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REVISED
March 21, 1975
10:30 a. m.

THE WHITE HOUSE
WASHINGTON

THE PRESIDENT HAS SEEN *AS*

DINNER FOR THE
PARTICIPANTS OF THE COAL RELATED INDUSTRIES MEETING

March 21, 1975
6:15 p. m.

Dress: Business Suit

Arrival:

- 6:15 p. m. ... your guests will be assembled in the Grand Hall where cocktails will be served.
- 6:30 p. m. ... you will be escorted via elevator to the Grand Hall.
- You will mingle informally with your guests ... then escort your guests into the State Dining Room.

Dinner:

- Round tables
- As the dinner draws to a close, you will rise and make remarks. Following your remarks, Secretary Morton will rise and make a 10 minute presentation which will be followed by a discussion.

NOTE: Demitasse, liqueurs and cigars will be served at the tables.

Departure:

- You may wish to mingle informally with your guests or return to the Family Quarters.

NOTES:

- Military Social Aides will be present.
- A Military String Ensemble will be positioned in the Grand Hall.

- Guest list is attached (Tab A).
- Remarks are attached (Tab B).
- A White House photographer will be present.
- There will be no press coverage; remarks will be recorded for Presidential Archives only.

Nancy Ruwe

GUEST LIST FOR THE DINNER TO BE GIVEN BY THE PRESIDENT FOR
PARTICIPANTS IN THE COAL-RELATED INDUSTRIES MEETING ON
FRIDAY, MARCH 21, 1975 AT 6:15 O'CLOCK, THE WHITE HOUSE

The Honorable William E. Simon
Secretary of the Treasury

The Honorable Rogers C. B. Morton
Secretary of the Interior

The Honorable John T. Dunlop
Secretary of Labor

The Honorable William T. Coleman, Jr.
Secretary of Transportation

The Honorable James T. Lynn
Dir., Office of Management and Budget

The Honorable Arch A. Moore, Jr.
Governor of West Virginia

The Honorable Frank Zarb
Admr., Federal Energy Administration

The Honorable Alan Greenspan
Chmn., Council of Economic Advisers

The Honorable Russell W. Peterson
Chmn., Council on Environmental Quality

The Honorable Russell Train
Admr., Environmental Protection Agency

The Honorable William J. Baroody
Assistant to the President for Public Liaison

The Honorable Jack W. Carlson
Assistant Secretary of the Interior for Energy and Minerals

The Honorable George M. Stafford
Chmn., Interstate Commerce Commission

The Honorable John N. Nassikas
Chmn., Federal Power Commission

The Honorable Aubrey J. Wagner
Chmn., Tennessee Valley Authority

The Honorable James Searce
Dep. Dir., Federal Mediation and Conciliation Service

Mr. Harry McKittrick
Deputy Assistant Secretary of the Interior

Dr. Tom Falkie
Dir., Bureau of Mines, Department of the Interior

Mr. Michael Raoul-Duval
Associate Director, Domestic Council

Mr. Glenn R. Schleede
Assistant Director, Domestic Council

Mr. Donald A. Webster
Deputy Dir., Office of Public Liaison, White House

Mr. Roger Semerad
Staff, Domestic Council

Mr. John Kuhlman
Staff, Coal Policy Coordinator

Mr. C. King Mallory
Staff, Deputy Assistant Secretary of the Interior of
Energy and Minerals

The Honorable Carl E. Bagge
Pres., National Coal Association, Washington, D. C.

Mr. Ralph E. Bailey
Pres., Consolidation Coal Co., Pittsburgh, Pennsylvania

Mr. Stonie Barker, Jr.
Pres., Island Creek Coal Co., Lexington, Kentucky

Mr. Ralph C. Beerbower
American Mining Congress

Mr. Otes Bennett, Jr.
Pres., The North American Coal Corp., Cleveland, Ohio

Mr. Eugene P. Berg
Pres., Bucyrus-Erie Co., South Milwaukee, Wisconsin

Mr. Gordon Bonnyman
Pres., Blue Diamond Coal Co., Knoxville, Tennessee

Mr. John W. Brantner
Jeffrey Mining Machinery Div., Dresser Industries, Inc.

Mr. DeWitt W. Buchanan, Jr.
Pres., Old Ben Coal Co., Chicago, Illinois

Mr. Paul V. Callis
Tennessee Consolidated Coal Co.

Mr. Charles R. Carlisle
St. Joe Minerals Corp.

Mr. Charles L. Christian, Jr.
Milburn Colliery Co.

Mr. Frank Clements
United Mine Workers, Dist. 20

Mr. Donald C. Cook
Chmn., American Electric Power Co., Inc., New York, New York

Mr. J. F. Core
Vice Pres., U. S. Steel Corp., Pittsburgh, Pennsylvania

Mr. Gordan A. Corey
Commonwealth Edison Co.

Mr. Roy Coulson
Pres., Kemmerer Coal Co., Frontier, Wyoming

Mr. W. Donham Crawford
Pres., Edison Electric Institute, New York, New York

Mr. John S. Crawford II
Pickands, Mather and Co.

Mr. Kenneth Dawes
United Mine Workers, Dist. 12

Mr. John J. Dwyer
Pres., Oglebay Norton Co., Cleveland, Ohio

Mr. Raymond E. Exum, Jr.
Chmn., Bituminous Coal Research, Inc., Chicago, Illinois

Mr. Squire Feltner
United Mine Workers, Dist. 30

Mr. John P. Fishwick
Pres., Norfolk and Western Railway Co., Roanoke, Virginia

Mr. Robert H. Freeman
Pres., Eastern Associated Coal Corp., Pittsburgh, Pa.

Mr. Donald C. Frisbee
Chmn., Pacific Power & Light Co., Portland, Oregon

Mr. Latham B. Gray, Jr.
Vice Pres., Bethlehem Mining Corp., Bethlehem, Pennsylvania

Mr. John W. Hanifin
Chessie System

Mr. Francis X. Hanley
International Union of Operating Engineers

Mr. Shearon Harris
Chmn., Carolina Power & Light Co., Raleigh, N. C.

Mr. Walter Hollie Hopper
Pres., Amax Coal Co., Indianapolis, Indiana

Mr. Jack K. Horton
Chmn., Southern California Edison Co., Rosemead, California

Mr. Louis Hunter
Exec. Secy., National Independent Coal Operators Assn., Inc.,
Richland, Virginia

Mr. John L. Jackson
Pres., Falcon Coal Co., Inc., Hazard, Kentucky

Mr. Carl B. Jacobs
Vice Pres., Inland Steel Co., Chicago, Illinois

Mr. William B. Johnson
Pres., Illinois Central Gulf Railroad, Chicago, Illinois

Mr. Douglas S. Johnston
The Pittston Company

Mr. Herbert E. Jones, Jr.
Pres., Amherst Coal Co., Charleston, West Virginia

Mr. John C. Kenefick
Pres., Union Pacific Railroad, Omaha, Nebraska

Mr. Henry E. Keniston
Ortner Freight Car Co.

Mr. Robert F. Krause
Chmn., New England Electric System, Westborough, Massachusetts

Mr. Harry LaViers, Sr.
Chmn., South-East Coal Co., Paintsville, Kentucky

Mr. Donald E. Lawley
United Mine Workers of America

Mr. E. B. Leisenring, Jr.
Pres., Westmoreland Coal Co., Philadelphia, Pa.

Mr. Lucian A. Lincoln
Pres., Freeman Coal Mining Corp., Chicago, Illinois

Mr. Clyde L. Machamer
Pres., Independent Miners Association, Pottsville, Pennsylvania

Mr. J. P. Madgett
Gen. Mgr., Dairyland Power Cooperative, LaCrosse, Wisconsin

Mr. Ian McGregor
Chmn., American Mining Congress, New York, New York

Mr. Louis W. Menk
Chmn., Burlington Northern, St. Paul, Minnesota

Mr. Eugene W. Merry
Pres., Mine Safety Appliances, Inc., Pittsburgh, Pennsylvania

Mr. Paul Morton
Pres., Cannelton Coal Co., Cannelton, West Virginia

Mr. Lynn L. Nelson
West Virginia State Police Trooper

Mr. Guy W. Nichols, Jr.
New England Electric System

Mr. William M. Osborne, Jr.
Youghiogeny and Ohio Coal Co.

Mr. J. Allen Overton, Jr.
Pres., American Mining Congress, Washington, D. C.

Mr. Harry L. Patrick
Secy-Treas., United Mine Workers, Washington, D. C.

Mr. Edwin R. Phelps
Pres., Peabody Coal Co., St. Louis, Missouri

Mr. Robert V. Price
Exec. Vice Pres., National Coal Association

Mr. Robert H. Quenon
Pres., Monterey Coal Co., Houston, Texas

Mr. Jack F. Ratchye, Jr.
Peter Kewitt Sons Co., Sheridan, Wyoming

Mr. Gilbert P. Remey
Pres., Rochester & Pittsburgh Coal Co., Indiana, Pennsylvania

Mr. Thomas Rice
Seaboard Coast Line Industries, Inc.

Mr. Herbert S. Richey
Pres., The Valley Camp Coal Co., Cleveland, Ohio

Mr. Paul Rodgers
National Association of Regulatory Utility Commissioners, Washington, D. C.

Mr. Raymond E. Salvati
Chmn., Oak Leaf Coal Co., Fort Lauderdale, Florida

Mr. William J. Savitsky
United Mine Workers

Mr. Wade L. Schwartzberg
Zapata

Mr. Robert H. Seese
Chmn., Berwind-Kentland Coal Co.

Mr. John J. Sense
Midland Coal Company

Mr. Edwin P. Sheriff
Barnes & Tucker Company

Mr. Chauncey Starr
Pres., Electric Power Research Institute, Palo Alto, California

Mr. Ernest S. Stevens
Garland Coal Co.

Mr. Clarence A. Tatum, Jr.
Chmn., Texas Utilities Co., Dallas, Texas

Mr. James J. Tedesco
Pres., Juddo-Highland Coal Co., West Pittston, Pennsylvania

Mr. James R. Thomas
The Carbon Fuel Industries, Charleston, West Virginia

Mr. Robert E. Thomas
Chmn., Mapco Coal Inc., Tulsa, Oklahoma

Mr. W. Reid Thompson
Chmn., Potomac Electric Co.

Mr. David Toll
Gen. Counsel, National Association of Electric Utilities

Mr. Mike Trbovich
Vice Pres., United Mine Workers, Washington, D. C.

Mr. James J. Twombly
Regional Dir., International Union of Operating Engineers, San Mateo, Calif.

Mr. Walter C. Wallace
Pres., Bituminous Coal Operators Association, Washington, D. C.

Mr. Michael E. Walsh
Pres., Zeigler Coal Co., Chicago, Illinois

Mr. Hunter Wharton
Pres., International Union of Operating Engineers, Washington, D. C.

Mr. James W. Wilcock
Pres., Joy Manufacturing Co., Pittsburgh, Pennsylvania

Mr. Alexander M. Wilson
Utah International Inc.

Mr. Frank H. Woods
Sahara Coal Co., Inc., Chicago, Illinois

GUESTS AT THE PRESIDENT'S TABLE

Mr. Edwin Rice Phelps
Peabody Coal Company

Hunter Wharton
International Union of Operating Engineers

James William Wilcock
Joy Manufacturing Company

Shearon Harris
Carolina Power and Light Company

Paul Morton
Cannelton Coal Company

Walter Christopher Wallace
Bituminous Coal Operators Association

Ian McGregor
American Mining Congress

Carl Elmer Bagge
National Coal Association

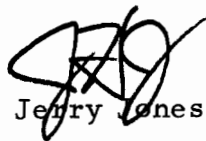
Louis Wilson Menk
Burlington Northern, Inc.

THE WHITE HOUSE
WASHINGTON

March 21, 1975

Mr. President:

Don asked that I send the status report on strip mining for your reading before your session with the coal industry leaders.



Jerry Jones

THE WHITE HOUSE
WASHINGTON

March 21, 1975

TO: JERRY JONES

FROM: MIKE DUVAL

For your information _____

Comments: The strip mining bill has been mentioned by several of the people attending the coal meeting in the East Room.

The attached status report may be useful to update the President prior to the dinner.

STATUS REPORT ON STRIP MINING LEGISLATION

This is the latest assessment of the strip mining bills passed by the House and Senate.

Senate Action

Some helpful changes from last year's bill were made by the Senate. However, one serious problem with the Senate action has since come to light; i.e., the Senate bill combined with floor debate makes it clear that the Senate intends that Federally-owned coal lands will be subject to State law and regulation. If allowed to stand, this would be an undesirable precedent and could prevent development of Federally-owned coal in states establishing rigid requirements.

Interior Department considers this a serious problem. It is possible that the problem could be eliminated in Conference since the House has a much less restrictive view.

House Action

The bill passed by the House on March 14 by a vote of 333-86 is regarded by Interior and FEA as more rigid in several important respects than the bill you vetoed last year. The two most important are:

- . Tightening considerably the restriction on mining in alluvial valley floors. Interior tentatively estimates that the new restriction will increase the adverse production impact by about 40 million tons in the first full year of the bills application and prevent access to substantial coal reserves in the west.
- . Expansion of the scope of the reclamation fund to permit its use to pay costs of "socio-economic impact" related

to any energy development -- not just strip mining. The Administration had requested that the fund be used only for reclamation of publicly owned orphaned strip-mined lands, and that it not cover either public facilities or privately owned lands.

With respect to the eight critical changes that were requested, the House bill:

- . Eliminates the special unemployment provisions (retained by Senate).
- . Partially eliminates absolute restrictions on increased stream sedimentation and impact on hydrology.
- . Reduces the excise tax on underground-mined coal and some strip-mined coal (change rejected by Senate).
- . Changes the arbitrary restriction on impoundments (dams) by making them subject to Corps of Engineers authority and standards (rather than accept our change as the Senate did).
- . Rejected changes to:-
 - narrow the scope of citizen suits (accepted by Senate).
 - authorize the Secretary to define ambiguous terms (Senate also rejected).
 - authorize mining in National Forests (Senate also rejected).

Interior's tentative estimate of the adverse production impact of the House passed bill is 62-162 tons (18 to 21%) in the first full year of its application. This compares to 48-141 million tons (6 to 18%) for last year's bill. As in the case of previous estimates, these cover only those impacts that can be estimated (e.g., restrictions on steep slope mining, impact on small mine operators). Impacts could be larger if there are delays from extensive litigation of restrictive interpretations of ambiguous provisions of the bill.

Conference

The conferees have not yet been appointed but probably will be next week.

It is too early to predict the probable outcome. If the best provisions from each bill are adopted by the conference, the bill will be better than the one you vetoed.

Objective - Energy SUFFICIENT - 1985
Involvable

Conservation - 1 MBD - 1975
2 " - 77

oil - 1974 - 6 + 10
1975 - 7 + 9

Production - oil
natural gas
COAL +
Other - geothermal
solar

Equity - \$30

2%

Security -

COAL - immediate + dependable, answer. ^{American}

600,000
1,200,000
200 major coal mines
150 coal fired power plants
70 synthetic fuel

Clean Air Act - another
conversion
more plants
siting

International -
Surface Mining (strip-mining)
50 = 200 = 2. + 10,000 jobs

Mr. President:

We thank you for this historic day in the history of our industry. We hope that it will be recorded as the turning point in the history of coal in this nation, marking the passing of yesterday's coal industry, and the coming of age of a strong, vibrant, and dynamic industry truly responsive to America's every needs.

We applaud the efforts you have already made in our behalf. Your initiatives on air pollution regulations, coal conversions, energy research and development, and most importantly, your veto of Surface Mining Legislation demonstrates your support of coal development.

But, Mr. President, the task is only just begun. We in the coal industry face an awesome challenge in the decade ahead. We have to build our industry - literally from scratch - into a position of primacy in the energy sector, and at the same time, these industries upon which we depend for that growth must themselves expand to an unprecedented degree. From this effort should come a new coal industry, an industry firmly placed in the energy future of this great nation.

To do this, however, we must have the continuing and strong support of the Federal Government. For we are an American energy frontier, and the conquering of that frontier is a national and not a parochial undertaking.

We ask for a continuing national commitment to coal, a commitment which will:

- take away excessive governmental regulations which smother or threaten to smother our growth before it has hardly begun.

Clean air restrictions are one example of such overkill. So too, is pending surface mining legislation which, among other things, would impose restrictions upon Federal leasing on split fee lands, so that coal under these lands could not be surface mined, permit states to prevent mining on federal lands, and prohibit any mining in alluvial valley floors.

- mandate the shift from oil and natural gas to coal in utility and industrial boilers. This represents both an economic use of our national resources and conservation in the true sense.

- Assist in the development of our vital manpower resource by working with industry, the unions involved, and the appropriate educational institutions to fashion a forward looking education and training structure.

- Continue to work with us in the research and development field, especially in mining technology, the conversion of coal to an acceptable boiler fuel, and in more efficient combustion technology.

- Bring about an early renewal of federal leasing.

- Bring about truly effective and cooperative programs to make coal mines safe and healthy.

Mr. President, in conclusion, we pledge to you, and through you, to the American people, the fullest measure of dedication to the energy goals you have established. Those goals have our support, and we will actively seek to bring them to reality.

*railroad
utility* }

HOLD FOR RELEASE

SAT MAR 1 1975 6 PM

The
Congressional Program
Of

ECONOMIC RECOVERY
&
ENERGY SUFFICIENCY

February
1975

THE ECONOMY AND ENERGY

It has been only in times of war and during periods of great economic depression that American citizens have confronted national problems as urgent and critical as those presented by today's rapidly deteriorating economy and the potential threat to the Nation's supply of energy.

In recognition of the immense importance of these issues and realizing their interrelationship, the Democratic Policy and Steering Committee of the House of Representatives and the Democratic Policy Committee of the U.S. Senate were directed by the Congressional Majority Leadership to prepare for recommendation a comprehensive program designed both to insure rapid and continued economic recovery and growth while providing national energy sufficiency.

The Senate Committee chaired by Senator John O. Pastore working jointly with the Task Force of the House Committee under the leadership of Congressman Jim Wright have submitted their recommendations for a Congressional program to meet the Nation's economic and energy needs. We commend Senator Pastore and Congressman Wright. We commend their respective Committees for their diligent and productive endeavors.

The recommendations as contained in this report have now been approved as the Congressional Program for Economic Recovery and Energy Sufficiency.

We believe that it is a Program of action which will serve the Nation well both now and in the years to come.

MIKE MANSFIELD,

Majority Leader of the Senate.

CARL ALBERT,

Speaker of the House.

THE ECONOMY AND ENERGY

A CONGRESSIONAL PROGRAM OF ACTION

The comprehensive Congressional program on the economy and energy has the following objectives:

- First: To restore in the shortest period of time a healthy economy with full employment, reduced inflation and increased output and productivity.
- Second: To prevent steep increases in the price of all energy and the pervasive economic adversities which such increases surely would entail.
- Third: To manage energy supply in the near term so as to reduce import dependence steadily and surely consistent with rapid economic recovery, providing standby protections against sudden supply curtailments.
- Fourth: To expedite and mandate programs to conserve energy and expand domestic supply in order to improve our balance of payments and achieve national energy sufficiency in a timely and reliable way.

The nation faces two very basic problems—the rapidly declining economy, and the predictability of future energy shortages. They are distinct but inextricably interrelated. The first is an immediate problem of crisis dimensions and must be treated as such. The second is of necessity a long-range problem which will yield only to effective long-range solutions. Both must be solved, and it is our purpose to set forth on behalf of the Congressional majority a definitive program of action to address both problems.

The most urgent national need is to revive the nation's economy and put Americans back to work. On January 14, the Democratic Steering and Policy Committee of the House announced a 14-point program of action. On February 18, the Democratic Policy Committee of the Senate and the Chairmen of the Standing Legislative Committees of the Senate endorsed a comprehensive economic/energy program formulated by an Ad Hoc Committee of the Democratic Policy Committee. Many of the economic initiatives recommended in these programs already are in the process of legislative implementation. Fully embracing the thrust of those programs,

we reject President Ford's 5 percent ceiling on social security and call for the accelerated payment of benefits by the full 8.7 percent effective January 1, 1975. We recommend several additional economic initiatives as well as carefully coordinated program of action for energy sufficiency.

Faced with the worst economic recession and the highest unemployment levels since the great depression, we believe that a panic energy program which interfered with the priority task of economic recovery would be a severe public disservice. The plan recommended by the President would needlessly and massively depress the economy further, add to the cost of living for all Americans and place highly inequitable cost burdens upon such basic necessities as home heating, food production and clothing.

We reject the fundamental premise of the President's program that the only way to achieve energy conservation is deliberately to raise the price of all petroleum products to all American consumers by heavy indiscriminate additions in taxation. The \$3 per barrel tariff on oil imports will not reduce imports; it simply will make them more costly to American consumers. It would add some \$7.6 billion a year to the cost of living. Adding at least \$30 billion in taxes and costs on domestic oil & gas consumption proposed by the Administration would further burden the economy with such weighty impediments that any effort at economic recovery would be hopelessly foredoomed.

The President's budget acknowledges the probable results of the Administration program: yet another year of raging double-digit inflation, another year of declining economic output, and at least another full year of unemployment in the range of 8 percent. This is a prospect which America's families should not be asked to accept. We believe the country can do much better than this, and we are determined that it shall.

The Congressional economic program recommends fiscal and monetary actions at the Federal level that will create over 1½ million more jobs by the end of 1976 than the President's program, while reducing the inflation rate by over 2%.

The comprehensive energy conservation and development program which we recommend for immediate adoption will be demonstrably less inflationary, stimulative to the economy, more selective in the areas of use to which we must look for major conservation, and more quantifiable in its results than the plan set forth by the President. It is fairer and more equitable to the American consumer. And it creates a specific mechanism to help finance an earlier realization of reliable alternate energy sources for the future.

Motor fuel accounts for about 40% of the nation's present petroleum usage. Since only 42% of this amount is directly work-related,

we believe it is practical, equitable and economically responsible to achieve most of our immediate reduction in petroleum consumption in the other 58%, but recognize that savings can be achieved in all categories of usage. We propose accomplishing this by:

- (1) A combination of graduating excise taxes and rebates on new car sales, specifically geared to the fuel efficiency of the model purchased.
- (2) Mandatory mileage performance standards for new automobiles.

If these and other conservation initiatives included in this program do not achieve diminution in imports, standby authority should be invoked to:

- (3) Require Sunday closings, allocations down to the service station level, and controls on the use of credit cards to buy gasoline.
- (4) Impose import quotas.

(Note: a mere five percent reduction in the total number of miles driven would save almost 350,000 bbls of oil per day; a 10 percent reduction would save nearly 700,000 bbls.

(Encouraging only one-fourth of America's drivers into cars that get just two miles per gallon better mileage would save an additional 230,000 bbls per day. When one-third of the driving population can be accommodated in vehicles that yield better efficiency by just 3 miles per gallon, the additional saving will be 470,000 bbls per day.)

Our program will achieve energy conservation not only in the transportation sector, but also in the residential, industrial and commercial sectors where longer-range savings are both achievable and quantifiable. We prescribe realistic standards in each sector. Fundamentally, we seek to reduce consumption by the elimination of waste—not by the elevation of price.

Savings in energy of almost 500,000 bbls of oil or its equivalent per day will result by 1980 from our recommendations to assist families and businesses in insulating homes and other buildings and making other energy-related improvements.

One key feature provides incentives to expedite conversion of electric power generating and other industrial plants from petroleum and natural gas to coal. This is the second largest area of wasteful petroleum usage, and while it is more difficult to hypothecate a precise saving without knowing how rapidly such plants can be induced to make the conversions, we believe it is not unrealistic to anticipate additional savings from this source after the second year in the vicinity of 400,000 bbls daily in BTU equivalent.

A saving of 160,000 bbls a day can result from strict local enforcement of the 55-mile-per-hour speed limit. Other conservation initiatives contained in this program will produce additional savings.

The Congressional program also creates a strategic oil reserve and sets up a National Energy Production Board with authority to recommend import quotas, allocations and even rationing in event of emergency.

In all, we believe that our program will reduce domestic consumption of imported petroleum, at a very conservative estimate, by the equivalent of 500,000 bbls of oil per day in the first year, by 1.6 million bbls per day in the second year, and by more than 5 million bbls per day by 1980. Considerably more dramatic savings can be achieved in years to come.

We have seen no reliable data whatever to support a conclusion that the Administration's draconian tax increases actually would result in one huge round-figure savings he claims for them. Nor have we heard any impelling reason why the national reduction must of necessity reach one million bbls daily in the very first year. In any event, we believe it better to promise relatively less and achieve more than to promise grandly and achieve less than pledged.

We believe that the American people, as well as our friends in the international community, both the suppliers and the users of petroleum, will be more impressed by candor and performance than by roseate promises unfulfilled. We believe they will be more impressed by our frank determination to maintain a strong American economy. And we believe they will readily discern the superiority of a steadily increasing long-term commitment to long-term objectives over a single sudden surge upward in consumer prices.

Beyond conserving scarce fuels, we recommend a number of specific measures to encourage exploration for oil and natural gas and greater recovery from existing wells and fields. We recommend creation of an Energy Trust Fund financed by a 5 cent per gallon retail tax on gasoline and by yields from excess profits taxes. The fund is to be used to assist in the more rapid development of coal gasification, liquifaction and other synthetic fuel plants and to achieve scientific and technological progress in oil shale, geothermal, solar, nuclear fusion and other energy fields.

Faithful implementation of the various facets of this program will close the growing gap between domestic energy consumption and production of all types and forms by the energy equivalent of some 11 million bbls of oil per day by 1985, and will reduce our energy imports by that year to 10% of our total consumption.

The Nation's impelling need is for a consistent and coordinated long-term plan. The Congress provides it.

THE ECONOMY

TARGET:

THE FIRST PRIORITY MUST BE A RETURN TO FULL EMPLOYMENT AS SOON AS POSSIBLE. THIS CAN BE ACHIEVED THROUGH FISCAL AND MONETARY ACTIONS DESIGNED TO PROMOTE ECONOMIC RECOVERY WITH A SUBSTANTIALLY REDUCED INFLATION RATE.

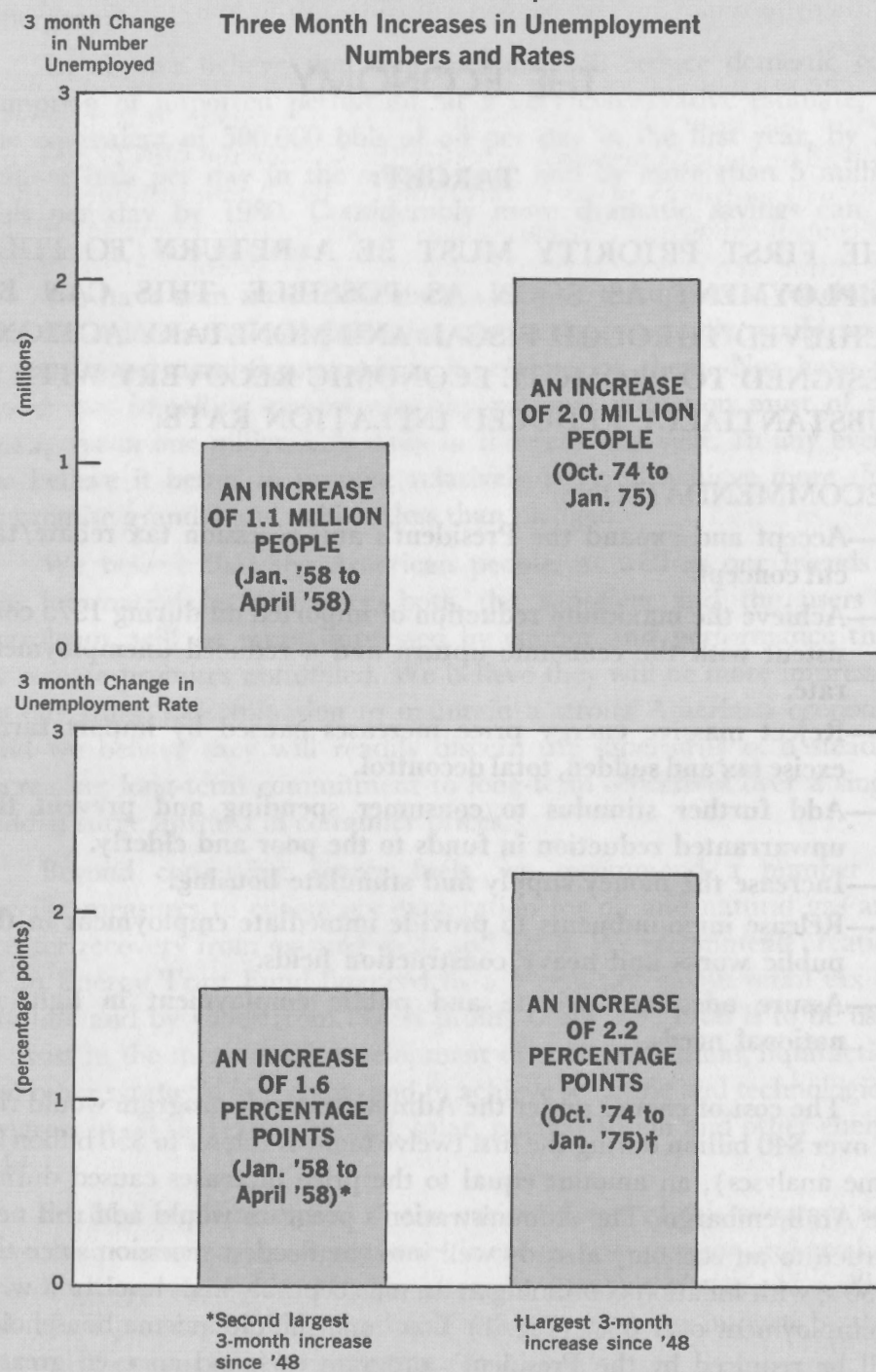
RECOMMENDATIONS:

- Accept and expand the President's anti-recession tax rebate/tax cut concept.
- Achieve the maximum reduction of imported oil during 1975 consistent with the economic upturn and a reduced unemployment rate.
- Reject massive energy price increases caused by import tariff, excise tax and sudden, total decontrol.
- Add further stimulus to consumer spending and prevent the unwarranted reduction in funds to the poor and elderly.
- Increase the money supply and stimulate housing.
- Release impoundments to provide immediate employment in the public works and heavy construction fields.
- Assure adequate private and public employment in light of national needs.

The cost of energy under the Administration's program would rise by over \$40 billion during the first twelve months (closer to \$50 billion by some analyses), an amount equal to the price increases caused during the Arab embargo. The Administration's program would add this new burden to an economy already well into the deepest recession since the 1930's, with inflation continuing at an unacceptably high level, and with unemployment over 8%. (Fig. 1) Low- and middle-income households will be required by the President's program to spend an even greater portion of their limited income to purchase energy.

FIGURE 1

The Current Recession Compared to 1958*
Three Month Increases in Unemployment
Numbers and Rates



As its goal the Administration seeks a reduction of energy consumption by one million barrels per day in 1975. To achieve it, energy prices would be greatly increased, first by taxing all crude oil and natural gas and then by removing the present controls on the market price of oil and gas.

The price of energy is not determined by free forces of supply and demand but rather by the governments of the nations that produce energy. The policy question is whether the U.S. or the OPEC governments will set energy prices in this country. The Administration wishes to decontrol old oil and new natural gas, giving control of price to OPEC and letting U.S. energy prices follow the prices established by them. (Fig. 1A)

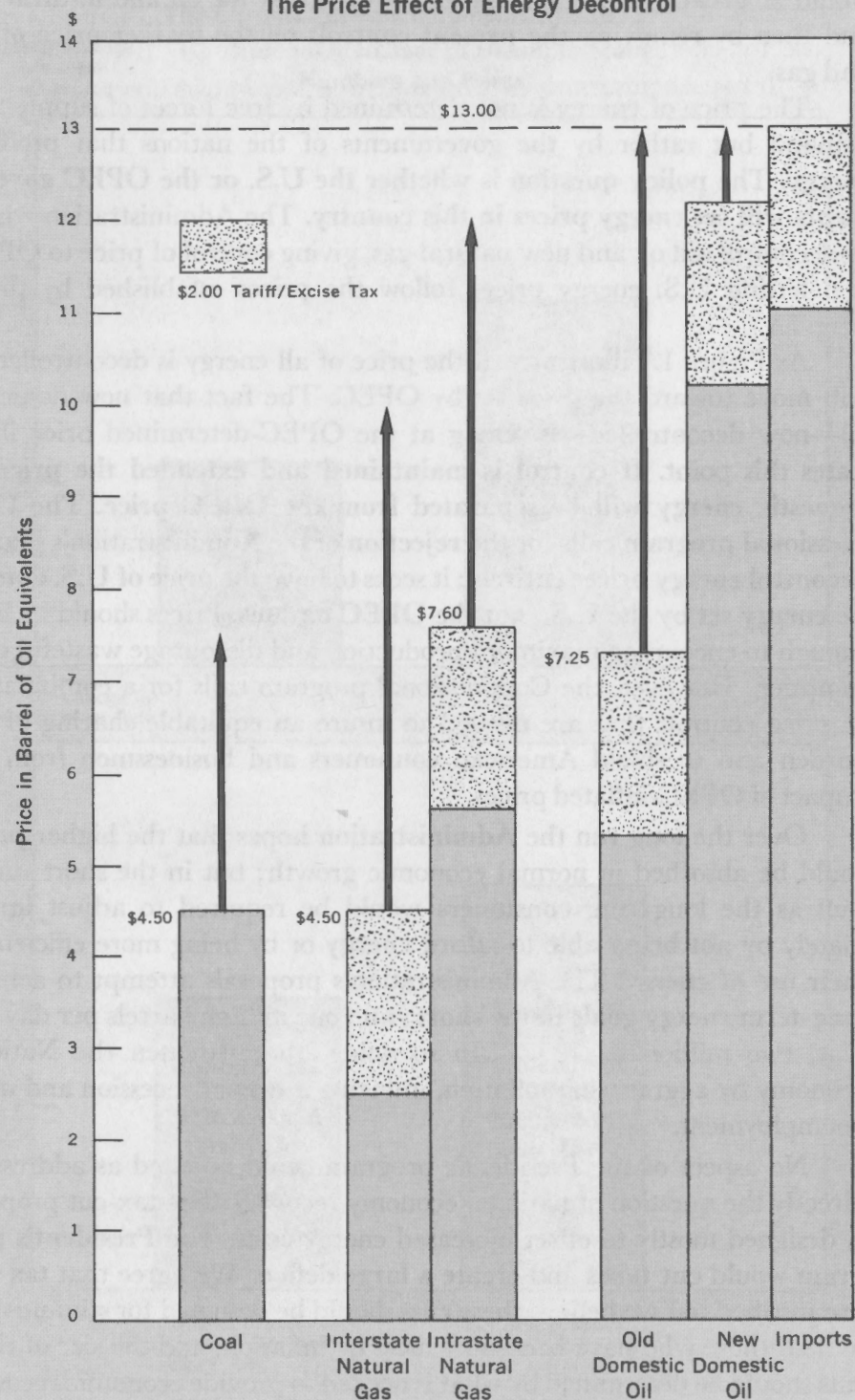
As Figure 1A illustrates, if the price of all energy is decontrolled, it will move toward the price set by OPEC. The fact that new domestic oil—now decontrolled—is selling at the OPEC-determined price illustrates this point. If control is maintained and extended the price of domestic energy will be separated from the OPEC price. The Congressional program calls for the rejection of the Administration's plan to decontrol energy prices entirely; it seeks to have the price of U.S. domestic energy set by the U.S., not the OPEC nations. Prices should be high enough to encourage maximum production and discourage wasteful consumption. However, the Congressional program calls for a combination of price controls that are needed to insure an equitable sharing of the burden and to shield American consumers and businessmen from the impact of OPEC-inflated prices.

Over the long run the Administration hopes that the higher prices could be absorbed in normal economic growth; but in the short run as well as the long run, consumers would be required to adjust immediately by not being able to afford energy or by being more efficient in their use of energy. The Administration's proposals attempt to achieve long-term energy goals in the short run (one million barrels per day this year, two million by 1977). In so doing, they threaten the Nation's economy by aggravating inflation, inducing a deeper recession and more unemployment.

