATE OF THE UNITED STATES

MARCH 1 (legislative day, FEBRUARY 21), 1977

Mr. RIBICOFF (for himself, Mr. ROBERT C. BYRD, Mr. CHILES, Mr. CRANSTON, Mr. GLENN, Mr. HEINZ, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. NUNN, Mr. PERCY, Mr. RANDOLPH, Mr. ROTH, and Mr. STEVENSON) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

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 "Department of Energy Organization Act".

TITLE I—DECLARATION OF PURPOSES

SEC. 101. The purposes of this Act are (1) to establish a permanent Department of Energy in the executive branch,

(2) to vest in the Secretary of Energy such functions as are vested in or transferred to him by this Act, (3) to achieve, through the Department, effective management of energy functions of the Federal Government, and (4) to provide the mechanism through which a coordinated national energy policy can be formulated and implemented to deal with the short-, mid-, and long-term energy problems of the Nation.

TITLE II—ESTABLISHMENT OF DEPARTMENT

SEC. 201. There is hereby established at the seat of government an executive department to be known as the Department of Energy (hereinafter in this Act referred to as the "Department"). There shall be at the head of the Department a Secretary of Energy (hereinafter in this Act referred to as the "Secretary") who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

SEC. 202. There shall be in the Department a Deputy Secretary, two Under Secretaries, eight Assistant Secretaries, and a General Counsel, each of whom shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions as the Secretary shall prescribe from time to time. One of the Assistant Secretaries specified by this section shall be an Assistant Secretary for Conservation, another shall be an Assistant

Secretary for Environment and another shall be an Assistant Secretary for Energy Technology.

SEC. 203. The Deputy Secretary 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 the Under Secretaries and other officials 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 those offices.

SEC. 204. (a) There shall be within the Department an Energy Information Administration to be headed by an Administrator, who shall be appointed by the President by and with the advice and consent of the Senate.

(b) The Secretary shall delegate to the Administrator (which delegation may be on a nonexclusive basis as the Secretary may determine) the functions vested in him by law to gather energy information (as defined in section 51 (c) of the Federal Energy Administration Act of 1974), and the Administrator may act in the name of the Secretary for the purpose of obtaining enforcement of the delegated function.

SEC. 205. (a) There shall be within the Department an Economic Regulatory Administration to be headed by

an Administrator, who shall be appointed by the President by and with the advice and consent of the Senate.

(b) The Secretary shall utilize the Economic Regulatory Administration to administer—

(1) any function which may be delegated to the Secretary under the Emergency Petroleum Allocation Act of 1973;

(2) any function transferred to the Secretary by section 301 of this Act which relates to establishment of rates and charges under the Federal Power Act and the Natural Gas Act (subject to the provisions of section 401 (a)) ; and

(3) such other functions as the Secretary may consider appropriate.

TITLE III—TRANSFERS OF FUNCTIONS

SEC. 301. Except as otherwise provided in this Act, there are hereby transferred to and vested in the Secretary all of the functions vested by law in the Administrator of the Federal Energy Administration or the Federal Energy Administration, the Administrator of the Energy Research and Development Administration or the Energy Research and Development Administration, and the Federal Power Commission or the Chairman and members of the Commission; and the functions vested by law in the officers

and components of either such Administration or in the Commission.

SEC. 302. There are hereby transferred to and vested in the Secretary:

(a) All functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department, to the extent such functions relate to or are utilized by the Southeastern Power Administration, the Southwestern Power Administration, and the Bonneville Power Administration. The authority for the functions so transferred includes, but is not limited to, section 5 of the Flood Control Act of 1944, the Bonneville Project Act of 1937, and the Federal Columbia River Transmission System Act.

(b) Such functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department as relate to or are utilized by the Alaska Power Administration for the transmission and disposition (including acquisition by purchase or exchange) of electric power and energy and by the Bureau of Reclamation for the disposition (including acquisition by purchase or exchange) of electric power and energy: *Provided,* That the authority for and function of operating the dams constructed pursuant to the Eklutna Project Act and section

204 of the Flood Control Act of 1962 shall remain in the Secretary of the Interior: *And provided further*, That the Secretary and the Secretary of the Interior may enter into an agreement whereby functions transferred in this subsection shall be performed by the Department of the Interior in which case employees required for such performance shall be retained by the Department of the Interior. The authority for the functions so transferred includes, but is not limited to, the Eklutna Project Act, section 204 of the Flood Control Act of 1962, the Reclamation Act of 1902, and Acts amendatory thereof and supplementary thereto, including but not limited to the authority for the sale of electric power or lease of power privileges under section 9(c) of the Reclamation Project Act of 1939, and the authority under section 303 of the Colorado River Basin Project Act.

(c) All the authority of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department for the transmission and disposition of the electric power and energy generated at Falcon Dam and Amistad Dam, international storage reservoir projects constructed on the Rio Grande pursuant to the Act of June 19, 1954, as amended by the Act of December 23, 1963.

(d) (1) The authority of the Secretary of the Interior to prescribe regulations under the Outer Continental Shelf Lands Act, the Mineral Lands Leasing Act, the Mineral

Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act, which relate to the (A) fostering of competition for Federal leases (including but not limited to prohibition on bidding for development rights by certain types of joint ventures), (B) implementation of alternative bidding systems authorized for the award of Federal leases, (C) establishment of diligence requirements for operations conducted on Federal leases (including but not limited to procedures relating to the granting or ordering by the Secretary of the Interior of suspension of operations or production as they relate to such requirements), (D) setting rates of production for Federal leases, and (E) specifying the procedures, terms and conditions for the acquisition and disposition of Federal royalty interests taken in kind: *Provided,* That such regulations shall be promulgated by the Secretary only after consultation with the Secretary of the Interior.

(2) The President shall issue an Executive order specifically describing the authorities transferred by this subsection. Such order may provide that the Secretary and the Secretary of the Interior may enter into one or more agreements specifying which Secretary has authority to issue particular regulations, and may provide that the President may confirm the authority of either Secretary to prescribe a particular regulation.

(3) A regulation prescribed by the Secretary under any authority transferred under this subsection may not be set aside on the ground that authority to issue such regulation was not so transferred if, under such Executive order (or an agreement or confirmation thereunder), the Secretary has authority to prescribe such regulation.

(4) A regulation of the Secretary of the Interior may not be set aside on the ground that authority to issue such regulation was transferred to the Secretary by this subsection, if, under such Executive order (or any agreement or confirmation thereunder) the Secretary of the Interior has authority to issue such regulation.

(e) Those functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department under the Act of May 16, 1910, and other authorities, exercised by the Bureau of Mines, but limited to:

(1) fuel supply and demand analysis and data gathering,

(2) research and development relating to increased efficiency of production technology of solid fuel minerals; provided, that research relating to mine health and safety and research relating to the environmental and leasing consequences of solid fuel mining shall remain in the Department of the Interior, and

(3) coal preparation and analysis.

(f) The functions of the Secretary of the Interior to establish production rates for all Federal leases.

SEC. 303. The Secretary of the Interior shall afford the Secretary a reasonable opportunity, prior to the execution of a Federal lease, to disapprove any term or condition of such Federal lease which relates to the matters with respect to which the Secretary has authority to prescribe regulations under section 302 (d). No such term or condition may be included in such a lease if it is disapproved by the Secretary. The Executive order issued under section 302 (d) (2) shall prescribe the manner in which the Secretary shall be afforded such opportunity to disapprove.

SEC. 304. (a) As used in sections 302 and 303 of this Act, "Federal lease" means an agreement which, in consideration of bonuses, rents or royalties conferred and covenants to be observed, grants to a lessee the exclusive right and privilege of exploring for, developing, or producing, or any or all of these, oil and gas, coal, oil shale, tar sands, and geothermal resources on lands or interests in lands under Federal jurisdiction.

SEC. 305. All functions vested by law in the Director of the Office of Energy Information and Analysis by part B of the Federal Energy Administration Act of 1974 are hereby transferred to the Administrator of the Energy Information Administration.

SEC. 306. Except as provided in section 712(g), there are hereby transferred to and vested in the Secretary all functions vested in the Securities and Exchange Commission, or the Chairman or the members thereof, under the provisions of the Public Utility Holding Company Act of 1935, and under the provisions of Reorganization Plan Numbered 10 of 1950 and Public Law 87–592, as approved August 20, 1962, insofar as said Reorganization Plan and Public Law 87–592 relate to the administration of the Public Utility Holding Company Act of 1935.

SEC. 307. There are hereby transferred to and vested in the Secretary all of the functions vested in the Secretary of Housing and Urban Development by the Energy Conservation Standards for New Buildings Act of 1976 (title III of the Energy Conservation and Production Act).

SEC. 308. There are hereby transferred to and vested in the Secretary such functions as are set forth in the Interstate Commerce Act and vested by law in the Interstate Commerce Commission or the Chairman and members thereof as relate to transportation of oil and coal by pipeline.

SEC. 309. There are hereby transferred to and vested in the Secretary all functions vested by chapter 641 of title 10, United States Code, in the Secretary of the Navy as they relate to the administration of, and there is hereby transferred to and vested in the Secretary jurisdiction over—

(1) Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive Order of the President, dated September 2, 1912;

(2) Naval Petroleum Reserve Numbered 2 (Buena Vista), located in Kern County, California, established by Executive Order of the President, dated December 13, 1912;

(3) Naval Petroleum Reserve Numbered 3 (Teapot Dome), located in Wyoming, established by Executive Order of the President, dated April 30, 1915;

(4) Oil Shale Reserve Numbered 1, located in Colorado, established by Executive Order of the President, dated December 6, 1916, as amended by Executive Order dated June 12, 1919;

(5) Oil Shale Reserve Numbered 2, located in Utah, established by Executive Order of the President, dated December 6, 1916; and

(6) Oil Shale Reserve Numbered 3, located in Colorado, established by Executive Order of the President, dated September 27, 1974.

SEC. 310. There are hereby transferred to and vested in the Secretary all functions of the Secretary of Commerce, the Department of Commerce, and officers and components of that Department, as relate to or are utilized by the Office

of Energy Programs, but limited to industrial energy conservation programs.

TITLE IV—BOARD OF HEARINGS AND APPEALS

SEC. 401. (a) (1) There is hereby established within the Department a Board of Hearings and Appeals (hereinafter referred to in this title as the "Board").

(2) The Board shall have jurisdiction—

(A) to hear and determine matters arising under any function vested in or delegated to the Secretary involving—

(i) any agency determination required by law to be made on the record after opportunity for an agency hearing, or

(ii) any other agency determination which the Secretary determines shall be made on the record after opportunity for agency hearing, or

(B) to consider any other matter which the Secretary may assign to the Board by rule.

(b) The Board shall be comprised of three 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. The terms of the members first taking office shall

expire (as designated by the President at the time of appointment), one at the end of two years, one at the end of three years, and one at the end of four years. Not more than two members of the Board shall be members of the same political party. Upon the expiration of this term of office, a member shall continue to serve until his successor is appointed and shall have qualified.

(c) The Chairman of the Board shall exercise the executive and administrative functions of the Board, including functions of the Board with respect to (1) the supervision of personnel employed by or assigned to the Board: *Provided,* That each member of the Board may select and supervise personnel for his personal staff, (2) the distribution of business among personnel and among administrative units of the Board, and (3) the use and expenditure of funds appropriated or made available to the Board.

(d) In the performance of their functions, the members of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of the Department.

(e) A decision of the Board shall be final agency action within the meaning of section 704 of title 5, United States Code, with respect to matters within the Board's jurisdiction and shall not be subject to further review by the Secretary or any officer or employee of the Department.

(f) The Chairman of the Board may from time to time designate any other member of the Board as Acting Chairman to act in the place and stead of the Chairman during his absence. The Chairman (or the Acting Chairman in the absence of the Chairman) shall preside at all sessions of the Board and a quorum for the transaction of business shall consist of at least two members present. Each member of the Board, including the Chairman, shall have one vote. Actions of the Board shall be determined by a majority vote of the members present. The Board shall have an official seal which shall be judicially noticed.

(g) The Board is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions.

(h) In carrying out its functions, the Board shall have the same powers as are vested in the Secretary to hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate.

SEC. 402. (a) No person in the employ of or holding any official relation to any person, firm, association, or corporation engaged in the production, generation, transmission, distribution, or sale of electric power, petroleum or petroleum products, natural gas, coal, or nuclear material, or owning stock or bonds thereof, or who has a pecuniary in-

terest therein, shall enter upon the duties of or hold the office of Board member. Members shall not engage in any other business, vocation, or employment.

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

TITLE V—ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

SEC. 501. (a) Subject to the other requirements of this section, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply in accordance with its terms to any rule, regulation, or order issued pursuant to authority vested by law in or delegated to the Secretary or any officer, employee, or component of the Department, including any such rule, regulation, or order of a State or local government agency or officer thereof, issued pursuant to authority delegated by the Secretary.

(b) In addition to the requirements of subsection (a), notice of any proposed rule or regulation shall be given by publication of such proposed rule or regulation in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this subsection as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious

harm or injury to the public health, safety, or welfare, and such finding is set out in detail in such rule or regulation. In addition, public notice of all rules or regulations described in subsection (a) which are promulgated by officers of a State or local government agency shall be achieved by publication of such rules or regulations in at least two newspapers of statewide circulation: *Provided,* That if such publication is not practicable, notice of any rule or regulation shall be given by such other means as the officer promulgating such rule or regulation determines will assure wide public notice.

(c) In addition to the requirements of subsection (b), if any rule or regulation described in subsection (a) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the issuance of such rule or regulation but in all cases such opportunity shall be afforded no later than forty-five days after the issuance of any such rule or regulation. A transcript shall be kept of any oral presentation.

(d) The Secretary or any officer authorized to issue rules, regulations, or orders under the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environmental Coordination Act of 1974, or the Energy Policy and

Conservation Act shall provide for the making of such adjustments, consistent with the other purposes of the relevant Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rule, regulation, or order.

(e) (1) With respect to any rule or regulation of the Secretary the effects of which, except for indirect effects of an inconsequential nature, are confined to—

(A) a single unit of local government or the residents thereof;

(B) a single geographic area within a State or the residents thereof; or

(C) a single State or the residents thereof; the Secretary shall, in any case where appropriate, afford an opportunity for a hearing or the oral presentation of views and provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in paragraphs (A) through (C), as the case may be.

(2) For purposes of this subsection—

(A) the term "unit of local government" means

a country, municipality, town, township, village, or other unit of general government below the State level; and

(B) the term "geographic area within a State" means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(3) Nothing in this subsection shall be construed as requiring a hearing or an oral presentation of views where none is required by this section.

(f) (1) Judicial review of agency action taken under any law the functions of which are transferred to the Secretary by this Act shall, notwithstanding such transfer, be made in the manner specified in such law.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under rules, regulations, or orders issued exclusively thereunder, except any actions taken to implement or enforce any rule, regulation, or order by any officer of a State or local government agency under this Act: *Provided,* That nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the uncon-

stitutionality of this Act or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the unconstitutionality of this Act or the validity of agency action under this Act, the case shall be subject to 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.

(3) The Secretary may, by rule, prescribe procedures for State or local government agencies authorized by the Secretary to carry out such functions as may be permitted under applicable law. Such procedures shall apply to such agencies in lieu of section 501, and shall require that prior to taking any action, such agencies shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) a reasonable time before taking the action.

(4) Notwithstanding any other law, the litigation of the Department shall be subject to the supervision of the

Attorney General pursuant to chapter 31 of title 28, United States Code.

SEC. 502. In lieu of procedures established by section 501, the Secretary may, by rule, if he determines it to be in the public interest, utilize such administrative procedures as may be specified in any other law to carry out functions under that law which are transferred to the Secretary by this Act.

TITLE VI—ADMINISTRATIVE PROVISIONS

SEC. 601. There is hereby established a Leasing Liaison Committee consisting of—

(a) A Chairman, who shall be an officer of the Department designated as Chairman by the President; and

(b) Members, who shall be officers or employees of the Department designated as members by the Secretary.

The Committee shall be headed by the Chairman, who may designate one of the members of the Committee as Acting Chairman to serve during his absence. The Chairman and members shall serve as such without additional compensation. The Committee shall obtain from the Department of the Interior such information as is necessary to keep the Secretary fully and currently informed on matters with regard to Federal leasing relating to energy resources. The Committee, through the Secretary, shall have the authority to make recommendations to the Department of the Interior

on matters relating to Federal leasing. If the Secretary concludes that any action or failure to act on the part of the Department of the Interior on matters recommended to it is adverse to the responsibilities of the Department, the Secretary may refer the matter to the President.

SEC. 602. (a) Each officer or employee of the Department who has any known financial interest—

(1) in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline, or distributing (other than at the retail level) coal, natural gas, or petroleum products;

(2) in property from which coal, natural gas, crude oil, or nuclear material is commercially produced;

(3) in any person engaged in the production, generation, transmission, distribution, or sale of electric power; or

(4) in any person engaged in production, sale, or distribution of nuclear materials;

shall, beginning on February 1, 1978, annually file with the Secretary a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such statement shall be subject to examination, and available for copying, by the public upon request.

(b) The Secretary shall—

(1) act, within 90 days after the effective date of this Act, by rule—

(A) to define the term "known financial interest" for purposes of subsection (a) ; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) include, as part of the report made pursuant to section 624, a report with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b), the Secretary may identify specific poistions, or classes thereof, within the Department which are of a nonregulatory and nonpolicy-making nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, subsection (a) shall be fined not more than $2,500 or imprisoned not more than one year, or both.

SEC. 603. The Secretary is authorized to prescribe such policies, standards, criteria, procedures, rules, and regu-

lations as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in him.

SEC. 604. (a) Except as otherwise expressly prohibited by law, the Secretary may delegate any of his functions to such officers and employees of the Department as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary or appropriate.

(b) Except as otherwise expressly prohibited by law, the Secretary may, with the consent of the head of the department or agency concerned, delegate any function vested in him to the head of such other department or agency, and may authorize such successive redelegation thereof as he may deem to be necessary or appropriate. Funds made available to the Secretary or the Department may be allocated or transferred to any department or agency assisting the Secretary in carrying out any functions delegated pursuant to this subsection. Funds so allocated or transferred shall remain available for such period as may be specified in the Acts making such funds available.

SEC. 605. The Secretary is authorized to establish, alter, consolidate or discontinue and to maintain such State, regional, district, local or other field offices as he may deem to be necessary to carry out functions now or hereafter vested in him.

SEC. 606. The Secretary may, from time to time, establish, alter, consolidate or discontinue such organizational units or components within the Department as he may deem to be necessary or appropriate: *Provided, however,* That such authority shall not extend to the abolition of organizational units or components established by this Act.

SEC. 607. In the performance of his functions the Secretary is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such 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, except that to the extent the Secretary deems such action necessary to the discharge of his functions, he may appoint not more than six hundred of the scientific, engineering, professional, and administrative personnel of the Department without regard to such laws, and may fix the compensation of such personnel not in excess of the rate for grade 18 of the General Schedule specified in section 5332 of title 5, United States Code.

SEC. 608. (a) There shall be within the Department not more than fourteen additional officers in positions authorized by sections 5315 and 5316 of title 5, United States Code, who shall be appointed by the Secretary and who

shall perform such functions as the Secretary shall prescribe from time to time.

(b) In addition to the number of positions which may be placed in GS–16, 17, and 18 under existing law or this Act, not to exceed one hundred and fifty positions may be placed in GS–16, 17, and 18 to carry out functions under this Act: *Provided*, That positions established by this subsection shall be subject to standards and procedures under chapter 51 of title 5, United States Code.

SEC. 609. 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 by section 5332 of title 5, United States Code, for persons in Government service employed intermittently.

SEC. 610. The Secretary is authorized to establish in accordance with the Federal Advisory Committee Act such advisory committees as he may deem appropriate to assist in the performance of his functions. Members of such advisory committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or while otherwise serving at the request of the Secretary while serving away from their homes or regular places of business, may be allowed travel expenses, including

per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government serving without pay.

SEC. 611. (a) The Secretary is authorized to recruit, train, accept, and utilize, without regard to the civil service and classification laws, rules, and regulations, the services of individuals without compensation as volunteers for or to aid or facilitate the work of the Department.

(b) The Secretary is authorized to provide for incidental expenses, including but not limited to, transportation, uniforms, lodging, and subsistence for such volunteers.

(c) Except as otherwise provided in this section, a volunteer under this section shall not be deemed to be a Federal employee and shall not be subject to the provisions of laws relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation and Federal employee benefits.

(d) For the purpose of the tort claim provisions of title 28, United States Code, a volunteer under this section shall be considered a Federal employee.

(e) For the purpose of subchapter I of chapter 81 of title 5, United States Code, a volunteer under this section shall be deemed a civilian employee of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code.

(f) For the purpose of section 602 of this Act, a volunteer under this section shall be deemed an employee of the Department.

(g) For the purpose of title 18, United States Code, a volunteer shall be deemed to be an employee of the United States.

SEC. 612. (a) The Secretary is authorized to provide for participation of Armed Forces personnel in carrying out his functions. Members of the Armed Forces may be detailed for service in the Department by the Secretary concerned (as said term is defined in 10 U.S.C. 101) pursuant to cooperative agreements with the Secretary.

(b) The detail of any personnel to the Department under this section shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy or hold or any emolument, perquisite, right, privilege or benefit incident to or arising out of such status, office, rank, or grade, nor shall any member so detailed be charged against any statutory or other limitation on strengths applicable to the Armed Forces or the Department. A member so detailed shall not be 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.

SEC. 613. (a) With their consent, the Secretary may

with or without reimbursement, use the services, equipment, personnel, and facilities of persons or public and private nonprofit agencies and organizations, 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 hereafter vested in him.

(b) The Secretary may, with or without reimbursement, provide service, equipment, personnel, and facilities to public and private nonprofit agencies and organizations, including any agency or instrumentality of the United States or any State, territory, the Commonwealth of Puerto Rico, the District of Columbia, or political subdivision thereof, or to any foreign government whenever he deems such action to be necessary and appropriate to the performance of functions now or hereafter vested in him.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary or the head of the agency or instrumentality of the United States involved, as the case may be, to pay directly the costs of the services, equipment, personnel, or facilities provided, to repay or make advances to appropriations or funds which do or will initially bear all or a part of such costs, or to refund excess sums when necessary: *Pro-*

vided, That such proceeds may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 622 of this Act, and used under the law governing such fund, if the fund is available for use for providing the services, equipment, personnel, or facilities involved.

SEC. 614. The Secretary is authorized to enter into and perform such contracts, leases, grants, 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 reimbursement, and, in cases of grants, with necessary adjustment on account of overpayments and underpayments) as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in the Secretary.

SEC. 615. The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, such other real and personal property (including patents), or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health

and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

SEC. 616. Notwithstanding any other provision of law, the Secretary may, whenever he deems such action to be in the public interest, for money or other consideration sell, lease, or otherwise dispose of any interest in any special purpose real property or personal property (including property acquired with grant funds) of the Department and may make conditional or unconditional gifts thereof to any public service institution, Federal, State, local, or foreign agency.

SEC. 617. (a) As necessary and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote locations:

(1) Emergency medical services and supplies;

(2) Food and other subsistence supplies;

(3) Messing facilities;

(4) Audio-visual equipment, accessories, and supplies for recreation and training;

(5) Reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) Living and working quarters and facilities; and

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

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and 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.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary to pay directly the cost of such work or services, to repay or make advances to appropriations of funds which will initially bear all or a part of such cost, or to refund excess sums when necessary: *Provided,* That such payments may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 622 of this Act, and used under the law governing such fund, if the fund is available for use by the Department for performing the work or services for which payment is received.

SEC. 618. The Secretary, under such terms, at such rates, and for such periods not exceeding fifty years, as he may deem to be in the public interest, is authorized to 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 improve-

ment thereon, under the custody of the Secretary for Department purposes. The Secretary 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.

SEC. 619. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(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.

SEC. 620. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests and devises of money and proceeds from sales of other property received as gifts, bequests or devises shall be deposited in the Treasury and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest or devise. For the purposes of Federal income, estate, and gift taxes, prop-

erty accepted under this section shall be considered as a gift, bequest or devise to the United States.

SEC. 621. The Secretary shall cause a seal of office to be made for the Department of such design as he shall approve and judicial notice shall be taken of such seal.

SEC. 622. The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interests of economy and efficiency. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund, in such amounts as may be necessary to provide additional working capital, are authorized. The working capital fund shall recover from the appropriations and funds for which services are performed, either in advance or by way of reimbursement, amounts which will approximate the costs incurred, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from the sale or exchange of its property, and receipts in payment for loss or damage to property owned by the fund.

SEC. 623. To the extent necessary or appropriate to

perform any function 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 such function was transferred.

