ENERGY AND THE 97TH CONGRESS: OVERVIEW

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ISSUE DEFINITION

During his campaign, President Reagan called for a major shift in this country's energy policy. In particular, the President emphasized the need for more domestic production of energy and reliance on market forces to produce and distribute energy products. Now in office, the new Administration is employing executive, administrative, and legislative methods to implement these changes. A major vehicle for change has been the budget.

What are the major initiatives of the Administration? Are they significant departures from previous Administraitons? How is the Congress responding to these initiatives?

BACKGROUND AND POLICY ANALYSIS

INTRODUCTION

The Administration has forecast departures from the energy policies articulated by the Carter Administration. But the departures promise to be a return to earlier principles -- a diminished role for the Federal Government in energy decision-making. For the most part, the new Administration has practiced its energy philosophy during its first days by decontrolling crude oil and gasoline, and by projecting sharp reductions in spending or support for energy programs in FY82 that were created or expanded under the Carter Administration.

The decision to decontrol oil and gasoline appeared to have a substantial philosophical component. The spending cuts may reflect the Reagan Administration's strong purpose to reduce Federal spending in response to economic conditions, but it is likely that reductions for many programs may be driven by a broader philosophical commitment to reinvigorate the private sector and diminish governmental functions. It may be difficult to distinguish the dynamics each will bring to individual policy decisions. Nor will it necessarily be important to make the distinction. The Administration's energy policy complements its fiscal policy -- which suggests that massive Federal spending interferes with the operation of markets and the private sector and contributes to inflation.

The "harsh reality," as described by President Carter, of Americans having to use less energy and pay more for it contrasts sharply with the energy vision of the new Administration, which sees an America with vast energy resources ready to be exploited by a dynamic and imaginative economic system, if only the Government will get out of the way. As stated by President Reagan in his acceptance speech at the Republican convention, America:

must get to work producing more energy. . . . Large amounts of oil and natural gas lie beneath our land and off our shores. . . . Coal offers great potential. So does nuclear energy produced under rigorous safety standards. It must not be thwarted by a tiny minority opposed to economic growth which often finds friendly ears in regulatory agencies for its obstructionist

campaigns.

In a sense, this philosophy is a return to the "old-time religion" that characterized energy policy before 1973. It is based on three main tenets:

* The country has the energy resource base for growth in the Nation's energy supply and that growth can be managed in an environmentally acceptable manner.

* Market economics and the private sector are the quickest and most efficient means of exploiting the resource.

* The Government's role in energy policy is supplemental: providing long-term research and development, opening Federal lands for exploitation by the private sector, and promulgating only those cost-effective regulations that are necessary.

In contrast to the previous Administration, which considered conservation the cornerstone of its energy policy, the Reagan Administration believes conservation is insufficient to assure economic growth: more incentives for increased production of energy are required. In the near term, the Administration believes that conventional fuels can add more to energy supplies than other sources at less cost and at acceptable environmental risk. The incentive for increased energy production is to be in a free market system and unobtrusive government incentives such as tax credits, in preference to direct subsidies. Such a system is expected to allow the marketplace to sort out the cheapest and most efficient alternatives. This, the Administration believes, will generate maximum economic efficiency and ensure that the country's limited capital resources are invested in the most cost-effective manner.

Such an economic philosophy dictates a reduced role for government in energy policy. By de-emphasizing public policymaking for energy, the Administration hopes to correct distortions in the market caused by previous Federal actions, and to promote economic growth. The new Federal role is to supplement action undertaken independently by individuals and institutions by: (1) providing long-term research and development, (2) providing access to public lands for energy exploration, and (3) reviewing and assessing regulations to determine that they are cost-effective and not unnecessarily burdensome. Other energy activities, such as commercialization of new technologies, would be left to private industry and the marketplace.

The Reagan Administration's approach to implementing this "free market" philosophy is threefold: (1) deregulate, (2) decentralize, and (3) decrease direct government subsidies. Some efforts to alter the State-Federal relationship in energy policy and to cut government subsidies to various energy technologies will require congressional action. Some issues may therefore test the pervasiveness of the Administration's philosophy within the Congress. Needless to say, there is large-scale opposition to the Reagan theories and programs on both philosophical and economic grounds.

The primary vehicle the Reagan Administration is employing to implement its energy policy is the budget and some executive actions. The primary

focus of Congress during 1982 has been the President's budget request. A discussion of the proposed FY83 budget, along with other recent legislative and executive actions, is discussed below.

OIL

Within days of its accession to power, the Reagan Administration, meeting the promise of its frequent campaign vow to reduce Federal energy regulation, exempted gasoline and crude oil from price and allocation controls effective Jan. 28, 1981. The Energy Policy and Conservation Act (P.L. 94-163, EPCA), enacted in December 1975, had provided for eventual decontrol. Rather than exempt the products remaining under control, President Carter had opted to phase out controls beginning in May 1979 as a means of cushioning consumers from the price shock of an oil decontrol action.

