The original documents are located in Box 35, folder "12/22/75 S622 Energy Policy and Conservation Act (2)" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

Calendar No. 181

94TH CONGRESS, 1st Session | SENATE | REPORT No. 94-179

AUTOMOBILE FUEL ECONOMY AND RESEARCH AND DEVELOPMENT ACT OF 1975

REPORT

together with

ADDITIONAL VIEWS

OF THE

SENATE COMMITTEE ON COMMERCE

ON

S. 1883

TO CONSERVE GASOLINE BY DIRECTING THE SECRETARY OF TRANSPORTATION TO ESTABLISH AND ENFORCE MANDATORY FUEL ECONOMY PERFORMANCE STANDARDS FOR NEW AUTOMOBILES AND NEW LIGHT DUTY TRUCKS, TO ESTABLISH A RESEARCH AND DEVELOPMENT PROGRAM LEADING TO ADVANCED AUTOMOBILE PROTOTYPES, AND FOR OTHER PURPOSES

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94TH CONGRESS, *1st Session* } SENATE { REPORT No. 94–179

AUTOMOBILE FUEL ECONOMY AND RESEARCH AND DEVELOPMENT ACT OF 1975

JUNE 5, 1975.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Commerce, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 1883]

The Committee on Commerce, having considered on original bill (S. 1883) to conserve gasoline by directing the Secretary of Transportation to establish and enforce mandatory fuel economy performance standards for new automobiles and new light duty trucks, to establish a research and development program leading to advanced automobile prototypes, and for other purposes, reports favorably thereon and recommends that the bill as reported do pass.

SUMMARY AND PURPOSE

The bill amends the Motor Vehicle Information and Cost Savings Act by adding two new titles as described below:

1. The new title V of the Motor Vehicle Information and Cost Savings Act would establish a mandatory fuel economy standards program within the Department of Transportation. The 1980 goal of the program would be to increase by 50 percent over 1974 models the average fuel economy of new passenger automobiles manufactured for sale in, or imported into, this country. A 100-percent improvement would be the goal for model year 1985. The Secretary of Transportation would be authorized, with the consent of Congress, to adjust the 1980 and 1985 goals up or down to the maximum feasible levels. A mandatory fuel economy standards program would also be established for light duty trucks, but light duty trucks would not be subject to the 50- and 100-percent improvement goals for model years 1980 and 1985. Standards for these vehicles would be set by the Secretary of Transportation at maximum feasible levels.

The standards would apply to a manufacturer's average annual production, leaving the manufacturer maximum flexibility to meet the standards. Civil penalties would be imposed on manufacturers who fail to achieve these standards, but these penalties could be waived or modified. A fuel economy labeling program for new cars and new light duty trucks would also be required.

2. The new title VI of the Motor Vehicle Information and Cost Savings Act would create an automotive research and development program within the Department of Transportation (coordinated with the Energy Research and Development Administration (ERDA)) to develop production prototypes of advanced automobiles which would have high fuel efficiency while complying with Federal requirements with respect to emissions, safety, and any other requirements. This program is designed to develop from the ground up automobiles that meet all government requirements in the most economic way. The present approach of government performance regulation and industry patchwork response would be replaced by a systems approach to the development of a car of the future.

Background and Need

The United States is a Nation that relies heavily on petroleum, consuming more than 17 million barrels a day, or more than 6 billion barrels a year. At present, more than one-third of this oil is imported, representing an annual outflow of more than $25 billion. A significant fraction of these imports, roughly 20 to 25 percent, is from the Arab nations of the Middle East. Increasing our dependence on the Middle East for oil, which seems inevitable if current consumption patterns persist, is an open invitation to use that oil as a political weapon. We have already experienced one embargo, and not-so-veiled threats of a second embargo have recently been raised by some Arab spokesmen.

Of equal concern is the fiscal drain on the American economy created by high-priced oil imports and the resulting outflow of U.S. dollars. This drain has contributed to the highest rate of inflation in decades, helped tip us into the present recession, and is now interfering with the recovery from that recession. These pressures are felt by many other nations as well.

While the debate over many aspects of national energy policy continues, there is agreement that energy conservation must be a key element of that policy. The issue is, thus, not whether to save energy, but how best to do it.

The automobile stands out as the single largest end user of petroleum, accounting for nearly 40 percent of present consumption. This amounts to approximately 6.5 million barrels a day, equal to the amount of oil we are presently importing from other countries. Historically, gasoline consumption by automobiles has grown at an average annual rate of 4.9 percent, corresponding to a doubling of gasoline demand every 14 years. The improvements in fuel economy called for in S. 1883 will lead to an overall reduction in gasoline demand and, within a few years, save consumers billions of dollars in gasoline costs.

Clearly, the automobile has been a major influence on 20th century America. The mobility it offers has shaped our economy, determined where and how we live, and it has become almost a necessity for most Americans. At present, there are more than 100 million automobiles registered in the United States.

Not only is the automobile the prime user of petroleum, it is also a major contributor to accidental death, air pollution, and resource depletion. While no one doubts that automobiles will remain an important element in our national life for many years to come, it is also clear that significant changes must occur in the way Americans use energy, and no area requires more careful attention than the automobile. Mr. John R. Quarles, Deputy Administrator of the Environmental Protection Agency, described the situation very well when he stated: "If we are unwilling to face up to the problem of the automobile, we might as well forget about the goal of energy conservation."

Facing up to the problem of the automobile means, at the very least, providing the technological base now for mass producing of cleaner, safer, and more fuel efficient cars in the 1980's and beyond. In this context it is important to note that the President recommended only $10 million for automobile research and development in fiscal year 1976 within ERDA. This contrasts sharply with the $38 million budgeted for NASA to reduce the fuel consumption of aircraft. Aircraft presently use less than one seventh of the amount of our liquid fuels that automobiles do.

The President's recommendation also stands in sharp contrast to the Congressional Energy Program's call for an intensive research and development effort designed to develop production prototypes of low-polluting, energy-efficient automobiles that meet required safety and emission standards. The Congressional Program would be funded at a level of several hundred million dollars over the next few years.

Finally, while both the President and the Democratic Policy Committees of the House and Senate have called for fuel economy gains by 1980, the President's program would rely on voluntary action by the auto industry to achieve a 40-percent improvement over 1974 levels. The Congressional Energy Program recommends a mandatory fuel economy improvement program, with its much greater certainty of fuel savings, and calls for at least a 50-percent fuel economy improvement by 1980.

Description

TITLE I—AUTOMOBILE FUEL ECONOMY

1. FUEL ECONOMY STANDARDS

The Secretary of Transportation is directed to establish yearly minimum national fuel economy performance standards, applicable to each manufacturer's average production of new automobiles or new light duty trucks, as appropriate. The standards would apply to model years 1977 through 1985.

Standards for automobiles would be set to achieve at least a 50-percent improvement in the industrywide new car fuel economy average by model year 1980 relative to 1974 models (i.e., at least 21 miles per

gallon, based on the 1974 new car fuel economy average of 14 miles per gallon), and at least a 100-percent improvement by model year 1985 (i.e., at least 28 miles per gallon). If the Secretary of Transportation finds that these goals should be modified because they cannot reasonably be attained, or could reasonably be made more stringent, the Secretary is authorized to modify these goals. Such modified goals would take effect 60 days after notification of the Congress, subject only to a resolution of disapproval by either House.

Light duty trucks would not be subject to the 50- and 100-percent improvement goals, but would be subject to minimum average fuel economy performance standards set for each model year at the maximum feasible level by the Secretary.

Each manufacturer (including an importer) is required to produce automobiles or light duty trucks, as appropriate, which on the average conform to or exceed the applicable fuel economy performance standard specified for each model year. Each individual automobile or light duty truck would not be required to meet the standards, only the average of all automobiles, or light duty trucks, as appropriate, produced by the manufacturer. Thus, automobile manufacturers would be given maximum flexibility to vary the mix of small and large cars and introduce technical improvements in order to measure up to the standards.

If a manufacturer failed to meet the required average fuel economy standard, the manufacturer would be liable for civil penalties of from $50 to $100 per automobile or light duty truck, as appropriate, for each mile per gallon, or fraction thereof, by which the average fuel economy of automobiles or light duty trucks manufactured or imported fell short of the applicable standard.

The Secretary could waive or modify a civil penalty (a) to the extent necessary to prevent insolvency or bankruptcy of a manufacturer; (b) when acts of God, fires, or strikes prevent the attainment of an applicable fuel economy standard; (c) to prevent the substantial lessening of competition within the automobile or light duty truck industries; (d) when a manufacturer demonstrates to the Secretary that if such a penalty were paid the manufacturer would lack sufficient capital and the ability to attract sufficient capital to manufacture automobiles or light duty trucks, as appropriate, that would meet future fuel economy standards at competitive prices; and (e) when a manufacturer demonstrates to the Secretary that despite a good faith effort, the manufacturer failed to meet the applicable fuel economy standard by reason of an unanticipated sales mix.

2. FUEL ECONOMY LABELING AND ADVERTISING

Each manufacturer would be required to affix in a prominent place on each new automobile or new light duty truck, as appropriate, a sticker indicating the fuel economy which a purchaser could expect from such automobile or light duty truck, and the estimated average annual fuel costs associated with the operation of such vehicle. Information regarding fuel economy and average annual fuel cost would have to be contained in designated types of advertising by direction of the Federal Trade Commission.

3. RELATIONSHIP TO STATE LAWS

States or political subdivisions could not adopt standards for fuel economy or fuel economy labeling and advertising which are inconsistent with the provisions of this Act.

4. REPORT ON 55 MPH SPEED LIMIT

The Secretary is directed to prepare a report on the 55 mph national maximum speed limit now in effect. The report, to be completed within 180 days of the enactment of this Act, would include an examination of the extent of compliance, potential gasoline savings, and the feasibility of requiring the installation of speed-limiting devices on all new automobiles, new light duty trucks, and other new motor vehicles.

5. REPORT ON MILES-PER-GALLON METERS

The Secretary is required to report within 180 days on the feasibility of a requirement that each new automobile and light duty truck be equipped with a fuel flow instrument reading directly in miles per gallon to make it possible for the cost-conscious motorist to modify his or her driving patterns to get better fuel economy.

TITLE II—AUTOMOBILE RESEARCH AND DEVELOPMENT

1. ADVANCED AUTOMOBILE PROTOTYPES

Title II contains an automotive research and development program similar to that included in the National Fuels and Energy Conservation Act passed by the Senate in the 93d Congress. It would establish within the Department of Transportation, in coordination with ERDA, a program to develop production prototypes of advanced automobiles which represent the maximum practicable fuel efficiency attainable, consistent with environmental, safety, and damageability requirements. Under this program, the Secretary of Transportation would be authorized to provide up to $175 million for DOT in-house programs and contract funds, and to guarantee loans (up to $175 million total indebtedness) to support research and development programs likely to contribute to the development of advanced automobiles.

2. VEHICLE CERTIFICATION BOARD

The Low-Emission Vehicle Certification Board would be authorized to issue or deny certification of demonstration vehicles. The Board, in conjunction with the General Services Administration, would establish a system of guidelines for Federal Agency procurement and use of automobiles so certified.

3. PATENTS

The patent section is essentially identical to that in the Federal Non-Nuclear Energy Research and Development Act of 1974, except for the addition of mandatory licensing of background necessary to implement the technology developed under this Act.

Analysis of the Issues

A. Is there a need for mandatory fuel economy standards?

The goal of this legislation is to make available to the American public the most fuel efficient new car fleets compatible with safety, damageability, and emission standards. Mandatory standards for average new car fuel economy will provide a far greater degree of certainty with regard to fuel savings than fuel taxes, taxes on cars, or any other policy currently being assessed. At a time when U.S. oil imports are approaching 40 percent of consumption, such certainty must be considered essential. Calculations by DOT of the likely impact of the fuel economy standards mandated by S. 1883 indicate that 225,000 barrels per day of petroleum could be saved in 1977 relative to 1975. These savings would increase to 780,000 barrels per day by 1980, and to more than 2,000,000 barrels per day by 1985. This latter figure is roughly one-third of current imports and represents an annual savings of over $8 billion at current prices. It also represents approximately the entire flow of oil expected from the Alaska Pipeline. These fuel savings would increase even more in the period beyond 1985, and would be considerably greater if historic growth patterns for gasoline consumption persist.

The fuel economy standards approach adopted in this legislation leaves maximum flexibility to the manufacturer to meet the standards. This should result in a more diverse product mix and wide consumer choice. In meeting the fuel economy standard applicable to any given model year, one manufacturer could choose new technology, another could choose to shift more rapidly to lighter weight vehicles, and still another could choose some combination of the two.

A question raised at the hearings was whether the fuel economy improvements required by the bill could be achieved via voluntary action by the automobile industry. The President has called for such a voluntary fuel economy improvement program. Unfortunately, the President's program has several deficiencies:

(a) It calls for only a 40-percent fuel economy improvement in model year 1980 relative to 1974, reducing the fuel savings that could be attained through S. ——. This reduction would amount to 55 million barrels in 1980 and to at least 100 million barrels in 1985. (b) The President's program would unnecessarily freeze automobile emission standards for the next 5 years at current California standards for hydrocarbons and carbon monoxide, and at the current 49-state standard for nitrogen oxides. This freeze would ostensibly be imposed in order to meet the fuel economy improvement target. Technical data available to the Committee clearly refutes the need for such a freeze.[1] (c) The so-called agreements provided to the President by the automakers are highly qualified, and legally unenforceable.

The voluntary approach thus offers at best a lower level of fuel savings in exchange for a higher level of pollution. In fact, there is no

[1] See, e.g., *Potential for Motor Vehicle Fuel Economy Improvements: Report to the Congress*, U.S. Department of Transportation and the U.S. Environmental Protection Agency, October 24, 1974; *Potential New Car Fuel Economy*, U.S. Federal Energy Administration, November 1974; Hearings before the Committee on Commerce, Serial No. 93–128, pp. 77–100, 330–352; Hearings before the Committee on Commerce, Serial No. 94–8, pp. 304–308.

basis for believing Congress will freeze automobile emission standards, and therefore the voluntary approach does not represent any commitment at all by the industry.

Despite the overwhelming need to achieve maximum energy savings, there is no certainty that the voluntary actions of the auto industry will achieve the required goals. Some examples of past auto industry performance might serve to explain why the Committee has thought it unwise to follow President Ford's voluntary approach in this crucial energy conservation area.

1. During 1972 and 1973, the Environmental Protection Agency initiated proceedings to determine if relief was to be granted to the automobile manufacturers from the original statutory emission standards for 1975 automobiles. Without exception, each of the major automakers characterized the catalytic converter (the device chosen to meet the standards) as deplorable technology. In fact, in April 1973, General Motors testified that "the prospect of an unreasonable risk of business catastrophe and massive difficulties with these vehicles in the hands of the public must be faced." GM warned that conceivably a complete stoppage of the entire production could occur with a "distinct possibility of varying degrees of interruption with sizable dislocations."

Yet, after EPA had made its decision to require catalytic converters in 1975 in large numbers, GM made what appears to be a complete about-face. In testimony before the Senate Public Works Committee on November 5, 1973, Edward Cole, then president of GM, urged the Committee to retain emission standards sufficient to require catalytic converters in substantial degree. GM's sudden enthusiasm for catalytic converters apparently was justified as 1975 model automobiles now get some 14 percent better fuel economy than 1974 models, with increased emission control as well.

2. In the early 1960's California had a law which stated that as soon as two emission control devices were certified, installation was mandatory in the next full model year. In 1964 two devices were certified, but two of the major U.S. automakers told California they wouldn't be able to install such devices before model year 1967. California insisted on compliance with its law and emission control devices were successfully installed on model year 1966 cars.

Another reason for rejecting the Administration approach is that it does not demand high enough levels of conservation. A number of studies, including those of A. D. Little, DOT/EPA, and the FEA have all indicated that a 40 percent and more new car fuel economy improvement can occur by 1980 with little or no delay in implementation of presently mandated environmental and safety standards. The automobile industry's position has been that it can make a 40 percent improvement by 1980, but only with a 5-year moratorium on environmental and safety standards.

The same story can be told with regard to almost every other requirement that has been placed on U.S.-made automobiles. Clearly, more can be done than the auto industry has been willing to agree to do voluntarily or concedes can be mandated.

The auto industry may also perceive economic disincentives in pursuing a voluntary program too diligently. This is because, historically,

the biggest and least fuel efficient cars have been associated with the largest profits. The situation was summarized as follows in an article which appeared in the Consumer Guide 1974 Car Preview:

> Like the other auto makers, Ford is anxious to keep sales of its big cars at peak levels. Big cars are where the money is made. Estimates indicate that an auto manufacturer makes a profit of from $200 to $250 on each big car sold. As the size of the car, and its sales price gets smaller, the profits shrink too. Small cars such as the Pintos and Mavericks bring in an income of about $100 to $150 per unit. With this spread in profitability, it is no wonder that the auto companies continue to boost their big cars in the face of the small-car revolution. Ford has done a better-than-average job in keeping a favorable balance between the big and small cars it sells. While it has been making news with the introduction of the Pinto, Maverick, and Mustang, Ford's LTD's, Marquis, and Mark IV's have been strong in the sales rankings too. This is in contrast to Chrysler and American Motors, where the smaller cars have taken a much larger share of company output, and as a result decreased profits these companies might have experienced had bigger products been pushed harder.

Thus, while there has been some movement toward better mileage, whether it will be given a high enough priority year after year, lies at the heart of the need for this legislation. This concern was cited by several witnesses before the Committee, including people with intimate knowledge of the automobile industry, such as Leonard Woodcock, president of the United Auto Workers. In his March 13, 1975 presentation to the Committee he stated:

> For too many years the UAW has pointed out that the big three auto companies have followed a marketing strategy based on cars that are too large, too expensive, and that use too much fuel. We urged that policy be changed.
>
> However, these manufacturers preferred to pursue short-term profit maximization, and paid little attention to the real needs of the American public, including environmental and conservation considerations. Occasionally, short-term goals have resulted in greater emphasis on fuel economy, especially by producing smaller cars, and the present concern over gas consumption may have precipitated such a period.
>
> In the past, such activities have been short-lived—the "small" cars get progressively bigger and heavier, the only reduction is in fuel economy, so that now we cannot rely upon mere assurances, or voluntary commitments, from these companies. *Federal fuel economy requirements are needed in order to assure that national fuel conservation goals will be met.* (Emphasis added.)

Another person with intimate knowledge of the industry, Dr. Peter Huntley, vice president of Orshansky Transmission Corporation, stated in a written submission to the Committee:

> Our close contact with the automobile industry over a number of years has brought us to the conclusion that a significant reduction in gasoline demand can only be attained by means of legislation.

In addition, market forces to which the industry says it is responding may not be strong enough to bring about the necessary fuel conservation which a national energy policy demands. Experience has shown that public reaction to higher gasoline prices has not been sufficiently strong to persuade the auto industry to make an all-out effort to market fuel-efficient automobiles. Although data is sketchy, DOT has estimated that a 24-cent increase in gasoline prices by 1980 will increase the fuel economy of new cars by only 0.3 miles per gallon in that model year. Thus the cross elasticity between gasoline prices and the fuel economy of new cars is very low, and confirms the fact that lifetime fuel costs still have too little effect on consumer automobile purchasing decisions.

Finally, it seems clear that in the absence of alternatives, people will continue driving their cars, and the time to achieve gasoline savings is when the car is built. Without mandatory fuel economy standards the United States will become more vulnerable in the future than in the past as U.S. oil resources peak out and decline in annual production. The establishment of fuel economy standards for the next 10 years creates the necessary climate for investment in automotive technology leading to substantial energy conservation.

B. IS THE FUEL ECONOMY GOAL FOR MODEL YEAR 1980 REASONABLE?

Automakers frequently point out that "emission control reduces fuel economy." However, as EPA points out in their February 1975 report entitled "Automobile Emission Control—The Technical Status and Outlook As of December 1974.":

> Acceptance of such a cliche as an indisputable fact could lead to erroneous conclusions about the capability to simultaneously achieve improvements in emissions and economy.

EPA further states that:

> At a fixed emission level fuel economy is a function of the usage of fuel efficient control technology.

and concludes that:

> There is no inherent relationship between exhaust emission standards and fuel economy.

The essential point is, given an adequate commitment on the part of the automobile industry, the 21 mile per gallon industrywide average set as a goal for model year 1980 (50-percent improvement over 1974) can be achieved with any of the hydrocarbon and carbon monoxide emission standards currently under discussion, and at most, with only slight relaxation of the statutory nitrogen oxide standard. Whether any relaxation is necessary is far from clear, as was pointed out in a Federal Energy Administration study prepared for the Committee this past fall. This study considered the potential for model year 1980 fuel economy improvements under the assumption that full statutory emission standards will be implemented in 1978. It specifically considered two sales mix scenarios for 1975 through 1980: current

production split maintained (case 1), and small car production at current maximum capacity (case 2).

The study concluded that up to 21 miles per gallon could be achieved as a new car fuel economy average in 1980 under case 1 assumptions, and up to 22 miles per gallon under case 2 assumptions.

Also, Gould, Inc., a catalyst manufacturer, has stated in a written submission to the Committee that its nitrogen oxide catalyst

> . . . does not in itself affect fuel economy.

Gould also presented fuel economy and emissions data for a 1975 Vega both in stock condition and equipped with Gould's dual-catalyst system, and reported that the Gould-equipped vehicles met the statutory standards with no fuel economy penalty.

In addition, a DOT/EPA report [2] estimated that up to a 63-percent improvement in new car fuel economy could be achieved by 1980. This 63-percent gain was based upon maximum technological improvement through 1980 (weight reduction, aerodynamic drag reduction, transmission improvement, engine resizing and optimization) and a moderate shift in sales mix to 35 percent large and intermediate cars, and 65 percent compact and subcompact cars. Such a shift is within the current capability of the auto industry.[3] By calling for a 50-percent improvement, this legislation provides ample cushion for unforeseen contingencies.

The critical questions then become: (1) is the capital available to the automobile manufacturers to finance the necessary improvements, and (2) what will be the consumer purchase costs for the improved vehicles, and are such purchase costs reasonable in exchange for the fuel economy, clean air, and other long term benefits that would be achieved?

The first question is explicitly addressed in Panel Report No. 5 (Economics Panel Report), prepared in support of the joint DOT/EPA Report to the Congress. This report considered four specific fuel economy improvement scenarios, and produced estimates of the required industrywide annual investment costs. These estimates, and the associated fuel economy improvements are listed below:

Percent gain in MPG (1980 versus 1974):	
28	$10,000,000
33	204,000,000
43	175,000,000
63	480,000,000

The reported bill calls for a 50-percent gain by 1980, and should therefore involve an annual investment somewhere between $200 and $400 million. A reasonable estimate would be $325 million. This number should be compared with motor vehicle industry capital expenditures which have been running at approximately $2.5 billion per year. Also, General Motors and Ford Motor Company have recently announced their intentions to spend $3 billion and $2 billion, respectively, within the next 3 years to produce lighter, more fuel efficient vehicles, while Chrysler is expected to spend $500 million. The situation

[2] *Potential for Motor Vehicle Fuel Economy Improvement: Report to the Congress*, U.S. Department of Transportation and U.S. Environmental Protection Agency, October 24, 1974.

[3] *Potential New Car Fuel Economy*, U.S. Federal Energy Administration, November 1974.

is perhaps best summed up by the following paragraph from page 25 of the Economics Panel Report:

> Since the investments shown in Table 10 amount to only a small fraction of the industry's total planned spending for plant and equipment, it is certainly possible that the motor vehicle industry will be able to implement fuel economy improvements without encountering significant financial problems. However, it must be recognized that individual firms could have problems in raising investment funds (for any purpose) if sales were to decline and remain low for a protracted period. Investment problems would be most severe for the weaker members of the industry, particularly American Motors and Chrysler. Still, if long term sales meet the forecasts of modest growth, it is likely that fuel economy related investments can be funded as substitutes for, rather than as additions to, the capital spending projects contemplated before the energy crisis, especially in place of expenditures intended to expand production of larger cars.

The question of first cost was also addressed by the above-mentioned Economics Panel Report. It concluded that:

> Consumers will generally experience savings on fuel and maintenance expenditures which more than offset the increase in car prices due to the fuel economy improvements.

In fact, the Economics Panel Report has estimated the net dollar savings that the purchaser of a more fuel efficient car could expect to achieve over the 10-year life of the car, for several fuel economy improvement scenarios. These figures are reproduced below for the case closest to that proposed in this bill. (See Table 4 in the Economics Panel Report.)

ESTIMATED 1980 IMPACTS OF FUEL ECONOMY IMPROVEMENTS UNDER SCENARIO C (43 PERCENT IMPROVEMENT OVER 1974)

Type	Increase in initial price (per car)	Present value of fuel savings	Present value of maintenance savings	Net savings
Subcompact	$242	$335	$213	$306
Compact	249	688	308	747
Intermediate	249	937	308	966
Standard	296	1,397	389	1,490
Luxury	296	1,465	389	1,558

C. OTHER ISSUES

The Economics Panel Report also addressed several other questions that were raised during Committee consideration of fuel economy legislation:

1. What will be the effect of fuel economy standards on automobile sales?

> The effect of the potential fuel economy improvements would likely be to increase sales to levels slightly above the basic trend, or at worst leave the trend essentially unchanged.

It is *not* expected that industry sales will decline because of mandated fuel economy improvements, based on cost estimates used in this Report. (From page 1 of the Economics Panel Report).

2. What will be the effect of such standards on employment?

There is no evidence to suggest that improvements in fuel economy of automobiles would have a significant long-term [negative] effect on employment in the auto industry because of the favorable sales effects noted above. (From page 32 of the Economics Panel Report).

3. What will be the effect of such standards on U.S. foreign trade?

. . . Two foreign trade consequences of U.S. automobile fuel economy improvements are identifiable. First, there would be reductions in U.S. oil imports that could dramatically alter the U.S. balance of trade and provide further funds for domestic investment and consumption. Secondly, fuel economy improvements in U.S. autos could improve their competitive position relative to foreign imports and thereby bring a further reduction in U.S. imports. (From page 32 of the Economics Panel Report.)

D. IS THE FUEL ECONOMY GOAL FOR MODEL YEAR 1985 REASONABLE?

Dr. Sorrel Wildhorn of the Rand Corporation stated in a written submission to the committee this past fall:

Our work indicates that a 50 percent improvement in average new car fuel economy by 1980, over the 1974 figure of 14 miles per gallon appears feasible.

After 1980, much higher new car fuel economy appears feasible, if new technology is pursued vigorously, and R. & D. is successful. For example, *fuel economy standards over 30 miles per gallon might be possible by 1985.* (Emphasis added.)

Setting a 1985 goal provides a necessary focus for industry efforts, but it is also recognized that any fuel economy standard for 1985 must be somewhat speculative at this point. The reported bill takes this into account by authorizing the Secretary of Transportation, with Congressional consent, to adjust the 1985 goal as late as 1982. This schedule provides adequate time for further study of the 28 mile per gallon figure, and a Federal task force to study this question is already functioning under the direction of the DOT.

E. HOW DOES THE EMISSION OF SULFATES AND SULFURIC ACID MIST BY CATALYTIC CONVERTER-EQUIPPED CARS AFFECT THE FEASIBILITY OF THE PROPOSED 1980 AND 1985 FUEL ECONOMY GOALS?

If catalytic converters cannot be used for emission control, fuel economy could be adversely affected.

This past January an EPA report disclosed that 1975 model cars equipped with oxidation catalysts emit sulfuric acid mist. The problem arises from the oxidation of SO_2, formed during the combustion process, to SO_3, which then mixes with water vapor in the exhaust to form a fine sulfuric acid aerosol (H_2SO_4). The sulfur necessary to begin this chemical chain is naturally present in trace amounts in gasoline.

The January report was the stated basis for EPA Administrator Train's decision on March 5 to grant a further 1-year suspension of the statutory hydrocarbon and carbon monoxide emission standards and to recommend to the Congress a further 5-year delay before achieving full statutory standards.

This decision has been called into question by the California Air Resources Board which, on March 18, rejected the EPA analysis and imposed more stringent 1977 model year emission standards than the EPA had recommended. It has also been sharply questioned in a private study released jointly on April 24 by Energy and Environment Analysis of Arlington, Virginia, and by Avram Company of Falls Church, Virginia. Energy and Environmental Analysis is headed by Dr. Robert S. Sansom, former Assistant Administrator of EPA, and Avram Company is headed by Dr. Steven G. Miller, a former EPA scientist. Their study concluded that EPA's January report:

Significantly overestimated sulfate exposure levels resulting from automobiles equipped with oxidation catalysts.

and that:

There is no scientific evidence to support the predicted health risks in the EPA risk/benefit analysis . . .

It goes on to further state that:

If further work determines that automotive sulfates could play a role in causing air pollution damages, there are a variety of control strategies that can substantially reduce catalyst sulfate emission without jeopardizing further progress toward Clean Air Act emission standards.

These control strategies fall into two categories: (a) technology-based options which would reduce sulfate emissions through changes in vehicle design parameters (e.g., catalyst reformulation, use of sulfur traps), and (b) methods for limiting sulfate emissions by reducing the sulfur content of the unleaded gasoline pool (e.g., gasoline desulfurization, selective blending of gasoline components).

On April 3, 1975, EPA released a second set of estimates on the likely sulfuric acid problem resulting from catalyst-equipped cars. This revised EPA analysis, which does not yet represent EPA's official position, lowered the anticipated exposures to between 10 and 60 percent of those estimated by the earlier EPA report. EPA hopes to resolve any uncertainties within the next few months.

The upshot is that while catalytic converters probably will be used in the future, a small element of uncertainty does exist. A preclusion of catalysts could affect the fuel economy improvements achievable under some of the more stringent emission standard scenarios. Adjustment of both the 1980 and 1985 fuel economy goals is provided to accommodate any unforeseen technical difficulties.

F. WHAT WILL BE THE IMPACT OF FUEL ECONOMY STANDARDS ON THE AVAILABILITY OF LARGE CARS REQUIRED BECAUSE OF FAMILY SIZE OR FOR TOWING PURPOSES?

Figures obtained from the Recreational Vehicle Industry Association indicate that there will be approximately 2 million travel trailers (homes-on-wheels) and 1.2 million camping trailers (fold-down types) in the hands of the American public in 1976. There are also 3.2 million families in the United States of 7 or more persons. If reasonable assumptions are made about yearly growth in the number of trailers, auto fleet turnover rates, etc., a conservative estimate of the towing and large family demand for big cars is something under 1 million per year over the next few years. Even if the most drastic sales mix shifts necessary to meet the 1980 goal occur, there will still be at least 1 million full size and luxury cars produced, clearly a sufficient number to meet the demand. Special problems could arise in the 1980's if the automakers insist on sticking solely to the internal combustion engine to meet the 1985 goal. However, diesel towing packages could be an answer to this problem, with no sacrifice in fuel economy. Also, light duty trucks, which are not subject to the 1980 or 1985 goals could meet a significant portion of the towing demand.

G. IS THERE NEED FOR A STRONG FEDERAL ROLE IN AUTOMOTIVE RESEARCH AND DEVELOPMENT?

Based upon studies by the Advisory Committee of the AAPS (Alternative Automotive Power Systems) Program, the Atomic Energy Commission (now the Energy Research and Development Administration), the FEA, and the MIT Energy Laboratory, the answer is clear. As the FEA said in its November 6, 1974 report entitled The Federal Government Role in Automotive Research and Development.

> . . . the integration of the national objectives of energy efficiency, alternatives to petroleum, and minimum environmental impact into a coherent long-term program in R. & D. requires perspectives and responsibilities well beyond those of the private automobile companies, whose objectives are rooted in the marketplace.

The MIT report, entitled The Role for Federal R. & D. on Alternative Automotive Power Systems, and also released this past November, evaluated auto industry programs to develop alternative engines. It concludes that while these programs are substantial, they:

> . . . are concentrated on systems which will probably be able to meet the legislated emission standards, be attractive to automobile consumers, and not introduce any significant new elements of risk into the industry's dealings with the regulatory process.

It further concludes that while new automotive developments may hold promise of long term contributions to pollution abatement and fuel savings, there is clearly:

> . . . a divergence of industry and public interests.

This divergence is reflected in the fact that automobile company investments into alternative powerplant R. & D. have been steadily decreasing since 1970. For example, Ford Motor Company spent $32 million for this purpose in 1973, and only $19 million in 1975.

The automobile companies themselves admit that there is a need for Federal funding in this area. Fred Secrest, executive vice president of Ford Motor Company, stated in the Committee hearings in March:

> We are spending all of the money we can raise on R. & D. for alternative engines. I have no objection to a government research program . . . I would support it, yes.

It therefore seems clear that a properly funded and carefully executed Federal R. & D. program can contribute significantly to the attainment of the fuel economy goals of title I of this bill, as well as to the attainment of other long term national goals. It would provide assurance that all reasonable automotive technologies will be explored, while providing the technical data necessary for developing long term regulatory and other policies. It would also introduce a more orderly approach to the development of advanced automotive technology, replacing today's more haphazard approach.

Given the need for a strong Federal role in automotive R. & D., what is an appropriate level at which to fund it? Dr. David Ragone, Dean of the University of Michigan Engineering School, and head of the Advisory Committee to AAPS, in a recent letter to Dr. Russell Peterson, Chairman of CEQ, called for an immediate expansion of the AAPS budget to:

> . . . $30 or 40 million or more if it can be effectively administered.

He further stated that

> . . . the Committee believes that a program expanding to an annual level of $100 million is both desirable and possible within the next 3 or 4 years.

Dixy Lee Ray, past Chairman of the Atomic Energy Commission, in a report for President Nixon entitled the Nation's Energy Future, estimated that funding for advanced propulsion systems should be $53 million in FY 1975 and a total of $300 million for FY's 1975 through 1979.

The FEA report also calls for greatly expanded Federal expenditures in the area of automotive R. & D. It states that:

> Some simple estimates suggest that in order to generate the necessary new (automotive) technology, a national R. & D. investment on the order of $150 million per year for the next 25 years or so will be required. Private industry is (prior to the current economic squeeze) investing on the order of one-third of this amount.

Finally, the MIT report concludes that:

> . . . a two to five-fold increase above current alternative powerplant funding—to between $15 million and $35 million annually—would be required.

The funding levels adopted in the bill approved by the Committee represent a middle ground between the dollar amounts recommended above, and should be sufficient to achieve the goals of the R. & D. program.

Following are very brief descriptions of several alternatives to the conventional internal combustion, spark-ignition engine (ICE):

(*a*) *Wankel spark-ignition engine.*—The Wankel is an alternative spark-ignition engine employing a triangular rotor in a single combustion chamber shaped like a fat figure-8. It is being developed primarily for its potential manufacturing cost reduction, arising from its lightness, and few moving parts. Because its operating characteristics are similar to the conventional ICE, it will require similar emission controls.

(*b*) *Stratified charge engine.*—This engine concept is not new, but has recently been developed by Honda into an engine with low hydrocarbon and carbon monoxide emissions, moderate nitrogen oxide emissions, and equivalent fuel economy to the ICE. It is a modification of a conventional spark-ignition engine in which a fuel-rich mixture in a small prechamber is ignited, which then ensures good ignition of a lean mixture in the main chamber. This two-stage process permits engine operation at very lean overall air-fuel ratios, which is conducive to low emissions, good fuel economy, and reduced sensitivity to fuel octane numbers.

(*c*) *Diesel engine.*—Diesel engines differ from the gasoline ICE in their method of combusting the fuel. In the ICE, the air-fuel mixture is ignited by a spark at compression ratios of 8 or 9 to 1. In the diesel, however, the air charge is compressed at a ratio on the order of 20 to 1, which generates high temperature. Fuel is ignited as it is injected into this hot compressed air. Thus, diesel engines are referred to as compression-ignited engines.

Since the fuel can be fully burned with excess air, hydrocarbon and carbon monoxide emissions are low. Engine fuel economy is as good or better than any other potential automotive engine.

Problems associated with diesel-powered automobiles include reduced performance, cold starting difficulties, noise, smoke, odor, and difficulty in reducing nitrogen oxide emissions.

(*d*) *Gas turbine engine.*—The gas turbine engine operates by drawing air from the atmosphere through a compressor into a burner where heating by combustion with the fuel occurs, and then expanding the hot high pressure gases in a turbine. These processes occur continuously, in contrast to the intermittent operation of spark-ignition and diesel engines.

Its potential advantages include good control of emissions, ability to burn a wide range of fuels, and reduced maintenance costs. The major problem areas are fuel economy and high manufacturing costs.

(*e*) *Rankine cycle engine.*—The Rankine cycle engine is an external combustion engine. Fuel is burned with atmospheric pressure air in a boiler to evaporate and heat the working fluid (water or an organic fluid) to high pressure and temperature. The fluid is expanded to supply work to the shaft, then condensed and recirculated to the boiler.

The Rankine cycle engine's clear advantage over the ICE is its much lower emissions. It also has excellent fuel versatility. Potential

disadvantages include higher cost due to larger size and weight, more components, and greater complexity, and uncertain fuel economy.

(*f*) *Stirling cycle engine.*—Stirling engines are external combustion, closed-cycle piston-type engines that employ heat exchange with a gaseous internal working fluid, usually hydrogen or helium.

Its potential advantages appear to be excellent performance characteristics, excellent fuel versatility, fuel economy at least equal to and perhaps better than any other contender including diesels, low engine noise and vibration, long service life, and very low emissions. Major problem areas include heat exchanger and seal design, higher cost due to greater complexity and increased weight compared with the ICE, and potentially higher maintenance costs.

(*g*) *Battery-powered electric vehicle.*—This concept is as old as the automobile industry itself. Electrically driven battery-powered vehicles provide freedom from emissions and high energy conversion losses at the vehicle, although these problems are transferred to the location of the electrical generating plant. Current vehicles suffer from high cost, limited range and performance, and have found only limited applications to date. Advancement of the electric car has especial attraction in conserving scarce petroleum because such cars could utilize coal, uranium, or other domestic fuels for generating electricity.

(*h*) *Hybrid engine.*—The hybrid concept recognizes that the average car is significantly overpowered to provide for rapid acceleration, hill climbing, etc. The hybrid attempts to achieve the same driveability characteristics by coupling a small ICE with an energy-storage device (e.g., a battery or a flywheel). In principle, this combination allows the ICE to operate at constant speed and optimum conditions at all times. Hybrid systems built to date have been complex and heavy, with disappointingly high emissions and fuel consumption.

Legislative History

Fuel economy legislation had its genesis in the 93rd Congress, when the Arab oil embargo focused attention on energy conservation.

On February 28, 1973, Senator Tunney introduced S. 1055, the "Automotive Research and Development Act of 1973." The Committee held 3 days of hearings on this bill in May 1973. On May 30 Senator Hollings introduced S. 1903, the "Motor Vehicle Fuel Economy Act." Hearings on S. 1055 and S. 1903 were held during 3 days in June 1973.

On August 1, 1973 the Senate Committee on Interior and Insular Affairs held hearings on S. 2176, the "National Fuels and Energy Conservation Act of 1973." This bill was reported by that Committee on September 27, 1973, and referred jointly to the Committees on Commerce and Public Works.

Subsequently, the Commerce Committee considered energy conservation legislation at several executive sessions held during October and November. S. 1055 was revised and introduced as Amendment No. 637 to S. 2176 on October 30, 1973. S. 1903 was rewritten as an amendment to the Motor Vehicle Information and Cost Savings Act and incorporated into S. 2176 as a substitute for the provisions of section

9 as reported by the Interior and Insular Affairs Committee. On November 13, 1973, S. 2176, as amended, was ordered reported favorably by the Commerce Committee.

This legislation was subsequently passed by the Senate on December 10, 1973, but died for failure of comparable action by the House of Representatives.

During the final months of the 93d Congress, and at the request of Senator Magnuson, an updated working paper on automobile fuel economy was prepared by the Commerce Committee staff. No bill was introduced, but hearings on the working paper were held on November 26 and December 10 and 11, 1973.

In the 94th Congress, the Committee has had before it five bills and one amendment dealing with automobile fuel economy and research and development. These are S. 307, the "Motor Vehicle Fuel Economy Act," introduced by Senator Domenici on January 21, 1975; S. 499, the "Automotive Transport Research and Development Act of 1975," introduced by Senator Tunney on January 30, 1975; S. 633, the "Automobile Fuel Economy Act of 1975," introduced by Senator Hollings on February 7, 1975; S. 654, the "National Energy Conservation Fuel Economy Performance Standards Act of 1975," introduced by Senator Nelson on February 11, 1975; Amendment No. 15 to S. 633, proposing a system of penalties and rebates for purchasers of new cars, introduced by Senator Hollings on February 19, 1975; and S. 783, the "Ground Propulsion Systems Research, Development and Demonstration Act of 1975," introduced by Senator Domenici on February 20, 1975.