SEC. 624. (a) The Secretary shall, as soon as practicable after the end of each fiscal year, commencing with the first complete fiscal year following the effective date of this Act, make a report to the President for submission to the Congress on the activities of the Department during the preceding fiscal year. Such report shall include a statement of the Secretary's goals, priorities, and plans for the Department together with an assessment of the progress made toward the attainment of those goals, the effective and efficient management of the Department, and progress made in coordination of its functions with other departments and agencies of the Federal Government. In addition, such report shall include:

(1) projected energy needs of the United States to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation;

(2) an estimate of the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with

due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives;

(3) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation;

(4) a summary of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, and to encourage conservation practices, and shall include recommendations for developing technologies capable of improving the quality of the environment and increasing efficiency;

(5) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices) employed by Federal, State, and local governments and nongovernmental entities to achieve the purposes of this Act.

(b) Such report shall satisfy the reporting requirements of section 15 of the Federal Energy Administration Act of 1974, section 307 of the Energy Reorganization Act of 1974, and section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974.

SEC. 625. The Secretary, when authorized in an appropriation act, in any fiscal year, may transfer funds from one appropriation to another within the Department: *Provided,* That no appropriation shall be either increased or decreased pursuant to this section more than 5 per centum of the appropriation for such fiscal year.

SEC. 626. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE VII—TRANSITIONAL, SAVINGS AND CONFORMING PROVISIONS

SEC. 701. (a) Except as otherwise provided in 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 the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedure Act of 1950, are hereby transferred to the Secretary for appropriate allocation.

(b) Positions expressly specified by statute or reorganization plan, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation at the rate prescribed for offices and positions

at level I, II, III, IV, or V of the executive schedule (5 U.S.C. 5312–5316) on the effective date of this Act shall be subject to the provisions of section 705 of this Act.

SEC. 702. Except as otherwise provided in this Act, the transfer of full-time personnel (except special Government employees) and part-time personnel holding permanent positions pursuant to this title shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of enactment of this Act.

SEC. 703. Any person who, on the effective date of this Act, held a position compensated in accordance with the executive schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in the new position.

SEC. 704. Employees transferred to the Department holding reemployment rights acquired under section 28 of the Federal Energy Administration Act of 1974 or any other provision of law or regulation may exercise such rights only within one hundred and twenty days from the effective date of this Act.

SEC. 705. Except as otherwise provided in this Act,

whenever all of the functions vested by law in an agency, commission or other body, or any component thereof, have been terminated or transferred from that agency, commission or other body, or component by this Act, the agency, commission or other body, or component, shall terminate. If an agency, commission or other body, or any component thereof, terminaates pursuant to the preceding sentence, each postion and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313–5316) shall terminate.

SEC. 706. The Director of the Office of Management and Budget in consultation with the Secretary is authorized and directed to 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 such additional incidential 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 as he may deem necessary to accomplish the purposes of this Act.

SEC. 707. All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(a) which 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 Department after the date of enactment of this Act, and

(b) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Secretary, the Board of Hearings and Appeals, or other authorized officials, a court of competent jurisdiction, or by operation of law.

SEC. 708. (a) (1) The provisions of this Act shall not affect any proceedings 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 proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such

proceedings 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 shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(b) Except as provided in subsection (d)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as this Act had not been enacted.

(c) 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.

(d) 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 such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the Secretary or other official, as the case may be, substituted.

SEC. 709. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

SEC. 710. 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 or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or other official in which this Act vests such functions.

SEC. 711. Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of, or authority available to, the President which he had immediately before the effective date of this Act; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

SEC. 712. (a) The Federal Energy Administration Act of 1974, is hereby amended as follows:

(1) By repealing sections 4, 7 (except paragraph (2) (A) of section 7 (i)), 9, 17, 28, 29, and 30;

(2) Section 52 (a) is amended by deleting the word "and" in paragraph (2), by deleting the period at the end of paragraph (3), and by adding at the end of the subsection: "; and (4) the States to the extent required by the Natural Gas Act and the Federal Power Act,"; and

(3) Section 55 (b) is amended by changing the word "seven" to the word "six" and deleting the phrase "one shall be designated by the Chairman of the Federal Power Commission."

(b) The Energy Reorganization Act of 1974 is hereby amended as follows:

(1) By repealing section 108;

(2) By repealing section 305, to the extent that it applies to functions transferred to the Secretary by this Act; and

(3) By repealing section 308.

(c) Section 4 (d) of the Federal Power Act is hereby repealed.

(d) The Atomic Energy Act of 1954 is hereby amended as follows:

(1) By repealing section 26; and

(2) By repealing section 161 (d) as it relates to functions transferred by this Act.

(e) Section 502 of the Motor Vehicle Information and Cost Savings Act is amended by adding at the end thereof the following:

"(g) The Secretary shall consult with the Secretary of Energy in carrying out his responsibilities under this section.".

(f) The Energy Conservation Standards for New Buildings Act of 1976 is hereby amended as follows:

(1) In section 304 by adding "the Secretary of Housing and Urban Development" to the list of those with whom consultation is required; and

(2) In section 310 by adding "the Secretary of Housing and Urban Development" to the list of those with whom the Secretary shall act in cooperation.

(g) (1) Section 12 (e) of the Public Utility Holding Company Act of 1935 is repealed and subsections (f), (g), (h) and (i) of section 12 are redesignated as subsections "(e)", "(f)", "(g)", and "(h)', respectively.

(2) Section 15 (e) of the Public Utility Holding Company Act of 1935 is amended by changing the period at the end thereof to a colon and adding thereafter the following words: "*Provided, however,* That nothing in this title shall

limit the right or duty of any person to take action necessary to comply with any applicable requirement under any Act administered by the Securities and Exchange Commission or any rule, regulation, or order of that Commission pursuant to any such Act."

(3) Section 16(b) of the Public Utility Holding Company Act of 1935 is amended to delete therefrom the words "except as provided in section 17(b)" and the commas which precede and follow these words.

(4) Sections 17 (a) and (b) of the Public Utility Holding Company Act of 1935 are repealed and subsection (c) thereof is redesignated as section 17.

(5) Section 20 of the Public Utility Holding Company Act of 1935 is amended by deleting the first sentence of subsection (d) thereof and adding a new subsection (e). Sections 20 (d) and (e) are amended to read as follows:

"(d) No provision of this title imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or order may, thereunder of the Secretary of Energy or the Securities and Exchange Commission under this title, notwithstanding that such rule, regulation, or order may, after such act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

(e) Duplicate copies of any information or documents

required to be filed with the Secretary of Energy under this title may also be filed with the Securities and Exchange Commission in compliance with the requirements of the Securities Act of 1933, the Securities Exchange Act of 1934, or the Trust Indenture Act of 1939 to the extent specified in such rules and regulations or orders as the Securities and Exchange Commission may deem necessary or appropriate in the public interest or for the protection of investors.

(6) Section 21 of the Public Utility Holding Company Act of 1935 is amended to read as follows:

SEC. 21. Nothing in this title shall affect (1) the jurisdiction of the Securities and Exchange Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940 or chapter X of the Bankruptcy Act, over any person, security, or contract, or (2) the rights, obligations, duties, or liabilities of any person under such Acts; nor shall anything in this title affect the jurisdiction of any other commission, board, agency, or officer of the United States or of any State or political subdivision of any State, over any person, security, or contract, insofar as such jurisdiction does not conflict with any provision of this title or any rule, regulation, or order thereunder.

(7) The last sentence of section 30 of the Public Utility Holding Company Act of 1935 is repealed.

(8) Section 318 of the Federal Power Act is amended by deleting therefrom the words "Securities and Exchange Commission" and adding in lieu thereof the words "Secretary of Energy".

(9) The Securities and Exchange Commission is authorized, in its discretion, by rule or regulation or order, to retain jurisdiction over any proceeding that may be pending on the effective date of this Act as it deems necessary or appropriate in the public interest and the orderly transition of functions under this Act.

(h) The Rural Electrification Act of 1936 is hereby amended by adding a new section 16 to title I thereof to read as follows:

"SEC. 16. In order to insure coordination of electric generation and transmission financing under this Act with national energy policy, no loan for the construction, operation, or enlargement of any generating plant or electric transmission line or system shall be made or guaranteed under this Act except after consent by the Secretary of Energy or a determination by the Secretary of Energy that such consent is not necessary".

SEC. 713. (a) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following: "The Department of Energy.".

(b) Section 5312 of title 5, United States Code, is

amended by adding at the end thereof the following: "(14) Secretary of Energy.".

(c) Section 5313 of title 5, United States Code, is amended by deleting "(22) Administrator of Energy Research and Development Administration," and inserting in lieu thereof: "(22) Deputy Secretary of Energy.".

(d) Section 5314 of title 5, United States Code, is amended by deleting "(21) Chairman, Federal Power Com- Research and Development Administration," and by adding at the end of the section the following: "(66) Under Secretaries of Energy (2). (67) Administrator of the Economic Regulatory Administration, Department of Energy.".

(e) Section 5315 of title 5, United States Code, is amended by deleting "(60) Members, Federal Power Commission", by deleting "(102) Assistant Administrators, Energy Research and Development Administration (6)," and by adding at the end of the section the following: "(114) Assistant Secretaries of Energy (8). (115) General Counsel of the Department of Energy. (116) Administrator of Energy Information Administration, Department of Energy. (117) Chairman, Board of Hearings and Appeals, Department of Energy. (118) Additional Officers, Department of Energy (4).".

(f) Section 5316 of title 5, United States Code, is amended by deleting "(135) General Counsel, Energy Re-

search and Development Administration", by deleting "(136) Additional Officers, Energy Research and Development Administration (9)" and adding at the end of the section the following: "(141) Additional Officers, Department of Energy (10). (142) Members, Board of Hearings and Appeals, Department of Energy (2).".

SEC. 714. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees and other personnel of the departments and agencies from which functions have been transferred to the Secretary for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

SEC. 715. The transfer of functions under title III of this Act shall not affect the validity of any draft environmental impact statement published before the effective date of this Act.

SEC. 716. As used in this Act—(1) references to "function" or "functions" shall be deemed to include reference to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and (2) references to "perform," when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

TITLE VIII—EFFECTIVE DATE AND INTERIM APPOINTMENTS

SEC. 801. (a) The provisions of this Act shall take effect one hundred and twenty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II and title VI of this Act may be nominated and appointed, as provided in those titles, and (2) the Secretary may promulgate regulations pursuant to section 108 (a) (2) of this Act at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), functions of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(b) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have 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 prior to the effective date of the Act, to act in such office until the office is filled as provided in this Act. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

95TH CONGRESS
1ST SESSION

S. 826

A BILL

To establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

By Mr. RIBICOFF, Mr. ROBERT C. BYRD, Mr. CHILES, Mr. CRANSTON, Mr. GLENN, Mr. HEINZ, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. NUNN, Mr. PERCY, Mr. RANDOLPH, Mr. ROTH, and Mr. STEVENSON

MARCH 1 (legislative day, FEBRUARY 21), 1977
Read twice and referred to the Committee on Governmental Affairs

V. H.R. 4263. Department of Energy Organization Act. Introduced by Representative Brooks.

95TH CONGRESS
1ST SESSION

H. R. 4263

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 1977

Mr. BROOKS introduced the following bill; which was referred to the Committee on Government Operations

A BILL

To establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

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 "Department of Energy Organization Act".

TITLE I—DECLARATION OF PURPOSES

SEC. 101. The purposes of this Act are (1) to establish a permanent Department of Energy in the executive branch, (2) to vest in the Secretary of Energy such functions as

are vested in or transferred to him by this Act, (3) to achieve, through the Department, effective management of energy functions of the Federal Government, and (4) to provide the mechanism through which a coordinated national energy policy can be formulated and implemented to deal with the short-, mid-, and long-term energy problems of the Nation.

TITLE II—ESTABLISHMENT OF DEPARTMENT

SEC. 201. There is hereby established at the seat of government an executive department to be known as the Department of Energy (hereinafter in this Act referred to as the "Department"). There shall be at the head of the Department a Secretary of Energy (hereinafter in this Act referred to as the "Secretary") who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

SEC. 202. There shall be in the Department a Deputy Secretary, two Under Secretaries, eight Assistant Secretaries, and a General Counsel, each of whom shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions as the Secretary shall prescribe from time to time. One of the Assistant Secretaries specified by this section shall be an Assistant Secretary for Conservation, another shall be an Assistant Secre-

tary for Environment and another shall be an Assistant Secretary for Energy Technology.

SEC. 203. The Deputy Secretary 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 the Under Secretaries and other officials 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 those offices.

SEC. 204. (a) There shall be within the Department an Energy Information Administration to be headed by an Administrator, who shall be appointed by the President by and with the advice and consent of the Senate.

(b) The Secretary shall delegate to the Administrator (which delegation may be on a nonexclusive basis as the Secretary may determine) the functions vested in him by law to gather energy information (as defined in section 51(c) of the Federal Energy Administration Act of 1974), and the Administrator may act in the name of the Secretary for the purpose of obtaining enforcement of the delegated function.

SEC. 205. (a) There shall be within the Department an Economic Regulatory Administration to be headed by an

Administrator, who shall be appointed by the President by and with the advice and consent of the Senate.

(b) The Secretary shall utilize the Economic Regulatory Administration to administer—

(1) any function which may be delegated to the Secretary under the Emergency Petroleum Allocation Act of 1973;

(2) any function transferred to the Secretary by section 301 of this Act which relates to establishment of rates and charges under the Federal Power Act and the Natural Gas Act (subject to the provisions of section 401 (a)) ; and

(3) such other functions as the Secretary may consider appropriate.

TITLE III—TRANSFERS OF FUNCTIONS

SEC. 301. Except as otherwise provided in this Act, there are hereby transferred to and vested in the Secretary all of the functions vested by law in the Administrator of the Federal Energy Administration or the Federal Energy Administration, the Administrator of the Energy Research and Development Administration or the Energy Research and Development Administration, and the Federal Power Commission or the Chairman and members of the Commission; and the functions vested by law in the officers and

components of either such Administration or in the Commission.

SEC. 302. There are hereby transferred to and vested in the Secretary:

(a) All functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department, to the extent such functions relate to or are utilized by the Southeastern Power Administration, the Southwestern Power Administration, and the Bonneville Power Administration. The authority for the functions so transferred includes, but is not limited to, section 5 of the Flood Control Act of 1944, the Bonneville Project Act of 1937, and the Federal Columbia River Transmission System Act.

(b) Such functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department as relate to or are utilized by the Alaska Power Administration for the transmission and disposition (including acquisition by purchase or exchange) of electric power and energy and by the Bureau of Reclamation for the disposition (including acquisition by purchase or exchange) of electric power and energy: *Provided,* That the authority for and function of operating the dams constructed pursuant to the Eklutna Project Act and section

204 of the Flood Control Act of 1962 shall remain in the Secretary of the Interior: *And provided further*, That the Secretary and the Secretary of the Interior may enter into an agreement whereby functions transferred in this subsection shall be performed by the Department of the Interior in which case employees required for such performance shall be retained by the Department of the Interior. The authority for the functions so transferred includes, but is not limited to, the Eklutna Project Act, section 204 of the Flood Control Act of 1962, the Reclamation Act of 1902, and Acts amendatory thereof and supplementary thereto, including but not limited to the authority for the sale of electric power or lease of power privileges under section 9(c) of the Reclamation Project Act of 1939, and the authority under section 303 of the Colorado River Basin Project Act.

(c) All the authority of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department for the transmission and disposition of the electric power and energy generated at Falcon Dam and Amistad Dam, international storage reservoir projects constructed on the Rio Grande pursuant to the Act of June 19, 1954, as amended by the Act of December 23, 1963.

(d) (1) The authority of the Secretary of the Interior to prescribe regulations under the Outer Continental Shelf

Lands Act, the Mineral Lands Leasing Act, the Mineral Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act, which relate to the (A) fostering of competition for Federal leases (including but not limited to prohibition on bidding for development rights by certain types of joint ventures), (B) implementation of alternative bidding systems authorized for the award of Federal leases, (C) establishment of diligence requirements for operations conducted on Federal leases (including but not limited to procedures relating to the granting or ordering by the Secretary of the Interior of suspension of operations or production as they relate to such requirements), (D) setting rates of production for Federal leases, and (E) specifying the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind: *Provided,* That such regulations shall be promulgated by the Secretary only after consultation with the Secretary of the Interior.

(2) The President shall issue an Executive order specifically describing the authorities transferred by this subsection. Such order may provide that the Secretary and the Secretary of the Interior may enter into one or more agreements specifying which Secretary has authority to issue particular regulations, and may provide that the President may

confirm the authority of either Secretary to prescribe a particular regulation.

(3) A regulation prescribed by the Secretary under any authority transferred under this subsection may not be set aside on the ground that authority to issue such regulation was not so transferred if, under such Executive order (or an agreement or confirmation thereunder), the Secretary has authority to prescribe such regulation.

(4) A regulation of the Secretary of the Interior may not be set aside on the ground that authority to issue such regulation was transferred to the Secretary by this subsection, if, under such Executive order (or any agreement or confirmation thereunder) the Secretary of the Interior has authority to issue such regulation.

(e) Those functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department under the Act of May 16, 1910, and other authorities. exercised by the Bureau of Mines, but limited to—

(1) fuel supply and demand analysis and data gathering,

(2) research and development relating to increased efficiency of production technology of solid fuel minerals: *Provided,* That research relating to mine health and safety and research relating to the environmental and

leasing consequences of solid fuel mining shall remain in the Department of the Interior, and

(3) coal and analysis.

(f) The functions of the Secretary of the Interior to establish production rates for all Federal leases.

SEC. 303. The Secretary of the Interior shall afford the Secretary a reasonable opportunity, prior to the execution of a Federal lease, to disapprove any term or condition of such Federal lease which relates to the matters with respect to which the Secretary has authority to prescribe regulations under section 302(d). No such term or condition may be included in such a lease if it is disapproved by the Secretary. The Executive order issued under section 302(d)(2) shall prescribe the manner in which the Secretary shall be afforded such opportunity to disapprove.

SEC. 304. (a) As used in sections 302 and 303 of this Act, "Federal lease" means an agreement which, in consideration of bonuses, rents, or royalties conferred and covenants to be observed, grants to a lessee the exclusive right and privilege of exploring for, developing, or producing, or any or all of these, oil and gas, coal, oil shale, tar sands, and geothermal resources on lands or interests in lands under Federal jurisdiction.

SEC. 305. All functions vested by law in the Director of the Office of Energy Information and Analysis by part B

of the Federal Energy Administration Act of 1974 are hereby transferred to the Administrator of the Energy Information Administration.

SEC. 306. Except as provided in section 712 (g), there are hereby transferred to and vested in the Secretary all functions vested in the Securities and Exchange Commission, or the Chairman or the members thereof, under the provisions of the Public Utility Holding Company Act of 1935, and under the provisions of Reorganization Plan Numbered 10 of 1950 and Public Law 87–592, as approved August 20, 1962, insofar as said Reorganization Plan and Public Law 87–592 relate to the administration of the Public Utility Holding Company Act of 1935.

SEC. 307. There are hereby transferred to and vested in the Secretary all of the functions vested in the Secretary of Housing and Urban Development by the Energy Conservation Standards for New Buildings Act of 1976 (title III of the Energy Conservation and Production Act).

SEC. 308. There are hereby transferred to and vested in the Secretary such functions as are set forth in the Interstate Commerce Act and vested by law in the Interstate Commerce Commission or the Chairman and members thereof as relate to transportation of oil and coal by pipeline.

SEC. 309. There are hereby transferred to and vested in the Secretary all functions vested by chapter 641 of title 10,

United States Code, in the Secretary of the Navy as they relate to the administration of, and there is hereby transferred to and vested in the Secretary jurisdiction over—

(1) Naval Petroleum Reserve Numbered 1 (Elk Hills) located in Kern County, California, established by Executive order of the President, dated September 2, 1912;

(2) Naval Petroleum Reserve Numbered 2 (Buena Vista), located in Kern County, California, established by Executive order of the President, dated December 13, 1912;

(3) Naval Petroleum Reserve Numbered 3 (Teapot Dome) located in Wyoming, established by Executive order of the President, dated April 30, 1915;

(4) Oil Shale Reserve Numbered 1, located in Colorado, established by Executive order of the President, dated December 6, 1916, as amended by Executive order dated June 12, 1919;

(5) Oil Shale Reserve Numbered 2, located in Utah, established by Executive order of the President, dated December 6, 1916; and

(6) Oil Shale Reserve Numbered 3, located in Colorado, established by Executive order of the President, dated September 27, 1974.

SEC. 310. There are hereby transferred to and vested in the Secretary all functions of the Secretary of Commerce, the Department of Commerce, and officers and components of that Department, as relate to or are utilized by the Office of Energy Programs, but limited to industrial energy conservation programs.

TITLE IV—BOARD OF HEARINGS AND APPEALS

SEC. 401. (a) (1) There is hereby established within the Department a Board of Hearings and Appeals (hereinafter referred to in this title as the "Board").

(2) The Board shall have jurisdiction—

(A) to hear and determine matters arising under any function vested in or delegated to the Secretary involving—

(i) any agency determination required by law to be made on the record after opportunity for an agency hearing, or

(ii) any other agency determination which the Secretary determines shall be made on the record after opportunity for agency hearing, or

(B) to consider any other matter which the Secretary may assign to the Board by rule.

(3) The Board shall be comprised of three members appointed by the President by and with the advice and consent of the Senate. One of the members shall be desig-

nated 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. The terms of the members first taking office shall expire (as designated by the President at the time of appointment), one at the end of two years, one at the end of three years, and one at the end of four years. Not more than two members of the Board shall be members of the same political party. Upon the expiration of his term of office, a member shall continue to serve until his successor is appointed and shall have qualified.

(c) The Chairman of the Board shall exercise the executive and administrative functions of the Board, including functions of the Board with respect to (1) the supervision of personnel employed by or assigned to the Board: *Provided*, That each member of the Board may select and supervise personnel for his personal staff, (2) the distribution of business among personnel and among administrative units of the Board, and (3) the use and expenditure of funds appropriated or made available to the Board.

(d) In the performance of their functions, the members of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of the Department.

(e) A decision of the Board shall be final agency action within the meaning of section 704 of title 5, United States Code, with respect to matters within the Board's jurisdiction and shall not be subject to further review by the Secretary or any officer or employee of the Department.

(f) The Chairman of the Board may may from time to time designate any other member of the Board as Acting Chairman to act in the place and stead of the Chairman during his absence. The Chairman (or the Acting Chairman in the absence of the Chairman) shall preside at all sessions of the Board and a quorum for the transaction of business shall consist of at least two members present. Each member of the Board, including the Chairman, shall have one vote. Actions of the Board shall be determined by a majority vote of the members present. The Board shall have an official seal which shall be judicially noticed.

(g) The Board is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions.

(h) In carrying out its functions, the Board shall have the same powers as are vested in the Secretary to hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate.

SEC. 402. (a) No person in the employ of or holding

any official relation to any person, firm, association, or corporation engaged in the production, generation, transmission, distribution, or sale of electric power, petroleum or petroleum products, natural gas, coal, or nuclear material, or owning stock or bonds thereof, or who has a pecuniary interest therein, shall enter upon the duties of or hold the office of Board member. Members shall not engage in any other business, vocation, or employment.

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

TITLE V—ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

SEC. 501. (a) Subject to the other requirements of this section, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply in accordance with its terms to any rule, regulation, or order issued pursuant to authority vested by law in or delegated to the Secretary or any officer, employee, or component of the Department, including any such rule, regulation, or order of a State or local government agency or officer thereof, issued pursuant to authority delegated by the Secretary.

(b) In addition to the requirements of subsection (a), notice of any proposed rule or regulation shall be given by

publication of such proposed rule or regulation in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this subsection as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious harm or injury to the public health, safety, or welfare, and such finding is set out in detail in such rule or regulation. In addition, public notice of all rules or regulations described in subsection (a) which are promulgated by officers of a State or local government agency shall be achieved by publication of such rules or regulations in at least two newspapers of statewide circulation: *Provided,* That if such publication is not practicable, notice of any rule or regulation shall be given by such other means as the officer promulgating such rule or regulation determines will assure wide public notice.

(c) In addition to the requirements of subsection (b), if any rule or regulation described in subsection (a) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the issuance of such rule or regulation but in all cases such opportunity shall be afforded

no later than forty-five days after the issuance of any such rule or regulation. A transcript shall be kept of any oral presentation.

(d) The Secretary or any officer authorized to issue rules, regulations, or orders under the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environmental Coordination Act of 1974, or the Energy Policy and Conservation Act shall provide for the making of such adjustments, consistent with the other purposes of the relevant Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rule, regulation or order.