Presidents Ford and Carter had the statutory option to lift controls, although the Congress might have passed enactments -- it still could -- to impose or lift controls at any time. The decision to decontrol in January, then, was certainly in keeping with the times, anticipating as it did a scheduled event by 8 months. The decontrol action was also in keeping with the new Administration's economic and political philosophy that market economics are the quickest and surest means to promote supply and govern demand. Despite the uproar over the effect of decontrol on gasoline price, the decontrol decision was more symbolic than substantive. Evidence suggests that the sharp increase in gasoline prices during February 1981 were attributable more to pass-throughs of foreign crude cost increases than to decontrol. However, the timing of these pass-throughs appears to have reflected badly upon the Administration and to have masked the fact that, while the decontrol decision expressed the philosophy of the Administration, it apparently affected the short-term price path of gasoline marginally.

The petroleum research and development budget within DOE includes programs for enhanced oil recovery, development of oil shale resources, drilling and offshore technology, and advanced process technology. In its proposed FY83 budget, the Administration proposes to cut the budget authority from $40.9 million in FY82 to $16.1 million in FY83. Spending for oil shale would be sharply reduced, from $18.2 million to $6.3 million, and enhanced oil recovery from $15.5 million in FY82 to $5.3 million in FY83. Reduced spending levels reflect the Department's realignment of the program to concentrate on "more generic technology base research and development" while "leaving to industry the task of bringing technology to commercial readiness." In its First Budget Resolution, the Congress held the total authorization for fossil fuels at existing levels -- $436 million -- for FY83-85.

EMERGENCY PREPAREDNESS

On Sept. 30, 1981, the authority delegated by Congress to the President in the Emergency Petroleum Allocation Act of 1973 to impose price and allocation controls expired. During the first session, a number of bills have been introduced to take its place. Some would restore the EPAA authority; others provide for dispersal of the Strategic Petroleum Reserve. One bill would institute a revenue recycling mechanism for insulating consumers from the economic shocks that would likely accompany a shortage of petroleum products.

The Administration has expressed unqualified opposition to the extention of price and allocation controls, and to any Federal intervention in the marketplace during petroleum shortages. In the event of shortage, the Administration proposes: (1) maximum reliance on the free market to determine the price and allocation of energy supplies, and (2) full participation in the international oil-sharing program of the International Energy Agency. In the meantime, the Administration supports rapid growth of the Strategic Petroleum Reserve, and is seeking measures to encourage stock buildup in the private sector during times when supply is secure.

The Administration believes there is no necessity for, or practicality in, articulating an emergency response plan in advance of a disruption; the appropriate action will be undertaken as warranted should an emergency occur. The Administration is opposed to controls, and contends that the mere establishment of authority to impose them sends an inappropriate signal to the private sector that it may possibly count upon Federal intervention to protect its access to crude or products during a shortage.

Many Members of Congress shared the Administration's perception that controls had proven largely ineffective and inefficient, but were skeptical that an unregulated marketplace was the suitable response to shortages of all magnitudes. The Administration cited a number of standing statutory authorities that would afford the Federal Government flexibility to respond to energy shortages, but none of these authorities provided unambiguously for the implementation of comprehensive price and allocation authorities. Although the Administration expressed no interest in having this option in a severe shortage, Congress believed that a discretionary standby authority should be available, and deliberated over a number of legislation options.

Congress passed the Standby Petroleum Allocation Act of 1982 (S. 1503) which, among other provisions, would have authorized the President to implement standby crude or product allocation regulations in the event of a sericus shortage or if they were needed to meet U.S. obligations to the IEA. The legislation would have authorized price controls if necessary to achieve the objectives of the allocation regulations.

The bill also provided for Federal preemption of conflicting State and local price and allocation programs. Passage of the legislation reflected congressional skepticism of the suitability of an unregulated market response to shortages of all magnitudes.

The conference report was approved by the House and Senate in early March, but there were immediate warnings of a Presidential veto. Senators McClure and Baker secured a private audience with the President to try to dissuade him from vetoing the bill, but were unsuccessful. The veto message stated that Federal intervention could not assure "an equitable and orderly response to a supply interruption." Controls, the President said, "can only shift losses from one set of Americans to others, with vast dislocation and loss of efficiency."

On March 24, Sen. McClure attempted to persuade his Senate colleagues to override the President's veto, but was unsuccessful. Quite apart from the legislative issues under contention, a number of senators who originally voted for the bill were reluctant to oppose the President, who lobbied personally to prevent an override. The motion failed to get the required two-thirds vote, 58-36.