Hearings on these five bills and one amendment were held on March 12 and 13, 1975, bringing to 11 the number of days of hearings on fuel economy legislation conducted by the Commerce Committee in the 93d and 94th Congresses. On May 8, 1975, the Committee began consideration of the Automobile Fuel Economy Working Paper, which was designed to bring together in a single document the legislation before the Committee. On May 15, 1975 the Committee ordered original legislation reported favorably which incorporated the language of the Working Paper, as amended.

Section-by-Section Analysis

As reported by the Committee on Commerce, the bill contains two titles. The first adds a new title V to the Motor Vehicle Information and Cost Savings Act and deals with automobile and light duty truck fuel economy, and the second title adds a new title VI to the Motor Vehicle Information and Cost Savings Act and deals with automobile research and development.

TITLE I—AUTOMOBILE FUEL ECONOMY

Section 101 contains the short title of title I which is the "Automobile Fuel Economy Act of 1975".

Section 102 amends the Motor Vehicle Information and Cost Savings Act by adding a new title V. The following analysis refers to those new sections added to the Motor Vehicle Information and Cost Savings Act.

Section 501. Short Title. This title may be cited as the "Automobile Fuel Economy Act".

Section 502. Declaration of Policy. This section contains a statement of findings and a statement of purpose relating to the need for automobile and light duty truck fuel economy performance standards.

Subsection (a) contains findings that the automobile is the single largest user of petroleum and that the amount of fuel used for automobile and light duty truck transportation could be substantially reduced through feasible improvements in automobile and light duty truck fuel economy.

Subsection (b) declares the purpose of the Congress in this title to be to ensure that manufacturers improve fuel economy without reducing standards for safety, damageability, or environmental quality, and that the industrywide fuel economy average for new automobiles increase by 50-percent by model year 1980 over 1974 models, and by 100-percent by model year 1985.

Section 503. Definitions. This section contains definitions used throughout the bill.

In the definition of "average fuel economy" the term "affiliates" includes all the operating divisions of an automobile or light duty truck manufacturer. For example, the Chevrolet and Cadillac Divisions of the General Motors Corporation are considered to be affiliates of GM, and automobiles manufactured by the Chevrolet, Cadillac, and other GM Divisions must be included in the determination of GM's average fuel economy. The term affiliates also includes any person directly or indirectly controlled by, or under common control or ownership with, a manufacturer.

Of particular interest is the definition of "fuel economy". As defined, the term means the average number of miles traveled in representative driving conditions per gallon of fuel consumed, as determined by the Administrator of the Environmental Protection Agency in accordance with the procedures mandated by section 206 of the Clean Air Act. Section 206 of that Act is the authority under which new automobiles are tested for compliance with the Clean Air Act exhaust emission standards. The purpose in requiring that automobile fuel economy be measured in conjunction with emission tests is twofold. First, a separate testing procedure within the Department of Transportation would be a waste of Government resources. A report of the General Accounting Office strongly recommended that fuel economy testing authority be left within the Environmental Protection Agency for this reason.

The second purpose is to ensure that new automobiles and new light duty trucks can simultaneously meet both the emission standards required by the Clean Air Act and the fuel economy requirements of this Act.

The fuel economy improvement goals set in section 504 are based upon the representative driving cycles used by the Environmental Protection Agency to determine automobile fuel economies for model year 1975. In the event that these driving cycles are changed in the future, it is the intent of this legislation that the numerical miles per gallon values of the fuel economy standards be revised to reflect a stringency (in terms of percentage improvement from the baseline) that is the same as the bill requires in terms of the present test procedures.

It should also be noted that the definitions of "automobile" and "light duty truck" do not include vehicles manufactured for export, and exported, from the United States.

Section 504. Minimum Fuel Economy Performance Standards. This section establishes the program for mandatory fuel economy performance standards for new automobiles and new light duty trucks.

Subsection (a) requires that the Secretary establish standards for minimum average fuel economy for new automobiles and light duty trucks manufactured in model years 1977 through 1985. The standards for automobiles are to be established not later than July 1, 1975, and the standards for light duty trucks are to be established not later than August 1, 1975.

Standards are to be equally applicable to each manufacturer of new automobiles or light duty trucks, as appropriate, manufactured or imported into the United States, and shall be set for each model year at levels which the Secretary determines are the maximum feasible levels. At a minimum, the standards for automobiles are to result in an industrywide average fuel economy level increase of 50 percent by model year 1980 over model year 1974 models. This corresponds to an industrywide fuel economy average in model year 1980 of at least 21 miles per gallon. In addition. the automobile standards are to result in an industrywide average fuel economy level which represents at least a 100-percent improvement (to 28 miles per gallon) by model year 1985 over the 1974 average. The automobile standards to be promulgated shall result in steady progress towards meeting the industrywide averages required for model years 1980 and 1985. Provision is made for adjustment of the 1980 and 1985 goals by the Secretary, with the consent of Congress (see section 504(b)). Light duty trucks would not be subject to the 50- and 100-percent improvement goals.

It is not the intent of this requirement that each automobile manufactured be required to achieve at least 21 miles per gallon in model year 1980, and at least 28 miles per gallon in model year 1985. As the requirement is only that the industrywide average be at such levels, the national minimum standards will be somewhat below these levels as those manufacturers whose fuel economy average exceeds 21 miles per gallon in model year 1980 and 28 miles per gallon in model year 1985 will draw the averages up. While it is speculative at this point to project what the minimum average fuel economy performance level might be for model year 1980, and these judgments must be ultimately made by the Secretary, it is clear that while the 1980 standard requires an improvement of the industry to at least 21 miles per gallon, the minimum standard will be less than that, presumably around 19.5 to 20 miles per gallon.

In establishing standards under this subsection, the Secretary is to take into account the effect on fuel economy of other federal standards applicable to the automobile or light duty truck, as appropriate.

Subsection (a) also authorizes the Secretary to exempt any automobile manufacturer whose production numbers 10,000 or less if such automobiles are sold predominantly for commercial use. The exemption may be granted only if it will not significantly detract from the requirement that a 50 percent improvement can be obtained by model year 1980 and a 100 percent improvement by model year 1985. Further, an exemption can only be granted if it is necessary to avoid an unreasonable burden on the manufacturer. Whenever an exemption is granted, the Secretary would be required to establish alternative standards which represent the maximum feasible levels of fuel economy for such manufacturer. The purpose of the exemption is to provide relief for the special purpose manufacturers, like the Checkers Motor Corporation, which manufacture automobiles for a rather narrow purpose, and are limited in their flexibility to improve fuel economy.

This subsection also requires that the Secretary review, not later than January 1 of each calendar year, the standards promulgated pursuant to this subsection and publish the results in the Federal Register.

Finally, this subsection requires that any standard set and any amendment thereto be established not later than eighteen months prior to the beginning of the model year to which the standard is to apply, except that the standard applicable to model year 1977 may be promulgated not later than 12 months prior to the beginning of that model year. Subsection (b) authorizes the Secretary to modify, amend, or revise the average fuel economy performance standards established under subsection (a).

In the course of preparing the review of requirements to be published on January 1, 1977, or prior thereto, the Secretary would be authorized to alter the 1980 goal if the Secretary determined that such a goal cannot reasonably be attained, or could reasonably be made more stringent. The modified goal shall be determined in accordance with the informal rulemaking procedures of Section 553 of Title V, United States Code. In order to avoid inordinate delay in making these kinds of determinations, they are not subject to judicial review. Rather, the Secretary is to transmit to the Congress notice of the establishment of the modified goal. Congress would then have sixty days in which either House of Congress could disapprove of the modified goal. The Secretary could resubmit any such notice to the Congress, but not later than June 30, 1977.

A similar procedure is established for reassessing the 1985 goal. The first such reassessment would occur in the report required of the Secretary on January 1, 1979. Similar procedures to those governing the Secretary's modification of the 1980 goal would apply here as well.

The Secretary would also be authorized to modify the 1985 goal in the review required on January 1, 1982. It is the intention that any modifications made as a result of the 1982 review be based solely on factual circumstances which may have changed since the review authorized in 1979 was completed. It is extremely important that the automobile manufacturers have a stable target to shoot for with respect to automobile fuel economy requirements. This is an obvious necessity for planning purposes. Thus, it is not the intention of the Committee that the 1982 review be used as a device for the wholesale revision of the 1985 goal.

In determining whether the 1980 and 1985 fuel economy goals may be reasonably attained or reasonably be made more stringent under sections 504(b) (2) and (3) of this Act, the Secretary shall assess the

benefits and costs associated with retention or adjustment of the 1980 and 1985 goals. In making this assessment, the Secretary shall consider:

(a) the impact on fuel economy of new Federal requirements for emission controls on automobiles, safety and damageability standards for automobiles, and any other new Federal requirements which may impact on automobile fuel economy.

(b) the feasibility of the 1980 and 1985 goals in light of new technological improvements or constraints.

(c) the potential impact, positive or negative, on employment in the automobile and related industries.

(d) the extent to which events subsequent to passage of this Act increase or decrease the economic benefits to be gained from reducing gasoline consumption.

(e) the extent to which events subsequent to passage of this Act increase or decrease U.S. dependence on foreign sources of fuel.

(f) any other factors which may increase or decrease the economic and social costs associated with meeting the 1980 and 1985 fuel economy goals.

Subsection (c) requires each manufacturer to comply with the applicable minimum average fuel economy on the basis of determining the average fuel economy of all automobiles or light duty trucks, as appropriate, produced and imported for sale in the United States by the manufacturer in a given model year. Individual automobiles and light duty trucks would not be required to meet the standards.

Subsection (d) authorizes judicial review in accordance with chapter 7 of title 5, United States Code. Procedures are established for additional submissions, judgment by the court, and review by the Supreme Court. The subsection also states that the remedies provided herein shall be in addition to and not in lieu of any other remedies provided by law. For example, nothing in this subsection is to be construed as interfering with the enforcement of warranties on performance of automobiles, light duty trucks, and associated components.

Section 505. Duties and Powers of the Secretary and the Administrator. This section specifies the authority of the Secretary of Transportation and the Administrator of the Environmental Protection Agency in administering the provisions of this Act.

Subsection (a) provides general authority to the Secretary and the Administrator to hold hearings, take testimony, sit and act, administer oaths, subpoena authority, and other necessary authority. The Secretary and Administrator would have access to documentary evidence and would be authorized to require reports and answers in writing to specific questions relating to their functions under this title.

The district courts would have the authority to enforce subpoenas and orders of the Administrator and the Secretary issued under this subsection.

Subsection (b) requires manufacturers of automobiles and light duty trucks to establish and maintain records, make reports, conduct tests, and provide such items and information as the Secretary or the Administrator may reasonably require. Manufacturers would be required to permit agents of the Secretary or the Administrator to inspect automobiles and light duty trucks and appropriate books, papers, records, and documents.

The district courts would have the authority to require manufacturers to comply with any inspection requirements.

Subsection (c) contains the public information disclosure provisions relating to information collected by the Secretary or Administrator under this title. The Secretary and the Administrator would be required to release all information they possess except if the information relates to a trade secret or other confidential information referred to in section 1905 of title 18, United States Code, which if disclosed, would result in significant competitive damage. Such information shall be disclosed in any proceeding under this title and shall be disclosed to any duly authorized committee of Congress as well.

Finally, subsection (d) authorizes the Secretary and the Administrator to direct attorneys in their employ to appear and represent them.

Section 506. Labeling and Advertising. This section contains specific provisions relating to the manner in which fuel economy information is to be included in the labeling and advertising of manufacturers and dealers.

Subsection (a) requires that beginning no later than ninety days after enactment of this title, each manufacturer is required to affix, and each dealer is required to maintain, a sticker on each new automobile and light duty truck indicating the fuel economy which a prospective purchaser can expect, and the estimated annual fuel costs associated with the operation of the automobile or light duty truck. The form and content of each sticker is to be determined by the Secretary under an informal rulemaking procedure, after consultation with the Federal Trade Commission and the Administrator of the Environmental Protection Agency.

Subsection (b) disclaims any intent that the posting of fuel economy information is to constitute a warranty of fuel economy performance. Nothing contained in this section is to be deemed a prohibition against a manufacturer or a dealer representing that the information required to be disclosed is based on representative driving conditions as determined by the Administrator of the Environmental Protection Agency.

Subsection (c) requires the Federal Trade Commission (by rule pursuant to section 553 of title 5, United States Code) to direct that certain categories and types of new automobiles and light duty truck advertising contain the fuel economy information required on the sticker under subsection (a) of this section. The FTC is to identify the categories and types of such advertising and to determine the extent to which the same information is required in the advertising (form and content requirements must necessarily be different for an automobile sticker and a TV commercial). This subsection does not repeal, and is not intended by the Committee to be duplicative of, any authority that the Federal Trade Commission may have with respect to false or deceptive advertising or with respect to prescribing rules which define with specificity acts or practices which are unfair or deceptive acts or practices in or affecting commerce, under the Federal Trade Commission Act, as amended.

Subsection (d) conforms the Automobile Information Disclosure Act (15 U.S.C. 1232) to the requirements of this title.

Section 507. Prohibited Conduct. This section contains prohibitions against specific conduct relating to this Act.

Section 508. Civil Penalty. This section describes the civil penalties that may be assessed by the Secretary for violations of the Act. Subsection (a) authorizes the Secretary to assess a civil penalty of not less than $50 and not more than $100 for each automobile or light duty truck produced or imported for sale in the United States by a manufacturer for each mile per gallon by which the average fuel economy of the automobiles or light duty trucks, as appropriate, manufactured and imported during the model year by the manufacturer falls short of the applicable standard. Fractional miles per gallon deviations shall be penalized on the basis of the $50 to $100 civil penalty multiplied by the fraction. For example, if a manufacturer falls short of an applicable fuel economy performance standard by 0.5 miles per gallon, the manufacturer shall be liable for a civil penalty of between $25 and $50 for each vehicle subject to the penalty.

Any person who is determined by the Secretary, following a proceeding in accordance with section 554 of title 5, United States Code, to have violated any provision of section 507, other than a violation relating to fuel economy requirements, shall be liable for a civil penalty of not more than $10,000 for each violation. Each day of a continuing violation shall be considered a separate violation.

Subsection (b) provides for waivers, modifications or remittance of the civil penalties assessed under subsection (a).

First, the Secretary is authorized to waive, modify, or remit, with or without conditions, any civil penalty to the extent necessary to prevent insolvency or bankruptcy of the manufacturer, when acts of God, fires, or strikes prevent the attainment of any applicable standard, or to the extent necessary to prevent substantial lessening of competition within the automobile or light duty truck industries.

The Secretary is also authorized to waive or modify any civil penalty in any situation where the manufacturer demonstrates to the Secretary that if the penalty were paid in full the manufacturer would lack sufficient capital and the ability to attract sufficient capital to manufacture automobiles or light duty trucks, as appropriate, that would achieve the fuel economy standards required under section 504(a) at competitive prices. Before being granted any such waiver, the manufacturer would be required to submit a plan acceptable to the Secretary specifying the manner in which the standards promulgated under section 504 (a) will be complied with. Thus, the burden would be on the manufacturer of demonstrating to the Secretary that the manufacturer would have insufficient capital and lack the ability to attract sufficient capital to manufacture competitively priced vehicles complying with the fuel economy standards contained in this Act.

While there is no sanction against any manufacturer failing to comply with the plan he submits to the Secretary, the Secretary would be expected to consider the extent to which good faith efforts were made to comply with the plan in assessing any future penalties that may arise from non-compliance with any applicable standard under section 504(a) subsequent to the grant of a waiver and the submission of a plan. Of course, modifications or waivers of the penalty will be granted only to the extent necessary to gain the capital necessary to

produce automobiles or light duty trucks, as appropriate, at competitive prices in conformance with the fuel economy standards of section 504(a).

In addition, the Secretary is authorized to waive or modify any civil penalty assessed for non-compliance with the fuel economy standards to the extent that a manufacturer cannot comply because of an unanticipated retail sales mix of different classes of automobiles or light duty trucks, as appropriate, which was clearly beyond the control of the manufacturer and which adversely affected his ability to comply with any such standard. Again, the civil penalties would be waived or modified only to the extent that the non-compliance was attributable to the unanticipated retail sales mix. Also, before any waiver or modification can take place, the manufacturer against whom the penalty was assessed must satisfactorily demonstrate to the Secretary that all technically feasible improvements relating to fuel economy have been made, and that a good faith effort, through advertising, pricing practices, availability of models, or other means available to the manufacturer, to insure that the retail sales mix necessary to meet the standard occurs, has in fact been made.

It is inherent in the goals for fuel economy improvement established under section 504(a), and the standards that will result from them, that manufacturers indeed can influence consumer preference for the types of automobiles and light duty trucks they produce or import. Nonetheless, it is recognized that matters unanticipated by the Secretary, and beyond the control of the manufacturer, can occur, such as an unexpected drop in gasoline prices which could make it more difficult to sell the most fuel efficient vehicles. For these reasons, this provision for waiving or modifying the civil penalties has been provided.

Subsection (c) authorizes a manufacturer who has failed to meet a standard and paid the appropriate civil penalty, to recoup all or a portion of the penalty in any of the next five model years of manufacture. In order to qualify, the manufacturer must exceed the fuel economy standard applicable in that model year. The total amount refunded must not exceed the total amount of the assessed civil penalty in the first instance.

Subsection (d) describes the procedure for reviewing any civil penalty assessed by the Administrator. A notice of appeal is to be made within thirty days after the date of assessment. Determinations of the Secretary are to be set aside if found to be unsupported by substantial evidence. A procedure is also provided for the Attorney General to recover the amount of the assessment if any person fails to pay.

Section 509. Relationship to State Law. In order to avoid any manufacturer being required to comply with differing State and local regulations with respect to automobile or light-duty truck fuel economy, this section prohibits States or political subdivisions thereof from adopting or enforcing standards which are inconsistent with the standards contained in this Act.

Section 510. Reports. This section contains requirements with respect to two reports required of the Secretary.

Subsection (a) requires that the Secretary prepare and submit to the appropriate committees of the Congress and the President a comprehensive report setting forth findings, conclusions, and recommen-

dations with respect to the 55-mile-per-hour national maximum speed limit established by Act of Congress. Compliance is to be examined, and the gasoline savings that would have resulted if compliance occurred. In addition, the study is to examine a requirement that manufacturers install speed limiting devices on all new automobiles and new light duty trucks.

Subsection (b) requires a report of the Secretary containing findings, conclusions, and recommendations with respect to a requirement that each new automobile and light-duty truck be equipped with a fuel flow instrument reading directly in miles per gallon.

Section 511. Authorization of Appropriations. This section authorizes appropriations to the Secretary not to exceed $1 million for Fiscal Year 1976, $750,000 for the transitional quarter ending of September 30, 1976, and not to exceed $3 million for the Fiscal Years ending September 30, 1977, and September 30, 1978.

TITLE II—AUTOMOBILE RESEARCH AND DEVELOPMENT

Section 201 contains the short title of title II, which is the "Automotive Transport Research and Development Act of 1975."

Section 202 amends the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) as amended by Title I by adding at the end thereof a new title VI as follows:

Section 601. Short Title. The short title of the new title VI is the "Automotive Transport Research and Development Act."

Section 602. Findings and Purposes. Subsection (a) asserts Congressional findings that, on average, existing automobiles fall short of meeting the long-term goals of the Nation with respect to safety, environmental protection, and energy conservation, and that with additional research and development several alternatives to existing automobiles have the potential to be mass produced at reasonable cost with less environmental degradation and fuel consumption than existing automobiles, while conforming with the requirements of Federal law.

This subsection also states that insufficient resources are being devoted to automotive R. & D. both by the Federal Government and by the private sector, and that an expanded Federal R. & D. effort is needed to complement and increase private efforts and to encourage automobile manufacturers to consider advanced automobiles and automobile components as alternatives to existing automobiles and components.

Finally, this subsection states that because of the urgency of energy, safety and environmental problems, advanced automobiles and components should be developed, tested, and prepared for manufacture within the shortest amount of time.

Subsection (b) declares that the purposes of this title are to make contracts and grants and to support through obligation guarantees, research and development projects leading to production prototypes of advanced automobiles within four years from the date of enactment of this Act, or within the shortest practicable time consistent with appropriate research and development techniques, and that such automobiles be certified in accordance with the provisions of section 609(c) as

prototypes which are likely to meet the nation's long-term goals with respect to fuel economy, safety, environmental protection and other objectives.

It is also declared to be the purpose of the Congress to preserve, enhance, and facilitate competition in research, development and production of existing and alternative automobiles and automobile components.

Section 603. Definitions. This section contains the various definitions used throughout Title VI.

The definition of "advanced automobile" is particularly important, as this term defines the type of automobile to be developed under this title. As defined, the term means a personal use vehicle propelled by fuel which is energy efficient, safe, damage-resistant, and environmentally sound. The advanced automobile is further defined to require the least total amount of energy to be consumed with respect to its manufacture, operation, and disposal, and should represent a substantial improvement over existing automobiles with respect to such factors. At the same time the advanced automobile must be capable of being mass produced at the lowest possible cost and must operate safely and with sufficient performance.

In addition, the advanced automobile must be capable of "intermodal adaptability" to the extent practicable. For example, it should be capable of transport on railroads to facilitate service like the "Autotrain" service now in effect between Washington, D.C., and Miami. Other possibilities include the capability, under certain driving conditions, of being operated in a "hands-off" manner by an onboard computer which assumes the functions of the driver, thus minimizing the threat of accidents and eliminating driver variations which lead to the inefficient use of automobiles.

Finally, the definition of an advanced automobile includes the requirement that, at a minimum, such automobile can be produced, distributed, operated and disposed of in compliance with any other requirement of Federal law.

Section 604. Duties of the Secretary. This section requires the Secretary to ensure the development of one or more production prototypes of an advanced automobile within four years after the date of enactment, or in the shortest practicable time consistent with appropriate research and development techniques. The advanced automobile is also to utilize, to the maximum extent practicable, non-petroleum based fuels in order to conserve scarce petroleum resources.

In furtherance of the purposes of title VI, the Secretary is further required to (i) make contracts and grants for research and development in accordance with section 607; (ii) make obligation guarantees for research and development in accordance with section 608; (iii) establish, conduct, and accelerate research and development programs within the Department of Transportation; and (iv) test or direct the testing of production prototype vehicles, and secure certification as advanced automobiles for those vehicles which meet the requirements of section 609.

The Secretary would also be required to collect, analyze, and disseminate to developers information, data, and materials relevant to the development of advanced automobiles, and to prepare and submit the studies described in section 612.

Finally, this section requires that the Secretary evaluate any reasonable new or improved technology, a description of which is submitted in writing, which could lead or contribute to the development of an advanced automobile.

Section 605. Coordination Between the Secretary and the Administrator. This section sets out the manner in which the authority of the Secretary under this title is meshed with that of the Administrator of the Energy Research and Development Administration, who also has responsibilities with respect to researching and developing new automotive power plants and fuels.

It precludes the Secretary from duplicating research and development activity by the Administrator of ERDA under the Federal Nonnuclear Research and Development Act of 1974 (42 U.S.C. 5901), or under any other Federal law. While this subsection obviously places limitations on the Secretary, it is not designed to prevent the Secretary from sponsoring research and development which is similar in nature to that sponsored by ERDA, but which nonetheless presents a different means of achieving the same end. For example, if ERDA is conducting research and development with respect to a continuously variable transmission, nothing contained in this subsection should preclude the Secretary of Transportation from sponsoring research on a different type of continuously variable transmission which is designed to achieve the same end. Healthy competition among agencies can help achieve goals like those espoused in this title in a more expeditious fashion. While it is the obvious intent of this subsection to prevent a waste of funds through duplication of effort, it is at the same time the intent of this section not to hamstring the Secretary's automotive R & D efforts.

This section also requires the Secretary to consult and coordinate with the Administrator of ERDA in order that the duties and responsibilities of both officers may be performed in a manner which best accomplishes the purposes of this title.

Finally, the Administrator of ERDA is directed to utilize the authority possessed by him in a manner which will assist the Secretary in performing his duties as described in Section 604.

Section 606. Powers of the Secretary. This section specifies the powers of the Secretary in addition to those specifically mentioned in other provisions of this title. Included is the authority to appoint such attorneys, employees, agents, consultants and other personnel as the Secretary deems necessary, and to define the duties of such personnel and determine their compensation and other benefits. Of course, the Secretary and any personnel responsible to the Secretary under this title will be fully subject to the Civil Service and Classification laws, as specified in title 5 of the United States Code.

The Secretary would also be authorized to procure temporary and intermittent services under the provisions of section 3109 of title 5, United States Code, but at rates not to exceed $150 per day for qualified experts.

The Secretary is authorized to obtain the assistance of any other component of the Executive Branch upon written request, on a reimbursable basis or otherwise, which identifies the assistance necessary to carry out the Secretaries duties under this title. Included would be the transfer of personnel with their consent and without prejudice to their position and rating.

The Secretary is also authorized to enter into such contracts, leases, cooperative agreements or other transactions as may be necessary to conduct his duties under this title with any government agency or any person without regard to the requirements of section 3709 of the Revised Statutes (41 U.S.C. 5).

Finally, this section authorizes the Secretary to receive and dispose of any property or other assets or to accept gifts or donation of any property or services for the purposes of this title.

Section 607. Contracts and Grants. This section gives specific direction to the Secretary in administering the grants program required by section 604.

Subsection (a) contains general direction specifying that the Secretary shall provide funds by grant or contract to initiate, continue, supplement, and maintain research and development programs or activities which appear likely to lead to production prototypes of an energy efficient, low-polluting automobile or automobiles. Such grants or contracts could be made with any Federal agency, laboratory, university, non-profit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual.

Subsection (b) requires the Secretary to establish procedures for consultation with representatives of science, industry, or such other groups as may have expertise in the areas of automobile research, development, or technology. The Secretary would be authorized to establish advisory or review panels for the purpose of making recommendations to the Secretary on applications for funding.

Subsection (c) specifies that contracts and grants made under this section shall be in accordance with rules and regulations of the Secretary. Each application for funding is to be made in writing in such form and with such content and other submissions as the Secretary shall require.

Section 608. Obligation Guarantees. This section gives specific direction to the Secretary in administering the obligation guarantees program required by section 604.

Subsection (a) authorizes the Secretary to guarantee and to make commitments to guarantee the payment of interest and principal balance of obligations to initiate, continue, supplement, and maintain research and development which appears likely to lead to production prototypes of an energy efficient, low-polluting automobile or automobiles. Applications for obligation guarantees are to be made to the Secretary in a manner that the Secretary shall prescribe to protect reasonably the interests of the United States. Each guarantee or commitment to guarantee will inure to the benefit of the holder of the obligation to which such guarantee or commitment applies. The Secretary may approve any modification of a guarantee or a commitment to guarantee, including interest rates, payment, security, or other terms, if the Secretary finds that the modification is equitable and will not prejudice the interests of the United States. Any such modifications must be consented to by the holder of the obligation.

Guarantees and commitments to guarantee may be made to any Federal agency, laboratory, university, non-profit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual.

Subsection (b) requires that no obligation shall be guaranteed under subsection (a) unless the Secretary finds that no other reasonable means of financing or re-financing is available to the applicant. The purpose of this exception is to exclude those applicants from the benefits of obligation guarantees which have capital available or can reasonably obtain such capital for the purposes of financing projects under this title. Presumably, this would exclude those large corporations which have capital at their disposal or which would have no undue difficulty in obtaining such capital. If capital is unavailable to a party to conduct research and to develop a technology which appears likely to lead to an energy efficient, safe, low-polluting automobile, or if such capital is not available under reasonable terms, then the Secretary should make the guarantee or commitment to guarantee the obligation as long as all other requirements are met. Clearly, the Secretary must weigh a number of factors in determining whether an applicant does not have reasonable means of financing or re-financing available to him, including the promise of the technology, the interest rates or other conditions required by lending institutions, and the ability of the party to pay such interest rates or comply with such terms.

Subsection (c) requires the Secretary to charge and collect such amounts as may be reasonable for the investigation of applications, the appraisal of properties offered as securities, or for the issuance of commitments. The Secretary is to set a premium charge of not more than 1-percent per annum on any obligation guaranteed pursuant to this section.

Subsection (d) prohibits any guarantee or commitment to guarantee from being terminated, canceled, or otherwise revoked, except in accordance with such reasonable terms and conditions as the Secretary shall prescribe. Any guarantee or commitment to guarantee shall be conclusive evidence that the obligation is in compliance with the provisions of this section and that the obligation has been approved and is legal as principal, interest, or other terms. Such a guarantee or commitment shall be valid and incontestable in the hands of the holder, as of the date that the Secretary agreed to the contract of guarantee or commitment to guarantee. Any such guarantee or commitment shall not be valid or incontestable in cases of fraud, duress, mutual mistake of fact, or material misrepresentation involving the holder of such guarantee.

Subsection (e) specifies the method by which payment of interest and principal will be made in the case of default by the obligor. If such default continues for 60 days, the holder of the obligation shall have the right to demand payment by the Secretary. The Secretary is to make payment within 45 days, unless the Secretary finds that there was no default or that the default has been remedied.

If the Secretary makes a payment on a defaulted loan, the Secretary shall have all the rights specified in the guarantee or related agreements with respect to any security held by the Secretary with respect to the guarantee. The Secretary would have the authority to complete, maintain, operate, lease, sell or otherwise dispose of any property acquired pursuant to such guarantee or related agreements.

If default occurs under any guarantee or commitment to guarantee under this section, the Secretary would be required to notify the Attorney General, who in turn would be required to take such action against the obligor, or any other party liable to the extent necessary to protect the interests of the United States.

Subsection (f) authorizes appropriations not to exceed $175 million to pay the interest on and the principal balance of any obligation guaranteed by the Secretary as to which the obligor has defaulted.

Section 609. Testing and Certification.—This section establishes the procedure by which the Administrator of the Environmental Protection Agency and the Secretary of Transportation shall test production prototypes for compliance with this title, and the means by which the Low Emission Vehicle Certification Board shall certify such automobiles for procurement by the Federal Government.

Subsection (a) requires the Administrator of the Environmental Protection Agency to test or cause to be tested each production prototype of an automobile assisted under this title or referred to the EPA Administrator by the Secretary for the purpose of determining whether such automobile complies with the requirements of any law administered by the EPA. The Administrator is to submit all test data to the Low Emission Vehicle Certification Board for the purposes of certification in accordance with subsection (c) of this section.

Subsection (b) requires the Secretary to test or cause to be tested production prototypes of automobiles which the Secretary or a developer may submit to the Low Emission Vehicle Certification Board for certification under subsection (c). It is intended that any vehicle submitted for this purpose by a developer should possess characteristics which give it a reasonable chance to achieve such certification. The purpose of such test is to determine whether each such automobile complies with any requirements or statutes administered by the Secretary and any other statute enacted by Congress and applicable to automobiles. The results of such tests are to be submitted to the Low Emission Vehicle Certification Board for the purpose of certification in accordance with subsection (c).

Subsection (c) requires the Low Emission Vehicle Certification Board established pursuant to section 212 of the Clean Air Act to issue or deny certification as an energy efficient, safe, low-polluting automobile as defined in section 603 of this title. Certification is important as it forms the basis for procurement by the Federal Government under Section 613.

Section 610. Patents.—This section specifies the manner in which inventions developed with support under this title are to be made available for commercial application. With the exception of subsection (k), the language is very similar to that contained in the Federal Nonnuclear Research and Development Act of 1974, and the Senate-passed "National Fuels and Energy Conservation Act of 1973."

Subsection (a) establishes the general policy that, whenever an invention is made or conceived under a contract under this title, title to such invention shall vest in the United States. As defined in subsection (m), a "contract" means any manner in which assistance is given under the terms of this title and an "invention" is any invention or discovery, whether patented or unpatented.

Subsection (b) requires that each person with which the Secretary enters into a contract under this title shall furnish to the Secretary a report with respect to any invention, discovery, improvement or innovation made with assistance under this title.

Subsection (c) authorizes the Secretary to waive all or any part of the right of the United States with respect to any invention made with assistance under this title if the Secretary determines that the interest of the United States and of the general public would best be served by such a waiver.

Subsection (c) further specifies the goals of any such waiver. They include:

(1) making the benefits of the research and development program available to the public in the shortest practicable time;

(2) promoting the commercial utilization of inventions; and

(3) encouraging participation by private parties in the research, and development program, and fostering competition and preventing undue market concentration or other situations that are inconsistent with the antitrust laws.

Subsection (d) specifies the considerations to be taken into account when the Secretary determines whether a waiver of the interest of the United States in an invention is to be waived at the time a contract is entered into. The subsection includes eleven considerations which are designed to protect the interests of the United States in the invention, while at the same time making sure that the research and development will be conducted and the fruits of the research and development utilized.

Subsection (e) provides for waiver of the interests of the United States in an invention at a time subsequent to entering into a contract with respect to research and development under this title. In addition to the relevant considerations under subsection (d), this subsection also requires the Secretary to consider the extent to which a waiver is a reasonable and necessary incentive to call forth private risk capital for the development and commercialization of the invention and the extent to which the plans, intentions and ability of the contract are likely to result in the expeditious commercialization of the invention.

Subsection (f) permits, but does not require, the Secretary to reserve to a contractor a revocable, or irrevocable, non-exclusive, paidup license and rights to patents in foreign countries with respect to inventions made under this title, subject to enumerated safeguards.

Subsection (g) authorizes the Secretary to grant exclusive or partially exclusive licenses to any invention made under aid or given under this title under very narrowly defined circumstances. To summarize, exclusive licenses may be granted only when necessary to bring the invention to practical or commercial fruition.

Subsection (h) authorizes the Secretary to specify such terms and conditions as the Secretary may determine to be appropriate to any waiver of the rights of the United States or the grant of any exclusive or partially exclusive license. The subsection enumerates the types of terms and conditions that may be specified.

Subsection (i) requires the Secretary to give notice in the Federal Register advising the public of the hearing authorized under subsection (h) when the Secretary requires the granting of a nonexclusive or partially exclusive license, or terminates a waiver or a nonexclusive or partially exclusive license.

Subsection (j) requires the Secretary to give consideration and appropriate weight to small businesses in granting waiver of rights of the United States to inventions made under this title.

Subsection (k) authorizes the Secretary to certify to appropriate district courts that any right under any patent of the United States is reasonably necessary for the expeditious commercial application of technology developed under this title. The court would then be authorized to order the owner or exclusive licensee of the patent to grant licenses on reasonable and nondiscriminatory terms and conditions as the court shall determine.

Subsection (l) authorizes the Secretary to take all necessary and appropriate steps to protect any invention or discovery to which the United States holds title.

Subsection (m) defines the various terms used in this section.

Section 611. Records, Audit and Examination.—This section establishes the procedures by which the Secretary and the Comptroller General will maintain surveillance over the manner in which assistance is utilized under this title.

Subsection (a) requires each recipient of financial assistance or guarantees under this title to keep such records as the Secretary shall prescribe with respect to such assistance or guarantees, including records which fully disclose the amount and disposition of the proceeds of such assistance, the total cost of the project or undertaking, the amount of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

Subsection (b) gives the Secretary and the Comptroller General access to any books, documents, papers, and records of such receipts which may be related or pertinent to assistance referred to under this section, for the purposes of audit and examination.

Section 612. Reports.—This section requires the Secretary to submit on or before July 1 of each year a report to Congress of activities under this title. The report is to include (i) an account of the state of automobile research and development in the United States; (ii) the number and amount of grants made and obligations guaranteed; (iii) the progress made in developing production prototypes of advanced automobiles within the shortest practicable time after the date of enactment of this title; and (iv) suggestions for improvements in advanced automobile research and development, including recommendations for legislation.

Section 613. Government Procurement.—This section requires the Administrator of General Services to consult periodically with the Low Emission Vehicle Certification Board to determine when production prototypes of an advanced automobile are likely to be available. After a production prototype has been certified, under section 609(c) of this title, as an advanced automobile, the Low Emission Vehicle Certification Board, in conjunction with the Administrator of General Services, shall prescribe such regulations as are necessary to require all Federal agencies to procure and to use such advanced automobiles to the maximum extent feasible. The Administrator of General Services shall, with the assistance of the Board, provide technical specifi-

cations and other information with respect to automobiles certified under this title as advanced automobiles and, together with all other appropriate officers of the United States, take all steps which are necessary or appropriate to comply with and to implement such regulations with respect to all Federally owned motor vehicles, by the earliest practicable date.

Section 614. Relationship to Antitrust Laws.—Subsection (a) states that nothing in this title shall grant to any person immunity from civil or criminal liability, or create any defenses to actions, under the antitrust laws.

Subsection (b) defines the term "antitrust laws."

Section 615. Authorization For Appropriation.—This section authorizes appropriations for purposes other than the obligation guarantee provisions of section 608. It provides for appropriations to the Secretary not to exceed $55 million for the fiscal year ending June 30, 1976, $20 million for the transitional quarter ending September 30, 1976, and not to exceed $100 million for the fiscal year ending September 30, 1977.

Changes in Existing Law

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

Every manufacturer of new automobiles distributed in commerce shall, prior to the delivery of any new automobile to any dealer, or at or prior to the introduction date of new models delivered to a dealer prior to such introduction date, securely affix to the windshield, or side window of such automobile a label on which such manufacturer shall endorse clearly, distinctly and legibly true and correct entries [disclosing the following information concerning] *disclosing the information required by the Automobile Fuel Economy Act together with the following information concerning* such automobile.

Estimated Costs

Pursuant to the requirements of section 252 of the Legislative Reorganization Act of 1970, the Committee estimates that the cost of the proposed legislation will be as follows:

Title	Fiscal year— 1976	Transitional quarter	1977	1978
I. Automotive fuel economy	$1,000,000	750,000	3,000,000	3,000,000
II. Automotive R. & D	55,000,000	20,000,000	100,000,000	
Total	56,000,000	20,750,000	103,000,000	3,000,000

No provision is made in the above cost estimates for any portion of the funds authorized to be appropriated by title II to cover the costs to the Federal Government of defaults on obligations guaranteed pursuant to section 608 of the Motor Vehicle Information and Cost Savings Act as amended by section 202.

Outstanding indebtedness guaranteed under section 608 is limited to $175 million. As the default rate has historically been low with this type of obligation guarantee program, appropriations for this purpose should be small.

Record Votes in Committee

1. On the motion by Senator Griffin to substitute a voluntary fuel economy program for the mandatory standards in the bill:

Yeas (3):	Nays (9):
Mr. Beall	Mr. Buckley
Mr. Griffin	Mr. Ford
Mr. Stevens	Mr. Hart
	Mr. Hollings
	Mr. Magnuson
	Mr. Moss
	Mr. Pastore
	Mr. Stevenson
	Mr. Tunney

2. On the motion by Senator Hart to allow modification of the model year 1980 fuel economy goal, and to allow a review in 1982 of the 1985 goal:

Yeas (8):	Nays (1):
Mr. Ford	Mr. Stevenson
Mr. Griffin	
Mr. Hart	
Mr. Hollings	
Mr. Magnuson	
Mr. Moss	
Mr. Pastore	
Mr. Tunney	

3. On the motion by Senator Hollings to delete the rebates provision:

Yeas (4):	Nays (7):
Mr. Hollings	Mr. Beall
Mr. Magnuson	Mr. Ford
Mr. Moss	Mr. Griffin
Mr. Tunney	Mr. Hart
	Mr. Inouye
	Mr. Long
	Mr. Stevens

4. On the motion by Senator Hollings to delete the rebates and penalties provisions:

Yeas (14):
Mr. Beall
Mr. Ford
Mr. Griffin
Mr. Hart
Mr. Hartke
Mr. Hollings
Mr. Inouye
Mr. Long
Mr. Magnuson
Mr. Moss
Mr. Pastore
Mr. Stevens
Mr. Stevenson
Mr. Tunney

Nays (0):

5. On the motion by Senator Griffin to require fuel economy standards for aircraft:

Yeas (2):
Mr. Beall
Mr. Griffin

Nays (7):
Mr. Cannon
Mr. Ford
Mr. Hart
Mr. Hollings
Mr. Magnuson
Mr. Moss
Mr. Tunney

6. On the motion to report the bill favorably:

Yeas (11):
Mr. Cannon
Mr. Ford
Mr. Hart
Mr. Hartke
Mr. Hollings
Mr. Long
Mr. Magnuson
Mr. Moss
Mr. Pastore
Mr. Stevenson
Mr. Tunney

Nays (5):
Mr. Beall
Mr. Buckley
Mr. Griffin
Mr. Inouye
Mr. Stevens

TEXT OF S. 1883, AS REPORTED

A BILL To conserve gasoline by directing the Secretary of Transportation to establish and enforce mandatory fuel economy performance standards for new automobiles and new light duty trucks, to establish a research and development program leading to advanced automobile prototypes, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AUTOMOBILE FUEL ECONOMY

SEC. 101. This title may be cited as the "Automobile Fuel Economy Act of 1975".