(e) (1) With respect to any rule or regulation of the Secretary the effects of which, except for indirect effects of an inconsequential nature, are confined to—

(A) a single unit of local government or the residents thereof;

(B) a single geographic area within a State or the residents thereof; or

(C) a single State or the residents thereof; the Secretary shall, in any case where appropriate, afford an opportunity for a hearing or the oral presentation of

views and provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in paragraphs (A) through (C), as the case may be.

(2) For purposes of this subsection—

(A) the term "unit of local government" means a county, municipality, town, township, village, or other unit of general government below the State level; and

(B) the term "geographic area within a State" means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(3) Nothing in this subsection shall be construed as requiring a hearing or an oral presentation of views where none is required by this section.

(f) (1) Judicial review of agency action taken under any law the functions of which are transferred to the Secretary by this Act shall, notwithstanding such transfer, be made in the manner specified in such law.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under rules, regulations, or orders issued exclusively thereunder, except any actions taken to

implement or enforce any rule, regulation, or order by any officer of a State or local government agency under this Act: *Provided,* That nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the unconstitutionality of this Act or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the unconstitutionality of this Act or the validity of agency action under this Act, the case shall be subject to 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.

(3) The Secretary may, by rule, prescribe procedures for State or local government agencies authorized by the Secretary to carry out such functions as may be permitted under applicable law. Such procedures shall apply to such agencies in lieu of section 501, and shall require that prior to taking any action, such agencies shall take steps reason-

ably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) a reasonable time before taking the action.

(4) Notwithstanding any other law, the litigation of the Department shall be subject to the supervision of the Attorney General pursuant to chapter 31 of title 28, United States Code.

SEC. 502. In lieu of procedures established by section 501, the Secretary may, by rule, if he determines it to be in the public interest, utilize such administrative procedures as may be specified in any other law to carry out functions under that law which are transferred to the Secretary by this Act.

TITLE VI—ADMINISTRATIVE PROVISIONS

SEC. 601. There is hereby established a Leasing Liaison Committee consisting of—

(a) a Chairman, who shall be an officer of the Department designated as Chairman by the President; and

(b) members, who shall be officers or employees of the Department designated as members by the Secretary.

The Committee shall be headed by the Chairman, who may

designate one of the members of the Committee as Acting Chairman to serve during his absence. The Chairman and members shall serve as such without additional compensation. The Committee shall obtain from the Department of the Interior such information as is necessary to keep the Secretary fully and currently informed on matters with regard to Federal leasing relating to energy resources. The Committee, through the Secretary, shall have the authority to make recommendations to the Department of the Interior on matters relating to Federal leasing. If the Secretary concludes that any action or failure to act on the part of the Department of the Interior on matters recommended to it is adverse to the responsibilities of the Department, the Secretary may refer the matter to the President.

SEC. 602. (a) Each officer or employee of the Department who has any known financial interest—

(1) in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline, or distributing (other than at the retail level) coal, natural gas, or petroleum products;

(2) in property from which coal, natural gas, crude oil, or nuclear material is commercially produced;

(3) in any person engaged in the production, generation, transmission, distribution or sale of electric power; or

(4) in any person engaged in production, sale, or distribution of nuclear materials;

shall, beginning on February 1, 1978, annually file with the Secretary a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such statement shall be subject to examination, and available for copying, by the public upon request.

(b) The Secretary shall—

(1) act, within ninety days after the effective date of this Act, by rule—

(A) to define the term "known financial interest" for purposes of subsection (a); and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) include, as part of the report made pursuant to section 624, a report with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b), the Secretary may identify specific positions, or classes thereof, within the Department which are of a nonregulatory and

nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, subsection (a) shall be fined not more than $2,500 or imprisoned not more than one year, or both.

SEC. 603. The Secretary is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in him.

SEC. 604. (a) Except as otherwise expressly prohibited by law, the Secretary may delegate any of his functions to such officers and employees of the Department as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary or appropriate.

(b) Except as otherwise expressly prohibited by law, the Secretary may, with the consent of the head of the department or agency concerned, delegate any function vested in him to the head of such other department or agency, and may authorize such successive redelegation thereof as he may deem to be necessary or appropriate. Funds made available to the Secretary or the Department may be allocated or transferred to any department or agency

assisting the Secretary in carrying out any functions delegated pursuant to this subsection. Funds so allocated or transferred shall remain available for such period as may be specified in the Acts making such funds available.

SEC. 605. The Secretary is authorized to establish, alter, consolidate, or discontinue and to maintain such State, regional, district, local, or other field offices as he may deem to be necessary to carry out functions now or hereafter vested in him.

SEC. 606. The Secretary may, from time to time, establish, alter, consolidate or discontinue such organizational units or components within the Department as he may deem to be necessary or appropriate: *Provided, however,* That such authority shall not extend to the abolition of organizational units or components established by this Act.

SEC. 607. In the performance of his functions the Secretary is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such 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, except that to the extent the Secretary deems such action necessary to the discharge of his functions, he may appoint not more than six hundred of the scientific, engineering, professional, and administrative personnel of the Depart-

ment without regard to such laws, and may fix the compensation of such personnel not in excess of the rate for grade 18 of the General Schedule specified in section 5332 of title 5. United States Code.

SEC. 608. (a) There shall be within the Department not more than fourteen additional officers in positions authorized by sections 5315 and 5316 of title 5, United States Code, who shall be appointed by the Secretary and who shall perform such functions as the Secretary shall prescribe from time to time.

(b) In addition to the number of positions which may be placed in GS–16, GS–17, and GS–18 under existing law or this Act, not to exceed one hundred and fifty positions may be placed in GS–16, GS–17, and GS–18 to carry out functions under this Act: *Provided*, That positions established by this subsection shall be subject to standards and procedures under chapter 51 of title 5, United States Code.

SEC. 609. 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 by section 5332 of title 5, United States Code, for persons in Government service employed intermittently.

SEC. 610. The Secretary is authorized to establish in accordance with the Federal Advisory Committee Act such

advisory committees as he may deem appropriate to assist in the performance of his functions. Members of such advisory committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or while otherwise serving at the request of the Secretary while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government serving without pay.

SEC. 611. (a) The Secretary is authorized to recruit, train, accept, and utilize, without regard to the civil service and classification laws, rules, and regulations, the services of individuals without compensation as volunteers for or to aid or facilitate the work of the Department.

(b) The Secretary is authorized to provide for incidental expenses, including but not limited to, transportation, uniforms, lodging, and subsistence for such volunteers.

(c) Except as otherwise provided in this section, a volunteer under this section shall not be deemed to be a Federal employee and shall not be subject to the provisions of laws relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(d) For the purpose of the tort claim provisions of

title 28, United States Code, a volunteer under this section shall be considered a Federal employee.

(e) For the purpose of subchapter I of chapter 81 of title 5, United States Code, a volunteer under this section shall be deemed a civilian employee of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code.

(f) For the purpose of section 602 of this Act, a volunteer under this section shall be deemed an employee of the Department.

(g) For the purpose of title 18, United States Code, a volunteer shall be deemed to be an employee of the United States.

SEC. 612. (a) The Secretary is authorized to provide for participation of Armed Forces personnel in carrying out his functions. Members of the Armed Forces may be detailed for service in the Department by the Secretary concerned (as said term is defined in 10 U.S.C. 101) pursuant to cooperative agreements with the Secretary.

(b) The detail of any personnel to the Department under this section shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy or hold or any emolument, prerequisite, right, privilege, or benefit incident to or arising out of such status, office, rank, or grade, nor shall any member so detailed be charged against

any statutory or other limitation on strengths applicable to the Armed Forces or the Department. A member so detailed shall not be 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.

SEC. 613. (a) With their consent, the Secretary may, with or without reimbursement, use the services, equipment, personnel, and facilities of persons or public and private nonprofit agencies and organizations, 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 hereafter vested in him.

(b) The Secretary may, with or without reimbursement, provide service, equipment, personnel, and facilities to public and private nonprofit agencies and organizations, including any agency or instrumentality of the United States or any State, territory, the Commonwealth of Puerto Rico, the District of Columbia, or political subdivision thereof, or to any foreign government whenever he deems such action to be necessary and appropriate to the performance of functions now or hereafter vested in him.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary or the head of the agency or instrumentality of the United States involved, as the case may be, to pay directly the costs of the services, equipment, personnel, or facilities provided, to repay or make advances to appropriations or funds which do or will initially bear all or a part of such costs, or to refund excess sums when necessary: *Provided,* That such proceeds may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 622 of this Act, and used under the law governing such fund, if the fund is available for use for providing the services, equipment, personnel, or facilities involved.

SEC. 614. The Secretary is authorized to enter into and perform such contracts, leases, grants, 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 reimbursement and, in cases of grants, with necessary adjustment on account of overpayments and underpayments) as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in the Secretary.

SEC. 615. The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct im-

prove, repair, operate, and maintain laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, such other real and personal property (including patents), or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

SEC. 616. Notwithstanding any other provision of law, the Secretary may, whenever he deems such action to be in the public interest, for money or other consideration sell, lease, or otherwise dispose of any interest in any special purpose real property or personal property (including property acquired with grant funds) of the Department and may make conditional or unconditional gifts thereof to any public service institution, Federal, State, local, or foreign agency.

SEC. 617. (a) As necessary and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote locations:

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

(6) living and working quarters and facilities; and

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

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and 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.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary to pay directly the cost of such work or services, to repay or make advances to appropriations of funds which will initially bear all or a part of such cost, or to refund excess sums when necessary: *Provided,* That such payments may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 622 of this Act, and used under the law governing such fund, if the fund is available for use by the Department for performing the work or services for which payment is received.

SEC. 618. The Secretary, under such terms, at such rates, and for such periods not exceeding fifty years, as he may deem to be in the public interest, is authorized to 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 the custody of the Secretary for Department purposes. The Secretary 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.

SEC. 619. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(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.

SEC. 620. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property

received as gifts, bequests, or devises shall be deposited in the Treasury and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

SEC. 621. The Secretary shall cause a seal of office to be made for the Department of such design as he shall approve and judicial notice shall be taken of such seal.

SEC. 622. The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interests of economy and efficiency. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund in such amounts as may be necessary to provide additional working capital are authorized. The working capital fund shall recover from the appropriations and funds for which services are performed, either in advance or by way of reimbursement, amounts which will approximate the costs incurred, includ-

ing the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from the sale or exchange of its property, and receipts in payment for loss or damage to property owned by the fund.

SEC. 623. To the extent necessary or appropriate to perform any function 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 such function was transferred.

SEC. 624. (a) The Secretary shall, as soon as practicable after the end of each fiscal year, commencing with the first complete fiscal year following the effective date of this Act, make a report to the President for submission to the Congress on the activities of the Department during the preceding fiscal year. Such report shall include a statement of the Secretary's goals, priorities, and plans for the Department together with an assessment of the progress made toward the attainment of those goals, the effective and efficient management of the Department, and progress made in coordination of its functions with other departments and agencies of the Federal Government. In addition, such report shall include:

(1) projected energy needs of the United States to meet the requirements of the general welfare of the

people of the United States and the commercial and industrial life of the Nation;

(2) an estimate of the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives;

(3) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation;

(4) a summary of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, and to encourage conservation practices, and shall include recommendations for developing technologies capable of improving the quality of the environment and increasing efficiency;

(5) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices) employed by Federal, State, and local governments and nongovernmental entities to achieve the purposes of this Act.

(b) Such report shall satisfy the reporting requirements of section 15 of the Federal Energy Administration Act of 1974, section 307 of the Energy Reorganization Act of 1974, and section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974.

SEC. 625. The Secretary, when authorized in an appropriation act, in any fiscal year, may transfer funds from one appropriation to another within the Department: *Provided,* That no appropriation shall be either increased or decreased pursuant to this section more than 5 per centum of the appropriation for such fiscal year.

SEC. 626. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE VII—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

SEC. 701. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of

1950, are hereby transferred to the Secretary for appropriate allocation.

(b) Positions expressly specified by statute or reorganization plan, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation at the rate prescribed for offices and positions at level I, II, III, IV, or V of the executive schedule (5 U.S.C. 5312–5316) on the effective date of this Act shall be subject to the provisions of section 705 of this Act.

SEC. 702. Except as otherwise provided in this Act, the transfer of full-time personnel (except special Government employees) and part-time personnel holding permanent positions pursuant to this title shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of enactment of this Act.

SEC. 703. Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in the new position.

SEC. 704. Employees transferred to the Department holding reemployment rights acquired under section 28 of the Federal Energy Administration Act of 1974 or any other provision of law or regulation may exercise such rights only within one hundred and twenty days from the effective date of this Act.

SEC. 705. Except as otherwise provided in this Act, whenever all of the functions vested by law in an agency, commission, or other body, or any component thereof, have been terminated or transferred from that agency, commission, or other body, or component by this Act, the agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313–5316) shall terminate.

SEC. 706. The Director of the Office of Management and Budget in consultation with the Secretary is authorized and directed to 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

such 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 as he may deem necessary to accomplish the purposes of this Act.

SEC. 707. All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(a) which 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 Department after the date of enactment of this Act, and

(b) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Secretary, the Board of Hearings and Appeals, or other authorized officials, a court of competent jurisdiction, or by operation of law.

SEC. 708. (a) (1) The provisions of this Act shall not affect any proceedings 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 proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings 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 shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(b) Except as provided in subsection (d)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as this Act had not been enacted.

(c) 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.

(d) 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 such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the Secretary or other official, as the case may be, substituted.

SEC. 709. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

SEC. 710. 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 or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or other official in which this Act vests such functions.

SEC. 711. Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of, or authority available to, the President which he had immediately before the effective date of this Act; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

SEC. 712. (a) The Federal Energy Administration Act of 1974, is hereby amended as follows:

(1) By repealing sections 4, 7 (except paragraph (2) (A) of section 7 (i)), 9, 17, 28, 29, and 30;

(2) Section 52 (a) is amended by deleting the word "and" in paragraph (2), by deleting the period at the end of paragraph (3), and by adding at the end of the subsection: "; and (4) the States to the extent required by the Natural Gas Act and the Federal Power Act,"; and

(3) Section 55 (b) is amended by changing the word "seven" to the word "six" and deleting the phrase "one shall be designated by the Chairman of the Federal Power Commission.".

(b) The Energy Reorganization Act of 1974 is hereby amended as follows:

(1) By repealing section 108;

(2) By repealing section 305, to the extent that

it applies to functions transferred to the Secretary by this Act; and

(3) By repealing section 308.

(c) Section 4(d) of the Federal Power Act is hereby repealed.

(d) The Atomic Energy Act of 1954 is hereby amended as follows:

(1) By repealing section 26; and

(2) By repealing section 161(d) as it relates to functions transferred by this Act.

(e) Section 502 of the Motor Vehicle Information and Cost Savings Act is amended by adding at the end thereof the following:

"(g) The Secretary shall consult with the Secretary of Energy in carrying out his responsibilities under this section.".

(f) The Energy Conservation Standards for New Buildings Act of 1976 is hereby amended as follows:

(1) In section 304 by adding "the Secretary of Housing and Urban Development" to the list of those with whom consultation is required; and

(2) In section 310 by adding "the Secretary of Housing and Urban Development" to the list of those with whom the Secretary shall act in cooperation.

(g) (1) Section 12(e) of the Public Utility Holding Company Act of 1935 is repealed and subsections (f), (g), (h), and (i) of section 12 are redesignated as subsections "(e)", "(f)", "(g)", and "(h)", respectively.

(2) Section 15(e) of the Public Utility Holding Company Act of 1935 is amended by changing the period at the end thereof to a colon and adding thereafter the following words: "*Provided, however,* That nothing in this title shall limit the right or duty of any person to take action necessary to comply with any applicable requirement under any Act administered by the Securities and Exchange Commission or any rule, regulation, or order of that Commission pursuant to any such Act.".

(3) Section 16(b) of the Public Utility Holding Company Act of 1935 is amended to delete therefrom the words "except as provided in section 17(b)" and the commas which precede and follow these words.

(4) Sections 17 (a) and (b) of the Public Utility Holding Company Act of 1935 are repealed and subsection (c) thereof is redesignated as section 17.

(5) Section 20 of the Public Utility Holding Company Act of 1935 is amended by deleting the first sentence of subsection (d) thereof and adding a new subsection (e). Sections 20 (d) and (e) are amended to read as follows:

"(d) No provision of this title imposing any liability

shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or order may, thereunder of the Secretary of Energy or the Securities and Exchange Commission under this title, notwithstanding that such rule, regulation, or order may, after such act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

(e) Duplicate copies of any information or documents required to be filed with the Secretary of Energy under this title may also be filed with the Securities and Exchange Commission in compliance with the requirements of the Securities Act of 1933, the Securities Exchange Act of 1934, or the Trust Indenture Act of 1939 to the extent specified in such rules and regulations or orders as the Securities and Exchange Commission may deem necessary or appropriate in the public interest or for the protection of investors.".

(6) Section 21 of the Public Utility Holding Company Act of 1935 is amended to read as follows:

"SEC. 21. Nothing in this title shall affect (1) the jurisdiction of the Securities and Exchange Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940 or chapter X of the Bankruptcy Act, over any person, security, or contract, or (2) the

rights, obligations, duties, or liabilities of any person under such Acts; nor shall anything in this title affect the jurisdiction of any other commission, board, agency, or officer of the United States or of any State or political subdivision of any State, over any person, security, or contract, insofar as such jurisdiction does not conflict with any provision of this title or any rule, regulation, or order thereunder."

(7) The last sentence of section 30 of the Public Utility Holding Company Act of 1935 is repealed.

(8) Section 318 of the Federal Power Act is amended by deleting therefrom the words "Securities and Exchange Commission" and adding in lieu thereof the words "Secretary of Energy.".

(9) The Securities and Exchange Commission is authorized, in its discretion, by rule or regulation or order, to retain jurisdiction over any proceeding that may be pending on the effective date of this Act as it deems necessary or appropriate in the public interest and the orderly transition of functions under this Act.

(h) The Rural Electrification Act of 1936 is hereby amended by adding a new section 1 to title I thereof to read as follows:

"SEC. 16. In order to insure coordination of electric generation and transmission financing under this Act with national energy policy, no loan for the construction, opera-

tion or enlargement of any generating plant or electric transmission line or system shall be made or guaranteed under this Act except after consent by the Secretary of Energy or a determination by the Secretary of Energy that such consent is not necessary."

SEC. 713. (a) Section 101 of title 5, United States Code is amended by adding at the end thereof the following: "The Department of Energy.".

(b) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(14) Secretary of Energy.".

(c) Section 5313 of title 5, United States Code, is amended by deleting "(22) Administrator of Energy Research and Development Administration" and inserting in lieu thereof:

"(22) Deputy Secretary of Energy.".

(d) Section 5314 of title 5, United States Code, is amended by deleting "(21) Chairman, Federal Power Commission," by deleting "(60) Deputy Administrator, Energy Research and Development Administration," and by adding at the end of the section the following:

"(66) Under Secretaries of Energy (2).

"(67) Administrator of the Economic Regulatory Administration, Department of Energy.".

(e) Section 5315 of title 5, United States Code, is amended by deleting "(60) Members, Federal Power Commission", by deleting "(102) Assistant Administrators, Energy Research and Development Administration (6)," and by adding at the end of the section the following:

"(114) Assistant Secretaries of Energy (8).

"(115) General Counsel of the Department of Energy.

"(116) Administrator of Energy Information Administration, Department of Energy.

"(117) Chairman, Board of Hearings and Appeals, Department of Energy.

"(118) Additional Officers, Department of Energy (4).".

(f) Section 5316 of title 5, United States Code, is amended by deleting "(135) General Counsel, Energy Research and Development Administration", by deleting "(136) Additional Officers, Energy Research and Development Administration (9)" and adding at the end of the section the following:

"(141) Additional officers, Department of Energy (10).

"(142) Members, Board of Hearings and Appeals, Department of Energy (2).".

SEC. 714. With the consent of the appropriate department or agency head concerned, the Secretary is authorized

to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions have been transferred to the Secretary for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

SEC. 715. The transfer of functions under title III of this Act shall not affect the validity of any draft environmental impact statement published before the effective date of this Act.

SEC. 716. As used in this Act—(1) references to "function" or "functions" shall be deemed to include reference to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and (2) references to "perform" when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

TITLE VIII—EFFECTIVE DATE AND INTERIM APPOINTMENTS

SEC. 801. (a) The provisions of this Act shall take effect one hundred and twenty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II and title VI of this Act may be nominated and appointed, as pro-

vided in those titles, and (2) the Secretary may promulgate regulations pursuant to section 708(a)(2) of this Act at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), functions of which are transferred to the Secretary by this Act, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(b) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have 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 prior to the effective date of the Act, to act in such office until the office is filled as provided in this Act. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

95TH CONGRESS
1ST SESSION

H. R. 4263

A BILL

To establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

By Mr. BROOKS

MARCH 2, 1977

Referred to the Committee on Government Operations

VI. H.R. 4466. Department of Energy Organization Act. Introduced by Representative Anderson, et al.

95TH CONGRESS
1ST SESSION

H. R. 4466

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 1977

Mr. ANDERSON of Illinois (for himself, Mr. MICHEL, and Mr. HORTON) introduced the following bill; which was referred to the Committee on Government Operations

A BILL

To establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management, to assure a coordinated national energy policy, and for other purposes.

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 "Department of Energy Organization Act".

TITLE I—DECLARATION OF PURPOSES

SEC. 101. The purposes of this Act are (1) to establish a permanent Department of Energy in the executive branch, (2) to vest in the Secretary of Energy such functions as are

vested in or transferred to him by this Act, (3) to achieve, through the Department, effective management of energy functions of the Federal Government, and (4) to provide the mechanism through which a coordinated national energy policy can be formulated and implemented to deal with the short-, mid-, and long-term energy problems of the Nation.

TITLE II—ESTABLISHMENT OF DEPARTMENT

SEC. 201. There is hereby established at the seat of government an executive department to be known as the Department of Energy (hereinafter in this Act referred to as the "Department"). There shall be at the head of the Department a Secretary of Energy (hereinafter in this Act referred to as the "Secretary") who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

SEC. 202. There shall be in the Department a Deputy Secretary, two Under Secretaries, eight Assistant Secretaries, and a General Counsel, each of whom shall be appointed by the President by and with the advice and consent of the Senate, who shall perform such functions as the Secretary shall prescribe from time to time. One of the Assistant Secretaries specified by this section shall be an Assistant Secretary for Conservation, another shall be an Assistant Secretary

for Environment, and another shall be an Assistant Secretary for Energy Technology.

SEC. 203. The Deputy Secretary 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 the Under Secretaries and other officials 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 those offices.

SEC. 204. (a) There shall be within the Department an Energy Information Administration to be headed by an Administrator, who shall be appointed by the President by and with the advice and consent of the Senate.

(b) The Secretary shall delegate to the Administrator (which delegation may be on a nonexclusive basis as the Secretary may determine) the functions vested in him by law to gather energy information (as defined in section 51 (c) of the Federal Energy Administration Act of 1974), and the Administrator may act in the name of the Secretary for the purpose of obtaining enforcement of the delegated function.

SEC. 205. (a) There shall be within the Department an Economic Regulatory Administration to be headed by an Administrator, who shall be appointed by the President by and with the advice and consent of the Senate.

(b) The Secretary shall utilize the Economic Regulatory Administration to administer—

(1) any function which may be delegated to the Secretary under the Emergency Petroleum Allocation Act of 1973;

(2) any function transferred to the Secretary by section 301 of this Act which relates to establishment of rates and charges under the Federal Power Act and the Natural Gas Act (subject to the provisions of section 401 (a)) ; and

(3) such other functions as the Secretary may consider appropriate.

TITLE III—TRANSFERS OF FUNCTIONS

SEC. 301. Except as otherwise provided in this Act, there are hereby transferred to and vested in the Secretary all of the functions vested by law in the Administrator of the Federal Energy Administration or the Federal Energy Administration, the Administrator of the Energy Research and Development Administration or the Energy Research and Development Administration, and the Federal Power Commission or the Chairman and members of the Commission; and the functions vested by law in the officers and components of either such Administration or in the Commission.

SEC. 302. There are hereby transferred to and vested in the Secretary:

(a) All functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department, to the extent such functions relate to or are utilized by the Southeastern Power Administration, the Southwestern Power Administration, and the Bonneville Power Administration. The authority for the functions so transferred includes, but is not limited to, section 5 of the Flood Control Act of 1944, the Bonneville Project Act of 1937, and the Federal Columbia River Transmission System Act.