The defeat of the SPAA renewed attention on the Strategic Petroleum Reserve, which was perceived as the focus of national emergency preparedness policy. The Energy Security Act (P.L. 96-294) stipulated a minimum annualized daily fill rate of 100,000 b/d. Subsequently, the Omnibus Reconciliation Act of 1981 (P.L. 97-35) required the President to undertake crude oil acquisition and injection into the Reserve at an average annual rate of 300,000 b/d. That same bill also resolved debate over means of financing the Reserve, creating an off-budget Strategic Petroleum Reserve Account within the U.S. Treasury, from which the Secretary of Energy can authorize expenses for the acquisition, transportation, and injection of oil into the SPR, and any costs for drawdown in the event of an emergency. An additional on-budget authorization in the DOE budget covered associated costs of operations, maintenance, administration, and construction of additional storage capacity. For FY82 these accounts were ultimately budgeted at 3.684 billion and $191.4 million, respectively. The fill rate during FY81 was 292,000 b/d, but has been lower during 1982 (averaging 174,000 b/d through early August) because the Reserve is approaching the limits of currently available capacity.

The Administration has requested much less money for the off-budget account (2.07 billion) for FY83, projecting a 209,000 b/d fill rate during that fiscal year, but did increase the request for the on-budget account to $242.1 million for developing additional capacity. The Administration claims that its request for less funding is a reflection of constraints on capacity, but some in Congress have urged that acquisitions be accelerated while crude oil prices are soft. One option under consideration was to lease interim storage facilities, either commercial above-ground storage tanks or idle tankers. The Senate Energy Committee voted in March 1982 to increase the on-budget account to $392 million to provide for leasing additional storage facilities. The committee also voted to restore funding for the off-budget account to $3.7 billion in FY83 to finance purchases at 300,000 b/d so that the Reserve might reach a total of 500 million barrels in storage by the close of FY83. Funding recommendations based upon similar recommendations were being developed in the House.

Congress addressed its concerns about the SPR and emergency preparedness in new legislation, S. 2332, the Energy Emergency Preparedness Act of 1982, which was introduced in April 1982. As reported from conference in late July 1982, S. 2332:

(1) establishes a minimum SPR fill rate of 220,000 b/d. The Senate had proposed a fill rate of 300,000 b/d and the House had proposed 200,000 b/d. The Administration opposed raising the minimum fill rate at all, but eventually indicated it would accept a figure at, or close to, the level proposed in the House. The Administration argued that its commitment to filling the Reserve was apparent, and that the costs of accelerating fill by just a few years outweighed the benefits to national security. The new fill rate will require securing interim storage capacity. The legislation authorizes expenditures from the off-budget account for leasing temporary storage facilities.

(2) requires preparation of a new SPR drawdown plan. The Administration has been reluctant to indicate the circumstances under which SPR oil might be tapped, arguing that forecasting how the SPR might be used would discourage private sector preparedness activities. Congress recognized that the Administration would probably have vetoed any legislation requiring a highly specific drawdown plan, but has asked that the Administration describe options for sale and distribution of SPR oil during an emergency, and in the

absence of the system of price and allocation controls that were in effect during earlier shortages.

(3) =description of available legal authorities and how they might be implemented=. The legislation requires the Administration to submit by mid-November 1982 a "memorandum of law" describing the "nature and extent" of the authorities available to the President under existing law which might be invoked in responding to a supply emergency. By Dec. 31, 1982, the Administration is required to submit another report describing the "comprehensive energy emergency response procedures" that would be used pursuant to those authorities extant. Another study, also to be submitted by the end of 1982, is to examine that costs and benefits of regionalizing the SPR.

The President signed S. 2332 (P.L. 97-229) on Aug. 3, 1982.

Congress was also concerned over the proposed dismantling of DOE, which, as originally suggested, placed the operation of the SPR in the Department of Interior while vesting policy decisions governing its use in Commerce. Many policymakers questioned the practicality of this fragmentation of the SPR, particularly in a supply emergency. In response, Secretary of Energy Edwards indicated in late February 1982 that the SPR would be transferred entirely to Commerce. The Administration proposal to dissmantle DOE, which was transmitted to Congress in late May, does indeed propose transfer of the SPR wholly to Commerce. For further information see IB81101 -- Planning for Energy Emergencies: The Administration and the 97th Congress. For further information, see IB79121 -- Energy: The Strategic Petroleum Reserve.

NATURAL GAS

Not long after decontrolling petroleum, the Reagan Administration strongly indicated its intention to seek early decontrol of natural gas. The President's Energy Policy Task Force report, prepared and released in December 1980, urged "phased price decontrol. . .notwithstanding present 'decontrol' legislation," a reference to the Natural Gas Policy Act.

As a matter of economic principle for the Administration, decontrol of natural gas should be a straightforward matter. But politically -- and even economically -- it is not. The deliberation over the Natural Gas Policy Act of 1978 was exhausting, sustained by the hope that Congress would not need to address the issue for several years. The Administration and Members of Congress with special interest in natural gas decontrol recognize how little appetite either party would have for a major confrontation. It can be expected, then, that any major proposal introduced in the 97th Congress will be further along the path of consensus than was the Natural Gas Policy Act in its original form.

