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93d CONGRESS }
2d Session }

SENATE

{ REPORT
No. 93-980

ENERGY REORGANIZATION ACT OF 1974

REPORT

OF THE

COMMITTEE ON GOVERNMENT OPERATIONS
UNITED STATES SENATE

TO ACCOMPANY

S. 2744

TO REORGANIZE AND CONSOLIDATE CERTAIN FUNCTIONS OF THE FEDERAL GOVERNMENT IN A NEW ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AND IN A NEW NUCLEAR SAFETY AND LICENSING COMMISSION IN ORDER TO PROMOTE MORE EFFICIENT MANAGEMENT OF SUCH FUNCTIONS



JUNE 27, 1974.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
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ENERGY REORGANIZATION ACT OF 1974

JUNE 27, 1974.—Ordered to be printed

Mr. RIBICOFF, from the Committee on Government Operations,
submitted the following

REPORT

[To accompany S. 2744]

The Committee on Government Operations, to which was referred the bill (S. 2744), to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a new nuclear regulatory commission in order to promote more efficient management of such functions, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and an amended title and recommends that the bill as amended do pass.

I. SUMMARY AND PURPOSE

"The Energy Reorganization Act of 1974," S. 2744, will consolidate the Federal Government's fragmented and uncoordinated energy research and development functions and, at the same time, upgrade the regulation of nuclear power.

To accomplish the first purpose, the act establishes the Energy Research and Development Administration (ERDA), an independent agency formed from the transfer of the extensive technical staff and national laboratories of the Atomic Energy Commission (AEC), and of certain research and development programs from the Department of Interior and the National Science Foundation. It will be headed by a single Administrator, appointed by the President with the advice and consent of the Senate, who will exercise broad functions to explore and develop all possible sources of energy. The primary mission of ERDA is to develop the energy technologies which are necessary to give the Nation the capability to attain energy self-sufficiency by as early as 1984. There are provisions to safeguard against unwarranted priority being given to any single energy technology. The organization

is structured to include major research and development efforts devoted exclusively to conserving and to ensuring the safety and environmental quality of new energy sources.

To accomplish the second purpose, the act establishes the Nuclear Safety and Licensing Commission (NSLC), an independent regulatory commission which is based upon the Regulatory Division of the AEC but with a revised internal organization to promote well-balanced and closely supervised regulation of the burgeoning nuclear power industry. The Commission will take the AEC's present form of four members and a chairman, but Senate confirmation of NSLC Commissioners is required, as is political balance and technical qualifications among those nominated who are not now serving on the Atomic Energy Commission. The mission of the new Commission is to ensure the safety and the security of the nuclear industry and the weapons-grade and other radioactive materials used to fuel it.¹

The reorganization established by this legislation has the additional purpose of separating the regulatory functions of the AEC from its developmental and promotional functions—a response to growing criticism that there is a basic conflict between the AEC's regulation of the nuclear power industry and its development and promotion of new technology for the industry.

II. BACKGROUND AND HEARINGS *

The proposal for creation of a consolidated, independent Energy Research and Development Administration has evolved from a much more comprehensive set of reorganization proposals made in early 1971. Over the past 3 years, recognition of the importance of creating energy alternatives for the Nation—and of the role of research and development in doing so—has grown rapidly, resulting in the present proposal for consolidation of Federal energy research and development programs into an Energy Research and Development Administration (ERDA).

This evolution, and the growing emphasis on energy research and development needs, has been reflected in the many energy messages by the President in this period, and in the actions of the Congress.

President Nixon's first reorganization proposal included energy management as one component of the sweeping proposals he described in his January 1971 State of the Union Message, in which he urged consolidation of seven major departments into four new ones to be organized around the Nation's "major goals." One of these was to be an expanded Interior Department, renamed the Department of Natural Resources (DNR).

¹ As used here and elsewhere in this report, the terms "weapons-grade" and "potentially explosive" nuclear materials refer to reprocessed plutonium and highly enriched uranium which is suitable for fashioning into atomic bombs. Most commercial reactors now use a low-enriched uranium fuel that is not suitable for manufacture of bombs. They all produce plutonium as a byproduct, however, which after reprocessing is potentially explosive and suitable for bombs. The common use of potentially explosive plutonium in the fuel for nuclear power plants is planned to begin in 1977. At present, there are about 1 million pounds of plutonium and enriched uranium authorized in the licensed sector, about half of it of weapons grade. Plutonium, in addition to its potential explosiveness, is one of the most toxic substances known to man. One thirty-millionth of an ounce, less than a pollen grain, will cause cancer if inhaled or swallowed.

*This section prepared with assistance from Warren H. Donnelly, Senior Specialist, and Susan R. Abbasi, Analyst, Environmental Policy Division, Library of Congress.

On March 25, 1971, the President sent a message to Congress detailing this proposal, accompanied by drafts of four legislative bills to establish the four new departments. This proposal had its origin in the recommendations of the President's Advisory Council on Executive Organization, better known as the Ash Council.

The DNR would have had five administrations, of which one was to have been the Energy and Minerals Resources Administration (EMRA). In his March 25, 1971, message to Congress, the President described the scattered responsibilities in the many subject areas covered in the proposal, and said:

* * * the diffusion of responsibility makes it extremely difficult to launch a coordinated attack on complex problems.¹

We cannot afford to continue in this manner. The challenges in the natural resource field have become too pressing. Some forecasts say that we will double our usage of energy in the next 10 years, of water in the next 18 years, and of metals in the next 22 years. In fact, it is predicted that the United States will use more energy and more critical resources in the remaining years of this century than in all of our history up until now. Government must perform at its very best if it is to help the Nation meet these challenges.²

As justification for the new DNR, the memo noted that energy programs were scattered, with each program concentrated on a single source of energy. There was "no single agency charged with formulating and implementing a unified policy and approach to assure effective energy resources utilization and conservation, and at the same time, to meet future energy requirements. . ." The memo also said: "The grouping together of natural resources programs with broad common purposes and the establishment of a coordinated natural resources management policy through the Department of Natural Resources will eliminate many of these problems, or enable the resolution of them within one department."

Thus, in this early reorganization attempt, energy research and development was included in a far vaster undertaking, and did not play a central role.

On April 1, 1971, the administration's proposal to establish the DNR was introduced as S. 1431. Hearings on the over-all reorganization proposal and on DNR were held by this committee in May, June, and August of that year.

This legislation was not reported to the Senate by the committee and received no further action in the 92d Congress.

In April 1973, a message from President Nixon mentioned for the first time the importance of a comprehensive research and development strategy for both the short- and long-term.

The President's message referred to reorganization as a key to dealing more effectively with energy problems.

If we are to meet the energy challenge, the current fragmented organization of energy-related activities in the executive branch of the Government must be overhauled.³

¹ Papers relating to the President's Departmental Reorganization Program: A reference compilation. U.S. Government Printing Office, Washington, D.C., March 1971, p. 6.

² *Ibid.*, p. 12.

³ *Ibid.*, p. 28.

Several minor organizational changes were mentioned within the Department of the Interior, and the President described his intention to again propose a general reorganization in which the Department of Energy and Natural Resources (DENR) would be established by expanding functions of the Interior Department.

The Energy Research and Development Administration (ERDA) was first proposed on June 29, 1973, as part of a general administration reorganization proposal for energy affairs and natural resources. The President presented another energy message at this time in which he established an advisory unit, the Energy Policy Office (EPO) within the Office of the President. He also proposed the establishment of three entities drawn from the present organizational structure:

The Department of Energy and Natural Resources, which except for its handling of energy was nearly identical to the old DNR proposal, and was to be based on an expanded Interior Department;

An Energy Research and Development Administration based on R. & D. and other operating programs in the Atomic Energy Commission, with most other major non-nuclear energy R. & D. transferred to it from Interior; and

A Nuclear Energy Commission (NEC) which would be headed by five commissioners and which would exercise the licensing and regulatory functions of the AEC.

In this energy message, the President also outlined a \$10 billion, 5-year energy research and development program. Legislative bills S. 2135 and H.R. 9090 were introduced soon afterward to accomplish the proposed reorganization. The differences between the 1971 and 1973 proposals lie almost entirely in the energy area, and center largely on the role of research and development.

In 1971, during hearings by this committee on the DNR, Interior Secretary Rogers C. Morton had this to say about the R. & D. responsibilities of the Energy and Mineral Resources Administration of DNR:

This Administration will have responsibility for a broad range of research and development activities, including those that relate to coal, petroleum, and natural gas, oil shale, nuclear energy, urban refuse, health and safety, metallurgy, mining and underground power transmission, among others. A consolidated approach to these various forms seems absolutely necessary to abate the present crisis, and to provide a planning focus for our future energy needs.⁴

In 1973, this concern for a unified response to energy R. & D. needs had moved to the forefront in reorganization efforts. One of the most important changes which occurred in the 1973 proposal was the integration with one unit—the ERDA—of nuclear and nonnuclear research, which was not the case in the 1971 proposal. The proposed ERDA would also be an independent agency, reporting directly to the President, not through a Secretary.

A significant difference between the two proposals is the relationship between the proposed new units and the Atomic Energy Commission (AEC). In 1971 it was proposed that policy and funding for the AEC

⁴U.S. Congress. Senate. Committee on Government Operations. Establish a Department of Natural Resources. Hearings on S. 1431. U.S. Government Printing Office, Washington, D.C., p. 1079.

R. & D. be transferred to DNR; but the AEC was to be otherwise unchanged, and would retain its operating functions and identity. In contrast, in the 1973 proposals, the AEC would be merged into the proposed ERDA, and would lose its separate identity. Added to this would be transfers to it of most major Federal nonnuclear R. & D., largely from the Interior Department. The licensing and regulatory functions of the AEC would be separated in the 1973 proposal from the R. & D. functions, to form a new nuclear regulatory commission.

These differences result from the evolution in thinking about the importance of energy research and development, the decision to give it a central role, and the effort to make optimum use of the already existing AEC facilities and capacity.

Hearings were held by this committee on S. 2135, the DENR/ERDA/NEC proposal, on July 31, August 1, and September 13, 1973. The following witnesses were heard:

July 31, 1973: Roy L. Ash, Director, Office of Management and Budget; John A. Love, Director of Energy Policy Office, Executive Office of the President; and John C. Whittaker, Under Secretary, Department of the Interior.

August 1, 1973: Dixy Lee Ray, Chairman, Atomic Energy Commission, accompanied by Commissioner Doub and staff; Dr. Robert White, Administrator, National Oceanic and Atmospheric Administration, accompanied by Karl Bakke, Acting General Counsel, Department of Commerce; Charles R. Ford, Chief, Civil Functions, Department of the Army, accompanied by J. Phil Campbell, Under Secretary, Department of Agriculture.

September 13, 1973: Donald B. Craft, vice president, Wyatt Inc., New Haven, Conn., accompanied by Robert E. DeBlois, DeBlois Oil Co., Rhode Island; John A. Kaneb, president, Northeast Petroleum Industry, Inc., Boston, Mass., accompanied by John G. Buckley, vice president; John A. Love, Director, Energy Policy Office, Executive Office of the President; Charles DiBona, Deputy Director.

In the months following the introduction of the DENR/ERDA/NEC legislation, the energy shortage worsened rapidly; the President addressed himself to the energy crisis on many occasions, frequently referring to the importance of energy reorganization. Finally, on November 7, 1973, he requested in a national television address on energy that separate consideration be given to the ERDA/NEC proposal, in order to speed passage by avoiding the controversial aspects of the DENR reorganization. In referring to the need for national energy self-sufficiency, President Nixon said:

We must also have a unified commitment to that goal. We must have unified direction of the effort to accomplish it. Because of the urgent need for an organization that would provide focused leadership for this effort, I am asking the Congress to consider my proposal for an Energy Research and Development Administration separate from any other organizational initiatives, and to enact this legislation in the present session of the Congress.

Thus, in this request, the President linked national self-sufficiency in energy directly to the need for an independent energy R. & D. administration.

Shortly thereafter, S. 2744 and H.R. 11510 were introduced at the request of the administration to provide separate consideration of ERDA and a new nuclear regulatory commission. This committee held hearings on this proposal on December 4, 5, and 10, 1973; February 26 and 27, and March 12 and 13, 1974. The following witnesses were heard:

ERDA WITNESSES

December 4, 1973: Roy L. Ash, Director, Office of Management and Budget; Dr. Dixy Lee Ray, Chairman, AEC; W. O. Doub, Commissioner, AEC; John Sawhill, Associate Director, OMB; Frank Zarb, Assistant Director, OMB; Charles Bingham, Deputy Assistant Director, OMB; Charles A. Robinson, Jr., corporate counsel, National Rural Electric Cooperative Association; Joseph S. Ives, environmental scientist; Bradley Cook, staff engineer, Rural Electric Cooperative Association; Alvin Weinberg, director, Oak Ridge National Laboratory; Professor Peter Auer, Cornell University.

December 5, 1974: S. David Freeman, Ford Foundation, Energy Policy Project (accompanied by Frederick Weinhold); Hon. Marlowe W. Cook, Senator from Kentucky; John W. Simpson, president, Power Systems Co. of Westinghouse; John Partridge, chairman of the board and chief executive officer, Columbia Gas Systems Inc., Wilmington, Del.; Jack H. Bridges, director of National Energy programs, Center for Strategic and International Studies, Georgetown University, consultant to the Joint Committee on Atomic Energy; Carl E. Bagge, president, National Coal Association.

December 10, 1973: James T. Ramey, former Commissioner of AEC; Daniel T. Ford, Union of Concerned Scientists; Marc Messing, Environmental Policy Study; Jeffrey Knight, Friends of the Earth; Charles Bering, Environmental Action.

DENR AND ERDA WITNESSES

February 26, 1974: Roy L. Ash, Director, Office of Management and Budget; William Simon, Deputy Secretary of the Treasury.

February 27, 1974: S. David Freeman, Ford Foundation Energy Policy Project; Joseph Fisher, president, Resources for the Future; Arthur Maass, Professor of Government, Harvard University.

March 12, 1974: Dr. Theodore B. Taylor, president, International Research and Technology Corporation; Dr. Ralph Lapp, nuclear and environmental consultant; Dr. Edward Radford, professor, Johns Hopkins University; Samuel Love, president, Environmental Action; Steven Ebbin, George Washington University program of policy sciences; Harold Green, professor, George Washington University; Anthony Roisman, attorney; George Freeman, attorney.

March 13, 1974: Senator Frank E. Moss, Utah; Donald R. Cotter, Assistant to the Secretary of Defense; E. B. Giller, assistant general manager, AEC, for National Security. AEC Panel: Dr. Dixy Lee Ray, Chairman, Atomic Energy Commission; William A. Anders, Commissioner, AEC; William O. Doub, Com-

missioner, AEC; Dr. Norman C. Rasmussen, AEC Safety Study Consultant; Dr. William R. Stratton, Chairman, Advisory Committee on Reactor Safeguards, AEC; L. Manning Muntzing, Director of Regulation, AEC.

All of the administration witnesses supported the separate consideration of S. 2744. They stressed the need to move without delay in establishing the organizational structure for implementing the President's \$10 billion, 5-year energy research and development program to help meet the energy emergency. They expressed concern that continuing to tie it to the more complex, more controversial DENR proposal could delay the establishment of all three organizations indefinitely.

The committee accepted this course without abandoning the DENR concept. The bill, as reported, contains provisions requiring the President to resubmit a comprehensive energy and natural resources reorganization proposal, and establishing a Cabinet-level Interagency Energy Resources Advisory Committee to help coordinate affected agency activities in the interim.

Other witnesses were generally favorable to S. 2744, although representatives of environmental and citizen intervenor groups expressed deep concerns regarding the possibility of a pro-nuclear bias in ERDA. These groups also stressed the importance of adequate regulatory power in the new nuclear regulatory commission. The committee recalled AEC Chairman Dixy Lee Ray and other AEC representatives on March 13 to respond to these concerns.

The committee amendments to ensure against an unwarranted priority being given to any energy technology in ERDA, and to strengthen safety, safeguards, research and informational access—including technical assistance to intervenors—in the new Nuclear Safety and Licensing Commission (NSLC), were responsive to suggestions made from both sides in this exchange of views.

III. COMMITTEE ACTION

The Subcommittee on Reorganization, Research, and International Organizations marked up S. 2744 in public session on April 9, 1974, and ordered it reported with amendments to the full Government Operations Committee. The vote was 5-0. Those present and voting were: Senators Ribicoff, Javits, Jackson, Percy, and Brock.

The Government Operations Committee marked up S. 2744 in public session on May 29, 1974, and reported it, as amended, to the Senate, accompanied by this report, with a recommendation that it be approved. The roll-call vote was 10 to 0.

Those voting: Senators Muskie, Ribicoff, Metcalf, Chiles, Nunn, Huddleston, Percy, Javits, Ervin, and (proxy) Jackson.

IV. MAJOR DIFFERENCES BETWEEN S. 2744 AS INTRODUCED AND S. 2744 AS REPORTED

ERDA

1. Qualifications for key officers

As introduced: No provision.

As reported: Requires Administrator and Deputy Administrator to be specially qualified to manage a full range of energy R. & D. pro-

grams; Assistant Administrators must be specially qualified to manage the energy technology area to which they are appointed. Administrator may not be appointed within 5 years of release from active military duty as a commissioned officer.

2. Unwarranted energy priority

As introduced: No provision.

As reported: States congressional intent that no energy technology be given an unwarranted priority.

3. Non-nuclear R. & D. policy

As introduced: No provision.

As reported: Makes Administrator responsible for programs authorized under a non-nuclear research and development policy enacted by Congress. In the absence of such a policy, each nondefense Assistant Administrator receives minimum funding of 7 percent of total ERDA funding, excluding funds for defense programs at ERDA.

4. Conservation

As introduced: Established an Assistant Administrator for Environment, Safety and Conservation.

As reported: Establishes a separate Assistant Administrator for Conservation in addition to one for Environment and Safety.

5. Transfer from EPA

As introduced: Required the transfer from EPA to ERDA of functions relating to development of alternative automotive power systems and of technologies for emission controls on stationary sources.

As reported: Strikes the transfer and provides for cooperation between the two agencies to prevent duplication stemming from EPA's regulatory functions and ERDA's development and demonstration functions in these two R. & D. areas.

6. Energy agency coordination

As introduced: No provision.

As reported: Establishes a Cabinet-level Interagency Energy Resources Committee in the Executive Office of the President to assist the Council on Energy Policy to coordinate the operations of ERDA, the Federal Energy Administration, the Department of the Interior and other Federal agencies pending congressional enactment of a long-term reorganization measure involving the principal energy agencies. The President is required to submit his recommendations for such a long-term reorganization by the end of 1975.

7. Energy Policy Council

As introduced: No provision.

As reported: Establishes a permanent three-member Council on Energy Policy in the Executive Office of the President to establish a comprehensive national energy policy, to coordinate all Federal energy activities on a long-range basis, and to submit a comprehensive energy plan, including research and development activities.

NSLC

1. Commission

As introduced: Designated present members of the AEC as members of the new nuclear regulatory commission without the need for Senate confirmation of present AEC commissioners.

As reported: Requires appointment and confirmation of all members of a newly established Nuclear Safety and Licensing Commission, and requires political balance and technical qualifications for NSLC members who are not presently AEC Commissioners.

2. Organization

As introduced: Retained present organization of the AEC regulatory side in which a single Director supervises, and reports to the Commission on, all licensing and other regulatory activities.

As reported: Provides for three coequal Directors, each with direct and independent access to the Commission, and each responsible for separate operations relating to nuclear reactor safety, nuclear materials security and nuclear safety research.

3. Licensing

As introduced: Extended Commission licensing authority to include (1) future demonstration reactors operated by ERDA as part of an electric utility system and (2) future facilities for disposing of commercial high-level radioactive wastes.

As reported: Further extends NSLC licensing authority to cover any ERDA demonstration reactors and any long-term, high-level radioactive waste disposal facilities, except those in existence when the act takes effect.

4. Research

As introduced: Provided for cooperation by ERDA in setting priorities for conducting safety research for the Commission in ERDA facilities.

As reported: Establishes an Office of Nuclear Safety Research in the Commission with its own Director and safety research personnel who are guaranteed access to ERDA research facilities.

5. Safeguards

As introduced: Retained present AEC system in which functions for safeguarding nuclear materials and facilities are dispersed with reactor-safety functions in three separate directorates.

As reported: Establishes a Bureau of Nuclear Materials Security to pull together all safeguards functions under a separate Director who reports directly to the Commission.

6. Technical assistance

As introduced: No provision.

As reported: Requires Commission to provide existing technical reports to any party to a licensing or rulemaking proceeding, including citizen intervenor groups, and to respond to good-faith requests for relevant new studies. Appeal of an adverse ruling can be taken directly to the court of appeals without unduly delaying the Commission proceeding.

7. Notification of defects

As introduced: No provision.

As reported: Establishes civil and criminal penalties for officers and employees of licensed nuclear firms, or of firms supplying basic components to licensed firms or constructing licensed facilities, who fail to notify the Commission of noncompliance with regulations or of any potentially hazardous defect.

8. Reporting abnormal occurrences

As introduced: No provision.

As reported: Requires the Commission to make quarterly reports to Congress on full details of abnormal occurrences at licensed nuclear facilities and to widely disseminate initial information to the public within 5 days of learning of each abnormal occurrence.

9. Annual Report

As introduced: No provision.

As reported: Requires the Commission to file an annual report which includes the relative benefits, costs and risks of commercial nuclear power based on an assessment of safety and safeguards questions.

V. JUSTIFICATION OF ENERGY RESEARCH AND DEVELOPMENT REORGANIZATION

The Nation's oil imports grew by one-third last year, and we must now look to foreign sources of oil to meet 16 percent of our energy needs. This dilemma can be traced to deficiencies and imbalances in Federal efforts to develop alternative sources of energy and to make more efficient use of available resources and supplies.

In the absence of a comprehensive Federal energy research and development organization, research and development efforts in the energy area have lagged behind other government R. & D. A National Science Foundation survey in October 1973, ranked energy 8th out of 14 Federal R. & D. categories in terms of total obligations, placing it behind national security, space, health, transportation and communications, science and technology, natural resources and environment.

By fiscal year 1973, according to figures supplied by the Office of Management and Budget, Federal funding for energy R. & D. had reached \$642 million, reflecting an annual growth rate of 20 percent from the fiscal year 1970 level of \$382 million. But this still represented only 3.8 percent of total Federal R. & D. funding of \$16.8 billion.

The President's fiscal year 1974 budget provided for increases in energy R. & D. funding of another 20 percent, to \$772 million. Supplemental funding, including \$115 million which the President added to his budget request, is expected to bring energy R. & D. funding close to the \$1 billion mark, but this still represents only 5.6 percent of all Federal R. & D. funding of \$18 billion.

For fiscal year 1975, funding for Federal energy R. & D. has been accelerated substantially (see figure 1). The President's request for total energy research obligations is nearly twice that for fiscal year 1974, and the request for nonnuclear energy research is up by a factor of two and one-half. Requested funding for the nuclear fission (civilian) program is \$724 million. This represented a 37 percent increase over fiscal 1974 funding, and will comprise 40 percent of the total fiscal 1975 civilian energy research budget. Nearly two-thirds of the nuclear fission program—or \$473 million—is to be spent on developing the Liquid Metal Fast Breeder Reactor (LMFBR).

FIGURE 1. FEDERAL ENERGY RESEARCH AND DEVELOPMENT PROGRAM

[Millions of dollars]

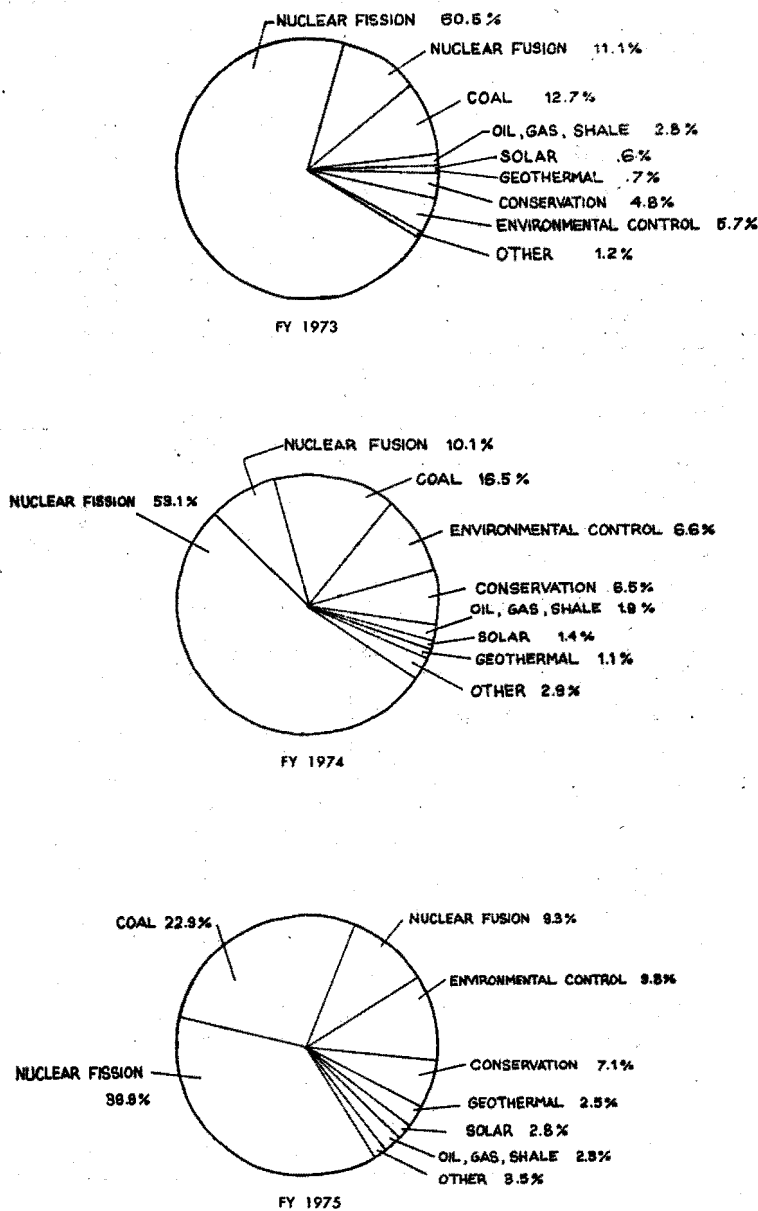
Program area	Program level (obligations): Fiscal year—			Percentage change, fiscal year 1974-75	Estimated total, 1975-79
	1973	1974	1975		
1. Conservation.....	32.2	65.0	128.6		700
(a) End-use (residential and commercial).....		15.0	27.9	+85	
(b) Improved efficiency (transmission).....	2.9	5.0	18.8	+276	
(c) Improved efficiency (conversion).....	6.5	15.9	29.8	+100	
(d) Improved efficiency (storage).....	1.6	2.9	6.4	+121	
(e) Automotive.....	7.4	14.2	23.7	+69	
(f) Other transportation.....	13.8	13.0	22.0	+69	
2. Oil, gas, and shale.....	18.7	19.1	41.8		400
(a) Production.....	.3	3.0	17.0	+467	
(b) Resource assessment.....	4.5	5.0	13.1	+162	
(c) Oil shale.....	3.2	2.3	3.0	+30	
(d) Related programs.....	10.7	8.8	8.7	-1	
3. Coal.....	85.1	164.4	415.5		2,900
(a) Mining.....	1.7	7.5	55.0	+633	
(b) Mining health and safety.....	28.2	27.0	27.7	+10	
(c) Direct combustion.....	1.5	15.9	36.2	+128	
(d) Liquefaction.....	11.0	45.5	108.5	+138	
(e) Gasification (high Btu).....	32.5	33.0	65.3	+98	
(f) Gasification (low Btu).....	4.6	21.3	50.7	+138	
(g) Synthetic fuels pioneer program.....			42.1		
(h) Resource assessment.....	1.0	1.2	1.9	+58	
(i) Other (including common technology).....	4.6	13.0	28.1	+140	
4. Environmental control.....	38.4	65.5	178.5		800
(a) Near-term SO ₂	19.0	39.9	82.0	+174	
(b) Advanced SO ₂		4.0	12.0	+200	
(c) Other fossil fuel pollutants (including NO _x particulates).....	8.8	13.1	57.0	+335	
(d) Thermal pollution.....	.6	1.5	18.5	+1,133	
(e) Automotive emissions.....	10.0	7.0	9.0	+29	
5. Nuclear fission.....	406.5	530.5	724.7		4,000
(a) LMFBR.....	253.7	357.3	473.4	+33	
(b) Other breeders (GCFBR & MSBR).....	5.6	4.0	11.0	+175	
(c) HTGR.....	7.3	13.8	41.0	+197	
(d) LWBR.....	29.5	29.0	21.4	-26	
(e) Reactor safety research.....	38.8	48.6	61.2	+26	
(f) Waste management.....	3.6	6.2	11.5	+85	
(g) Uranium enrichment.....	50.3	57.5	68.0	+15	
(h) Resource assessment.....	2.8	3.4	10.4	+208	
(i) Other (including advanced technology).....	14.9	10.7	28.8	+169	
6. Nuclear fusion.....	74.8	101.1	168.6		1,600
(a) Magnetic confinements.....	39.7	57.0	102.3	+79	
(b) Laser (including military application).....	35.1	44.1	66.3	+50	
7. Other.....	16.5	53.5	157.5		900
(a) Solar.....	4.0	13.8	50.0	+262	
(b) Geothermal.....	4.4	10.9	44.7	+310	
(c) Systems studies.....	7.2	17.3	30.0	+73	
(d) Miscellaneous.....	.9	11.5	32.8	+159	
Total, direct energy R. & D.....	672.2	999.1	1,815.5		11,300
Additional funds for support programs:					
1. Environmental and health effects research.....		169.7	303.4		
2. Basic research and manpower development.....		100.8	183.1		
Total, supporting R. & D.....		270.5	486.5		

Source: OMB.

The series of graphs in figure 2 show that, in the past 3 fiscal years, nuclear energy funding as a percentage of total Federal energy R. & D. funding has decreased from 61 percent to 40 percent. Neverthe-

less, in absolute figures, funding for nuclear (fission) energy research has nearly doubled, growing from \$406 million to \$725 million over this period.

FIGURE 2.—Percentage breakdown of Federal energy research and development levels, fiscal years 1973-75, by program area.



SENATE GOVERNMENT OPERATIONS COMMITTEE
SOURCE: OMB

Apart from funding, the personnel being transferred to the new ERDA will be drawn mostly from the AEC. The charts contained in figures 3 and 4 demonstrate the budgeting and personnel makeup of the new ERDA:

FIGURE 3.—Percentage breakdown of ERDA budget authority by function transferred from other agencies.

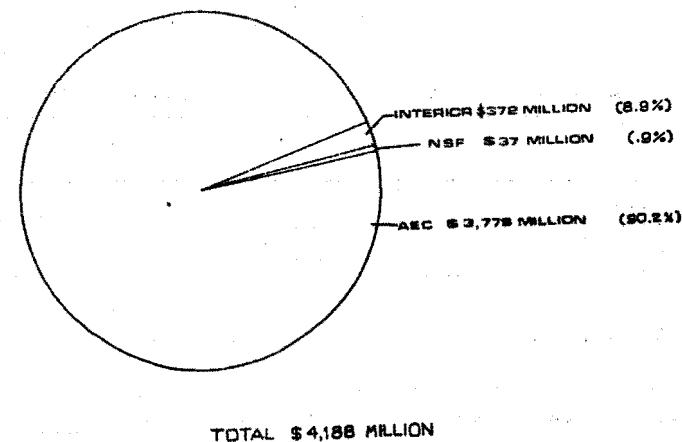
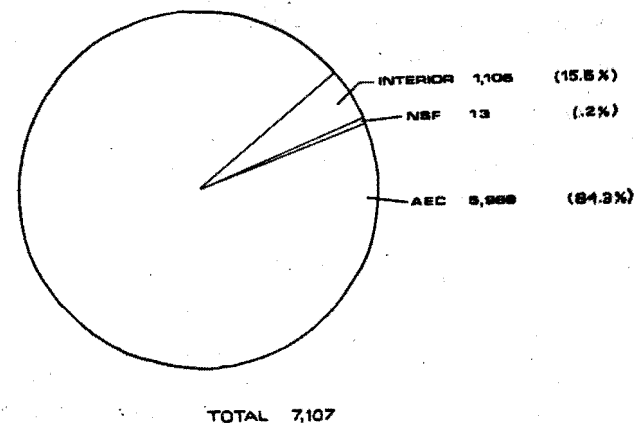


FIGURE 4.—Percentage breakdown of ERDA personnel by functions transferred from other agencies.



SENATE GOVERNMENT OPERATIONS COMMITTEE
SOURCE: OMB

The 5,988 permanent positions being transferred from AEC to ERDA do not reflect the approximately 85,000 additional individuals who now work for the AEC as employees of outside contractors in AEC owned-and-operated laboratories, production and weapons facilities and other installations. These contractor-personnel will, of course, be transferred to ERDA along with the facilities in which they work.

The estimated breakdown of all personnel and budget authority coming under the authority of ERDA is contained in the table in figure 5:

FIGURE 5.—BREAKDOWN OF FISCAL YEAR 1975 RESOURCE LEVELS OF PROGRAMS COMING UNDER ERDA CONTROL

	Budget authority (millions)	Personnel (yearend)
Atomic Energy Commission:¹		
Civilian energy (mostly nuclear programs).....	\$1,453	
Military development and production.....	1,542	
Physical, biomedical and environmental research.....	554	
Program support (all categories).....	230	
		15,988
		85,000
Total, AEC.....	4,779	90,988
Interior:		
Office of Coal Research.....	283	222
Bureau of Mines (6 energy centers).....	81	865
Underground power transmission R. & D.....	8	19
Total, Interior.....	372	1,106
National Science Foundation:²		
Solar energy development.....	25	8
Geothermal energy development.....	12	5
Total, NSF.....	37	13
Grand total.....	4,188	92,107

¹ Breakdown of personnel by each program category was unavailable.

² AEC permanent personnel.

³ AEC outside contractor personnel.

⁴ Includes revenues of \$620,000,000 mostly from uranium enrichment.

⁵ Excludes trust fund.

⁶ Preliminary data subject to change as transition plans are completed.

⁷ Some additional positions will be needed to provide administrative support.

Senate Government Operations Committee.

Source: OMB.

This substantial input of AEC resources and personnel into the new ERDA caused concern in the committee that nuclear energy personnel and nuclear energy funding might dominate the missions and directions of the new agency. To ensure that this will not occur, S. 2744 has been drafted to prohibit any unwarranted bias in favor of a single energy technology, to provide a minimum level of funding for each of the nondefense ERDA Assistant Administrators, to require that the Administrator and Deputy Administrator of ERDA be qualified as energy "generalists," and to place greater relative emphasis on nonnuclear energy, including such clean renewable sources as solar and geothermal energy. However, the committee does not intend to prevent ERDA from placing substantial emphasis on energy technologies that it deems warranted for the purposes of fulfilling its mission.

The committee in no way wishes to derogate the resources or personnel of the Atomic Energy Commission. Current AEC employees represent the greatest concentration of scientific and engineering brainpower in the Federal Government—perhaps in the Nation at large. The committee has no doubt that current AEC employees will faithfully seek to fulfill whatever mission they are assigned in ERDA, whether it be the LMFBR or wind generators. The committee has simply designed ERDA so that its nonnuclear missions are fairly represented and funded along with the nuclear mission of the new agency.

Specifically, the provisions added by the committee to ensure this are:

(1) A statement of congressional intent that there shall be no unwarranted priority given to any energy technology in ERDA. (Section 2.)

(2) Qualifications requiring that the Administrator and Deputy Administrator of ERDA be specially qualified to manage a full range of R. & D. programs; and that the Assistant Administrators, who will actually manage the programs, be specially qualified in the technologies to which they are assigned. (Section 102.)

(3) Establishing a separate Assistant Administrator for Conservation so that energy conservation gets separate attention and is not grouped with Environment and Safety. (Section 102.)

(4) Establishing a Council on Energy Policy, similar to the Council on Environmental Quality, to draw up a national energy policy, including R. & D., and to promote interagency cooperation in energy areas. A Cabinet-level Interagency Energy Resources Committee will assist the Council, and there is also a provision permitting the Administrator to draw upon energy R. & D. capabilities of other agencies, such as NASA, NSF, the Department of Commerce, and the Department of Transportation which are not transferred to ERDA. (Section 102.)

(5) Making the Administrator responsible for carrying out programs authorized under a nonnuclear energy R. & D. policy enacted by Congress (section 103), and requiring that each non-defense Assistant Administrator will receive at least 7 percent of total civilian energy R. & D. funding in the absence of such a policy (section 304). S. 1283, the "National Energy Research and Development Policy Act," prescribes a nonnuclear R. & D. policy. It has passed the Senate and may soon reach the floor of the House.

ORGANIZATION

The net effect of these committee provisions is to help ensure that the ERDA organization will be a balanced structure allowing for resourceful and enterprising program management to explore all promising energy source, conversion, utilization and conservation technologies.

The Administrator and Deputy Administrator will be appointed by the President with the advice and consent of the Senate and be principally concerned with setting R. & D. policy, external agency

relationships and overall direction of the agency. There will also be a General Counsel appointed by the Administrator.

The proposed agency line organization is a balanced structure of six Assistant Administrators, each being responsible for a major program area, as follows:

- Fossil Energy;
- Nuclear Energy;
- Solar, Geothermal and Advanced Energy Systems;
- Environment and Safety;
- Conservation; and
- Defense Programs.

The Assistant Administrators will be appointed by the President and confirmed by the Senate.

There is an additional pool of not more than eight management positions at Executive Level V. Officials in these positions will be appointed by and serve at the pleasure of and be removable by the Administrator and will serve as heads of major staff offices, a deputy assistant administrator or other assignments.

MISSIONS

The three Assistant Administrators for fossil, nuclear and advanced energy systems will plan and execute programs designed to develop technology by energy source. The objective will be to exploit major existing sources of energy and to explore new and advanced ways of producing energy, including consideration of, and research on, closely associated environmental, economic, safety, and conservation factors.

The committee firmly believes that one advantage of organizing on the basis of energy sources is that it provides within an agency a means for assuring balance and meaningful priority setting among the competing energy technologies.

For example, significant emphasis will be placed on fossil fuels; e.g., coal gasification, liquefaction, and clean combustion systems devices, etc., since this area appears to be promising, based on current resource reserves and research technologies.

At the same time, continued emphasis will be placed on nuclear energy development, including present programs to develop and demonstrate the commercial feasibility of breeder reactors. The breeder generates more plutonium than is consumed in the process and this improves the efficient use of a valuable energy resource but it also poses a substantial danger if any plutonium, after reprocessing, is stolen and fashioned into bombs.

Thus the Administrator will have to weigh the benefits and risks of the demonstration LMFBR now under construction against those of rival energy technologies and then determine priorities accordingly. The Administrator will work in coordination with the NSLC, which has licensing authority over the breeder reactor, in assessing these benefits and risks.

A major long term program on Controlled Thermonuclear Reactors (fusion) will be continued because of its tremendous clean energy potential.

A major activity will also involve operation of the extensive government-owned uranium enrichment program to provide the domestic and much of the free world's supply of nuclear fuels. The program to encourage the private sector in this area will continue to be emphasized. A high level of attention will be devoted to safety considerations in all nuclear activities including the basic safeguards question of whether the risk of transporting large quantities of these potentially explosive nuclear materials throughout the United States and the world outweighs the benefit they provide as a fuel.

Advanced energy technologies will aim at utilizing energy source and utilization technologies such as geothermal, solar, winds, tides, advanced power cycles, as well as providing a framework for exploring new concepts and ideas that evolve over time. A number of these have significant potential if economical and safe technologies can be developed. This area will also conduct basic physical research in energy related areas.

Environmental protection and safety activities are encompassed within each of the major energy R. & D. functions, and each of the Assistant Administrators will have responsibilities in these areas. However, because of the overriding importance of these aspects of energy use, a separate Assistant Administrator is provided to undertake R. & D. on environmental and biomedical effects associated with various energy systems and energy waste management. The Assistant Administrator for Environment and Safety will also have oversight responsibilities on behalf of the Administrator to assure that appropriate environmental and safety R. & D. and related considerations are addressed broadly and comprehensively.

Conservation R. & D. efforts will be carried out by a separate Assistant Administrator and will include conducting general research concerned with slowing the rate of growth in demand. Each major program area will also be charged with assuring that the energy systems developed meet requisite environmental, safety, and conservation standards.

The remaining major organization area, Defense Programs, will have responsibility for performing most of the AEC's military applications and some of reactor materials production programs. These functions will be carried out by ERDA under the same conditions of security and in much the same manner as is now the case in the AEC. The ERDA Administrator, in conjunction with the Secretary of Defense, will conduct a 1-year study and recommend as to whether these programs should be transferred to DOD.

ERDA's top management will review the alternative concepts and set program priorities among alternative technologies. The line Assistant Administrators will sponsor their technologies in this process. The ERDA Administrator and Deputy Administrator will be supported by a strong and independent analytic staff to provide assessments on developing technologies. ERDA R. & D. decisions will form an important input to the administration in setting priorities and developing energy strategies.

To facilitate this process of frequent and easy communication between the top level and line operations, the intermediary position of

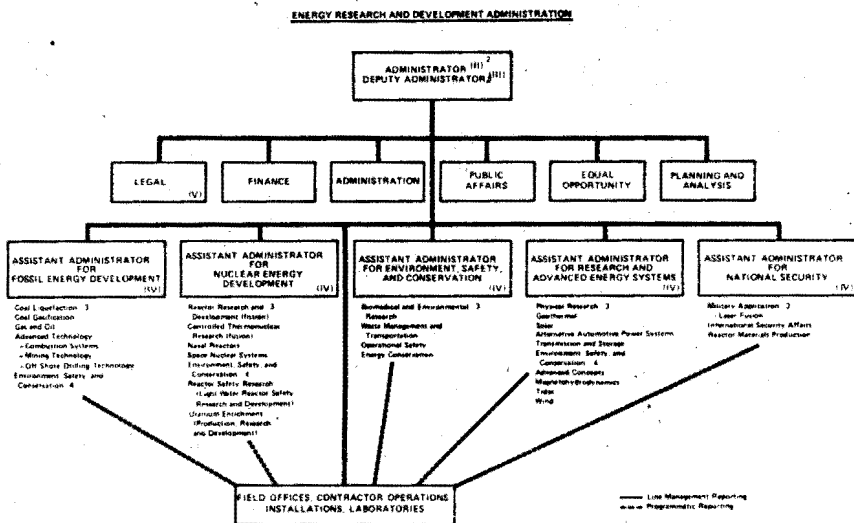
AEC General Manager has been eliminated from the ERDA Administration. Similarly, the committee eliminated from the NSLC the intermediary position of AEC Director of Regulation, who supervises regulatory activities on behalf on the Commission. The new NSLC will devote full time to regulatory activities, and there should be direct communications between the Commission and its line operations.

A great deal of flexibility is provided to the Administrator in carrying out the programs. ERDA will use transferred AEC and Bureau of Mines labs, as well as outside contractors, universities, and private research institutions to carry out the elements of the programs in achieving objectives.

The ERDA approach to developing safe, efficient energy sources will involve the energy industry to the maximum extent possible and will supplement existing and planned R. & D. by private industry. Once technology has been developed to assess its feasibility, industry will be encouraged to take the lead in further development and in applying it on a commercial scale. Therefore, ERDA's strategy should be to encourage independent energy R. & D. by working closely with industry in the development of technology to facilitate a rapid, smooth transfer. In this regard, jointly funded Federal and private projects should be encouraged.

Figure 6 is an organization chart of ERDA with the committee's changes noted.

FIGURE 6.



¹The General Advisory Committee, Military Liaison Committee and the Patent Commission Board of the AEC are proposed for transfer to the ERDA.
²Personnel numbers indicate Executive Level of position.
³Reserved area of activity.
⁴Integral to development of energy technologies. Not duplicate of the Assistant Administrator for Environment, Safety and Conservation.

NOVEMBER 1973

COMMITTEE CHANGES:

1. Additional Assistant Administrator for Conservation.
2. Redesignated Assistant Administrator for Environment and Safety.
3. Redesignated Assistant Administrator for Solar, Geothermal and Advanced Energy Systems.
4. Redesignated Assistant Administrator for Defense Programs.

VI. JUSTIFICATION OF NUCLEAR REGULATORY REORGANIZATION

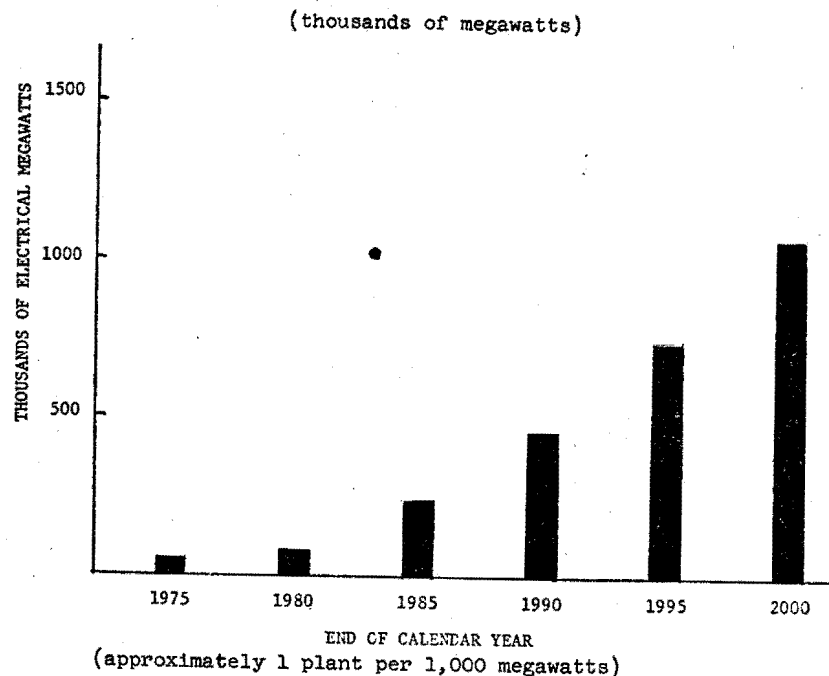
The Nuclear Safety and Licensing Commission is established in title II as a new independent regulatory agency. The Commission will have solely regulatory responsibilities, in keeping with a basic purpose of this act to separate the regulatory functions of the Atomic Energy Commission from its developmental and promotional functions, which are transferred to ERDA.

Title II, as reported by the committee contains several new provisions that will enable the new Nuclear Safety and Licensing Commission to operate effectively in licensing, inspecting, and securing the burgeoning nuclear power industry.

Meeting that challenge will be no easy task for the new independent regulatory commission. Current projections of industry growth are for the current 43 reactors producing 6 percent of the Nation's electricity to proliferate into 1,000 reactors generating 60 percent of our electricity by the year 2000. During that period, our investment in licensed nuclear powerplants will have grown from \$20 billion to \$1 trillion.

The chart in figure 7 shows the AEC's projection of installed nuclear capacity in thousands of megawatts between 1975 and 2000. (The unit of 1,000 megawatts is approximately equivalent to one nuclear powerplant, according to present AEC projections.)

FIGURE 7.—Projected growth of installed electrical capacity of nuclear power plants, 1975-2000.



Source: Atomic Energy Commission

Furthermore, plutonium to fuel the reactors will be generated by the reactors themselves at a rate of 600,000 pounds annually in the year 2000 for the United States—and 2.2 million pounds a year for the world at large. This presents security problems of enormous scope, because it is conceded by the AEC that 44 pounds of plutonium in the hands of skilled terrorists could result in an atomic bomb that poses a “credible threat”. There was testimony that only half that amount is needed for fashioning such a bomb.

Thus, the task awaiting the new Nuclear Safety and Licensing Commission is considerable. It will require strong, effective regulation to keep pace with the industry, and to ensure its safe development. Already the number of licenses issued for nuclear reactors is doubling every 2 or 3 years.

Unfortunately, the present Regulatory Division of the AEC, from which nearly all of the new Commission's personnel and functions are drawn, has been weak and undernourished in relation to the vast resources of the development side of the AEC. The table in figure 8 shows, for example, that AEC funding for regulating the nuclear power industry has grown steadily since 1969, but remains a small percentage of the AEC funding for developing the industry.

FIGURE 8.—AEC BUDGET AUTHORITY FOR REGULATION AND DEVELOPMENT OF THE NUCLEAR POWER INDUSTRY COMPARED WITH GROWTH OF THE INDUSTRY, FISCAL YEARS 1969-75

[Dollars in millions]

Fiscal year	AEC civilian reactor development and regulation combined	AEC regulation only	Percent	Number of nuclear powerplants ¹	Estimated investment in plants ¹
1969	\$239	\$9	3.8	104	\$52,000
1970	229	12	5.2	114	57,000
1971	232	16	6.9	140	70,000
1972	287	27	9.4	177	88,500
1973	335	45	13.4	194	116,400
1974	386	54	14.0	247	148,200
1975 (proposed)	506	68	13.4	297	178,200

¹ Includes plants licensed to operate, under construction, under construction-permit review, on order and publicly announced.

Senate Government Operations Committee.
Source: OMB.

There are presently 1,400 personnel in the Regulatory Division compared with 7,439 in the AEC overall. The Regulatory Division has one laboratory in New Brunswick, N.J., valued at \$4.7 million; total AEC owned and operated technical facilities are valued at \$9.7 billion.

The budget request for fiscal year 1975 would increase regulatory personnel to 1,745 out of 7,883 total AEC permanent personnel.

Under the reorganization, according to information supplied the committee by the Office of Management and Budget, regulatory personnel in NSLC will increase to 1,923, and the operating budget will increase to \$125.4 million in fiscal year 1975. The biggest dollar increases are in the reactor safety and safety research areas, as the chart in figure 9 indicates. The number of research personnel to be transferred to NSLC has not yet been determined by OMB.

FIGURE 9.—STAFFING AND FUNDING OF PRESENT AEC REGULATORY DIVISION AND PROPOSED NUCLEAR SAFETY AND LICENSING COMMISSION COMPARED, FISCAL YEARS 1974 AND 1975

	AEC regulatory operating budget, fiscal year 1974		Anticipated NSLC operating budget, fiscal year 1975	
	Staffing	Millions	Staffing	Millions
Reactor safety:				
Safety	894	\$40.9	1,146	\$50.8
Environment	118	7.6	157	9.9
Antitrust	42	1.6	46	1.9
Safeguards protection	99	4.3	114	5.2
Safety research	NA	NA	(¹)	53.0
Commission and management support	2247	(²)	446	(²)
Additional funding for personnel transferred to NSLC from ERDA				4.6
Total, operating costs	1,400	54.4	1,923	125.4
Goods and services on order		10.0		10.0
Capital equipment budget (obligations)		3.4		5.0
Total, obligations		67.8		140.4

¹ Not yet determined.

² Does not include the Commission and its Secretariat which were in the overall AEC budget.

³ Prorated to other areas.

⁴ Some additional positions will be needed to provide administrative support.

Note: Major facility safeguards: New Brunswick Laboratory.

Source: Office of Management and Budget.

The committee amendments to title II are designed to guarantee that the new Commission will have the strength and autonomy to carry out its awesome safety, health and environmental responsibilities—given its limited resources in relation to the size of the nuclear industry and of the nuclear-development component of ERDA.

LICENSING AND SAFETY INFORMATION

The licensing authority is extended to cover certain ERDA demonstration reactors and high-level radioactive waste storage facilities when their purpose will lead to commercial, as distinguished from R. & D., use. This will permit NSLC earlier access to, and greater expertise in, new nuclear technology than is now possible for the AEC Regulatory Division. This should serve to speed up the eventual licensing of those facilities. NSLC personnel are guaranteed access to ERDA information and facilities, as necessary, to carry out its licensing function.

Citizen groups intervening in nuclear licensing and rulemaking cases are given substantially increased access to safety and other technical information under provisions of section 206 requiring the Commission to comply with good-faith requests for relevant studies. The Commission will provide existing studies or undertake new ones, as necessary. An expedited process for appealing adverse rulings by the Commission on requests for studies will prevent delays in the licensing process.

Closer monitoring of the nuclear power industry will be facilitated by provisions of section 205 requiring the nuclear industry, its components suppliers, and all employees to make prompt reports to the Commission of defects and of noncompliance with the Atomic Energy

Act. Similarly, the Commission is required by section 207 to make prompt reports to the public and to Congress of all abnormal occurrences in licensed facilities. It is also required by section 306 to file an annual report giving an assessment of relative benefits, costs and risks of commercial nuclear power based on the previous year's experience in dealing with specific safety and safeguards problems.

ORGANIZATION

A new regulatory organization for the Commission has been designed by the committee to help it effectively perform its functions in all categories.

As reported by the committee, NSLC will have a bipartisan, technically qualified Commission, which will directly supervise a balanced three-part regulatory organization. The high-level position of Director of Regulation is eliminated, thereby allowing the heads of the three key programs—safety, safeguards and research—direct access to the Commission and a freer interplay of regulatory proposals and priorities at the Commission level than is now possible in the present system. Each Director is appointed by and serves at the pleasure of the Commission.

It is the intent of the committee that an Office of Administration, which now assists of the Director of Regulation, would be attached to the Chairman of the Commission.

The committee intends that the Chairman of the NSLC will see to the faithful execution of the Commission's policies and decisions and will coordinate and supervise the tripartite regulatory organization accordingly.

This system parallels the balanced organization provided for ERDA in which six coequal Assistant Administrators, who run the R. & D. programs, will report directly to the Administrator. The high-level position of AEC General Manager is likewise eliminated to permit free access to the Administrator.

Under the original bill, title II would have simply renamed the AEC the Nuclear Energy Commission, and retained the Regulatory Division intact, without modification. This would have perpetuated the present system in which a Director of Regulation supervises three directorates—for regulations, licensing and inspection—thereby exercising nearly all the regulatory functions of the Commission. This system has its purpose in the present AEC, where the Commissioners exercise developmental responsibilities of a magnitude in terms of dollars, manpower and physical resources that outweigh the regulatory operations and facilities many times over. Therefore, the Director of Regulation is needed to supervise the day-to-day regulatory responsibilities, while the Commission devotes the time needed to develop new industrial technology that is one of the modern wonders of engineering.

Title II, as reported, establishes a new Nuclear Safety and Licensing Commission to replace the AEC, which is abolished in title I, as reported. The new name is intended by the committee to clearly reflect the new mission of the Commission. Because of this new mission, the committee required Senate confirmation of all appointees to NSLC, including present AEC Commissioners. Consistent with other Federal regulatory agencies, the new Commission is also re-

quired to be bipartisan. Expertise in three technical areas—reactor safety technology, health science, and environmental science—should be represented on the Commission. Present Commissioners, however, are exempted from the political and technical qualifications for the balance of their present terms if appointed by the President to NSLC.

With only licensing and related regulatory responsibilities, the new Commissioners will now be in a position to devote full time to the activities which are presently supervised by the Director of Regulation.

REACTOR SAFETY

Accordingly, the committee version of the bill upgrades the Director of Regulation from a level V to a level IV on the Executive Schedule and changes his title to Director of Nuclear Reactor Safety. In this way the former top regulatory position is assigned to the new Commission's largest and most challenging line responsibility: licensing and otherwise ensuring the safe regulation of nuclear power reactors. This includes two of the key areas in nuclear power: the performance of the Emergency Core Cooling System (ECCS) in the current generation of Light Water Reactors (LWR) and the development of the next generation of reactor, the Liquid Metal Fast Breeder (LMFBR).

At the same time, two other Directors are established coequal to the Director of Nuclear Reactor Safety to supervise the two other major regulatory functions of the Commission—safeguards and safety research.

SAFEGUARDS

One Director will head the new Bureau of Nuclear Materials Security, responsible for safeguarding against sabotage and theft, the commercial facilities and the potentially explosive nuclear materials that will come into common use in the nuclear fuel cycle. Even though most of the licensed reactors today use a uranium fuel that is not sufficiently enriched for bombs, a recent internal AEC study found the present system of safeguarding the relatively small quantities of explosive radioactive materials in the private sector to be "entirely inadequate" to prevent theft and subsequent manufacture into terrorists' bombs. A reason given was that safeguards in the Regulatory Division was not getting the same priority attention as reactor safety.

Accordingly, the committee established a separate, coequal safeguards Bureau to draw together and coordinate all safeguards personnel who are now combined with safety, environmental and antitrust personnel and scattered among the existing three regulatory directorates.

The upgrading of the safeguards function is essential if the NSLC is to keep pace with the growth of the nuclear power industry and of the quantities of potentially explosive radioactive materials it will generate in the fuel cycle. The gravity and immediateness of the problem was reflected in the testimony of General E. B. Giller, head of the AEC's weapons programs, when he told the committee:

While plutonium is produced as a result of power reactor operation, plutonium in significant quantities will not routinely be part of the commercial fuel cycles until 1980. Some-

time after that, the amount of plutonium in the private sector will exceed that in the Government sector, including weapons.

Among his responsibilities, the Director of Nuclear Materials Security will undertake a study to determine the desirability and feasibility of establishing a security force in the Bureau to take over some or all of the safeguards functions in the nuclear industry. His recommendations will be forwarded within a year to the Commission and to Congress.

SAFETY RESEARCH

The third Director will head the Office of Nuclear Safety Research, with its own research personnel, to assess the safety and the security of the nuclear power industry. This will, for the first time, give the Federal regulators of the nuclear power industry an in-house research capability that is independent of the Federal policies and programs which promote the development of the industry.

The present safety research personnel are managers who will be transferred from the Office of Reactor Safety Research on the management side of AEC. All of the research managed by this office is performed by outside contractors—mostly in AEC owned-and-operated facilities—for the regulatory side of the AEC.

The act provides for the transfer to the new Commission of all AEC research personnel whose primary responsibilities are related to the safety of reactors subject to licensing and other regulatory controls. The act excludes only those safety research personnel who the Office of Management and Budget determines are needed for new reactor development programs will be transferred to ERDA.

Therefore, the committee expects OMB to transfer the vast majority of the present 54 safety research personnel in the Office of Reactor Safety Research to NSLC. ERDA can continue to utilize its own safety research personnel for reactor development purposes—including safety research on the development of the LMFBR—as needed, presumably through the Office of Reactor Research and Development, which now conducts such research and is transferred to ERDA by this act.

Under the original bill, NSLC would have been limited to using ERDA personnel or outside contractors for engaging in regulatory safety research—largely similar to the present practice. The committee feels that to complete the separation of nuclear regulation from development, it is essential that NSLC have its own research capability and staff of safety research managers with full access to appropriate ERDA laboratories—and not be limited to evaluating ERDA and other outside safety research, as originally proposed.

The committee also added nine unspecified officers to be compensated at level V of the Executive Schedule, who will serve under the Directors to head various regulatory directorates and fill other key policy positions. The individuals in these executive level positions will be appointed and be removable by the Commission.

The revised organization is intended to give balance to the new Commission so that no one regulatory area is stressed to the detriment of another. The Commission is in a position to weigh priorities and make decisions accordingly. In particular, safety and safeguards are

given equal recognition within the organization. This is an expression of the committee's judgment that they are of equal importance in terms of public health and safety and of the future of the nuclear power industry. A serious mishap in either area could be catastrophic for both the Nation and the industry.

The organization charts in figures 10A and 10B show NEC, as proposed, and NSLC, as reported by the committee.

FIGURE 10A

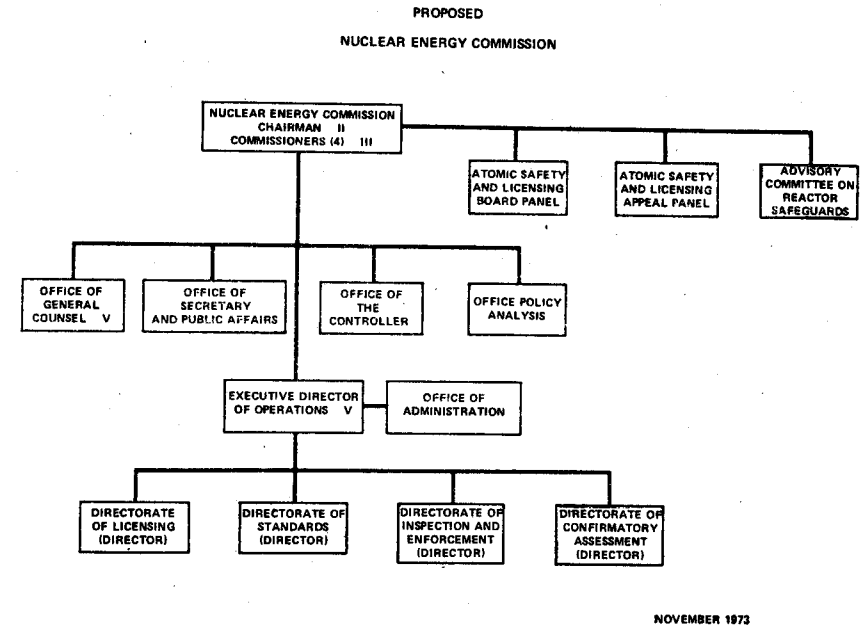
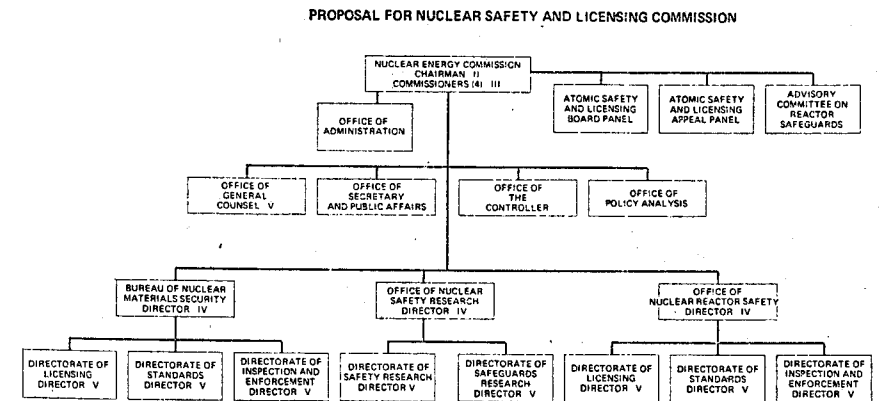


FIGURE 10B



VII. ESTIMATED COSTS

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510), the committee estimates that the costs of implementation of S. 2744 would be as follows:

1st year-----	\$4,000,000
2d year-----	4,000,000
3d year-----	4,000,000
4th year-----	4,000,000
5th year-----	4,000,000

On the basis of estimates submitted by OMB, the committee expects that the net additional yearly cost of establishing ERDA and NSLC will, after some offsetting savings gained through administrative efficiencies and other adjustments, amount to approximately \$4 million. We would expect this to be the case for each of the following five fiscal years.

The committee believes that this net increase is fully justified since most of that amount will be used for enhancing the NSLC's technical capability for carrying out critical nuclear health and safety-related research as a necessary adjunct to the NSLC's licensing and other regulatory activities.

VIII. SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

Section 1 states that this act may be cited as the "Energy Reorganization Act of 1974."

Section 2. Declaration of Purpose

Section 2 is concerned with declarations and findings.

Subsection (a) sets forth a congressional declaration that the general welfare and the common defense and security require effective action to develop all energy sources and increase the efficiency and reliability of energy use. The purposes to be served are (1) meeting the needs of future generations, (2) increasing the productivity of the national economy and its international trade position, (3) making the Nation self-sufficient in energy, (4) restoring, protecting, and enhancing environmental quality, and (5) assuring public health and safety.

Subsection (b) states a congressional finding that, to best achieve the objectives of this act, it is necessary to establish an Energy Research and Development Administration (ERDA) to bring together and direct Federal activities relating to research and development on the various sources of energy, to increase the efficiency and reliability of use of energy, and to carry out the performance of other functions, including the Atomic Energy Commission's (AEC) military and production activities.

There is a proviso expressing congressional intent that in establishing ERDA to achieve these objectives, no energy technology should be given an unwarranted priority. Priority, as the committee understands it, could take the form of policy, direction, personnel, funding or some combination of these elements. This proviso is intended to be responsive to concerns that ERDA—because the vast majority of its

personnel, facilities and funding are derived from the AEC—may give an unwarranted priority to development of nuclear power to the detriment of competing energy technologies. The committee acknowledges this as a legitimate concern and adds this proviso to supplement organizational safeguards provided elsewhere in the act to prevent a pronuclear bias in ERDA.

In determining whether a priority is warranted, the committee expects that such factors as renewability of resources, safety, reliability, and environmental impact would weigh heavily in arriving at a determination.

Subsection (c) sets forth a congressional declaration and finding that it is in the public interest that the licensing and related regulatory functions of the Atomic Energy Commission be separated from the performance of other functions of the Commission, which are transferred by this act to the Energy Research and Development Administration. The Congress finds it is in the public interest that this separation of functions be effected in an orderly manner assuring adequacy of technical and other resources for their performance by each segment.

It is the intention of the committee that the establishment of the Nuclear Safety and Licensing Commission, as an independent regulatory agency, pursuant to title II of the act, will carry out the declared purpose of separating, in an orderly manner, the regulatory from the developmental functions of the AEC. Several organizational reforms added by the committee for the new Commission are designed to carry out the declared purpose of assuring adequacy of technical and other resources—particularly the establishment of an office of Nuclear Safety Research with a full complement of research personnel, as provided in sections 201(h)(2) and 203 of the act.

Subsection (d) declares the policy of Congress that small business concerns be given an opportunity to participate, insofar as is possible, in a fair and equitable proportion of grants, contracts, purchases and other Federal activities relating to research, development and demonstration of sources of energy, efficiency and utilization of energy, and conservation of energy.

The committee recognizes that no precise proportion of such Federal activities can be set for small business participation. However, it is intended that a clear policy be established to assure small business fair treatment with regard to participation in Federal activities relating to this Nation's drive to develop and utilize energy.

There are some 8.5 million small business concerns which account for an estimated 50 percent of the Nation's employment and nearly 40 percent of the gross national product. Their value to the free competitive enterprise system has been recognized previously by the Congress in the Small Business Act of 1953, as amended, 15 U.S.C. 631 et seq. The committee is especially aware of the value of such small enterprises in creating and pioneering the development of innovations which have brought new techniques and lower costs to American industry in the past and that such small businesses hold promise of doing so in the future in the vital national activities relating to research development and utilization of energy.

TITLE I—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Section 101. Establishment

Section 101 establishes the Energy Research and Development Administration as an independent executive agency.

Section 102. Officers

Section 102 prescribes the top officer positions.