(b) Such functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department as relate to or are utilized by the Alaska Power Administration for the transmission and disposition (including acquisition by purchase or exchange) of electric power and energy and by the Bureau of Reclamation for the disposition (including acquisition by purchase or exchange) of electric power and energy: *Provided,* That the authority for and function of operating the dams constructed pursuant to the Eklutna Project Act and section 204 of the Flood Control Act of 1962 shall remain in the Secretary of the Interior: *And provided further,* That the Secretary and the Secretary of the Interior may enter into an agreement whereby functions transferred in this subsection shall be performed by the Department of the Interior in which case

employees required for such performance shall be retained by the Department of the Interior. The authority for the functions so transferred includes, but is not limited to, the Eklutna Project Act, section 204 of the Flood Control Act of 1962, the Reclamation Act of 1902, and Acts amendatory thereof and supplementary thereto, including but not limited to the authority for the sale of electric power or lease of power privileges under section 9(c) of the Reclamation Project Act of 1939, and the authority under section 303 of the Colorado River Basin Project Act.

(c) All the authority of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department for the transmission and disposition of the electric power and energy generated at Falcon Dam and Amistad Dam, international storage reservoir projects constructed on the Rio Grande pursuant to the Act of June 19, 1954, as amended by the Act of December 23, 1963.

(d) (1) The authority of the Secretary of the Interior to prescribe regulations under the Outer Continental Shelf Lands Act, the Mineral Lands Leasing Act, the Mineral Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act, which relate to the (A) fostering of competition for Federal leases (including but not limited to prohibition on bidding for development rights by certain types of joint ven-

tures), (B) implementation of alternative bidding systems authorized for the award of Federal leases, (C) establishment of diligence requirements for operations conducted on Federal leases (including but not limited to procedures relating to the granting or ordering by the Secretary of the Interior of suspension of operations or production as they relate to such requirements), (D) setting rates of production for Federal leases, and (E) specifying the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind: *Provided,* That such regulations shall be promulgated by the Secretary only after consultation with the Secretary of the Interior.

(2) The President shall issue an Executive order specifically describing the authorities transferred by this subsection. Such order may provide that the Secretary and the Secretary of the Interior may enter into one or more agreements specifying which Secretary has authority to issue particular regulations, and may provide that the President may confirm the authority of either Secretary to prescribe a particular regulation.

(3) A regulation prescribed by the Secretary under any authority transferred under this subsection may not be set aside on the ground that authority to issue such regulation was not so transferred if, under such Executive order

(or an agreement or confirmation thereunder), the Secretary has authority to prescribe such regulation.

(4) A regulation of the Secretary of the Interior may not be set aside on the ground that authority to issue such regulation was transferred to the Secretary by this subsection, if, under such Executive order (or any agreement or confirmation thereunder) the Secretary of the Interior has authority to issue such regulation.

(e) Those functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department under the Act of May 16, 1910, and other authorities, exercised by the Bureau of Mines, but limited to:

(1) fuel supply and demand analysis and data gathering,

(2) research and development relating to increased efficiency of production technology of solid fuel minerals: *Provided*, That research relating to mine health and safety and research relating to the environmental and leasing consequences of solid fuel mining shall remain in the Department of the Interior, and

(3) coal preparation and analysis.

(f) The functions of the Secretary of the Interior to establish production rates for all Federal leases.

SEC. 303. The Secretary of the Interior shall afford the

Secretary a reasonable opportunity, prior to the execution of a Federal lease, to disapprove any term or condition of such Federal lease which relates to the matters with respect to which the Secretary has authority to prescribe regulations under section 302 (d). No such term or condition may be included in such a lease if it is disapproved by the Secretary. The Executive order issued under section 302 (d) (2) shall prescribe the manner in which the Secretary shall be afforded such opportunity to disapprove.

SEC. 304. (a) As used in sections 302 and 303 of this Act, "Federal lease" means an agreement which, in consideration of bonuses, rents or royalties conferred and covenants to be observed, grants to a lessee the exclusive right and privilege of exploring for, developing, or producing, or any or all of these, oil and gas, coal, oil shale, tar sands, and geothermal resources on lands or interests in lands under Federal jurisdiction.

SEC. 305. All functions vested by law in the Director of the Office of Energy Information and Analysis by part B of the Federal Energy Administration Act of 1974 are hereby transferred to the Administrator of the Energy Information Administration.

SEC. 306. Except as provided in section 712 (g), there are hereby transferred to and vested in the Secretary all functions vested in the Securities and Exchange Commis-

sion, or the Chairman or the members thereof, under the provisions of the Public Utility Holding Company Act of 1935, and under the provisions of Reorganization Plan Numbered 10 of 1950 and Public Law 87–592, as approved August 20, 1962, insofar as said reorganization plan and Public Law 87–592 relate to the administration of the Public Utility Holding Company Act of 1935.

SEC. 307. There are hereby transferred to and vested in the Secretary all of the functions vested in the Secretary of Housing and Urban Development by the Energy Conservation Standards for New Buildings Act of 1976 (title III of the Energy Conservation and Production Act).

SEC. 308. There are hereby transferred to and vested in the Secretary such functions as are set forth in the Interstate Commerce Act and vested by law in the Interstate Commerce Commission or the Chairman and members thereof as relate to transportation of oil and coal by pipeline.

SEC. 309. There are hereby transferred to and vested in the Secretary all functions vested by chapter 641 of title 10, United States Code, in the Secretary of the Navy as they relate to the administration of, and there is hereby transferred to and vested in the Secretary jurisdiction over—

(1) Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established

by Executive order of the President, dated September 2, 1912;

(2) Naval Petroleum Reserve Numbered 2 (Buena Vista), located in Kern County, California, established by Executive order of the President, dated December 13, 1912;

(3) Naval Petroleum Reserve Numbered 3 (Teapot Dome) located in Wyoming, established by Executive order of the President, dated April 30, 1915;

(4) Oil Shale Reserve Numbered 1, located in Colorado, established by Executive order of the President, dated December 6, 1916, as amended by Executive order dated June 12, 1919;

(5) Oil Shale Reserve Numbered 2, located in Utah, established by Executive order of the President, dated December 6, 1916; and

(6) Oil Shale Reserve Numbered 3, located in Colorado, established by Executive order of the President, dated September 27, 1974.

SEC. 310. There are hereby transferred to and vested in the Secretary all functions of the Secretary of Commerce, the Department of Commerce, and officers and components of that Department, as relate to or are utilized by the Office of Energy Programs, but limited to industrial energy conservation programs.

TITLE IV—BOARD OF HEARINGS AND APPEALS

SEC. 401. (a) (1) There is hereby established within the Department a Board of Hearings and Appeals (hereinafter referred to in this title as the "Board").

(2) The Board shall have jurisdiction—

(A) to hear and determine matters arising under any function vested in or delegated to the Secretary involving—

(i) any agency determination required by law to be made on the record after opportunity for an agency hearing, or

(ii) any other agency determination which the Secretary determines shall be made on the record after opportunity for agency hearing, or

(B) to consider any other matter which the Secretary may assign to the Board by rule.

(b) The Board shall be comprised of three 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. The terms of the members first taking office shall expire (as designated by the President at the time of appointment), one at the end of two years, one at the end of three years, and one

at the end of four years. Not more than two members of the Board shall be members of the same political party. Upon the expiration of his term of office, a member shall continue to serve until his successor is appointed and shall have qualified.

(c) The Chairman of the Board shall exercise the executive and administrative functions of the Board, including functions of the Board with respect to (1) the supervision of personnel employed by or assigned to the Board: *Provided,* That each member of the Board may select and supervise personnel for his personal staff, (2) the distribution of business among personnel and among administrative units of the Board, and (3) the use and expenditure of funds appropriated or made available to the Board.

(d) In the performance of their functions, the members of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of the Department.

(e) A decision of the Board shall be final agency action within the meaning of section 704 of title 5, United States Code, with respect to matters within the Board's jurisdiction and shall not be subject to further review by the Secretary or any officer or employee of the Department.

(f) The Chairman of the Board may from time to time designate any other member of the Board as Acting Chair-

man to act in the place and stead of the Chairman during his absence. The Chairman (or the Acting Chairman in the absence of the Chairman) shall preside at all sessions of the Board and a quorum for the transaction of business shall consist of at least two members present. Each member of the Board, including the Chairman, shall have one vote. Actions of the Board shall be determined by a majority vote of the members present. The Board shall have an official seal which shall be judicially noticed.

(g) The Board is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions.

(h) In carrying out its functions, the Board shall have the same powers as are vested in the Secretary to hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate.

SEC. 402. (a) No person in the employ of or holding any official relation to any person, firm, association, or corporation engaged in the production, generation, transmission, distribution, or sale of electric power, petroleum or petroleum products, natural gas, coal, or nuclear material, or owning stock or bonds thereof, or who has a pecuniary interest therein, shall enter upon the duties of or hold the office of

Board member. Members shall not engage in any other business, vocation, or employment.

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

TITLE V—ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

SEC. 501. (a) Subject to the other requirements of this section, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply in accordance with its terms to any rule, regulation, or order issued pursuant to authority vested by law in or delegated to the Secretary or any officer, employee, or component of the Department, including any such rule, regulation, or order of a State or local government agency or officer thereof, issued pursuant to authority delegated by the Secretary.

(b) In addition to the requirements of subsection (a), notice of any proposed rule or regulation shall be given by publication of such proposed rule or regulation in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this subsection as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious harm or injury to the public health, safety, or welfare, and such finding is set

out in detail in such rule or regulation. In addition, public notice of all rules or regulations described in subsection (a) which are promulgated by officers of a State or local government agency shall be achieved by publication of such rules or regulations in at least two newspapers of statewide circulation: *Provided,* That if such publication is not practicable, notice of any rule or regulation shall be given by such other means as the officer promulgating such rule or regulation determines will assure wide public notice.

(c) In addition to the requirements of subsection (b), if any rule or regulation described in subsection (a) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the issuance of such rule or regulation but in all cases such opportunity shall be afforded no later than forty-five days after the issuance of any such rule or regulation. A transcript shall be kept of any oral presentation.

(d) The Secretary or any officer authorized to issue rules, regulations, or orders under the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environmental Coordination Act of 1974, or the Energy Policy and Conservation Act shall provide for the making of such ad-

justments, consistent with the other purposes of the relevant Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rule, regulation, or order.

(c) (1) With respect to any rule or regulation of the Secretary the effects of which, except for indirect effects of an inconsequential nature, are confined to—

(A) a single unit of local government or the residents thereof;

(B) a single geographic area within a State or the residents thereof; or

(C) a single State or the residents thereof;

the Secretary shall, in any case where appropriate, afford an opportunity for a hearing or the oral presentation of views and provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in paragraphs (A) through (C), as the case may be.

(2) For purposes of this subsection—

(A) the term "unit of local government" means a county, municipality, town, township, village, or other unit of general government below the State level; and

(B) the term "geographic area within a State" means a special-purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(3) Nothing in this subsection shall be construed as requiring a hearing or an oral presentation of views where none is required by this section.

(f) (1) Judicial review of agency action taken under any law the functions of which are transferred to the Secretary by this Act shall, notwithstanding such transfer, be made in the manner specified in such law.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under rules, regulations, or orders issued exclusively thereunder, except any actions taken to implement or enforce any rule, regulation, or order by any officer of a State or local government agency under this Act: *Provided,* That nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the unconstitutionality of this Act or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the unconstitutionality of this

Act or the validity of agency action under this Act, the case shall be subject to 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.

(3) The Secretary may, by rule, prescribe procedures for State or local government agencies authorized by the Secretary to carry out such functions as may be permitted under applicable law. Such procedures shall apply to such agencies in lieu of section 501, and shall require that, prior to taking any action, such agencies shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) a reasonable time before taking the action.

(4) Notwithstanding any other law, the litigation of the Department shall be subject to the supervision of the Attorney General pursuant to chapter 31 of title 28, United States Code.

SEC. 502. In lieu of procedures established by section 501, the Secretary may, by rule, if he determines it to be in

the public interest, utilize such administrative procedures as may be specified in any other law to carry out functions under that law which are transferred to the Secretary by this Act.

TITLE VI—ADMINISTRATIVE PROVISIONS

SEC. 601. There is hereby established a Leasing Liaison Committee consisting of—

(a) a chairman, who shall be an officer of the Department designated as Chairman by the President; and

(b) members, who shall be officers or employees of the Department designated as members by the Secretary.

The Committee shall be headed by the Chairman, who may designate one of the members of the Committee as Acting Chairman to serve during his absence. The Chairman and members shall serve as such without additional compensation. The Committee shall obtain from the Department of the Interior such information as is necessary to keep the Secretary fully and currently informed on matters with regard to Federal leasing relating to energy resources. The Committee, through the Secretary, shall have the authority to make recommendations to the Department of the Interior on matters relating to Federal leasing. If the Secretary concludes that any action or failure to act on the part of the Department of the Interior on matters recommended to it is adverse to the

responsibilities of the Department, the Secretary may refer the matter to the President.

SEC. 602. (a) Each officer or employee of the Department who has any known financial interest—

(1) in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline, or distributing (other than at the retail level) coal, natural gas, or petroleum products;

(2) in property from which coal, natural gas, crude oil, or nuclear material is commercially produced;

(3) in any person engaged in the production, generation, transmission, distribution or sale of electric power; or

(4) in any person engaged in production, sale, or distribution of nuclear materials;

shall, beginning on February 1, 1978, annually file with the Secretary a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such statement shall be subject to examination, and available for copying, by the public upon request.

(b) The Secretary shall—

(1) act, within 90 days after the effective date of this Act, by rule—

(A) to define the term "known financial interest" for purposes of subsection (a); and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) include, as part of the report made pursuant to section 624, a report with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b), the Secretary may identify specific positions, or classes thereof, within the Department which are of a nonregulatory and nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, subsection (a) shall be fined not more than $2,500 or imprisoned not more than one year, or both.

SEC. 603. The Secretary is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in him.

SEC. 604. (a) Except as otherwise expressly prohibited by law, the Secretary may delegate any of his functions to

such officers and employees of the Department as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary or appropriate.

(b) Except as otherwise expressly prohibited by law, the Secretary may, with the consent of the head of the department or agency concerned, delegate any function vested in him to the head of such other department or agency, and may authorize such successive redelegation thereof as he may deem to be necessary or appropriate. Funds made available to the Secretary or the Department may be allocated or transferred to any department or agency assisting the Secretary in carrying out any functions delegated pursuant to this subsection. Funds so allocated or transferred shall remain available for such period as may be specified in the Acts making such funds available.

SEC. 605. The Secretary is authorized to establish, alter, consolidate, or discontinue and to maintain such State, regional, district, local, or other field offices as he may deem to be necessary to carry out functions now or hereafter vested in him.

SEC. 606. The Secretary may, from time to time, establish, alter, consolidate, or discontinue such organizational units or components within the Department as he may deem to be necessary or appropriate: *Provided, however,* That

such authority shall not extend to the abolition of organizational units or components established by this Act.

SEC. 607. In the performance of his functions the Secretary is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such 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, except that to the extent the Secretary deems such action necessary to the discharge of his functions, he may appoint not more than six hundred of the scientific, engineering professional, and administrative personnel of the Department without regard to such laws, and may fix the compensation of such personnel not in excess of the rate for grade 18 of the General Schedule specified in section 5332 of title 5, United States Code.

SEC. 608. (a) There shall be within the Department not more than fourteen additional officers in positions authorized by sections 5315 and 5316 of title 5, United States Code, who shall be appointed by the Secretary and who shall perform such functions as the Secretary shall prescribe from time to time.

(b) In addition to the number of positions which may be placed in GS–16, 17, and 18 under existing law or this Act, not to exceed one hundred and fifty positions may be

placed in GS–16, 17, and 18 to carry out functions under this Act: *Provided,* That positions established by this subsection shall be subject to standards and procedures under chapter 51 of title 5, United States Code.

SEC. 609. 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 by section 5332 of title 5, United States Code, for persons in Government service employed intermittently.

SEC. 610. The Secretary is authorized to establish in accordance with the Federal Advisory Committee Act such advisory committees as he may deem appropriate to assist in the performance of his functions. Members of such advisory committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or while otherwise serving at the request of the Secretary while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government serving without pay.

SEC. 611. (a) The Secretary is authorized to recruit, train, accept, and utilize, without regard to the civil service and classification laws, rules, and regulations, the services

of individuals without compensation as volunteers or to aid or facilitate the work of the Department.

(b) The Secretary is authorized to provide for incidental expenses, including but not limited to, transportation, uniforms, lodging, and subsistence for such volunteers.

(c) Except as otherwise provided in this section, a volunteer under this section shall not be deemed to be a Federal employee and shall not be subject to the provisions of laws relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(d) For the purpose of the tort claim provisions of title 28, United States Code, a volunteer under this section shall be considered a Federal employee.

(e) For the purpose of subchapter I of chapter 81 of title 5, United States Code, a volunteer under this section shall be deemed a civilian employee of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code.

(f) For the purpose of section 602 of this Act, a volunteer under this section shall be deemed an employee of the Department.

(g) For the purpose of title 18, United States Code, a volunteer shall be deemed to be an employee of the United States.

SEC. 612. (a) The Secretary is authorized to provide for participation of Armed Forces personnel in carrying out his functions. Members of the Armed Forces may be detailed for service in the Department by the Secretary concerned (as said term is defined in 10 U.S.C. 101) pursuant to cooperative agreements with the Secretary.

(b) The detail of any personnel to the Department under this section shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy or hold or any emolument, prerequisite, right, privilege, or benefit incident to or arising out of such status, office, rank, or grade, nor shall any member so detailed be charged against any statutory or other limitation on strengths applicable to the Armed Forces or the Department. A member so detailed shall not be 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.

SEC. 613. (a) With their consent, the Secretary may, with or without reimbursement, use the services, equipment, personnel, and facilities of persons or public and private nonprofit agencies and organizations, 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 hereafter vested in him.

(b) The Secretary may, with or without reimbursement, provide service, equipment, personnel, and facilities to public and private nonprofit agencies and organizations, including any agency or instrumentality of the United States or any State, territory, the Commonwealth of Puerto Rico, the District of Columbia, or political subdivision thereof, or to any foreign government whenever he deems such action to be necessary and appropriate to the performance of functions now or hereafter vested in him.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary or the head of the agency or instrumentality of the United States involved, as the case may be, to pay directly the costs of the services, equipment, personnel, or facilities provided, to repay or make advances to appropriations or funds which do or will initially bear all or a part of such costs, or to refund excess sums when necessary: *Provided*, That such proceeds may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 622 of this Act, and used under the law governing such fund, if the fund is available for use for providing the services, equipment, personnel, or facilities involved.

SEC. 614. The Secretary is authorized to enter into and perform such contracts, leases, grants, 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 reimbursement, and, in cases of grants, with necessary adjustment on account of overpayments and underpayments) as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in the Secretary.

SEC. 615. The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, such other real and personal property (including patents), or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

SEC. 616. Notwithstanding any other provision of law, the Secretary may, whenever he deems such action to be in the public interest, for money or other consideration sell, lease, or otherwise dispose of any interest in any special purpose real property or personal property (including prop-

erty acquired with grant funds) of the Department and may make conditional or unconditional gifts thereof to any public service institution, Federal, State, local, or foreign agency.

SEC. 617. (a) As necessary and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote locations:

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) messing facilities;

(4) audio-visual equipment, accessories, and supplies for recreation and training;

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

(6) living and working quarters and facilities; and

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

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and 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.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn

by the Secretary to pay directly the cost of such work or services, to repay or make advances to appropriations of funds which will initially bear all or a part of such cost, or to refund excess sums when necessary: *Provided,* That such payments may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 622 of this Act, and used under the law governing such fund, if the fund is available for use by the Department for performing the work or services for which payment is received.

SEC. 618. The Secretary, under such terms, at such rates, and for such periods not exceeding fifty years, as he may deem to be in the public interest, is authorized to 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 the custody of the Secretary for Department purposes. The Secretary 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.

SEC. 619. The Secretary is authorized to acquire any of the following-described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(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.

SEC. 620. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

SEC. 621. The Secretary shall cause a seal of office to be made for the Department of such design as he shall approve and judicial notice shall be taken of such seal.

SEC. 622. The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and

operation of such common administrative services as he shall find to be desirable in the interests of economy and efficiency. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund in such amounts as may be necessary to provide additional working capital are authorized. The working capital fund shall recover from the appropriations and funds for which services are performed, either in advance or by way of reimbursement, amounts which will approximate the costs incurred, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from the sale or exchange of its property, and receipts in payment for loss or damage to property owned by the fund.

SEC. 623. To the extent necessary or appropriate to perform any function 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 such function was transferred.

SEC. 624. (a) The Secretary shall, as soon as practicable after the end of each fiscal year, commencing with the first complete fiscal year following the effective date of

this Act, make a report to the President for submission to the Congress on the activities of the Department during the preceding fiscal year. Such report shall include a statement of the Secretary's goals, priorities, and plans for the Department together with an assessment of the progress made toward the attainment of those goals, the effective and efficient management of the Department, and progress made in coordination of its functions with other departments and agencies of the Federal Government. In addition, such report shall include—

(1) projected energy needs of the United States to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation;

(2) an estimate of the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives;

(3) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation;

(4) a summary of research and development efforts

funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, and to encourage conservation practices, and shall include recommendations for developing technologies capable of improving the quality of the environment and increasing efficiency;

(5) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices) employed by Federal, State, and local governments and nongovernmental entities to achieve the purpose of this Act.

(b) Such report shall satisfy the reporting requirements of section 15 of the Federal Energy Administration Act of 1974, section 307 of the Energy Reorganization Act of 1974, and section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974.

SEC. 625. The Secretary, when authorized in an appropriation Act, in any fiscal year, may transfer funds from one appropriation to another within the Department: *Provided*, That no appropriation shall be either increased or decreased pursuant to this section more than 5 per centum of the appropriation for such fiscal year.

SEC. 626. There are hereby authorized to be appropri-

ated such sums as may be necessary to carry out the provisions of this Act.

TITLE VII—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

SEC. 701. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are hereby transferred to the Secretary for appropriate allocation.

(b) Positions expressly specified by statute or reorganization plan, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule (5 U.S.C. 5312–5316) on the effective date of this Act shall be subject to the provisions of section 705 of this Act.

SEC. 702. Except as otherwise provided in this Act, the transfer of full-time personnel (except special Government employees) and part-time personnel holding permanent posi-

tions pursuant to this title shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of enactment of this Act.

SEC. 703. Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in the new position.

SEC. 704. Employees transferred to the Department holding reemployment rights acquired under section 28 of the Federal Energy Administration Act of 1974 or any other provision of law or regulation may exercise such rights only within one hundred and twenty days from the effective date of this Act.

SEC. 705. Except as otherwise provided in this Act, whenever all of the functions vested by law in an agency, commission, or other body, or any component thereof, have been terminated or transferred from that agency, commission, or other body or component by this Act, the agency, commission, or other body or component shall terminate. If an agency, commission, or other body, or any component there-

of, terminates pursuant to the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313–5316) shall terminate.

SEC. 706. The Director of the Office of Management and Budget in consultation with the Secretary is authorized and directed to 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 such 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 as he may deem necessary to accomplish the purposes of this Act.

SEC. 707. All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(a) which 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 Department after the date of enactment of this Act, and

(b) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Secretary, the Board of Hearings and Appeals, or other authorized officials, a court of competent jurisdiction, or by operation of law.

SEC. 708. (a) (1) The provisions of this Act shall not affect any proceedings 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 proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings 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 shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same

extent that such proceeding could have been discontinued if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(b) Except as provided in subsection (d)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as this Act had not been enacted.

(c) 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.

(d) 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 such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be

continued with the Secretary or other official, as the case may be, substituted.

SEC. 709. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

SEC. 710. 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 or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or other official in which this Act vests such functions.

SEC. 711. Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of, or authority available to, the President which he had immediately before the effective date of this Act; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

SEC. 712. (a) The Federal Energy Administration Act of 1974, is hereby amended as follows:

(1) by repealing sections 4, 7 (except paragraph (2) (A) of section 7 (i)), 9, 17, 28, 29, and 30;

(2) section 52 (a) is amended by deleting the word "and" in paragraph (2), by deleting the period at the

end of paragraph (3), and by adding at the end of the subsection: "; and

"(4) the States to the extent required by the Natural Gas Act and the Federal Power Act,"; and

(3) section 55(b) is amended by changing the word "seven" to the word "six" and deleting the phrase "one shall be designated by the Chairman of the Federal Power Commission".

(b) The Energy Reorganization Act of 1974 is hereby amended as follows:

(1) by repealing section 108;

(2) by repealing section 305, to the extent that it applies to functions transferred to the Secretary by this Act; and

(3) by repealing section 308.

(c) Section (d) of the Federal Power Act is hereby repealed.

(d) The Atomic Energy Act of 1954 is hereby amended as follows:

(1) by repealing section 26; and

(2) by repealing section 161(d) as it relates to functions transferred by this Act.

(e) Section 502 of the Motor Vehicle Information and Cost Savings Act is amended by adding at the end thereof the following:

"(g) The Secretary shall consult with the Secretary of Energy in carrying out his responsibilities under this section.".