If consistent with the economic philosophy of the new Administration, decontrol would be inconsistent with its economic policy. Though the impact would be difficult to calculate and would vary with the specifics of policy, decontrol can be expected to contribute to inflation and offset some of the tax reductions that were described as fundamental to the Administration's program. Most importantly, any significant decontrol measure would likely not survive congressional consideration without passage of a windfall profits tax, a policy which the Administration does not support because windfall profits taxes are archetypical examples of government clambering upon the

private sector back. However, the Reagan Administration has been held captive by the windfall profits tax on oil -- for obvious political reasons -- made somewhat less distasteful by the helpful budget-balancing revenues it provides. Some speculate that natural gas decontrol accompanied by a windfall profits tax might commend itself to the Administration for the same reason, but the initiative for a windfall profits tax would clearly be left to the Congress.

For the moment, natural gas decontrol continues to be the object of various studies, position papers, and discussion. The debate will center on determining what categories (and, therefore, what volumes) of gas should be decontrolled; and whether some categories of gas are decontrolled immediately or subject to phased decontrol. If the latter, an additional issue will be deciding what the "target," uncontrolled price should be. One concern about decontrolling gas is that rising gas prices could prompt industrial and utility users to switch to oil.

The President's Cabinet Council on Natural Resources and the Environment was reportedly pressing for the President to reach some decision on accelerating gas price decontrol by late September or early October, but preoccupation with the second round of budget cuts and the proposed dismantling of DOE was expected to delay release of the Administration's proposal until 1982. In the absence of an Administration proposal and an eye to getting the decontrol process underway, Senator Johnston introduced the Natural Gas Production and Market Adjustment Act (S. 2074) on Feb. 8, 1982, which would have provided that gas produced from wells drilled after enactment of the legislation would be priced at 70% of domestic refiners' average crude acquisition cost. Other categories of gas under control would be phased up to the new price over a two-year period; controls would be altogether eliminated on Jan. 1, 1982. But in the early spring of 1982, the Administration indicated it would not seek natural gas decontrol this year, a decision probably motivated by awareness of the political opposition to decontrol in a sluggish economy.

COAL DEVELOPMENT

The new Administration appears confident that market conditions favor coal and that what is most needed is for the Government to get out of the way. This confidence is resulting in proposals both to promote production and to remove some direct subsidies that promote production. The Administration is expected to encourage exploration and production on Federal lands, to suggest some changes in the Clean Air Act, and to reduce Federal regulations of land reclamation. However, the Administration has also called for changes in the Fuel Use Act provisions prohibiting utility and industry use of oil and gas (see IB75046 -- Power Plants: The Fuel Use Act) and a trimming of the synfuels efforts (see IB81139 -- Synthetic Fuels Corporation and Technology).

The Omnibus Reconciliation Act of 1981 (H.R. 3982) dealt with two of the most controversial aspects of the Fuel Use Act. One is section 301, a statutory prohibition against burning natural gas in existing powerplants beginning in 1990 (and restricting its use prior to then). The other is the fact that utilities wishing to convert oil or gas facilities to burn coal must meet more stringent requirements under the Clean Air Act if they lack an order from the Department of Energy to make the conversion than if they are ordered to do so under FUA.

The Reconciliation Act repeals the general prohibition against burning gas in existing powerplants, as well as the authority of the Secretary of Energy to prohibit the burning of oil or gas in an existing powerplant if he finds the plant capable of using coal or other alternate fuel. Instead, it substitutes a new section 301, allowing a utility to certify to DOE that a powerplant burning oil or gas is capable of burning coal, or a coal/oil or coal/gas mixture, and giving the Secretary authority to prohibit burning of oil or gas in such plants as are certified. Prohibition orders issued under the new section 301, as under the old version, would exempt the utility from meeting new source performance standards under section 113(d)(5) of the Clean Air Act.

An additional aid to utilities converting oil or gas plants to coal, and to the construction of nuclear plants and new coal plants replacing oil or gas plants, was passed as part of the Economic Recovery Tax Act of 1981 (H.R. 4242). The bill allows accelerated cost recovery of those facilities, for tax purposes, of 10 years, and 15 years for other fossil fuel plants, transmission and distribution and hydroelectric facilities. Existing regulations limited the cost recovery for nuclear plants to a minimum of 16 years, other steam electric plants to 22.5 years, and hydro to 40 years.

Regarding the coal research and development budget, the Administration intends to use FY82 funds to phase out many coal programs in FY83 in an "orderly" manner. The coal program, which represents the bulk of the fossil fuels budget, would be cut significantly in the proposed FY83 program, from $383.3 million to $93.8 million. Such reductions would eliminate the coal-mining R&D program, the heat-engine and heat-recovering programs, and the magnetohydrodynamics programs. Most other programs would be reduced to the point that the remaining money would be sufficient only to close down research or complete nearly finished projects. However, in action on the First Budget Resolution, the Congress decided basically to freeze coal R&D funding at its current FY82 levels. The action was finalized in the stop-gap continuing resolution which will fund the Government until December.