Subsection (a) provides that the Administration will be headed by an Administrator appointed from civilian life by the President by and with the advice and consent of the Senate, to be compensated at the level II rate of the Executive Schedule. No individual can be appointed Administrator within 5 years after release from active duty as a commissioned officer in the armed services. He will be responsible for the efficient and coordinated management of the Administration.

The requirement that a civilian be appointed Administrator was added by the committee to ensure civilian control of ERDA. It is patterned after a provision of the National Defense Act (10 U.S.C. 131) requiring that the Secretary and Deputy Defense Secretary be civilians and that they be released from active duty as commissioned officers for at least 10 years. The shorter period presented for the ERDA Administrator was deemed consistent with his specialized research and development functions.

Subsection (b) provides for a Deputy Administrator to be appointed by the President with Senate confirmation, and to be compensated at level III of the Executive Schedule. He will have special responsibility on behalf of the Administrator for international cooperation in all energy and related environmental research and development.

The committee believes that there is an important opportunity for real burden-sharing in energy research and development with other developed countries, especially Japan and the countries of Western Europe. Accordingly, the committee added language making the encouragement of international cooperation in energy and related environmental research and development an explicit function of the Administrator (section 103(a)(8)) and vesting special responsibility for this function in the Deputy Administrator, subject to the authority of the Administrator. Further discussion is included in the analysis of section 103(a)(8).

Subsection (c) requires the President to appoint the Administrator and Deputy Administrator from among individuals whose training and experience makes them specially qualified to manage a full range of energy research and development programs.

By adding this provision, the committee seeks to help ensure that there is no unwarranted bias in favor of any single energy technology at the highest administrative and policymaking levels of ERDA. It is the intention of the committee that, to the fullest extent practicable, the President shall appoint capable managers to the two top ERDA posts whose backgrounds are not identified with a single energy technology. For example, a person whose background in major part is limited to nuclear power technology, would not qualify.

Every effort should be made by the President to find energy R. & D. generalists for these positions. It is absolutely essential that the Ad-

ministrator and his Deputy take an open-minded approach to running, in the national interest, a program of competing energy technologies, some of which, like solar and geothermal, are still in their infancy and require special attention to fully explore their reputed potential as limitless, clean energy sources.

This provision, together with the requirement of specialized qualifications for ERDA Assistant Administrators (section 102(d)), is intended to give the new agency the necessary balance between specialized, resourceful R. & D. programs and a general, fair ordering of R. & D. priorities based on the results of these programs.

Subsection (d) provides for appointment by the President, with Senate confirmation, of six Assistant Administrators responsible respectively for (1) fossil energy, (2) nuclear energy, (3) environment and safety, (4) conservation, (5) solar, geothermal and advanced energy systems, and (6) defense programs. These appointees will be compensated at level IV of the Executive Schedule. The President is required to appoint individuals whose training and experience specially qualify them to manage the energy technology area to which each is assigned.

As stated in the analysis of section 102(c) above, the specialized qualifications for appointment of the Assistant Administrators, in conjunction with the generalist qualifications for the appointment of the Administrator and Deputy Administrator, are intended to give needed balance to the R. & D. mission of ERDA.

The committee added an additional Assistant Administrator for Conservation by splitting off the conservation functions from an original Assistant Administrator for Environment, Safety, and Conservation. The committee believes that energy conservation is a vital, separate element in the Nation's search to achieve self-sufficiency; also, that it is not necessarily linked to environmental and safety programs. This conclusion was reinforced by the President's current energy R. & D. proposal providing separate funding of energy conservation programs for fiscal year 1975 at \$128.6 million, an 85 percent increase over fiscal year 1974, and 7 percent of total funding for energy R. & D. programs of \$1.82 billion. These conservation R. & D. programs would include promoting a full spectrum of energy efficiency in residences, commercial establishments, automobiles and other modes of transportation and in the transmission, conversion and storage of energy.

The committee intends that the Assistant Administrator for Conservation will be responsible for managing programs designed to promote energy efficiencies in all energy areas and with respect to existing as well as potential new technologies. The committee recognizes that each Assistant Administrator in charge of an energy technology area will be responsible for assuring that his programs result in maximum conservation of energy. At the same time, it is essential that the Administrator can turn to the Assistant Administrator for Conservation to evaluate these various conservation efforts and to conduct independent R. & D. programs, as the Administrator deems necessary, to promote energy efficiencies in all areas.

Similarly, the committee recognizes that each Assistant Administrator will be responsible to assure that their programs are environmentally sound and will not impact adversely on public health and

safety. It is important, however, that the Administrator has an objective source of expertise in environmental, health and safety matters to assist him in overseeing the full range of ERDA programs. It is the intent of this committee that the Assistant Administrator for Environment and Safety should provide this independent expertise and program assessment capability to the Administrator.

The committee intends that some health, public safety, environmental, and control technology R. & D. be undertaken by the Assistant Administrator for Environment and Safety. He should have more than just a coordination role which allows funds to flow to the other Assistant Administrators.

The committee also intends that the Assistant Administrator for Environment and Safety should have an inspection and audit function which reaches throughout ERDA to ensure the establishment and enforcement of appropriate health, public safety and environmental protection standards for all activities of the agency. Such a function is especially imperative in the noncommercial nuclear R. & D. area because the new Nuclear Safety and Licensing Commission will have no licensing jurisdiction over such ERDA nuclear activities.

Thus, the Administrator will need to look to the Assistant Administrator for Environment and Safety to evaluate and make recommendations on the safety and the security of all ERDA nuclear programs. This oversight responsibility will extend to such vital areas as low-level radioactive emissions from test reactors, leakage of high-level radioactive wastes from disposal and storage facilities, and the safeguarding of special nuclear materials from theft and of nuclear facilities from sabotage, including those materials and facilities used in the weapons program.

Finally, it should be noted that the committee changed the designations of two of the Assistant Administrators to make their missions clear. The Assistant Administrator for Research and Advanced Energy was changed to Assistant Administrator for Solar, Geothermal, and Advanced Energy Systems. The committee believes that solar and geothermal, as potentially renewable, clean sources of energy, represent the wave of the future and should be given the same prominence in the ERDA organizational structure as fossil and nuclear energy. (This is also the thrust of the requirement that each ERDA Assistant Administrator receive a minimum level of funding. See section 306.) As discussed in the analysis of subsection 103(a)(3), this Assistant Administrator will continue to have the responsibility for ERDA's basic physical research program.

The Assistant Administrator for National Security was changed to Assistant Administrator for Defense Programs to make clear that his responsibilities were related to the nuclear weapons program, not to overall national security matters.

Subsection (e) provides for the appointment of a General Counsel by the Administrator. The General Counsel will serve at the pleasure of the Administrator and be compensated at level V of the Executive Schedule.

Subsection (f) authorizes the Administrator to appoint not more than eight additional officers who will be compensated at level V of the

Executive Schedule. They will serve at the pleasure of and be removable by the Administrator.

An explanation of the excepted personnel system of the Atomic Energy Act, as it applies to ERDA and NSLC employees under the provisions of this act, is provided in appendix 3.

Subsection (g) provides for appointment by the Administrator of a Director of Military Application to head the Division of Military Application transferred to the Administration by subsection 104(b) of this act. The Director of Military Application will be an active member of the Armed Forces serving in general or flag officer rank or grade, as appropriate, with the same functions, qualifications and compensation as are now provided in the Atomic Energy Act for the Assistant General Manager of AEC for Military Application. The Director of Military Application will serve at the pleasure of the Administrator.

Subsection (h) provides that officers appointed pursuant to this section will perform such functions as the Administrator specifies from time to time.

Subsection (i) provides that the Deputy Administrator shall act for the Administrator in the event of a vacancy in the office of the Administrator or in the event of the absence or disability of the Administrator, and states that the Administrator shall establish the further order of succession from among the Assistant Administrators, General Counsel and or other officials of the agency.

Section 103. Responsibilities of the Administrator

Section 103 describes responsibilities of the Administrator and provides for consultation with the Administrator of the Small Business Administration in carrying out his responsibilities.

Subsection (a) prescribes eight categories included in the Administrator's responsibilities.

Paragraph (1) provides for exercising central responsibility for policy planning, coordination, support, and management of research and development programs respecting all energy sources, including assessing the requirements, undertaking programs for the optimal development of the various forms of energy sources, managing such programs, and disseminating information resulting therefrom.

The intention of the committee in this paragraph is to make clear that the ERDA Administration is the lead Federal official with respect to all elements of near-term and long-range energy research and development programs.

Paragraph (2) provides for encouraging and conducting research, development and demonstration of commercial feasibility and practical applications of the extraction, conversion, storage, transmission, and utilization phases related to the development and use of energy from fossil, nuclear, solar, geothermal, and other energy sources; including such nonnuclear research and development programs as may hereafter be authorized by the Congress.

This paragraph is intended to make reference to other legislation presently under active consideration in Congress which sets forth comprehensive strategies and policies to govern Federal nonnuclear research and development activities. The committee anticipates that

those functions will be assigned to the ERDA Administrator and would become principal responsibilities of the Agency.

The committee also wants to make clear that the reference to "fossil" in paragraph (2), and as used elsewhere in the act, includes in addition to other fossil fuels anthracite, lignite, bituminous coal and other forms of coal. The committee shares the concern that production of anthracite has been declining from year to year. In 1973, only 6.7 million tons were produced. The United States has at least 21.4 billion tons in known resources in anthracite, of which 7.3 billion are estimated to be recoverable by present mining standards. Anthracite is one of the cleanest domestic fuels available, and an energy source which can help maintain clean air standards during the energy shortage, particularly in power generation and residential use. Anthracite can also be used as is without the cost or delay required to convert to clean burning fuel.

Paragraph (3) provides for engaging in and supporting environmental, biomedical, physical, and safety research related to the development of energy sources and utilization technologies.

A full discussion of the Administrator's responsibilities in the environmental, health and safety areas—as they will be exercised by him and through the Assistant Administrator for Environment and Safety, is contained in the analysis of subsection 102(d).

The committee also intends that the Administrator—presumably through the Assistant Administrator for Solar, Geothermal, and Advanced Energy Systems (originally Research and Advanced Energy Systems)—will assume an important responsibility for fundamental research, including the further development of the AEC's physical research program. This has been a long-range basic research effort to further man's understanding of the natural laws and phenomena governing matter and energy. Both theoretical and experimental research in high-, medium-, and low-energy physics, as well as work in chemistry, metallurgy, properties of materials, mathematics and computers are important components of this program.

The AEC's single and multipurpose laboratories and research complexes constitute an essential national resource. These and other research facilities help provide for new discoveries and for the advancement of basic knowledge, as well as interfacing these discoveries with technical aspects of national problems such as energy resources development and conservation. These facilities provide the base for important ongoing research efforts; they are important ingredients in a balanced research and development program.

ERDA's responsibilities for basic research should be broadly interpreted, without undue constraint as to specific applications. While it is difficult to predict where basic knowledge will best contribute to the long-term search for energy self-sufficiency, it is clear that without a well-managed basic research program this effort would be badly compromised and new opportunities would be severely limited.

Paragraph (4) provides for taking into account the existence, progress, and results of other public and private research and development activities, including those activities of the Federal Energy Administration relating to the development of energy resources using currently available technology in promoting increased utilization of

energy resources, relevant to ERDA's mission in formulating its own research and development programs.

This paragraph corresponds to the language on page 25 of the Conference Report on S. 2776, establishing the Federal Energy Administration (FEA) which describes FEA's role in encouraging the application of existing technology to promote increased utilization of energy resources. It is consistent with the committee's intention in subsection 103(a)(1), as described above, to make clear the ERDA Administrator's primary role in Federal energy R. & D.

Paragraph (5) provides for participating in and supporting cooperative research and development projects which may involve contributions by public or private persons or agencies of financial or other resources to the performance of the work.

Paragraph (6) provides for developing, collecting, distributing, and making available for distribution, scientific and technical information concerning the manufacture or development of energy and its efficient extraction, conversion, transmission and utilization.

Paragraph (7) provides for encouraging and conducting research and development in energy conservation, which shall be directed toward the goals of reducing total energy consumption to the maximum extent practicable, and toward maximum possible improvement in the efficiency of energy use. Development of new and improved conservation measures shall be conducted with the goal of the most expeditious possible application of these measures. A detailed discussion of the Administrator's conservation responsibilities, as exercised by him or through the Assistant Administrator for Conservation, is contained in the analysis of subsection 102(d).

Paragraph (8) provides for encouraging and participating in international cooperation in energy and related environmental research and development.

As discussed above (subsection 102(b)), the Deputy Administrator will exercise special responsibility on behalf of the Administrator to give impetus to international cooperation and facilitate negotiations and exchange with other countries at a high level.

Japan and some of the countries of Western Europe have government-sponsored energy research and development programs, but most of these are very small compared with present and contemplated U.S. programs. For example, the Japanese nonnuclear program, which is currently under the auspices of the Ministry of International Trade and Industry, is funded in fiscal year 1974 at only \$8 million. The committee is concerned that there will be a tendency by these countries, despite their much higher dependence on external sources of energy producing raw materials, to allow the United States to assume most of the financial burden of developing new energy technologies. While the United States should show strong leadership, we should also encourage the maximum support in this endeavor from the other countries which stand to benefit and which have the technological capability to make important contributions. Consortia and other means of sharing the burden for specific facets of energy research could reduce costs and duplication as well as hasten the development of new technology.

Subsection (b) requires that the ERDA Administrator shall take appropriate affirmative action to help assure that small businesses may participate in a fair and equitable proportion of grants, contracts, purchases, and other Federal activities relating to research, development, and demonstration of sources of energy, efficiency and utilization and conservation of energy. Such action by the Administrator includes consultation and cooperation with the Administrator of the Small Business Administration to further the purposes set forth in section 2(d).

Section 104. Abolition and Transfers

Section 104 abolishes the Atomic Energy Commission and transfers its nonregulatory functions to the ERDA Administrator and its regulatory functions to the Nuclear Safety and Licensing Commission. There are also transfers to ERDA from the Department of the Interior and the National Science Foundation.

The committee chose the course of abolishing the AEC and transferring its regulatory functions to NSLC rather than renaming the AEC and retaining its regulatory functions in the redesignated Commission, as provided in the original bill. The committee's intent was to provide for political balance on the new Commission in the same manner as now provided by law for other Federal regulatory agencies. This abolition-and-transfer course will also allow for Senate confirmation on all appointments to the Commission, including present members of the AEC who are selected by the President to serve on the new Commission. The original bill, by not abolishing an agency whose functions are to be completely transferred, would have permitted present AEC Commissioners automatically to become members of the new Commission.

The committee decided that because the NSLC is to have an exclusively regulatory mission—as distinguished from the combined developmental and regulatory mission of the AEC—the President should appoint and the Senate should confirm members of the new Commission in that regard.

The committee was advised that if Presidential appointment and Senate confirmation of all NSLC Commissioners was required, the technical course of abolishing the AEC should be taken to eliminate the constitutional question relating to congressional removal of executive branch officers.

Additional requirements for bipartisanship and technical qualifications on the new Commission, which are unrelated to abolishment of the AEC, are explained in the analysis of section 201.

It should be noted that abolishing the AEC, rather than simply renaming it, has no effect whatever on how the authorities of the Atomic Energy Act apply to either NSLC or ERDA. An analysis of the applicable provisions of the Atomic Energy Act was performed at the committee's request by the General Counsel's office of the AEC, and the net effect was reported to be the same under the bill in its present form, as reported by the committee, and in its original form, as introduced on request for the administration.

The AEC's analysis of how the provisions of the Atomic Energy Act apply to ERDA and NEC under the provisions of this act, is shown in appendix 2.

Subsection (a) abolishes the Atomic Energy Commission and repeals sections 21 and 22 of the Atomic Energy Act, relating to the organization and members of the Commission.

The repeal of sections 21 and 22 of the Atomic Energy Act is technical in nature to facilitate the formal establishment of the new Commission in section 201 of this act. As explained in the analysis of section 201, these two provisions of the Atomic Energy Act are incorporated in subsections 201(a) through (f) of this act.

Subsection (b) transfers or allows to lapse all other functions of the Atomic Energy Commission pursuant to the provisions of this act.

Subsection (c) transfers to the ERDA Administrator all functions of the Atomic Energy Commission, the Chairman and members of the Commission, and the Commission's officers and components, except as otherwise provided in this act. This subsection pertains to all non-regulatory functions of the AEC. The regulatory functions are transferred pursuant to subsection 201(g).

Subsection (d) preserves and includes in the transfer from AEC to ERDA, the General Advisory Committee, the Patent Compensation Board, and the Divisions of Military Application and Naval Reactors; and it preserves the relationship with the Military Liaison Committee.

Illustrative of the functions transferred by subsections 104 (b) and (c) from AEC are research and development relating to nuclear and other energy sources, energy utilization and related environmental and safety aspects; military applications of atomic energy such as development and production of nuclear weapons; production of nuclear materials; research in the physical and biomedical sciences; international cooperation for the utilization and safeguarding of nuclear materials; dissemination of scientific and technical information; and administration of a program for indemnification of contractor liability for damages from nuclear incidents.

In effect, section 104, in conjunction with section 201, separates the licensing and related regulatory functions of the Atomic Energy Commission from the development and production functions of the Commission, and transfers all the functions not part of licensing and related regulation to the Administrator.

Subsection (e) transfers certain functions of the Secretary of the Interior, the Department of the Interior and offices and components thereof as follows:

Paragraph (1) transfers the functions relating to the Office of Coal Research (OCR), which was established pursuant to the act of July 1, 1960 (30 U.S.C. 661-668). Through contracts with outside organizations, OCR sponsors research and development involving principally the conversion of coal to other energy forms, such as liquid hydrocarbons, clean fuel gas, substitute pipeline gas, and direct electric power.

Paragraph (2) transfers certain functions conducted by the Bureau of Mines (established as set out in 30 U.S.C. 1-7) that are directed toward fossil fuel energy research and development.

The major R. & D. facilities of the Bureau of Mines include 22 laboratories and research centers and a synthane plant now under construction. Six of the laboratories and centers, which are engaged primarily in energy R. & D. on the production, conversion and utilization

of fossil fuels, will be transferred to ERDA. The six energy research centers included in this transfer are located in Bartlesville, Okla.; Grand Forks, N. Dak.; Laramie, Wyo; Morgantown, W. Va.; Pittsburgh, Pa., and San Francisco, Calif. The synthane plant will be a pilot plant for coal gasification to prove technology developed by the Bureau. It will also be transferred to ERDA.

The other Bureau of Mines laboratories and research centers are devoted to R. & D. on mining technology and metallurgy. The intent of the committee is for the Bureau of Mines to continue R. & D. in these areas, some of which is energy related. The energy related R. & D. which the Bureau of Mines will continue is interrelated with other activities which are not appropriate for transfer to ERDA. Research on coal mining technology, including coal analysis and preparation, as well as the use of coal for metallurgical processes, will be continued by the Bureau of Mines, especially as such research relates to mining and metallurgical technology or mine health and safety. It is important that the Bureau of Mines retain expertise in the areas of R. & D. necessary to support the Secretary of the Interior in his performance of statutory responsibilities that are not changed by the creation of ERDA. These include responsibility for mining metals and minerals, mine health and safety, mined area reclamation, and metallurgical research, as well as the Secretary's broad responsibility for management and development of public lands and natural resources.

Paragraph (3) transfers the existing program of underground electric power transmission research under the direction of the Secretary of the Interior.

Paragraph (4) transfers the program relating to the acquisition, production, distribution, and storage of helium.

The committee adopted an amendment to include among the transfers from Interior the helium conservation program. An important policy question regarding the future of the helium program has been the national interest in maintaining helium supplies for future purposes of national importance. It appears that a major potential use of helium will be in connection with research, development and possible applications of cryogenic cooling technologies for the transmission of electric power. If such technologies prove viable, very large quantities of helium may be necessary for widespread applications. The committee believes it is appropriate for the Energy Research and Development Administration to administer the program in view of this application.

Subsection (f) transfers certain functions from the National Science Foundation.

The NSF, under its general statutory authorization (42 U.S.C. 1682), has been supporting basic and applied research through proof-of-concept experimentation in these areas in preparation for prototype development and demonstration of functioning systems. The Administrator will assume responsibility under this subsection for programs in these development and demonstration areas. Subsection (e) is not intended to modify the existing authority of the NSF in basic and applied research.

Paragraph (1) transfers the functions relating to solar heating and cooling development.

This technology, relating to the conversion of solar energy for heating and cooling of residential and commercial buildings, has reached the developmental stage and is, therefore, appropriately transferred to the ERDA Administrator. Because technology related to the conversion of solar energy for central-power-station generation of electricity is still in the experimental stage and relies heavily on basic research in NSF, this program will not be transferred by this act.

Paragraph (2) transfers the functions relating to geothermal power development.

This program, involving conversion of the subsurface heat of the earth, has reached the developmental stage and is suitable for transfer to the ERDA Administrator.

Subsection (g) is a technical provision designed to permit the Administrator and Commission to the extent necessary or appropriate to perform transferred functions, to exercise authority available by law, including appropriation acts, to the official or agency from which the functions were transferred. This does not divest the transferring agency of the authority with respect to the functions retained by that agency.

Subsection (h) requires the Administrator of ERDA to utilize to the fullest extent practicable the capabilities of other agencies, to consult with the heads of other agencies, and to assign to them specific programs or projects in energy R. & D. as appropriate. Projects or programs so assigned to other agencies are to be carried out under the policy guidance of the Administrator. Such assignments must be with the consent of the concerned agency and shall be in addition to, and not detract from, its basic mission responsibilities.

The committee intended this subsection to require that the capabilities of agencies other than the new Energy Research and Development Administration (ERDA) be effectively utilized in the national effort on energy research and development. The preceding subsections transfer to ERDA identifiable segments of the R. & D. programs of the AEC, NSF, and DOI.

This subsection makes provision for the utilization of the capabilities and potential of other agencies in the national energy R. & D. effort as required for a balanced evolution of national energy options.

There are capabilities of other agencies which have been established and are needed for their own missions and, therefore, should not be transferred to ERDA. But these capabilities can and should be utilized in the national energy R. & D. program.

A key example is the National Aeronautics and Space Administration (NASA), which has excellent and broad capabilities in research and development over a wide range of technologies related to fuels and energy, in particular solar energy, propulsion and energy conversion and transmissions systems. NASA has extensively developed solar energy systems for its spacecraft as well as the basic technology for other applications. This experience together with NASA's proven ability to manage large-scale development programs should make NASA an important contributor in conducting solar energy R. & D. In addition, NASA's work in aeronautical and space propulsion systems, including nuclear systems, provides a solid base for developing more efficient and less polluting systems for ground propulsion sys-

tems. Another area in which NASA has extensive experience is in the use and handling of unconventional fuels, especially hydrogen, which is being studied as a promising alternative fuel source for the future.

Under the provisions of this subsection, therefore, the Administrator of ERDA might, for example, use NASA's capabilities by assigning to NASA responsibilities for research and development programs and projects in terrestrial applications of solar energy, ground propulsion systems, and investigation of advanced energy conversion and transmission system and alternate fuel sources. Congressional hearings have already confirmed that in these areas, NASA is well qualified for conducting such work.

Another example where directed use of other agencies' capabilities could be used is the National Science Foundation, which will continue to perform valuable work at the exploratory concept stage in the energy-related fields of generation, transmission and conservation while pursuing its own missions.

Given these valuable energy R. & D. resources in other agencies and given the tendency for each government agency to concentrate on its own programs, the committee believed that a specific requirement for coordination and use of these other agencies' resources was necessary.

This subsection is also responsive to the concern of the committee and many others in Congress that the Nation's energy R. & D. effort be a balanced exploration of all alternative sources. To this end, the concentrated use of other agencies with broad disciplinary experience can be an important factor.

Section 105. Transfer of Personnel and Other Matters

Section 105 contains mostly technical provisions relating to transfer of personnel and other matters.

Subsection (a) provides that personnel, personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds relating to functions transferred by this act follow and are transferred with those functions. Appropriations transferred will be accounted for in accordance with section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), which normally governs transfers of this type. Personnel positions expressly created by law, personnel occupying those positions on the effective date of this act, and personnel authorized to receive compensation at one of the rates prescribed for level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5316) will be subject to the provisions of subsection 105(c) and section 301.

Subsection (b) provides that nontemporary personnel, other than personnel entitled to compensation under the Executive Schedule, shall not be separated or reduced in grade or compensation, as a result of the enactment of this act, for one year after being transferred to the Administration created pursuant to this act. This provision is designed to preclude reduction in force solely as a result of this act for one year after the transfer. However, this provision would not preclude separation or reduction for cause or any other circumstance applicable if this act had not been enacted.

Subsection (c) provides that a person entitled to compensation under the Executive Schedule may be employed by the new Administration and that, if the employment is without break in service and

if the duties of the new position are comparable to the duties performed immediately preceding the new appointment, such person will be entitled to receive compensation at a rate not less than he received in his previous position.

Section 106. Administrative Provisions

Section 106 contains technical administrative provisions.

Subsection (a) authorizes the Administrator to prescribe appropriate policies, standards, criteria, procedures, rules and regulations.

Subsection (b) provides that the Administrator shall engage in policy planning and perform program analyses and other studies to promote the efficient and coordinated administration of his agency and to assess its progress.

Subsection (c) authorizes the Administrator to delegate, and authorize redelegations of, any of his functions.

Subsection (d) authorizes the Administrator to organize the Administration as he deems appropriate, except for the organizational elements specified in section 102 and subsection 104(b).

Subsection (e) authorizes the Administrator to establish and discontinue field offices.

Subsection (f) authorizes the Administrator to prescribe a seal for the Administration.

Subsection (g) authorizes the establishment of a working capital fund by the Administrator to defray necessary expenses arising out of the maintenance and operation of common administrative services.

Subsection (h) authorizes executive agencies to furnish the Administrator information or other data.

Section 107. Personnel and Services

Section 107 contains technical provisions relating to personnel and services.

Subsection (a) authorizes the Administrator to employ officers and employees and fix their compensation pursuant to subsection 161 d. of the Atomic Energy Act (42 U.S.C. 2201(d)).

Subsection (b) authorizes the Administrator to obtain the services of experts and consultants.

Subsection (c) authorizes the Administrator to arrange by agreement with the Secretaries of the Military Departments for participation of military personnel in the performance of his functions, excluding appointments subject to Senate confirmation.

Subsection (d) provides that the status and benefits of military persons shall not be adversely affected by service under subsection (c).

Subsection (e) authorizes payment of transportation expenses and per diem to temporary or seasonal employees. Such payments will be made in accordance with chapter 57 of title 5 of the United States Code which governs similar payments to other Government employees for official travel.

Subsection (f) authorizes the Administrator to utilize, on a reimbursable basis, the services of personnel made available by any executive agency.

Subsection (g) authorizes the Administrator to establish advisory boards in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I, 1970 ed., Supp. II).

Subsection (h) authorizes the Administrator to employ noncitizens in technical or professional capacities.

Section 108. Powers

Section 108 sets forth the basic statutory powers of the Administrator.

Subsection (a) authorizes the Administrator to insure continued research and development in the interest of expanding scientific, technical and practical knowledge in energy matters, to make arrangements (including contracts, agreements, and loans) for the conduct of research and development activities with private or public institutions or persons, including joint projects of a research, developmental or experimental nature. The Administrator is authorized to make payments (in lump sum or installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments) and generally to take such steps as he deems necessary or appropriate to perform his functions. Functions applicable to the nuclear activities transferred by title I of this act will be subject to the provisions of the Atomic Energy Act of 1954, and to other authority applicable to such activities. The nonnuclear responsibilities and functions transferred by this act will be carried out pursuant to the provisions of this act, the authorities applicable to those functions immediately before the effective date of this act, or in accordance with chapter 4 of the Atomic Energy Act (42 U.S.C. 2051-2053).

Subsection (b) authorizes the Administrator to acquire facilities required for the maintenance and operation of laboratories, research, and testing sites and facilities, quarters, and related accommodations for employees and their dependents, and such other special purpose real property as the Administrator may deem necessary. Special purpose facilities and real property may be acquired by purchase, lease, condemnation, or otherwise. General purpose facilities and real property needs will continue to be met through the authority of the General Services Administration. The Federal Government will take title to all property acquired pursuant to this section.

Subsection (c) authorizes the Administrator to provide, construct, or maintain, as necessary and when otherwise unavailable, certain facilities and services for employees and their dependents at remote locations. Included are emergency medical services and supplies; food and subsistence supplies; messing facilities; audio-visual equipment, accessories, and supplies for recreation and training; reimbursement to such employees for furnishing food, medicine and other supplies for temporary relief of distressed persons; living and working quarters and facilities; and transportation for school-age dependents to the nearest appropriate educational facilities. Reimbursement at reasonable prices will be required for medical treatment and services and supplies furnished to employees and their dependents.

Subsection (d) authorizes the Administrator to acquire copyrights and patents, design processes, specifications and data.

Subsection (e) requires the Administrator, subject to 42 U.S.C. 2161-2166 and other applicable law, to disseminate scientific, technical and practical energy information acquired pursuant to this act. Other applicable law would include the Freedom of Information Act. He is

required also to encourage the dissemination of such information by others so as to provide for the free exchange of ideas and criticism.

Subsection (f) authorizes the Administrator to accept, hold, administer, and utilize gifts and bequests.

Section 109. Council on Energy Policy

Section 109 substantially incorporates the language of S. 70, the Energy Policy Act of 1973, which passed the Senate on May 10, 1973. This proposal also passed the Senate on December 10, 1973, as section 3 of S. 2176, the National Fuels and Energy Conservation Act of 1973, and again on March 13, 1974, as title II of the Federal Energy Emergency Administration Act.

This section would establish a three-member Council on Energy Policy in the Executive Office of the President to supervise the collection and analysis of energy information, coordinate the energy activities of the Federal Government and prepare a long-range comprehensive plan for energy development, utilization and conservation. The Council would be assisted by an Interagency Resources Advisory Committee composed of the principal agencies with energy responsibilities. It would provide a single place for Congress and the President to seek energy information and policy recommendations. It assures that a single entity would have responsibility for examining the overall energy picture.

The Council on Energy Policy would provide sophisticated analyses of policy alternatives and would formulate recommendations for national energy policy. It would be responsive to both the President and the Congress. The Council would not assume the duties of existing agencies such as the Federal Energy Administration or the Energy Research and Development Administration, but rather it would be a policy adviser, such as the Council of Economic Advisers or the Council on Environmental Quality. In addition, once the policy choices have been made within the executive or legislative branches, the Council would formulate the energy plan to serve as a basic blueprint for other agencies to better carry out their assigned tasks in a coordinated fashion.

The Council also would publish an annual energy report. This report would accompany the energy plan and would include statistical data, energy supply and demand trends, and recommended legislation.

A major cause of the Nation's energy problem is the lack of a comprehensive national energy policy. More than 60 different agencies are involved in energy policy making. All of these agencies were established at different times and for different purposes to handle specialized problems. Each entity has a narrow focus, and there is little coordination among them. Often different Federal agencies institute conflicting policies. These conditions developed during a period when the Nation's energy supplies were ample and when there was little concern with protection of the environment. But, in the last few years, this situation has drastically changed. A May 27, 1974, New York Times editorial, "Anarchy In Energy," summarized the situation well:

There is no such thing as energy policy in Washington today. The most the Administration and Congress alike have been able to muster all these months is a series of ad hoc re-

sponses to crises as they develop, followed by deterioration and disinterest in executive and legislative branches when the specific crisis fades.

All agencies having energy responsibilities should have a clear guideline of national energy policy against which to measure their individual decisions. The need for long-range energy planning capabilities has been long apparent. In 1952, the Paley Commission devoted an entire volume of its study on Materials Policy to the Energy Situation stating:

In the past, Government has dealt with energy problems largely on a piecemeal basis with separate programs for coal, gas, for petroleum, for electricity, and for atomic energy, with each usually handled by one or more separate agencies operating under one or more separate legislative authorizations.

The Commission is strongly of the opinion that the nation's energy problem must be viewed in its entirety and not as a loose collection of independent pieces involving different sources and forms of energy. So numerous and vital are the interrelations among all sectors of the energy field, that problems in any one sector must be dealt with always in full consideration of the effects on all other sectors. The aim must be to achieve a consistent pattern of policies and programs throughout the entire energy field.

Twenty years later, these observations have become even more relevant. On June 29, 1973, the President commented on the failure of present governmental structures to deal with the energy situation and directed that a comprehensive study be undertaken to determine the best way to organize all energy-related regulatory activities of the government. The study team formed as a result of this directive issued its report on April 12, entitled "Federal Energy Regulation: An Organizational Study".

The report found, as did the Paley Commission, that over the past 50 years the Federal regulatory structure has become increasingly complex. "It has evolved in response to narrowly defined problems and the specific demands of the moment, rather than in relation to an overall plan."

The team, chaired by Atomic Energy Commissioner William O. Doub, concluded that "The establishment of an institutional mechanism to provide policy guidance would be the single most significant contribution to correcting the deficiencies in the existing system of regulation," and that the best mechanism for this would be the creation of an independent national energy council to formulate national energy objectives and provide general policy guidelines.

The Senate has previously come to an identical conclusion by passing legislation to establish a Council on Energy Policy. The Council, assisted by the Interagency Energy Resources Committee, would assure that tax policy, import controls, competitive incentives, regulatory activities and new policy initiatives would be coordinated to serve the public interest.

Subsection (a). Findings. Subsection (a) of section 109, contains the findings on the energy situation in the United States. As has been

discussed above, there are numerous Federal agencies created at different times and for different purposes to handle specialized problems all directly or indirectly involved in the establishment of energy policy.

The committee found that as a result of the involvement of so many agencies and the absence of an energy policymaking mechanism, there is no comprehensive, coherent energy policy. Instead, Federal activities consist of a myriad of laws, regulations and inactions, that often result in narrow, short-range and conflicting decisionmaking by individual agencies and the absence of an energy policymaking mechanism, there But current concern over energy difficulties reflects the fact that some fuels can be supplied, if at all from domestic sources, only at much higher real cost. Environmental constraints are also placed on fuels that contribute to air and thermal pollution. Incompatible Federal energy policies can cause increases in curtailments, demands, costs and dependence on imports.

Several factors converged to form the energy difficulties now facing the Nation. Energy shifts occurred independently and without consideration of the overall situation. As a result today we have an excessive energy demand, soaring energy prices, instability in fuel markets, and mismanagement of energy resources.

Subsection (b). Statement of Purposes. Based on these findings the committee recommends the establishment of a Council on Energy Policy. This Council would have three primary purposes. First, it would serve as a central point for the collection, analysis, and interpretation of energy statistics. The objective is to establish a reliable energy data system that is comparable to the Nation's economic statistics system. Thus, the arguments regarding energy data will be resolved and attention focused on the Nation's substantive energy difficulties. Particularly important would be the development of improved forecasting techniques in projecting energy demands and supplies.

A second major purpose of the Council would be to coordinate the energy activities of the Federal Government and provide leadership to State and local governments and other persons involved in energy activities.

Third, the Council would prepare a long-range comprehensive plan (the Energy Plan) for energy development, utilization and conservation to foster improvement in the efficiency of energy production and utilization, reduction of the adverse environmental impacts of energy production and utilization, conservation of energy resources for the use of future generations, reduction of excessive energy demands, and development of new technologies to produce clean energy.

The Energy Plan is to be continually updated in an ongoing planning process.

The plan would not call for activities that are beyond the then existing statutory authority of the appropriate agency to implement. But, the Council may submit an Energy Plan that calls for actions by operating agencies which are contingent upon the enactment of legislation recommended by the Council. If such recommendations do not become law, then that portion of the Energy Plan which is dependent upon such enactment, naturally, shall not be implemented by Federal agencies.

In sum, the Energy Plan is to provide a roadmap for phasing out those policies which have contributed to excessive energy demand and inefficient utilization of energy. In their place would be substituted policies encouraging energy conservation, improved efficiencies and the increased production of cleaner energy.

Subsection (c). Duties of Federal Agencies. In addition to creating a Council on Energy Policy, and assigning it various functions, section 109 imposes certain duties on all Federal agencies. The policies and goals set forth in section 109 are to be supplementary to the existing mandates and authorizations of Federal agencies. They are not considered to repeal existing authority of such agencies. But, where conflicts occur, the Council is to make recommendations for resolving them pursuant to paragraph 2 of subsection (e). No specific authorization of appropriations is provided for these activities. The committee believes the agencies can perform these functions as part of the general operation and administration of their programs. Section 109 seeks to insure that all agencies carefully consider the energy effect of their activities as follows:

First, all agencies are to utilize a systematic, interdisciplinary approach when their activities affect energy availability. Such planning and decisions should draw upon a broad range of both physical and social sciences and consider all relevant points of view. They will then be in a better position to recognize when their activities have energy effects, thereby resulting in better planning and projects.

Second, all agencies are to submit to the Council on Energy Policy for comment all recommendations and reports to Congress when such information has a bearing on energy matters. This provision is designed to keep the Council fully informed of all agency recommendations, reports and requests for legislation that affect energy policy. The Council has the opportunity to submit its views to Congress along with those of the Agency's. When there is a difference between the Agency's and the Council's views, then this difference would be resolved by Congress as it considers the matter. Thus, this provision is designed to surface issues and generate discussion in areas that are now too often ignored or by-passed to the detriment of the public.

Third, Federal agencies are to gather energy data and information, if required by guidelines promulgated by the Council. Such information will be gathered primarily by the Federal Energy Administration, Department of the Interior, the Federal Power Commission, the Energy Research and Development Administration, the Department of Commerce, and other agencies that have operational or regulatory responsibility in the energy area. However, in gathering data on energy transmission and utilization the Council's guidelines may require other agencies, such as the Council of Economic Advisers, the Department of the Treasury, the Department of Justice, and the Department of State, to assist the Council in providing the information necessary for the preparation of energy plans and energy reports. In addition all Federal agencies are to develop analytical techniques for managing and conserving energy resources which that agency uses or regulates. It is intended that in developing such techniques, agencies will seek to maximize the social benefits while minimizing social costs of their energy activities.

Fourth, all Federal agencies are to recognize the worldwide and long-range character of energy concerns and support activities designed to foster international cooperation in anticipating and resolving energy related problems. Such activities would be coordinated by the State Department to assure that they are consistent with the foreign policy of the United States.

Subsection (d). Establishment of Council. The committee recommends the establishment of a three-member Council on Energy Policy in the Executive Office of the President. The members shall be nominated by the President subject to the advice and consent of the Senate. They shall serve at the President's pleasure. The President shall at the time of the nomination designate one of the members to serve as Chairman.

Each Council member should be qualified to interpret energy information and appraise programs and activities of the Federal Government in light of the energy needs of the Nation. In addition, as a result of his training and experience, each member is to be conscious of and responsive to not only the economic needs of the Nation but a broad spectrum of environmental, social, cultural, scientific and esthetic interests of the Nation. Energy policy pervades almost all aspects of American life, but in the past its social implications have been inadequately considered. Consequently the committee intends that members of the Council should be composed of competent individuals who have distinguished themselves for their ability to grasp broad national issues and a commitment to improve the quality of life for all Americans. When such enlightened members serve on the Council, it is more likely that the Energy Plan and recommendations for wise energy management will make a great contribution to the Nation.

Subsection (e). Duties of Council. The Council is to serve as the principal adviser to the President and the Congress on energy policy and the Council is to exercise leadership in the formulation of government policy concerning domestic and international issues relating to energy. It is to coordinate energy activities of Federal agencies and make recommendations to the President and the Congress for resolving conflicting energy policies.

The Council is to prepare annually an Energy Plan designed to coordinate Federal activities to improve the efficiency of energy production and utilization, reduce adverse environmental impacts of energy production and utilization, conserve energy resources and develop new technologies for producing clean energy.

The committee intends the Energy Plan to represent energy flows from production to utilization in the Nation. The plan would pinpoint the source of energy, where energy is converted from one form to another, the area of energy losses and waste and finally the purposes for which the energy is used. The Energy Plan would be the guide for improving the social utility of the energy available, and show the interrelation between the various parts of the overall energy picture.

The Energy Plan, which would be updated annually, would provide leadership and guidance to government agencies and others concerned with energy. The computer models and background information used to develop the Energy Plan should also be useful in determining the effects and alternatives available for meeting changes in energy supply

or demand. The Council would monitor and seek compliance with the Energy Plan.

The energy report, required by subsection (g) of section 109, would contain material explaining the Energy Plan and projecting changes that are likely to occur. The remaining duties of the Council are designed to insure that it has appropriate information and broad public input in formulating the Energy Plan and the energy report.

The Council is to promptly review the legislative recommendations and reports of Federal agencies that have a bearing on energy matters. The Council would analyze the impact of such recommendations or reports on the Energy Plan, and if the Council disapproves such an agency report or recommendation, it is to prepare a statement in writing of its position and supporting reasons and submit it to Congress and the involved agency.

The Council has an affirmative duty to keep Congress fully and currently informed of all its activities. Neither the Council nor its employees may refuse to testify or submit information to Congress.

The Council is to conduct annual public hearings to assist it in developing the Energy Plan, and it may conduct public hearings on any other pending energy matters in which there is substantial public interest.

The Council shall also issue guidelines for the collection and initial analysis of energy data now gathered by other Federal agencies. These guidelines are designed to make such data compatible, useful and comprehensive. Where the data is not available or credible due to a lack of agency authority, the Council shall recommend to the Congress the enactment of appropriate legislation. If, in the judgment of the Council, such energy information is needed for the preparation of the Energy Plan or the energy report, the Council, to carry out the purposes of this act, may obtain such data directly.

In sum, it is not the committee's intent that the Council be involved in the daily decisionmaking processes of the Federal Government or that it be involved in continuous resolution of particular conflicts between agencies and departments. However, the committee strongly feels that the President and the Congress need impartial and objective recommendations which can provide unbiased information and an accurate overview of the Nation's energy trends and problems and how they affect the future social, economic and cultural well-being of the American people. In addition the Council would coordinate the major energy activities of the Federal Government to assure that the energy needs of the Nation are satisfied in an optimum way.

Subsection (f) Administrative provisions. In conducting its functions pursuant to section 109, the Council is to consult with a broad spectrum of interests to obtain the maximum breadth of input into its activities.

The committee believes that the Council should employ a staff with experience, competence and judgment to analyze and interpret trends and developing problems in the energy area. The staff should represent many disciplines and professions to obtain the balanced and knowledgeable overview of the Nation's energy situation needed to shape the country's future energy policies. So that this staff can most usefully direct its talents, the committee intends that it should utilize to the fullest extent possible the services, facilities and information of

public and private organizations to avoid duplication of effort and expense. If the job is already being done adequately elsewhere, then the Council should not repeat it.

The members of the Council shall serve full time. Compensation for the Chairman of the Council is set at level II (currently \$42,500) of the Executive Schedule pay rates and the salaries of the other two members are set at level IV (\$38,000). These provisions parallel the compensation provisions established by law for the Chairman and members of the Council of Economic Advisers and the Council on Environmental Quality.

Finally, paragraph 3 provides that the Council may employ a professional and support staff and may acquire the services of experts and consultants. If necessary such services of experts or consultants may be paid for at a rate in excess of the general schedule to afford the Council maximum flexibility in obtaining the best assistance. The Council on Environmental Quality has similar authority. The committee intends that the Council should have available a professional staff and consulting capability comparable in size and qualification to the staff which currently serves the Council of Economic Advisers or the Council on Environmental Quality.

Subsection (g). Interagency Energy Resources Advisory Committee. Until recently, little attention has been given to Federal organizational arrangements for energy. The current energy crisis has highlighted the deficiencies of existing organization in several respects and action has been taken by the Congress to reorganize Federal agencies in a number of fields of energy. The committee recognizes, however, that the ultimate energy reorganization will not be accomplished with the enactment of this measure. The Federal Government has, and will have, a number of independent agencies which are importantly involved with energy matters.

Earlier this year, the Federal Energy Administration was established. That agency has been given authority to administer Federal responsibilities to insure the viability of existing energy systems and to respond to emergency situations. This act will consolidate Federal energy R. & D. functions under an independent ERDA. The Department of the Interior will continue to have important responsibilities for managing the extensive energy resources of the public lands and the Outer Continental Shelf. The current crisis has dramatically demonstrated the significance of energy to international relations and to the financial integrity of the United States, which are the particular concerns of the State and Treasury Departments and the Office of Management and Budget.

The managers of these, and perhaps other, Federal agencies must communicate with each other and with the Council on Energy Policy established by this measure to insure that the activities of the Federal Government impacting upon the Nation's energy supplies are consistent.

The Advisory Committee established by this subsection is intended to insure such communication until such time as further consolidation of Federal energy operating functions may make formal arrangements unnecessary.

The subsection provides the latitude for the President to designate additional members of the Advisory Committee as circumstances and experience with energy organization and energy policy, in his judgment, show them to be desirable. The chairman of the Advisory Committee, similarly, is to be chosen to reflect the circumstances of coordination which may develop as the reorganizations of Federal energy agencies are carried out.

This committee expects the members of the Advisory Committee to establish procedures for meetings and for communication among the agencies involved, including the appointment of suitable representatives of each member who can meet on a more regular basis than the principal members.

Paragraph (3), however, provides that the chairman of the Advisory Committee, whatever his other responsibilities, must be available to testify before the Congress on activities of the Advisory Committee. There will be numerous occasions when important energy decisions will involve more than one major Federal agency. In such instances, the Congress will expect the committee, represented by its chairman, to respond to inquiries regarding the interagency aspects of the decision.

Subsection (h) Energy report. This subsection provides that the Council shall transmit to the Congress and the President an annual energy report. The first such report shall be transmitted on or before January 1, 1975. Subsequent reports shall be transmitted on or before January 1 in succeeding years. In general the report is to accompany the Energy Plan and provide backup information as well as policy recommendations. The Council may wish to submit the energy report and the Energy Plan in a single document. The energy report will provide the commentary and background for the Energy Plan.

This report is to include, but not be limited to, an estimate of the energy needs of the United States for the ensuing 10 year period assuming the implementation of the Energy Plan. It should discuss the sources of supply with which the United States will be expected to meet such needs in an economical manner consistent with national policies protecting the environment, conserving resources and implementing foreign policy objectives. The report would include an evaluation of trends in the price, quality, management and utilization of energy resources and their effect on the Nation's social, environmental, economic and other requirements. The report would examine and evaluate the Federal Government's energy research and development efforts and make recommendations for improving the effectiveness of such efforts and for fostering more rapid development of new technologies that are cost beneficial. Recommendations for improving energy data and information available to the Federal agencies by improving monitoring systems, standardizing data, and securing additional needed information is to be covered in the report. Finally the report would evaluate the practices of both governmental and non-governmental entities in dealing with energy.

In summary, the annual energy report should provide a considered statement of the national energy objectives, trends, and problems. The report should provide the best judgment of the best people available on the Nation's energy problems and the progress made toward conserving resources and wise energy management.

It is anticipated that the annual report and the recommendations made by the Council would be a vehicle for legislative initiatives, oversight hearings and other activities by the appropriate committees of Congress.

Subsection (i) Public access to information. Subsection (i) of section 109, establishes as a general principle that "copies of any communications, documents, or reports, or other information received or sent by any member of the Council shall be made available to the public upon identifiable request, and at reasonable cost . . ."

Whereas paragraph 1 of subsection (i) establishes public access to information as a general principle, there is no legal requirement to make information available if it is not required to be made available under the Freedom of Information Act (5 U.S.C. 5202(b)). Paragraph 1 must be read in conjunction with the last sentence of paragraph 2 which states "nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public." Although nothing in this section requires the release of any information, subsection (i) authorizes, the Council to make public any communications, documents, reports or other information which are not trade secrets.

Trade secrets may not be disclosed by the Council or its employees except under specified situations. The purpose for this qualification is to protect the business community from competitive harm. To give adequate protection to holders of trade secrets, public disclosure of trade secrets could not be made without notice to the company and an opportunity for comment in writing or for personal discussion in closed session during a period of 15 days following the notice. Of course, the 15-day period could be waived if the resultant delay would be detrimental to the public health and safety.

Subsection (j). General Accounting Office provisions. It has been evident that there is insufficient reliable information about many aspects of the energy system to support policy decisions. The need for better information is particularly acute in the Congress.

Congressional policy decisions are usually very complex involving many intangible and abstract factors. The information upon which such decisions are based requires not only extensive data but also many judgmental assumptions. The data must be complete and accurate and the assumptions must be objective and unbiased if the decisions are to be sound.

The General Accounting Office, as an arm of the Congress, has the inherent capability to collect and analyze energy information to support policy decisions. Subsection (j) would strengthen the Comptroller General's role in the energy area and empower him to acquire data essential for energy decisions.

Subsection (k) Authorization. This subsection authorizes appropriations in the amount of \$1 million for the fiscal year ending June 30, 1974, \$2 million for the fiscal year ending June 30, 1975, and \$4 million for each fiscal year thereafter.

The committee intends the level of funding for the Council on Energy Policy to be comparable to the resources available to the Council on Environmental Quality and the Council of Economic Advisers.

COST ESTIMATE FOR SECTION 109

Pursuant to section 252 of the Legislative Reorganization Act of 1970, the committee estimates that the cost of this section for which appropriations are authorized will be as follows:

Fiscal year 1975-----	\$1,000,000
Fiscal year 1976-----	2,000,000
Fiscal year 1977-----	4,000,000

Subsection (c) of section 3 would also require certain activities by other Federal agencies as part of the general operation and administration of their programs. The additional cost, if any, of such activities are contingent so as to render a cost estimate impracticable.

The committee knows of no cost estimates by any Federal agency which are at variance with its estimate.

Section 110. Recommendations for Reorganization

Despite the accomplishments in energy reorganization, which have already been made both by statute and by executive reorganization, much more remains to be done. The more important parts of Federal energy responsibilities have been dealt with, but organization must be evolutionary and dynamic. The complexity of energy problems and the rapidly developing energy situation have dictated an incremental approach to energy reorganization.

The Federal Energy Administration has been established as an agency with a limited term. This act will establish two new operating organizations and will impact heavily upon the Department of the Interior which, nevertheless, will remain an important energy agency.

The relationship between energy and other resource management considerations, such as water and land use, mineral resources, and earth sciences, has not been specifically considered thus far in reorganization measures. The coordination among energy agencies and between energy agencies and those dealing with other areas of national policy has been only partially resolved. As experience is gained with the reorganization thus far, new problems will probably be recognized.

Section 110 requires that not later than January 31, 1975, for the timely consideration of the 94th Congress, the President shall recommend to the Congress such further reorganizations in the energy and natural resources fields as he deems advisable. These recommendations are required to give consideration to coordination among energy agencies and to the relationship between energy and other natural resource matters.

Subsection (b) of this section revokes the requirement for a portion of the report which would be required by section 15 (a) of the Federal Energy Administration Act. Clause (4) of the latter provision, as a part of a more extensive report, would have called for similar recommendations but at a later time.

Section 111. Coordination with Environmental Efforts

The committee feels strongly that the Energy Research and Development Administration should have a strong capability to analyze environmental aspects of energy projects. The committee felt, however, that this capability should be built from within the Agency with its own manpower and funds. For this reason, the committee accepted the amendment of Senators Muskie and Javits to delete the provision transferring the Environmental Protection Agency's energy research

programs to the Energy Research and Development Administration. These programs are an integral part of the Agency's regulatory activities and must remain so. The amendment substituted a requirement that the agencies coordinate their work in this area. It is not the intent of the committee to limit the Energy Research and Development Administration's authority to carry out research and development regarding developmental work on stationary powerplants or new automotive engines. The following exchange of correspondence clarifies the intent of the amendment:

U.S. SENATE,
COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., May 7, 1974.

To: All members of the Committee on Government Operations.

In the near future the Government Operations Committee will mark-up legislation to create a new Energy Research and Development Administration (S. 2744). At that time we will propose an amendment to the provision which would transfer certain Environmental Protection Agency research and demonstration activities to the new agency.

We do not believe it is sound public policy to separate pollution control technology from pollution and control regulations. Enforcement policies should be based on good research and adequate demonstrated techniques so that the agency can make sound decisions as to actual pollution control requirements. To transfer an important part of the agency's program could harm the public interest and lead to less well based enforcement decisions.

We do not question the importance of the proposed agency having a strong environmental component but it should not replace or duplicate EPA's activities. Instead of removing this function from EPA, full coordination between EPA and ERDA should be required to assure that EPA's research capability is utilized.

It is not enough for EPA to maintain an ability to "assess" pollution control developments; the Agency must be able to stimulate such developments and to participate actively in that process in order to understand the problem with particular technologies.

Further, a transfer of this sort could delay the development of essential pollution control technology for one to two years. Much of the clean-up technology for energy sources is similar to that required for steel, smelters, chemical plants and other industrial sources. Separation would simply lead to expensive duplication. EPA needs a substantial research and development program because of the requirements of the Clean Air Act, Federal Water Pollution Control Act, and other environmental laws.

The course we will propose should be an acceptable alternative. We will propose that ERDA have the technical capacity to coordinate with EPA, the in-house capabilities to develop new energy technologies which are environmentally acceptable, and a mandate to assimilate the pollution control technologies developed for existing sources.

We hope you will join with us in this effort to improve the capabilities of the new Energy Research and Development Administration while maintaining the technical capabilities of the Environmental Protection Agency.

Sincerely,

JACOB K. JAVITS, U.S.S.
EDMUND S. MUSKIE, U.S.S.

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., May 17, 1974.

Hon. EDMUND S. MUSKIE,
U.S. Senate,
Washington, D.C.

DEAR ED: Thank you for the letter from you and Senator Javits advising me of your proposal to amend the pending ERDA measure (S. 2744) regarding the transfer of energy research functions presently administered by the Environmental Protection Agency.

I agree with your objectives to insure that EPA will continue to have the confirmatory research capability to back up its regulatory responsibilities regarding the Clean Air Act. I also appreciate the need for EPA to have "in-house" technical competence in the pollution control technologies which are associated with automotive and stationary powerplant emissions.

One aspect of this matter does disturb me, however.

As you know, the two principal R & D programs involved—alternatives to existing automotive engine technologies and emission control in stationary powerplant combustion cycles—are perhaps the two most critical areas of energy concern for the immediate future. Automotive uses now amount to about 40 percent of our consumption of scarce petroleum resources, and the use of the vast American coal resource for electric power production represents our most promising hope for near-term energy independence.

Obviously, R & D associated with automotive engines and stationary powerplants must constitute a major part of ERDA's effort. Furthermore, the environmental factors are among the most difficult technical problems of energy production and should be major concerns of ERDA in these *and every other technology* it approaches.

I feel strongly, therefore, that whatever action the Committee may take on the EPA programs must clearly indicate:

- (1) that the EPA program alone is not considered to be an adequate Federal research effort in these two major energy technologies; and
- (2) that the proposed ERDA would be expected to pursue whatever R & D into automotive engines and stationary combustion cycles appears to be needed, *including the environmental aspects of each.*

If these areas of R & D were removed from ERDA's authority, I believe there would be serious question whether the agency could fulfill its responsibility to develop a comprehensive Federal R & D program.

I hope you can accommodate my concerns in the specific recommendations you will make to the Committee.

Sincerely,

HENRY M. JACKSON,
Chairman.

U.S. SENATE,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C., May 25, 1974.

Hon. HENRY M. JACKSON,
U.S. SENATE,
Washington, D.C.

DEAR SCOOP: Your letter of May 17 discusses important points regarding the concerns Senator Javits and I raised questioning the transfer of the Environmental Protection Agency's pollution control research and development functions to the proposed Energy Research and Development Administration (S. 2744). I am sure that our amendment is consistent with the philosophy behind the proposal to create the Energy Research and Development Administration, and I believe your concerns can be satisfied.

S. 2744 specifically divides regulatory research from developmental research, with the latter being transferred from existing agencies to the Energy Research and Development Administration. The former remains in the parent agency.

In fact, in the case of atomic energy, a new regulatory research activity is created through the establishment of the Office of Nuclear Safety Research (Sec. 203) within the new Nuclear Safety and Licensing Commission, which is to be a regulatory body. That research function is *not* transferred to Energy Research and Development Administration, and it should not be.

But in the case of the Environmental Protection Agency, virtually all energy related pollution control research and development is transferred under S. 2744. This research and development is primarily related to regulatory programs. In fact, the Environmental Protection Agency has never had significant funding for purely developmental research.

The Office of Management and Budget has announced that \$105 million of the \$112 million pollution control budget in the Environmental Protection Agency for FY '75 is to be transferred to the Energy Research and Development Administration. This is not developmental research for energy systems. It is intended for near-term research aimed at emission control related to the regulatory responsibilities of the agency.

Your letter mentions alternatives to existing automobile engines. If the Environmental Protection Agency had a significant effort to develop a new propulsion system designed to achieve high *full economy*, transfer might be appropriate. But it does not. The Advanced Automotive Power Systems effort is to develop a *low emission* vehicle. Environmental Protection Agency personnel in this area have concentrated substantial effort on low emission characteristics of retrofit technology and modification of present engine systems. The little development work done on systems such as the electric car have principally been contract work, and have been small efforts.

Also many of the people in the Environmental Protection Agency involved in the Advanced Automotive Power Systems program provide technical back-up to the regulatory program. Transfer of these personnel would take an important part of the technical base of the automobile emission's regulatory program from the agency.

In addition, it should be pointed out that the approach Senator Javits and I propose is consistent with S. 2176, the National Fuels and Energy Conservation Act of 1973 which you sponsored, and which passed the Senate last December. Section 13 of S. 2176 created a new program for the development of an energy efficient and environmentally sound automobile, but it maintained and recognized the Environmental Protection Agency's program for low emission research.

That precedent should be the model for the Energy Research and Development Administration as well. The development of better automobile fuel economy should be a high priority for the Energy Research and Development Administration and is clearly authorized under S. 2744, but it need not be at the expense of the Environmental Protection Agency's regulatory research program.

Your letter also raises concern over stationary power plant combustion cycles. I certainly agree that the Environmental Protection Agency's program should not constitute the entire federal effort in this area. The Environmental Protection Agency has clear and precise regulatory responsibilities to control the pollutants associated with such energy system—primarily existing sources and new sources which rely on existing energy technologies. Their research effort is directly related to those responsibilities, and should remain in the agency.

This should in no way interfere with the Energy Research and Development Administration's efforts to establish a much-needed developmental effort in combustion cycles. The Energy Research and Development Administration's developmental efforts should include detailed attention to limiting environmental by-products of new technologies. But the capability should be built into the Energy Research and Development Agency, not acquired at the expense of our efforts to clean up existing sources of pollution. Our amendment emphasizes the need for such cooperation. But the principal responsibility for research supporting environmental regulations must remain in the Environmental Protection Agency.

In summary, I believe it is possible to create a viable and strong Energy Research and Development Administration. I do not believe it is necessary or desirable to damage the Environmental Protection Agency's regulatory research program in the process. I believe our recommendation will be consistent with those objectives and with your concerns.

Sincerely,

EDMUND S. MUSKIE, U.S.S.,
*Chairman, Subcommittee on
 Environmental Pollution.*

TITLE II—NUCLEAR SAFETY AND LICENSING COMMISSION

Section 201. Establishment and Transfers

Section 201 establishes the Nuclear Safety and Licensing Commission as a new independent regulatory commission. It replaces the Atomic Energy Commission which is abolished under section 104(a).

Except for the new name of the Commission and its designation as a solely regulatory agency, subsection (a) is identical to section 21 of the Atomic Energy Act. Sections 21 and 22 of the Atomic Energy Act (42 U.S.C. 2031 and 2032) are technically repealed by section 104(a) of this act. Section 22 of the Atomic Energy Act is incorporated into subsections 201(b) through (f) of this act along with new provisions to provide bipartisanship and technical qualifications on the Commission.

Subsection (a) provides the same membership and the same rules for transacting routine business as presently in the AEC. Each of the five members shall be United States citizens, shall have equal responsibility and authority and full access to information and shall have one vote. The Chairman shall be designated from among the members by, and serve at the pleasure of, the President; shall preside at meetings of, be the official spokesman for, and see to the faithful execution of the policies and decisions of, the Commission. A quorum of three is required to transact business, and action shall be taken by majority vote of members present. There is also provision for an official seal of the Commission.

The committee believes that the organization of the Commission—under a Chairman who is specifically authorized to see to, and report periodically on, the faithful execution of its policies and decisions—allows for effective coordination and supervision of the three major line functions of the NSLC. As reported by the committee, the bill establishes three basic, coequal divisions—safety, safeguards and research—each under a Director having direct access to the Commission. It is contemplated that the Office of Administration, now attached to the Director of Regulation of the AEC, will be attached to the Chairman of the Commission to assist in coordinating the duties of the three Directors, consistent with the policies and directives of the Commission. This arrangement will upgrade the role of the Commission, eliminate the high-level management position of Director of Regulation, and promote a freer exchange of views and ordering of regulatory priorities within the NSLC. (A detailed explanation of the new organization and comparative organization charts are contained in section VI of this report.)

Subsection (b) provides for appointment, confirmation, technical qualifications and political balance among the Commission members.

Paragraph (1) provides for appointment by the President with the advice and consent of the Senate.

Paragraph (2) requires the President, in selecting the members, to have a due regard to fair representation of expertise in nuclear safety technology, health science and environmental science. The committee intends that, to the greatest extent practicable, each of these three technical specialties should be represented by three members on the Commission, with the exception of present AEC members who are appointed by the President to serve on the NSLC.

The mix of three technical and two nontechnical members on the NSLC is intended to acknowledge a dual need: (1) to face up to the complex technology and inherent hazards of civilian nuclear power and (2) to address the complex economic and legal questions in the regulation of this new major industry. Neither aspect of nuclear power should be represented on the Commission to the exclusion of the other. This provision is designed to ensure the necessary balance.

These qualifications are intended to be broad enough to allow a wide choice from among highly qualified individuals in related fields covered by each category. For example, to represent the area of nuclear safety technology, a Commissioner need not be a specialist in reactor safety. He should have advanced technical training, such as a doctorate in physics or engineering, but his speciality can be in nuclear materials safeguards, nuclear waste disposal, transportation, or in other major areas related to the generic concept of nuclear safety. A Commissioner, to be representative of health science, can be, for example, a physician, biophysicist, radiologist, researcher or professor whose main interest and experience is in the field of medicine or public health. Environmental science can be, for example, represented on the Commission by a technically qualified individual whose specialty relates to ecology, pollution control or other aspects of studying and preserving the environment.

The example of the Banking Act of 1935, requiring similar fair representation of interests on the Federal Reserve Board, was followed in this subsection.

Paragraph (3) requires that not more than three members of the Commission shall be members of the same political party. This is intended to correct the anomolous situation in which the AEC is the only Federal regulatory commission on which neither bipartisanship nor fair representation of interests is required. At present, all five AEC Commissioners are Republicans.

Subsection (c) provides that the terms of the five members shall be staggered from 1 to 5 years by the President when he makes initial appointments to the Commission.

Subsection (d) requires that such initial appointments shall be submitted to the Senate within 60 days of the signing of the act. It also specifically exempts present members of the AEC from the political balance and technical requirements of subsections 201(b)(2) and (3). Present AEC Commissioners may be appointed to the NSLC and confirmed by the Senate for a period not to exceed the unexpired portion of their present term. Any subsequent appointment of such individuals would be subject to Senate confirmation on the basis of technical and political balance requirements cited above.

Under the original bill, members of the AEC would have automatically become members of the NSLC without the need for Senate con-

firmation. The committee firmly believes that fresh consideration by both the President and the Congress as to who should serve on the new Commission is warranted by the fact that the NSLC will have an exclusively *regulatory* function, as compared with the *combined* developmental and regulatory functions of the AEC.

To assure the constitutionality of naming new Commissioners, the bill as reported by the committee, takes the technical form of *abolishing* the AEC and *transferring* its regulatory functions to a newly established NSLC. Under the original bill, the AEC was *renamed* and the regulatory functions were *retained* by the renamed Commission. The net effect is the same, but a potential constitutional problem is averted. The committee was advised that without the abolition and transfer, Congress could be construed to be exercising a removal power not provided by the Constitution. The problem is avoided by establishing a new commission and providing for Senate confirmation of its members.

Subsection (e) provides for compensation of the NSLC Chairman at executive level II (\$42,500 a year) and of the four other members at level III (\$40,000 a year)—the same salary schedules as presently provided for the Chairman and members of the AEC. It should be noted that these are higher levels than provided the chairmen and members of other regulatory bodies, which are usually at level III and IV respectively. The committee supports these higher pay grades for NSLC members because of the awesome responsibilities involved in regulating what is potentially the world's most hazardous technology. The committee, therefore, wishes to stress that special care should be taken to ensure that only the most uniquely able and qualified individuals are appointed to the Commission by the President and confirmed by the Senate.

Subsection (f) provides for removal by the President for inefficiency, neglect or malfeasance and bars members from engaging in business or other outside interests.

Subsection (g) transfers to the new Commission all the licensing and related regulatory functions of the AEC, its Chairman, members, general Counsel and other officers and components—all of which are excepted from the transfer to the ERDA Administrator by section 104 (c) of the act. The functions relate specifically to all facilities, materials and activities in the civilian nuclear industry which are now under the jurisdiction of the regulatory side of the AEC.

Subsection (2) specifies the transfer of certain functions and personnel to NSLC from among, and in addition to, those transfers generally provided in subsection (g).

Paragraph (1) specifically transfers the Advisory Committee on Reactor Safeguards, the Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Panel. Each of these is essential to the NSLC's effective operation, and the committee wanted to ensure their complete transfer to the new Commission.

Even in its new role as a Commission with only regulatory responsibility, it is unreasonable to expect that the five Commissioners would be able to do what the appeal panel now does in terms of reading and analyzing voluminous case records and technical reports, and at the same time perform all of the Commission's other regulatory roles.

The continued existence of the appeal panel will ensure that the Commission will be able to oversee the licensing and rulemaking workload while carrying out its principal administrative and coordinating functions essential to the Nation's health, safety, security, and energy supply.

Paragraph (2) transfers to the Commission all AEC research personnel whose primary responsibility is confirming the safety of reactors licensed under the Atomic Energy Act. There is an exception, however, which permits the Office of Management and Budget to determine how many such individuals should not be transferred because they are needed to assist in ERDA's reactor development program.

It should be stressed, however, that this paragraph is intended to provide the personnel needed to give the regulators of nuclear power their first in-house research capability to determine for themselves the safety of the reactors they license and inspect. Its intent is to sharply modify the present heavy dependence of the nuclear regulators on the development and promotional side of the AEC for safety research. One of the basic purposes of this act is to separate the regulatory functions of the AEC from its developmental and promotional functions, and this is intended as a key provision to carry out that purpose. The quality and number of researchers transferred by OMB to NSLC should reflect that purpose.