No aspect of the President's program could be cited as addressing directly the question of national economy recovery. The tax-cut proposal is designed mostly to offset increased energy costs. The President's program would cut taxes and create a large deficit. We agree that tax cuts are justified but we believe these cuts should be designed for stimulus and to help those who have been hurt most by inflation, and the size of these cuts should be determined by what is needed to provide economic recovery and full employment as quickly as possible.

FIGURE 1A

The Price Effect of Energy Decontrol



The President's proposal can be thought of in three parts: (a) a \$16 billion one time tax rebate to stimulate the economy; (b) a budget moratorium of new spending programs; and (c) a \$40 billion-plus cost increase for energy in all forms, offset in part with \$27 billion in cash rebates to households, business and state and local government.

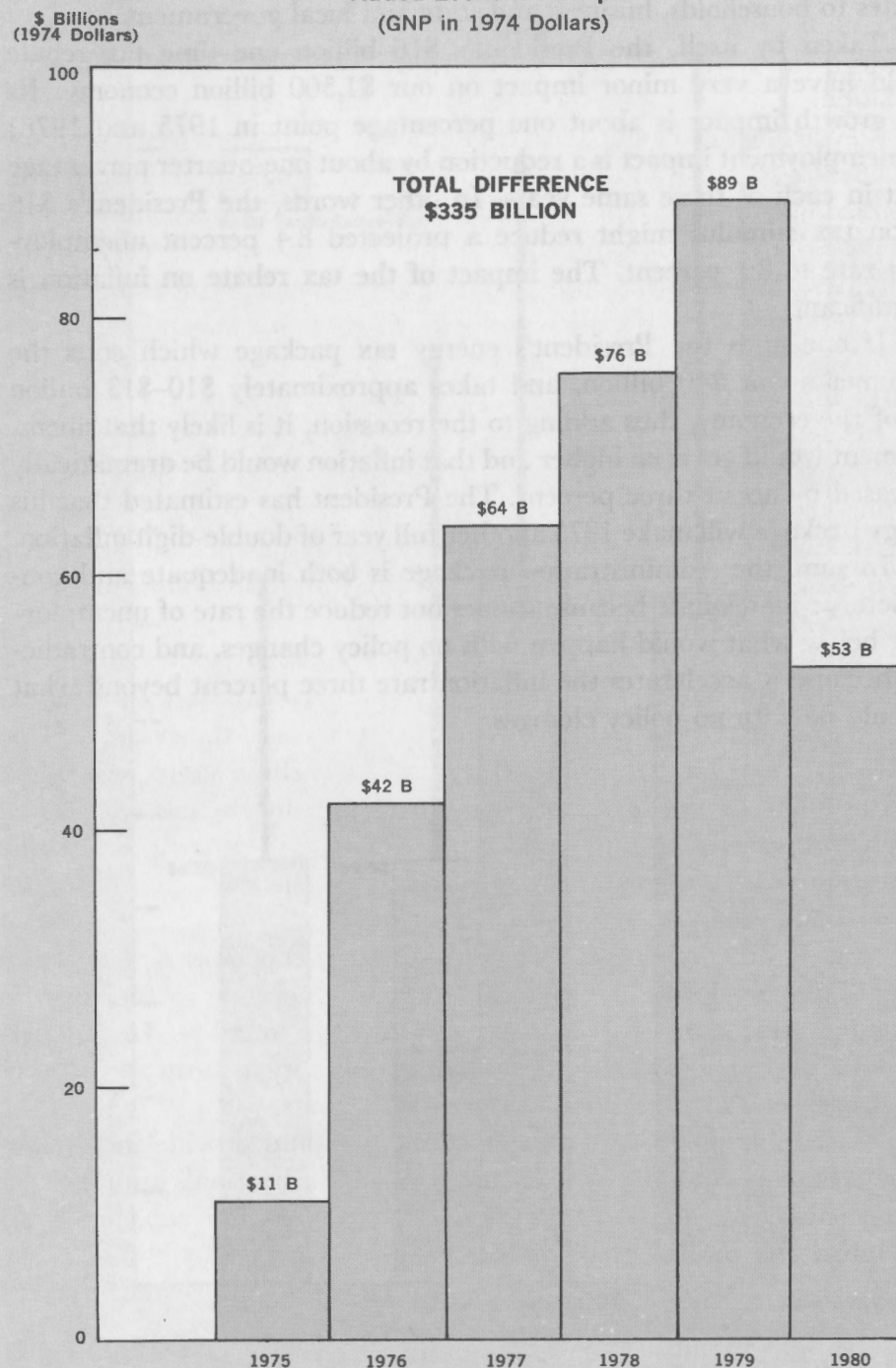
Taken by itself, the President's \$16 billion one time tax rebate would have a very minor impact on our \$1,500 billion economy. Its real growth impact is about one percentage point in 1975 and 1976; its unemployment impact is a reduction by about one-quarter percentage point in each of these same years. In other words, the President's \$16 billion tax stimulus might reduce a projected 8.4 percent unemployment rate to 8.1 percent. The impact of the tax rebate on inflation is insignificant.

If one adds the President's energy tax package which costs the consumer about \$40 billion, and takes approximately \$10-\$13 billion out of the economy, thus adding to the recession, it is likely that unemployment would get even higher and that inflation would be dramatically increased by about three percent. The President has estimated that his energy package will make 1975 another full year of double-digit inflation.

In sum, the Administration package is both inadequate and contradictory: inadequate because it does not reduce the rate of unemployment below what would happen with no policy changes, and contradictory because it accelerates the inflation rate three percent beyond what it would be with no policy changes.

FIGURE 2

**Congressional Program vs. Administration Target
Added Economic Output**
(GNP in 1974 Dollars)



**THE RECOMMENDATIONS OF THE CONGRESSIONAL
PROGRAM TO ACHIEVE ECONOMIC RECOVERY**

Recognizing the interrelated nature of Energy and the Economy, the Congressional program, while designed to reduce national dependence on imported oil, would halt the recessionary slide, begin economic recovery and provide millions of additional jobs without adding to inflation.

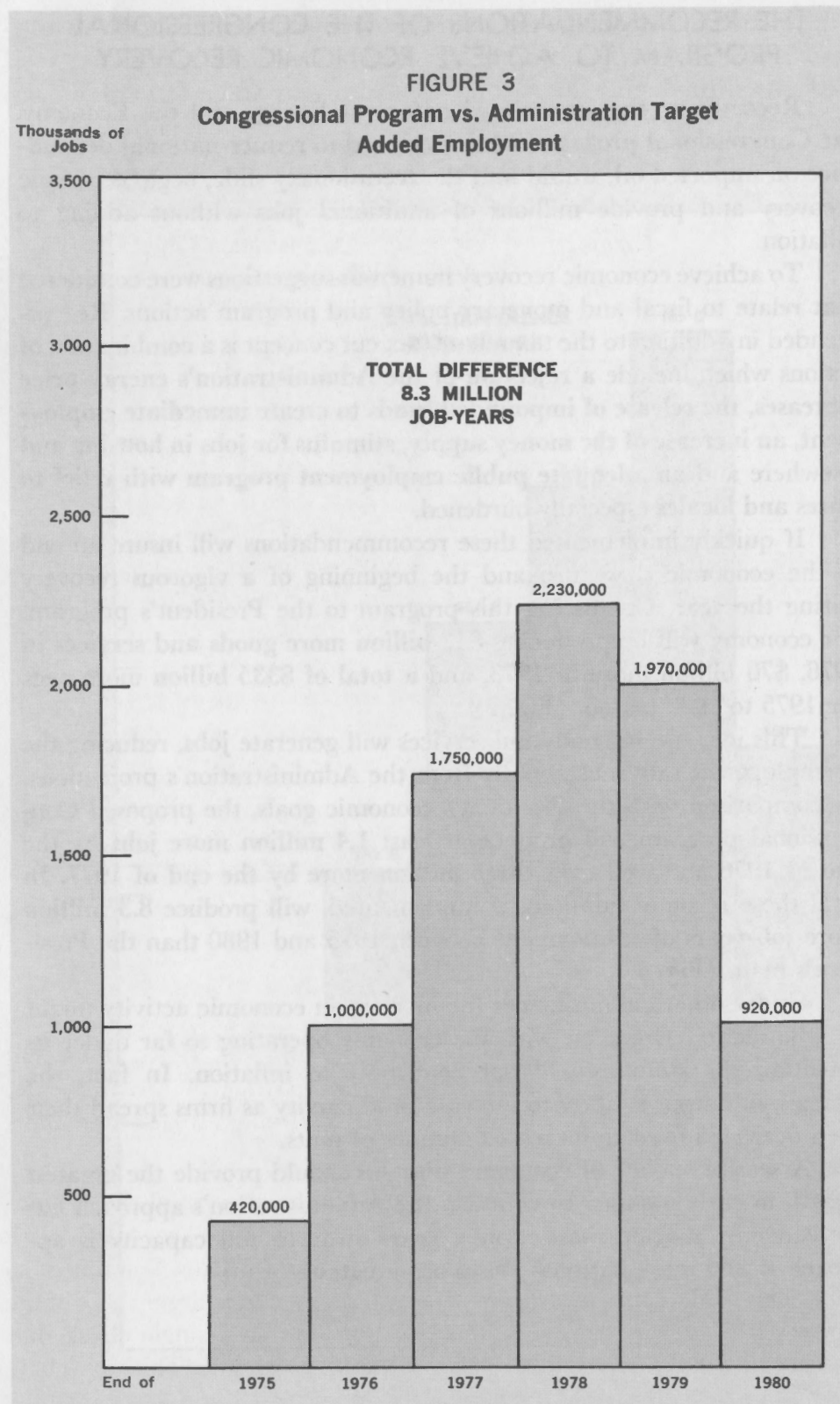
To achieve economic recovery numerous suggestions were considered that relate to fiscal and monetary policy and program actions. Recommended in addition to the tax rebate/tax cut concept is a combination of actions which include a rejection of the Administration's energy price increases, the release of impounded funds to create immediate employment, an increase of the money supply, stimulus for jobs in housing and elsewhere and an adequate public employment program with relief to states and locales especially burdened.

If quickly implemented these recommendations will insure an end to the economic downturn and the beginning of a vigorous recovery during the year. Comparing this program to the President's program, our economy will be producing \$42 billion more goods and services in 1976, \$76 billion more in 1978, and a total of \$335 billion more over the 1975 to 1980 period. (Fig. 2)

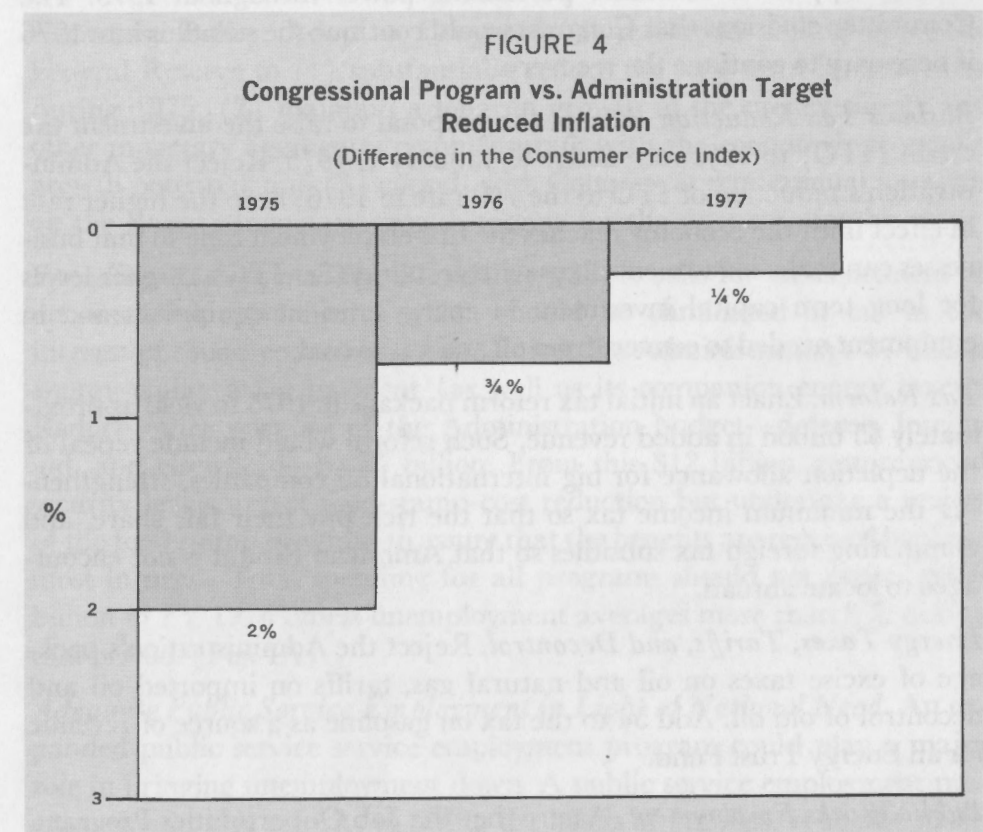
This increase in goods and services will generate jobs, reducing the unemployment rate substantially from the Administration's projections. By comparison with the President's economic goals, the proposed Congressional program will produce at least 1.4 million more jobs by the end of 1976 and well over three million more by the end of 1977. In total these recommendations, if implemented, will produce 8.3 million more job-years of employment between 1975 and 1980 than the President's plan. (Fig. 3)

Under other circumstances the increase in economic activity might be inflationary. However, with the economy operating so far under its potential, the stimulus will not contribute to inflation. In fact, the increase in output is likely to increase productivity as firms spread their fixed overhead over an increased number of units.

A sensible policy of economic stimulus should provide the greatest growth in early months. In contrast, the Administration's approach has the economy moving most rapidly years away as full capacity is approached and the inflationary risks are greatest.



More immediately, the **Congressional program** will avoid the inflationary effect of the Administration's energy taxes, tariffs and total decontrol, **producing 2% less inflation this year and a total of 3% less by 1977.** (Fig. 4)



Elements of the Recommendation in Summary

Social Security and Supplementary Security Income. Reject President Ford's 5% ceiling on social security; accelerate payment of benefits by the full 8.7% effective January 1, 1975, and mail out retroactive benefits checks in May or June.

Retroactive Personal Tax Reduction. Accept the concept of the Administration's rebate of 1974 taxes. Redesign the program in accordance with objectives recommended by the House Ways and Means Committee so that low- and middle-income taxpayers receive a much larger share of the benefits. Send out the payment in May or June in a single check that would provide a large boost to sagging personal income. This tax rebate would provide a one-shot stimulus to the economy.

Temporary Personal Tax Reduction. Adopt a substantial additional tax cut for 1975, consistent with House Ways and Means action. This reduction would affect withholding schedules by July 1 of this year. This tax cut, also targeted to low- and middle-income taxpayers, would provide continuing support to consumer purchasing power throughout 1975. The Committee envisions that Congress would continue the stimulus into 1976 if necessary to continue the recovery.

Business Tax Reduction. Accept the proposal to raise the investment tax credit (ITC) to 10% retroactive to January 1, 1975. Reject the Administration's reduction of ITC to the 7% rate in 1976; keep the higher rate in effect until the economy reaches the full-employment zone so that businesses can make investment plans with certainty. Set ITC at higher levels for long term capital investment in energy-efficient equipment and in equipment needed to convert from oil and gas to coal.

Tax Reform. Enact an initial tax reform package in 1975 to yield approximately \$5 billion in added revenue. Such reform would include repeal of the depletion allowance for big international oil companies, strengthening the minimum income tax so that the rich pay their fair share, and eliminating foreign tax subsidies so that American capital is not encouraged to locate abroad.

Energy Taxes, Tariffs, and Decontrol. Reject the Administration's package of excise taxes on oil and natural gas, tariffs on imported oil and decontrol of old oil. Add 5¢ to the tax on gasoline as a source of revenue for an Energy Trust Fund.

Public Works Employment. Assure that the Job Opportunities Program, the Economic Adjustment Assistance Program and the Public Works Impact Program (Titles X, IX and I of the Public Works and Economic Development Act) are fully funded and implemented to meet their original purpose of providing short-term employment opportunities while constructing facilities of lasting value to the community. Reject rescissions or deferrals and otherwise provide increased funding for short-term construction programs meeting urgent national needs such as water pollution control and transportation. This action would offer opportunities for increased construction and related employment, activities which have suffered real decreases in spending as a result of inflation. Provide any additional Federal assistance which may be necessary to allow state and local governments to make full use of increases in funding for public works construction programs.

Housing. Stimulate the homebuilding industry through a shallow interest rate subsidy program to enable low- and middle-income families to pur-

chase homes at interest rates they can now afford to pay. Interest subsidies will be limited to low- and middle-income families with phase-out triggered to economic recovery. Reject rescissions and deferrals of appropriations for existing housing programs. Provide temporary aid to homeowners to prevent mortgage foreclosures.

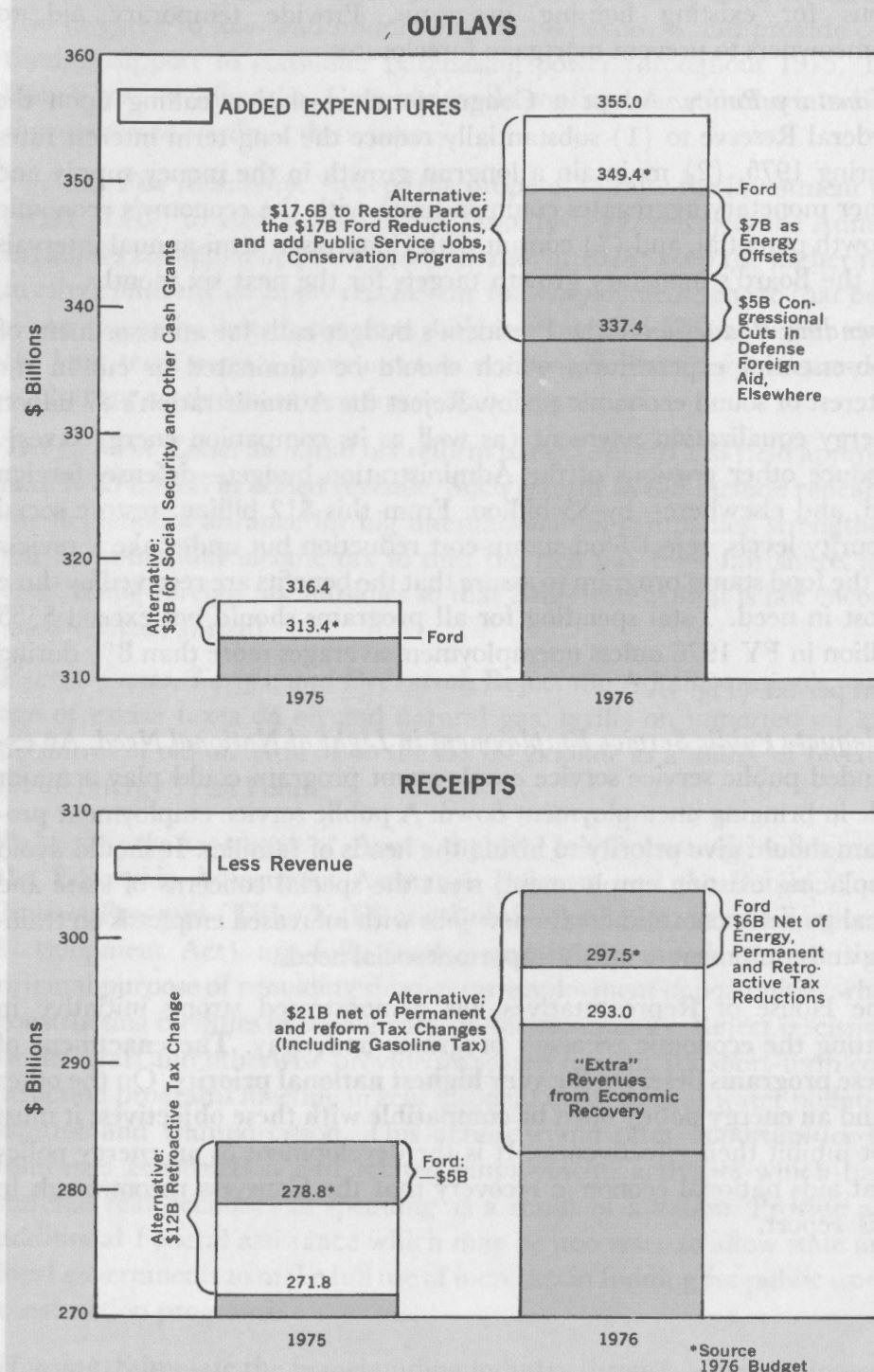
Monetary Policy. Adopt a Congressional resolution calling upon the Federal Reserve to (1) substantially reduce the long term interest rates during 1975, (2) maintain a longrun growth in the money supply and other monetary aggregates commensurate with the economy's economic growth potential, and (3) consult with Congress at semi-annual intervals on the Board's monetary growth targets for the next six months.

Spending Reductions. The President's budget calls for an assortment of non-essential expenditures which should be eliminated or cut in the interest of sound economic policy. Reject the Administration's \$7 billion energy equalization payment (as well as its companion energy taxes). Reduce other portions of the Administration budget—defense, foreign aid, and elsewhere—by \$5 billion. From this \$12 billion, restore social security levels, reject food-stamp-cost reduction but undertake a review of the food stamp program to assure that the benefits are received by those most in need. Total spending for all programs should not exceed \$355 billion in FY 1976 unless unemployment averages more than 8% during that period. (Fig. 4A)

Adequate Public Service Employment in Light of National Need. An expanded public service service employment program could play a major role in bringing unemployment down. A public service employment program should give priority to hiring the heads of families. It should avoid displacing existing employment, treat the special concerns of state and local governments and create new jobs with increased emphasis on training and equipment to satisfy important social needs.

The House of Representatives has demonstrated strong initiative in getting the economic recovery programs underway. **The enactment of these programs deserves the very highest national priority.** On the other hand **an energy policy must be compatible with these objectives;** it must not inhibit their effectiveness. It is the development of an energy policy that aids national economic recovery that the Congress recommends in this report.

FIGURE 4A
Budget Effect of Congressional Alternative



ENERGY

TARGET:

IMPLEMENT A COMPREHENSIVE CONSERVATION PROGRAM THAT REDUCES SUBSTANTIALLY FOREIGN IMPORT DEPENDENCE WITHOUT AGGRAVATING THE NATION'S CURRENT ECONOMIC CRISIS. EXPAND DOMESTIC SUPPLY BY DIVERSIFYING ENERGY SOURCES. ESTABLISH MANAGEMENT PROCEDURES IN THE EVENT OF DRASTIC ENERGY SHORTAGES.

RECOMMENDATIONS:

- Avoid sudden massive energy price increases.
- Institute a combination of excise taxes and rebates on new automobile sales, deliberately geared to favor energy-efficient vehicles.
- Institute a 5¢ tax on gasoline as the financial base for an Energy Trust Fund.
- Institute urgent program of energy conservation.
- Create a National Energy Production Board.
- Improve management of current energy supply and protect independent segment of the industry by extending allocation authority.
- Achieve the maximum reduction of imported oil consistent with an economic upturn and a reduced unemployment rate and empower the Energy Production Board to limit imports to meet targets.
- Enact emergency powers to limit imports and include standby rationing authority in the event of drastic reduction of energy supply from abroad.

ENERGY

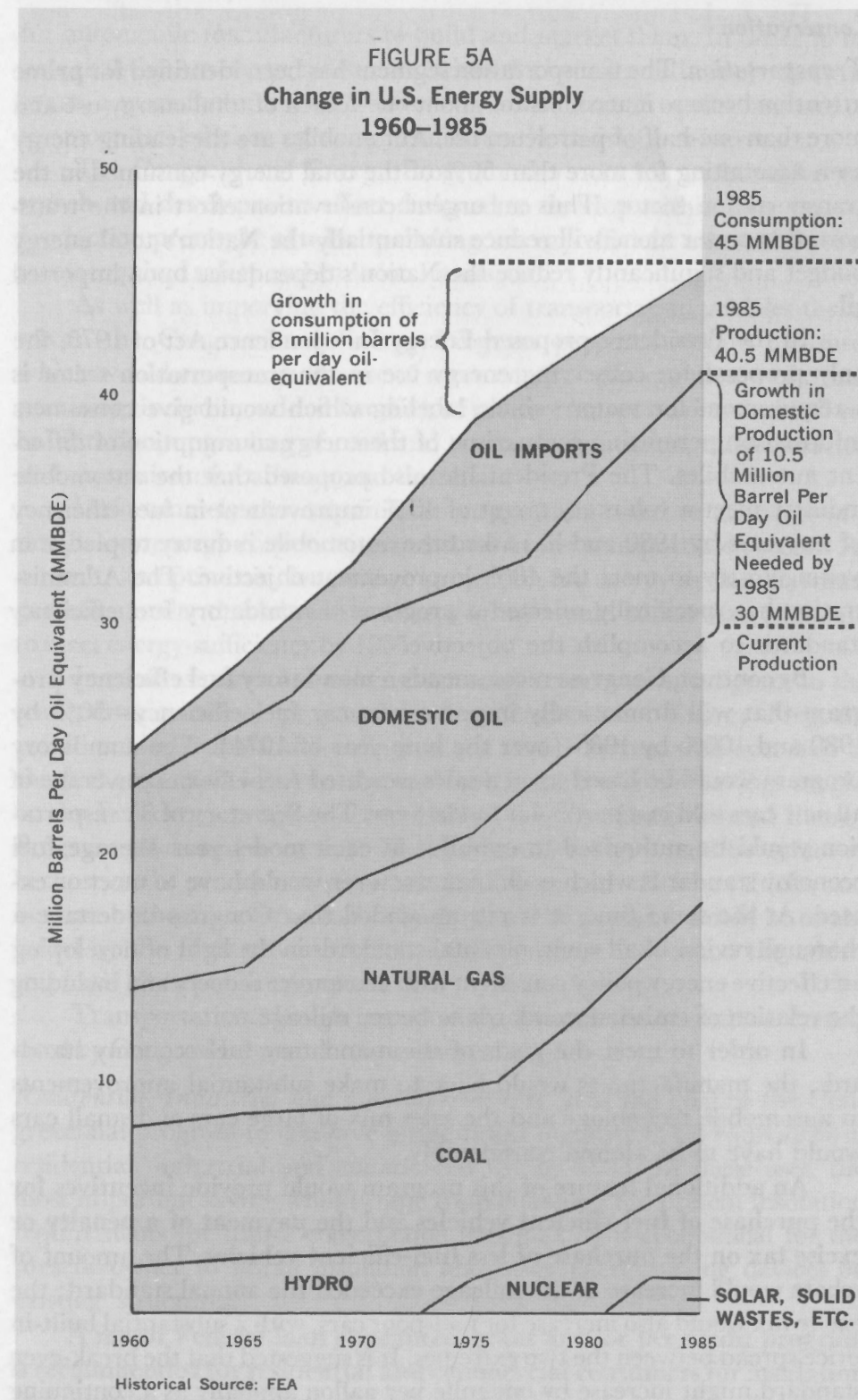
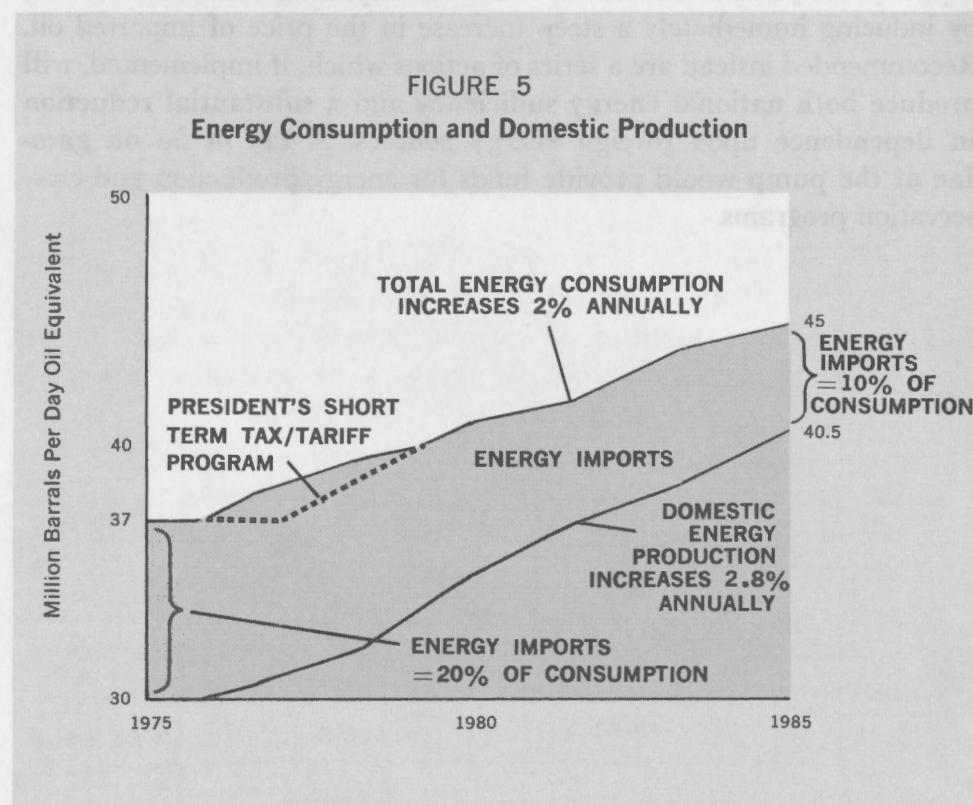
This Nation has previously assumed an unlimited and relatively inexpensive energy supply; these assumptions no longer apply. The Congressional program sets forth a comprehensive energy policy and identifies a series of actions designed to **conserve the use of energy and expand its available supply.**

First is recommended the **rejection of the President's proposal for energy price increases.** The President's plan reflects a serious lack of perception of the integrated nature of our economy. The added hardships imposed by steep price increases must be avoided in favor of cutting down on waste and expanding and developing our energy production capacity. No justification can be found for impairing economic recovery by inducing immediately a steep increase in the price of imported oil. Recommended instead are a series of actions which, if implemented, **will produce both national energy sufficiency and a substantial reduction in dependence upon foreign energy sources.** A tax of 5¢ on gasoline at the pump would provide funds for energy production and conservation programs.

The goal of the Congressional energy program is self-sufficiency. At present the Nation imports 20% of its energy sources from abroad. The Congressional program will reduce our reliance by 1985 on imported energy supplies to less than 10% of the United States total energy consumption (and to less than 20% of our total oil use). (Fig. 5) In addition, our country will have in place a strategic reserve of oil that will provide three million barrels per day for a full year.

Under present policies the United States' energy consumption in 1975 could be equivalent to 38 million barrels of oil per day, with oil imports approaching 6.5 million barrels per day (Tables I & II). At present rates of growth by 1985 as a Nation we could be consuming an estimated 56 million barrels of oil or its equivalent (Table I).

If implemented the Congressional program will reduce this growth rate in energy consumption and by 1985, the Nation will be consuming 45 million barrels per day. To achieve this goal, therefore, this program will conserve eleven million barrels per day by 1985 (Table III) (Fig. 5A). To provide that saving, a series of conservation efforts must be undertaken immediately (Table IV).



Conservation

Transportation. The transportation segment has been identified for **prime attention** because it accounts for about one-fourth of total energy use and more than one-half of petroleum use. Automobiles are the leading energy user, accounting for more than 50% of the total energy consumed in the transportation sector. Thus an urgent conservation effort in the transportation sector alone will reduce substantially the Nation's total energy budget and significantly reduce the Nation's dependence upon imported oil.

In the President's proposed Energy Independence Act of 1975, the only proposal for conserving energy use in the transportation sector is a requirement for motor vehicle labeling which would give consumers information permitting comparison of the energy consumption of different automobiles. The President has also proposed that the automobile industry meet a voluntary target of 40% improvement in fuel efficiency of new cars by 1980 and has asked the automobile industry to pledge in writing to try to meet the 40% improvement objective. The Administration has specifically rejected a program of mandatory fuel efficiency standards to accomplish the objective.

By contrast, **Congress recommends a mandatory fuel efficiency program** that will dramatically improve new car fuel efficiency—50% by 1980 and 100% by 1985 (over the base year of 1974). The mandatory program would be based upon a sales weighted fuel efficiency average of all new cars sold in a particular model year. The Secretary of Transportation would be authorized to establish in each model year average fuel economy standards which each manufacturer would have to meet or exceed. At the same time, it is recommended that Congress undertake a thorough review of all environmental standards in the light of developing an effective energy policy consistent with economic recovery and including the relation of emission standards to better mileage.

In order to meet the goals of the mandatory fuel economy standards, the manufacturers would have to make substantial improvements in automobile technology and the sales mix of large cars and small cars would have to be altered considerably.

An additional feature of this program would provide **incentives for the purchase of fuel-efficient vehicles and the payment of a penalty or excise tax on the purchase of less fuel-efficient vehicles.** The amount of rebate would increase as the mileage exceeded the annual standard; the excise tax would also increase for fuel-poor cars, with a substantial built-in price spread between the two extremes. It is suggested that the break-even standard might increase by one mile per gallon annually as a continuing incentive not only for customers to shop for energy-efficient vehicles but

for automobile manufacturers to build and market them. In order to insure that the American consumer derives the benefits of the incentive program, a manufacturer would have to establish that any price increase on the more fuel-efficient cars was justified on the basis of cost increases.

The Congressional Energy Program also calls for **an intensive research and development effort** designed to develop within four years a production prototype of a low-polluting, energy-efficient automobile that meets required safety and emission standards.

As well as improving the efficiency of transportation vehicles themselves, the Congressional Energy Program proposes certain measures which would encourage the use of more energy-efficient means of transportation, including **added funding of public transportation and rail rehabilitation, upgrading of road and track, electrification, modernization and expansion of roadways and terminals.**

Unfortunately the Administration program failed to advocate any mandatory energy conservation measures in the transportation sector. As a result, an optimistic, long-range projection for energy savings in transportation under the Administration program would be less than adequate to meet energy-sufficiency by 1985.

In contrast, the comprehensive energy conservation program in the transportation sector proposed in the Congressional Energy Program would achieve substantial savings in the next 10 years, well over half of the fuel consumed today by the automobile and twice the savings sought by the President's program. (See Table IV.) The Congressional Energy Program offers certainty that this significant savings would be achieved because of the program to stimulate the shift to fuel-efficient vehicles and because of the mandatory fuel-efficiency standards which would be established by the Department of Transportation, not to mention the added emphasis given public transportation.

Transportation, though important, is but one sector of the economy cited by Congress for mandatory conservation.

Residential, Industrial and Commercial Use. It is the goal of the Congressional program to conserve a significant quantity of oil equivalent in residential, industrial and commercial use by 1985. In these uses, the most important saving would come from changing the present insulation requirements for future construction and making it economical for the present owner to install insulation and other energy-saving devices on existing structures.

A major Federal loan guarantee, grant and/or tax credit program is recommended for residential and commercial consumers for insulation and other energy-saving modifications. A principal objective of the program would be to **upgrade over 10 years some 40 million existing homes**

presently in need of thermal protection improvements, such as ceiling insulation, storm windows and doors, caulking and weatherstripping. (See Table IV.) Financial incentives should also be explored to encourage the installation of solar heating and cooling facilities.

With specific regard to the Industrial use of energy, including electric utilities these recommendations are made:

- Special investment incentives exclusively for conservation (in addition to those required for economic recovery) applicable to any capital investment in the next two years for retrofitting investments made exclusively to save energy or to switch from oil and gas to coal (with appropriate ceilings).
- Discouragements against use of natural gas in new electric power generating plants.
- A federal requirement for an energy conservation program (efficiency standards) in each industry designed to economically feasible conservation targets.
- A research and development program for new energy saving industrial processes designed to save 40 percent in key industries over the next decade.

To facilitate conversion of electric power generating and other industrial plants from petroleum and natural gas to coal—consistent with public health, technological and economic considerations—we suggest the appropriate committees consider guaranteeing that any new plant for future conversion which faithfully meets current EPA emission standards at the time the facility is built will enjoy a sufficient period of grace against imposition of more costly standards so as to permit amortization of the required investment on accelerated depreciation schedule. (See Table IV.)