To improve coal's market position, recommendations to alter the Clean Air Act and Federal reclamation laws have been suggested. The Reagan transition team recommended review of the Ambient Air Quality Standards and elimination of the rigid emission limitations set by the New Source Performance Standards. The Heritage Foundation report attacked DOI's Office of Surface Mining (OSM) for its "incredible zealotry" in promulgating regulations far in excess of the requirements of the Surface Mining Control and Reclamation Act. The Foundation recommended that OSM return to "its intended role of facilitating an early transfer of reclamation planning and enforcement activities to the States," and a complete review of all OSM regulations.

To facilitate increased coal production, the Administration has advocated multiple use of Federal lands, including a high priority to energy development. In this regard, the new Administration wants the Department of Interior and Secretary Watt are taking the lead with significant leasing activity in the West, and proposed massive leasing on the Outer Continental Shelf.

The Administration has proposed shifting the focus of government synfuels programs to the U.S. Synthetic Fuels Corporation. This would eliminate the DOE commercialization and demonstration programs (including SRC I). After taking a dramatic cut in funding in FY82, the Administration is recommending another dramatic cut for FY83. The proposed FY83 budget for coal liquefaction would be cut $228 million to $26.2 million. For surface coal

gasification, the cut would be from $53.1 million to $10.5 million. Finally, for in situ coal gasification, the cut was from $8.3 million to $700 thousand. No funding is requested for SRC I. As noted above, the budget resolution froze synthetic fuels R&D at its FY82 level.

House and Senate committee have reported legislation enabling coal slurry pipelines to apply for eminent domain authority. At some point in their journey, coal pipelines would invariably cross land owned by the railroads, which have refused to grant rights-of-way to the pipelines. The proposed legislation would enable pipelines to be granted rights-of-way over the objections of the railroads.

Coal pipeline legislation has been introduced in several previous Congresses and has never advanced as far as it has in the 97th Congress. This is attributed to the enactment in the 96th Congress of the Staggers Rail Act which, to considerable extent, deregulated railroad transportation rates. Utilities, consumer groups, and the coal industry have joined forces to support eminent domain legislation.

A number of confusing claims and counterclaims have been made in the course of the debate about the efficiency and cost of the pipelines and whether consumers would truly realize savings on their utility bills. Other issues have been the use and diversion of water resources, the primacy of State law governing water use, and the projected impacts upon the railroads should the pipelines be built. The Administration expressed its support of coal slurry pipelines in general, but opposed the legislation in late 1981, arguing that eminent domain was a violation of States' rights. It is expected that the bill will be considered when Congress reconvenes after the November election. It is not absolutely certain that the President would veto the bill, if passed.

NUCLEAR

After 4 years of being treated as the energy source of last resort by the Carter Administration, nuclear power is regarded by the Reagan Administration as a potentially large and long-term contributor to the national energy mix. The Carter Administration looked on uranium as an important fuel in the near term, but viewed it as a transition to long-term renewable energy sources. The Reagan Administration, however, views fission as an "essentially inexhaustible energy supply." As a result, the development and demonstration of breeder reactor technology, which the Carter Administration had deferred and deemphasized, is considered essential. The total nuclear fission appropriation for FY82 was $1.113 billion, compared to $1.049 billion in FY81 -- one of the few DOE programs that was increased, rather than sharply cut. For FY83 the budget request was $830.5 million, plus $185 million in borrowing authority to start a utility-financed Nuclear Waste Fund. The Senate, in its First Budget Resolution, froze the authorization for nuclear fission at the FY82 level. The House budget resolution included energy supply research and development funding that is about $450 million less than the Senate, but did not specifically mention fission R&D.

Specifically, the Clinch River Breeder Reactor Project (CRBR), which was authorized in the 91st Congress, and which Carter unsuccessfully tried to cancel in his fiscal 1978 - 1982 budget requests, is being revived by the Reagan Administration. CRBR is one of the few energy projects that received an increase of funding -- of $254 million -- from the Reagan Administration

over the Carter request for FY82. However, although the Congress had insisted on funding the project despite Carter requests to cancel it, the Reagan plan to fund it passed by only a two-vote margin in the Senate DOE appropriations vote, and raised serious opposition in the House. The Administration's FY83 budget request includes $252 million for CRBR, compared to $180 million approved for FY82. In passing the continuing resolution for FY83 (H.J.Res. 599), the Senate narrowly refrained from cutting off funding for the Clinch River project. An amendment to the measure was defeated on September 29 by a vote of 48-49. For further information, see IB77088 -- Breeder Reactors: The Clinch River Project.