The source of all or most of the transferred research personnel will be the Office of Reactor Safety Research on the development side of AEC. All of the research managed by the office is for the regulatory side of AEC. There are now 54 research managers in that office. Most of them specialize in the safety of light water reactors—by far the most common reactor licensed today.

It is the intent of this act to transfer as many light-water reactor safety specialists as practicable to a new Office of Nuclear Safety Research in NSLC, which is established by section 203. The new research office is designed specifically not to be duplicative or to deprive ERDA of the resources it needs for its own safety research.

The committee cites the increasing numbers of defects, abnormal occurrences and shutdowns being reported in nuclear powerplants—nearly half of them attributed by the AEC to possible design or fabrication deficiencies—as pointing up the need for the transfer of safety research personnel to the new regulatory commission as provided in this subsection.

It should be noted that research facilities—including the AEC's national laboratories and test reactors—will be transferred to ERDA. NSLC safety research, therefore, either will be managed by NSLC personnel in ERDA facilities or will be contracted out altogether.

By transferring safety research personnel to NSLC, the committee clearly intends, however, to establish in NSLC the capability to manage or conduct its own research, to the extent the Commission considers necessary. The intent is not to limit NSLC to evaluating research performed for it by ERDA or other outside contractors.

Section 202. Licensing and Related Regulatory Functions Respecting Selected Administration Facilities

Section 202 extends the licensing and related regulatory authority of NSLC beyond the present provisions of the Atomic Energy Act to include certain reactors and waste storage facilities that will be owned and operated by ERDA.

The committee intends this subsection to be a major enhancement of the new regulatory commission's authority, enabling it to develop early expertise in new generations of nuclear technology as they approach commercial application. As also discussed in the analysis of subsection 203 (c) (3), relating to the Commission's research function, the committee believes that it is essential for NSLC to have the capability to develop expertise in reactor safety earlier in the developmental process than is now the case for the AEC Regulatory Division. The expected result will be to speed up the eventual licensing of new commercial reactors and other commercial nuclear facilities. This purpose is implemented as follows:

Paragraphs (1) and (2) are intended to extend NSLC's authority and responsibility under the Atomic Energy Act to license and otherwise regulate any nuclear power reactors to be built by ERDA or with ERDA financial assistance for the express purpose of demonstrating the commercial feasibility of such a power reactor concept for the generation of electricity in an electric utility system.

Such reactors comprise the following:

- Demonstration reactors (i.e., adaptable for generation of electricity and of substantial size) using the LMFBR technology.
- Demonstration reactors using any other power reactor concepts, except those which are already in existence. (The AEC has advised the committee that only one such demonstration reactor, located in Shippingport, Pa., is in existence and therefore excluded from this provision.)
- Experimental reactors of significant size which may not generate electricity but which are integral elements of demonstration programs which seek to establish the commercial feasibility of new power reactor concepts.

It is the intent of the committee to exclude from such regulation, research reactors, test reactors, safety reactors such as the LOFT, and small experimental reactors which are exploratory in nature, and which are not yet part of a demonstration program.

Paragraphs (3) and (4) provide NSLC the authority and responsibility for licensing and related regulation of retrievable surface storage facilities and other facilities for high-level radioactive wastes which are or may be authorized by the Congress to be built by ERDA or with ERDA financial assistance for long-term (tens to hundreds of years) storage of such radioactive wastes generated by the Administration or to which present high-level radioactive wastes may be transferred by the Administration in the future. It is not the intent of the committee to require licensing of such storage facilities which are

already in existence or of storage facilities which are necessary for the short-term storage of radioactive materials incidental to ERDA's R. & D. activities.

These two paragraphs anticipate the time, probably in the 1980's, when commercial nuclear power reactors will generate more high-level radioactive waste materials than reactors in the Government sector, including those used in the weapons program. At present, most of the wastes which are leaking from temporary tanks in AEC storage facilities are from the weapons programs. The committee intends that new facilities now being planned for long-term storage of commercial wastes will meet the strict licensing standards of NSLC.

Section 203. Office of Nuclear Safety Research

Section 203 establishes an Office of Nuclear Safety Research to manage or conduct, with its own personnel, the necessary research for the Commission to discharge its licensing and related regulatory functions. Although NSLC can contract out to ERDA for the performance of some safety research, the committee clearly intends that the Office of Nuclear Safety Research shall provide NSLC with the capability to independently confirm the safety and security of commercial reactors and other nuclear facilities subject to licensing and inspection by the Commission.

The office is designed to replace the present system in which the regulatory division of the AEC is wholly dependent upon the development side of the AEC for the research personnel and facilities needed to conduct regulatory safety research.

Thus, the committee specifically intends that the Office in NSLC be considerably more than a skeletal staff of evaluators of ERDA research. If this is not done, the weaknesses of the present system would be perpetuated.

One of the declared purposes of this act (section 2(c)) is to separate the developers from the regulators of commercial nuclear power. This section is intended by the committee to be one of the key provisions to carry out that purpose. The necessary research personnel are transferred from the development side of the AEC to the new independent regulatory Commission by section 201 (h) (2). All of the AEC's research facilities are transferred to ERDA by section 104 (c) in acknowledgement of the long-standing experience on the development side in managing these capital-intensive installations valued at nearly \$10 billion.

The committee intends that those facilities now used primarily for performing regulatory research—in particular, the Power Burst (PBF) and Loss of Fluid Test (LOFT) facilities—should be operated by ERDA primarily for NSLC-managed research. These facilities are designed to test for potential defects in Light Water Reactor (LWR)—the most common commercial reactor being licensed and inspected by the Regulatory Division of the AEC. They will have little use in ERDA's reactor-development programs which involve primarily the High Temperature Gas Cooled (HTGC) and Liquid

Metal Fast Breeder (LMFBR) reactors, for which other test facilities are used.

Therefore, the transfer to NSLC of personnel specializing in the management of research relating to the safety of licensed reactors, and the utilization by these personnel of suitable ERDA-operated facilities, will enhance the regulatory role of NSLC without impinging upon the development programs of ERDA.

In view of the increasing number of defects, abnormal occurrences and shutdowns involving light water reactors—nearly half of which are attributed by the AEC to design and fabrication problems—the committee concluded that the public interest would be best served by establishing related safety research in the new regulatory Commission rather than in ERDA. This subsection establishes the research office. Subsection 201 (h) (2) transfer the research personnel, with OMB determining the number of safety researchers needed to be retained by ERDA for its reactor development program.

The committee recommends that the vast majority of the 54 personnel now in the AEC Office of Reactor Safety Research should be transferred to NSLC. The fiscal year 1975 budget for the new Office of Nuclear Safety Research is estimated at \$53 million to cover research performed either by ERDA or NSLC personnel.

Subsection (a) establishes the Office under a Director of Nuclear Safety Research who is appointed and removable by the Commission. The Director is provided compensation at level IV of the Executive Schedule, and he is guaranteed direct access to the Commission. This elevated status places the Director on the same level in relation to the Commission as the Director of Nuclear Reactor Safety and the Director of Nuclear Materials Security.

Subsection (b) provides that the Director shall engage in or contract for research which he recommends and the Commission deems necessary to carry out the licensing and other regulatory functions of the Commission. As stated above, such research now primarily deals with the Light Water Reactor, the most common commercial reactor in use, under construction, and in the planning stage today.

Subsection (c) requires cooperation by ERDA and other agencies to assist the Director to carry out nuclear safety research on behalf of the Commission.

Paragraph (1) requires ERDA and other agencies to cooperate in the establishment of priorities for furnishing research services to NSLC. The committee intends that this will involve placing NSLC-requested research projects ahead of their own if such priority is warranted by safety considerations in the public interest.

Paragraph (2) requires ERDA and other agencies to furnish, or contract for, research on a reimbursable basis, as deemed necessary by the Commission to fulfill its functions. The committee intends that this provision obligates ERDA and the other agencies to provide research services required by the Commission, subject to an ordering of priorities as provided in paragraph (1). Furthermore, because ERDA will operate all nuclear research facilities, it has a special obligation to

make such facilities available to NSLC researchers—particularly the LOFT and Power Burst facilities, which are the most closely related to NSLC's regulatory functions.

Paragraph (3) requires ERDA and other agencies to cooperate with NSLC on research and development matters of mutual interest, including providing access to information and facilities, for the sole purpose of assisting the Commission to acquire the expertise necessary to perform its functions. Although there are general provisions in the Atomic Energy Act that may ensure NSLC personnel access to ERDA information, (sections 146b, and 161c) there is none to guarantee physical access to ERDA facilities.

This paragraph is intended to assure NSLC the access to ERDA information and facilities which the Commission needs to develop safety expertise in advanced reactor technologies as they approach the commercial development and licensing stage. This arrangement will facilitate NSLC's anticipating safety problems at an earlier stage than currently practicable and will thereby serve to speed up, rather than hinder, the licensing of new generations of reactors.

For example, this provision will ensure NSLC access to the Fast Flux Test Facility (FFTF), the major facility for safety testing of the Liquid Metal Fast Breeder Reactor. The reactor itself is being built on a demonstration basis near Oak Ridge, Tennessee. NSLC's access to the demonstration reactor is guaranteed by section 202(1). But NSLC researchers may need to observe or evaluate fast breeder safety design tests at the fast flux facility. This provision, section 203(c)(3) will ensure access.

The committee stresses that this provision in no way authorizes NSLC to use such informational and physical access for the purpose of licensing or otherwise regulating the fast flux facility or other ERDA test reactors and experimental facilities. The safe operation of noncommercial facilities, which are owned and operated by ERDA, will be strictly the responsibility of ERDA. The only exceptions, in the form of specific extensions of NSLC's licensing authority, are provided in section 202.

Subsection (d) states that nothing in subsections (a) and (b) of this section shall limit any ERDA functions relating to the safety of activities within its own jurisdictions.

Section 204. Bureau of Nuclear Materials Security

Section 204 establishes a new Bureau of Nuclear Materials Security to carry out all of the Commission's line functions relating to the safeguarding of licensed nuclear materials and facilities against threats, thefts, and sabotage. At present, these functions are now carried out by safeguards personnel who are combined with reactor safety, environmental and antitrust personnel in three regulatory directorates of the AEC. The committee clearly intends to separate the safeguards personnel and organize them into a high-level unit that can effectively

exercise all functions needed to protect the public from the hazards inherent in the planned proliferation of explosive and toxic nuclear materials in the nuclear power industry. The committee clearly does not intend to establish a unit limited to only policy advisory functions.

Subsection (a) establishes the Bureau and provides that it shall be headed by a Director of Nuclear Materials Security who is appointed and subject to removal by the Commission. The Director is to be compensated at level IV of the Executive Schedule, and he is guaranteed direct access to the Commission.

This subsection is intended to clearly establish the authority of the Director as the chief officer responsible for carrying out all the safeguards responsibilities and directives on behalf of the Commission, including regulations, licensing, inspections and enforcement. His level IV status places him at the same level in the organization as the Director of Nuclear Reactor Safety and the Director of Nuclear Safety Research, with the same direct access to the Commission. Thus, he is required to report only to the Commission on the execution of his functions, as detailed in subsection (b), and on the organization and day-to-day operations of the Bureau. He is granted autonomy within the regulatory organization, but is clearly subordinate to the Commission.

By designating the materials security unit a bureau, rather than an office, the act acknowledges the unique security and enforcement responsibilities of the Bureau within the NSLC. For example, section 204(b)(5) requires the Director to make recommendations to the Commission and to the Congress within 1 year on establishing a Federal security force within the Bureau. Generally, the Director will be responsible for coordinating with Federal, State, local and private-sector security agencies in the protection of industrial nuclear materials and facilities from internal and external threats.

Subsection (b) enumerates the functions of the Director of Nuclear Materials Security.

Paragraph (1) provides that the Director shall recommend regulations for safeguarding against threats, thefts, and sabotage involving special nuclear materials, high-level radioactive wastes and nuclear facilities resulting from all activities licensed under the Atomic Energy Act.

The committee clearly intends to bring under the jurisdiction of the Director any nuclear materials at any stage of the nuclear fuel cycle which, if diverted by misguided individuals, would constitute a substantial hazard to the public, either on the basis of their explosiveness or toxicity. The same standard applies to protecting licensed nuclear facilities from sabotage. The Director is the one Federal officer below the Commission to whom the Nation should look for the physical protection of the licensed nuclear industry. His recommendations on regulations should reflect a careful appraisal of what the industry and State and local authorities can be reasonably expected to provide

in the way of protection, and what the Federal Government must provide, to ensure maximum security for the Nation at large.

Paragraph (2) provides that the Director shall enforce safeguards regulations which are promulgated by the Commission, generally upon his recommendation.

The recent Rosenbaum report, prepared for the AEC by a team of outside consultants, found the present safeguards system under current AEC regulations to be "entirely inadequate" to meet the threat of theft of potentially explosive materials and the subsequent clandestine manufacture of bombs.

It should be noted that while the job of safeguarding commercial nuclear material is enormously important, the job itself is manageable and well within the bounds of available technology. There are now approximately 570 licensed facilities which are authorized to possess approximately 1 million pounds of plutonium and enriched uranium. But 99.8 percent of this authorized material, about half of it of weapons-grade, is located in about 100 facilities. Of these, 27 were fuel facilities where theft is considered a problem, because the nuclear materials are in a form that can be easily handled. The remaining facilities are reactor sites where the fuel is highly radioactive, making theft unlikely. Furthermore, of the 27 fuel facilities, only 19 are listed by the AEC as major facilities. Thus, the present commercial safeguards efforts against theft can be focused on less than 20 major facilities, and this figure is expected to grow by only another 20 by the 21st century.

The weakest link in the commercial nuclear fuel cycle is the transportation of "trigger quantities" of potentially explosive materials—4.4 pounds of plutonium, 11 pounds of enriched uranium—from one facility to another. In the year ending March 31, there were 455 such shipments—mostly in conventional trucks without armed guards. Two armed guards were required with each shipment beginning in March. But the number of shipments each year will climb into the thousands over the next two decades, and tighter security will be needed to prevent thefts by terrorist groups.

Still, the armored truck technology is now at hand in the transportation of weapons parts and assembled bombs by the AEC, just as there is now a sophisticated alarm and detection system in the facilities producing these weapons.

In the committee's view, there is no justification whatever for the failure to utilize these currently available technologies in the commercial sector. The fact that current AEC regulations result in commercial facilities and shipments not being as well guarded as weapons facilities and shipments is viewed by the committee with great concern.

Pursuant to this paragraph (2), the Director can recommend to the Commission new regulations that can bring a swift remedy to the problem.

This paragraph is also intended to make clear the supremacy of the Commission, including its authority to issue such regulations as it determines are necessary, regardless of the Director's recommendations. At the same time, the high executive status of the Director will enable him to make the strongest possible presentation of his recommendations to the Commission.

The clear authority of the five-member Commission over the activities of the Director should allay fears associated with the possible establishment of a national security force within the Bureau. It is the intention of this act to safeguard nuclear facilities and materials without altering the constitutional safeguards or the traditional openness of our society. Congressional oversight relating to the activities of the Commission in general and the Bureau in particular will also serve to protect the public interest while protecting the security of the nuclear industry.

Paragraph (3) provides that the Director shall be responsible for monitoring, testing and upgrading internal accounting systems for special nuclear materials used in the licensed industry.

This function relates primarily to safeguarding against internal diversion of materials from fuel facilities and reactor sites. If successfully diverted by an employee or infiltrator, even in small amounts over a period of time, these materials could be fashioned by reasonably skilled individuals into nuclear bombs or deadly dispersal devices.

The Rosenbaum report laid particular emphasis on the inadequacy of the present internal accounting systems in the nuclear industry. The Director will have as one of his most urgent tasks the evaluation and upgrading of this system so that there can be reasonable assurance that sneak-thief diversions can be prevented or can be detected if they do occur. Essential to this effort will be so-called "black hat" gaming techniques, or actual undercover attempts to surreptitiously remove nuclear materials from facilities, to test the adequacy of the system and detect potential paths of diversion.

Paragraph (4) requires the Director of Nuclear Materials Security to develop contingency plans in consultation and coordination with his counterpart in ERDA for dealing with nuclear threats, thefts and sabotage in the licensed nuclear industry.

This paragraph acknowledges the obvious connection between safeguarding weapons-grade and toxic nuclear materials, whether they are used in the test reactor and weapons programs of ERDA or in the nuclear power industry regulated by NSLC. If successfully diverted from either sector, they spell serious danger for the public at large.

Therefore, the Director of the new Bureau of Nuclear Materials Security in NSLC should work closely with the Director of the ERDA Division of Safeguards and Security which will be transferred from the development side of the AEC by this act. The importance of drawing upon the long safeguards experience and sophisticated techniques related to the AEC's weapons program is made all the more

urgent by the AEC's estimate that the nuclear power industry will generate more weapons-grade material than will the government weapons programs after 1980.

The need for coordinated contingency planning is essential to developing an effective and comprehensive Federal response to suspected or actual nuclear thefts and to blackmail demands. It is particularly important that there be full coordination not only between responsible authorities in ERDA and NSLC, but with other concerned agencies as well, including the Department of Defense, FBI and CIA.

The Rosenbaum report recommended interagency agreements to work out these arrangements. The committee intends this paragraph of subsection (b) to authorize the Director to enter such agreements on behalf of the Commission.

Paragraph (5) requires the Director to conduct a thorough review of the desirability and feasibility of establishing a security agency within the Bureau to execute some or all of its safeguards functions. His report will be made within 1 year to the Commission, which will submit it to Congress as soon as it is received.

The committee intends that this report should explore every facet of the present industrial safeguards system. It should evaluate the adequacy of present safeguards and project ahead as to the capacity and the determination of the industry to institute new measures needed to keep pace with the projected proliferation of weapons-grade materials.

The Rosenbaum report recommended the establishment of a Federal nuclear protection and transportation service to immediately tighten security at licensed nuclear facilities and in the transporting of materials from one facility to another.

The report authorized in this subsection is intended to take up where the Rosenbaum report left off. It is also intended to study the recent internal reorganization on the general manager's (nonregulatory) side of the AEC in which separate safeguards and security divisions were merged into a new Division of Safeguards and Security to deal primarily with the weapons program. This example is especially relevant to the new regulatory Commission because the civilian nuclear industry, according to present projections, will be producing more explosive materials than the government weapons program after 1980.

The committee expresses the hope that the safeguards study and recommendations can be completed in far less than the year provided in this provision of the act. The need for upgrading the present safeguards system is urgent, and if Federal personnel are needed to protect licensed nuclear facilities and shipments, these steps should be taken without delay.

Paragraph (6) authorizes the Director of Nuclear Materials Security to engage in or contract for research in the safeguards area.

It is intended that this research, involving such elements as detection and alarm systems, materials inventory and accounting systems, and transportation technology, will be performed at the Director's

request by the Office of Nuclear Safety Research in NSLC. The research director will have the option to engage in the research with NSLC personnel, or to contract out to ERDA.

Subsection (c) provides that the safeguards functions of NSLC in the licensed sector in no way limit safeguards functions exercised by ERDA in the weapons, test reactor and other nonregulatory areas.

Section 205. Noncompliance

Section 205 requires officers and employees of licensed nuclear facilities, or of firms supplying components to, or constructing, these facilities, to report knowledge of safety defects or of noncompliance with NSLC regulations, or face civil or criminal penalties.

The committee intends by this provision to upgrade the system of detecting and anticipating the defects that increasingly have plagued the nuclear power industry and threatens its safety record on a daily basis. The application of this provision to component suppliers is intended to benefit electric utilities in particular, which usually have no way of knowing that a sealed, prefabricated part is defective until it triggers a shutdown costing tens of thousands of dollars a day in lost generating capacity.

The frequency of shutdowns has caused nuclear power plants to operate at an average of 58 percent of capacity in 1973, compared with the 80 percent projected originally. Out of a total of 39 operating plants, the AEC surveyed 27 which were licensed to operate for 3 months or longer, and found nearly a third (8) operating at less than 50 percent of capacity. The Federal Power Commission reported that the Nation's 1,017 fossil power plants, many of them relatively old and rated to operate at less than 50 percent capacity, operated at an average of 53 percent capacity in 1973.

Component failures accounted for more than half of the 861 abnormal occurrences in nuclear powerplants which were reported to the AEC in 1973. Often the defective components were relatively non-complex hardware items. For example, valves were the most frequent components involved in abnormal occurrences—amounting to 157 failures, or 19 percent of the total. Yet, the breakdown of a simple valve has potentially catastrophic implications. The system most frequently involved in abnormal occurrences (210) was the primary cooling system, which is used to prevent a meltdown of the nuclear core of a reactor. The system next most frequently affected by defects (166) was the emergency core cooling system, which prevents a meltdown in case the primary cooling system fails. A meltdown is the worst conceivable reactor accident; according to testimony, such an accident could result in breaching of the containment vessel of a powerplant and in the release of radioactive fallout equivalent to many Hiroshima bombs.

The table in figure 11 shows the operating statistics for the 27 nuclear powerplants surveyed by the AEC in 1973:

FIGURE 11.—Operating statistics of 27 nuclear powerplants surveyed by the AEC in 1973 (Licensed to operate 3 months or longer).

Plant	Type	Power Level (MWe-Net)	Date Commercial Operation Started	Total Clock Time During the Period (Hours)	Total Time Generator On-Line (Hours)	Plant Avail. Factor (%)	Plant Capacity Factor (%)	Total Time Reactor Critical (Hours)	Reactor Availability Factor (%)	Remarks
Connecticut Yankee	PWR	575	Jan. 1968	8760	4429	51	48	4932	56	Refueled; Turbine problems
Haddam Neck, Conn.										
Dresden-1	BWR	200	July 1960	8760	6374	73	35	6429	73	Refueled
Dresden-2	BWR	800	June 1972	8760	7672	88	74	7952	91	
Dresden-3	BWR	800	Nov. 1971	8760	5908	67	55	6183	71	Refueled
R. E. Ginna	PWR	490	Mar. 1970	8760	8325	95	87	8346	95	
Humboldt Bay	BWR	68	Aug. 1963	8760	7814	89	73	7838	90	
Indian Point-1	PWR	265	Oct. 1962	8760	0	0	0	0	0	Refueled; variety of inspections and repairs
Maine Yankee	PWR	790	Dec. 1972	8760	6644	76	52	6644	76	
Milstone Point-1	BWR	690	Mar. 1971	8760	3983	46	35	4217	48	Refueled; condenser tube leaks; feedwater spargers
Monticello	BWR	545	July 1971	8760	6241	71	68	6481	74	Refueled
Nine Mile Point	BWR	610	Dec. 1969	8760	6682	76	66	6745	77	Refueled
Oconee-1	PWR	886	July 1973	6168	3723	60	43	4355	71	
Oyster Creek	BWR	650	Dec. 1969	8760	6402	73	66	6497	74	Refueled
Palisades	PWR	821	Dec. 1971	8760	3853	44	41	3895	45	Refueled; steam generator tube leaks; core internals vibration
Pilgrim	BWR	664	Dec. 1972	8760	7571	86	73	7757	89	
Point Beach-1	PWR	497	Dec. 1970	8760	6867	78	67	7127	81	Refueled

Plant	Type	Power Level (MWe-Net)	Date Commercial Operation Started	Total Clock Time During the Period (Hours)	Total Time Generator On-Line (Hours)	Plant Avail. Factor (%)	Plant Capacity Factor (%)	Total Time Reactor Critical (Hours)	Reactor Availability Factor (%)	Remarks
Point Beach-2	PWR	497	Apr. 1973	8760	8192	94	73	8376	96	
Quad Cities-1	BWR	809	Feb. 1973	8760	7437	85	73	7700	88	
Quad Cities-2	BWR	809	Mar. 1973	8760	7405	85	78	7686	88	
H. B. Robinson-2	PWR	707	Mar. 1971	8760	6593	75	65	6802	78	Refueled; Turbine problems
San Onofre-1	PWR	450	Jan. 1968	8760	6502	63	60	5576	64	Refueled; Turbine problems
Surry-1	PWR	823	Dec. 1972	8760	5378	61	53	5526	63	Broken pump shaft; Valve problems; Steam leaks; Turbine oil pump
Surry-2	PWR	823	May 1973	7200	5318	74	63	5592	78	
Turkey Point-3	PWR	745	Dec. 1972	8760	6954	79	58	7195	82	
Turkey Point-4	PWR	745	Sept. 1973	4896	3587	73	45	3937	80	
Vermont Yankee	BWR	514	Nov. 1972	8760	5354	61	43	5672	65	Refueled; Startup transformer; Offgas treatment system
Yankee Rowe	PWR	175	July 1961	8760	6222	71	68	6461	74	Control rod replacement; New control rod shroud assembly
Totals				228504	160421			165947		
Averages				8463	5942	70	58	6145	73	

The Atomic Energy Act contains no similar provision requiring the reporting of defects and noncompliance, subject to civil or criminal penalties. This provision is patterned closely after sections 15, 20 and 21 of the Consumer Product Safety Act. The committee believes that the unquestionable health and safety considerations implicit in the NSLC's need for information relating to nuclear defects is at least as imperative as the Consumer Product Safety Commission's need for such information in the product safety area.

The Commission has informed the committee that the defects-reporting system has worked well in its first year of operation. There have been 140 reports of product-safety defects, all of them bonafide, over a 12-month period. They have resulted in the issuance of only one civil penalty notice for noncompliance. Three cases involving refusals to comply with subsequent Commission directives are still pending. All other cases stemming from reports of defects were closed by means of voluntary compliance with Commission directives.

The committee expects that a similar record of bonafide defects reports and speedy compliance will be experienced by the NSLC. It is intended that this provision, combined with the requirement in section 207 for timely NSLC reports of abnormal occurrences, will substantially upgrade the Federal response to defects in all licensed nuclear facilities.

Subsection (a) requires any Director, officer and employee of any licensed nuclear facility, or of any firm constructing or supplying components to such a facility, to report immediately to the Commission information reasonably indicating (1) failure to comply with the Atomic Energy Act or regulations of the NSLC or (2) any defect which could cause a substantial safety hazard, unless he actually knows the Commission already has been informed. The committee intends, and the provision so states, that only "basic" components are covered by this requirement to report defects, as distinguished from incidental components unrelated to the safety of a nuclear facility.

Subsection (b) provides that persons knowingly violating this provision are subject to a civil penalty amounting to a fine of \$5,000 for each violation, not to exceed \$25,000, as provided in section 234 of the Atomic Energy Act.

Subsection (c) provides a criminal penalty for knowing and willful violation not to exceed a fine of \$50,000 or 1-year imprisonment, or both.

Subsection (d) requires that the details of this provision be posted prominently in licensed nuclear facilities.

Subsection (e) authorizes the Commission to conduct reasonable inspections and other enforcement activities to insure compliance with this provision.

Section 206 Information and Studies

During the course of hearings on S. 2744, testimony was presented by several witnesses concerning the disadvantageous position of public intervenors in AEC licensing cases. There was some discussion of the disparity in financial capability—the utilities may budget from \$500,000 to \$1 million to present their case in a major licensing proceeding, while intervenors consider themselves fortunate to have \$150,000 to fight it—but the major thrust of the testimony concerned access to ex-

perts and technical data. This testimony demonstrated the very real difficulty that AEC intervenors have in presenting an effective case when technical experts and data are unavailable or available only in a limited manner through the AEC. As a practical matter, the vast majority of experts in nuclear engineering are employed either by the AEC or the electric power industry; it is a rare nuclear engineer who works outside this field who might be available to serve as an expert or do technical studies on behalf of intervenors in AEC licensing and rulemaking proceedings.

To partially correct this imbalance between public and other hearing participants in AEC licensing cases, the Committee adopted section 206. The section makes the Commission, ERDA, other government agencies, or outside contractors, available as potential sources of data, studies, or technical assistance.

Under the section, any participant in a licensing or rulemaking hearing may make good faith requests for relevant studies or reports from the Commission. The Commission is only required in the first instance to accept requests which are "made in good faith" and which are "relevant." This is designed to assure that an intervenor will not have a vehicle for delaying a hearing by presenting frivolous requests for reports and then seeking repeated appeals of the Commission's denials of such requests.

If the requested studies or reports are in existence, they would be made available to the requesting party in a timely manner. If they are not in existence and must be prepared in response to the request, this section sets out the criteria and procedures which govern whether they should be prepared and made available.

Subsection (a) provides that the Atomic Safety and Licensing Board will determine "if such studies or reports are reasonably necessary for the requesting party to present its position in the proceeding or hearing, and are in the public interest". Rights under the remainder of the section are predicated on this determination. Under subsection (a), the requesting party must be promptly notified of the Board's determination, and the determination may be reviewed under normal procedures by the Commission.

In making the determination as to reasonable necessity in presenting a case, the Board or Commission might consider such factors as the significance of the information sought, the availability to the requestor of the material from other sources, relevance of the study to issues in the proceeding, and the degree to which the request is essential to the requesting party's position.

If a dispute arises as to whether a report offered by the Commission is responsive to the party's request, that dispute would be resolved in the first instance by the Atomic Safety and Licensing Board.

Subsection (b) allows the Commission to obtain reimbursement of its costs of preparation where the party possesses the necessary financial resources. This provision would not be used to bankrupt citizen groups, but to obtain reimbursement where a party is clearly able to pay, such as a utility.

If a party is capable of contributing to or reimbursing the Commission for the cost of preparation of a study or report, and refuses to do so, the Commission might then refuse to prepare, or discontinue

the preparation of, the study or report, unless the Commission found it in the public interest to prepare the study or report, notwithstanding such refusal to contribute to or recompense the Commission for the cost of preparation.

The Commission should notify requesting parties of its intention to seek reimbursement and the estimated cost of the reports or studies at the time of the request for the work.

Subsection (c) provides that when the Commission shall be of the opinion that a determination under subsection 206(a) involves a controlling question of law as to which there is a substantial ground for difference of opinion and that an immediate appeal from the determination may materially advance the ultimate termination of the litigation, it shall so state in writing in its determination.

The determination with respect to allowing such an appeal would normally be made by the Atomic Safety and Licensing Appeal Board upon application to it. It is this Board which has been delegated the appellate review functions of the Commission. The court of appeals for the District of Columbia may, thereupon, in its discretion, permit an appeal to be taken from such determination, upon application within ten days of the time the requesting party is notified of the determination of the Commission. Application for an appeal would not operate to stay proceedings of the Commission unless the Commission or the court of appeals or a judge thereof so ordered.

Thus, subsection (c) is intended to provide for appeal in an orderly but timely fashion of what may subsequently turn out to be a controlling question, but the subsection also provides an explicit safeguard in its final proviso against the danger that the appeal will result in delay of the NSLC proceedings.

Subsection (d) makes clear that the report in question must be available for inclusion in the record but will only be received in evidence if it is relevant, material and reliable. The authors and others who worked on preparing it would, of course, be available for cross-examination in the hearing if the report were received in evidence.

The provisions of section 206 in no way alters any of the exemptions to the provisions of the Freedom of Information Act.

Section 207. Abnormal Occurrence Reports

Section 207 requires the Commission to make quarterly reports to Congress on full details of abnormal occurrences at licensed nuclear facilities and to widely disseminate initial information to the public within 5 days of learning of each incident. Specifically, the initial public reports must include the date, place and nature of each abnormal occurrence. In addition the quarterly congressional reports must state the cause and any action taken to prevent recurrence of each incident.

A detailed discussion of the nature and importance of abnormal occurrences in relation to nuclear defects appears on page 67 of this report (section 205). In addition the committee wishes to make clear its intention that the Commission's abnormal occurrence reports cover all licensed nuclear facilities and activities. Earlier this month, the AEC issued its first annual report on abnormal occurrences,

and it covered only those incidents which took place at nuclear powerplants. The intention of this provision is to require comprehensive reports to Congress, and initial reports to the public, relating to all abnormal occurrences in the licensed sector.

For example, materials unaccounted for and faulty alarm and detection systems in licensed nuclear fuel facilities should be included in abnormal occurrence reports. Similarly, mechanical breakdowns, leaks and lost shipments in the course of transporting licensed nuclear materials should also be the subject of these reports. Also, abnormal occurrences at high-level radioactive waste-disposal facilities, at such time as they come under the licensing provisions of this act, should be included in these reports.

The committee also notes that, to date, there are no uniform criteria as to what constitutes abnormal occurrences. The AEC states in its first such report that the definition is "still undergoing evolutionary change," varying from plant to plant, and resulting in "a lack of uniformity in what is reported to the AEC." The committee expects that this provision will be broadly interpreted, and intends that reports made to Congress and the public under this provision shall be based on uniform criteria so that the data can be evaluated intelligently and in the national interest.

Section 208. Other Officers

Section 208 provides for the appointment of a Director of Nuclear Reactor Safety and for nine unspecified executive-level officers.

Subsection (a) authorizes the Commission to appoint a Director of Nuclear Reactor Safety, who reports directly to, and is removable by, the Commission. This position is intended to succeed the AEC Director of Regulation who now is compensated at level V on the Executive Schedule.

The Director of Nuclear Reactor Safety is elevated to level IV by this provision, placing him at the same level as the new positions of Director of Nuclear Materials Security and the Director of Nuclear Safety Research.

The committee intends that the Director of Nuclear Reactor Safety will continue to supervise the existing directorates of regulations, licensing and enforcement as they pertain to the safety of nuclear powerplants and other facilities in the licensed industry. As such, he will remain the chief officer beneath the Commission responsible for safety. The other two Directors will be the chief officers on behalf of the Commission for safeguards and research respectively.

Subsection (b) provides for not more than nine additional officers in NSLC at level V on the Executive Schedule, who shall be appointed and removable by the Commission.

The committee readily acknowledges that this represents a higher rate of Executive Schedule officers in the NSLC than in any other regulatory agency. The committee also stresses that the nuclear power industry will offer a regulatory challenge of such unprecedented proportions, in terms of the energy needs and the health and safety of the people, so as to warrant this major commitment of Executive Schedule officers.

The organization of NSLC, as provided in the act and as detailed in the chart in section VI of the report, could result in the assignment of these level V officers as follows:

Office of Nuclear Reactor Safety:

Director, Directorate of Licensing
 Director, Directorate of Regulations
 Director, Directorate of Enforcement

Office of Nuclear Materials Security:

Director, Directorate of Licensing
 Director, Directorate of Regulations
 Director, Directorate of Enforcement

Office of Nuclear Safety Research:

Deputy Director, Safety
 Deputy Director, Safeguards

Office of Administration:

Director

The organization chart in section VI of the report shows how these positions would be placed in the NSLC.

The committee provided for the appointment of nine level V officers in NSLC because it is of the conviction that the unprecedented magnitude, complexity and potential hazards of the nuclear power industry require individuals of policymaking calibre in the key regulatory positions. In determining how to proceed with nuclear power in ways that confine risks and costs to acceptable levels, they will have to recommend innovative policies to their immediate superiors and to the Commission itself.

TITLE III—MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Section 301. Transitional Provisions

Section 301 contains, with the exception of subsection (a), customary transitional provisions.

Subsection (a) provides that, except as otherwise provided in the act, whenever all of the functions of an agency, or other body, or of any component thereof, have been transferred by title I of this act, the agency or other body or component shall lapse. This, in effect, discontinues organizational structures when they no longer have functions to perform. It applies only when all of the functions of the agency or component have been transferred by the Administrator. This subsection also provides that all Executive Schedule officers and statutory positions in an agency or component that lapses under the first sentence of the section also shall lapse.

Specifically, the effect of this subsection will be to allow the position and the office of General Manager of the AEC to lapse. The committee intends to replace the coordinating function of the General Manager with the balanced organization in which six coequal Assistant Administrators report directly to the Administrator and the Deputy Administrator. The removal of this high-level position should upgrade the role of ERDA's two highest officers and permit a healthy interplay of ideas and priorities among the program managers in relation to these highest positions.

Similarly, the committee established in title II a balanced organizational structure in NSLC by eliminating the intermediary position of

Director of Regulation and permitting three coequal program Directors to report directly to the Commission. The committee's intention is to upgrade the role of the Commission in its exercise of exclusively regulatory responsibilities by insuring fullest possible access to all available information within the organization on the safety and security of the nuclear power industry.

Subsection (b) is a savings clause that continues the effectiveness of all existing orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges affected by this act, until such time as they are otherwise modified or replaced by appropriate authority or otherwise expire. This avoids any inadvertent lapsing or impairment of essential Executive orders, directives, documents, and obligations, and will afford the President, the Administrator, the Commission or other officials sufficient time to deal with these matters in an orderly fashion.

Subsection (c) is another savings clause that preserves and continues administrative proceedings in being on the effective date of the act. These proceedings will, in effect, be continued, modified, or terminated as if the act had never been enacted.

Subsection (d) is a savings clause that permits suits commenced prior to the date of this act to be continued and conducted as if this act had not been enacted.

Subsection (e) protects suits, actions or other proceedings from abatement by reason of enactment of this act. In any litigation pending when these actions take effect, the court may enter an appropriate order which will give effect to these savings provisions.

Subsection (f) provides for proper substitution of parties in connection with the continuation of litigation pending on the date this act becomes effective.

Subsection (g) makes final orders and actions of any transferred official or component subject to judicial review as if this act had not been enacted.

Subsection (h) provides that with respect to functions transferred by the act, references in laws to other officials shall be deemed to be a reference to the Administrator, the Commission or other officials, as appropriate.

Subsection (i) provides that any existing authority of the President is not affected by this act.

Subsection (j) provides that reference in this act of provisions of law shall be deemed to include, as appropriate, reference thereto as amended or supplemented before or after the effective date of this act. This avoids repetitious use of the phrases "as amended" or "as supplemented."

Subsection (k) makes clear that except as otherwise expressly provided in this act, authority provided by this act is in addition to, and not in substitution for, any existing authority transferred by this act.

Section 302. Incidental Dispositions

Section 302 authorizes the Director of the Office of Management and Budget to make such additional incidental dispositions of personnel, personnel positions, assets, liabilities, contracts, property, records, ap-

propriations, etc., as may be necessary to carry out the intent and purpose of this act.

Section 303. Definitions

Section 303, to avoid repetitious references, defines "function," "functions," "perform" and "performance" to include such terms as duties, obligations, powers, authorities, responsibilities, rights, privileges, and activities, and the exercise thereof.

Section 304. Authorization for Appropriations

Section 304 provides for annual authorization of appropriations for both ERDA and NSLC, with provision for minimum funding of ERDA nonnuclear programs under certain circumstances and with special guidance on the funding of NSLC.

Subsection (a) provides that except as otherwise provided by law, appropriations made under this act shall be subject to annual authorization.

Subsection (b) provides that in the absence of a specific nonnuclear energy R. & D. policy enacted by Congress, at least 7 percent of the nondefense appropriations of ERDA be spent in each of the following five civilian-energy categories:

- (1) fossil fuel;
- (2) nuclear energy;
- (3) environment and safety;
- (4) conservation; and
- (5) solar, geothermal and advanced energy systems.

The committee arrived at the 7 percent figure by determining the proposed budget authority for the smallest of the above R. & D. categories and establishing that as the floor for any ERDA R. & D. civilian program run by an Assistant Administrator. Conservation funding as proposed in the fiscal year 1975 budget is 7.1 percent of the total civilian energy R. & D. program, and this is the smallest of the above categories. (See table 1, section V.) The committee stresses that this level is intended as a floor, not a ceiling; also that spending in categories (4) and (5) above should be prudently increased.

In arriving at the 7 percent minimum expenditure, funding of advanced energy systems that are based on fossil fuel or nuclear energy should be considered as part of categories (1) and (2) rather than category (5).

This subsection would become inoperative at such time as a nonnuclear R. & D. bill passes Congress and is signed into law. Such a bill, S. 1283, "The National Energy Research and Development Policy Act," has passed the Senate and soon may reach a vote in the House.

The committee's intent is to be responsive to legitimate concerns that, in the absence of a specific nonnuclear R. & D. policy to guide it, ERDA will have a built-in, pronuclear bias. The committee agrees that even with all the organizational safeguards it has built into this act to prevent such a bias, the fact that more than 90 percent of ERDA's personnel, funding and facilities will be derived from the AEC (see section V) pose too great a risk of pro-nuclear bias without the additional policy safeguard provided in this subsection.

The committee believes that the vast wealth of scientific brainpower and facilities being transferred to ERDA from the AEC can be, and

will be, responsive to the new mission of exploring all energy technologies in the national interest. The national laboratories of the AEC represent one of the Nation's most valuable resources, and the committee, by means of this subsection, is seeking to guarantee that they will be put to the multipurpose use as intended by this Act.

Subsection (c) provides that authorizations for NSLC shall reflect the need for effective licensing and other regulation of the nuclear power industry in relation to the growth of the industry.

This subsection reflects the committee's strong belief that the NSLC can effectively regulate the nuclear power industry only if it is given the resources needed to keep pace with the enormous projected expansion of the industry.

In fiscal year 1974, the AEC Regulatory Division, from which NSLC is mostly derived, had an operating budget of \$54 million to oversee 43 operating nuclear powerplants worth an estimated \$20 billion. Actually, these 43 plants represent the tip of an iceberg because, by July 1, there were 247 plants demanding the AEC's regulatory attention, including those under construction, on order and publicly announced. By the year 2000, it is projected that there will be 1,000 operating powerplants worth \$1 trillion, generating 60 percent of the Nation's electricity and posing health, safety and security problems of potentially cataclysmic proportions.

Because of the obvious difficulty in projecting years ahead to estimate specific authorizations needed for the complex regulatory functions of NSLC, the committee arrived at the language of this subsection to express congressional intent based on the urgency of the situation.

Section 305. Comptroller General Audit

Section 305 provides for audits by the Comptroller General of both ERDA and NSLC.

Subsection (a) applies to both nuclear and nonnuclear activities the present provisions of section 166 of the Atomic Energy Act for audit and access to records by the Comptroller General with respect to contracts.

Subsection (b) provides that the Comptroller General shall audit and review the operations of the Nuclear Safety and Licensing Commission to the extent necessary to provide Congress with a comprehensive evaluation of the efficiency and effectiveness of its operations under title II.

The importance of the activities of the NSLC in safeguarding public health and safety from the dangers of nuclear energy, merits the independent, unbiased review available through the GAO. The committee views the work of the GAO as an important element of the legislative structure to preclude and deal with nuclear thefts, shortages, accidents or sabotage relating to all activities licensed under the Atomic Energy Act.

Paragraph (1) requires the Comptroller General to submit a report to designate a committee chairman within 54 to 60 months after the enactment of S. 2744. This time frame was selected to give the Commission an opportunity to acquire sufficient operating experience to enable the General Accounting Office to make an accurate, valid determination of the Commission's performance.

The report shall include the following:

Subparagraph (A): A detailed, comprehensive documentation of the manner in which the NSLC carries out all of its assigned responsibilities. Congress wants to be sure that all practical measures are being taken to safeguard the public health and safety.

Subparagraph (B): The effect of the Commission's activities on the efficiency, effectiveness and safety of the activities licensed by it.

Subparagraph (C): Recommendations for improving the implementation of title II. Sufficient factual information is required to give Congress a sound basis for making an independent judgment of the success of the legislation and for taking those measures deemed necessary to enhance the performance of the licensing and related regulatory functions of the Commission.

Paragraph (2) requires that copies of the GAO report are to go to the NSLC and to the Committees of Congress that are principally concerned with the work of the Commission.

Section 306. Reports

Section 306 requires annual reports by both ERDA and NSLC, and a 1-year study relating to the possible future transfer of the nuclear weapons program.

Subsection (a) requires the Administrator to transmit to the President for submission to the Congress an annual report on his agency's activities. The report is to include a statement of the short-range and long-range goals, priorities, and plans of the Administrator, together with an assessment of the progress made toward attainment of these objectives and toward the more effective and efficient management of the Administration and coordination of its functions.

Subsection (b) requires the Administrator, in collaboration with the Secretary of Defense, to conduct a thorough review of the desirability and feasibility of transferring to the Department of Defense or other Federal agencies the functions of the Administrator respecting Military application and restricted data. This review is to be made, and a report sent to the President for submission to the Congress, within one year after the Administrator takes office. The report will set forth the Administrator's comprehensive analysis, the principal alternatives, and the specific recommendations of the Administrator and the Secretary of Defense.

Subsection (c) requires the Commission to transmit to the President for submission to the Congress an annual report on the agency's activities. The report shall be in layman's language and shall include a statement of the short-range and long-range goals, priorities and plans of the Commission as they relate to the relative benefits, costs and risks of commercial nuclear power.

This assessment shall be based on the following complete accounting of NSLC activities and findings:

Paragraph (1): insuring the safe design of nuclear powerplants and other licensed facilities;

Paragraph (2): investigating abnormal occurrences and defects in nuclear powerplants and other licensed facilities;

Paragraph (3): safeguarding special nuclear materials at all stages of the nuclear fuel cycle;

Paragraph (4): investigating suspected, attempted, or actual thefts of special nuclear materials in the licensed sector and developing contingency plans for dealing with such incidents;

Paragraph (5): insuring the safe, permanent disposal of high-level radioactive wastes through the licensing of nuclear activities and facilities;

Paragraph (6): protecting the public against the hazards of low-level radioactive emissions from licensed nuclear activities and facilities.

The committee added this subsection to require an annual report by NSLC in addition to the original provision requiring such a report by ERDA. The committee believes that despite the fact that the Atomic Energy Act requires annual reports by each of the new agencies, it is as important to specify for NSLC, as it is for ERDA, the particular areas to be covered in the report. The legislation specifies the contents of the NSLC annual report in detail because of the unique potential hazards to society posed by the projected large-scale generation of commercial nuclear power.

Section 307. Information to Committees

Section 307 provides that the Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Administration's activities.

Section 308. Transfer of Funds

Section 308 permits the Administrator, when authorized in an appropriation act, to make transfers of funds from one appropriation to another within his agency, but no appropriation shall be either increased or decreased by more than 5 percent.

Section 309. Conforming Amendments to Certain Other Laws

Section 309 is a technical, conforming amendment covering the Executive Schedule compensation pertaining to this act.

Section 310. Separability

Section 310 is a standard separability provision that avoids the invalidation of the remaining provisions of this act in the event that a single provision is found to be invalid.

Section 311. Effective Dates and Interim Appointments

Section 311 provides effective dates and a system of interim appointments for both ERDA and NSLC.

Subsection (a) provides that this act shall take effect 120 days after its enactment for both the Energy Research and Development Administration and for the Nuclear Safety and Licensing Commission. The 120-day period will allow sufficient time for the complex tasks of arranging and staffing the wholly new organizations and of preparing such rules, regulations and orders as may be necessary for a smooth transition.

This subsection also provides for advance transfer of funds to pay salaries and expenses of any officer prior to the formal transfer of funds after the Act takes effect.

Subsection (b) provides that if an officer, subject to Senate confirmation under this act, has not entered upon his office on the effective date of the act, the President may designate any officer who was such an officer immediately prior to the effective date of the act, to act in such office temporarily. An officer thus designated would draw pay at the rate provided in this Act for the position filled by him under this subsection.

TITLE IV—BAR AGAINST SEX DISCRIMINATION

Section 401 bars sex discrimination in connection with any license, activity, or Federal assistance under this act.

Sex discrimination is prohibited under title VII of the 1964 Civil Rights Act, which relates to employment by firms with 15 or more employees and has been amended to include State and local governments, but sex discrimination is not prohibited under title VI, which relates to federally assisted programs and activities. This amendment says that no person shall on the ground of sex be excluded from or denied the benefits of, or be subjected to discrimination under any program in this particular act. Until such time at title VI of the Civil Rights Act is amended this approach remains necessary.

Such language has been added to the Federal Aid Highway Act of 1973, the Water Pollution Control Amendments of 1972, the Nurses Training Act and a variety of other public laws.

APPENDIX 1.—CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italics*, and existing law in which no change is proposed is shown in *roman*):

TITLE 5, UNITED STATES CODE

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CHAPTER 53—PAY RATES AND SYSTEMS

* * * * *

SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

* * * * *

§ 5313. POSITIONS AT LEVEL II

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$42,500:

(1) * * *

* * * * *

(8) Chairman, **[Atomic Energy]** *Nuclear Safety and Licensing Commission.*

* * * * *

(22) *Administrator of Energy Research and Development.*

§ 5314. POSITIONS AT LEVEL III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$40,000:

(1) * * *

* * * * *

(42) Members, **[Atomic Energy]** *Nuclear Safety and Licensing Commission.*

* * * * *

(60) *Deputy Administrator, Energy Research and Development Administration.*

§ 5315. POSITIONS AT LEVEL IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$38,000:

(1) * * *

* * * * *

[(50) General Manager of the Atomic Energy Commission.]

* * * * *

(99) *Assistant Administrators, Energy Research and Development Administration (6).*

(100) *Director of Nuclear Reactor Safety, Nuclear Safety and Licensing Commission;*

(101) *Director of Nuclear Materials Security, Nuclear Safety and Licensing Commission;*

(102) *Director of Nuclear Safety Research, Nuclear Safety and Licensing Commission.*

§ 5316. POSITIONS AT LEVEL V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$36,000:

(1) * * *

* * * * *

[(29) Assistant General Manager, Atomic Energy Commission.]

[(62) Director of Regulation, Atomic Energy Commission.]

[(69) Deputy General Manager, Atomic Energy Commission.]

(81) General Counsel of the **[Atomic Energy]** *Nuclear Safety and Licensing Commission.*

[(102) Assistant General Managers, Atomic Energy Commission (2).]

* * * * *

(133) *General Counsel, Energy Research and Development Administration.*

(134) *Additional officers, Energy Research and Development Administration (8).*

(135) *Additional officers, Nuclear Safety and Licensing Commission (9).*

APPENDIX 2.—PROVISIONS OF THE ATOMIC ENERGY ACT APPLICABLE TO FUNCTIONS TRANSFERRED FROM THE AEC TO ERDA AND NSLC

The Energy Research and Development Administration and the Nuclear Safety and Licensing Commission, will utilize authorities provided by the Atomic Energy Act of 1954, as amended. Since the bill entails a separation of functions to be administered separately by these two agencies, it follows that certain provisions of the Atomic Energy Act will be applicable to each agency. The following analysis shows the distribution of separately and jointly applicable authorities under that act.

The Committee has been advised by the Office of General Counsel, AEC, that the applicability of provisions of the Atomic Energy Act to ERDA and NSLC are the same in the bill, as reported, as in the original bill.

I. The following provisions of the Atomic Energy Act of 1954, as heretofore amended, apply only to ERDA

- Section 31b. (certain grants and contributions).
 - Section 33 ("Research for Others"); provided that the NSLC retains authority to contract out for research as it deems necessary to exercise its licensing and related regulatory functions.
 - Chapter 5 ("Production of Special Nuclear Material").
 - Subsection 53c; 53d; and 53f. (distributing special nuclear material).
 - Section 54 ("Foreign Distribution of Special Nuclear Material").
 - Section 56 ("Guaranteed Purchase Prices").
 - Section 58 ("Review").
 - Subsection 63c. (charges for distributing source material).
 - Section 64 ("Foreign Distribution of Source Material").
 - Section 67 ("Operations on Lands Belonging to the United States").
 - Section 91 ("Authority").
 - Section 142 ("Classification and Declassification of Restricted Data").
 - Section 143 ("Department of Defense Participation").
 - Subsections 144a; 144b; and 144c. (international cooperation).
 - Subsection 151c; 151d; 151e. (certain patent aspects).
 - Section 153 ("Nonmilitary Utilization").
 - Section 154 ("Injunctions").
 - Section 157 ("Commission Patent Licenses").
 - Subsections 161e; 161m; 161r; 161t; 161u; and 161v. (general provisions).
 - Section 164 ("Electric Utility Contracts").
 - Section 167 ("Claims Settlements").
- II. The following provisions of the Atomic Energy Act of 1954, as heretofore amended, apply only to NSLC*
- Subsection 53b. (minimum criteria for licenses).
 - Subsection 53e. (licensing conditions).
 - Section 62 ("License for Transfers Required").
 - Subsection 63b. (minimum criteria for licenses).
 - Section 69 ("Prohibition").
 - Section 101 ("License Required").

Section 102 ("Utilization and Production Facilities for Industrial or Commercial Purposes").

Section 103 ("Commercial Licenses").

Section 104 ("Medical Therapy and Research and Development").

Subsection 105c (licensing antitrust review).

Section 106 ("Classes of Facilities").

Section 107 ("Operators' Licenses").

Section 109 ("Component Parts of Facilities").

Subsection 161h. (licensing activities).

Subsection 161w. (licensing charges).

Section 182 ("License Applications").

Section 183 ("Terms of License").

Section 184 ("Inalienability of Licenses").

Section 185 ("Construction Permits").

Subsections 186a. and 186b. (license revocation).

Section 187 ("Modification of License").

Section 190 ("Licensee Incident Reports").

Section 191 ("Atomic Safety and Licensing Board").

Section 192 ("Temporary Operating License").

Section 272 ("Applicability of Federal Power Act").

Section 273 ("Licensing of Government Agencies").

Section 274 ("Cooperation with States").

III. The following provisions of the Atomic Energy Act of 1954, as heretofore amended, generally apply, respectively, to the functions of the Administrator and to NSLC

Chapter 1 ("Declaration, Findings and Purpose"); provided that all references to encouraging, promoting, utilizing, developing and participating in atomic energy or the atomic industry shall not be applicable to the NSLC.

Chapter 2 ("Definitions"); provided that (i) the determinations and criteria in j. (extraordinary nuclear occurrences) shall be the responsibility of the Administrator only in regard to activities and matters not covered by the licensing and related regulatory facets of Section 170 of the Atomic Energy Act, as amended, and (ii) the determinations in v. (production facility), z. (source material), aa. (special nuclear material), and cc. (utilization facility), shall be the responsibility of the Administrator only in regard to facilities and materials not subject to licensing and related regulatory control by NSLC.

Chapter 3 ("Organization"); except (i) as provided for in this bill, (ii) the Inspection Division established by subsection 25c. will be transferred to NSLC, and the ERDA Administrator also will provide for the discharge of the inspection function under subsection 25c. in ERDA, (iii) in regard to section 29 ("Advisory Committee on Reactor Safeguards"), it is intended that the ACRS be transferred to NSLC but that the ACRS also be made available to ERDA as the Administrator may request to perform such of the activities contemplated by section 29 as relate to functions transferred to the Administrator.

Subsections 31a; 31c; and 31d. (research assistance), and Section 32 ("Research By the Commission").

Section 51; provided, that the respective determinations shall be made as indicated in Chapter 2 above.

Subsection 53a; provided, that subdivisions (ii) and (iii) of said subsection (distributing and making available special nuclear material) shall apply only to ERDA, and subsection (i) (licenses) shall apply only to NSLC.

Section 55 ("Acquisition").

Section 57 ("Prohibition").

Section 61 ("Source Material"); provided, that the respective determinations shall be made as indicated in Chapter 2 above).

Subsection 63a. (source material); provided, that the authority to distribute shall apply only to ERDA and the authority to license shall apply only to NSLC.

Section 65 ("Reporting").

Section 66 ("Acquisition").

Section 68 ("Public and Acquired Lands").

Section 81 ("Domestic Distribution"), and Section 82 ("Foreign Distribution of Byproduct Material"); provided, that the authority to distribute shall apply only to ERDA and the authority to license shall apply only to NSLC.

Section 92 ("Prohibition").

Subsections 105a. and 105b. (Antitrust provisions and reporting).

Section 108 ("War or National Emergency").

Section 110 ("Exclusions"); it should be noted that subsection 110a. is amended by section 202 of the bill.

Chapter 11 ("International Activities"); provided, that, except for licensing and regulatory aspects, the implementation of these provisions shall be the responsibility of ERDA.

Section 141 ("policy"); provided, that the implementation of subsection 141a. shall be the responsibility of ERDA.

Subsection 144d. (Presidential authorization).

Section 145 ("Restrictions"); except that only the Administrator shall establish the basic standards and procedures for the safeguarding of the national defense and security.

Section 146 ("General Provisions").

Subsection 151a and 151b. (certain inventions and discoveries).

Section 152 ("Inventions Made or Conceived During Commission Contracts").

Section 155 ("Prior Art").

Section 156 ("Commission Patent Licenses").

Section 158 ("Monopolistic Use of Patents").

Section 159 ("Federally Financed Research").

Section 160 ("Saving Clause").

Subsections 161a., 161b., 161c., 161d., 161f., and 161g. (general authority).

Subsection 161i. and 161j. (certain regulations or orders and dispositions); provided, that the Administrator shall establish the basic standards and procedures respecting the national security.

Subsections 161k. (firearms); 161n. (delegations), provided that no functions delegated to officers of NSLC shall include functions relating to the development of atomic energy or the atomic industry; 161o. (reports and records), 161p. (rules and regulations), 161q. (rights-of-way), and 161s. (succession of authority).

Section 162 ("Contracts").

Section 163 ("Advisory Committees").

Section 165 ("Contract Practices").

Section 166 ("Comptroller General Audit"); it should be noted that section 305 of the bill also makes this section applicable to ERDA's contracts for non nuclear activities.

Section 168 ("Payments in Lieu of Taxes").

Section 169 ("No Subsidy").

Section 170 ("Indemnification and Limitation of Liability").

Chapter 15 ("Compensation for Private Property Acquired").

Section 181 ("General").

Subsection 186c. (Retaking and Recapture); provided that the Administrator shall establish the basic standards and procedures in regard to safeguarding the national defense and security.

Section 188 ("Continued Operation of Facilities"); provided, that findings and judgments respecting the production program shall be the responsibility of the Administrator.

Section 189 ("Hearings and Judicial Review").

Chapter 17 ("Joint Committee on Atomic Energy").

Chapter 18 ("Enforcement"); except for Section 234 ("Civil Monetary Penalties for Violation of Licensing Requirements") which is applicable only to NSLC.

Section 241 ("Transfer of Property").

Section 251 ("Report to the Congress").

Section 261 ("Appropriations").

Section 271 ("Agency Jurisdiction").

Section 281 ("Separability") and Section 291 ("Short Title").

APPENDIX 3—EXPLANATION OF PERSONNEL PROVISIONS OF S. 2744

The provisions of S. 2744 pertaining to personnel administration in ERDA and NSLC provide for the continuation of the excepted personnel system authorized by section 161d. of the Atomic Energy Act, as amended. In this regard, section 107(a) of the bill authorizes the Administrator "to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys, pursuant to section 161d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201(d)) as are necessary to perform the functions now or hereafter vested in him and to prescribe their functions."

The continuation of the excepted personnel system of the Atomic Energy Act, of course, will have no new impact on those employees who will transfer from AEC to ERDA and NSLC. Employees of the Department of Interior and NSF who would be transferred to ERDA would, at the same time, be transferred from the competitive civil service system to the excepted personnel system of ERDA under the authority of section 107(a) of S. 2744. Although there are significant systems differences between the competitive civil service system and the personnel system authorized by section 161d. of the Atomic Energy Act, both systems impact on individual employees in terms of rights, protections, and benefits in much the same way, as amplified below.

Individual employees transferred to the excepted personnel program for ERDA or NSLC, therefore, would not relinquish any of their basic rights of benefits as Federal employees. There would be available

to them in ERDA and NSLC, however, the added benefits provided by the AEC's merit employment system. In addition, section 105(b) of S. 2744 provides that "transfer of nontemporary personnel pursuant to this Act shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer." Section 105(c) provides a somewhat similar protection for those officers paid in accordance with the Executive Salary Schedule: "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 of the United States Code, and who, without a break in service, is appointed in the Administration 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 this previous position."

EMPLOYMENT UNDER THE EXCEPTED PERSONNEL SYSTEM OF SECTION 161D.
OF THE ATOMIC ENERGY ACT

Employee Pay.—There would be no change in the pay received by Federal employees transferred to ERDA or NSLC. ERDA and NSLC would continue to apply a salary schedule under the authority of section 161d. of the Atomic Energy Act which is equivalent to that provided by law for the competitive service. Within-grade increases would be earned at the same rates as in the competitive service. Future pay increases authorized under the Classification Act for Federal employees would apply to ERDA and NSLC employees. With respect to wage board employees, their ratios of pay would continue to be based on local prevailing rates as provided by the applicable local wage board pay schedule. Moreover, section 105(b) of S. 2749 specifically states that the "transfer of non-temporary personnel pursuant to this Act [from Interior and NSF to ERDA] shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer".

Employee Status.—The interchange agreement between the Civil Service Commission and the AEC would be applicable. Federal employees having "Career" appointments in the competitive service would receive "Regular (Excepted)" appointments based on their having three years of service for "career" tenure. Federal employees with "Career-Conditional" appointments (those with less than three years of service) would receive "Regular (Excepted) (Conditional)" appointments. In accordance with the interchange agreement, employees of ERDA and NSLC would be eligible to transfer to any agencies in the competitive service without regard to the competitive examination procedures administered by the Civil Service Commission.

Retention/Reduction-in-Force Rights.—Employees transferred to ERDA and NSLC would come under reduction-in-force procedures which differ from those of the competitive service only in that they do not provide for "retreat" rights, and do not include performance ratings in determining retention rights. In the "AEC" system, a reduction in force (RIF) is confined to a "competitive level", i.e., the grade level, occupation, and location in which a reduction is required. Within the competitive level, the employee with the lowest retention rights,

i.e., least Federal service, status, and veteran-nonveteran status, is the employee who is reduced in force.

Since "retreat" rights (movement of an employee back through positions and grade levels previously held in lieu of separation) are not a part of the AEC system, there is relatively less job protection for certain employees who might be involved in a RIF. However, other employees, e.g., those in the same competitive area but at different grade levels (different competitive levels), could actually have better employment protection than would be available to them under the competitive civil service system. The AEC reduction-in-force procedures, which have been approved by the Civil Service Commission as meeting the requirements of the Veterans Preference Act, are designed to confine the program disruption and employee morale problems to the single "competitive level" in which a reduction is to take place. The AEC procedures avoid the problems of employees at higher grades "retreating" to lower grades with attendant lowered morale of those employees and those they displace who in turn "retreat" and displace others.

Employee "Fringe" Benefits.—There would be no significant changes in "fringe" benefits coverages available to Federal employees transferring to ERDA or NSLC. The types of leave programs, life and health insurance programs, and retirement benefits would be the same in ERDA and NSLC as in the rest of the Federal service. Since ERDA would be covered by the retirement system administered by the Civil Service Commission, employees transferring to ERDA from other Federal agencies would be entitled to all the same civil service retirement benefits.

Summary.—A review of the rights, protections and benefits that would be available to employees of ERDA and NSLC reveals that there would be no significant difference from the rights, protections and benefits available to all Federal employees. Except for the differences in the reduction-in-force procedures cited above, which involve advantages to employees as well as disadvantages, employees transferring from other Federal agencies to ERDA or NSLC would be unable to discern any real changes in their rights, protections and benefits. However, the excepted personnel system provided by Section 161d. of the Atomic Energy Act would provide significant systems advantages which would benefit employees as well as benefit ERDA and NSLC organizations.

COMPARISON OF THE EXCEPTED PERSONNEL SYSTEM OF SECTION 161D. OF
THE ATOMIC ENERGY ACT WITH THE COMPETITIVE CIVIL SERVICE SYSTEM

The basic difference between the excepted personnel system provided by Section 161d. of the Atomic Energy Act and the competitive civil service system is that the excepted system is designed to be uniquely responsive to the management needs of a highly technical research, development and regulatory program. The competitive civil service system is designed to implement the Civil Service Act of 1883 and related civil service laws, which require a broad merit employment program covering as much Government activity as possible and

which emphasize fair and equitable treatment of all citizens applying for positions in, or employed by, the Government.

The excepted personnel system under section 161d. was developed because of a clear Congressional intent to have a personnel program that would be as effective as possible in supporting technical research, development and regulatory activities, and at the same time, assure fair and equitable treatment of all candidates and employees of the organization. This Congressional intent has been successfully carried out. Significant improvements in recruitment methods, selection procedures, job evaluation and pay methods, and executive manpower management techniques, as well as positive modifications in other functional areas, can be demonstrated and confirmed in the excepted personnel program of Section 161d. of the Atomic Energy Act.

IX. TEXT OF S. 2774, AS REPORTED

A BILL

To reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a new Nuclear Safety and Licensing Commission in order to promote more efficient management of such functions

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 "Energy Reorganization Act of 1974".

DECLARATION OF PURPOSE

SEC. 2. (a) The Congress hereby declares that the general welfare and the common defense and security require effective action to develop, and increase the efficiency and reliability of use of, all energy sources to meet the needs of present and future generations, to increase the productivity of the national economy and strengthen its position in regard to international trade, to make the Nation self-sufficient in energy, to advance the goals of restoring, protecting, and enhancing environmental quality, and to assure public health and safety.

(b) The Congress finds that, to best achieve these objectives, improve Government operations, and assure the coordinated and effective development of all energy sources, it is necessary to establish an Energy Research and Development Administration to bring together and direct Federal activities relating to research and development on the various sources of energy, to increase the efficiency and reliability in the use of energy, and to carry out the performance of other functions, including the Atomic Energy Commission's military and production activities: *Provided*, That, in establishing an Energy Research and Development Administration to achieve these objectives, the Congress intends that no energy technology be given an unwarranted priority.

(c) The Congress further declares and finds that it is in the public interest that the licensing and related regulatory functions of the Atomic Energy Commission be separated from the performance of the other functions of the Commission, and that this separation be effected in an orderly manner, pursuant to this Act, assuring adequacy of technical and other resources necessary for the performance of each.

(d) The Congress further declares that it is in the public interest and is hereby stated to be the policy of Congress that small business concerns be given an opportunity to participate, insofar as is possible, in a fair and equitable proportion of grants, contracts, purchases, and other Federal activities relating to research, and development, and demonstration of sources of energy efficiency and utilization of energy and conservation of energy.

TITLE I—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

ESTABLISHMENT

SEC. 101. There is hereby established an independent executive agency to be known as the Energy Research and Development Administration (hereinafter in this Act referred to as the "Administration").

OFFICERS

SEC. 102. (a) There shall be at the head of the Administration an Administrator of Energy Research and Development (hereinafter in this Act referred to as the "Administrator"), who shall be appointed from civilian life by the President by and with the advice and consent of the Senate. A person may not be appointed as Administrator within five years after release from active duty as a commissioned officer of a regular component of an Armed Force. The Administrator shall receive compensation at the rate now or hereafter prescribed for offices and positions at level II of the Executive Schedule (5 U.S.C. 5313). The Administration shall be administered under the supervision and direction of the Administrator, who shall be responsible for the efficient and coordinated management of the Administration.

(b) There shall be in the Administration a Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate now or hereafter prescribed for offices and positions at level III of the Executive Schedule (5 U.S.C. 5314). The Deputy Administrator shall have special responsibility, subject to the Administrator's authority, for international cooperation in all energy and related environmental research and development.