SEC. 102. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1801 et seq.) is amended by adding at the end thereof the following new title:

"TITLE V—FUEL ECONOMY

"SHORT TITLE

"SEC. 501. This title may be cited as the 'Automobile Fuel Economy Act'.

"DECLARATION OF POLICY

"SEC. 502. (a) FINDINGS.—The Congress finds that—

"(1) Automobiles are the single largest and most significant user of petroleum products.

"(2) The amount of fuel required for automobile and light duty truck transportation could be substantially reduced through technologically feasible improvements in automobile and light duty truck fuel economy.

"(b) PURPOSE.—It is therefore declared to be the purpose of the Congress in this title—

"(1) to assure, to the maximum extent practicable, that manufacturers of automobiles and light duty trucks reduce the amount of fuel consumed by new automobiles and light duty trucks per mile traveled without reducing standards for safety, damageability, or environmental quality; and

"(2) to increase the industrywide average fuel economy for new automobiles to achieve at least a 50-percent improvement in such average by model year 1980, and at least a 100-percent improvement in such average by model year 1985, over the model year 1974 industrywide average fuel economy level of 14 miles per gallon.

"DEFINITIONS

"SEC. 503. As used in this title, the term—

"(1) 'Administrator' means the Administrator of the Environmental Protection Agency;

"(2) 'automobile' means a four-wheeled vehicle propelled by fuel which is manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails, and which has as its primary intended function the transportation of not more than ten individuals. The term does not include any vehicle manufactured for export, and exported, from the United States;

"(3) 'average fuel economy' means an harmonic average of fuel economy weighted on the basis of automobiles manufactured, or light duty trucks manufactured, as appropriate. As used in this paragraph, 'harmonic average of fuel economy weighted on the basis of automobiles manufactured, or light duty trucks manufactured, as appropriate,' means the total number of automobiles or light duty trucks, as appropriate, manufactured for sale in the United States in a given model year by a manufacturer and its affiliates, divided by a sum of terms, each term of which is a fraction created by dividing the number of automobiles of a given

model type produced in a given model year by the fuel economy measured for each particular model type, as determined by the Administrator;

"(4) 'dealer' means any person engaged in the business of selling new automobiles or new light duty trucks, as appropriate, to purchasers who buy for purposes other than resale;

"(5) 'fuel' means gasoline and diesel oil;

"(6) 'fuel economy' refers to the average number of miles traveled in representative driving conditions by an automobile or light duty truck per gallon of fuel consumed, as determined by the Administrator in accordance with test procedures established by rule. Such procedures shall require that fuel economy tests be conducted in conjunction with emissions tests mandated by section 206 of the Clean Air Act, as amended (42 U.S.C. 1857f–5);

"(7) 'light duty truck' means any motor vehicle rated at 6,000 pounds gross vehicle weight or less which (A) is designed primarily for purposes of transportation of property including a derivative of such a vehicle, or (B) has special features modifying such vehicle for predominant offstreet or offhighway operation and use. The term does not include any vehicle manufactured for export, and exported, from the United States;

"(8) 'manufacturer' means a manufacturer or an importer of automobiles or light duty trucks;

"(9) 'manufactured' includes imported;

"(10) 'model type' means a particular class of automobile or light duty truck, as defined by the Secretary in close consultation with the Administrator; and

"(11) 'model year', with reference to any specific calendar year, means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year. If the manufacturer has no annual production period, the term 'model year' shall mean the calendar year.

"MINIMUM FUEL ECONOMY PERFORMANCE STANDARDS

"SEC. 504. (a) ESTABLISHMENT.—(1) Not later than July 1, 1975, the Secretary, in consultation with the Administrator and the Administrator of the Federal Energy Administration, shall establish, by rule pursuant to section 553 of title 5, United States Code, minimum average fuel economy performance standards for automobiles that are manufactured in each of the model years from 1977 through 1985. The standards, which shall be equally applicable to each manufacturer, shall be set for each such model year at a level which the Secretary determines is the maximum feasible such level and which is high enough to result, by model year 1980, in an industrywide average fuel economy level which represents at least a 50-percent improvement over the industrywide average fuel economy level for model year 1974. Such standards shall be set at a level which is high enough to result, by model year 1985, in an industrywide average fuel economy level which represents at least a 100-percent improvement over the industrywide average fuel economy for model year 1974. Such standards shall be designed in such a manner as to result in steady progress toward the achievement of such improvement goals for model years 1980 and 1985.

"(2) Not later than August 1, 1975, the Secretary, in consultation with the Administrator and the Administrator of the Federal Energy Administration, shall establish, by rule pursuant to section 553 of title 5, United States Code, minimum average fuel economy performance standards for light duty trucks that are manufactured in each of the model years from 1977 through 1985. The standards, which shall be equally applicable to each manufacturer, shall be set for each such model year at a level which the Secretary determines is the maximum feasible such level.

"(3) In establishing standards under this subsection the Secretary shall take into account the impact of other Federal standards applicable to automobiles and to light duty trucks, as appropriate.

"(4) The Secretary may, by rule promulgated pursuant to section 553 of title 5, United States Code, exempt from the requirements of standards promulgated under this subsection any manufacturer who manufactures not more than 10,000 automobiles per model year if (A) such automobiles are sold predominantly for commercial use; (B) such exemption will not significantly detract from the goals specified in paragraph (1) of this subsection; and (C) such exemption is necessary to avoid an unreasonable burden on such manufacturer. Whenever such an exemption is granted to a manufacturer, the Secretary shall simultaneously establish and promulgate for such manufacturer alternate standards which shall represent the maximum feasible level of fuel economy for such manufacturer for the term of such exemption.

"(5) The Secretary shall, not later than January 1 of each calendar year beginning in 1976, make a review of the standards promulgated pursuant to this subsection which are applicable to future model years. The Secretary shall publish the results of each such review in the Federal Register. The review required to be made by January 1, 1979 shall include a comprehensive analysis of the program required by this title. Such analysis shall include an assessment of the ability of the Nation to meet the industrywide average fuel economy requirement for 1985, as specified in paragraph (1) of this subsection, and any legislative recommendations the Secretary might have for improving the program required by this title.

"(6) Any average fuel economy performance standard promulgated under this subsection and any amendment thereto which would change the fuel economy required in a given model year, shall be promulgated at least 18 months prior to the beginning of the model year with respect to which such standard or amendment is applicable, except that the standard applicable to model year 1977 shall be promulgated at least 12 months prior to the beginning of such model year.

"(b) AMENDMENT AND MODIFICATION.—(1) The Secretary may, from time to time, upon the basis of new information, amend, modify, or revise any average fuel economy performance standard established under subsection (a) of this section. No such amendment, modification, or revision is authorized if it would reduce such a standard below the minimum level necessary to meet the improvement goals for model

years 1980 and 1985, as specified in subsection (a)(1) of this section, or as modified pursuant to paragraph (2) of this subsection.

"(2) If the Secretary finds—

"(A) in the course of the review required to be made by January 1, 1977 or prior thereto, that the improvement goal for model year 1980, as specified in subsection (a)(1) of this section; or

"(B) in the course of the review required to be made by January 1, 1979 or by January 1, 1982, that the improvement goal for model year 1985, as specified in subsection (a)(1) of this section;

cannot reasonably be attained or could reasonably be made more stringent, the Secretary is authorized to establish a modified goal at a level that represents the maximum feasible industrywide average fuel economy for model year 1980, or for model year 1985, as the case may be. Any such modified goal shall be established by rule pursuant to section 553 of title 5, United States Code, and shall not be subject to judicial review. A notice of the establishment of such a modified goal shall be promptly submitted to the Congress by the Secretary. Such a modified goal shall become effective and have the force and effect of law 60 days after the date of such submission, unless either House of Congress disapproves such modified goal by resolution of disapproval in accordance with section 1017 of Public Law 93-344 (31 U.S.C. 1407). If either House of Congress disapproves such modified goal, the Secretary may establish a new modified goal and submit a new notice or the Secretary may resubmit the same notice to the Congress, except that no such notice may be submitted—

"(i) later than June 30, 1977, with respect to the review required by January 1, 1977;

"(ii) later than June 30, 1979, with respect to the review required by January 1, 1979; and

"(iii) later than June 30, 1982, with respect to the review required by January 1, 1982.

"(c) COMPLIANCE.—Each manufacturer shall, after the date of enactment of this Act, comply with any applicable minimum average fuel economy performance standard. Compliance is to be determined by the Administrator, in accordance with test procedures to be established by the Administrator by rule pursuant to section 553 of title 5, United States Code. Nothing in this title shall be construed to require each individual automobile or light duty truck manufactured by a particular manufacturer to meet the applicable minimum average fuel economy performance standard; a manufacturer is in compliance if the average fuel economy of all automobiles or light duty trucks, as appropriate, manufactured by such manufacturer during a particular model year equals or exceeds such standard for such model year. The Administrator shall report the findings of compliance determinations to the Secretary.

"(d) JUDICIAL REVIEW.—(1) Any person who may be adversely affected by any rule promulgated under this section may, at any time prior to 60 days after such rule is promulgated, file a petition for judicial review of such rule, in the United States Court of Appeals for the District of Columbia or in the United States Court of Appeals for any circuit in which such person resides or maintains its principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of such court to the Secretary or the Administrator, as

the case may be. The Secretary or Administrator, as the case may be, shall thereupon cause to be filed in such court the record of the proceedings upon which the rule which is under review was based, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter.

"(2) If the petitioner applies to the court in a proceeding under paragraph (1) of this subsection for leave to make additional submissions, and shows to the satisfaction of the court that such additional submissions are material and that there were reasonable grounds for the failure to make such submissions in the administrative proceeding, the court may order the Secretary or the Administrator, as the case may be, to provide additional opportunity to make such submissions. The Secretary, or the Administrator, as the case may be, may modify or set aside the rule involved or make a new rule by reason of the additional submissions and shall file any such modified or new rule with the return of such additional submissions. The court shall thereafter review such new or modified rule.

"(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

"(4) Remedies under this subsection shall be in addition to, and not in lieu of, any other remedies provided by law.

"DUTIES AND POWERS OF THE SECRETARY AND THE ADMINISTRATOR

"SEC. 505. (a) GENERAL.—(1) For purposes of carrying out the provisions of this title, the Secretary or the Administrator, or their duly designated agents, may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary, the Administrator, or such agents deem advisable. The Secretary, the Administrator, or their duly designated agents, shall at all reasonable times have access to, and for the purpose of examination the right to copy, any documentary evidence of any person having materials or information relevant to any function of the Secretary or of the Administrator under this title. The Secretary or the Administrator is authorized to require, by general or special orders, any person to file, in such form as the Secretary or the Administrator may prescribe, reports or answers in writing on specific questions relating to any such function. Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary or the Administrator within such reasonable period as the Secretary or the Administrator may prescribe.

"(2) The district court of the United States for a judicial district in which an inquiry is carried on may, in the case of contumacy or refusal to obey a duly authorized subpena or order issued under paragraph (1) of this subsection, issue an order requiring compliance with such subpena or order. Any failure to obey such an order of the court may be punished by such court as a contempt thereof.

"(3) Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(b) INSPECTION.—(1) Each manufacturer shall establish and maintain such records, make such reports, conduct such tests, and provide such material and information as the Secretary or the Administrator may reasonably require to carry out their duties under this title and under any rules promulgated pursuant to this title. A manufacturer shall make all of such items and information available, in accordance with such reasonable rules as the Secretary or the Administrator may prescribe. Upon the request of a duly designated agent of the Secretary or of the Administrator, a manufacturer shall permit such agent to inspect finished automobiles or light duty trucks and appropriate books, papers, records, and documents.

"(2) The district court of the United States for a judicial district in which an inspection is carried out or requested may, if a manufacturer refuses to accede to any reasonable requirement or request issued or made under paragraph (1) of this subsection, issue an order requiring compliance with such requirement or request. Any failure to obey such an order of the court may be punished by such court as a contempt thereof.

"(c) PUBLIC DISCLOSURE OF INFORMATION.—The Secretary or the Administrator shall disclose information obtained under this title to the public, except that any information which contains or relates to a trade secret or other confidential information referred to in section 1905 of title 18, United States Code, which if disclosed would result in significant competitive damage, shall not be disclosed to the public (other than to officers or employees concerned with carrying out this title), unless such information is relevant to any proceeding under this title. Nothing in this subsection shall authorize the withholding of information by the Secretary or the Administrator, or any officer or employee under their control, from any duly authorized committee of the Congress.

"(d) REPRESENTATION.—Notwithstanding any other provision of law, the Secretary or the Administrator may direct their own attorneys to represent them in any civil action under or arising out of any provisions of this title.

"LABELING AND ADVERTISING

"SEC. 506. (a) STICKER.—Beginning no later than 90 days after the date of enactment of this title, each manufacturer shall cause to be affixed to, and each dealer shall cause to be maintained on each new automobile and new light duty truck, in a prominent place, a sticker indicating the fuel economy which a prospective purchaser can expect from such automobile or light duty truck, and the estimated average annual fuel costs associated with the operation of such automobile or light duty truck. The form and content of such sticker shall be established and promulgated by the Secretary, by rule pursuant to section 553 of title 5, United States Code, after consultation with the Federal Trade Commission, the Federal Energy Administration, and the Administrator.

"(b) DISCLAIMER.—Posting of the fuel economy information required by subsection (a) of this section shall not be construed to constitute, directly or indirectly, a warranty as to fuel economy performance. Nothing in this section shall be deemed to prohibit a manufacturer or dealer from representing orally or in writing that the information required to be disclosed by this section is based on representative driving conditions as determined by the Administrator.

"(c) ADVERTISING.—The Federal Trade Commission shall, by rule pursuant to section 553 of title 5, United States Code, identify the categories and types of advertisements for new automobiles and light duty trucks which it shall direct to contain the information which is required under subsection (a) of this section, to the extent prescribed by it.

"(d) CONFORMING AMENDMENT.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by striking out in the first paragraph 'disclosing the following information concerning' and inserting in lieu thereof 'disclosing the information required by the Automobile Fuel Economy Act together with the following information concerning'.

"PROHIBITED CONDUCT

"SEC. 507. The following conduct is prohibited:

"(1) the failure to provide information as required in accordance with this title;

"(2) the failure to permit inspection pursuant to this title;

"(3) the failure to comply with any labeling and advertising requirement mandated or authorized under section 506 of this title; and

"(4) the failure to comply with any other provision of this title or any standard, rule, regulation, or order issued pursuant to this title.

"CIVIL PENALTY

"SEC. 508. (a) DETERMINATION OF PENALTY.—(1) Any manufacturer who is determined by the Secretary, after a proceeding (not to exceed 180 days in length) in accordance with section 554 of title 5, United States Code, to have failed to comply with section 504(c) of this title shall be liable to the United States for a civil penalty of not less than $50 and not more than $100 for each mile per gallon by which the average fuel economy of the automobiles or light duty trucks, as appropriate, manufactured by such manufacturer during the same model year falls short of the applicable minimum fuel economy performance standard established under section 504(a) of this title, multiplied by the total number of automobiles or light duty trucks, as appropriate, manufactured by such manufacturer during such model year. Fractional miles per gallon deviations from an applicable standard shall be penalized on the basis of the $50 to $100 civil penalty multiplied by such fraction.

"(2) Any person who is determined by the Secretary, after a proceeding in accordance with section 554 of title 5, United States Code, to have violated a provision of section 507 of this title, other than paragraph (4) thereof, shall be liable to the United States for a civil pen-

alty of not more than $10,000 for each violation; each day of a continuing violation is a separate violation.

"(3) The amount of a civil penalty under paragraphs (1) or (2) of this subsection shall be assessed by the Secretary by written notice.

"(b) WAIVER OF PENALTY.—(1) Except as provided in paragraphs (2) and (3) of this subsection, the Secretary may waive, modify, or remit, with or without conditions, a civil penalty for which a manufacturer is determined to be liable under subsection (a) of this section only (A) to the extent necessary to prevent the insolvency or bankruptcy of the manufacturer involved; (B) to the extent appropriate to reflect the impact of any acts of God, fires, or strikes on the failure to attain an applicable standard; or (C) to the extent necessary to prevent the substantial lessening of competition within the automobile or light duty truck industries.

"(2) The Secretary may waive or modify a civil penalty for which a manufacturer is determined to be liable under subsection (a)(1) of this section if the manufacturer involved demonstrates to the Secretary that if the penalty were paid the manufacturer would lack sufficient capital and the ability to attract sufficient capital to manufacture automobiles or light duty trucks, as appropriate, in compliance with minimum average fuel economy performance standards and at competitive prices. Before granting any such waiver or modification the Secretary shall examine and approve a compliance plan which shall be submitted by the manufacturer seeking such waiver or modification. A compliance plan shall specify the manner in which applicable average fuel economy performance standards will be complied with in the future.

"(3) The Secretary may waive or modify a civil penalty determined under subsection (a)(1) of this section if, and to the extent that the manufacturer involved demonstrates to the Secretary that its failure to comply with an applicable average fuel economy performance standard resulted from an unanticipated retail sales mix among different classes of automobiles or light duty trucks, as appropriate, manufactured by it and that such mix was beyond the control of the manufacturer: *Provided*, That the Secretary may not waive or modify any such penalty unless the manufacturer involved demonstrates to the Secretary that it included in its automobiles or light duty trucks, as appropriate, all of the improvements to increase fuel economy that were technologically feasible, and that it made a good faith effort to produce or stimulate a retail sales mix that would have resulted in compliance with the applicable standards, through advertising, pricing practices, availability of models, and any other means.

"(c) RECOUPMENT OF PENALTY.—A manufacturer who pays a civil penalty as a result of a determination under subsection (a)(1) of this section may recoup from the United States all or part of the amount paid if, in any of the next five model years, such manufacturer exceeds the minimum average fuel economy performance standard applicable in that model year. The amount recouped shall be calculated by multiplying (1) the number of miles per gallon (or fraction thereof) by which such manufacturer exceeds the applicable average fuel economy performance standard, multiplied by (2) the total number of automobiles or light duty trucks, as appropriate, manufactured by such

manufacturer during such model year and by (3) the per mile rate at which the civil penalty was assessed against such manufacturer. The total amount recouped by a manufacturer shall not exceed the amount of any such civil penalty paid by such manufacturer.

"(d) JUDICIAL REVIEW.—(1) Any interested person may obtain review, in the appropriate court of appeals of the United States, of a civil penalty assessed under this section. Such review may be obtained by filing a notice of appeal in such court within 30 days after the date of the order assessing such a penalty and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which failure to comply or violation was found and such penalty imposed. The determinations of the Secretary shall be set aside if found to be unsupported by substantial evidence, pursuant to section 706(2)(E) of title 5, United States Code.

"(2) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Attorney General shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

"RELATIONSHIP TO STATE LAW

"SEC. 509. After the effective date of any rule that is promulgated under this title relating to minimum average fuel economy performance standards, or to fuel economy labeling or advertising, no State or political subdivision thereof may adopt or enforce any standards relating to such matters which are inconsistent therewith.

"REPORTS

"SEC. 510. (a) Within 180 days after the date of enactment of this title, the Secretary shall prepare and submit to the appropriate committees of the Congress and the President a comprehensive report setting forth findings and containing conclusions and recommendations with respect to the 55 miles per hour national maximum speed limit established by Act of Congress. Such report shall include, but not be limited to, an examination of the extent of compliance with such speed limit by region, State, and geographic area; the amount of gasoline that probably would have been saved if all motorists had complied with such speed limit; and the feasibility, practicality, safety, and associated energy savings of a requirement that manufacturers install on all new automobiles, new light duty trucks, and other new motor vehicles devices that would make it impossible to operate such vehicles at speeds in excess of such national maximum speed limit for any sustained period of time.

"(b) Within 180 days after the date of enactment of this title, the Secretary shall prepare and submit to the Congress and the President a comprehensive report setting forth findings and containing conclusions and recommendations with respect to a requirement that each

new automobile and light duty truck be equipped with a fuel flow instrument reading directly in miles per gallon and the most feasible means of equipping used automobiles and used light duty trucks with such instruments. Such report shall include, but not be limited to, an examination of the effectiveness of such instruments in promoting voluntary reductions in fuel consumption, the cost of such instruments, means of encouraging automobile and light duty truck purchasers to voluntarily purchase automobiles or light duty trucks, as appropriate, equipped with such instruments, and any other factor bearing on the cost and effectiveness of such instruments and their use.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 511. There are authorized to be appropriated to the Secretary for carrying out the provisions of this title funds not to exceed $1,000,000 for the fiscal year ending June 30, 1976; not to exceed $750,000 for the transitional quarter ending September 30, 1976; not to exceed $3,000,000 for the fiscal year ending September 30, 1977; and not to exceed $3,000,000 for the fiscal year ending September 30, 1978.".

TITLE II—RESEARCH AND DEVELOPMENT

SEC. 201. This title may be cited as the "Automotive Transport Research and Development Act of 1975".

SEC. 202. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), as amended by title I of this Act, is further amended by adding at the end thereof the following new title:

"TITLE VI—RESEARCH AND DEVELOPMENT

"SHORT TITLE

"SEC. 601. This title may be cited as the 'Automotive Transport Research and Development Act'.

"FINDINGS AND PURPOSES

"SEC. 602. (a) FINDINGS.—The Congress finds that—

"(1) Existing automobiles, on the average, fall short of meeting the long-term goals of the Nation with respect to safety, environmental protection, and energy conservation.

"(2) Advanced alternatives to existing automobiles could, with sufficient research and development effort, meet these long-term goals, and have the potential to be mass produced at reasonable cost. Such advanced automobiles could be operated with significantly less adverse environmental impact and fuel consumption than existing automobiles, while meeting all of the other requirements of Federal law.

"(3) Insufficient resources are being devoted, both by the Federal Government and by the private sector, to research and development of advanced automobiles and automobile components.

"(4) An expanded research and development effort by the Federal Government into advanced automobiles and automobile components would complement and stimulate corresponding efforts by the private

sector and would encourage automobile manufacturers to consider seriously the substitution of such advanced alternatives for existing automobiles and automobile components.

"(5) The Nation's energy, safety, and environmental problems are urgent, and therefore advanced automobiles and automobile components should be developed, tested, and prepared for manufacture within the shortest practicable time.

"(b) PURPOSES.—It is therefore the purpose of the Congress in this title—

"(1) to make contracts and grants for, and support through obligation guarantees, research and development leading to production prototypes of advanced automobiles within 4 years from the date of enactment of this title, or within the shortest practicable time consistent with appropriate research and development techniques, and to secure the certification after testing of those prototypes which are likely to meet the Nation's long-term goals with respect to fuel economy, safety, environmental protection, and other objectives; and

"(2) to preserve, enhance, and facilitate competition in research, development, and production of existing and alternative automobiles and automobile components.

"DEFINITIONS

"SEC. 603. As used in this title, the term—

"(1) 'Administrator' means the Administrator of the Energy Research and Development Administration;

"(2) 'advanced automobile' means a personal use transportation vehicle propelled by fuel, which is energy-efficient, safe, damage-resistant, and environmentally sound and which—

"(A) requires, consistent with environmental requirements, the least total amount of energy to be consumed with respect to its fabrication, operation, and disposal, and represents a substantial improvement over existing automobiles with respect to such factors;

"(B) can be mass produced at the lowest possible cost consistent with the requirements of this title;

"(C) operates safely and with sufficient performance with respect to acceleration, cold weather starting, cruising speed, and other performance factors;

"(D) to the extent practicable, is capable of intermodal adaptability; and

"(E) at a minimum, can be produced, distributed, operated, and disposed of in compliance with any requirement of Federal law, including, but not limited to, requirements with respect to fuel economy, exhaust emissions, noise control, safety, and damage resistance;

"(3) 'damage resistance' refers to the ability of an automobile to withstand physical damage when involved in an accident;

"(4) 'developer' means any person engaged in whole or in part in research or other efforts directed toward the development of production prototypes of an advanced automobile or automobiles;

"(5) 'fuel' means any energy source capable of propelling an automobile;

"(6) 'fuel economy' refers to the average number of miles traveled in representative driving conditions by an automobile per gallon of fuel consumed, as determined by the Administrator of the Environmental Protection Agency, in accordance with test procedures established by rule. Such procedures shall require that fuel economy tests be conducted in conjunction with emissions tests mandated by section 206 of the Clean Air Act (42 U.S.C. 1857f–5);

"(7) 'intermodal adaptability' refers to any characteristic of an automobile which enables it to be operated or carried, or which facilitates such operation or carriage, by or on an alternate mode or other system of transportation;

"(8) 'production prototype' means an automobile which is in its final stage of development and which is capable of being placed into production, for sale at retail, in quantities exceeding 10,000 automobiles per year;

"(9) 'reliability' refers to the average time and distance over which normal automobile operation can be expected without repair or replacement of parts, and to the ease of diagnosis and repair of an automobile and of its systems and parts which fail during use or which are damaged in an accident;

"(10) 'safety' refers to the performance of an automobile or automobile equipment in such a manner that the public is protected against unreasonable risk or accident and against unreasonable risk of death or bodily injury in case of accident;

"(11) 'Secretary' means the Secretary of Transportation;

"(12) 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States; and

"(13) 'Vehicle Certification Board' means the Low-Emission Vehicle Certification Board established pursuant to section 212 of the Clean Air Act (42 U.S.C. 1857f–6e).

"DUTIES OF THE SECRETARY

"SEC. 604. The Secretary shall establish, within the Department of Transportation, a program to insure the development of one or more production prototypes of an advanced automobile or advanced automobiles within 4 years after the date of enactment of this title, or within the shortest practical time consistent with appropriate research and development techniques and which utilizes, to the maximum extent practicable, nonpetroleum base fuels. In furtherance of the purposes of this title, and in order to stimulate such development of an advanced automobile by private interests, the Secretary shall—

"(1) make contracts and grants for research and development efforts which are likely to lead or contribute to the development of an advanced automobile or advanced automobiles in accordance with the provisions of section 607 of this title;

"(2) make obligation guarantees for research and development efforts which show promise of leading or contributing to the development of an advanced automobile or advanced automobiles, in accordance with the provisions of section 608 of this title;

"(3) establish and conduct new projects and accelerate existing projects within the Department of Transportation which may contribute to the development of production prototypes of an advanced automobile or advanced automobiles;

"(4) test or direct the testing of production prototypes, and secure certification as advanced automobiles for those which meet the applicable requirements, in accordance with section 609 of this title;

"(5) collect, analyze, and disseminate to developers information, data, and materials that may be relevant to the development of an advanced automobile or advanced automobiles;

"(6) prepare and submit studies, as required under section 612 of this title; and

"(7) evaluate any reasonable new or improved technology, a description of which is submitted to the Secretary in writing, which could lead or contribute to the development of an advanced automobile.

"COORDINATION BETWEEN THE SECRETARY AND THE ADMINISTRATOR

"SEC. 605. The Secretary shall not make contracts, grants or obligation guarantees for, or conduct or accelerate, any research and development which may duplicate, in whole or in substantial part, any project (1) that has been sponsored by the Administrator, under the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901) or any other Federal law; or (2) that will be or is likely to be so sponsored within the reasonably foreseeable future. The Secretary and the Administrator shall consult and cooperate with respect to their respective duties and responsibilities, and they shall coordinate their respective activities, in areas of shared concern, to the extent practicable, in order that the duties and responsibilities of both officers may be performed in a way that will lead to the accomplishment of the policy of this title in the shortest time and in the most efficient and cost-effective manner possible. The Administrator shall assist the Secretary to the extent of the lawful authority of, and funds appropriated to the Administrator, in the carrying out of any duties described in section 604 of this title.

"POWERS OF THE SECRETARY

"SEC. 606. In addition to the powers specifically enumerated in any other provision of this title, the Secretary is authorized to—

"(1) appoint such attorneys, employees, agents, consultants, and other personnel as the Secretary deems necessary, define the duties of such personnel, determine the amount of compensation and other benefits for the services of such personnel and pay them accordingly;

"(2) procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code, but at rates not to exceed $150 a day for qualified experts;

"(3) obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise, identifying the assistance the Secretary deems necessary to carry out any duty under this title. Such assistance shall include, but is not limited to, the transfer of personnel with their consent and without prejudice to their position and rating;

"(4) enter into, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of duties under this title, with any government agency or any person; and

"(5) purchase, lease, or otherwise acquire, improve, use, or deal in and with any property; sell, mortgage, lease, exchange, or otherwise dispose of any property or other assets; and accept gifts or donations of any property or services in aid of any purpose of this title.

"CONTRACTS AND GRANTS

"SEC. 607. (a) GENERAL.—(1) The Secretary shall provide funds, by contract and grant, to initiate, continue, supplement, and maintain research and development programs or activities which, in the Secretary's judgment, appear likely to lead or contribute to the development, in production prototype form, of an advanced automobile or advanced automobiles.

"(2) The Secretary is authorized to make such contracts and grants with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual.

"(b) CONSULTATION.—In addition to the requirements of section 605 of this title, the Secretary, in the exercise of duties and responsibilities under this section, shall consult with the Administrator of the Environmental Protection Agency and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the area of automobile research, development, and technology. The Secretary may establish an advisory panel or panels to review and to make recommendations with respect to applications for funding under this section.

"(c) PROCEDURE.—Each contract and grant under this section shall be made in accordance with such rules and regulations as the Secretary shall prescribe in accordance with the provisions of this section and of section 602 of this title. Each application for funding shall be made in writing in such form and with such content and other submissions as the Secretary shall require.

"OBLIGATION GUARANTEES

"SEC. 608. (a) GENERAL.—(1) The Secretary is authorized, in accordance with the provisions of this section and such rules and regulations as the Secretary shall prescribe, to guarantee, and to make commitments to guarantee, the payment of interest on, and the principal balance of, loans and other obligations, if the obligation involved is, or will be, entered into in order to initiate, continue, supplement, and

maintain research and development programs or activities which, in the Secretary's judgment, appear likely to lead to the development, in production prototype form, and to the availability, of an advanced automobile or advanced automobiles. Each application for such an obligation guarantee shall be made in writing to the Secretary in such form and with such content and other submissions as the Secretary shall require, in order reasonably to protect the interests of the United States. Each guarantee and commitment to guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Secretary deems appropriate. Each guarantee and commitment to guarantee shall inure to the benefit of the holder of the obligation to which such guarantee or commitment applies. The Secretary is authorized to approve any modification of any provision of a guarantee or a commitment to guarantee such an obligation, including the rate of interest, time of payment of interest or principal, security, or any other terms or conditions, upon a finding by the Secretary that such modification is equitable, not prejudicial to the interests of the United States, and has been consented to by the holder of such obligation.

"(2) The Secretary is authorized to so guarantee and to make such commitments to any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual.

"(b) EXCEPTION.—No obligation shall be guaranteed by the Secretary under subsection (a) of this section unless the Secretary finds that no other reasonable means of financing or refinancing is reasonably available to the applicant.

"(c) CHARGES.—(1) The Secretary shall charge and collect such amounts as the Secretary may deem reasonable for the investigation of applications for the guarantee of an obligation, for the appraisal of properties offered as security for such a guarantee, or for the issuance of commitments to guarantee.

"(2) The Secretary shall set a premium charge of not more than 1 percent per year for a loan or other obligation guaranteed under this section.

"(d) VALIDITY.—No guarantee or commitment to guarantee an obligation entered into by the Secretary shall be terminated, canceled, or otherwise revoked, except in accordance with reasonable terms and conditions prescribed by the Secretary. Such a guarantee or commitment to guarantee shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee or commitment shall be valid and incontestable in the hands of a holder as of the date when the Secretary entered into the contract of guarantee or commitment to guarantee, except as to fraud, duress, mutual mistake of fact, or material misrepresentation by or involving such holder.

"(e) DEFAULT AND RECOVERY.—(1) If there is a default in any payment by the obligor of interest or principal due under an obligation guaranteed by the Secretary under this section, and such default has continued for 60 days, the holder of such obligation shall have the right to demand payment by the Secretary of such unpaid amount.

Within such period as may be specified in the guarantee or related agreements, but not later than 45 days from the date of such demand, the Secretary shall promptly pay to such obligee the unpaid interest on, and unpaid principal of, the obligation guaranteed by the Secretary as to which the obligor has defaulted, unless the Secretary finds that there was no default by the obligor in the payment of interest or principal or that such default has been remedied.

"(2) If a payment is made by the Secretary under paragraph (1) of this subsection, the Secretary shall have all rights specified in the guarantee or related agreements with respect to any security which the Secretary held with respect to the guarantee of such obligation, including, but not limited to, the authority to complete, maintain, operate, lease, sell or otherwise dispose of any property acquired pursuant to such guarantee or related agreements.

"(3) If there is a default under any guarantee or commitment to guarantee an obligation, the Secretary shall notify the Attorney General who shall take such action against the obligor or any other parties liable thereunder as is necessary to protect the interests of the United States. The holder of such obligation shall make available to the United States all records and evidence necessary to prosecute any such suit.

"(f) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary, not to exceed $175,000,000, to pay the interest on, and the principal balance of, any obligation guaranteed by the Secretary as to which the obligor has defaulted: *Provided*, That the outstanding indebtedness guaranteed under this section shall not exceed $175,000,000.

"TESTING AND CERTIFICATION

"SEC. 609. (a) ENVIRONMENTAL PROTECTION AGENCY.—The Administrator of the Environmental Protection Agency shall test, or cause to be tested, in a facility subject to Environmental Protection Agency supervision, each production prototype of an automobile developed in whole or in part with Federal financial assistance under this title, or referred to the Environmental Protection Agency for such purpose by the Secretary, to determine whether such production prototype complies with any exhaust emission standards or any other requirements promulgated or reasonably expected to be promulgated under any provision of the Clean Air Act (42 U.S.C. 1857 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901), or any other provision of Federal law administered by the Administrator of the Environmental Protection Agency. In conjunction with any test for compliance with exhaust emission standards under this section, the Administrator of the Environmental Protection Agency shall also conduct tests to determine the fuel economy of such prototype automobile. Such Administrator shall submit all test data and the results of such tests to the Vehicle Certification Board.

"(b) SECRETARY.—The Secretary shall test, or shall cause to be tested in a facility subject to supervision by the Secretary, all production prototypes of advanced automobiles which the Secretary or a developer may submit to the Vehicle Certification Board for certification

under subsection (c) of this section. Such tests shall be conducted, according to testing procedures to be developed by the Secretary, to determine whether each such automobile complies with any standards promulgated as of the date of such testing or reasonably expected to be promulgated prior to the sale at retail of such automobile, under any provision of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381), the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), the Automobile Information Disclosure Act (15 U.S.C. 1232), and any other statute enacted by Congress and applicable to automobiles. The Secretary shall also refer any such automobile to the Administrator of the Environmental Protection Agency for testing pursuant to the provisions of subsection (a) of this section. All production prototypes of advanced automobiles may be submitted to the Secretary for testing under this subsection, including vehicles developed without any Federal financial assistance under this title. All test data and the results of all tests conducted by the Secretary, or subject to the Secretary's supervision, shall be submitted to the Vehicle Certification Board, together with all conclusions, and reasons therefor, with respect to whether the automobile tested merits certification as an advanced automobile. The Secretary, or the Administrator of the Environmental Protection Agency, if appropriate, shall conduct, or cause to be conducted, any additional tests which are requested by the Vehicle Certification Board and shall furnish to such Board any other information which it requests or which is deemed to be necessary or appropriate.

"(c) VEHICLE CERTIFICATION BOARD.—Upon application by a developer or by the Secretary, with respect to a production prototype of a particular automobile or automobiles, and upon the receipt of all required and relevant test data and test results pursuant to subsections (a) and (b) of this section, the Vehicle Certification Board shall certify such automobile as an advanced automobile or shall issue a denial of such certification with reasons therefor. Each application for certification shall be made to the Vehicle Certification Board in writing, in such form and with such content and other submissions as such Board may require. Each determination as to certification shall be made in accordance with such reasonable rules and regulations as such Board shall prescribe.

"PATENTS

"SEC. 610. (a) TITLE TO INVENTIONS.—Whenever an invention is made or conceived during, or in the course of, or as a consequence of, activity conducted in accordance with or related to a contract made or entered into under this title, title to such invention shall vest in the United States, if the Secretary determines that—

"(1) the person who made the invention was employed or assigned to perform research or development work, and that the invention is related to the work such person was employed or assigned to perform, or that it was within the scope of such person's employment duties, whether or not the invention was made during working hours and whether or not the invention was made with a contribution from the Government; or

"(2) the invention is related to the contract, or to the work or duties which the person who made the invention was employed or assigned to perform, even though such person was not employed or assigned to perform research or development work, if the invention was made during working hours, or if it was made with a contribution from the Government.

As used in this subsection, the term 'contribution from the Government' includes the use of Government facilities, equipment, materials, allocated funds, information proprietary to the Government, or any services during working hours of Government employees. If patents are issued on such an invention the patents shall be issued to the United States, unless in particular circumstances the Secretary, in accordance with this section, waives all or any part of the rights of the United States.

"(b) REPORT.—Each contract entered into by the Secretary under this title with any person shall contain effective provisions requiring such person to furnish a prompt and written report to the Secretary with respect to any invention, discovery, improvement, or innovation which may be made in the course of, or as a consequence of, activity conducted in accordance with or related to such contract. Each such report shall contain accurate and complete technical information, in accordance with specifications of the Secretary.

"(c) WAIVER.—The Secretary may waive all or any part of the rights of the United States with respect to any invention or class of inventions which is made, or which may be made, by any person or class of persons in the course of, or as a consequence of, activity conducted in accordance with, or related to, any contract under this title, pursuant to regulations prescribed by the Secretary in conformity with the provisions of this section, if the Secretary determines that the interests of the United States and of the general public would best be served by such a waiver. The Secretary shall maintain and periodically update a publicly available record of waiver determinations. In making such determinations, the Secretary shall strive—

"(1) make the benefits of the advanced automobile research and development program widely available to the public in the shortest practicable time;

"(2) promote the commercial utilization of such inventions;

"(3) encourage participation by private persons in the Secretary's advanced automobile research and development program; and

"(4) foster competition and prevent undue market concentration, or the creation or maintenance of other situations inconsistent with the antitrust laws.

"(d) CONTRACT WAIVERS.—In determining whether it would best serve the interests of the United States and of the general public to grant such a waiver to a contractor at the time a contract is entered into, the Secretary shall include as considerations—

"(1) the extent to which the participation of the contractor will expedite the attainment of the purposes of the program;

"(2) the extent to which a waiver of all or any part of such rights in any or all fields of technology is needed to secure the participation of the particular contractor;

"(3) the extent to which the contractor's commercial position may expedite utilization of the research and development program results;

"(4) the extent to which the Government has contributed to the field of technology to be funded under the contract;

"(5) the purpose and nature of the contract, including the intended use of the results developed thereunder;

"(6) the extent to which the contractor has made or will make substantial investment of financial resources or technology developed at the contractor's private expense which will directly benefit the work to be performed under the contract;

"(7) the extent to which the field of technology to be funded under the contract has been developed at the contractor's private expense;

"(8) the extent to which the Government intends to further develop, to the point of commercial utilization, the results of the contract effort;

"(9) the extent to which the contract objectives are concerned with the public health, public safety, or public welfare;

"(10) the likely effect of the waiver on competition and market concentration; and

"(11) the extent to which a contractor, which is a nonprofit educational institution, has a technology transfer capability and program which is approved by the Secretary as being consistent with the applicable policies of this subsection.

"(e) SUBSEQUENT WAIVERS.—In determining whether it would best serve the interests of the United States and of the general public to grant such a waiver at a subsequent date to a contractor or to an inventor, with respect to an identified invention, the Secretary shall specifically consider (1) paragraphs (4) through (11) of subsection (d), as applied to such invention; (2) the extent to which such waiver is a reasonable and necessary incentive to call forth private risk capital for the development and commercial distribution of such invention; and (3) the extent to which the plans, intentions, and ability of the contractor or inventor are likely to result in expeditious commercial distribution of such invention.

"(f) RESERVATIONS.—Whenever title to an invention is vested in the United States, a revocable or irrevocable, nonexclusive, and paid-up license for the practice of such invention throughout the world may be reserved to the contractor or to the inventor thereof. The rights to such an invention may be similarly reserved in any foreign country in which the United States has elected not to secure patent rights and in which such contractor or inventor elects to secure a patent, subject to the rights described in subsections (h)(2), (h)(3), (h)(6), and (h)(7) of this section: *Provided*, That such a contractor or inventor shall, 3 years after the date of issuance of such a patent, and at any time upon the specific request of the Secretary, submit the report specified in subsection (h)(1) of this section.

"(g) LICENSES.—(1) Subject to subsection (g)(2) of this section, the Secretary shall determine and promulgate regulations specifying the terms and conditions upon which licenses may be granted in any invention to which title is vested in the United States.