In funding CRBR, the Reagan Administration is including the breeder program among "technologies judged to be outside the range of normal industry risk taking," and thus in need of Government support. In this regard the breeder program differs from the Reagan Administration's position on the Barnwell (south Carolina) Fuel Reprocessing facility, a plant designed and built by a private corporation for commercial reprocessing of spent nuclear fuel and recycle of plutonium in present-day Light Water Reactors. The Barnwell plant has been in limbo for 4 years because of the Carter deferral of commercial reprocessing, and it had been suggested that the plant could be bought by DOE to demonstrate commercial plutonium recycle. But the Administration instead is proposing that reprocessing and recycle, which are much farther along technologically than the breeder, be carried out, if at all, by private industry. For further information, see IB88126 -- Nuclear Energy: Enrichment and Reprocessing of Nuclear Fuels.)

Outside of the budget actions to promote development of advanced nuclear technology, the Administration has concerned itself with supporting the existing commercial nuclear industry. In an Oct. 8, 1981, statement, President Reagan called nuclear power "one of the best potential sources of new electrical energy supplies in the coming decades," and announced a number of actions to help it recover. In an approach that has become familiar in many policy areas, however, the Reagan statement limits Federal action favoring commercial nuclear power to two: economic recovery to "improve the climate for capital formation" through tax and fiscal restraint, and elimination of the "morass of regulations that do not enhance safety but...do cause extensive licensing delays and economic uncertainty." The statement did not make specific licensing reform proposals, however. It merely ordered the Secretary to "give immediate priority attention to recommending improvements in the nuclear regulatory and licensing process," and "anticipated" more expeditious action by the Nuclear Regulatory Commission on near-term licensing applications.

The Administration did request legislation to allow NRC to issue interim operating licenses, and to amend existing licenses in ways that involve no significant safety considerations, before completion of all hearings on the matter. These provisions were included in the NRC authorization legislation for FY82 and FY83. The House passed its version of the authorization bill on Nov. 11, 1981 (H.R. 2330); the Senate passed its version of H.R. 2330 (S. 1207) on Mar. 30, 1982. The conference bill reported September 16 was agreed to by the Senate on October 1, but the House did not act on it before recessing. See IB80081 -- Nuclear Power Plant Safety and Licensing -- for details.

The Administration has also supported initiatives in the Congress to pass a comprehensive bill dealing with nuclear waste management, particularly one that would set up a system of user fees to pay for the waste management program, and formalize the role of State and local authorities in the siting

of a permanent waste repository. (See IB75012 -- Nuclear Waste Management, for details.) The Senate has passed one version of a nuclear waste bill (S. 1662). In the House, several bills were reported by the Interior, Energy and Commerce, and Science and Technology Committees. On September 24 a compromise bill, H.R. 7187, was introduced. On September 30 the House began debate on H.R. 3809, which was expected to be amended to incorporate the compromise measure. A total of 34 amendments were ruled in order by the Rules Committee, and the House did not complete consideration of the bill before the recess.

CONSERVATION

Conservation was a primary tenet of the Carter Administration's energy policy. The Reagan Administration, as noted earlier, has decided to emphasize conventional fuel development, and is pursuing a reduction in the Federal role for conservation. With the decontrol of oil, it is felt that some Federal conservation programs are now unnecessary; the rising cost of energy, the Administration believes, should be sufficient incentive to promote conservation. Reductions in the conservation budget will total $2.4 billion by the end of 1986. This represents program outlay reductions of about 10% in FY81 and 40% in FY82. For further information, see IB75020 -- Energy Conservation in Residential and Commercial Building: The Future Federal Role.

All three categories of conservation programs -- R&D, regulation, and grant programs -- are to be reduced. Reflecting the philosophy that government research and development should focus on long-term needs, the Administration plans to terminate several R&D projects on the premise that they should stand the test of market viability without government assistance. These include urban waste, consumer products, advanced automotive engine design, electric and hybrid vehicles, and industrial processes projects. The conservation R&D budget would be cut to $17.2 million in FY83 from $143.8 million in FY82.

Regulatory programs, for building energy performance standards, appliance efficiency standards, and utility conservation services, are not great burdens on the DOE budget. However, reflecting its belief in deregulation, the Administration is calling once again for the termination of these programs, arguing further that they impose too great a burden on private industry.

Finally, DOE conservation grant programs to States and local communities would be cut (see IB79064 -- Energy Management at the State and Local Levels). Indeed, energy conservation grants to State and local governments would be effectively eliminated with a funding level of $4.6 million, down from $240 million in FY82 and $430 million in FY81.

In congressional budget action, the budget resolution sets a ceiling of $387 million for FY83. In action on the stop-gap continuing resolution, funding was frozen at the FY82 level until December.