(c) The President shall appoint the Administrator and Deputy Administrator from among individuals who, by reason of their training and experience are specially qualified to manage a full range of energy research and development programs.

(d) There shall be in the Administration six Assistant Administrators, one of whom shall be responsible for fossil energy, another for nuclear energy, another for environment and safety, another for conservation, another for solar, geothermal, and advanced energy systems, and another for defense programs. The Assistant Administrators shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate now or hereafter prescribed for offices and positions at level IV of the Executive Schedule (5 U.S.C. 5315). The President shall appoint each

Assistant Administrator from among individuals who, by reason of training and experience, are specially qualified to manage the energy technology area assigned to such Assistant Administrator.

(e) There shall be in the Administration a General Counsel who shall be appointed by the Administrator and who shall serve at the pleasure of and be removable by the Administrator. The General Counsel shall receive compensation at the rate now or hereafter prescribed for offices and positions at level V of the Executive Schedule (5 U.S.C. 5316).

(f) There shall be in the Administration not more than eight additional officers appointed by the Administrator, who shall serve at the pleasure of and be removable by the Administrator and shall receive compensation at the rate now or hereafter prescribed for offices and positions of level V of the Executive Schedule (5 U.S.C. 5316).

(g) The Division of Military Application transferred to and established in the Administration by section 104(d) of this Act shall be under the direction of a Director of Military Application, who shall be appointed by the Administrator and who shall serve at the pleasure of and be removable by the Administrator and shall be an active commissioned officer of the Armed Forces serving in general or flag officer rank or grade. The functions, qualifications, and compensation of the Director of Military Application shall be the same as those provided under the Atomic Energy Act of 1954, as amended, for the Assistant General Manager for Military Application.

(h) Officers appointed pursuant to this section shall perform such functions as the Administrator shall specify from time to time.

(i) The Deputy Administrator (or in the absence or disability of the Deputy Administrator, or in the event of a vacancy in the office of the Deputy Administrator, an Assistant Administrator, the General Counsel or such other official, determined according to such order as the Administrator shall prescribe) shall act for and perform the functions of the Administrator during any absence or disability of the Administrator or in the event of a vacancy in the office of the Administrator.

RESPONSIBILITIES OF THE ADMINISTRATOR

SEC. 103. (a) The responsibilities of the Administrator shall include, but not be limited to—

(1) exercising central responsibility for policy planning, coordination, support, and management of research and development programs respecting all energy sources, including assessing the requirements or research and development in regard to various energy sources in relation to near-term and long-range needs, policy planning in regard to meeting those requirements, undertaking programs for the optimal development of the various forms of energy sources, managing such programs, and disseminating information resulting therefrom;

(2) encouraging and conducting research, development and demonstration of commercial feasibility and practical applications of the extraction, conversion, storage, transmission, and utilization phases related to the development and use of energy from fossil, nuclear, solar, geothermal, and other energy sources; in-

cluding such nonnuclear research and development programs as may hereafter be authorized by the Congress;

(3) engaging in and supporting environmental, biomedical, physical, and safety research related to the development of energy sources and utilization technologies;

(4) taking into account the existence, progress, and results of other public and private research and development activities, including those activities of the Federal Energy Administration relating to the development of energy resources using currently available technology in promoting increased utilization of energy resources, relevant to the Administration's mission in formulating its own research and development programs;

(5) participating in and supporting cooperative research and development projects which may involve contributions by public or private persons or agencies, of financial or other resources to the performance of the work;

(6) developing, collecting, distributing, and making available for distribution, scientific and technical information concerning the manufacture or development of energy and its efficient extraction, conversion, transmission, and utilization;

(7) encouraging and conducting research and development in energy conservation, which shall be directed toward the goals of reducing total energy consumption to the maximum extent practicable, and toward maximum possible improvement in the efficiency of energy use. Development of new and improved conservation measures shall be conducted with the goal of the most expeditious possible application of these measures; and

(8) encouraging and participating in international cooperation in energy and related environmental research and development.

(b) In carrying out his responsibilities under this Act, the Administrator shall consult with the Administrator of the Small Business Administration and take the appropriate action to help assure that small business concerns receive an opportunity to participate in a fair and equitable proportion of grants, contracts, purchases, and other Federal activities relating to research, development, and demonstration of sources of energy, efficiency and utilization of energy and conservation of energy.

ABOLITION AND TRANSFERS

SEC. 104. (a) The Atomic Energy Commission is hereby abolished. Sections 21 and 22 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2031 and 2032) are repealed.

(b) All other functions of the Commission, the Chairman and members of the Commission, and the officers and components of the Commission are hereby transferred or allowed to lapse pursuant to the provisions of this Act.

(c) There are hereby transferred to and vested in the Administrator all functions of the Atomic Energy Commission, the Chairman and members of the Commission, and the officers and components of the Commission, except as otherwise provided in this Act.

(d) The General Advisory Committee established pursuant to section 26 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2036), the Patent Compensation Board established pursuant to section 157 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2187), and the Divisions of Military Application and Naval Reactors established pursuant to section 25 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2035), are transferred to the Energy Research and Development Administration and the functions of the Commission with respect thereto, and with respect to relations with the Military Liaison Committee established by section 27 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2037), are transferred to the Administrator.

(e) There are hereby transferred to and vested in the Administrator such functions of the Secretary of the Interior, the Department of the Interior, and officers and components of such department—

(1) as relate to or are utilized by the Office of Coal Research established pursuant to the Act of July 1, 1960 (74 Stat. 336; 30 U.S.C. 661-668);

(2) as relate to or are utilized in connection with fossil fuel energy research and development programs and related activities conducted by the Bureau of Mines "energy centers" and synthane plant to provide greater efficiency in the extraction, processing, and utilization of energy resources for the purpose of conserving those resources, developing alternative energy resources, such as oil and gas secondary and tertiary recovery, oil shale and synthetic fuels, improving methods of managing energy-related wastes and pollutants, and providing technical guidance needed to establish and administer national energy policies;

(3) as relate to or are utilized for underground electric power transmission research; and

(4) as relate to the acquisition, production, distribution, and storage of helium.

(f) There are hereby transferred to and vested in the Administrator such functions of the National Science Foundation as relate to or are utilized in connection with—

(1) solar heating and cooling development; and

(2) geothermal power development.

(g) To the extent necessary or appropriate to perform functions and carry out programs transferred by this Act, the Administrator and Commission may exercise, in relation to the functions so transferred, any authority or part thereof available by law, including appropriation Acts, to the official or agency from which such functions were transferred.

(h) In the exercise of his responsibilities under section 103, the Administrator shall utilize to the fullest extent practicable the technical and management capabilities of other executive agencies having facilities, personnel, or other resources which can assist or advantageously be expanded to assist in carrying out such responsibilities. The Administrator shall consult with the head of each agency with such facilities, personnel, or other resources and assign, with their consent, responsibility for specific programs or projects in energy research and development as appropriate: *Provided*, That (1) such

assignments shall be in addition to and not detract from the basic mission responsibilities of the agency, and (2) such assignments shall be carried out under the policy guidance of the Administrator.

TRANSFER OF PERSONNEL AND OTHER MATTERS

SEC. 105. (a) Except as provided in the next sentence, 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 and programs transferred by this Act, are, subject to section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), correspondingly transferred for appropriate allocation. Personnel positions expressly created by law, 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 levels II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5316) on the effective date of this Act shall be subject to the provisions of subsection (c) of this section and section 301 of this Act.

(b) Except as provided in subsection (c), transfer of nontemporary personnel pursuant to this Act shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer.

(c) 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 of the United States Code, and who, without a break in service, is appointed in the Administration 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.

ADMINISTRATIVE PROVISIONS

SEC. 106. (a) The Administrator is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to perform functions now or hereafter vested in him.

(b) The Administrator shall engage in such policy planning, and perform such program evaluation analyses and other studies, as may be necessary to promote the efficient and coordinated administration of the Administration and properly assess progress toward the achievement of its missions.

(c) Except as otherwise expressly provided by law, the Administrator may delegate any of his functions to such officers and employees of the Administration as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary or appropriate.

(d) Except as provided in section 102 and in section 104(d), the Administrator may organize the Administration as he may deem to be necessary or appropriate.

(e) The Administrator is authorized to establish, maintain, alter, or discontinue such State, regional, district, local, or other field offices as he may deem to be necessary or appropriate to perform functions now or hereafter vested in him.

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

(g) The Administrator 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, assets other than real property, 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.

(h) Each department, agency, and instrumentality of the executive branch of the Government is authorized to furnish to the Administrator, upon his request, any information or other data which the Administrator deems necessary to carry out his duties under this title.

PERSONNEL AND SERVICES

SEC. 107. (a) The Administrator is authorized to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys, pursuant to section 161d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201(d)) as are necessary to perform the functions now or hereafter vested in him and to prescribe their functions.

(b) The Administrator is authorized to obtain services as provided by section 3109 of title 5 of the United States Code.

(c) The Administrator is authorized to provide for participation of military personnel in the performance of his functions. Members of the Army, the Navy, the Air Force, or the Marine Corps may be detailed for service in the Administration by the appropriate military Secretary, pursuant to cooperative agreements with the Secretary, for service in the Administration in positions other than a position the occupant of which must be approved by and with the advice and consent of the Senate.

(d) Appointment, detail, or assignment to, acceptance of, and service in, any appointive or other position in the Administration under this section shall in no way affect the status, office, rank, or grade which such officers or enlisted men may occupy or hold, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. A member so appointed, detailed, or assigned 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 appointed, detailed, or assigned.

(e) The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5 of the United States Code for travel between places of recruitment and duty, and while at places of duty, of persons appointed for emergency, temporary, or seasonal services in the field service of the Administration.

(f) The Administrator is authorized to utilize, on a reimbursable basis, the services of any personnel made available by any department, agency, or instrumentality, including any independent agency of the Government.

(g) The Administrator is authorized to establish advisory boards, in accordance with the provisions of the Federal Advisory Committee Act (Public Law 92-463), to advise with and make recommendations to the Administrator on legislation, policies, administration, research, and other matters.

(h) The Administrator is authorized to employ persons who are not citizens of the United States in expert, scientific, technical, or professional capacities whenever he deems it in the public interest.

POWERS

SEC. 108. (a) The Administrator is authorized to exercise his powers in such manner as to insure the continued conduct of research and development and related activities in areas or fields deemed by the Administrator to be pertinent to the acquisition of an expanded fund of scientific, technical, and practical knowledge in energy matters. To this end, the Administrator is authorized to make arrangements (including contracts, agreements, and loans) for the conduct of research and development activities with private or public institutions or persons, including participation in joint or cooperative projects of a research, developmental, or experimental nature; to make payments (in lump sum or installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments); and generally to take such steps as he may deem necessary or appropriate to perform functions now or hereafter vested in him. Such functions of the Administrator under this Act as are applicable to the nuclear activities transferred pursuant to this title shall be subject to the provisions of the Atomic Energy Act of 1954, as amended, and to other authority applicable to such nuclear activities. The nonnuclear responsibilities and functions of the Administrator referred to in sections 103 and 104 of this Act shall be carried out pursuant to the provisions of this Act, applicable authority existing immediately before the effective date of this Act, or in accordance with the provisions of chapter 4 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2051-2053).

(b) Except for public buildings as defined in the Public Buildings Act of 1959, as amended, and with respect to leased space subject to the provisions of Reorganization Plan Numbered 18 of 1950, the Administrator is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain facili-

ties and real property as the Administrator deems to be necessary in and outside of the District of Columbia. Such authority shall apply only to facilities required for the maintenance and operation of laboratories, research and testing sites and facilities, quarters, and related accommodations for employees and dependents of employees of the Administration, and such other special-purpose real property as the Administrator deems to be necessary in and outside the District of Columbia. Title to any property or interest therein, real, personal, or mixed, acquired pursuant to this section, shall be in the United States.

(c) (1) The Administrator is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

- (A) emergency medical services and supplies;
- (B) food and other subsistence supplies;
- (C) messing facilities;
- (D) audiovisual equipment, accessories, and supplies for recreation and training;
- (E) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;
- (F) living and working quarters and facilities; and
- (G) transportation for school-age dependents of employees to the nearest appropriate educational facilities.

(2) The furnishing of medical treatment under subparagraph (A) of paragraph (1) and the furnishing of services and supplies under paragraphs (B) and (C) of paragraph (1) shall be at prices reflecting reasonable value as determined by the Administrator.

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

(d) The Administrator is authorized to acquire any of the following described rights if the property acquired thereby is for use in, or is useful to, the performance of functions vested in him:

- (1) copyrights, patents, and applications for patents, designs, processes, specifications, and data;
- (2) licenses under copyrights, patents, and applications for patents; and
- (3) releases, before suit is brought, for past infringement of patents or copyrights.

(e) Subject to the provisions of chapter 12 of the Atomic Energy Act (42 U.S.C. 2161-2166), and other applicable law, the Administrator shall disseminate scientific, technical, and practical information acquired pursuant to this title through information programs and other appropriate means, and shall encourage the dissemination of scientific, technical, and practical information relating to energy so as to enlarge the fund of such information and to provide that free inter-

change of ideas and criticism which is essential to scientific and industrial progress and public understanding.

(f) The Administrator 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 Administration. Gifts and bequests of money and proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Administrator. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered a gift or bequest to the United States.

COUNCIL ON ENERGY POLICY

SEC. 109. (a) The Congress finds and declares that—

(1) there are many Federal agencies, created at different times and for different purposes to handle specialized problems, all directly or indirectly involved in the establishment of energy policy;

(2) there is no comprehensive national energy policy but instead Federal energy activities consist of a myriad of laws, regulations, actions, and inactions resulting in narrow, short range, and often conflicting decisionmaking by individual agencies without adequate consideration of the impact on the overall energy policy, not future national energy needs; and

(3) as a consequence of not having a comprehensive national energy policy, the Nation faces mismanagement of energy resources, unacceptably high adverse environmental impacts, inadequate incentives for efficient utilization and conservation of energy resources, shortages of supply, and soaring energy prices.

(b) Therefore, it is declared to be the purpose of the Congress to protect and promote the interest of the people of the United States as energy users by establishing a Council on Energy Policy to serve as a focal point for—

(1) the collection, analysis, and interpretation of energy statistics and data necessary to formulate policies for wise energy management and conservation and to anticipate social, environmental, and economic problems associated with existing and emerging energy technologies;

(2) the coordination of all energy activities of the Federal Government, and provision of leadership to State and local governments and other persons involved in energy activities; and

(3) the preparation, after consultation with other interested organizations and agencies, of a long-range comprehensive plan (hereinafter referred to as the "energy plan") for energy development, utilization, and conservation to foster improvement in the efficiency of energy production and utilization, reduction of the adverse environmental impacts of energy production and utilization, conservation of energy resources for the use of future generations, reduction of excessive energy demands, and development of new technologies to produce clean energy.

(c) (1) The policies, regulations, and public laws of the United States shall be interpreted and administered to the fullest extent possible in accordance with the policies set forth in this section; and

(2) All agencies of the Federal Government shall to the fullest extent possible—

(A) utilize a systematic interdisciplinary approach which will insure the integrated use of both physical and social sciences in producing, conserving, and utilizing the Nation's energy resources;

(B) submit prior to the review process established pursuant to the Budget and Accounting Act of 1972, as amended, to the Council on Energy Policy established by this section for comment all legislative recommendations and reports, to the extent that such recommendations and reports, deal with or have a bearing on energy matters;

(C) gather data and information pursuant to guidelines promulgated by the Council on Energy Policy; develop analytical techniques for the management, conservation, use, and development of energy resources, and make such data available to the Council on Energy Policy;

(D) recognize the worldwide and long-range character of energy concerns and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to foster international cooperation in anticipating and resolving energy-related problems;

(d) There shall be established in the Executive Office of the President a Council on Energy Policy (hereinafter referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure by and with the advice and consent of the Senate. The President shall at the time of nomination designate one of the members of the Council to serve as Chairman. Each member shall be a person, who as a result of his training, experience, and attainment, is well qualified to analyze and interpret energy trends and information of all kinds; to appraise programs and activities of the Federal Government in light of the energy needs of the Nation; to be conscious of and responsive to the environmental, social, cultural, economic, scientific, and esthetic needs and interests of the Nation; and to formulate a national energy plan and recommend national policies with respect to wise energy management.

(e) (1) The Council shall serve as the principal adviser to the President on energy policy and shall exercise leadership in the formulation of Government policy concerning domestic and international issues relating to energy.

(2) The Council shall make recommendations to the President and the Congress for resolving conflicts between the policies relating to energy of different Federal agencies and recommend measures to improve the implementation of Federal energy policies or the management of energy resources with particular emphasis upon policies and activities involving two or more departments or independent agencies.

(3) The Council shall develop within eighteen months after the date of enactment of this Act and thereafter shall annually update an energy plan for energy development, utilization, and conservation in the United States to carry out the purposes as stated in subsection (b) of this section. Copies of such plans shall be distributed on January 1 of each year to the President, to the Congress, and to all Federal

and State agencies concerned with energy, and upon request to local agencies and nongovernmental entities.

(4) The Council shall promptly review all legislative recommendations and reports sent to Congress to the extent that such recommendations and reports have a bearing on energy matters, and it shall send to the President and the involved Federal agency a statement in writing of its position and the reasons therefor.

(5) The Council shall keep Congress fully and currently informed of all of its activities. Neither the Council nor its employees may refuse to testify before or submit information to Congress or any duly authorized committee thereof.

(6) The Council shall conduct annual public hearings on the energy plan and may hold public hearings when there is substantial public interest in other pending matters.

(7) In carrying out its collection, analysis, and interpretation of energy statistics function, the Council shall, as quickly as possible and after appropriate study, promulgate guidelines for the collection and initial analysis of energy data by other Federal agencies, after published notice in the Federal Register and opportunity for comment. Such guidelines shall be designed to make such data compatible, useful, and comprehensive. Where relevant data is not now available or reliable and is beyond the authority of other agencies to collect, then the Council shall recommend to the Congress the enactment of appropriate legislation. Pending congressional consideration, the Council may gather such data directly. The Council shall have the power to require by special or general orders any person to submit in writing such energy data as the Council may prescribe. Such submission shall be made within such reasonable period and under oath or otherwise as the Council may direct.

(f) (1) In exercising its powers, functions, and duties, the Council shall—

(A) consult with the Interagency Energy Advisory Committee established under subsection (g) of this section and with representatives of science, industry, agriculture, labor, conservation organizations, State and local governments, and other groups, as it deems advisable; and

(B) employ a competent, independent staff which shall utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, to avoid duplication of effort and expense, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by other agencies.

(2) Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).

(3) The Council may employ such officers and employees as may be necessary to carry out its functions. The Council may also employ and fix the compensation of such experts, consultants, or contractors

to conduct detailed studies as may be necessary for the carrying out of its functions to the same extent as is authorized under section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

(g) (1) There is also created in the Executive Office of the President an Interagency Energy Resources Advisory Committee (hereinafter in this section referred to as the "Energy Committee"). The Energy Committee shall be composed of the Chairman of the Council, the Secretary of the Interior, the Administrator of the Federal Energy Administration, the Administrator of the Energy Research and Development Administration, Secretary of State, the Secretary of the Treasury, Director, Office of Management and Budget, and such other officials of the Federal Government as the President may designate. The Chairman of the Energy Committee shall be selected by its members.

(2) It shall be the duty and function of the Energy Committee to assist the Council in insuring communication and coordination among Energy Committee member agencies in the development and implementation of energy policy or the management of energy resources, and in such other matters as the Council may determine.

(3) The Chairman of the Energy Committee may not refuse to testify before the Congress or any duly authorized committee thereof regarding the activities of the Energy Committee or other matters concerning interagency coordination of energy policy and activities.

(4) This subsection (g) shall be effective no later than sixty days after the enactment of this Act or such earlier date as the President shall prescribe and publish in the Federal Register, and shall terminate upon enactment of a permanent department responsible for energy and natural resources or two years after such effective date, whichever shall occur first.

(h) The Council shall prepare and submit to the President and the Congress on or before January 1, 1975, and annually thereafter, an energy report to accompany the energy plan. This report shall include—

(1) an estimate of energy needs of the United States for the ensuing ten-year period 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 catalog 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 recommendations for developing technology capable of improving the quality of the en-

vironment, increasing efficiency, and protecting employee health and safety in energy industries;

(5) recommendations for improving the energy data and information available to the Federal agencies by improving monitoring systems, standardizing data, and securing additional needed information;

(6) 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 section; and

(7) recommendations concerning the level of funding for the development and application of new technologies, as well as new procedures and practices which the Council may determine to be required to achieve the purposes of this section and improve energy management and conservation together with recommendations for additional legislation, including the preparation of the reorganization recommendations required by section 110 of this Act.

(i) (1) Copies of any communications, documents, reports, or information received or sent by any member of the Council shall be made available to the public upon identifiable request, and at reasonable cost, unless such information may not be publicly released under the terms of paragraph (2) of this subsection.

(2) The Council or any officer or employee of the Council shall not disclose information obtained under this section which concerns or relates to a trade secret referred to in section 1905 of title 18, United States Code, except that such information may be disclosed in a manner designed to preserve its confidentiality—

(A) to other Federal Government departments, agencies, and officials for official use upon request;

(B) to committees of Congress having jurisdiction over the subject matter to which the information relates;

(C) to a court in any judicial proceeding under court order formulated to preserve the confidentiality of such information without impairing the proceedings; and

(D) to the public in order to protect their health and safety after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the party to whom the information pertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to the public health and safety).

In no event shall the names or other means of identification of injured persons be made public without their express written consent. Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(j) (1) The Comptroller General of the United States shall continuously monitor and evaluate the operations of the Council including its reporting requirements. Upon his own initiative or upon the request of a committee of the Congress or, to the extent personnel are

available, upon the request of a Member of Congress, the Comptroller General shall (A) conduct studies of existing statutes and regulations governing Federal energy programs, (B) review the policies and practices of Federal agencies administering such programs, (C) review and evaluate the procedures followed by such agencies, in gathering, analyzing, and interpreting energy statistics, data, and information related to the management and conservation of energy, including but not limited to data related to energy costs, demand, industry structure, environmental impacts, and research and development, and (D) evaluate particular projects or programs. The Comptroller General shall have access to such data from any public or private source whatever, notwithstanding the provisions of any other law, as is necessary to carry out his responsibilities under this section and shall report to the Congress at such times as he deems appropriate with respect to Federal energy programs, including his recommendations for such modifications in existing laws, regulations, procedures, and practices as will, in his judgment, best serve the Congress in the formulation of a national energy policy.

(2) In carrying out his responsibilities as provided in paragraph (1) of this subsection, the Comptroller General shall give particular attention to the need for improved coordination of the work of the Federal Government related to energy policies and programs and the attendant need for a central source of energy statistics and information.

(3) The Comptroller General or any of his authorized representatives in carrying out his responsibilities under this section shall have access to any books, documents, papers, statistics, data, information, and records of any private organization relating to the management and conservation of energy, including but not limited to energy costs, demand, supply, reserves, industry structure, environmental impacts, and research and development. The Comptroller General may require any private organization to submit in writing such energy data as he may prescribe. Such submission shall be made within such reasonable period and under oath or otherwise as he may direct.

(4) To assist in carrying out his responsibilities, the Comptroller General may sign and issue subpoenas requiring the production of the books, documents, papers, statistics, data, information, and records referred to in paragraph (3) of this subsection.

(5) In case of contumacy, or refusal to obey a subpoena of the Comptroller General issued under this section, by any person who resides, is found or transacts business within the jurisdiction of any district court of the United States, such district court shall, upon the request of the Comptroller General, have jurisdiction to issue to such person an order requiring such person to comply forthwith. Failure to obey such an order is punishable by such court as a contempt of court.

(6) Reports submitted by the Comptroller General to the Congress shall be available to the public at reasonable cost and upon identifiable request, except that the Comptroller General may not disclose to the public any information which could not be disclosed to the public by the Council under the provisions of subsection (i) (2) if the information were held by the Council.

(k) (1) There are authorized to be appropriated to carry out the provisions of this section not to exceed \$1,000,000 for fiscal year ending

June 30, 1975, \$2,000,000 for fiscal year ending June 30, 1976, and \$1,000,000 for each fiscal year thereafter.

(2) All sums appropriated under this section shall remain available for obligation or expenditure in the fiscal year for which appropriated and in the fiscal year next following.

FUTURE REORGANIZATION

SEC. 110. (a) Not later than January 31, 1975, the President shall transmit to the Congress his recommendations for such organizational arrangements for the management of energy and natural resources by the Federal Government as he deems advisable. Such recommendations shall include—

(1) the appropriate organizational arrangements for long-term implementation of the functions of the Energy Research and Development Administration and of the Federal Energy Administration, and the energy related functions of the Department of the Interior,

(2) the appropriate means for improving coordination among the energy activities of the Federal Government, and

(3) the appropriate organizational arrangements to coordinate energy functions with other natural resources management functions of the Federal Government.

(b) This report shall replace and serve the purposes of the report required by section 15(a) (4) of the Federal Energy Administration Act.

COORDINATION WITH ENVIRONMENTAL EFFORTS

SEC. 111. The Administrator is authorized to establish programs to utilize research and development performed by other Federal agencies to minimize the adverse environmental effects of energy projects. The Administrator of the Environmental Protection Agency, as well as other affected agencies and departments, shall cooperate fully with the Administrator in establishing and maintaining such programs, and in establishing appropriate interagency agreements to develop cooperative programs and to avoid unnecessary duplication.

TITLE II—NUCLEAR SAFETY AND LICENSING COMMISSION

ESTABLISHMENT AND TRANSFERS

SEC. 201. (a) There is established an independent regulatory commission to be known as the Nuclear Safety and Licensing Commission which shall be composed of five members, each of whom shall be a citizen of the United States. The President shall designate one member of the Commission as Chairman thereof to serve as such during the pleasure of the President. The Chairman 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 meetings 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 equal responsibility and authority in all decisions and actions of the Commission, shall have full access to all information relating to the performance of his duties or responsibilities, and shall have one vote. Action of the Commission shall be determined by a majority vote of the members present. The Chairman (or Acting Chairman in the absence of the Chairman) shall be the official spokesman of the Commission in its relations with the Congress, Government agencies, persons, or the public, and, on behalf of the Commission, shall see to the faithful execution of the policies and decisions of the Commission, and shall report thereon to the Commission from time to time or as the Commission may direct. The Commission shall have an official seal which shall be judicially noticed.

(b) (1) Members of the Commission shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The President in selecting the members of the Commission, shall have due regard to a fair representation of expertise in nuclear safety technology, health science, and environmental science.

(3) Appointments of members pursuant to this subsection shall be made in such a manner that not more than three members of the Commission shall be members of the same political party.

(c) Each member shall serve for a term of five years, each such term to commence on July 1, except that of the five members first appointed to the Commission, one shall serve for one year, one for two years, one for three years, one for four years, and one for five years, to be designated by the President at the time of appointment.

(d) Such initial appointments shall be submitted to the Senate within sixty days of the signing of this Act. Any individual who is serving as a member of the Atomic Energy Commission at the time of the enactment of this Act, and who may be appointed by the President to the Commission, shall be appointed for a term designated by the President, but which term shall terminate not later than the end of his present term as a member of the Atomic Energy Commission, without regard to the requirements of subsections (b) (2) and (3) of this section. Any subsequent appointment of such individuals shall be subject to the provisions of this section.

(e) The Chairman shall receive compensation at the rate now or hereafter prescribed for offices and positions at level II of the Executive Schedule (5 U.S.C. 5313). Other members shall receive compensation at the rate now or hereafter prescribed for offices and positions at level III of the Executive Schedule (5 U.S.C. 5314).

(f) Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. No member of the Commission shall engage in any business, vocation, or employment other than that of serving as a member of the Commission.

(g) There are hereby transferred to the Commission all the licensing and related regulatory functions of the Atomic Energy Commission, the Chairman and members of the Commission, the General Counsel, and other officers and components of the Commission—which functions officers, components, and personnel are excepted from the transfer to the Administrator by section 104(c) of this Act.

(h) In addition to other functions and personnel transferred to the Commission, there are also transferred to the Commission—

(1) the Advisory Committee on Reactor Safeguards, the Atomic Safety and Licensing Board Panel, and the Atomic Safety and Licensing Appeal Panel;

(2) all personnel whose primary responsibility is research related to confirmatory assessment of the safety of reactors licensed under the provisions of the Atomic Energy Act of 1954 as amended, and of this Act, with the exception of such personnel as the Director of the Office of Management and Budget determines are necessary to assist in reactor developmental research.

LICENSING AND RELATED REGULATORY FUNCTIONS RESPECTING SELECTED ADMINISTRATION FACILITIES

SEC. 202. Notwithstanding the exclusions provided for in section 110a. or any other provisions of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2140(a)), the Nuclear Safety and Licensing Commission shall, except as otherwise specifically provided by section 110b. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2140(b)), or other law, have licensing and related regulatory authority pursuant to chapters 6, 7, 8, and 10 of the Atomic Energy Act of 1954, as amended, as to the following facilities of the Administration:

(1) demonstration Liquid Metal Fast Breeder Reactors when operated as part of the power generation facilities of an electric utility system, or when operated in any other manner for the purpose of demonstrating the commercial feasibility of such a reactor for a power generation system;

(2) other demonstration nuclear reactors—except those in existence on the effective date of this Act—when operated as part of the power generation facilities of an electric utility system, or when operated in any other manner for the purpose of demonstrating the commercial feasibility of such a reactor for a power generation system;

(3) facilities used primarily for the receipt and storage of high-level radioactive wastes resulting from activities licensed under such Act; and

(4) Retrievable Surface Storage Facilities and other facilities authorized for the express purpose of subsequent long-term storage of high-level radioactive waste generated by the Administration, which are not used for, or are part of, research and development activities.

OFFICE OF NUCLEAR SAFETY RESEARCH

SEC. 203. (a) There is hereby established in the Nuclear Safety and Licensing Commission an Office of Nuclear Safety Research under the direction of a Director of Nuclear Safety Research who shall be appointed by the Commission, who shall report directly to the Commission, and who shall serve at the pleasure of and be removable by the Commission. The Director shall receive compensation at the rate now or hereafter prescribed for officers and positions at level IV of the Executive Schedule (5 U.S.C. 5315).

(b) Subject to the provisions of this Act, the Director of Nuclear Safety Research shall engage in or contract for research which the Director recommends and the Commission deems necessary for the discharge of the licensing and related regulatory functions of the Commission.

(c) In order to carry out the provisions of subsection (b) of this section, the Administrator of the Energy Research and Development Administration and the head of every other Federal agency shall—

(1) cooperate with respect to the establishment of priorities for the furnishing of such research services as requested by the Commission for the conduct of its functions;

(2) furnish to the Commission, when requested, on a reimbursable basis, through its own facilities or by contract or other arrangement, such research services as the Commission deems necessary for the conduct of its functions; and

(3) consult and cooperate with the Nuclear Safety and Licensing Commission on research and development matters of mutual interest including the provision of information on, and of physical access to, Administration facilities for the sole purpose of assisting the Commission to acquire the expertise necessary to perform its licensing and regulatory functions, as provided in this Act.

(d) Nothing in subsections (a) and (b) of this section or section 201 of this Act shall be construed to limit in any way the functions of any office of the Administration relating to the safety of activities within the jurisdiction of the Administration.

BUREAU OF NUCLEAR MATERIALS SECURITY

SEC. 204. (a) There is hereby established in the Nuclear Safety and Licensing Commission a Bureau of Nuclear Materials Security under the direction of a Director of Nuclear Materials Security, who shall be appointed by the Commission, who shall report directly to the Commission, and who shall serve at the pleasure of and be removable by the Commission. The Director shall receive compensation at the rate now or hereafter prescribed for officers and positions at level IV of the Executive Schedule (5 U.S.C. 5315).

(b) Subject to the provisions of this Act, the Director of Nuclear Materials Security shall—

(1) recommend regulations relating to safeguarding against threats, thefts, and sabotage involving special nuclear materials, high-level radioactive wastes, and nuclear facilities resulting from all activities licensed under the Atomic Energy Act of 1954, as amended;

(2) enforce such regulations which are promulgated by the Commission;

(3) monitor, test, and recommend upgrading internal accounting systems for special nuclear materials licensed under the Atomic Energy Act of 1954, as amended;

(4) develop, in consultation and coordination with the Energy Research and Development Administration, contingency plans

for dealing with threats, thefts, and sabotage relating to special nuclear materials, high-level radioactive wastes and nuclear facilities resulting from all activities licensed under the Atomic Energy Act of 1954, as amended;

(5) conduct a thorough review of the desirability and feasibility of establishing a security agency within the Bureau to execute some or all of the functions of the Bureau, and report his recommendations to the Commission within one year of the effective date of this Act; and such report shall be transmitted to the Congress by the Commission as soon as it is received; and

(6) engage in or contract for research which the Director of Materials Security deems necessary for the discharge of the functions of the Bureau.

(c) Nothing in this section shall be construed to limit in any way the functions of any office of the Energy Research and Development Administration relating to the safeguarding of special nuclear materials, high-level radioactive wastes and nuclear facilities resulting from all activities within the jurisdiction of the Administration pursuant to this Act.

NONCOMPLIANCE

SEC. 205. (a) Any individual director, officer, or employee of a firm constructing, owning, operating, or supplying the components of any facility or activity which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954 as amended, or pursuant to this Act, who obtains information reasonably indicating that such facility or activity or basic components supplied to such facility or activity—

(1) fails to comply with the Atomic Energy Act of 1954, as amended, or any applicable rule, regulation, order, or license of the Commission, or

(2) contains a defect which could create a substantial safety hazard,

shall immediately notify the Commission of such failure to comply, or of such defect, unless such person has actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

(b) Any person who knowingly fails to provide the notice required by subsection (a) of this section shall be subject to a civil penalty in an amount equal to the amount provided by section 234 of the Atomic Energy Act of 1954, as amended.

(c) Any person who knowingly and willfully fails to provide the notice required by subsection (a) of this section shall be subject to a criminal penalty of a fine not to exceed \$50,000 or imprisonment of not more than one year, or both.

(d) The requirements of this section shall be prominently posted on the premises of any facility licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954, as amended.

(e) The Commission is authorized to conduct such reasonable inspections and other enforcement activities as needed to insure compliance with the provisions of this section.

INFORMATION AND STUDIES

SEC. 206. (a) The Commission shall accept requests made in good faith for relevant studies or reports from any party to a licensing proceeding or rulemaking hearing. If such studies or reports are existing, the Commission shall make them available to the requesting party in a timely manner, subject to appropriate provisions of existing law regarding public disclosure. If such studies or reports must be especially prepared, the Atomic Safety and Licensing Board shall determine, subject to review under normal Commission review procedures, if such studies or reports are reasonably necessary for the requesting party to present its position in the proceeding or hearing, and are in the public interest. The requesting party shall be promptly notified of any determination by the Board or by the Commission.

(b) When it has been determined that studies or reports must be especially prepared at the request of a party, the Commission shall prepare such studies or reports, request them to be prepared by other Federal agencies, or have them prepared by contract. Such studies or reports shall be funded by the Commission: *Provided*, That the Commission shall seek contributions or reimbursement, in whole or in part, to the extent that the party requesting such studies or reports is financially capable of providing such contributions or reimbursement.

(c) When the Commission, in making a determination under subsection (a) of this section, shall be of the opinion that such determination involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the determination may materially advance the ultimate termination of the litigation, it shall so state in writing in such determination. The Court of Appeals for the District of Columbia may thereupon, in its discretion, permit an appeal to be taken from such determination, if application is made to it within ten days of the time the requesting party is notified of the determination of the Commission: *Provided, however*, That application for an appeal hereunder shall not stay proceedings of the Commission unless the Commission or the court of appeals or a judge thereof shall so order.

(d) Studies and reports made available by the Commission pursuant to this section shall be offered as part of the record of the proceeding or hearing.

ABNORMAL OCCURRENCE REPORTS

SEC. 207. The Commission shall submit to the Congress each quarter a report listing for that period any abnormal occurrences at any facility or activity which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954 as amended, or pursuant to this Act.

Each such report shall contain—

- (1) the date and place of each occurrence;
- (2) the nature of each incident;
- (3) the cause or causes of each; and
- (4) any action taken to prevent recurrence;

the Commission shall also provide as wide dissemination to the public of the information specified in clauses (1) and (2) of this section as reasonably possible within five days of its receiving information of

each abnormal occurrence and shall provide as wide dissemination to the public as reasonably possible of the information specified in clauses (3) and (4) as soon as such information becomes available to it.

OTHER OFFICERS

SEC. 208. (a) The Commission shall appoint a Director of Nuclear Reactor Safety who shall report directly to the Commission, who shall serve at the pleasure of and be removable by the Commission and who shall receive compensation at the rate now or hereafter prescribed for officers and positions at level IV of the Executive Schedule (5 U.S.C. 5315).

(b) There shall be in the Commission not more than nine additional officers appointed by the Commission who shall serve at the pleasure of and be removable by the Commission and who shall receive compensation at the rate now or hereafter prescribed for officers and positions at level V of the Executive Schedule (5 U.S.C. 5316).

TITLE III—MISCELLANEOUS AND TRANSITIONAL PROVISIONS

TRANSITIONAL PROVISIONS

SEC. 301. (a) Except as otherwise provided in this Act, whenever all of the functions or programs of an agency, or other body, or any component thereof, affected by this Act, have been transferred from that agency, or other body, or any component thereof by this Act, the agency, or other body, or component thereof shall lapse. If an agency, or other body, or any component thereof, lapses 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 rate prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5316), shall lapse.

(b) 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, 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 Administrator, the Commission, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(c) The provisions of this Act shall not affect any proceeding pending, at the time this section takes effect, before the Atomic Energy Commission or any department or agency (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 con-

tinued. 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.

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

(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 if this Act had not been enacted.

(e) 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, 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 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 any order which will give effect to the provisions of this section.

(f) 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 Administrator or Commission, or any other official, then such suit shall be continued as if this Act had not been enacted, with the Administrator or Commission, or other official, as the case may be, substituted.

(g) Final orders and actions of any official or component in the performance of functions transferred by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders or actions had been made or taken by the officer, department, agency, or instrumentality in the performance of such functions immediately preceding the effective date of this Act. Any statutory requirements relating to notices, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the performance of those functions by the Administrator or Commission, or any officer or component.

(h) With respect to any function transferred by this Act and performed after the effective date of this Act, reference in any other 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 Administration, the Administrator or Commission, or other office or official in which this Act vests such functions.

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

(j) Any reference in this Act to any provision of law shall be deemed to include, as appropriate, references thereto as now or hereafter amended or supplemented.

(k) Except as may be otherwise expressly provided in this Act, all functions expressly conferred by this Act shall be in addition to and not in substitution for functions existing immediately before the effective date of this Act and transferred by this Act.

INCIDENTAL DISPOSITIONS

SEC. 302. The Director of the Office of Management and Budget is authorized to make such additional incidental dispositions of personnel, personnel positions, 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 functions transferred by this Act, as he may deem necessary or appropriate to accomplish the intent and purpose of this Act.

DEFINITIONS

SEC. 303. As used in this Act—

(1) any reference to "function" or "functions" shall be deemed to include references to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and

(2) any reference to "perform" or "performance", when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 304. (a) Except as otherwise provided by law, appropriations made under this Act shall be subject to annual authorization.

(b) Beginning in fiscal year 1976, and in every fiscal year thereafter, in the absence of a specific nonnuclear energy research and development policy enacted by Congress for the Administration, of the amounts appropriated for the nondefense programs of the Administration, not less than 7 per centum shall be available for each of the research and development functions assigned to each of the nondefense Assistant Administrators under subsection 102(d) of this Act.

(c) Authorization of appropriations to the Commission shall reflect the need for effective licensing and other regulation of the nuclear power industry in relation to the growth of such industry.

COMPTROLLER GENERAL AUDIT

SEC. 305. (a) Section 166. "Comptroller General Audit" of the Atomic Energy Act of 1954, as amended, shall be deemed to be applicable, respectively, to the nuclear and nonnuclear activities under title I and to the activities under title II.

(b) The Comptroller General of the United States shall audit, review, and evaluate the implementation of the provisions of title II of this Act by the Nuclear Safety and Licensing Commission—

(1) Not less than fifty-four months nor more than sixty months after the effective date of this Act, the Comptroller General shall prepare and submit to the Congress a report on his audit, which shall contain, but not be limited to, the following:

(A) an evaluation of the effectiveness of the licensing and related regulatory activities of the Commission and the operations of the Office of Nuclear Safety Research and the Bureau of Nuclear Materials Security;

(B) an evaluation of the effect of such Commission activities on the efficiency, effectiveness, and safety with which the activities licensed under the Atomic Energy Act of 1954, as amended, are carried out;

(C) recommendations concerning any legislation he deems necessary, and the reasons therefor, for improving the implementation of title II.

(2) Copies of the report shall be furnished to the Chairman, Nuclear Safety and Licensing Commission, the chairman of the Senate Committee on Government Operations, the chairman of the Committee on Government Operations of the House of Representatives, and the chairman of the Joint Committee on Atomic Energy.

REPORTS

SEC. 306. (a) The Administrator shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress on the activities of the Administration during the preceding fiscal year. Such report shall include a statement of the short-range and long-range goals, priorities, and plans of the Administration together with an assessment of the progress made toward the attainment of those objectives and toward the more effective and efficient management of the Administration and the coordination of its functions.

(b) During the first year of operation of the Administration, the Administrator, in collaboration with the Secretary of Defense, shall conduct a thorough review of the desirability and feasibility of transferring to the Department of Defense or other Federal agencies the functions of the Administrator respecting military application and restricted data, and within one year after the Administrator first takes office the Administrator shall make a report to the President, for submission to the Congress, setting forth his comprehensive analysis, the principal alternatives, and the specific recommendations of the Administrator and the Secretary of Defense.

(c) The Commission shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress on the activities of the Commission during the preceding fiscal year. Such report shall, in layman's language, include a statement of the short-range and long-range goals, priorities, and plans of the Commission as they relate to the relative benefits, costs, and risks of commercial nuclear power. Such assessment shall be based on a complete accounting of the Commission's activities and findings in the following areas—

(1) insuring the safe design of nuclear powerplants and other licensed facilities;

(2) investigating abnormal occurrences and defects in nuclear powerplants and other licensed facilities;

(3) safeguarding special nuclear materials at all stages of the nuclear fuel cycle;

(4) investigating suspected, attempted, or actual thefts of special nuclear materials in the licensed sector and developing contingency plans for dealing with such incidents;

(5) insuring the safe, permanent disposal of high-level radioactive wastes through the licensing of nuclear activities and facilities;

(6) protecting the public against the hazards of low-level radioactive emissions from licensed nuclear activities and facilities.

INFORMATION TO COMMITTEES

SEC. 307. Except as provided in section 304(b) of this Act, the Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Administration's activities.

TRANSFER OF FUNDS

SEC. 308. The Administrator, when authorized in an appropriation Act, may, in any fiscal year, transfer funds from one appropriation to another within the Administration: *Provided*, That no appropriation shall be either increased or decreased pursuant to this section by more than 5 per centum of the appropriation of such fiscal year.

CONFORMING AMENDMENTS TO CERTAIN OTHER LAWS

SEC. 309. Subchapter II (relating to Executive Schedule pay rates) of chapter 53 of title 5, United States Code, is amended as follows:

(1) Section 5313 is amended by striking out "(8) Chairman, Atomic Energy Commission." and inserting in lieu thereof "(8) Chairman, Nuclear Safety and Licensing Commission.", and by adding at the end thereof the following:

"(22) Administrator of Energy Research and Development."

(2) Section 5314 is amended by striking out "(42) Members, Atomic Energy Commission." and inserting in lieu thereof "(42) Members, Nuclear Safety and Licensing Commission.", and by adding at the end thereof the following:

"(60) Deputy Administrator, Energy Research and Development Administration."

(3) Section 5315 is amended by striking out paragraph (50), and by adding at the end thereof the following:

"(99) Assistant Administrators, Energy Research and Development Administration (6);

"(100) Director of Nuclear Reactor Safety, Nuclear Safety and Licensing Commission;

"(101) Director of Nuclear Materials Security, Nuclear Safety and Licensing Commission;

"(102) Director of Nuclear Safety Research, Nuclear Safety and Licensing Commission."

(4) Section 5316 is amended by striking out paragraphs (29), (69), and (102), by striking out "(62) Director of Regulation, Atomic Energy Commission."; by striking out "(81) General Counsel of the Atomic Energy Commission," and inserting in lieu thereof "(81) General Counsel of the Nuclear Safety and Licensing Commission.", and by adding at the end thereof the following:

"(133) General Counsel, Energy Research and Development Administration.

"(134) Additional officers, Energy Research and Development Administration (8).

"(135) Additional officers, Nuclear Safety and Licensing Commission (9)."

SEPARABILITY

SEC. 310. If any provision of this Act, or the application thereof to any person or circumstance, is held valid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

EFFECTIVE DATE AND INTERIM APPOINTMENTS

SEC. 311. (a) This Act shall take effect one hundred and twenty days after the date of its enactment, or on such earlier date as the President may prescribe and publish in the Federal Register; except that any of the officers provided for in this Act may be nominated and appointed, as provided by 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), any functions of which are transferred to the Administrator and the Commission by this Act, may, with the approval of the President, 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 any officer 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 this 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.

TITLE IV—SEX DISCRIMINATION

SEC. 401. No person shall on the ground of sex be excluded from participation in, be denied a license under, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under any title of this Act. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

○



An Act

To reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a new Nuclear Regulatory Commission in order to promote more efficient management of such functions.

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

Energy Reorganization Act of 1974.

SHORT TITLE

SECTION 1. This Act may be cited as the "Energy Reorganization Act of 1974".

42 USC 5801 note.

DECLARATION OF PURPOSE

SEC. 2. (a) The Congress hereby declares that the general welfare and the common defense and security require effective action to develop, and increase the efficiency and reliability of use of, all energy sources to meet the needs of present and future generations, to increase the productivity of the national economy and strengthen its position in regard to international trade, to make the Nation self-sufficient in energy, to advance the goals of restoring, protecting, and enhancing environmental quality, and to assure public health and safety.

42 USC 5801.

(b) The Congress finds that, to best achieve these objectives, improve Government operations, and assure the coordinated and effective development of all energy sources, it is necessary to establish an Energy Research and Development Administration to bring together and direct Federal activities relating to research and development on the various sources of energy, to increase the efficiency and reliability in the use of energy, and to carry out the performance of other functions, including but not limited to the Atomic Energy Commission's military and production activities and its general basic research activities. In establishing an Energy Research and Development Administration to achieve these objectives, the Congress intends that all possible sources of energy be developed consistent with warranted priorities.

Energy Research and Development Administration, establishment.

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 88 STAT. 1234

(c) The Congress finds that it is in the public interest that the licensing and related regulatory functions of the Atomic Energy Commission be separated from the performance of the other functions of the Commission, and that this separation be effected in an orderly manner, pursuant to this Act, assuring adequacy of technical and other resources necessary for the performance of each.

Separation of AEC licensing and regulatory functions.

(d) The Congress declares that it is in the public interest and the policy of Congress that small business concerns be given a reasonable opportunity to participate, insofar as is possible, fairly and equitably in grants, contracts, purchases, and other Federal activities relating to research, development, and demonstration of sources of energy efficiency, and utilization and conservation of energy. In carrying out this policy, to the extent practicable, the Administrator shall consult with the Administrator of the Small Business Administration.

Small business participation.

(e) Determination of priorities which are warranted should be based on such considerations as power-related values of an energy source, preservation of material resources, reduction of pollutants, export market potential (including reduction of imports), among others. On such a basis, energy sources warranting priority might include, but not be limited to, the various methods of utilizing solar energy.

Priorities.

TITLE I—ENERGY RESEARCH AND DEVELOPMENT
ADMINISTRATION

ESTABLISHMENT

42 USC 5811. SEC. 101. There is hereby established an independent executive agency to be known as the Energy Research and Development Administration (hereinafter in this Act referred to as the "Administration").

OFFICERS

Administrator. 42 USC 5812. SEC. 102. (a) There shall be at the head of the Administration an Administrator of Energy Research and Development (hereinafter in this Act referred to as the "Administrator"), who shall be appointed from civilian life by the President by and with the advice and consent of the Senate. A person may not be appointed as Administrator within two years after release from active duty as a commissioned officer of a regular component of an Armed Force. The Administration shall be administered under the supervision and direction of the Administrator, who shall be responsible for the efficient and coordinated management of the Administration.

Deputy Administrator. 88 STAT. 1234 88 STAT. 1235 (b) There shall be in the Administration a Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The President shall appoint the Administrator and Deputy Administrator from among individuals who, by reason of their general background and experience are specially qualified to manage a full range of energy research and development programs.

Assistant Administrators. (d) There shall be in the Administration six Assistant Administrators, one of whom shall be responsible for fossil energy, another for nuclear energy, another for environment and safety, another for conservation, another for solar, geothermal, and advanced energy systems, and another for national security. The Assistant Administrators shall be appointed by the President, by and with the advice and consent of the Senate. The President shall appoint each Assistant Administrator from among individuals who, by reason of general background and experience, are specially qualified to manage the energy technology area assigned to such Assistant Administrator.

General Counsel. (e) There shall be in the Administration a General Counsel who shall be appointed by the Administrator and who shall serve at the pleasure of and be removable by the Administrator.

Additional officers. (f) There shall be in the Administration not more than eight additional officers appointed by the Administrator. The positions of such officers shall be considered career positions and be subject to subsection 161 d. of the Atomic Energy Act.

Director of Military Application. (g) The Division of Military Application transferred to and established in the Administration by section 104(d) of this Act shall be under the direction of a Director of Military Application, who shall be appointed by the Administrator and who shall serve at the pleasure of and be removable by the Administrator and shall be an active commissioned officer of the Armed Forces serving in general or flag officer rank or grade. The functions, qualifications, and compensation of the Director of Military Application shall be the same as those provided under the Atomic Energy Act of 1954, as amended, for the Assistant General Manager for Military Application.

42 USC 2011 note. (h) Officers appointed pursuant to this section shall perform such functions as the Administrator shall specify from time to time. The Administrator shall delegate to one such officer the special responsibility for international cooperation in all energy and related environmental research and development.

International cooperation.

(i) The Deputy Administrator (or in the absence or disability of the Deputy Administrator, or in the event of a vacancy in the office of the Deputy Administrator, an Assistant Administrator, the General Counsel or such other official, determined according to such order as the Administrator shall prescribe) shall act for and perform the functions of the Administrator during any absence or disability of the Administrator or in the event of a vacancy in the office of the Administrator.

Order of succession.

RESPONSIBILITIES OF THE ADMINISTRATOR

Sec. 103. The responsibilities of the Administrator shall include, but not be limited to— 42 USC 5813.

(1) exercising central responsibility for policy planning, coordination, support, and management of research and development programs respecting all energy sources, including assessing the requirements for research and development in regard to various energy sources in relation to near-term and long-range needs, policy planning in regard to meeting those requirements, undertaking programs for the optimal development of the various forms of energy sources, managing such programs, and disseminating information resulting therefrom;

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(2) encouraging and conducting research and development, including demonstration of commercial feasibility and practical applications of the extraction, conversion, storage, transmission, and utilization phases related to the development and use of energy from fossil, nuclear, solar, geothermal, and other energy sources;

(3) engaging in and supporting environmental, biomedical, physical, and safety research related to the development of energy sources and utilization technologies;

(4) taking into account the existence, progress, and results of other public and private research and development activities, including those activities of the Federal Energy Administration relating to the development of energy resources using currently available technology in promoting increased utilization of energy resources, relevant to the Administration's mission in formulating its own research and development programs;

(5) participating in and supporting cooperative research and development projects which may involve contributions by public or private persons or agencies, of financial or other resources to the performance of the work;

(6) developing, collecting, distributing, and making available for distribution, scientific and technical information concerning the manufacture or development of energy and its efficient extraction, conversion, transmission, and utilization;

(7) creating and encouraging the development of general information to the public on all energy conservation technologies and energy sources as they become available for general use, and the Administrator, in conjunction with the Administrator of the Federal Energy Administration shall, to the extent practicable, disseminate such information through the use of mass communications;

(8) encouraging and conducting research and development in energy conservation, which shall be directed toward the goals of reducing total energy consumption to the maximum extent practicable, and toward maximum possible improvement in the efficiency of energy use. Development of new and improved con-

servation measures shall be conducted with the goal of the most expeditious possible application of these measures;

(9) encouraging and participating in international cooperation in energy and related environmental research and development;

(10) helping to assure an adequate supply of manpower for the accomplishment of energy research and development programs, by sponsoring and assisting in education and training activities in institutions of higher education, vocational schools, and other institutions, and by assuring the collection, analysis, and dissemination of necessary manpower supply and demand data;

(11) encouraging and conducting research and development in clean and renewable energy sources.

ABOLITION AND TRANSFERS

88 STAT. 1236
88 STAT. 1237

Atomic Energy Commission.
42 USC 5814.

SEC. 104. (a) The Atomic Energy Commission is hereby abolished. Sections 21 and 22 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2031 and 2032) are repealed.

(b) All other functions of the Commission, the Chairman and members of the Commission, and the officers and components of the Commission are hereby transferred or allowed to lapse pursuant to the provisions of this Act.

(c) There are hereby transferred to and vested in the Administrator all functions of the Atomic Energy Commission, the Chairman and members of the Commission, and the officers and components of the Commission, except as otherwise provided in this Act.

(d) The General Advisory Committee established pursuant to section 26 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2036), the Patent Compensation Board established pursuant to section 157 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2187), and the Divisions of Military Application and Naval Reactors established pursuant to section 25 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2035), are transferred to the Energy Research and Development Administration and the functions of the Commission with respect thereto, and with respect to relations with the Military Liaison Committee established by section 27 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2037), are transferred to the Administrator.

(e) There are hereby transferred to and vested in the Administrator such functions of the Secretary of the Interior, the Department of the Interior, and officers and components of such department—

(1) as relate to or are utilized by the Office of Coal Research established pursuant to the Act of July 1, 1960 (74 Stat. 336; 30 U.S.C. 661-668);

(2) as relate to or are utilized in connection with fossil fuel energy research and development programs and related activities conducted by the Bureau of Mines "energy centers" and synthetic plant to provide greater efficiency in the extraction, processing, and utilization of energy resources for the purpose of conserving those resources, developing alternative energy resources, such as oil and gas secondary and tertiary recovery, oil shale and synthetic fuels, improving methods of managing energy-related wastes and pollutants, and providing technical guidance needed to establish and administer national energy policies; and

(3) as relate to or are utilized for underground electric power transmission research.

The Administrator shall conduct a study of the potential energy applications of helium and, within six months from the date of the

Interior Department functions.

Helium applications study.

enactment of this Act, report to the President and Congress his recommendations concerning the management of the Federal helium programs, as they relate to energy.

(f) There are hereby transferred to and vested in the Administrator such functions of the National Science Foundation as relate to or are utilized in connection with—

(1) solar heating and cooling development; and

(2) geothermal power development.

(g) There are hereby transferred to and vested in the Administrator such functions of the Environmental Protection Agency and the officers and components thereof as relate to or are utilized in connection with research, development, and demonstration, but not assessment or monitoring for regulatory purposes, of alternative automotive power systems.

(h) To the extent necessary or appropriate to perform functions and carry out programs transferred by this Act, the Administrator and Commission may exercise, in relation to the functions so transferred, any authority or part thereof available by law, including appropriation Acts, to the official or agency from which such functions were transferred.

(i) In the exercise of his responsibilities under section 103, the Administrator shall utilize, with their consent, to the fullest extent he determines advisable the technical and management capabilities of other executive agencies having facilities, personnel, or other resources which can assist or advantageously be expanded to assist in carrying out such responsibilities. The Administrator shall consult with the head of each agency with respect to such facilities, personnel, or other resources, and may assign, with their consent, specific programs or projects in energy research and development as appropriate. In making such assignments under this subsection, the head of each such agency shall insure that—

(1) such assignments shall be in addition to and not detract from the basic mission responsibilities of the agency, and

(2) such assignments shall be carried out under such guidance as the Administrator deems appropriate.

ADMINISTRATIVE PROVISIONS

SEC. 105. (a) The Administrator is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to perform functions now or hereafter vested in him.

(b) The Administrator shall engage in such policy planning, and perform such program evaluation analyses and other studies, as may be necessary to promote the efficient and coordinated administration of the Administration and properly assess progress toward the achievement of its missions.

(c) Except as otherwise expressly provided by law, the Administrator may delegate any of his functions to such officers and employees of the Administration as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary or appropriate.

(d) Except as provided in section 102 and in section 104(d), the Administrator may organize the Administration as he may deem to be necessary or appropriate.

(e) The Administrator is authorized to establish, maintain, alter, or discontinue such State, regional, district, local, or other field offices as he may deem to be necessary or appropriate to perform functions now or hereafter vested in him.

Report to President and Congress.

National Science Foundation functions.

Environmental Protection Agency functions.

Use of other agencies' capabilities.

Regulations.
42 USC 5815.

Policy planning and evaluation.

Delegation of functions.

Organization.

Field offices.

88 STAT. 1239

Seal.

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

Working capital fund.

(g) The Administrator 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, assets other than real property, 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.

Information from other agencies.

(h) Each department, agency, and instrumentality of the executive branch of the Government is authorized to furnish to the Administrator, upon his request, any information or other data which the Administrator deems necessary to carry out his duties under this title.

PERSONNEL AND SERVICES

Appointment and pay.

42 USC 5816.

Sec. 106. (a) The Administrator is authorized to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys, pursuant to section 161 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201(d)) as are necessary to perform the functions now or hereafter vested in him and to prescribe their functions.

Experts and consultants. Military personnel.

(b) The Administrator is authorized to obtain services as provided by section 3109 of title 5 of the United States Code.

(c) The Administrator is authorized to provide for participation of military personnel in the performance of his functions. Members of the Army, the Navy, the Air Force, or the Marine Corps may be detailed for service in the Administration by the appropriate military Secretary, pursuant to cooperative agreements with the Secretary, for service in the Administration in positions other than a position the occupant of which must be approved by and with the advice and consent of the Senate.

(d) Appointment, detail, or assignment to, acceptance of, and service in, any appointive or other position in the Administration under this section shall in no way affect the status, office, rank, or grade which such officers or enlisted men may occupy or hold, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. A member so appointed, detailed, or assigned 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 appointed, detailed, or assigned.

Transportation and per diem.

(e) The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5 of the United States Code for travel between places of recruitment and duty, and while at places of duty, of persons appointed for emergency, temporary, or seasonal services in the field service of the Administration.

88 STAT. 1240

(f) The Administrator is authorized to utilize, on a reimbursable basis, the services of any personnel made available by any department, agency, or instrumentality, including any independent agency of the Government.

Personnel of other agencies.

(g) The Administrator is authorized to establish advisory boards, in accordance with the provisions of the Federal Advisory Committee Act (Public Law 92-463), to advise with and make recommendations to the Administrator on legislation, policies, administration, research, and other matters.

Advisory boards.

5 USC app. I.

(h) The Administrator is authorized to employ persons who are not citizens of the United States in expert, scientific, technical, or professional capacities whenever he deems it in the public interest.

Noncitizens.

POWERS

Sec. 107. (a) The Administrator is authorized to exercise his powers in such manner as to insure the continued conduct of research and development and related activities in areas or fields deemed by the Administrator to be pertinent to the acquisition of an expanded fund of scientific, technical, and practical knowledge in energy matters. To this end, the Administrator is authorized to make arrangements (including contracts, agreements, and loans) for the conduct of research and development activities with private or public institutions or persons, including participation in joint or cooperative projects of a research, developmental, or experimental nature; to make payments (in lump sum or installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments); and generally to take such steps as he may deem necessary or appropriate to perform functions now or hereafter vested in him. Such functions of the Administrator under this Act as are applicable to the nuclear activities transferred pursuant to this title shall be subject to the provisions of the Atomic Energy Act of 1954, as amended, and to other authority applicable to such nuclear activities. The nonnuclear responsibilities and functions of the Administrator referred to in sections 103 and 104 of this Act shall be carried out pursuant to the provisions of this Act, applicable authority existing immediately before the effective date of this Act, or in accordance with the provisions of chapter 4 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2051-2053).

Research and development. 42 USC 5817.

Contracts, etc.

42 USC 2011 note.

(b) Except for public buildings as defined in the Public Buildings Act of 1959, as amended, and with respect to leased space subject to the provisions of Reorganization Plan Numbered 18 of 1950, the Administrator is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain facilities and real property as the Administrator deems to be necessary in and outside of the District of Columbia. Such authority shall apply only to facilities required for the maintenance and operation of laboratories, research and testing sites and facilities, quarters, and related accommodations for employees and dependents of employees of the Administration, and such other special-purpose real property as the Administrator deems to be necessary in and outside the District of Columbia. Title to any property or interest therein, real, personal, or mixed, acquired pursuant to this section, shall be in the United States.

Facilities and real property. 40 USC 601 note. 5 USC app. II.

(c)(1) The Administrator is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

Services for employees at remote locations.

(A) Emergency medical services and supplies.

(B) Food and other subsistence supplies.

(C) Messing facilities.

(D) Audiovisual equipment, accessories, and supplies for recreation and training.

(E) Reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons.

(F) Living and working quarters and facilities.

(G) Transportation for school-age dependents of employees to the nearest appropriate educational facilities.

(2) The furnishing of medical treatment under subparagraph (A) of paragraph (1) and the furnishing of services and supplies under paragraphs (B) and (C) of paragraph (1) shall be at prices reflecting reasonable value as determined by the Administrator.

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

(d) The Administrator is authorized to acquire any of the following described rights if the property acquired thereby is for use in, or is useful to, the performance of functions vested in him:

(1) Copyrights, patents, and applications for patents, designs, processes, specifications, and data.

(2) Licenses under copyrights, patents, and applications for patents.

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

(e) Subject to the provisions of chapter 12 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2161-2166), and other applicable law, the Administrator shall disseminate scientific, technical, and practical information acquired pursuant to this title through information programs and other appropriate means, and shall encourage the dissemination of scientific, technical, and practical information relating to energy so as to enlarge the fund of such information and to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding.

(f) The Administrator 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 Administration. Gifts and bequests of money and proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Administrator. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift or bequest to the United States.

INTERIM COORDINATION

Energy Resources Council, establishment.
42 USC 5818.

SEC. 108. (a) There is established in the Executive Office of the President an Energy Resources Council. The Council shall be composed of the Secretary of the Interior, the Administrator of the Federal Energy Administration, the Administrator of the Energy Research and Development Administration, the Secretary of State, the Director, Office of Management and Budget, and such other officials of the Federal Government as the President may designate. The President shall designate one of the members of the Council to serve as Chairman.

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

(1) insure communication and coordination among the agencies of the Federal Government which have responsibilities for the development and implementation of energy policy or for the management of energy resources;

(2) make recommendations to the President and to the Congress for measures to improve the implementation of Federal energy policies or the management of energy resources with particular emphasis upon policies and activities involving two or more Departments or independent agencies; and

(3) advise the President in the preparation of the reorganization recommendations required by section 110 of this Act.

(c) The Chairman of the Council may not refuse to testify before the Congress or any duly authorized committee thereof regarding the duties of the Council or other matters concerning interagency coordination of energy policy and activities.

(d) This section shall be effective no later than sixty days after the enactment of this Act or such earlier date as the President shall prescribe and publish in the Federal Register, and shall terminate upon enactment of a permanent department responsible for energy and natural resources or two years after such effective date, whichever shall occur first.

Testimony before Congress.

Effective date.
Publication in Federal Register.

FUTURE REORGANIZATION

SEC. 109. (a) The President shall transmit to the Congress as promptly as possible, but not later than June 30, 1975, such additional recommendations as he deems advisable for organization of energy and related functions in the Federal Government, including, but not limited to, whether or not there shall be established (1) a Department of Energy and Natural Resources, (2) an Energy Policy Council, and (3) a consolidation in whole or in part of regulatory functions concerning energy.

(b) This report shall replace and serve the purposes of the report required by section 15(a)(4) of the Federal Energy Administration Act.

Report to Congress.
42 USC 5819.

Ante, p. 109.

COORDINATION WITH ENVIRONMENTAL EFFORTS

SEC. 110. The Administrator is authorized to establish programs to utilize research and development performed by other Federal agencies to minimize the adverse environmental effects of energy projects. The Administrator of the Environmental Protection Agency, as well as other affected agencies and departments, shall cooperate fully with the Administrator in establishing and maintaining such programs, and in establishing appropriate interagency agreements to develop cooperative programs and to avoid unnecessary duplication.

42 USC 5820.

TITLE II—NUCLEAR REGULATORY COMMISSION

ESTABLISHMENT AND TRANSFERS

SEC. 201. (a) There is established an independent regulatory commission to be known as the Nuclear Regulatory Commission which shall be composed of five members, each of whom shall be a citizen of the United States. The President shall designate one member

Members and Chairman.
42 USC 5841.

of the Commission as Chairman thereof to serve as such during the pleasure of the President. The Chairman 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 meetings 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 equal responsibility and authority in all decisions and actions of the Commission, shall have full access to all information relating to the performance of his duties or responsibilities, and shall have one vote. Action of the Commission shall be determined by a majority vote of the members present. The Chairman (or Acting Chairman in the absence of the Chairman) shall be the official spokesman of the Commission in its relations with the Congress, Government agencies, persons, or the public, and, on behalf of the Commission, shall see to the faithful execution of the policies and decisions of the Commission, and shall report thereon to the Commission from time to time or as the Commission may direct. The Commission shall have an official seal which shall be judicially noticed.

Seal.

(b) (1) Members of the Commission shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Appointments of members pursuant to this subsection shall be made in such a manner that not more than three members of the Commission shall be members of the same political party.

(c) Each member shall serve for a term of five years, each such term to commence on July 1, except that of the five members first appointed to the Commission, one shall serve for one year, one for two years, one for three years, one for four years, and one for five years, to be designated by the President at the time of appointment.

Submission of appointments to Senate.

(d) Such initial appointments shall be submitted to the Senate within sixty days of the signing of this Act. Any individual who is serving as a member of the Atomic Energy Commission at the time of the enactment of this Act, and who may be appointed by the President to the Commission, shall be appointed for a term designated by the President, but which term shall terminate not later than the end of his present term as a member of the Atomic Energy Commission, without regard to the requirements of subsection (b) (2) of this section. Any subsequent appointment of such individuals shall be subject to the provisions of this section.

(e) Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. No member of the Commission shall engage in any business, vocation, or employment other than that of serving as a member of the Commission.