(f) The Energy Conservation Standards for New Buildings Act of 1976 is hereby amended as follows:

(1) in section 304 by adding "the Secretary of Housing and Urban Development" to the list of those with whom consultation is required; and

(2) in section 310 by adding "the Secretary of Housing and Urban Development" to the list of those with whom the Secretary shall act in cooperation.

(g) (1) Section 12(e) of the Public Utility Holding Company Act of 1935 is repealed and subsections (f), (g), (h), and (i) of section 12 are redesignated as subsections "(e)", "(f)", "(g)", and "(h)", respectively.

(2) Section 15(e) of the Public Utility Holding Company Act of 1935 is amended by changing the period at the end thereof to a colon and adding thereafter the following words: "*Provided, however,* That nothing in this title shall limit the right or duty of any person to take action necessary to comply with any applicable requirement under any Act administered by the Securities and Exchange Commission or any rule, regulation, or order of that Commission pursuant to any such Act.".

(3) Section 16(b) of the Public Utility Holding Com-

pany Act of 1935 is amended to delete therefrom the words "except as provided in section 17(b)" and the commas which precede and follow these words.

(4) Sections 17 (a) and (b) of the Public Utility Holding Company Act of 1935 are repealed and subsection (c) thereof is redesignated as section 17.

(5) Section 20 of the Public Utility Holding Company Act of 1935 is amended by deleting the first sentence of subsection (d) thereof and adding a new subsection (e). Sections 20 (d) and (e) are amended to read as follows:

"(d) No provision of this title imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or order may, thereunder of the Secretary of Energy or the Securities and Exchange Commission under this title, notwithstanding that such rule, regulation, or order may, after such act or omission, be amended or rescinded to be determined by judicial or other authority to be invalid for any reason.

"(e) Duplicate copies of any information or documents required to be filed with the Secretary of Energy under this title may also be filed with the Securities and Exchange Commission in compliance with the requirements of the Securities Act of 1933, the Securities Exchange Act of 1934, or the Trust Indenture Act of 1939 to the extent specified in such rules and regulations or orders as the Securities and

Exchange Commission may deem necessary or appropriate in the public interest or for the protection of investors.".

(6) Section 21 of the Public Utility Holding Company Act of 1935 is amended to read as follows:

"SEC. 21. Nothing in this title shall affect (1) the jurisdiction of the Securities and Exchange Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940 or chapter X of the Bankruptcy Act, over any person, security, or contract, or (2) the rights, obligations, duties, or liabilities of any person under such Acts; nor shall anything in this title affect the jurisdiction of any other commission, board, agency or officer of the United States or of any State or political subdivision of any State, over any person, security, or contract, insofar as such jurisdiction does not conflict with any provision of this title or any rule, regulation, or order thereunder.".

(7) The last sentence of section 30 of the Public Utility Holding Company Act of 1935 is repealed.

(8) Section 318 of the Federal Power Act is amended by deleting therefrom the words "Securities and Exchange Commission" and adding in lieu thereof the words "Secretary of Energy".

(9) The Securities and Exchange Commission is authorized, in its discretion, by rule or regulation or order, to

retain jurisdiction over any proceeding that may be pending on the effective date of this Act as it deems necessary or appropriate in the public interest and the orderly transition of functions under this Act.

(h) The Rural Electrification Act of 1936 is hereby amended by adding a new section 16 to title I thereof to read as follows:

"SEC. 16. In order to insure coordination of electric generation and transmission financing under this Act with national energy policy, no loan for the construction, operation or enlargement of any generating plant or electric transmission line or system shall be made or guaranteed under this Act except after consent by the Secretary of Energy or a determination by the Secretary of Energy that such consent is not necessary.".

SEC. 713. (a) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following: "The Department of Energy.".

(b) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(14) Secretary of Energy.".

(c) Section 5313 of title 5, United States Code, is amended by deleting "(22) Administrator of Energy Research and Development Administration," and inserting in lieu thereof:

"(22) Deputy Secretary of Energy.".

(d) Section 5314 of title 5, United States Code, is amended by deleting "(21) Chairman, Federal Power Commission," by deleting "(60) Deputy Administrator, Energy Research and Development Administration," and by adding at the end of the section the following:

"(66) Under Secretaries of Energy (2).

"(67) Administrator of the Economic Regulatory Administration, Department of Energy.".

(e) Section 5315 of title 5, United States Code, is amended by deleting "(60) Members, Federal Power Commission", by deleting "(102) Assistant Administrators, Energy Research and Development Administration (6)," and by adding at the end of the section the following:

"(114) Assistant Secretaries of Energy (8).

"(115) General Counsel of the Department of Energy.

"(116) Administrator of Energy Information Administration, Department of Energy.

"(117) Chairman, Board of Hearings and Appeals, Department of Energy.

"(118) Additional Officers, Department of Energy (4).".

(f) Section 5316 of title 5, United States Code, is amended by deleting "(135) General Counsel, Energy Re-

search and Development Administration", by deleting "(136) Additional Officers, Energy Research and Development Administration (9)" and adding at the end of the section the following:

"(141) Additional Officers, Department of Energy (10).

"(142) Members, Board of Hearings and Appeals, Department of Energy (2).".

SEC. 714. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees and other personnel of the departments and agencies from which functions have been transferred to the Secretary for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

SEC. 715. The transfer of functions under title III of this Act shall not affect the validity of any draft environmental impact statement published before the effective date of this Act.

SEC. 716. As used in this Act, (1) references to "function" or "functions" shall be deemed to include reference to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and (2) references to "perform", when used in relation

to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

TITLE VIII—EFFECTIVE DATE AND INTERIM APPOINTMENTS

SEC. 801. (a) The provisions of this Act shall take effect one hundred and twenty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II and title VI of this Act may be nominated and appointed, as provided in those titles, and (2) the Secretary may promulgate regulations pursuant to section 708(a)(2) of this Act at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), functions of which are transferred to the Secretary by this Act, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(b) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act, the President may desig-

nate 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 prior to the effective date of the Act, to act in such office until the office is filled as provided in this Act. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

95TH CONGRESS
1ST SESSION

H. R. 4466

A BILL

To establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management, to assure a coordinated national energy policy, and for other purposes.

By Mr. ANDERSON of Illinois, Mr. MICHEL, and Mr. HORTON

MARCH 3, 1977
Referred to the Committee on Government Operations

VII. H.R. 4806. Department of Energy Organization Act. Introduced by Representative Brooks, et al.

95TH CONGRESS
1ST SESSION

H. R. 4806

IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 1977

Mr. BROOKS (for himself, Mr. ASHLEY, Mr. BEDELL, Mr. BEVILL, Mr. BLOUIN, Mr. BOWEN, Mr. BRECKINRIDGE, Mr. BUTLER, Mr. CARNEY, Mr. CLEVELAND, Mr. CONTE, Mr. CORNELL, Mr. COUGHLIN, Mr. ROBERT W. DANIEL, JR., Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. FASCELL, Mrs. FENWICK, Mr. FITHIAN, Mr. FORD of Tennessee, Mr. FOUNTAIN, Mr. FUQUA, Mr. GIBBONS, and Mr. HANNAFORD) introduced the following bill; which was referred to the Committee on Government Operations

A BILL

To establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

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 "Department of Energy Organization Act".

TITLE I—DECLARATION OF PURPOSES

SEC. 101. The purposes of this Act are (1) to establish a permanent Department of Energy in the executive branch, (2) to vest in the Secretary of Energy such functions as

are vested in or transferred to him by this Act, (3) to achieve, through the Department, effective management of energy functions of the Federal Government, and (4) to provide the mechanism through which a coordinated national energy policy can be formulated and implemented to deal with the short-, mid-, and long-term energy problems of the Nation.

TITLE II—ESTABLISHMENT OF DEPARTMENT

SEC. 201. There is hereby established at the seat of government an executive department to be known as the Department of Energy (hereinafter in this Act referred to as the "Department"). There shall be at the head of the Department a Secretary of Energy (hereinafter in this Act referred to as the "Secretary") who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

SEC. 202. There shall be in the Department a Deputy Secretary, two Under Secretaries, eight Assistant Secretaries, and a General Counsel, each of whom shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions as the Secretary shall prescribe from time to time. One of the Assistant Secretaries specified by this section shall be an Assistant Secretary for Conservation, another shall be an Assistant Secre-

tary for Environment and another shall be an Assistant Secretary for Energy Technology.

SEC. 203. The Deputy Secretary 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 the Under Secretaries and other officials 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 those offices.

SEC. 204. (a) There shall be within the Department an Energy Information Administration to be headed by an Administrator, who shall be appointed by the President by and with the advice and consent of the Senate.

(b) The Secretary shall delegate to the Administrator (which delegation may be on a nonexclusive basis as the Secretary may determine) the functions vested in him by law to gather energy information (as defined in section 51(c) of the Federal Energy Administration Act of 1974), and the Administrator may act in the name of the Secretary for the purpose of obtaining enforcement of the delegated function.

SEC. 205. (a) There shall be within the Department an Economic Regulatory Administration to be headed by an

Administrator, who shall be appointed by the President by and with the advice and consent of the Senate.

(b) The Secretary shall utilize the Economic Regulatory Administration to administer—

(1) any function which may be delegated to the Secretary under the Emergency Petroleum Allocation Act of 1973;

(2) any function transferred to the Secretary by section 301 of this Act which relates to establishment of rates and charges under the Federal Power Act and the Natural Gas Act (subject to the provisions of section 401 (a)); and

(3) such other functions as the Secretary may consider appropriate.

TITLE III—TRANSFERS OF FUNCTIONS

SEC. 301. Except as otherwise provided in this Act, there are hereby transferred to and vested in the Secretary all of the functions vested by law in the Administrator of the Federal Energy Administration or the Federal Energy Administration, the Administrator of the Energy Research and Development Administration or the Energy Research and Development Administration, and the Federal Power Commission or the Chairman and members of the Commission: and the functions vested by law in the officers and

components of either such Administration or in the Commission.

SEC. 302. There are hereby transferred to and vested in the Secretary:

(a) All functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department, to the extent such functions relate to or are utilized by the Southeastern Power Administration, the Southwestern Power Administration, and the Bonneville Power Administration. The authority for the functions so transferred includes, but is not limited to, section 5 of the Flood Control Act of 1944, the Bonneville Project Act of 1937, and the Federal Columbia River Transmission System Act.

(b) Such functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department as relate to or are utilized by the Alaska Power Administration for the transmission and disposition (including acquisition by purchase or exchange) of electric power and energy and by the Bureau of Reclamation for the disposition (including acquisition by purchase or exchange) of electric power and energy: *Provided*, That the authority for and function of operating the dams constructed pursuant to the Eklutna Project Act and section

204 of the Flood Control Act of 1962 shall remain in the Secretary of the Interior: *And provided further*, That the Secretary and the Secretary of the Interior may enter into an agreement whereby functions transferred in this subsection shall be performed by the Department of the Interior in which case employees required for such performance shall be retained by the Department of the Interior. The authority for the functions so transferred includes, but is not limited to, the Eklutna Project Act, section 204 of the Flood Control Act of 1962, the Reclamation Act of 1902, and Acts amendatory thereof and supplementary thereto, including but not limited to the authority for the sale of electric power or lease of power privileges under section 9(c) of the Reclamation Project Act of 1939, and the authority under section 303 of the Colorado River Basin Project Act.

(c) All the authority of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department for the transmission and disposition of the electric power and energy generated at Falcon Dam and Amistad Dam, international storage reservoir projects constructed on the Rio Grande pursuant to the Act of June 19, 1954, as amended by the Act of December 23, 1963.

(d) (1) The authority of the Secretary of the Interior to prescribe regulations under the Outer Continental Shelf

Lands Act, the Mineral Lands Leasing Act, the Mineral Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act, which relate to the (A) fostering of competition for Federal leases (including but not limited to prohibition on bidding for development rights by certain types of joint ventures), (B) implementation of alternative bidding systems authorized for the award of Federal leases, (C) establishment of diligence requirements for operations conducted on Federal leases (including but not limited to procedures relating to the granting or ordering by the Secretary of the Interior of suspension of operations or production as they relate to such requirements), (D) setting rates of production for Federal leases, and (E) specifying the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind: *Provided,* That such regulations shall be promulgated by the Secretary only after consultation with the Secretary of the Interior.

(2) The President shall issue an Executive order specifically describing the authorities transferred by this subsection. Such order may provide that the Secretary and the Secretary of the Interior may enter into one or more agreements specifying which Secretary has authority to issue particular regulations, and may provide that the President may

confirm the authority of either Secretary to prescribe a particular regulation.

(3) A regulation prescribed by the Secretary under any authority transferred under this subsection may not be set aside on the ground that authority to issue such regulation was not so transferred if, under such Executive order (or an agreement or confirmation thereunder), the Secretary has authority to prescribe such regulation.

(4) A regulation of the Secretary of the Interior may not be set aside on the ground that authority to issue such regulation was transferred to the Secretary by this subsection, if, under such Executive order (or any agreement or confirmation thereunder) the Secretary of the Interior has authority to issue such regulation.

(e) Those functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department under the Act of May 16, 1910, and other authorities, exercised by the Bureau of Mines, but limited to —

(1) fuel supply and demand analysis and data gathering,

(2) research and development relating to increased efficiency of production technology of solid fuel minerals: *Provided,* That research relating to mine health and safety and research relating to the environmental and

leasing consequences of solid fuel mining shall remain in the Department of the Interior, and

(3) coal preparation and analysis.

(f) The functions of the Secretary of the Interior to establish production rates for all Federal leases.

SEC. 303. The Secretary of the Interior shall afford the Secretary a reasonable opportunity, prior to the execution of a Federal lease, to disapprove any term or condition of such Federal lease which relates to the matters with respect to which the Secretary has authority to prescribe regulations under section 302(d). No such term or condition may be included in such a lease if it is disapproved by the Secretary. The Executive order issued under section 302(d)(2) shall prescribe the manner in which the Secretary shall be afforded such opportunity to disapprove.

SEC. 304. (a) As used in sections 302 and 303 of this Act, "Federal lease" means an agreement which, in consideration of bonuses, rents, or royalties conferred and covenants to be observed, grants to a lessee the exclusive right and privilege of exploring for, developing, or producing, or any or all of these, oil and gas, coal, oil shale, tar sands, and geothermal resources on lands or interests in lands under Federal jurisdiction.

SEC. 305. All functions vested by law in the Director of the Office of Energy Information and Analysis by part B

of the Federal Energy Administration Act of 1974 are hereby transferred to the Administrator of the Energy Information Administration.

SEC. 306. Except as provided in section 712 (g), there are hereby transferred to and vested in the Secretary all functions vested in the Securities and Exchange Commission, or the Chairman or the members thereof, under the provisions of the Public Utility Holding Company Act of 1935, and under the provisions of Reorganization Plan Numbered 10 of 1950 and Public Law 87–592, as approved August 20, 1962, insofar as said Reorganization Plan and Public Law 87–592 relate to the administration of the Public Utility Holding Company Act of 1935.

SEC. 307. There are hereby transferred to and vested in the Secretary all of the functions vested in the Secretary of Housing and Urban Development by the Energy Conservation Standards for New Buildings Act of 1976 (title III of the Energy Conservation and Production Act).

SEC. 308. There are hereby transferred to and vested in the Secretary such functions as are set forth in the Interstate Commerce Act and vested by law in the Interstate Commerce Commission or the Chairman and members thereof as relate to transportation of oil and coal by pipeline.

SEC. 309. There are hereby transferred to and vested in the Secretary all functions vested by chapter 641 of title 10,

United States Code, in the Secretary of the Navy as they relate to the administration of, and there is hereby transferred to and vested in the Secretary jurisdiction over—

(1) Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive order of the President, dated September 2, 1912;

(2) Naval Petroleum Reserve Numbered 2 (Buena Vista), located in Kern County, California, established by Executive order of the President, dated December 13, 1912;

(3) Naval Petroleum Reserve Numbered 3 (Teapot Dome) located in Wyoming, established by Executive order of the President, dated April 30, 1915;

(4) Oil Shale Reserve Numbered 1, located in Colorado, established by Executive order of the President, dated December 6, 1916, as amended by Executive order dated June 12, 1919;

(5) Oil Shale Reserve Numbered 2, located in Utah, established by Executive order of the President, dated December 6, 1916; and

(6) Oil Shale Reserve Numbered 3, located in Colorado, established by Executive order of the President, dated September 27, 1974.

SEC. 310. There are hereby transferred to and vested in the Secretary all functions of the Secretary of Commerce, the Department of Commerce, and officers and components of that Department, as relate to or are utilized by the Office of Energy Programs, but limited to industrial energy conservation programs.

TITLE IV—BOARD OF HEARINGS AND APPEALS

SEC. 401. (a) (1) There is hereby established within the Department a Board of Hearings and Appeals (hereinafter referred to in this title as the "Board").

(2) The Board shall have jurisdiction—

(A) to hear and determine matters arising under any function vested in or delegated to the Secretary involving—

(i) any agency determination required by law to be made on the record after opportunity for an agency hearing, or

(ii) any other agency determination which the Secretary determines shall be made on the record after opportunity for agency hearing, or

(B) to consider any other matter which the Secretary may assign to the Board by rule.

(b) The Board shall be comprised of three members appointed by the President by and with the advice and consent of the Senate. One of the members shall be desig-

nated 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. The terms of the members first taking office shall expire (as designated by the President at the time of appointment), one at the end of two years, one at the end of three years, and one at the end of four years. Not more than two members of the Board shall be members of the same political party. Upon the expiration of his term of office, a member shall continue to serve until his successor is appointed and shall have qualified.

(c) The Chairman of the Board shall exercise the executive and administrative functions of the Board, including functions of the Board with respect to (1) the supervision of personnel employed by or assigned to the Board: *Provided,* That each member of the Board may select and supervise personnel for his personal staff, (2) the distribution of business among personnel and among administrative units of the Board, and (3) the use and expenditure of funds appropriated or made available to the Board.

(d) In the performance of their functions, the members of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of the Department.

(e) A decision of the Board shall be final agency action within the meaning of section 704 of title 5, United States Code, with respect to matters within the Board's jurisdiction and shall not be subject to further review by the Secretary or any officer or employee of the Department.

(f) The Chairman of the Board may may from time to time designate any other member of the Board as Acting Chairman to act in the place and stead of the Chairman during his absence. The Chairman (or the Acting Chairman in the absence of the Chairman) shall preside at all sessions of the Board and a quorum for the transaction of business shall consist of at least two members present. Each member of the Board, including the Chairman, shall have one vote. Actions of the Board shall be determined by a majority vote of the members present. The Board shall have an official seal which shall be judicially noticed.

(g) The Board is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions.

(h) In carrying out its functions, the Board shall have the same powers as are vested in the Secretary to hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate.

SEC. 402. (a) No person in the employ of or holding

any official relation to any person, firm, association, or corporation engaged in the production, generation, transmission, distribution, or sale of electric power, petroleum or petroleum products, natural gas, coal, or nuclear material, or owning stock or bonds thereof, or who has a pecuniary interest therein, shall enter upon the duties of or hold the office of Board member. Members shall not engage in any other business, vocation, or employment.

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

TITLE V—ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

SEC. 501. (a) Subject to the other requirements of this section, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply in accordance with its terms to any rule, regulation, or order issued pursuant to authority vested by law in or delegated to the Secretary or any officer, employee, or component of the Department, including any such rule, regulation, or order of a State or local government agency or officer thereof, issued pursuant to authority delegated by the Secretary.

(b) In addition to the requirements of subsection (a), notice of any proposed rule or regulation shall be given by

publication of such proposed rule or regulation in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this subsection as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious harm or injury to the public health, safety, or welfare, and such finding is set out in detail in such rule or regulation. In addition, public notice of all rules or regulations described in subsection (a) which are promulgated by officers of a State or local government agency shall be achieved by publication of such rules or regulations in at least two newspapers of statewide circulation: *Provided*, That if such publication is not practicable, notice of any rule or regulation shall be given by such other means as the officer promulgating such rule or regulation determines will assure wide public notice.

(c) In addition to the requirements of subsection (b), if any rule or regulation described in subsection (a) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the issuance of such rule or regulation but in all cases such opportunity shall be afforded

no later than forty-five days after the issuance of any such rule or regulation. A transcript shall be kept of any oral presentation.

(d) The Secretary or any officer authorized to issue rules, regulations, or orders under the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environmental Coordination Act of 1974, or the Energy Policy and Conservation Act shall provide for the making of such adjustments, consistent with the other purposes of the relevant Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rule, regulation or order.

(e) (1) With respect to any rule or regulation of the Secretary the effects of which, except for indirect effects of an inconsequential nature, are confined to—

(A) a single unit of local government or the residents thereof;

(B) a single geographic area within a State or the residents thereof; or

(C) a single State or the residents thereof; the Secretary shall, in any case where appropriate, afford an opportunity for a hearing or the oral presentation of

views and provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in paragraphs (A) through (C), as the case may be.

(2) For purposes of this subsection—

(A) the term "unit of local government" means a county, municipality, town, township, village, or other unit of general government below the State level; and

(B) the term "geographic area within a State" means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(3) Nothing in this subsection shall be construed as requiring a hearing or an oral presentation of views where none is required by this section.

(f) (1) Judicial review of agency action taken under any law the functions of which are transferred to the Secretary by this Act shall, notwithstanding such transfer, be made in the manner specified in such law.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under rules, regulations, or orders issued exclusively thereunder, except any actions taken to

implement or enforce any rule, regulation, or order by any officer of a State or local government agency under this Act: *Provided,* That nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the unconstitutionality of this Act or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the unconstitutionality of this Act or the validity of agency action under this Act, the case shall be subject to 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.

(3) The Secretary may, by rule, prescribe procedures for State or local government agencies authorized by the Secretary to carry out such functions as may be permitted under applicable law. Such procedures shall apply to such agencies in lieu of section 501, and shall require that prior to taking any action, such agencies shall take steps reason-

ably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) a reasonable time before taking the action.

(4) Notwithstanding any other law, the litigation of the Department shall be subject to the supervision of the Attorney General pursuant to chapter 31 of title 28, United States Code.

SEC. 502. In lieu of procedures established by section 501, the Secretary may, by rule, if he determines it to be in the public interest, utilize such administrative procedures as may be specified in any other law to carry out functions under that law which are transferred to the Secretary by this Act.

TITLE VI—ADMINISTRATIVE PROVISIONS

SEC. 601. There is hereby established a Leasing Liaison Committee consisting of—

(a) a Chairman, who shall be an officer of the Department designated as Chairman by the President; and

(b) members, who shall be officers or employees of the Department designated as members by the Secretary.

The Committee shall be headed by the Chairman, who may

designate one of the members of the Committee as Acting Chairman to serve during his absence. The Chairman and members shall serve as such without additional compensation. The Committee shall obtain from the Department of the Interior such information as is necessary to keep the Secretary fully and currently informed on matters with regard to Federal leasing relating to energy resources. The Committee, through the Secretary, shall have the authority to make recommendations to the Department of the Interior on matters relating to Federal leasing. If the Secretary concludes that any action or failure to act on the part of the Department of the Interior on matters recommended to it is adverse to the responsibilities of the Department, the Secretary may refer the matter to the President.

SEC. 602. (a) Each officer or employee of the Department who has any known financial interest—

(1) in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline, or distributing (other than at the retail level) coal, natural gas, or petroleum products;

(2) in property from which coal, natural gas, crude oil, or nuclear material is commercially produced;

(3) in any person engaged in the production, generation, transmission, distribution or sale of electric power; or

(4) in any person engaged in production, sale, or distribution of nuclear materials;

shall, beginning on February 1, 1978, annually file with the Secretary a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such statement shall be subject to examination, and available for copying, by the public upon request.

(b) The Secretary shall—

(1) act, within ninety days after the effective date of this Act, by rule—

(A) to define the term "known financial interest" for purposes of subsection (a); and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) include, as part of the report made pursuant to section 624, a report with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b), the Secretary may identify specific positions, or classes thereof, within the Department which are of a nonregulatory and

nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, subsection (a) shall be fined not more than $2,500 or imprisoned not more than one year, or both.

SEC. 603. The Secretary is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in him.

SEC. 604. (a) Except as otherwise expressly prohibited by law, the Secretary may delegate any of his functions to such officers and employees of the Department as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary or appropriate.

(b) Except as otherwise expressly prohibited by law, the Secretary may, with the consent of the head of the department or agency concerned, delegate any function vested in him to the head of such other department or agency, and may authorize such successive redelegation thereof as he may deem to be necessary or appropriate. Funds made available to the Secretary or the Department may be allocated or transferred to any department or agency

assisting the Secretary in carrying out any functions delegated pursuant to this subsection. Funds so allocated or transferred shall remain available for such period as may be specified in the Acts making such funds available.