DEPARTMENT OF ENERGY

The concept of the Department of Energy held by the Reagan Administration,

and revealed in the FY82 budget proposals under Secretary of Energy James Edwards, is very different from the concept of the Department envisioned by Congress when the DOE was established by President Carter (see IB81015 -- The Department of Energy: Is Further Reorganization Needed?). Instead of perceiving the department as the focal point for major Federal involvement in energy decision-making and promotion of specific alternative energy technologies, the Reagan Administration evidently perceives DOE as an overly large Department which should be significantly scaled down and subjected to intensive review for potential termination. The conditions in which the Department has operated in the 3 1/2 years of its existence have left it with few defenders, since it has consistently been in the middle of contending froups, fully satisfying none of its constituencies.

As discussed in the preceding sections of this review, the Reagan Administration intends to refer much of the decision-making on production of energy and development of alternative energy sources to the private sector. When the FY83 budget for energy programs was presented in January, the Administration was proceeding with plans to send Congress proposed legislation, in tandem with the budget, to dismantle the Department of Energy. The President had proposed abolishing DOE in September 1981, and a plan for dispersing its functions was announced by Energy Secretary Edwards in December. The FY83 budget reflects the arrangement of programs that would be in effect <u>after</u> adoption of the proposed reorganization of energy functions. Therefore, the bulk of DOE's functions in energy research and development, nuclear weapons, international issues, emergency preparedness, and energy information, which would be transferred to the Commerce Department under the proposed reorganization, show up in that Department's budget. The power marketing administrations and the Strategic Petroleum Reserve funding show up in the Interior Department's budget. As requested by some congressional committee chairmen, the energy budget justifications for DOE were prepared for the Department as it is now organized, but the operative budget figures reflect the reorganization.

Subsequent to submission of the budget, the Administration experienced political difficulties in reaching agreement with Members of Congress on aspects of the reorganization, and in some cases on the basic policy question as to whether energy had faded from the roster of important national issues deserving of a Department to deal with it. The Administration's attempts to allay those misgivings of Members of Congress led to continuous delays. However, in late May, the Administration reached an agreement with Senate committee chairmen on a dismantlement proposal. The bill, S. 2562, follows the original dismantlement proposal fairly closely. Differences include consolidating the emergency planning function under the Department of Commerce, and elimination of the "ERTA" concept -- the Department will instead be expanded to include a Deputy Secretary for Defense Program and a Deputy Secretary for Energy. Hearings have been held in the Senate, but no action has been taken. Also, in August Representatives Broyhill and Houston introduced the dismantlement proposal in the House. No hearings have been held in the House.

Indeed, rather than accepting Administration proposals for reducing the Department, the Congress has provided support for DOE. In the Supplemental Appropriation for FY82, the Congress delineated personnel floors for the various offices, agencies, or categories of activity within the Department. These levels are higher than those envisioned by the Administration for FY83. A special Presidential message and congressional action is required to change the personnel floors.

Several after bills have been introduced into the 97th Congress to either eliminate or dismantle DOE (see LEGISLATION, below). The President's speech of September 24 announced a renewed effort to dismantle DOE and distribute its functions to other agencies in the bureaucracy. As currently envisioned, many of DOE's functions would be put under the Commerce Department. In doing so, OMB has estimated savings of $100 million for FY83. This savings is disputed by many who believe such a dismemberment would be symbolic and not save money since the Department's functions would still have to be carried out by some one.

LEGISLATION

GENERAL ENERGY LEGISLATION

P.L. 97-12, H.R. 3512

Supplemental Appropriations and Rescission Act of 1981. Making supplemental appropriations and rescinding certain budget authority for FY81. Introduced May 8, 1981; referred to Committee on Appropriations. Passed House, amended, May 13. Reported to Senate by Senate Committee on Appropriations (S.Rept. 97-67) May 14. Passed Senate, amended, May 21. Conference report filed in House (H.Rept. 97-124) June 3. Signed into law June 5, 1981.

P.L. 97-34, H.R. 4242

Economic Recovery Tax Act of 1981. Introduced July 23, 1981; referred to Committee on Ways and Means. Passed House, amended, with text of H.R. 4260 inserted, July 29. Passed Senate, amended, with text of H.J.Res. 266 (as amended) inserted July 31. Conference report filed in Senate (S.Rept. 97-176) August 1. Conference report filed in House (H.Rept. 97-215) August 3. Signed into law Aug. 13, 1981.

P.L. 97-35, H.R. 3982

Omnibus Budget Reconciliation Act of 1981. Introduced June 19, 1981; referred to Committee on Budget. Passed House, amended, with text of S. 1377 inserted, July 13. Conference report filed in House (H.Rept. 97-208) July 29, 1981. House and Senate agreed to conference report July 31. Measure signed into law Aug. 13, 1981.

P.L. 97-88, H.R. 4144

Energy and Water Development Appropriations Act. Introduced Jan. 15, 1981; referred to Committee on Appropriations. Passed House, amended, July 24. Passed Senate, amended, November 5. Conference report filed in House (H.Rept. 97-345) November 19. House agreed to conference report November 21. Measure signed into law Dec. 9, 1981.