"(2) Pursuant to subsection (g)(1) of this section and after notice and an opportunity for a hearing, the Secretary may grant exclusive or partially exclusive licenses in any invention, only if the Secretary determines that—

"(A) the proposed license would best serve the interests of the United States and of the general public, in light of the applicant's intentions, plans, and capacity to bring such invention to practical or commercial applications;

"(B) the desired practical or commercial applications of such invention have not been achieved, or are not likely expeditiously to be achieved, under any nonexclusive license which has been granted, or which may be granted, on such invention;

"(C) exclusive or partially exclusive licensing is a reasonable and necessary incentive to make available the risk capital and other financing necessary to bring the invention to the point of practical or commercial applications; and

"(D) the terms and scope of exclusivity of the proposed license are not substantially greater than are necessary to provide sufficient incentive for bringing such invention to the point of practical or commercial applications, and to provide the licensee with sufficient opportunity to recoup its costs and to earn a reasonable profit thereon: *Provided*, That the Secretary shall not grant such an exclusive or partially exclusive license if the Secretary determines that the grant of such a license will tend substantially to lessen competition or to result in undue concentration in any section of the country in any line of commerce to which the technology to be licensed relates. The Secretary shall maintain and periodically update a publicly available record of determinations concerning applications for and the grant of such licenses.

"(h) TERMS AND CONDITIONS.—Any waiver of rights, and any grant of an exclusive or partially exclusive license, shall contain such terms and conditions as the Secretary may determine to be appropriate for the protection of the interests of the United States and of the general public. Such terms and conditions may include, but need not be limited to—

"(1) periodic written reports, at reasonable intervals and at any time when specifically requested by the Secretary, on the commercial use that is being made or is intended to be made of the invention involved;

"(2) the right, at a minimum, of an irrevocable, nonexclusive, and paid-up license to make, use, and sell the invention involved throughout the world, by or on behalf of the United States (including any Government agency) and by or on behalf of the States and their political subdivisions, unless the Secretary determines that it would not be in the public interest to acquire such a license for the States and their political subdivisions;

"(3) the right in the United States to sublicense any foreign government to make, use, and sell the invention involved, pursuant to any existing or future treaty or agreement, if the Secretary determines it would be in the national interest to acquire this right;

"(4) the reservation in the United States of the rights to the

invention involved in any country in which the contractor does not file an application for a patent within such time as the Secretary shall determine;

"(5) the right in the Secretary to require the granting of a nonexclusive, exclusive, or partially exclusive license to a responsible applicant or applicants, upon terms reasonable under the circumstances (A) to the extent that the invention involved, or an application thereof, is required for public use by governmental regulations; (B) to the extent that it may be necessary to fulfill health, safety, or energy needs; or (C) for such other purposes as may be stipulated in the applicable agreement;

"(6) the right in the Secretary to terminate the waiver or license involved, in whole or in part, unless the person who receives such waiver of rights or who is granted such license demonstrates to the satisfaction of the Secretary that such person has taken, or that such person will take within a reasonable time thereafter, effective steps to accomplish substantial utilization of the invention involved;

"(7) the right in the Secretary, commencing 3 years after the grant of a license and 4 years after the effective date of a waiver of rights to an invention, to require the granting of a nonexclusive or partially exclusive license to any responsible applicant, upon terms reasonable under the circumstances, and the right in the Secretary, under appropriate circumstances, to terminate such a waiver or license, in whole or in part, following the filing of a petition with the Secretary, by an interested person, and after notice and an opportunity for a hearing—

"(A) if the Secretary after providing an opportunity to the recipient of such waiver or license, and to any other interested person, to submit such relevant and material information as may be appropriate and after reviewing such information, determines that such waiver or license has tended substantially to lessen competition or to result in undue concentration in any section of the country in any line of commerce to which the technology relates; or

"(B) unless the recipient of such waiver or license demonstrates to the satisfaction of the Secretary at such hearing that such recipient has taken, or that such recipient will take, within a reasonable time thereafter, effective steps to accomplish substantial utilization of the invention involved.

"(i) NOTICE.—The Secretary shall cause a notice to be published periodically, not less than once each year, in the Federal Register and in other appropriate publications, including the electronic media, advising the public of the right to have a hearing, as provided in subsection (h)(7) of this section, and of the availability of the records of determinations under this section.

"(j) SMALL BUSINESS.—If the applicant for a waiver of rights to an invention or for a license is a small business, as defined by regulations of the Small Business Administration, the Secretary shall consider and accord weight to such factor.

"(k) OTHER LICENSES.—Whenever the Secretary, pursuant to such regulations as the Secretary shall prescribe, and upon the application by any person, determines that—

"(1) a right under any patent, which is not otherwise reasonably available, is reasonably necessary, in furtherance of the policy of fostering expeditious commercial application of advanced automotive technologies, to the development, demonstration, or commercial application of any advanced automotive invention, process, or system; and

"(2) there are no other reasonable methods to achieve such development, demonstration, or commercial application,

the Secretary shall so certify to an appropriate district court of the United States. The Secretary shall petition such court to order the owner and/or the exclusive licensee of such patent to grant a license thereunder at such reasonable royalty and on such reasonable and nondiscriminatory terms and conditions as the court shall determine. The court shall provide such patentee or exclusive licensee, or both, as appropriate, an opportunity for a hearing, including a de novo review of the determination of the Secretary. The appropriate district court shall be the district court for the judicial district in which the patentee or the exclusive licensee of such patent resides, does business, or is found.

"(l) PROTECTION.—The Secretary is authorized to take all necessary and appropriate steps, which are suitable, to protect any invention or discovery to which the United States holds title. The Secretary shall require that any contractor or other person, who acquires rights to an invention under this section, protect such invention.

"(m) DEFINITIONS.—As used in this section, the term—

"(1) 'contract' means any contract, grant, agreement, understanding, obligation guarantee, or other arrangement which involves any research and development work; the term includes any assignment, substitution of parties, or subcontract thereunder;

"(2) 'contractor' means any person who has a contract with, or on behalf of, the Secretary under this title:

"(3) 'invention' means any invention or discovery, whether patented or unpatented; and

"(4) 'made', when used in relation to any invention, means the conception or first actual reduction to practice of such invention.

"RECORDS, AUDITS, AND EXAMINATION

"SEC. 611. (a) RECORDS.—Each recipient of financial assistance or guarantees under this title, whether in the form of grants, subgrants, contracts, subcontracts, obligation guarantees, or other arrangements, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of such total cost which was supplied by other sources, and such other records as will facilitate an effective audit.

"(b) AUDIT AND EXAMINATION.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of 3 years after completion

of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, subcontracts, obligation guarantees, or other arrangements referred to in such subsection.

"REPORTS

"SEC. 612. On or before July 1 of each year, the Secretary shall submit to Congress an annual report of activities under this title. Such report shall include, but need not be limited to—

"(1) an account of the state of automobile research and development in the United States;

"(2) the number and amount of contracts and grants made and of obligations guaranteed;

"(3) the progress made in developing production prototypes of advanced automobiles within the shortest practicable time after the date of enactment of this title; and

"(4) suggestions for improvements in advanced automobile research and development, including recommendations for legislation.

"GOVERNMENT PROCUREMENT

"SEC. 613. The Administrator of General Services shall consult periodically with the Vehicle Certification Board to determine when production prototypes of an advanced automobile are likely to be available. After a production prototype has been certified, under section 609(c) of this title, as an advanced automobile, the Vehicle Certification Board, in conjunction with the Administrator of General Services, shall prescribe such regulations as are necessary to require all Federal agencies to procure and to use such advanced automobiles to the maximum extent feasible. Such Administrator shall, with the assistance of such Board, provide technical specifications and other information with respect to automobiles certified under this title as advanced automobiles. Such Administrator, and all other appropriate officers of the United States shall take all steps which are necessary or appropriate to comply with and to implement such regulations, with respect to all federally owned motor vehicles, by the earliest practicable date.

"RELATIONSHIP TO ANTITRUST LAWS

"SEC. 614. (a) DISCLAIMER.—Nothing in this title shall be deemed to convey to any person any immunity from civil or criminal liability, or to create any defenses to actions, under the antitrust laws.

"(b) ANTITRUST LAWS DEFINED.—As used in this section, the term 'antitrust laws' means the Act of July 2, 1890 (15 U.S.C. 1 et seq.), as amended; the Act of October 15, 1914 (15 U.S.C. 12 et seq.), as amended; the Federal Trade Commission Act (15 U.S.C. 41 et seq.), sections 73 and 74 of the Act of August 27, 1894 (15 U.S.C. 8 and 9), as amended; and the Act of June 19, 1936, ch. 592 (15 U.S.C. 13, 13a, and 212), as amended.

"AUTHORIZATION FOR APPROPRIATION

"SEC. 615. There are authorized to be appropriated to carry out the purposes of this title, other than section 608 of this title, funds not to exceed $55,000,000 for the fiscal year ending June 30, 1976, not to exceed $20,000,000 for the transitional quarter ending September 30, 1976, and not to exceed $100,000,000 for the fiscal year ending September 30, 1977.".

AGENCY COMMENTS

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., May 6, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the comments of the National Aeronautics and Space Administration on the bill S. 633, to conserve gasoline by directing the Secretary of Transportation to establish and enforce mandatory fuel economy standards for new automobiles, and for other purposes.

The bill would amend the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901, et seq.) by adding new title V, entitled "Fuel Economy." It would direct the Secretary of Transportation (DOT) to establish minimum average fuel economy performance standards for new automobiles manufactured in model years 1977 through 1985. DOT would be required to set the standards such that the industry-wide average fuel economy level for the 1980 automobiles would exceed the 1974's by 50% and that the 1985's would exceed the 1974's by 100%. Compliance by the auto makers with DOT's standards would be determined by the Administrator of the Environmental Protection Agency (EPA).

The bill would authorize to DOT $1 million for FY's 1975 and 1976, $750 thousand for the transitional fiscal quarter ending September 30, 1976, and $3 million annually for FY's 1977 and 1978.

NASA is actively supporting both ERDA (formerly EPA) and DOT ground propulsion research and development programs in several important areas. Specifically: NASA is responsible for a major portion of the ERDA gas turbine automobile engine program and is cooperatively working with ERDA to demonstrate the hydrogen injection automobile engine concept; work with DOT includes experimental projects for the reduction of truck and automobile drag and determination of lean engine operating characteristics.

S. 633 would have no direct impact on NASA. Accordingly, the National Aeronautics and Space Administration would defer to those agencies directly concerned for substantive comments on the desirability of this legislation.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report to the Congress.

Sincerely,

GERALD D. GRIFFIN,
Assistant Administrator for Legislative Affairs.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., May 6, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the comments of the National Aeronautics and Space Administration on the bill S. 654, "To provide for minimum energy conservation fuel economy performance standards, and for other purposes."

The bill would direct the Administrator of the Environmental Protection Agency (EPA) to prescribe minimum fuel economy performance standards for new passenger motor vehicles for model year 1977 and each year thereafter. It would provide that the fuel economy standard for model year 1980 must be at least 22.0 miles per gallon and for model year 1985 at least 24.5 miles per gallon. EPA would also be responsible for enforcing compliance by the auto makers with the fuel economy standards as it does with the Clean Air Act standards.

The bill would authorize to EPA up to $3 million for the fiscal year ending September 30, 1976 and $2 million annually for the fiscal years ending September 30, 1981.

NASA is actively supporting both ERDA (formerly EPA) and DOT ground propulsion research and development programs in several important areas. Specifically; NASA is responsible for a major portion of the ERDA gas turbine automobile engine program and is cooperatively working with ERDA to demonstrate the hydrogen injection automobile engine concept; work with DOT includes experimental projects for the reduction of truck and automobile drag and determination of lean engine operating characteristics.

S. 654 would have no direct impact on NASA. Accordingly, the National Aeronautics and Space Administration would defer to those agencies directly concerned for substantive comments on the desirability of this legislation.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report to the Congress.

Sincerely,

GERALD D. GRIFFIN,
Assistant Administrator for Legislative Affairs.

NATIONAL TRANSPORTATION SAFETY BOARD,
DEPARTMENT OF TRANSPORTATION,
Washington, D.C., March 13, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of March 6, 1975, inviting the comments of the National Transportation Safety Board on S. 307, a bill "To achieve fuel economy for motor vehicles, to establish standards and requirements of motor vehicle fuel economy,

to assure compliance with such standards, and for other purposes."

We have reviewed the proposed legislation and determined that we have no official comments to offer at this time. Your thoughtfulness in soliciting our views is greatly appreciated.

Sincerely,

JOHN H. REED, *Chairman.*

NATIONAL TRANSPORTATION SAFETY BOARD,
Washington, D.C., April 16, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of April 10, 1975, inviting the comments of the National Transportation Safety Board on S. 783, a bill "To authorize a Federal program of research and demonstration in connection with ground propulsion systems," and S. 633 amendment No. 15, a bill "To conserve gasoline by directing the Secretary of Transportation to establish and enforce mandatory fuel economy standards for new automobiles, and for other purposes."

We have reviewed the proposed legislation and determined that we have no official comments to offer at this time. Your thoughtfulness in soliciting our views is greatly appreciated.

Sincerely yours,

JOHN H. REED, *Chairman.*

ADDITIONAL VIEWS OF MESSRS. GRIFFIN AND BUCKLEY

About 170,000 auto workers are unemployed. Foreign-made cars are soaking up a record 21 percent of our market so far this year. The domestic drought in sales of U.S.-made autos continues. And, three of the four major U.S. auto manufacturers suffered losses during the first quarter of this year. Instead of helping the industry and its workers, S. 1883 points a way to make things worse—by fashioning still another layer of costly Federal regulation.

In the past, Congress has rushed to the aid of a variety of other industries when they were in trouble. Although the auto industry and its workers have been hit very hard by the current recession, they have sought no special subsidy—they plead only for a temporary breathing spell from the strangulation of further government regulation.

Some contend that the new Federal fuel economy standards embodied in S. 1883 are needed to insure that U.S. auto companies will do what they have already agreed to do voluntarily. The industry has agreed to achieve the energy conservation goal set by President Ford—a 40 percent improvement in fuel economy by the 1980 model year—subject to a 5-year relaxation of the 1978 emission standards. And, that goal is based on recommendations of the Environmental Protection Agency, the Federal Energy Administration and the Department of Transportation.

There are strong pressures already pushing U.S. automakers toward greater fuel efficiency—namely the marketplace. No one needs to be reminded of the increase in gasoline prices. Yet such forces are helping to shape consumers' demands for more fuel-efficient automobiles. American Motors and General Motors recently introduced several new cars specifically designed to achieve improved fuel economy. Additional evidence of this industry trend is noted by *U.S. News & World Report* in a May 12 preview of the 1976 models:

> Major emphasis for the Bicentennial year: better gasoline mileage. Exterior changes are relatively few.
>
> * * * * * * *
>
> Preliminary engineering reports indicate that all four manufacturers * * * are making progress in their announced six-year goal of improving gas mileage by 40 percent by 1980.

If the Committee had been content to transform the President's voluntary program into mandatory legislation, such a move would have been defensible, though unnecessary. But, it set much higher standards without recognizing the important relationship of fuel economy to emission standards.

The Committee bill would mandate a 50 percent improvement in fuel economy by the 1980 model year—that's 25 percent higher than the goal set by President Ford. By 1985, average fuel economy would have to be increased by 100 percent under the bill. Even the Committee report recognizes "that any fuel economy standard for 1985 must be somewhat speculative at this point." That is an understatement.

In addition, enormous civil penalties would be imposed for noncompliance. For example, if General Motors were to fall short of meeting a standard by 1 mile per gallon, it could be subject to a penalty of up to $500 million, based on a normal sales year. Chrysler, which lost $94 million in the first quarter of this year, could be hit with penalties up to $150 million for a 1 mile per gallon deviation.

Even if these penalties could be passed along to car buyers, as some have suggested, from a practical standpoint it could amount to economic suicide. The provision in the bill for waiving such penalties to prevent bankruptcy or insolvency only underscores the dangers of imposing such severe sanctions. Furthermore, it encourages the Secretary to engage in administrative brinkmanship, such as we experienced in meeting the deadlines for emission standards. The uncertainties inherent in this approach are a further threat to orderly production and employment schedules.

To comply with standards, manufacturers will have to make accurate predictions about the sales demand for each of their model lines. If they are wrong, and production cutbacks are required, auto workers will be the first to suffer. As Professor John Heywood, Director of the Sloan Automotive Laboratory at the Massachusetts Institute of Technology, pointed out in a statement to the Committee:

> The assumption that the manufacturers can arbitrarily determine the vehicle weight distribution of their sales is implicit in much of the discussion of fuel economy standards; *it is clearly untrue*. (Emphasis added.)

But it doesn't take an expert to realize that the auto market is unpredictable. Otherwise, there would have been no need for the industry's rebate program earlier this year to boost sales of small cars.

Uncertainty about public demand for different types of cars is also heightened by fact that millions of Americans have legitimate needs for larger cars, including businessmen, handicapped people, taxicab operators, and large families. For the roughly 20 percent of American families that have 5 or more members, small cars are just not adequate. Similarly, small cars are not adequate for many towing purposes. Thus unrealistic goals in the bill fail to reflect these justifiable needs.

The other major problem with the bill is the failure to deal with the question of auto pollution controls—which could be a key barrier to better fuel economy, depending on the state of available technology. An essential part of the Administration's fuel economy program is a modification of emission standards. This bill puts the cart before the horse by imposing fuel economy standards without regard to what Congress may do—if anything—about emission controls.

As the Assistant Administration of EPA for Air and Waste Management, Mr. Roger Strelow, indicated to the Committee during its recent hearings,

> We believe that any fuel economy improvement program—whether it be voluntary or mandatory—must clearly recognize the relationship between auto fuel economy and air pollution controls.

This relationship was also stressed by Leonard Woodcock, President of the United Auto Workers. Mr. Woodcock, while supporting fuel economy standards, emphasized that Congress "must remove the obstacles of overly stringent emission controls."

But the most telling evidence of what emission controls can do to fuel economy is reflected in EPA's recent decision allowing California to set 1977 auto pollution standards that are more stringent than Federal requirements. In making this decision, EPA Administrator Russell Train acknowledged that—as a result—1977 California cars may get 8 to 24 percent poorer fuel economy than comparable 1975 models using presently available technology. And, these tough California standards are still below the Federal statutory levels for 1978 models.

For all of the problems that the bill would create, it would not reduce gasoline consumption that much by 1980 in comparison to the President's voluntary program. The estimated additional savings would be only a little over 3 percent. Indeed, the goals of energy conservation, safety and environmental quality will be diminished—not enhanced—if further regulations lead to still higher prices, reduced sales and more unemployment.

At best, this legislation is unnecessary. At worst, it could wreck havoc with the economic welfare of hundreds of thousands of working men and women.

ROBERT P. GRIFFIN.
JAMES L. BUCKLEY.

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Calendar No. 27

94TH CONGRESS
1st Session

SENATE

REPORT
No. 94-26

STANDBY ENERGY AUTHORITIES ACT

REPORT

OF THE

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS UNITED STATES SENATE

together with

MINORITY AND ADDITIONAL VIEWS

TO ACCOMPANY

S. 622

MARCH 5, 1975.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
38-010 WASHINGTON : 1975

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Calendar No. 27

94TH CONGRESS } SENATE { REPORT
1st Session } { No. 94-26

STANDBY ENERGY AUTHORITIES ACT

MARCH 5, 1975.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

together with

MINORITY AND ADDITIONAL VIEWS

[To accompany S. 622]

The Committee on Interior and Insular Affairs, to which was referred the bill (S. 622), to provide standby authority to assure that the essential energy needs of the United States are met, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Strike out all after the enacting clause and insert the following language:

That this Act, including the following table of contents may be cited as the "Standby Energy Authorities Act".

TABLE OF CONTENTS

TITLE II—ENERGY CONSERVATION POLICY

TITLE I—STANDBY AUTHORITY

SEC. 101. FINDINGS AND PURPOSES.—(a) The Congress hereby finds that—

(1) energy shortages cause unemployment, inflation, and other severe economic dislocations and hardships;

(2) such shortages and dislocations jeopardize the normal flow of interstate and foreign commerce;

(3) disruptions in the availability of imported energy supplies, particularly petroleum products, pose a serious risk to national security, economic well-being, and the health and welfare of the American people;

(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 interest;

(7) new standby legislative authority is needed to deal with conditions that may be created by domestic energy shortages or curtailment of oil imports 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 can combat economic hardships and contribute to national security.

(b) The purpose of this title is to grant specific temporary standby authority to impose end-use rationing and to reduce demand by regulating public and private consumption of energy, subject to congressional review and right of approval or disapproval, 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) is consistent with existing national commitments to protect and improve the environment;

(2) minimizes any adverse impact on employment;

(3) provides for equitable treatment of all regions of the country and sectors of the economy;

(4) maintains vital services necessary to health, safety, and public welfare;

(5) insures against anticompetitive practices and effects and preserves, enhances, and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources; and

(6) enables the Federal Government, subject to sections 120 and 121, to fulfill its responsibilities under international agreements to which it is a party.

(c) Prior to exercising any of the authorities contained in any of the following provisions of this title:

1. Section 103, End-Use Rationing;
2. Section 104, Energy Conservation Plan;
3. Section 106, Federal Actions To Increase Available Domestic Petroleum Supplies;
4. Section 110, Antitrust Provisions;
5. Section 113, International Oil Allocations; and
6. Section 119. Exchange of Information

the President is required to make a finding that: (A) acute energy shortage conditions exist or are impending that threaten the domestic economy and the ability of the United States to meet essential civilian or military energy requirements and that such shortage conditions are of such severity or scope as to require the exercise of the standby energy authorities provided for in this title; or (B) that the exercise of the authorities provided for in this title are required to fulfill obligations of the United States under an international agreement to which it is a party. The President's finding shall be transmitted to the Congress together with a report on the manner in which the authority will be used.

(d) Any finding made under subsection (c) of this section shall not remain in effect for a period of more than nine months. The President may make a new finding under subsection (c) if he finds that the exercise of authorities pursuant to his initial finding is required beyond nine months.

SEC. 102. DEFINITIONS.—For purposes of this Act:

(1) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(2) The term "petroleum" means crude oil, residual fuel oil, or any refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Administration.

(5) The term "international agreement" means the Agreement On An International Energy Program, signed by the United States on November 18, 1974, and printed as Serial No. 93-53, November, 1974, Committee Print, Committee on Interior and Insular Affairs, United States Senate.

(6) The term "person" means any natural person, government entity, corporation, partnership, association, consortium, or any entity organized for a common business purpose, wherever situated, domiciled, or doing business, that directly or through other persons subject to its control, is engaged in commerce in any part of the United States, its territories and possessions, Puerto Rico, or the District of Columbia, or is a United States citizen engaged in commerce outside of the United States which activity affects United States commerce, or is otherwise subject to the jurisdiction of the United States.

(7) The term "handicapped person" means any individual who, by reason of disease, injury, age, congenital malfunction or other permanent incapacity or disability, is unable without special facilities, planning or design to utilize mass transportation vehicles, facilities and services and who has a substantial, permanent impediment to mobility.

(8) The term "eligible person" means any handicapped person (who may not have a driver's licenses) or the parent or guardian of a handicapped person who must transport that person to and from special services.

SEC. 103. END-USE RATIONING.—(a) The President is authorized to promulgate a regulation which shall provide, consistent with the objectives of section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, for the establishment of a program for the rationing and ordering of priorities among classes of end-users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to end-users of such products of rights, and evidences of such rights, entitling them to obtain such products in precedence to other classes of end-users not similarly entitled.

(b) The regulation under subsection (a) of this section shall take effect only if the President finds that it is necessary to achieve the objectives of this title and those public purposes enumerated in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973.

(c)(1) The President shall, by regulation or order, in furtherance of the regulation authorized under subsection (a) of this section and consistent with the objectives enumerated in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, cause such allocations or such adjustments of allocations made pursuant to the Emergency Petroleum Allocation Act of 1973 or other authority, as may be necessary to carry out the purposes of this section.

(2) In the event of the expiration of the Emergency Petroleum Allocation Act of 1973 and the absence of any other petroleum allocation authority, the President is hereby authorized, notwithstanding the expiration of that Act, to promulgate consistent with the purposes and standards and according to the procedures set out in section 4, subsection (a) through (d) of the Emergency Petroleum Allocation Act of 1973, such a regulation providing for the allocation of crude oil, residual fuel oil and refined petroleum products as is necessary to carry out the purposes of this subsection.

(d) The President shall provide for procedures by which any end-user of crude oil, residual fuel oil or refined petroleum products for which priorities and entitlements are established under the rationing program authorized under subsection (a) of this section may petition for review and reclassification or modification of any determination made under such paragraph with respect to his rationing priority or entitlement. The President shall also provide for the making of such adjustments as are practicable to prevent special hardship, inequity, or unfair distribution of burdens, and shall establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rules, regulations, and orders. Such procedures may include procedures with respect to such local boards as may be authorized to carry out functions under this subsection pursuant to section 116 of this title.

(e) No rule or order under this section may impose any tax or user fee or provide for a credit or deduction in computing any tax.

(f) At such time as the President finds that it is necessary to put a regulation under subsection (a) of this section into effect, the President shall transmit such regulation to each House of Congress and such regulation shall take effect and terminate in the same manner as an energy conservation plan prescribed under section 104 of this Act and shall be deemed an energy conservation plan for purposes of section 104(c), notwithstanding the provisions of section 104(a)(1)(B). Such a regulation may be amended as provided in section 104(b)(1) of this Act.

(g)(1) In promulgating a rule under subsection (a) of this section the President shall give priority consideration to the needs of the handicapped and other eligible persons, including the need for special arrangements for handicapped persons who because of architectural barriers would be unable to obtain evidence of their rights under subsection (a) under standard procedures or arrangements.

(2) In determining the eligibility of "handicapped person" and "eligible person" the President shall consult with the Social Security Administration, the Veterans Administration, and the Federal Energy Administration: *Provided, further*, That the administrative procedures to meet the needs of the handicapped shall be established in advance of and take effect on the effective date of the rule promulgated pursuant to subsection (a) of this section.

SEC. 104. ENERGY CONSERVATION PLANS.—(a)(1)(A) Pursuant to the provisions of this section, the President may promulgate, by regulation, one or more energy conservation plans in accord with this section which shall be designed (together with actions taken and proposed to be taken under other authority of this or other Acts) to result in a reduction of energy consumption. For purposes of this section, the term "energy conservation plan" means a plan for transportation controls (including but not limited to discretionary transportation activities upon which the basic economic viability of the United States does not depend) and such other reasonable restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption.

(B) No energy conservation plan promulgated under this section may impose rationing or any tax or user fee, or provide for a credit or deduction in computing any tax.

(C) In promulgating regulations pursuant to this section the President shall give priority consideration to the needs of handicapped persons.

(2) An energy conservation plan shall become effective as provided in subsection (b) of this section. Such a plan shall apply in each State, except as otherwise provided in an exemption granted pursuant to such plan in cases where a comparable State or local program is in effect, or where the President finds special circumstances exist.

(3) An energy conservation plan shall deal with only one functionally discrete subject matter or type of action proposed to reduce energy consumption.

(4) Subject to subsection (b)(3), an energy conservation plan shall remain in effect for a period specified in the plan unless earlier rescinded by the President; but shall terminate in any event no later than nine months after such plan first takes effect unless renewed in accordance with this section.

(b)(1) For purposes of this subsection, the term "energy conservation plan" does not include an amendment to an energy conservation plan that is consistent with the subject matter of the primary conservation plan. The President shall notify the Congress of all amendments.

(2) The President shall transmit any energy conservation plan (bearing an identification number) to each House of Congress on the date on which it is promulgated.

(3) Each energy conservation plan shall take effect on the date provided in the plan, but if either House of Congress, before the end of the first period of ten calendar days of continuous session of Congress after the date on which such action is transmitted to it passes a resolution stating in substance that Congress does not favor such action, such action shall cease to be effective on the date of passage of such resolution.

(4) For the purpose of paragraph (3) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the ten-day period.

(5) Under provisions contained in an energy conservation plan, a provision of the plan may take effect at a time later than the date on which such plan otherwise takes effect.

(c)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress described in subparagraph (A) or (B) of this paragraph.

(A) A resolution the matter after the resolving clause of which reads as follows: "That the ———— does not object to the implementation of energy conservation plan numbered ———— submitted to the Congress on ————, 19—.", the first blank space therein being filled with the name of the resolving House and the other blank space being appropriately filled; but does not include a resolution which specified more than one energy conservation plan.

(B) A resolution the matter after the resolving clause of which reads as follows: "That the ———— does not favor the energy conservation

plan numbered ———— transmitted to Congress on ————, 19—.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy conservation plan.

(3) A resolution once introduced with respect to an energy conservation plan shall immediately be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4) (A) If the committee to which a resolution with respect to an energy conservation plan has been referred has not reported it at the end of five calendar days after its referral, it shall be in order to move, either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such energy conservation plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy conservation plan), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same plan.

(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which the resolution was agreed to or disagreed to; except that it shall be in order to substitute a resolution disapproving a plan for a resolution not to object to such plan, or a resolution not to object to a plan for a resolution disapproving such plan.

(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to an energy conservation plan, then it shall not be in order to consider in that House any other resolution with respect to the same plan.

(d) (1) Any energy conservation plan or rationing rule, which the President submits to the Congress pursuant to subsection (b) of this section shall contain a specific statement explaining the need for, the rationale and the operation of such plan or rule.

(2) Any energy conservation plan or rationing rule which the President submits to the Congress pursuant to this title shall be based upon a consideration of, and to the extent practicable, be accompanied by an evaluation of the potential economic impacts, if any, of the proposed plan or rule, including an analysis of the effect, if any, of such plan or rule on—

(A) the fiscal integrity of State and local government;

(B) vital industrial sectors of the economy;

(C) employment, by industrial and trade sector, as well as on a national, regional, State, and local basis;

(D) the economic vitality of regional, State, and local areas;

(E) the availability and price of consumer goods and services;

(F) the gross national product;

(G) competition in all sectors of industry;

(H) small business; and

(I) the supply and availability of energy resources for use as fuel or as feedstock for industry.

SEC. 105. MATERIALS ALLOCATION.—(a) The President may, by rule or order, require the allocation of, or the performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment in order to maximize domestic energy supplies if he makes the findings required by subection (c) of this section.

(b) The President shall report to the Congress within sixty days after the date of enactment of this title on the manner in which the authorities contained in subsection (a) will be administered. This report shall include, but not be limited to the identification of materials and equipment in short supply, the manner in which allocations will be made, the procedure for requests and appeals, the criteria for determining priorities as between competing requests, and the office or agency which will administer such authorities.

(c) The authority granted in this section may not be used to control the distribution of any supplies of materials and equipment in the marketplace unless the President finds that—

(1) such supplies are scarce, critical, and essential to maintain or further exploration, production, refining, transportation, and conservation of energy supplies or for the construction and maintenance of energy facilities; and

(2) maintenance or futherance of exploration, production, refining, transportation, and conservation of energy supplies and the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in subsection (a) of this section.

SEC. 106. FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES.—(a) The President may, by rule or order, require the following measures to supplement domestic energy supplies—

(1) The production of designated domestic oil and gas fields, at maximum practicable rates of production if necessary to meet the objectives of this title: *Provided*, That production shall not be in excess of the currently assigned maximum efficient rate of production unless the President determines that the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned maximum efficient rate for periods of no more than ninety days without excessive risk of losses in ultimate recovery, unless renewed. Such fields are to be designated by the Secretary of the Interior, after consultation with the appropriate State regulatory agency. Data to determine the maximum efficient rate of production shall be supplied to the Secretary of the Interior by the State regulatory agency which determines the maximum efficient rate of production and by the operators who have drilled wells in, or are producing oil and gas from such fields;

(2) The unitization of production on any oil and gas producing properties on Federal lands; and

(3) The adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(b) Nothing in this section shall be construed to authorize any additional production not already authorized from any Naval Petroleum Reserve now subject to the provisions of chapter 641 of title 10, United States Code.

SEC. 107. OTHER AMENDMENT TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.—(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 is further amended by adding at the end of such section the following new subsection (h):

"(h) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil or refined petroleum products is to be based on use of such a product or amounts of such product supplied during an historical period, the regulation shall contain provisions designed to assure that the historical period can be adjusted (or other adjustments in allocations can be made) in order to reflect regional disparities in use, population growth or unusual factors influencing use (including unusual changes in climatic conditions), of such oil or product in the historical period. This subsection shall take effect

sixty days after the date of enactment of the Standby Energy Authorities Act. Adjustment for such purposes shall take effect as soon as practicable after the date of enactment of this subsection. Adjustments to reflect population growth shall be based upon the most current figures available from the United States Bureau of the Census.".

(b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973, as amended, is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

"(i) fuels, and

"(ii) minerals essential to the requirements of the United States, and for required transportation related thereto,".

(c) Section 4(e) of the Emergency Petroleum Allocation Act of 1973, as amended (87 Stat. 627), is hereby amended by adding a new paragraph 4(e)(3) as follows:

"(3)(A) In the event that the price regulation promulgated under subsection (a) of this section provides for more than one price (or manner of determining a price) for a given grade and quality of crude oil produced in a given producing area, the regulation shall provide that the price applicable to any crude oil produced by, owned by, or due to any State or subdivision thereof as royalty, as participation in production or as participation in net profits from the mineral or leasehold estate owned by that State or subdivision on January 1, 1975, shall be the highest price applicable to the given grade and quality of crude oil produced in the given producing area.

"(B) No person (whether an operator, holder of a lease hold interest, contractor or otherwise) other than a State or subdivision thereof, shall receive any benefit from the operation of this paragraph or the provision of regulation required thereby.

"(C) The volume of crude oil produced in any State for which the highest price for the given grade and quality of crude oil in the given producing area is applicable exclusively by virtue of the provision of regulation required by this paragraph shall not in any month exceed an amount equivalent to an average of 20,000 barrels per day.

"(D) In the event that the total volume of crude oil produced or owned by, or due to any State and its subdivisions, whose price would, absent subparagraph (c) hereof, be affected by the provisions of this paragraph, exceeds the equivalent of 20,000 barrels per day, the 20,000 barrels per day to which the highest price for the given grade and quality in the given producing area applies shall be apportioned among the State and those of its subdivisions owning or producing such crude oil in the ratios which the crude oil owned or produced by each governmental entity bear to the total owned or produced by all such entities in that State."

(d) Section 3 of the Emergency Petroleum Allocation Act of 1973, as amended, is amended by adding at the end thereof the following new subsections:

"(8) The term 'handicapped person' means any individual who, by reason of disease, injury, age, congenital malfunction or other permanent incapacity or disability, is unable without special facilities, planning or design to utilize mass transportation vehicles, facilities and services and who has a substantial, permanent impediment to mobility.

"(9) The term 'eligible person' means any handicapped person (who may or may not have a driver's license) or the parent or guardian of a handicapped person who must transport that person to and from special services."

SEC. 108. PROHIBITIONS ON UNREASONABLE ACTIONS.—(a) Action taken under authority of this title, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of petroleum products and electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy, shall be equitable, and shall discriminate among classes of users only to the extent necessary to accomplish the purposes of such Acts. Allocations shall contain provisions designed to foster reciprocal and nondiscriminatory treatment by foreign countries of United States citizens engaged in commerce.

(b) To the maximum extent practicable, any restriction on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the

economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business, or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments whose normal function is to supply goods and service of an essential convenience nature during times of day other than conventional daytime working hours.

SEC. 109. REGULATED CARRIERS.—Within ninety days after the date of enactment of this title, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reasons why such authority is needed;

(3) the probable impact on fuel consumption of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

SEC. 110(a)(1) ADVISORY COMMITTEES.—Except as provided in section 121, to achieve the purposes of this title the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I) and section 17 of the Federal Energy Administration Act (Public Law 93-274) whether or not such Act or any of its provisions expires or terminates during the term of this title or of such committees, and in all cases shall be chaired by a regular full-time Federal employee and shall include representatives of the public, and the meetings of such committees shall be open to the public. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(2) A full and complete verbatim transcript shall be kept of such advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of section 552(b)(1), (b)(3), and so much of (b)(4) as relates to trade secrets, of title 5, United States Code.

(b) REPEAL OF SECTION 6(c) OF THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.—Effective on the date of enactment of this title, section 6(c) of the Emergency Petroleum Allocation Act of 1973, as amended, is hereby amended to read as follows:

"(c) There shall be available as a defense to any action brought for breach of contract in any Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange petroleum, that such delay or failure was caused solely by compliance with the provisions of this Act or with the regulation or any order under section 4 of this Act."

(c) REQUIRED REPORTS.—Within thirty days after the filing of the reports submitted pursuant to section 109, the Attorney General and the Federal Trade Commission shall each submit a report to the Congress and to the President analyzing the effect upon competition of such proposals and providing alternatives to avoid or overcome, to the greatest extent practicable, any anticompetitive effects of such proposals while achieving the purposes of fuel conservation.

SEC. 111. EXPORTS.—(a) The President is authorized by rule or order, to restrict exports of coal, natural gas, petroleum products, and petrochemical feedstocks, drill pipe, upland and offshore drilling rigs and platforms, and of such other supplies of materials and equipment which determines to be necessary to maintain or further exploration, production, refining, transportation, and conservation of domestic energy supplies and for the construction and maintenance of energy facilities within the United States, under such terms and conditions as he determines to be appropriate and necessary to carry out the pupose of this Act.

(b) In the administration of the restrictions under subsection (a) of this section, the President may direct and, if so, the Secretary of Commerce shall

impose such restrictions pursuant to the procedures and authorities established by the Export Administration Act of 1969, as amended.

(c) Rules or orders of the President under subsection (a) of this section and actions by the Secretary of Commerce pursuant to subsection (b) of this section shall take into account the historical trading relations of the United States with Canada and Mexico.

SEC. 112. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—(a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule, or regulation, or any order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued under this title, except that this subsection shall not apply to any rule, regulation, or order issued under the Emergency Petroleum Allocation Act of 1973 (as amended by this title).

(2) Notice of all proposed substantive rules and orders of general applicability described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where the President finds that strict compliance would seriously impair the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order. In addition, public notice of all rules or orders of general applicability described in paragraph (1) of subsection (a) which are promulgated by officers of a State or political subdivision thereof or to State or local boards pursuant to this Act shall to the maximum extent practicable be achieved by publication of such rules or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) In addition to the requirements of paragraph (2), unless the President determines that a rule or order described in paragraph (1) is not likely to have a substantial impact on the Nation's economy or upon large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and argument shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than forty-five days after the implementation of any such rule or order. A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b)(1) Judicial review of administrative rulemaking of general and national applicability done under this title may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national applicability done under this title may be obtained only by filing a petition for review in the United States court of appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this title, or under regulations or orders issued thereunder, except any action taken by the Civil Aeronautics Power Commission, or the Federal Maritime Commission, or any actions taken to implement or enforce

any rule or order by any officer of a State or political subdivision thereof or State or local board which has been delegated authority under section 116 of this title execept that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this title). If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Act or the validity of agency action under this title, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code.

(3) This subsection shall not apply to any rule, regulation, or order issued under the Emergency Petroleum Allocation Act of 1973.

(4) The finding required by section 103(b) of this title shall not be judicially reviewable under this subsection or under any other provision of law.

(c) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least ten days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

(d) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized by this title or the Emergency Petroleum Allocation Act of 1973 to issue the rules, regulations or orders described in paragraph (1) of subsection (a) shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule or order with such modifications as are necessary to insure confidentiality protected under such section 552 of title 5, United States Code. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules or orders, furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under such section 552 of title 5, United States Code.

SEC. 113. INTERNATIONAL OIL ALLOCATIONS.—(a) The President is authorized to require by rule, regulation, or order such action as may be necessary for implementation of the obligations of the United States under the international agreement with regard to the international allocation of petroleum to other countries in such amounts and at such prices as are specified in (or determined in a manner prescribed by) such rule, regulation, or order. Such rule, regulation, or order may apply to all petroleum owned or controlled by persons subject to the jurisdiction of the United States including petroleum destined, directly or indirectly, for import into the United States or any foreign country, or produced in the United States, and shall remain in effect for no more than six months unless extended pursuant to section 101(c).

(b) Neither section 4(d) of the Emergency Petroleum Allocation Act nor section 28(u) of the Mineral Leasing Act of 1920, as amended by the Act of November 16, 1973 (30 U.S.C. 185), shall preclude the allocation and export of petroleum produced in the United States to other countries in accordance with obligations of the United States under the international agreement.

SEC. 114. PROHIBITED ACTS.—It shall be unlawful for any person to violate any provision of this title or to violate any rule, regulation (including an energy conservation plan), or order issued pursuant to any such provision.

SEC. 115. ENFORCEMENT.—(a) Whoever violates any provision of this title or rule, regulations or orders promulgated pursuant thereto, shall be subject to a civil penalty of not more than $5,000 for each violation.