The Congressional program recommends action to facilitate and provide the necessary funding to revise building codes at Federal, state and local levels to improve energy efficiency, a Truth-in-Energy law to require labeling of energy content and cost of all appliances, homes, automobiles, etc., and performance standards for major appliances to conserve energy. (See Table IV.)

In addition financial aid would be provided to improve electrical transmission lines and to make better use of existing generating capacity. Financial aid would be afforded as well to the utilities in order to facilitate construction of transmission lines that could take advantage of diversity in demand and thus enlarge the capacity available for each utility to meet peak loads without building as many new powerplants. In return, utilities should be encouraged to redesign rate structures so as to encourage energy conservation by all consumers.

At the governmental level, all Federal agencies would be required to give energy conservation the highest priority in all purchases, planning, policies and regulatory actions; specifically mandate the ICC, CAB and Maritime Administration that energy wastage be cut out in railroad, airline, truck and marine transportation; work with state regulatory agencies to establish standards for utility rate design in the pricing of electricity and natural gas to encourage energy conservation.

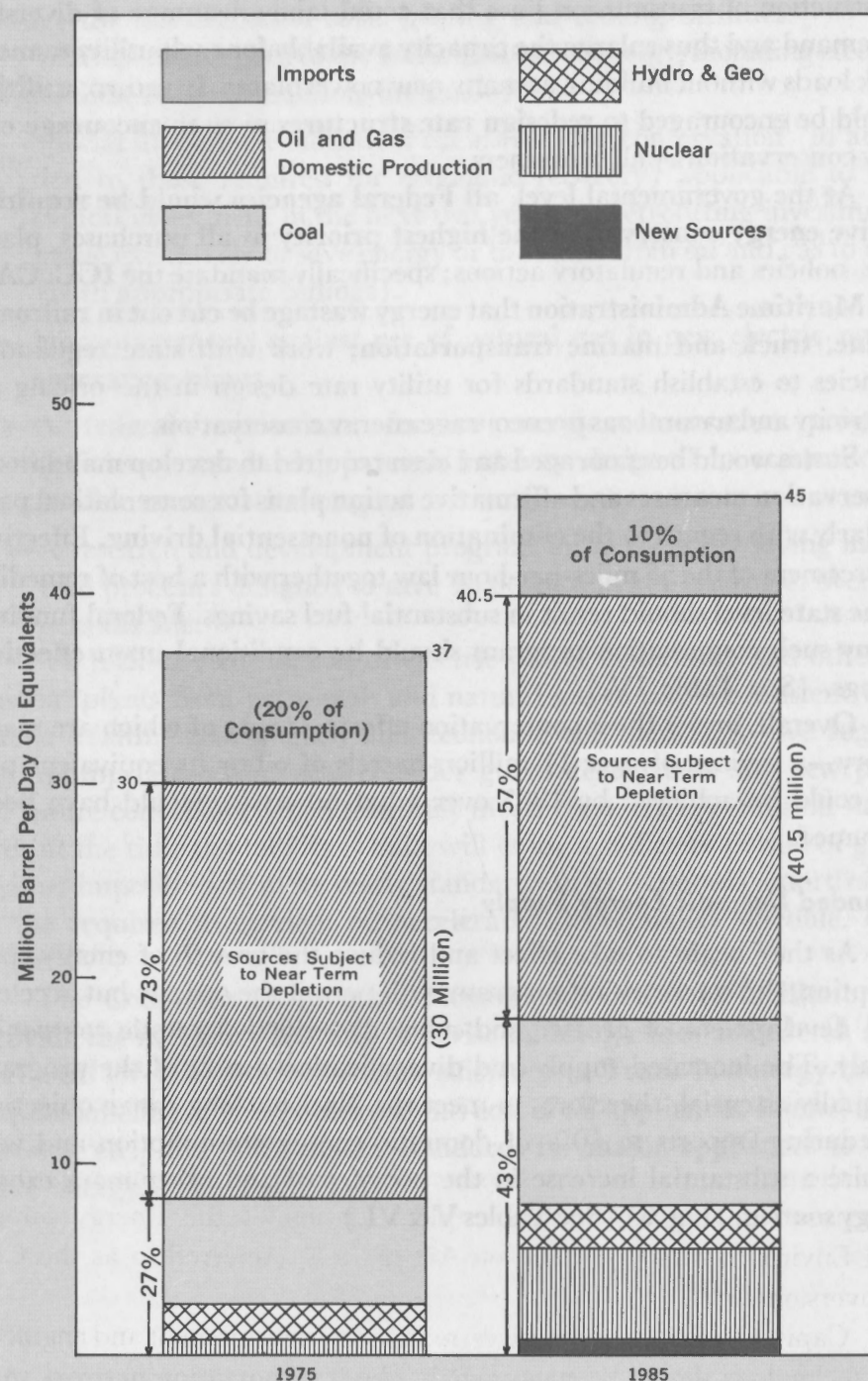
States would be encouraged and even required to develop mandatory conservation measures and affirmative action plans for conservation, particularly with regard to the elimination of nonessential driving. Effective enforcement of the 55 miles-per-hour law together with a host of remedies at the state level should result in substantial fuel savings. Federal funding of any such conservation program should be conditional upon effective savings. (See Table IV.)

Overall, under these conservation efforts—many of which are mandatory—a savings of over 11 million barrels of oil or its equivalent per day could be achieved by 1985 over what otherwise would have been consumed.

Expanded Domestic Energy Supply

As they begin to take effect and reduce the growth of energy consumption, the conservation programs will permit the orderly but accelerated development of greater and more diversified domestic sources of supply. The increased supply and diversification aspect of the program is equally essential, therefore, to meet the Nation's long range objective of reducing imports to 10% of domestic energy consumption and will require a substantial increase in the use of coal and other more exotic energy sources. (Fig. 6) (See Tables V & VI.)

FIGURE 6
U.S. Energy Supplies 1975 and 1985



The overall objective of national energy sufficiency recognizes the enormous undertaking involved in terms of capital investment and incentives, in terms of environmental protection and national security. Switching from oil and gas to coal and other sources is just one aspect of the program—although a most critical one—and it alone will require a substantial commitment of national resources. A national program of this magnitude requires the establishment of an instrumentality at the highest level of government to make certain that the program is successful. Therefore at the core of the recommendations is **the creation of a National Energy Production Board as an independent agency** of the government. It would mobilize unutilized and under-utilized private and public resources to increase domestic energy production on an urgent basis. The National Energy Production Board would be patterned after the War Production Board of World War II and, subject to Congressional review, would have authority and funding to break energy bottlenecks, and to take all actions necessary to accelerate the production of and conversion to domestic energy sources. Much of the cost would be funded out of an Energy Trust.

At the same time, the NEPB would oversee establishment of a **national system of oil strategic reserves** and storage. The program would create a stockpile that could supply three million barrels per day for six months by 1980 and for a full year by 1985. (See Table V.) Part of the oil stored would be purchased on the world market under secret bid to encourage competition. The remainder could come from Naval Petroleum Reserves, the Outer Continental Shelf and the marketplace. While the establishment of the oil bank is an essential component of energy self-sufficiency in the long term, it will be NEPB's prime responsibility to get the augmented supplies and diversification underway on an urgent basis. Leading the specific recommendations proposed by the Congressional program is coal production and conversion.

Coal conversion incentives of major proportion are recommended that are designed to implement a national policy requiring new base-load fossil fuel fired electrical plants and heavy industrial boilers to burn coal rather than oil or natural gas, and the conversion of existing plants over the next 10 years where feasible. (See Table V.) In this regard the Congress supports expeditious implementation of the Energy Supply and Environmental Coordination Act of 1974 (referred to as the Coal Conversion Act).

Capital equipment incentives, manpower development and engineering technology should be encouraged. **The transportation network must** be greatly improved and coal should be mined and burned in compliance with environmental standards and in compliance with the Fed-

eral Coal Mine Health and Safety Act. Strong measures are needed to encourage the conversion to environmentally sound coal use, e.g. **tax credits, loan programs, or fuel taxes to finance the cost of conversion.**

At the same time a commercial demonstration of **new synthetic fuels** from coal should be undertaken with an ultimate production goal reaching the equivalent of **500,000 barrels of oil per day.** (See Table V.) These technologies, together with oil shale, geothermal, MHD, solar and others, would be developed on a contract or joint venture basis with industry. Sufficient Federal financial support is recommended to proceed immediately. From this initial experience, a better assessment could be made of environmental and social as well as economic costs. Incentives should be provided to facilitate **expansion of nuclear power.** We also recommend funding accelerated efforts to resolve the safety, safeguard and waste disposal problems.

As to **new domestic oil and gas sources, the Outer Continental Shelf Act should be revised** to accelerate exploration consistent with the public interest and in cooperation with states and public authority. This revision will assure coastal states of environmental protection, establish a public knowledge bank on available resources, permitting production under leases so that available resources will not be kept from the Nation's supply by private speculation and require disclosure of geological and engineering data that pertain to these national resources.

To encourage increased domestic exploration for oil and gas, we recommend:

- (1) Completely eliminating depletion allowance on all foreign drilling;
- (2) An excess profits tax on all big oil companies, avoidable only by plowing profits back into domestic exploration, and depositing proceeds from tax into Trust Fund; and
- (3) Retaining depletion allowance only for small independent domestic explorers who do not operate retail outlets.

For the **near term** the Congressional supply program recommends that the **Naval Petroleum Reserves** be rapidly developed and necessary transportation facilities created to make the estimated 10-40 billion barrels available as needed for storage or commercial use.

And for immediate results, current production should be maximized along with ultimate recovery from existing oil and gas reserves; and to facilitate **secondary and tertiary recovery**, tax incentives should be provided along with Federal authority for mandatory unitization of fields (harmonizing the production of wells into a common field) and production at maximum efficient rates with authority exercised by states where state laws and regulations meet Federal standards. The oil price control

program should be modified also to create sufficient incentives to produce all oil that can be recovered economically through secondary and tertiary recovery, substantially increasing the amount of oil ultimately produced from the average field. Perhaps the most effective plan would be to include some decontrol treatment for secondary and tertiary recovery as "new" oil.

Exploiting fully natural gas potential is equally critical and the Federal Power Commission must be mandated to provide price certainty at levels high enough to reflect future costs and to eliminate regulatory delays, reducing any incentive to withhold gas because of the uncertainty over government pricing policy.

The Congressional program therefore **recommends measures to reform and simplify natural gas regulation**, but continue interstate price controls on old natural gas, and establish a **statutory formula** ceiling that reflects cost of production. This should assure that the price is high enough to encourage maximum domestic production, but still below the OPEC cartel level.

Finally, **procedures to shorten needless regulatory delay** in energy production should be adopted. This should include expedited consideration of a natural gas delivery system from Alaska and cover speed-up of certification and regulatory procedures by FPC and State Utility Commissions with regard to both electricity and natural gas.

We reject an automatic pass-through to consumers of a fuel adjustment cost without scrutiny and justification by state and local regulatory authorities.

To be sure, there are issues related to the matter of increasing production and achieving a greater diversity in the sources of energy supply. Paramount among these are the environmental questions involved. Congress has played a chief role in developing **long-range policies to protect public health and the environment** and the actions recommended to increase and diversify energy supply must be designed to maximize the development of the more environmentally sound sources of energy in preference to the more environmentally controversial sources.

To underscore the concern of Congress for **an energy production policy fully compatible with environmental concerns**, this program recommends the adoption of three precise legislative objectives:

- Enact the Surface Mining Control Act.
- Enact legislation which recognizes the interests of states in the siting of power plants, refineries, etc.; provides planning mechanisms for regional planning in which states participate and decisions can be made in a timely fashion so that necessary facilities can be built.

—Establish machinery to recognize and resolve concerns of Coastal, Rocky Mountain States and others concerned with damage to the quality of life from potential exploitation of their regions and to provide adequate funding to minimize detrimental secondary effects.

While environmental preservation is a paramount concern of this program, it is just as important that increased production and expanded supply be undertaken by a **strong and vigorous industry**.

It is therefore recommended that the **anti-trust laws be strengthened** to promote free enterprise and to encourage competition. It is recommended also that the **bidding system for Federal leases be changed** to permit greater participation by smaller companies.

Together these are the components of a policy designed to expand the domestic production of energy. With a reduced rate of growth, **they chart a deliberate path to national energy sufficiency** within the next ten years, eliminating this Nation's dependence on insecure sources of supply as rapidly as possible without causing economic adversity along the way.

National energy sufficiency is attainable under this Congressional program; the path is straight and deliberate, joining supply and conservation programs into an integrated rational policy.

What the energy conservation and expanded supply programs indicate, also, is substantial bipartisan agreement on the primary goals of U.S. energy policy—eliminating U.S. dependence on insecure sources of supply as rapidly as possible. In advocating creation of the NEPB, the Congressional program has chosen a separate independent instrumentality fully equipped to get the job done.

Administrative Mechanism

The NEPB and other involved agencies **must be equipped** equally well to meet each and every contingency that might occur between now and the time a national energy sufficient status has been achieved. To meet such contingencies **a host of standby authorities** are recommended by the Congressional program. They range from **import quotas** to **centralized purchasing powers, allocations**, and as the President has recommended, even to rationing.

What these standby powers reflect is that Congress recognizes the vulnerability of the Nation to energy shortages. To weather any such potential adversity, pending a status of energy sufficiency with reduced foreign dependency and the emplacement of an oil reserve, the Congress accepts the President's judgment that enactment of standby rationing legislation is needed. Also it recommends the extension of the **mandatory allocation program** which could accommodate a **gradual shift to reduced**

import dependence in the short term by managing and controlling any excessive rate of energy consumption. Allocation management procedures would be called upon immediately in the event that enacted policies did not lead to the previously stated goals. But full-scale rationing could be employed only in the event of a drastic reduction in energy supplies by an embargo of oil imports.

The **standby import quota authority** vested directly in the NEPB together with a centralized purchasing mechanism for imports recognizes that as a consuming Nation today we may need to become more deeply involved in oil negotiation while we endeavor to attain an energy-sufficient status. Provision for the standby authorities reflects also that in the near and mid term, energy is too important to America to be left in the hands of a cartel of foreign nations. The Congress recommends therefore that the **independent NEPB itself be empowered to create an oil import administration** which could **require that exporters to the United States bid competitively** for access to the U.S. market. In addition, the Board would be empowered to set quotas to limit imports.

Other elements of the standby authorities should include the following:

- Assure that any allocation/rationing program affords equitable treatment of regions, industries, classes of consumers and independent producers during an embargo or energy curtailment from other causes.
- Authorize the States to invoke more stringent mandatory conservation measures in any future curtailment.
- Direct the Executive immediately to submit its recommendations for a system to ration gasoline and other forms of energy; the system to be activated on notice, subject to expedited Congressional review.

A final component of the comprehensive Congressional program recommends creation of the **National Energy Trust** which would include the dedication of funds needed to realize national energy goals.

As the financial base for this trust, **a 5¢ tax on gasoline at the pump** would be imposed 30 days after enactment. This revenue would begin to pay for the urgent program of conservation and production.

Additional revenues for the Trust would be derived from energy taxes on inefficient uses of energy and by dedication of part of the funds paid for leases covering the Outer Continental Shelf.

Conclusion

If much of this Congressional program is in accord with the long range objective of the Administration, then our disagreement is over tactics and the coordination of energy policy with economic policy.

The Administration wants to tax energy at the source; the Congress recommends taxing gasoline at the pump. The Administration wants to put the entire tax on at once; Congress recommends a 5 cent tax coupled with urgent and mandatory conservation and production programs. The Administration seeks to achieve mileage standards; Congress agrees, but would make them mandatory and supplement the standards with a large excise tax on poor mileage autos and an offsetting subsidy for efficient cars. Most importantly, the Administration relies on massive price increases to accomplish its goals while Congress would back up its recommendations with authority to manage supply and allocate—or even to impose quotas if necessary—to meet the goals.

In sum, the President's program would trade the jobs and economic well-being of Americans to achieve a short-term result of dubious merit. The Congress will not tolerate such further economic sacrifice and its comprehensive energy policy reflects a judgment that economic restoration is the Nation's foremost priority today.

TABLE I.—EFFECT OF CONGRESSIONAL PROGRAM ON ENERGY SUPPLIES

| | Million barrels of oil equivalent per day | | | |
|--|---|-----------|------|------|
| | 1973 | 1975 | 1980 | 1985 |
| Energy demand: | | | | |
| Consumption if no new actions (historical) | 36.6 | 38.0 | 47.0 | 56.1 |
| Energy conservation reductions (congressional program) | | 1.3 | 6.0 | 11.1 |
| Adjusted consumption to reflect energy conservation | | 36.7 | 41.0 | 45.0 |
| Domestic energy supplies: | | | | |
| Petroleum | 10.9(API) | 10.5(API) | 12.0 | 13.4 |
| Natural gas | 11.2 | 10.5 | 10.1 | 10.3 |
| Coal | 6.9 | 7.5 | 10.1 | 15.0 |
| Other | 1.5 | 2.5 | 3.4 | 5.2 |
| Total domestic supplies | 30.5 | 31.0 | 35.6 | 43.9 |
| Imports | 6.1 | 5.7 | 4.4 | 1.1 |
| Total supplies | 36.6 | 36.7 | 41.0 | 45.0 |

TABLE II.—EFFECTS ON OIL IMPORTS (DRAFT, FEB. 25, 1975)

| | Million barrels of oil equivalent per day | | | |
|--|---|--------------------|-------------------|--------------------|
| | 1975 | 1977 | 1980 | 1985 |
| Petroleum supply—Demand balance: | | | | |
| Consumption if no new actions | ¹ 18.00 | ¹ 18.30 | ² 20.3 | ¹ 23.90 |
| Imports if no new actions | ¹ 6.50 | ¹ 8.00 | ² 9.5 | ¹ 12.70 |
| Savings achieved by following actions: | | | | |
| Voluntary conservation | .78 | .90 | 1.12 | 1.40 |
| Mandatory conservation (difference between congressional and administration conservation programs) | ³ (0.28) | ² .25 | 2.20 | 5.76 |
| Accelerate oil supply strategy | .10 | .10 | .65 | 2.00 |
| Substitution of coal for oil and natural gas | .17 | .40 | .98 | 1.40 |
| Promotion of coal for use by new facilities that otherwise would use oil or natural gas | 0 | 0 | 0 | 0 |
| Total savings | .77 | 1.60 | 5.13 | 11.62 |
| Necessary imports: | | | | |
| Congressional program | 5.73 | 6.40 | 4.39 | 1.08 |
| Administration program | 5.30 | 5.80 | 5.38 | 4.70 |
| Strategic reserve strategy | .20 | .30 | 1.00 | 3.00 |
| New import vulnerability (requiring standby emergency authority) | 5.53 | 6.10 | 3.39 | (⁴) |

¹ The President's 1975 state of the Union message including economy and energy, Jan. 15, 1975.

² Estimates.

³ Due principally to administration's price disincentives.

⁴ Surplus.

TABLE III.—CONSERVATION STRATEGY—SUMMARY¹

| | Million barrels of oil equivalent per day | | |
|---|--|------|-------|
| | 1975 | 1980 | 1985 |
| Transportation: | | | |
| Automobile: | | | |
| Congressional program (mandatory)..... | 0.33 | 2.23 | 3.81 |
| Administration program (voluntary)..... | .45 | 1.38 | 1.95 |
| Public: | | | |
| Congressional program..... | .13 | .42 | .58 |
| Administration program..... | (2) | (2) | (2) |
| Industrial sector: | | | |
| Congressional program (mandatory)..... | .17 | 1.47 | 3.65 |
| Administration program (voluntary)..... | .42 | .83 | 1.27 |
| Residential-commercial sector: | | | |
| Congressional program (mandatory)..... | .42 | 1.36 | 2.08 |
| Administration program (voluntary)..... | .57 | 1.35 | 1.92 |
| Utility sector: | | | |
| Congressional program (mandatory)..... | .25 | .50 | 1.00 |
| Administration program (voluntary)..... | .14 | .22 | .22 |
| Totals: | | | |
| Congressional program..... | 1.30 | 5.98 | 11.12 |
| Administration program..... | 1.58 | 3.78 | 5.36 |
| Difference..... | (.28) | 2.20 | 5.76 |

¹ For detailed program see table IV.² No comparable program.

TABLE IV.—CONSERVATION STRATEGY

| | Million barrels of oil equivalent per day | | |
|--|--|-------------------|-------------------|
| | 1975 | 1980 | 1985 |
| Transportation: | | | |
| Automobile: | | | |
| 1. Voluntary conservation: Car pooling and proper maintenance..... | ¹ 0.05 | ² 0.32 | ² 0.35 |
| 2. Enforce 55 m/hr speed limit..... | ¹ .05 | ¹ .16 | ¹ .16 |
| 3. Incentives for purchase of new automobiles with improved efficiency and fuel economy standards: | | | |
| Congressional program (mandatory)..... | .10 | 1.50 | ³ 3.00 |
| Administration program (voluntary)..... | ⁴ .05 | ⁵ .48 | ⁵ 1.00 |

TABLE IV.—CONSERVATION STRATEGY—Continued

| | Million barrels of oil equivalent per day | | |
|--|--|-------------------|-------------------|
| | 1975 | 1980 | 1985 |
| Transportation—Continued | | | |
| Automobile—Continued | | | |
| 4. Price disincentives: | | | |
| Congressional program (gasoline tax)..... | 0.13 | 0.25 | 0.30 |
| Administration program (excise tax)..... | ⁵ .30 | ⁵ .42 | ⁵ .44 |
| 5. Research on urban car..... | (6) | (6) | (6) |
| Subtotal: | | | |
| Congressional program..... | .33 | 2.23 | 3.81 |
| Administration program..... | .45 | 1.38 | 1.95 |
| Public transportation: Upgrade mass transit systems followed by government programs to discourage inefficient use of automobiles: ² | | | |
| Congressional program..... | .13 | .42 | .58 |
| Administration program..... | (7) | (7) | (7) |
| Subtotal: | | | |
| Congressional program..... | .13 | .42 | .58 |
| Administration program..... | (7) | (7) | (7) |
| Total, transportation sector: | | | |
| Congressional program..... | .86 | 3.39 | 4.58 |
| Administration program..... | .90 | 2.82 | 3.39 |
| Industrial sector: | | | |
| 1. Encourage voluntary conservation and energy audits: | | | |
| Congressional program..... | 1.17 | (8) | (8) |
| Administration program..... | 1.17 | (8) | (8) |
| 2. Investment incentives: | | | |
| Congressional program..... | | 1.47 | 1.90 |
| Administration program..... | | .47 | .90 |
| 3. Mandatory energy conservation programs, including efficiency standards: | | | |
| Congressional program (adjusted to reflect item 2)..... | ² 1.00 | ² 2.75 | ² 2.75 |
| Administration program..... | | (7) | (7) |
| 4. Price disincentives (fuel and excise taxes): | | | |
| Congressional program..... | (7) | (7) | (7) |
| Administration program..... | ⁵ .25 | ⁵ .36 | ⁵ .37 |
| Total, industrial sector: | | | |
| Congressional program..... | .17 | 1.47 | 3.65 |
| Administration program..... | .42 | .83 | 1.27 |
| Residential-commercial sector: | | | |
| 1. Encourage voluntary energy conservation: | | | |
| Residential..... | 1.06 | ² .14 | ² .19 |
| Commercial..... | 1.28 | ² .50 | ² .70 |
| Subtotal..... | .34 | .64 | .89 |
| 2. Insulation tax credit: | | | |
| Congressional program (commercial)..... | 0 | 1.08 | 1.10 |
| Administration program..... | 0 | ⁴ .18 | ⁵ .30 |

TABLE IV.—CONSERVATION STRATEGY—Continued

| | Million barrels of oil equivalent per day | | |
|--|---|------------------|-------------------|
| | 1975 | 1980 | 1985 |
| Residential-commercial—Continued | | | |
| 3. Promote 10-year program to upgrade 40 million residences: | | | |
| Congressional program..... | 0.08 | 0.38 | ² 0.57 |
| Administration program..... | (⁷) | (⁷) | (⁷) |
| 4. Building code revisions..... | | 4.17 | ⁵ .30 |
| 5. Appliance efficiency standards and labeling: | | | |
| Congressional program (mandatory)..... | 0 | ² .09 | ² .22 |
| Administration program (voluntary)..... | 0 | 4.04 | ⁵ .10 |
| 6. Price disincentives: | | | |
| Congressional program..... | (⁷) | (⁷) | (⁷) |
| Administration program ⁵ | .23 | .32 | .33 |
| Total, commercial-residential sector: | | | |
| Congressional program..... | .42 | 1.36 | 2.08 |
| Administration program..... | .57 | 1.35 | 1.92 |
| Utility sector: | | | |
| 1. Utility rate redesign: | | | |
| Congressional program ² | 4.25 | 4.50 | 1.00 |
| Administration program ⁵ | 4.02 | 4.05 | .05 |
| 2. Investment tax credit..... | (⁹) | (⁹) | (⁹) |
| 3. Price disincentives: | | | |
| Congressional program..... | (⁷) | (⁷) | (⁷) |
| Administration program ⁵ | .12 | .17 | .17 |
| Total, utility sector: | | | |
| Congressional program..... | .25 | .50 | 1.00 |
| Administration program..... | .14 | .22 | .22 |

¹ Comprehensive energy plan, Federal Energy Administration, December 1975.² Project independence report, Federal Energy Administration, November 1975.³ Department of Transportation.⁴ Estimated.⁵ The President's 1975 state of the Union message including economy and energy, Jan. 15, 1975.⁶ No immediate benefit.⁷ No comparable proposal.⁸ See item 3.⁹ No direct conservation.

TABLE V.—OIL STRATEGIES

| | Million barrels of oil equivalent per day | | | |
|---|---|-------------------|--------------------|--------------------|
| | 1975 | 1977 | 1980 | 1985 |
| Energy supply strategy—oil: | | | | |
| 1. Accelerate Outer Continental Shelf development..... | | | ¹ 0.500 | ² 1.500 |
| 2. Assure maximum efficient rate of production from existing wells and promote secondary and tertiary recovery..... | 0.100 | 0.100 | .050 | 0 |
| 3. Promote commercial production of synthetic fuels..... | 0 | 0 | .100 | .500 |
| Total..... | .100 | .100 | .650 | 2.000 |
| Strategic reserve strategy—Oil: | | | | |
| 1. Production of Elk Hills..... | ² .200 | ² .300 | | |
| 2. Development of Naval Petroleum Reserve No. 4..... | 0 | 0 | 0 | ² 2.000 |
| 3. Emergency storage..... | 0 | 0 | ¹ 1.000 | ² 3.000 |
| Total..... | .200 | .300 | 1.000 | ³ 3.000 |

¹ Estimate.² The President's 1975 state of the Union message including economy and energy, Jan. 15, 1975.³ Assume that production from NPR-4 (item 2) is used to build up emergency storage.

TABLE VI.—COAL STRATEGIES

| | Million barrels of oil equivalent per day | | | |
|---|---|-------------------|-------------------|-------------------|
| | 1975 | 1977 | 1980 | 1985 |
| Energy supply strategy—Coal: | | | | |
| 1. Promote the development of new coal supplies: | | | | |
| Production goals..... | 7.50 | | 10.08 | 15.00 |
| (Million tons per day)..... | (1.9) | | (2.52) | (3.81) |
| (Million tons per year)..... | (685) | | (920) | (1,370) |
| Current projections ¹ | | 8.52 | 9.80 | 12.04 |
| (Million tons per day)..... | | (2.13) | (2.45) | (3.00) |
| (Million tons per year)..... | | (755) | (895) | (1,100) |
| Increases over current projections..... | | | .28 | 2.96 |
| (Million tons per day)..... | | | (.07) | (.80) |
| (Million tons per year)..... | | | (25) | (270) |
| 2. Promote substitution of coal for oil and natural gas: | | | | |
| Conversion of utilities with capability to use coal ² | .100 | .300 | .400 | .400 |
| Conversion of existing utilities without capability to use coal and new utilities now in planning stage or under construction which plan to use natural gas or oil..... | 0 | 0 | ³ .280 | ¹ .500 |
| Conversion of industrial facilities..... | ⁴ .075 | ³ .100 | ³ .300 | ¹ .500 |
| Total..... | .175 | .400 | .980 | 1.400 |

¹ Project Independence Report, Federal Energy Administration, November 1975.

² The President's 1975 state of the Union message including economy and energy, Jan. 15, 1975.

³ Estimate.

⁴ Comprehensive Energy Plan, Federal Energy Administration, December 1975.

94TH CONGRESS
1ST SESSION

S. 594

IN THE SENATE OF THE UNITED STATES

FEBRUARY 5, 1975

Mr. HUGH SCOTT introduced the following bill; which was read twice and, by unanimous consent, referred to the Committees on Armed Services, Banking, Housing and Urban Affairs, Commerce, Finance, Government Operations, Interior and Insular Affairs, the Judiciary, Labor and Public Welfare, and Public Works

A BILL

To increase domestic energy supplies and availability; to restrain energy demand; and to prepare for energy emergencies, and for other purposes.

To increase domestic energy supplies and availability by authorizing production of the Naval Petroleum Reserves, establishing a National Strategic Petroleum Reserve, assuring increased supplies of natural gas at reasonable prices, amending and extending the Energy Supply and Environmental Coordination Act of 1974, amending the Clean Air Act, altering regulatory practices and procedures of governing electric utilities, assuring timely siting, consideration, approval and construction of necessary energy facilities, and preventing foreign oil producing countries from undermining efforts to develop petroleum resources; to restrain energy demand by providing national energy conservation standards for new residential and commercial buildings, authorizing the Federal Energy Administration to

assist States in winterizing dwellings of low-income persons, and providing for the labeling of major appliances and motor vehicles; to prepare for energy emergencies by providing standby energy authorities and implementing the International Energy Program; and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That this Act may be cited as the "Energy Independence
- 4 Act of 1975".

TABLE OF CONTENTS

Sec. 1. Short Title—Energy Independence Act of 1975.

PART A—INCREASING DOMESTIC ENERGY SUPPLIES AND AVAILABILITY

TITLE I—NAVAL PETROLEUM RESERVES

Sec. 101. Findings and Policy.

Sec. 102. Amendments to chapter 641 of Title 10, U.S.C.

- a. New section 7420.
- b. Amendment to section 7421 (a).
- c. Amendment to section 7422 (a).
- d. Amendment to section 7422 (b) (2).
- e. Amendment to section 7422 (c).
- f. Amendment to section 7423.
- g. Amendment to section 7426 (d).
- h. Amendment to section 7430 (b).
- i. Amendment to section 7431.
- j. Amendment to section 7432.
- k. Amendment to section 7433 (b).
- l. Amendment to section 7438 (c) (2).
- m. New sections 7439–7440.

Sec. 103. Amendment of chapter analysis.

TITLE II—NATIONAL STRATEGIC PETROLEUM RESERVE (CIVILIAN) ACT OF 1975

- Sec. 201. Short title.
- Sec. 202. Findings.
- Sec. 203. Declaration of policy.
- Sec. 204. Definitions.
- Sec. 205. General provisions.
- Sec. 206. Condemnation proceedings.
- Sec. 207. Terms and conditions.
- Sec. 208. Injunctions and other relief.
- Sec. 209. Annual reports.
- Sec. 210. Delegation of authority.
- Sec. 211. Special fund.
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TITLE III—AMENDMENTS TO THE NATURAL GAS ACT

- Sec. 301. Amendment to section 1 (b) of the Natural Gas Act.
- Sec. 302. Amendment to section 2 of the Natural Gas Act.
- Sec. 303. Amendment to section 4 of the Natural Gas Act.
- Sec. 304. Amendment to section 5 (a) of the Natural Gas Act.
- Sec. 305. Amendment to section 7 (c) of the Natural Gas Act.

TITLE IV—EXTENSION OF AND AMENDMENTS TO THE ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT OF 1974

- Sec. 401. Extension of authority to issue orders.
- Sec. 402. Extension of enforcement authority.
- Sec. 403. Additional installations subject to prohibition orders.

TITLE V—CLEAN AIR ACT AMENDMENTS OF 1975

- Sec. 501. Short title.
- Sec. 502. Extensions of compliance for certain powerplants.
- Sec. 503. Automobile emission standards.
- Sec. 504. Waivers for technology innovations.
- Sec. 505. New source and hazardous emission equipment standards.
- Sec. 506. Extensions for transportation control plans.
- Sec. 507. Enforcement orders extending past attainment dates.
- Sec. 508. Assessment of civil penalties.
- Sec. 509. Extension for attainment of national primary ambient air quality standards for suspended particulate matter.
- Sec. 510. Regional limitations on compliance date extensions.
- Sec. 511. Installations eligible for compliance date extensions.
- Sec. 512. Compliance plan requirements and date of termination of compliance date extensions.
- Sec. 513. Conforming amendment: FEA authority to require plants that develop coal-burning capability after June 22, 1974 to burn coal.

TITLE VI—AMENDMENT TO THE CLEAN AIR ACT

- Sec. 601. Significant deterioration.

TITLE VII—UTILITIES ACT OF 1975

- Sec. 701. Short title.
- Sec. 702. Findings and purposes.
- Sec. 703. Definitions.
- Sec. 704. Suspension of rate applications.
- Sec. 705. Fuel adjustment clause.
- Sec. 706. Removal of prohibitions against off-peak pricing.
- Sec. 707. Construction work in progress.
- Sec. 708. Cost of environmental controls.
- Sec. 709. Normalization method of accounting.
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- Sec. 711. Appropriations.

TABLE OF CONTENTS—Continued

TITLE VIII—ENERGY FACILITIES PLANNING AND DEVELOPMENT ACT OF 1975

- Sec. 801. Short title.
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- Sec. 803. National energy siting and facility report.
- Sec. 804. State energy facility management programs.
- Sec. 805. Development and administrative grants.
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- Sec. 807. Facility approval by Federal agencies.
- Sec. 808. Judicial review.
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- Sec. 810. Delegation of authority.
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TITLE IX—ENERGY DEVELOPMENT SECURITY ACT OF 1975

- Sec. 901. Short title.
- Sec. 902. Findings and purpose.
- Sec. 903. Definitions.
- Sec. 904. Investigation by the Administrator.
- Sec. 905. Presidential action.
- Sec. 906. Relation to other laws.

PART B—DEMAND RESTRAINT

TITLE X—BUILDING ENERGY CONSERVATION STANDARDS ACT OF 1975

- Sec. 1001. Short title.
- Sec. 1002. Findings and purpose.
- Sec. 1003. Definitions.
- Sec. 1004. Promulgation of minimum energy conservation standards.
- Sec. 1005. Incorporation of standards in State and local codes.
- Sec. 1006. Federal buildings.
- Sec. 1007. Grants to States.
- Sec. 1008. Technical assistance.
- Sec. 1009. Consultation with interested and affected groups.
- Sec. 1010. Research.

TITLE XI—WINTERIZATION ASSISTANCE ACT OF 1975

- Sec. 1101. Short title.
- Sec. 1102. Findings.
- Sec. 1103. Purpose.
- Sec. 1104. Definitions.
- Sec. 1105. Winterization program.
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TITLE XII—NATIONAL APPLIANCE AND MOTOR VEHICLE ENERGY LABELING ACT OF 1975

- Sec. 1201. Short title.
- Sec. 1202. Findings and purpose.
- Sec. 1203. Definitions.
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- Sec. 1205. Specification.
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- Sec. 1208. Advertising.
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- Sec. 1213. Subpena.
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- Sec. 1215. Exports.
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- Sec. 1217. Prohibited acts.
- Sec. 1218. Enforcement.
- Sec. 1219. Injunctive enforcement and seizure.
- Sec. 1220. Judicial review.
- Sec. 1221. Separability.
- Sec. 1222. Authorization of appropriations.