P.L. 97-100, H.R. 4035

Department of Interior Appropriations Act. Introduced Jan. 15, 1981; referred to Committee on Appropriations. Passed House, amended, July 22. Passed Senate, amended, October 27. Conference report filed in the House (H.Rept. 97-315) November 5. House agreed to conference report (amended) Dec. 10, 1981. Senate agreed to conference report (amended) Dec. 10, 1981. Measure signed into law Dec. 23, 1981.

EMERGENCY PREPAREDNESS

H.R. 4700 (Sharp)

Amends the Energy Policy and Conservation Act to authorize the President to provide, by regulation, for the mandatory allocation of any petroleum product in amounts and at prices specified in such regulations. Permits the

implementation of such regulations if: (1) the President determines there is a severe petroleum supply interruption; and (2) Congress does not disapprove the regulations. Introduced Oct. 6, 1981; referred to Committee on Energy and Commerce. Passed House, amended, December 14. Measure laid on table; S. 1503 passed in lieu Dec. 14, 1982.

S. 1503 (McClure et al.)

Authorizes the President, if a severe petroleum supply shortage exists, to provide for the mandatory allocation of crude oil, residential fuel oil, and any refined petroleum product. Referred to Committee on Energy and Natural Resources July 20, 1981. Hearings held July 28 and 30. Reported Oct. 1, 1981 (S.Rept. 97-199). Passed Senate, amended, October 29. Passed House, amended, in lieu of H.R. 4700, Dec. 14, 1981. Vetoed by the President Mar. 20, 1982; attempt to override veto failed Mar. 24, 1982.

S. 2332 (McClure)

Amends the Energy Policy and Conservation Act to extend the authority for oil companies to participate in the international energy program. Introduced Apr. 1, 1982. Amended in committee to require fill rate for SPR of 300,000 b/d. Reported from the Senate Committee on Energy and Natural Resources, May 13, 1982 (S.Rept. 97-393). Passed Senate, May 26, 1982 (88-7).

PETROLEUM

H.R. 1765 (Moorhead, C., et al.)

Similar to S. 410, above. Introduced Feb. 5, 1981; referred to Committee on Energy and Commerce.

S. 410 (Johnston et al.)

Petroleum Displacement Act of 1981. Would amend the Powerplant in Industrial Fuel Use Act of 1978 to repeal certain prohibitions and limitations on the use of natural gas as a primary energy source in electric powerplants. Introduced Feb. 5, 1981; referred to Committee on Energy and Natural Resources. Subcommittee hearing held Apr. 23-24, 1981.

NATURAL GAS

H.R. 2019 (Dannemeyer)

Amends the Natural Gas Policy Act of 1978 to repeal Federal price and allocation controls over natural gas. Introduced Feb. 24, 1981; referred to Subcommittee on Fossil and Synthetic Fuels.

H.Con.Res. 77 (Donnelly et al.)

Expresses the sense of Congress that the schedule for domestic natural gas price deregulation should not be accelerated. Introduced Feb. 25, 1981; referred to Subcommittee on Fossil and Synthetic Fuels.

S. 29 (Lugar et al.)

Repeals the Federal requirement of incremental pricing under the Natural Gas Policy Act of 1978. Introduced Jan. 5, 1981; referred to Committee on Energy and Natural Resources.

NUCLEAR

H.R. 2330 (Udall), H.R. 4255 (Udall, Dingell et al.)/S. 1207 (Simpson)

NRC authorization for FY82 and FY83. Includes provisions for interim licensing of nuclear plants prior to completion of hearings. H.R. 2330 passed (as amended to include H.R. 4255) Nov. 11, 1981; passed Senate in lieu of S. 1207 Mar. 30, 1982.

CONSERVATION

S. 1544

Replaces DOE categorial grant programs with block grants to States. Introduced July 30, 1981; referred to Committee on Energy and Natural Resources.

DEPARTMENT OF ENERGY

H.R. 647 (Whitehurst)

Terminates the Department of Energy. The Department would be terminated on Jan. 15, 1982, unless a prior law is enacted to continue it. Its functions would be transferred according to a plan to be submitted to Congress by the President. The plan would go into effect if Congress does not act to transfer the functions otherwise. Introduced Jan. 5, 1981; referred to Committee on Energy and Natural Resources.

H.R. 830 (Collins)

Abolishes the Department of Energy. Functions identified in the bill would be transferred to other agencies, in most cases to the agencies from which they originally came. Weapons functions would be transferred to the Department of Defense. Functions and programs not named in the Act, such as those of the Energy Information Administration, the Economic Regulatory Administration, and others, would be terminated. Introduced Jan. 13, 1981; referred to Committee on Government Operations.

H.R. 972 (Guyer)

Terminates the Department of Energy. Introduced Jan. 20, 1981; referred to Committee on Government Operations.

S. 2562 (Roth et al.)

Bill to reorganize the energy functions of the Department of Energy. Introduced May 24, 1982; referred to Senate Committee on Governmental Affairs.