

improvements in service the offerors propose to initiate;

(3) provide an opportunity for prospective purchasers to meet as a group with Department of Defense representatives to ensure that the data and public interest requirements described in clauses (1) and (2) are fully understood; and

(4) seek the advice and assistance of the Federal Communications Commission and the Governor of Alaska (or a designee of the Governor) to ensure consideration of all public interest factors associated with the transfer.

(d) **APPLICABILITY OF ANTITRUST PROVISIONS.**—The requirements of section 559 of this title apply to transfers under this chapter.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1286.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
17702(a)(1) ..	40:781(1).	Pub. L. 90–135, title I, §201, Nov. 14, 1967, 81 Stat. 442.
17702(a)(2) ..	40:781(5).	
17702(a)(3) ..	40:781(2).	
17702(b)	40:781(4).	
17702(c)	40:781(6).	
17702(d)	40:781(3).	

In this chapter, the words “or his designee” are omitted because of 10:113.

In subsection (a)(1)(A), the words “and notwithstanding provisions of any other law” are omitted as unnecessary. The words “shall transfer” are substituted for “is authorized to and shall transfer” for clarity.

In subsection (c)(4), the words “the Federal Field Committee for Development Planning in Alaska” are omitted because the Committee has been terminated. See Executive Order No. 11608 (eff. July 19, 1971).

§ 17703. National defense considerations and qualification of transferee

A transfer under this chapter shall not be made unless the Secretary of Defense determines that—

(1) the Federal Government does not need to retain the property involved in the transfer for national defense purposes;

(2) the transfer is in the public interest;

(3) the person to whom the transfer is made is prepared and qualified to provide the communication service involved in the transfer without interruption; and

(4) the long-lines communication facilities will not directly or indirectly be owned, operated, or controlled by a person that would legally be disqualified from holding a radio station license by section 310(a) of the Communications Act of 1934 (47 U.S.C. 310(a)).

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1287.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
17703	40:782.	Pub. L. 90–135, title I, §202, Nov. 14, 1967, 81 Stat. 443.

§ 17704. Contents of agreements for transfer

An agreement by which a transfer is made under this chapter shall provide that—

(1) subject to regulations of the Federal Communications Commission and of any body

or commission established by Alaska to govern and regulate communications services to the public and all applicable statutes, treaties, and conventions, the person to whom the transfer is made shall provide the communication services involved in the transfer without interruption, except those services reserved by the Federal Government in the transfer;

(2) the rates and charges for those services applicable at the time of transfer shall not be changed for a period of one year from the date of the transfer unless approved by a governmental body or commission having jurisdiction; and

(3) the transfer will not be final until the transferee receives the requisite license and certificate of convenience and necessity to operate interstate and intrastate commercial communications in Alaska from the appropriate governmental regulatory bodies.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1288.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
17704	40:783.	Pub. L. 90–135, title I, §203, Nov. 14, 1967, 81 Stat. 443.

In clause (1), the word “rules” is omitted as being included in “regulations”.

In clause (3), the words “unless and” are omitted as unnecessary.

§ 17705. Approval of Federal Communications Commission

A transfer under this chapter does not require the approval of the Federal Communications Commission except to the extent that the approval of the Commission is necessary under section 17704(3) of this title.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1288.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
17705	40:784.	Pub. L. 90–135, title I, §204, Nov. 14, 1967, 81 Stat. 443.

§ 17706. Gross proceeds as miscellaneous receipts in the Treasury

The gross proceeds of each transfer shall be deposited in the Treasury as miscellaneous receipts.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1288.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
17706	40:785.	Pub. L. 90–135, title I, §205, Nov. 14, 1967, 81 Stat. 443.

The words “Notwithstanding the provisions of any other law” are omitted as unnecessary.

§ 17707. Reports

The Secretary of Defense shall report to the Congress and the President—

(1) in January of each year, the actions taken under this chapter during the preceding 12 months; and

(2) not later than 90 days after completion of each transfer under this chapter, a full account of that transfer.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1288.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
17707	40:786.	Pub. L. 90–135, title I, §206, Nov. 14, 1967, 81 Stat. 443.