PART C—EMERGENCY PREPAREDNESS

TITLE XIII—STANDBY ENERGY AUTHORITIES ACT OF 1975

- Sec. 1301. Short title.
- Sec. 1302. Findings and purposes.
- Sec. 1303. Definitions.
- Sec. 1304. Control over stocks.
- Sec. 1305. Federal actions to increase available domestic petroleum supplies.
- Sec. 1306. Allocation and rationing.
- Sec. 1307. Energy conservation plans.
- Sec. 1308. Materials allocation.
- Sec. 1309. Prohibitions on unreasonable actions.
- Sec. 1310. Regulated carriers.
- Sec. 1311. International oil allocation.
- Sec. 1312. Voluntary agreements.
- Sec. 1313. Immunities.
- Sec. 1314. International cooperation.
- Sec. 1315. Exchange of information.
- Sec. 1316. Exports.
- Sec. 1317. Administrative procedure and judicial review.
- Sec. 1318. Prohibited acts.
- Sec. 1319. Enforcement.
- Sec. 1320. Delegation of authority and effect on State law.
- Sec. 1321. Grants to States.
- Sec. 1322. Contingency plans.
- Sec. 1323. Expiration.
- Sec. 1324. Authorization of appropriations.
- Sec. 1325. Severability.
- Sec. 1326. Transfer of authority.
- Sec. 1327. Effect on other laws.

**PART A—INCREASING DOMESTIC ENERGY
SUPPLIES AND AVAILABILITY**

TITLE I

FINDINGS AND POLICY

SEC. 101. (a) The Congress finds that the Naval Petroleum and Oil Shale Reserves originally established to insure an adequate supply of oil for United States Navy requirements are of even greater importance today when the complete petroleum needs of the Department of Defense are much greater than that of the Department of the Navy alone; these needs, combined with the dependence of the total economy on energy, require assurance of a sufficient supply of petroleum readily available to meet the emergency requirements of national security, including defense mobilization, military and essential civilian needs. It is recognized that the dependence on imports of energy supplies is inappropriate because they are subject to disruption and, therefore, alternative solutions are necessary.

(b) The assets of the Naval Petroleum and Oil Shale Reserves, as yet not fully developed, are identified as powerful potential contributors to a domestic solution for this national problem. The development and utilization of these reserves require maintenance and management in the light of modern technology, not only to explore and develop such reserves to a state of ready availability for use, but also for

conversion thereof to such form, for sale and/or transportation to and storage thereof in a National Strategic Petroleum Reserve at such geographical locations, as will make the resources thereof readily available to meet the anticipated emergency needs of national security.

(c) It is hereby declared to be the policy of the United States to fully explore, develop, and produce the Naval Petroleum and Oil Shale Reserves and to create with the petroleum and revenue produced therefrom a National Strategic Petroleum Reserve capacity and maintain such reserves in storage until needed for the emergency needs of national security. The Reserve shall consist of not more than 1,300,000,000 barrels of which 300,000,000 barrels is for military use (military) and up to 1,000,000,000 barrels is for civilian use (civilian).

SEC. 102. Chapter 641 of title 10, U.S.C. is amended as follows—

(a) Immediately preceding section 7421, insert the following new section:

“§ 7420. Definitions

“(a) In this chapter—

“(1) The term ‘national security’ shall include the needs of, and planning and preparedness to meet essential civilian and military emergency energy requirements

relative to the national safety or economy, particularly resulting from foreign military or economic actions;

“(2) ‘Naval Petroleum and Oil Shale Reserves’ means the Naval Petroleum and Oil Shale Reserves established in this chapter, including Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive order of the President of September 2, 1912; Naval Petroleum Reserve Numbered 2 (Buena Vista Hills), located in Kern County, California, established by Executive order of the President of December 31, 1915; Naval Petroleum Reserve Numbered 3 (Teapot Dome), located in Wyoming, established by Executive order of the President of December 13, 1912; Naval Petroleum Reserve Numbered No. 4, Alaska, on the north slope of the Brooks Range; established by Executive order of the President of February 27, 1923; Oil Shale Reserve Numbered 1, located in Colorado established by Executive order of the President of December 6, 1916, as amended by Executive order of June 12, 1919; Oil Shale Reserve Numbered 2, located in Utah, established by Executive order of the President of November 17, 1924; Oil Shale Reserve Numbered 3, located in Colorado, established by Executive order of the President of September 27, 1924;

“(3) ‘petroleum’ shall be deemed to include crude

oil, gas, natural gasoline and other related hydrocarbons, oil shale, and the products of any of such resources; and

“(4) ‘Secretary’ means the Secretary of the Navy.”

(b) Section 7421 (a) is amended by striking out the words “in section 7438 hereof” and adding the following in lieu thereof: “by this title”.

(c) Section 7422 (a) is amended by striking out the word “Secretary of the Navy” where it appears in that section and substituting in lieu thereof the words “President, in consultation with the Secretary,” and by striking out the words “subject to approval by the President”.

(d) Section 7422 (b) (2) is amended to read as follows:

“(2) The production of petroleum from the Naval Petroleum Reserves whenever and to the extent that the President finds that such production will contribute to the national security by making petroleum available for (i) storage as part of the National Strategic Petroleum Reserve in facilities at strategic locations; (ii) for sale or exchange pursuant to section 7430 for production of revenue to be covered into the Special Fund for the purpose enumerated in section 7432; (iii) the replenishment of the Peacetime Operating Stocks and the Prepositioned War Reserve Stocks of the Department of Defense upon transfer of credit to the National Strategic Petroleum Reserve Special Fund, hereinafter

1 established from the appropriation accounts available there-
 2 for, in the amount of the net value of such supplies so
 3 delivered."

4 (e) Section 7422 (c) is amended to read as follows:

5 "(c) In Naval Petroleum Reserve Numbered 4, the
 6 Secretary may under subsection (a) :

7 "(1) develop the South Barrow gas field to supply
 8 gas to installations of the Department of Defense and
 9 other agencies of the United States located at or near
 10 Point Barrow, Alaska, the native village of Barrow, and
 11 other communities and installations at or near Point Bar-
 12 row, Alaska, and,

13 "(2) develop and produce petroleum in accordance
 14 with the provisions of section 7439 of this chapter."

15 (f) Section 7423 is amended by striking out the words
 16 "national defense" and "Secretary" where they appear in
 17 that section and substituting in lieu thereof, respectively, the
 18 words "national security" and "the President in consultation
 19 with the Secretary".

20 (g) Section 7426 (d) is amended by striking out "one-
 21 third of".

22 (h) Section 7430 (b) is amended by adding at the end
 23 thereof the following: "The terms of such sales, or exchanges
 24 as provided in section 7430 (a), shall be so arranged as to
 25 give full and equal opportunity for acquisition of, or exchange

1 for, the petroleum by all interested companies, including
 2 major and independent oil refineries alike."

3 (i) Section 7431 is amended by adding "(a)" before
 4 the present section and then adding the following:

5 "(b) For those transactions provided for in section 7422
 6 (b) (2) of this title, consultation (except for consultation on
 7 the overall plan for the exploration, development, and pro-
 8 duction of Naval Petroleum Reserve Numbered 4) is not
 9 required in connection with particular contracts or other simi-
 10 lar transactions undertaken in the exploration, development,
 11 and production of Naval Petroleum Reserve Numbered 4 and
 12 in the implementation, filling, maintenance, and management
 13 of the National Strategic Petroleum Reserve."

14 (j) Section 7432 is amended to read as follows:

15 **"§ 7432. National Strategic Petroleum Reserve Special**
 16 **Fund**

17 "(a) There is established on the books of the Treasury
 18 a new account to be designated as the National Strategic
 19 Petroleum Reserve Special Fund (referred to in this chapter
 20 as the "Special Fund"). With the exception of proceeds
 21 realized from that portion of Naval Petroleum Reserve
 22 Numbered 4, made available to the public economy under
 23 section 7439 (b) which proceeds shall be covered into the
 24 Treasury as miscellaneous receipts, there shall be credited
 25 into the Special Fund:

1 “(1) all proceeds realized under chapter 641 from
2 the disposition of the United States share of petroleum
3 produced, including royalties;

4 “(2) the net proceeds, if any, realized from the
5 exchanges of petroleum accruing to the benefit of any
6 component of the Department of Defense or any other
7 Federal agency as a result of such exchanges;

8 “(3) such sums as are or may be appropriated
9 for the maintenance, operation, exploration, develop-
10 ment, and production of the Naval Petroleum and Oil
11 Shale Reserves; and

12 “(4) such sums as may be appropriated for the
13 operation, maintenance, management, and construction
14 of facilities and purchase of petroleum for the National
15 Strategic Petroleum Reserve, (civilian) and (mili-
16 tary).

17 “(b) The Special Fund shall be available to the Presi-
18 dent in such sums as are specified in annual appropriation
19 acts for the expenses of (1) the exploration, prospecting,
20 conservation, development, use, operation, and production
21 of the Naval Petroleum and Oil Shale Reserves as author-
22 ized by chapter 641, (2) the construction and operation of
23 facilities on or off the Naval Petroleum and Oil Shale Re-
24 serves, including pipelines from Reserve to point of sale,
25 (3) the operation, maintenance, management and construc-

1 tion of facilities and purchase of petroleum for the National
2 Strategic Petroleum Reserve (military) as provided in
3 section 7440 of chapter 641, and (4) the operation, mainte-
4 nance, management and construction of facilities and pur-
5 chase of petroleum for the National Strategic Petroleum
6 Reserve (civilian) as provided in title II of this Act. The
7 budget estimates for this Fund shall be presented by the
8 President independently of the budget of the Department
9 of the Navy and the Department of Defense.

10 “(c) The President is authorized to transfer to depart-
11 ments and agencies such sums as he deems appropriate to
12 carry out the purposes of subsection (b) and into the Treas-
13 ury of the United States as miscellaneous receipts any
14 amounts of the Special Fund determined by him to be in
15 excess of projected requirements.”

16 (k) Section 7433 (b) is amended by deleting the word
17 “All” and substituting in lieu thereof the words “Except
18 as may be otherwise expressly provided in this chapter
19 with respect to the National Strategic Petroleum Reserve
20 Special Fund, all”.

21 (l) Section 7438 (c) (2) is amended by striking out
22 the words “national defense” and substituting in lieu thereof
23 the words “national security”.

24 (m) Immediately following section 7438 insert the
25 following new sections:

1 **“§ 7439. Utilization of Naval Petroleum Reserve Num-**
 2 **bered 4**

3 “(a) As determined by the President, taking into
 4 consideration the recommendation of the Secretary, private
 5 capital may be utilized in the exploration, development, and
 6 production of Naval Petroleum Reserve Numbered 4, includ-
 7 ing provision for transportation and other facilities, under
 8 such arrangements as will provide an incentive for partic-
 9 ipation by such private capital consistent with the public
 10 interest and the objectives of the National Strategic Petro-
 11 leum Reserve. In securing the participation of such private
 12 capital and as determined by the President taking into con-
 13 sideration the recommendation of the Secretary, the Secre-
 14 tary is authorized to enter into competitively bid leases or
 15 competitively negotiated contracts or other appropriate
 16 arrangements which provide adequate compensation to the
 17 United States in the form of bonuses, royalties, fixed prices,
 18 profit sharing agreements, or any other type of provision.

19 “(b) At least 20 per centum of the petroleum avail-
 20 able in Naval Petroleum Reserve Numbered 4, or such other
 21 amount as is determined by the President to be necessary
 22 to insure an adequate supply of petroleum for the national
 23 security, shall be utilized for the purposes of the National
 24 Strategic Petroleum Reserve. The remainder of the petro-
 25 leum shall be made available for the public economy.

1 “(c) The Secretary is authorized to utilize the services
 2 of any other agency of the executive branch with the con-
 3 currence of the agency head affected in the exploration and
 4 development of the Naval Petroleum Reserve Numbered 4
 5 subject to appropriate reimbursement.

6 **“§ 7440. National Strategic Petroleum Reserve (Military)**

7 “(a) There is hereby created under the management
 8 and responsibility of the Secretary a National Strategic Petro-
 9 leum Reserve (military) which shall include a stock of
 10 readily deliverable petroleum in the amount of 300,000,000
 11 barrels to meet the emergency needs of military use for na-
 12 tional security. This reserve is in addition to a National
 13 Strategic Petroleum Reserve (civilian) as provided for in
 14 title II of the Energy Independence Act of 1975. In com-
 15 puting the above amount, the Peacetime Operating Stocks
 16 and Prepositioned War Reserve Stocks of the Department
 17 of Defense shall not be included. The National Strategic
 18 Petroleum Reserve (military) shall include petroleum as
 19 defined in section 7420, stored at strategic locations or avail-
 20 able for delivery to such locations, facilities for storage, trans-
 21 portation or processing thereof.

22 “(b) The Secretary shall with the approval of the
 23 President define and publish in the Federal Register the
 24 scope and projected objectives of the National Strategic
 25 Petroleum Reserve (military), revised as may be appro-

1 priate to reflect the current status thereof. The Secretary
 2 shall include such information in the quarterly report to the
 3 Congress made pursuant to section 7434 of chapter 641.

4 “(c) The Secretary is authorized to request proceedings
 5 whenever he deems it necessary to implement and manage
 6 the National Strategic Petroleum Reserve (military) to be
 7 instituted by the Attorney General in any court having juris-
 8 diction of such proceedings to acquire by condemnation, any
 9 real or personal property, including facilities, temporary use
 10 thereof, or other interests therein, together with any personal
 11 property located thereon or used therewith, that he deems
 12 necessary. Before condemnation proceedings are instituted
 13 pursuant to this chapter 641, an effort shall be made to
 14 acquire the property involved by negotiation unless, because
 15 of reasonable doubt as to the identity of the owner or owners,
 16 because of the large numbers of persons with whom it would
 17 be necessary to negotiate, or for other reasons, the effort to
 18 acquire by negotiation would involve, in the judgment of
 19 the Secretary, such delay in acquiring the property as to be
 20 contrary to the national interest. In any condemnation pro-
 21 ceeding instituted pursuant to this section, the court shall not
 22 order the party in possession to surrender possession in ad-
 23 vance of final judgment unless a declaration of taking has
 24 been filed, and a deposit of the amount estimated to be just
 25 compensation has been made. Unless title is in dispute, the

1 court, upon application, shall promptly pay to the owner
 2 at least 75 per centum of the amount so deposited, but such
 3 payment shall be made without prejudice to any party to the
 4 proceeding. Property acquired under this section may be oc-
 5 cupied, used, and improved for the purposes of this chapter
 6 prior to the approval of title by the Attorney General.

7 “(d) Subject to appropriate reimbursement and the
 8 concurrence of the affected agency head, the Secretary is
 9 authorized to utilize the services of any other agency of the
 10 executive branch in the planning and performance of such
 11 functions as may be appropriately performed by such agencies
 12 in the accomplishment of the objectives of the National
 13 Strategic Petroleum Reserve (military).

14 “(e) If the President determines that the national se-
 15 curity is threatened by an emergency such as an embargo by
 16 a foreign country or increased requirements caused by armed
 17 conflicts which result in a requirement for petroleum prod-
 18 ucts in excess of the maximum supply thereof otherwise
 19 available in the United States, the resources of the National
 20 Strategic Petroleum Reserve (military) may be utilized as
 21 directed by the President to meet military requirements for
 22 the duration of such emergency.

23 “(f) After depletion during an emergency, the estab-
 24 lished level of petroleum to be maintained in the National
 25 Strategic Petroleum Reserve (military) for future use may

1 be replenished by production from the Naval Petroleum and
2 Oil Shale Reserves or by petroleum purchased by expendi-
3 tures from the Special Fund or other sources."

4 SEC. 103. The chapter analysis for chapter 641 of title
5 10, United States Code, is amended to read as follows:

"CHAPTER 641.—NAVAL PETROLEUM RESERVES

- "Sec. 7420. Definitions.
- "Sec. 7421. Jurisdiction and control.
- "Sec. 7422. Administration.
- "Sec. 7423. Periodic reexamination of production requirements.
- "Sec. 7424. Protection of oil reserves; contracts for conservation.
- "Sec. 7425. Acquisition by condemnation and purchase.
- "Sec. 7426. Cooperative or unit plans affecting Naval Petroleum Reserve
Numbered 1.
- "Sec. 7427. Cooperative or unit plans in the naval petroleum reserves.
- "Sec. 7428. Agreement and leases: provision for change.
- "Sec. 7429. Re-lease of certain lands: lessee's preferential right.
- "Sec. 7430. Disposition of products.
- "Sec. 7431. Requirements as to consultation and approval.
- "Sec. 7432. Expenditures: appropriations chargeable.
- "Sec. 7433. Disposition of royalties.
- "Sec. 7434. Quarterly reports to Armed Services Committees.
- "Sec. 7435. Foreign interest.
- "Sec. 7436. Regulations.
- "Sec. 7437. Violations of lessee.
- "Sec. 7438. Rifle, Colorado, Plant; possession, use, and transfer of.
- "Sec. 7439. Utilization of Naval Petroleum Reserve Numbered 4.
- "Sec. 7440. National Strategic Petroleum Reserve (military)."

6 TITLE II

7 SHORT TITLE

8 SEC. 201. This title may be cited as the "National Stra-
9 tegic Petroleum Reserve (Civilian) Act of 1975".

10 FINDINGS

11 SEC. 202. The Congress hereby finds that—

12 (a) the Nation is and will continue to be depend-

1 ent upon imports from foreign sources to meet a signifi-
2 cant portion of its energy needs;

3 (b) imports of energy supplies are subject to
4 disruptions;

5 (c) such disruptions could impair the national
6 health and welfare, adversely affect commerce, and
7 jeopardize our national security;

8 (d) there is a need to protect the Nation from the
9 deleterious effects of any oil import disruptions;

10 (e) emergency petroleum storage is a cost-effective
11 and environmentally effective method for reducing the
12 impact of an import disruption;

13 (f) a strategic petroleum reserve system will pro-
14 vide protection against a disruption of oil imports over a
15 significant period of time;

16 (g) a strategic petroleum reserve system will sup-
17 port the energy requirements of the United States in
18 time of import disruptions and national emergencies;
19 and

20 (h) the public interest requires that a strategic
21 petroleum reserve program be consistent with the objec-
22 tive of preserving an economically sound and competi-
23 tive petroleum industry, and that the program provide

for a minimization of economic distortion, inflexibility,
and unnecessary interference with market mechanisms.

DECLARATION OF POLICY

SEC. 203. It is hereby declared to be the policy of the
United States to create a National Strategic Petroleum Re-
serve of up to 1,300,000,000 barrels of petroleum (consisting
of 300,000,000 barrels in the National Strategic Petroleum
Reserve (military) as authorized by title I of the Energy
Independence Act of 1975, and up to 1,000,000,000 bar-
rels for the National Strategic Petroleum Reserve (civilian)
as authorized by this title) capable of reducing the impact of
disruptions of oil imports.

DEFINITIONS

SEC. 204. As used in this Act—

(a) the term "petroleum" means—

(1) crude oil;

(2) natural gas liquids; and

(3) refined petroleum products, including but
not limited to gasoline, naphtha, kerosene, distillates,
residual fuel oil, refined lubricating oils, diesel fuel,
unfinished oils, and liquefied petroleum gases.

(b) the term "interests in land" includes, but is
not limited to, fee ownership, easements, leaseholds, sub-
surface and mineral rights;

(c) the term "storage facilities" means those facili-

ties in which significant amounts of petroleum are or can
be stored;

(d) the term "related facilities" means those neces-
sary appurtenances to storage facilities, including, but
not limited to, pipelines, roadways, reservoirs, and salt
brine lines;

(e) the term "National Strategic Petroleum Re-
serve" means the National Strategic Petroleum Reserve
(military) as provided in title I of the Energy Inde-
pendence Act of 1975 and the National Strategic Petro-
leum Reserve (civilian) as provided by this title;

(f) the term "National Strategic Petroleum Reserve
(civilian)" means petroleum owned by the United
States and stored in the civilian portion of the National
Strategic Petroleum Reserve and the Industrial Strategic
Petroleum Reserve (civilian);

(g) the term "Industrial Strategic Petroleum Re-
serve (civilian)" means that portion of the National
Strategic Petroleum Reserve (civilian) which consists of
petroleum owned by importers or refiners and stored
pursuant to section 205 (j) of this title;

(h) the term "person" means any natural person,
corporation, partnership, association, consortium, or any
entity organized for a common business purpose which
does business in any part of the United States, the Com-

1 monwealth of Puerto Rico, the United States territories
2 and possessions, or the District of Columbia;

3 (i) the term "national security" shall include the
4 needs of, and planning and preparedness to meet essen-
5 tial civilian or military energy requirements relative to
6 the national safety or economy, particularly resulting
7 from foreign military or economic actions.

8 GENERAL PROVISIONS

9 SEC. 205. There is hereby created a National Strategic
10 Energy Reserve (civilian). To implement the creation of this
11 Reserve, the President, in furtherance of and not in limitation
12 of any other authority, is authorized to:

13 (a) promulgate rules, regulations, or orders neces-
14 sary or appropriate to implement the provisions of this
15 title;

16 (b) acquire by purchase, condemnation or other-
17 wise, land or interests in land for the location of storage
18 and related facilities;

19 (c) construct, purchase, lease or otherwise acquire
20 storage and related facilities;

21 (d) use, lease, maintain, sell or otherwise dispose of
22 storage and related facilities acquired pursuant to this
23 title;

24 (e) create a National Strategic Petroleum Reserve
25 (civilian) by acquiring petroleum for storage;

1 (f) execute any contracts necessary to carry out the
2 provisions of this title;

3 (g) require that performance under contracts and
4 orders (other than contracts for employment) which he
5 deems necessary or appropriate to implement this title
6 shall take priority over performance under any other
7 contract or order, and for the purpose of assuring such
8 priority, to require acceptance and performance of such
9 contracts or orders in preference to other contracts or
10 orders by any person he finds to be capable of their per-
11 formance, and to allocate materials and facilities in such
12 manner, upon such conditions and to such extent as he
13 shall deem necessary or appropriate to achieve the objec-
14 tives of this title;

15 (h) cause proceedings, whenever he deems it
16 necessary to implement this title, to be instituted in any
17 court having jurisdiction of such proceedings to acquire
18 by condemnation, any real or personal property, in-
19 cluding facilities, temporary use thereof, or other inter-
20 ests, therein, together with any personal property located
21 thereon or used therewith, that he deems necessary to
22 achieve the objectives of this title;

23 (i) waive application of the provisions of the Fed-
24 eral Property and Administrative Services Act of 1949,
25 as amended, with respect to procurement necessary for

1 the purpose of this title, if he finds it is in the national
2 interest to do so;

3 (j) create an Industrial Strategic Petroleum Re-
4 serve as part of the National Strategic Petroleum Reserve
5 (civilian) by requiring any person engaged in the im-
6 portation or refining of petroleum to acquire, store, and
7 maintain reserves of petroleum under such terms as the
8 President deems necessary;

9 (k) require that the Industrial Strategic Petroleum
10 Reserve (civilian) portion of the National Strategic
11 Petroleum Reserve (civilian) be stored in facilities
12 owned, controlled, or audited by the United States at
13 such reasonable terms as he may specify;

14 (l) require the replenishment of the Industrial
15 Strategic Petroleum Reserve (civilian); and

16 (m) replenish the National Strategic Petroleum
17 Reserve (civilian).

18 CONDEMNATION PROCEEDINGS

19 SEC. 206. Before condemnation proceedings are in-
20 stituted pursuant to this title, an effort shall be made to
21 acquire the property involved by negotiation unless, because
22 of reasonable doubt as to the identity of the owner or owners,
23 because of the large number of persons with whom it would
24 be necessary to negotiate, or for other reasons, the effort
25 to acquire by negotiation would involve, in the judgment

1 of the President, such delay in acquiring the property as to
2 by contrary to the national interest. In any condemnation
3 proceeding instituted pursuant to this section, the court shall
4 not order the party in possession to surrender possession in
5 advance of final judgment unless a declaration of taking has
6 been filed, and a deposit of the amount estimated to be just
7 compensation has been made, under the first section of the
8 Act of February 26, 1931 (46 Stat. 1421), providing for
9 such declarations. Unless title is in dispute, the court, upon
10 application, shall promptly pay to the owner at least 75
11 per centum of the amount so deposited, but such payments
12 shall be made without prejudice to any party to the proceed-
13 ing. Property acquired under this section may be occupied,
14 used, and improved for the purpose of this title prior to the
15 approval of title by the Attorney General as required by
16 section 355 of the Revised Statutes, as amended.

17 TERMS AND CONDITIONS

18 SEC. 207. (a) Upon a finding by the President that
19 the national security is threatened, he is authorized, on such
20 terms as he determines to be reasonable and equitable and
21 in a manner consistent with the public interest requirements
22 of 202 (h), to use, sell, or otherwise dispose of all or any
23 part of the government owned portion of the National
24 Strategic Petroleum Reserve (civilian) and order the dis-
25 position and allocation of all or any part of the Industrial

1 Strategic Petroleum Reserve (civilian) portion of the Na-
2 tional Strategic Petroleum Reserve (civilian).

3 (b) Upon a finding that all or any part of the Na-
4 tional Strategic Petroleum Reserve (civilian) is no longer
5 necessary to meet the requirements of this title, the Presi-
6 dent may, in a manner consistent with the public interests
7 requirement of 202 (h) :

8 (1) dispose of all or any part of the government
9 owned portion of the National Strategic Petroleum
10 Reserve (civilian) at a reasonable price; and

11 (2) allow or require any person owning petroleum
12 in the Industrial Strategic Petroleum Reserves (civil-
13 ian) to remove or otherwise dispose of such petroleum.

14 INJUNCTIONS AND OTHER RELIEF

15 SEC. 208. Whenever it appears to any person authorized
16 by the President to exercise authority under this title that
17 any person has engaged, is engaged, or is about to engage
18 in any acts or practices constituting a violation of any rule,
19 order, or regulation issued under this title, the President
20 may request the Attorney General to bring an action in
21 the appropriate district court of the United States to enjoin
22 such acts or practices, and upon a proper showing a tem-
23 porary restraining order or a preliminary or permanent
24 injunction shall be granted without bond. Any such court

1 may also issue mandatory injunctions commanding any
2 person to comply with any such rule, order, or regulation.

3 ANNUAL REPORTS

4 SEC. 209. (a) Within one year after the date of enact-
5 ment of this title, the President shall prepare and submit to
6 the Congress a report setting forth those actions taken and
7 his plans for providing a strategic energy reserve system in
8 accordance with sections 202 and 203 of this title. The report
9 shall include, but not be limited to, consideration of:

- 10 (1) a comprehensive environment assessment;
- 11 (2) the manner(s) of storage, chosen from among
12 the alternative types of storage facilities;
- 13 (3) the proposed locations of such facilities and the
14 proximity of each to necessary transportation facilities;
- 15 (4) the most attractive substances for emergency
16 storage;
- 17 (5) the size of the stockpile and the most economi-
18 cally efficient stockpile levels;
- 19 (6) a program schedule for this reserve system,
20 taking into account the capability to construct related
21 facilities and obtain sufficient petroleum products to free
22 programmed storage in the desired time frame;
- 23 (7) the direct cost of the reserve system, including:
24 (a) cost of storage facilities;
25 (b) cost of petroleum to be stored; and

(c) maintenance and operation costs;

(8) the market impact of developing the storage program, taking into account:

(a) availability and price of oil field supplies and equipment and the effect upon domestic production;

(b) the level of world market price fluctuations stimulated by short-term increased petroleum demands during a build-up period;

(c) the extent to which the reserve system build-up may hold up prices in an otherwise declining price market; and

(d) the extent to which purchases for the reserve system will affect competitive markets.

(9) the ownership of the storage facilities; and

(10) the ownership of the stored substances.

(b) Each year thereafter, the President shall prepare and transmit to the Congress a report summarizing all actions taken under the authority of this title, with an analysis of their impact and an evaluation of their effectiveness in implementing the provisions of this title.

DELEGATION OF AUTHORITY

SEC. 210. The President may delegate any authority conferred upon him by this title to such officers, depart-

ments, and agencies of the United States as he deems appropriate.

SPECIAL FUND

SEC. 211. The President is authorized to use the Special Fund established by title I the Energy Independence Act of 1975 in any manner necessary to implement the provisions of this title.

AUTHORIZATIONS

SEC. 212. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

SEVERABILITY

SEC. 213. If any provision of this title or the applicability thereof to any person or circumstances is held invalid, the remainder of this title and the application of such provisions to other persons or circumstances shall not be affected thereby.

TITLE III

SEC. 301. Section 1(b) of the Natural Gas Act is amended by adding at the end thereof the following: "The provisions of this Act, other than as provided in sections 4, 5, and 7, shall not apply to sales or deliveries in interstate commerce by any person of natural gas (i) which is dedicated to interstate commerce for the first time on or after January 1, 1975, (ii) which is continued in interstate com-

1 merce after the expiration of a contract by its own terms for
 2 the sale or delivery of such natural gas existing as of such
 3 date, or (iii) which is produced from wells commenced after
 4 such date: *Provided*, That such person is not engaged in
 5 the transportation of natural gas in interstate commerce.”.

6 SEC. 302. Section 2 of the Natural Gas Act is amended
 7 by adding at the end thereof the following:

8 “(10) ‘Affiliate’ means any person directly or indi-
 9 rectly controlling, controlled by, or under common control
 10 of another person.

11 “(11) ‘New natural gas’ means natural gas sold or
 12 delivered by a producer in interstate commerce (i) which
 13 is dedicated to interstate commerce for the first time on or
 14 after January 1, 1975, (ii) which is continued in interstate
 15 commerce after the expiration of a contract by its own terms
 16 for the sale or delivery of such natural gas existing as of
 17 such date, or (iii) which is produced from wells commenced
 18 after such date.

19 “(12) ‘Producer’ means a person who is engaged in the
 20 production, gathering, or processing of natural gas from
 21 wells or reserves in the United States.”

22 SEC. 303. Section 4 of the Natural Gas Act is amended
 23 by adding subsection 4 (f) to read as follows:

24 “(f) The Commission shall have no power to disallow,
 25 in whole or in part, in the rates and charges made,

1 demanded, or received by any natural gas company the
 2 amounts paid for new natural gas, except that in any case
 3 where a natural gas company purchases natural gas from
 4 an affiliate or produces natural gas from its own properties,
 5 the Commission may disallow any portion of the cost thereof
 6 in the rate or charge made by such company which is in
 7 excess of current prices paid to nonaffiliates for comparable
 8 sales of new natural gas: *Provided further*, That the Commis-
 9 sion shall have no power to disallow in whole or in part the
 10 rates and charges made, demanded, or received by any
 11 natural gas company for sales to nonaffiliates of new natural
 12 gas which it produces, except insofar as such rates and
 13 charges relate to the transportation of new natural gas.”

14 SEC. 304. Section 5 (a) of the Natural Gas Act is
 15 amended by inserting at the end thereof the following: “*Pro-*
 16 *vided further*, That the Commission shall have no power to
 17 disallow, in whole or in part, in the rates and charges made,
 18 demanded, or received by any natural gas company the
 19 amounts paid for new natural gas, except that in any case
 20 where a natural gas company purchases natural gas from an
 21 affiliate or produces natural gas from its own properties, the
 22 Commission may disallow any portion of the cost thereof
 23 in the rate or charge made by such company which is in
 24 excess of current prices paid to nonaffiliates for comparable
 25 sales of new natural gas: *Provided, in addition*, That the

1 Commission shall have no power to disallow, in whole or in
2 part, the rates and charges made, demanded, or received by
3 any natural gas company for sales to nonaffiliates of new
4 natural gas which it produces, except insofar as such rates and
5 charges relate to the transportation of new natural gas.”.

6 SEC. 305. Section 7(c) of the Natural Gas Act is
7 amended by changing the period at the end of the first
8 sentence to a semicolon and adding at the end thereof the
9 following: “*And provided further*, That the Commission
10 shall have no power under this subsection to disallow, in
11 whole or in part, the rates charged, made, demanded or re-
12 ceived by any natural gas company the amounts paid for new
13 natural gas.”.

14 TITLE IV

15 EXTENSION OF AUTHORITY TO ISSUE ORDERS

16 SEC. 401. Section 2(f) (1) of the Energy Supply and
17 Environmental Coordination Act of 1974 is amended by
18 revising the date “June 30, 1975” to read “June 30, 1977”.

19 EXTENSION OF ENFORCEMENT AUTHORITY

20 SEC. 402. Section 2 of the Energy Supply and Environ-
21 mental Coordination Act of 1974 is amended as follows:

22 (a) Subsection (f) (1) of that section is amended by
23 revising the date “January 1, 1979” to read “January 1,
24 1985”.

25 (b) Subsection (f) (2) of that section is amended by

1 revising the date “December 31, 1978” to read “Decem-
2 ber 31, 1984”, and by revising the date “January 1, 1979”
3 to read “January 1, 1985”.

4 ADDITIONAL INSTALLATIONS SUBJECT TO PROHIBITION

5 ORDERS

6 SEC. 403. Section 2(a) of the Energy Supply and En-
7 vironmental Coordination Act of 1974 is amended to read as
8 follows:

9 “(a) The Federal Energy Administrator—

10 “(1) shall, by order, prohibit any powerplant, and

11 “(2) may, by order, prohibit any major fuel burn-

12 ing installation, other than a powerplant, from burning

13 natural gas or petroleum products as its primary energy

14 source, if the Federal Energy Administrator determines

15 such powerplant or installation on June 22, 1974, had,

16 or thereafter acquires or is designed with, the capability

17 and necessary plant equipment to burn coal, or if such

18 powerplant is required to meet, or could be required to

19 meet, a design or construction requirement under sub-

20 section (c), and if the requirements of subsection (b)

21 are met.”

22 TITLE V

23 SEC. 501. This title may be cited as the “Clean Air Act
24 Amendments of 1975”.

1 EXTENSIONS OF COMPLIANCE FOR CERTAIN POWERPLANTS

2 SEC. 502. (a) Section 119 of the Clean Air Act is
3 amended by adding subsection (1) as follows:

4 “(1) (1) The Administrator shall extend for a period
5 ending not later than January 1, 1985, any stationary
6 source fuel or emission limitation respecting emissions of
7 sulfur oxides from a powerplant using coal as its primary
8 energy source on the date of enactment of this subsection,
9 if he finds that such powerplant can apply measures in the
10 interim which provide a means for attaining and maintain-
11 ing national primary ambient air quality standards for
12 sulfur oxides in the area affected by the emissions of the
13 powerplant complex of which such powerplant is a part.
14 Such interim measures include, but are not limited to, inter-
15 mittent control systems. In order to be eligible to apply for
16 such an extension, a powerplant must be part of a power-
17 plant complex that contributes all or a major portion of
18 the ambient concentrations of sulfur oxides in the area af-
19 fected by such powerplant complex's emissions. A power-
20 plant subject to section 111 of this Act, shall not be eligible
21 to apply for an extension under this subsection. A powerplant
22 eligible for a compliance date extension pursuant to section
23 119 (c) shall not be eligible to apply for an extension under
24 this subsection. In order to receive an extension under this
25 subsection, a powerplant must submit, as part of its applica-

1 tion, a compliance schedule which satisfies the requirements
2 of paragraph (2) (A) of this subsection and a description
3 of measures which satisfies the requirements of paragraph
4 (2) (B) of this subsection.

5 “(2) Any powerplant for which an application for
6 extension under this subsection has been approved by the
7 Administrator must—

8 “(A) Meet a compliance schedule, with specific
9 incremental dates including the date by which such
10 powerplant must enter into contracts (or other obliga-
11 tions enforceable against such powerplant), which the
12 Administrator has approved as being adequate to pro-
13 vide for compliance with all stationary source fuel or
14 emission limitations for sulfur oxides applicable to it;

15 *Provided*, That the Administrator shall not require under
16 this subsection a date prior to January 1, 1980, for
17 entering into contracts (or other obligations enforceable
18 against such powerplant) to purchase any flue-gas de-
19 sulfurization system for sulfur oxides; and

20 “(B) Employ measures during the extension period
21 which will insure the attainment and maintenance of
22 any national primary ambient air quality standards for
23 sulfur oxides in the area affected by such powerplant
24 complex's emissions.