Transfer of AEC functions and personnel.

(f) There are hereby transferred to the Commission all the licensing and related regulatory functions of the Atomic Energy Commission, the Chairman and members of the Commission, the General Counsel, and other officers and components of the Commission—which functions officers, components, and personnel are excepted from the transfer to the Administrator by section 104(c) of this Act.

Additional transfers.

(g) In addition to other functions and personnel transferred to the Commission, there are also transferred to the Commission—

(1) the functions of the Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Board;

(2) such personnel as the Director of the Office of Management and Budget determines are necessary for exercising responsibili-

ties under section 205, relating to, research, for the purpose of confirmatory assessment relating to licensing and other regulation under the provisions of the Atomic Energy Act of 1954, as amended, and of this Act.

42 USC 2011 note.

LICENSING AND RELATED REGULATORY FUNCTIONS RESPECTING SELECTED ADMINISTRATION FACILITIES

SEC. 202. Notwithstanding the exclusions provided for in section 110 a. or any other provisions of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2140(a)), the Nuclear Regulatory Commission shall, except as otherwise specifically provided by section 110 b. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2140(b)), or other law, have licensing and related regulatory authority pursuant to chapters 6, 7, 8, and 10 of the Atomic Energy Act of 1954, as amended, as to the following facilities of the Administration:

42 USC 5842.

(1) Demonstration Liquid Metal Fast Breeder reactors when operated as part of the power generation facilities of an electric utility system, or when operated in any other manner for the purpose of demonstrating the suitability for commercial application of such a reactor.

(2) Other demonstration nuclear reactors—except those in existence on the effective date of this Act—when operated as part of the power generation facilities of an electric utility system, or when operated in any other manner for the purpose of demonstrating the suitability for commercial application of such a reactor.

42 USC 2071-2112, 2131-2140.

(3) Facilities used primarily for the receipt and storage of high-level radioactive wastes resulting from activities licensed under such Act.

(4) Retrievable Surface Storage Facilities and other facilities authorized for the express purpose of subsequent long-term storage of high-level radioactive waste generated by the Administration, which are not used for, or are part of, research and development activities.

OFFICE OF NUCLEAR REACTOR REGULATION

SEC. 203. (a) There is hereby established in the Commission an Office of Nuclear Reactor Regulation under the direction of a Director of Nuclear Reactor Regulation, who shall be appointed by the Commission, who may report directly to the Commission, as provided in section 209, and who shall serve at the pleasure of and be removable by the Commission.

Establishment. 42 USC 5843. Director.

(b) Subject to the provisions of this Act, the Director of Nuclear Reactor Regulation shall perform such functions as the Commission shall delegate including:

Functions.

(1) Principal licensing and regulation involving all facilities, and materials licensed under the Atomic Energy Act of 1954, as amended, associated with the construction and operation of nuclear reactors licensed under the Atomic Energy Act of 1954, as amended;

42 USC 2011 note.

(2) Review the safety and safeguards of all such facilities, materials, and activities, and such review functions shall include, but not be limited to—

(A) monitoring, testing and recommending upgrading of systems designed to prevent substantial health or safety hazards; and

(B) evaluating methods of transporting special nuclear and other nuclear materials and of transporting and storing high-level radioactive wastes to prevent radiation hazards to employees and the general public.

(3) Recommend research necessary for the discharge of the functions of the Commission.

(c) Nothing in this section shall be construed to limit in any way the functions of the Administration relating to the safe operation of all facilities resulting from all activities within the jurisdiction of the Administration pursuant to this Act.

OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS

SEC. 204. (a) There is hereby established in the Commission an Office of Nuclear Material Safety and Safeguards under the direction of a Director of Nuclear Material Safety and Safeguards, who shall be appointed by the Commission, who may report directly to the Commission as provided in section 209, and who shall serve at the pleasure of and be removable by the Commission.

(b) Subject to the provisions of this Act, the Director of Nuclear Material Safety and Safeguards shall perform such functions as the Commission shall delegate including:

(1) Principal licensing and regulation involving all facilities and materials, licensed under the Atomic Energy Act of 1954, as amended, associated with the processing, transport, and handling of nuclear materials, including the provision and maintenance of safeguards against threats, thefts, and sabotage of such licensed facilities, and materials.

(2) Review safety and safeguards of all such facilities and materials licensed under the Atomic Energy Act of 1954, as amended, and such review shall include, but not be limited to—

(A) monitoring, testing, and recommending upgrading of internal accounting systems for special nuclear and other nuclear materials licensed under the Atomic Energy Act of 1954, as amended;

(B) developing, in consultation and coordination with the Administration, contingency plans for dealing with threats, thefts, and sabotage relating to special nuclear materials, high-level radioactive wastes and nuclear facilities resulting from all activities licensed under the Atomic Energy Act of 1954, as amended;

(C) assessing the need for, and the feasibility of, establishing a security agency within the office for the performance of the safeguards functions, and a report with recommendations on this matter shall be prepared within one year of the effective date of this Act and promptly transmitted to the Congress by the Commission.

(3) Recommending research to enable the Commission to more effectively perform its functions.

(c) Nothing in this section shall be construed to limit in any way the functions of the Administration relating to the safeguarding of special nuclear materials, high-level radioactive wastes and nuclear

Establishment.
42 USC 5844.
Director.

Functions.

42 USC 2011
note.

Report to
Congress.

facilities resulting from all activities within the jurisdiction of the Administration pursuant to this Act.

OFFICE OF NUCLEAR REGULATORY RESEARCH

SEC. 205. (a) There is hereby established in the Commission an Office of Nuclear Regulatory Research under the direction of a Director of Nuclear Regulatory Research, who shall be appointed by the Commission, who may report directly to the Commission as provided in section 209, and who shall serve at the pleasure of and be removable by the Commission.

Establishment.
42 USC 5845.
Director.

(b) Subject to the provisions of this Act, the Director of Nuclear Regulatory Research shall perform such functions as the Commission shall delegate including:

Functions.

(1) Developing recommendations for research deemed necessary for performance by the Commission of its licensing and related regulatory functions.

(2) Engaging in or contracting for research which the Commission deems necessary for the performance of its licensing and related regulatory functions.

(c) The Administrator of the Administration and the head of every other Federal agency shall—

Cooperation of
Federal agencies.

(1) cooperate with respect to the establishment of priorities for the furnishing of such research services as requested by the Commission for the conduct of its functions;

(2) furnish to the Commission, on a reimbursable basis, through their own facilities or by contract or other arrangement, such research services as the Commission deems necessary and requests for the performance of its functions; and

(3) consult and cooperate with the Commission on research and development matters of mutual interest and provide such information and physical access to its facilities as will assist the Commission in acquiring the expertise necessary to perform its licensing and related regulatory functions.

(d) Nothing in subsections (a) and (b) of this section or section 201 of this Act shall be construed to limit in any way the functions of the Administration relating to the safety of activities within the jurisdiction of the Administration.

(e) Each Federal agency, subject to the provisions of existing law, shall cooperate with the Commission and provide such information and research services, on a reimbursable basis, as it may have or be reasonably able to acquire.

Information and
research ser-
vices.

NONCOMPLIANCE

SEC. 206. (a) Any individual director, or responsible officer of a firm constructing, owning, operating, or supplying the components of any facility or activity which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954 as amended, or pursuant to this Act, who obtains information reasonably indicating that such facility or activity or basic components supplied to such facility or activity—

42 USC 5846.

(1) fails to comply with the Atomic Energy Act of 1954, as amended, or any applicable rule, regulation, order, or license of the Commission relating to substantial safety hazards, or

42 USC 2011
note.

(2) contains a defect which could create a substantial safety hazard, as defined by regulations which the Commission shall promulgate,

shall immediately notify the Commission of such failure to comply, or of such defect, unless such person has actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

Penalty.

(b) Any person who knowingly and consciously fails to provide the notice required by subsection (a) of this section shall be subject to a civil penalty in an amount equal to the amount provided by section 234 of the Atomic Energy Act of 1954, as amended.

42 USC 2282.

Posting of requirements.

42 USC 2011

note.

Enforcement.

(c) The requirements of this section shall be prominently posted on the premises of any facility licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954, as amended.

(d) The Commission is authorized to conduct such reasonable inspections and other enforcement activities as needed to insure compliance with the provisions of this section.

NUCLEAR ENERGY CENTER SITE SURVEY

42 USC 5847.

SEC. 207. (a) (1) The Commission is authorized and directed to make or cause to be made under its direction, a national survey, which shall include consideration of each of the existing or future electric reliability regions, or other appropriate regional areas, to locate and identify possible nuclear energy center sites. This survey shall be conducted in cooperation with other interested Federal, State, and local agencies, and the views of interested persons, including electric utilities, citizens' groups, and others, shall be solicited and considered.

(2) For purposes of this section, the term "nuclear energy center site" means any site, including a site not restricted to land, large enough to support utility operations or other elements of the total nuclear fuel cycle, or both including, if appropriate, nuclear fuel reprocessing facilities, nuclear fuel fabrication plants, retrievable nuclear waste storage facilities, and uranium enrichment facilities.

(3) The survey shall include—

(a) a regional evaluation of natural resources, including land, air, and water resources, available for use in connection with nuclear energy center sites; estimates of future electric power requirements that can be served by each nuclear energy center site; an assessment of the economic impact of each nuclear energy site; and consideration of any other relevant factors, including but not limited to population distribution, proximity to electric load centers and to other elements of the fuel cycle, transmission line rights-of-way, and the availability of other fuel resources;

(b) an evaluation of the environmental impact likely to result from construction and operation of such nuclear energy centers, including an evaluation whether such nuclear energy centers will result in greater or lesser environmental impact than separate siting of the reactors and/or fuel cycle facilities; and

(c) consideration of the use of federally owned property and other property designated for public use, but excluding national parks, national forests, national wilderness areas, and national historic monuments.

(4) A report of the results of the survey shall be published and transmitted to the Congress and the Council on Environmental Quality not later than one year from the date of the enactment of this Act and shall be made available to the public, and shall be updated from time to time thereafter as the Commission, in its discretion, deems advisable. The report shall include the Commission's evaluation of the results of the survey and any conclusions and recommendations, including recommendations for legislation, which the Commission may have concerning the feasibility and practicality of locating nuclear power reactors and/or other elements of the nuclear fuel cycle

Report to Congress and Council on Environmental Quality; public availability.

Federal-State-local cooperation. Solicitation of views. Definition.

on nuclear energy center sites. The Commission is authorized to adopt policies which will encourage the location of nuclear power reactors and related fuel cycle facilities on nuclear energy center sites insofar as practicable.

ABNORMAL OCCURRENCE REPORTS

SEC. 208. The Commission shall submit to the Congress each quarter a report listing for that period any abnormal occurrences at or associated with any facility which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954 as amended, or pursuant to this Act. For the purposes of this section an abnormal occurrence is an unscheduled incident or event which the Commission determines is significant from the standpoint of public health or safety. Nothing in the preceding sentence shall limit the authority of a court to review the determination of the Commission. Each such report shall contain—

- (1) the date and place of each occurrence;
- (2) the nature and probable consequence of each occurrence;
- (3) the cause or causes of each; and
- (4) any action taken to prevent recurrence;

the Commission shall also provide as wide dissemination to the public of the information specified in clauses (1) and (2) of this section as reasonably possible within fifteen days of its receiving information of each abnormal occurrence and shall provide as wide dissemination to the public as reasonably possible of the information specified in clauses (3) and (4) as soon as such information becomes available to it.

Reports to Congress.
42 USC 5848.
42 USC 2011
note.

Public dissemination of information.

OTHER OFFICERS

SEC. 209. (a) The Commission shall appoint an Executive Director for Operations, who shall serve at the pleasure of and be removable by the Commission.

(b) The Executive Director shall perform such functions as the Commission may direct, except that the Executive Director shall not limit the authority of the director of any component organization provided in this Act to communicate with or report directly to the Commission when such director of a component organization deems it necessary to carry out his responsibilities.

(c) There shall be in the Commission not more than five additional officers appointed by the Commission. The positions of such officers shall be considered career positions and be subject to subsection 161 d. of the Atomic Energy Act.

Executive Director.
42 USC 5849.
Functions.

Other officers.
42 USC 2201.

TITLE III—MISCELLANEOUS AND TRANSITIONAL PROVISIONS

TRANSITIONAL PROVISIONS

SEC. 301. (a) Except as otherwise provided in this Act, whenever all of the functions or programs of an agency, or other body, or any component thereof, affected by this Act, have been transferred from that agency, or other body, or any component thereof by this Act, the agency, or other body, or component thereof shall lapse. If an agency, or other body, or any component thereof, lapses 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 rate prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5316), shall lapse.

Lapses of agencies and positions.
42 USC 5871.

Savings clauses.

(b) 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, 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 Administrator, the Commission, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(c) The provisions of this Act shall not affect any proceeding pending, at the time this section takes effect, before the Atomic Energy Commission or any department or agency (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.

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

(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 if this Act had not been enacted.

(e) 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. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official 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 any order which will give effect to the provisions of this section.

(f) 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 Administrator or Commission, or any other official, then such suit shall be continued as if this Act had not been enacted, with the Administrator or Commission, or other official, as the case may be, substituted.

(g) Final orders and actions of any official or component in the performance of functions transferred by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders or actions had been made or taken by the officer, department, agency, or instrumentality in the performance of such functions immediately preceding the effective date of this Act. Any statutory requirements relating to notices, hearings, action upon the record, or administrative review that apply to any function transferred by

this Act shall apply to the performance of those functions by the Administrator or Commission, or any officer or component.

(h) With respect to any function transferred by this Act and performed after the effective date of this Act, reference in any other 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 Administration, the Administrator or Commission, or other office or official in which this Act vests such functions.

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

(j) Any reference in this Act to any provision of law shall be deemed to include, as appropriate, references thereto as now or hereafter amended or supplemented.

(k) Except as may be otherwise expressly provided in this Act, all functions expressly conferred by this Act shall be in addition to and not in substitution for functions existing immediately before the effective date of this Act and transferred by this Act.

TRANSFER OF PERSONNEL AND OTHER MATTERS

SEC. 302. (a) Except as provided in the next sentence, 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 and programs transferred by this Act, are, subject to section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), correspondingly transferred for appropriate allocation. Personnel positions expressly created by law, 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 levels II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5316) on the effective date of this Act shall be subject to the provisions of subsection (c) of this section and section 301 of this Act.

42 USC 5872.

(b) Except as provided in subsection (c), transfer of nontemporary personnel pursuant to this Act shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer.

(c) 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 of the United States Code, and who, without a break in service, is appointed in the Administration 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.

INCIDENTAL DISPOSITIONS

SEC. 303. The Director of the Office of Management and Budget is authorized to make such additional incidental dispositions of personnel, personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be

42 USC 5873.

made available in connection with functions transferred by this Act, as he may deem necessary or appropriate to accomplish the intent and purpose of this Act.

DEFINITIONS

42 USC 5874.

SEC. 304. As used in this Act—

(1) any reference to "function" or "functions" shall be deemed to include references to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and

(2) any reference to "perform" or "performance", when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

AUTHORIZATION OF APPROPRIATIONS

42 USC 5875.

SEC. 305. (a) Except as otherwise provided by law, appropriations made under this Act shall be subject to annual authorization.

(b) Authorization of appropriations to the Commission shall reflect the need for effective licensing and other regulation of the nuclear power industry in relation to the growth of such industry.

COMPTROLLER GENERAL AUDIT

42 USC 5876.

42 USC 2206.

SEC. 306. (a) Section 166. "Comptroller General Audit" of the Atomic Energy Act of 1954, as amended, shall be deemed to be applicable, respectively, to the nuclear and nonnuclear activities under title I and to the activities under title II.

(b) The Comptroller General of the United States shall audit, review, and evaluate the implementation of the provisions of title II of this Act by the Nuclear Safety and Licensing Commission not later than sixty months after the effective date of this Act, the Comptroller General shall prepare and submit to the Congress a report on his audit, which shall contain, but not be limited to—

(1) an evaluation of the effectiveness of the licensing and related regulatory activities of the Commission and the operations of the Office of Nuclear Safety Research and the Bureau of Nuclear Materials Security;

(2) an evaluation of the effect of such Commission activities on the efficiency, effectiveness, and safety with which the activities licensed under the Atomic Energy Act of 1954, as amended, are carried out;

(3) recommendations concerning any legislation he deems necessary, and the reasons therefor, for improving the implementation of title II.

REPORTS

SEC. 307. (a) The Administrator shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress on the activities of the Administration during the preceding fiscal year. Such report shall include a statement of the short-range and long-range goals, priorities, and plans of the Administration together with an assessment of the progress made toward the attainment of those objectives and toward the more effective and efficient management of the Administration and the coordination of its functions.

(b) During the first year of operation of the Administration, the Administrator, in collaboration with the Secretary of Defense, shall conduct a thorough review of the desirability and feasibility of trans-

ferring to the Department of Defense or other Federal agencies the functions of the Administrator respecting military application and restricted data, and within one year after the Administrator first takes office the Administrator shall make a report to the President, for submission to the Congress, setting forth his comprehensive analysis, the principal alternatives, and the specific recommendations of the Administrator and the Secretary of Defense.

(c) The Commission shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress on the activities of the Commission during the preceding fiscal year. Such report shall include a clear statement of the short-range and long-range goals, priorities, and plans of the Commission as they relate to the benefits, costs, and risks of commercial nuclear power. Such report shall also include a clear description of the Commission's activities and findings in the following areas—

(1) insuring the safe design of nuclear powerplants and other licensed facilities;

(2) investigating abnormal occurrences and defects in nuclear powerplants and other licensed facilities;

(3) safeguarding special nuclear materials at all stages of the nuclear fuel cycle;

(4) investigating suspected, attempted, or actual thefts of special nuclear materials in the licensed sector and developing contingency plans for dealing with such incidents;

(5) insuring the safe, permanent disposal of high-level radioactive wastes through the licensing of nuclear activities and facilities;

(6) protecting the public against the hazards of low-level radioactive emissions from licensed nuclear activities and facilities.

INFORMATION TO COMMITTEES

SEC. 308. The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Administration's activities.

TRANSFER OF FUNDS

SEC. 309. The Administrator, when authorized in an appropriation Act, may, in any fiscal year, transfer funds from one appropriation to another within the Administration; except, that no appropriation shall be either increased or decreased pursuant to this section by more than 5 per centum of the appropriation for such fiscal year.

CONFORMING AMENDMENTS TO CERTAIN OTHER LAWS

SEC. 310. Subchapter II (relating to Executive Schedule pay rates) of chapter 53 of title 5, United States Code, is amended as follows:

(1) Section 5313 is amended by striking out "(8) Chairman, Atomic Energy Commission." and inserting in lieu thereof "(8) Chairman, Nuclear Regulatory Commission.", and by adding at the end thereof the following:

"(22) Administrator of Energy Research and Development Administration."

(2) Section 5314 is amended by striking out "(42) Members, Atomic Energy Commission." and inserting in lieu thereof "(42) Members, Nuclear Regulatory Commission.", and by adding at the end thereof the following:

"(60) Deputy Administrator, Energy Research and Development Administration."

Commission activities and findings.

42 USC 5878.

42 USC 5879.

Report to Congress.

Ante, pp. 1234, 1242.

Reports to the President and Congress.
42 USC 5877.
Administration activities and progress.

Feasibility of transferring military application functions.

(3) Section 5315 is amended by striking out paragraph (50), and by adding at the end thereof the following:

"(100) Assistant Administrators, Energy Research and Development Administration (6).

"(101) Director of Nuclear Reactor Regulation, Nuclear Regulatory Commission.

"(102) Director of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission.

"(103) Director of Nuclear Regulatory Research, Nuclear Regulatory Commission.

"(104) Executive Director for Operations, Nuclear Regulatory Commission."

(4) Section 5316 is amended by striking out paragraphs (29), (62), (69), and (102), by striking out "(81) General Counsel of the Atomic Energy Commission," and inserting in lieu thereof "(81) General Counsel of the Nuclear Regulatory Commission," and by adding at the end thereof the following:

"(134) General Counsel, Energy Research and Development Administration.

"(135) Additional officers, Energy Research and Development Administration (8).

"(136) Additional officers, Nuclear Regulatory Commission (5)."

SEPARABILITY

42 USC 5801
note.

SEC. 311. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

EFFECTIVE DATE AND INTERIM APPOINTMENTS

42 USC 5801
note.
Publication in
Federal
Register.

SEC. 312. (a) This Act shall take effect one hundred and twenty days after the date of its enactment, or on such earlier date as the President may prescribe and publish in the Federal Register; except that any of the officers provided for in title I of this Act may be nominated and appointed, as provided by 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), any functions of which are transferred to the Administrator and the Commission by this Act, may, with the approval of the President, 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 any officer 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 this 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.

TITLE IV—SEX DISCRIMINATION

SEX DISCRIMINATION PROHIBITED

SEC. 401. No person shall on the ground of sex be excluded from participation in, be denied a license under, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under any title of this Act. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

42 USC 5891.

42 USC 2000d.

Approved October 11, 1974.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 93-707 (Comm. on Government Operations) and No. 93-1445 (Comm. of Conference).

SENATE REPORT No. 93-980 accompanying S. 2744 (Comm. on Government Operations).

CONGRESSIONAL RECORD:

Vol. 119 (1973): Dec. 19, considered and passed House.

Vol. 120 (1974): Aug. 15, considered and passed Senate, amended, in lieu of S. 2744.

Oct. 9, House agreed to conference report.

Oct. 10, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 10, No. 41 (1974): Oct. 11, Presidential statement.

ENERGY REORGANIZATION ACT OF 1974

OCTOBER 8, 1974.—Ordered to be printed

Mr. HOLFIELD, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 11510]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11510) to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SEC. 1. THIS ACT MAY BE CITED AS THE "ENERGY REORGANIZATION ACT OF 1974."

DECLARATION OF PURPOSE

SEC. 2. (a) *The Congress hereby declares that the general welfare and the common defense and security require effective action to develop, and increase the efficiency and reliability of use of, all energy sources to meet the needs of present and future generations, to increase the productivity of the national economy and strengthen its position*

in regard to international trade, to make the Nation self-sufficient in energy, to advance the goals of restoring, protecting, and enhancing environmental quality, and to assure public health and safety.

(b) The Congress finds that, to best achieve these objectives, improve Government operations, and assure the coordinated and effective development of all energy sources, it is necessary to establish an Energy Research and Development Administration to bring together and direct Federal activities relating to research and development on the various sources of energy, to increase the efficiency and reliability in the use of energy, and to carry out the performance of other functions, including but not limited to the Atomic Energy Commission's military and production activities and its general basic research activities. In establishing an Energy Research and Development Administration to achieve these objectives, the Congress intends that all possible sources of energy be developed consistent with warranted priorities.

(c) The Congress finds that it is in the public interest that the licensing and related regulatory functions of the Atomic Energy Commission be separated from the performance of the other functions of the Commission, and that this separation be effected in an orderly manner, pursuant to this Act, assuring adequacy of technical and other resources necessary for the performance of each.

(d) The Congress declares that it is in the public interest and the policy of Congress that small business concerns be given a reasonable opportunity to participate, insofar as is possible, fairly and equitably in grants, contracts, purchases, and other Federal activities relating to research, development, and demonstration of sources of energy efficiency, and utilization and conservation of energy. In carrying out this policy, to the extent practicable, the Administrator shall consult with the Administrator of the Small Business Administration.

(e) Determination of priorities which are warranted should be based on such considerations as power-related values of an energy source, preservation of material resources, reduction of pollutants, export market potential (including reduction of imports), among others. On such a basis, energy sources warranting priority might include, but not be limited to, the various methods of utilizing solar energy.

TITLE I—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

ESTABLISHMENT

Sec. 101. There is hereby established an independent executive agency to be known as the Energy Research and Development Administration (hereinafter in this Act referred to as the "Administration").

OFFICERS

Sec. 102. (a) There shall be at the head of the Administration an Administrator of Energy Research and Development (hereinafter in this Act referred to as the "Administrator"), who shall be appointed from civilian life by the President by and with the advice and consent of the Senate. A person may not be appointed as Administrator within two years after release from active duty as a commissioned officer

of a regular component of an Armed Force. The Administration shall be administered under the supervision and direction of the Administrator, who shall be responsible for the efficient and coordinated management of the Administration.

(b) There shall be in the Administration a Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The President shall appoint the Administrator and Deputy Administrator from among individuals who, by reason of their general background and experience are specially qualified to manage a full range of energy research and development programs.

(d) There shall be in the Administration six Assistant Administrators, one of whom shall be responsible for fossil energy, another for nuclear energy, another for environment and safety, another for conservation, another for solar, geothermal, and advanced energy systems, and another for national security. The Assistant Administrators shall be appointed by the President, by and with the advice and consent of the Senate. The President shall appoint each Assistant Administrator from among individuals who, by reason of general background and experience, are specially qualified to manage the energy technology area assigned to such Assistant Administrator.

(e) There shall be in the Administration a General Counsel who shall be appointed by the Administrator and who shall serve at the pleasure of and be removable by the Administrator.

(f) There shall be in the Administration not more than eight additional officers appointed by the Administrator. The positions of such officers shall be considered career positions and be subject to subsection 161d. of the Atomic Energy Act.

(g) The Division of Military Application transferred to and established in the Administration by section 104(d) of this Act shall be under the direction of a Director of Military Application, who shall be appointed by the Administrator and who shall serve at the pleasure of and be removable by the Administrator and shall be an active commissioned officer of the Armed Forces serving in general or flag officer rank or grade. The functions, qualifications, and compensation of the Director of Military Application shall be the same as those provided under the Atomic Energy Act of 1954, as amended, for the Assistant General Manager for Military Application.

(h) Officers appointed pursuant to this section shall perform such functions as the Administrator shall specify from time to time. The Administrator shall delegate to one such officer the special responsibility for international cooperation in all energy and related environmental research and development.

(i) The Deputy Administrator (or in the absence or disability of the Deputy Administrator, or in the event of a vacancy in the office of the Deputy Administrator, an Assistant Administrator, the General Counsel or such other official, determined according to such order as the Administrator shall prescribe) shall act for and perform the functions of the Administrator during any absence or disability of the Administrator or in the event of a vacancy in the office of the Administrator.

RESPONSIBILITIES OF THE ADMINISTRATOR

SEC. 103. The responsibilities of the Administrator shall include, but not be limited to—

(1) exercising central responsibility for policy planning, coordination, support, and management of research and development programs respecting all energy sources, including assessing the requirements for research and development in regard to various energy sources in relation to near-term and long-range needs, policy planning in regard to meeting those requirements, undertaking programs for the optimal development of the various forms of energy sources, managing such programs, and disseminating information resulting therefrom;

(2) encouraging and conducting research and development, including demonstration of commercial feasibility and practical applications of the extraction, conversion, storage, transmission, and utilization phases related to the development and use of energy from fossil, nuclear, solar, geothermal, and other energy sources;

(3) engaging in and supporting environmental, biomedical, physical, and safety research related to the development of energy sources and utilization technologies;

(4) taking into account the existence, progress, and results of other public and private research and development activities, including those activities of the Federal Energy Administration relating to the development of energy resources using currently available technology in promoting increased utilization of energy resources, relevant to the Administration's mission in formulating its own research and development programs;

(5) participating in and supporting cooperative research and development projects which may involve contributions by public or private persons or agencies, of financial or other resources to the performance of the work;

(6) developing, collecting, distributing, and making available for distribution, scientific and technical information concerning the manufacture or development of energy and its efficient extraction, conversion, transmission, and utilization.

(7) creating and encouraging the development of general information to the public on all energy conservation technologies and energy sources as they become available for general use, and the Administrator, in conjunction with the Administrator of the Federal Energy Administration shall, to the extent practicable, disseminate such information through the use of mass communications;

(8) encouraging and conducting research and development in energy conservation, which shall be directed toward the goals of reducing total energy consumption to the maximum extent practicable, and toward maximum possible improvement in the efficiency of energy use. Development of new and improved conservation measures shall be conducted with the goal of the most expeditious possible application of these measures;

(9) encouraging and participating in international cooperation in energy and related environmental research and development;

(10) helping to assure an adequate supply of manpower for the accomplishment of energy research and development programs, by sponsoring and assisting in education and training activities in institutions of higher education, vocational schools, and other institutions, and by assuring the collection, analysis, and dissemination of necessary manpower supply and demand data;

(11) encouraging and conducting research and development in clean and renewable energy sources.

ABOLITION AND TRANSFERS

SEC. 104. (a) The Atomic Energy Commission is hereby abolished. Sections 21 and 22 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2031 and 2032) are repealed.

(b) All other functions of the Commission, the Chairman and members of the Commission, and the officers and components of the Commission are hereby transferred or allowed to lapse pursuant to the provisions of this Act.

(c) There are hereby transferred to and vested in the Administrator all functions of the Atomic Energy Commission, the Chairman and members of the Commission, and the officers and components of the Commission, except as otherwise provided in this Act.

(d) The General Advisory Committee established pursuant to section 26 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2036), the Patent Compensation Board established pursuant to section 157 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2187), and the Divisions of Military Application and Naval Reactors established pursuant to section 25 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2035), are transferred to the Energy Research and Development Administration and the functions of the Commission with respect thereto, and with respect to relations with the Military Liaison Committee established by section 27 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2037), are transferred to the Administrator.

(e) There are hereby transferred to and vested in the Administrator such functions of the Secretary of the Interior, the Department of the Interior, and officers and components of such department—

(1) as relate to or are utilized by the Office of Coal Research established pursuant to the Act of July 1, 1960 (74 Stat. 336; 30 U.S.C. 661-658);

(2) as relate to or are utilized in connection with fossil fuel energy research and development programs and related activities conducted by the Bureau of Mines "energy centers" and synthetic plant to provide greater efficiency in the extraction, processing, and utilization of energy resources for the purpose of conserving those resources, developing alternative energy resources, such as oil and gas secondary and tertiary recovery, oil shale and synthetic fuels, improving methods of managing energy-related wastes and pollutants, and providing technical guidance needed to establish and administer national energy policies; and

(3) as relate to or are utilized for underground electric power transmission research.

The Administrator shall conduct a study of the potential energy applications of helium and, within six months from the date of the enact-

ment of this Act, report to the President and Congress his recommendations concerning the management of the Federal helium programs, as they relate to energy.

(f) There are hereby transferred to and vested in the Administrator such functions of the National Science Foundation as relate to or are utilized in connection with—

- (1) solar heating and cooling development; and
- (2) geothermal power development

(g) There are hereby transferred to and vested in the Administrator such functions of the Environmental Protection Agency and the officers and components thereof as relate to or are utilized in connection with research, development, and demonstration, but not assessment or monitoring for regulatory purposes, of alternative automotive power systems.

(h) To the extent necessary or appropriate to perform functions and carry out programs transferred by this Act, the Administrator and Commission may exercise, in relation to the functions so transferred, any authority or part thereof available by law, including appropriation Acts, to the official or agency from which such functions were transferred.

(i) In the exercise of his responsibilities under section 103, the Administrator shall utilize, with their consent, to the fullest extent he determines advisable the technical and management capabilities of other executive agencies having facilities, personnel, or other resources which can assist or advantageously be expanded to assist in carrying out such responsibilities. The Administrator shall consult with the head of each agency with respect to such facilities, personnel, or other resources, and may assign, with their consent, specific programs or projects in energy research and development as appropriate. In making such assignments under this subsection, the head of each such agency shall insure that—

- (1) such assignments shall be in addition to and not detract from the basic mission responsibilities of the agency, and
- (2) such assignments shall be carried out under such guidance as the Administrator deems appropriate.

ADMINISTRATIVE PROVISIONS

SEC. 105. (a) The Administrator is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to perform functions now or hereafter vested in him.

(b) The Administrator shall engage in such policy planning, and perform such program evaluation analyses and other studies, as may be necessary to promote the efficient and coordinated administration of the Administration and properly assess progress toward the achievement of its missions.

(c) Except as otherwise expressly provided by law, the Administrator may delegate any of his functions to such officers and employees of the Administration as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary or appropriate.

(d) Except as provided in section 102 and in section 104(d), the Administrator may organize the Administration as he may deem to be necessary or appropriate.

(e) The Administrator is authorized to establish, maintain, alter, or discontinue such State, regional, district, local, or other field offices as he may deem to be necessary or appropriate to perform functions now or hereafter vested in him.

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

(g) The Administrator 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, assets other than real property, 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.

(h) Each department, agency, and instrumentality of the executive branch of the Government is authorized to furnish to the Administrator, upon his request, any information or other data which the Administrator deems necessary to carry out his duties under this title.

PERSONNEL AND SERVICES

Sec. 106. (a) The Administrator is authorized to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys, pursuant to section 161 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201(d)) as are necessary to perform the functions now or hereafter vested in him and to prescribe their functions.

(b) The Administrator is authorized to obtain services as provided by section 3109 of title 5 of the United States Code.

(c) The Administrator is authorized to provide for participation of military personnel in the performance of his functions. Members of the Army, the Navy, the Air Force, or the Marine Corps may be detailed for service in the Administration by the appropriate military Secretary, pursuant to cooperative agreements with the Secretary, for service in the Administration in positions other than a position the occupant of which must be approved by and with the advice and consent of the Senate.

(d) Appointment, detail, or assignment to, acceptance of, and service in, any appointive or other position in the Administration under this section shall in no way affect the status, office, rank, or grade which such officers or enlisted men may occupy or hold, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. A member so appointed, detailed, or assigned shall not be subject to direction or control by his Armed Forces, or any officer thereof, directly or indirectly, with re-

spect to the responsibilities exercised in the position to which appointed, detailed, or assigned.

(e) The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5 of the United States Code for travel between places of recruitment and duty, and while at places of duty, of persons appointed for emergency, temporary, or seasonal services in the field service of the Administration.

(f) The Administrator is authorized to utilize, on a reimbursable basis, the services of any personnel made available by any department, agency, or instrumentality, including any independent agency of the Government.

(g) The Administrator is authorized to establish advisory boards, in accordance with the provisions of the Federal Advisory Committee Act (Public Law 92-463), to advise with and make recommendations to the Administrator on legislation, policies, administration, research, and other matters.

(h) The Administrator is authorized to employ persons who are not citizens of the United States in expert, scientific, technical, or professional capacities whenever he deems it in the public interest.

POWERS

SEC. 107. (a) The Administrator is authorized to exercise his powers in such manner as to insure the continued conduct of research and development and related activities in areas or fields deemed by the Administrator to be pertinent to the acquisition of an expanded fund of scientific, technical, and practical knowledge in energy matters. To this end, the Administrator is authorized to make arrangements (including contracts, agreements, and loans) for the conduct of research and development activities with private or public institutions or persons, including participation in joint or cooperative projects of a research, developmental, or experimental nature; to make payments (in lump sum or installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments); and generally to take such steps as he may deem necessary or appropriate to perform functions now or hereafter vested in him. Such functions of the Administrator under this Act as are applicable to the nuclear activities transferred pursuant to this title shall be subject to the provisions of the Atomic Energy Act of 1954, as amended, and to other authority applicable to such nuclear activities. The nonnuclear responsibilities and functions of the Administrator referred to in sections 103 and 104 of this Act shall be carried out pursuant to the provisions of this Act, applicable authority existing immediately before the effective date of this Act, or in accordance with the provisions of chapter 4 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2051-2053).

(b) Except for public buildings as defined in the Public Buildings Act of 1959, as amended, and with respect to leased space subject to the provisions of Reorganization Plan Numbered 18 of 1950, the Administrator is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain facilities and real property as the Administrator deems to be necessary in and outside of the District of Columbia. Such authority shall apply only to facilities required for the maintenance and opera-

tion of laboratories, research and testing sites and facilities, quarters, and related accommodations for employees and dependents of employees of the Administration, and such other special-purpose real property as the Administrator deems to be necessary in and outside the District of Columbia. Title to any property or interest therein, real, personal, or mixed, acquired pursuant to this section, shall be in the United States.

(c) (1) The Administrator is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

(A) Emergency medical services and supplies.

(B) Food and other subsistence supplies.

(C) Messing facilities.

(D) Audiovisual equipment, accessories, and supplies for recreation and training.

(E) Reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons.

(F) Living and working quarters and facilities.

(G) Transportation for school-age dependents of employees to the nearest appropriate educational facilities.

(2) The furnishing of medical treatment under subparagraph (A) of paragraph (1) and the furnishing of services and supplies under paragraphs (B) and (C) of paragraph (1) shall be at prices reflecting reasonable value as determined by the Administrator.

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

(d) The Administrator is authorized to acquire any of the following described rights if the property acquired thereby is for use in, or is useful to, the performance of functions vested in him:

(1) Copyrights, patents, and applications for patents, designs, processes, specifications, and data.

(2) Licenses under copyrights, patents, and applications for patents.

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

(e) Subject to the provisions of chapter 12 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2161-2166), and other applicable law, the Administrator shall disseminate scientific, technical, and practical information acquired pursuant to this title through information programs and other appropriate means, and shall encourage the dissemination of scientific, technical, and practical information relating to energy so as to enlarge the fund of such information and to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding.

(f) *The Administrator 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 Administration. Gifts and bequests of money and proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Administrator. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift or bequest to the United States.*

INTERIM COORDINATION

SEC. 108. (a) *There is established in the Executive Office of the President an Energy Resources Council. The Council shall be composed of the Secretary of the Interior, the Administrator of the Federal Energy Administration, the Administrator of the Energy Research and Development Administration, the Secretary of State, the Director, Office of Management and Budget, and such other officials of the Federal Government as the President may designate. The President shall designate one of the members of the Council to serve as Chairman.*

(b) *It shall be the duty and function of the Council to—*

(1) *insure communication and coordination among the agencies of the Federal Government which have responsibilities for the development and implementation of energy policy or for the management of energy resources;*

(2) *make recommendations to the President and to the Congress for measures to improve the implementation of Federal energy policies or the management of energy resources with particular emphasis upon policies and activities involving two or more Departments or independent agencies; and*

(3) *advise the President in the preparation of the reorganization recommendations required by section 110 of this Act.*

(c) *The Chairman of the Council may not refuse to testify before the Congress or any duly authorized committee thereof regarding the duties of the Council or other matters concerning interagency coordination of energy policy and activities.*

(d) *This section shall be effective no later than sixty days after the enactment of this Act or such earlier date as the President shall prescribe and publish in the Federal Register, and shall terminate upon enactment of a permanent department responsible for energy and natural resources or two years after such effective date, whichever shall occur first.*

FUTURE REORGANIZATION

SEC. 109. (a) *The President shall transmit to the Congress as promptly as possible, but not later than June 30, 1975, such additional recommendations as he deems advisable for organization of energy and related functions in the Federal Government, including, but not limited to, whether or not there shall be established (1) a Department of Energy and Natural Resources, (2) an Energy Policy Council, and (3) a consolidation in whole or in part of regulatory functions concerning energy.*

(b) *This report shall replace and serve the purposes of the report required by section 15(a)(4) of the Federal Energy Administration Act.*

COORDINATION WITH ENVIRONMENTAL EFFORTS

SEC. 110. *The Administrator is authorized to establish programs to utilize research and development performed by other Federal agencies to minimize the adverse environmental effects of energy projects. The Administrator of the Environmental Protection Agency, as well as other affected agencies and departments, shall cooperate fully with the Administrator in establishing and maintaining such programs, and in establishing appropriate interagency agreements to develop cooperative programs and to avoid unnecessary duplication.*

TITLE II—NUCLEAR REGULATORY COMMISSION

ESTABLISHMENT AND TRANSFERS

SEC. 201. (a) (1) *There is established an independent regulatory commission to be known as the Nuclear Regulatory Commission which shall be composed of five members, each of whom shall be a citizen of the United States. The President shall designate one member of the Commission as Chairman thereof to serve as such during the pleasure of the President. The Chairman 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 meetings 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 equal responsibility and authority in all decisions and actions of the Commission, shall have full access to all information relating to the performance of his duties or responsibilities, and shall have one vote. Action of the Commission shall be determined by a majority vote of the members present. The Chairman (or Acting Chairman in the absence of the Chairman) shall be the official spokesman of the Commission in its relations with the Congress, Government agencies, persons, or the public, and, on behalf of the Commission, shall see to the faithful execution of the policies and decisions of the Commission, and shall report thereon to the Commission from time to time or as the Commission may direct. The Commission shall have an official seal which shall be judicially noticed.*

(2) *The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (A) the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman and except as otherwise provided in this Act), (B) the distribution of business among personnel appointed and supervised by the Chairman and among administrative units of the Commission, and (C) the use and expenditure of funds.*

(3) *In carrying out any of his functions under the provisions of this subsection the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.*

(b) (1) *Members of the Commission shall be appointed by the President, by and with the advice and consent of the Senate.*

(2) Appointments of members pursuant to this subsection shall be made in such a manner that not more than three members of the Commission shall be members of the same political party.

(c) Each member shall serve for a term of five years, each such term to commence on July 1, except that of the five members first appointed to the Commission, one shall serve for one year, one for two years, one for three years, one for four years, and one for five years, to be designated by the President at the time of appointment.

(d) Such initial appointments shall be submitted to the Senate within sixty days of the signing of this Act. Any individual who is serving as a member of the Atomic Energy Commission at the time of the enactment of this Act, and who may be appointed by the President to the Commission, shall be appointed for a term designated by the President, but which term shall terminate not later than the end of his present term as a member of the Atomic Energy Commission, without regard to the requirements of subsection (b)(2) of this section. Any subsequent appointment of such individuals shall be subject to the provisions of this section.

(e) Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. No member of the Commission shall engage in any business, vocation, or employment other than that of serving as a member of the Commission.

(f) There are hereby transferred to the Commission all the licensing and related regulatory functions of the Atomic Energy Commission, the Chairman and members of the Commission, the General Counsel, and other officers and components of the Commission—which functions officers, components, and personnel are excepted from the transfer to the Administrator by section 104(e) of this Act.

(g) In addition to other functions and personnel transferred to the Commission, there are also transferred to the Commission—

(1) the functions of the Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Board;

(2) such personnel as the Director of the Office of Management and Budget determines are necessary for exercising responsibilities under section 205, relating to research, for the purpose of confirmatory assessment relating to licensing and other regulation under the provisions of the Atomic Energy Act of 1954, as amended, and of this Act.

LICENSING AND RELATED REGULATORY FUNCTIONS RESPECTING SELECTED ADMINISTRATION FACILITIES

SEC. 202. Notwithstanding the exclusions provided for in section 110 a. or any other provisions of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2140(a)), the Nuclear Regulatory Commission shall, except as otherwise specifically provided by section 110 b. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2140(b)), or other law, have licensing and related regulatory authority pursuant to chapters 6, 7, 8, and 10 of the Atomic Energy Act of 1954, as amended, as to the following facilities of the Administration:

(1) Demonstration Liquid Metal Fast Breeder reactors when operated as part of the power generation facilities of an electric utility system, or when operated in any other manner for the pur-

pose of demonstrating the suitability for commercial application of such a reactor.

(2) Other demonstration nuclear reactors—except those in existence on the effective date of this Act—when operated as part of the power generation facilities of an electric utility system, or when operated in any other manner for the purpose of demonstrating the suitability for commercial application of such a reactor.

(3) Facilities used primarily for the receipt and storage of high-level radioactive wastes resulting from activities licensed under such Act.

(4) Retrievable Surface Storage Facilities and other facilities authorized for the express purpose of subsequent long-term storage of high-level radioactive waste generated by the Administration, which are not used for, or are part of, research and development activities.

OFFICE OF NUCLEAR REACTOR REGULATION

SEC. 203. (a) There is hereby established in the Commission an Office of Nuclear Reactor Regulation under the direction of a Director of Nuclear Reactor Regulation, who shall be appointed by the Commission, who may report directly to the Commission, as provided in section 209, and who shall serve at the pleasure of and be removable by the Commission.

(b) Subject to the provisions of this Act, the Director of Nuclear Reactor Regulation shall perform such functions as the Commission shall delegate including:

(1) Principal licensing and regulation involving all facilities and materials licensed under the Atomic Energy Act of 1954, as amended, associated with the construction and operation of nuclear reactors licensed under the Atomic Energy Act of 1954, as amended;

(2) Review the safety and safeguards of all such facilities, materials, and activities, and such review functions shall include, but not be limited to—

(A) monitoring, testing and recommending upgrading of systems designed to prevent substantial health or safety hazards; and

(B) evaluating methods of transporting special nuclear and other nuclear materials and of transporting and storing high-level radioactive wastes to prevent radiation hazards to employees and the general public.

(3) Recommend research necessary for the discharge of the functions of the Commission.

(c) Nothing in this section shall be construed to limit in any way the functions of the Administration relating to the safe operation of all facilities resulting from all activities within the jurisdiction of the Administration pursuant to this Act.

OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS

SEC. 204. (a) There is hereby established in the Commission an Office of Nuclear Material Safety and Safeguards under the direction of a Director of Nuclear Material Safety and Safeguards, who shall be appointed by the Commission, who may report directly to the Com-

mission as provided in section 209, and who shall serve at the pleasure of and be removable by the Commission.

(b) Subject to the provisions of this Act, the Director of Nuclear Material Safety and Safeguards shall perform such functions as the Commission shall delegate including:

(1) Principal licensing and regulation involving all facilities and materials, licensed under the Atomic Energy Act of 1954, as amended, associated with the processing, transport, and handling of nuclear materials, including the provision and maintenance of safeguards against threats, thefts, and sabotage of such licensed facilities, and materials.

(2) Review safety and safeguards of all such facilities and materials licensed under the Atomic Energy Act of 1954, as amended, and such review shall include, but not be limited to—

(A) monitoring, testing, and recommending upgrading of internal accounting systems for special nuclear and other nuclear materials licensed under the Atomic Energy Act of 1954, as amended;

(B) developing, in consultation and coordination with the Administration, contingency plans for dealing with threats, thefts, and sabotage relating to special nuclear materials, high-level radioactive wastes and nuclear facilities resulting from all activities licensed under the Atomic Energy Act of 1954, as amended;

(C) assessing the need for, and the feasibility of, establishing a security agency within the office for the performance of the safeguards functions, and a report with recommendations on this matter shall be prepared within one year of the effective date of this Act and promptly transmitted to the Congress by the Commission.

(3) Recommending research to enable the Commission to more effectively perform its functions.

(c) Nothing in this section shall be construed to limit in any way the functions of the Administration relating to the safeguarding of special nuclear materials, high-level radioactive wastes and nuclear facilities resulting from all activities within the jurisdiction of the Administration pursuant to this Act.

OFFICE OF NUCLEAR REGULATORY RESEARCH

SEC. 205. (a) There is hereby established in the Commission an Office of Nuclear Regulatory Research under the direction of a Director of Nuclear Regulatory Research, who shall be appointed by the Commission, who may report directly to the Commission as provided in section 209, and who shall serve at the pleasure of and be removable by the Commission.

(b) Subject to the provisions of this Act, the Director of Nuclear Regulatory Research shall perform such functions as the Commission shall delegate including:

(1) Developing recommendations for research deemed necessary for performance by the Commission of its licensing and related regulatory functions.

(2) Engaging in or contracting for research which the Commission deems necessary for the performance of its licensing and related regulatory functions.

(c) The Administrator of the Administration and the head of every other Federal agency shall—

(1) cooperate with respect to the establishment of priorities for the furnishing of such research services as requested by the Commission for the conduct of its functions;

(2) furnish to the Commission, on a reimbursable basis, through their own facilities or by contract or other arrangement, such research services as the Commission deems necessary and requests for the performance of its functions; and

(3) consult and cooperate with the Commission on research and development matters of mutual interest and provide such information and physical access to its facilities as will assist the Commission in acquiring the expertise necessary to perform its licensing and related regulatory functions.

(d) Nothing in subsections (a) and (b) of this section or section 201 of this Act shall be construed to limit in any way the functions of the Administration relating to the safety of activities within the jurisdiction of the Administration.

(e) Each Federal agency, subject to the provisions of existing law, shall cooperate with the Commission and provide such information and research services, on a reimbursable basis, as it may have or be reasonably able to acquire.

NONCOMPLIANCE

SEC. 206. (a) Any individual director, or responsible officer of a firm constructing, owning, operating, or supplying the components of any facility or activity which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954 as amended, or pursuant to this Act, who obtains information reasonably indicating that such facility or activity or basic components supplied to such facility or activity—

(1) fails to comply with the Atomic Energy Act of 1954, as amended, or any applicable rule, regulation, order, or license of the Commission relating to substantial safety hazards, or

(2) contains a defect which could create a substantial safety hazard, as defined by regulations which the Commission shall promulgate,

shall immediately notify the Commission of such failure to comply, or of such defect, unless such person has actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

(b) Any person who knowingly and consciously fails to provide the notice required by subsection (a) of this section shall be subject to a civil penalty in an amount equal to the amount provided by section 234 of the Atomic Energy Act of 1954, as amended.

(c) The requirements of this section shall be prominently posted on the premises of any facility licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954, as amended.

(d) The Commission is authorized to conduct such reasonable inspections and other enforcement activities as needed to insure compliance with the provisions of this section.

NUCLEAR ENERGY CENTER SITE SURVEY

SEC. 207. (a) (1) The Commission is authorized and directed to make or cause to be made under its direction, a national survey, which shall include consideration of each of the existing or future electric reliability regions, or other appropriate regional areas, to locate and identify possible nuclear energy center sites. This survey shall be conducted in cooperation with other interested Federal, State, and local agencies, and the views of interested persons, including electric utilities, citizens' groups, and others, shall be solicited and considered.

(2) For purposes of this section, the term "nuclear energy center site" means any site, including a site not restricted to land, large enough to support utility operations or other elements of the total nuclear fuel cycle, or both including, if appropriate, nuclear fuel reprocessing facilities, nuclear fuel fabrication plants, retrievable nuclear waste storage facilities, and uranium enrichment facilities.

(3) The survey shall include—

(a) a regional evaluation of natural resources, including land, air, and water resources, available for use in connection with nuclear energy center sites; estimates of future electric power requirements that can be served by each nuclear energy center site; an assessment of the economic impact of each nuclear energy site; and consideration of any other relevant factors, including but not limited to population distribution, proximity to electric load centers and to other elements of the fuel cycle, transmission line rights-of-way, and the availability of other fuel resources;

(b) an evaluation of the environmental impact likely to result from construction and operation of such nuclear energy centers, including an evaluation whether such nuclear energy centers will result in greater or lesser environmental impact than separate siting of the reactors and/or fuel cycle facilities; and

(c) consideration of the use of federally owned property and other property designated for public use, but excluding national parks, national forests, national wilderness areas, and national historic monuments.

(4) A report of the results of the survey shall be published and transmitted to the Congress and the Council on Environmental Quality not later than one year from the date of the enactment of this Act and shall be made available to the public, and shall be updated from time to time thereafter as the Commission, in its discretion, deems advisable. The report shall include the Commission's evaluation of the results of the survey and any conclusions and recommendations, including recommendations for legislation, which the Commission may have concerning the feasibility and practicality of locating nuclear power reactors and/or other elements of the nuclear fuel cycle on nuclear energy center sites. The Commission is authorized to adopt policies which will encourage the location of nuclear power reactors and related fuel cycle facilities on nuclear energy center sites insofar as practicable.

ABNORMAL OCCURRENCE REPORTS

SEC. 208. The Commission shall submit to the Congress each quarter a report listing for that period any abnormal occurrences at or associated with any facility which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954 as amended, or pursuant to

this Act. For the purposes of this section an abnormal occurrence is an unscheduled incident or event which the Commission determines is significant from the standpoint of public health or safety. Nothing in the preceding sentence shall limit the authority of a court to review the determination of the Commission. Each such report shall contain—

- (1) the date and place of each occurrence;
- (2) the nature or probable consequence of each occurrence;
- (3) the cause or causes of each; and
- (4) any action taken to prevent recurrence;

the Commission shall also provide as wide dissemination to the public of the information specified in clauses (1) and (2) of this section as reasonably possible within fifteen days of its receiving information of each abnormal occurrence and shall provide as wide dissemination to the public as reasonably possible of the information specified in clauses (3) and (4) as soon as such information becomes available to it.

OTHER OFFICERS

SEC. 209. (a) The Commission shall appoint an Executive Director for Operations, who shall serve at the pleasure of and be removable by the Commission.

(b) The Executive Director shall perform such functions as the Commission may direct, except that the Executive Director shall not limit the authority of the director of any component organization provided in this Act to communicate with or report directly to the Commission when such director of a component organization deems it necessary to carry out his responsibilities.

(c) There shall be in the Commission not more than five additional officers appointed by the Commission. The positions of such officers shall be considered career positions and be subject to subsection 161d of the Atomic Energy Act.

TITLE III—MISCELLANEOUS AND TRANSITIONAL PROVISIONS

TRANSITIONAL PROVISIONS

SEC. 301. (a) Except as otherwise provided in this Act, whenever all of the functions or programs of an agency, or other body, or any component thereof, affected by this Act, have been transferred from that agency, or other body, or any component thereof by this Act, the agency, or other body, or component thereof shall lapse. If an agency, or other body, or any component thereof, lapses 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 rate prescribed for an office or position at level II, III, IV, or V of Executive Schedule (5 U.S.C. 5313-5316), shall lapse.

(b) 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, 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 Administrator, the Commission, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(c) The provisions of this Act shall not affect any proceeding pending, at the time this section takes effect, before the Atomic Energy Commission or any department or agency (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 proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit this 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.

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

(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 if this Act had not been enacted.

(e) 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. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official 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 any order which will give effect to the provisions of this section.

(f) 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 Administrator or Commission, or any other official, then such suit shall be continued as if this Act had not been enacted, with the Administrator or Commission, or other official, as the case may be, substituted.

(g) Final orders and actions of any official or component in the performance of functions transferred by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders or actions had been made or taken by the officer, department, agency, or instrumentality in the performance of such functions immediately preceding the effective date of this Act. Any statutory requirements relating to notices, hearings, action upon the record,

or administrative review that apply to any function transferred by this Act shall apply to the performance of those functions by the Administrator or Commission, or any officer or component.

(h) With respect to any function transferred by this Act and performed after the effective date of this Act, reference in any other 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 Administration, the Administrator or Commission, or other office or official in which this Act vests such functions.

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

(j) Any reference in this Act to any provision of law shall be deemed to include, as appropriate, references thereto as now or hereafter amended or supplemented.

(k) Except as may be otherwise expressly provided in this Act, all functions expressly conferred by this Act shall be in addition to and not in substitution for functions existing immediately before the effective date of this Act and transferred by this Act.

TRANSFER OF PERSONNEL AND OTHER MATTERS

SEC. 302. (a) Except as provided in the next sentence, 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 and programs transferred by this Act, are, subject to section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), correspondingly transferred for appropriate allocation. Personnel positions expressly created by law, 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 levels II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5316) on the effective date of this Act shall be subject to the provisions of subsection (c) of this section and section 301 of this Act.

(b) Except as provided in subsection (c), transfer of nontemporary personnel pursuant to this Act shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer.

(c) 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 of the United States Code, and who, without a break in service, is appointed in the Administration 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.

INCIDENTAL DISPOSITIONS

SEC. 303. *The Director of the Office of Management and Budget is authorized to make such additional incidental dispositions of personnel, personnel positions, 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 functions transferred by this Act, as he may deem necessary or appropriate to accomplish the intent and purpose of this Act.*

DEFINITIONS

SEC. 304. *As used in this Act—*

(1) *any reference to "function" or "functions" shall be deemed to include references to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and*

(2) *any reference to "perform" or "performance," when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.*

AUTHORIZATION OF APPROPRIATIONS

SEC. 305. (a) *Except as otherwise provided by law, appropriations made under this Act shall be subject to annual authorization.*

(b) *Authorization of appropriations to the Commission shall reflect the need for effective licensing and other regulation of the nuclear power industry in relation to the growth of such industry.*

COMPTROLLER GENERAL AUDIT

SEC. 306. (a) *Section 166, "Comptroller General Audit" of the Atomic Energy Act of 1954, as amended, shall be deemed to be applicable, respectively, to the nuclear and nonnuclear activities under title I and to the activities under title II.*

(b) *The Comptroller General of the United States shall audit, review, and evaluate the implementation of the provisions of title II of this Act by the Nuclear Safety and Licensing Commission not later than sixty months after the effective date of this Act, the Comptroller General shall prepare and submit to the Congress a report on his audit, which shall contain, but not be limited to—*

(1) *an evaluation of the effectiveness of the licensing and related regulatory activities of the Commission and the operations of the Office of Nuclear Safety Research and the Bureau of Nuclear Materials Security;*

(2) *an evaluation of the effect of such Commission activities on the efficiency, effectiveness, and safety with which the activities licensed under the Atomic Energy Act of 1954, as amended, are carried out;*

(3) *recommendations concerning any legislation he deems necessary, and the reasons therefor, for improving the implementation of title II.*

REPORTS

SEC. 307. (a) *The Administrator shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress on the activities of the Administration during*

the preceding fiscal year. Such report shall include a statement of the short-range and long-range goals, priorities, and plans of the Administration together with an assessment of the progress made toward the attainment of those objectives and toward the more effective and efficient management of the Administration and the coordination of its functions.

(b) *During the first year of operation of the Administration, the Administrator, in collaboration with the Secretary of Defense, shall conduct a thorough review of the desirability and feasibility of transferring to the Department of Defense or other Federal agencies the functions of the Administrator respecting military application and restricted data, and within one year after the Administrator first takes office the Administrator shall make a report to the President, for submission to the Congress, setting forth his comprehensive analysis, the principal alternatives, and the specific recommendations of the Administrator and the Secretary of Defense.*

(c) *The Commission shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress on the activities of the Commission during the preceding fiscal year. Such report shall include a clear statement of the short-range and long-range goals, priorities, and plans of the Commission as they relate to the benefits, costs, and risks of commercial nuclear power. Such report shall also include a clear description of the Commission's activities and findings in the following areas—*

(1) *insuring the safe design of nuclear powerplants and other licensed facilities;*

(2) *investigating abnormal occurrences and defects in nuclear powerplants and other licensed facilities;*

(3) *safeguarding special nuclear materials at all stages of the nuclear fuel cycle;*

(4) *investigating suspected, attempted, or actual thefts of special nuclear materials in the licensed sector and developing contingency plans for dealing with such incidents;*

(5) *insuring the safe, permanent disposal of high-level radioactive wastes through the licensing of nuclear activities and facilities;*

(6) *protecting the public against the hazards of low-level radioactive emissions from licensed nuclear activities and facilities.*

INFORMATION TO COMMITTEES

SEC. 308. *The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Administration's activities.*

TRANSFER OF FUNDS

SEC. 309. *The Administrator, when authorized in an appropriation Act, may, in any fiscal year, transfer funds from one appropriation to another within the Administration; except, that no appropriation shall be either increased or decreased pursuant to this section by more than 5 per centum of the appropriation for such fiscal year.*

CONFORMING AMENDMENTS TO CERTAIN OTHER LAWS

SEC. 310. Subchapter II (relating to Executive Schedule pay rates) of chapter 53 of title 5, United States Code, is amended as follows:

(1) Section 5313 is amended by striking out "(8) Chairman, Atomic Energy Commission." and inserting in lieu thereof "(8) Chairman, Nuclear Regulatory Commission.", and by adding at the end thereof the following:

"(22) Administrator of Energy Research and Development Administration."

(2) Section 5314 is amended by striking out "(42) Members, Atomic Energy Commission." and inserting in lieu thereof "(42) Members, Nuclear Regulatory Commission.", and by adding at the end thereof the following:

"(60) Deputy Administrator, Energy Research and Development Administration."

(3) Section 5315 is amended by striking out paragraph (50), and by adding at the end thereof the following:

"(100) Assistant Administrators, Energy Research and Development Administration (6).

"(101) Director of Nuclear Reactor Regulation, Nuclear Regulatory Commission.

"(102) Director of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission.

"(103) Director of Nuclear Regulatory Research, Nuclear Regulatory Commission.

"(104) Executive Director for Operations, Nuclear Regulatory Commission."

(4) Section 5316 is amended by striking out paragraphs (29), (62), (69), and (102), by striking out "(81) General Counsel of the Atomic Energy Commission," and inserting in lieu thereof "(81) General Counsel of the Nuclear Regulatory Commission.", and by adding at the end thereof the following:

"(134) General Counsel, Energy Research and Development Administration.

"(135) Additional officers, Energy Research and Development Administration (8).

"(136) Additional officers, Nuclear Regulatory Commission (5)."

SEPARABILITY

SEC. 311. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

EFFECTIVE DATE AND INTERIM APPOINTMENTS

SEC. 312. (a) This Act shall take effect one hundred and twenty days after the date of its enactment, or on such earlier date as the President may prescribe and publish in the Federal Register; except that any of the officers provided for in title I of this Act may be nominated and appointed, as provided by 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), any functions of which are transferred to the Administrator and the Commission by this Act, may, with the approval of the President, 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 any officer 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 this Act, to act in such office until the office is filled as provided in this Act. While so acting, such persons shall receive compensation of the rates provided by this Act for the respective offices in which they act.

TITLE IV—SEX DISCRIMINATION

SEX DISCRIMINATION PROHIBITED

SEC. 401. No person shall on the ground of sex be excluded from participation in, be denied a license under, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under any title of this Act. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI by the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same with an amendment as follows:

In lieu of the amended title proposed by the Senate amendment, amend the title so as to read: "An Act to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a new Nuclear Regulatory Commission in order to promote more efficient management of such functions."

And the Senate agree to the same.

CHET HOLIFIELD,
WILLIAM S. MOORHEAD,
FERNAND J. ST GERMAIN,
DON FUQUA,
FRANK HORTON,
JOHN WYDLER,
CLARENCE J. BROWN,

Managers on the Part of the House.

SAM J. ERVIN,
HENRY JACKSON,
EDMUND S. MUSKIE,
ABE RIBICOFF,
CHARLES PERCY,
JACOB JAVITS,
EDWARD J. GURNEY,
W. V. ROTH, Jr.,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11510) to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

Except for certain clarifying, clerical, conforming, and other technical changes, the changes made to deal with the differences between the House bill and the Senate amendment are noted below.

TITLE—NAME OF COMMISSION

The Senate amendment amended the title to change the name of the Nuclear Energy Commission to the Nuclear Safety and Licensing Commission. The name substituted by the conferees is Nuclear Regulatory Commission, and conforming changes are made in the text.

The short title, "Energy Reorganization Act of 1974," follows the Senate amendment (section 1). The House bill was passed in 1973.

ENERGY PRIORITIES

The Senate amendment, in the declaration of purpose (subsection 2(b)), included a reference to "general basic research activities" of the Atomic Energy Commission (AEC) as among the functions to be transferred to the Energy Research and Development Administration (ERDA), and contained a proviso that ERDA give no "unwarranted priority" to any energy technology. Certain guidelines for the determination of priorities were set forth (subsection 2(e)).

The conference substitute includes the Senate reference to "general basic research activities"; restates the language on "unwarranted priority" in positive terms to make clear that all possible sources of energy will be developed, consistent with warranted priorities; and modifies the language on determination of priorities to make clear that the Administrator of ERDA will have to take into account a range of factors in developing suitable programs.

SMALL BUSINESS PARTICIPATION

The Senate amendment (subsection 2(d)) included in the declaration of purpose a reference to small business participation in Federal grants and contracts relating to energy research, development, and demonstrations; and provided (subsection 103(b)) for consultation

between the Administrators of ERDA and the Small Business Administration (SBA) in carrying out this policy.

The conference substitute (section 2(d)) combines the two references to small business, with modified language. The sense of the declaration is that small business should be given a reasonable opportunity to participate and should be treated fairly and equitably in Federal contract and grant awards. Such participation would hinge upon the availability of qualified small business firms to perform the needed services rather than on some mathematical formula for the awarding of contracts and grants to small business.

QUALIFICATIONS OF TOP OFFICERS OF ERDA

In several instances, the Senate amendment prescribed qualifications for the positions of Administrator, Deputy Administrator, and Assistant Administrators.

(1) The Senate amendment (section 102(a)) specified that the Administrator be "appointed from civilian life" and that the appointee shall not have been a commissioned officer in the Armed Forces for at least five years prior to his appointment.

The conference substitute follows the Senate amendment with a change reducing the five-year limitation to two years.

(2) The Senate amendment (section 102(c)) provided that the Administrator and Deputy Administrator be appointed "... from among individuals who, by reason of their training and experience are specially qualified to manage a full range of energy research and development programs."

The conference substitute includes the Senate language, but replaces "training" with "general background." The conferees wish to make it clear that it is an individual's background and experience, not necessarily his formal education, which should bear heavily on his qualifications to manage a full range of energy research and development programs.

(3) The Senate amendment (section 102(d)) required each Assistant Administrator to be appointed "... from among individuals who, by reason of training and experience, are specially qualified to manage the energy technology area assigned to such Assistant Administrator."

This language is incorporated in the conference substitute (subsection 102(d)), with a modification to replace "training" with "general background."

DESIGNATION OF OFFICERS' SPECIFIC TITLES AND DUTIES

In several instances, the Senate amendment associated specific duties with top level officers, designated titles and functions differently from the House bill, and increased the number of top-level positions in ERDA.

(1) The Deputy Administrator (subsection 102(b)) was given special responsibility for international cooperation in energy and related environmental research and development.

The conference substitute provides that this special responsibility be assigned by the Administrator to an officer of his choosing, rather than by statute to the Deputy Administrator; and this provision is

made a part of subsection 102(h), which relates to the assignment of functions to officers by the Administrator.

The conferees, by including a reference to international cooperation in energy research and development, emphasize the worldwide importance and impact of energy problems, and the need for cooperation by the United States with other nations in energy affairs. At the same time, the conferees wish to make it clear that ERDA activities looking toward international cooperation in no way limit State Department responsibilities and activities.

(2) The House bill (subsection 102(c)) provided for an Assistant Administrator for national security. The Senate amendment (subsection 102(d)) designated this officer an Assistant Administrator for defense programs.

The conference substitute retains the House designation. The conferees believe that "national security," as a more encompassing term, suitably describes the responsibility of the Assistant Administrator who will be in charge of nuclear weapons programs and all matters related to the common defense and security, as that term is used in the Atomic Energy Act of 1954, as amended.

(3) The House bill (subsection 102(c)) provided for an Assistant Administrator for research and advanced energy systems. The Senate amendment (subsection 102(d)) designated this officer an Assistant Administrator for Solar, Geothermal, and Advanced Energy Systems.

The conference substitute incorporates the Senate designation.

(4) The House bill (subsection 102(c)) provided for five Assistant Administrators with designated areas of responsibility, including an Assistant Administrator for "environment, safety, and conservation." The Senate amendment (subsection 102(d)) provided for six Assistant Administrators, including one for "environment and safety" and another for "conservation."