(b) Whoever willfully violates any provision of this title or rules, regulations or orders promulgated pursuant thereto, shall be fined not more than $10,000 for each violation.

(c) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation

issued pursuant to this title. Any person who knowingly and willfully violates this subsection after having been subjected to a civil penalty for a prior violation of the same provision of any order or regulation issued pursuant to this title shall be fined not more than $50,000 or imprisoned not more than six months, or both.

(d) Whenever it appears to any person authorized by the President or the Administrator to exercise authority under this title that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of this title, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any provision of this section.

(e) Any person suffering legal wrong because of any act or practice arising out of any violation of this title may bring an action in a district court of the United States without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

SEC. 116. DELEGATION OF AUTHORITY AND EFFECT ON STATE LAW.—(a) Within sixty days following the date of enactment of this Act, the President shall, after affording an opportunity for interested persons to make oral presentations, promulgate a regulation—

(1) establishing criteria for delegation of his functions under this Act or the Emergency Petroleum Allocation Act of 1973, to officers or local boards (of balanced composition reflecting the community as a whole) of States or political subdivisions thereof; and

(2) establishing procedures for petitioning for the receipt of such delegation.

(b) (1) Offices or local boards of States or political subdivisions thereof, following the establishment of criteria for delegation and procedures for petitioning in accordance with subsection (a) of this section, may petition the President for the receipt of such delegation.

(2) The President may grant any properly submitted petition within thirty days of its receipt.

(c) No State law or State program in effect on the date of enactment of this title, or which may become effective thereafter, shall be superseded by any provision of this title or any regulation, order, or energy conservation plan issued pursuant to this title except insofar as such State law or State program is inconsistent with the provisions of this title, or such a regulation, order, or plan.

SEC. 117. GRANTS TO STATES.—(a) The President shall provide financial assistance in accordance with this section for the purpose of assisting eligible State or local energy conservation programs.

(b) One-half the sum appropriated each fiscal year for fiscal assistance to the States shall be apportioned to each State in the ratio which the population of that State bears to the total population of the United States. The remainder shall be distributed by the President among the States on the basis of their respective needs.

(c) A State is eligible to receive financial assistance for energy conservation programs pursuant to subsection (a) (1) of the subsection in any fiscal year if—

(1) the State has established a State plan for energy conservation which provides for equitable distribution of such assistance among State, local, and regional authorities;

(2) the State provides satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this section to the State; and

(3) the State complies with regulations of the President issued under this section.

(d) Within sixty days after the date of enactment of this Act, the President shall issue, and may from time to time amend, regulations with respect to financial assistance for energy conservation programs which include criteria for such programs.

(e) Any amounts which are not expended or committed by a State pursuant to subsection (b) during the ensuing fiscal year shall be returned by such State to the United States Treasury.

(f) (1) Each recipient of financial assistance under this section shall keep such records as the President shall prescribe.

(2) The President and the Comptroller General of the United States, or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts.

(g) There is authorized to be appropriated to carry out the purposes of this section such sums as are necessary, not to exceed $50,000,000 for each of the two fiscal years including and following the effective date of this section.

(h) Any funds authorized to be appropriated under subsection (g) of this section shall be available for the purpose of making grants to States to which the President has delegated authority under section 116 of this title, or for the administration of appropriate State or local energy conservation, rationing or allocation programs which are the basis of an exemption made pursuant to section 104(a)(2) of this title from a Federal energy conservation plan which has taken effect under section 104 of this Act. The President shall make such grants upon such terms and conditions as he may prescribe by rule.

SEC. 118. ENERGY INFORMATION.—(a) The President is authorized to request, acquire, and collect such energy information as he determines to be necessary to achieve the purposes of this title.

(b) For the purposes of implementing and carrying out this Act, including the obligations of the United States under an international agreement, the authority relating to the collection, processing, analysis, and dissemination of energy information data granted by the Energy Supply and Environmental Coordination Act and the Federal Energy Administration Act, respectively, shall continue in full force and effect without regard to the provisions of these Acts relating to their expiration.

SEC. 119. EXCHANGE OF INFORMATION.—(a) Except as provided in subsections (b) and (c), and notwithstanding any other provision of law relating to prohibitions on disclosure of proprietory and confidential business data or information, the Administrator, after consultation with the Attorney General may provide to the Secretary of State, and the Secretary of State is authorized to transmit to an appropriate international organization or foreign country the information and data related to the energy industry certified by the Secretary of State as required to be submitted under an international agreement to which the United States is a party.

(b) The President shall make the final determination as to whether the transmittal of energy information and data pursuant to the authority of this section would prejudice competition, violate the antitrust laws, or be inconsistent with United States national security interests, he may require that such energy information or data not be transmitted.

(c) Energy information and data the confidentiality of which is protected by statute shall not be provided by the Administrator to the Secretary of State under subsection (a) of this section for transmittal to an international organization or foreign country, unless the Administrator has obtained the specific concurrence of the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data. In making a determination to concur in providing such information and data, the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data, shall consider the purposes for which such information and data was collected, gathered, and obtained, the confidentiality provisions of such statutory authority, and the international obligations of the United States with respect to the transmittal of such information and data to an international organization or foreign country.

(d) As used in this section and section 118 the term "energy information" means information or documents pertaining to any person engaged in any phase of major energy supply or major energy consumption, including information and documents pertaining to:

(1) corporate structure;

(2) financial structure, including balance sheets, profit and loss accounts, and taxes paid;

(3) capital investments realized;

(4) terms of arrangements for access to major sources of crude oil and other energy supplies;

(5) current rates of production and anticipated changes therein;
(6) allocations of available energy to affiliates and other customers (criteria and realization);
(7) stocks and levels of inventories and available emergency reserves;
(8) cost of crude oil, oil products, and other energy supplies;
(9) prices, including transfer prices to affiliates;
(10) energy consumption and supply;
(11) availability and utilization of transportation facilities;
(12) current and projected levels of energy supply and demand;
(13) demand restraint measures; and
(14) other subjects which the Administrator finds necessary in order to achieve the purposes of this title.

SEC. 120. RELATIONSHIP OF THIS TITLE TO THE INTERNATIONAL ENERGY AGREEMENT.—The purpose of the Congress in adopting this title is to provide standby energy emergency authority to deal with energy shortage conditions and to minimize economic dislocations and adverse impacts on employment. While the authorities contained in this Act may, to the extent authorized by this title, be used to carry out obligations incurred by the United States in connection with the November 18, 1974, executive agreement, "Agreement On An International Energy Program", this title shall not be construed in any way as advice and consent, ratification, endorsement, or other form of Congressional approval of the specific terms of the executive agreement or any related annex, protocol, amendment, modification or other agreement which has been or may in the future be entered into.

SEC. 121. INTERNATIONAL VOLUNTARY AGREEMENTS—PROCEDURES.—(a) The requirements of this section shall be the sole procedures applicable to the development, implementation or carrying out of voluntary agreements or plans of action to accomplish the objectives of the international agreement with respect to international petroleum allocation and the information system provided in such agreement, and to the availability of immunity from the antitrust laws respecting the development, implementation or carrying out of such voluntary agreements or plans of action.

(b) As used in this section, the term "antitrust laws" means—
(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.) as amended;
(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;
(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;
(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and
(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c)(1) To achieve the purposes of the international agreement with respect to international petroleum allocation and the information system provided in such agreement, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), and section 17 of the Federal Energy Administration Act (Public Law 93-274) whether or not such Acts or any of their provisions expire or terminate during the term of this Act or of such committees, and in all cases shall be chaired by a regular full-time Federal employee and shall include representatives of the public, and the meetings of such committees shall be open to the public. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(2) A full and complete verbatim transcript shall be kept of such advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Except when the Administrator has suspended the application of subsections (b) and (c) of section 17 of the Federal Energy Administration Act pursuant to paragraph (3) of this subsection, such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of

section 552 (b)(1), (b)(3), and so much of (b)(4) as relates to trade secrets, of title 5, United States Code.

(3) The Administrator, in consultation with the Secretary of State and the Federal Trade Commission, and subject to the approval of the Attorney General, may suspend the application of
(A) section 9, 10 and 11 of the Federal Advisory Committee Act,
(B) subsections (b) and (c) of section 17 of the Federal Energy Administration Act, and
(C) the requirement under subsection (c)(1) of this section that meetings be open to the public.

Provided the Administrator determines in each instance that such suspension is essential to the implementation of an international agreement and relates solely to the purpose of international petroleum allocation and the information system provided in such agreement in response to reductions or probable reductions in petroleum supplies, and that the application of such provisions would be detrimental to the public interest, including but not limited to the foreign policy interests of the United States. Such determination by the Administrator shall be in writing, and shall set forth his reasons for granting such suspension and shall be published in the Federal Register at a reasonable time prior to the effective date of any such suspension.

(4) For purposes of this Act, the provisions of subsection (a) of section 17 of the Federal Energy Administration Act shall apply to any board, task force, commission, committee, or similar group, not composed entirely of full-time government employees, established or utilized to advise the United States Government with respect to the formulation or carrying out of any agreement or plan of action under the international agreement.

(d) The Administrator, subject to the approval of the Attorney General, both in consultation with the Federal Trade Commission and the Secretary of State, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing petroleum may develop and implement voluntary agreements and plans of action to carry out such agreements which are required to implement the provisions of the international agreement, limited to international petroleum allocation and the information system provided in such agreement, in response to reductions or probable reductions in petroleum supplies.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—
(1) meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons, including all interested segments of the petroleum industry, consumers and the public, shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission, and to the public, and shall, except for bodies created by the International Energy Agency established by the international agreement, be initiated and chaired by a regular full-time Federal employee; *Provided*, That the Administrator, in consultation with the Secretary of State, and subject to approval of the Attorney General, may determine that a meeting held to develop a plan of action shall not be public and that attendance may be limited, subject to reasonable representation of affected segments of the petroleum industry as determined by the Administrator with the approval of the Attorney General, if he finds that a wider disclosure would be detrimental to the public interest, including but not limited to the foreign policy interests of the United States. At all meetings held to develop, implement or carry out a voluntary agreement or a plan of action under this subsection, a regular full-time Federal employee shall be present.
(2) interested persons shall be afforded an opportunity to present in writing and orally, data, views, and arguments at such meetings.
(3) a full and complete record, and where practicable a verbatim transcript, shall be kept of any meeting or conference held, and a full and complete record shall be kept of any communication made, between or among participants or potential participants, to develop, implement, or carry out a voluntary agreement or a plan of action under this subsection and such record or transcript shall be deposited, together with any agreement resulting therefrom, with the Administrator, and shall be available to the Attorney General and the Federal Trade Commission. Such transcripts, records and

agreements shall be available for public inspection and copying, subject to (A) the provisions of sections 552 (b) (1), (b) (3) and so much of (b) (4) as relates to trade secrets, of title 5, United States Code, or (B) a determination by the Administrator, in consultation with the Secretary of State, and subject to approval of the Attorney General, that such disclosure would be detrimental to the public interest, including but not limited to the foreign policy interests of the United States.

(f) (1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation, and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects which achieving substantially the purposes of this Act. The Attorney General, in consultation with the Federal Trade Commission, the Secretary of State, and the Administrator, shall have the right to review, amend, modify, disapprove, or revoke, on his own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity which may be conferred by subsection (h) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission twenty days before being implemented, where it shall be made available for public inspection and copying; *Provided*, That any plan of action shall not be made publicly available if the Administrator, in consultation with the Secretary of State, and subject to approval of the Attorney General, determines that such public availability would be detrimental to the public interest, including but not limited to the foreign policy interests of the United States; and *Provided further*, That if emergency measures have been activated pursuant to the international agreement, the Administrator, subject to approval of the Attorney General, may reduce the twenty day period applicable to plans of action. Any action taken pursuant to such voluntary agreement and plan of action shall be reported to the Attorney General and the Federal Trade Commission pursuant to such regulations as shall be prescribed under subsection (g) (4).

(g) (1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation, and carrying out of plans of action and voluntary agreements authorized under this section to promote competition and to prevent anticompetitive practices and effects, while achieving substantially the purposes of this Act.

(2) In order to carry out the purposes of this section, the Attorney General, in consultation with the Federal Trade Commission and the Administrator, shall promulgate regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts, and other records related to the development, implementation, or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

(3) Persons developing, implementing, or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Attorney General and the Federal Trade Commission may each prescribe such rules and regulations as may be necessary or appropriate to carry out their respective responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this Act.

(h) There shall be available as a defense to any civil or criminal action brought under the antitrust laws (or any similar state law) in respect of actions taken in good faith to develop, implement or carry out a voluntary agreement or plan of action by persons engaged in the business of producing, refining, marketing, or distributing petroleum products that—

(1) such action as taken—

(A) in the course of developing a voluntary agreement or plan of action pursuant to this section, or

(B) pursuant to a voluntary agreement or plan of action authorized and approved in accordance with this section, and

(2) such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

(i) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

(j) Effective 60 days after the date of enactment of this Act, the provisions of Section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Petroleum Allocation Act of 1973. Nothing in this section shall be deemed to authorize the application of Section 708 of the Defense Production Act of 1950, as amended, to any voluntary agreement.

(k) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

(l) The authority granted by this section shall terminate upon the expiration or repeal of this Act.

(m) In any action in any Federal or State court for breach of contract there shall be available as a defense that the alleged breach of contract was caused solely by compliance with the provisions of this section, or any rule, regulation or order issued pursuant to this section.

SEC. 122. EXTENSION OF MANDATORY ALLOCATION PROGRAM.—Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973, as amended, is further amended by striking out "August 31, 1975" wherever it occurs, and inserting in lieu thereof "June 30, 1976".

SEC. 123. LIMITATIONS ON RAISING OR REMOVING PETROLEUM PRICE CONTROLS.—(a) (1) After the date of enactment of this title no increase in the price permitted for oil now classified as "old" oil under regulations promulgated pursuant to section 4 of the Emergency Petroleum Allocation Act of 1973 (87 Stat. 629) and in effect on January 1, 1975, may be established except in accordance with subsection (b) of this section.

(2) After the date of enactment of this title no amendment to the petroleum price control regulations promulgated under section 4 of the Emergency Petroleum Allocation Act of 1973 (87 Stat. 629) which has as its purpose the exemption, pursuant to section 4(g) of the Emergency Petroleum Allocation Act, of crude oil, residual fuel oil, or a refined petroleum product from price controls may become effective except in accordance with subsection (b) of this section.

(b) No action covered by the provisions of subsection (a) (1) or (2) of this section may be undertaken unless the specific action proposed to be taken is first submitted to both Houses of the Congress pursuant to the procedures provided for in section 104 (b) through (d) of this title. Each House then shall have the opportunity to review and by majority vote disapprove of such action within ten days of the receipt of the proposal pursuant to the procedures provided for in section 104 of this title.

(c) For the purposes of this section, any reference in section 104 to the term "energy conservation plan" shall be deemed to be a reference to the term "petroleum pricing and exemption action".

SEC. 124. CONTINGENCY PLANS.—(a) In order to fully inform the Congress and the public with respect to the exercise of authorities under sections 103 and 104 of this title, the President shall, to the maximum extent practical, develop contingency plans in the nature of descriptive analyses of—

(1) the manner of implementation and operation of any such authority;

(2) the anticipated benefits and impacts of the provision of any plan;

(3) the role of State and local governments;

(4) the procedures for appeal and review; and

(5) the Federal officers or employees who will administer any plan.

(b) (1) Within one hundred and eighty days following the date of enactment of this title, and at such other times as the President deems appropriate, the President shall submit to the Congress such contingency plans in accordance with subsection (a) of this section as have been formulated.

(c) Notice of all proposed plans shall be given by publication of such proposed plans in the Federal Register. In the case of each such proposed plan, a minimum of ten days following such publication shall be provided for oppor-

tunity for comment thereon and for opportunity to request a public hearing thereon, which, if requested by any interested person, shall be held prior to the adoption of such plan.

(d)(1) Within ninety days following the date of enactment of this title, the President shall develop and submit to Congress a contingency plan (or plans) for rationing which shall describe the rationing system he deems most appropriate to respond to—

(A) an embargo of the sort experienced during the winter of 1973–74, and

(B) any other contingency which may reasonably be projected, for which rationing may reasonably be considered appropriate, and for which a contingency plan for rationing may reasonably be developed and submitted within the prescribed time period.

(2) Any contingency plan for rationing with respect to a contingency referred to in subparagraph (1)(B) of this subsection which cannot reasonably be developed and submitted to Congress within ninety days following the date of enactment of this title shall be developed and submitted as soon thereafter as practicable.

(3) The requirements of this subsection shall not apply with respect to any contingency which the President finds already exists and for which he has promulgated and submitted to Congress a regulation pursuant to section 103 of this title.

SEC. 125. INTRASTATE NATURAL GAS.—Nothing contained in this Act shall authorize the President to regulate or allocate natural gas not otherwise subject to the jurisdiction of the Federal Power Commission: *Provided*, That to the extent authorized by law the President may with respect to all sources of energy establish thermal efficiency standards, lighting standards, appliance standards, and other general standards of national application designed to improve energy conservation in residential, commercial, and industrial uses: *Provided further*, That State regulatory bodies having jurisdiction over natural gas shall cooperate with the President to achieve the conservation objectives of this Act.

SEC. 126. EXPIRATION.—(a) The authority under this title to prescribe any rule or order to take action under this title, or to enforce any such rule or order, shall expire at midnight, June 30, 1977, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, June 30, 1977.

(b) The Secretary of State shall prepare and transmit to the Congress a report every ninety days on all significant proposals, meetings, and activities undertaken by the United States and other signatory nations to the Agreement On An International Energy Program. The report shall include a summary and copies of any amendments to the agreement, any changes or modifications of related annexes or protocols, any interpretation or construction of the meaning of the agreement, considered in the previous quarter, and any change, modification or interpretation of the agreement to be proposed or supported by the United States in the forthcoming quarter.

SEC. 127. AUTHORIZATIONS OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the President such funds as are necessary for implementation of the provisions of this title.

SEC. 128. SEVERABILITY.—If any provision of this title, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this title, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SEC. 129. TRANSFER OF AUTHORITY.—In accordance with section 15(a) of the Federal Energy Administration Act (88 Stat. 108 and 109) the President shall designate, where applicable and not otherwise provided by law, an appropriate Federal agency to carry out the provisions of this title after the termination of the Federal Energy Administration.

TITLE II: ENERGY CONSERVATION POLICY

SEC. 201. STATEMENT OF PURPOSES, FINDINGS, AND POLICY.—(a) The purposes of this title are:

(1) to declare an interim national conservation policy;

(2) to make energy conservation an integral part of all ongoing programs and activities of the Federal government;

(3) to promote energy conservation efforts through specific directives to agencies of the Federal Government, State government, and sectors of private industry;

(4) to encourage greater private energy conservation efforts;

(5) to authorize the Administrator of the Federal Energy Administration to establish national energy conservation standards; and

(6) to provide for the development of energy conservation programs by State government pursuant to the policies set forth in this title.

(b) The Congress finds that:

(1) adequate supplies of energy at reasonable cost are essential to the maintenance of the United States economy and a high standard of living;

(2) increasing dependence on energy supplies imported from foreign sources has created serious economic and national security problems;

(3) a continuation of past trends in the expansion of demand for energy in all forms will have serious adverse social, economic, political, and environmental impacts; and

(4) the adoption at all levels of government of laws, policies, programs, and procedures to conserve energy and fuels could have an immediate and substantial effect in reducing the rate of growth of energy demand and minimizing such adverse impacts.

(c) The Congress hereby declares that it is in the national interest for, and shall be the continuing policy of, the Federal Government to foster and promote comprehensive national fuels and energy conservation programs and practices in order to better assure adequate supplies of energy to consumers, reduce energy waste, conserve natural resources, and protect the environment.

(d) Every agency of the Federal Government shall have the continuing responsibility of implementing the policy and purposes set forth in this title. Each agency shall review its statutory authority, policies, and programs in order to determine what changes may be required to assure conformity with the policy and purposes of this title and shall report annually on the result of its review, together with recommendations for necessary changes, to the President and to the Congress.

SEC. 202. INTERIM ENERGY CONSERVATION PLANS.—(a)(1) Pending the promulgation of regulations to establish national energy conservation standards pursuant to sections 203 through 207, and/or the adoption by the Congress of specific legislative policies, standards and programs for energy conservation programs, the President may promulgate, by regulation, one or more energy conservation plans in accord with this section which shall be designed (together with actions taken and proposed to be taken under other provisions of this or other Acts) to result in a reduction of national energy consumption.

(2) For the purposes of this section, the term "energy conservation plan" includes but is not limited to plans to establish:

(A) lighting efficiency standards for public buildings;

(B) thermal performance standards for all new Federal construction and all new homes and buildings financed under any Federal loan guarantee or mortgage program;

(C) reasonable restrictions on hours for public buildings;

(D) standards to govern decorative or non-essential lighting;

(E) standards and programs to increase industrial efficiency in the use of energy;

(F) programs to insure better enforcement of the fifty-five mile per hour speed limit;

(G) programs to maximize use of carpools and public transportation systems;

(H) standards for reasonable controls and restrictions on discretionary transportation activities upon which the basic economic vitality of the country does not depend;

(I) energy efficiency standards to govern Federal procurement policy;

(J) low interest loans and loan guarantee programs to improve the thermal efficiency of individual residences by installation of insulation, storm windows, or other improvements; and

(K) public education programs to encourage voluntary energy conservation.

(3) No energy conservation plan promulgated under this section may impose rationing or any tax or user fee, or provide for a credit of deduction in computing any tax.

(4) An energy conservation plan shall become effective as provided in subsection (b) of section 104 of Title I of this Act. Such a plan shall apply in each State, except as otherwise provided in an exemption granted pursuant to such plan in cases where a comparable State or local program is in effect, or where the President finds special circumstances exist.

(5) An energy conservation plan shall deal with only one functionally discrete subject matter or type of action proposed to reduce energy consumption.

(6) Subject to section 104(b)(3) of title I of this Act, an energy conservation plan shall remain in effect for a period specified in the plan unless earlier rescinded by the President, but shall terminate in any event no later than one year after such plan first takes effect unless renewed in accordance with section 104(b) of title I of this Act.

(b) Any energy conservation plan promulgated by the President pursuant to subsection (a) of this section shall not become effective until it has been transmitted to the Congress for review and right of disapproval in accord with the expedited procedures of Section 104(b) through (d) of title I of this Act; *Provided*, That, for the purposes of this section the reference to "ten calendar days". in Section 104(b)(3) of title I of this Act shall mean "thirty calendar days".

SEC. 203. FEDERAL INITIATIVES IN ENERGY CONSERVATION.—The Administrator of the Federal Energy Administration, in cooperation with the Secretaries of the Departments of Housing and Urban Development, Commerce, Interior, Transportation, Health, Education, and Welfare, Treasury and the heads of other appropriate Federal agencies shall, within three months of the effective date of this Act, promulgate regulations which specify standards for energy efficiency and conservation and establish—

(a) lighting efficiency standards for public buildings;

(b) thermal performance standards for all new Federal construction and all new homes and buildings financed under any Federal loan guarantee or mortgage program;

(c) reasonable restrictions on hours for public buildings;

(d) standards to govern decorative or non-essential lighting;

(e) standards and programs to increase industrial efficiency in the use of energy;

(f) programs to insure better enforcement of the fifty-five mile per hour speed limit;

(g) programs to maximize use of carpools and public transportation systems;

(h) standards for reasonable controls and restrictions on discretionary transportation activities upon which the basic economic vitality of the country does not depend;

(i) energy efficiency standards to govern Federal procurement policy;

(j) low interest loans and loan guarantee programs to improve the thermal efficiency of individual residences by installation of insulation, storm windows, or other improvements; and

(k) public education programs to encourage voluntary energy conservation.

SEC. 204. STATE INITIATIVES IN ENERGY CONSERVATION.—(a) The Administrator is authorized and directed to promulgate within sixty days of the effective date of this title Federal guidelines for the funding and development of State energy conservation programs to be submitted pursuant to section 205.

(b) The Administrator is authorized and directed to request the submission within four months of the effective date of this Act from the Governor of each State a report describing a proposed State energy conservation program to be implemented within the jurisdiction of said State and supported by Federal funds pursuant to section 206 of this title.

(c) The Administrator is authorized, subject to the availability of manpower and funds, to extend such technical assistance as he deems appropriate to individual States for the development of the State Energy Conservation Programs described in subsections (a) and (b) of this section.

(d) The report submitted by the Governor of each State pursuant to subsection (b) which describe the proposed State energy conservation program shall be based upon any or all of the energy efficiency and conservation standards and programs set forth in Section 203. The report and the proposed State energy conservation program shall be designed so as to:

(1) minimize adverse economic or employment impact within the particular State; and

(2) meet unique local economic, climatological, geographic and other conditions and requirements.

SEC. 205. DELEGATION OF AUTHORITY.—(a) Within sixty days following the date of enactment of this title, the Administration shall—

(1) establish criteria for the delegation of responsibility for the implementation and administration of State energy conservation programs to the responsible State officers and agencies; and

(2) establish procedures for petitioning for the receipt of such delegation.

(b)(1) State offices and agencies, following the establishment of criteria for delegation and procedures for petitioning in accordance with subsection (a) of this section, may petition the Administrator for the receipt of such delegation.

(2) The Administrator shall review and may approve any State energy conservation program submitted pursuant to section 204(a) and subsection (a) of this section within thirty days of its receipt.

(3) The Administrator shall establish procedures incorporating the provisions set forth in title I of this Act governing interpretation of State programs, administrative law, judicial review, enforcement and penalties.

SEC. 206. GRANTS TO STATES.—(a) The Administrator shall provide all financial assistance in accordance with this section necessary for the development and implementation of approved State energy conservation programs.

(b) One-half the sum appropriated for fiscal assistance to the States shall be apportioned to each State in the ratio which the population of that State bears to the total population of the United States. The remainder shall be distributed by the Administrator among the States on the basis of their respective needs and their achievement of conservation targets set by the Administrator.

(c) Within sixty days after the date of enactment of this title, the Administrator shall issue, and may from time to time amend, regulations with respect to financial assistance for State energy conservation programs which include criteria for such programs.

(d) Any amounts which are not expended or committed by a State pursuant to subsection (b) during the ensuing fiscal year shall be returned by such State to the United States.

(e)(1) Each recipient of financial assistance under this section shall keep such records as the Administrator shall prescribe.

(2) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts.

SEC. 207. ENERGY CONSERVATION TARGETS AND OBJECTIVES.—(a) The Administrator shall, on a regular and periodic basis, establish realistic and attainable energy conservation targets and objectives for State energy conservation programs. States which meet energy conservation targets and objectives shall be eligible for an incentive grant as determined by the Administrator from the funds authorized and appropriated to carry out the purposes of this title.

(b) The Administrator shall furnish the Governors of the respective States with a monthly report on the implementation of this title, on the energy savings achieved, and any innovative conservation program undertaken by individual States.

SEC. 208. NON-PARTICIPATION BY STATE GOVERNMENT.—In the event that one or more States fail to propose an acceptable State energy conservation program, or having proposed such a program fails to implement or enforce the program, the Administer is authorized and directed to develop, implement, and enforce a Federal program for such State or States.

SEC. 209. REPORTS.—Six months after the date of enactment of this title the Administrator shall prepare and submit to the Congress a report on—

(a) the operation of this title, the energy conservation savings achieved, the degree of State participation and compliance, and any recommendations for amendments; and

(b) the Administrator's assessment of the need, if any, and his recommendations for additional economic incentives or economic penalties to insure effective participation and compliance with and by State government with the provisions and the purposes of this title.

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Administrator such funds as are necessary for the fiscal years following the effective date of this title.

SEC. 211. EXPIRATION.—The authority under this title to prescribe any rule or order to take action under this title, or to commit any funds thereunder, shall expire at midnight, June 30, 1976.

2. Amend the title so as to read "A bill to provide standby authority to assure that the essential energy needs of the United States are met, to reduce reliance on oil imported from insecure sources at high prices, to implement United States obligations under international agreements to deal with shortage conditions, and to authorize and direct the implementation of Federal and State conservation programs consistent with economic recovery".

I. SUMMARY

S. 622, "The Standby Energy Authorities Act," as reported, provides the authority to deal with situations created by severe energy shortages and creates the foundation upon which a new national energy conservation policy can be built. The programs embodied in this legislation are essential if we are to minimize our dependence on imported energy, protect national security interests and the integrity of our foreign policy, and promote sensible energy conservation consistent with economic recovery, full employment and stable prices.

a. Title I: Standby Authorities

The most important provisions of title I, Standby Authorities, are as follows:

1. Section 103 authorizes the President, subject to congressional review and right of disapproval, to implement a program for end use rationing of petroleum and petroleum products.

2. Section 104 authorizes the President, subject to congressional review and right of disapproval, to implement energy conservation plans.

3. Section 105 authorizes the President, after reporting to Congress, to allocate supplies and materials associated with the production of energy to the extent necessary to maintain and increase the production and transport of fuels.

4. Section 106 authorizes the President to undertake a number of measures to increase domestic supplies of petroleum.

5. Section 111 authorizes the President to restrict exports of fuels and energy resources, including petrochemical feedstocks, as well as material and equipment necessary for domestic energy exploration and production, under such terms as he deems appropriate, consistent with existing laws.

6. Section 113 authorizes the President to order such action as may be necessary for implementing the obligations of the United States under the international agreement, as defined in this title, with regard to the international allocation of petroleum.

7. Section 118 authorizes the President to collect such energy information as he deems necessary for the purpose of carrying out this title, including the obligations of the United States under the international agreement.

8. Section 120 provides that title I shall not be construed as advice and consent, ratification, endorsement, or other form of congressional approval of the international agreement or any related agreement.

9. Section 121 sets forth the procedures and conditions governing voluntary agreements entered into to accomplish the objectives of the international agreement with regard to the international allocation of petroleum.

10. Section 122 extends the Emergency Petroleum Allocation Act of 1973 to June 30, 1976, by amending section 4(g)(1) of that Act.

11. Section 123 prohibits any increase in the price permitted for "old" oil, and any exemption of crude oil, residual fuel oil, or refined petroleum product from price control regulations without congressional review and right of disapproval.

12. Section 124 requires the President to develop and transmit to Congress, contingency plans for energy rationing and conservation. Such contingency plans may not be implemeted, however, without congressional approval, as provided for in sections 103 and 104.

b. Title II: Energy Conservation Policy

The direction and authority contained in title II is intended to mandate the establishment of energy conservation goals, standards and specific programs to be administered by State government. These programs are to be initiated promptly and are intended to be in effect until such time as the Congress enacts specific legislative policies on each of the subject matters covered by the title. Title II programs do not require an oil embargo or finding of impending emergency shortage conditions to trigger implementation. The most important sections of title II are as follows:

1. Section 202 authorizes the promulgation by the President, subject to Congressional right of review and disapproval, of specific interim Federal energy conservation programs pending establishment and implementation of the comprehensive program authorized by the title.

2. Section 203 requires the Administrator of the Federal Energy Administration to promulgate regulations within three months of the effective date of the Act setting forth Federal Standards for energy efficiency and establishing specific programs for energy conservation. These Federal initiatives shall include:

(A) lighting efficiency standards for public buildings;

(B) thermal performance standards for all new Federal construction and all new homes and buildings financed under any Federal loan guarantee or mortgage program;

(C) reasonable restrictions on hours for public buildings;

(D) standards to govern decorative or non-essential lighting;

(E) standards and programs to increase industrial efficiency in the use of energy;

(F) programs to insure better enforcement of the 55 mph speed limit;

(G) programs to maximize use of carpools and public transportation systems;

(H) standards for reasonable controls and restrictions on discretionary transportation activities upon which the basic economic vitality of the country does not depend;

(I) energy efficiency standards to govern Federal procurement policy;

(J) low interest loans and loan guarantee programs to improve the thermal efficiency of individual residences by installation of insulation, storm windows, or other improvements; and

(K) public education programs to encourage voluntary energy conservation.

The Federal Energy Administration has estimated that the energy equivalent of over 800,000 barrels per day of crude oil could be saved within a year through a purely voluntary program incorporating many of the provisions included in Section 203. Mandatory adoption of these measures will increase energy savings. The Committee intends that States will select from among these conservation measures those which fit best their own local economic, geographic and climatological conditions for incorporation in the State Energy Conservation Programs mandated by Section 204. The Committee believes that a national energy conservation effort guided by Federal standards, mandated by Federal authority but administered by States and tailored to local circumstances will result in significant energy savings without precipitating the further deterioration in the nation's economy which would result if the Administration's program of energy tariff, tax and pricing policies were enacted.

3. Sections 204, 205, and 206 authorize the setting of Federal guidelines for State Energy Programs to be submitted to the Administrator of the Federal Energy Administration by the Governors of each State. If a State program is approved, the authority to implement it is delegated to the State by the Federal Government, and the program is supported through a grant of Federal funds.

4. Section 207 requires the Administrator of the Federal Energy Administration to establish realistic energy conservation targets and objectives for State programs and to establish an incentive program for added Federal funding.

5. Section 208 provides that, should any State fail to submit an acceptable State Energy Conservation Program, the Administrator shall develop, implement and enforce a Federal energy conservation program in that State.

c. Administration Bill: Title XIII, the Standby Energy Authorities Act of 1975

There is substantial similarity between title I of S. 622 as reported by the Committee and title XIII of S. 594, which is part of the program proposed by President Ford on January 15. For example, each bill provides standby authority to:

Increase available domestic petroleum supplies;

Institute rationing of petroleum products;

Promulgate energy conservation plans;

Allocate scarce materials which are essential to the maintenance of production, refining and transportation of energy supplies;

Restrict exports of energy supplies and materials related to the production, refining and transportation of energy;

Provide grants to States to assist in the operation of State or local energy conservation programs.

In addition each bill grants to the President the authority to participate in the international allocation of petroleum supplies and to

exchange information in fulfillment of the obligations of the United States under the international energy agreement signed in November of 1974.

Principal differences between title I of S. 622 and the Administration bill are:

S. 622 provides for congressional review and right of disapproval of rationing or conservation plans;

S. 622 does not grant the President control over privately held stocks of fuel;

S. 622 does not constitute advise and consent, ratification, endorsement or other form of congressional approval of the executive agreement, or any subsequent amendment thereto, regarding international cooperation in energy policy;

S. 622 extends the Emergency Petroleum Allocation Act of 1973 until June 30, 1976 and amends that act to require congressional review with right of disapproval for any alteration in price control regulations which apply to crude oil or refined petroleum products.

II. PURPOSE

a. Title I; Standby Authorities

The purpose of title I of S. 622, "The Standby Energy Authorities Act,' is to authorize the President during periods of acute energy shortages to take specific actions to conserve scarce fuels, alleviate fuel shortages and increase domestic energy supplies. The title provides for energy conservation, rationing and contingency plans to be developed to reduce nonessential energy consumption and assure the continuation of vital services in the face of severe fuel shortages. The President is empowered to develop specific conservation measures which are designed to deal with the shortage conditions presented. Implementation may be accomplished directly or by delegation to State governments. Grants and assistance are provided to the States for the purpose of implementing the provisions of this title.

Title I provides for the allocation of materials in short supply which are essential to energy production and authorizes Presidential actions to supplement domestic oil supplies by increasing production for limited periods of time from existing fields. Authority is granted for international allocation of fuels and exchange of energy information with foreign governments to implement certain obligations incurred by the United States under the international energy agreement. Title I also extends the expiration date of the Emergency Petroleum Allocation Act of 1973, as amended, until June 30, 1976. This title also prohibits any increase in the price permitted for "old" oil, and any exemption of crude oil, residual fuel oil, or refined petroleum product from price control regulations without congressional review and right of disapproval.

Recognizing that this title grants broad authorities to the executive branch, the bill as reported by the Committee requires that a finding that acute energy shortages exist or are impending or that the exercise of authorities provided for in the title are required to fulfill obligations of the United States under the international energy agreement must be made by the President before certain powers may be invoked under

this title. In addition, Congress has a right to review and to disapprove the implementation of rationing and energy conservation plans under sections 103 and 104.

b. Title II: Energy Conservation Policy

The purpose of title II of S. 622 is to insure the implementation of necessary energy conservation programs, consistent with economic recovery, even though conditions do not warrant the exercise of the standby authorities granted by title I. Title II therefore authorizes the President to establish an interim energy conservation plan, directs the Administrator of the Federal Energy Administration to establish national energy conservation standards, and provides for the development and implementation of approved State Energy Conservation Programs with Federal assistance.

If any State fails to submit a State Energy Conservation Program which is consistent with the Federal guidelines and standards for such programs, the Administrator is authorized and directed to develop and implement an energy conservation program for that State.

The programs provided for by title II will conserve energy without precipitating the further deterioration in the nation's economy which would result if the Administration's program of energy tariff, tax and pricing policies were adopted. The President's proposals, if enacted, would insure continued double digit inflation by adding 3% to the cost of all goods and services. At the same time, his proposals would accelerate the downward spiral of the economy toward depression by reducing consumer purchaser power $20 to $30 billion annually.

The State Energy Conservation Programs provided for in title II, tailored to local economic, geographic and climatological conditions, will assure that necessary energy conservation will proceed without jeopardizing the nation's priority goal: a full employment economy with price stability. The setting of realistic and attainable conservation goals which are consistent with economic recovery and the implementation of orderly programs to achieve these goals will help realize the enormous potential for energy conservation in the United States which exists. The Federal Energy Administration's Comprehensive Energy Plan, which was submitted in response to the congressional mandate of section 22 of the Federal Energy Admiinstration Act of 1974, estimated that U.S. energy consumption could be reduced by the equivalent of over 800 thousand barrels of crude oil per day within a year if several of the conservation measures specified and authorized in title II were adopted on a voluntary basis. By mandating many of these measures through specific programs to mobilize the efforts of the American people, these estimated energy savings can be attained and even exceeded.

III. NEEDS

The United States is at this time dependent upon petroleum imports for 38 percent of its petroleum needs and for 17 percent of its total energy requirements. As was demonstrated by the 1973–1974 embargo of petroleum exports to the United States by the Arab oil producing nations, the interruption of any significant percentage of these imports can create severe social and economic hardship for the country.

It is, essential therefore, that dependence upon petroleum imports

be reduced in a manner that will not create further economic dislocation or more unemployment and that the capability for national energy self-sufficiency be attained at the earliest practicable date. In this regard, there is a particularly urgent requirement for the passage of legislation which would facilitate the reduction of the nation's petroleum consumption through energy conservation, and which would expedite the practical application of current and future technology for the employment of alternate sources of energy.

The magnitude of our growing national demand for energy, however, is such that the United States is unlikely to attain the capability for energy self-sufficiency within the next decade. Until that goal is achieved, we, as a nation, remain vulnerable to what has become known as the "oil weapon." We must acknowledge that there exists the ever-present danger that one or more oil producing nations might deny us petroleum imports in the attempt to cause an alteration in U.S. foreign or economic policy.

To enhance our capability to withstand the pressures of petroleum import curtailment and to minimize the adverse social and economic impact of such action, the Federal Government must be able to act positively to reduce petroleum consumption to levels consistent with available supplies. Government must be able to maximize domestic petroleum production and the use of alternate domestically available fuels and must be able to equitably distribute available fuel.

At this time, there is no statutory authority for the implementation in peace time of contingency plans that would attain those ends. Title I of S. 622 provides that statutory authority.

Title II mandates a national conservation effort which will result in significant energy savings through the cooperative efforts of individual citizens, business and industry, State and local governments, and the Federal Government. These savings are attainable without excessive increases in the price of energy which would severely threaten the prospects for economic recovery while fueling inflation. The savings would be achieved by focusing attention on specific measures to improve the utilization of energy. These measures would be based on Federal standards applied in a manner consistent with the potential for energy conservation resulting from local circumstances. Focusing attention on energy efficiency would be accomplished by orderly conservation programs rather than through steep price increases which impact regressively on consumers.

The Federal Energy Administration has estimated the potential for energy savings from measures similar to those authorized by title II for several time horizons. The potential for near-term energy conservation (which could be achieved within a year from a purely voluntary program) was estimated in the FEA Comprehensive Energy Plan prepared as required by the Federal Energy Administration Act of 1974. The Project Independence Blueprint released by the FEA in November 1974, examined the potential for energy conservation over longer time periods. In table I the results of the Comprehensive Energy Plan and the Project Independence Blueprint estimates are summarized. The Project Independence Blueprint figures correspond to the $7 per barrel oil price scenario.