25 “(3) If the Administrator intends to approve an applica-

tion for extension under this subsection, he shall, within ninety days of the receipt of such application, publish notice pursuant to paragraph (c) (4) of this section of his intention to approve together with the reasons therefor and any conditions which he would impose. However, if the Administrator intends to disapprove an application, he shall, within ninety days of the receipt of such application, publish notice pursuant to paragraph (c) (4) of this section, and he shall afford the applicant one opportunity of not more than sixty days to revise and resubmit the application. The ninety days prescribed for a notice of proposed approval shall begin with such resubmission.

“(4) Nothing in this subsection shall be interpreted as requiring a suspension or stay of the requirements of any compliance schedule or enforcement order while an application for extension is pending under this subsection.

“(5) Load reduction or load shifting shall be considered an acceptable interim measure under paragraph (2) (B) of this subsection only where the Administrator determines that reserve capacity in the area is adequate to meet load requirements in the event of such load shifting or reduction.

“(6) For the purposes of this subsection, and section 119 (c) (2) (C) (i) :

“(a) ‘powerplant’ means one or more coal-fired electric generating units;

“(b) ‘powerplant complex’ means one or more fossil-fuel fired electric generating units at a common site.

“(7) Nothing in this subsection shall be construed as limiting section 116.”

(b) The Clean Air Act is further amended as follows:

(1) Section 119 (c) (4) is amended to read as follows:

“The Administrator shall give notice to the public and afford an opportunity for oral and written presentations of data, views, and arguments before issuing any compliance date extension, prescribing any regulations under paragraph (2) of this subsection, making any finding under paragraph (2) (A) of this subsection, imposing any requirement on a source pursuant to paragraph (2) or any regulation thereunder, prescribing a primary standard condition under subsection (d) (2) which applies to a source to which an extension is issued under this subsection, acting on any petition under subsection (d) (2) (C), or approving any extension under subsection (1).”

(2) Section 119 (d) (3) (A) is amended to read as follows: “If the Administrator determines that a source to which a suspension under subsection (b) (1) (A) (ii) or to which a compliance date extension under subsection (c) (1) applies is not in compliance with any primary standard condition, or that a powerplant to which an extension under

1 subsection (1) applies is not in compliance with any require-
 2 ment under subsection (1) (2) (B), he shall (except as
 3 provided in subparagraph (B)) either—

4 “(i) enforce compliance with such condition or
 5 requirement under section 113, or

6 “(ii) (after notice to the public and affording an
 7 opportunity for interested persons to present data, views,
 8 and arguments, including oral presentations, to the
 9 extent practicable) revoke such suspension, compli-
 10 ance date extension or extension under subsection (1).”

11 (3) Section 119(d) (4) is amended to read as fol-
 12 lows: “Nothing in this Act shall prohibit a State, political
 13 subdivision of a State, or agency or instrumentality of either
 14 from enforcing any primary standard condition or any
 15 requirement imposed under subsection (1) (2) (B).”

16 (4) Section 119(g) is amended by adding paragraph
 17 (5) as follows:

18 “(5) it shall be unlawful for any person to whom an
 19 extension has been issued under subsection (1) to violate
 20 any requirement of such extension.”

21 (5) Section 307(b) (1) is amended by revising the
 22 second sentence thereof to read as follows: “A petition for
 23 review of the Administrator’s action in approving or promul-

1 gating any implementation plan under section 110 or sec-
 2 tion 111(d) or his action under section 119(c) (2) (A),
 3 (B), or (C), or section 119(1) or under regulations there-
 4 under, may be filed only in the United States Court of
 5 Appeals for the appropriate circuit.”

6 AUTOMOBILE EMISSION STANDARDS

7 SEC. 503. The Clean Air Act is amended as follows:

8 (a) Section 202(b) (1) (A) is amended to delete
 9 therefrom “1977” and insert in lieu thereof “1982”.

10 (b) Section 202(b) (1) (A) is further amended to add
 11 the following sentence immediately following the last sen-
 12 tence thereof: “The regulations under subsection (a) ap-
 13 plicable to emissions of carbon monoxide and hydrocarbons
 14 from light-duty vehicles and engines manufactured during
 15 model years 1977 through 1981, inclusive, shall contain
 16 standards equivalent to the emission standards for those
 17 pollutants that apply to new vehicle and engines offered
 18 for sale in the State of California during the model year
 19 1975.”

20 (c) Section 202(b) (1) (B) is amended by deleting
 21 the first and second sentence and inserting the following in
 22 lieu thereof: “The regulations under subsection (a) appli-
 23 cable to emissions of oxides of nitrogen from light-duty ve-

1 hicles and engines manufactured during or after model year
 2 1982 shall be established at such level as the Administrator
 3 determines is appropriate considering air quality, energy ef-
 4 ficiency, availability of technology, cost, and other relevant
 5 factors. The Administrator shall publish for public comment
 6 no later than January 1, 1977, proposed standards for 1982
 7 model year light-duty vehicles and engines and his tenta-
 8 tive conclusions with respect to the matters he is required to
 9 consider under this paragraph and shall publish final stand-
 10 ards and his findings no later than June 30, 1977. Such
 11 standards may be revised after appropriate notice following
 12 such date based upon substantial changes in any of the fac-
 13 tors the Administrator is required to consider under this
 14 paragraph.”.

15 (d) Section 202 (b) (1) (B) is further amended to
 16 delete the fourth sentence and insert the following in lieu
 17 thereof: “The regulations under subsection (a) applicable
 18 to emissions of oxides of nitrogen from light-duty vehicles
 19 and engines manufactured during model years 1977 through
 20 1981, inclusive, shall contain standards equivalent to the
 21 emission standards for this pollutant that apply to new
 22 vehicles and engines offered for sale in all of the States (ex-
 23 cept California) during the model year 1975.”.

WAIVERS FOR TECHNOLOGY INNOVATIONS

1 SEC. 504. Section 111 of the Clean Air Act is amended
 2 by adding subsection (f) as follows:

3 “(f) (1) The owner or operator of a new source may
 4 request the Administrator for authorization to attempt to
 5 meet applicable performance standards under this section by
 6 means of a system or systems of emission reduction which
 7 have not been determined by the Administrator to be ade-
 8 quately demonstrated. After consulting with appropriate
 9 State and local officials, the Administrator may grant such
 10 authorizations if he determines, based upon an evaluation of
 11 designs, specifications, plans, emission calculations, and other
 12 relevant factors that—

13 “(A) there is substantial likelihood that the pro-
 14 posed system or systems will enable the source to com-
 15 ply with the applicable standard, and

16 “(B) the proposed system has substantial potential
 17 for achieving significantly greater emission reduction
 18 than that required by the applicable standard, or
 19 achieving the required reduction at significantly lower
 20 cost, in terms of economic or environmental impact, than
 21 the systems which have been determined by the Ad-
 22 ministrator to be adequately demonstrated.
 23

1 “(2) An authorization under this subsection shall ex-
2 tend to a date determined by the Administrator, after con-
3 sultation with the source’s owner or operator, taking into
4 consideration design, installation and capital costs of the
5 systems being evaluated.

6 “(3) The granting of an authorization under this section
7 shall preempt Federal, State, and local regulation of air
8 pollutant emissions of the source, with respect to the affected
9 source and air pollutants covered by the authorization,
10 except that the Administrator shall impose such require-
11 ments as necessary for the attainment or maintenance of a
12 national primary ambient air quality standard. Any such
13 preemption shall not extend beyond any period specified
14 under paragraph (2).”

15 NEW SOURCE AND HAZARDOUS EMISSION EQUIPMENT

16 STANDARDS

17 SEC. 505. The Clean Air Act is amended as follows:

18 (a) Section 111 (a) (1) is amended to read as follows:

19 “The term ‘standard of performance’ means a standard for
20 emissions of air pollutants which reflects the degree of
21 emission limitation achievable through the application of
22 the best system of emission reduction which (taking into
23 consideration the cost of achieving such emission limitation,

1 and any nonair quality environmental impact and energy
2 requirements) the Administrator determines has been ade-
3 quately demonstrated. If the Administrator determines that
4 technological or economic limitations on the application of
5 measurement methodology to a particular class of sources
6 would make the imposition of an emission standard infeas-
7 ble, he may instead prescribe a design or equipment standard
8 meeting the requirements of this paragraph. Such standard
9 shall, to the degree possible, set forth the emission reductions
10 achievable by implementation of such design or equipment
11 and shall provide for compliance by means which achieve
12 equivalent results.”

13 (b) Section 111 (b) (5) is added as follows:

14 “(b) (5) The Administrator shall, upon petition by
15 the owner or operator of any source subject to a design or
16 equipment standard under this section, restate such standard
17 as an emission standard requiring the equivalent control if
18 he determines that the requirements of the second sentence
19 of paragraph (a) (1) are no longer satisfied with respect
20 to that class of sources. The owner or operator of any source
21 which commenced construction while the design or equip-
22 ment standard was applicable may elect to comply with this
23 section by means of such design or equipment or by meeting
24 such emission standard.”

1 (c) Section 111 (d) of such Act is amended by deleting
2 the term "emission standards" where it appears and inserting
3 in lieu thereof the phrase "emission, design, or equipment
4 standards".

5 (d) Section 112 (a) (2) of such Act is amended by
6 deleting the term "an emission" and inserting in lieu thereof
7 the word "a".

8 (e) Section 112 (b) (1) (A) of such Act is amended by
9 deleting the term "an emission" and inserting in lieu thereof
10 the word "a".

11 (f) Section 112 (b) (1) (B) of such Act is amended
12 by inserting in the first sentence after the phrase "for such
13 pollutant" the phrase "or standards regarding the composition
14 of materials which emit such pollutant" and by deleting in
15 the second sentence the term "an emission" and inserting in
16 lieu thereof the word "a".

17 (g) Section 112 (b) (1) (B) of such Act is further
18 amended by adding a fourth sentence as follows: "If the
19 Administrator determines that technological or economic
20 limitations on the application of measurement methodology
21 to a particular class of sources would make the imposition
22 of an emission standard infeasible, he may instead prescribe
23 a design or equipment standard meeting the requirements of

1 this paragraph. Such standard shall to the degree possible set
2 forth the emission reductions achievable by implementation
3 of such design or equipment and shall provide for compliance
4 by means which achieve equivalent results."

5 (h) Section 112 (b) (3) is added as follows:

6 "(b) (3) The Administrator shall, upon petition by the
7 owner or operator of any source subject to a design or equip-
8 ment standard under this section, restate such standard as
9 an emission standard requiring the equivalent control if he
10 determines that the requirements of the fourth sentence of
11 paragraph (b) (1) (B) are no longer satisfied with respect
12 to the class of sources. The owner or operator of any source
13 which commenced construction while the design or equip-
14 ment standard was applicable may elect to comply with this
15 section by means of such design or equipment standard or
16 by meeting such emission standard."

17 (i) Section 112 (c) (1) (A) of such Act is amended
18 by deleting the phrase "cause emissions in violation of" and
19 inserting in lieu thereof the word "violate".

20 (j) Section 112 (c) (1) (B) of such Act is amended
21 by deleting the phrase "no air pollutant to which such stand-
22 ard applies may be emitted from any stationary source" and
23 inserting in lieu thereof the phrase "no stationary source to
24 which such standard applies shall operate".

1 (k) Section 112(d) (1) of such Act is amended by
2 deleting the word "emission".

3 (l) Section 112(d) (2) of such Act is amended by
4 deleting the word "emission".

5 (m) Section 114(a) of such Act is amended by delet-
6 ing the word "emission".

7 EXTENSIONS FOR TRANSPORTATION CONTROL PLANS

8 SEC. 506. Section 110 of the Clean Air Act is amended
9 by adding subsection (g) as follows:

10 "(g) (1) Upon application by the Governor of a State
11 on or after June 1, 1976, the Administrator may extend
12 for not more than five years the deadline for attainment of
13 national primary ambient air quality standards where trans-
14 portation control measures are necessary for the attainment
15 of such standards and where the implementation of such
16 control measures would have serious adverse social or eco-
17 nomic effects.

18 "(2) The Administrator may consider extension appli-
19 cations for only those air quality control regions in which
20 the State has:

21 "(A) implemented or will have begun implement-
22 ing by June 1, 1977, the requirements of the applicable
23 implementation plan with respect to stationary source

1 emissions of transportation-related pollutants and all
2 reasonably available measures of the applicable trans-
3 portation control plan which do not have serious adverse
4 social or economic effects.

5 "(B) completed a detailed planning study that
6 evidences public and local governmental involvement
7 and includes examination of alternative measures and
8 combinations of measures which could be used to attain
9 and maintain the standards after June 1, 1977, a
10 description of projects to be undertaken together with
11 timetables and resource requirements, and identification
12 and analysis of social, economic, and environmental
13 effects including public health and energy conservation
14 effects of such measures and projects.

15 "(3) Each extension application shall be accompanied
16 by adequate documentation of compliance with the require-
17 ments of paragraph (2) above, and shall include an imple-
18 mentation plan for the extension period requested. The plan
19 shall:

20 "(A) identify the remaining emission reductions
21 necessary for attainment of the national primary ambient
22 air quality standards and the reasonably available meas-
23 ures to be implemented to accomplish these reductions;

1 “(B) provide for the implementation of all reason-
2 ably available control measures as expeditiously as
3 practicable;

4 “(C) identify the financial and manpower resources
5 to be committed to carrying out the plan;

6 “(D) demonstrate (i) attainment of the national
7 primary ambient air quality standards as expeditiously
8 as practicable but no later than May 31, 1982, or (ii)
9 that such attainment is not possible within the extension
10 period despite implementation of all reasonable, available
11 and achievable control measures.

12 “(4) (A) Within one hundred and twenty days follow-
13 ing the submission of an application and all supporting mate-
14 rials, and after providing an opportunity for public
15 comment, the Administrator shall grant an extension, if he
16 determines that the requirements of this subsection have
17 been met.

18 “(B) If the Administrator determines that the require-
19 ments of this subsection have not been met, including find-
20 ings relating to the impacts of the transportation control
21 measures upon the social, economic, and environmental wel-
22 fare of the air quality control region, he shall notify the
23 Governor of deficiencies in the application, including his
24 judgment as to acceptable dates for implementing measures
25 included in the plan and as to the appropriate duration of

1 an extension. The notification shall also specify a date for
2 the submission of a revised application.

3 “(5) Where the Administrator grants an extension
4 based on an application meeting the requirements of sub-
5 paragraph (g) (3) (D) (ii), the Governor of the State may,
6 on or after June 1, 1981, apply for a further extension in
7 accordance with and subject to the requirements of this sub-
8 section. No extension under this paragraph may extend
9 beyond May 31, 1987.

10 “(6) Where the Administrator denies an extension ap-
11 plication or where the Governor of a State in which the na-
12 tional primary ambient air quality standards are not being
13 met does not submit an application under this subsection, the
14 Administrator may, after consultation with appropriate State
15 and local elected officials, propose and promulgate an imple-
16 mentation plan (or portion thereof) meeting the require-
17 ments of this subsection.”

18 ENFORCEMENT ORDERS EXTENDING PAST ATTAINMENT

19 DATES

20 SEC. 507. (a) Section 113 (a) (4) of the Clean Air Act
21 is amended by deleting the third sentence and inserting the
22 following in lieu thereof: “Any order issued under this sub-
23 section shall state with reasonable specificity the nature of
24 the violation, specify a time for compliance (which may be
25 subsequent to the date for attainment of a national ambient

1 air quality standard under section 110) which the Adminis-
 2 trator determines is as expeditious as practicable, taking into
 3 account the seriousness of the violation and the status of
 4 efforts to comply with applicable requirements. Any order
 5 specifying a compliance date later than such national stand-
 6 ard attainment date shall take effect after notice and an
 7 opportunity for public hearing and shall require the source
 8 to employ any interim measures of control which the Ad-
 9 ministrator determines are reasonable. In cases where the
 10 Administrator determines that the need for a compliance
 11 date beyond such national standard attainment date results
 12 in whole or in part from the lack of good faith efforts to
 13 comply with the applicable requirements, he shall initiate
 14 action to impose civil or criminal penalties, or both.”.

15 (b) Section 113 of such Act is amended by adding sub-
 16 section (d) as follows:

17 “(d) The Administrator may approve an enforcement
 18 order or variance submitted by a State which specifies a date
 19 for compliance later than the date for attainment of any na-
 20 tional ambient air quality standard under section 110 if the
 21 Administrator determines that—

22 “(1) such compliance date is as expeditious as
 23 practicable, and

24 “(2) the enforcement order or variance requires

1 the source to use interim control measures which are
 2 reasonable, and

3 “(3) the enforcement order or variance was
 4 adopted by the State after public notice and an oppor-
 5 tunity for public hearing.”

6 (c) Section 113 (b) (1) of such Act is amended to read
 7 as follows:

8 “(1) violates or fails or refuses to comply with any
 9 order issued under subsection (a) or any enforcement
 10 order or variance approved under subsection (d) ; or”.

11 (d) Section 113 (c) (1) (B) of such Act is amended to
 12 read as follows:

13 “(B) violates or fails or refuses to comply with any
 14 order issued by the Administrator under subsection (a)
 15 or any enforcement order or variance approved by the
 16 Administrator under subsection (d) , or”.

17 (e) Section 304 (b) (1) of such Act is amended by
 18 adding a new subparagraph (C) as follows.

19 “(C) For the enforcement of any emission standard
 20 or limitation in an applicable implementation plan
 21 where the Administrator has issued an order pursuant
 22 to section 113 (a) or approved an enforcement order
 23 or variance pursuant to section 113 (d) with respect to
 24 such emission standard or limitation.”

ASSESSMENT OF CIVIL PENALTIES

SEC. 508. (a) Section 113 (b) of the Clean Air Act is amended by deleting the phrase "The Administrator may commence a civil action for appropriate relief, including a permanent or temporary injunction, whenever any person—" and inserting in lieu thereof the following:

"(b) The Administrator may request the Attorney General to commence a civil action for a permanent or temporary injunction or to assess and recover a civil penalty of not more than \$25,000 per day of violation, or both, whenever any person—".

(b) Section 113 (b) of the Clean Air Act is further amended by deleting paragraph (2) thereof and inserting in lieu thereof the following:

"(2) violates any requirement of an applicable implementation plan during any period of Federally assumed enforcement or more than 30 days after having been notified by the Administrator under subsection (a) (1) of a finding that such person is violating such requirement; or".

(c) Section 113 (b) of the Clean Air Act is further amended by deleting the second sentence thereof and inserting in lieu thereof the following: "Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or

resides or is doing business, and such court shall have jurisdiction to restrain such violation, to require compliance, or to assess such penalty."

EXTENSION FOR ATTAINMENT OF NATIONAL PRIMARY AMBIENT AIR QUALITY STANDARDS FOR SUSPENDED PARTICULATE MATTER

SEC. 509. Section 110 of the Clean Air Act is amended by adding subsection (h) as follows:

"(h) (1) Upon application by the Governor of a State on or after June 1, 1976, the Administrator may extend for not more than five years the attainment date established pursuant to subsection (a) (2) (A) (i) for those air quality control regions where control measures necessary to attain the national primary ambient air quality standards for suspended particulate matter are not reasonably available as determined by the Administrator.

"(2) Such application for extension shall include:

"(A) a demonstration that the applicable plan, when fully implemented, is inadequate to attain all national primary standards for suspended particulate matter by the established attainment date,

"(B) an implementation plan for the extension period requested. Such plan must include, but is not limited to,

"(1) a description of specific projects or meas-

ures that will be undertaken to minimize particulate matter emissions together with timetables and resource requirements, and identification and analysis of social economic and environmental effects, including public health effects, of such projects,

“(2) a demonstration of (i) attainment of the national primary air quality standards for particulate matter as expeditiously as practicable, but no later than May 31, 1982, or (ii) that such attainment is not possible despite implementation of all reasonable available and achievable control measures.

“(C) such other information as the Administrator may, by regulation, require.

“(3) (A) Within one hundred and twenty days following the submission of an extension application meeting the requirements of subsection (H) (2) the Administrator shall approve the extension application, if he determines that the requirements of this subsection are met.

“(B) If the Administrator determines that the requirements of this subsection are not met he shall notify the Governor of deficiencies in the application including the Administrator's recommendations as to adequate implementing measures and schedules.

“(4) If an application for an extension meeting the

requirements of this subsection has not been filed for an air quality control region in which all the national primary ambient air quality standards for particulate matter are not being met, the Administrator may, after consultation with appropriate State and local officials, promulgate an extension meeting the requirements of this subsection.

“(5) If the Administrator grants an extension based on an application meeting the requirements of subsection (h) (2) (B) (2) (ii), the Governor of the State may, on or after June 1, 1981, apply for a further extension in accordance with and subject to the requirements of this subsection. The Administrator shall not approve an extension under this paragraph beyond May 31, 1987.”

REGIONAL LIMITATIONS ON COMPLIANCE DATE

EXTENSIONS

SEC. 510. The Clean Air Act is amended as follows:

(a) Section 119 (a) (6) is deleted.

(b) Section 119 (c) (2) (A) (ii) is amended to read as follows:

“(ii) the Administrator finds that the source will be able during the period of the compliance date extension to comply with all the primary standard conditions which are required under subsection (d) (2) to be applicable to such source, and”.

(c) Section 119 (c) (2) (D) is deleted.

1 (d) Section 119(d) (2) (B) is amended to read as
2 follows:

3 “(B) Whenever the Administrator prescribes a limita-
4 tion, requirement, or measure under subparagraph (A) of
5 this paragraph with respect to a source, he shall determine the
6 earliest date on which such source will be able to comply
7 with such limitation, requirement, or measure.”

8 (e) Section 119(d) (3) (A) is amended to delete the
9 following: “or that a source to which a compliance date
10 extension applies is not in compliance with a regional limita-
11 tion applicable to it.”.

12 (f) Section 119(d) (3) (A) (i) is amended to delete
13 the phrase “or limitation”.

14 (g) Section 119(d) (3) (B) (i) is amended to delete
15 the phrase “or regional limitation”.

16 (h) Section 119(d) (3) (B) (ii) is amended to read
17 as follows:

18 “(ii) such a source will not be in compliance with
19 such a condition, but such condition cannot be enforced
20 because of a court order restraining its enforcement,
21 or”.

22 (i) The third sentence of section 119(d) (3) (B) is
23 amended to delete the phrase “or regional limitation”.

24 (j) Section 119(d) (4) is amended to delete the phrase
25 “or regional limitation”.

1 (k) Section 119(g) (2) is amended to delete the
2 phrase “or regional limitation”.

3 INSTALLATIONS ELIGIBLE FOR COMPLIANCE DATE

4 EXTENSIONS

5 SEC. 511. Section 119(c) (1) of the Clean Air Act is
6 amended to add the following sentence immediately follow-
7 ing the first sentence thereof: “For the purposes of this
8 paragraph, ‘converts to the use of coal’ includes a source
9 which is prohibited from using petroleum products or natural
10 gas as its primary energy source by reason of an order in
11 effect under section 2(a) of the Energy Supply and Environ-
12 mental Coordination Act of 1974 and such source is subject
13 to an enforceable compliance schedule or schedules to convert
14 from coal to petroleum products or natural gas in order to
15 comply with air pollution requirements.”.

16 COMPLIANCE PLAN REQUIREMENTS AND DATE OF 17 TERMINATION OF COMPLIANCE DATE EXTENSIONS

18 SEC. 512. The Clean Air Act is amended as follows:

19 (a) Section 119(c) (2) (C) is amended to read as
20 follows:

21 “(C) Regulations under subparagraph (B) shall
22 require that the source achieve the degree of emission reduc-
23 tion that such source would have been required to achieve
24 under the applicable implementation plan which was in
25 effect on the date of submittal (under subparagraph (B) of

1 this paragraph) of the means for and schedule of compli-
 2 ance (or if no applicable implementation plan was in effect
 3 on such date, under the first applicable implementation plan
 4 which takes effect after such date). Such regulations shall
 5 also require that if the applicable emission reduction provi-
 6 sions contained in such implementation plan are revised
 7 subsequent to such date of submittal, the source shall submit
 8 to the Administrator within ninety days of such revision the
 9 means for and schedule of compliance with such revised
 10 emission reduction provisions, and the Administrator may
 11 require the source to achieve such revised degree of emission
 12 reduction. The degree of emission reduction required under
 13 this subparagraph shall be achieved:

14 “(i) in the case of a powerplant (not a powerplant
 15 subject to the requirements of section 111 of this Act)
 16 which the Administrator finds can apply measures in the
 17 interim before January 1, 1985, which provide a means
 18 for attaining and maintaining national primary ambient
 19 air quality standards for sulfur oxides in the area affected
 20 by the emissions of the powerplant complex of which
 21 such powerplant is a part (which measures include but
 22 are not limited to intermittent control systems) and
 23 which the Administrator finds is part of a powerplant
 24 complex that contributes all or a major portion of the

1 ambient concentrations of sulfur oxides in the area
 2 affected by the powerplant complex's emissions—

3 “(I) with respect to sulfur oxides, not later
 4 than January 1, 1985: *Provided*, That the Admin-
 5 istrator shall not require under subparagraph (c) (i)
 6 a date prior to January 1, 1980, for entering into
 7 contracts (or other obligations enforceable against
 8 such powerplant) to purchase any flue-gas desul-
 9 furization system for sulfur oxides; and

10 “(II) with respect to other air pollutants, as
 11 soon as practicable, but not later than December 31,
 12 1979.

13 “(ii) in the case of a source (other than a power-
 14 plant described in subparagraph (c) (i) of this section)
 15 as soon as practicable, but not later than December 31,
 16 1979; except that, in the case of a source (other than
 17 a powerplant described in subparagraph (C) (i) of this
 18 subsection) for which a continuous emission reduction
 19 system is required for sulfur-related emissions, reduc-
 20 tion of such emission shall be achieved on a date desig-
 21 nated by the Administrator (but not later than
 22 January 1, 1980).

23 Such regulations shall also include such interim require-
 24 ments as the Administrator determines are reasonable and
 25 practicable, including requirements described in subpara-

1 graph (A) and (B) of subsection (b) (3) and subsection
2 (1) (2) (B) of this section and requirements to file prog-
3 ress reports.”

4 (b) The second sentence of section 119 (c) (1) is
5 amended by deleting “1979” and inserting in lieu thereof
6 “1980”.

7 CONFORMING AMENDMENT: FEA AUTHORITY TO REQUIRE
8 PLANTS THAT DEVELOP COAL-BURNING CAPABILITY

9 AFTER JUNE 22, 1974, TO BURN COAL

10 SEC. 513. Section 119 (c) (1) (A) of the Clean Air
11 Act is amended to read as follows:

12 “(A) which is prohibited from using petroleum
13 products or natural gas by reason of an order which is
14 in effect under section 2 (a) and (b) of the Energy
15 Supply and Environmental Coordination Act of 1974
16 and which the Federal Energy Administrator determines
17 had the capability and necessary plant equipment to
18 burn coal on June 22, 1974, or”.

19 TITLE VI

20 SIGNIFICANT DETERIORATION

21 SEC. 601. Section 101 (b) (1) of the Clean Air Act is
22 amended to read as follows:

23 “(1) to protect and enhance the quality of the
24 Nation’s air resources by establishing, achieving, and
25 maintaining national ambient air quality standards,

1 standards of performance for new stationary sources,
2 and national emission standards for hazardous air pol-
3 lutants so as to promote the public health and welfare
4 and the productive capacity of the Nation, but nothing
5 in this Act is intended to require or authorize the estab-
6 lishment by the Administrator of standards more strin-
7 gent than primary and secondary ambient air quality
8 standards;”.

9 TITLE VII

10 SHORT TITLE

11 SEC. 701. This title may be cited as the “Utilities Act
12 of 1975”.

13 FINDINGS AND PURPOSES

14 SEC. 702. (a) The Congress finds and determines that—

15 (1) The continued generation and transmission of an
16 adequate supply of electrical energy is critical to the Nation’s
17 defense, a sound and stable economy and the general health
18 and welfare of the people of the United States.

19 (2) Rapid changes in the energy and economic en-
20 vironment surrounding the electric utility industry call for
21 substantial adaptation by the regulatory authorities which
22 influence total revenues and, therefore, the return on capital.

23 (3) Present utility pricing practices and local regula-
24 tory procedures do not always reflect the full cost of the
25 generation and transmission of electrical energy. As a result,

1 some users pay less than the full cost of their service, in-
 2 cluding the costs of capacity needed to meet the full demand
 3 at the time of consumption and of necessary additions to
 4 plant to maintain continuing reliability. As a consequence of
 5 such sales below cost, excessive amounts of electrical energy
 6 are consumed.

7 (4) Where the full costs of power have not been re-
 8 covered, utilities can no longer attract sufficient capital to
 9 meet both current and expected demand. As a result, a signifi-
 10 cant portion of planned plant expansion has been deferred or
 11 canceled, particularly those projects that would reduce de-
 12 mand for volatily priced and unreliable foreign oil. Further,
 13 utilities are now limited in their ability to finance conversion
 14 of facilities to coal, and to invest in equipment necessary to
 15 limit adverse environmental effects of energy production.

16 (5) Shortages and unreliable supplies of electricity
 17 caused by the financial problems of the utilities now exist or
 18 are imminent and jeopardize the normal flow of interstate
 19 and foreign commerce by creating severe economic disloca-
 20 tion, including loss of jobs, closing of factories and businesses,
 21 and curtailments of vital public services. Existing rates and
 22 bases are significant elements in the present and future gen-
 23 eration and transmission of electricity, and affect interstate
 24 commerce.

25 (b) The purpose of this title is to set minimum stand-

1 ards for certain reulatory practices and procedures govern-
 2 ing electric utilities, to make all jurisdictions at least as
 3 responsive to a changed energy and economic environment as
 4 those which have already taken these initiatives, with em-
 5 phasis on accelerating the ratemaking process and making
 6 rates more reflective of costs. Subject to these standards, the
 7 power of regulatory authorities to regulate the sale, genera-
 8 tion, and transmission of electricity, including the specific ap-
 9 plication of the principles of regulation to individual cases, is
 10 affirmed and maintained.

11 DEFINITIONS

12 SEC. 703. As used in this title—

13 (a) "Corporation" includes any corporation, joint stock
 14 company, partnership, association, business trust, organized
 15 group of persons whether incorporated or not, receiver or
 16 receivers, trustee or trustees or any of the foregoing.

17 (b) "Regulatory authority" means a State, territory or
 18 possession of the United States, or political subdivision there-
 19 of, an agency or instrumentality of the United States (in-
 20 cluding a government corporation, but specifically excluding
 21 the Federal Power Commission), a public service or public
 22 utility commission or other similar body of any State, the
 23 District of Columbia, territory or possession of the United
 24 States or any political subdivision thereof, which has juris-

1 diction to establish rates and charges for the sale of electric
2 power.

3 (c) "Regulated public utility" or "utility" means a cor-
4 poration which is engaged in the business of furnishing or
5 sale of electric power if rates for such furnishing or sale have
6 been established or are subject to approval by a regulatory
7 authority.

8 (d) "Rate base" means the value established by a regu-
9 latory authority upon which a utility is permitted to earn a
10 specified rate of return.

11 (e) "Construction work in progress" means the cost of
12 all the utility plant, as defined in the Uniform Systems of
13 Accounts prescribed for public utilities and licensees by the
14 Federal Power Commission, in process of construction but
15 not yet placed in service, including but not limited to prog-
16 ress payments and other costs associated with prefabricated
17 equipment which, if completed, on site, and in use, would be
18 allowed in the rate base; and further including all costs asso-
19 ciated with environmental control facilities and equipment
20 required by Federal, State, or local laws.

21 (f) "Fuel adjustment clause" means that part of a
22 rate schedule for sales of electric power which reflects
23 changes in the fuel component (and fuel only) per kilowatt
24 hour of delivered energy cost.

25 (g) "Allowance for funds used during construction"

1 means a noncash credit to income for the net cost for the
2 period of construction of borrowed funds used for construc-
3 tion purposes and a reasonable rate of interest for other funds
4 when so used.

5 SUSPENSION OF RATE APPLICATIONS

6 SEC. 704. (a) No regulatory authority may suspend or
7 otherwise defer the operation of a utility's rate schedule
8 properly filed with it and defer the use of the rate, charge,
9 classification, or service established by such schedule for
10 a period longer than five months from the date such schedule
11 accompanied by all required supporting documentation is
12 filed, or five months beyond the time when it would other-
13 wise go into effect, whichever is later. The proposed change
14 of rate, charge, classification, or service shall go into effect,
15 upon motion of the utility, at the end of such period and shall
16 continue in effect until the proceeding on the proposed
17 change has been concluded and a final order issued approv-
18 ing or otherwise disposing of the proposed change.

19 (b) In the case of a proposed increased rate of charge,
20 the regulatory authority shall, by order, in a manner to
21 be determined by the regulatory authority, require the
22 interested utility to keep accurate account of all amounts
23 received by reason of such increase, and upon completion
24 of the final determination on the rate schedule, shall by
25 further order require, in a manner to be determined by the

1 regulatory authority, such utility to adjust the lawful rate
 2 or to refund, with interest, such portion of such increased
 3 rates or charges as by its decision shall be found unlawful.

4 (c) For purposes of this section, any rate schedule
 5 properly filed with a regulatory authority prior to the
 6 effective date of this title shall be deemed to be filed as of
 7 the effective date of this title.

8 FUEL ADJUSTMENT CLAUSE

9 SEC. 705. No regulatory authority may prohibit or
 10 otherwise make unlawful as part of any rate schedule a
 11 fuel adjustment clause permitting, without further proceed-
 12 ings, monthly changes in a utility's lawful rates equal to
 13 the changes in the cost to the utility of fossil and nonfossil
 14 fuel, including all applicable taxes, tariffs, or similar charges:
 15 *Provided*, That the regulatory authority may require notice
 16 of the changed cost of fuel and the resulting adjusted rate
 17 before any rate change can be implemented: *Provided*
 18 *further*, That this section shall not prohibit a regulatory
 19 authority from subsequently determining that the adjusted
 20 rates or parts thereof are unlawful.

21 REMOVAL OF PROHIBITIONS AGAINST OFFPEAK PRICING

22 SEC. 706. No regulatory authority may prohibit a utility
 23 from making sales of electric power pursuant to a lawful
 24 rate schedule during periods of lesser consumption at prices

1 lower than those for sales made during periods of peak
 2 consumption.

3 CONSTRUCTION WORK IN PROGRESS

4 SEC. 707. No regulatory authority may prohibit or
 5 otherwise make unlawful the inclusion in a utility's rate
 6 base of reasonable and prudent expenditures associated with
 7 construction work in progress: *Provided*, That a regulatory
 8 authority may limit the annual amount to be included to
 9 the lesser of (i) 15 per centum of the total rate base, includ-
 10 ing construction work in progress, if any, as of the end of
 11 the utility's most recent test period, or (ii) the value which
 12 such construction work would have if otherwise includable in
 13 the rate base: *Provided further*, That no allowance for funds
 14 used during construction shall be established for amounts
 15 of construction work in progress included in the rate base:
 16 *Provided further*, That no amount need be included in the
 17 rate base for costs attributable to any project which has been
 18 suspended or abandoned.

19 COST OF ENVIRONMENTAL CONTROLS

20 SEC. 708. No regulatory authority may prohibit or other-
 21 wise make unlawful the inclusion in a utility's rate base of
 22 capital costs associated with environmental control facilities
 23 and equipment required by Federal, State, or local law.

24 NORMALIZATION METHOD OF ACCOUNTING

25 SEC. 709. No regulatory authority may make unlawful

1 or otherwise prohibit for ratemaking purposes the use by a
 2 utility of the normalization method of accounting (as de-
 3 fined in section 167 (l) (3) (G) of the Internal Revenue
 4 Code of 1954) for depreciation or the methods prescribed
 5 in section 46 (e) (1) and (2) of the Internal Revenue Code
 6 of 1954 for the credit against taxes allowed by section 38 of
 7 the Internal Revenue Code of 1954. Nothing in this section
 8 shall be construed to prohibit a utility from using a flow-
 9 through method of accounting for ratemaking purposes if
 10 such utility is otherwise entitled to use such method under
 11 the provisions of section 167 (l) (1) (B) and section 167
 12 (1) (2) (C) and 46 (e) (3) of the Internal Revenue Code
 13 of 1954, and such utility petitions the regulatory authority
 14 in each ratemaking proceeding to use such flow-through
 15 method.