The conference substitute incorporates the Senate provisions, thus providing a separate Assistant Administrator for conservation. The conferees recognize the importance of energy conservation, and require that ERDA support research in, and development of, energy-efficient equipments, devices, methods, and processes.

(5) The House bill (subsection 102(e)) provided for seven officers at executive level V in ERDA, who were to be considered career officers under subsection 161d. of the Atomic Energy Act. The Senate amendment (subsection 102(f)) provided for eight such officers, to serve at the pleasure of and be removable by the Administrator; also, that one of these officers be assigned responsibility for recommending appropriate educational support programs to assure an adequate supply of technical manpower.

The conference substitute incorporates the Senate provision for eight officers at executive level V, but follows the House bill in placing these officers within the context of the career service as developed under subsection 161d. of the Atomic Energy Act. The conferees believe that such status will promote desired professionalism and continuity in highly technical programs.

The conference substitute also strikes the reference to educational support programs. The conferees recognize the importance of an adequate supply of technical manpower and make provision for it elsewhere in the Act (subsection 103(10)). While the conferees believe that the Administrator should be permitted to use his discretion in

assigning responsibility for training and educational support programs, they also believe that such programs are of sufficient importance to be assigned to a specific officer.

RESPONSIBILITIES OF ADMINISTRATOR

The Senate amendment differed from the House bill in specifying the responsibilities of the Administrator. The Senate amendment:

(1) Combined in subsection 103(a)(2) modified House bill language in subsections 103(2) and (3), and added a reference to future non-nuclear research and development programs which may be authorized by Congress.

(2) Added a reference to the Federal Energy Administration's (FEA) development activities (subsection 103(a)(4)) relating to increased utilization of energy sources, using currently available technology.

(3) Added responsibility relating to international cooperation.

(4) Added responsibility relating to developing public information on conservation technologies, solar energy, and other advanced energy sources.

(5) Added responsibility for the collection, analysis, and dissemination of manpower supply and demand data relating to energy research and development.

(6) Added responsibility to help prevent a shortage of manpower in energy research and development.

(7) Added responsibility to encourage and conduct research and development in clean and renewable energy sources.

(8) Added a requirement that ERDA consult with SBA to promote small business participation.

The conference substitute incorporates the Senate language, with modifications, deleting some language as unnecessary and combining related subsections.

The Administrator's responsibility relating to international cooperation is retained, with the understanding, as stated above, that no interference is intended with the State Department's responsibilities.

In requiring the Administrator to take into account FEA development activities based upon existing technologies, the conferees point out that FEA has a limited tenure under its enabling legislation, and such development work as it conducts or supports is directed to the use of existing technologies, rather than to research and development, as those terms generally are used. In the executive branch, responsibility for energy research and development will be centered in ERDA.

In adopting modified Senate language referring to educational programs in universities, colleges, and vocational schools, in the interest of assuring adequate manpower for energy research and development purposes, the conferees point out that this provision (subsection 103(10)) does not constitute, by itself, an authorization for such programs. These are, or will be, separately authorized.

In retaining a reference to research and development in clean and renewable energy sources, the conferees are not necessarily singling out these sources for attention in a priority sense, but rather cite them as two among a number of factors to be considered by the Administrator in exercising his research and development responsibilities. The Administrator is expected to give due and proper attention to all prom-

ising energy sources and modes according to their potentials for development and use within economic, environmental, time-phasing, and other criteria of availability and acceptance.

ABOLITION AND ESTABLISHMENT OF COMMISSION

The Senate amendment (section 104) transferred certain functions from the AEC to ERDA, abolished AEC, and constituted a new commission (section 201), named the Nuclear Safety and Licensing Commission, to which were transferred licensing and regulatory functions. The House bill (section 201) transferred certain AEC functions to ERDA and retained licensing and regulatory functions in the AEC, renamed the Nuclear Energy Commission.

The conference substitute (section 104 and section 201) follows the Senate amendment with respect to abolition of the AEC and creation of a new regulatory commission, except that the name is changed to Nuclear Regulatory Commission. The conferees believe that in this way the President will have more latitude in deciding whether to renominate the incumbent Commissioners or to replace them.

TRANSFERS TO ERDA

The Senate amendment differed from the House bill in making certain transfers of functions to ERDA from other agencies.

(1) The Senate amendment (subsection 104(e)(4)) transferred the helium program to ERDA from the Department of Interior.

In lieu of the transfer, the conference substitute (subsection 104(e)) incorporates a provision directing the Administrator to conduct a study of the potential energy applications of helium and to report his recommendations to the President and the Congress within six months after the enactment of the Act. These recommendations will concern the management of the helium program from the standpoint of energy research and development.

(2) The Senate amendment omitted the provision in the House bill (subsection 104(e)) transferring to ERDA from the Environmental Protection Agency (EPA) functions relating to the development and demonstration of alternative automotive power systems (AAPS) and development and demonstration of precombustion, combustion, and postcombustion technologies to control emissions of pollutants from stationary sources using fossil fuels.

The conference substitute (subsection 104(g)) provides for the transfer to ERDA of that part of the AAPS program relating to the development and demonstration of advanced systems. That part relating to the assessment or monitoring for regulatory purpose remains in the EPA.

With regard to the stationary source pollution control technology program, the conferees agreed that the EPA should continue to exercise its authority for regulatory purposes with the understanding that the deletion of this transfer in no way limits ERDA's authority under other provisions of the Act (specifically sections 103, 104(a), (b), (c) and (d) and 108) to undertake basic research, development, and demonstration programs in the control technology area.

Existing contractual arrangements between EPA and other Federal agencies conducting programs transferred by this Act will con-

tinue when such programs are transferred to ERDA. The conferees intend that contractual arrangements be used to avoid unnecessary duplication of effort.

(3) The Senate amendment (subsection 104(h)) authorized the Administrator to utilize the capabilities of other executive agencies in research and development.

The conference substitute (subsection 104(i)) incorporates the Senate language but makes clear that other agencies must give their consent in providing services.

ENERGY POLICY AND ADVISORY COUNCILS

The Senate amendment (section 108) provided for two new organizational units in the Executive Office of the President, a Council on Energy Policy and an Interagency Energy Resources Advisory Committee. The Council would be composed of three full-time members, appointed by the President, who would designate the chairman. The Council would serve as the President's principal advisor on energy policy. The Advisory Committee would be an interagency group, comprising the heads of named agencies, with a chairman selected by the members.

The conference substitute omits the provision for a Council on Energy Policy but retains, in slightly modified form, the provision for the Advisory Committee, which is redesignated the Energy Resources Council (section 108). The conferees believe that two such units in the Executive Office of the President would create conflict and duplication and that both are not needed.

Furthermore, the President made known to the conferees his explicit opposition to the establishment of the Council on Energy Policy, and the conferees are inclined to give weight to the President's judgment in deciding how best to utilize advisory services and to pattern the organization of the Executive Office. The statutory Energy Resources Council would replace the present nonstatutory Committee on Energy, established on June 14, 1974.

FUTURE REORGANIZATION

The Senate amendment had two provisions regarding future reorganization: The President was required to transmit his recommendations to the Congress by January 31, 1975, for organizational arrangements concerning the management of energy and natural resources (section 109); and, by March 31, 1975, for organizational arrangements concerning the regulation of energy activities (section 110).

The conference substitute (section 109) combines and reduces the two sections to a requirement that the President transmit to the Congress as promptly as possible, but no later than June 30, 1975, such additional recommendations as he deems advisable for the organization of energy and related functions in the Federal Government. These may include recommendations as to whether or not there shall be established (1) a Department of Energy and Natural Resources; (2) an Energy Policy Council; and (3) a consolidation in whole or in part of the regulatory functions concerning energy.

COORDINATION OF ENERGY AND ENVIRONMENTAL PROGRAMS

The Senate amendment (section 111) authorized the Administrator to establish programs to utilize research and development performed by other agencies to minimize the adverse environmental effects of energy projects, and directs the EPA and other agencies to cooperate with ERDA in the interest of developing cooperative programs and avoiding unnecessary duplication.

The conference substitute (section 110) retains the Senate provisions.

NUCLEAR POWER PARK SITE SURVEY

The Senate amendment (section 112) made a finding that it is in the national interest to locate regional nuclear power park sites. The Administrator was authorized to make a survey and report to the Congress within one year.

The conference substitute replaces the Senate language with a more comprehensive provision for a nuclear energy center site survey based on legislation drafted by the Joint Committee on Atomic Energy and moves this provision to title II of the Act (section 207). This provision requires that the study be undertaken by the Commission rather than by ERDA and that the survey "identify" rather than "designate" possible sites for nuclear centers. The study is to be completed within one year from date of enactment of the Act rather than not later than June 30, 1976.

In adopting this provision, the conferees recognize the potential value of nuclear parks as well as the complex problems associated with designation of sites and requiring that nuclear power plants to be located in them. But it is apparent that much more information is needed before a nuclear power park site proposal can be adopted and sites actually can be designated.

CREATION OF COMMISSION

As already stated, the House bill (section 201) provided for a Nuclear Energy Commission as a renamed AEC performing retained licensing and related regulatory functions; whereas the Senate amendment (sections 104 and 201) abolished the AEC and created a Nuclear Safety and Licensing Commission to perform transferred licensing and regulatory functions. Under the Senate amendment, the incumbent AEC Commissioners (two vacancies exist) would not automatically retain their positions, but if reappointed would have to be reconfirmed by the Senate.

The Senate amendment also introduced the following changes:

(1) Since the AEC formally was abolished and a new Commission created, the duties of the Commission and the authorities and privileges of its members, as provided in sections 21 and 22 of the Atomic Energy Act, were restated.

(2) The Chairman was designated the principal officer of the Commission and charged with exercising all of its executive and administrative functions, including personnel, expenditures, and distribution of Commission business.

(3) In selecting members of the Commission, the President was "to have due regard to a fair representation of expertise in nuclear safety technology, health science, and environmental science".

(4) Bipartisanship was required. Not more than three of the five members could belong to the same political party.

(5) The provisions with regard to technical and political qualifications were not to apply to existing commissioners, if reappointed, and their new terms were limited to the duration of their present ones.

The conference substitute (section 104 and section 201) retains the Senate language, including the provision for bipartisanship, but deletes the reference to technical qualifications for membership. The conferees do not intend, by this deletion, to de-emphasize the importance of qualifications for members in various technical areas, but believe that the President should have discretion in making appointments.

The conference substitute also deletes the provision for placement of executive and administrative functions in the Chairman. The conferees believe that the duties and responsibilities of the Chairman and the members, and the administrative arrangements, as provided in this Act, are fully adequate to effectuate its purposes.

TRANSFERS TO COMMISSION

The Senate amendment (section 201(g)) transferred all the licensing and related regulatory functions of the AEC to the new Commission. The House bill had no comparable language since, in the House bill, the Commission was not abolished and recreated, so transfers were not necessary.

Additionally, the Senate amendment (subsection 201(h)) transferred to the Commission three named units: the Advisory Committee on Reactor Safeguards, the Atomic Safety and Licensing Board Panel, and the Atomic Safety and Licensing Appeal Panel; and all personnel primarily responsible for research related to confirmatory assessment of the safety of licensed reactors, with the exception of such personnel as the OMB Director determined to be necessary to assist in reactor development research.

The conference substitute (subsections 201(f) and 201(g)) follows the Senate language with modifications. Of the three units transferred by name, only the Advisory Committee on Reactor Safeguards is specifically named in the Atomic Energy Act. The Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Panel were created by the Commission under the authority of the Act. The conference substitute provides for the transfer of the functions of the Licensing Board Panel and Licensing Appeal Panel rather than for their transfer as entities. Otherwise, the transfer could be interpreted as giving the Commission-created offices statutory status not now provided by the Atomic Energy Act.

The conferees believe that the Commission should have flexibility under its statutory authority in deciding how such units should be composed and modified from time to time. Since the Licensing Board Panel and Licensing Appeal Panel perform necessary functions, it is expected that they will be re-established in the Commission and continue to perform as in the past. In the event that the Commission decides to abolish either or both the Licensing Board Panel and the

Licensing Appeal Panel, the Commission would be required, under the conference substitute, to notify the Congress in advance.

The conference substitute modifies the Senate language with respect to transfer of research personnel from the AEC to the new Commission to state in more positive terms the responsibility of the Director of the Office of Management and Budget to determine the proper allocation of research personnel as between ERDA and the Commission. The conferees expect that he will give due regard to the needs and responsibilities of each, and to the availability of additional personnel with the requisite skills and training who may be recruited for the performance of research services in each agency. The conferees do not want ERDA to be "raided" for research personnel who otherwise are needed in developmental work. Both regulatory and developmental research functions are essential and should be weighed carefully by OMB. This matter is discussed further below under "Commission Research Activities."

LICENSING OF ERDA FACILITIES

Both the House bill (section 202) and the Senate amendment (section 202) provided for licensing of certain ERDA facilities. These were to include demonstration liquid metal fast breeder reactors (LMFBR), other demonstration reactors, and storage facilities for high-level radioactive wastes. The House bill but not the Senate amendment excepted from such licensing, demonstration reactors and waste-storage facilities now in existence, under construction, or authorized or appropriated for by the Congress on the effective date of the Act. The Senate amendment but not the House bill excepted from licensing, demonstration reactors, other than the LMFBR, which are in existence on the effective date of this Act. The Senate amendment, but not the House bill, extended the licensing requirement to "retrievable surface storage facilities" and other facilities expressly authorized for long-term storage of high-level radioactive wastes generated in ERDA facilities but not used in connection with research and development.

The conference substitute (section 202) incorporates the Senate language with modifications to make it clear that licensing does not apply to facilities preceding the demonstration phase. Only demonstration reactors would be licensed under section 202. Such demonstration reactors have been specifically authorized by legislation. They represent the last stage in development of given reactors and are intended to demonstrate practical value for industrial or commercial applications.

Under the demonstration program, Government and private resources have been jointly contributed to particular demonstration projects. Reactors, licensed, constructed and operated under the AEC's program have included the San Onofre Nuclear Generating Station (involving, among others, Southern California Edison Company); the La Crosse Boiling Water Reactor (involving, among others, the Dairyland Power Cooperative); and the Yankee Nuclear Power Station (involving, among others, Yankee Electric Power Company).

Reactors under development prior to the demonstration stage would not be subject to licensing. Such research and development reac-

tors usually are characterized as experimental, research, and test reactors. These reactors are distinguishable from demonstration reactors because their purpose is to develop or test reactor concepts, or the safety and workability of systems or components individually or as part of the overall reactor system. These facilities may be used for such purposes as irradiation testing of fuels and material (e.g., Experimental Breeder Reactor No. 2); irradiation, testing, and evaluating fuels, materials, and components associated with LMFBR development (e.g., Fast Flux Test Facility, Liquid Metal Engineering Center); and safety-related accident experiments (e.g., Loss of Fluid Test Facility, Power Burst Facility).

In connection with licensing of ERDA facilities used primarily for the receipt and storage of high-level radioactive wastes resulting from licensed activities, the conference substitute follows the Senate language (subsection 203(3)) by deleting that portion of the House language (subsection 202(3)) relating to facilities "in existence, under construction, or authorized or appropriated for by the Congress, on the date this Act becomes effective." The deletion is made because there are no such facilities.

The conference substitute also retains the Senate language with respect to licensing of "retrievable surface storage facilities" and other facilities for long-term storage of high-level radioactive waste. Such facilities are not now in existence but will be developed in the near future for long-term, possibly permanent, storage of high-level radioactive wastes, including wastes from the licensed sector.

COMMISSION RESEARCH ACTIVITIES

In assigning licensing and related regulatory functions to the Commission, the House bill (section 203) provided that the Commission could engage in, or contract for, research deemed necessary for the discharge of its functions and that ERDA and other Federal agencies were to cooperate with the Commission in furnishing such services on a reimbursable basis.

The Senate amendment (section 203) provided for an Office of Nuclear Safety Research, to be headed by a Director appointed and removable by the Commission. The provisions relating to Federal agency cooperation were similar to the House bill. The Senate amendment stipulated that ERDA activities in safety research would not in any way be limited by the provisions applying to the Commission.

The conference substitute (section 205) incorporates the Senate language with modifications to conform it to the organizational and related provisions which place the functions in the Commission for delegation to component units, and which provide for coordination and direction by an Executive Director for Operations, while insuring that directors may report directly to the Commission when necessary in fulfillment of their responsibilities.

In providing for an Office of Nuclear Regulatory Research, the conferees wish to make it clear that this Office will be responsible for such research as is necessary for the effective performance of the Commission's licensing and related regulatory functions. The research aspect of such functions may be characterized as confirmatory assessment, relating to the safe operation and the protection of commercial

reactors, other facilities, and materials subject to regulations, licensing, and inspection by the Commission. This means that the Commission would have "an independent capability for developing and analyzing technical information related to reactor safety, safeguards and environmental protection in support of the licensing and regulatory process."¹

In keeping with the concept of confirmatory assessment, it is not intended that the Commission build its own laboratories and facilities for research and development or try to duplicate the research and development responsibilities of ERDA. The Commission will draw upon ERDA and other Federal agencies for research findings and such assistance as may be needed in developing capabilities for confirmatory assessment, and as may be needed otherwise in performing its functions.

In order to maintain a proper distinction and balance between the research and development which ERDA will perform and the confirmatory assessment which the Commission will perform, the conferees make these additional observations.

The regulatory agency should not be inhibited in any way from access to all data required to assess the safety of a license application or the operation of a licensed facility. Physical access to research and development activities and to construction and operation activities must be available to the regulatory agency. If the license application is inadequate in any respect considered significant by the regulatory agency, the license is refused.

It would be a serious mistake, however to make a regulatory agency responsible for the performance of research that goes beyond the need for confirmatory assessment. Indeed, to exceed these bounds creates a conflict of interest. The regulatory agency should never be placed in a position to generate, and then have to defend, basic design data of its own. The regulatory agency must insist on the submission of all of the data required to demonstrate the adequacy of the design contained in a license application or amendments thereto. This requires professional competence in the regulatory agency to make such determinations as whether any substantive data are lacking or whether experimental or analytical data provided by an applicant or licensee are professionally adequate.

As with research, the regulatory agency need not and should not perform process development, develop construction procedures or designs, or conduct quality control work (which is the responsibility of the licensee or vendor), but must have the professional competence and means to evaluate and assess all data and procedures to determine the adequacy of a license submission or a licensed operation in all of these respects. The regulatory agency should not assume any part of the burden of the applicant to prove the adequacy of a license application.

COMMISSION ORGANIZATION

The conference substitute (sections 203, 204, and 205) follows the Senate language with modifications in providing three co-equal administrative or operating units titled, respectively, the Office of Nu-

¹ Testimony of Dixy Lee Ray, Chairman of the Atomic Energy Commission, at hearings before a subcommittee of the Committee on Government Operations, House of Representatives, 93rd Cong., 1st Sess., on H.R. 11510, "Energy Reorganization Act of 1973," November 1973, p. 157.

clear Reactor Regulation, the Office of Nuclear Material Safety and Safeguards, and the Office of Nuclear Regulatory Research (discussed above). Each of these components will be headed by a Director at executive level IV. Each of these Directors will perform such functions as the Commission shall delegate in the areas specified in the Act and indicated by the titles of the respective units.

Generally, the organizational arrangements contemplate that of the three above-named components, one component will be concerned with licensing and related regulatory activities within the boundaries of the nuclear reactor, and another with materials and safeguards outside such boundaries, while the third will conduct and support research contributory to the needs and purposes of the other two and of the Commission as a whole.

This arrangement will provide ample flexibility in the Commission to devise the most effective administrative arrangements within its own organization and at the same time give due and proper emphasis to functions which are vital to the public health and safety and the safe and efficient operation of nuclear power plants and other licensed facilities.

The conference substitute (section 209) follows the House language in providing for an Executive Director of Operations. The Act does not specify his functions, leaving that determination to the Commission's discretion and judgment. However, it is expected that the Executive Director for Operations will be the coordinating and directive agent below the Commission for the effective performance of the Commission's day-to-day operational and administrative activities. He will coordinate and direct in behalf of the Commission, the operating and administrative units.

At the same time, the conference substitute provides that the head of each component provided in the conference substitute shall be able to communicate with and report directly to the Commission itself whenever he deems necessary to carry out his responsibilities. In this way, the conferees make it clear that the Executive Director for Operations will not be able to suppress or limit information needed for the Commission's discharge of its own collective responsibilities.

The conferees assume that the security agency feasibility report, required by section 204(b)(2)(C) of the Act, will be prepared initially by the Director of the Office of Nuclear Material Safety and Safeguards.

PENALTIES FOR NON-COMPLIANCE

The Senate amendment (section 205) established civil and criminal penalties for failure of company officers or employees to report (1) lack of compliance with rules and regulations of the Commission, or (2) potentially hazardous defects in nuclear facilities, activities, or components. These penalties would apply to any person having information on the subject who was a director, officer, or employee of any firm which constructed, owned, operated, or supplied the components of any facilities or activities licensed under the Atomic Energy Act.

The conference substitute (section 206) retains the Senate language with modifications to eliminate the provision for criminal penalties, making only civil penalties applicable in amounts as provided by section 234 of the Atomic Energy Act; limits the liability to "responsible" officers of the companies that might be involved; and substitutes the

term "consciously" for "willfully", the latter term being more applicable to a criminal act.

Included is an authorization to the Commission to conduct reasonable inspection and other enforcement activities to insure compliance. Generally, this section is directed toward assuring that the Commission has prompt information concerning defects in major components of facilities subject to licensing which could create a substantial safety hazard. The Commission is required to adopt regulations promptly, with a view to defining the types of defect required to be reported relating to manufacture, assembly, installation, and operation. This provision will enable Commission agents and employees to enter business premises and make such inspections as are necessary under regulations promulgated by the Commission.

ASSISTANCE TO PARTIES IN COMMISSION PROCEEDINGS

The Senate amendment provided for three types of assistance to parties in Commission proceedings:

Section 206 required the Commission to give support to parties in Commission proceedings by providing technical assistance and making available studies and reports prepared, or to be prepared, by or for the Commission, ERDA, or any Federal agency. These were made subject to existing laws regarding public disclosure. The Commission was to determine whether the studies were reasonably necessary for the party to present his position in the proceeding and were in the public interest. The Commission was to fund the assistance and seek reimbursement, except where the party was not financially capable of providing it.

Section 209 amended the Freedom of Information Act to authorize public disclosure of Commission records comprising interagency and intra-agency memoranda or letters and trade secrets or confidential commercial or financial information relating to safety. Proprietary information would be protected if the Commission, after notice and hearing, determined that irreparable injury would be done to the competitive position of the person from whom the information was obtained.

Title V (section 501) provided that the Commission should reimburse parties in Commission proceedings for reasonable attorneys' fees. The Commission was to set a maximum amount allowed for each proceeding. The amounts paid were to be based upon the extent to which the party contributed to the development of facts, issues, and arguments relevant to the proceeding, and upon the party's ability to pay his own expenses.

The conferees agreed to delete these sections. The deletion of title V is in no way intended to express an opinion that parties are or are not now entitled to some reimbursement for any or all costs incurred in licensing proceedings. Rather, it was felt that because there are currently several cases on this subject pending before the Commission, it would be best to withhold Congressional action until these issues have been definitively determined. The resolution of these issues will help the Congress determine whether a provision similar to title V is necessary since it appears that there is nothing in the Atomic Energy Act, as amended, which would preclude the Commission from reimbursing parties where it deems it necessary.

ABNORMAL OCCURRENCES REPORTS

The Senate amendment (section 207) required the Commission to submit quarterly reports to the Congress on abnormal occurrences at any utility or facility licensed under the Atomic Energy Act. Such information was to be disseminated to the public within five days after information of such an occurrence was received.

The conference substitute (section 208) retains the Senate language with modifications to make it clear that the Commission will determine which abnormal occurrences are significant enough to be reported. Also, the Commission is given 15 days instead of five days to disseminate information to the public.

The conference substitute defines an abnormal occurrence as an unscheduled incident or event which the Commission determines to be significant from the standpoint of public health or safety. Also, the reference to "activity" is eliminated since the abnormal occurrences are associated with facilities. However, special nuclear or other materials or high-level radioactive wastes in transit to or from a licensed facility would be included in the term abnormal occurrence, being "associated" with a licensed facility.

The Commission's determinations under this section will be subject to judicial review under the administrative procedure provisions of title V, United States Code.

ADDITIONAL OFFICERS FOR COMMISSION

The Senate amendment (subsection 208(a)) provided for a Director of Nuclear Reactor Safety. This language is deleted since provision is made in subsection 203(a) for a Director of Nuclear Reactor Regulation.

The Senate amendment (subsection 208(b)) but not the House bill provides for nine additional officers (executive level V) for the Commission.

The conference substitute (subsection 209(c)) authorizes five additional officers at executive level V for the Commission, recognizing that the Commission has important and complex duties to perform in regulating nuclear energy industries. These officers will be considered career officers in the same sense as discussed in connection with other additional officers at executive level V for ERDA.

AUTHORIZATION OF APPROPRIATIONS

The House bill (section 304) provided that appropriations under the Act shall be subject to annual authorization. The Senate amendment (section 305) had an identical provision, but added several requirements:

(1) At least 7% of amounts appropriated for non-defense programs of ERDA would be available for each of the functions assigned to each of the non-defense Assistant Administrators provided in subsection 102(d) of the Act. This requirement was to obtain until the Congress enacted legislation on research and development policy.

(2) Authorization for appropriations to the Commission was to reflect the need for effective licensing and other regulation of the nuclear power industry in relation to its growth.

(3) The Administrator was to provide the Congress with a range of program options and corresponding funding levels within each of the six program areas headed by the Assistant Administrators.

The conference substitute (section 305) deletes the reference to 7% allocation since the House and Senate both have passed legislation on research and development policy (S. 1283 and H.R. 13565). Also deleted is the reference to program options and corresponding funding levels. The conferees believe that requests for such program options should be handled by the committees of legislative and funding jurisdiction.

ANNUAL REPORTS

Both the House bill (section 306) and the Senate amendment (section 307) provided for annual reports by ERDA on its activities to the President and the Congress. Reports by the Commission were not specified in the House bill, since such reports would be required under applicable provisions of the Atomic Energy Act. The Senate amendment specified that the Commission submit annual reports. The Senate amendment also differed from the House bill in specifying in some detail information to be included in both the ERDA and Commission reports.

The conference substitute (section 307) retains the Senate language, with modifications to permit more flexibility in the reporting requirements.

The conferees, in agreeing to omit a requirement in the Senate amendment that the ERDA annual report include a description of activities to promote energy efficiency, wish to make it clear that this is one of the important activities to be covered in the report.

COMPTROLLER GENERAL AUDIT OF COMMISSION

Both the House bill (section 305) and the Senate amendment (section 306) specified that the Comptroller General's audit functions under the Atomic Energy Act would apply to ERDA and the Commission. The Senate amendment added language requiring the Comptroller General to report to the Congress within 54 to 60 months after the effective date of the Act on an evaluation of the effectiveness of the Commission's activities, with copies of the report to be furnished to the chairmen, respectively, of the Commission, the Senate Committee on Government Operations, the House Committee on Government Operations, and the Joint Committee on Atomic Energy.

The Senate language, with the conforming changes, is retained in the conference substitute (section 306), except that reports are to be made to the Congress rather than to the chairmen of the designated committees. Considering that many committees of the Congress have legislative and jurisdictional oversight responsibilities which involve one aspect or another of energy affairs, the conferees believe it is more appropriate to have the report referred to the Congress as a whole. Of course, the Comptroller General, within his general audit responsibilities, can report to the Congress at any time.

NON-NUCLEAR RESEARCH AND DEVELOPMENT

The Senate amendment included a title (title VI) on non-nuclear research and development, incorporating in large part, with some modifications, the provisions of S. 1283, which passed the Senate on December 7, 1973.

Since, as noted above, the House has passed a companion bill (H.R. 13565), and both bills are to be considered in conference by the House and Senate Committees on Interior and Insular Affairs, the conferees see no need for inclusion of title VI in the conference substitute.

DAYLIGHT SAVING TIME AMENDMENT

The Senate amendment (title VII) amended the Emergency Daylight Saving Time Energy Conservation Act of 1973 in several particulars.

This title is deleted in the conference substitute. Legislation on this subject has been reported by other committees and passed by the House and Senate.

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Managers on the Part of the Senate.



ENERGY REORGANIZATION ACT OF 1973

DECEMBER 7, 1973.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HOLIFIELD, from the Committee on Government Operations, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 11510]

The Committee on Government Operations, to whom was referred the bill (H.R. 11510) to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all after the enacting clause and inserts a substitute text which appears in the reported bill in italic type as well as in appendix 4 of this report.

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SUMMARY AND PURPOSE

H.R. 11510, titled "The Energy Reorganization Act of 1973," will reorganize and consolidate major energy research and development (R & D) functions in the Federal Government. The bill provides for:

(1) The creation of an independent Energy Research and Development Administration (ERDA), which will encompass all non-regulatory functions of the Atomic Energy Commission and designated energy research and development functions transferred from other agencies.

(2) Renaming the Atomic Energy Commission as the Nuclear Energy Commission (NEC), which will continue with the same membership, though in a much smaller organization, to administer nuclear licensing and related regulatory functions.

Building upon the scientific and technical base of the present Atomic Energy Commission, ERDA will be a central agency for the conduct and coordination of major Federal energy R & D programs. The bill gives the new agency a broad charter to conduct or sponsor R & D on all energy resources and utilization processes. Technologies for extraction, conversion, storage, transmission and utilization are included. ERDA will be so organized and managed that fossil fuel, advanced energy sources, conservation of energy, and environmental considerations will receive full recognition and appropriate emphasis along with nuclear R & D functions.

ERDA will be headed by a single Administrator and a Deputy Administrator, both of whom will be appointed by the President with the advice and consent of the Senate. They will be concerned principally with setting R & D policy and general administration of the agency.

The bill provides a balanced line organization of five Assistant Administrators, each responsible for a major program area. The program areas named in the bill are fossil energy development; nuclear energy development; environment, safety, and conservation; research and advanced energy systems; and national security. The Assistant Administrators will be appointed by the President and confirmed by the Senate.

The bill also provides for an additional pool of not more than 7 management positions at Executive level V. The Administrator will appoint career officials to these positions and assign responsibilities. These executives will head major staff offices or receive other important assignments. There also will be a General Counsel appointed by the Administrator.

Under the terms of the bill, the following offices or functions will be transferred to ERDA from other Federal Departments or agencies:

All the functions of the Atomic Energy Commission, except those relating to licensing and related regulatory matters.

Such functions of the Department of the Interior as relate to the Office of Coal Research; the fossil fuel energy R & D programs conducted by the Bureau of Mines' "energy centers" and synthane plant; and research in underground electric power transmission.

Such functions of the National Science Foundation as relate to development work in solar heating and cooling and geothermal power.

Such functions of the Environmental Protection Agency as relate to development and demonstration of alternative automotive power systems and technologies to control emissions from stationary sources using fossil fuels.

The mission of NEC will be to insure the protection of the public and environment against nuclear health and safety risks associated with the use of nuclear materials and facilities and against unlawful diversion of nuclear materials under regulatory control. The five-member AEC, including its staff offices, licensing boards, and regulatory directorates, will form the nucleus of NEC, which will be an independent regulatory commission responsible for licensing of civilian use of nuclear power and materials.

NEED FOR THE LEGISLATION

The "Energy Reorganization Act of 1973" is designed to provide the organizational base for a well-managed, centrally-directed attack on energy problems in order to make this nation self-sufficient in clean energy for the decades ahead.

The President has proposed a \$10 billion program of energy R. & D. at the rate of \$2 billion a year for the next 5 years, commencing in fiscal year 1975. Planning for these expenditures now is underway. The Chairman of the Atomic Energy Commission, on the basis of a

recent study, at the President's request, has developed recommendations for the 5-year R & D program encompassing practically all known energy sources and potentials.

In his energy message to the Congress of November 8, 1973, the President called for prompt action to establish ERDA as the administrative mechanism for continued planning and effective program direction of the massive R & D effort required to meet the nation's energy needs. H.R. 11510 responds to the President's request and accords with your committee's conviction, widely shared in the Congress, that this nation must take all necessary steps toward national self-sufficiency in energy.

There is a clear need for a reorganization of energy R & D functions in the Federal Government to bring together separate, uncoordinated, and fragmented efforts. The agency provided in this bill will accomplish that objective and will give comprehensive and systematic direction to solving the nation's energy problems.

The energy crisis demands concerted action on many fronts. There are many legislative bills now being considered in various committees of the Congress. H.R. 11510 is not an omnibus or all-encompassing bill. It is not a substitute for, or alternative to, proposed legislation in specific fields, such as nuclear plant siting, construction of deep-water ports, regulation of strip mining, use of petroleum reserves, or emergency conservation. H.R. 11510 is basically a reorganization bill directed to the research and development part of the national effort to overcome energy shortages, near-, middle-, and long-term.

Other reorganization undoubtedly will be necessary. In anticipation of emergency legislation, the President has proposed creation of a Federal Energy Administration, which is the subject of separate legislation.

Your committee wishes to emphasize that the creation of a new Federal agency for energy conservation and related emergency measures is not a substitute for, or an alternative to, the Energy Research and Development Administration provided in H.R. 11510. The emergency agency is concerned primarily with immediate fuel shortages and energy conservation measures. The R & D agency is concerned primarily with the middle- and longer-term energy problems. The two agencies, when established, can be expected to work in complementary fashion.

The organizational separation of licensing and related regulatory functions in the nuclear field from energy research and development responds to a different need and rationale. There has been a growing criticism of the mixture of developmental and regulatory functions within the AEC. The provision in H.R. 11510 for NEC to perform exclusively the licensing and related regulatory functions should place this whole matter on a sounder policy basis and should enable the Commission to more effectively address the complicated, demanding tasks of licensing nuclear plants, materials, and activities.

The testimony is compelling, and the President has recommended, that the time required for construction and licensing of nuclear power plants be substantially reduced. Informed witnesses before the subcommittee pointed out that the time span for getting nuclear plants into operation is as long as 10 years under procedures and circumstances that now prevail. Your committee is convinced that the time-

scale for construction and licensing in this field must be cut down without sacrificing safety and environmental considerations.

COMMITTEE AMENDMENT

In the course of subcommittee and committee consideration, several changes were made in H.R. 11510. These are incorporated in a new text in the form of a single committee amendment to H.R. 11510, which strikes out all after the enacting clause and inserts the new language. The committee amendment is shown in appendix 4.

COMMITTEE VOTE

H.R. 11510 was ordered reported unanimously by the committee on December 5, 1973. The vote was 40 ayes and 0 nays. The vote by the subcommittee on reporting the bill to the full committee also was unanimous, with 12 ayes and 0 nays.

BACKGROUND AND HEARINGS

To understand the evolution of H.R. 11510, it is necessary to place it in the context of broader reorganization proposals. In January 1971 the President proposed in his State of the Union message (subsequently incorporated in draft legislation) four new departments to replace seven existing ones in the executive branch.¹ One of these was the Department of Natural Resources (DNR). It was to have five component administrations, one of which was termed the Energy and Minerals Resource Administration. This unit was to be charged with policy formation and administration of the development and use of national energy resources and technology. It was to be based largely on existing energy functions within the Department of the Interior plus the raw materials and uranium enrichment programs and several other functions to be transferred from the Atomic Energy Commission. It was to have policy, planning, and funding responsibilities for civil nuclear power development as well as for non-nuclear programs committed to its jurisdiction.

In June 1971 the Legislation and Military Operations Subcommittee held overview hearings on the executive reorganization proposals.² About this time the President transmitted an energy message to the Congress, which laid out the Administration's plans, as then conceived, for development and conservation of energy resources. It also called for a "single energy authority" in the DNR with "the mission of insuring that the total energy resources of the Nation are effectively utilized."³ However, none of the President's proposals for departmental reorganization reached the stage of floor consideration in the House or Senate during the 92nd Congress.

In the 93rd Congress, commencing in January of this year, the energy situation became more difficult, and numerous legislative bills

¹ House Doc. No. 92-1, January 22, 1971. See "Executive Reorganization: A Summary Analysis," House Report No. 92-922, March 15, 1972.

² "Reorganization of Executive Departments (Part 1—Overview)," hearings before a subcommittee of the Committee on Government Operations, House of Representatives, on H.R. 6959, H.R. 6960, H.R. 6961 and H.R. 6962 on June 2, 3, 7, 8, 14 and 16; July 7, 8, 22 and 27, 1971.

³ H. Doc. No. 92-118, June 4, 1971.

on the subject were introduced. In an energy message to the Congress on April 18, the President announced, among other things, that he would submit legislation to establish a Department of Energy and Natural Resources (DENR) based on the earlier proposal "with heightened emphasis on energy programs." The new department, the President explained, would provide governmental leadership for dealing with the whole range of national energy problems and be responsible for administering the national energy policy outlined in his message.⁴

In the following months, draft legislation to create the DENR was prepared by the Administration. By the time the legislation emerged in mid-year, and partly as a result of suggestions by Chairman Holifield and other members of your committee, it became a two-part proposal: Part A to establish a Department of Energy and Natural Resources (DENR), and Part B to establish an independent Energy Research and Development Administration (ERDA). The assortment of energy functions in DENR was to be somewhat different from that proposed for DNR in 1971. Generally, the departmental component would emphasize data collection, conservation, and other administrative or operating concerns in the energy field, and the independent agency would emphasize energy research and development. Uranium and thorium resource assessment functions would go over to DENR from AEC, and in turn the primary fossil fuel research and development functions of Interior would go over to ERDA.

The new R & D agency, in addition to acquiring the Office of Coal Research and the energy research centers from the Department of the Interior, was to absorb all the AEC functions except those relating to licensing and regulation. The latter were to be assigned to a Nuclear Energy Commission (NEC), which would be the AEC renamed, smaller in size, and devoted exclusively to a licensing and regulatory role.

The draft legislation was introduced (by request) by Chairman Holifield and Representative Frank Horton, ranking Republican member of the committee. Hearings were held on this bill (H.R. 9090) in July and August,⁵ and further hearings were planned.

As the energy crisis intensified, particularly with the Arab oil embargo starting in October, your committee changed its legislative plans. It was apparent that the two-part reorganization, involving both DENR and ERDA, would entail extended hearings, particularly because numerous organizations and interest groups were concerned about one or another aspect of the agency transfers associated with the proposed new department. Expedient action in the energy field dictated a separation of the two parts of the bill. The President recognized the merits of this course in his energy message to the Congress of November 8, in which he stated:⁶

Because of the critical role which energy research and development will play in meeting our future energy needs, I

⁴ H. Doc. No. 93-85, Apr. 18, 1973.

⁵ "Department of Energy and Natural Resources and Energy Research and Development Administration (Part 1)," hearings before a subcommittee of the Committee on Government Operations, House of Representatives, on H.R. 9090, July 24, 25, 26, and 31; and August 1, 1973.

⁶ H. Doc. No. 93-187, Nov. 8, 1973.

am requesting the Congress to give priority attention to the creation of an Energy Research and Development Administration separate from my proposal to create a Department of Energy and Natural Resources. The new Administration would direct the \$10 billion program aimed at achieving a national capacity for energy self-sufficiency by 1980.

H.R. 11510, by providing for the establishment of ERDA, gives the priority attention requested by the President. The bill, based on Part B of H.R. 9090, was prepared by your committee and its staff, in consultation with expert staff from the General Accounting Office, the Office of Management and Budget, the Atomic Energy Commission, the Department of the Interior, and the Department of Justice. Many hours of work, on an expedited basis, went into the consideration and preparation of the bill. H.R. 11510 was introduced on November 15 by Chairman Holifield and Representative Horton, the ranking Republican member of the committee; joined by Representatives Price and Hosmer, the Chairman and ranking Republican member, respectively, of the Joint Committee on Atomic Energy. Several identical or similar bills have been introduced with a total of 57 sponsors. A list of the sponsors is contained in appendix 1.

Hearings on H.R. 11510 were held on November 27, 28 and 29 by the Legislation and Military Operations Subcommittee. Testimony was received from Roy L. Ash, Director of the Office of Management and Budget; Dixy Lee Ray, Chairman of the Atomic Energy Commission; John Whitaker, Under Secretary of Interior; and John A. Love, then Director of the Energy Policy Office in the Executive Office of the President. Also heard were Dr. Chauncey Starr, President of the Electric Power Research Institute; John W. Simpson, Vice Chairman of the Atomic Industrial Forum; Carl Bagge, President of the National Coal Association; John Partridge, representing the American Gas Association; and Robert D. Partridge, Executive Vice President of the National Rural Electric Cooperative Association.

Other witnesses included Dr. Robert G. Sachs, Director of the Argonne National Laboratory; Dr. Harold M. Agnew, Director of the Los Alamos Scientific Laboratory; S. David Freeman, Director of the Ford Foundation Energy Policy Project; Professor John S. Steinhart of the University of Wisconsin; Dr. Alvin Weinberg, Director (on leave) and Floyd L. Culler, Acting Director, of the Oak Ridge National Laboratory; Ann Roosevelt, representing Friends of the Earth; Shearon Harris of the Edison Electric Institute; and James T. Ramey, former Commissioner of the Atomic Energy Commission.

Members of Congress who testified were Mike McCormack and Lawrence Coughlin.

Witnesses, with one or two exceptions, strongly favored enactment of the legislation. The bill, in substance, was endorsed by organizations with such differing energy points of view as the Edison Electric Institute, the National Rural Electric Cooperative Association, and the American Coal Association. In a few cases, reservations were expressed about one or another provision in the bill. Some of the witnesses made helpful suggestions which were reflected in the changes made in the bill.

ERDA ADMINISTRATIVE ORGANIZATION

ERDA will be headed by a single Administrator, who, along with a Deputy Administrator, will be appointed by the President by and with the advice and consent of the Senate. They will be compensated at levels II and III, respectively, of the Executive Schedule. The Committee expects that the Administrator, and the Deputy, will be principally concerned with setting R & D policy and with the overall direction and management of the agency.

Under the Administrator, there will be five Assistant Administrators, who, respectively, will head the following five major missions of ERDA: (1) fossil energy development; (2) nuclear energy development; (3) research and advanced energy systems; (4) environment, safety, and conservation; and (5) national security. These five Assistant Administrators also will be appointed by the President by and with the advice and consent of the Senate, and will receive compensation at the rates prescribed for positions at level IV of the Executive Schedule.

The individual program management responsibilities of each of these Assistant Administrators should assure strong leadership and clear-cut accountability for achievement of specifically assigned objectives. Their equality of rank, and the statutory basis for their administrations, will emphasize the intent of the bill to give full attention and appropriate emphasis to the different energy sources and potentials and to environmental, safety, and conservation aspects.

The development of fossil fuels, for example, will get the same degree of leadership drive and direction that will be bestowed on continuing efforts to advance nuclear technology. At the same time, solar, geothermal, and other energy sources and advanced energy systems will be investigated with required intensity and motivation. Your committee does not expect, of course, that all energy program areas will be equally funded. The budget requests should be based on the best available information and judgment as to the relative merits and possibilities for gaining usable energy within given time frames and within economically and environmentally acceptable bounds.

At the next lower level, level V of the Executive Schedule, there will be additional officers, not exceeding seven in number, and a General Counsel. These officials will be appointed by the Administrator.

A chart reflecting the present views of the Office of Management and Budget concerning the probable alignment of ERDA's functions is shown in appendix 3-A to this report.

Pursuant to subsection 106(d) of the bill, the Administrator may organize ERDA as he deems necessary or appropriate, subject to certain exceptions. The exceptions are the provisions in section 102 regarding the offices and responsibilities of the Deputy Administrator and the five key Assistant Administrators; the provisions in section 102 regarding the General Counsel, the additional officers, and the Division of Military Application; and the provisions in subsection 104(b) for the transfer from the Atomic Energy Commission of the General Advisory Committee, the Patent Compensation Board, the Division of Military Application, and the Division of Naval Reactors. It is intended that the Military Liaison Committee, established pursuant to section 27 of the Atomic Energy Act of 1954, as amended, serving as a liaison body between the Department of Defense and

Atomic Energy Commission, continue to perform its functions, without change, in relation to DOD and ERDA.

There are two points that the committee wishes to stress about the administrative organization of ERDA:

First, the bill seeks a reasonable balance between the broad discretion accorded the Administrator under subsection 106(d) to organize ERDA as he deems appropriate, and the statutory prescription for at least the fundamental outlines of the administrative organization and the desired qualifications on the administrative discretion specified in section 102 and subsection 104(b). Your committee considers it likely that management, administrative, and program experience will suggest the need for organizational changes from time to time. To the extent that these require legislative action, the committee expects that the Administrator will promptly advise the Congress of his recommendations.

Second, the committee urges the President and the Administrator to be mindful that a good organization also needs good people. It is your committee's judgment, and we strongly recommend, that the Administrator, the Deputy Administrator, and the five high-level Assistant Administrators be carefully selected on the basis of outstanding ability, integrity, and dedication generally acknowledged by their peers. The positions of Administrator and Deputy Administrator are particularly sensitive in insuring that management of the agency is effective, and that its R & D policies and programs are soundly conceived and well executed. We would expect that appointees to these positions will have broad background and experience in the management of research and development programs, and that the qualifications of the appointees will complement and reinforce each other. Your committee believes it particularly important that the top management of the agency not be preoccupied with a single-energy technology or enterprise.

In selecting the Administrator, Deputy Administrator and Assistant Administrators, your committee expects further that the President will give consideration to the views and recommendations of public interest groups and individuals from scientific, consumer, environmental, conservation and energy communities.

Your committee expects that officers and personnel will be selected on a best-qualified basis. As indicated below, personnel will be employed under the system provided for in subsection 161d. of the Atomic Energy Act of 1954, as amended, a system specifically designed to help insure the availability to the Commission of individuals of the highest caliber. Additional information on personnel aspects of H.R. 11510 is given in appendix 2.

Outstanding leadership at the top levels of ERDA will attract and inspire able personnel, as well as instill public and congressional confidence in the conduct of ERDA's affairs.

ERDA MISSIONS

ERDA's missions will include the following:

R & D on all forms of energy

ERDA will exercise central responsibility for policy planning, management, support and conduct of R & D programs and projects involv-

ing all energy sources either transferred to ERDA pursuant to this bill, or otherwise initiated by ERDA, as contemplated by this bill.

The scope of possible energy sources and utilization techniques that ERDA may explore will be virtually unbounded. It will include, but not be limited to, solar, tidal, wind, hydrogen, geothermal (using natural steam, hot dry rock, water injection and other techniques), and nuclear fusion. It will cover new directions as yet unvisualized. The vigorous pursuit of all promising energy sources and technologies will be a major ERDA mission under this bill.

ERDA's responsibilities with respect to energy sources and utilization technology will encompass advances in extraction (on land and undersea), conversion, storage, transmission and utilization technologies. Significant advances in all of these areas will be necessary. For example, it is clear that there will be a critical need to develop new methods of economical, low line-loss underground power transmission capable of handling the augmented power levels that will be required in the future. One of the promising approaches involves cooling the cables to temperatures near absolute zero. Such superconducting cables should be able to transmit electric power in virtually unlimited quantities. The development of useful means of storing electric energy would provide large economic benefits, help pollution control, and make more central station power readily available when and where needed.

As a practical matter, your committee recognizes that achievement of national self-sufficiency in energy at the earliest practicable date clearly demands a sharp upsurge in coal R & D. Coal is our most abundant fossil fuel reserve. We appear to have about half the world's supply. Coal is located in quantity in many areas throughout the country. Properly developed and converted to gaseous, liquid, and other environmentally acceptable forms, coal will materially help us reach a plateau of energy self-sufficiency at the earliest practicable date.

Also, in the near-term perspective, considerable technology in solar-energy utilization for residential purposes appears to be available and deserves R & D attention. Professor John S. Steinhart of the University of Wisconsin testified that residential heating and hot water consumed more than 13 percent of the fuel in this country.

Your committee believes that attainment of an initial plateau of energy independence undoubtedly will not be the full answer to our energy problem. And this plateau may well be a tentative one in context of the health, social, employment, and industrial needs of our people, including the continuing important objective of safeguarding and improving the quality of our environment.

Therefore, your committee has seen to it that under this bill, ERDA's essential long-range responsibility will be the determined pursuit of the grail of a virtually inexhaustible supply of energy that can be widely utilized for the common good without harmful environmental impact. Your committee believes this grail must be sought and, unlike the legendary holy vessel, will be found—perhaps through breakthroughs in solar research, in fusion or other nuclear programs, in geothermal processes, or in other R & D directions not yet pointed to by present knowledge.

Meanwhile, and probably until the end of this century, indications are that we will need to use all available, environmentally acceptable forms of energy that we can develop.

Conservation R & D

ERDA's basic responsibilities will include the encouragement and conduct of R & D for the conservation of energy. This is an important aspect of an effective total R & D response to our energy problem. It encompasses techniques to utilize energy efficiently and to minimize wasteful use. The R & D may be directed, for example, toward advances in kinds of insulation, in structural and equipment designs, in manufacturing methods, and in recycling concepts.

Efficiency and Reliability R & D

ERDA's R & D responsibilities are intended to encompass efforts aimed at increasing the efficiency and reliability of use of energy sources and energy-utilizing equipment and devices. Efficiency and reliability objectives are closely akin to conservation.

Environmental Research

The need to protect and improve our environment will be an integral part of ERDA's missions. The environmentally-related functions transferred from the AEC and EPA will provide a strong base for the continuation and acceleration of this vital research area.

Nuclear Production, Enrichment, and Distribution Activities

ERDA will continue to perform the nuclear production, enrichment and distribution functions of the Atomic Energy Commission. These functions are of first-rank importance, not only in context of the energy problem but from the standpoint of common defense and security. They pertain to special nuclear material (plutonium, and uranium enriched in the isotopes 235 and 233), source material (uranium and thorium), byproduct material (material made radioactive by exposure to radiation in connection with producing special nuclear material), heavy water, tritium and other materials. They also involve unique facilities included in the transfer from the Atomic Energy Commission, and have both domestic and international relevance. The AEC's transferred production facilities and research facilities are valued at approximately \$9 billion.

The most important and complex phase of the nuclear fuel chain is the process of separating the isotopes of naturally occurring uranium (source material) to create a product with increased (enriched) fissionable uranium-235 (special nuclear material). Five countries—the United Kingdom, France, China, the Soviet Union, and the United States—have facilities (gaseous diffusion plants) capable of performing this function. Only the United States currently provides enrichment services to other nations on a large-scale commercial basis. Domestically, the enrichment service is the only processing step in the nuclear fuel-cycle chain which private industry has no capability to perform. The exclusive capability to carry out this key step, which is indispensable to the production of fuel for nuclear powerplants and of weapon materials, is included in the transfer of the AEC's functions.

Reactor Development and Naval Reactor Activities

ERDA will continue to conduct the AEC's functions in regard to reactor development and naval reactor activities. Foremost in the current posture of the long-range developmental effort on nuclear

power plants is the breeder reactor, a power plant that will "breed" more nuclear fuel than it consumes. The liquid metal fast breeder, the breeder assigned the highest priority, will utilize a high-temperature system capable of operating at thermal efficiencies greater than the present generation of commercial water-cooled reactors. This will result in less waste heat being discharged into the environment.

Earlier this year, the AEC entered into a definitive cooperative arrangement with two utilities—the Commonwealth Edison Company and the Tennessee Valley Authority—and two non-profit corporations—the Breeder Reactor Corporation and the Project Management Corporation—for the design, construction and operation of this Nation's first LMFBR demonstration plant. The powerplant will have a generating capacity of 400,000 kilowatts and will be built on a site near Oak Ridge, Tennessee. Initial plant operation is scheduled for 1979.

The AEC's LMFBR activities include an extensive effort in plant design, operation, reactor fuels and materials, physics, chemistry, instrumentation, components and other fields.

This key program utilizes a number of major facilities, including the Fast Flux Test Facility under construction near Richland, Washington, the Liquid Metal Engineering Center near Canoga Park, California, and Experimental Breeder Reactor No. 2 at the AEC's National Reactor Testing Station in Idaho. All these facilities are embraced by this transferred function.

The AEC's important work on other advanced reactor concepts, such as the high-temperature gas-cooled reactor, the gas-cooled fast reactor, and the molten salt breeder reactor, is also part of the transferred reactor development functions.

The naval propulsion reactor program is a joint program of the AEC and the Department of the Navy. ERDA will assume AEC's role, which is carried out by the Division of Naval Reactors and relates to the design, development and improvement of naval propulsion plants and reactor cores for installation in ships ranging in size from small submarines to large combat surface ships. The Division of Naval Reactors is also responsible for maintenance, operation and safety of the nuclear propulsion plants, as well as the selection and training of the necessary personnel.

Your committee is well aware that the Division of Naval Reactors' early work in reactor development provided the technological base for the civilian nuclear powerplants currently in use. Your committee also knows that this Division has trained many of the engineers and technicians now engaged in the design, manufacture or use of nuclear plants for generating central station power on utility systems.

The Division of Naval Reactors is currently conducting a light-water breeder reactor project, aimed at determining the capability of breeding in a pressurized water reactor. This is still another important part of the AEC's developmental mission in regard to breeder reactors.

The outstanding success of the Naval Reactors Division, from the standpoints of both the civilian reactors program and the common defense and security, is well known. The dual scope and contributions of this program in classified and non-security areas continue. Your committee wants to express clearly its conviction that if the functions of the Naval Reactors Division had not been under the jurisdiction of

the AEC, most of its accomplishments in both the peaceful and naval ships areas probably would not have materialized.

Biomedical and Physical Research

ERDA will inherit the AEC's biological, medical, and ecological research programs that have been in existence for 25 years. They have provided a valuable body of information and tools to further health care, help develop useful applications of radiation and nuclear technology, assist the environmental missions of the AEC, and evaluate the possible hazardous effects of nuclear developments on man and the environment.

ERDA also will assume the AEC's role in connection with its physical research program, a long-range basic research effort to further man's understanding of the natural laws and phenomena governing matter. Both theoretical and experimental research, and work in the fields of high-, medium-, and low-energy physics are conducted. Chemistry, metallurgy, properties of materials, and mathematics and computers fall within the purview of this research effort.

Last year two new unique facilities went into operation, increasing the number of national complexes that form part of the AEC's physical research program:

(a) The National Accelerator Laboratory at Batavia, Illinois, produced the first 200 billion electron volt beam and several months later doubled this energy—five times greater than the highest proton energy previously reached by any accelerator in the world. The NAL is operated for the AEC by the Universities Research Association, a consortium of 34 major American and Canadian universities.

(b) The Clinton P. Anderson Meson Physics Facility at Los Alamos, New Mexico, achieved a low-intensity 800 million electron volt proton beam. This accelerator, operated by the University of California, will provide negative ions for cancer treatment, and it will be used for research in nuclear physics, nuclear chemistry, elementary particle physics, and nuclear weapons.

Physical research has relevancy to more advanced energy R & D, since it seeks to unravel the secrets of the smallest units of matter-energy.

Fusion R & D

The fusion program was spawned by the nuclear weapons work and later spun off from the physical research program to emphasize its importance and accelerate its development. Controlled thermonuclear reaction, or fusion, is the process by which nuclei of light elements collide at high velocity and fuse to form heavier nuclei, thereby releasing energy. The sun's heat is an example of the fusion process. Present expectations generally point to the year 2000 as the earliest time when economic fusion power could be available.

The basic requirements for achieving useful power from a fusion reactor are: (a) to heat a fusion fuel to a temperature of hundreds of millions of degrees (plasma); (b) to confine the plasma, so that it does not contact any natural walls or impurities, long enough for the fuel to react; and (c) to extract the released energy and convert it to a useful form. The AEC's comprehensive fusion program is a major component of the functions transferred to ERDA.

Military Application

The AEC's functions respecting the development and production of nuclear weapons will be continued by ERDA.

The AEC conducts the research and testing basic to the design and development of new and improved nuclear weapons systems and manufactures nuclear weapons and devices. It improves the stockpiled weapons through modifications, carries out quality assurance testing of new devices, assesses weapon reliability, and produces training materials and devices.

Nuclear weapons R & D is conducted primarily by three major laboratories of the AEC: Los Alamos Scientific Laboratory at Los Alamos, New Mexico; the Sandia Laboratories at Albuquerque, New Mexico; and the E. O. Lawrence Livermore Laboratory at Livermore, California.

During the past quarter-century there has been a close beneficial interrelationship between nuclear weapons R & D and peaceful application purposes. It has taken two forms—technological “spinoffs” and ongoing dually-useful R & D.

Technological “spinoffs” continue to come quickly from the AEC's weapons R & D program. They include such major developments as the subterrene, a device for penetrating deeply into earth without drills. The device melts the underlying rock and creates a hole neatly walled in by congealment of the melted material. Experiments to date have achieved penetrations in rock to depths of 85 feet. This device will be invaluable for oil exploration and extraction, for geothermal mining, and other purposes.

Another recent “spinoff” is a sea ice penetrator, a device capable of remotely measuring the thickness of sea ice. The device is dropped from aircraft, and, as it penetrates the ice, it transmits data which are later used to compute ice thickness.

Still another recently-developed device resulting from R & D on nuclear weapons is a tool that can measure the thickness of materials without touching them. Its accuracy is greater than one-tenth the thickness of a human hair. Measuring without contact is particularly important when applied to materials that can be damaged by contact.

Many R & D activities in AEC laboratories are beneficial for both weapons and civilian purposes. This mutual benefit occurs naturally and inevitably because the same laboratory, the same scientists and engineers, the same equipment, tools, computers, and instrumentation, are used for both purposes under the laboratory's assigned responsibilities.

Your committee is aware of arguments for a complete separation between military application activities and R & D for peaceful purposes. The military part, presumably, would go to DOD and the civilian aspect to ERDA. However, precipitate divorce would cause a serious setback to the energy and other goals of ERDA as well as to the common defense and security. The finely-tuned balance of relative priority and emphasis in regard to each dually-valuable task would suddenly change, and the spirit and motivation of the scientists and technicians would seriously suffer because of their reassignment, even though much of the same work could continue through inter-agency agreements.

Your committee is keenly aware also that it would be extremely difficult to redesign the security system of “Restricted Data” provided for in the Atomic Energy Act, if there were a split of security-related responsibilities between ERDA and the DOD. This security system now is applicable to civilian-related functions, such as the use of special nuclear material in the production of atomic energy, as well as to atomic weapons.

These matters are of the utmost importance. They must be considered carefully before any conclusions are reached about a transfer to DOD. Subsection 306(b) of the bill explicitly provides that during the new agency's first year of operation, the Administrator, in collaboration with the Secretary of Defense, shall conduct a thorough review of the desirability and feasibility of transferring to the Department of Defense (or any other Federal source) the functions of the Administrator respecting military application and restricted data. This subsection further provides that within one year after the Administrator first takes office, he shall make a report to the President for submission to the Congress setting forth his comprehensive analysis, the principal alternatives and the specific recommendations of the Administrator and the Secretary of Defense.

In concluding its comments on the weapons program, the committee wishes to respond to a request by Dr. H. M. Agnew, the Director of the Los Alamos Laboratory, in his testimony before this committee on November 29, 1973. Dr. Agnew stated:

I urge that you specifically designate that the Director of Military Applications be at the three-star rank. I believe this is very important since the DOD officials with whom he has to interact are at that level, and I believe the caliber of officers who will be available to the Administration will be better qualified at this rank. A Brigadier or Major General equivalent who wishes to further his military career is at a decided disadvantage in questioning some of the requirements imposed upon him by his DOD counterparts who are at the three-star level.

The committee believes this recommendation makes good sense, and, in turn, recommends that the head of this important statutorily-designated division be at the three-star rank.

Other AEC Functions

The other AEC functions that ERDA will assume include nuclear education; training and fellowship activities; cooperative university-AEC laboratory research program; nuclear waste management; the raw materials program; production and sale of special radioisotopes and heavy water; international activities; health and safety research; operational safety; AEC's responsibilities under the Atomic Energy Community Act of 1955, as amended; the technical information program; and the nuclear and non-nuclear applied technology program (e.g., nuclear gas stimulation activities, geothermal resource developments, high-capacity power transmission, and advanced batteries for energy storage).

ERDA also will assume AEC's basic responsibility for security. This pertains to the safeguarding of special nuclear materials against diversion from peaceful to weapon uses, to declassification activities

and the safeguarding of restricted data, and to other security aspects of the provisions of the Atomic Energy Act of 1954, as amended.

FUNCTIONS TRANSFERRED TO ERDA

The bill transfers to and vests in the Administrator all functions of the Atomic Energy Commission other than its licensing and related regulatory functions.

The bill also transfers to and vests in the Administrator functions from three sources described below.

(1) *Functions of the Department of the Interior relative to the Office of Coal Research: to fossil fuel energy research and development programs and related activities conducted by the Bureau of Mines "energy centers" and synthane plant; and to underground electric power transmission research.*

Major programs of the Office of Coal Research include conversion of coal to liquid fuels and to high BTU pipeline gas and to low BTU gas for industrial use; also improved combustion and clean, efficient conversion of coal to electricity by advanced power systems. The functions of the office are to be transferred in their entirety. The resource level for these functions in fiscal year 1974 includes \$94 million in obligations, \$79 million in outlays, and 55 permanent positions. The President has requested supplemental funds for fiscal year 1974 in the amount of \$28.2 million in budgetary authority and \$10 million in outlays. According to the OMB, 55 additional positions would be needed to conduct this accelerated program.

The Bureau of Mines facilities comprise 22 field laboratories and a synthane plant. Six of the laboratories and the synthane plant are devoted to energy R & D and would be transferred to ERDA. The six laboratories are engaged in R & D on numerous aspects of production, conversion, and utilization of fossil fuels—coal, gas, oil and oil shale. The synthane plant is a coal gasification pilot plant, now under construction. The fiscal year 1974 resource level of the Bureau of Mines functions to be transferred is \$21 million in obligations, \$16 million in outlays, and 715 permanent positions.

The activities remaining in the Bureau of Mines are, for the most part, not energy-related in an R & D sense. Energy-related work which will remain in the Bureau includes some of the mining technology research activities. Expertise in this area is essential for mining health and safety research and provides support required to avoid disruption of the Bureau's remaining program. This work will not be transferred because of its intimate relationship to other mining technologies. The non-energy R & D involves metals and other ores not used as energy sources and therefore is not appropriate for transfer.

The Bureau's program for underground electric power transmission research is conducted in cooperation with the Electric Power Research Institute on a cost-sharing basis (60-80 percent industry and 20-40 percent Government). Contract research, in cooperation with the Electric Power Research Institute, is conducted by commercial organizations, educational institutions, nonprofit research organizations, and governmental agencies where expertise exists.

The fiscal year 1974 resource level for transmission research includes \$1 million in obligations, \$1 million in outlays, and five per-

manent positions. A supplemental appropriations request of \$1.25 million in budgetary authority and \$0.8 million in outlays for fiscal year 1974 has been sent to the Congress by the President. The requested increase is to support an accelerated R & D effort, primarily in the areas of underground transmission, in conjunction with projects approved by the Electric Power Research Institute. An additional three positions would be needed to carry out this accelerated program.

(2) *Functions of the National Science Foundation relating to solar heating and cooling development, and to geothermal power development.*

Specifically, it is proposed that the program leading to the development and demonstration of "heating and cooling of buildings" with solar energy be transferred to ERDA. This program seeks to demonstrate the technology necessary to produce economically feasible systems for heating and cooling buildings. The program is being conducted by grants and contracts in which the major performers are universities, complemented by private industry, national laboratories, and nonprofit institutions. For fiscal year 1974 these projects involve obligations of \$3 million and outlays of \$3 million.

The NSF geothermal energy program to be transferred to ERDA is designed to exploit alternative sources of geothermal energy. For fiscal year 1974, obligations and outlays will be \$0.5 million each.

It is anticipated that NSF will continue to support long-range research on advanced concepts in selected energy areas. In particular, NSF—with its strong ties to universities—will draw on their capabilities to produce new ideas and concepts to insure that all good, competitive ideas meriting support are pursued.

Basic research will continue under NSF sponsorship in solar, geothermal, and other areas, such as pursuing energy systems studies related to supply and demand for energy within the economy and energy conservation; investigating novel techniques to transport energy from production sources to consumption sites; investigating improved methods for converting energy from one form to another; and discovering methods to more effectively manage and utilize conventional energy sources.

The fiscal year 1974 resource levels for the energy research programs remaining in NSF are as follows: obligations and outlays of \$10 million each for advanced concepts research utilizing solar energy; obligations and outlays of \$3 million each for advanced concepts in geothermal energy; and obligations and outlays of \$8 million each in long-range and basic energy research.

(3) *Functions of the Environmental Protection Agency (EPA) relating to the development and demonstration of alternative automotive power systems, and to the development and demonstration of precombustion, combustion, and postcombustion technologies to control emissions of pollutants from stationary sources using fossil fuels.*

The goal of the Alternative Automotive Power Systems (AAPS) research is to demonstrate the feasibility of alternative systems to power automotive vehicles which (a) would meet or exceed Federal emission standards, and (b) would achieve greater fuel efficiency. At present the AAPS program is pursuing the development and demonstration of the Brayton cycle (gas turbine) and Rankine cycle (steam)

engine systems, and (with Army) the stratified charge concept, all of which have high potential for meeting emission standards with acceptable fuel economy.

The AAPS program would be transferred to ERDA almost in its entirety. The fiscal year 1974 resource level includes \$7 million in obligations, \$9 million in outlays, and 12 permanent positions. An equal number of positions will remain in EPA to give EPA a continuing assessment capability which is necessary to the discharge of its regulatory responsibilities.

The program in emission control technology involves R & D to control emissions to the atmosphere, whether such emissions result (a) from burning fossil fuels to produce energy (notably generation of electricity and production of heat and process steam) or (b) from other processes (e.g., copper smelting, paper manufacture) which produce atmospheric pollutants. EPA would retain a significant technology assessment capability to enable it to discharge its regulatory responsibilities. The fiscal year 1974 resource level for the portion to be transferred includes \$6 million in obligations \$6 million in outlays, and 18 permanent positions.

The rest of the program would remain in EPA because it deals with control of emissions to the atmosphere other than those resulting from energy generation (e.g., electricity and process steam). The 1974 resource level associated with this portion of the program comprises \$9.4 million in obligations and 72 positions.

The above-described transferred functions will enable ERDA to get underway with a considerable array of our nation's best R & D talent and facilities. The AEC will bring to the new agency its extensive network of national laboratories and facilities valued at about \$9 billion, its broad-gauged scientific and technical expertise, and the benefit of its experience in managing large, innovative technological enterprises. Other transferred functions will contribute experts in fossil fuel development, automotive power systems, and additional fields. The amalgamation of these national assets will be a solid foundation for ERDA's swift expansion into every promising energy technology.