The Comprehensive Energy Plan shows a savings potential of 810,000 barrels per day within a year from measures similar to those

authorized by title II. The Project Independence Blueprint totals for similar measures are 1 million barrels per day by 1977, 1.45 million barrels per day by 1980 and 2.45 million barrels per day by 1985. It should be noted that, while the conservation measures and detailed assumptions associated with these sets of estimates are not totally comparable and conservation savings estimates may not be entirely additive, the results of these FEA studies do give a rough estimate of the potential for energy savings through orderly implementation of energy conservation programs. It should also be noted that the estimates quoted here apply only to a portion of the energy conservation measures contemplated in title II. Moreover, passage of S. 622 in no sense precludes the enactment of additional legislation which addresses further opportunities for energy conservation in these and other sectors of the economy or over other time periods.

TABLE I.—ENERGY SAVINGS

[Energy equivalent in thousand barrels of crude oil per day]

Sector	Time period			
	1975 [1]	1977 [2]	1980 [2]	1985 [2]
Industry	175	120	300	600
Transportation (carpools, increased use of mass transit, enforcement of speed limits)	290	510	550	790
Buildings:				
Retrofit of existing homes		140	220	370
Mandatory efficiency standards for new buildings		140	260	510
Mandatory lighting standards		90	120	180
Subtotal	345	370	600	1,060
Total	810	1,000	1,450	2,450

[1] FEA Comprehensive Energy Plan.
[2] FEA Project Independence Blueprint ($7 per barrel oil scenario).

IV. MAJOR PROVISIONS

Standby End Use Rationing and Energy Conservation

The most important provisions of title I are the grant of standby authority to the President to develop and implement regulations for mandating the conservation of energy and for the rationing of fuels in the event of existing or impending energy shortage conditions which threaten the domestic economy. Significant increases in the supply of domestically produced fuels and energy can not be rapidly affected in times of reduced imports or other unanticipated energy shortages. Consequently, energy demand restraint and the distribution of available fuels in an equitable manner are essential elements in any national program to minimize the adverse social and economic impact that would arise from acute energy shortages.

Measures To Increase Availability of Fuel Supplies

Title I provides authority to the President to allocate material and equipment which is in short supply and which is essential to domestic energy production to insure that such production is maximized within the limitation imposed by total material availability. To further maximize domestic energy sources this title authorizes the President to: (1) require the production of designated oil and gas wells at their maximum practicable rates of production for 90 day periods where it may be accomplished without excessive risk to the reservoir; (2) require the unitization of oil and gas production on the Federal lands; (3) require the adjustment of refinery operations to insure the production of refined petroleum products in proportions commensurate with national needs.

Energy Conservation Policy

The most important provisions of title II authorize the President to establish an interim energy conservation plan, direct the Administrator of the Federal Energy Administration to establish national energy conservation standards, and provide for the development and implementation of approved State Energy Conservation Programs with Federal technical and financial assistance. In the absence of such State programs Federal energy conservation standards would apply to the States. Title II also directs the Administrator to establish realistic and attainable targets for State Energy Conservation Programs and to report to Congress, within six months, on the energy conservation savings achieved, the degree of State compliance, and the need for additional economic incentives or penalties, including recommendations, to insure effective State participation and compliance with the provisions of title II.

V. COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs, recommends that S. 622, as amended, be approved by the Senate and enacted.

VI. LEGISLATIVE HISTORY

a. Background: S. 2589

S. 2589 was introduced by Senator Jackson *et al* on October 18, 1973, as a measure to prepare the Nation to deal with impending fuel shortages. The Senate began consideration of S. 2589 on November 14, 1973. Debate and consideration was continued on November 15 and 16 and the bill was passed by rollcall vote (78–6) on November 19, 1973. On December 14, 1973 the House passed a companion bill, H.R. 11882.

A House-Senate committee of conference met December 17, 18, 19 and 21. The Conference Report was taken up in the Senate on December 21, 1973, but adoption of the Conference report was delayed by extended debate on the provisions of the bill.

The first session of the 93d Congress adjourned on December 22 without acting on S. 2589, although the substance of the bill was passed by the Senate as a floor amendment to a House-passed bill prior to adjournment.

The Senate resumed consideration of the Conference Report on January 24, 1974. On January 29, by a vote of 57–37, the Senate recommitted the Conference Report to the Conference Committee.

Conferees met on February 4, 5 and 6, 1974 and on February 6 agreed to file a modified conference report. The significant modification in this second Conference Report was the replacement of the provision to prohibit windfall profits with one which required a "rollback" in domestic crude oil prices. The modified conference report was filed in the Senate February 6, 1974, and considered February 17 and 18, 1974 and adopted on February 19, 1974 by a vote of 67–32. On February 27, 1974 it was adopted by the House by a vote of 258–151 and sent to the President. On March 6, 1974 the bill was vetoed by the President.

The veto message cited objections to provisions of the bill which provided for reducing crude oil prices, providing federal aid to those unemployed by the energy crisis, and the granting of loans to homeowners and small businesses for energy conservation purposes. The Senate failed to override the veto, by a vote of 58–40 on March 6, 1974.

b. Negotiations with Administration

Following President Nixon's veto on March 6 of S. 2589, the Energy Emergency Act, and the Senate's failure to override the veto, a series of discussions and negotiations on the substance of the bill were undertaken with the White House and Administration representatives at the request of Representative Staggers. Senator Jackson and Senator Fannin represented the Committee at these negotiations.

These discussions continued for approximately two weeks and led to agreement on the substance of an emergency authorities bill, with the following exceptions: (1) unemployment benefits, (2) repeal of the stripper well exemption from price control authority, (3) petroleum price controls, (4) protection of franchised dealers and distributors, and (5) delegation of authority to the President rather than the Administrator of FEO.

The discussions were terminated when it became apparent that fundamental policy differences on these five issues would make full agreement impossible.

S. 3267

On March 28, 1974, Senator Jackson and Representative Staggers introduced companion bills (S. 3267 and H.R. 13834) which incorporated the changes discussed in negotiations with the Administration as well as the provisions on the subjects still in disagreement.

As introduced, S. 3267 contained a number of authorizations similar to those which the President had requested in other Administration bills. These included authorization for rationing, conservation plans and funding for grants to States; energy data and information authority; special unemployment assistance programs; authorization for conversion from oil and gas to coal by power plants and heavy industrial users; and amendments to the Clean Air Act.

Hearings were held on April 4, 1974 at which time testimony was received from Mr. William N. Walker, General Counsel, Federal Energy Office and Mr. Charles Owens, Deputy Assistant Administration for Policy, Planning and Regulation, Federal Energy Office. In addition, a statement of Mr. William E. Simon, Administrator, Federal Energy Office, was accepted for incorporation in the hearing record. Other statements for the record were received.

A mark-up session of the Committee was held on April 10, 1974 and at the conclusion thereof S. 3267 was ordered reported with an amendment in the nature of a substitute.

The bill was reported on April 19, 1974 and debated briefly on May 8 and May 13, 1974, and thereafter remained on the Senate calendar. On December 5, 1974 Senator Jackson together with Senators Mansfield, Robert C. Byrd, Magnuson, Randolph, Stevenson, Haskell, Pastore, Nelson, and Ribicoff introduced Amendment 2006, an Amendment in the nature of a substitute to S. 3267. Amendment 2006 differed principally from S. 3267 in that: (a) provisions of S. 3267 superseded by virtue of prior Senate passage were deleted, (b) a provision for the creation of a National Energy Reserves System was incorporated, (c) A Title was incorporated addressing the Reduction of Oil Imports, and (d) the U.S. obligations under the International Energy Agreement were acknowledged.

On December 5, 1974 Senator Jackson wrote to President Ford, transmitting a copy of Amendment 2006. In that letter he sought Administration support for the amendment and noted:

> I fully recognize that the Administration and the Congress have different views on many specific energy policy issues. There is, however, broad consensus on goals and essential major programs which are necessary to the maintenance of our national security and to the vitality of our economic system. I have endeavored to include in this amendment only those provisions on which I believe there is agreement between Congress and the Administration. I have specifically excluded subject matter areas where I am aware that there are significant policy differences. I am prepared, in the interest of passing needed and agreed upon legislation, to oppose controversial amendments.

Subsequently, Senate Staff and Administration representatives jointly reviewed the Amendment at length and in detail. In the course of these discussions a majority of the existing policy differences were resolved and incorporated in an Interior Committee Print of December 13, 1974. However, arrival at a final consensus was not possible due to Administration insistence upon incorporation of a provision in S. 3267 for the decontrol of the price of interstate natural gas. Thus, enactment of the bill prior to adjournment of the 93d Congress was effectively precluded.

S. 622 and title XIII of S. 594

S. 622 was introduced by Senator Jackson *et al*, in the Senate on February 7, 1975 and referred to the Committee on Interior and Insular Affairs. On February 5, 1975, S. 594, the Administration's Energy Independence Act of 1975, was introduced and also referred to the Committee on Interior and Insular Affairs. Both S. 622 and Title XIII of S. 594. The Standby Energy Authorities Act of 1975, drew extensively from the Senate Staff and Administration agreements reflected in the December 13, 1974 Committee Print referred to above.

Hearings on S. 622 and Title XIII of S. 594 were held on February 13, 1975 at which time testimony was received from Mr. Frank G. Zarb, Administrator, Federal Energy Administration, the Honor-

able Thomas E. Enders, Assistant Secretary of State for Economic and Business Affairs, the Honorable Jack W. Carlson, Assistant Secretary of the Interior for Energy and Minerals, and the Honorable Jack F. Bennett, Under Secretary of the Treasury for Monetary Affairs.

Committee amendments

Executive markup sessions of the Committee were held on February 19, 21, 24, 25, and 28, 1975 and at the conclusion thereof the bill was ordered reported with an amendment in the nature of a substitute.

The amendment in the nature of the substitute in general is similar to Title XIII of the Administration's proposal. The major areas of difference are that S. 622 provides for congressional review and right of disapproval before rationing or conservation plans may be imposed; incorporates by reference the standards and safeguards contained in the Emergency Petroleum Allocation Act; provides for a larger role for State government; limits the President's authority to decontrol or raise "old" oil prices; and provides an energy conservation policy which is an alternative to massive price increases to reduce demand.

VII. SECTION-BY-SECTION ANALYSIS

Title I—Standby Authorities

Section 101. Findings and purposes

This section sets forth congressional findings relating to energy shortages and disruptions in energy supply, and the need to minimize the economic and other adverse impacts of these dislocations.

The purpose of the title is threefold: first, to grant specific temporary standby authority to impose energy rationing and conservation measures, subject to congressional review and right of disapproval; second, to require development of contingency plans for implementation of such authorities; and, third, to authorize further temporary actions to increase supplies of available fuels as needed, consistent with other national goals.

The committee intends that measures taken under this title will be equitably imposed, and that the thrust of any energy rationing or conservation plan will be to assure the adequate maintenance of vital services. It is the committee's understanding that such services would include, but not be limited to, agricultural production, hospital and health services, public services such as police, fire protection and the collection, transportation, and delivery of mail by the U.S. Postal Service, its lessors, contractors and carriers.

In recognition of the broad and sweeping powers granted by this title the Committee included in subsection 101(c) a requirement that a Presidential finding that an acute energy shortage exists, or that the exercise of authorities provided for in this title are required to fulfill obligations of the United States under an international agreement to which it is a party, must be made and transmitted to the Congress before certain sections of the Act may be implemented.

Section 102. Definitions

This section defines terms used in the Act, including "petroleum," "international agreement," the Administrator of the Federal Energy Administration (FEA), "handicapped person" and "eligible person."

Section 103. End use rationing

This section authorizes the President to promulgate a regulation which shall provide for the establishment of a program for end use rationing of petroleum and petroleum products, and to promulgate a rule establishing priorities among classes of end users of such products. This section requires that any such plan must contain provisions for appeals and adjustments, and prohibits inclusion of taxes, tax deduction or user fees. Recognizing that implementation of a rationing program would be an emergency measure, the committee has provided that Congress share the burden of deciding on implementation with the Executive Branch. Implementation of any such plan can become effective only as a last resort in reducing energy demand, and is subject to congressional review and right of approval or disapproval. However, anticipating the urgency of such a move, the committee has limited the allowable period for congressional review to 10 days. On January 16, 1974, the Federal Energy Office did promulgate a proposed regulation for a rationing program, and ordered that rationing tickets be printed. It is the committee's intent that a contingency plan for rationing be developed, and that the printed tickets be retained for use, so that the Federal Energy Administration will be prepared to implement rationing rapidly should that be necessary.

The members of the Committee recognize that plans implemented pursuant to this title should give consideration to the personal transportation needs of American military personnel re-assigned to other duty stations and of those persons who are required to relocate for health or employment purposes.

The President is also directed to give priority consideration to the needs of handicapped and other eligible persons in promulgating regulations pursuant to this section.

Section 104. Energy conservation plans

This section authorizes the President to promulgate energy conservation plans which, subject to congressional review and right of disapproval, may be implemented to reduce energy consumption to levels which can be supplied by available energy resources.

Section 104(b) details the procedure for congressional review of energy conservation plans; this procedure is to be applied as well for the review of rationing plans authorized under Section 103. Again, recognizing the need for expeditious action, the Committee has limited the allowable time for congressional review to 10 days.

Section 104(d) requires that any proposed energy conservation or rationing plan submitted to Congress be accompanied by findings of fact on which the action is based, the rationale for the proposal, and an evaluation of the potential economic impact of the proposal.

The congressional review and right of disapproval procedure established by this section provides for an expedited procedure which insures that a resolution to disapprove a proposed plan can, within 10 days, be brought to the floor of each House and submitted to a vote of the membership.

The committee considers this section to be the crux of this title, since it provides the standby authority needed to enforce energy conservation practices which can obviate or minimize drastic shortages and thus prevent their adverse impacts. In the face of predicted

chronic energy shortages, potential re-imposition of an Arab embargo, and declining domestic production, such standby authority is essential to the continued smooth working of our economy. The ability to minimize our dependence on energy by eliminating unnecessary consumption is the first step to attaining energy self-sufficiency.

This section also provides that priority consideration shall be given to handicapped and other eligible persons in regulations promulgated by the President pursuant to this section.

Section 105. Materials allocation

Section 105 authorizes the President to allocate supplies of materials and equipment associated with the production of energy supplies to the extent necessary to maintain and increase the production and transport of fuels. The President is required to submit to the Congress within 60 days after enactment, a report on the manner in which such allocation is to be administered. This provision was included in the title in an attempt to remedy critical shortages and misallocations of pipe, pumps, drilling rigs and roofbolts, which are currently plaguing energy producers.

The committee received the following testimony at a hearing on February 27, 1974, from the Deputy Director of FEO:

> Mr. SAWHILL. Well, I think that we have impediments to our domestic production. We have impediments because of the lack of tubular steel that we talked about before. We have impediments because of the lack of drilling rigs in this country. In other words, no matter what the price is, there are only so many wells we can drill, because there are only so many rigs available and so much tubular steel available.

It is not the intent of the committee that this power be used generally or indiscriminately to abrogate contractual agreements. The authority granted may not be exercised unless the President finds that supplies of material and equipment are scarce, critical and essential to energy exploration and production, and that the maintenance or furtherance of such exploration and production cannot reasonably be accomplished without exercising the authority granted.

Section 106. Federal actions to increase available domestic petroleum supplies

This section authorizes the President to undertake a number of measures to increase domestic supplies of petroleum.

Subsection 106(a) authorizes the President to require on a mandatory basis that existing domestic oil fields produce at their maximum efficient rate. Maximum efficient rate (MER) is a level of production fixed by State agency regulation, at which level it is estimated that production can be sustained without detriment to ultimate recovery of the resource. Any designation of fields to be produced above MER may be made only after consultation with the appropriate State agencies which traditionally set MER.

Subsection 106(a) further authorizes the President to require certain designated oilfields to produce in excess of their maximum efficient rate. Fields designated for production above MER shall be limited to those in which production in excess of their currently assigned maximum efficient rate would not result in excessive risk of losses of recovery.

According to the National Petroleum Council there are at least five large Texas fields on private lands, and certain oilfields on public lands in which production over MER could be sustained for periods of 90 to 180 days without damage to ultimate recovery. If production above MER were authorized on both Federal and State lands, such production could result in additional supplies of 292,000 barrels per day (b/d) deliverable to refineries within 90 days and 331,000 b/d within 180 days.

The committee recognizes that, should the President exercise the authority provided in section 106(a), a "taking of property" conceivably could result. If such action in fact constituted a constitutional "taking" of private property the injured party or parties would of course be entitled to just compensation as provided for in the U.S. Constitution.

Section 106(a)(2) authorizes the President to require the unitization of production on any oil and gas producing properties on Federal lands.

Section 106(a)(3) authorizes the President to require adjustment of the product mix in domestic refinery operations, in accordance with national needs and priorities. Although refineries differ in the degree of their individual mechanical flexibility to alter refinery balances, testimony received by the committee indicates that there is considerable opportunity to increase production of needed residual fuel oil, distillates or gasoline at the expense of other products. In the past 2 years there has been considerable evidence, for example, that refinery balances have been adjusted according to "profitability" rather than "national needs," resulting in heating oil shortages when gasoline prices were high.

In order to assure that this section is not construed to authorize production of the Naval Petroleum Reserves in contravention of the provisions of Chapter 641 of Title 10, U.S. Code, Subsection 106(b) explicitly states the committee intention to that effect. The decision to increase or begin production on the naval reserves is the proper jurisdiction of the Armed Services Committees of Congress, and measures dealing with this question are now before the Senate and the House Armed Services Committees.

Section 107. Other amendments to the Emergency Petroleum Allocation Act

A. AMENDMENTS ADOPTED

This section amends the Emergency Petroleum Allocation in four ways:

Subsection 107(a) requires that any allocations made under the title must be adjusted to take into account other factors besides the historical supply period now used as the allocation base. The additional factors to be considered include population growth and climatic changes. This amendment was included to prevent unusually severe shortages in areas such as Nevada and Florida, which have experienced unusually rapid population growth since the base period.

Subsection 107(b) provides for priority fuel allocations to be made to those engaged in the exploration, production and transportation of fuels and other minerals.

Subsection 107(c) deals with the application of price controls to oil owned and produced by State government and their subdivisions.

Subparagraph (A) of this amendment to the Emergency Petroleum Allocation Act of 1973 allows state (and local) governments, so long as a "two-tier" price system is maintained for crude oil, to receive the upper tier price (presently the "new oil" price) for their interests in production from state (or local government) lands.

Ownership for the purposes of this amendment shall be as of the beginning of 1975, to preclude benefits from transfer or assignment of interests in production solely to take advantage of this provision.

Subparagraph (B) makes it clear that the amendment's effect is not to allow a lessee or operator on state lands to receive the upper tier price on his interest in production, unless that production is otherwise eligible (as new oil or stripper well oil, for example).

The volume of oil which would not otherwise be eligible for the upper tier price is limited by subparagraph (C) to 20,000 barrels per day in any one state.

Where more than one level of government in a state has production eligible for a higher price under this amendment, and total of state and local government royalty oil exceeds 20,000 barrels per day, subparagraph (D) requires the regulation to provide that the production eligible for price treatment under this amendment be allocated in proportion to the total production interests of the different governmental entities.

In the most common arrangement, the private operator of a state lease contracts to pay the state one-eighth of the production, either in kind or in a cash payment calculated at the wellhead price. Under the present amendment, a state would be permitted to sell any royalty oil it took in kind at the new oil price, regardless of the price applicable to the remainder of production from the lease.

If the state took its royalty in the form of a cash payment, that payment would be equal to its royalty percentage on the production from the lease, times the new oil price. The operator would be permitted to recover in his sales the full amount of the increased royalty paid to the state, but no more. In practice, the price regulation would provide that the price received by the operator for production from the lease would be a weighted average price reflecting the operator's share at the old oil price and the state's share at the new oil price.

For example, on a lease producing 1000 barrels per day of old oil, an old oil price of $5.25 and a new oil price of $11.00, the price received by the operator (assuming a one-eighth State royalty) would be calculated as follows:

State share 125 bbl/d × $11	$1,375.00
Operator's share 875 bbl/d × $5.25	4,593.75
Total	5,968.75

The price per barrel for production from the lease is a weighted average of the state's price and the operator's price: $5.97.

Some states (or local governments) are paid for production from their lands in other arrangements than a straight royalty share of production, for example by a net profits share of production. Where such a contract permits the state to take its payment in kind, the state could simply sell its share (to the operator or otherwise), at the applicable new oil price. If the state's income from a profit-sharing contract is reckoned in cash, the regulation required by the amendment would provide that the payment to the state shall reflect the new oil price in proportion to the state's share of the total revenue from the lease. Here, too, the operator would be permitted to pass on in his price the additional payment to the state (and only that additional payment).

Wherever state or local government operates its own production from its own land (i.e., has a 100 percent participation in production), the total volume of crude oil produced is eligible for treatment under this provision.

An analysis by the Congressional Research Service of the Library of Congress utilizing preliminary estimates based on information on hand at present placed the total State revenue resulting from this section at $171,300,000.

Committee staff has estimated that the effect of the provisions of the section would be to increase revenues to the states by approximately $236,000,000 per year.

Subsection 107(d) amends section 3 of the Emergency Petroleum Allocation Act of 1973, as amended, to include definitions of "handicapped person" and "eligible person".

B. AMENDMENTS CONSIDERED

The Committee considered other amendments to the Emergency Petroleum Allocation Act of 1973, but concluded that their adoption was not necessary because the purpose and intent of the Allocation Act already encompassed the subject matter of the proposed amendments. The Committee directs that FEA take appropriate action to carry out the purpose and intent of the Act and these amendments.

The first amendment, proposed by Senator Glenn, would have amended section 4(b)(2) of the Emergency Petroleum Allocation Act by adding a new subsection (C) as follows:

> ; and (C) the maintenance of customary differentials in price relative to each class of purchaser specifically including but not limited to nonbranded independent marketers, branded independent marketers and other classes of purchasers engaged in the marketing or distributing of refined petroleum products.

The intent of Congress as expressed in the Emergency Petroleum Allocation Act of 1973 was to assure the equitable distribution of petroleum products at equitable prices to all regions of the country and to all sectors of the petroleum industry. In implementing the Allocation Act, the FEA has issued detailed regulations establishing price and allocation rules governing the sale of petroleum products. With regard to price, the regulations require refiners to charge prices complying with the requirements of section 4(b)(2). These legislative standards provide for allowance of a dollar for dollar passthrough of suppliers' increases in cost and the establishment of a uniform base date for computing all prices. This pricing section does not include, however, the requirement that each class of purchaser is charged a price reflecting the maintenance of customary price differentials within the industry. FEA has attempted to correct this deficiency through

the issuance of regulations providing for the maintenance of relative price differentials among classes of purchaser. The problem is that during the administration of the allocation program by FEA lax enforcement of these pricing regulations by the Agency has resulted is a serious erosion of customary price differentials particularly for the non-branded independent marketers and branded independent marketers. Senator Glenn's amendment would establish a clear responsibility of the FEA to maintain the pricing structure as it existed as of the base date—May 15, 1973. Each class of purchaser would be charged a price that reflected the differential he had customarily received from his supplier. The Committee directs that the intent expressed by the Conference Committee when it stated that "it does no good to require the allocation of products if sellers are then permitted to demand unfair and unrealistic prices" be adhered to by the FEA.

The Committee concludes that FEA has a responsibility to enforce its existing regulation on this subject and directs that appropriate enforcement actions be taken to fully carry out the purposes of the Emergency Petroleum Allocation Act of 1973.

A second amendment the Committee considered was proposed by Senator Church and related to the priority accorded to the manufacturers of pharmaceutical and drugs under the Emergency Petroleum Allocation Act of 1973 and the programs authorized by this Act. The Committee accorded "public health, safety and welfare" the highest priority in subsection 4(b)(1)(A) when the Allocation Act was adopted in November of 1973. The phrase "public health" was intended to clearly include the manufacture of essential drugs and pharmaceuticals necessary to the maintenance of public health and well being. The Committee was therefore surprised to learn that pharmaceutical manufacturers have received only a second priority allocation level for the petroleum products used in the pharmaceuticals they make. This means that in times of cutbacks in the availability of petroleum products, shortages of pharmaceuticals could occur in hospitals, nursing homes, doctors' offices, health care centers, and pharmacies. This is a situation that the Congress does not intend and which cannot be allowed to happen.

The Committee therefore directs the Federal Energy Administration to review its regulations that deal with the priority to be accorded public health under the Allocation Act and make whatever adjustments are necessary to carry out the purposes of this Act and the Allocation Act to insure that the American people are not deprived of pharmaceuticals needed for the prevention, treatment and cure of illness during any period of curtailment of energy supplies.

The Committee directs that FEA report back within 60 days on actions taken to conform FEA regulations on both of these matters.

Section 108. Prohibitions on unreasonable actions

Section 108 provides that actions taken under this legislation, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in allocation or restriction on the use of petroleum products and electrical energy must be equitable and must not discriminate unreasonably among users.

This section also provides that, to the maximum extent practicable, restrictions on the use of energy shall be designed to be carried out

in such manner so as to be fair and to create a reasonable distribution of the burden on all sectors of the economy, without imposing an unreasonably disproportionate share on any specific industry, business, or commercial enterprise.

This title confers broad authority and wide discretion upon the Government to order actions with potentially enormous social and economic impact. In the long run, the programs envisioned by the title will be publicly acceptable only to the extent that the programs are designed and carried out in a way that is fair and creates a reasonable distribution of burdens. Hence, the committee fully expects that rationing and conservation programs will be designed and implemented after proper deliberation in a manner that is neither arbitrary nor capricious nor unreasonable.

It is to be expected, however, and the committee recognizes, that certain conservation measures may affect various sectors of the economy in different ways. These factors should be taken into account in developing programs pursuant to this title and inconveniences must be weighed against the fuel savings to be gained.

Section 109. Regulated carriers

Section 109 directs the Civil Aeronautics Board, the Federal Maritime Commission and the Interstate Commerce Commission to report to the appropriate committees of Congress, within 90 days of the enactment of title I, on the need for additional regulatory authority to conserve fuel while continuing to provide for the public convenience and necessity. The reports are to identify with specificity the type of regulatory authority needed, the reasons why such authority is needed, the overall impact of such authority on fuel consumption, the probable effect on the public convenience and necessity of such authority, and the competitive impact of such authority, if any. The reports should also include recommendations with respect to changes in fuel allocation programs which, in the opinion of the agencies, are necessary to conserve fuel while providing for the public convenience and necessity.

Section 110. Advisory Committees

The provisions contained in sections 110 and 121 of this title are an outgrowth of the antitrust safeguards and advisory committee requirements originally contained in the vetoed Emergency Energy Act, passed by the 93d Congress as S. 2589. The requirements of section 121 have been tailored and limited, however, to specified actions taken to carry out the International Energy Agreement. At the request of the Administration and the Chairman of the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, the antitrust immunity authorized by this bill is limited to specified activities taken with respect to the international allocation of petroleum and the information system provided in the International Energy Agreement, and then only if the specified procedures and requirements are followed. Immunity is not extended to the domestic allocation of petroleum or other domestic activities. Thus, the antitrust provisions of section 110 of the bill as introduced which would have provided limited immunity to domestic voluntary agreements have been eliminated, and section 6(c) of the Emergency Petroleum Allocation Act of 1973 has been repealed except for the provision relating to certain breach of contract defenses.

The provisions contained in sections 110 and 121 were developed with representatives of the Departments of Justice and State, the Federal Energy Administration and the staffs of the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, the Subcommittee on Multinational Corporations of the Committee on Foreign Relations, and of the Subcommittee on Budgeting, Management, and Expenditures of the Committee on Government Operations. They are generally supported by these Federal agencies and Chairmen Hart, Church, and Metcalf. The Administration, the Committee is informed, does not support the narrowing of the application of section 552(b)(4) of title 5, United States Code, to trade secrets in sections 110(a) and 121(c)(2) and (e)(3).

Subsection (a) of section 110 authorizes the Administrator of the Federal Energy Administration to establish such advisory committees as he deems necessary to achieve the purposes of this title, except as provided in section 121.

Subsection (b) amends section 6(c) of the Emergency Petroleum Allocation Act of 1973, as amended, to provide a defense to any breach of contract action arising out of a delay or failure to sell or offer petroleum, when such delay or failure was caused solely by compliance with the provisions of that Act, or with regulations or orders issued pursuant to section 4 thereof.

Subsection (c) directs the Attorney General and the Federal Trade Commission to report to Congress and the President on the effect upon competition and methods for overcoming any anticompetitive effects, which may result from proposals contained in reports submitted pursuant to section 109.

Section 111. Exports

This section authorizes the President to restrict exports of fuels and energy sources, including petrochemical feedstocks, as well as material and equipment necessary to maintain or further exploration and production of domestic energy supplies, under such terms as he deems appropriate, consistent with existing laws, and taking into account the historical trading relations of the United States with Canada and Mexico.

Section 112. Administrative procedure and judicial review

Subsection 112(a) sets forth the administrative procedures to govern actions taken pursuant to this title, including the formulation of energy conservation plans. The reason for this provision is to permit the Executive Branch to deal with energy emergencies without unnecessary bureaucratic encumbrances, while protecting public rights of information and participation.

Actions taken under title I of this bill are subject to special administrative procedures and judicial review provisions. This section provides expedited administrative procedures for Federal actions. Administrator of FEA specified different but comparable procedures for the State. Included among the procedures are publication and notice and an opportunity for comment on agency rules and orders.

Subsection 112(a) also requires, in addition to the requirements of section 552 of title 5, United States Code, that any agency authorized to issue rules or orders must make available to the public all internal rules and guidelines upon which they are based, modified as necessary

to insure protection and confidentiality under section 552. Agencies must publish written opinions on any grant or denial of a petition requesting exemption or exception within thirty days with appropriate modifications to insure confidentiality.

Subsection 112(b) contains judicial review provisions. National programs required by the Act and regulations establishing such national programs may be challenged only in the United States Court of Appeals for the District of Columbia within 30 days of the promulgation of the regulations. Programs and regulations of general, non-national, applicability (to a State or several States, or portions thereof) could be challenged only in the United States Court of Appeals for the appropriate circuit within 30 days of promulgation. Otherwise, the United States district courts would have original jurisdiction of all other litigation arising under the Act. However, any actions taken by any State or local officer who has been delegated authority under section 116 would be subject either to district court jurisdiction or to appropriate State courts.

This section would not apply to actions taken under the act by the Civil Aeronautics Board or the Federal Maritime Commission. The judicial review provisions in their respective organic acts would apply for the sake of uniformity.

Section 113. International oil allocations

This section authorizes the President to order such action as may be necessary for implementing the obligations of the United States under the international agreement, defined in Section 102, with regard to the international allocation of petroleum to other countries in amounts and at such prices as are specified. Unless extended pursuant to Section 101(c), such order shall remain in effect for no more than six months.

Section 114. Prohibited acts

This section makes it unlawful for any person to violate any provision of title I of this legislation or to violate any rule, regulation (including an energy conservation plan), or order issued pursuant to any such provision.

Section 115. Enforcement

This section provides for fines up to $10,000 for each willful criminal violation of the Act, and civil penalties up to $5,000 for each violation of any provision of a prohibited act.

The Attorney General is also authorized by this section to obtain temporary restraining orders or preliminary injunctions against actual or impending violations of this Act. It also provides for private injunction actions.

Section 116. Delegation of authority and effect on State law

This section authorizes the President to delegate functions assigned to him, under this title or the Emergency Petroleum Allocation Act of 1973, to officers or local boards of a State or political subdivisions thereof. For the implementation of rationing programs the establishment and use of State or local boards to handle hardship appeals and perform other functions is authorized. To insure that any rationing program is as just and equitable as possible, section 116 specifically requires the State or local boards must be of balanced composition so

as to reflect the makeup of the community as a whole. This provision is intended to insure that the interests of all classes of users are both represented and protected.

In addition, this section provides that only State laws or programs which are inconsistent with this legislation will be superseded by it.

The administrative mechanism for the implementation of the conservation and rationing program provided for in this title much be such as to insure equity on a nationwide basis. At the same time it is imperative that it be responsive to the varying conditions and unique problems of the several States and regions of the Nation. For that reason, this provision was included in the Bill. It reflects the fact that the Committee contemplates the President may rely on the States to manage all or part of the nationwide energy rationing and conservation program. Administration at the State level can provide the opportunity for a more effective program geared to local or regional needs.

Section 117. Grants to States

Section 117 authorizes funds for the President to make grants to States for the purposes of implementing authority he has delegated to them, or for the administration of appropriate State or local conservation measures where States are exempted from Federal conservation regulations under section 104(a)(2) of this title.

Since the States are expected to play a major role in administering the programs implemented under this title, as they have been under the Emergency Petroleum Allocation Act, the Committee felt they should have sufficient funds made available to them for these purposes.

The section authorizes to be appropriated such sums as are necessary to carry out the purposes of the section, not to exceed $50,000,000 for each of the two fiscal years including and following the effective date of this section.

Section 118. Energy information

Section 118 authorizes the President to collect such energy information as he determines to be necessary to achieve the purposes of title I.

For the purpose of carrying out this title, including the obligations of the United States under an international agreement, the authority relating to the collection and dissemination of energy information granted by the Energy Supply and Environmental Coordination Act and the Federal Energy Administration Act, respectively, shall continue in full force and effect without regard to the expiration provisions of these Acts.

Section 119. Exchange of information

Subject to subsections (b) and (c) of this section, subsection (a) authorizes the Administrator of the Federal Energy Administration, after consultation with the Attorney General, to provide the Secretary of State with information related to the energy industry for transmittal to the appropriate international organization or foreign country, as required under an international agreement to which the United States is a party.

Subsection (b) provides that the President may require that such energy information not be transmitted upon a determination that the transmittal would prejudice competition, violate the antitrust laws, or be inconsistent with national security interests of the United States.

Subsection (c) precludes the Administrator from providing energy information to the Secretary of State when the confidentiality of such information is protected by statute, unless the Administrator has obtained the specific concurrence of the head of any agency or department which has the primary statutory authority for the collection of such information.

Section 120. Relationship of this title to the International Energy Agreement

Section 120 provides that title I shall not be construed in any way as advice and consent, ratification, endorsement, or other form of congressional approval of the specific terms of the November 18, 1974, executive agreement, "Agreement on An International Energy Program," or any related agreement which has been or may be entered into.

The Committee placed these limitations in this section to make clear that the Congress was not in any way ratifying or endorsing any aspect of the Agreement on which there had not been full and effective disclosure and consultation. The Committee specifically does not endorse any agreement which has or which may emerge from the International Energy Program which deals with the establishment of floor prices for energy. The sole purpose of this title is to enable the U.S. Government to deal with and manage energy shortages in the most equitable and efficient manner possible.

Section 121. International voluntary agreements—procedures

The provisions contained in sections 110 and 121 of this title are an outgrowth of the antitrust safeguards originally contained in the vetoed Emergency Energy Act, passed by the 93d Congress as S. 2589. The requirements of section 121 have been tailored and limited, however, to specified actions taken to carry out the International Energy Agreement. At the request of the Administration and the Chairman of the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, the antitrust immunity authorized by this bill is limited to specified activities taken with respect to the international allocation of petroleum and the information system provided in the International Energy Agreement, and then only if the specified procedures and requirements are followed. Immunity is not extended to the domestic allocation of petroleum or other domestic activities. Thus, the antitrust provisions of section 110 of the bill as introduced, which would have provided limited immunity to domestic voluntary agreements, has been eliminated, and section 6(c) of the Emergency Petroleum Allocation Act of 1973 has been repealed except for the provision relating to certain breach of contract defenses.

The provisions contained in sections 110 and 121 were developed with representatives of the Departments of Justice and State, the Federal Energy Administration and the staffs of the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, the Subcommittee on Multinational Corporations of the Committee on Foreign Relations, and of the Subcommittee on Budgeting, Management, and Expenditures of the Committee on Government Operations. They are generally supported by these Federal agencies and Chairmen Hart, Church, and Metcalf. The Administration, the Committee is in-

formed, does not support the narrowing of section 552(b)(4) of title 5, United States Code, to trade secrets in sections 110(a) and 121 (c)(2) and (e)(3).

Section 121(a) sets forth the sole procedures and conditions applicable to (1) the development, implementation, and carrying out of vountary agreements or plans of action to accomplish the objectives of the International Energy Agreement with respect to international petroleum allocation and the information system provided in such agreement, and (2) the availability of immunity from the antitrust laws for certain actions taken respecting the development, implementation, and carrying out of such voluntary agreements or plan of actions. The authority, requirements, and immunity for activities respecting the International Energy Agreement are limited to the international allocation of petroleum and the information system provided for in the agreement. No general immunity from the antitrust laws is provided. A limited defense only is created under subsection (h), and procedural and monitoring requirements are adopted to protect the public interest.

Subsection (b) is the definitional section for the term "antitrust laws" as used in section 121.

Subsection (c) provides the Administrator with authority to establish advisory committees with respect to the international allocation of petroleum and the information system provided for in the International Energy Agreement, as he determines are necessary to achieve the purposes of the international agreement. Such advisory committees are made subject to the provisions of the Federal Advisory Committee Act and section 17 of the Federal Energy Administration Act, meetings are required to be open to the public, and verbatim transcripts are required to be kept. The thrust of the provisions is to create a "fish bowl" atmosphere respecting advisory committee activity.

Subsection (c)(3), however, provides a degree of flexibility within the "fish bowl" atmosphere created. The Administrator, in consultation with the Secretary of State and the Federal Trade Commission, and subject to the approval of the Attorney General, is authorized to suspend the application of sections 9, 10, and 11 of the Federal Advisory Committee Act, subsections (b) and (c) of section 17 of the Federal Energy Administration Act, and the requirement that meetings be open to the public only where the Administrator determines, in writing, that such suspension is essential to the implementation of the international agreement and relates solely to the purpose of international petroleum allocation and the information system provided in such agreement in response to reductions or probable reduction in petroleum supplies, and that the application of such provisions would be detrimental to the public interest, including but not limited to the foreign policy interests of the United States.

Subsection (d) authorizes the Administrator to promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing petroleum may develop and implement voluntary agreements and plans of action if they are required to implement the provisions of the international agreement. These voluntary agreements and plans of action are limited to international petroleum allocation and the information system provided

in the international agreement. Before promulgating such rules, the Administrator is required to consult with the Federal Trade Commission and the Secretary of State, and the rules promulgated by the Administrator must receive the prior approval of the Attorney General.

Subsection (e) provides that the standards and procedures to be promulgated under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. Minimum safeguards and conditions with respect to such activities are specified in subsections (e) (1), (2), and (3). It is the Committee's intention that the enumerated safeguards be supplemented substantially by other requirements to assure the protection of the public interest. With respect to the record-keeping requirements of subsection (e)(3), it is recognized that in time of emergencies, it may not be possible to maintain as complete records as otherwise would be the case.

At the Administration's request, the Administrator was granted authority, in consultation with the Secretary of State, and subject to the approval of the Attorney General, to close a meeting held to develop a plan of action and to limit attendance at such meeting, subject to reasonable representation of affected segments of the petroleum industry, if a wider disclosure would be detrimental to the public interest, including but not limited to the foreign policy interests of the United States. During discussions with the Administration leading to adoption of this provision, it was understood that this authority was not expected to be used with respect to broad plans of action (except possibly during actual emergencies), and that it would be circumspectly used with respect to specific and precise plans of action during or preceding an embargo. It is the Committee's intent in this section that the foreign policy interests of the United States be balanced against other aspects of the public interest, such as those favoring open meetings and full attendance by interested persons, and that the foreign policy interests of the United States as used in this section relate principally to the objective of securing supplies of petroleum to the United States and its allies in the event of a crisis.

Subsection (f) specifically and affirmatively involves both the Attorney General and the Federal Trade Commission as continuing guardians of competition within the framework of this section. The thrust not only is constant vigilance, but their active participation and input is mandated from the very beginning. Each is required to propose alternatives to avoid or overcome to the greatest extent practicable any anticompetitive effects. Additionally, the Attorney General and the Federal Trade Commission have the right, at any time, to review, amend, modify, disapprove, or revoke any plan of action or voluntary agreement.

Subsection (g) directs the Attorney General and the Federal Trade Commission to monitor the development, implementation and carrying out of plans of action and voluntary agreements to promote competition, and to prevent anticompetitive practices and effects while achieving substantially the purposes of this Act. Subsection (g)(2) requires the promulgation of regulations to assure the keeping of adequate records, and subsection (g)(3) requires that those records be maintained so that the monitoring function can be performed.

These provisions are not intended to limit the more general authority conferred upon the Attorney General and the Federal Trade Commission in subsection (g)(4) which permits the Attorney General and the Federal Trade Commission to each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. That authority is not intended to be limited by other rulemaking authority conferred upon the Administrator in this section, nor is it intended to limit other powers granted the Attorney General and the Federal Trade Commission under any other statute.