16 SEVERABILITY

17 SEC. 710. If any provision of this title or the applica-
 18 bility thereof to any entity or circumstance is held invalid,
 19 the remainder of this title and the application of such provi-
 20 sion to other entities or circumstances shall not be affected
 21 thereby.

22 APPROPRIATIONS

23 SEC. 711. There are authorized to be appropriated such
 24 sums as may be necessary to carry out the purposes of this
 25 title.

1 TITLE VIII

2 SHORT TITLE

3 SEC. 801. This title may be cited as the "Energy
 4 Facilities Planning and Development Act of 1975".

5 CONGRESSIONAL FINDINGS AND PURPOSES

6 SEC. 802. The Congress, in furtherance of the policies
 7 set forth in the Federal Energy Administration Act of 1974,
 8 the Coastal Zone Management Act of 1972, the National
 9 Environmental Policy Act of 1969, the Atomic Energy Act
 10 of 1954, the Energy Reorganization Act of 1974, and the
 11 Federal Power Act, hereby finds and declares that the na-
 12 tional public interest in assuring that adequate facilities for
 13 the production of energy are available, that energy shortages
 14 and dislocations do not jeopardize interstate and foreign com-
 15 merce, that energy considerations become an integral part of
 16 overall land use and water planning, and Coastal Zone Man-
 17 agement, that the environment is protected, that public and
 18 private investment in energy facilities is encouraged, and that
 19 the interest of consumers in energy in all its various forms
 20 is protected, requires—

- 21 (a) that facilities adequate to meet the Nation's
- 22 current and future energy needs be sited and constructed
- 23 in a timely and rational fashion without undue delay,
- 24 and with early opportunity for thorough public review;
- 25 (b) that the siting of energy facilities be compati-

ble, to the extent possible, with State land use and water planning, and Coastal Zone Management;

(c) that provisions be made for States to establish, operate, and fund programs capable of assuring early determination of acceptable energy facility sites and the earliest practicable consideration and processing of applications for energy facilities needed to meet State, regional, and national energy needs;

(d) that adequate consideration be given to the national interest involved in the siting and construction of energy facilities necessary to meet energy needs which are other than local or State in nature;

(e) that energy facilities which require Federal approval be subject to a coordinated, prompt, and simplified approval process; and

(f) that steps to expedite the Federal approval process be taken without any expansion of existing Federal authority over proposed energy facilities and without unduly interfering with the present statutory authorities and responsibilities of individual Federal agencies.

NATIONAL ENERGY SITING AND FACILITY REPORT

SEC. 803. (a) Within one year after enactment of this title, the Administrator shall prepare and submit to the President and to the Congress a National Energy Site and Facility Report (hereinafter "Report"). This Report shall

1 analyze short and long term energy needs and demand and
2 indicate the number, type, and general location of energy
3 facilities required to meet national energy objectives. The
4 Report shall be developed in consultation with the States,
5 industry, and other appropriate Federal agencies, and it shall
6 include information on:

7 (1) the location, type, size, and production capac-
8 ity of existing energy facilities;

9 (2) present and projected long-range energy needs
10 and demand on a national, regional, and marketing area
11 basis, including, where appropriate, peak and offpeak
12 production capacity requirements, and the assumptions
13 used to arrive at demand projections;

14 (3) the actual impacts on necessary production
15 capacity which various energy conservation measures
16 have had or will have;

17 (4) energy facilities which have been or are likely
18 to be removed from production and the reasons for
19 such removals;

20 (5) the present and projected status of all appli-
21 cations pending at Federal, regional, and State levels
22 for the siting, construction, or operation of energy
23 facilities;

24 (6) the present and projected availability and
25 shortfall of suitable energy facilities and facility sites;

1 (7) the alternative types of energy facilities and
 2 fuels (categorized by region, type, size and production
 3 capacity) that would meet projected national, regional,
 4 and marketing area energy needs and demand;

5 (8) a comparison of the economic, social and en-
 6 vironmental advantages of constructing and locating
 7 energy facilities in various regions or marketing areas;

8 (9) the impacts of various energy facilities on the
 9 environment;

10 (10) an analysis of the financial and public service
 11 requirements imposed on local communities by various
 12 types of facilities and alternatives available to the States
 13 to offset such impacts.

14 (b) Information in the Report shall be organized to
 15 provide an adequate forecast, on a national, regional and
 16 marketing area basis, of the demand for energy and various
 17 types of facilities, and the supply of sites available for the
 18 construction of such facilities.

19 (c) The Administrator shall afford appropriate State
 20 and Federal agencies, and other interested persons, an oppor-
 21 tunity to comment and shall make adequate provision for
 22 holding public hearings prior to completion of the Report.
 23 All comments received shall be considered in the preparation
 24 of the Report and copies of the Report shall be made avail-
 25 able to the States and appropriate Federal agencies.

1 (d) Utilizing the procedures required by subsection (c),
 2 the Administrator shall periodically review and update the
 3 Report to meet pertinent changes in national energy needs
 4 and demand.

5 (e) The Administrator is authorized to request, collect,
 6 and acquire information and data from States and other non-
 7 Federal governmental entities for the proper exercise of his
 8 responsibilities under this title.

9 (f) The Administrator is authorized for the purpose of
 10 carrying out his responsibilities under this title to request
 11 from any Department or agency of the Federal Govern-
 12 ment, and such Department or agency shall provide him,
 13 information except:

14 (1) information, the disclosure of which to another
 15 Federal agency is expressly prohibited by law, or

16 (2) trade secrets, commercial, financial, or demo-
 17 graphic information which is privileged or confidential
 18 and obtained by an agency from a person for statistical
 19 or law enforcement purposes, the disclosure of which to
 20 another Federal agency would frustrate development of
 21 accurate statistics by the collecting agency or would
 22 adversely affect law enforcement procedures.

23 (g) Notwithstanding any other provision of law, in-
 24 formation acquired by the Administrator shall be made avail-
 25 able to the public upon request except information which is:

1 (1) Classified in the interest of national defense or
2 foreign policy pursuant to statute or Executive order.

3 (2) Specifically prohibited from disclosure by stat-
4 ute or which would constitute a clear invasion of personal
5 privacy if disclosed.

6 (3) Acquired from a Federal, State, or local agency
7 and obtained by that Federal, State, or local agency in a
8 privileged or confidential manner.

9 (4) Individual respondent data which contains trade
10 secrets, commercial or financial information the dis-
11 closure of which the Administrator finds would have a
12 significant and adverse effect upon the competitive posi-
13 tion of that respondent.

14 STATE ENERGY FACILITY MANAGEMENT PROGRAMS

15 SEC. 804. (a) Within one year from the issuance of the
16 Administrator's Report pursuant to section 803 (a), each
17 State shall submit to the Administrator for approval an
18 energy facility management program for long term energy
19 facility planning and the achievement of energy production
20 needs by the expeditious consideration and processing of
21 applications to site, construct, and operate energy facilities:
22 *Provided*, That the Administrator in his discretion may
23 extend the period for submission of a State management
24 program on a case by case basis.

25 (b) Each State shall include with the submission of

1 its State management program or amendment thereto infor-
2 mation to assist the Administrator in preparing an environ-
3 mental impact statement on the proposed management
4 program.

5 (c) Such management program shall provide for—

6 (1) an energy facility site and selection process
7 compatible, to the extent possible, with State land use
8 and water planning and any approved Coastal Zone
9 Management programs;

10 (2) procedures to establish and update energy
11 facility plans to reflect current and projected State,
12 regional and national needs. Such plans shall—

13 (A) identify intermediate and long term
14 energy demand, online energy facilities, resource
15 availability, facility requirements, and conservation
16 programs;

17 (B) identify how regional and national energy
18 needs are being or will be satisfied;

19 (C) identify and assess major energy produc-
20 tion and conservation problems;

21 (D) identify and analyze alternative methods
22 for meeting energy requirements including an eval-
23 uation of the economic, social, and environmental
24 impacts of various alternatives;

(E) identify all energy development and energy conservation actions planned for the near term.

(3) a coordinated review and approval process at the State level to insure that applications to site and construct energy facilities are processed and a final decision rendered within an eighteen-month period;

(4) procedures which insure that decisions of State agencies on applications to site, construct, or operate energy facilities are final;

(5) adequate consideration of the national, regional, and marketing area energy needs, as set forth in the Administrator's National Energy Site and Facility Report, in the planning, siting, and approval of energy facilities;

(6) cooperation with other States in the planning, siting, and approval of energy facilities, transmission lines and pipelines which will serve or affect two or more States;

(7) procedures for locating transmission lines and pipelines, so as to minimize environmental impacts and to maximize multiple use of energy and transportation corridors;

(8) procedures for evaluating the environmental impact of energy facilities, including the consideration of alternative facilities and sites;

(9) identification of environmental baseline data needed for evaluation of proposed energy facilities;

(10) public participation in the energy facility planning process and in the administrative process for energy facility site designation and approval;

(11) a capability and process for acquiring, analyzing, and disseminating data on State energy needs and demand, available energy facilities sites, operating and proposed energy facilities, effects of energy conservation measures, and other data which can be used by the State and in the preparation of the National Energy Site and Facility Report; and

(12) designation of an official to represent and act for the Governor in dealing with the Administrator on matters covered by this title.

(d) Nothing in this title shall be construed to authorize, direct or permit the Administrator to override any final decision of a State authority issued pursuant to an approved or promulgated State management program on the siting approval or disapproval of any specific energy facility.

(e) The Administrator shall not approve any State management program or amendment thereto submitted pursuant to this section unless it is consistent with the criteria outlined in subsection (c) and until he has—

(1) solicited the views of: the Federal Power

1 Commission, the Energy Research and Development
2 Administration, the Nuclear Regulatory Commission,
3 the Department of Commerce, the Department of
4 Interior, the Council on Environmental Quality, the
5 Environmental Protection Agency, the Department of
6 Housing and Urban Development, and such other
7 Federal agencies as he may deem appropriate, and

8 (2) held at least one public hearing on the State
9 program within the State: *Provided*, That this require-
10 ment may be waived by the Administrator in the case
11 of an amendment, if he determines that the amend-
12 ment will not have a substantial effect on the existing
13 State management program.

14 (f) The Administrator shall approve or disapprove
15 a State management program in whole or in part, within
16 one hundred and twenty days after the date of its
17 submission.

18 (g) If the Administrator disapproves, in whole or in
19 part, any proposed State management program or a State
20 management program resubmitted pursuant to subsection
21 (j), he shall notify the State in writing of his decision and
22 set forth in detail the reasons therefor. The State shall have
23 sixty days in which to submit a revised State management
24 program, or portion thereof. The Administrator shall ap-

1 prove or disapprove the revised State management program
2 or portion thereof within sixty days of resubmission.

3 (h) Prior to the approval of a proposed or resubmitted
4 State management program or the promulgation of a State
5 management program by the Administrator pursuant to sub-
6 section (i), all State laws relating to the siting, construction
7 and operation of energy facilities shall remain in full effect.

8 (i) (1) The Administrator shall prepare and promul-
9 gate a State management program for the State if such
10 State—

11 (A) fails to submit a State management program
12 within one year from issuance of the Administrator's re-
13 port pursuant to section 803 (a) or within such other
14 time period established by the Administrator pursuant
15 to section 804 (a) ;

16 (B) fails to resubmit a State management program
17 pursuant to subsection (j) ;

18 (C) fails to resubmit an acceptable management
19 program within sixty days of disapproval of a proposed
20 State management program or a State management
21 program resubmitted pursuant to subsection (j) :

22 *Provided*, That the Administrator shall not promulgate a
23 State management program prior to the expiration of the
24 initial period allowed for submission of a State management

1 program pursuant to subsection (A) above, and section 804
2 (a) of this title.

3 (2) Prior to promulgation of any State management
4 program by the Administrator, he shall give adequate public
5 notice, hold a public hearing in the State affected and pre-
6 pare an environmental impact statement pursuant to the Na-
7 tional Environmental Policy Act of 1969.

8 (3) A State which has failed to obtain approval of its
9 State management program prior to promulgation of a man-
10 agement program by the Administrator may submit a State
11 management program for approval at any time thereafter.
12 Upon submission of such a management program, the Ad-
13 ministrator shall follow the procedures set forth in subsec-
14 tions (e), (f), and (g) above. Until a State management
15 program is approved as provided in this subsection the State
16 management program promulgated by the Administrator
17 shall remain in effect.

18 (4) Whenever a State management program is promul-
19 gated by the Administrator for a State any statutes, rules, or
20 regulations of such State or instrumentality or municipality
21 thereof which relate to energy facility planning or which
22 affect the siting, construction, and operation of energy facili-
23 ties shall be preempted and superseded to the extent specified
24 in the promulgated State management program.

25 (5) Any aggrieved party may bring suit to enforce

1 an approved management program or a promulgated State
2 management program being administered by the State, in a
3 Federal district court located in the State affected notwith-
4 standing the amount in controversy, or in any appropriate
5 State court. The court shall grant such permanent or tem-
6 porary injunctive or other relief as may be provided by law,
7 except that no right to recover damages against any official
8 of a State government shall arise or be conferred under the
9 law of the United States.

10 (6) Any amendment to an approved or promulgated
11 State management program shall not take effect until ap-
12 proved by the Administrator. The Administrator must ap-
13 prove or disapprove the change(s) within sixty days of its
14 submission.

15 (j) (1) Following the approval or promulgation of a
16 State management program the Administrator may periodi-
17 cally require a State to resubmit its management program or
18 any portion thereof for reapproval.

19 (2) The Administrator shall approve or disapprove a
20 State management program resubmitted pursuant to subsec-
21 tion (j) within thirty days.

22 (3) The provisions of section 804 (e) (2) shall not
23 apply to the approval of State management programs resub-
24 mitted pursuant to subsection (j).

25 (k) Any action by the Administrator to approve or

1 disapprove a State management program or amendment
 2 thereto or to promulgate a State management program shall
 3 be subject to judicial review only by the appropriate United
 4 States Court of Appeals upon the filing in such court, within
 5 sixty days from the date of such action, of a petition by any
 6 person who participated in administrative proceedings
 7 related thereto and who is aggrieved by the action praying
 8 that such action be modified or set aside in whole or in part.
 9 A copy of such petition shall forthwith be sent by registered
 10 or certified mail to the Administrator and the Attorney
 11 General, and thereupon the Administrator shall certify, and
 12 the Attorney General shall file in such court the record upon
 13 which the action complained of was issued, as provided in
 14 section 2112 of title 28, United States Code. Pending a
 15 final determination the Court shall not have authority to
 16 issue an interlocutory decree staying or restraining in whole
 17 or in part any action by the Administrator subject to judicial
 18 review under this subsection or restraining the implementa-
 19 tion of an approved or promulgated State management
 20 program.

21 DEVELOPMENT AND ADMINISTRATIVE GRANTS

22 SEC. 805. (a) The Administrator is authorized to make
 23 annual grants to any State for the purposes of assisting in
 24 developing, initiating, and administering an approved or
 25 promulgated management program.

1 (b) All grants made pursuant to this section shall not
 2 exceed 66 $\frac{2}{3}$ per centum of the costs of developing, initiating,
 3 and administering a management program in any one year.
 4 Federal funds received from other sources shall not be used
 5 to match grants made under this section. State funds used
 6 to match grants available under this section shall not be
 7 used to match Federal funds available under other Federal
 8 grant programs.

9 (c) The Administrator shall provide technical assistance
 10 and data to the States in developing and initiating their man-
 11 agement programs.

12 (d) Grants made under this section of this title shall
 13 be allocated to the States at the discretion of the Administra-
 14 tor by formula or otherwise on the basis of relevant factors,
 15 including, without limitation, the State's progress in develop-
 16 ing and implementing an approved management program
 17 as well as the size, population, resources, and energy needs
 18 of the various States.

19 (e) Grants or portions thereof received by States pur-
 20 suant to this section of this title and not obligated by a State
 21 during the fiscal year for which they were first authorized to
 22 be obligated by a State shall revert to the Administrator and
 23 shall be available for reallocation by him.

24 (f) The authority to make grants under this section shall
 25 expire on September 30, 1980.

1 (g) Each State receiving grants under this section shall
 2 submit such reports as the Administrator shall prescribe on
 3 the development, initiation, and administration of its manage-
 4 ment program.

5 (h) Each State receiving grants under this section shall
 6 maintain such records as the Administrator shall prescribe,
 7 including records which fully disclose the amount and dis-
 8 position of grant funds received, the total cost of developing
 9 or administering the management program supplied by other
 10 sources, and other records as will facilitate an effective audit.
 11 The Administrator and the Comptroller General of the United
 12 States, or any of their duly authorized representatives, shall
 13 have access for the purpose of audit and examination of any
 14 books, documents, papers, and records of grant recipients
 15 that are pertinent to the determination that funds granted
 16 are used in accordance with this title.

17 INTERSTATE COMPACTS

18 SEC. 806. (a) The Administrator shall encourage co-
 19 operative activities among States regarding the siting and
 20 approval of energy facilities in order that national and re-
 21 gional energy needs as well as the energy needs of individual
 22 States receive adequate consideration, and shall encourage
 23 the formation of regional agencies and authorities for this
 24 purpose.

25 (b) The consent of Congress is hereby given for two or

1 more States to negotiate and to enter into agreements or
 2 compacts, not in conflict with any law or treaty of the United
 3 States, for cooperative efforts and mutual assistance in select-
 4 ing energy facility sites and approving energy facilities, for
 5 enforcement of their respective laws thereon, and the estab-
 6 lishment of such authorities and agencies, joint or otherwise
 7 as they may deem desirable for implementing such agree-
 8 ments or compacts. The right to alter, repeal, or amend this
 9 provision is expressly reserved.

10 (c) With the approval of the Administrator, States may
 11 allocate a portion of funds received under section 805 of
 12 this title to regional agencies or authorities established pur-
 13 suant to subsection (b) of this section.

14 FACILITY APPROVAL BY FEDERAL AGENCIES

15 SEC. 807. (a) In order to coordinate, simplify and ex-
 16 pedite the processing of applications to construct energy fa-
 17 cilities, the Administrator, in cooperation with designated
 18 lead Federal agencies shall supervise the overall Federal
 19 approval process. The actual authority to approve or disap-
 20 prove applications for energy facilities, however, shall con-
 21 tinue to reside in those Federal agencies possessing specific
 22 statutory authority over proposed energy facilities or their
 23 appendages.

24 (b) The Administrator shall have the following duties
 25 and authorities in the approval process:

(1) The Administrator shall develop in cooperation with all other Federal agencies with authority over any aspect of energy facility site or facility approval, a single composite application which once developed shall be the sole application required for Federal approval prior to the commencement of construction. Such composite application shall be composed of removable and insertable sections in order to accommodate the information necessary for all Federal approvals for each proposed facility in one package of manageable size.

(2) The Administrator shall designate for each composite application a lead Federal agency which shall carry out the duties of and responsibilities provided for in subsection (c) of this section. Immediately upon receipt of a composite application the Administrator shall forward the application to the designated lead Federal agency.

(3) In order to carry out the purposes of this title, the Administrator is authorized to coordinate and expedite the review of applications for facility approval undertaken by Federal agencies pursuant to their statutory mandates and, in consultation with such agencies, may establish appropriate priorities and timetables for the completion of those agencies' review processes: *Provided, however,* That all timetables and priorities established by the Administrator shall be consistent with the statutory obligations of such

agencies. In appropriate circumstances, the Administrator may grant requests for agencies for extensions or revisions in timetables and priorities.

(4) The Administrator shall keep apprised of the processing of energy facility applications at the State and regional level and where appropriate and consistent with applicable Federal and State law suggest possible procedures for consolidating State and Federal proceedings with a view to reducing duplication of effort and expediting the overall review and approval process.

(5) The Administrator may, within twenty days after receipt of any Federal agency decision approving or disapproving an application, petition that agency to reconsider its decision. Petitions for reconsideration filed by the Administrator shall be granted or denied within thirty days of their receipt by the agency involved.

(6) Upon the petition of any agency with authority to approve or disapprove an application, the Administrator may grant extensions in the eighteen-month period permitted under subsection (f) of this section, for that agency's consideration of the application provided that, no extension of the eighteen-month period shall be granted by the Administrator unless he determines that despite all due diligence on the part of the agency involved it has been impracticable to reach a decision within eighteen months and that

1 the public interest requires continuation of that agency's
2 proceedings for a longer period.

3 (7) The Administrator shall designate within the Fed-
4 eral Energy Administration a responsible official to provide
5 prospective applicants, citizen groups, and members of the
6 general public, information on potential energy facility sites,
7 available sources of technical assistance, and the status of
8 pending energy facility applications.

9 (8) The Administrator shall encourage prospective
10 applicants for energy facilities to contact the Federal En-
11 ergy Administration as soon as possible in order that any
12 eventual Federal action may be expedited.

13 (c) The duties of the lead Federal agency shall be:

14 (1) to determine as soon as possible and in co-
15 operation with other affected agencies, any deficiencies
16 in applications for energy facilities;

17 (2) to distribute promptly copies of applications
18 determined to be complete to those other Federal agen-
19 cies whose approvals are necessary;

20 (3) to notify the applicant and the Administrator
21 of those Federal agencies with approval authority over
22 the proposed facility;

23 (4) to consider the facility for approval under its
24 existing statutory authority and to notify the Admin-
25 istrator of its eventual decision;

1 (5) to hold, to the extent practicable under ap-
2 plicable law, a consolidated public hearing in coopera-
3 tion with other governmental agencies with interest in
4 or statutory duties to hold public hearings with respect
5 to the proposed facility;

6 (6) to prepare and circulate, in cooperation with
7 other Federal agencies with approval authority over the
8 proposed facility, a single environmental impact state-
9 ment in compliance with the National Environmental
10 Policy Act of 1969;

11 (7) to receive all necessary Federal determinations
12 and to notify the Administrator and the applicant im-
13 mediately as each such determination is received; and

14 (8) to notify the applicant as soon as all necessary
15 Federal approval required prior to construction has been
16 obtained. A copy of this notification shall also be sent
17 to the Administrator.

18 (d) A complete application for approval of a proposed
19 energy facility other than a facility owned or to be owned
20 by the Federal Government shall be filed with the Admin-
21 istrator at least eighteen months prior to planned date of
22 commencement of construction: *Provided, however, That*
23 in order to assure an orderly transition to the full require-
24 ments of this title, applications received during the period
25 beginning January 1, 1976, and ending June 30, 1977,

1 shall be accepted if the application, while not received
 2 eighteen months prior to planned date of commencement
 3 of construction, was made as expeditiously as possible by
 4 the applicant: *Provided further*, That where an applica-
 5 tion can reasonably be processed in significantly less time
 6 than eighteen months, the Administrator, in his discretion,
 7 may waive the eighteen-month filing requirement.

8 (e) Except as provided in subsection (h) below, ef-
 9 fective January 1, 1976, commencement of construction on
 10 an energy facility which requires approval by a Federal
 11 agency other than an energy facility owned or to be owned
 12 by the Federal Government, shall proceed only if the appli-
 13 cant for such facility has, pursuant to the provisions of this
 14 section, been notified by the lead Federal agency that
 15 necessary Federal approvals have been obtained.

16 (f) Each Federal agency with authority to act on an
 17 application for facility approval, including the lead Federal
 18 agency, shall move expeditiously to determine the matters
 19 within its jurisdiction through the exercise of its full powers
 20 and responsibilities, including the issuance of any notice and
 21 participation, to the extent possible, in the unified public
 22 hearings provided for under subsection (c) of this section.
 23 In addition, each agency shall comply with any timetables
 24 or priorities which may be established by the Administrator,
 25 pursuant to subsection (b) of this section and shall report

1 to the Administrator, upon request, the status of pending
 2 applications and whether designated timetables and sched-
 3 ules are met. Where Federal environmental standards and
 4 requirements are enforced and applied by the States under
 5 a program approved by a Federal agency, such Federal
 6 agency shall execute as expeditiously as possible the author-
 7 ity it retains under applicable statutes or regulations. Within
 8 the established timetables, and not later than eighteen months
 9 from its receipt of an application determined to be complete
 10 by the lead agency, each agency shall render a decision on
 11 the application and shall immediately notify the lead agency
 12 of that decision. The lead agency shall also render a decision
 13 within established timetables and within eighteen months
 14 of the determination that an application is complete: *Pro-*
 15 *vided, however*, That any agency may petition the Admin-
 16 istrator for an extension of time beyond the eighteen-month
 17 period. For the purposes of this section, the approval to be
 18 considered by the Nuclear Regulatory Commission with
 19 respect to nuclear facilities shall be the construction permit
 20 or combined construction permit and operating license pro-
 21 vided by the Atomic Energy Act.

22 (g) Any decision of a Federal agency, including a lead
 23 agency, denying or approving an application for facility ap-
 24 proval shall not become a final order, for purposes of judicial
 25 review, until twenty days after it has been transmitted to

1 and received by the Administrator or until such time as a
 2 decision has been rendered on any petition for reconsidera-
 3 tion filed by the Administrator. A notification by the lead
 4 agency, pursuant to subsection (c) of this section that nec-
 5 essary Federal approvals required prior to construction have
 6 been obtained, shall not constitute a final order subject to
 7 judicial review.

8 (h) Notwithstanding any other provisions of this sec-
 9 tion to the contrary, and in order expedite the construction
 10 of needed nuclear facilities, the applicant for such a facility
 11 may commence construction prior to being notified by the
 12 lead agency that all Federal approvals have been obtained:
 13 *Provided*, That the necessary reviews to assure compliance
 14 with section 102 of the National Environmental Policy Act
 15 of 1969 have been completed with respect to the site: *And*
 16 *provided further*, That such construction is authorized by the
 17 Atomic Energy Act. This subsection shall not affect any
 18 requirements for antitrust review prior to issuance of a con-
 19 struction and/or operating license, including, where neces-
 20 sary, a hearing on antitrust issues contained in sections 105
 21 and 189 of the Atomic Energy Act.

22 (i) Nothing in this section shall be interpreted to
 23 expand or extend Federal review or approval authority to
 24 an energy facility or part thereof not otherwise covered by
 25 Federal law.

JUDICIAL REVIEW

1
 2 SEC. 808. Notwithstanding any provision of law to
 3 the contrary, any person who is aggrieved by a final order
 4 of a Federal agency granting or denying an application for
 5 energy facility approval may appeal within sixty days from
 6 the date such order became final, as provided in section
 7 807 (g) of this title. Any such appeal shall be conducted in
 8 accordance with the provisions of sections 2341-2351 of
 9 the Judicial Code (28 U.S.C. 2341-2351).

10 If there shall be pending simultaneously appeals from
 11 the final order of more than one Federal agency with
 12 respect to the same proposed energy facility the courts are
 13 authorized where possible to consolidate such appeals for
 14 hearings and to transfer proceedings to a single court when-
 15 ever such actions would promote a speedier disposition of
 16 the proceedings without undue prejudice to any party.

REGULATIONS

18 SEC. 809. (a) The Administrator is authorized to issue
 19 regulations necessary to the proper execution of this title.

20 (b) The Administrator shall consult with the Secretary
 21 of Commerce in order that regulations issued pursuant to
 22 subsection (a) and regulations issued by the Secretary of
 23 Commerce pursuant to the Coastal Zone Management Act
 24 of 1972 will, to the extent possible, be compatible.

DELEGATION OF AUTHORITY

SEC. 810. The Administrator may delegate any authority conferred upon him by this title to any officer or department of the Federal Energy Administration or other Federal agency.

OTHER AFFECTED LAWS

SEC. 811. (a) Except as herein provided, the provisions of this title shall not alter or otherwise affect the jurisdiction or the requirements of law applicable to any agency or instrumentality of the Federal Government.

(b) This title shall not vest State or local governments with any authority preempted to the Federal Government by the Atomic Energy Act of 1954, as amended.

SEVERABILITY

SEC. 812. If any provision of this title or the applicability thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

DEFINITIONS

SEC. 813. As used in this title—

(a) "Administrator" means the Administrator of the Federal Energy Administration.

(b) "Commencement of construction" means any clearing of the land, excavation, or other substantial action that

would adversely affect the natural environment of the site or area surrounding an energy facility, but does not include changes desirable for the site feasibility investigations such as borings necessary to determine foundation conditions, or other preconstruction monitoring to establish background information related to the suitability of the site or the protection of environmental values.

(c) "Energy facility" means any of the following new facilities or additions to existing facilities: (1) electric generating plants (excluding hydroelectric facilities licensed by the Federal Power Commission) with a capacity of three hundred megawatts or more; (2) petroleum refineries with a consumption capacity of fifty thousand barrels per day of crude oil or more; (3) synthetic gasification plants, oil shale processing plants, coal liquefaction and gasification plants, liquefied natural gas conversion facilities and uranium enrichment facilities, providing fuel for interstate use; (4) offshore petroleum loading or marine transfer facilities within State jurisdiction; and (5) transmission lines and pipelines associated with the above facilities.

(d) "Lead Federal agency" means an agency to be designated on a case-by-case basis by the Administrator: *Provided*, That in all cases the lead Federal agency shall be an agency with existing approval authority over the proposed facility: *And provided further*, That the lead Federal

1 agency so designated shall be the Nuclear Regulatory Com-
 2 mission with respect to all energy facilities subject to its
 3 jurisdiction under the Atomic Energy Act, and the Federal
 4 Power Commission with respect to all energy facilities sub-
 5 ject to its jurisdiction under the Federal Power Act.

6 (e) "Management program" means a comprehensive
 7 program adopted by the State in accordance with the provi-
 8 sions of this title, setting forth the objectives, policies, struc-
 9 tural, and budgetary mechanisms, assignments of respon-
 10 sibility, relevant laws and/or regulations, and standards to
 11 guide the State in designating energy facility sites and ap-
 12 proving construction and operation of energy facilities.

13 (f) "Person" means any individual, corporation, part-
 14 nership, association, consortium, or any entity organized
 15 for a common business purpose, any governmental unit, and
 16 the United States.

17 (g) "Promulgated State management program" means
 18 that program issued by the Administrator pursuant to sec-
 19 tion 804 of this title.

20 (h) "State" means any one of the fifty States, the Dis-
 21 trict of Columbia, Puerto Rico, Virgin Islands, Guam, and
 22 American Samoa.

23 AUTHORIZATION FOR APPROPRIATION

24 SEC. 814. There are hereby authorized to be appropri-
 25 ated not to exceed \$20,000,000 per year for each of fiscal

1 years 1976, 1977, 1978, 1979, 1980, to remain available
 2 until expended; funds authorized for fiscal years 1975 and
 3 1976 shall be derived from the authorization of appropria-
 4 tions contained in section 29 of Public Law 93-275.

5 TITLE IX

6 SHORT TITLE

7 SEC. 901. This title may be cited as the "Energy De-
 8 velopment Security Act of 1975".

9 FINDINGS AND PURPOSE

10 SEC. 902. (a) The Congress hereby determines that—

11 (1) adequate development and exploitation of
 12 domestic petroleum resources is necessary to assure the
 13 security of the United States;

14 (2) the development and exploitation of domestic
 15 petroleum resources, as an alternative to reliance on
 16 imported petroleum, will require significant, long-term
 17 capital commitments within the United States; and

18 (3) the success of this Nation's long-term efforts
 19 to develop alternative energy resources would be seri-
 20 ously jeopardized by significant reductions in the price
 21 of foreign petroleum, whether as a result of deliberate
 22 concerted action by foreign producers or for other
 23 reasons.

24 (b) The purpose of this title is to authorize and direct
 25 the President to adopt appropriate measures to prevent the

1 prices of imported petroleum as marketed domestically from
 2 falling to such levels that continued importation and sale at
 3 such price levels would substantially deter the development
 4 and exploitation of domestic petroleum resources, or would
 5 threaten to cause a substantial increase in petroleum con-
 6 sumption. This purpose is without prejudice to the policy
 7 of the United States to promote large reductions in the prices
 8 at which petroleum is sold in international markets.

9 DEFINITIONS

10 SEC. 903. (a) The term "Administrator" means the
 11 Administrator of the Federal Energy Administration.

12 (b) The term "petroleum" means crude oil (except
 13 crude oil produced from oil shale and coal) and all refined
 14 petroleum products derived from such crude oil.

15 (c) The term "United States" means the States, the
 16 District of Columbia, and Puerto Rico.

17 INVESTIGATION BY THE ADMINISTRATOR

18 SEC. 904 (a) Upon direction by the President, or upon
 19 his own motion, the Administrator shall promptly make an
 20 investigation as to:

21 (1) whether the average price of petroleum
 22 imported into the United States has fallen significantly
 23 from average price levels for such imports during a
 24 recent representative period determined by the Admin-
 25 istrator; and

1 (2) whether such reduction in price is of such
 2 magnitude (i) that it threatens the economic viability
 3 of a substantial part of United States petroleum pro-
 4 duction and development, taking into account the need
 5 to limit the Nation's long-term dependence on petroleum
 6 imports, or (ii) that it threatens to cause a substantial
 7 increase in petroleum consumption.

8 (b) If the Administrator makes an affirmative finding
 9 pursuant to subsection (a) of this section, he shall promptly
 10 transmit his report thereon to the President.

11 PRESIDENTIAL ACTION

12 SEC. 905. (a) If, upon receipt of an affirmative report
 13 by the Administrator pursuant to subsection (a) of section
 14 904, the President determines that the circumstances speci-
 15 fied in subsections (1) and (2) of section 904 (a) exist,
 16 he shall impose such restrictions for such time as he deems
 17 necessary to correct the conditions created by such circum-
 18 stances, with respect to imports of petroleum, including but
 19 not limited to, the imposition of tariffs, quotas, and variable
 20 fees, unless he determines that as a result of serious infla-
 21 tionary impact, other serious adverse economic consequences
 22 including effects on consumers, or for reasons of national
 23 security, the imposition of such restrictions would not be
 24 in the national interest;

25 (b) The President may, at any time modify or revoke

1 restrictions imposed pursuant to this section. In determining
2 whether to modify or revoke such restrictions, the President
3 shall consider the extent to which the factors set forth in
4 section 904 of this title continue to be applicable.

5 RELATION TO OTHER LAWS

6 SEC. 906. Nothing in this title shall be construed to
7 limit any authority of the President pursuant to the Trade
8 Expansion Act of 1962 or the Trade Act of 1974.

9 PART B—DEMAND RESTRAINT

10 TITLE X

11 SHORT TITLE

12 SEC. 1001. This title may be cited as the "Building
13 Energy Conservation Standards Act of 1975".

14 FINDINGS AND PURPOSE

15 SEC. 1002. (a) The Congress finds that—

16 (1) large amounts of fuels and energy are con-
17 sumed unnecessarily each year in heating, cooling, ven-
18 tilating, and providing domestic hot water for newly
19 constructed residential and commercial buildings because
20 such buildings lack adequate energy conservation
21 features;

22 (2) Federal policies and practices contribute to
23 this condition, which the Nation can no longer afford in
24 view of its current and anticipated energy shortage, by
25 providing, without regard to energy considerations, Fed-

1 eral construction aids directly such as through loans or
2 grants and indirectly through financing from federally
3 approved, regulated, or insured financial institutions;

4 (3) failure to provide adequate energy conservation
5 measures in newly constructed buildings increases long-
6 term operating costs that may affect adversely the
7 repayment of and security for loans made, insured or
8 guaranteed by Federal agencies or made by federally
9 insured or regulated instrumentalities; and

10 (4) State and local building codes or similar con-
11 trols can provide an existing means by which to assure,
12 in coordination with other building requirements and
13 with a minimum of Federal interference in State and
14 local transactions, that newly constructed buildings con-
15 tain adequate energy conservation features.

16 (b) The purposes of this title, therefore, are to—

17 (1) redirect Federal policies and practices so that
18 Federal financial assistance for construction purposes is
19 provided only under conditions which assure that reason-
20 able energy conservation features will be incorporated
21 into new buildings receiving such assistance;

22 (2) provide for the development and implementa-
23 tion as soon as feasible of prescriptive and performance
24 standards for new residential and commercial buildings
25 which are designed to achieve the maximum practicable

1 economies in fuels and energy consumption within rea-
2 sonable cost levels; and

3 (3) encourage States and local governments to
4 adopt and enforce such standards through their existing
5 building code and other construction control mechanisms.