§ 17708. Nonapplication

This chapter does not modify in any manner the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1288.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
17708	40:791.	Pub. L. 90–135, title I, §301, Nov. 14, 1967, 81 Stat. 444.

REFERENCES IN TEXT

The Communications Act of 1934, referred to in text, is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended, which is classified principally to chapter 5 (§151 et seq.) of Title 47, Telecommunications. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables.

CHAPTER 179—ALASKA FEDERAL-CIVILIAN ENERGY EFFICIENCY SWAP

- Sec. 17901. Definitions.
- 17902. Sale of electric energy.
- 17903. Purchase of electric power.
- 17904. Implementation powers and limitations.

§ 17901. Definitions

In this chapter, the following definitions apply:

(1) FEDERAL AGENCY.—The term “federal agency” means a department, agency, or instrumentality of the Federal Government.

(2) FEDERALLY GENERATED ELECTRIC ENERGY.—The term “federally generated electric energy” means any electric power generated by an electric generating facility owned and operated by a federal agency.

(3) NON-FEDERAL PERSON.—The term “non-federal person” means a corporation, cooperative, municipality, or other non-federal entity that generates electric energy through a facility other than a federally owned electric generating facility.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1288.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
17901	40:795.	Pub. L. 96–571, §2, Dec. 22, 1980, 94 Stat. 3341.

In clause (1), the definition of “agency” as referring to the head of any department, agency, or instrumentality of the United States Government is rewritten as a definition of “federal agency” to avoid confusion between the role of the “agency” and the “head of the agency”. Throughout the chapter, the words “head of

the federal agency” are used when the source provision is referring to action taken by an official as opposed to the concept of the agency as an institution.

In clause (3), the text of 40:795(1) and (4) is combined to eliminate a definition (40:795(1)) that is used only once.

§ 17902. Sale of electric energy

(a) IN GENERAL.—To conserve oil and natural gas and better utilize coal, the head of a federal agency may sell, or enter into a contract to sell, to any non-federal person electric energy generated by coal-fired electric generating facilities of that agency in Alaska without regard to any provision of law that precludes the sale when the electric energy to be sold is available from other local sources, if the head of the federal agency determines that—

(1) the electric energy to be sold is generated by an existing coal-fired generating facility;

(2) the electric energy to be sold is surplus to the federal agency’s needs and is in excess of the electric energy specifically generated for consumption by, or necessary to serve the requirements of, another federal agency;

(3) the cost to the ultimate consumers of the electric energy to be sold is less than the cost that, in the absence of the sale, would be incurred by those consumers for the purchase of an equivalent amount of energy; and

(4) the sale will reduce the total consumption of oil or natural gas by the non-federal person purchasing the electric energy below the level of consumption that would occur in the absence of the sale.

(b) PRICING POLICIES.—Federally generated electric energy sold by the head of a federal agency under subsection (a) shall be priced to recover the fuel and variable operation and maintenance costs of the facility generating the energy that are attributable to that sale, plus an amount equal to one-half the difference between—

(1) the costs of producing the electric energy by coal generation; and

(2) the costs of producing electric energy by the oil or gas generation being displaced.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1289.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
17902	40:795a.	Pub. L. 96–571, §3, Dec. 22, 1980, 94 Stat. 3341.

In subsection (a), the words “to be sold” are added for clarity. In clause (4), the words “below the level of consumption that” are substituted for “below that consumption which” for clarity.

In subsection (b), before clause (1), the words “fuel and variable operation and maintenance costs of the facility generating the energy that are attributable to that sale” are substituted for “fuel costs and variable operation and maintenance costs of the Federal generating facility concerned which costs are attributable to such sale” for clarity.

§ 17903. Purchase of electric power

For purposes of economy, efficiency, and conserving oil and natural gas, the head of a federal agency, when practicable and consistent with other laws and requirements applicable to that