Subsection (h) provides as a limited defense to any civil or criminal action brought under the antitrust laws, or similar state antitrust laws, that certain actions were taken in good faith in the course of developing a voluntary agreement or plan of action pursuant to this section, or pursuant to a voluntary agreement or plan of action authorized and approved in accordance with this section, and that the requirements of this section, and the rules and regulations promulgated hereunder, were fully complied with. Any acts or effects having other purposes are not provided with antitrust immunity. For example, if several firms agree to allocate petroleum products in furtherance of an approved voluntary agreement or plan of action, but the purpose of the particular method used actually was the elimination of a competitor, that conduct would not be accorded antitrust protection. Also, a voluntary agreement among competitors to share crude reserves and transportation facilities for the purpose of efficiently allocating resources can be protected. If the parties to the agreement, however, implement its provisions in a predatory manner, the activity will not be deemed to have been undertaken in good faith and will not be protected.

Subsection (i) makes clear that this Act does not affect in any way any pending or possible antitrust cases regarding the petroleum industry. Nor does this Act affect or limit any judgment or order that can be entered in such cases. Likewise, this Act does not immunize any conduct which would occur subsequent to its expiration or repeal.

Subsection (j) provides that effective 60 days after the date of enactment of this Act, the provisions of section 708 of the Defense Production Act shall not apply to any action authorized to be taken under this Act or the Emergency Petroleum Allocation Act of 1973. Thus, Section 708 of the Defense Production Act cannot be invoked with respect to any activity authorized to be taken under this Act, whether or not such activity is also authorized or implemented under the Defense Production Act. Subsection (j) is not intended to, nor shall it be deemed, to authorize the application of section 708 to any voluntary agreement.

Subsection (k) provides that the Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of acts authorized by this section.

Subsection (l) provides that authority granted by this section shall terminate upon the expiration or repeal of this Act.

Subsection (m) provides that in any action for breach of contract there shall be available as a defense that the alleged breach of contract was caused solely by compliance with the provisions of this section, or any rule, regulation or order issued pursuant to this section.

Section 122. Extension of mandatory allocation program

Section 122 extends the Emergency Petroleum Allocation Act of 1973 to June 30, 1976, by amending section 4(g)(1) of that Act.

Section 123. Limitations on raising or removing petroleum price controls

Section 123 prohibits any increase in the price permitted for oil now classified as "old" oil unless the specific action proposed to be taken is first submitted to both Houses of Congress pursuant to the procedures provided for in section 104 (b) through (d) of this title. Each House would then have the opportunity to review and by majority vote disapprove such action within ten days of the receipt of the proposal. Section 123 also requires that any amendment of price control regulations which has as its purpose the exemption of crude oil, residual fuel oil, or refined petroleum product from such price controls first be submitted to both Houses of Congress pursuant to the procedures of section 104(b) through (d) of this title.

This section is necessary in view of the President's announced intention to decontrol all old oil prices effective on April 1, 1974. The Committee believes that this action, if permitted, would have a devastating impact on an already weakened economy.

Cost estimates made by committee staff for the Administration's energy program are summarized in table II.

TABLE II.—*Summary: impact of presidential energy program*

	(*Billions*)
I. Cost estimates:	
A. Program to be implemented by Executive order (increased cost on an annual basis)	
Uncontrolled oil:	
Imported oil ($3 per barrel tariff with $1.80 per barrel rebate on refined petroleum products)	$5.4
Uncontrolled domestic oil ($3 per barrel)	3.3
Subtotal, tariff impact	8.7
Other fuels (Btu equivalent of oil price increase):	
Coal	2.9
Unregulated natural gas	2.9
Subtotal, other fuels	5.8
Total, tariff impact	14.5
Decontrol of domestic crude oil production	19.0
Total, Presidentially implemented program	33.5
B. Program proposed for congressional action (increased cost on an annual basis):	
($2 per barrel tariff and excise tax and decontrol of domestic production)	24.8
Natural gas: (excise tax of 37 cents per thousand cubic feet, deregulation of "new" gas and increase in the price of unregulated gas)	13.1
Coal: (Btu equivalent of oil price increase)	2.3
Electric rates: (inclusion of construction costs in rate base)	3.0
Total	43.2

The increased cost of domestically produced oil which would result from decontrolling "old" oil prices would amount to $17 billion annually for a $2 per barrel tariff leading to a final oil price of over $13

per barrel and $19 billion annually for a $3 per barrel tariff. This action, which the President can take by Executive Order, carries the largest economic impact of any provision of the Administration's energy program. The Committee strongly believes that an action with such enormous economic implications must first be reviewed by the Congress through the procedures established pursuant to section 104 (b) through (d) of this title.

Section 124. Contingency plans

This section requires the President to develop and transmit to Congress, contingency plans for energy rationing and conservation. No such contingency plan may be implemented, however, without congressional approval, as provided for in sections 103 and 104.

The Committee feels very strongly that such contingency plans are needed to avoid serious economic and social dislocations in the event of future disruptions in our energy supply and distribution system. Adequate contingency plans do not now exist to deal with such disruptions in peacetime leaving this country vulnerable to threats of reductions in energy supplies.

Section 125. Intrastate natural gas

This section provides that nothing in the legislation shall authorize the President to regulate or allocate natural gas not otherwise subject to the jurisdiction of the Federal Power Commission (i.e., intrastate natural gas), provided that to the extent authorized by law the President may, with respect to all sources of energy, establish standards of national application to improve energy conservation in residential, commercial, and industrial uses.

Section 126. Expiration

Subsection (a) provides that the authority under title I to prescribe any rule or order or take other action shall expire on midnight, June 30, 1977. In addition, the authority under title I to enforce any such rule or order shall likewise expire; however, such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, June 30, 1977.

The intention of the committee in setting a termination date was to prevent an indefinite extension without congressional approval of the broad authorities granted by this title, and of the actions taken pursuant thereto.

Subsection (b) directs the Secretary of State to prepare and transmit to the Congress a report every ninety days on all significant proposals, meetings and activities undertaken by the United States and other signatory nations to the Agreement on An International Energy Program.

Section 127. Authorizations of appropriations

This section authorizes to be appropriated to the President funds necessary for implementing the provisions of this title.

Section 128. Severability

Section 128 is a severability clause.

Section 129. Transfer of authority

This section directs the President to designate an appropriate Federal agency to carry out the provisions of title I after the termination of the Federal Energy Administration.

Title II—Energy Conservation Policy

Section 201. Statement of purposes, findings, and policy.

This section sets forth congressional findings relating to energy shortages caused by dependence on foreign energy sources, and by a continuation of the past trend in the expansion of demand for energy in all forms. The purposes of this title are threefold: first, to authorize the President to establish interim energy conservation plans; second, to make energy conservation an integral part of all ongoing programs and activities of the Federal Government by directing the Administrator of the Federal Energy Administration to establish national energy conservation standards; and third, to provide for the development and implementation of approved State Energy Conservation Programs with Federal technical and financial assistance. In the absence of such programs, Federal energy conservation standards would apply to the States.

The section includes a congressional declaration that the adoption of laws, policies, programs and procedures at all levels of government to conserve energy and fuels can have an immediate and substantial effect in reducing the rate of growth of energy demand, and in minimizing adverse economic and national security impacts associated with such demand growth and reliance upon imports.

The purpose of this title is to provide the President with the authority to establish and set in place energy conservation programs which will reduce national consumption and thereby reduce growing dependence on imported oil. It is the Committee's intent that title II and the authorities it contains be used to achieve conservation savings as an alternative to the President's proposed program of energy price, tax, and tariff increases.

Section 202. Interim energy conservation plans

Section 202 authorizes the President to institute interim energy conservation plans, pending the promulgation of regulations to establish national energy conservation standards pursuant to sections 203 through 207, and/or the adoption by Congress of specific legislative policies and programs for energy conservation. The term "energy conservation plan" includes, but is not limited to, the following measures:

(a) Lighting efficiency standards for public buildings:

According to the Project Independence Blueprint, energy consumed for lighting amounted to 1.8 quadrillion Btu [1] in 1972, or 10 percent of all the energy consumed in the household and commercial sector that year. Approximately 73 percent of this energy was used for commercial lighting.

[1] 1 quadrillion Btu per year is the energy equivalent of 490,000 barrels of crude oil per day.

The General Services Administration established Government standards for lighting in January, 1974 (Federal Management Circular 74–1). Overhead lighting was to be set at no more than 50 foot-candles at work stations, 30 footcandles in work areas and 10 foot-candles in nonworking areas. The Project Independence Blueprint estimates savings of the energy equivalent of 100,000 to 120,000 barrels per day of crude oil before 1980 resulting from mandatory adoption of these standards nationally.

(b) Thermal performance standards for all new Federal construction and all new homes and buildings financed under any Federal loan guarantee or mortgage program:

Studies have shown that up to 36 percent of the energy used annually in single-family dwellings could be saved by altering construction techniques without significantly changing the average cost of a new house or the lifestyle of the occupants. For high-rise structures the corresponding figure is 24 percent, while, for construction of commercial buildings, a 32 percent savings is considered possible. New construction measures contemplated include reductions in glass area, insulation for windows and doors, increased wall and roof insulation, improved sealing and caulking, substitution of heat pumps for electrical resistance heating, and recovery of furnace and ventilation system energy.

Existing government policies are not a significant factor in new construction. Current minimum property standards, which affect residential construction under Federal Housing Administration, only prescribe the amount of insulation required. Twenty-six million units or twenty-nine percent of the projected 1985 inventory of residential housing units will be constructed between now and that time. Thirty-five percent of projected 1985 commercial floor space will be constructed during this period.

The Project Independence Blueprint estimates potential savings resulting from national thermal efficiency standards for new residential and commercial buildings to be the equivalent of 240,000 barrels of crude oil per day in 1980 and 490,000 barrels per day in 1985. The Committee considers the adoption of standards which will achieve these conservation targets an especially worthwhile action which could be taken quite soon.

(c) Reasonable restrictions on hours for public buildings:

The Committee expects that Federal agencies will review policies concerning the hours during which Federal buildings are open and during which ventilation and heating or cooling systems are fully operating. In balancing the need for access to the buildings by Federal personnel and the public, the goal of reduction in overall energy consumption and related fuel costs should receive consideration.

(d) Standards to govern decorative and non-essential lighting:

Decorative and other non-esssential outdoor lighting accounts for a significant fraction of the energy consumed for commercial lighting. Reduction in decorative and non-essential lighting can be accomplished without placing unfair burdens on individual businesses if the reductions are accomplished across the range of competing businesses. The Committee believes that the equitable way to accomplish this is through the rulemaking procedure. The Committee expects that

the implementation of these reductions will take into account the valuable informational content of much of commercial use of lighting.

(e) Standards and programs to increase industrial efficiency in the use of energy:

Industrial end-use energy consumption accounted for 33 percent of total U.S. energy consumption in 1972—the energy equivalent of over 11 million barrels of crude oil per day. About 50 percent of the industrial energy is used in nine industries: plastics, cement, aluminum, steel, glass, paper, rubber, food processing and agriculture. Major conservation opportunities in the industrial sector include:

—redesign of both processes and products to reduce energy input per unit output;
—modification of equipment to improve efficiency;
—adjustment of combustion controls and cleaning heat exchange surfaces in furnaces;
—utilization of waste heat; and
—utilization of solid wastes.

The Committee anticipates that adequate plans for industrial energy conservation will be prepared for all major energy-consuming industries in the United States, including the specification of energy conservation objectives. The implementation of a monitoring system to collect and analyze data describing the performance of these industries will provide important feedback into the planning process. The Committee expects that the results of a vigorous Federal research and development program designed to improve boiler efficiency, manage and utilize waste heat, improve process efficiency and develop new materials processes will be integrated with the Federal conservation program for industry.

The Project Independence Blueprint estimates that the energy equivalent of 400,000 to 600,000 barrels of crude oil per day can be saved in the 1980's in the industrial sector. Approximately 85 percent of these savings are estimated to be due to the results of research, development and demonstration programs.

(f) Programs to insure better enforcement of the 55 mile per hour speed limit:

The Committee anticipates the prompt development of a vigorous program of public education, including consultation and discussion with State and local police departments and law enforcement officials to underline the benefits associated with enforcement of the 55 mile-per-hour national speed limit enacted into law in January of 1974. The National Petroleum Council estimates that substantial compliance with this limit could result in savings of 170,000 to 190,000 barrels of gasoline per day beginning in 1975.

(g) Programs to maximize the use of carpools and public transportation systems:

Public transit is two to four times more energy efficient than the automobile and offers benefits of improved air quality and reduced congestion in addition to savings in fuel consumption. Programs to improve scheduling, to encourage the staggering of work hours and to provide subsidies for the use of mass transit can decrease automobile use for commuting without raising the cost of operating automobiles absolutely. Incentives to individuals to form car pools through pro-

grams to provide information to employees who are potential car pool members, the assignment of priority parking privileges to car pool drivers, and the adoption of flexible work schedules can increase the response of the public to the car pool option. The National Petroleum Council has estimated that approximately 100,000 barrels of gasoline per day could be saved in the first year of operation of a comprehensive car pool program and over 300,000 barrels per day within a few years provided half the projected auto commuters avail themselves of car pools with an average load of three persons per car.

(h) Standards for reasonable controls and restrictions on discretionary transportation activities upon which the basic economic vitality of the country does not depend:

The Committee expects that a broad range of options will be suggested to influence transportation practices of individuals and businesses to increase the efficient use of energy. The creation of bicycle paths and bicycle and motorcycle lanes for commuters and the designation of automobile-free areas or areas in which reduced parking will be available can shift transportation habits away from the automobile to other more efficient modes.

Policies to discourage purely discretionary driving involving reduced hours of operation for service stations, purchase limitations or "odd-even" purchase plans are options for consideration. However, with regard to these options the Committee wishes to point out that the existence of a significant recreational or tourist industry within a group of States may suggest that State policies be coordinated regionally so that the flow of private automobile traffic across State lines to participate in this commerce is not unduly impeded.

(i) Energy efficiency standards to govern Federal procurement policy:

The Committee expects that the Administrator will promptly request from the General Services Administration and other appropriate Federal departments and agencies an analysis of the impact of including energy efficiency as one of the criteria for decisionmaking in the Federal procurement process. This analysis is to form the basis for the development of standards to increase the energy efficiency of equipment purchased by the Federal Government.

(j) Low interest loans and loan guarantee programs to improve the thermal efficiency of individual residences by insulation, storm windows and other improvements:

Standards for improved thermal efficiency in new buildings result in energy savings which only become significant after several years. However, support for the improvement of thermal efficiency in existing residential buildings through Federally guaranteed loans or, where necessary for residences owned by low-income persons, by low-interest loans will yield energy savings much sooner. Measures available include installation of storm windows and doors (or double pane glass) improved sealing and caulking, ceiling and roof insulation and improvements in heating, ventilation, and air conditioning systems. The estimated cost averages $600 per dwelling, with storm windows and doors the main items. Depending on the extent of participation in the program, the Federal Energy Administration has estimated energy savings in the range of 140,000 to 220,000 barrels per day for the remainder of the decade from programs to improve the thermal efficiency of existing residences. If 70 percent of the residential units in existence in 1972 can be modified by the 1980's by at least one of the improvements contemplated in this paragraph, energy savings in 1985 will amount to the energy equivalent of over 370,000 barrels of crude oil per day.

(k) Development of public education programs to encourage voluntary energy conservation:

The Committee realizes that a significant improvement in the energy efficiency of existing homes and automobiles can be accomplished by the voluntary actions of individuals who have access to the proper information. Proper maintenance of the automobile—a well-tuned engine, proper inflation of tires, and energy conserving driving habits can reduce energy consumption and cost to the individual. For the home, a consciousness of conservation opportunities can result in energy savings as well as savings on fuel and electricity bills. The Committee expects that a vigorous program to make consumers aware of their options to decrease their energy consumption will be developed and implemented.

Subsection (b) of section 202 provides that any energy conservation plan promulgated by the President pursuant to subsection (a) shall not become effective until transmitted to Congress for review and right of disapproval in accord with section 404(b) through (d) of title I of the Act, except that Congress shall have thirty calendar days in which to approve or disapprove such plans.

Section 203. Federal initiatives in energy conservation

This section directs the Administrator of the Federal Energy Administration, in cooperation with the Secretaries of Housing and Urban Development, Commerce, Interior, Transportation, Health, Education and Welfare, Treasury and other appropriate Federal agencies, to specify standards and establish programs for energy efficiency and conservation as outlined in section 202.

Section 204. State initiatives in energy conservation

Section 204 provides for the development of State Energy Conservation Programs designed to (1) minimize adverse economic or employment impacts within the particular State, and (2) meet unique local economic, climatological, geographic and other conditions and requirements.

Subsection (a) directs the Administrator of the Federal Energy Administration to develop Federal guidelines for the funding and development of such State programs. Subsection (b) directs the Administrator to request the submission from the Governor of each State, within four months of the effective date of the Act, a report describing the proposed State Energy Conservation Program.

Subsection (c) authorizes the Administrator to extend technical assistance to the individual States for developing these programs.

Section 205. Delegation of authority

Subsection (a) of this section directs the Administrator of the Federal Energy Administration to establish criteria for the delegation of responsibility for the implementation and administration of State Energy Conservation Programs to the respective States. Subsection

(b) directs the Administrator to review, and authorizes him to approve, State programs properly submitted pursuant to section 204(a) and subsection (a) of this section. Subsection (b)(3) directs the Administrator to establish procedures to govern the interpretation of State programs, administrative law, judicial review, enforcement and penalties, by incorporating the provisions of title I related thereto.

Section 206. Grants to States

This section authorizes the Administrator of the Federal Energy Administration to provide all financial assistance necessary for the development and implementation of approved State Energy Conservation Programs.

Subsection (b) provides that one-half the sum appropriated for such assistance be apportioned to each State in the ratio which the population of that State bears to the total population of the United States. The Administrator is to distribute the remainder of appropriated funds among the States on the basis of respective need and achievement of conservation targets set by the Administrator.

Subsection (d) directs the States to return to the United States any amounts not expended or committed during the fiscal year pursuant to subsection (b). Subsection (e) provides for the keeping and inspection of the financial records of all Federal assistance.

Section 207. Energy conservation targets and objectives

Subsection (a) of this section directs the Administrator of the Federal Energy Administration to establish realistic and attainable targets and objectives for State Energy Conservation Programs. States which meet established targets and objectives are eligible for an incentive grant from appropriated funds determined by the Administrator.

Subsection (b) provides that the Administrator furnish the Governors with a monthly report on the implementation of this Title, on the energy savings achieved, and on any innovative conservation program undertaken by individual States.

Section 208. Non-participation by State government

This section directs the Administrator to develop, implement and enforce a Federal energy conservation program in these States which have failed to propose an acceptable State Energy Conservation Program, or where such program is not implemented or enforced.

Section 209. Reports

Subsection (a) of this section directs the Administrator of the Federal Energy Administration to submit to Congress, within six months of the enactment of this Act, a report on the operation of this title, the energy conservation savings achieved, the degree of State compliance, and any recommendations for amendments.

Subsection (b) directs the Administrator to include in such report an assessment of the need, if any, and his recommendations for additional economic incentives or penalties to insure effective State participation and compliance with the provisions of this title.

Section 210. Authorization of appropriations

This section authorizes an appropriation of such funds as are necessary to the Administrator of the Federal Energy Administration to carry out the purposes of this title.

Section 211. Expiration

This section provides that all authorities granted under this title shall expire at midnight, June 30, 1976, unless further extended by the Congress.

VIII. TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to Section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes of the Committee during consideration of S. 622:

1. During the Committee's consideration of the Standby Energy Authorities Act, a number of voice votes and two formal roll call votes were taken on amendments to the bill. These votes were taken in open public session and, because they were previously announced by the Committee in accord with the provisions of Section 133(b), it is not necessary that they be tabulated in the Committee Report.

2. S. 622 was ordered favorably reported to the Senate by unanimous voice vote of a quorum of the Committee on February 25, 1975. Subsequent to the vote ordering the measure reported, Senators Fannin, Hansen, Hatfield, McClure and Bartlett requested that they be recorded as voting nay on this measure.

IX. COST ESTIMATES PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

In accordance with Section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–150, 91st Congress), the Committee provides the following estimate of cost:

For administration of title I of the Act, $5,000,000 each year for fiscal years 1975 and 1976;

For grants to the States for administration of title I of the Act, $50,000,000 for fiscal years 1975 and 1976.

The amounts for implimentation of Title II of the Act can not be estimated at this time because they depend upon determination which will be made by the Administrator of the Federal Energy Administration pursuant to the policies and directions set forth in the Act.

X. EXECUTIVE COMMUNICATIONS

The Administration's energy program was transmitted to the Senate by the following letter:

JANUARY 30, 1975.

Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: In my State of the Union address earlier this month, I outlined the dimensions of our interrelated economic and energy problems and proposed comprehensive and far-reaching measures for their solution.

The measures I described included both Executive and Congressional actions. Because further delay is intolerable, I have already taken administrative action to deal with our energy problems, includ-

ing assistance of a proclamation to impose increased fees on imported oil. The Secretary of the Treasury has already presented my detailed energy tax proposals to the House Ways and Means Committee.

I am enclosing a proposed omnibus energy bill—the Energy Independence Act of 1975—which, along with the tax proposals already presented, will provide the combined authorities that are necessary if we are to deal seriously and effectively with the Nation's pressing energy problems.

We have delayed too long in taking decisive actions to reduce our dependence on foreign energy sources and to eliminate our vulnerability to energy disruptions such as we experienced last winter—or worse.

In the near term, enactment of the proposed legislation along with certain Administrative actions would reduce oil imports by one million barrels per day by the end of this year, and two million barrels per day by the end of 1977. Over the mid-term (1975–1985), enactment of the proposed legislation will insure that domestic supplies of energy are substantially increased, that the growth in energy demand is reduced substantially and that we develop effective protection from future energy embargoes or energy emergencies. In the long term, my proposals will allow our Nation to once again supply a significant share of the energy needs of the free world.

The legislative program I have proposed will:

(1) encourage early development of our oil, natural gas and coal resources;

(2) help speed the siting and construction of nuclear and other energy facilities;

(3) reduce energy consumption by mandating thermal standards for new homes and commercial buildings and assisting persons with low incomes in winterizing their homes;

(4) encourage investments in the development of new domestic energy resources;

(5) establish a strategic petroleum reserve to guard against future import disruptions; and

(6) authorize certain standby authorities to cope with potential embargoes or energy emergencies.

A more detailed summary of my legislative proposals is enclosed.

My tax proposals already presented by the Secretary of the Treasury would:

(1) place an excise tax of $2 per barrel on all domestic crude oil and an import fee of $2 on all imported crude oil and petroleum products to help reduce the demand for oil, promote domestic refining and encourage the development of new sources of energy;

(2) impose a tax on all domestic crude oil in order to capture windfall profits;

(3) place an excise tax on natural gas equivalent to the $2 tax on oil to reduce natural gas demand;

(4) provide additional tax credits for public utilities to provide equal tax treatment with other industries and promote the construction of needed electric generating facilities;

(5) provide tax credits for homeowners who install additional insulation to reduce energy consumption;

(6) return to the economy the revenue from energy conservation taxes to offset higher energy costs, particularly for low and middle income citizens, and to help restore jobs and production.

The 13 titles of this bill, coupled with appropriate tax measures, are essential to the eventual attainment of our common goal of energy independence. Prompt action on all these measures is essential.

I cannot stress too much the sense of urgency I feel about these proposals and the need for their swift consideration by the Congress as a basis for the earliest possible enactment into law. Without these measures, we face a future of shortages and dependency which the Nation cannot tolerate and the American people will not accept.

Sincerely,

GERALD R. FORD.

That letter was accompanied by a summary of proposed legislation to increase domestic energy supply and availability.

The summary addressed the question of standby energy authorities as follows:

EMERGENCY PREPAREDNESS PROGRAMS

In addition to taking measures to increase domestic supplies, reduce demand and create a strategic reserve system, we must be in a position to take immediate and decisive actions to counteract any future energy emergency.

Title XIII would provide the President with certain standby authorities to deal with future embargoes or other energy emergencies and to carry out the International Energy Program agreement, including provisions for international oil sharing, mutual energy conservation programs, and international cooperation on various energy initiatives. This title would include authority to allocate and control the price of petroleum and petroleum products, promulgate and enforce mandatory energy conservation programs, ration petroleum products, order increases in domestic oil production, and allocate critical materials needed for the maintenance, construction and operation of critical energy facilities. All or a portion of these authorities would be invoked upon a determination that emergency conditions exist.

Also accompanying the President's letter of January 30, 1975 was a fact sheet from which there is extracted the following:

TITLE XIII—STANDBY ENERGY AUTHORITIES ACT OF 1975

Background

In the fact sheet supplementing the President's January 15, 1975, State of the Union Message to Congress, legislation was proposed to authorize a number of standby authorities to deal with significant domestic energy shortages.

Title XIII of the Administration's Energy Independence Act contains this legislation—the Standby Energy Authorities Act of 1975.

The problem to be solved

Disruptions in supplies of imported petroleum, whether as a result of embargoes or other reasons can have severe economic consequences for the United States. The President must possess sufficient authority to deal with such energy emergencies quickly and effectively.

The United States has entered into an Agreement or an International Energy Program which provides for cooperation among major oil consuming nations both in dealing with energy emergencies and in other cooperative efforts. The authorities contained in the Standby Energy Authorities Act of 1975 would enable the United States to fulfill its obligations under this international agreement.

What the bill would do

Upon finding that national energy shortage conditions exist or are imminent which threaten United States national security or that international obligations require such action, the President is authorized to

Control private inventories of petroleum.

Order increased domestic petroleum products.

Allocate and ration petroleum products.

Promulgate energy conservation plans restricting the use of energy materials.

Allocate materials needed for energy production and development.

Provide for the international allocation of petroleum.

Promote voluntary agreements to fulfill international allocation obligations under an international agreement.

Restrict exports of energy related materials.

The Administration's Energy Independence Act of 1975 was introduced in the Senate on February 5, 1975 as S. 594. Title XIII of that Act, the Standby Energy Authorities Act of 1975, is reprinted below:

PART C—EMERGENCY PREPAREDNESS

TITLE XIII

SHORT TITLE

SEC. 1301. This title may be cited as the "Standby Energy Authorities Act of 1975".

FINDINGS AND PURPOSES

SEC. 1302. (a) The Congress hereby finds that—

(1) disruptions in the availability of imported or domestic energy supplies, particularly petroleum, pose a serious risk to national security, and the health and welfare 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;

(5) maintains vital services necessary to health, safety, and public welfare; and

(6) insures against anticompetitive practices and effects and preserves, enhances, and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources.

(c) Prior to exercising any of the authorities contained in any of the following provisions of this title:

(1) Section 1304, Control Over Stocks;

(2) Section 1305, Federal Action to Increase Available Domestic Petroleum Supplies;

(3) Section 1306, Allocation and Rationing;

(4) Section 1307, Energy Conservation Plans;

(5) Section 1308, Materials Allocation;

(6) Section 1311, International Oil Allocation;
(7) Section 1312, Voluntary Agreements; and
(8) Section 1316, Exports.

the President is required to make a finding (i) that because of interruption in the supply of imported petroleum or as a result of acts of God or sabotage national energy shortage conditions exist or are impending which threaten United States national security so as to require the exercise of the standby energy authorities provided for in this title, or (ii) that their exercise is required to fulfill obligations of the United States under an international agreement. The President's finding shall be transmitted to the Congress.

For purposes of this section the term "national security" shall include the needs of, and planning and preparedness to meet essential civilian or military energy requirements relative to the national safety or economy. For purposes of this section, the term "national energy shortage" means a shortage of significant scope and duration and of an emergency nature causing major adverse impact on the United States.

(d) Any finding made under subsection (c) of this section shall not remain in effect for a period of more than eighteen months. The President may make a new finding under subsection (c) if he finds that the exercise of authorities pursuant to his initial finding is required beyond eighteen months.

DEFINITIONS

SEC. 1303. For purposes of this title:

(1) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(2) The term "petroleum" means

(A) Crude oil,

(B) Natural gas liquids, and

(C) 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.

(3) The term "United States" when used in the geographical sense means the States, the Districtof Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Administration.

(5) The term "international agreement" means the Agreement on an International Energy Program, signed by the United States on November 18, 1974, including related annexes and protocols, as those documents may be amended from time to time in accordance with their terms;

(6) The term "antitrust law" includes—

(A) the act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890 (15 U.S.C. 1, et seq.);

(B) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (15 U.S.C. 12, et seq.);

(C) the Federal Trade Commission Act (15 U.S.C. 41, et seq.);

(D) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August 27, 1894 (15 U.S.C. 8 and 9); and

(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A).

CONTROL OVER STOCKS

SEC. 1304. (a) The President may require by regulation, rule, or order, as a condition to any person engaging in commerce, and in the business of importing, producing, refining, marketing, or distributing petroleum, that such person maintain inventories of petroleum in excess of his normal business or operating requirements.

(b) (1) Any inventories of petroleum required to be maintained by any person pursuant to subsection (a) of this section may be disposed of only pursuant to regulation, rule or order promulgated by the President.

(2) The President may order the use, sale, disposal, and allocation of all or any part of inventories held pursuant to subsection (a) of this section in order to alleviate domestic shortages, to meet the international petroleum allocation obligations of an international agreement, or for other purposes consistent with this title.

(c) To the extent that the United States institutes a program of Government-owned strategic petroleum reserves, consistent with other law, the President shall take such reserves into account in determining the levels of petroleum required to be acquired or retained pursuant to subsection (a) of this section.

FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES

SEC. 1305. (a) The President may, by regulation, rule or order, require the following measures to supplement domestic energy supplies:

(1) production of certain designated existing domestic oil and gas fields at maximum practicable rates of production if necessary to meet the objectives of this title: *Provided*, That production shall not be in excess of the currently assigned maximum efficient rate of production unless the President determines that the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned maximum efficient rate for periods of ninety days or more without excessive risk of losses in ultimate recovery;

(2) The unitization of production on any oil and gas producing properties on Federal lands;

(3) The adjustment of processing operations of domestic refineries to produce particular refined products commensurate with national needs.

(b) Nothing in subsection (a) of this section shall affect any Naval Petroleum Reserve subject to the provisions of chapter 641 of title 10, United States Code, as amended.

ALLOCATION AND RATIONING

SEC. 1306. (a) (1) The President is authorized, by rule, regulation, or order to provide for the allocation of petroleum for such purposes, and in such amounts, as he may specify.

(2) The President is authorized, by rule, regulation, or order, to control the prices of petroleum which is allocated pursuant to the authority of this section.

(b) The President is authorized, by rule, regulation, or order, to establish a program for the rationing and ordering of priorities among classes of end-users of such products of rights, and evidences of such rights, entitling them to obtain such products in precedence to other classes of end-users not similarly entitled.

(c) A rule, regulation, or order under subsections (a) and (b) of this section shall take effect only if the President finds that it is necessary to achieve the purposes of section 1302(b) of this title.

(d) In issuing rules, regulations, or orders pursuant to the authority of this section, the President, to the extent he deems practicable, shall take into account the need for:

(1) protection of public health, safety, welfare, environment, and the national defense;

(2) maintenance of public services and United States industry;

(3) preservation of an economically sound and competitive petroleum industry, including the independent sector;

(4) equitable distribution of petroleum at equitable prices; and

(5) minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

(e) In exercising his authority pursuant to this section, the President shall provide for the making of such adjustments as are practicable to prevent special hardship, inequity, or unfair distribution of burdens, and shall establish procedures which are available to any person for the purpose of seeking an interpretation, modifications, rescission of, exception to, or exemption from, such rules, regulations, and orders. Such procedures may include procedures with respect to such local boards as may be authorized to carry out functions under this subsection pursuant to section 1317 of this title.

(f) No rule, regulation, or order under this section may impose any tax or provide for a credit or deduction in computing any tax.

ENERGY CONSERVATION PLANS

SEC. 1307. (a)(1)(A) Pursuant to the provisions of this section, the President may promulgate by regulation, one or more energy conservation plans in accord with this section which shall be designed (together with actions taken and proposed to be taken under other authority of this or other Acts) to result in a reduction of energy consumption. For purposes of this section, the term "energy conservation plan" means a plan which imposes restrictions on the public or private use of energy which are necessary to reduce energy consumption.

(B) No energy conservation plan promulgated under this section may impose rationing or any tax or user fee, or provide for a credit or deduction in computing any tax.

(2) An energy conservation plan shall apply in each State, except as otherwise provided in an exemption granted pursuant to such plan in cases where a comparable State or local program is in effect, or where the President finds special circumstances exist.

(3) An energy conservation plan may not deal with more than one logically consistent subject matter.

(4) An energy conservation plan shall remain in effect for a period specified in the plan unless earlier rescinded by the President, but shall terminate in any event no later than eighteen months after such plan first takes effect unless renewed in accordance with this section.

(b) The President shall transmit any energy conservation plan to each House of Congress on the date on which it is promulgated.

(c) In promulgating any energy conservation plan or rationing rule, regulation, or order, under the authority of this title, the President shall, to the extent practicable, take into account the factors enumerated in section 1302(b) of this title as well as the potential economic impacts, if any, on—

(A) the fiscal integrity of State and local government;

(B) vital industrial sectors of the economy;

(C) employment;

(D) the economic vitality of regional, State, and local areas;

(E) the availability and price of consumer goods and services;

(F) the gross national product;

(G) competition in all sectors of industry;

(H) small business; and

(I) the supply and availability of energy resources for use as fuel or as feedstock for industry.

MATERIALS ALLOCATION

SEC. 1308. (a) The President is hereby authorized (1) to require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote essential domestic energy research, development and production shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and peformance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to increase domestic energy supplies.

(b) Upon exercise of authority under subsection (a) hereof, the President shall report to the Congress with respect to the manner in which the authorities contained in subsection (a) will be administered. This report shall include but not be limited to the manner in which allocations will be made the procedure for requests and appeals, the criteria for determining priorities as between competing requests, the office or agency which will administer such authorities and the effect of such allocations on allocation programs authorized by other law.

(c) The authority granted in this section may not be used to control the distribution of any supplies of materials and equipment in the marketplace unless the President finds that—

(1) such supplies are scarce, critical, and essential to maintain or further exploration, production, refining, transportation, and conservation of energy supplies or for the construction and maintenance of energy facilities; and

(2) maintenance or furtherance of exploration, production, refining, transportation, and conservation of energy supplies and

the construction and maintenance of energy facilities during the energy shortage cannot reasonably be accomplished without exercising the authority specified in subsection (a) of this section.

PROHIBITIONS ON UNREASONABLE ACTIONS

SEC. 1309. (a) Action taken under authority of this title resulting in the allocation of petroleum and electrical energy among classes of users or resulting in restrictions on use of petroleum and electrical energy among classes of users or resulting in restrictions on use of petroleum and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among classes of users, unless the President determines that such a policy would be inconsistent with the purposes of this title or other Federal laws and publishes his findings in the Federal Register. Allocations shall contain provisions designed to foster reciprocal and nondiscriminatory treatment by foreign countries of United States persons engaged in commerce.

(b) To the maximum extent practicable, any restriction on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden of any specific industry, business, or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments whose normal function is to supply goods and services of an essential convenience nature during times of day other than conventional daytime working hours.

REGULATED CARRIERS

SEC. 1310. Within twenty days after the date of the exercise of any of the authorities cited in section 1302(c) of this title, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report to the President and the appropriate committees of the Congress on the need for removal of or additional regulatory authority in order to conserve fuel while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reason why such authority is needed;

(3) the probable impact on fuel consumption of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority. Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

INTERNATIONAL OIL ALLOCATION

SEC. 1311. Notwithstanding any other provision of law, the President is authorized to require by rule, regulation, or order such action as may

be necessary for implementation of the obligations of the United States under an international agreement with regard to the international allocation of petroleum to other countries in such amounts and at such prices as are specified in (or determined in a manner prescribed by) such rule, regulation, or order. Such rule, regulation, or order shall appply to all persons subject to the jurisdiction of the United States. Such rule, regulations, or order may apply to all petroleum destined, directly, or indirectly, for import into, or produced in the United States and shall remain in effect until amended or rescinded by the President.

VOLUNTARY AGREEMENTS

SEC. 1312. (a) The President is authorized to consult with owners, directors, agents, employees, or representatives of two or more persons engaged in the business of producing, refining, marketing, or distributing petroleum products, with a view to encouraging the making by such person, with the approval of the President, of voluntary agreements and programs to carry out the objectives of any international agreement dealing with the subject matter of section 1311 of this title.

(b) There shall be available as a defense to any action brought under the antitrust laws or any similar State laws arising from any meeting, conference, communication, or agreement held or made for the purpose of making or carrying out a voluntary agreement or program pursuant to this section of this title, that such meeting, conference, communication, or agreement was carried out or made in accordance with a request of the President pursuant to the provisions of subsection (c) of this section.

(c) Whenever, for the purpose of making or carrying out a voluntary agreement under this title, owners, directors, 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, whch 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, communications 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 from the provisions of sections 9, 10, and 11 of the Federal Advisory Committee Act, and section 17 of the Federal Energy Administration Act. All records of such meetings, conferences, or communications and all agency records relating thereto shall not be subject to the public access requirements of section 552 of title 5, United States Code, unless the President determines that disclosure of such records would not adversely affect the foreign policy interests of the United States.

INTERNATIONAL COOPERATION

SEC. 1314. The President, in cooperation with participating countries of the International Energy Agency, is authorized to encourage, support, and promote the planning and conduct of appropriate joint projects and cooperative programs in the United States and in foreign participating countries, including but not limited to projects and programs related to the conservation of energy, accelerated development of alternative sources of energy, energy research and development, and the supply of natural and enriched uranium.

EXCHANGE OF INFORMATION

SEC. 1315. (a) Except as provided in subsections (b) and (c), and notwithstanding any other provision of law, the Administrator, after consultation with the Attorney General may provide to the Secretary of State, and Secretary of State is authorized to transmit to an appropriate international organization or foreign country the information and data related to the energy industry certified by the Secretary of State as required to be submitted under an international agreement to which the United States is a party.

(b) If the President determines that the transmittal of data or information pursuant to the authority of this section would prejudice competition, violate the antitrust laws, or be inconsistent with United States national security interests, he may require that such data or information not be transmitted.

(c) Information and data the confidentiality of which is protected by statute, shall not be provided by the Administrator to the Secretary of State under subsection (a) of this section for transmittal to an international organization or foreign country, unless the Administrator has obtained the specific concurrence of the head of any department or agency which has the primary statutory authority for the collection, gathering or obtaining of such information and data. In making a determination to concur in providing such information and data, the head of any department or agency which has the primary statutory authority for the collection, gathering of obtaining of such information and data, shall consider the purposes for which such information and data was collected, gathered and obtained, the confidentiality provisions of such statutory authority, and the international obligations of the United States with respect to the transmittal of such information and data to an international organization or foreign country.

(d) For the purposes of implementing and carrying out the obligations of the United States under an international agreement, the authority to collect data granted by sections 11 and 13 of the Energy Supply and Environmental Coordination Act and the Federal Energy Administration Act respectively, shall continue in full force and effect without regard to the provisions of these Acts relating to their expiration.

EXPORTS

SEC. 1316. (a) The President is authorized by rule or order, to restrict exports of coal, natural gas, petroleum products, and petrochemical feedstocks, and of supplies of materials and equipment which he determines to be necessary to maintain or further exploration, production, refining, transportation, and conservation of domestic energy supplies and for the construction and maintenance of energy facilities within the United States, under such terms and conditions as he determines to be appropriate and necessary to carry out the purposes of this title.

(b) In the administration of the restrictions under subsection (a) of this section, the President may direct and, if so, the Secretary of Commerce shall, impose such restrictions pursuant to the procedures and authorities established by the Export Administration Act of 1969, as amended.

(c) Rules or orders of the President under subsection (a) of this section and actions by the Secretary of Commerce pursuant to subsection (b) of this section shall take into account the historical trading relations of the United States with Canada and Mexico.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 1317. (a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any agency rule, or regulation, or any order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued under this Act.

(2) Notice of all proposed substantive agency rules and orders of general applicability described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of 10 days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment

may be waived where the President finds that strict compliance would seriously impair the operation of the program to which such rule or order relates and such findings are set out in such rule or order. In addition, public notice of all rules or orders of general applicability described in paragraph (1) of subsection (a) which are promulgated by officers of a State or political subdivision thereof or to State or local boards pursuant to this Act shall to the maximum extent practicable be achieved by publication of such rules or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) In addition to the requirements of paragraph (2), unless the President determines that a rule or order described in paragraph (1) is not likely to have a substantial impact on the Nation's economy or upon large numbers of individuals or businesses, an opportunity for oral presentation of views, data and argument shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than forty-five days after the implementation of any such rule or order. A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this title as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) The procedures for judicial review established by section 211 of the Economic Stabilization Act of 1970, as amended, and section 5 of the Emergency Petroleum Allocation Act of 1973, shall apply to proceedings under this title, as if such proceedings took place under those Acts. Such procedures for judicial review shall apply notwithstanding the expiration of the Economic Stabilization Act of 1970, as amended, or the Emergency Petroleum Allocation Act of 1973.