6 DEFINITIONS

7 SEC. 1003. As used in this title, the term—

8 (1) "Secretary" means the Secretary of Housing
9 and Urban Development;

10 (2) "Administrator" means the Administrator of
11 the Federal Energy Administration;

12 (3) "building" means any structure to be con-
13 structed which includes provision for a heating or cooling
14 system, or both, or a hot water system;

15 (4) "residential building" means any building de-
16 veloped for residential occupancy, substantially on a
17 year-round basis, for one or more persons or families;

18 (5) "commercial building" means any building de-
19 veloped for use other than residential occupancy, includ-
20 ing buildings developed for industrial or public use;

21 (6) "Federal building" means any building to be
22 constructed by or for the use of any Federal agency
23 which is not legally subject to State or local codes or
24 similar requirements;

25 (7) "unit of general local government" means a

1 city, county, town, municipality, or other political sub-
2 division of a State or any combination thereof, which
3 has a building code or similar jurisdiction over a particu-
4 lar area;

5 (8) "Federal agency" means any department,
6 agency, corporation, or other entity or instrumentality
7 of the executive branch of the Federal Government, and
8 includes the United States Postal Service, the Federal
9 National Mortgage Association, and the Federal Home
10 Loan Mortgage Corporation;

11 (9) "financial assistance" means any form of loan,
12 grant, guaranty, insurance, payment, rebate, subsidy, or
13 any other form of direct or indirect Federal assistance,
14 other than general or special revenue sharing or formula
15 grants made to States;

16 (10) "Federal instrumentality responsible for the
17 supervision, approval, regulation, or insuring of banks,
18 savings and loan associations, or similar institutions"
19 means the Board of Governors of the Federal Reserve
20 System, the Federal Deposit Insurance Corporation, the
21 Comptroller of the Currency, the Federal Home Loan
22 Bank Board, the Federal Savings and Loan Insurance
23 Corporation, and the National Credit Union Adminis-
24 tration;

25 (11) "State" includes each of the several States, the

District of Columbia, the Commonwealth of Puerto Rico,
and the United States territories and possessions;

(12) "prescriptive standard" means a minimum
standard describing the means, such as structural com-
ponents, systems and subsystems, to be employed to
meet prescribed thermal or energy consumption require-
ments for a building and/or component thereof;

(13) "performance standard" means a minimum
energy conservation standard for various classifications
of buildings which may be satisfied through any method
or system which consumes or involves use or loss of less
than specified amounts of energy in connection with
heating, cooling, ventilating, lighting, or providing do-
mestic hot water for a building, and which includes or
is accompanied by one or more illustrative prescriptive
solutions which meet the performance requirements
specified; and

(14) "building code" means a legal instrument
which is in effect in a State or unit of general local gov-
ernment, the provisions of which must be adhered to
if a building is to be considered to be in conformance
with law and suitable for occupancy and use.

PROMULGATION OF MINIMUM ENERGY CONSERVATION

STANDARDS

SEC. 1004. (a) (1) Within six months after the enact-
ment of this title, the Secretary, only after consultation with

the Administrator and the Secretary of Commerce utilizing
the services of the Director of the National Bureau of Stand-
ards shall develop and publish in the Federal Register for
public comment proposed prescriptive energy conservation
standards for new residential buildings. Final prescriptive
standards shall be developed and promulgated within six
months after publication of the proposed standards, shall be-
come effective one year after such promulgation, and shall
remain effective until superseded by the standards described
in subsection (a) (3) of this section.

(2) As soon as practicable, but in no event later than
eighteen months after enactment of this title, the Secretary,
only after consultation with the Administrator, the Secretary
of Commerce utilizing the services of the Director of the Na-
tional Bureau of Standards, and the Administrator of the
General Services Administration, shall develop and publish
in the Federal Register for public comment proposed per-
formance energy conservation standards for new commercial
buildings. Performance standards shall be developed and
promulgated within six months after publication of the pro-
posed standards, and shall become effective within a reason-
able time, not to exceed one year after promulgation, as
specified by the Secretary.

(3) As soon as practicable, but in no event later than
three years after enactment of this title, the Secretary, only

1 after consultation with the Administrator and the Secretary
 2 of Commerce utilizing the services of the Director of the
 3 National Bureau of Standards, shall develop and publish in
 4 the Federal Register for public comment proposed per-
 5 formance energy conservation standards for new residential
 6 buildings. Performance standards for such buildings shall
 7 be promulgated within six months after publication of the
 8 proposed standards, and shall become effective within a
 9 reasonable time, not to exceed one year after promulgation,
 10 as specified by the Secretary.

11 (b) All standards promulgated pursuant to this sec-
 12 tion shall take account of, and make such allowance as the
 13 Secretary determines appropriate for, climatic variations
 14 among the different regions of the country.

15 (c) The Secretary, in consultation with the Administra-
 16 tor, the Secretary of Commerce, the Administrator of the
 17 General Services Administration, and other Federal officials,
 18 as appropriate, shall periodically review and provide for the
 19 updating of standards promulgated pursuant to this section.

20 (d) The Secretary, if he finds that the dates otherwise
 21 specified in this section for publication of proposed or pro-
 22 mulgation of final performance standards under subsection
 23 (a) (2) or (a) (3) cannot practically be met, may extend
 24 the time for such publication or promulgation, but no such
 25 extension shall result in a delay of more than six months

1 in promulgation. The Secretary may also extend for not to
 2 exceed six months the date for promulgation of prescriptive
 3 standards under subsection (a) (1) if he finds that such
 4 extension is necessary in order to allow an adequate oppor-
 5 tunity for analysis and action on public comments.

6 INCORPORATION OF STANDARDS IN STATE AND LOCAL CODES

7 SEC. 1005. (a) No Federal officer or agency shall ap-
 8 prove any financial assistance for the construction of any
 9 building in any area of a State unless the State has certified
 10 that the unit of general local government having jurisdiction
 11 over such area has adopted and is implementing a building
 12 code or similar requirement which provides for the enforce-
 13 ment of any effective energy conservation standard or stand-
 14 ards promulgated pursuant to section 1004 of this title, or
 15 unless the State certifies that a State code or requirement
 16 providing for the enforcement of such standard or standards
 17 has been adopted and is being implemented on a statewide
 18 basis or within the area in which such building is to be
 19 located.

20 (b) In any case where, on the effective date of the
 21 prescriptive standards referred to in section 1004 (a) (1), a
 22 State has not yet developed and implemented a procedure
 23 for certifying local codes or similar requirements, or adopted
 24 and proceeded to implement a State code or requirement for
 25 carrying out the provisions of subsection (a) of this section,

1 but where the Secretary finds that the State is actively
 2 developing such procedure or code, the Secretary may receive
 3 and approve a code or other requirement proposed by a unit
 4 of general local government as complying with the provisions
 5 of subsection (a) of this section, but no such approval shall
 6 extend for more than one year.

7 (c) Each Federal instrumentality responsible for the
 8 supervision, regulation, or insuring of banks, savings and
 9 loan associations or similar institutions shall adopt regulations
 10 prohibiting such institutions from—

11 (1) making loans for the construction or financing
 12 of buildings, or

13 (2) purchasing loans made after the effective date
 14 of any energy conservation standard for the construc-
 15 tion or financing of buildings, unless such buildings
 16 are to be located in areas where Federal assistance for
 17 construction is permitted under subsection (a) of this
 18 section.

19 (d) The Secretary shall, by regulation, provide for the
 20 periodic updating of State certifications under this section,
 21 and shall make such reviews and investigations as he deems
 22 necessary to determine the accuracy of such certifications.
 23 The Secretary may reject, disapprove or require the with-
 24 drawal of any certification but he shall not take such action
 25 without affording the State a reasonable opportunity for
 26 hearing.

FEDERAL BUILDINGS

1
 2 SEC. 1006. The head of each Federal agency responsible
 3 for the construction of Federal buildings shall adopt such
 4 procedures as may be necessary to assure that such con-
 5 struction meets or exceeds the applicable energy conserva-
 6 tion standards promulgated pursuant to this title.

GRANTS TO STATES

7
 8 SEC. 1007. (a) The Secretary is authorized to make
 9 grants to States to assist them in meeting the costs of devel-
 10 oping State building codes or State certification procedures
 11 to carry out the provisions of section 1005 of this title.

12 (b) There is hereby authorized to be appropriated for
 13 the purpose of grants under this section not to exceed a
 14 total of \$5,000,000 for fiscal year 1976.

TECHNICAL ASSISTANCE

15
 16 SEC. 1008. The Secretary, directly, by contract or other-
 17 wise, may provide technical assistance to States and units of
 18 general local government to assist them in meeting the re-
 19 quirements of this title.

CONSULTATION WITH INTERESTED AND AFFECTED GROUPS

20
 21 SEC. 1009. In promulgating standards and carrying out
 22 his other functions under this title, the Secretary shall con-
 23 sult with appropriate representatives of the building com-
 24 munity, including labor, the construction industry, engineers,
 25 and architects, and with appropriate public officials and

1 organizations of public officials, and representatives of con-
 2 sumer groups. For purposes of such consultation, the Secre-
 3 tary shall, to the extent feasible, make use of the National
 4 Institute of Building Sciences as established by section 809
 5 of the Housing and Community Development Act of 1974.
 6 The Secretary may also establish one or more advisory com-
 7 mittees as may be appropriate. Any advisory committee or
 8 committees established pursuant to this section shall be
 9 subject to the provisions of the Federal Advisory Committee
 10 Act.

11 RESEARCH

12 SEC. 1010. The Secretary, in cooperation with the
 13 Administrator, the Administrator of the Energy Research
 14 and Development Administration, and the Director of the
 15 National Bureau of Standards shall carry out such research
 16 and demonstration activities as he determines may be neces-
 17 sary to assist in the development of standards under this
 18 title and to facilitate the implementation of such standards
 19 by State and local governments. Such activities shall be
 20 designed to assure that standards are adequately analyzed
 21 in terms of energy use, institutional resources, habitability,
 22 economic cost and benefit, and impact upon affected groups.

23 TITLE XI

24 SHORT TITLE

25 SEC. 1101. This title may be cited as the "Winterization
 26 Assistance Act of 1975".

FINDINGS

2 SEC. 1102. The Congress finds that—

3 (a) dwellings owned or occupied by low-income
 4 persons frequently are inadequately insulated, and low-
 5 income persons can least afford to make the necessary
 6 modifications which would reduce their residential en-
 7 ergy use;

8 (b) winterization of dwellings of low-income per-
 9 sons would save thousands of barrels per day of needed
 10 petroleum and would lower heating bills for low-income
 11 persons and particularly the low-income elderly; and

12 (c) the States should be encouraged through Fed-
 13 eral assistance to formulate and implement winteriza-
 14 tion programs designed to conserve energy as well as
 15 to ameliorate the adverse effects of high energy costs of
 16 low-income persons, particularly the low-income elderly.

17 SEC. 1103. The purpose of this title is to encourage
 18 the States to develop and implement winterization programs
 19 to insulate the dwellings of low-income persons, particularly
 20 the low-income elderly, in order to conserve needed energy
 21 and aid those persons least able to afford higher energy
 22 costs.

23 DEFINITIONS

24 SEC. 1104. As used in this title, the term—

25 (a) "Administrator" means the Administrator of
 26 the Federal Energy Administration;

(b) "elderly" means persons who are sixty-five years of age or older;

(c) "low-income" means income at or below the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget;

(d) "winterization materials" means items primarily designed to improve the thermal efficiency of a dwelling including, but not limited to, ceiling insulation, storm windows, and caulking and weatherstripping but excludes mechanical equipment;

(e) "State" means the fifty States and the District of Columbia.

WINTERIZATION PROGRAM

SEC. 1105. (a) The Administrator is authorized, in accordance with regulations issued pursuant to this title, to provide grants to the Governors of the various States and the Mayor of the District of Columbia to assist in carrying out programs designed to provide for winterization of dwellings of low-income persons, particularly dwellings of the low-income elderly.

(b) A grant under this section may be made only upon annual application therefor containing such information as may be prescribed by the Administrator in regulations.

(c) The Administrator, after consultation with the

Secretaries of Housing and Urban Development; Health, Education, and Welfare; Labor; and other appropriate Federal agencies shall develop and publish within ninety days of enactment criteria to evaluate State applications provided for in section (b). These criteria may include but not be limited to the following:

- (1) the amount of fuel to be conserved by the State's winterization program,
- (2) the number of dwellings to be winterized by the State,
- (3) the dependence of the State upon imported petroleum, as determined by the Administrator,
- (4) the cost and availability of home heating fuel within the State, as determined by the Administrator,
- (5) the climatic conditions of the State, which may include consideration of annual degree days,
- (6) areas to be served within the State, considering climate and other factors,
- (7) the type of winterization work to be done,
- (8) provisions for the use of skilled local work supervisors and foremen to supervise winterization work,
- (9) mechanisms for obtaining services of volunteers,
- (10) the priorities established among winterization recipients, including the extent to which priority will be

1 given to winterization of dwellings of low-income elderly,
2 and

3 (11) the amount of non-Federal resources to be
4 applied to the program.

5 (d) Grants provided to the States for the purposes of
6 this title may be utilized only for the purchase of winteriza-
7 tion materials to carry out the program authorized in this
8 section, except that no more than 10 per centum per annum
9 of the grant to any State may be used by the State to admin-
10 ister such grant. In no event shall more than $12\frac{1}{2}$ per centum
11 per annum of the total amount appropriated for any fiscal
12 year under section 1112 of this title be granted to any one
13 State.

14 (e) The Administrator may not finally disapprove any
15 State winterization program application without first af-
16 fording the State reasonable notice and an opportunity for
17 a hearing.

18 ADMINISTRATIVE PROVISIONS

19 SEC. 1106. (a) The Administrator, by general or spe-
20 cial orders, may require a State Governor responsible for the
21 administration of a program receiving Federal assistance
22 under this title to file with the Administrator in such form
23 as he may prescribe, reports or answers in writing to such
24 specific questions, surveys, or questionnaires as may be nec-

1 essary to enable the Administrator to carry out his func-
2 tions under this title.

3 (b) Each State which receives financial assistance under
4 this title shall keep such records as the Administrator may
5 prescribe in order to assure an effective audit of the disposi-
6 tion of the funds provided under this title.

7 (c) The Administrator and the Comptroller General of
8 the United States, or any of their duly authorized represent-
9 atives, shall have access for the purpose of audit and exam-
10 ination to any books, documents, papers, and records of
11 any State which receives financial assistance under this title
12 that are pertinent to the financial assistance received under
13 this title.

14 (d) Payments under this title may be made in install-
15 ments and in advance or by way of reimbursement, with
16 necessary adjustments on account of overpayments or under-
17 payments.

18 (e) The Administrator is authorized to develop and
19 publish rules, regulations, and orders necessary or appro-
20 priate to carry out the purposes of this title.

21 FAILURE TO COMPLY

22 SEC. 1107. If the Administrator finds, after notice to a
23 State, that it is failing to comply substantially with the
24 provisions of its approved application for a winterization
25 program for any fiscal year, then thereafter during such

1 year and until there is no longer any such failure to comply,
2 no additional Federal funds may be granted.

3 JUDICIAL REVIEW

4 SEC. 1108. (a) If any State is dissatisfied with the
5 Administrator's final action under sections 1105 (e) or 1107
6 of this title, such State may, within sixty days after notice
7 of such action, file with the United States court of appeals
8 for the circuit in which the State is located a petition for
9 review of the Administrator's action. A copy of the petition
10 shall be immediately transmitted by the clerk of the court to
11 the Administrator. Thereupon the Administrator shall file in
12 the court the record of the proceedings on which he based
13 his action, as provided in section 2112 of title 28, United
14 States Code.

15 (b) The findings of fact by the Administrator, if sup-
16 ported by substantial evidence, shall be conclusive; but the
17 court, for good cause shown, may remand the case to the
18 Administrator to take further evidence, and the Administrator
19 may thereupon make new or modified findings of fact and
20 may modify his previous action, and shall certify to the court
21 the record of the further proceedings. Such new or modified
22 findings of fact shall likewise be conclusive if supported by
23 substantial evidence.

24 (c) The court shall have jurisdiction to affirm the
25 action of the Administrator or to set it aside in whole or in

1 part. The judgment of the court shall be subject to review
2 by the Supreme Court of the United States upon certiorari
3 or certification as provided in section 1254 of title 28, United
4 States Code.

5 NONDISCRIMINATION

6 SEC. 1109. (a), No person in the United States shall on
7 the ground of race, color, national origin, or sex be excluded
8 from participation in, be denied the benefits of, or be sub-
9 jected to discrimination under any program or activity
10 funded in whole or in part with funds made available under
11 this title.

12 (b) Whenever the Administrator determines that a
13 grantee has failed to comply with subsection (a) or an
14 applicable regulation, he shall notify the grantee of the
15 noncompliance and shall request the grantee to secure com-
16 pliance. If within a reasonable period of time the grantee
17 fails or refuses to secure compliance, the Administrator is
18 authorized (1) to refer the matter to the Attorney General
19 with a recommendation that an appropriate civil action be
20 instituted; (2) to exercise the powers and functions pro-
21 vided by title VI of the Civil Rights Act of 1964 (42
22 U.S.C. 2000d) ; or (3) to take such action as may be
23 provided by law.

24 LABOR STANDARDS

25 SEC. 1110. All laborers and mechanics (other than
26 volunteers) employed by contractors or subcontractors in

1 any winterization project, where 25 per centum or more
 2 of the costs of that project are attributable to labor (ex-
 3 cluding supervisory and administrative personnel) and 25
 4 per centum or more of the total cost of the project is paid
 5 out of a grant provided to a State under section 1105 of this
 6 Act, will be paid wages at rates not less than those prevail-
 7 ing on similar construction in the locality as determined by
 8 the Secretary of Labor in accordance with the Davis-Bacon
 9 Act, as amended (40 U.S.C. 276a-276a-5). The Secre-
 10 tary of Labor shall have, with respect to such labor stand-
 11 ards, the authority and functions set forth in Reorganization
 12 Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267)
 13 and section 2 of the Act of June 1, 1934, as amended (48
 14 Stat. 948, as amended; 40 U.S.C. 276 (c)).

15 REPORT TO CONGRESS

16 SEC. 1111. The Administrator shall, on or before
 17 March 31, 1978, submit a report to the President and the
 18 Congress presenting the results of winterization programs
 19 receiving Federal assistance under this title.

20 AUTHORIZATION OF APPROPRIATIONS

21 SEC. 1112. There are authorized to be appropriated not
 22 to exceed \$9,000,000 for fiscal year 1975, and not to exceed
 23 \$55,000,000 per year for each of fiscal years 1976, 1977
 24 and 1978, to remain available until expended.

1 TITLE XII

2 SHORT TITLE

3 SEC. 1201. This title may be cited as the "National Ap-
 4 pliance and Motor Vehicle Energy Labeling Act of 1975".

5 FINDINGS AND PURPOSE

6 SEC. 1202 (a) The Congress finds—

7 (1) that the fuel resources of the Nation used in
 8 the production of energy are not inexhaustible;

9 (2) that significant environmental degradation
 10 often accompanies production of energy, presenting a
 11 danger to the health and welfare of the Nation's
 12 population;

13 (3) that avoidable inefficiencies exist in the pro-
 14 duction and consumption of energy;

15 (4) that increased efficiency in energy production
 16 and use can result in resource conservation and im-
 17 proved environmental quality; and

18 (5) that, while primary responsibility for the effi-
 19 cient utilization of energy rests with the manufacturers
 20 of energy-consuming major appliances and motor ve-
 21 hicles and the purchaser and users of these products,
 22 Federal action is essential to encourage the manufacture,
 23 purchase, and use of major appliances and motor ve-
 24 hicles all of which are either manufactured, sold, or used
 25 in interstate commerce or affect such commerce, that

1 promote the efficient utilization of energy and minimize
2 the waste of energy;

3 (b) The Congress declares that it is the policy of the
4 United States to promote the efficient utilization of energy.
5 To that end, it is the purpose of this title to provide informa-
6 tion to the public on the energy consumption characteristics
7 of major appliances and motor vehicles so that consumers
8 by comparing such characteristics when purchasing such
9 major appliances and motor vehicles may select those that
10 can effect savings in energy consumption.

11 DEFINITIONS

12 SEC. 1203. (a) The term "manufacturing" means (1)
13 any person engaged in the manufacturing or assembling of
14 new products, as defined in subsection (d) of this section,
15 in the United States or in the importing of such new products,
16 for sale or resale, and (2) any person whose brand or
17 trademark appears on the product who owns such brand
18 or trademark and has authorized its use on such product,
19 if the brand or trademark of the person actually manufac-
20 turing or assembling the product does not appear on the
21 product.

22 (b) The term "appliance" means any item of equip-
23 ment which provides heating, cooling, cleaning, washing,
24 drying, entertainment, or other services by converting energy
25 in the form of fossil fuels or electricity into thermal energy

1 or work and is generally used in or around a permanent or
2 temporary household or residence, or in a commercial
3 establishment.

4 (c) The term "motor vehicle" means any self-propelled
5 vehicle designed for transporting persons or property on a
6 street or highway but excludes military vehicles designed
7 for combat use or other vehicles designed for use in experi-
8 mental work.

9 (d) The term "product" means any appliance or motor
10 vehicle.

11 (e) The term "energy efficiency" means the energy
12 use of a product relative to its output of services, as deter-
13 mined through test procedures contained or identified in a
14 specification.

15 (f) The term "energy use" means the energy resources
16 used by a product under conditions of use approximating
17 actual operating conditions insofar as practical, as deter-
18 mined through test procedures contained or identified in a
19 specification.

20 (g) The term "consumer" means the first person who
21 purchases a new product for purposes other than resale.

22 (h) The term "class of product" means a group of
23 products whose functions or features are similar, and whose
24 range of energy use and/or energy efficiency may be of
25 interest to consumers.

1 (i) The term "specification" means a final energy
2 conservation specification or amendment thereto promul-
3 gated under section 1206 of this title.

4 (j) The term "label" means an article of printed mat-
5 ter accompanying a product or printed material appearing
6 in a catalog from which a product may be purchased by
7 order.

8 (k) The term "commerce" means commerce (1) be-
9 tween a State and any other place outside thereof or (2)
10 which affects commerce between a State and any place
11 outside thereof.

12 (l) The term "State" means a State, the District of
13 Columbia, the Commonwealth of Puerto Rico, the Canal
14 Zone, territories and possessions of the United States, or
15 the Trust Territory of the Pacific Islands.

16 (m) The term "United States" when used in the geo-
17 graphic sense means all of the States as defined in subsec-
18 tion (1).

19 FUNCTIONS

20 SEC. 1204. (a) The President is authorized to develop
21 and promulgate energy conservation specifications for the
22 following classes of products: motor vehicles, room and
23 central air-conditioners, refrigerators, freezers, clothes
24 washers, dishwashers, clothes dryers, kitchen ranges and
25 ovens, water heaters, and comfort heating equipment. Ad-

1 dditional classes of appliances which use a significant amount
2 of energy and which have an actual or potential range of
3 energy efficiency from which consumers can choose may
4 be added to the products enumerated in this subsection by
5 the President pursuant to rulemaking procedures as set out
6 in section 553 of title 5 of the United States Code.

7 (b) In carrying out the functions authorized under this
8 title the President may consult with appropriate Federal
9 agencies, affected manufacturers, distributors, retailers, con-
10 sumer and environmental organizations, and other interested
11 parties.

12 SEC. 1205. (a) Each specification promulgated under
13 this title shall include but need not be limited to:

14 (1) A description of the class of product covered
15 by the specification.

16 (2) The range of energy efficiency and energy use
17 data for that class of product as provided in section 1206
18 of this title.

19 (3) Listings or descriptions of test methods to be
20 used in measuring the energy efficiency and/or energy
21 use characteristics of the class of product. Such test meth-
22 ods shall be methods the President determines are reason-
23 able, technologically practicable, and appropriate.

24 (4) A prototype label and directions for displaying
25 the label. The specification shall require that the label

1 be prominent and readable, and be visible to the con-
 2 sumer at time of purchase. The specification shall specify
 3 the information that shall be included on the label to
 4 assist the consumer in comparing, by cost or amount of
 5 energy used or otherwise, the energy efficiency and/or
 6 energy use characteristics of a particular product with all
 7 others in its class. The label shall also include the energy
 8 conservation mark specified in section 1209.

9 (5) A statement covering the information on the
 10 energy use and/or efficiency characteristics of the prod-
 11 uct which is to be included in any product advertise-
 12 ment pursuant to section 1208 of this title.

13 (b) Wherever feasible the test methods listed or
 14 described in the specification pursuant to subsection (a) (3)
 15 of this section shall be those described in existing nationally
 16 recognized voluntary standards or international standards.

17 PROCEDURE FOR PROMULGATION AND AMENDMENT

18 SPECIFICATIONS

19 SEC. 1206. (a) Specifications shall be promulgated and
 20 amended pursuant to the provisions of section 553 of title 5
 21 of the United States Code. Interested persons shall be given
 22 thirty days after publication in the Federal Register of the
 23 notice of intent to promulgate or amend a specification to
 24 submit written comments on such specification or such other
 25 time as the President determines is in the public interest.

1 (b) A specification or amended specification shall be
 2 effective sixty days after publication in the Federal Register,
 3 unless the President finds that an earlier or later effective
 4 date is in the public interest, or unless the range of energy
 5 efficiency and/or energy use for the product group which is
 6 the subject of the specification is not known at the time of
 7 publication.

8 (c) If the range of energy efficiency and/or energy
 9 use for a product group is not known at the time of publi-
 10 cation of the applicable specification, the specification shall
 11 direct each manufacturer of a product in the product group
 12 to forward to the President within forty-five days after
 13 publication, or within such other period as the President
 14 determines is in the public interest, test data obtained
 15 through the test methods prescribed in the specification for
 16 each such product. On the basis of the information received
 17 from such manufacturers and without further opportunity
 18 for public comment, the President shall publish a range
 19 of energy efficiency and/or energy use values as an adjunct
 20 to the specification. A specification for which ranges are
 21 established pursuant to this subsection shall become effec-
 22 tive sixty days after publication of the adjunct unless the
 23 President finds that an earlier or later date is in the public
 24 interest.

25 (d) Specifications and amendments to specifications

1 shall not apply to individual products, the manufacture of
2 which was completed prior to the effective date of the speci-
3 fication or amendment.

4 (e) Any final voluntary energy conservation specifica-
5 tion promulgated under the Department of Commerce vol-
6 untary labeling program prior to the effective date of this
7 title and in accordance with the procedural requirements of
8 this section shall be deemed to be a specification promul-
9 gated and effective under this title.

10 REQUIREMENTS OF MANUFACTURERS

11 SEC. 1207. (a) Each manufacturer of a product or
12 products for which a specification and effective date has
13 been promulgated under this title shall provide a label that
14 meets and is displayed in accordance with the requirements
15 of that specification.

16 (b) Each manufacturer of a product or products for
17 which a specification has been promulgated under this title
18 shall notify the President, not later than sixty days after the
19 date such specification becomes effective, of the models in
20 current production and starting serial numbers of those
21 models, covered by the specification.

22 (c) If requested by the President the manufacturer
23 shall provide within thirty days of the request the data from
24 which the information included on the label and required
25 by the specification was derived. Data shall be kept on file

1 by the manufacturer for two years after that product is no
2 longer manufactured unless otherwise provided in the spec-
3 ification. Pursuant to regulations issued by the President the
4 use of independent test laboratories or national certification
5 programs available to any manufacturer is authorized for
6 obtaining required information for the purposes of this title.

7 (d) When requested by the President, the manufac-
8 turer shall supply at his expense a reasonable number of
9 products to any laboratory designated by the President for
10 the purpose of ascertaining whether the information set out
11 on the label, as called for by an applicable specification, is
12 accurate. Any reasonable charge levied by the laboratory
13 for such testing will be borne by the United States.

14 (e) A specification may require the manufacturer or
15 his agent to permit a representative designated by the Pres-
16 ident to observe and inspect tests performed on products
17 under the terms of this title.

18 (f) Each manufacturer of a product for which an ap-
19 plicable specification has been promulgated by the President
20 shall annually at a time specified by the President supply
21 to the President relevant energy efficiency and/or energy use
22 data on each currently manufactured product covered by
23 a specification.

24 (g) Manufacturers shall use labels reflecting revised
25 energy efficiency and/or energy use ranges on all affected

1 products manufactured after the expiration of sixty days
2 following the publication of a revised table of ranges. Such
3 ranges may be revised by the President only on an annual
4 basis.

5 ADVERTISING

6 SEC. 1208. Any manufacturer, distributor, wholesaler,
7 importer, or retailer of products for which a specification
8 has been promulgated and is effective who advertises or
9 causes to be advertised the energy characteristics of any
10 such product through any communications medium must in-
11 clude in such advertisement all information on the product
12 required by the specification applicable to such product.
13 This section shall not apply to printed material appearing
14 in a catalog from which a product may be purchased by
15 order.

16 ENERGY CONSERVATION MARK

17 SEC. 1209. There shall be developed an energy conserva-
18 tion mark which shall be registered in the United States
19 Patent Office under section 4 of the Act of July 5, 1946 (60
20 Stat. 429; 15 U.S.C. 1054) for use on each label described
21 in a specification.

22 CONSUMER EDUCATION

23 SEC. 1210. Governmental agencies as directed by the
24 President shall in close cooperation and coordination with
25 appropriate industry trade associations and industry members

1 including retailers, and interested consumer and environ-
2 mental organizations carry out a program to educate
3 consumers relative to the significance of the labeling program.

4 PREEMPTION

5 SEC. 1211. It is hereby declared to be the express
6 intent of Congress that this title supersedes any and all
7 laws and regulations promulgated thereunder of the States
8 or political subdivisions thereof insofar as they may now
9 or hereafter provide for the disclosure of energy use or
10 consumption, energy efficiency, efficiency ratio, or annual
11 operating cost of any product if there is in effect and ap-
12 plicable any specification with respect to such product.

13 GENERAL PROVISIONS

14 SEC. 1212. (a) The President is authorized to issue
15 such regulations, including recordkeeping, reporting require-
16 ments, and the use of foreign laboratories or programs in
17 other countries for testing required under the title on a
18 reciprocal basis or otherwise, as he deems necessary to carry
19 out the provisions of this title.

20 (b) The President may delegate any authority con-
21 ferred upon him by this title to any officer, employee,
22 agency, or instrumentality of the United States.

23 (c) Trade secrets or other matter referred to in section
24 1905 of title 18 of the United States Code obtained under
25 the provisions of this title shall be considered confidential

1 for the purposes of that section, except that such informa-
 2 tion may be disclosed to other officers or employees concerned
 3 with carrying out this title when relevant in any proceeding
 4 under this title.

5 SUBPENA

6 SEC. 1213. The President may sign and issue subpoenas
 7 for the attendance and testimony of witnesses and the pro-
 8 duction of relevant books, records, papers, and other docu-
 9 ments and may administer oaths. Witnesses summoned under
 10 the provisions of this section shall be paid the same fees and
 11 mileage as are paid to witnesses in the courts of the United
 12 States. In case of contumacy by, or refusal to obey a sub-
 13 pena served upon any person subject to this title, the Presi-
 14 dent may request the Attorney General to seek an order
 15 from the district court of the United States for any district
 16 in which such person is found or resides or transacts busi-
 17 ness requiring such person to appear and give testimony,
 18 or to appear and produce documents.

19 ANNUAL REPORT

20 SEC. 1214. The President shall prepare and submit an
 21 annual report to the Congress on April 1 of each year con-
 22 cerning the administration of this title.

23 EXPORTS

24 SEC. 1215. This title shall not apply to any product if
 25 (1) it can be shown that such product is manufactured, sold,

1 or held for sale for export from the United States (or that
 2 such product was imported for export), unless such product
 3 is in fact distributed in commerce for use in the United
 4 States, and (2) such product when distributed in commerce,
 5 or any container in which it is enclosed when so distributed,
 6 bears a stamp or label stating that such product is intended
 7 for export.

8 IMPORTS

9 SEC. 1216. Any product offered for importation in vio-
 10 lation of section 1217 shall be refused admission into the
 11 United States under regulations issued by the President ex-
 12 cept that the President may, by such regulations, authorize
 13 the importation of such product upon such terms and con-
 14 ditions (including the furnishing of a bond) as may appear
 15 to him appropriate to ensure that such product will be
 16 properly labeled as required by this title, or will be exported
 17 or abandoned to the United States.

18 PROHIBITED ACTS

19 SEC. 1217. It shall be unlawful for any person to:
 20 (a) offer for sale in, sell in, introduce into or
 21 deliver for introduction into commerce, or import for
 22 sale or resale, any new product manufactured after the
 23 effective date of a specification applicable to such prod-
 24 uct unless there is provided with such product a label

1 meeting the requirements of the applicable specification,
2 including any requirements as to manner of display;

3 (b) offer for sale in, sell in, introduce into or
4 deliver for introduction into commerce, or import for
5 sale or resale, any new product manufactured after the
6 effective date of a specification applicable to such product
7 if the label required to be provided with such new
8 product contains misleading or inaccurate information
9 concerning energy use and/or efficiency;

10 (c) remove any label required to be provided with
11 a new product pursuant to a specification promulgated
12 under this title before sale to the consumer;

13 (d) advertise any product in violation of the provi-
14 sions of section 1208;

15 (e) fail to or refuse to permit access to, or copying
16 of, records or fail to or refuse to make reports or pro-
17 vide information required to be supplied under sections
18 1206 (c) or 1207 or any other provision of this title
19 within the time limits provided, if any; or

20 (f) fail to or refuse to comply with requirements of
21 section 1207 (d) or (e) of this title.

22 ENFORCEMENT

23 SEC. 1218. Whoever violates any provision of section
24 1217 shall be subject to a civil penalty of not more than
25 \$10,000 for each violation. Civil penalties assessed under this

1 title may be compromised by the President, taking into ac-
2 count the nature and degree of the violation and the im-
3 pact of the penalty upon a particular respondent.

4 INJUNCTIVE ENFORCEMENT AND SEIZURE

5 SEC. 1219. (a) The United States district courts shall
6 have jurisdiction to restrain any violation of section 1217.
7 Such actions may be brought by the Attorney General in any
8 United States district court for a district wherein any act,
9 omission, or transaction constituting the violation occurred, or
10 in such court for the district wherein the defendant is found
11 or transacts business. In any action under this section process
12 may be served on a defendant in any other district in which
13 the defendant resides or may be found.

14 (b) Any product which is not labeled as prescribed by
15 an applicable specification promulgated under this title
16 when introduced into or while in commerce or while held
17 for sale after shipment into commerce shall be liable to be
18 proceeded against on libel of information and condemned in
19 any United States district court within the jurisdiction of
20 which such product is found. Proceedings in cases instituted
21 under the authority of this subsection shall conform as nearly
22 as possible to proceedings in rem in admiralty. Whenever
23 such proceedings involving substantially similar products are
24 pending in courts of two or more judicial districts, they shall
25 be consolidated for trial by order of any such court upon ap-

1 plication reasonably made by any party in interest upon
2 notice to all other parties in interest.

3 JUDICIAL REVIEW

4 SEC. 1220. (a) Any person who will be adversely
5 affected by a specification or amendment thereto promulgated
6 under this title when it is effective may at any time prior
7 to the sixtieth day after such specification or amendment
8 thereto is issued file a petition with the United States court
9 of appeals for the circuit wherein such person resides or has
10 his principal place of business, for a judicial review thereof.
11 A copy of the petition shall be forthwith transmitted by the
12 clerk of the court to the President or other officer designated
13 by him for that purpose. The President thereupon shall file
14 in the court the record of the proceedings on which the
15 standard or regulation was based as provided in section 2112
16 of title 28 of the United States Code.

17 (b) Upon the filing of the petition referred to in sub-
18 section (a) of this section, the court shall have jurisdiction
19 to review the specification in accordance with chapter 7 of
20 title 5 of the United States Code and to grant appropriate
21 relief as provided in such chapter.

22 (c) The judgment of the court affirming or setting
23 aside, in whole or in part, any such specification shall be
24 final, subject to review by the Supreme Court of the United
25 States upon certiorari or certification as provided in section
26 1254 of title 28 of the United States Code.