SEC. 605. The Secretary is authorized to establish, alter, consolidate, or discontinue and to maintain such State, regional, district, local, or other field offices as he may deem to be necessary to carry out functions now or hereafter vested in him.

SEC. 606. The Secretary may, from time to time, establish, alter, consolidate or discontinue such organizational units or components within the Department as he may deem to be necessary or appropriate: *Provided, however,* That such authority shall not extend to the abolition of organizational units or components established by this Act.

SEC. 607. In the performance of his functions the Secretary is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such 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, except that to the extent the Secretary deems such action necessary to the discharge of his functions, he may appoint not more than six hundred of the scientific, engineering, professional, and administrative personnel of the Depart-

ment without regard to such laws, and may fix the compensation of such personnel not in excess of the rate for grade 18 of the General Schedule specified in section 5332 of title 5, United States Code.

SEC. 608. (a) There shall be within the Department not more than fourteen additional officers in positions authorized by sections 5315 and 5316 of title 5, United States Code, who shall be appointed by the Secretary and who shall perform such functions as the Secretary shall prescribe from time to time.

(b) In addition to the number of positions which may be placed in GS–16, GS–17, and GS–18 under existing law or this Act, not to exceed one hundred and fifty positions may be placed in GS–16, GS–17, and GS–18 to carry out functions under this Act: *Provided,* That positions established by this subsection shall be subject to standards and procedures under chapter 51 of title 5, United States Code.

SEC. 609. 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 by section 5332 of title 5, United States Code, for persons in Government service employed intermittently.

SEC. 610. The Secretary is authorized to establish in accordance with the Federal Advisory Committee Act such

advisory committees as he may deem appropriate to assist in the performance of his functions. Members of such advisory committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or while otherwise serving at the request of the Secretary while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government serving without pay.

SEC. 611. (a) The Secretary is authorized to recruit, train, accept, and utilize, without regard to the civil service and classification laws, rules, and regulations, the services of individuals without compensation as volunteers for or to aid or facilitate the work of the Department.

(b) The Secretary is authorized to provide for incidental expenses, including but not limited to, transportation, uniforms, lodging, and subsistence for such volunteers.

(c) Except as otherwise provided in this section, a volunteer under this section shall not be deemed to be a Federal employee and shall not be subject to the provisions of laws relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(d) For the purpose of the tort claim provisions of

title 28, United States Code, a volunteer under this section shall be considered a Federal employee.

(e) For the purpose of subchapter I of chapter 81 of title 5, United States Code, a volunteer under this section shall be deemed a civilian employee of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code.

(f) For the purpose of section 602 of this Act, a volunteer under this section shall be deemed an employee of the Department.

(g) For the purpose of title 18, United States Code, a volunteer shall be deemed to be an employee of the United States.

SEC. 612. (a) The Secretary is authorized to provide for participation of Armed Forces personnel in carrying out his functions. Members of the Armed Forces may be detailed for service in the Department by the Secretary concerned (as said term is defined in 10 U.S.C. 101) pursuant to cooperative agreements with the Secretary.

(b) The detail of any personnel to the Department under this section shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy or hold or any emolument, prerequisite, right, privilege, or benefit incident to or arising out of such status, office, rank, or grade, nor shall any member so detailed be charged against

any statutory or other limitation on strengths applicable to the Armed Forces or the Department. A member so detailed shall not be 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.

SEC. 613. (a) With their consent, the Secretary may, with or without reimbursement, use the services, equipment, personnel, and facilities of persons or public and private nonprofit agencies and organizations, 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 hereafter vested in him.

(b) The Secretary may, with or without reimbursement, provide service, equipment, personnel, and facilities to public and private nonprofit agencies and organizations, including any agency or instrumentality of the United States or any State, territory, the Commonwealth of Puerto Rico, the District of Columbia, or political subdivision thereof, or to any foreign government whenever he deems such action to be necessary and appropriate to the performance of functions now or hereafter vested in him.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary or the head of the agency or instrumentality of the United States involved, as the case may be, to pay directly the costs of the services, equipment, personnel, or facilities provided, to repay or make advances to appropriations or funds which do or will initially bear all or a part of such costs, or to refund excess sums when necessary: *Provided,* That such proceeds may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 622 of this Act, and used under the law governing such fund, if the fund is available for use for providing the services, equipment, personnel, or facilities involved.

SEC. 614. The Secretary is authorized to enter into and perform such contracts, leases, grants, 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 reimbursement and, in cases of grants, with necessary adjustment on account of overpayments and underpayments) as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in the Secretary.

SEC. 615. The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct im-

prove, repair, operate, and maintain laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, such other real and personal property (including patents), or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

SEC. 616. Notwithstanding any other provision of law, the Secretary may, whenever he deems such action to be in the public interest, for money or other consideration sell, lease, or otherwise dispose of any interest in any special purpose real property or personal property (including property acquired with grant funds) of the Department and may make conditional or unconditional gifts thereof to any public service institution, Federal, State, local, or foreign agency.

SEC. 617. (a) As necessary and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote locations:

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

(6) living and working quarters and facilities; and

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

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and 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.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary to pay directly the cost of such work or services, to repay or make advances to appropriations of funds which will initially bear all or a part of such cost, or to refund excess sums when necessary: *Provided,* That such payments may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 622 of this Act, and used under the law governing such fund, if the fund is available for use by the Department for performing the work or services for which payment is received.

SEC. 618. The Secretary, under such terms, at such rates, and for such periods not exceeding fifty years, as he may deem to be in the public interest, is authorized to 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 the custody of the Secretary for Department purposes. The Secretary 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.

SEC. 619. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(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.

SEC. 620. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property

received as gifts, bequests, or devises shall be deposited in the Treasury and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

SEC. 621. The Secretary shall cause a seal of office to be made for the Department of such design as he shall approve and judicial notice shall be taken of such seal.

SEC. 622. The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interests of economy and efficiency. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund in such amounts as may be necessary to provide additional working capital are authorized. The working capital fund shall recover from the appropriations and funds for which services are performed, either in advance or by way of reimbursement, amounts which will approximate the costs incurred, includ-

ing the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from the sale or exchange of its property, and receipts in payment for loss or damage to property owned by the fund.

SEC. 623. To the extent necessary or appropriate to perform any function 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 such function was transferred.

SEC. 624. (a) The Secretary shall, as soon as practicable after the end of each fiscal year, commencing with the first complete fiscal year following the effective date of this Act, make a report to the President for submission to the Congress on the activities of the Department during the preceding fiscal year. Such report shall include a statement of the Secretary's goals, priorities, and plans for the Department together with an assessment of the progress made toward the attainment of those goals, the effective and efficient management of the Department, and progress made in coordination of its functions with other departments and agencies of the Federal Government. In addition, such report shall include:

(1) projected energy needs of the United States to meet the requirements of the general welfare of the

people of the United States and the commercial and industrial life of the Nation;

(2) an estimate of the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives;

(3) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation;

(4) a summary of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, and to encourage conservation practices, and shall include recommendations for developing technologies capable of improving the quality of the environment and increasing efficiency;

(5) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices) employed by Federal, State, and local governments and nongovernmental entities to achieve the purposes of this Act.

(b) Such report shall satisfy the reporting requirements of section 15 of the Federal Energy Administration Act of 1974, section 307 of the Energy Reorganization Act of 1974, and section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974.

SEC. 625. The Secretary, when authorized in an appropriation act, in any fiscal year, may transfer funds from one appropriation to another within the Department: *Provided,* That no appropriation shall be either increased or decreased pursuant to this section more than 5 per centum of the appropriation for such fiscal year.

SEC. 626. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE VII—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

SEC. 701. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of

1950, are hereby transferred to the Secretary for appropriate allocation.

(b) Positions expressly specified by statute or reorganization plan, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule (5 U.S.C. 5312–5316) on the effective date of this Act shall be subject to the provisions of section 705 of this Act.

SEC. 702. Except as otherwise provided in this Act, the transfer of full-time personnel (except special Government employees) and part-time personnel holding permanent positions pursuant to this title shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of enactment of this Act.

SEC. 703. Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in the new position.

SEC. 704. Employees transferred to the Department holding reemployment rights acquired under section 28 of the Federal Energy Administration Act of 1974 or any other provision of law or regulation may exercise such rights only within one hundred and twenty days from the effective date of this Act.

SEC. 705. Except as otherwise provided in this Act, whenever all of the functions vested by law in an agency, commission, or other body, or any component thereof, have been terminated or transferred from that agency, commission, or other body, or component by this Act, the agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313–5316) shall terminate.

SEC. 706. The Director of the Office of Management and Budget in consultation with the Secretary is authorized and directed to 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

such 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 as he may deem necessary to accomplish the purposes of this Act.

SEC. 707. All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(a) which 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 Department after the date of enactment of this Act, and

(b) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Secretary, the Board of Hearings and Appeals, or other authorized officials, a court of competent jurisdiction, or by operation of law.

SEC. 708. (a) (1) The provisions of this Act shall not affect any proceedings 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 proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings 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 shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(b) Except as provided in subsection (d)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as this Act had not been enacted.

(c) 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.

(d) 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 such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the Secretary or other official, as the case may be, substituted.

SEC. 709. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

SEC. 710. 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 or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or other official in which this Act vests such functions.

SEC. 711. Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of, or authority available to, the President which he had immediately before the effective date of this Act; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

SEC. 712. (a) The Federal Energy Administration Act of 1974, is hereby amended as follows:

(1) By repealing sections 4, 7 (except paragraph (2) (A) of section 7 (i)), 9, 17, 28, 29, and 30;

(2) Section 52 (a) is amended by deleting the word "and" in paragraph (2), by deleting the period at the end of paragraph (3), and by adding at the end of the subsection: "; and (4) the States to the extent required by the Natural Gas Act and the Federal Power Act,"; and

(3) Section 55 (b) is amended by changing the word "seven" to the word "six" and deleting the phrase "one shall be designated by the Chairman of the Federal Power Commission.".

(b) The Energy Reorganization Act of 1974 is hereby amended as follows:

(1) By repealing section 108;

(2) By repealing section 305, to the extent that

it applies to functions transferred to the Secretary by this Act; and

(3) By repealing section 308.

(c) Section 4(d) of the Federal Power Act is hereby repealed.

(d) The Atomic Energy Act of 1954 is hereby amended as follows:

(1) By repealing section 26; and

(2) By repealing section 161(d) as it relates to functions transferred by this Act.

(e) Section 502 of the Motor Vehicle Information and Cost Savings Act is amended by adding at the end thereof the following:

"(g) The Secretary shall consult with the Secretary of Energy in carrying out his responsibilities under this section.".

(f) The Energy Conservation Standards for New Buildings Act of 1976 is hereby amended as follows:

(1) In section 304 by adding "the Secretary of Housing and Urban Development" to the list of those with whom consultation is required; and

(2) In section 310 by adding "the Secretary of Housing and Urban Development" to the list of those with whom the Secretary shall act in cooperation.

(g) (1) Section 12(e) of the Public Utility Holding Company Act of 1935 is repealed and subsections (f), (g), (h), and (i) of section 12 are redesignated as subsections "(e)", "(f)", "(g)", and "(h)", respectively.

(2) Section 15(e) of the Public Utility Holding Company Act of 1935 is amended by changing the period at the end thereof to a colon and adding thereafter the following words: "*Provided, however,* That nothing in this title shall limit the right or duty of any person to take action necessary to comply with any applicable requirement under any Act administered by the Securities and Exchange Commission or any rule, regulation, or order of that Commission pursuant to any such Act.".

(3) Section 16(b) of the Public Utility Holding Company Act of 1935 is amended to delete therefrom the words "except as provided in section 17(b)" and the commas which precede and follow these words.

(4) Sections 17 (a) and (b) of the Public Utility Holding Company Act of 1935 are repealed and subsection (c) thereof is redesignated as section 17.

(5) Section 20 of the Public Utility Holding Company Act of 1935 is amended by deleting the first sentence of subsection (d) thereof and adding a new subsection (e). Sections 20 (d) and (e) are amended to read as follows:

"(d) No provision of this title imposing any liability

shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or order thereunder of the Secretary of Energy or the Securities and Exchange Commission under this title, notwithstanding that such rule, regulation, or order may, after such act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

(e) Duplicate copies of any information or documents required to be filed with the Secretary of Energy under this title may also be filed with the Securities and Exchange Commission in compliance with the requirements of the Securities Act of 1933, the Securities Exchange Act of 1934, or the Trust Indenture Act of 1939 to the extent specified in such rules and regulations or orders as the Securities and Exchange Commission may deem necessary or appropriate in the public interest or for the protection of investors.".

(6) Section 21 of the Public Utility Holding Company Act of 1935 is amended to read as follows:

"SEC. 21. Nothing in this title shall affect (1) the jurisdiction of the Securities and Exchange Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940 or chapter X of the Bankruptcy Act, over any person, security, or contract, or (2) the

rights, obligations, duties, or liabilities of any person under such Acts; nor shall anything in this title affect the jurisdiction of any other commission, board, agency, or officer of the United States or of any State or political subdivision of any State, over any person, security, or contract, insofar as such jurisdiction does not conflict with any provision of this title or any rule, regulation, or order thereunder."

(7) The last sentence of section 30 of the Public Utility Holding Company Act of 1935 is repealed.

(8) Section 318 of the Federal Power Act is amended by deleting therefrom the words "Securities and Exchange Commission" and adding in lieu thereof the words "Secretary of Energy.".

(9) The Securities and Exchange Commission is authorized, in its discretion, by rule or regulation or order, to retain jurisdiction over any proceeding that may be pending on the effective date of this Act as it deems necessary or appropriate in the public interest and the orderly transition of functions under this Act.

(h) The Rural Electrification Act of 1936 is hereby amended by adding a new section 16 to title I thereof to read as follows:

"SEC. 16. In order to insure coordination of electric generation and transmission financing under this Act with national energy policy, no loan for the construction, opera-

tion or enlargement of any generating plant or electric transmission line or system shall be made or guaranteed under this Act except after consent by the Secretary of Energy or a determination by the Secretary of Energy that such consent is not necessary."

SEC. 713. (a) Section 101 of title 5, United States Code is amended by adding at the end thereof the following: "The Department of Energy,".

(b) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(14) Secretary of Energy.".

(c) Section 5313 of title 5, United States Code, is amended by deleting "(22) Administrator of Energy Research and Development Administration" and inserting in lieu thereof:

"(22) Deputy Secretary of Energy.".

(d) Section 5314 of title 5, United States Code, is amended by deleting "(21) Chairman, Federal Power Commission," by deleting "(60) Deputy Administrator, Energy Research and Development Administration," and by adding at the end of the section the following:

"(66) Under Secretaries of Energy (2).

"(67) Administrator of the Economic Regulatory Administration, Department of Energy.",

(e) Section 5315 of title 5, United States Code, is amended by deleting "(60) Members, Federal Power Commission", by deleting "(102) Assistant Administrators, Energy Research and Development Administration (6)," and by adding at the end of the section the following:

"(114) Assistant Secretaries of Energy (8).

"(115) General Counsel of the Department of Energy.

"(116) Administrator of Energy Information Administration, Department of Energy.

"(117) Chairman, Board of Hearings and Appeals, Department of Energy.

"(118) Additional Officers, Department of Energy (4).".

(f) Section 5316 of title 5, United States Code, is amended by deleting "(135) General Counsel, Energy Research and Development Administration", by deleting "(136) Additional Officers, Energy Research and Development Administration (9)" and adding at the end of the section the following:

"(141) Additional Officers, Department of Energy (10).

"(142) Members, Board of Hearings and Appeals, Department of Energy (2).".

SEC. 714. With the consent of the appropriate department or agency head concerned, the Secretary is authorized

to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions have been transferred to the Secretary for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

SEC. 715. The transfer of functions under title III of this Act shall not affect the validity of any draft environmental impact statement published before the effective date of this Act.

SEC. 716. As used in this Act—(1) references to "function" or "functions" shall be deemed to include reference to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and (2) references to "perform" when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

TITLE VIII—EFFECTIVE DATE AND INTERIM APPOINTMENTS

SEC. 801. (a) The provisions of this Act shall take effect one hundred and twenty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II and title VI of this Act may be nominated and appointed, as pro-

vided in those titles, and (2) the Secretary may promulgate regulations pursuant to section 708(a)(2) of this Act at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), functions of which are transferred to the Secretary by this Act, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(b) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have 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 prior to the effective date of the Act, to act in such office until the office is filled as provided in this Act. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

95TH CONGRESS
1ST SESSION

H. R. 4806

A BILL

To establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

By Mr. BROOKS, Mr. ASHLEY, Mr. BEDELL, Mr. BEVILL, Mr. BLOUIN, Mr. BOWEN, Mr. BRECKINRIDGE, Mr. BUTLER, Mr. CARNEY, Mr. CLEVELAND, Mr. CONTE, Mr. CORNELL, Mr. COUGHLIN, Mr. ROBERT W. DANIEL, JR., Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. FASCELL, Mrs. FENWICK, Mr. FITHIAN, Mr. FORD of Tennessee, Mr. FOUNTAIN, Mr. FUQUA, Mr. GIBBONS, and Mr. HANNAFORD

MARCH 10, 1977
Referred to the Committee on Government Operations

1950, are hereby transferred to the Secretary for appropriate allocation.

(b) Positions expressly specified by statute or reorganization plan, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule (5 U.S.C. 5312–5316) on the effective date of this Act shall be subject to the provisions of section 705 of this Act.

SEC. 702. Except as otherwise provided in this Act, the transfer of full-time personnel (except special Government employees) and part-time personnel holding permanent positions pursuant to this title shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of enactment of this Act.

SEC. 703. Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in the new position.

SEC. 704. Employees transferred to the Department holding reemployment rights acquired under section 28 of the Federal Energy Administration Act of 1974 or any other provision of law or regulation may exercise such rights only within one hundred and twenty days from the effective date of this Act.

SEC. 705. Except as otherwise provided in this Act, whenever all of the functions vested by law in an agency, commission, or other body, or any component thereof, have been terminated or transferred from that agency, commission, or other body, or component by this Act, the agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313–5316) shall terminate.

SEC. 706. The Director of the Office of Management and Budget in consultation with the Secretary is authorized and directed to 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

such 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 as he may deem necessary to accomplish the purposes of this Act.

SEC. 707. All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(a) which 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 Department after the date of enactment of this Act, and

(b) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Secretary, the Board of Hearings and Appeals, or other authorized officials, a court of competent jurisdiction, or by operation of law.

SEC. 708. (a) (1) The provisions of this Act shall not affect any proceedings 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 proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings 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 shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(b) Except as provided in subsection (d)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as this Act had not been enacted.

(c) 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.

(d) 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 such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the Secretary or other official, as the case may be, substituted.

SEC. 709. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

SEC. 710. 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 or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or other official in which this Act vests such functions.

SEC. 711. Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of, or authority available to, the President which he had immediately before the effective date of this Act; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

SEC. 712. (a) The Federal Energy Administration Act of 1974, is hereby amended as follows:

(1) By repealing sections 4, 7 (except paragraph (2) (A) of section 7 (i)), 9, 17, 28, 29, and 30;

(2) Section 52 (a) is amended by deleting the word "and" in paragraph (2), by deleting the period at the end of paragraph (3), and by adding at the end of the subsection: "; and (4) the States to the extent required by the Natural Gas Act and the Federal Power Act,"; and

(3) Section 55 (b) is amended by changing the word "seven" to the word "six" and deleting the phrase "one shall be designated by the Chairman of the Federal Power Commission.".

(b) The Energy Reorganization Act of 1974 is hereby amended as follows:

(1) By repealing section 108;

(2) By repealing section 305, to the extent that

it applies to functions transferred to the Secretary by this Act; and

(3) By repealing section 308.

(c) Section 4(d) of the Federal Power Act is hereby repealed.

(d) The Atomic Energy Act of 1954 is hereby amended as follows:

(1) By repealing section 26; and

(2) By repealing section 161(d) as it relates to functions transferred by this Act.

(e) Section 502 of the Motor Vehicle Information and Cost Savings Act is amended by adding at the end thereof the following:

"(g) The Secretary shall consult with the Secretary of Energy in carrying out his responsibilities under this section.".

(f) The Energy Conservation Standards for New Buildings Act of 1976 is hereby amended as follows:

(1) In section 304 by adding "the Secretary of Housing and Urban Development" to the list of those with whom consultation is required; and

(2) In section 310 by adding "the Secretary of Housing and Urban Development" to the list of those with whom the Secretary shall act in cooperation.

(g) (1) Section 12(e) of the Public Utility Holding Company Act of 1935 is repealed and subsections (f), (g), (h), and (i) of section 12 are redesignated as subsections "(e)", "(f)", "(g)", and "(h)", respectively.

(2) Section 15(e) of the Public Utility Holding Company Act of 1935 is amended by changing the period at the end thereof to a colon and adding thereafter the following words: "*Provided, however,* That nothing in this title shall limit the right or duty of any person to take action necessary to comply with any applicable requirement under any Act administered by the Securities and Exchange Commission or any rule, regulation, or order of that Commission pursuant to any such Act.".

(3) Section 16(b) of the Public Utility Holding Company Act of 1935 is amended to delete therefrom the words "except as provided in section 17(b)" and the commas which precede and follow these words.

(4) Sections 17 (a) and (b) of the Public Utility Holding Company Act of 1935 are repealed and subsection (c) thereof is redesignated as section 17.

(5) Section 20 of the Public Utility Holding Company Act of 1935 is amended by deleting the first sentence of subsection (d) thereof and adding a new subsection (e). Sections 20 (d) and (e) are amended to read as follows:

"(d) No provision of this title imposing any liability

shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or order thereunder of the Secretary of Energy or the Securities and Exchange Commission under this title, notwithstanding that such rule, regulation, or order may, after such act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

(e) Duplicate copies of any information or documents required to be filed with the Secretary of Energy under this title may also be filed with the Securities and Exchange Commission in compliance with the requirements of the Securities Act of 1933, the Securities Exchange Act of 1934, or the Trust Indenture Act of 1939 to the extent specified in such rules and regulations or orders as the Securities and Exchange Commission may deem necessary or appropriate in the public interest or for the protection of investors.".

(6) Section 21 of the Public Utility Holding Company Act of 1935 is amended to read as follows:

"SEC. 21. Nothing in this title shall affect (1) the jurisdiction of the Securities and Exchange Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940 or chapter X of the Bankruptcy Act, over any person, security, or contract, or (2) the

rights, obligations, duties, or liabilities of any person under such Acts; nor shall anything in this title affect the jurisdiction of any other commission, board, agency, or officer of the United States or of any State or political subdivision of any State, over any person, security, or contract, insofar as such jurisdiction does not conflict with any provision of this title or any rule, regulation, or order thereunder."

(7) The last sentence of section 30 of the Public Utility Holding Company Act of 1935 is repealed.

(8) Section 318 of the Federal Power Act is amended by deleting therefrom the words "Securities and Exchange Commission" and adding in lieu thereof the words "Secretary of Energy.".

(9) The Securities and Exchange Commission is authorized, in its discretion, by rule or regulation or order, to retain jurisdiction over any proceeding that may be pending on the effective date of this Act as it deems necessary or appropriate in the public interest and the orderly transition of functions under this Act.

(h) The Rural Electrification Act of 1936 is hereby amended by adding a new section 16 to title I thereof to read as follows:

"SEC. 16. In order to insure coordination of electric generation and transmission financing under this Act with national energy policy, no loan for the construction, opera-

tion or enlargement of any generating plant or electric transmission line or system shall be made or guaranteed under this Act except after consent by the Secretary of Energy or a determination by the Secretary of Energy that such consent is not necessary."

SEC. 713. (a) Section 101 of title 5, United States Code is amended by adding at the end thereof the following: "The Department of Energy,".

(b) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(14) Secretary of Energy.".

(c) Section 5313 of title 5, United States Code, is amended by deleting "(22) Administrator of Energy Research and Development Administration" and inserting in lieu thereof:

"(22) Deputy Secretary of Energy.".

(d) Section 5314 of title 5, United States Code, is amended by deleting "(21) Chairman, Federal Power Commission," by deleting "(60) Deputy Administrator, Energy Research and Development Administration," and by adding at the end of the section the following:

"(66) Under Secretaries of Energy (2).

"(67) Administrator of the Economic Regulatory Administration, Department of Energy.",

(e) Section 5315 of title 5, United States Code, is amended by deleting "(60) Members, Federal Power Commission", by deleting "(102) Assistant Administrators, Energy Research and Development Administration (6)," and by adding at the end of the section the following:

"(114) Assistant Secretaries of Energy (8).

"(115) General Counsel of the Department of Energy.

"(116) Administrator of Energy Information Administration, Department of Energy.

"(117) Chairman, Board of Hearings and Appeals, Department of Energy.