At the start, ERDA will have a gross outlay level of about \$3 billion and a personnel complex of 6,700. It will increase in size substantially as it mounts R & D efforts along many energy avenues.

Your committee regards the totality of ERDA's acquired functions as a good base. The transferred activities encompass many, but not all, of the Government's R & D efforts relating to sources of energy and utilization technology. In regard to so-called pure or basic research, your committee does not advocate that all such research that may be thought to have some relation to energy technologies be transferred to ERDA. That would be impractical, prejudicial to the conduct of worthwhile research generally, and detrimental to performance of important functions of other agencies.

Nor does your committee believe that each and every applied R & D task that may fall within the broad areas of responsibility described in section 103 of the bill must necessarily be under the direct aegis of ERDA. For example, EPA may well require, as directly incident to the proper discharge of its duties, the conduct of R & D for which it considers it must assume responsibility, though the work may fall within a broad energy area of interest to ERDA.

In regard to fossil fuels, your committee believes it is appropriate that R & D on near-term improvements in coal mining techniques and machinery continue to be performed under the direction of the Department of the Interior in view of the Department's interrelated statutory responsibilities for health and safety. On the other hand, the functions transferred to ERDA from the Department of the Interior, and ERDA's overall functions under this Act, will encompass the development of advanced improvement concepts in such areas.

Subject to these considerations, your committee urges that from time to time the R & D functions of the Government pertinent to ERDA's broad energy-related missions be reviewed with an eye toward determining which may be appropriately transferred to ERDA, pursuant to applicable law or by supplemental legislation. In any case, basic research and applied work of interest to more than one Federal agency must be continuously the subject of close coordination to avoid wasteful duplication and information gaps.

ERDA's AUTHORITY

The "Energy Reorganization Act of 1973" establishes a broad charter of authority for the exercise of ERDA's functions. It is your committee's judgment that, in regard to ERDA's non-nuclear functions, the Administrator should have a scope of authority under this bill, with a built-in range of flexibility, generally similar to that now applicable to the performance of the AEC's non-regulatory functions under the Atomic Energy Act of 1954, as amended, and other applicable laws.

In regard to nuclear activities, the provisions of the Atomic Energy Act of 1954, as amended, and other authority applicable to such nuclear activities, will continue to govern the performance of ERDA's functions, subject to the technical or perfecting modifications effected by the bill (e.g., the provisions of section 202 and subsection 301(a)). Your committee believes that the experience gained in administering and construing these statutes, starting more than 25 years ago, has served to create an extensive body of understanding of this legislative regime and a general sense of confidence in its inherent soundness. Your committee has reason to believe that the Joint Committee on Atomic Energy, in connection with its congressional responsibilities pursuant to chapter 17 of the Atomic Energy Act, shares this view.

There are several matters pertaining to ERDA's authority that your committee wishes to stress:

Definition of Research and Development

Your committee endorses the connotation of "research and development" delineated in the Atomic Energy Act of 1954, as amended, (and previously in the 1946 Act). Subsection 11x. of that Act defines the term to mean "(1) theoretical analyses, exploration, or experimentation; or (2) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials and processes." In essence, the R & D spectrum extends from pure or basic research through demonstrations of commercial or industrial applicability.

Training and Limited Educational Activities

Your committee points out that ERDA is empowered to use the authority of chapter 4 of the Atomic Energy Act of 1954, as amended, in relation to non-nuclear as well as nuclear activities. This authority includes "training activities" of non-Government people. Additionally, chapter 4 has been construed to enable carefully-dimensioned educational programs. Your committee intends that ERDA will have similar discretion in its non-nuclear work.

Information and Transfer of Know-How

The provisions of the "Energy Reorganization Act of 1973" in regard to dissemination of information are intended to parallel and be consistent with the requirements of the Atomic Energy Act of 1954, as amended. If, for example, information or other matter constituting restricted data (as defined in subsection 11y. of the Atomic Energy Act) is encountered in non-nuclear activities, the provisions of the Atomic Energy Act of 1954, as amended, will remain applicable to all security aspects. The normal transfer of developed information to the private sector and to the public generally will continue. Every reasonable effort should be made to speed transfers to the public domain.

With respect to transfers of know-how and data to industry, small businesses, and others, to further possible interests outside of ERDA's programmatic spheres, your committee intends that ERDA be guided by the procedures employed by the AEC. They were carefully designed to preclude favoritism and unfair advantage; to provide a fair system for cost recovery; and to implement section 33 ("Research for Others") of the Atomic Energy Act of 1954, as amended, in an appropriate manner.

Contractual and Other Matters

The Administrator is empowered to make suitable arrangements for the conduct of R & D activities with private or public institutions or persons. This authority is similar to and compatible with the provisions of chapter 4 of the Atomic Energy Act of 1954, as amended. Public Law 85-934, the grant act, and other statutory authority also will be available for non-nuclear programs as they are for nuclear activities.

Thus, ERDA will be fully authorized to make arrangements on the outside—with individuals, industrial and commercial firms, educational institutions, public and private bodies, hospitals, not-for-profit companies, and other legal entities. In addition, ERDA will utilize the contractor-operated national laboratories included in the transfer from the AEC and those in-house capabilities of the Bureau of Mines included in the transfer from the Department of the Interior.

Your committee expects that the management and control of all of ERDA's activities will be firmly in the hands of the Administrator and his principal assistants. The agency must be adequately staffed with able executives, scientists, and engineers who are thoroughly qualified to supervise and evaluate performance and results. Management and control must not be contracted out.

Your committee further expects that ERDA's contracting procedures and practices, with relatively few exceptions, will commonly apply to both nuclear and non-nuclear activities. ERDA should be able to use to good advantage the types of cooperative arrangements,

inter-Federal agency agreements, special research agreements with educational institutions, and other commitments that the AEC has successfully employed.

Patents

The bill does not change existing patent laws. The provisions of chapter 13 ("Patents and Inventions") of the Atomic Energy Act of 1954, as amended, remain unaffected by the provisions of this bill.

In the course of hearings on this bill, a suggestion was made that ERDA should establish an office to help individual inventors or small companies by advising them whether their inventions or discoveries might be useful in connection with ERDA's missions. Your committee believes this suggestion may have merit and requests that the Administrator consider it.

Personnel

As previously stated, your committee stresses that all officers and personnel of ERDA should be selected on a best-qualified basis. Except for the officials appointed by the President, all officers and employees of ERDA, including all personnel transferred from other Government agencies, will be appointed, employed, and receive compensation fixed under the personnel system authorized by subsection 161d. of the Atomic Energy Act of 1954, as amended.

The intention of Congress underlying subsection 161d. was to assure that the AEC would have sufficient flexibility to attract personnel of the highest caliber for the effective conduct of large-scale, complex operations. This authority has helped create a merit employment system that provides fair and equitable treatment to employees and candidates for employment. Your committee urges that ERDA adhere rigorously to the application of this merit system.

Advisory Committee on Reactor Safeguards

The ACRS will remain with the Nuclear Energy Commission. It is intended, however, that the Administrator may call upon the ACRS to perform such of the activities contemplated by section 29 of the Atomic Energy Act of 1954, as amended, as relate to functions transferred from the AEC. Your committee also expects that the Nuclear Energy Commission will render advice to ERDA from time to time, as the Administrator may request.

Consultation and Coordination

In order for the Administrator to exercise central responsibility for policy planning as contemplated by the Act, it will be imperative, in your committee's judgment, that the Administrator be able to report directly to the President or to such energy policy officials or council as may be designated pursuant to applicable authority for such purpose.

The Administrator also will need to consult with industry representatives, with public agencies, and with others, from time to time, and to help others coordinate their energy-related R & D efforts with ERDA's programs.

Your committee wishes to make it clear that the Administrator, within the context of the powers and duties prescribed in the bill, and specifically under subsection 107(g), will have ample authority to consult with all relevant organizations, groups, and individuals, and

to establish such advisory mechanisms as he deems appropriate. Considering the multiple sources, potentials, institutions and enterprises for energy research and development, the Administrator will need, and undoubtedly will seek, advice from many informed sources.

NUCLEAR ENERGY COMMISSION

The licensing and related regulatory functions remain with the Commission, which is renamed the Nuclear Energy Commission. The Commission will continue to carry out those functions under pertinent provisions of the Atomic Energy Act of 1954, as amended, as specified in a separate section of this report.

The facilities of the development-operation side of the AEC are not subject to licensing and related regulatory provisions of the Atomic Energy Act. The development-operations programs have had exceptionally good health and safety experience. Notwithstanding this, your committee concluded that upon the separation of the functions of the AEC pursuant to this bill, it would be useful to provide for the licensing of ERDA-owned facilities in two respects: (1) nuclear demonstration reactors that would be operated as part of a utility's power generating facility; and (2) facilities used primarily for the receipt and storage of high-level radioactive wastes resulting from licensed activities. Your committee believes that this change in the Atomic Energy Act would be a logical amendment in view of the direct link with utility generating facilities.

Section 203 provides that the Nuclear Energy Commission "may engage in or contract for research which the Commission deems necessary for the discharge of its licensing and related regulatory functions."

Section 203 further provides that ERDA and other Federal agencies shall cooperate with NEC, and shall furnish, on a reimbursable basis, such research services as NEC deems necessary for the conduct of its functions. Your committee expects that every Federal agency will cooperate fully, and furnish such research skills and services consistent with its other responsibilities.

NEC also will have the broad authority of subsection 31a. and section 32 of the Atomic Energy Act for the performance of research.

The intent and purpose of the provisions applicable to NEC research are (1) to insure that the Commission has the capability to perform effectively its licensing and related regulatory functions with full regard to the public health and safety; and (2) to avoid costly duplication in facilities. Your committee believes that these objectives are compatible and manageable.

It is expected that the NEC will contract for most of its required research, exercising its independent judgment as to performance and results. Given the availability of extensive technical resources for research in the laboratories and industrial complexes associated with the activities to be managed and directed by ERDA, there should be little need for NEC to build laboratory facilities.

AUTHORIZATION OF APPROPRIATIONS

The bill does not alter the jurisdiction of any committee of the Congress. Section 304 of the bill provides for annual authorization of ap-

propriations, except as otherwise provided by law. The provisions of section 261 of the Atomic Energy Act of 1954, as amended, remain unaffected by the provisions of this bill. Accordingly, authorization for the functions transferred by the AEC and those remaining with the Nuclear Energy Commission will continue, as heretofore, pursuant to the provisions of section 261 of the Atomic Energy Act.

Your committee wishes to point out that an annual authorization pursuant to section 304 of this bill can include multi-year authorizations for specified projects or activities. In the committee's judgment, multi-year authorization would be desirable for certain types of cooperative arrangements and other projects. Your committee also recommends that, when large-scale joint or cooperative projects are to be undertaken, they be specifically authorized by the Congress. The annual authorization will be available for this purpose. Lesser projects can be reviewed, as appropriate, by the committee(s) of jurisdiction.

REPORTS

Subsection 306(a) of the bill provides for an annual comprehensive report by the Administrator to the President for submission to the Congress. The report will include a statement of the short-range and long-range goals, the priorities and plans of ERDA, and an assessment of the progress achieved toward their attainment. Your committee also expects that, from time to time, the report will contain recommendations for statutory changes and an account of administrative changes made within the Administrator's authority. It will be a continuing responsibility of the Administrator to appraise the organization and operations of his agency in the interest of improving performance.

Additionally, section 307 of the bill should assure that the Administrator will keep the appropriate congressional committees fully and currently informed with respect to all the Administrator's activities.

The provisions of the Atomic Energy Act of 1954, as amended, relative to reports and information to the Congress, remain unaffected by this bill. Such provisions continue to apply to the functions of the AEC transferred to ERDA as well as to those remaining with the Nuclear Energy Commission.

Your committee also recommends that, in the first year of operation, the Administrator develop a 10-year program to chart the course of energy research and development. The annual authorizations and appropriations will insure proper congressional participation. Annual reports, up-dating the program from year to year, should indicate the progress made in relation to the planned program, which will constitute the nation's strategy for achieving national self-sufficiency in energy.

The Administrator will take note, or course, of the report to the President submitted by Dr. Dixy Lee Ray, Chairman of the Atomic Energy Commission, on December 1, 1973. This report, entitled "The Nation's Energy Future," was prepared at the President's request and is pointed "toward the attainment of a capacity for energy self-sufficiency by 1980." The Administrator, of course, will use his own best judgment, illumined by the best intelligence and advice he can obtain, to determine whether, or in what manner, the aforementioned report

should be modified to accord with available resources, emerging opportunities, and responsibilities under the charter given by this bill.

ESTIMATED SAVINGS AND COSTS

Your committee requested the Office of Management and Budget to submit estimates of additional costs which could be expected as a result of this reorganization. Their response to the committee said, in part:

Estimated Savings

As a result of these program consolidations, it may be possible to effect some minor savings as a result of administrative and overhead efficiencies.

The real savings, however, will be realized by the American consumer in years to come as a result of advancing the state of energy technology to the point where our vast domestic reserves of fossil fuels, the processes of nuclear fusion and fast breeder reactors, and other advanced sources of energy such as solar and geothermal can be exploited to produce adequate amounts of clean energy at reasonable—rather than currently spiraling—costs. The savings to the American consumer that could result from the prompt establishment of a strong energy R & D agency such as ERDA literally amount to billions of dollars.

Estimated Costs

With regard to ERDA, the costs directly attributable to the reorganization are expected to be only those associated with administrative and management transitions such as office title changes, establishment of additional net positions authorized by H.R. 11510, new telephone books, etc. In all, these should not total more than \$1 million.

With regard to NEC, H.R. 11510 essentially has the effect of transferring AEC's R & D and production functions to ERDA, leaving the regulatory functions largely unaffected and to be carried on under a new agency name—the Nuclear Energy Commission. When ERDA is established, NEC will require some additional administrative support amounting to about 150 positions. The cost of this and other administrative adjustments is expected to be approximately \$3 million.

One additional cost of establishing NEC will result from the necessity of enhancing NEC's technical expertise in the areas of biomedical and environmental research and waste management and transportation. It is expected that Congress will be requested for up to \$5–\$10 million in NEC's first budget to undertake research in these areas.

In sum, according to OMB information, reorganizations authorized and directed by the bill may entail additional costs of approximately \$4 million, to be offset partly by minor savings in reduction of administrative costs by consolidation. The committee also is advised that additional yearly costs of \$4 million may be required for each of the following five fiscal years. This estimate is accepted by the committee as its own.

Since this is primarily a reorganization bill, and contains only general authorization authority, it does not, by its terms, commit the administrator or the Commission to specific expenditures for programs or activities. These will be authorized in separate legislation.

PROVISIONS OF THE ATOMIC ENERGY ACT APPLICABLE TO FUNCTIONS TRANSFERRED FROM THE AEC AND TO FUNCTIONS REMAINING IN NEC

The Energy Research and Development Administration and the Nuclear Energy Commission, will utilize authorities provided by the Atomic Energy Act of 1954, as amended. Since the bill entails a separation of functions to be administered separately by these two agencies, it follows that certain provisions of the Atomic Energy Act will be applicable to each agency. The following analysis shows the distribution of separately and jointly applicable authorities under that Act.

I. The following provisions of the Atomic Energy Act of 1954, as heretofore amended, apply only to ERDA

- Subsection 31b. (certain grants and contributions).
- Section 33 ("Research for Others").
- Chapter 5 ("Production of Special Nuclear Material").
- Subsections 53c; 53d; and 53f. (distributing special nuclear material).
- Section 54 ("Foreign Distribution of Special Nuclear Material").
- Section 56 ("Guaranteed Purchase Prices").
- Section 58 ("Review").
- Subsection 63c. (charges for distributing source material).
- Section 64 ("Foreign Distribution of Source Material").
- Section 67 ("Operations on Lands Belonging to the United States").
- Section 91 ("Authority").
- Section 142 ("Classification and Declassification of Restricted Data").
- Section 143 ("Department of Defense Participation").
- Subsections 144a; 144b; and 144c. (international cooperation).
- Subsections 151c; 151d; 151e. (certain patent aspects).
- Section 153 ("Nonmilitary Utilization").
- Section 154 ("Injunctions").
- Section 157 ("Commission Patent Licenses").
- Subsections 161e; 161m; 161r; 161t; 161u; and 161v. (general provisions).
- Section 164 ("Electric Utility Contracts").
- Section 167 ("Claims Settlements").

II. The following provisions of the Atomic Energy Act of 1954, as heretofore amended, apply only to NEC

- Subsection 53b. (minimum criteria for licenses).
- Subsection 53e. (licensing conditions).
- Section 62 ("License for Transfers Required").
- Subsection 63b. (minimum criteria for licenses).
- Section 69 ("Prohibition").
- Section 101 ("License Required").
- Section 102 ("Utilization and Production Facilities for Industrial or Commercial Purposes").

Section 103 ("Commercial Licenses").
 Section 104 ("Medical Therapy and Research and Development").
 Subsection 105c (licensing antitrust review).
 Section 106 ("Classes of Facilities").
 Section 107 ("Operators' Licenses").
 Section 109 ("Component Parts of Facilities").
 Subsection 161h. (licensing activities).
 Subsection 161w. (licensing charges).
 Section 182 ("License Applications").
 Section 183 ("Terms of License").
 Section 184 ("Inalienability of Licenses").
 Section 185 ("Construction Permits").
 Subsections 186a. and 186b. (license revocation).
 Section 187 ("Modification of License").
 Section 190 ("Licensee Incident Reports").
 Section 191 ("Atomic Safety and Licensing Board").
 Section 192 ("Temporary Operating License").
 Section 272 ("Applicability of Federal Power Act").
 Section 273 ("Licensing of Government Agencies").
 Section 274 ("Cooperation with States").

III. The following provisions of the Atomic Energy Act of 1954, as heretofore amended, generally apply, respectively, to the functions of the Administrator and to NEC

Chapter 1 ("Declaration, Findings and Purpose").

Chapter 2 ("Definitions"); provided that (i) the determinations and criteria in j. (extraordinary nuclear occurrences) shall be the responsibility of the Administrator only in regard to activities and matters not covered by the licensing and related regulatory facets of Section 170 of the Atomic Energy Act, as amended, and (ii) the determinations in v. (production facility), z. (source material), aa. (special nuclear material), and cc. (utilization facility), shall be the responsibility of the Administrator only in regard to facilities and materials not subject to licensing and related regulatory control by NEC.

Chapter 3 ("Organization"); except (i) as provided for in this bill, (ii) the Inspection Division established by subsection 25c. will remain in NEC, and the ERDA Administrator also will provide for the discharge of the inspection function under subsection 25c. in ERDA, (iii) in regard to section 29 ("Advisory Committee on Reactor Safeguards"), it is intended that the ACRS remain with NEC but that the ACRS also be made available to ERDA as the Administrator may request to perform such of the activities contemplated by section 29 as relate to functions transferred to the Administrator.

Subsections 31a; 31c; and 31d. (research assistance), and Section 32 ("Research By the Commission").

Section 51; provided, that the respective determinations shall be made as indicated in Chapter 2 above.

Subsection 53a; provided, that subdivisions (ii) and (iii) of said subsection (distributing and making available special nuclear material) shall apply only to ERDA, and subsection (i) (licenses) shall apply only to NEC.

Section 55 ("Acquisition").

Section 57 ("Prohibition").

Section 61 ("Source Material"); provided, that the respective determinations shall be made as indicated in Chapter 2 above).

Subsection 63a. (source material); provided, that the authority to distribute shall apply only to ERDA and the authority to license shall apply only to NEC.

Section 65 ("Reporting").

Section 66 ("Acquisition").

Section 68 ("Public and Acquired Lands").

Section 81 ("Domestic Distribution"), and Section 82 ("Foreign Distribution of Byproduct Material"); provided, that the authority to distribute shall apply only to ERDA and the authority to license shall apply only to NEC.

Section 92 ("Prohibition").

Subsections 105a. and 105b. (Antitrust provisions and reporting).

Section 108 ("War or National Emergency").

Section 110 ("Exclusions"); it should be noted that subsection 110a. is amended by section 202 of the bill.

Chapter 11 ("International Activities"); provided, that, except for licensing and regulatory aspects, the implementation of these provisions shall be the responsibility of ERDA.

Section 141 ("Policy"); provided, that the implementation of subsection 141a. shall be the responsibility of ERDA.

Subsection 144d. (Presidential authorization).

Section 145 ("Restrictions"); except that only the Administrator shall establish the basic standards and procedures for the safeguarding of the national defense and security.

Section 146 ("General Provisions").

Subsections 151a and 151b. (certain inventions and discoveries).

Section 152 ("Inventions Made or Conceived During Commission Contracts").

Section 155 ("Prior Art").

Section 156 ("Commission Patent Licenses").

Section 158 ("Monopolistic Use of Patents").

Section 159 ("Federally Financed Research").

Section 160 ("Saving Clause").

Subsections 161a., 161b., 161c., 161d., 161f., and 161g. (general authority).

Subsection 161i. and 161j. (certain regulations or orders and dispositions); provided, that the Administrator shall establish the basic standards and procedures respecting the national security.

Subsections 161k. (firearms), 161n. (delegations), 161o. (reports and records), 161p. (rules and regulations), 161q. (rights-of-way), and 161s. (succession of authority).

Section 162 ("Contracts").

Section 163 ("Advisory Committees").

Section 165 ("Contract Practices").

Section 166 ("Comptroller General Audit"); it should be noted that section 305 of the bill also makes this section applicable to ERDA's contracts for non nuclear activities.

Section 168 ("Payments in Lieu of Taxes").

Section 169 ("No Subsidy").

Section 170 ("Indemnification and Limitation of Liability").

Chapter 15 ("Compensation for Private Property Acquired").

Section 181 ("General").

Subsection 186c. (Retaking and Recapture); provided that the Administrator shall establish the basic standards and procedures in regard to safeguarding the national defense and security.

Section 188 ("Continued Operation of Facilities"); provided, that findings and judgments respecting the production program shall be the responsibility of the Administrator.

Section 189 ("Hearings and Judicial Review").

Chapter 17 ("Joint Committee on Atomic Energy").

Chapter 18 ("Enforcement"); except for Section 234 ("Civil Monetary Penalties for Violation of Licensing Requirements") which is applicable only to NEC.

Section 241 ("Transfer of Property").

Section 251 ("Report to the Congress").

Section 261 ("Appropriations").

Section 271 ("Agency Jurisdiction").

Section 281 ("Separability") and Section 291 ("Short Title").

SECTION-BY-SECTION ANALYSIS

Section 1 states that this Act may be cited as the "Energy Reorganization Act of 1973."

Section 2 is concerned with declarations and findings.

Subsection 2(a) sets forth a congressional declaration that the general welfare and the common defense and security require effective action to develop all energy sources and increase the efficiency and reliability of energy use. The purposes to be served are (1) meeting the needs of future generations, (2) increasing the productivity of the national economy and its international trade position, (3) making the nation self-sufficient in energy, (4) restoring, protecting, and enhancing environmental quality, and (5) assuring public health and safety.

Subsection (b) states a congressional finding that, to best achieve the objectives of this Act, it is necessary to establish an Energy Research and Development Administration to bring together and direct Federal activities relating to research and development on the various sources of energy, to increase the efficiency and reliability of use of energy, and to carry out the performance of other functions, including the Atomic Energy Commission's military and production activities.

Subsection (c) sets forth a congressional declaration and finding that it is in the public interest that the licensing and related regulatory functions of the Atomic Energy Commission be separated from the performance of other functions of the Commission, which are transferred by this Act to the Energy Research and Development Administration. The Congress finds it is in the public interest that this separation of functions be effected in an orderly manner assuring adequacy of resources for their performance by each segment.

TITLE I

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Section 101 establishes the Energy Research and Development Administration as an independent executive agency.

Section 102 prescribes the top officer positions.

Subsection 102(a) provides that the Administration will be headed by an Administrator appointed by the President by and with the advice and consent of the Senate, to be compensated at the level II rate of the Executive Schedule. He will be responsible for the efficient and coordinated management of the Administration.

Subsection 102(b) provides for a Deputy Administrator to be appointed by the President with Senate confirmation, and to be compensated at level III of the Executive Schedule.

Subsection 102(c) provides for appointment by the President, with Senate confirmation of five Assistant Administrators responsible, respectively, for (1) fossil energy, (2) nuclear energy, (3) environment, safety and conservation, (4) research and advanced energy systems, and (5) national security. These appointees will be compensated at level IV of the Executive Schedule.

Subsection 102(d) provides for the appointment of a General Counsel by the Administrator. The General Counsel will serve at the pleasure of the Administrator and be compensated at level V of the Executive Schedule.

Subsection 102(e) authorizes the Administrator to appoint not more than seven additional officers who will be compensated at level V of the Executive Schedule. These will be career positions and be subject to subsection 161 d. of the Atomic Energy Act, which authorizes appointment of officers and employees.

Subsection 102(f) provides for appointment by the Administrator of a Director of Military Application to head the Division of Military Application transferred to the Administration by subsection 104(b) of this Act. The Director of Military Application will be an active member of the Armed Forces serving in general or flag officer rank or grade, as appropriate, with the same functions, qualifications, and compensation as are now provided in the Atomic Energy Act for the Assistant General Manager of AEC for Military Application. The Director of Military Application will serve at the pleasure of the Administrator.

Subsection 102(g) provides that officers appointed pursuant to this section will perform such functions as the Administrator specifies from time to time.

Subsection 102(h) provides that the Deputy Administrator shall act for the Administrator in the event of a vacancy in the office of the Administrator or in the event of the absence or disability of the Administrator, and states that the Administrator shall establish the further order of succession.

Section 103 prescribes eight categories included in the Administrator's responsibilities, as follows:

- (1) exercising central responsibility for policy planning, coordination, support, and management of research and development programs respecting all energy sources, including assessing the requirements for research and development in regard to various energy sources in relation to near-term and long-range needs, policy planning in regard to meeting those requirements, undertaking programs for the optimal development of the various forms of energy sources, managing such programs, and disseminating resulting therefrom;

(2) encouraging and conducting research and development to demonstrate the commercial feasibility and practical applications of energy sources and utilization technologies;

(3) undertaking research and development in the extraction, conversion, storage, transmission, and utilization phases related to the development and use of energy from fossil, nuclear, solar, geothermal and other energy sources;

(4) engaging in and supporting environmental, biomedical, physical, and safety research related to the development of energy sources and utilization technologies;

(5) taking into account the existence, progress and results of other public and private research and development activities relevant to the Administrator's mission in formulating his research and development programs;

(6) participating in and supporting cooperative research and development projects which may involve contributions by public or private persons or agencies of financial or other resources to the performance of the work;

(7) developing, collecting, distributing, and making available for distribution, scientific and technical information concerning the manufacture or development of energy and its efficient extraction, conversion, transmission and utilization; and

(8) encouraging and conducting research and development for the conservation of energy.

Section 104 specifies the functions and units transferred to the Administrator and the Administration from other departments or agencies.

Subsection 104(a) transfers all functions of the Atomic Energy Commission, the Chairman and members of the Commission, and the Commission's officers and components, except as otherwise provided in this Act.

Subsection 104(b) preserves and includes in the transfer the General Advisory Committee, the Patent Compensation Board, and the Divisions of Military Application and Naval Reactors; and it preserves the relationship with the Military Liaison Committee.

Illustrative of the functions transferred by subsections 104(a) and (b) from AEC are research and development relating to nuclear and other energy sources, energy utilization and related environmental and safety aspects; military applications of atomic energy such as development and production of nuclear weapons; production of nuclear materials; research in the physical and biomedical sciences; international cooperation for the utilization and safeguarding of nuclear materials; dissemination of scientific and technical information; and administration of a program for indemnification of contractor liability for damages from nuclear incidents.

In effect, section 104, in conjunction with section 201, separates the licensing and related regulatory functions of the Atomic Energy Commission from the development, production, research, and other remaining functions of the Commission, and transfer all the functions not part of licensing and related regulation to the Administrator. Pertinent provisions of the Atomic Energy Act of 1954, as heretofore amended and as modified in several technical or perfecting respects by the provisions of this Act, will continue to be applicable, respec-

tively, to such transferred functions and to the licensing and related regulatory functions remaining in the Nuclear Energy Commission.

Subsection 104(c) transfers certain functions of the Secretary of the Interior, the Department of the Interior and offices and components thereof as follows:

Paragraph (1) transfers the functions relating to the Office of Coal Research (OCR), which was established pursuant to the Act of July 1, 1960 (30 U.S.C. 661-668). Through contracts with outside organizations, OCR sponsors research and development involving principally the conversion of coal to other agency forms, such as liquid hydrocarbons, clean fuel gas, substitute pipeline gas, and direct electric power.

Paragraph (2) transfer certain functions conducted by the Bureau of Mines (established as set out in 30 U.S.C. 1-7) that are directed toward fossil fuel energy research and development. The six research centers included in this transfer are located in Bartlesville, Oklahoma; Grand Forks, North Dakota; Laramie, Wyoming; Morgantown, West Virginia; Pittsburgh, Pennsylvania; and San Francisco, California. A synthane pilot plant, for coal gasification, now under construction, is included with the transferred facilities. The energy research programs of the Bureau of Mines include the conversion of coal into gas, nonpolluting oil and metallurgical coke; the magnetohydrodynamic generation of power; the *in situ* production of oil from oil shale; and the improved recovery of oil and natural gas.

Paragraph (3) transfers the existing program of underground electric power transmission research under the direction of the Secretary of the Interior.

Subsection 104(d) transfers from the National Science Foundation (NSF) functions relating to development of solar heating and cooling of buildings and of geothermal power. The NSF, under its general statutory authorization (42 U.S.C. 1682), has been supporting basic and applied research through proof of concept experimentation in these areas in preparation for prototype development and demonstration of functioning systems. The Administrator will assume responsibility under this subsection for programs in these development and demonstration areas. Subsection (c) is not intended to modify the existing authority of the NSF in basic and applied research.

Subsection 104(e) transfers functions of the Environmental Protection Agency (EPA) and the officers and components thereof which relate to or are utilized in connection with the development and demonstration of alternative automotive power systems and the development and demonstration of precombustion, combustion and postcombustion technologies to control emissions of pollutants, such as sulfur oxides, oxides of nitrogen and particulates, from stationary sources using fossil fuels. EPA's authority in this area is derived mainly from the Clean Air Act (42 U.S.C. 1857-18571). EPA will retain its Michigan test facility for automotive emissions and the technology-assessment staff and consultants needed in setting standards and monitoring technological developments.

Subsection 104(f) is a technical provision designed to permit the Administrator, to the extent necessary or appropriate to perform transferred functions, to exercise authority available by law, including appropriation acts, to the official or agency from which the functions

were transferred. This does not divest the transferring agency of the authority with respect to the functions retained by that agency.

Subsection 105(a) provides that personnel, personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds relating to functions transferred by this Act follow and are transferred with those functions. Appropriations transferred will be accounted for in accordance with section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), which normally governs transfers of this type. Personnel positions expressly created by law, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation at one of the rates prescribed for level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5316) will be subject to the provisions of subsection 105(c) and section 301.

Subsection 105(b) provides that nontemporary personnel, other than personnel entitled to compensation under the Executive Schedule, shall not be separated or reduced in grade or compensation, as a result of the enactment of this Act, for one year after being transferred to the Administration created pursuant to this Act. This provision is designed to preclude reduction in force solely as a result of this Act for one year after the transfer. However, this provision would not preclude separation or reduction for cause or any other circumstance applicable if this Act had not been enacted.

Subsection 105(c) provides that a person entitled to compensation under the Executive Schedule may be employed by the new Administration and that, if the employment is without break in service and if the duties of the new position are comparable to the duties performed immediately preceding the new appointment, such person will be entitled to receive compensation at a rate not less than he received in his previous position.

Section 106 contains administrative provisions.

Subsection 106(a) authorizes the Administrator to prescribe appropriate policies, standards, criteria, procedures, rules and regulations.

Subsection 106(b) provides that the Administrator shall engage in policy planning and perform program analyses and other studies to promote the efficient and coordinated administration of his agency and to assess its progress.

Subsection 106(c) authorizes the Administrator to delegate, and authorize redelegations of, any of his functions.

Subsection 106(d) authorizes the Administrator to organize the Administration as he deems appropriate, except for the organizational elements specified in section 102 and subsection 104(b).

Subsection 106(e) authorizes the Administrator to establish and discontinue field offices.

Subsection 106(f) authorizes the Administrator to prescribe a seal for the Administration.

Subsection 106(g) authorizes the establishment of a working capital fund by the Administrator to defray necessary expenses arising out of the maintenance and operation of common administrative services.

Subsection 106(h) authorizes executive agencies to furnish the Administrator information or other data.

Section 107 deals with personnel.

Subsection 107(a) authorizes the Administrator to employ officers and employees and fix their compensation pursuant to subsection 161 d. of the Atomic Energy Act (42 U.S.C. 2201(d)).

Subsection 107(b) authorizes the Administrator to obtain the services of experts and consultants.

Subsection 107(c) authorizes the Administrator to arrange by agreement with the Secretaries of the Military Departments for participation of military personnel in the performance of his functions, excluding appointments subject to Senate confirmation.

Subsection 107(d) provides that the status and benefits of military persons shall not be adversely affected by service under subsection (c).

Subsection 107(e) authorizes payment of transportation expenses and per diem to temporary or seasonal employees. Such payments will be made in accordance with chapter 57 of title 5 of the United States Code which governs similar payments to other Government employees for official travel.

Subsection 107(f) authorizes the Administrator to utilize, on a reimbursable basis, the services of personnel made available by any Executive agency.

Subsection 107(g) authorizes the Administrator to establish advisory boards in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I, 1970 ed., Supp. II).

Subsection 107(h) authorizes the Administrator to employ non-citizens in technical or professional capacities.

Section 108 sets forth the basic statutory powers of the Administrator.

Subsection 108(a) authorizes the Administrator to insure continued research and development in the interest of expanding scientific, technical and practical knowledge in energy matters, to make arrangements (including contracts, agreements, and loans) for the conduct of research and development activities with private or public institutions or persons, including joint projects of a research, developmental or experimental nature. The Administrator is authorized to make payments (in lump sum or installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments) and generally to take such steps as he deems necessary or appropriate to perform his functions. Functions applicable to the nuclear activities transferred by title I of this Act will be subject to the provisions of the Atomic Energy Act of 1954, and to other authority applicable to such activities. The nonnuclear responsibilities and functions transferred by this Act will be carried out pursuant to the provisions of this Act, the authorities applicable to those functions immediately before the effective date of this Act, or in accordance with chapter 4 of the Atomic Energy Act (42 U.S.C. 2051-2053).

Subsection 108(b) authorizes the Administrator to acquire facilities required for the maintenance and operation of laboratories, research, and testing sites and facilities, quarters, and related accommodations for employees and their dependents, and such other special purpose real property as the Administrator may deem necessary. Special purpose facilities and real property may be acquired by purchase, lease, condemnation, or otherwise. General purpose facilities and real property needs will continue to be met through the authority of the General

Services Administration. The Federal Government will take title to all property acquired pursuant to this section.

Subsection 108(c) authorizes the Administrator to provide, construct, or maintain, as necessary and when otherwise unavailable, certain facilities and services for employees and their dependents at remote locations. Included are emergency medical services and supplies; food and subsistence supplies; messing facilities; audio-visual equipment, accessories, and supplies for recreation and training; reimbursement to such employees for furnishing food, medicine and other supplies for temporary relief of distressed persons; living and working quarters and facilities; and transportation for school-age dependents to the nearest appropriate educational facilities. Reimbursement at reasonable prices will be required for medical treatment and services and supplies furnished to employees and their dependents.

Subsection 108(d) authorizes the Administrator to acquire copyrights and patents, design processes, specifications and data.

Subsection 108(e) requires the Administrator, subject to 42 U.S.C. 2161-2166 and other applicable law, to disseminate scientific, technical and practical energy information acquired pursuant to this Act. Other applicable law would include the Freedom of Information Act. He is required also to encourage the dissemination of such information by others so as to provide for the free exchange of ideas and criticism.

Subsection 108(f) authorizes the Administrator to accept, hold, administer, and utilize gifts and bequests.

TITLE II

NUCLEAR ENERGY COMMISSION

Section 201 provides that the Atomic Energy Commission (AEC) shall be renamed the Nuclear Energy Commission (NEC). The Commission will continue to perform the licensing and related regulatory functions which the AEC, its Chairman, members, officers and components performed prior to the effective date of this Act. These functions, officers, components and personnel are excepted from the transfer of AEC functions provided in section 104 of this Act. The Atomic Safety and Licensing Board and Atomic Safety and Licensing Appeal Board panels (42 U.S.C. 2241), the Advisory Committee on Reactor Safeguards (42 U.S.C. 2039), and the Inspection Division, will remain with the Commission. Section 104, read in conjunction with this section, places in separate agencies the regulatory and nonregulatory functions now exercised by the AEC.

The Advisory Committee on Reactor Safeguards will conduct safety reviews of ERDA nuclear activities and facilities as requested by the Administrator.

Section 202 gives the Nuclear Energy Commission authority to license selected Administration facilities pursuant to chapters 6, 7, 8, and 10 of the Atomic Energy Act. Thus, it is empowered to license (1) demonstration liquid metal fast breeder reactors when used as part of the power generation facilities of an electric utility system, (2) other demonstration nuclear reactors when operated as a part of an electric utility system, except those in existence, under construction, or authorized or appropriated for by the Congress on the date this

Act becomes effective, or (3) facilities used primarily for the receipt and storage of high level radioactive wastes resulting from activities licensed under the Atomic Energy Act, except those in existence, under construction, or authorized or appropriated for by the Congress on the date this Act becomes effective.

Section 203 prescribes the Commission's research authority and relationships with the Administration and other Federal agencies.

Subsection 203 (a) specifically confirms the authority of NEC to engage in or contract for research which NEC deems necessary for the discharge of its licensing and regulatory functions. Functions of originating or developing new designs and technologies are transferred to the Administration by subsection 104 (a) of this Act.

Subsection 203 (b) authorizes the Administration and other Federal agencies to conduct such research for NEC as the Commission may request in connection with the performance of its functions and to cooperate in the establishment of priorities for furnishing such research services.

TITLE III

TRANSITIONAL PROVISIONS

Section 301 contains customary transitional provisions.

Subsection 301 (a) provides that, except as otherwise provided in the Act, whenever all of the functions of an agency, or other body, or of any component thereof, have been transferred by title I of this Act, the agency or other body or component shall lapse. This, in effect, discontinues organizational structures when they no longer have functions to perform. It applies only when all of the functions of the agency or component have been transferred to the Administrator. The subsection also provides that all Executive Schedule officers and statutory positions in an agency or component that lapses under the first sentence of the section also shall lapse.

Subsection 301 (b) is a savings clause that continues the effectiveness of all existing orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges affected by this Act, until such time as they are otherwise modified or replaced by appropriate authority or otherwise expire. This avoids any inadvertent lapsing or impairment of essential Executive orders, directives, documents, and obligations, and will afford the President, the Administrator, or other officials sufficient time to deal with these matters in an orderly fashion.

Subsection 301 (c) is another savings clause that preserves and continues administrative proceedings in being on the effective date of the Act. These proceedings will, in effect, be continued, modified, or terminated as if the Act had never been enacted.

Subsection 301 (d) is a savings clause that permits suits commenced prior to the date of this Act to be continued and conducted as if this Act had not been enacted.

Subsection 301 (e) protects suits, actions or other proceedings from abatement by reason of enactment of this Act. In any litigation pending when these actions take effect, the court may enter an appropriate order which will give effect to these savings provisions.

Subsection 301(f) provides for proper substitution of parties in connection with the continuation of litigation pending on the date this Act becomes effective.

Subsection 301(g) makes final orders and actions of any transferred official or component subject to judicial review as if this Act had not been enacted.

Subsection 301(h) provides that with respect to functions transferred by the Act, references in laws to other officials shall be deemed to be a reference to the Administrator, or other officials, as appropriate.

Subsection 301(i) provides that any existing authority of the President is not affected by this Act.

Subsection 301(j) provides that reference in this Act of provisions of law shall be deemed to include, as appropriate, reference thereto as amended or supplemented before or after the effective date of this Act. This avoids repetitious use of the phrases "as amended" or "as supplemented."

Subsection 301(k) makes clear that except as otherwise expressly provided in this Act, authority provided by this Act is in addition to, and not in substitution for, any existing authority transferred by this Act.

Section 302 authorizes the Director of the Office of Management and Budget to make such additional incidental dispositions of personnel, personnel positions, assets, liabilities, contracts, property, records, appropriations, etc., as may be necessary to carry out the intent and purpose of this Act.

Section 303, to avoid repetitious references, defines "function," "functions," "perform" and "performance" to include such terms as duties, obligations, powers, authorities, responsibilities, rights, privileges, and activities, and the exercise thereof.

Section 304 provides that except as otherwise provided by law, appropriations made under this Act shall be subject to annual authorization.

Section 305 applies to nuclear and nonnuclear activities the present provisions of section 166 of the Atomic Energy Act for audit and access to records by the Comptroller General with respect to contracts.

Section 306 contains reporting provisions.

Subsection 306(a) requires the Administrator to transmit to the President for submission to the Congress an annual report on his agency's activities. The report is to include a statement of the short-range and long-range goals, priorities, and plans of the Administrator, together with an assessment of the progress made toward attainment of these objectives and toward the more effective and efficient management of the Administration and coordination of its functions.

Subsection 306(b) requires the Administrator, in collaboration with the Secretary of Defense, to conduct a thorough review of the desirability and feasibility of transferring to the Department of Defense or other Federal agencies the functions of the Administrator respecting Military application and restricted data. This review is to be made, and a report sent to the President for submission to the Congress, within one year after the Administrator takes office. The report will set forth the Administrator's comprehensive analysis, the principal alternatives, and the specific recommendations of the Administrator and the Secretary of Defense.

Section 307 provides that the Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Administration's activities.

Section 308 permits the Administrator, when authorized in an appropriation act, to make transfers of funds from one appropriation to another within his agency, but no appropriation shall be either increased or decreased by more than 5 percent.

Section 309 is a technical, conforming amendment covering the Executive Schedule compensation pertaining to this Act.

Section 310 is a standard separability provision that avoids the invalidation of the remaining provisions of this Act in the event that a single provision is found to be invalid.

Section 311 provides for an effective date and interim appointments.

Subsection 311(a) provides that this Act shall become effective 120 days after the Administrator is appointed, or on such earlier date as the President may prescribe and publish in the Federal Register. This will give the President time to select, nominate, and appoint the Administrator, and will give the Administrator sufficient time to arrange and organize the new Administration and prepare such rules, regulations, orders, etc., as may be necessary for a smooth transition. Prior to the effective date, the regulatory arm of the present Atomic Energy Commission will be provided with sufficient resources to enable it to perform its functions within the framework of a wholly separate organization.

Subsection 311(b) provides that, if an officer subject to Senate confirmation under this Act has not entered upon his office on the effective date of the Act, the President may designate any officer who was appointed 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 temporarily. An officer thus designated would draw pay at the rate provided in this Act for the position filled by him under this subsection.

TITLE IV

BAR AGAINST SEX DISCRIMINATION

Section 401 bars sex discrimination in connection with any license, activity, or Federal assistance under this Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

* * * * *

CHAPTER 53—PAY RATES AND SYSTEMS

* * * * *

SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

* * * * *

§ 5313. Positions at level II

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$42,500:

(1) * * *

* * * * *

(8) Chairman, [Atomic] Nuclear Energy Commission.

* * * * *

(22) Administrator of Energy Research and Development.

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$40,000:

(1) * * *

* * * * *

(42) Members, [Atomic] Nuclear Energy Commission.

* * * * *

(60) Deputy Administrator, Energy Research and Development Administration.

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$38,000:

(1) * * *

* * * * *

[(50) General Manager of the Atomic Energy Commission.]

* * * * *

(99) Assistant Administrators, Energy Research and Development Administration (5).

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$36,000:

(1) * * *

* * * * *

[(29) Assistant General Manager, Atomic Energy Commission.]

* * * * *

(62) Executive Director of [Regulation, Atomic] Operations, Nuclear Energy Commission.

* * * * *

[(69) Deputy General Manager, Atomic Energy Commission.]

* * * * *

(81) General Counsel of the [Atomic] Nuclear Energy Commission.

* * * * *

[(102) Assistant General Managers, Atomic Energy Commission (2).]

* * * * *

(133) General Counsel, Energy Research and Development Administration.

(134) Additional officers, Energy Research and Development Administration (7).

* * * * *

APPENDICES

APPENDIX 1.—SPONSORS OF H.R. 11510 AND IDENTICAL OR SIMILAR LEGISLATION

H.R. 11510.—Mr. Holifield, Mr. Horton, Mr. Price (Illinois), and Mr. Hosmer.

H.R. 11646.—Mr. Minshall.

H.R. 11683.—Mr. Wydler.

H.R. 11731.—Mr. Brooks, Mr. Fountain, Mr. Jones (Alabama), Mr. Moss, Mr. Fascell, Mr. Macdonald, Mr. Moorhead (Pennsylvania), Mr. Randall, Mr. Wright, Mr. St Germain, Mr. Culver, Mr. Fuqua, Mr. Donohue, Mr. James V. Stanton, Mr. Ryan, Mr. Erlenborn, Mr. Wydler, Mr. Brown (Ohio), Mr. Vander Jagt, Mr. Gude, and Mr. McCloskey.

H.R. 11732.—Mr. Young (Texas), Mr. Anderson (Illinois), Mr. Hansen (Idaho), Mr. Lujan, Mr. Johnson (California), Mr. Corman, Mr. Hawkins, Mr. Leggett, Mr. Roybal, Mr. Brown (California), Mr. Anderson (California), Mr. Danielson, Mr. Don H. Clausen, Mr. Camp, Mr. Coughlin, Mr. Sebelius, Mr. Ketchum, Mr. Martin (North Carolina), Mr. Towell, and Mr. Young (Alaska).

H.R. 11733.—Mr. Buchanan, Mr. Thone, Mr. Mallary, Mr. Parris, Mr. Regula, Mr. Hinshaw, Mr. Steelman, Mr. Pritchard, and Mr. Hanrahan.

H.R. 11783.—Ms. Abzug.

[NOTE.—This list shows 57 cosponsors. The names of Mr. Holifield, Mr. Horton, Mr. Price (Illinois), and Mr. Hosmer also appear on H.R. 11731, H.R. 11732, and H.R. 11733, but are not repeated on this list for clarity.]

APPENDIX 2.—EXPLANATION OF PERSONNEL
PROVISIONS OF H.R. 11510

The provisions of H.R. 11510 pertaining to personnel administration in ERDA and NEC provide for the continuation of the excepted personnel system authorized by section 161d. of the Atomic Energy Act, as amended. In this regard, section 107(a) of the bill authorizes the Administrator "to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys, pursuant to section 161d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201(d)) as are necessary to perform the functions now or hereafter vested in him and to prescribe their functions."

The continuation of the excepted personnel system of the Atomic Energy Act, of course, will have no new impact on those employees who will transfer from AEC to ERDA or who will continue their employment in NEC. Employees of the Department of Interior, NSF and EPA who would be transferred to ERDA would, at the same time, be transferred from the competitive civil service system to the excepted personnel system of ERDA under the authority of section 107(a) of H.R. 11510. Although there are significant systems differences between the competitive civil service system and the personnel system authorized by section 161d. of the Atomic Energy Act, both systems impact on individual employees in terms of rights, protections, and benefits in much the same way, as amplified below.

Individual employees transferred to the excepted personnel program for ERDA or NEC, therefore, would not relinquish any of their basic rights of benefits as Federal employees. There would be available to them in ERDA and NEC, however, the added benefits provided by the AEC's merit employment system. In addition, section 105(b) of H.R. 11510 provides that "transfer of nontemporary personnel pursuant to this Act shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer." Section 105(c) provides a somewhat similar protection for those officers paid in accordance with the Executive Salary Schedule: "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 of the United States Code, and who, without a break in service, is appointed in the Administration 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 this previous position."

EMPLOYMENT UNDER THE EXCEPTED PERSONNEL SYSTEM OF SECTION
161d. OF THE ATOMIC ENERGY ACT

Employee Pay.—There would be no change in the pay received by Federal employees transferred to ERDA or NEC. ERDA and NEC would continue to apply a salary schedule under the authority of sec-

tion 161d. of the Atomic Energy Act which is equivalent to that provided by law for the competitive service. Within-grade increases would be earned at the same rates as in the competitive service. Future pay increases authorized under the Classification Act for Federal employees would apply to ERDA and NEC employees. With respect to wage board employees, their rates of pay would continue to be based on local prevailing rates as provided by the applicable local wage board pay schedule. Moreover, section 105(b) of H.R. 11510 specifically states that the "transfer of non-temporary personnel pursuant to this Act [from Interior, NSF, and EPA to ERDA] shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer".

Employee Status.—The interchange agreement between the Civil Service Commission and the AEC would be applicable. Federal employees having "Career" appointments in the competitive service would receive "Regular (Excepted)" appointments based on their having three years of service for "career" tenure. Federal employees with "Career-Conditional" appointments (those with less than three years of service) would receive "Regular (Excepted) (Conditional)" appointments. In accordance with the interchange agreement, employees of ERDA and NEC would be eligible to transfer to any agencies in the competitive service without regard to the competitive examination procedures administered by the Civil Service Commission.

Retention/Reduction-in-Force Rights.—Employees transferred to ERDA and NEC would come under reduction-in-force procedures which differ from those of the competitive service only in that they do not provide for "retreat" rights, and do not include performance ratings in determining retention rights. In the "AEC" system, a reduction in force (RIF) is confined to a "competitive level", i.e., the grade level, occupation, and location in which a reduction is required. Within the competitive level, the employee with the lowest retention rights, i.e., least Federal service, status, and veteran-nonveteran status, is the employee who is reduced in force.

Since "retreat" rights (movement of an employee back through positions and grade levels previously held in lieu of separation) are not a part of the AEC system, there is relatively less job protection for certain employees who might be involved in a RIF. However, other employees, e.g., those in the same competitive area but at different grade levels (different competitive levels), could actually have better employment protection than would be available to them under the competitive civil service system. The AEC reduction-in-force procedures, which have been approved by the Civil Service Commission as meeting the requirements of the Veterans Preference Act, are designed to confine the program disruption and employee morale problems to the single "competitive level" in which a reduction is to take place. The AEC procedures avoid the problems of employees at higher grades "retreating" to lower grades with attendant lowered morale of those employees and those they displace who in turn "retreat" and displace others.

Employee "Fringe" Benefits.—There would be no significant changes in "fringe" benefits coverages available to Federal employees transferring to ERDA or NEC. The types of leave programs, life and health insurance programs, and retirement benefits would be the same

in ERDA and NEC as in the rest of the Federal service. Since ERDA would be covered by the retirement system administered by the Civil Service Commission, employees transferring to ERDA from other Federal agencies would be entitled to all the same civil service retirement benefits.

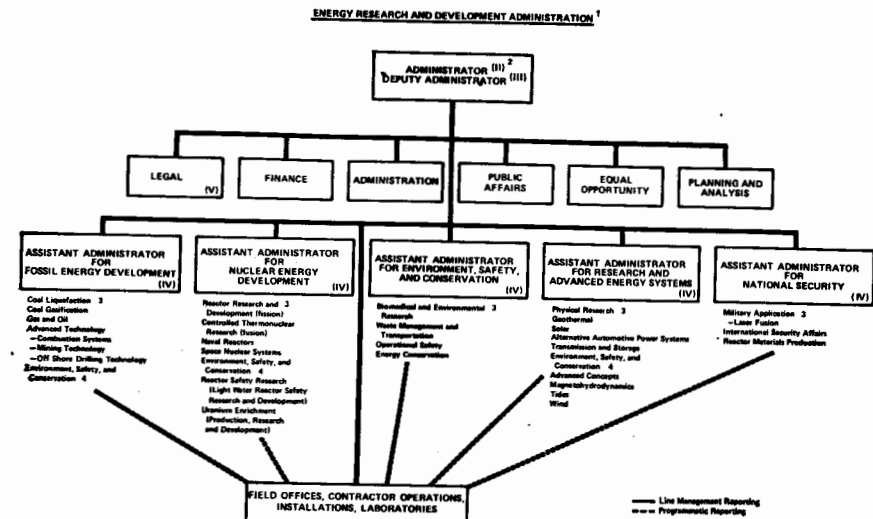
Summary.—A review of the rights, protections and benefits that would be available to employees of ERDA and NEC reveals that there would be no significant difference from the rights, protections and benefits available to all Federal employees. Except for the differences in the reduction-in-force procedures cited above, which involve advantages to employees as well as disadvantages, employees transferring from other Federal agencies to ERDA or NEC would be unable to discern any real changes in their rights, protections and benefits. However, the excepted personnel system provided by Section 161d. of the Atomic Energy Act would provide significant systems advantages which would benefit employees as well as benefit ERDA and NEC organizations.

COMPARISON OF THE EXCEPTED PERSONNEL SYSTEM OF SECTION 161d. OF THE ATOMIC ENERGY ACT WITH THE COMPETITIVE CIVIL SERVICE SYSTEM

The basic difference between the excepted personnel system provided by Section 161d. of the Atomic Energy Act and the competitive civil service system is that the excepted system is designed to be uniquely responsive to the management needs of a highly technical research, development and regulatory program. The competitive civil service system is designed to implement the Civil Service Act of 1883 and related civil service laws, which require a broad merit employment program covering as much Government activity as possible and which emphasize fair and equitable treatment of all citizens applying for positions in, or employed by, the Government.

The excepted personnel system under section 161d. was developed because of a clear Congressional intent to have a personnel program that would be as effective as possible in supporting technical research, development and regulatory activities, and at the same time, assure fair and equitable treatment of all candidates and employees of the organization. This Congressional intent has been successfully carried out. Significant improvements in recruitment methods, selection procedures, job evaluation and pay methods, and executive manpower management techniques, as well as positive modifications in other functional areas, can be demonstrated and confirmed in the excepted personnel program of Section 161d. of the Atomic Energy Act.

APPENDIX 3-A

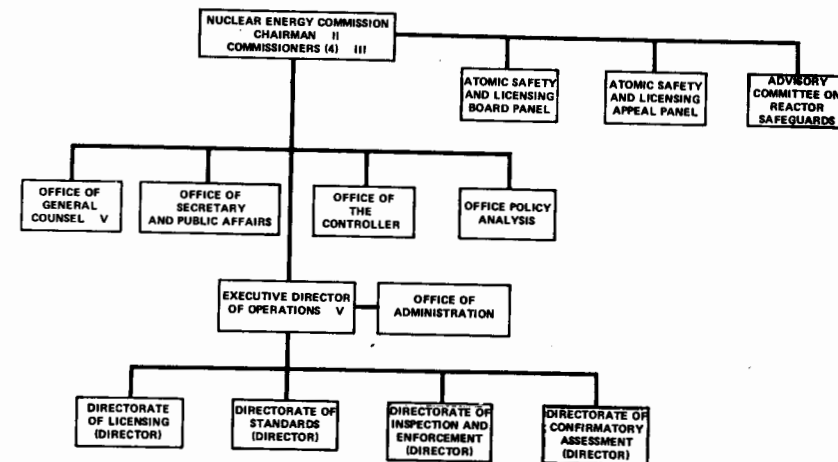


¹The General Advisory Committee, Military Liaison Committee and the Patent Commission Board of the AEC are proposed for transfer to the ERDA.
²Open research includes Executive Level of position
³Proposed areas of interest.
⁴Integral to development of energy technologies. Not duplication of the Assistant Administrator for Environment, Safety and Conservation.

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APPENDIX 3-B

NUCLEAR ENERGY COMMISSION



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APPENDIX 4.—TEXT OF COMMITTEE BILL AS REPORTED

SHORT TITLE

SECTION 1. This Act may be cited as the "Energy Reorganization Act of 1973".

DECLARATION OF PURPOSE

SEC. 2. (a) The Congress hereby declares that the general welfare and the common defense and security require effective action to develop, and increase the efficiency and reliability of use of, all energy sources to meet the needs of present and future generations, to increase the productivity of the national economy and strengthen its position in regard to international trade, to make the Nation self-sufficient in energy, to advance the goals of restoring, protecting, and enhancing environmental quality, and to assure public health and safety.

(b) The Congress finds that, to best achieve these objectives, improve Government operations, and assure the coordinated and effective development of all energy sources, it is necessary to establish an Energy Research and Development Administration to bring together and direct Federal activities relating to research and development on the various sources of energy, to increase the efficiency and reliability in the use of energy, and to carry out the performance of other functions, including the Atomic Energy Commission's military and production activities.

(c) The Congress further declares and finds that it is in the public interest that the licensing and related regulatory functions of the Atomic Energy Commission be separated from the performance of the other functions of the Commission transferred pursuant to this Act, and that this separation be effected in an orderly manner assuring adequacy of technical and other resources necessary for the performance of each.

TITLE I—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

ESTABLISHMENT

SEC. 101. There is hereby established an independent executive agency to be known as the Energy Research and Development Administration (hereinafter in this Act referred to as the "Administration").

OFFICERS

SEC. 102. (a) There shall be at the head of the Administration an Administrator of Energy Research and Development (hereinafter in this Act referred to as the "Administrator"), who shall be appointed by the President, by and with the advice and consent of the Senate. The

Administrator shall receive compensation at the rate now or hereafter prescribed for offices and positions at level II of the Executive Schedule (5 U.S.C. 5313). The Administration shall be administered under the supervision and direction of the Administrator, who shall be responsible for the efficient and coordinated management of the Administration.

(b) There shall be in the Administration a Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate now or hereafter prescribed for officers and positions at level III of the Executive Schedule (5 U.S.C. 5314).

(c) There shall be in the Administration five Assistant Administrators, one of whom shall be responsible for fossil energy, another for nuclear energy, another for environment, safety, and conservation, another for research and advanced energy systems, and another for national security. The Assistant Administrators shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate now or hereafter prescribed for offices and positions at level IV of the Executive Schedule (5 U.S.C. 5315).

(d) There shall be in the Administration a General Counsel who shall be appointed by the Administrator and who shall serve at the pleasure of and be removable by the Administrator. The General Counsel shall receive compensation at the rate now or hereafter prescribed for offices and positions at level V of the Executive Schedule (5 U.S.C. 5316).

(e) There shall be in the Administration not more than seven additional officers appointed by the Administrator, who shall receive compensation at the rate now or hereafter prescribed for offices and positions at level V of the Executive Schedule (5 U.S.C. 5316). The positions of such officers shall be considered career positions and be subject to subsection 161d. of the Atomic Energy Act.

(f) The Division of Military Application transferred to and established in the Administration by section 104(a) of this Act shall be under the direction of a Director of Military Application, who shall be appointed by the Administrator and who shall serve at the pleasure of and be removable by the Administrator and shall be an active commissioned officer of the Armed Forces serving in general or flag officer rank or grade. The functions, qualifications, and compensation of the Director of Military Application shall be the same as those provided under the Atomic Energy Act of 1954, as amended, for the Assistant General Manager for Military Application.

(g) Officers appointed pursuant to this section shall perform such functions as the Administrator shall specify from time to time.

(h) The Deputy Administrator (or in the absence or disability of the Deputy Administrator, or in the event of a vacancy in the office of the Deputy Administrator, an Assistant Administrator, the General Counsel or such other official, determined according to such order as the Administrator shall prescribe) shall act for and perform the functions of the Administrator during any absence or disability of the Administrator or in the event of a vacancy in the office of the Administrator.

RESPONSIBILITIES OF THE ADMINISTRATOR

SEC. 103. The responsibilities of the Administrator shall include, but not be limited to—

(1) exercising central responsibility for policy planning, coordination, support, and management of research and development programs respecting all energy sources, including assessing the requirements for research and development in regard to various energy sources in relation to near-term and long-range needs, policy planning in regard to meeting those requirements, undertaking programs for the optimal development of the various forms of energy sources, managing such programs, and disseminating information resulting therefrom;

(2) encouraging and conducting research and development to demonstrate the commercial feasibility and practical applications of energy sources and utilization technologies;

(3) undertaking research and development in the extraction, conversion, storage, transmission, and utilization phases related to the development and use of energy from fossil, nuclear, solar, geothermal, and other energy sources;

(4) engaging in and supporting environmental, biomedical, physical, and safety research related to the development of energy sources and utilization technologies;

(5) taking into account the existence, progress, and results of other public and private research and development activities relevant to the Administration's mission in formulating its own research and development programs;

(6) participating in and supporting cooperative research and development projects which may involve contributions by public or private persons or agencies, of financial or other resources to the performance of the work;

(7) developing, collecting, distributing, and making available for distribution, scientific and technical information concerning the manufacture or development of energy and its efficient extraction, conversion, transmission, and utilization; and

(8) encouraging and conducting research and development for the conservation of energy.

TRANSFER OF FUNCTIONS

SEC. 104. (a) There are hereby transferred to and vested in the Administrator all functions of the Atomic Energy Commission, the Chairman and members of the Commission, and the officers and components of the Commission, except as otherwise provided in this Act.

(b) The General Advisory Committee established pursuant to section 26 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2036), the Patent Compensation Board established pursuant to section 157 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2187), and the Divisions of Military Application and Naval Reactors established pursuant to section 25 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2035), are transferred to the Energy Research and Development Administration and the functions of the Commission with respect thereto, and with respect to relations with

the Military Liaison Committee established by section 27 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2037), are transferred to the Administrator.

(c) There are hereby transferred to and vested in the Administrator such functions of the Secretary of the Interior, the Department of the Interior, and officers and components of such department—

(1) as relate to or are utilized by the Office of Coal Research established pursuant to the Act of July 1, 1960 (74 Stat. 336; 30 U.S.C. 661-668);

(2) as relate to or are utilized in connection with fossil fuel energy research and development programs and related activities conducted by the Bureau of Mines "energy centers" and synthane plant to provide greater efficiency in the extraction, processing, and utilization of energy resources for the purpose of conserving those resources, developing alternative energy resources such as oil and gas secondary and tertiary recovery, oil shale and synthetic fuels, improving methods of managing energy-related wastes and pollutants, and providing technical guidance needed to establish and administer national energy policies; and

(3) as relate to or are utilized for underground electric power transmission research.

(d) There are hereby transferred to and vested in the Administrator such functions of the National Science Foundation as relate to or are utilized in connection with—

(1) solar heating and cooling development; and

(2) geothermal power development.

(e) There are hereby transferred to and vested in the Administrator such functions of the Environmental Protection Agency and the officers and components thereof as relate to or are utilized in connection with—

(1) the development and demonstration of alternative automotive power systems; and

(2) the development and demonstration of precombustion, combustion, and postcombustion technologies to control emissions of pollutants from stationary sources using fossil fuels.

(f) To the extent necessary or appropriate to perform functions and carry out programs transferred by this Act, the Administrator may exercise, in relation to the functions so transferred, any authority or part thereof available by law, including appropriation Acts, to the official or agency from which such functions were transferred.

TRANSFER OF PERSONNEL AND OTHER MATTERS

SEC. 105. (a) Except as provided in the next sentence, 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 and programs transferred by this Act, are, subject to section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), correspondingly transferred for appropriate allocation. Personnel positions expressly created by law, personnel occupying those positions on the effective date of this Act, and per-

sonnel authorized to receive compensation at the rate prescribed for offices and positions at levels II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5316) on the effective date of this Act shall be subject to the provisions of subsection (c) of this section and section 301 of this Act.

(b) Except as provided in subsection (c), transfer of nontemporary personnel pursuant to this Act shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer.

(c) 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 of the United States Code, and who, without a break in service, is appointed in the Administration 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.

ADMINISTRATIVE PROVISIONS

SEC. 106. (a) The Administrator is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to perform functions now or hereafter vested in him.

(b) The Administrator shall engage in such policy planning, and perform such program evaluation analyses and other studies, as may be necessary to promote the efficient and coordinated administration of the Administration and properly assess progress toward the achievement of its missions.

(c) Except as otherwise expressly provided by law, the Administrator may delegate any of his functions to such officers and employees of the Administration as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary or appropriate.

(d) Except as provided in section 102 and in section 104(b), the Administrator may organize the Administration as he may deem to be necessary or appropriate.

(e) The Administrator is authorized to establish, maintain, alter, or discontinue such State, regional, district, local, or other field offices as he may deem to be necessary or appropriate to perform functions now or hereafter vested in him.

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

(g) The Administrator 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, assets other than real property, 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.

(h) Each department, agency, and instrumentality of the executive branch of the Government is authorized to furnish to the Administrator, upon his request, any information or other data which the Administrator deems necessary to carry out his duties under this title.

PERSONNEL AND SERVICES

SEC. 107. (a) The Administrator is authorized to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys, pursuant to section 161d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201(d)) as are necessary to perform the functions now or hereafter vested in him and to prescribe their functions.

(b) The Administrator is authorized to obtain services as provided by section 3109 of title 5 of the United States Code.

(c) The Administrator is authorized to provide for participation of military personnel in the performance of his functions. Members of the Army, the Navy, the Air Force, or the Marine Corps may be detailed for service in the Administration by the appropriate military Secretary, pursuant to cooperative agreements with the Secretary, for service in the Administration in positions other than a position the occupant of which must be approved by and with the advice and consent of the Senate.

(d) Appointment, detail, or assignment to, acceptance of, and service in, any appointive or other position in the Administration under this section shall in no way affect the status, office, rank, or grade which such officers or enlisted men may occupy or hold, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. A member so appointed, detailed, or assigned 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 appointed, detailed, or assigned.

(e) The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5 of the United States Code for travel between places of recruitment and duty, and while at places of duty, of persons appointed for emergency, temporary, or seasonal services in the field service of the Administration.

(f) The Administrator is authorized to utilize, on a reimbursable basis, the services of any personnel made available by any department, agency, or instrumentality, including any independent agency, of the Government.

(g) The Administrator is authorized to establish advisory boards, in accordance with the provisions of the Federal Advisory Committee Act (Public Law 92-463), to advise with and make recommendations to the Administrator on legislation, policies, administration, research, and other matters.

(h) The Administrator is authorized to employ persons who are not citizens of the United States in expert, scientific, technical, or professional capacities whenever he deems it in the public interest.