1 (d) The remedies provided for in this subsection shall
2 be in addition to and not in substitution for any other
3 remedies provided by law.

4 SEPARABILITY

5 SEC. 1221. If any provision of this title or the applica-
6 bility thereof is held invalid the remainder of this title shall
7 not be affected thereby.

8 AUTHORIZATION OF APPROPRIATIONS

9 SEC. 1222. There are hereby authorized to be appro-
10 priated such sums as may be necessary to carry out the pro-
11 visions of this title. Appropriations to carry out the provisions
12 of this title may remain available for obligation and expendi-
13 ture for such period or periods as may be specified in the
14 Acts making such appropriations.

15 PART C—EMERGENCY PREPAREDNESS

16 TITLE XIII

17 SHORT TITLE

18 SEC. 1301. This title may be cited as the "Standby
19 Energy Authorities Act of 1975".

20 FINDINGS AND PURPOSES

21 SEC. 1302. (a) The Congress hereby finds that—
22 (1) disruptions in the availability of imported or
23 domestic energy supplies, particularly petroleum, pose a
24 serious risk to national security, and the health and wel-
25 fare of the American people;

(2) such energy shortages cause unemployment, inflation, and other severe economic dislocations and hardships and jeopardize the normal flow of interstate and foreign commerce;

(3) disruptions in the availability of imported petroleum supplies also have serious adverse effects upon other major oil consuming nations upon whose national security and economic well-being the national security and economic well-being of the United States in some measure depends, by virtue of mutual security arrangements and international trade and monetary relationships;

(4) because of the diversity of conditions, climate, and available fuel mix in different areas of the Nation, governmental responsibility for developing and enforcing appropriate authorities lies not only with the Federal Government, but with the States and with local government;

(5) the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital during periods of energy shortages;

(6) existing legal authority and reliance upon voluntary programs to deal with shortage conditions on an emergency basis are inadequate to protect the public interests;

(7) new long-term standby legislative authority is needed to deal with conditions that may be created by disruptions in energy supplies and thereby to protect the American people and the economy from serious disruption and dislocation; and

(8) development of cooperative international programs to manage energy shortages will combat economic hardships and contribute to the national security of the United States and other oil-consuming nations.

(b) The purposes of this title are to grant specific standby authority to impose end-use rationing and to reduce demand by regulating public and private consumption of energy, and to authorize certain other specific temporary emergency actions to be exercised, to assure that the essential energy needs of the United States will be met in a manner which, to the fullest extent practicable:

(1) enables the Federal Government to fulfill its responsibilities under the Agreement or an International Energy program.

(2) is consistent with existing national commitments to protect and improve the environment;

(3) minimizes any adverse impact on employment;

(4) provides for equitable treatment of all regions of the country and sectors of the economy;

(C) Refined petroleum products, including but not

1 (5) maintains vital services necessary to health,
2 safety, and public welfare; and

3 (6) insures against anticompetitive practices and
4 effects and preserves, enhances, and facilitates competi-
5 tion in the development, production, transportation, dis-
6 tribution, and marketing of energy resources.

7 (c) Prior to exercising any of the authorities contained
8 in any of the following provisions of this title:

- 9 (1) Section 1304, Control Over Stocks;
- 10 (2) Section 1305, Federal Action to Increase
- 11 Available Domestic Petroleum Supplies;
- 12 (3) Section 1306, Allocation and Rationing;
- 13 (4) Section 1307, Energy Conservation Plans;
- 14 (5) Section 1308, Materials Allocation;
- 15 (6) Section 1311, International Oil Allocation;
- 16 (7) Section 1312, Voluntary Agreements; and
- 17 (8) Section 1316, Exports.

18 the President is required to make a finding (i) that because
19 of interruption in the supply of imported petroleum or as a
20 result of acts of God or sabotage national energy shortage
21 conditions exist or are impending which threaten United
22 States national security so as to require the exercise of
23 the standby energy authorities provided for in this title,
24 or (ii) that their exercise is required to fulfill obligations

1 of the United States under an international agreement.

2 The President's finding shall be transmitted to the Congress.

3 For purposes of this section the term "national security"
4 shall include the needs of, and planning and preparedness
5 to meet essential civilian or military energy requirements
6 relative to the national safety or economy. For purposes of
7 this section, the term "national energy shortage" means a
8 shortage of significant scope and duration and of an emer-
9 gency nature causing major adverse impact on the United
10 States.

11 (d) Any finding made under subsection (c) of this
12 section shall not remain in effect for a period of more than
13 eighteen months. The President may make a new finding
14 under subsection (c) if he finds that the exercise of authori-
15 ties pursuant to his initial finding is required beyond
16 eighteen months.

17 DEFINITIONS

18 SEC. 1303. For purposes of this title:

19 (1) The term "State" means a State, the District of
20 Columbia, Puerto Rico, or any territory or possession of the
21 United States.

22 (2) The term "petroleum" means

23 (A) Crude oil,

24 (B) Natural gas liquids, and

25 (C) Refined petroleum products, including but not

1 limited to gasoline, naphtha, kerosene, distillates, resid-
2 ual fuel oil, refined lubricating oils, diesel fuel, unfinished
3 oils, and liquefied petroleum gases.

4 (3) The term "United States" when used in the geo-
5 graphical sense means the States, the District of Columbia,
6 Puerto Rico, and the territories and possessions of the United
7 States.

8 (4) The term "Administrator" means the Administrator
9 of the Federal Energy Administration.

10 (5) The term "international agreement" means the
11 Agreement on an International Energy Program, signed by
12 the United States on November 18, 1974, including related
13 annexes and protocols, as those documents may be amended
14 from time to time in accordance with their terms;

15 (6) The term "antitrust law" includes—

16 (A) the act entitled "An Act to protect trade and
17 commerce against unlawful restraints and monopolies,"
18 approved July 2, 1890 (15 U.S.C. 1, et seq.);

19 (B) the Act entitled "An Act to supplement ex-
20 isting laws against unlawful restraints and monopolies,
21 and for other purposes," approved October 15, 1914
22 (15 U.S.C. 12, et seq.);

23 (C) the Federal Trade Commission Act (15
24 U.S.C. 41, et seq.);

25 (D) sections 73 and 74 of the Act entitled "An

1 Act to reduce taxation, to provide revenue for the Gov-
2 ernment, and for other purposes," approved August 27,
3 1894 (15 U.S.C. 8 and 9); and

4 (E) the Act of June 19, 1936, chapter 592 (15
5 U.S.C. 13, 13a, 13b, and 21A).

6 CONTROL OVER STOCKS

7 SEC. 1304. (a) The President may require by regula-
8 tion, rule, or order, as a condition to any person engaging
9 in commerce, and in the business of importing, producing,
10 refining, marketing, or distributing petroleum, that such
11 person maintain inventories of petroleum in excess of his
12 normal business or operating requirements.

13 (b) (1) Any inventories of petroleum required to be
14 maintained by any person pursuant to subsection (a) of this
15 section may be disposed of only pursuant to regulation, rule
16 or order promulgated by the President.

17 (2) The President may order the use, sale, disposal,
18 and allocation of all or any part of inventories held pursuant
19 to subsection (a) of this section in order to alleviate domestic
20 shortages, to meet the international petroleum allocation ob-
21 ligations of an international agreement, or for other purposes
22 consistent with this title.

23 (c) To the extent that the United States institutes a pro-
24 gram of Government-owned strategic petroleum reserves,
25 consistent with other law, the President shall take such

1 reserves into account in determining the levels of petroleum
2 required to be acquired or retained pursuant to subsection (a)
3 of this section.

4 FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC
5 PETROLEUM SUPPLIES

6 SEC. 1305. (a) The President may, by regulation, rule
7 or order, require the following measures to supplement
8 domestic energy supplies:

9 (1) production of certain designated existing do-
10 mestic oil and gas fields at maximum practicable rates of
11 production if necessary to meet the objectives of this
12 title: *Provided*, That production shall not be in excess
13 of the currently assigned maximum efficient rate of pro-
14 duction unless the President determines that the types
15 and quality of reservoirs are such as to permit production
16 at rates in excess of the currently assigned maximum
17 efficient rate for periods of ninety days or more without
18 excessive risk of losses in ultimate recovery;

19 (2) The unitization of production on any oil and
20 gas producing properties on Federal lands;

21 (3) The adjustment of processing operations of
22 domestic refineries to produce particular refined products
23 commensurate with national needs.

24 (b) Nothing in subsection (a) of this section shall
25 affect any Naval Petroleum Reserve subject to the provi-

1 sions of chapter 641 of title 10, United States Code, as
2 amended.

3 ALLOCATION AND RATIONING

4 SEC. 1306. (a) (1) The President is authorized, by rule,
5 regulation, or order to provide for the allocation of petro-
6 leum for such purposes, and in such amounts, as he may
7 specify.

8 (2) The President is authorized, by rule, regulation,
9 or order, to control the prices of petroleum which is allo-
10 cated pursuant to the authority of this section.

11 (b) The President is authorized, by rule, regulation,
12 or order, to establish a program for the rationing and
13 ordering of priorities among classes of end-users of such
14 products of rights, and evidences of such rights, entitling
15 them to obtain such products in precedence to other classes
16 of end-users not similarly entitled.

17 (c) A rule, regulation, or order under subsections (a)
18 and (b) of this section shall take effect only if the Presi-
19 dent finds that it is necessary to achieve the purposes of
20 section 1302 (b) of this title.

21 (d) In issuing rules, regulations, or orders pursuant
22 to the authority of this section, the President, to the extent
23 he deems practicable, shall take into account the need for:

24 (1) protection of public health, safety, welfare,
25 environment, and the national defense;

1 (2) maintenance of public services and United
2 States industry;

3 (3) preservation of an economically sound and
4 competitive petroleum industry, including the inde-
5 pendent sector;

6 (4) equitable distribution of petroleum at equitable
7 prices; and

8 (5) minimization of economic distortion, inflexi-
9 bility, and unnecessary interference with market
10 mechanisms.

11 (e) In exercising his authority pursuant to this section,
12 the President shall provide for the making of such adjust-
13 ments as are practicable to prevent special hardship, inequity,
14 or unfair distribution of burdens, and shall establish proce-
15 dures which are available to any person for the purpose of
16 seeking an interpretation, modifications, rescission of, excep-
17 tion to, or exemption from, such rules, regulations, and
18 orders. Such procedures may include procedures with respect
19 to such local boards as may be authorized to carry out func-
20 tions under this subsection pursuant to section 1317 of this
21 title.

22 (f) No rule, regulation, or order under this section may
23 impose any tax or provide for a credit or deduction in com-
24 puting any tax.

ENERGY CONSERVATION PLANS

2 SEC. 1307. (a) (1) (A) Pursuant to the provisions of
3 this section, the President may promulgate by regulation, one
4 or more energy conservation plans in accord with this sec-
5 tion which shall be designed (together with actions taken
6 and proposed to be taken under other authority of this or
7 other Acts) to result in a reduction of energy consumption.
8 For purposes of this section, the term "energy conservation
9 plan" means a plan which imposes restrictions on the pub-
10 lic or private use of energy which are necessary to reduce
11 energy consumption.

12 (B) No energy conservation plan promulgated under
13 this section may impose rationing or any tax or user fee, or
14 provide for a credit or deduction in computing any tax.

15 (2) An energy conservation plan shall apply in each
16 State, except as otherwise provided in an exemption granted
17 pursuant to such plan in cases where a comparable State or
18 local program is in effect, or where the President finds
19 special circumstances exist.

20 (3) An energy conservation plan may not deal with
21 more than one logically consistent subject matter.

22 (4) An energy conservation plan shall remain in effect
23 for a period specified in the plan unless earlier rescinded
24 by the President, but shall terminate in any event no later

1 than eighteen months after such plan first takes effect unless
2 renewed in accordance with this section.

3 (b) The President shall transmit any energy conser-
4 vation plan to each House of Congress on the date on which
5 it is promulgated.

6 (c) In promulgating any energy conservation plan or
7 rationing rule, regulation, or order, under the authority of
8 this title, the President shall, to the extent practicable,
9 take into account the factors enumerated in section 1302 (b)
10 of this title, as well as the potential economic impacts, if
11 any, on—

12 (A) the fiscal integrity of State and local
13 government;

14 (B) vital industrial sectors of the economy;

15 (C) employment;

16 (D) the economic vitality of regional, State, and
17 local areas;

18 (E) the availability and price of consumer goods
19 and services;

20 (F) the gross national product;

21 (G) competition in all sectors of industry;

22 (H) small business; and

23 (I) the supply and availability of energy resources
24 for use as fuel or as feedstock for industry.

MATERIALS ALLOCATION

1 SEC. 1308. (a) The President is hereby authorized (1)
2 to require that performance under contracts or orders (other
3 than contracts of employment) which he deems necessary
4 or appropriate to promote essential domestic energy research,
5 development and production shall take priority over per-
6 formance under any other contract or order, and, for the
7 purpose of assuring such priority, to require acceptance and
8 performance of such contracts or orders in preference to other
9 contracts or orders by any person he finds to be capable of
10 their performance, and (2) to allocate materials and facili-
11 ties in such manner, upon such conditions, and to such extent
12 as he shall deem necessary or appropriate to increase do-
13 mestic energy supplies.

15 (b) Upon exercise of authority under subsection (a)
16 hereof, the President shall report to the Congress with re-
17 spect to the manner in which the authorities contained in
18 subsection (a) will be administered. This report shall include
19 but not be limited to the manner in which allocations will be
20 made, the procedure for requests and appeals, the criteria for
21 determining priorities as between competing requests, the
22 office or agency which will administer such authorities and
23 the effect of such allocations on allocation programs au-
24 thorized by other law.

25 (c) The authority granted in this section may not be

1 used to control the distribution of any supplies of mate-
 2 rials and equipment in the marketplace unless the President
 3 finds that—

4 (1) such supplies are scarce, critical, and essential
 5 to maintain or further exploration, production, refining,
 6 transportation, and conservation of energy supplies or for
 7 the construction and maintenance of energy facilities;
 8 and

9 (2) maintenance or furtherance of exploration,
 10 production, refining, transportation, and conservation of
 11 energy supplies and the construction and maintenance of
 12 energy facilities during the energy shortage cannot
 13 reasonably be accomplished without exercising the
 14 authority specified in subsection (a) of this section.

15 PROHIBITIONS ON UNREASONABLE ACTIONS

16 SEC. 1309. (a) Action taken under authority of this
 17 title resulting in the allocation of petroleum and electrical
 18 energy among classes of users or resulting in restrictions
 19 on use of petroleum and electrical energy among classes of
 20 users or resulting in restrictions on use of petroleum and
 21 electrical energy, shall be equitable, shall not be arbitrary
 22 or capricious, and shall not unreasonably discriminate among
 23 classes of users, unless the President determines that such
 24 a policy would be inconsistent with the purposes of this
 25 title or other Federal laws and publishes his findings in the

1 Federal Register. Allocations shall contain provisions de-
 2 signed to foster reciprocal and nondiscriminatory treatment
 3 by foreign countries of United States persons engaged in
 4 commerce.

5 (b) To the maximum extent practicable, any restric-
 6 tion on the use of energy shall be designed to be carried out
 7 in such manner so as to be fair and to create a reasonable
 8 distribution of the burden of such restriction on all sectors
 9 of the economy, without imposing an unreasonably dispro-
 10 portionate share of such burden of any specific industry, busi-
 11 ness, or commercial enterprise, or on any individual seg-
 12 ment thereof and shall give due consideration to the needs
 13 of commercial, retail, and service establishments whose
 14 normal function is to supply goods and services of an es-
 15 sential convenience nature during times of day other than
 16 conventional daytime working hours.

17 REGULATED CARRIERS

18 SEC. 1310. Within twenty days after the date of the
 19 exercise of any of the authorities cited in section 1302 (c)
 20 of this title, the Civil Aeronautics Board, the Federal
 21 Maritime Commission, and the Interstate Commerce Com-
 22 mission shall report to the President and the appropriate
 23 committees of the Congress on the need for removal of or
 24 additional regulatory authority in order to conserve fuel

1 while continuing to provide for the public convenience and
2 necessity. Each such report shall identify with specificity—

- 3 (1) the type of regulatory authority needed;
- 4 (2) the reasons why such authority is needed;
- 5 (3) the probable impact on fuel consumption of
6 such authority;
- 7 (4) the probable effect on the public convenience
8 and necessity of such authority; and
- 9 (5) the competitive impact, if any, of such author-
10 ity. Each such report shall further make recommenda-
11 tions with respect to changes in any existing fuel
12 allocation programs which are deemed necessary to
13 provide for the public convenience and necessity during
14 such period.

15 INTERNATIONAL OIL ALLOCATION

16 SEC. 1311. Notwithstanding any other provision of law,
17 the President is authorized to require by rule, regulation, or
18 order such action as may be necessary for implementation of
19 the obligations of the United States under an international
20 agreement with regard to the international allocation of
21 petroleum to other countries in such amounts and at such
22 prices as are specified in (or determined in a manner pre-
23 scribed by) such rule, regulation, or order. Such rule, regu-
24 lation, or order shall apply to all persons subject to the
25 jurisdiction of the United States. Such rule, regulation, or

1 order may apply to all petroleum destined, directly, or in-
2 directly, for import into, or produced in the United States
3 and shall remain in effect until amended or rescinded by the
4 President.

5 VOLUNTARY AGREEMENTS

6 SEC. 1312. (a) The President is authorized to consult
7 with owners, directors, agents, employees, or representa-
8 tives of two or more persons engaged in the business of
9 producing, refining, marketing, or distributing petroleum
10 products, with a view to encouraging the making by such
11 persons, with the approval of the President, of voluntary
12 agreements and programs to carry out the objectives of any
13 international agreement dealing with the subject matter of
14 section 1311 of this title.

15 (b) There shall be available as a defense to any action
16 brought under the antitrust laws or any similar State laws
17 arising from any meeting, conference, communication, or
18 agreement held or made for the purpose of making or carry-
19 ing out a voluntary agreement or program pursuant to this
20 section of this title, that such meeting, conference, com-
21 munication, or agreement was carried out or made in ac-
22 cordance with a request of the President pursuant to the
23 provisions of subsection (c) of this section.

24 (c) Whenever, for the purpose of making or carrying
25 out a voluntary agreement under this title, owners, direc-

tors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, refining, marketing, or distributing petroleum meet, confer, communicate, or agree in such a fashion as might otherwise be construed to constitute a violation of the antitrust laws, such persons may do so pursuant to a request of the President, which request shall specify and limit the subject matter and objectives of such meeting or meetings, conferences, or communications. Moreover, full notes or minutes of any such meeting, conference, or communication shall be taken and deposited, together with a copy of any agreement resulting therefrom, with the President and the Attorney General.

(d) The authorities granted in subsection (c) of this section shall be delegated only (1) to officials who shall for the purpose of such delegation be required to be appointed by the President by and with the advice and consent of the Senate, unless otherwise required to be so appointed, and (2) upon the condition that such officials consult with the Attorney General and the Chairman of the Federal Trade Commission not less than ten days before any request for a meeting, conference, communication or agreement for the purpose of making a voluntary agreement under this title, and (3) upon the condition that such officials obtain the continuing approval of the Attorney General to the voluntary agreement and to any request for meetings, conferences, com-

munications or agreements for the purpose of making or carrying out a voluntary agreement under this title, and that general regulations be promulgated by such officials for action to be taken under this title subject to consultation with the Federal Trade Commission and the approval of the Attorney General.

IMMUNITIES

SEC. 1313. (a) In any action in any Federal or State court for breach of contract or for any other cause of action (including an action brought under the antitrust laws or any similar state laws) involving measures taken to comply with the provisions of this title, or with any rules, regulations or orders issued pursuant to this title, the party defendant shall be entitled to plead that the alleged breach or other cause of action was the result of action reasonably taken in order to comply with the provisions of this title, and such plea when established shall be a complete defense against the action.

(b) All meetings, conferences, or communications among owners, directors, agents, employees, or representatives of two or more persons engaged in the business of producing, refining, marketing, or distributing petroleum products, held for the purpose of implementing an international agreement, or carrying out a voluntary agreement approved under section 1312 of this title, shall be exempt

1 from the provisions of sections 9, 10, and 11 of the Fed-
 2 eral Advisory Committee Act, and section 17 of the
 3 Federal Energy Administration Act. All records of such
 4 meetings, conferences, or communications and all agency
 5 records relating thereto shall not be subject to the public
 6 access requirements of section 552 of title 5, United States
 7 Code, unless the President determines that disclosure of
 8 such records would not adversely affect the foreign policy
 9 interests of the United States.

10 INTERNATIONAL COOPERATION

11 SEC. 1314. The President, in cooperation with partici-
 12 pating countries of the International Energy Agency, is au-
 13 thorized to encourage, support, and promote the planning
 14 and conduct of appropriate joint projects and cooperative
 15 programs in the United States and in foreign participating
 16 countries, including but not limited to projects and pro-
 17 grams related to the conservation of energy, accelerated
 18 development of alternative sources of energy, energy re-
 19 search and development, and the supply of natural and
 20 enriched uranium.

21 EXCHANGE OF INFORMATION

22 SEC. 1315. (a) Except as provided in subsections (b)
 23 and (c), and notwithstanding any other provision of law,
 24 the Administrator, after consultation with the Attorney
 25 General may provide to the Secretary of State, and the Sec-

1 retary of State is authorized to transmit to an appropriate
 2 international organization or foreign country the information
 3 and data related to the energy industry certified by the
 4 Secretary of State as required to be submitted under an in-
 5 ternational agreement to which the United States is a
 6 party.

7 (b) If the President determines that the transmittal
 8 of data or information pursuant to the authority of this
 9 section would prejudice competition, violate the antitrust
 10 laws, or be inconsistent with United States national secu-
 11 rity interests, he may require that such data or information
 12 not be transmitted.

13 (c) Information and data the confidentiality of which
 14 is protected by statute, shall not be provided by the Admin-
 15 istrator to the Secretary of State under subsection (a) of this
 16 section for transmittal to an international organization or
 17 foreign country, unless the Administrator has obtained the
 18 specific concurrence of the head of any department or
 19 agency which has the primary statutory authority for the
 20 collection, gathering or obtaining of such information and
 21 data. In making a determination to concur in providing
 22 such information and data, the head of any department or
 23 agency which has the primary statutory authority for the
 24 collection, gathering or obtaining of such information and
 25 data, shall consider the purposes for which such informa-

1 tion and data was collected, gathered and obtained, the
 2 confidentiality provisions of such statutory authority, and
 3 the international obligations of the United States with re-
 4 spect to the transmittal of such information and data to an
 5 international organization or foreign country.

6 (d) For the purposes of implementing and carrying out
 7 the obligations of the United States under an international
 8 agreement, the authority to collect data granted by sections
 9 11 and 13 of the Energy Supply and Environmental Co-
 10 ordination Act and the Federal Energy Administration Act
 11 respectively, shall continue in full force and effect without
 12 regard to the provisions of these Acts relating to their
 13 expiration.

14 EXPORTS

15 SEC. 1316. (a) The President is authorized by rule or
 16 order, to restrict exports of coal, natural gas, petroleum
 17 products, and petrochemical feedstocks, and of supplies of
 18 materials and equipment which he determines to be necessary
 19 to maintain or further exploration, production, refining,
 20 transportation, and conservation of domestic energy supplies
 21 and for the construction and maintenance of energy facilities
 22 within the United States, under such terms and conditions as
 23 he determines to be appropriate and necessary to carry out
 24 the purposes of this title.

25 (b) In the administration of the restrictions under

1 subsection (a) of this section, the President may direct
 2 and, if so, the Secretary of Commerce shall, impose such
 3 restrictions pursuant to the procedures and authorities estab-
 4 lished by the Export Administration Act of 1969, as
 5 amended.

6 (c) Rules or orders of the President under subsection
 7 (a) of this section and actions by the Secretary of Com-
 8 merce pursuant to subsection (b) of this section shall take
 9 into account the historical trading relations of the United
 10 States with Canada and Mexico.

11 ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

12 SEC. 1317. (a) (1) Subject to paragraphs (2), (3),
 13 and (4) of this subsection, the provisions of subchapter II
 14 of chapter 5 of title 5, United States Code, shall apply to
 15 any agency rule, or regulation, or any order having the
 16 applicability and effect of a rule as defined in section 551 (4)
 17 of title 5, United States Code, issued under this Act.

18 (2) Notice of all proposed substantive agency rules
 19 and orders of general applicability described in paragraph
 20 (1) shall be given by publication of such proposed rule or
 21 order in the Federal Register. In each case, a minimum of
 22 10 days following such publication shall be provided for
 23 opportunity to comment; except that the requirements of
 24 this paragraph as to time of notice and opportunity to com-
 25 ment may be waived where the President finds that strict

1 compliance would seriously impair the operation of the pro-
 2 gram to which such rule or order relates and such findings
 3 are set out in such rule or order. In addition, public notice of
 4 all rules or orders of general applicability described in para-
 5 graph (1) of subsection (a) which are promulgated by
 6 officers of a State or political subdivision thereof or to State
 7 or local boards pursuant to this Act shall to the maximum
 8 extent practicable be achieved by publication of such rules
 9 or orders in a sufficient number of newspapers of statewide
 10 circulation calculated to receive widest possible notice.

11 (3) In addition to the requirements of paragraph (2),
 12 unless the President determines that a rule or order described
 13 in paragraph (1) is not likely to have a substantial impact
 14 on the Nation's economy or upon large numbers of individuals
 15 or businesses, an opportunity for oral presentation of views,
 16 data and argument shall be afforded. To the maximum extent
 17 practicable, such opportunity shall be afforded prior to the
 18 implementation of such rule or order, but in all cases such
 19 opportunity shall be afforded no later than forty-five days
 20 after the implementation of any such rule or order. A trans-
 21 cript shall be made of any oral presentation.

22 (4) Any officer or agency authorized to issue rules or
 23 orders described in paragraph (1) shall provide for the
 24 making of such adjustments, consistent with the other pur-
 25 poses of this title as may be necessary to prevent special

1 hardship, inequity, or an unfair distribution of burdens and
 2 shall in rules prescribed by it establish procedures which are
 3 available to any person for the purpose of seeking an inter-
 4 pretation, modification, or rescission of, or an exception to or
 5 exemption from, such rules and orders. If such person is
 6 aggrieved or adversely affected by the denial of a request for
 7 such action under the preceding sentence, he may request
 8 a review of such denial by the officer or agency and may
 9 obtain judicial review in accordance with subsection (b) or
 10 other applicable law when such denial becomes final. The
 11 officer or agency shall, in rules prescribed by it, establish
 12 appropriate procedures, including a hearing where deemed
 13 advisable, for considering such requests for action under
 14 this paragraph.

15 (b) The procedures for judicial review established by
 16 section 211 of the Economic Stabilization Act of 1970, as
 17 amended, and section 5 of the Emergency Petroleum Allo-
 18 cation Act of 1973, shall apply to proceedings under this
 19 title, as if such proceedings took place under those Acts.
 20 Such procedures for judicial review shall apply notwith-
 21 standing the expiration of the Economic Stabilization Act of
 22 1970, as amended, or the Emergency Petroleum Alloca-
 23 tion Act of 1973.

24 (c) In addition to the requirements of section 552, title
 25 5, United States Code, any agency authorized by this title

1 to issue the rules, regulations, or orders described in para-
 2 graph (1) of subsection (a) shall make available to the
 3 public all internal rules and guidelines which may form the
 4 basis, in whole or in part, for any rule or order with such
 5 modifications as are necessary to insure confidentiality pro-
 6 tected under such section 552 of title 5, United States Code.
 7 Such agency shall, upon written request of a petitioner filed
 8 after any grant or denial of a request for exception or ex-
 9 emption from rules or orders, furnish the petitioner with a
 10 written opinion setting forth applicable facts and the legal
 11 basis in support of such grant or denial. Such opinions shall
 12 be made available to the petitioner and the public within
 13 thirty days of such request and with such modifications as are
 14 necessary to insure confidentiality of information protected
 15 under such section 552 of title 5, United States Code.

16 PROHIBITED ACTS

17 SEC. 1318. It shall be unlawful for any person to vio-
 18 late any provision of this title or to violate any rule, regula-
 19 tion, or order (including an energy conservation plan),
 20 issued pursuant to any such provision.

21 ENFORCEMENT

22 SEC. 1319. (a) Whoever violates any provision of this
 23 title or rules, regulations or orders promulgated pursuant
 24 thereto, shall be subject to a civil penalty of not more than
 25 \$5,000 for each violation.

1 (b) Whoever willfully violates any provision of this
 2 title or rules, regulations or orders promulgated pursuant
 3 thereto, shall be fined not more than \$10,000 for each
 4 violation.

5 (c) It shall be unlawful for any person to offer for
 6 sale or distribute in commerce any product or commodity in
 7 violation of an applicable order or regulation issued pursuant
 8 to this title. Any person who knowingly and willfully
 9 violates this subsection after having been subjected to a
 10 civil penalty for a prior violation of the same provision of
 11 any order or regulation is issued pursuant to this title shall
 12 be fined not more than \$50,000 or imprisoned not more than
 13 six months, or both.

14 (d) Whenever it appears to any person authorized by
 15 the President or the Administrator to exercise authority
 16 under this title that any individual or organization has en-
 17 gaged, is engaged, or is about to engage in acts or practices
 18 constituting a violation of this title, such person may request
 19 the Attorney General to bring an action in the appropriate
 20 district court of the United States to enjoin such acts or
 21 practices, and upon a proper showing a temporary restraining
 22 order or a preliminary or permanent injunction shall be
 23 granted without bond. Any such court may also issue
 24 mandatory injunctions commanding any person to comply
 25 with any provision of this title.

1 DELEGATION OF AUTHORITY, AND EFFECT ON STATE LAW

2 SEC. 1320. (a) Within twenty days following the
3 date of a finding made under section 1302 (c) of this title,
4 the President may by rule offer an opportunity for inter-
5 ested persons to make oral presentations to assist in—

6 (1) establishing criteria for delegation of his func-
7 tions under this Act to officers or local boards (of
8 balanced composition reflecting the community as a
9 whole) of States or political subdivisions thereof;

10 (2) establishing procedures for petitioning for the
11 receipt of such delegation.

12 (b) (1) Offices or local boards of States or political
13 subdivisions thereof, following the establishment of criteria
14 for delegation and procedures for petitioning in accordance
15 with subsection (a) of this section, may petition the
16 President for the receipt of such delegation.

17 (2) The President may grant any properly submitted
18 petition within thirty days of its receipt.

19 (c) No State law or State program in effect on the
20 date of enactment of this title, or which may become effec-
21 tive thereafter, shall be superseded by any provision of this
22 title or any regulation, order, or energy conservation plan
23 issued pursuant to this title except insofar as such State law
24 or State program is inconsistent with the provisions of
25 this title, or such a regulation, order, or plan.

1 GRANTS TO STATES

2 SEC. 1321. (a) The President may provide financial
3 assistance in accordance with this section for the purpose
4 of assisting eligible State or local energy conservation
5 programs.

6 (b) In order to facilitate State involvement in con-
7 servation programs authorized under this title, financial
8 assistance may be provided to each State. In determining
9 amounts of financial assistance to be provided the following
10 factors shall be considered:

11 (1) population of State in relation to the total
12 population of the United States;

13 (2) estimated costs (if any) to be incurred by
14 any State in carrying out federally mandated con-
15 servation programs; and

16 (3) overall State need for conservation programs
17 in relation to energy supply/demand.

18 (c) A State is eligible to receive financial assistance
19 for energy conservation programs pursuant to subsection
20 (a) of this section in any fiscal year if the State complies
21 with regulations of the President issued under this section.

22 (d) Within sixty days after the date of enactment of
23 this title, the President shall issue, and may from time to
24 time amend, regulations with respect to financial assistance
25 for energy conservation programs which include criteria for
26 such programs.

1 (e) Any amounts which are not expended or com-
 2 mitted by a State pursuant to subsection (b) during the
 3 ensuing fiscal year shall be returned by such State to the
 4 President.

5 (f) (1) Each recipient of financial assistance under
 6 this section shall make such reports as the Administrator
 7 shall prescribe.

8 (2) The Administrator and the Comptroller General
 9 of the United States, or any of their duly authorized repre-
 10 sentatives shall have access for the purpose of audit and
 11 examination to any books, documents, papers, and records
 12 of such receipts.

13 (g) The Administrator shall insure that any funds ap-
 14 propriated for grants to States under this section shall be
 15 available for the purpose of making grants to States to which
 16 the Administrator has delegated authority under section 1320
 17 of this title, or for the administration of appropriate State or
 18 local energy conservation, rationing or allocation programs
 19 which are the basis of an exemption made pursuant to sec-
 20 tion 1307 (a) (2) of this title from a Federal energy con-
 21 servation plan which has taken effect under section 1307 of
 22 this title. The Administrator shall make such grants upon
 23 such terms and conditions as he may prescribe by rule.

CONTINGENCY PLANS

1
 2 SEC. 1322. (a) In order to fully inform the Congress
 3 and the public with respect to the exercise of authorities
 4 under sections 1306 (b) and 1307 of this title, the President
 5 shall, to the maximum extent practical, develop contingency
 6 plans in the nature of descriptive analyses of:

7 (1) the manner of implementation and operation of
 8 any such authority;

9 (2) the anticipated benefits and impacts of the pro-
 10 vision of any plan;

11 (3) the role of State and local governments;

12 (4) the procedures for appeal and review; and

13 (5) the Federal officers or employees who will ad-
 14 minister any plan.

15 (b) (1) Within one hundred and eighty days following
 16 the date of enactment of this title, and at such other times as
 17 the President deems appropriate, the President shall submit to
 18 the Congress such contingency plans in accordance with sub-
 19 section (a) of this section as have been formulated.

EXPIRATION

20
 21 SEC. 1323. The authority under this title to prescribe
 22 any rule, regulation, or order, to take action under this title,
 23 or to enforce any such rule, regulation, or order, shall expire
 24 at midnight, June 30, 1985, but such expiration shall not af-

1 fect any action or pending proceedings, civil or criminal, not
 2 finally determined on such date, nor any action or proceed-
 3 ing based upon any act committed prior to midnight, June 30,
 4 1985.

5 AUTHORIZATION OF APPROPRIATIONS

6 SEC. 1324. There are hereby authorized to be appro-
 7 priated such funds as are necessary for implementation of the
 8 provisions of this title.

9 SEVERABILITY

10 SEC. 1325. If any provision of this title, or the applica-
 11 tion of any such provision to any person or circumstance,
 12 shall be held invalid, the remainder of this title, or the
 13 application of such provision to persons or circumstances
 14 other than those as to which it is held invalid, shall not be
 15 affected thereby.

16 TRANSFER OF AUTHORITY

17 SEC. 1326. In accordance with section 15 (a) of the
 18 Federal Energy Administration Act (88 Stat. 108 and 109)
 19 the President shall designate, where applicable and not
 20 otherwise provided by law, an appropriate Federal agency to
 21 carry out the provisions of this title after the termination of
 22 the Federal Energy Administration.

23 EFFECT ON OTHER LAWS

24 SEC. 1327. Nothing in this Act shall be construed to
 25 limit any authority granted to the President in the Defense

1 Production Act of 1950, as amended (50 U.S.C. 2061-
 2 2168), section 5 (b) of the Trading with the Enemy Act,
 3 as amended (12 U.S.C. 195a), the Trade Expansion Act
 4 of 1962, as amended (19 U.S.C. 1801-1991), the Trade
 5 Act of 1974, or the Emergency Petroleum Allocation Act
 6 of 1973.

A BILL

To increase domestic energy supplies and availability; to restrain energy demand; and to prepare for energy emergencies, and for other purposes.

By Mr. HUGH SCOTT

FEBRUARY 5, 1975

Read twice and referred to the Committees on Armed Services, Banking, Housing and Urban Affairs, Commerce, Finance, Government Operations, Interior and Insular Affairs, the Judiciary, Labor and Public Welfare, and Public Works.

DINNER FOR THE
PARTICIPANTS OF THE COAL RELATED
INDUSTRIES MEETING

Friday, March 21, 1975

6:15 P. M.

THE PRESIDENT HAS SEEN *dg.*