"(118) Additional Officers, Department of Energy (4).".

(f) Section 5316 of title 5, United States Code, is amended by deleting "(135) General Counsel, Energy Research and Development Administration", by deleting "(136) Additional Officers, Energy Research and Development Administration (9)" and adding at the end of the section the following:

"(141) Additional Officers, Department of Energy (10).

"(142) Members, Board of Hearings and Appeals, Department of Energy (2).".

SEC. 714. With the consent of the appropriate department or agency head concerned, the Secretary is authorized

to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions have been transferred to the Secretary for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

SEC. 715. The transfer of functions under title III of this Act shall not affect the validity of any draft environmental impact statement published before the effective date of this Act.

SEC. 716. As used in this Act—(1) references to "function" or "functions" shall be deemed to include reference to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and (2) references to "perform" when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

TITLE VIII—EFFECTIVE DATE AND INTERIM APPOINTMENTS

SEC. 801. (a) The provisions of this Act shall take effect one hundred and twenty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II and title VI of this Act may be nominated and appointed, as pro-

vided in those titles, and (2) the Secretary may promulgate regulations pursuant to section 708(a)(2) of this Act at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), functions of which are transferred to the Secretary by this Act, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(b) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have 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 prior to the effective date of the Act, to act in such office until the office is filled as provided in this Act. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

95TH CONGRESS
1ST SESSION

H. R. 4806

A BILL

To establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

By Mr. BROOKS, Mr. ASHLEY, Mr. BEDELL, Mr. BEVILL, Mr. BLOUIN, Mr. BOWEN, Mr. BRECKINRIDGE, Mr. BUTLER, Mr. CARNEY, Mr. CLEVELAND, Mr. CONTE, Mr. CORNELL, Mr. COUGHLIN, Mr. ROBERT W. DANIEL, JR., Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. FASCELL, Mrs. FENWICK, Mr. FITHIAN, Mr. FORD of Tennessee, Mr. FOUNTAIN, Mr. FUQUA, Mr. GIBBONS, and Mr. HANNAFORD

MARCH 10, 1977
Referred to the Committee on Government Operations

VIII. S. 826. Amendment No. 201 to S. 826. Submitted by Senator Domenici.

95TH CONGRESS
1ST SESSION

S. 826

IN THE SENATE OF THE UNITED STATES

APRIL 21 (legislative day, FEBRUARY 21), 1977
Referred to the Committee on Governmental Affairs and ordered to be printed

AMENDMENT

Intended to be proposed by Mr. DOMENICI (for himself and Mr. NUNN) to S. 826, a bill to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes, viz: On page 35, line 20, insert the following:

SEC. 624. (a) (6) A summary of substantive measures taken by the Department to stimulate and encourage the development of new manpower resources through the Nation's colleges and universities and to involve these institutions in the execution of the Department's research and development programs.

Amdt. No. 201

Amdt. No. 201

95TH CONGRESS
1ST SESSION

S. 826

AMENDMENT

Intended to be proposed by Mr. DOMENICI (for himself and Mr. NUNN) to S. 826, a bill to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

APRIL 21 (legislative day, FEBRUARY 21), 1977
Referred to the Committee on Governmental Affairs and ordered to be printed

IX. H.R. 6804. Department of Energy Organization Act. Introduced by Representative Brooks, et al.

95TH CONGRESS
1ST SESSION

H. R. 6804

IN THE HOUSE OF REPRESENTATIVES

MAY 2, 1977

Mr. BROOKS (for himself, Mr. FASCELL, Mr. MOORHEAD of Pennsylvania, Mr. ROSENTHAL, Mr. FUQUA, Mr. HARRINGTON, Mr. HORTON, Mr. ERLENBORN, and Mr. PRITCHARD) introduced the following bill; which was referred to the Committee on Government Operations

A BILL

To establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

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 "Department of Energy Organization Act".

TITLE I—DECLARATION OF FINDINGS, POLICY, AND PURPOSES

SEC. 101. (a) The Congress of the United States finds that—

(1) the United States and the world face an increasing shortage of nonrenewable energy resources;

(2) this energy shortage presents a serious threat to the national security of the United States and to the health, safety, and welfare of its citizens;

(3) a strong national energy program is needed to increase the efficiency of energy use and availability of energy resources, particularly renewable energy resources;

(4) responsibility for energy policy execution, regulation, and research, development, and demonstration is presently vested in many agencies and departments, and this fragmentation hinders development of an effective Federal response to the energy shortage; and

(5) formulation and implementation of a national energy program require the integration of certain Federal energy functions into a single department in the executive branch.

(b) It is the policy of the United States that—

(1) energy conservation shall enjoy the highest priority in any national energy program, and shall be

carefully considered as an adjunct to programs to increase energy supply and as an option to programs that may present health, safety, or other environmental hazards;

(2) emphasis shall also be given to the development and commercial use of technologies utilizing renewable energy resources;

(3) the environmental and social consequences of any national energy program shall be analyzed and considered in evaluation of the program's potential; and

(4) public participation in the development and enforcement of any national energy program shall be provided for, encouraged, and assisted.

SEC. 102. The purposes of this Act are (1) to establish a permanent Department of Energy in the executive branch, (2) to vest in the Secretary of Energy such functions as are vested in or transferred to him by this Act, (3) to achieve, through the Department, effective management of energy functions of the Federal Government, (4) to provide the mechanism through which a coordinated national energy policy can be formulated and implemented to deal with the short-, mid-, and long-term energy problems of the Nation, (5) to safeguard and conserve our natural resources and environment, and (6) to promote the interest of consumers.

TITLE II—ESTABLISHMENT OF DEPARTMENT

SEC. 201. There is hereby established at the seat of government an executive department to be known as the Department of Energy (hereinafter in this Act referred to as the "Department"). There shall be at the head of the Department a Secretary of Energy (hereinafter in this Act referred to as the "Secretary") who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

SEC. 202. There shall be in the Department a Deputy Secretary, nine Assistant Secretaries, and a General Counsel, each of whom shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions as the Secretary shall prescribe from time to time. The Assistant Secretaries shall be designated as follows:

(1) Assistant Secretary for Public, Congressional, and Intergovernmental Relations;

(2) Assistant Secretary for Conservation;

(3) Assistant Secretary for Defense Programs;

(4) Assistant Secretary for Environment;

(5) Assistant Secretary for Fossil and Nuclear Energy Technologies;

(6) Assistant Secretary for International Programs:

(7) Assistant Secretary for Competition and Consumer Affairs;

(8) Assistant Secretary for Resource Applications; and

(9) Assistant Secretary for Solar and Geothermal Energy Technologies.

SEC. 203. The Deputy Secretary 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 the Assistant Secretaries, General Counsel, and other officials 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 those offices.

SEC. 204. (a) There shall be within the Department an Energy Information Administration to be headed by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. Such Administrator shall be a person who, by reason of professional background and experience, is especially qualified to manage an energy information system. There shall be trans-

ferred to and vested in the Administrator (on a nonexclusive basis as the Secretary may determine) all functions and authorities transferred to and vested in the Secretary under this Act relating to collection, analysis, and dissemination of energy information and data. The Administrator shall be subject to all duties and responsibilities established under part B of the Federal Energy Administration Act of 1974.

(b) In the performance of his professional functions in connection with collecting, analyzing, and disseminating energy information, the Administrator shall not be responsible to, or subject to, the direction of any officer, employee, or agent of the Department.

(c) The Administrator shall, upon request, promptly provide any information or analysis in his possession to any other administration, commission, or office within the Department relating to the functions of such administration, commission, or office.

SEC. 205. (a) There shall be within the Department an Economic Regulatory Administration to be headed by an Administrator, who shall be appointed by the President by and with the advice and consent of the Senate. The Secretary shall by rule provide for a separation of regulatory and enforcement functions assigned to or vested in the Administration.

(b) The Secretary shall utilize the Economic Regulatory Administration to administer—

(1) any function which may be delegated to the Secretary under the Emergency Petroleum Allocation Act of 1973;

(2) any function transferred to the Secretary by section 301 (b) of this Act which relates to establishment of rates and charges under the Federal Power Act and the Natural Gas Act (subject to the provisions of section 401); and

(3) such other functions as the Secretary may consider appropriate.

(c) The Administrator shall insure an adequate opportunity for public participation, including an opportunity for hearings, in issuing any rules, regulations, or orders under this section.

SEC. 206. (a) (1) There shall be within the Department an Office of Inspector General to be headed by an Inspector General, who shall be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report to and be under the general supervision of the Secretary or, to the extent such authority is delegated, the Deputy Secretary, but

shall not be under the control of, or subject to supervision by, any other officer of the Department.

(2) There shall also be in the Office a Deputy Inspector General appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy shall assist the Inspector General in the administration of the Office and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that Office, act as Inspector General.

(3) The Inspector General or the Deputy may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(4) The Inspector General and the Deputy shall each be subject to the provisions of subchapter III of chapter 73, title 5, United States Code, notwithstanding any exemption from such provisions which might otherwise apply.

(5) The Inspector General shall, in accordance with applicable laws and regulations governing the civil service appoint an Assistant Inspector General for Audits and an Assistant Inspector General for Investigations.

(b) It shall be the duty and responsibility of the Inspector General—

(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to programs and operations of the Department;

(2) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by the Department for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between the Department and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by the Department, and (B) the identification and prosecution of participants in such fraud or abuse; and

(4) to keep the Secretary and the Congress fully and currently informed, by means of the reports required by subsection (e) and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and opera-

tions administered or financed by the Department, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(c) The Inspector General shall, not later than March 31 of each year, submit a report to the Secretary and to the Congress summarizing the activities of the Office during the preceding calendar year. Such report shall include, but need not be limited to—

(1) an identification and description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities;

(2) a description of recommendations for corrective action made by the Office with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1);

(3) an evaluation of progress made in implementing recommendations described in the report or, where appropriate, in previous reports; and

(4) a summary of matters referred to prosecutive authorities and the extent to which prosecutions and convictions have resulted.

Reports concerning the Federal Energy Regulatory Commission shall be submitted to the Chairman thereof.

(d) The Inspector General shall report immediately to the Secretary, to the Federal Energy Regulatory Commission as appropriate, and to the appropriate committees or subcommittees of the Congress whenever the Office becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the Department. The Deputy and Assistant Inspectors General shall have particular responsibility for informing the Inspector General of such problems, abuses, or deficiencies.

(e) The Inspector General (1) may make such additional investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable, and (2) shall provide such additional information or documents as may be requested by either House of Congress or, with respect to matters within their jurisdiction, by any committee or subcommittee thereof.

(f) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary and the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval. The Inspector General shall, insofar as feasible, provide

copies of the reports required under subsection (c) to the Secretary sufficiently in advance of the due date for their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(g) In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, and other material available to the Department which relate to programs and operations with respect to which the Inspector General has responsibilities under this section;

(2) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this section, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court; and

(3) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions and responsibilities under this section.

(h) For purposes of this section, the term "Department"

includes any component thereof, including the Federal Energy Regulatory Commission.

TITLE III—TRANSFERS OF FUNCTIONS

SEC. 301. (a) Except as otherwise provided in this Act, there are hereby transferred to, and vested in, the Secretary all of the functions vested by law in the Administrator of the Federal Energy Administration or the Federal Energy Administration, the Administrator of the Energy Research and Development Administration or the Energy Research and Development Administration; and the functions vested by law in the officers and components of either such Administration.

(b) Except as provided in section 401, there are hereby transferred to, and vested in, the Secretary the functions of the Federal Power Commission, or of the members, officers, or components thereof—

(1) in prescribing, issuing, making, amending, and rescinding rules, regulations, and statements of policy, pursuant to section 309 of the Federal Power Act and section 16 of the Natural Gas Act, which are of general applicability;

(2) relating to energy information, subject to subsection (c) of this section, under sections 304 and 311 of the Federal Power Act and sections 10 and 11 of the Natural Gas Act;

(3) under section 202(a) of the Federal Power Act (relating to establishment of regional districts);

(4) under section 202 (c) and (d) of the Federal Power Act (relating to emergency interconnections);

(5) under section 202(e) of the Federal Power Act (relating to regulation of exports of electric energy);

(6) under (A) section 3 of the Natural Gas Act, and (B) section 7 of such Act (to the extent such section is applicable to the regulation of exports and imports of natural gas);

(7) under sections 4, 5, and 7 of the Natural Gas Act (to the extent that such sections relate to the establishment and review of priorities for curtailments of natural gas); and

(8) relating to regulations of general applicability with respect to the sale of natural gas to a natural gas company for resale in interstate commerce under the Natural Gas Act.

(c) The Secretary and the Federal Energy Regulatory Commission shall, to the extent necessary to carry out their respective functions, utilize the data-gathering authorities of sections 304 and 311 of the Federal Power Act and sections 10 and 11 of the Natural Gas Act. The Secretary and the

Commission shall coordinate their data-gathering activities to avoid duplication and undue burden on any person.

SEC. 302. There are hereby transferred to, and vested in, the Secretary:

(a) All functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department, to the extent such functions relate to or are utilized by the Southeastern Power Administration, the Southwestern Power Administration, and the Bonneville Power Administration. The authority for the functions so transferred includes, but is not limited to, section 5 of the Flood Control Act of 1944, the Bonneville Project Act of 1937, and the Federal Columbia River Transmission System Act.

(b) Such functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department as relate to, or are utilized by, the Alaska Power Administration for the transmission and disposition (including acquisition by purchase or exchange) of electric power and energy and by the Bureau of Reclamation for the disposition (including acquisition by purchase or exchange) of electric power and energy, except that the authority for, and function of, operating the dams constructed pursuant to the Eklutna Project Act and section 204 of the Flood Control Act of 1962 shall remain in the

Secretary of the Interior. The authority for the functions so transferred includes, but is not limited to, the Eklutna Project Act, section 204 of the Flood Control Act of 1962, the Reclamation Act of 1902, and Acts amendatory thereof and supplementary thereto, including but not limited to the authority for the sale of electric power or lease of power privileges under section 9(c) of the Reclamation Project Act of 1939, and the authority under section 303 of the Colorado River Basin Project Act.

(c) All the authority of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department for the transmission and disposition of the electric power and energy generated at Falcon Dam and Amistad Dam, international storage reservoir projects constructed on the Rio Grande pursuant to the Act of June 19, 1954, as amended by the Act of December 23, 1963.

(d) (1) The authority of the Secretary of the Interior to prescribe regulations under the Outer Continental Shelf Lands Act, the Mineral Lands Leasing Act, the Mineral Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act, which relate to the (A) fostering of competition for Federal leases (including, but not limited to, prohibition on bidding for development rights by certain types of joint ventures), (B) implementation of alternative bidding systems

authorized for the award of Federal leases, (C) establishment of diligence requirements for operations conducted on Federal leases (including, but not limited to, procedures relating to the granting or ordering by the Secretary of the Interior of suspension of operations or production as they relate to such requirements), (D) setting rates of production for Federal leases, and (E) specifying the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind, except that such regulations shall be promulgated by the Secretary only after consultation with the Secretary of the Interior.

(2) The Secretary in accordance with this subsection is hereby authorized to promulgate regulations under the following statutory provisions, to the fullest extent to which the Secretary of the Interior could have promulgated such regulations immediately prior to the enactment of this Act:

(A) Section 5(a)(1) of the Outer Continental Shelf Lands Act, insofar as it authorizes the promulgation of regulations:

(i) (I) specifying procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind under the last sentence of such section 5(a)(1) and under sections 6(a)(8), 8(a), and 8(b) of such Act;

(II) implementing competitive bidding and alternative bidding systems under sections 8 (a) and 8 (e) of such Act;

(III) establishing diligence requirements and setting rates of production under section 5 (a) (1) (insofar as it provides for the suspension of operations and production), section 6 (a) (10) (insofar as it requires production or operations or drilling), and section 8 (b) (insofar as it requires production in paying quantities, drilling, or well reworking) of such Act; and

(IV) promoting development and production by the reduction of rentals and royalties under the last sentence of such section 5 (a) (1);

and, in addition, as section 5 (a) (1) of such Act relates to economic terms and conditions of leases reflected in—

(ii) (I) fostering competition for Federal leases including, but not limited to, (a) prohibition on bidding for development rights by certain joint ventures; (b) setting rates on royalty and other types of receipts from leases; (c) procedures to enhance competition at lease sales;

(II) implementing alternative bidding systems authorized for award of Federal leases including, but not limited to, experiments on bidding systems;

(III) establishing diligence requirements for operations conducted on Federal leases (including unitized leases) including, but not limited to, procedures relating to the granting or ordering by the Secretary of the Interior of suspensions of operations or production or the cancellation of leases as they relate to such diligence requirements;

(IV) setting rates of production for Federal leases (including unitized leases) including, but not limited to, establishing procedures for requiring a lessee to produce at a specified rate, and establishing rates of minimum production; and

(V) specifying the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind.

(B) Sections 17, 21, and 32 of the Mineral Lands Leasing Act, insofar as they authorize the promulgation of regulations—

(i) (I) implementing competitive bidding systems, including the creation of alternative bidding systems, under section 2(a)(1) (insofar as it authorizes the awarding of leases by competitive bidding), section 7(a) (insofar as it provides for setting royalty rates), and section 17(b) (insofar

as it authorizes leasing by competitive bidding and the setting of royalty rates) of such Act;

(II) limiting the number of leases and the amount of acreage under lease under sections 21, 27 (a) (1), and 27 (d), (e), and (f) of such Act;

(III) setting rates of production under section 2 (d) (2), section 7 (b) (insofar as it relates to the condition of continued operation), sections 17 (e) and (f) (insofar as they relate to the condition of production in paying quantities) of such Act;

(IV) limiting leasing by common carriers under section 2 (c) of such Act;

(V) consulting with and considering the advice of the Attorney General concerning the issuance of regulations and the issuance, renewal, or readjustment of leases under section 27 (1) of such Act;

(VI) establishing diligence requirements under section 2 (a) (2) (A), section 2 (d) (2), section 7 (a) (insofar as it requires production in commercial quantities), section 7 (b) (insofar as it requires diligent development), section 17 (e) (insofar as it requires drilling operations), section 17 (f) (insofar as it provides for reworking or drilling operations),

and section 21 (insofar as it relates to productive development) of such Act;

(VII) for the purpose of encouraging the greatest ultimate recovery, waiving, suspending, or reducing the rentals or minimum royalties, or reducing the royalties, in order to promote development or the successful operation of leases under section 39 of such Act;

(VIII) specifying the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind under sections 17 (b) and (c), and section 32 of such Act;

and, in addition, as section 17, 21, and 32 relate to economic terms and conditions of leases reflected in:

(ii) the regulatory authorities enumerated in subparagraph (A) (ii).

(C) Section 10 of the Mineral Leasing Act for Acquired Lands insofar as it authorizes the promulgation of regulations described in subparagraph (B).

(D) Sections 4 and 24 of the Geothermal Steam Act of 1970 insofar as they authorize the promulgation of regulations—

(i) (I) implementing competitive bidding and

alternative bidding systems under section 4 of such Act;

(II) limiting the amount of acreage under lease under the second and third sentences of section 7 of such Act;

(III) establishing diligence requirements under the first sentence of section 6(c) (insofar as it requires actual drilling operations), sections 11 and 24(c) (insofar as they provide for suspension of operations and production upon application by the lessee), and section 24(h) (insofar as it provides for maintenance by the lessee of an active development program) of such Act;

(IV) setting rates of production under section 6 (insofar as it requires production or utilization in commercial quantities) of such Act;

(V) to encourage the greatest ultimate recovery, waiving, suspending, or reducing rentals or royalties, to promote development or successful operation of leases under sections 13 and 24(e) of such Act;

and in addition, as sections 4 and 24 relate to economic terms and conditions of leases reflected in:

(ii) the regulatory authorities enumerated in subparagraph (A)(ii).

(E) Sections 105 and 106 of the Energy Policy and Conservation Act.

(3) The Secretary of the Interior shall retain any authorities not transferred by paragraph (1) of this subsection and shall be solely responsible for the issuance and supervision of leases and the enforcement of all regulations applicable to the leasing of mineral resources, including, but not limited to, lease terms and conditions and production rates No regulation issued by the Secretary shall restrict or limit any authority retained by the Secretary of the Interior under this paragraph with respect to the issuance or supervision of leases. Nothing in this subsection shall be construed to affect Indian lands and resources or to transfer any responsibilities of the Secretary of the Interior concerning such lands and resources.

(e) Those functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department under the Act of May 16, 1910, and other authorities. exercised by the Bureau of Mines, but limited to—

(1) fuel supply and demand analysis and data gathering,

(2) research and development relating to increased efficiency of production technology of solid fuel minerals: *Provided,* That research relating to mine health and

safety and research relating to the environmental and leasing consequences of solid fuel mining shall remain in the Department of the Interior, and

(3) coal and analysis.

(f) The functions of the Secretary of the Interior to establish production rates for all Federal leases.

SEC. 303. The Secretary of the Interior shall afford the Secretary a reasonable opportunity, prior to the execution of a Federal lease, to disapprove any term or condition of such Federal lease which relates to the matters with respect to which the Secretary has authority to prescribe regulations under section 302(d). No such term or condition may be included in such a lease if it is disapproved by the Secretary.

SEC. 304. As used in sections 302 and 303 of this Act, "Federal lease" means an agreement which, for any consideration, including, but not limited to, bonuses, rents, or royalties conferred and convenants to be observed, authorizes any person to explore for, develop, or produce (or to do any or all of these), oil and gas, coal, oil shale, tar sands, or geothermal resources in public, acquired, or submerged lands or interests therein under Federal jurisdiction.

SEC. 305. All functions vested by law in the Director of the Office of Energy Information and Analysis or in the Administrator of the Federal Energy Administration by part B of the Federal Energy Administration Act of 1974 are

hereby transferred to the Administrator of the Energy Information Administration.

SEC. 306. There are hereby transferred to and vested in the Secretary all of the functions vested in the Secretary of Housing and Urban Development by the Energy Conservation Standards for New Buildings Act of 1976 (title III of the Energy Conservation and Production Act).

SEC. 307. There are hereby transferred to and vested in the Secretary such functions as are set forth in the Interstate Commerce Act and vested by law in the Interstate Commerce Commission or the Chairman and members thereof as relate to transportation of oil by pipeline.

SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested by chapter 641 of title 10, United States Code, in the Secretary of the Navy as they relate to the administration of, and there is hereby transferred to and vested in the Secretary jurisdiction over—

(1) Naval Petroleum Reserve Numbered 1 (Elk Hills) located in Kern County, California, established by Executive order of the President, dated September 2, 1912;

(2) Naval Petroleum Reserve Numbered 2 (Buena Vista), located in Kern County, California, established by Executive order of the President, dated December 13, 1912;

(3) Naval Petroleum Reserve Numbered 3 (Teapot Dome) located in Wyoming, established by Executive order of the President, dated April 30, 1915;

(4) Oil Shale Reserve Numbered 1, located in Colorado, established by Executive order of the President, dated December 6, 1916, as amended by Executive order of the President dated June 12, 1919;

(5) Oil Shale Reserve Numbered 2, located in Utah, established by Executive order of the President, dated December 6, 1916; and

(6) Oil Shale Reserve Numbered 3, located in Colorado, established by Executive order of the President, dated September 27, 1974.

The surface management of such reserves shall be carried out by the Secretary of the Interior under applicable laws, including the Federal Land Policy and Management Act of 1976, administered by such Secretary.

SEC. 309. There are hereby transferred to and vested in the Secretary all functions of the Secretary of Commerce, the Department of Commerce, and officers and components of that Department, as relate to or are utilized by the Office of Energy Programs, but limited to industrial energy conservation programs.

TITLE IV—FEDERAL ENERGY REGULATORY COMMISSION

SEC. 401. (a) (1) There is hereby established within the Department an independent regulatory commission to be known as the Federal Energy Regulatory Commission (hereinafter referred to in this title as the "Commission").

(2) There are hereby transferred to, and vested in, the Commission (A) all functions and authority of the Federal Power Commission under the Federal Power Act and the Natural Gas Act which are not specifically transferred to, and vested in, the Secretary pursuant to section 301 (b) of this Act and (B) all other functions transferred by title III of this Act which involve an agency determination required by law to be made on the record after opportunity for an agency hearing.

(3) Notwithstanding section 301 (b) (1), the Commission shall have the authority to prescribe, issue, make, amend, and rescind rules, regulations, and statements of policy under section 309 of the Federal Power Act and section 16 of the National Gas Act, and in exercising such authority shall coordinate its actions with the Secretary.

(4) The Secretary may assign to the Commission, by rule, any other functions vested in or delegated to hir

(b) The Commission shall be comprised 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. The terms of the members first taking office shall expire (as designated by the President at the time of appointment), two at the end of two years, two at the end of three years, and one at the end of four years. Not more than three members of the Commission shall be members of the same political party. Any 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 such term. A Commissioner may continue to serve after the expiration of this term until his successor has taken office, except that he may not so continue to serve more than one year after the date on which his term would otherwise expire under this subsection.