POWERS

SEC. 108. (a) The Administrator is authorized to exercise his powers in such manner as to insure the continued conduct of research and development and related activities in areas or fields deemed by the Administrator to be pertinent to the acquisition of an expanded fund of scientific, technical, and practical knowledge in energy matters. To this end, the Administrator is authorized to make arrangements (including contracts, agreements, and loans) for the conduct of research and development activities with private or public institutions or persons, including participation in joint or cooperative projects of a research, developmental, or experimental nature; to make payments (in lump sum or installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments); and generally to take such steps as he may deem necessary or appropriate to perform functions now or hereafter vested in him. Such functions of the Administrator under this Act as are applicable to the nuclear activities transferred pursuant to this title shall be subject to the provisions of the Atomic Energy Act of 1954, as amended, and to other authority applicable to such nuclear activities. The nonnuclear responsibilities and functions of the Administrator referred to in sections 103 and 104 of this Act shall be carried out pursuant to the provisions of this Act, applicable authority existing immediately before the effective date of this Act, or in accordance with the provisions of chapter 4 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2051-2053).

(b) Except for public buildings as defined in the Public Buildings Act of 1959, as amended, and with respect to leased space subject to the provisions of Reorganization Plan Numbered 18 of 1950, the Administrator is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain facilities and real property as the Administrator deems to be necessary in and outside of the District of Columbia. Such authority shall apply only to facilities required for the maintenance and operation of laboratories, research and testing sites and facilities, quarters, and related accommodations for employees and dependents of employees of the Administration, and such other special-purpose real property as the Administrator deems to be necessary in and outside the District of Columbia. Title to any property or interest therein, real, personal, or mixed, acquired pursuant to this section, shall be in the United States.

(c) (1) The Administrator is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

- (A) emergency medical services and supplies;
- (B) food and other subsistence supplies;
- (C) messing facilities;
- (D) audiovisual equipment, accessories, and supplies for recreation and training;

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

(F) living and working quarters and facilities; and

(G) transportation for school-age dependents of employees to the nearest appropriate educational facilities.

(2) The furnishing of medical treatment under subparagraph (A) of paragraph (1) and the furnishing of services and supplies under paragraphs (B) and (C) of paragraph (1) shall be at prices reflecting reasonable value as determined by the Administrator.

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

(d) The Administrator is authorized to acquire any of the following described rights if the property acquired thereby is for use in, or is useful to, the performance of functions vested in him:

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

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

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

(e) Subject to the provisions of chapter 12 of the Atomic Energy Act (42 U.S.C. 2161-2166), and other applicable law, the Administrator shall disseminate scientific, technical, and practical information acquired pursuant to this title through information programs and other appropriate means, and shall encourage the dissemination of scientific, technical, and practical information relating to energy so as to enlarge the fund of such information and to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding.

(f) The Administrator 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 Administration. Gifts and bequests of money and proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Administrator. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift or bequest to the United States.

TITLE II—NUCLEAR ENERGY COMMISSION

CHANGE IN NAME

SEC. 201. The Atomic Energy Commission is hereby renamed the Nuclear Energy Commission and shall continue to perform the licens-

ing and related regulatory functions of the Chairman and members of the Commission, the general counsel, and other officers and components of the Commission, which functions, officers, components, and personnel are excepted from the transfer to the Administrator by section 104(a) of this Act.

LICENSING AND RELATED REGULATORY FUNCTIONS RESPECTING SELECTED
ADMINISTRATION FACILITIES

SEC. 202. Notwithstanding the exclusions provided for in section 110a. or any other provisions of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2140(a)), the Nuclear Energy Commission shall, except as otherwise specifically provided by section 110b. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2140(b)), or other law, have licensing and related regulatory authority pursuant to chapters 6, 7, 8, and 10 of the Atomic Energy Act of 1954, as amended, as to the following facilities of the Administration:

(1) demonstration liquid metal fast breeder reactors when operated as part of the power generation facilities of an electric utility system;

(2) other demonstration nuclear reactors when operated as part of the power generation facilities of an electric utility system, except those in existence, under construction or authorized or appropriated for by the Congress on the date this part becomes effective; or

(3) facilities used primarily for the receipt and storage of high-level radioactive wastes resulting from activities licensed under such Act, except those in existence, under construction, or authorized or appropriated for by the Congress, on the date this Act becomes effective.

RESEARCH

SEC. 203. (a) The Nuclear Energy Commission may engage in or contract for research which the Commission deems necessary for the discharge of its licensing and related regulatory functions.

(b) In order to achieve the objectives and carry out the purposes of subsection (a), the Energy Research and Development Administration and every other Federal agency shall—

(1) cooperate with respect to the establishment of priorities for the furnishing of such research services requested by the Nuclear Energy Commission as the Commission deems necessary for the conduct of its functions; and

(2) furnish to the Nuclear Energy Commission, when requested, on a reimbursable basis, through its own facilities or by contract or other arrangement, such research services as the Commission deems necessary for the conduct of its functions.

TITLE III—MISCELLANEOUS AND TRANSITIONAL
PROVISIONS

TRANSITIONAL PROVISIONS

SEC. 301. (a) Except as otherwise provided in this Act, whenever all of the functions or programs of an agency, or other body, or any

component thereof, affected by this Act, have been transferred from that agency, or other body, or any component thereof by title I of this Act, the agency, or other body, or component thereof shall lapse. If an agency, or other body, or any component thereof, lapses 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 rate prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5316), shall lapse.

(b) 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, 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 Administrator, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(c) The provisions of this Act shall not affect any proceeding pending, at the time this section takes effect, before any department or agency (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.

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

(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 if this Act had not been enacted.

(e) 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. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official 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 any order which will give effect to the provisions of this section.

(f) 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 Administrator, or any other official, then such suit shall be continued as if this Act had not been enacted, with the Administrator, or other official, as the case may be, substituted.

(g) Final orders and actions of any official or component in the performance of functions transferred by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders or actions had been made or taken by the officer, department, agency, or instrumentality in the performance of such functions immediately preceding the effective date of this Act. Any statutory requirements relating to notices, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the performance of those functions by the Administrator, or any officer or component.

(h) With respect to any function transferred by this Act and performed after the effective date of this Act, reference in any other 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 Administration, the Administrator, or other office or official in which this Act vests such functions.

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

(j) Any reference in this Act to any provision of law shall be deemed to include, as appropriate, references thereto as now or hereafter amended or supplemented.

(k) Except as may be otherwise expressly provided in this Act, all functions expressly conferred by this Act shall be in addition to and not in substitution for functions existing immediately before the effective date of this Act and transferred by this Act.

INCIDENTAL DISPOSITIONS

SEC. 302. The Director of the Office of Management and Budget is authorized to make such additional incidental dispositions of personnel, personnel positions, 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 functions transferred by this Act, as he may deem necessary or appropriate to accomplish the intent and purpose of this Act.

DEFINITIONS

SEC. 303. As used in this Act—

(1) any reference to "function" or "functions" shall be deemed to include references to duty, obligation, power, authority, respon-

sibility, right, privilege, and activity, or the plural thereof, as the case may be; and

(2) any reference to "perform" or "performance", when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

AUTHORIZATIONS FOR APPROPRIATIONS

SEC. 304. Except as otherwise provided by law, appropriations made under this Act shall be subject to annual authorization.

COMPTROLLER GENERAL AUDIT

SEC. 305. Section 166. "Comptroller General Audit" of the Atomic Energy Act of 1954, as amended, shall be deemed to be applicable respectively, to the nuclear and nonnuclear activities under title I and to the activities under title II.

REPORTS

SEC. 306. (a) The Administrator shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress on the activities of the Administration during the preceding fiscal year. Such report shall include a statement of the short-range and long-range goals, priorities, and plans of the Administration together with an assessment of the progress made toward the attainment of those objectives and toward the more effective and efficient management of the Administration and the coordination of its functions.

(b) During the first year of operation of the Administration, the Administrator, in collaboration with the Secretary of Defense, shall conduct a thorough review of the desirability and feasibility of transferring to the Department of Defense or other Federal agencies the functions of the Administrator respecting military application and restricted data, and within one year after the Administrator first takes office the Administrator shall make a report to the President, for submission to the Congress, setting forth his comprehensive analysis, the principal alternatives, and the specific recommendations of the Administrator and the Secretary of Defense.

INFORMATION TO COMMITTEES

SEC. 307. The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Administration's activities.

TRANSFER OF FUNDS

SEC. 308. The Administrator, when authorized in an appropriation Act, may, in any fiscal year, transfer funds from one appropriation to another within the Administration: *Provided*, That no appropriation shall be either increased or decreased pursuant to this section by more than 5 per centum of the appropriation for such fiscal year.

CONFORMING AMENDMENTS TO CERTAIN OTHER LAWS

SEC. 309. Subchapter II (relating to Executive Schedule pay rates) of chapter 53 of title 5, United States Code, is amended as follows:

(1) Section 5313 is amended by striking out "(8) Chairman, Atomic Energy Commission." and inserting in lieu thereof "(8) Chairman, Nuclear Energy Commission.", and by adding at the end thereof the following:

"(22) Administrator of Energy Research and Development."

(2) Section 5314 is amended by striking out "(42) Members, Atomic Energy Commission." and inserting in lieu thereof "(42) Members, Nuclear Energy Commission.", and by adding at the end thereof the following:

"(60) Deputy Administrator, Energy Research and Development Administration."

(3) Section 5315 is amended by striking out paragraph (50), and by adding at the end thereof the following:

"(99) Assistant Administrators, Energy Research and Development Administration (5)."

(4) Section 5316 is amended by striking out paragraphs (29), (69), and (102), by striking out "(62) Director of Regulation, Atomic Energy Commission." and inserting in lieu thereof "(62) Executive Director of Operations, Nuclear Energy Commission.", by striking out "(81) General Counsel of the Atomic Energy Commission." and inserting in lieu thereof "(81) General Counsel of the Nuclear Energy Commission.", and by adding at the end thereof the following:

"(133) General Counsel, Energy Research and Development Administration.

"(134) Additional officers, Energy Research and Development Administration (7)."

SEPARABILITY

SEC. 310. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

EFFECTIVE DATE AND INTERIM APPOINTMENT

SEC. 311. (a) The provisions of this Act shall take effect one hundred and twenty days after the Administrator first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register; except that any of the officers provided for in title II of this Act may be nominated and appointed, as provided in that title, at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), any functions of which are transferred to the Administrator by this Act, may, with the approval of the President, 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 any officer 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 this 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.

TITLE IV—SEX DISCRIMINATION

SEC. 401. No person shall on the ground of sex be excluded from participation in, be denied a license under, be denied the benefits of, or be subjected to discrimination under, any program or activity carried on or receiving Federal assistance under any title of this Act. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI or the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

ADDITIONAL VIEWS OF HON. BENJAMIN S. ROSENTHAL

I strongly support the concept of centralizing the Federal Government's energy research effort and of separating the AEC's regulation and promotional activities. H.R. 11510, as amended, appears to be a constructive step forward in our Nation's attempt to maximize its existing and potential energy resources.

Because the Energy Research and Development Administration (ERDA) will be the prime governmental focus of our energy research effort and because it will be directing the expenditure of many billions of public tax dollars over the next decade, it is imperative that the agency's operations and activities benefit the broad public interest.

Based on my understanding of the language of the bill and the intentions of the members of the committee voting for it, ERDA has been designed to fulfill that broad public purpose. Its policies and programs are to be guided by the following principles:

ERDA's research and development efforts will be substantially balanced between nuclear and fossil energy research, on the one hand, and advanced energy systems (i.e., solar, geothermal, etc.), on the other. No single energy technology will dominate ERDA's mission;

With respect to the disposition of the fruits of the Government's energy research and development effort, all nuclear and non-nuclear R. & D. transferred to the Administration shall be governed by property and information rights as provided for in existing law;

The Nuclear Energy Commission, which will continue to have full licensing and regulatory authority over nuclear power systems, has authority to engage in or contract for nuclear safety research or other research which it deems necessary for the disposition of its licensing and related regulatory functions. ERDA shall also furnish to the NEC, when requested, such research services as the Commission deems necessary for the conduct of its functions; and,

Environmental, consumer and related factors will play a major role in ERDA's policies and programs.

The Energy Research and Development Administration will not be able to achieve its intended purpose unless it avoids, absent substantial scientific evidence to the contrary, any biases which favor one energy technology over another; and only if all its operations and activities foster the highest degree of free and open competition in all segments of the energy industry.

BENJAMIN S. ROSENTHAL.

ADDITIONAL VIEWS OF HON. JIM WRIGHT

NEEDED: A NATIONAL ENERGY PLAN OF ACTION

This bill is useful in that it will equip the Executive branch of government with the operational framework through which to administer a cohesive, unified national energy plan. But Congress still needs to formulate and adopt such a plan.

The nation looks to Congress for leadership in the energy crisis. Leadership involves facing the whole unpleasant truth and coming forward with a definite, consistent and coordinated plan of action not merely to cope with present difficulties but to anticipate and head off the far more serious crisis which inevitably will confront the nation if our vision is too short and our response too timid.

The public will not be well served if the primary Congressional "initiative" consists merely of turning over yet another wide range of discretionary policy making powers to the Executive branch of government. Not only is such a posture ludicrously at odds with our protestations against Presidential usurpation of legislative prerogatives. It also would represent a "cop out" by the people's elected representatives on the hard decisions that shape the future in this singly most significant domestic problem of our time.

The plan presented in this paper is based upon the following premises, which I believe to be valid:

1. The energy shortage is quite real and truly serious. It has been coming upon us for a long time. The Arab oil blockade has merely hastened our inevitable day of reckoning.

2. It is not and should not be regarded as a temporary problem. It will grow inexorably more binding and more inhibiting upon our way of life until we find alternate basic sources of energy to replace our present profound reliance upon petroleum.

3. While there are things that we can and must do to "share the shortage" and alleviate immediate hardships, the energy shortage will not be solved by short-range palliatives taken during the coming winter. It is a problem of the coming decade, and we'd better deal with it as such. Trying to temporize or to muddle through from crisis to crisis will only postpone a real beginning upon the necessary long-range solutions.

4. There is no painless solution, and any effective actions will involve certain costs and sacrifices upon the part of the American public. The citizens of this country, however, would rather be told the truth than to be lulled and pampered into a false sense of complacency. They will sacrifice if they see that all are sacrificing evenly and that the common sacrifice is attaining the promised results. They will willingly pay the necessary price in taxes so long as those taxes are reasonable and the public understands exactly what they are going for.

ENERGY TRUST FUND

With the foregoing thoughts in mind, I propose the creation of an *Energy Conservation and Development Trust Fund* made up of user taxes with the proceeds dedicated to short-, medium-, and long-term programs designed both to reduce wasteful consumption and to develop new and additional sources sufficient to meet national needs and to attain the ultimate goal of domestic self-sufficiency.

The Trust Fund concept is not new. In the Social Security program and the Federal Aid Highway program it has been a demonstrably effective device for producing a long-range commitment to long-range goals with the assured and consistent funding necessary to meet those goals. Freed from the vagaries and uncertainties of the annual budget submission and appropriations process and the sometimes unpredictable peaks and valleys which can occur in that process, the Trust Fund permits the development of intelligent and dependable long term planning by both government and industry.

Revenues for the *Energy Conservation and Development Trust Fund* would come from those firms and individuals engaged in activities which cause the greatest drain on energy supplies. And, as with the Highway Trust Fund and the Social Security Trust Fund, those paying the taxes would be the ultimate beneficiaries of the programs funded, in that those programs would be calculated to assure to them, as to the nation at large, a continuing supply of energy.

PROGRAMS FUNDED

I propose a \$6 billion assured annual commitment to various national programs realistically designed to conserve and develop energy. Considering the monumental magnitude of the problem and the lengthening shadow it casts upon the future of our entire economy, such a commitment is not unreasonable. Compared with the \$6 billion annual Highway Program and the Apollo Moon Landing Program funded over the past 12 years at an average annual outlay of about \$2 billion, a commitment of \$6 billion a year to achieve national self-sufficiency in energy seems fully appropriate.

Following is a list of those programs, together with a suggested level of assured funding, which in my judgment could be expected to yield maximum results:

1. *Two billion* dollars annually for *Urban Mass Transit* programs. This sum would be in addition to, not in lieu of amounts already approved for funding out of General Revenues in the 1973 Highway bill. It could be divided appropriately between matching funds for capital investment in rail and bus systems and operating subsidies to make local public transportation service a more attractive alternative to the private automobile.

Two billion dollars a year for the entire nation should not be considered excessive when one contemplates that completion of the Washington subway system alone will probably come to some \$3 billion.

Let us face the fact that improved service in such systems cannot be economically sustained simply out of the fare box. City dwellers will voluntarily opt for public transportation only when service is good and fares are reasonable. With the possible exception of Montreal, there probably is no public transportation system in any large North

American city that is today paying its way from fares, and few if any in Europe. To increase fares would be counterproductive.

Public transportation *can* be self-sustaining, but only with greatly expanded ridership. In 1945, when there were 18.9 billion individual passenger fares paid, the nation's bus, trolley and subway systems returned a profit of 11c for every dollar in operating revenue. By 1971, with only 5.5 billion passenger fares, they were suffering an aggregate operating loss of 23c for each dollar taken in.

It may be recalled that earlier this year I opposed any large-scale raid on the Highway Trust Fund for the purpose of public transportation, while supporting funding out of General Revenues. My reasons was that there simply is not enough money in the Highway Trust Fund to serve both purposes adequately. Highways, too, are necessary in our efforts to conserve fuel and abate air pollution. Both fuel consumption and the emission of carbons are appreciably increased by the crowding of too many cars on outmoded and overly congested road surfaces, with frequent starts and stops and the idling of engines. Just as it is impossible to get two quarts of milk out of a one-quart bottle, to pretend to serve both purposes from the finite resources available to the one existing Trust Fund would be to shortchange both needs.

It is incontestably true, however, that maximum and efficient utilization of public transportation will conserve significant amounts of fuel. To this end, by helping to assure a continuing supply, public transportation can perform a service to motorists everywhere who *must* use private vehicles in the conduct of their daily activities.

To comprehend the potential savings, one needs only to recognize that transportation consumes 25 percent of the total energy used in this country, and petroleum accounts for 96 percent of that. One gallon of fuel in a double decker suburban train can produce 200 passenger miles of travel. In an automobile carrying only one person it will produce 20 passenger miles or less, depending upon the size and efficiency of the automobile. Based upon its predicted ridership, the Bay Area Rapid Transit System of Northern California—even when considering all energy requirements such as station lighting, control and traction systems—will be four times as energy efficient as the automobile it displaces.

2. *\$200 million* in annual matching grants to assist in the development of better and more efficient *inter-city commuter rail and bus systems*. Such systems have long provided a useful service in places like New Jersey and the Connecticut suburbs of New York City. Dependable service could convert daily automobile commuters to their use in other metropolitan areas.

3. *\$100 million* in grants, or as a replacement for revenue loss from a system of tax incentives, to expand the nation's industrial capacity *to produce buses* for local public transportation systems. One present bottleneck to the expansion of public mass transit is the limited number of firms now engaged in the production of buses and the finite limits of their existing production capacity. There are only some 50,000 buses currently in use in local systems, and a reported production capacity of only about 5,000 a year—most of which are used as replacements for older vehicles. If we are markedly to enlarge the utilization of public transportation, we obviously must find some means rather quickly to enlarge the capacity to produce the necessary vehicles.

4. *One billion dollars* annually to finance a crash Research and Development program, including a number of large demonstration plants, *to convert coal as a usable, efficient and clean replacement* for gasoline, fuel oil and other petroleum products. The nation has been piddling along for several years on a variety of processes funded at a niggardly level, some of which have been started up only to be stopped at half-way point when the funds ran out or the whims of policy changed. Even so, they have produced some modest results.

Coal *can* be converted to such uses. Its sulphur content *can* be drastically reduced. To develop the most economical and efficient means of achieving these ends will cost a great deal of money. But the basic research exists and the time for puttering around, on a low-budget operation has passed. Coal conversion is no longer simply a desirable end; today it is both imperative and urgent.

At our *present* rate of consumption—a rate that has been taking quantum jumps upward every year—total known domestic oil reserves, including the Alaskan strike, are sufficient to last us for only some 15 or 16 years. But we have enough coal to last us several hundred years. As with the Pharaoh's dream of the seven fat calves and the seven lean, we'd be the most foolish of nations to wait until the oil runs out before providing a ready replacement. One billion dollars a year over the next five or six years could make the vital difference.

5. *One billion dollars* a year for solar, nuclear and thermal energy research. The application of the funds as between these three separate programs should be sufficiently flexible to permit the nation to take useful advantage of an unexpected scientific break-through in any of these areas. Funds for nuclear power development should be concentrated upon developing the means to maximize safety, and should include the application of fusion.

But in my opinion the lion's share should be expended upon *solar* research and development. For the long run, it holds out the greatest promise. It seems only plausible to believe that solar energy is the ultimate answer to our problems.

Solar energy is abundant, inexhaustible and non-polluting. In an average day, enough energy falls upon the U.S. in the form of sunlight to supply our power needs for an entire year. And every day we delay the real beginning of a fully funded, top priority effort at solar energy conversion will prolong and ultimately magnify the problems we face.

6. *\$200 million* for research to develop better *recovery methods for oil shale*, including ways to minimize damages to surface land and landscape.

7. *\$100 million* annually for a conservation program to *rehabilitate, restore and beautify lands* pocked and ravaged by strip coal mining and possible oil shale operations.

8. *\$500 million* a year to support and if necessary to subsidize a national program of *guaranteed long-term low-interest loans* to individual homeowners and operators of small business establishments to finance *improved insulation* so as to preserve heat and reduce fuel consumption. The aggregate results of such a nationwide effort could be significant in the conservation of heating fuels.

9. *\$100 million* a year in matching grants to states to assist in *patrolling and enforcing* whatever uniform speed limits may be im-

posed to combat the fuel shortage. Available evidence impellingly suggests that dramatic savings in petroleum—as well as truly enormous safety benefits—can be realized by reducing automotive highway speeds. While a high degree of voluntary compliance will be necessary to achieve this goal, it must not be left entirely to voluntarism. Any such hope would be doomed to failure, for several reasons.

Human nature being what it is, a motorist cruising along faithfully at 50 mph will be disillusioned and totally discouraged from compliance if other automobiles are consistently passing him at much higher speeds, with no apparent restraint or retribution. Moreover, it is simply much harder to maintain a speed of 50 in a stream of traffic which is flowing at a pace of even five or ten miles per hour faster.

When circumstances are so austere as to require the imposition of a national speed limit, it should be uniformly enforced. A \$100 million matching fund for enforcement, dispersed on a road mileage or population formula, would provide \$2 million a year in additional revenue for the average state. This could be extremely useful in supplying the additional patrol cars, helicopters, radar and other speed control devices necessary to assure uniform enforcement and to reassure the good citizen-driver that the results of his patriotic compliance are not being cavalierly undone by others.

10. *\$350 million* a year as a replacement for revenues lost through a *system of incentives* (tax credits or intangible drilling costs) as an encouragement to *expanded domestic oil and gas exploration*. Historically, most of the petroleum discoveries in this country have been the work of independent oil operators, most of them relatively small companies and many of them "wildcatters"—guys with a rig and a rabbit foot, a smattering of geology and a lot of guts. The major integrated oil companies often develop the finds, but the original discovery usually has been the work of the independents.

Exploration has become increasingly costly and uneconomical and this is one reason why majors have left the bulk of it to the independents. Eight out of every nine exploratory wells are dry holes, and the number of exploratory crews in operation in the U.S. today is only a very small fraction of the number operating 20 years ago. As I conceive it, any such tax incentive should be designed expressly to encourage a renewal of the type of speculative exploration without which new discovery has been handicapped.

As will be seen in the next section of this paper, dealing with taxes to support the Energy Conservation and Development Trust Fund, in order to avoid either the reality or the appearance of a "windfall" to the oil and gas industry, I shall propose a *system of taxes* through which those engaged in the *most profitable end of the industry will replace the revenue loss* through severance and gathering taxes. In effect, the industry will be paying for its own incentives.

11. *\$350 million* a year for a fund to provide extended and improved *unemployment compensation for workers* displaced from their jobs by reason of the shortages and economic cutbacks induced by the energy crunch, and wherever appropriate extensive programs of *job retraining* so as to provide marketable skills in new types of work.

Obviously, so pervasive and severe an impact as the national energy crisis will inevitably displace workers through changing patterns of

industrial priorities and employment opportunities. If we are serious about "sharing the shortage" and sacrificing evenly, then we should be ready with effective plans to see that relatively mild social curtailment and economic sacrifice for most of us does not result in total economic and social disaster for a few of us.

TAXES TO SUPPORT THE TRUST FUND

Any such large undertaking as this paper suggests must, of course, be paid for. Let us acknowledge in candor that almost any system of taxes we may devise, however artfully contrived, will inevitably find a great bulk of their burden being passed on in one way or another to the ultimate consumers of the products taxed. Frankly, I know of no effective way to avoid this. At least, we owe the public the honesty of not pretending that it isn't so. Let us merely try to distribute the burden fairly.

Many of us in the Congress have strongly opposed the idea of a punitive tax deliberately designed to control consumption of gasoline by artificially raising its price to one dollar a gallon or some such figure. Such an approach would be grossly unfair since it would place its heaviest and most onerous burden upon those Americans of low and moderate income who *must* rely upon private automotive travel to perform their daily work.

It is necessary to recognize, however, that our nation for a long time has been the beneficiary of an Energy Subsidy of quite considerable proportions. One gallon of gasoline in our society today produces the work equivalent of 25 man/days—in other words, the output in efficient labor of 25 men working all day or of one man working for 25 days. Shorn of taxes, that gallon of gasoline costs us just a little more than 25¢—a penny for the equivalent of one man's daily labor. Never in the bleakest meridians of slavery was work performed so cheaply.

Compared with what consumers elsewhere must pay—particularly when taking into account their relatively more meager incomes—Americans have indeed been getting a bargain at the gasoline pump. What costs us now about 40¢ a gallon with all taxes absorbed is retailing in Italy for \$1.30 a gallon, in Japan for \$1.60, in West Germany for \$1.15 and in the average world retail market for 96¢.

So, while utterly rejecting the idea of a punitive or prohibitive tax, we do find abundant reason in equity for additional taxes on petroleum and other energy-related products where the proceeds of those taxes are dedicated to conserving the finite supply and developing replacements.

I propose, therefore, that the following taxes—or some variation of them calculated to produce the necessary revenues—be levied and dedicated to the Energy Conservation and Development Trust Fund:

1. An additional tax of 4¢ per gallon on gasoline. At our present national volume of sales, such a tax would produce approximately \$4 billion a year for energy conservation and development. To the same degree that our various efforts to curtail total gasoline consumption are effective, the proceeds of the tax would diminish.

A fall-off in revenues from this particular levy in future years would, therefore, be good news and proof that our other efforts were working. *If we should succeed in reducing total national consumption*

by 25 percent (an ambitious if not roseate assumption), a 4¢ per gallon tax still would yield \$3 billion annually for the Energy Trust Fund.

2. A manufacturer's excise tax on new automobiles, with the rate of taxation deliberately tilted to place its heaviest levies upon the largest, most luxurious vehicles which consume the greatest quantities of energy in their operation.

Small or energy-efficient cars of the medium range would be exempt. Perhaps an exemption should be written for any new automobile which clocks 20 miles per gallon or better over an extended run at 50 mph. A 5,000 pound automobile of the Cadillac or Lincoln class obviously would not qualify. Less energy-efficient cars could pay a tax proportioned to their fuel consumption.

A recent testing program by EPA, including 630 1973 vehicles, revealed for example that the heaviest car (5,500 lbs.) averaged 8.8 miles per gallon, while the smallest (2,000 lbs.) averaged 25.5 miles per gallon. These figures can be scaled downward by installation of such once-common devices as overdrive and substitution of standard for automatic transmissions. The smallest vehicles obviously are not suited for every American family or legitimate need, but it does make sense to require those whose cars gulp the greatest quantities of the irreplaceable national resource to pay something for that privilege into the fund for energy conservation and development.

It has been estimated that a manufacturer's excise tax, scaled from \$300 per car on the largest and least energy-efficient to perhaps \$50 per car on those that barely exceed the 20 mph. standard, would yield—based upon recent national patterns of production and sales—somewhere in the neighborhood of \$800 million annually for the Trust Fund. This amount, too, will gradually diminish as popular preferences develop for more energy-efficient vehicles. If so, so much the better.

3. A manufacturer's excise tax on pleasure boats. Enjoyable as a hobby and source of outdoor recreation, pleasure boating surely could not be called an essential undertaking. It seems only fair, therefore, that those who wish to consume vital sources of energy in its pursuit should be willing to pay something into the Energy Conservation and Development Fund for the privilege. As with the tax on new automobiles, I would suggest heavy taxes on boats of the yacht class, and a downward sliding scale on other large boats.

A \$300 tax on boats of more than 100 horsepower and a \$100 tax of boats of between 50 and 100 horsepower—exempting those of less than 50 horsepower—would yield some \$48 million a year, based on projected sales for 1974.

4. A sales tax on all large commercial and industrial users of electricity. Utility rates typically favor the largest users who get the benefit of quite considerably lower unit rates than are paid by the residential consumer. It seems only fair, therefore, that those who consume the most of our electrical energy supplies and pay the least per kilowatt/hour should bear a share of the cost of conserving and developing supplies for the future.

Ways and Means Committee sources indicate that a tax of 1/10 of a cent (one mill) per kilowatt—exempting users whose total individual consumption is less than 30,000 kilowatts (this I am told would exempt

all residential and small commercial users)—would yield some \$900 a year for the Trust Fund.

5. A tax on all *parking lots*, except for those with a capacity for fewer than 100 automobiles. The exception would exempt only the small parking lots operated as small businesses and those maintained by small enterprises for the benefit of their employees and customers. Chain commercial parking lots could not escape payment by dividing their operations into a number of small lots. All those under the same ownership would be counted for purposes of the tax as one enterprise.

The tax I contemplate would be *25¢ per stall per day*, certainly not a prohibitive figure. A commercial parking establishment with a capacity for 1,000 cars would pay \$250 a day. Assuming that this amount would be passed on, if we further assume only three cars accommodated daily for each space in the average downtown parking lot used by shoppers, it should add no more than 10¢ to the parking fee of the casual shopper. Perhaps 5¢ per hour.

For a person parking regularly at a given accommodation five days a week while he works nearby, it would predictably add \$1.25 to his weekly parking fee. I should think that in fairness the same ought to apply to large company parking lots used by employees and to public and Federal parking lots (yes, the Rayburn Building included) whose beneficiaries should be expected to pay just like everyone else.

Such a tax would yield an estimated \$490 million a year, based on preliminary estimates of the number of park-for-money spaces available in the United States, plus those parking spots made available by companies and governmental units for free use by employees. The computation does *not* include complimentary parking spaces provided by businesses as an accommodation to customers. These would not be taxed.

6. A *severance tax on oil* and a *gathering tax on natural gas* calculated to yield total revenues of \$350 million a year so as to compensate for the incentives extended to encourage exploration. Thus, as noted earlier, the industry would be paying for its own incentives. The exploiter would pay for the incentive extended to the explorer. In the long run, it would benefit him—even more directly than it benefits the entire nation—since it is the discovered supplies that he is selling, and since unless more domestic petroleum resources are discovered he may not have anything at all to sell within a few years.

The total estimated revenues from the taxes herein contemplated would appear to exceed—particularly in the early years—the earmarked annual expenditures from the Trust Fund. This is somewhat deliberate, as a hedge against possible miscalculations and the apparent likelihood of declining levels of revenue from certain of the sources, and to provide a margin for flexibility in altering the proposed taxation and expenditure schedules as further observation and new information may dictate.

The foregoing outline no doubt can be improved by refinements, moderations, enlargements and even substitutions. I make no claim, obviously, that it represents a final or infallible judgment as to each of its particulars. Some of my figures may be subject to successful challenge. They are merely the results of the best information available to me at the present time, and I believe them to be basically and in large part reliable.

My purpose in offering this initiative is not to say that it should necessarily be precisely this way in every detail, but rather to conceptualize what it is that I believe the Congress should and must be about doing in the very near future. I invite critical analysis and suggestions for improvement in the basic plan I've offered here.

Most of all, I invite my colleagues in the Congress to come to grips with these hard problems now, to face these hard decisions which in the interest of the national future should not be longer put off, and to synthesize among us a Congressional plan of action worthy of the world's greatest legislative body and of the nation it serves, worthy of those who sent us here—and of their children.

TO RECAPITULATE

An Energy Conservation and Development Trust Fund—

Dedicated to the following purposes:

Urban mass transit programs.....	\$2,000,000,000
Inter-city commuter systems.....	200,000,000
To expand bus production.....	100,000,000
R. & D. program for coal conversion.....	1,000,000,000
R. & D. program for solar, nuclear, thermal.....	1,000,000,000
Recovery methods for oil shale.....	200,000,000
Rehabilitation of stripped lands.....	100,000,000
Loans for insulation improvements.....	500,000,000
To States, speed enforcement program.....	100,000,000
Incentives for oil and gas exploration.....	350,000,000
Unemployment compensation, training—Displaced workers..	350,000,000

Total 5,900,000,000

With taxes from following sources:

4 cents per gallon on gasoline.....	¹ 4,000,000,000
Excise on new large automobiles.....	¹ 800,000,000
Excise on large pleasure boats.....	48,000,000
Electricity, large commercial, and independent users.....	900,000,000
Parking lots.....	490,000,000
Severance and gathering taxes, oil and gas.....	350,000,000

Total ¹6,588,000,000

¹ Estimated first year's yield based on present level of sales. These figures may decline somewhat in response to energy shortage.

JIM WRIGHT.

ADDITIONAL VIEWS OF HON. JOHN C. CULVER

I am glad to support this bill as amended, but I think it important for the Committee to set definite policy goals and to monitor their achievement through stringent oversight of the Administrator's performance in the annual authorization hearings provided for by Section 304.

Among the goals that I consider important are those identified in the Additional Views submitted by Representative Rosenthal, and I join his expression of those views. There are three further points that I believe the Administrator of the new ERDA must bear in mind.

First, it should be clear to him as it is to me that the authorizations in Sections 103(6) and 108(a) to participate in cooperative projects includes the pooling of information and efforts with foreign and international agencies. The energy crisis affects Europe and Japan far more severely than it does us; we should seek to develop technologies that can be of common use and assistance; and we should strive to avoid duplication and overlap as well as gain the benefits of their efforts.

Second, it is certainly essential that new and adequate emphasis be placed on the development of clean, renewable energy sources such as coal gasification, solar and geothermal energy, and nuclear fusion. The annual ERDA report and authorization requests should break down and justify the relative funding emphasis placed on each of these technologies in comparison with others.

Finally, the annual report should include in its account of R & D progress the best available current estimate of the end commercial costs of producing useable energy products by means of any given technology under active consideration or promotion. Judgements among priorities will have to be made and revised as we proceed, and energy costs will have to be taken prominently into account. Among other things, and despite the President's call for self-sufficiency, we cannot hope to insulate our energy-dependent industries—steel, petrochemicals, and others—from competitive world energy costs. This means that we cannot afford an R & D program that winds up isolating these essential industries from world markets.

The Administrator will bear important and difficult responsibilities, and I believe he should be given as much policy guidance as possible by this authorizing Committee.

JOHN CULVER.

October 11, 1974

Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

The Energy Research
and Development Administration (ERDA)

The President today has signed H.R. 11510, which establishes the Energy Research and Development Administration. This new executive agency will consolidate the Federal energy research and development efforts of four existing agencies, the Atomic Energy Commission, Interior Department, National Science Foundation, and the Environmental Protection Agency. ERDA will be the central energy research and development agency with broad charter to develop new and improved energy source and utilization technologies consistent with sound environmental and safety practices.

Such technologies will cover a broad range of energy sources including fossil, nuclear, solar, geothermal and advanced as well as conservation research and development. ERDA will provide a sound organizational framework and management and technical expertise to achieve the Nation's research and development goals in the energy area.

ERDA Responsibilities

ERDA will have a central role in the planning and management of the Administration's accelerated five-year, \$10 billion plus energy research and development program. Major responsibilities will include:

- exercising central responsibility for policy planning, coordination, support and management of research and development respecting all energy sources and utilization technologies.
- encouraging and conducting research, development and demonstration for extraction, conversion, storage transmission and utilization energy phases.
- engaging in and supporting environmental, biomedical, physical and safety research.
- participating in and supporting cooperative research and development projects.
- developing, collecting, distributing scientific information.

Agency Transfers to ERDA

The bill provides for the transfer of the following agency functions to ERDA:

- All of the functions, authorities and resources of the Atomic Energy Commission, except the AEC's licensing, regulatory and related environment and safety functions. Functions transferred to ERDA

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from AEC will include nuclear materials production, reactor development, military applications, physical research, biomedical and environmental research, controlled thermonuclear research, nonnuclear energy R&D and other nonregulatory functions.

- From Interior, the functions of the Office of Coal Research, six energy research centers of the Bureau of Mines, the synthane pilot plant for high BTU coal conversion at Bruceton, Pa., and underground power transmission research and development.
- From the National Science Foundation, programs for solar heating and cooling development and geothermal power development.
- From the Environmental Protection Agency, research, development and demonstration of alternative automotive power systems except those programs relating to assessment or monitoring for regulatory purposes.

Funding and Personnel

The energy R&D involved in the transfers to ERDA are estimated at:

	<u>FY 1975 Budget Request (millions)</u>	<u>Year end FY 75 Employment (Full time Permanent)</u>
Atomic Energy Commission:*		5,988
Civilian energy (mostly nuclear programs)	\$1,453	
Physical, biomedical and environ. research	554	
Program support (all categories)	<u>230</u>	
Total AEC	<u>\$2,237</u>	<u>5,988</u>
Interior:		
Office of Coal Research	283	222
Bureau of Mines (6 energy centers)	81	865
Underground power transmission, R&D	<u>8</u>	<u>19</u>
Total Interior	<u>\$ 372</u>	<u>1,106</u>
National Science Foundation:		
Solar energy development	25	8
Geothermal energy development	<u>12</u>	<u>5</u>
Total NSF	<u>\$ 37</u>	<u>13</u>
Environmental Protection Agency:		
Alternative Automotive Power Systems	<u>\$ 5</u>	<u>17</u>
GRAND TOTAL	<u>\$2,651</u>	<u>7,124</u>

*In addition the military development and production functions of AEC estimated at \$1,542 million will be transferred.

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The Administrator (Level II) will review alternative concepts and set program priorities among alternative technologies. The Deputy Administrator (Level III) will assist the Administrator in the conduct of the agency's business. The Assistant Administrator will sponsor their technologies in the process. The ERDA Administrator will be supported by a strong and independent staff at the headquarters level. A great deal of flexibility will be available to the Administrator to carry out needed R&D programs.

There will be six Assistant Administrators each responsible for a major program area as follows:

- Assistant Administrator for fossil energy - Responsible for developing new and improved technology for the production and utilization of fossil fuels including coal, oil, oil shale, gas, etc. Significant programs include coal liquefaction, coal gasification, oil shale transformation, control technology.
- Assistant Administrator for nuclear energy - Responsible for developing nuclear technologies including fission and fusion. Major programs include reactor research and development, naval reactors, reactor safety research, thermonuclear fusion research.
- Assistant Administrator for environment and safety - Responsible for environmental and safety oversight for all technology developed by ERDA. Major programs include biomedical and environmental research, waste management, transportation, operational safety programs.
- Assistant Administrator for conservation - Responsible for conservation R&D programs including automotive power systems, end-use consumption technologies, and improving energy efficiency.
- Assistant Administrator for solar, geothermal and advanced energy systems - Responsible for developing energy source and utilization technologies including solar, geothermal, conducting physical research, and advanced energy conversion concepts.
- Assistant Administrator for national security - Responsible for nuclear weapons research, development and production including the production of weapons materials and the testing, manufacture, and reliability assessment of weapon components and systems.

Energy Resources Council

The bill provides for establishment of an interagency Energy Resources Council in the Executive Office of the President to insure communication and coordination among the Federal agencies that have responsibilities for the development and implementation of energy policy. Members of the Council identified in the bill include:

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Secretary of the Interior
 Secretary of State
 Administrator, Federal Energy Administration
 Administrator, Energy Research and Development
 Administration
 Director, Office of Management and Budget

The Energy Resources Council is entirely consistent with the approach of the National Energy Board referred to in the President's Economic Message. Therefore, an Executive Order is being issued simultaneous with President's approval of this bill immediately activating the Energy Resources Council with the following members, in addition to those listed in the bill:

Assistant to the President for Economic Affairs
 Secretary of the Treasury
 Secretary of Defense
 Attorney General
 Secretary of Commerce
 Secretary of Transportation
 Chairman, Atomic Energy Commission
 Chairman, Council of Economic Advisers
 Administrator, Environmental Protection Agency
 Chairman, Council on Environmental Quality
 Director, National Science Foundation
 Executive Director, Domestic Council

In addition, the President is authorized to designate other officials of the Federal Government as members of the Council. Also, the President is designating the Secretary of the Interior, Rogers C. B. Morton, as Chairman, as indicated in his Economic Message.

Nuclear Regulatory Commission (NRC)

The current Atomic Energy Commission will be abolished and a new five-member Commission will be established with responsibility for the licensing, regulatory and related functions of the AEC.

The Nuclear Regulatory Commission will be organized into three offices reporting through an Executive Director of Operations:

- Office of Nuclear Reactor Regulation will have the principal licensing and related regulatory responsibilities for the construction and operation of commercial nuclear reactors.
- Office of Nuclear Material Safety and Safeguards will have the principal licensing and related regulatory responsibility for all other nuclear facilities and over-all nuclear materials including its processing, handling and transportation.

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- Office of Nuclear Regulatory Research will be responsible for conducting research in the form of a confirmatory assessment of technology relating to reactor safety, safeguards, and environmental protection in support of the licensing and regulatory process.

The bulk of the new Commission's resources will come from the regulatory side of the AEC with part of the Division of Reactor Safety also being transferred to form the nucleus of the Office of Regulatory Research. Anticipated resources for the Commission in FY 75 include approximately \$140 million in obligations and 1,900 full-time permanent employees. It is also expected that ERDA and other Federal agencies would be available to perform research-related work in support of NRC on a reimbursable basis.

The establishment of this new independent regulatory commission will maximize regulatory objectivity and impartiality, thereby increasing public confidence in nuclear regulations. NRC will enhance the orderly development of the nuclear industry and at the same time assure protection of the public health and safety in civilian nuclear activities.

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FOR IMMEDIATE RELEASE

OCTOBER 11, 1974

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE

PRESS CONFERENCE

OF

FRANK ZARB

ASSOCIATE DIRECTOR OF OMB FOR NATURAL RESOURCES,
AGRICULTURE, ENERGY AND SCIENCE

DIXIE LEE RAY

CHAIRMAN OF THE ATOMIC ENERGY COMMISSION

JACK CARLSON

ASSISTANT SECRETARY FOR ENERGY AND MATERIALS
DEPARTMENT OF THE INTERIOR

THE BRIEFING ROOM

4:03 P.M. EDT

MR. ROBERTS: As you know, the President just signed H.R. 11510. This is the legislation which establishes the Energy Research and Development Administration and the Nuclear Regulatory Commission.

I think you have been handed a fact sheet and copies of a Presidential statement and Executive Order and some organizational charts which go into detail on this legislation.

We also have with us this afternoon three people who are here to give you a summary of the bill and then are prepared to answer questions on it.

With us are Frank Zarb, at your right, Associate Director of OMB for Natural Resources, Agriculture, Energy and Science; Dixie Lee Ray, the Chairman of the Atomic Energy Commission; and Jack Carlson, on my far right, the Assistant Secretary for Energy and Minerals at the Interior Department.

We will let Mr. Zarb start the briefing.

MR. ZARB: Thank you very much.

I think you all have copies of the organization charts and the fact sheets which were prepared for you. There is no point in my going through all the detail that you can read. Just a few quick points.

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The bill provides three institutions. One is the ERDA institution, the other is the regulatory body, and finally, a council which is an interagency group, and written similar to the group which was discussed by the President in his talk before the Congress.

That forms the interagency organization with the Secretary of Interior, with Secretary Morton as its chairman.

The ERDA organization and the regulatory organization are to be implemented within 120 days. There is some likelihood that we will be in a position to improve upon that time, the critical path having everything and people in place to get it going and insuring an orderly transition.

And awful lot of work needs to be done. An awful lot of work went into the building of this legislation by the Congress and by a number of people in the Executive Branch. A big job lies ahead, and this represents the Government's step in this direction, recognizing all along a lion's share of the R and D state of the art improvement is going to occur in the private sector.

I think that is enough in opening comments. Why don't we get right to your questions.

Q Frank, are there any prospects for the top executive post at ERDA at the present time?

MR. ZARB: I guess the answer to your question is yes. Is there a list of candidates that has been examined and has that process begun? It began some 45 days ago and is progressing toward decision, which I hope will be done shortly.

Q You have no appointments? There are no names of any individuals?

MR. ZARB: No appointments to announce today.

Q What should become of the Commissioners?

MR. ZARB: The bill abolishes the AEC and provides for all incumbent Commissioners who are to be renominated to go through the confirmation system again, and all subsequent Commissioners to go through the confirmation system, too.

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It also provides a variation which may be of interest.

If the incumbents are reappointed, this provision does not operate, but for all other appointments, the bill provides that the commission shall be made up of five with no more than three from one party, similar to the arrangement that occurs in SEC and similar type commissions.

Q It is contemplated the Commissioners will become members of the regulatory body and will stay on in that capacity?

MR. ZARB: Don't read anything into this that is not there. We just have not gotten to that. We all worked very hard. The chairman and all of the Commissioners worked very hard to get this bill in its current form, and the last two or three weeks have been very hectic. We have not gotten to that point.

Q When you are speaking of incumbents, you are speaking of AEC incumbents, and will they now become incumbents in the regulatory commission, or what?

MR. ZARB: They could be reappointed, and if they are reappointed, they do not fall within the formula that is stipulated by the bill.

Q Why is this all a good and necessary thing?

MR. ZARB: I guess it gets down to what the President tried to focus on in his speech when he talked about the overall energy question -- an issue of leadership and strength of leadership.

We have energy research and development being conducted in a number of Federal organizations. The fact sheet spells out the major organizations and the dollars and people which will come over to ERDA. It is awfully difficult to run a comprehensive program that is committed to a preselected goal and achieve a preselected timetable unless you have a single leadership that is driving all of the forces that can make a contribution.

So if I had to look for one word for benefits, I would say good, strong leadership.

Q Could you say in round numbers how much it would probably cost to run this organization compared to the cost of running the AEC annually?

MR. ZARB: In the fact sheet on page 2 you will see the budget dollars which are transferred from existing organizations to ERDA. You will see that the total budget is \$2.6 billion. The total strength is 7,124 at the moment. It is contemplated there will be an addition of net strength after the combinations are completed.

Q What failings were apparent in the old system; in other words, what were you most concerned about changing for the better?

MR. ZARB: I guess I will search for one more word in addition to leadership and call it balance. The energy issue, getting into a whole new realm here in the last year, made it clear that certain areas of energy have not been developed as fast as perhaps they could have.

Part of that was because the environment was different, inasmuch as the oil question was not as severe as we experienced it in the last year or so, the balance to fossil fuel as well as continuation of our advanced nuclear program, the need to carry forward at an appropriate rate solar and geothermal, the advanced gasification, coal liquifaction, all within one balanced program so that the Government could have a coordinated R and D program that will be part of the total energy program that the President described the other day, which Secretary Morton will take the leadership for.

Q Can you say one thing that you think was being especially not pursued as it should have been before, that you hope will get better attention now?

MR. ZARB: The logical answer to that question would be fossil fuel and other forms of energy development, but that would imply that those have been handled poorly up to now. What I am really trying to talk to is the question of mix.

You cannot drive an energy R and D program unless you are looking at all the parts, and you assemble them in their perspective within that total plan, so this gives us a balance, or if you prefer, a mix, which leads to a predetermined conclusion.

Q We have had seven or eight energy czars in the last year and one-half. Is Mr. Morton the energy czar, and if so, how is his position different from his predecessors?

MR. ZARB: Next question. (Laughter) I am only kidding.

I don't think there is an energy czar in that particular term. The Secretary of Interior is the boss and he is in charge of driving a total program. I know his philosophy. I discussed it with him, and it is clear. He believes that there are a number of agencies of Government that have an important role to play

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to achieve a total objective in energy or an accumulated objective in energy. He believes clearly in using the total resources of each of those agencies.

ERDA will be one of those agencies. The FEA is another. Interior brings other things to it, as does the Department of Transportation, as does EPA. So, while he will be in charge--an insurance that we have a coordinated plan and that we drive to a successful conclusion--I think the word czar is not a correct word.

Q I would like to ask Miss Ray how it feels to have a \$1 billion Federal agency just disappear from under you?

MISS RAY: It's \$4 billion, sir. I don't think it is easy to say how it feels because we are not actually having an agency disappear so much as having the responsibilities of the AEC melded into--merged into--a much broader agency which will direct itself toward the resolution of all manner of problems in research and development of energy across the board, of which nuclear energy will be one part.

When you asked me the question, as you did, how does it feel to have your job terminated, I got one of the pens that helped to sign the name that wrote the end to my job. And there are a lot of other positions that will go out of existence, as there will be others coming in to existence to make the transition from one agency to another.

I have to say that although from the standpoint of organization of R and D -- and I think the Congress particularly has been asking these questions for many months: "Who is in charge here with respect to the research and development part of energy?" This bill answers that question and we support it.

It does give a coherent, coordinated mechanism for the application of the Federal Government's ability to tap expertise and so on in all kinds of energy research.

Let me just mention briefly that the sorts of problems that need to be solved to resolve questions on synthetic gas from coal, for example--which is an important thing for the future, whatever the fuel may be--the kind of scientific and engineering talent in the sort of basic problems that need to be resolved are much the same regardless of the sort of fuel and that the people whose genius brought nuclear energy to a state of understanding, their expertise can be as well applied to similar problems of solar energy and so on.

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So, there is a lot to be said for it that way, but I would be quite wrong not to say that there is a certain sadness in seeing an agency go out of existence. My own personal philosophy is that every Federal agency should have a built-in self-destruct after a certain number of years.

The AEC has been a remarkable agency. It came into existence 27 years ago under very special circumstances and although there are people who wish there were no such thing as nuclear energy, nevertheless the agency has done its job very well.

It is full of talented people, and these people will now have an opportunity to broaden their horizons and put their talents in other things, too, and I think that is a good thing.

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Q Miss Ray, what role do you envision for yourself in the Government from here on?

MISS RAY: I have not had much time to concentrate on that. We have been working real hard trying to get this legislation passed, and as Mr. Zarb has indicated, there has been a great deal of work going into making plans for the transition, and we have been involved in that and so have people in others parts of the Executive Branch. So that our attention has been focused on getting things in place to make the transition work and to build the very best R and D as well as independent regulatory agency as possible.

When it comes to my own future, I can just say I am not a career public official. I accepted a position on the Commission to come out of the university, out of my own professional career, to accept that particular responsibility. And now that has been reorganized.

And so far as the future is concerned, I expect to take a little time to think about it and if the President has a job he would like me to do, I am certainly ready and willing to serve in any capacity in which my peculiar talents might be used.

Q How do the environmentalists, the private outside environmentalists, feel about this kind of reorganization? Did they take a position?

MISS RAY: I have not had any particular information about that.

MR. ZARB: If you look at the ERDA organization, you will see a fairly prominent presence of the environment in the organization. They have had an impact in this process.

Q That is the Government environmentalists?

MR. ZARB: Yes.

Q I am asking about the private.

MR. ZARB: What I am trying to say to you is that the private environmentalists have urged us to be sure that environment, as a presence, was located within this organization so that we could focus on not only a balanced energy picture but a balance between environment and energy. So all the information I have had thus far has been positive on that ground.

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Q Mr. Zarb, if there is a Cabinet-level energy office, will ERDA survive intact in that or will it be assimilated into that organization?

MR. ZARB: Are you talking about a DENR?

Q Yes.

MR. ZARB: That judgment has not been made. It is a big issue and what would go into a DENR, how many of these pieces, still has to be done. I expect that is something we will be looking at right after the first of the year.

Q Is ERDA the agency that will be jawboning with the auto industry on improving mileage?

MR. ZARB: I expect the ERDA organization will participate in that activity although I expect that jawboning will occur a lot earlier than ERDA is actually in place. So Secretary Morton, working with John Sawhill, will be pretty much directing that activity, and Transportation.

Q What is the exact relationship between ERDA and FEA?

MR. ZARB: They will both be sister organizations on the same line, technically reporting to the President and participating on the interagency group that I mentioned earlier with the Secretary of Interior as chairman.

Q What is the status of the \$10 billion for the program? Is it authorized, appropriated, or what?

MR. ZARB: Yes, authorized, appropriated, and in the '75 budget, and it is in those numbers I gave you a short while ago.

Q Dr. Ray talked about the existing --

MR. ZARB: Correction. \$2 billion of the \$10 -- the \$10 was over five years. The first year's money has been appropriated.

Q Dr. Ray talked about existing personnel just simply moving into new areas. It seems to me your previous answer to one of my questions acknowledged the fact there has been criticism of lack of flexibility in agencies like AEC that have a specific thrust. Are we simply moving people who have pre-conceptions, or are you taking pains to see to it that you get this new broad look so that previously-ignored energy sources get attention?

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MR. ZARB: First, I would like to correct the first part of either my statement or yours. I did not mean to imply that we had people in places of energy that were inflexible and that is what we were correcting. I did mean to suggest that the organization and its format did not provide for that kind of flexibility and the better people -- and we have an awful lot of them -- the better people in the total complex of things are going to become part of the new organization.

That will be the decision of the new leadership of these agencies, but I am sure that a very large part of the very good people we have at AEC, Department of Interior, at EPA, are going to come over and take jobs of responsibility in the new organization.

Q Have you decided where the two new agencies are going to be physically located?

MR. ZARB: No, we have several options which we have staffed up in the last 60 days and I think we are very close to a decision on this point.

Q Will this have any impact at all on the proposed development of nuclear plants for Egypt and Israel?

MR. ZARB: No impact that I can perceive.

Q Will this organization be involved in that at all?

MR. ZARB: I would expect, it being a leader in nuclear research, it will have a big role to play insofar as a research organization will participate in that activity. But this won't change any flexibility that was pre-set.

Q Is everything you are telling us dictated by the law or are you doing something today other than triggering this law?

MR. ZARB: Well, it is spelled out by the law. The President is going to sign an Executive Order which will put in place the interagency committee that is described in your fact sheet. It is the same one he described in his speech before the Joint Congress.

Q Was this bipartisan in the Congress?

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MR. ZARB: It was certainly bipartisan in the Congress. The chairmen of the two committees that made this happen in the final analysis -- Chairman Chet Holifield, who, as you know, is retiring, and has been a terrific friend to nuclear energy but a great friend to advanced R and D, he made it happen on the House side with his committee Members -- and Senator Ribicoff on the Senate side was in charge of the Senate side of the committee.

We had two bills which were substantially apart at the beginning of the conference, and those two gentlemen worked awfully hard to see that we finally wound up with a bill.

Q Was he here today?

MR. ZARB: Yes, sir.

Q There is no provision for Mr. Morton to be confirmed by the Congress in this post?

MR. ZARB: He has already been confirmed as Secretary of Interior. No, there is no double confirmation requirement.

Q Can I follow up on that? You were asked about environmental lists before. Although they may have supported the earlier reorganization, they seemed to be pretty well lined up against the appointment of Mr. Morton in the Energy Resources Council. Do you have any comment about that?

MR. ZARB: No. That is an area I just don't know anything about, so there is no point in my commenting.

Yes, sir.

Q I would like to ask Dr. Ray if she feels that the breeder program will proceed as well under ERDA as it might have at the AEC?

MISS RAY: Under the ERDA organization there will be five major branches. One of those will be for nuclear energy. I would anticipate that the people involved there will pursue all the programs, with all the vigor and justification they can muster. That certainly does include, of course, the breeder program.

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It is one which is underway, and like all other programs, under constant reevaluation to make sure the justifications are there and that the program is moving ahead in the proper prudent sort of way.

Q Dr. Ray, do you expect coal gasification or liquification or any other particular programs to get a firm cushion in the area?

MISS RAY: Of course. Yes, indeed. There will be a whole division for fossil fuel development, and these programs which need a considerable amount of energy development, and in some cases even more basic research to make the processes more efficient, will be pursued, I am sure very vigorously.

Q More vigorously than are now being pursued?

MISS RAY: The new organization will give focus and highlight to that, and there will be a mechanism for the working out of the programs, the drawing of the budgets, and the responsibility for seeing to it that it is done and a requirement to report to the Congress and make sure that it is done whether done in-house, existing laboratories, or whether done through contracts or other arrangements with private industry or the private sector somewhere.

MR. ZARB: To clarify one point, we do have a half billion dollars in those general programs now. Let me tell you it is a small part of the total inasmuch as the private sector has a lot more money riding on those particular programs.

On the environmental issue, someone reminded me that the separation of the regulators from the researchers has been something that the environmental community has discussed very frequently in the past, and this provides that.

MR. ROBERTS: We are running into a time problem in relation to Mrs. Ford's return. So thank you, thank you ladies and gentlemen very much.

END

(4:27 P.M. EDT)

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE

REMARKS OF THE PRESIDENT
AT THE
SIGNING OF H.R. 11510

THE CABINET ROOM

3:50 P.M. EDT

Before signing, I want to thank all the Members of Congress who are here. I can recall rather vividly when this recommendation came to the Congress, and I am especially pleased that I have an opportunity to sign the legislation which establishes ERDA.

I think it is a tremendous step forward. It is really the result of hard work by the Congress, and I think good recommendations by the Administration.

Now we are going to turn over to Rog, Rog Morton here, the overall responsibility to make sure that this, as well as the other parts of the energy program for this Government, proceeds as fast and as effectively and as efficiently as possible.

So, it is a particular pleasure for me to sign a rather short name with 11 pens, but I will do my best. (Laughter) I found that there was another left-handed President, President Garfield. We will get a couple more and see that those are properly passed out.

Thanks for coming down. I apologize for being late, but we had the President of Somalia, on his first visit, in the Oval Office, and we had a very interesting conversation. I just could not break away.

So, thank you for waiting and good luck to you, and I hope you all have a good vacation between now and November 11.

END (3:53 P.M. EDT)

OCTOBER 11, 1974

Office of the White House Press Secretary

THE WHITE HOUSE

EXECUTIVE ORDER

- - - - -
ACTIVATION OF THE ENERGY RESOURCES COUNCIL

In my address to the Congress on October 8, 1974, I expressed my intention to create a new National Energy Board, under the chairmanship of the Secretary of the Interior, to develop, coordinate, and assure the implementation of Federal energy policy. Subsequent to my delivery of that address, the Congress completed action on the Energy Reorganization Act of 1974 which I have just approved into law. Section 108 of that act creates in the Executive Office of the President a new Energy Resources Council which would be charged with performing functions that are essentially the same as those I had intended to assign to the National Energy Board. Consequently, I have determined that it would serve no useful purpose to create that Board. Instead, I am now exercising the authority vested in me by section 108 of the Energy Reorganization Act of 1974, to activate immediately the Energy Resources Council, to designate the Secretary of the Interior as its Chairman, and to designate additional officials as members thereof.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States of America by the Constitution and laws of the United States, particularly section 108 of the Energy Reorganization Act of 1974, and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

Section 1. Section 108 of the Energy Reorganization Act of 1974 shall be effective as of the date of this order and the Energy Resources Council shall be deemed to have been activated as of that date.

Sec. 2. The Council shall consist of the Secretary of the Interior, who shall be its Chairman, the Assistant to the President for Economic Affairs, the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of Commerce, the Secretary of Transportation, the Chairman of the Atomic Energy Commission, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Administrator of the Federal Energy Administration, the Administrator of the Energy Research and Development Administration (upon entry into office), the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, the Director of the National Science Foundation, the Executive Director of the Domestic Council, and such other members as the President may, from time to time, designate.

Sec. 3. The Energy Resources Council shall perform such functions as are assigned to it by section 108 of the Energy Reorganization Act of 1974, shall develop a single

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national energy policy and program, and shall perform such other functions as may be assigned to it, from time to time, by the President.

Sec. 4. All departments and agencies shall cooperate with the Council and shall, to the extent permitted by law, provide it with such assistance and information as the Chairman of the Council may request.

Sec. 5. The Committee on Energy, the establishment of which was announced on June 14, 1974, is hereby abolished.

Sec. 6. The Council shall terminate in accordance with the provisions of section 108 of the Energy Reorganization Act of 1974.

GERALD R. FORD

THE WHITE HOUSE,
October 11, 1974

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The Energy Research and Development Administration is being given a broad range of challenging and important research missions:

1. It will continue the research of the present Atomic Energy Commission in nuclear fusion and fission, working with American industry to design, develop and demonstrate increasingly more effective nuclear power systems to meet our growing electric power needs -- and to see to it that these systems are completely safe in operation, economically feasible, and environmentally clean.

2. It will continue to expand fossil fuels research programs which the Department of the Interior initiated to capitalize on our immense national reserves of coal and oil shale, with emphasis on advancing the technology for the clean use of coal, including gasification and liquefaction.

3. It will continue to serve our national security needs by carrying on AEC's responsibility for the design, development and fabrication of weapons systems for the Department of Defense.

4. It will maintain our nuclear materials production capability which serves both military and civilian needs, including international commitments for supplying nuclear reactor fuel.

5. It will give us greatly strengthened Government scientific and engineering capability to expand and upgrade our research into making use of new and potentially important forms of energy such as solar and geothermal sources.

6. It will move immediately into a substantial new effort in energy conservation research and development, including the utilization of the best scientific and engineering talent to find new ways to make our factories, our automobiles, our buildings and our appliances more energy efficient and economical.

7. It will additionally continue and expand a program of environmental control technology and assessment of environmental and health effects of energy technologies.

8. It will continue strong basic research programs in such areas as physics, environmental and biological sciences and extend these scientific capabilities to support all energy areas -- not just nuclear energy.

ERDA must and will become a lot more than the sum of its present parts. What is envisioned is nothing less than a complete energy research and development organization. It will be one which will fill in the gaps in our present research efforts and provide a balanced national research program. It will give proper emphasis to each energy source according to its potential and its readiness for practical use. It will closely integrate our energy research and development efforts with overall national energy policy.

In addition to creating ERDA, H.R. 11510 also creates a new Nuclear Regulatory Commission (NRC) which will assume the licensing and regulatory responsibilities previously carried out under the Director of Regulation within the Atomic Energy Commission. The highly technical nature of

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our nuclear facilities and the special potential hazards which are involved in the use of nuclear fuels fully warrant the creation of an independent and technically competent regulatory agency to assure adequate protection of public health and safety.

NRC will be responsible for the licensing and regulation of the nuclear industry under the provisions of the Atomic Energy Act. This means that NRC will be fully empowered to see to it that reactors using nuclear materials will be properly and safely designed, constructed and operated to guarantee against hazards to the public from leakage or accident. NRC will also exercise strengthened authority to assure that the public is fully safeguarded from hazards arising from the storage, handling and transportation of nuclear materials being used in power reactors, hospitals, research laboratories or for any other purpose.

With the creation of ERDA and NRC, the Federal Government has acted in a timely way to participate in the national effort to meet our future energy research and development needs. This action has been feasible through the very best kind of cooperation between the Congress and the Executive Branch. I want especially to express my appreciation and gratitude to those members of both Houses, who, by their leadership, brought this legislation to reality.

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October 11, 1974

Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

The Energy Research
and Development Administration (ERDA)

The President today has signed H.R. 11510, which establishes the Energy Research and Development Administration. This new executive agency will consolidate the Federal energy research and development efforts of four existing agencies, the Atomic Energy Commission, Interior Department, National Science Foundation, and the Environmental Protection Agency. ERDA will be the central energy research and development agency with broad charter to develop new and improved energy source and utilization technologies consistent with sound environmental and safety practices.

Such technologies will cover a broad range of energy sources including fossil, nuclear, solar, geothermal and advanced as well as conservation research and development. ERDA will provide a sound organizational framework and management and technical expertise to achieve the Nation's research and development goals in the energy area.

ERDA Responsibilities

ERDA will have a central role in the planning and management of the Administration's accelerated five-year, \$10 billion plus energy research and development program. Major responsibilities will include:

- exercising central responsibility for policy planning, coordination, support and management of research and development respecting all energy sources and utilization technologies.
- encouraging and conducting research, development and demonstration for extraction, conversion, storage transmission and utilization energy phases.
- engaging in and supporting environmental, biomedical, physical and safety research.
- participating in and supporting cooperative research and development projects.
- developing, collecting, distributing scientific information.

Agency Transfers to ERDA

The bill provides for the transfer of the following agency functions to ERDA:

- All of the functions, authorities and resources of the Atomic Energy Commission, except the AEC's licensing, regulatory and related environment and safety functions. Functions transferred to ERDA

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Office of the White House Press Secretary

THE WHITE HOUSEStatement by the President on Signing the
Energy Reorganization Act of 1974

It is my privilege today to sign into law a bill which takes a big step forward in this Nation's program to face up to and solve its crucial energy needs for the future.

H.R. 11510 abolishes the present Atomic Energy Commission and establishes three new Federal entities:

1. The Energy Research and Development Administration (ERDA) which, for the first time, will bring together into one agency major Federal programs of research and development for all forms of energy and will organize these programs for cooperation with industry, academic institutions and other organizations in the nation's rapidly expanding energy research and development effort.

2. The Energy Resources Council composed of the Secretaries of State and Interior, the Administrators of ERDA and the Federal Energy Administration, the Director of the Office of Management and Budget, and other members as I may designate. I am pleased that the Congress acted consistent with my suggestion for an interagency council, which I had announced in my Economic Message October 8. It is, therefore, my pleasure to name the Secretary of the Interior to chair this Council and I am today issuing an Executive Order to assure prompt action.

3. The Nuclear Regulatory Commission (NRC) which will take over the licensing and regulation responsibilities previously performed by the Atomic Energy Commission.

My Administration is already committed to a greatly accelerated five-year program of over ten billion dollars for energy research and development. ERDA gives us the unified, high quality scientific, technical and management organization to achieve the greatest benefit from this investment of public funds. By combining the research and development capabilities of AEC with the fossil fuels research capability of the Interior Department, and with energy research skills from EPA and the National Science Foundation, we are bringing together in ERDA the best of our government skills in energy research and development.

From these agencies, we will be drawing upon a highly respected team of scientists, engineers, and program managers, capable of making immediate contributions to research on all forms of energy. Bringing together these skills, using AEC as its base, represents the quickest way in which the Federal Government can work with industry and others in mobilizing the talents, facilities and skills needed to undertake the major expansion and extension of the nation's energy research and development programs.

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October 11, 1974

Dear Mr. Director:

The following bills were received at the White House on October 11th:

H.J. Res. 898 ✓	H.R. 11510
H.R. 3903	H.R. 13113
H.R. 9075	H.R. 13261

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C.