(c) (1) The Chairman shall be 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 of such hearing examiners as he deems necessary to assist in the performance

of the Commission's functions and to fix their compensation in accordance with the provisions of title 5, United States Code, except that assignment, removal and compensation of such hearing examiners shall be in accordance with sections 3105, 3314, 5302, and 7521 of title 5, United States Code, (2) the selection, appointment, and 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, (3) the distribution of business among personnel and among administrative units of the Commission, and (4) the use and expenditure of funds appropriated for Commission functions. The Secretary shall provide to the Commission such support and facilities as the Commission may need to carry out its functions.

(2) The hearing examiners appointed pursuant to this section shall be subject to the laws governing employees in the classified civil service, except that appointments shall be made without regard to section 5108 of title 5, United States Code.

(d) In each annual authorization and appropriation request under this Act, the Secretary shall identify the portion thereof intended for the support of the Commission and include a statement by the Commission (1) showing the amount requested by the Commission in its budgetary pre-

sentation to the Secretary and the Office of Management and Budget and (2) an assessment of the budgetary needs of the Commission. Whenever the Commission submits any legislative recommendation or testimony, or comments on legislation, to the Secretary, the President, or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the appropriate committees of Congress.

(e) In the performance of their functions, the members of the Commission shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of the Department.

(f) A decision of the Commission shall be a final agency action within the meaning of section 704 of title 5, United States Code, with respect to matters within the Commission's jurisdiction and shall not be subject to further review by the Secretary or any officer or employee of the Department.

(g) The Chairman of the Commission may from time to time designate any other member of the Commission as Acting Chairman to act in the place and stead of the Chairman during his absence. The Chairman (or the Acting Chairman in the absence of the Chairman) shall preside at all sessions of the Commission and a quorum for the transaction of business shall consist of at least three members present. Each member of the Commission, including the Chairman, shall have one vote. Actions of the Commission shall be deter-

mined by a majority vote of the members present. The Commission shall have an official seal which shall be judicially noticed.

(h) The Commission is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions. Until changed by the Commission, the rules of the Federal Power Commission shall continue in effect.

(i) In carrying out all its functions, the Commission shall have the powers authorized by the Federal Power Act and the Natural Gas Act to hold hearings, sign and issue subpenas, 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 such agents as it may designate, conduct any hearing or other inquiry necessary or appropriate to its functions.

SEC. 402. No person in the employ of, or holding any official relation to, any person, firm, association, or corporation engaged in the production, generation, transmission, distribution, or sale of electric power, petroleum, petroleum products, natural gas, coal, nuclear material, synthetic fuels, or energy from renewable resources, wastes, or geothermal steam, or in energy research or development, or owning stock or bonds thereof, or who has a pecuniary interest therein, shall enter upon the duties of, or hold the office of

Commission member. Members shall not engage in any other business, vocation, or employment while members of the Commission.

SEC. 403. 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.

SEC. 404. The Secretary, each officer of the Department, and each Federal agency, subject to applicable provisions of law, shall cooperate with the Commission in providing, upon request, such information as it may require.

SEC. 405. Nothing in this title shall be construed in any way to limit the functions of the Secretary relating to activities within the jurisdiction of the Secretary, including any shared with the Commission.

SEC. 406. The Secretary may as of right intervene or otherwise participate in any adjudicatory proceeding before the Commission. The Secretary shall comply with rules of procedure of general applicability governing the timing of intervention or participation in such proceeding or activity and, upon intervening or participating therein, shall comply with rules of procedure of general applicability governing the conduct thereof. 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.

SEC. 407. For the purpose of section 552b of title 5, United States Code, the Commission shall be deemed to be an agency.

TITLE V—ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

SEC. 501. (a) Subject to the other requirements of this section, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply in accordance with its terms to any rule, regulation, or order issued pursuant to authority vested by law in or delegated to the Secretary or any officer, employee, or component of the Department, including any such rule, regulation, or order of a State or local government agency or officer thereof, issued pursuant to authority delegated by the Secretary.

(b) In addition to the requirements of subsection (a), notice of any proposed rule, regulation, or order shall be given by publication of such proposed rule, regulation, or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this subsection as to time of notice and opportunity to comment may be waived where strict compliance is found to cause

serious harm or injury to the public health, safety, or welfare, and such finding is set out in detail in such rule, regulation, or order. In addition, public notice of all rules, regulations, or orders described in subsection (a) which are promulgated by officers of a State or local government agency shall be achieved by publication of such rules or regulations in at least two newspapers of statewide circulation, except that if such publication is not practicable, notice of any rule, regulation, or order shall be given by such other means as the officer promulgating such rule, regulation, or order determines will assure wide public notice.

(c) In addition to the requirements of subsection (b), if any rule, regulation, or order described in subsection (a) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the issuance of such rule, regulation, or order, but in all cases such opportunity shall be afforded no later than forty-five days after the issuance of any such rule, regulation, or order. A transcript shall be kept of any oral presentation.

(d) The Secretary or any officer authorized to issue rules, regulations, or orders under the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environ-

mental Coordination Act of 1974, or the Energy Policy and Conservation Act shall provide for the making of such adjustments, consistent with the other purposes of the relevant Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rule, regulation or order.

(e) (1) With respect to any rule, regulation, or order of the Secretary the effects of which, except for indirect effects of an inconsequential nature, are confined to—

(A) a single unit of local government or the residents thereof;

(B) a single geographic area within a State or the residents thereof; or

(C) a single State or the residents thereof;

the Secretary shall, in any case where appropriate, afford an opportunity for a hearing or the oral presentation of views and provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in subparagraphs (A) through (C), as the case may be.

(2) For purposes of this subsection—

(A) the term "unit of local government" means a county, municipality, town, township, village, or other unit of general government below the State level; and

(B) the term "geographic area within a State" means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(3) Nothing in this subsection shall be construed as requiring a hearing or an oral presentation of views where none is required by this section.

(f) (1) Judicial review of agency action taken under any law, the functions of which are transferred by this Act, shall, notwithstanding such transfer, be made in the manner specified in such law.

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

the unconstitutionality of this Act or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the unconstitutionality of this Act or the validity of agency action under this Act, the case shall be subject to 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.

(3) The Secretary may, by rule, prescribe procedures for State or local government agencies authorized by the Secretary to carry out such functions as may be permitted under applicable law. Such procedures shall apply to such agencies in lieu of section 501, and shall require that prior to taking any action, such agencies shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) a reasonable time before taking the action.

(4) Notwithstanding any other law, the litigation of

the Department shall be subject to the supervision of the Attorney General pursuant to chapter 31 of title 28, United States Code. This paragraph shall not apply to the Federal Energy Regulatory Commission.

TITLE VI—ADMINISTRATIVE PROVISIONS

SEC. 601. (a) For the purposes of this section, the following officers or employees of the Department are supervisory employees—

(1) an individual compensated at the rate provided for grade of GS–16 or above under section 5332 of title 5, United States Code; or

(2) any other individual who, in the judgment of the Secretary, exercises sufficient decisionmaking authority so that the provisions of this section should apply to such individual;

(3) the Director, or Deputy Director of any State, regional, district, local, or other field office;

(4) an individual serving within the Energy Information Administration or the Economic Regulatory Administration or an employee of the Federal Energy Regulatory Commission classified as GS–16 or above under section 5322 of title 5 of the United States Code; or

(5) an employee or officer who has responsibility with respect to the award, review, modification, or

termination of any grant, contract, reward, or fund transfer within the authority of the Secretary.

(b) (1) No supervisory employee shall receive compensation from, or hold any official relation to, any person, firm, association, or corporation significantly engaged in the production, generation, transmission, distribution, or sale of electric power, petroleum or petroleum products, synthetic fuels, natural gas, coal, or energy from renewable resources, wastes, or geothermal steam, or in nuclear technology, equipment or material, minerals, or other energy-related source or resource, or own stocks or bonds thereof, or have any pecuniary interest therein.

(2) Personnel transferred to the Department pursuant to section 801 of this Act shall have six months to comply with the provisions of paragraph (1) of this subsection with respect to prohibited property holdings. Any person transferred pursuant to section 801 shall notify the Secretary of all circumstances which would be violative of the restrictions described in subsection (b) (1) not later than fifteen days after the date of such transfer as determined by the United States Civil Service Commission.

(3) Where exceptional hardship would result, or where the interest is vested, the Secretary is authorized to waive the requirements of this subsection with respect to any person covered. Such waiver shall:

(A) be published in the Federal Register;

(B) contain a finding by the Secretary that exceptional hardship would result; and

(C) indicate the steps taken by the Secretary to minimize conflict of interest and the appearance of conflict of interest.

Such waiver shall in no instance constitute a waiver of the requirements of section 208 of title 18, United States Code.

SEC. 602. (a) Each officer or employee of the Department, including the Federal Energy Regulatory Commission, who has any known financial interest—

(1) in any person engaged in the business, other than at the retail level, of developing, producing, refining, transporting by pipeline, or converting into synthetic fuel, minerals, wastes, or renewable resources, or in the generation of energy from such minerals, wastes, or renewable resources, or in conducting research, development, and demonstration with financial assistance under this Act or any Act, the administration of which is transferred pursuant to this Act;

(2) in property from which coal, natural gas, crude oil, or nuclear material is commercially produced;

(3) in any person engaged in the production, generation, transmission, distribution or sale of electric power; or

(4) in any person engaged in production, sale, or distribution of nuclear materials;

shall, beginning on February 1, 1978, annually file with the Secretary a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such statement shall be subject to examination, and available for copying, by the public upon request.

(b) The Secretary shall—

(1) act, within ninety days after the effective date of this Act, by rule—

(A) to define the term "known financial interest" for purposes of subsection (a); and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) include, as part of the report made pursuant to section 621, a report with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b), the Secretary may identify specific positions, or classes thereof, within the Department and the Commission which are of a

nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, subsection (a) shall be fined not more than $2,500 or imprisoned not more than one year, or both.

SEC. 603. The Secretary is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in him.

SEC. 604. Except as otherwise expressly prohibited by law, the Secretary may delegate any of his functions to such officers and employees of the Department as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary or appropriate.

SEC. 605. The Secretary is authorized to establish, alter, consolidate, or discontinue and to maintain such State, regional, district, local, or other field offices as he may deem to be necessary to carry out functions now or hereafter vested in him.

SEC. 606. The Secretary may, from time to time, establish, alter, consolidate or discontinue such organizational units or components within the Department as he may deem

to be necessary or appropriate, except that such authority shall not extend to the abolition of organizational units or components established by this Act.

SEC. 607. In the performance of functions transferred and vested in the Secretary or any officer or component of the Department, other than the Commission, the Secretary is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such 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, except that to the extent the Secretary deems such action necessary to the discharge of his functions, he may appoint, without regard to such laws, not more than the number of scientific, engineering, and professional personnel authorized, pursuant to appropriations Acts for fiscal year 1977, to be so appointed to the Energy Research and Development Administration, under other provisions of law, and may fix the compensation of such personnel not in excess of the rate for grade 18 of the General Schedule specified in section 5332 of title 5, United States Code.

SEC. 608. (a) There shall be within the Department not more than fourteen additional officers in positions authorized by sections 5315 and 5316 of title 5, United States Code, who shall be appointed by the Secretary and who

shall perform such functions as the Secretary shall prescribe from time to time.

(b) In addition to the authority provided in section 607, there shall be within the Department a number of permanent nonexempt positions in grades 16, 17, and 18 of the General Schedule not to exceed the number of such positions authorized, pursuant to appropriations Acts for fiscal year 1977, to be appointed in such grades for functions which are transferred to the Department under this Act.

SEC. 609. 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 by section 5332 of title 5, United States Code, for persons in Government service employed intermittently.

SEC. 610. Section 17 of the Federal Energy Administration Act of 1974 shall be applicable to advisory committees chartered by the Department.

SEC. 611. (a) The Secretary is authorized to provide for participation of Armed Forces personnel in carrying out functions performed on the date of enactment of this Act in the Energy Research and Development Administration and under chapter 641 of title 10, United States Code. Members of the Armed Forces may be detailed for service in the Department by the Secretary concerned (as said term is

defined in section 101 of such title) pursuant to cooperative agreements with the Secretary.

(b) The detail of any personnel to the Department under this section shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy or hold or any emolument, prerequisite, right, privilege, or benefit incident to or arising out of such status, office, rank, or grade, nor shall any member so detailed be charged against any statutory or other limitation on strengths applicable to the Armed Forces or the Department. A member so detailed shall not be 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.

SEC. 612. (a) With their consent, the Secretary and the Federal Energy Regulatory Commission may, with or without reimbursement, use the research, services, equipment, personnel, 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 hereafter vested in him.

(b) The Secretary may, with or without reimbursement, provide research, service, equipment, personnel, and

facilities to any agency or instrumentality of the United States or any State, territory, the Commonwealth of Puerto Rico, the District of Columbia, or political subdivision thereof, or to any foreign government whenever he deems such action to be necessary and appropriate to the performance of functions now or hereafter vested in him.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary or the head of the agency or instrumentality of the United States involved, as the case may be, to pay directly the costs of the services, equipment, personnel, or facilities provided, to repay or make advances to appropriations or funds which do or will initially bear all or a part of such costs, or to refund excess sums when necessary, except that such proceeds may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 619 of this Act, and used under the law governing such fund, if the fund is available for use for providing the services, equipment, personnel, or facilities involved.

SEC. 613. The Secretary is authorized to enter into and perform such 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) as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in the Secretary.

SEC. 614. The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct improve, repair, operate, and maintain laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, such other real and personal property (including patents), or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

SEC. 615. (a) As necessary and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote locations:

(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) reimbursement for food, clothing, medicine, and

other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

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

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and 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.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary to pay directly the cost of such work or services, to repay or make advances to appropriations of funds which will initially bear all or a part of such cost, or to refund excess sums when necessary: *Provided,* That such payments may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 619 of this Act, and used under the law governing such fund, if the fund is available for use by the Department for performing the work or services for which payment is received.

SEC. 616. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(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.

SEC. 617. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

SEC. 618. The Secretary shall cause a seal of office to be made for the Department of such design as he shall approve and judicial notice shall be taken of such seal.

SEC. 619. The Secretary is authorized to establish a working capital fund, to be available without fiscal-year limitation, for expenses necessary for the maintenance and opera-

tion of such common administrative services as he shall find to be desirable in the interests of economy and efficiency. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund in such amounts as may be necessary to provide additional working capital are authorized. The working capital fund shall recover from the appropriations and funds for which services are performed, either in advance or by way of reimbursement, amounts which will approximate the costs incurred, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from the sale or exchange of its property, and receipts in payment for loss or damage to property owned by the fund.

SEC. 620. To the extent necessary or appropriate to perform any function 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 such function was transferred.

SEC. 621. The Secretary shall, as soon as practicable after the end of each fiscal year, commencing with the first complete fiscal year following the effective date of this Act, make a report to the President for submission to the Con-

gress on the activities of the Department during the preceding fiscal year. Such report shall include a statement of the Secretary's goals, priorities, and plans for the Department, together with an assessment of the progress made toward the attainment of those goals, the effective and efficient management of the Department, and progress made in coordination of its functions with other departments and agencies of the Federal Government. In addition, such report shall include the information required by section 15 of the Federal Energy Administration Act of 1974, section 307 of the Energy Reorganization Act of 1974, and section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974, and shall include:

(1) projected energy needs of the United States to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation;

(2) an estimate of the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives;

(3) current and foreseeable trends in the price, quality, management, and utilization of energy resources

and the effects of those trends on the social, environmental, economic, and other requirements of the Nation;

(4) a summary of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, and to encourage conservation practices, and shall include recommendations for developing technologies capable of improving the quality of the environment and increasing efficiency;

(5) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices) employed by Federal, State, and local governments and nongovernmental entities to achieve the purposes of this Act.

SEC. 622. The Secretary, when authorized in an appropriation act, in any fiscal year, may transfer funds from one appropriation to another within the Department, except that no appropriation shall be either increased or decreased pursuant to this section more than 5 per centum of the appropriation for such fiscal year.

SEC. 623. Appropriations to carry out the provisions of this Act shall be subject to annual authorization.

TITLE VII—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

SEC. 701. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are hereby transferred to the Secretary for appropriate allocation.

(b) Positions expressly specified by statute or reorganization plan, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule (5 U.S.C. 5312–5316) on the effective date of this Act shall be subject to the provisions of section 705 of this Act.

SEC. 702. Except as otherwise provided in this Act, the transfer of full-time personnel (except special Govern- positions pursuant to this title shall not cause any such em- ment employees) and part-time personnel holding permanent ployee to be separated or reduced in grade or compensation for one year after the date of enactment of this Act.

SEC. 703. Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department or the Commission to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in the new position.

SEC. 704. Employees transferred to the Department holding reemployment rights acquired under section 28 of the Federal Energy Administration Act of 1974 or any other provision of law or regulation may exercise such rights only within one hundred and twenty days from the effective date of this Act.

SEC. 705. Except as otherwise provided in this Act, whenever all of the functions vested by law in an agency, commission, or other body, or any component thereof, have been terminated or transferred from that agency, commission, or other body, or component by this Act, the agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the preceding sentence, each position and office therein which was expressly authorized

by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313–5316) shall terminate.

SEC. 706. The Director of the Office of Management and Budget, in consultation with the Secretary and the Commission, is authorized and directed to 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 such 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 as he may deem necessary to accomplish the purposes of this Act.

SEC. 707. All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which 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 Department or the Commission after the date of enactment of this Act, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Secretary, the Federal Energy Regulation Commission, or other authorized officials, a court of competent jurisdiction, or by operation of law.

SEC. 708. (a) (1) The provisions of this Act shall not affect any proceedings or any 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 proceedings and applications to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings 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 shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions

and to the same extent that such proceeding could have been discontinued if this Act had not been enacted.

(2) The Secretary and the Commission are authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department or the Commission.

(b) Except as provided in subsection (d)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as this Act had not been enacted.

(c) 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.

(d) 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 such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall

be continued with the Secretary or other official, as the case may be, substituted.

SEC. 709. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

SEC. 710. 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 or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or other official or component of the Department in which this Act vests such functions.

SEC. 711. Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of, or authority available to, the President which he had immediately before the effective date of this Act; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

SEC. 712. (a) The Federal Energy Administration Act of 1974, is hereby amended as follows:

(1) By repealing sections 4 (except subsections (i) and (j)), 7 (except subsections (c), (i) (2) (A), and (k)), 9, 28, and 30;

(2) Section 52(a) is amended by deleting the word "and" in paragraph (2), by deleting the period at the end of paragraph (3), and by adding at the end of the subsection: "; and (4) the States to the extent required by the Natural Gas Act and the Federal Power Act,"; and

(3) Section 55(b) is amended by striking out "Federal Power Commission" and inserting in lieu thereof "Federal Energy Regulatory Commission.".

(b) The Energy Reorganization Act of 1974 is hereby amended by repealing section 108.

(c) The Atomic Energy Act of 1954 is hereby amended as follows:

(1) By repealing section 26; and

(2) By repealing section 161(d) as it relates to functions transferred by this Act.

(d) Section 502 of the Motor Vehicle Information and Cost Savings Act is amended by adding at the end thereof the following:

"(g) The Secretary shall consult with the Secretary of Energy in carrying out his responsibilities under this section.".

(e) The Energy Conservation Standards for New Buildings Act of 1976 is hereby amended as follows:

(1) In section 304 by adding "the Secretary of

Housing and Urban Development" to the list of those with whom consultation is required; and

(2) In section 310 by adding "the Secretary of Housing and Urban Development" to the list of those with whom the Secretary shall act in cooperation.

(f) The Rural Electrification Act of 1936 is hereby amended by adding a new section 16 to title I thereof to read as follows:

"SEC. 16. In order to insure coordination of electric generation and transmission financing under this Act with the national energy policy, the Administrator in making or guaranteeing loans for the construction, operation or enlargement of generating plants or electric transmission lines or systems, shall consider such general criteria consistent with the provisions of this Act as may be published by the Secretary of Energy.".

SEC. 713. Section 19 (d) of title 3, United States Code, is amended by inserting immediately before the period at the end thereof the following: "Secretary of Energy".

SEC. 714. (a) Section 101 of title 5, United States Code is amended by adding at the end thereof the following: "The Department of Energy.".

(b) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(14) Secretary of Energy.".

(c) Paragraph (22) of section 5313 of title 5, United States Code, is amended to read as follows:

"(22) Deputy Secretary of Energy.".

(d) Section 5314 of title 5, United States Code, is amended by deleting "(21) Chairman, Federal Power Commission," and by inserting in lieu thereof "(21) Chairman, Federal Energy Regulatory Commission.", by deleting "(60) Deputy Administrator, Energy Research and Development Administration," and inserting in lieu thereof "(60) Administrator of the Economic Regulatory Administration, Department of Energy.".

(e) Section 5315 of title 5, United States Code, is amended by deleting "(60) Members, Federal Power Commission" and inserting in lieu thereof "(60) Members, Federal Energy Regulatory Commission 4.", by deleting "(102) Assistant Administrators, Energy Research and Development Administration (6).", and by adding at the end of the section the following:

"(114) Assistant Secretaries of Energy (9).

"(115) General Counsel of the Department of Energy.

"(116) Administrator of Energy Information Administration, Department of Energy.

"(117) Inspector General, Department of Energy.

"(118) Additional Officers, Department of Energy (4).".

(f) Section 5316 of title 5, United States Code, is amended by deleting "(8) Administrator, Bonneville Power Administration, Department of the Interior.", by deleting "(135) General Counsel, Energy Research and Development Administration.", by deleting "(136) Additional Officers, Energy Research and Development Administration (8).", and inserting in lieu thereof the following:

"(135) Deputy Inspector General, Department of Energy.

"(136) Additional Officers, Department of Energy (10).".

SEC. 715. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions have been transferred to the Secretary for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

SEC. 716. The transfer of functions under titles III and IV of this Act shall not affect the validity of any draft environmental impact statement published before the effective date of this Act.

SEC. 717. As used in this Act—(1) references to "function" or "functions" shall be deemed to include reference to duty, obligation, power, authority, responsibility,

right, privilege, and activity, or the plural thereof, as the case may be; and (2) references to "perform" when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

TITLE VIII—EFFECTIVE DATE AND INTERIM APPOINTMENTS

SEC. 801. (a) The provisions of this Act shall take effect one hundred and twenty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II and title IV of this Act may be nominated and appointed, as provided in those titles, and (2) the Secretary may promulgate regulations pursuant to section 708(a)(2) of this Act at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), functions of which are transferred to the Secretary or the Commission by this Act, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(b) In the event that one or more officers required by this Act to be appointed by and with the advice and

consent of the Senate shall not have 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 prior to the effective date of the Act, to act in such office until the office is filled as provided in this Act. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

95TH CONGRESS
1ST SESSION

H. R. 6804

A BILL

To establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

By Mr. BROOKS, Mr. FASCELL, Mr. MOORHEAD of Pennsylvania, Mr. ROSENTHAL, Mr. FUQUA, Mr. HARRINGTON, Mr. HORTON, Mr. ERLENBORN, and Mr. PRITCHARD

MAY 2, 1977
Referred to the Committee on Government Operations

X. S. 826. Amendment No. 267 to S. 826. Submitted by Senator Domenici and Senator Schmitt.

95TH CONGRESS
1ST SESSION

S. 826

IN THE SENATE OF THE UNITED STATES

MAY 10 (legislative day, MAY 9), 1977

Referred to the Committee on Governmental Affairs and ordered to be printed

AMENDMENT

Intended to be proposed by Mr. DOMENICI (for himself and Mr. SCHMITT) to S. 826, a bill to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes, viz: On page 2, between lines 7 and 8, insert the following new section:

SEC. 102. Nothing in this Act shall effect the jurisdiction of a State energy commission or any person, agency, or office performing similar functions to any such State energy commission, of any State, territory, or possession of the United States, over its own State energy plan or other areas of State jurisdiction. In the case of conflict between any such State energy commission and the United States with respect to any provision of this Act affecting a State

energy plan of such State the Secretary of the Department of Energy established by title II of this Act shall give due consideration to the needs of such State and, where practicable, shall attempt to resolve such conflict, and where possible avoid such conflicts, through consultations between appropriate State and Federal officials.

Amdt. No. 267

95TH CONGRESS
1ST SESSION

S. 826

AMENDMENT

Intended to be proposed by Mr. DOMENICI (for himself and Mr. SCHMITT) to S. 826, a bill to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

MAY 10 (legislative day, MAY 9), 1977

Referred to the Committee on Governmental Affairs and ordered to be printed