(c) In addition to the requirements of section 552, title 5, United States Code, any agency authorized by this title to issue the rules, regulations, or orders described in paragraph (1) of subsection (a) shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule or order with such modifications as are necessary to insure confidentiality protected under such section 552 of title 5, United States Code. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules or orders, furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public

within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under such section 552 of title 5, United States Code.

PROHIBITED ACTS

SEC. 1318. It shall be unlawful for any person to violate any provision of this title or to violate any rule, regulation, or order (including an energy conservation plan), issued pursuant to any such provision.

ENFORCEMENT

SEC. 1319. (a) Whoever violates any provision of this title or rules, regulations or orders promulgated pursuant thereto, shall be subject to a civil penalty of not more than $5,000 for each violation.

(b) Whoever willfully violates any provisions of this title or rules, regulations or orders promulgated pursuant thereto, shall be fined not more than $10,000 for each violation.

(c) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to this title. Any person who knowingly and willfully violates this subsection after having been subjected to a civil penalty for a prior violation of the same provision of any order or regulation is issued pursuant to this title shall be fined not more than $50,000 or imprisoned not more than six months, or both.

(d) Whenever it appears to any person authorized by the President or the Administrator to exercise authority under this title that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of this title, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any provision of this title.

DELEGATION OF AUTHORITY, AND EFFECT ON STATE LAW

SEC. 1320. (a) Within twenty days following the date of a finding made under section 1302(c) of this title, the President may by rule offer an opportunity for interested persons to make oral presentations to assist in—

(1) establishing for delegation of his functions under this Act to officers or local boards (of balanced composition reflecting the community as a whole) of States or political subdivisions thereof;

(2) establishing procedures for petitioning for the receipt of such delegation.

(b)(1) Offices or local boards of States or political subdivisions thereof, following the establishment of criteria for delegation and procedures for petitioning in accordance with subsection (a) of this section, may petition the President for the receipt of such delegation.

(2) The President may grant any properly submitted petition within thirty days of its receipt.

(c) No State law or State program in effect on the date of enactment of this title, or which may become effective thereafter, shall be superseded by any provision of this title or any regulation, order, or energy conservation plan issued pursuant to this title except insofar as such State law or State program is inconsistent with the provisions of this title, or such a regulation, order, or plan.

GRANTS TO STATES

SEC. 1321. (a) The President may provide financial assistance in accordance with this section for the purpose of assisting eligible State or local energy conservation programs.

(b) In order to facilitate State involvement in conservation programs authorized under this title, financial assistance may be provided to each State. In determining amounts of financial assistance to be provided the following factors shall be considered:

(1) population of State in relation to the total population of the United States;

(2) estimated costs (if any) to be incurred by any State in carrying out federally mandated conservation programs; and

(3) overall State need for conservation programs in relation to energy supply/demand.

(c) A State is eligible to receive financial assistance for energy conservation programs pursuant to subsection (a) of this section in any fiscal year if the State complies with regulations of the President issued under this section.

(d) Within sixty days after the date of enactment of this title, the President shall issue, and may from time to time amend, regulations with respect to financial assistance for energy conservation programs which include criteria for such programs.

(e) Any amounts which are not expended or committed by a State pursuant to subsection (b) during the ensuing fiscal year shall be returned by Such State to the President.

(f) (1) Each recipient of financial assistance under this section shall make such reports as the Administrator shall prescribe.

(2) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts.

(g) The Administrator shall insure that any funds appropriated for grants to States under this section shall be available for the purpose of making grants to States to which the Administrator has delegated authority under section 1320 of this title, or for the administration of appropriate State or local energy conservation, rationing or allocation programs which are the basis of an exemption made pursuant to section 1307(a)(2) of this title from a Federal energy conservation plan which has taken effect under section 1307 of this title. The Administrator shall make such grants upon such terms and conditions as he may prescribe by rule.

CONTINGENCY PLANS

SEC. 1322. (a) In order to fully inform the Congress and the public with respect to the exercise of authorities under sections 1306(b) and

1307 of this title, the President shall, to the maximum extent practical, develop contingency plans in the nature of descriptive analyses of:

(1) the manner of implementation and operation of any such authority;

(2) the anticipated benefits and impacts of the provision of any plan;

(3) the role of State and local governments;

(4) the procedures for appeal and review; and

(5) the Federal officers or employees who will administer any plan.

(b) (1) Within one hundred and eighty days following the date of enactment of this title, and at such other times as the President deems appropriate, the President shall submit to the Congress such contingency plans in accordance with subsection (a) of this section as have been formulated.

EXPIRATION

SEC. 1323. The authority under this title to prescribe any rule, regulation, or order, to take action under this title, or to enforce any such rule, regulation, or order, shall expire at midnight, June 30, 1985, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight. June 30, 1985.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1324. There are hereby authorized to be appropriated such funds as are necessary for implementation of the provisions of this title.

SEVERABILITY

SEC. 1325. If any provision of this title, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this title, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TRANSFER OF AUTHORITY

SEC. 1326. In accordance with section 15(a) of the Federal Energy Administration Act (88 Stat. 108 and 109) the President shall designate, where applicable and not otherwise provided by law, an appropriate Federal agency to carry out the provisions of this title after the termination of the Federal Energy Administration.

EFFECT ON OTHER LAWS

SEC. 1327. Nothing in this Act shall be construed to limit any authority granted to the President in the Defense Production Act of 1950, as amended (50 U.S.C. 2061–2168), section 5(b) of the Trading with the Enemy Act, as amended (12 U.S.C. 195a), the Trade Expansion Act of 1962, as amended (19 U.S.C. 1801–1991), the Trade Act of 1974, or the Emergency Petroleum Allocation Act of 1973.

XI. MINORITY AND ADDITIONAL VIEWS

Minority Views of Senators Fannin, Hansen, McClure, and Bartlett

SUMMARY OF OBJECTIONS TO S. 622

We are opposed to S. 622 for the following reasons: (1) Instead of engaging in a bipartisan effort to develop national energy emergency legislation, the committee reported out a bill inviting a veto; (2) The Section 123 revised Congressional veto procedures for oil price controls is full of mischief; (3) The extension of the Emergency Petroleum Allocation Act is unnecessary, and a shirking of Congressional responsibility; (4) The Title II conservation program is wholly inappropriate; (5) Section 106(a)(1) authorizes an unconstitutional seizure of private property; (6) The Section 121 international voluntary agreement procedures are inadequate and unworkable

I. Instead of engaging in a bipartisan effort to develop national energy emergency legislation, the committee reported out a bill inviting a veto

As in two earlier versions of this legislation, what began as a good faith effort to reach bipartisan agreement on a standby energy emergency bill became a bill to frustrate, rather than expedite, domestic energy self-sufficiency. Specific provisions will be discussed in detail below.

First, however, it would be useful to review the curious political history of this legislation.

It has always been marketed by its sponsor as "critical, urgent legislation". It too was treated in its initial stage as a bipartisan project, but by the inclusion of many extraneous matters, including citizens' suits and price rollbacks, became unacceptable and was vetoed.

S. 3267, Congressional price rollback proponents reintroduced S. 2589 in the new version as S. 3267 which also, following inconclusive negotiations with administration officials, contained a whole series of unacceptable provisions. This caused termination of the negotiations and failure of the bipartisan approach. It also caused S. 3267 to die after being taken up on the Senate Floor, apparently because its sponsor feared either defeat or another veto.

Thus, in the form of S. 2589 and S. 3267, S. 622 has had a history of failure because its sponsors have insisted upon including provisions which not only detract from the primary purpose of the legislation, but are veto-inviting and counterproductive.

Once again the Administration agreed to sit down with the Interior Committee staff with a view toward reconciling differences. For several days and evenings in February, the negotiations were resumed in order to combine the best features of S. 622 and S. 620, the Adminis-

tration's version of the Standby bill. Issues not agreed upon are later discussed in these views.

But during the markup in Executive Session, the administration's position was not accepted and unacceptable amendments were added to the bill.

II. Section 123 "We made a mistake"

When asked about the compelling necessity of including Section 123 in the bill, its chief sponsor said, "We made a mistake". The "mistake" it was explained, was that in drafting the final version of the Emergency Petroleum Allocation Act, there was a provision for only a five day Congressional review and possible Congressional veto of proposed administration action dealing with certain oil price control and allocation regulations. The apparent implication was that Congress really wanted a ten day review, but mistakenly asked for only a five day review.

It seems to us that the real mistake is that the Congress doesn't have an energy policy. It is not only afraid to admit it, but is also afraid to support the administration's energy policy or delegate it sufficient authority to make the decisions which can turn the nation around and get it back on the road to energy self-sufficiency.

S. Res. 45.—Sec. 123 certainly is one mistake, but there is another. The other mistake is that in four years the Senate's monumental National Fuels and Energy Study has yet to produce a single recommendation or finding of fact.

S. Res. 45 was adopted by the Senate on May 3, 1971. It commissioned a National Fuels and Energy Study specifying the scope of the subject matter to be investigated and ordered that the study should be conducted by the Interior Committee with ex officio representation involving the Chairman and the Ranking Minority Member of the Committee on Commerce, Public Works, and Senate Members of the Joint Committee on Atomic Energy. S. Res. 45 required a report together with recommendations for legislation and authorized appropriations for such a study through February 29, 1972.

S. Res. 231 of March 6, 1972, extended the study for another year and specifically directed that "the Committee should report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1973."

S. Res. 33 was adopted by the Senate on February 22, 1973, and extended the study for another year requiring a report not later than February 28, 1974.

S. Res. 245 was adopted March 1, 1974. It extended the study and required a report not later than February 28, 1975. But not even an interim report has yet been prepared.

III. Section 122—"Adequate time" another shirking of congressional responsibility

Section 122 extends the life of the Emergency Petroleum Allocation Act until June 30, 1976. It is to be recalled that this Committee extended the Act last year to August 31, 1975, in S. 3717. The Committee then announced in its report on S. 3717 that—

> the purpose of the proposed four month extension, therefore, is to provide adequate time for the new Congress and the Executive Branch to review the Act and make a definitive decision as to its extension for a longer period of time, either in its present or a modified form. The Committee is already aware of a number of proposed amendments to the Act. Other changes will undoubtedly be proposed in the months ahead. The Committee believes that it is too soon to make basic changes in the Act and that proposed changes should be considered next year in light of more extensive experience with the Act. Accordingly, it is proposing a short extension without amendments.

Apparently, the Committee feels that the first eight months of 1975 is not enough time to "review the act".

Several members of the majority and minority requested hearings on the Emergency Petroleum Allocation Act before taking any action to extend it beyond August 31, 1975, or to amend it. It was thought by those making the request that eight months was enough time to act on a bill. The Committee, however, apparently felt that eighteen months would be necessary to review the act, but at the same time felt it was urgent that that act be amended anyway without benefit of hearings.

Our feelings regarding the Emergency Petroleum Allocation Act have not changed since last August when we expressed the following views:

> At the request of the Administration, we voted to extend the expiration date of the Emergency Petroleum Allocation Act from February 28, 1975, to June 30, 1975. Our sole purpose for voting to support the four month extension was to provide an additional period of time in which to proceed with an orderly and complete phase out of all price and allocation controls. No other amendments than the mere four month extension were contemplated or agreed upon in conversations between Administration officials and members of this Committee on both sides of the aisle. The Administration position as we understood it, is as follows:
>
> 1. The expiration date of the Emergency Petroleum Allocation Act would be extended to June 30, 1975.
>
> 2. Between now and that date the Administration should proceed with an orderly total phase out of price and allocation controls to be completed by June 30, 1975. In the immediate future the Administration will give priority attention to developing regulations to remove many of the inequities which have resulted from the Act, including the two tier pricing system for crude oil.
>
> The Emergency Petroleum Allocation Act by its very title was intended to be an *emergency* measure to deal with a temporary petroleum fuels shortage which now has ended. That such was what was contemplated is clearly borne out by Section 2 of the Act which reads as follows:
>
> SEC. 2(a) The Congress hereby determines that—
>
> (1) shortages of crude oil, residual fuel oil and refined petroleum products caused by inadequate domestic production, environmental constraints, and the unavailabil-

ity of imports sufficient to satisfy domestic demand, now exist or are imminent;

(2) such shortages have created or will create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services, including the transportation of food and other essential goods; and

(3) such hardships and dislocations jeopardize the normal flow of commerce and constitute a national energy crisis which is a threat to the public health, safety, and welfare and can be averted or minimized most efficiently and effectively through prompt action by the Executive branch of Government.

(b) The purpose of this Act is to grant the President of the United States and direct him to exercise specific temporary authority to deal with shortages of crude oil, residual fuel oil, and refined petroleum products or dislocations in their national distribution system. The authority granted under this Act shall be exercised for the purpose of minimizing the adverse impacts of such shortages or dislocations on the American people and the domestic economy.

We voted against the bill at the time because we felt that the bill, at best, would only spread shortages around. Additionally, we felt that should the Federal Government intervene in the marketplace by imposing regulations affecting supply and price, no matter how benignly such intervention was intended, unforeseen inequities would result and the shortage would be exascerbated.

The one day of hearings on this bill contained much testimony enumerating and describing the inequities which have resulted from the Act. These remarks plainly show both that the legislation was intended to deal with a petroleum fuels emergency which no longer exists and that the wisdom of federal regulatory intervention in the marketplace even under the then existing fuel shortage was questionable.

To continue to rely upon legislative authority designed to be limited to emergency fuel shortages in times of a reported surplus is unwise and unjust. Accordingly, we support the four months extension of the Act only to insure that the phase out of price and allocation controls will be both complete and orderly.

In retrospect, our primary mistake was in voting for the four months extension in the first place. Had we known that we would be faced with a further extension, without hearings, in the Ninety-Fourth Congress, we would have chosen instead to debate S. 3717 at length on the floor.

IV. Title II—"A conservation charade"

Again, without benefit of hearings or even reading what they approved as Title II, the Committee made an eleventh hour decision to improvise a conservation title. Before the ink was dry on a last minute

staff draft, the Committee voted to adopt it. The Committee bought a pig in a poke and is now trying to sell it to the administration.

Title II follows the "no standards" pattern of the Emergency Petroleum Allocation Act. It tells the administration to "conserve" as the other act told the administration to "allocate". It does not say how much, where, when, or how. It just says, "Administration, go do a job on conservation. We don't know enough to tell you what to do or how to do it, but we declare that the need to conserve energy is urgent and we want thirty days to veto whatever program you yourself devise".

We invite our colleagues to read carefully Title II in its entirety. For example, Section 201 states that one of the purposes of Title II is "to declare an interim national conservation policy". But nowhere in Title II is there contained such a policy.

Section 202 allows the President to design energy conservation programs and regulations if he wants to, but if he does, the Congress wants thirty days to veto each one.

Section 202 (a) (4) confines each Presidential conservation proposal to a metaphysical standard termed "one functionally discrete subject matter or type of action." This is about as useful a guideline as proposing "one functionally indiscrete subject matter or type of action". The clear purpose of the language is to preserve the option of a Congressional veto for each detail of what should properly be a comprehensive integrated national conservation effort.

Note also the inconsistency between the "functionally discrete" restriction in Section 202 (a) (4) and the functionally expansive undertaking prescribed in Section 202 (a) (2) (E) suggesting that the President establish "standards and programs to increase industrial efficiency in the use of energy". On the one hand, the Committee is trying to restrict the President's authority to ensure that he is acting "functionally discrete", but on the other hand, the Committee is urging the President to develop functionally indiscrete conservation standards and programs for the entire multibillion dollar United States industrial establishment. Once again, the Committee does not tell the President what he should do or how he should do it. This is a remarkable default of Congressional policymaking responsibility.

The hypocrisy of Section 202 is revealed in Section 203. Section 202 urges the President to do something in the way of conservation by prescribing a shopping list of vague possibilities but prevents the implementation of each for thirty days. Then in Section 203 the Committee would have the FEA Administrator, the Secretaries of Housing and Urban Development, Commerce, Interior, Transportation, Health, Education and Welfare, Treasury and other "appropriate" agency heads to promulgate within three months of enactment the same vague shopping list into regulations. Without discussing the convoluted shopping list item by item, we merely point out that nowhere in Section 203 is there the slightest direction to the assortment of administration decision-makers regarding how much energy is to be saved. Worse yet, they are directed to "promulgate regulations" which "specify standards" and "establish programs". The Congress is now asking the administration to invent programs by regulations. Absent any Congressional guidance as to quantitative goals, the administration is left not only with direction as to what it is to do, but neither is it at all

restricted as to the sweeping scope of its regulatory conservation authority.

In short, the committee is asking the administration to tell America how much fuel it can use. The committee is abandoning the price and tax mechanisms suggested by the President. It is telling the President that the committee thinks that the American consumer is too stupid to figure out for himself how he can cut down on his fuel use and that the federal and state governments must force him to save energy in the manner the governments think best. Thus, with the inclusion of Title II coupled with Sections 122 and 123, the committee is abandoning the price mechanism and forcing what is tantamount to government dictated rationing programs under the guise of "conserving" energy.

S. 622 is no longer a standby energy emergency authorities bill, but a mandatory conservation and allocation proposal which adheres to the same old hypothesis that the federal government should and can increase supply merely by reducing demand.

V. Section 106(a)(1) authorizes an unconstitutional seizure of private property

Section 106(a)(1) authorizes domestic oil production beyond MER (Maximum Efficient Rate) of production. If exercised, it could not only result in energy waste but an unconstitutional taking of property.

VI. The section 121 international voluntary agreement procedures are inadequate and unworkable

Subsection (h) of Section 121 provides that a defense to civil or criminal actions brought under the antitrust laws shall be available "in respect of actions taken in good faith to develop, implement or carry out a voluntary agreement or plan of action." Since the antitrust immunity conferred by this section does not rest on an objective test but on an assessment of a company's "good faith", a full jury trial to resolve that issue might be required in any antitrust suit challenging company actions taken under this section. It is a well established rule in antitrust litigation that issues of intent cannot be disposed of summarily. As a result, no company could ever know with any certainty whether some future court or jury would find a particular action to have been taken in "good faith" or not.

The ostensible purpose of the antitrust provisions in Section 121 is to enable oil companies to engage in meetings, agreements and take other actions necessary to implement the IEP international oil allocation program which they would ordinarily be unwilling or unable to do for fear of liability under the antitrust laws. An effective antitrust provision must incorporate the concept of predictability, but there can be no predictability where there is a subjective test that governs the grant of immunity. No company could possibly undertake the agreements and other actions contemplated by this section if it cannot have advance assurances that such actions would not result in an undue and unnecessary risk of exposure to antitrust claims, the outcome of which would depend on a resolution by a court or jury of a question of intent or state of mind. Section 121, as presently drafted, lacks this essential predictability and thus creates this risk of exposure.

Subsections (a) and (d) of Section 121 limit voluntary agreements formed under this section to international oil allocation and the information system provided for in the IEP. While international petroleum allocation and information exchange are certainly the major items on which the IEA could wish to consult with the oil companies, the objectives of the IEP are much broader. As drafted, this section would effectively bar antitrust immunity consultations on certain matters within the IEA's charter.

One of the principal purposes of the IEP is to enable the participating countries to develop contingency plans to deal with future oil embargoes and other emergencies. To develop such plans the IEP authorizes the IEA to consult with the oil companies effective immediately. Subsection (d) of Section 121 could be construed as limiting the development and carrying out of voluntary agreements to periods of actual or imminent reductions of petroleum supplies.

Subsection (h) (2) of Section 121 appears to condition the grant of antitrust immunity upon "full compliance" with the requirements of this section and rules and regulations promulgated thereunder. This provision could be construed as exposing a participant in a voluntary agreement to antitrust liability for a minor failure to comply with such regulations not only with respect to the communication or meeting involved, but with respect to all actions taken in the course of developing or implementing a voluntary agreement.

Subsection (e) (3) of Section 121 provides in part that a "full and complete record" of "any communication" between participants in a voluntary agreement must be deposited with the Administrator of the FEA and made available for public inspection and copying. An exception to the public access requirement can only be made by the Administrator in consultation with the Secretary of State and subject to the approval of the Attorney General. This provision will place a considerable burden on participants to a "voluntary" agreement. It will also result in the public disclosure of actions taken by the companies to deal with an emergency unless FEA grants an exemption after complying with the complex and time consuming procedure of consulting with one department and obtaining the approval of another.

A realistic Section 121 is extremely critical if a successful IEP is to be implemented. Unfortunately, the bill as reported has rejected all efforts to reach a reasonable compromise on the issues involved.

PAUL J. FANNIN,
CLIFFORD P. HANSEN,
JAMES A. MCCLURE,
DEWEY F. BARTLETT.

ADDITIONAL VIEWS OF SENATOR HATFIELD

The Standby Energy Authorities Act, S. 622, like its predecessors in the 93rd Congress, S. 2589 and S. 3267, is an example of power delegation that has practically no legal bounds, only political bounds, in that Congress will have the opportunity under this Act to say "no" to each and every Presidential attempt to invoke the authorities of S. 622. This bill is a poor substitute for the kind of tough, forward looking legislation we need to address the various problems we call call collectively the energy crisis.

Today the Congress is occupied with passing bills to negate actions the President has taken in response to our energy situation under authorities previously delegated to him in emergency legislation. Congress is saying that it is not yet ready to deal with the problems, but given a little more time, it will act. I am not so sure. I have as many misgivings about Congress' ability to act coherently, decisively and consistently in an area that crosses so many jurisdictional boundaries as I have about parts of the President's energy program. Even the Senate Interior Committee, by itself, has failed to initiate much to capitalize on its superior informational position following the four-year National Fuels and Energy Policy Study, and in this matter I associate myself with the comments of Senators Fannin, Hansen, McClure and Bartlett.

If enacted into law, S. 622 will be among the biggest "band-aids" in the books. But that is hardly any consolation for those who realize the wounds already are deep and having a cripping effect on our country.

We must take steps to lower our total demand for energy through positive conservation efforts, and we must restore healthy functioning to the energy marketplace through the elimination of anticompetitive structures and practices. The alternative may be a permanent application of Draconian measures under the auspices of some "Energy Authorities Act".

MARK O. HATFIELD.

XII. CHANGES IN EXISTING LAW

In compliance with subsection (4) of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, S. 622 as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

ACT OF NOVEMBER 27, 1973 (87 STAT. 627), AS AMENDED

(The Emergency Petroleum Allocation Act of 1973)

* * * * * * *

SEC. 3. For purposes of this Act:

(1) The term "branded independent marketer" means a person who is engaged in the marketing or distributing of refined petroleum products pursuant to—

(A) an agreement or contract with a refiner (or a person who controls, is controlled by, or is under common control with such refiner) to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner (or any such person), or

(B) an agreement or contract under which any such person engaged in the marketing or distributing of refined petroleum products is granted authority to occupy premises owned, leased, or in any way controlled by a refiner (or person who controls, is controlled by, or is under common control with such refiner),

but who is not affiliated with, controlled by, or under common control with any refiner (other than by means of a supply contract, or an agreement or contract described in subparagraph (A) or (B)), and who does not control such refiner.

(2) The term "nonbranded independent marketer" means a person who is engaged in the marketing or distributing of refined petroleum products, but who (A) is not a refiner, (B) is not a person who controls, is controlled by, is under common control with, or is affiliated with a refiner (other than by means of a supply contract), and (C) is not a branded independent marketer.

(3) The term "independent refiner" means a refiner who (A) obtained, directly or indirectly, in the calendar quarter which ended immediately prior to the date of enactment of this Act, more than 70 per centum of his refinery input of domestic crude oil (or 70 per centum on his refinery input of domestic and imported crude oil) from producers who do not control, are not controlled by, and are not under common control with, such refiner, and (B) marketed or distributed in such quarter and continues to market or distribute a substantial volume of gasoline refined by

him through branded independent marketers or nonbranded independent marketers.

(4) The term "small refiner" means a refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with such refiner) does not exceed 175,000 barrels per day.

(5) The term "refined petroleum product" means gasoline, kerosene, distillates (including Number 2 fuel oil), LPG, refined lubricating oils, or diesel fuel.

(6) The term "LPG" means propane and butane, but not ethane.

(7) The term "United States" when used in the geographic sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(8) The term "handicapped person" means any individual who, by reason of disease, injury, age, congenital malfunction or other permanent incapacity or disability, is unable without special facilities, planning or design to utilize mass transportation vehicles, facilities, and services; and who has a substantial, permanent impediment to mobility.

(9) The term "eligible person" means any handicapped person (who may or may not have a driver's license) or the parent or guardian of a handicapped person who must transport that person to and from special services.

SEC. 4. (a) Not later than fifteen days after the date of enactment of this Act, the President shall promulgate a regulation providing for the mandatory allocation of crude oil, residual fuel oil, and each refined petroleum product, in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such regulation. Subject to subsection (f), such regulation shall take effect not later than fifteen days after its promulgation. Except as provided in subsection (e) such regulation shall apply to all crude oil, residual fuel oil, and refined petroleum products produced in or imported into the United States.

(b) (1) The regulation under subsection (a), to the maximum extent practicable, shall provide for—

(A) protection of public health, safety, and welfare (including maintenance of residential heating, such as individual homes, apartments, and similar occupied dwelling units), and the national defense;

(B) maintenance of all public services (including facilities and services provided by municipally, cooperatively, or investor owned utilities or by any State or local government or authority, and including transportation facilities and services which serve the public at large);

(C) maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities, and services directly related thereto;

(D) preservation of an economically sound aid competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners,

nonbranded independent marketers, and branded independent marketers;

(E) the allocation of suitable types, grades, and quality of crude oil to refineries in the United States to permit such refineries to operate at full capacity;

(F) equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, nonbranded independent marketers, branded independent marketers, and among all users;

[(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of, fuels, and for required transportation related thereto;]

(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

(i) Fuels, and

(ii) Minerals essential to the requirements of the United States, and for transportation related thereto.

(H) economic efficiency; and

(I) minimization of economic distortion, inflexibility, and unnecessary interference with market methanisms.

(2) In specifying prices (or prescribing the manner for determining them), such regulation shall provide for—

(A) a dollar-for-dollar passthrough of net increases in the cost of crude oil, residual fuel oil, and refined petroleum products to all marketers or distributors at the retail level; and

(B) the use of the same date in the computation of markup, margin, and posted price for all marketers or distributors of crude oil, residual fuel oil and refined petroleum products at all levels of marketing and distribution.

(3) The President in promulgating the regulation under subsection (a) shall give consideration to allocating crude oil, residual fuel oil, and refined petroleum products in a manner which results in making available crude oil, residual fuel oil, or refined petroleum products to any person whose use of fuels other than crude oil, residual fuel oil, and refined petroleum products has been curtailed by, or pursuant to a plan filed in compliance with, a rule or order of a Federal or State agency, or where such person's supply of such other fuels is unobtainable by reason of an abandonment of service permitted or ordered by a Federal or State agency.

(c) (1) To the extent practicable and consistent with the objectives of subsections (b) and (d), the mandatory allocation program established under the regulation under subsection (a) shall be so structured as to result in the allocation, during each period during which the regulation applies, of each refined petroleum product to each branded independent marketer, each nonbranded independent marketer, each small refiner and each independent refiner, and of crude oil to each small refiner and each independent refiner, in an amount not less than

the amount sold or otherwise supplied to such marketer or refiner during the corresponding period of 1972, adjusted to provide—

(A) in the case of refined petroleum products, a pro rata reduction in the amount allocated to each person engaged in the marketing or distribution of a refined petroleum product if the aggregate amount of such product produced in and imported into the United States is less than the aggregate amount produced and imported in calendar year 1972; and

(B) in the case of crude oil, a pro rata reduction in the amount of crude oil allocated to each refiner if the aggregate amount produced in and imported into the United States is less than the aggregate amount produced and imported in calendar year 1972.

(2)(A) The President shall report to the Congress monthly, beginning not later than January 1, 1971, with respect to any change after calendar year 1972 in—

(i) the aggregate share of nonbranded independent marketers,

(ii) the aggregate share of branded independent marketers, and

(iii) the aggregate share of other persons engaged in the marketing or distributing of refined petroleum products,

of the national market or the regional market in any refined petroleum product (as such regional markets shall be determined by the President).

(B) If allocation of any increase of the amount of any refined petroleum product produced in or imported into the United States in excess of the amount produced or imported in calendar year 1972 contributes to a significant increase in any market share described in clause (i), (ii), or (iii) of subparagraph (A), the President shall by order require an equitable adjustment in allocations of such product under the regulation under subsection (a).

(3) The President shall, by order, require such adjustments in the allocations of crude oil, residual fuel oil, and refined petroleum products established under the regulation under subsection (a) as may reasonably be necessary (A) to accomplish the objectives of subsection (b), or (B) to prevent any person from taking any action which would be inconsistent with such objectives.

(4) The President may, by order, require such adjustments in the allocations of refined petroleum products and crude oil established under the regulation under subsection (a) as he determines may reasonably be necessary—

(A) in the case of refined petroleum products (i) to take into consideration market entry by branded independent marketers and nonbranded independent marketers during or subsequent to calendar year 1972, or (ii) to take into consideration expansion or reduction of marketing or distribution facilities of such marketers during or subsequent to calendar year 1972, and

(B) in the case of crude oil (i) to take into consideration market entry by independent refiners and small refiners during or subsequent to calendar year 1972, or (ii) to take into consideration expansion or reduction of refining facilities of such refiners during or subsequent to calendar year 1972.

Any adjustments made under this paragraph may be made only upon a finding that, to the maximum extent practicable, the objectives of subsections (b) and (d) of this section are attained.

(5) To the extent practicable and consistent with the objectives of subsections ((b) and (d), the mandatory allocation program established under the regulation under subsection (a) shall not provide for allocation of LPG in a manner which denies LPG to any industrial user if no substitute for LPG is available for use by such industrial user.

(d) The regulation under subsection (a) shall require that crude oil, residual fuel oil, and all refined petroleum products which are produced or refined within the United States shall be totally allocated for use by ultimate users within the United States, to the extent practicable and necessary to accomplish the objectives of subsection (b).

(e)(1) The provisions of the regulation under subsection (a) shall specify (or prescribe a manner for determining) prices of crude oil at the producer level, but, upon a finding by the President that to require allocation at the producer level (on a national, regional, or case-by-case basis) is unnecessary to attain the objectives of subsection (b)(1)(E) or the other objectives of subsection (b), (c), and (d) of this section, such regulation need not require allocation of crude oil at such level. Any finding made pursuant to this subsection shall be transmitted to the Congress in the form of a report setting forth the basis for the President's finding that allocation at such level is not necessary to attain the objectives referred to in the preceding sentence.

(2)(A) The regulation promulgated under subsection (a) of this section shall not apply to the first sale of crude oil produced in the United States from any lease whose average daily production of crude oil for the preceding calendar year does not exceed ten barrels per well.

(B) To qualify for the exemption under this paragraph, a lease must be operating at the maximum feasible rate of production and in accord with recognized conservation practices.

(C) Any agency designated by the President under section 5(b) for such purpose is authorized to conduct inspections to insure compliance with this paragraph and shall promulgate and cause to be published regulations implementing the provisions of this paragraph.

(3)(A) In the event that the price regulation promulgated under section (a) of this section provides for more than one price (or manner of determining a price) for a given grade and quality of crude oil produced in a given producing area, the regulation shall provide that the price applicable to any crude oil produced by, owned by, or due to any State or subdivision thereof as royalty, as participation in production or as participation in net profits, from the mineral or leasehold estate owned by that State or subdivision on January 1, 1975, shall be the highest price applicable to the given grade and quality of crude oil produced in the given producing area.

(B) No person (whether an operator, holder of a lease hold interest, contractor or otherwise) other than State or subdivision thereof, shall receive any benefit from the operation of this paragraph or the provision of regulation required thereby.

(C) The volume of crude oil produced in any State for which the highest price for the given grade and quality of crude oil in the given producing area is applicable exclusively by virtue of the provision of regulation required by this paragraph shall not in any month exceed

an amount equivalent to an average of twenty thousand barrels per day.

(B) In the event that the total volume of crude oil produced or owned by, or due to any State and its subdivisions, whose price would, absent subparagraph (c) hereof, be affected by the provisions of this paragraph, exceeds the equivalent of twenty thousand barrels per day, the twenty thousand barrels per day to which the highest price for the given grade and quality in the given producing area applies shall be apportioned among the State and those of its subdivisions owning or producing such crude oil in the ratios which the crude oil owned or produced by each governmental entity bear to the total owned or produced by all such entities in that State.

(f)(1) The provisions of the regulation under subsection (a) respecting allocation of gasoline need not take effect until thirty days after the promulgation of such regulation, except that the provisions of such regulation respecting price of gasoline shall take effect not later than fifteen days after its promulgation.

(2) If—

(A) an order or regulation under section 203(a)(3) of the Economic Stabilization Act of 1970 applies to crude oil, residual fuel oil, or a refined petroleum product and has taken effect on or before the fifteenth day after the date of enactment of this Act, and

(B) the President determines that delay in the effective date of provisions of the regulation under subsection (a) relating to such oil or product is in the public interest and is necessary to effectuate the transition from the program under such section 203(a)(3) to the mandatory allocation program required under this Act.

he may in the regulation promulgated under subsection (a) of this section delay, until not later than thirty days after the date of the promulgation of the regulation, the effective date of the provisions of such regulation insofar as they relate to such oil or product. At the same time the President promulgates such regulation, he shall report to Congress setting forth his reasons for the action under this paragraph.

(g)(1) The regulation promulgated and made effective under subsection (a) shall remain in effect until midnight February 28, 1975, except that (A) the President or his delegate may amend such regulation so long as such regulation, as amended, meets the requirements of this section, and (B) the President may exempt the crude oil, residual fuel oil, or any refined petroleum product from such regulation in accordance with paragraph (2) of this subsection. The authority to promulgate and amend the regulation and to issue any order under this section, and to enforce under section 5 such regulation and any such order, expires at midnight [August 31, 1975] *June 30, 1976*, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight [August 31, 1975.] *June 30, 1976.*

(2) If at any time after the date of enactment of this Act the President finds that application of the regulation under subsection (a) to crude oil, residual fuel oil, or a refined petroleum product is not necessary to carry out this Act, that there is no shortage of such oil or product, and that exempting such oil or product from such regulation will not have an adverse impact on the supply of any other oil or refined petroleum products subject to this Act, he may prescribe an amendment to the regulation under subsection (a) exempting such oil or product from such regulation for a period of not more than ninety days. The President shall submit any such amendment and any such findings to the Congress. An amendment under this paragraph may not exempt more than one oil or one product. Such an amendment shall take effect on a date specified in the amendment, but in no case sooner than the close of the earliest period which begins after the submission of such amendment to the Congress and which includes at least five days during which the House was in session and at least five days during which the Senate was in session; except that such amendment shall not take effect if before the expiration of such period either House of Congress approves a resolution of that House stating in substance that such House disapproves such amendment.

(k) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil or refined petroleum products is to be based on use of such a product or amounts of such product supplied during an historical period, the regulation shall contain provisions designed to assure that the historical period can be adjusted (or other adjustments in allocations can be made) in order to reflect regional disparities in use, population growth or unusual factors influencing use (including unusual changes in climatic conditions), of such oil or product in the historical period. This subsection shall take effect sixty days after the date of enactment of the Standby Energy Authorities Act. Adjustment for such purposes shall take effect as soon as practicable after the date of enactment of this subsection. Adjustments to reflect population growth shall be based upon the most current figures available from the United States Bureau of the Census.

SEC. 6. (a) All actions duly taken pursuant clause (3) of the first sentence of section 203(a) of the Economic Stabilization Act of 1970 in effect immediately prior to the effective date of the regulation promulgated under section 4(a) of this Act, shall continue in effect until modified pursuant to this Act.

(b) The regulation under section 4 and any order issued thereunder shall preempt any provision of any program for the allocation of crude oil, residual fuel oil, or any refined petroleum product established by any State or local government if such provision is in conflict with such regulation or any such order.

[(c)(1) Except as specifically provided in this subsection, no provisions of this Act shall be deemed to convey to any person subject to this Act immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

[(2) As used in this subsection, the term "antitrust laws" includes—

[(A) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.);

[(B) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.);

[(C) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

[(D) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9); and

[(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

[(3) The regulation promulgated under section 4(a) of this Act shall be forwarded on or before the date of its promulgation to the Attorney General and to the Federal Trade Commission, who shall, at least seven days prior to the effective date of such regulation, report to the President with respect to whether such regulation would tend to create or maintain anticompetitive practices or situations inconsistent with the antitrust laws, and propose any alternative which would avoid or overcome such effects while achieving the purposes of this Act.

[4] Whenever it is necessary, in order to comply with the provisions of this Act or the regulation or any orders under section 4 thereof, for owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum product to meet, confer, or communicate in such a fashion and to such ends that might otherwise be construed to constitute a violation of the antitrust laws, such persons may do so only upon an order of the President (or of an officer or agency of the United States to whom the President has delegated authority under section 5(b) of this Act); which order shall specify and limit the subject matter and objectives of such meeting, conference, or communication. Moreover, such meeting, conference, or communication shall take place only in the presence of a representative of the Antitrust Division of the Department of Justice, and a verbatim transcript of such meeting, conference, or communication shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission, where it shall be made available for public inspection.

[5] There shall be available as a defense to any action brought under the antitrust laws, or for breach of contract in any Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange crude oil, residual fuel oil, or any refined petroleum product, that such delay or failure was caused solely by compliance with the provisions of this Act or with the regulation or any order under section 4 of this Act.

[6] There shall be available as a defense to any action brought under the antitrust laws arising from any meeting, conference, or communication or agreement resulting therefrom, held or made solely for the purpose of complying with the provisions of this Act or the regulation or any order under section 4 thereof, that such meeting, conference, communication, or agreement was carried out or made in accordance with the requirements of paragraph (4) of this subsection.]

(c) There shall be available as a defense to any action brought for breach of contract in any Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange petroleum, that such delay or failure was caused solely by compliance with the provisions of this Act or with the regulation or any order under section 4 of this Act.

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Calendar No. 245

94TH CONGRESS
1st Session

SENATE

REPORT
No. 94-253

ENERGY LABELING AND DISCLOSURE ACT

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE

ON

S. 349

TO AMEND THE FEDERAL TRADE COMMISSION ACT

JUNE 24 (legislative day, JUNE 6), 1975.—Ordered to be printed

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REPORT
No. 94-253

ENERGY LABELING AND DISCLOSURE ACT

JUNE 24 (legislative day, JUNE 6), 1975.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Commerce, submitted the following

REPORT

[To accompany S. 349]

The Committee on Commerce to which was referred the bill (S. 349) to amend the Federal Trade Commission Act, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

PURPOSE

It is the purpose of this bill to contribute to an alleviation of the energy crisis by providing American consumers with information on the energy characteristics and the financial costs associated with the use of major household products and automobiles. The legislation proposes to achieve this purpose by requiring the issuance of Energy Guides and the disclosure prior to purchase of estimated annual operating costs for major energy-consuming household products and automobiles.

DESCRIPTION

Under this bill, information regarding the energy characteristics and estimated annual operating costs of major energy-consuming household products and automobiles will be required to be disclosed to customers prior to purchase. This information would be provided in the form of Appliance Energy Guides and Automobile Energy Guides. In addition, the bill authorizes the Federal Trade Commission to require that estimates of annual operating costs to be displayed in conjunction with displays of retail price, and in certain advertisements for such products or automobiles.

In the case of household products, only those products which consume, on the average, more than 200 kilowatt hours of electricity per year or 2 million Btu's of fuel per year are covered. The information

regarding the energy characteristics of such products and the estimates of the annual operating costs are to be determined on the basis of procedures developed by the Administrator of the Federal Energy Administration and the National Bureau of Standards. The Administrator may determine whether national average values are appropriate; or that there are significant differences in usage patterns or electricity rates and fuel costs that should be accounted for in describing the energy characteristics or estimating the annual operating costs. If the Administrator determines that the cost data and usage patterns are best characterized by national averages, the manufacturer computes the estimated annual operating costs in accordance with the prescribed procedures. If, on the other hand, the Administrator determines that there are significant variations from average national values that should be accounted for, the manufacturer is instructed to calculate several different estimates of annual operating costs, to cover the range of geographical, usage or other variations deemed significant by the Administrator.

The estimates of annual operating costs are to be included in an Appliance Energy Guide, which is to be attached to each applicable product by the manufacturer. The Appliance Energy Guide will also include detailed information on the energy characteristics of the product, sugestions on how to use the product efficiently, and explanatory material which will enable the typical consumer to interpret the significance of the estimated annual operating cost figures.

The Federal Trade Commission (FTC) is directed to issue rules specifying which displays of purchase price must be accompanied by displays of the estimated annual operating costs. The bill provides that retailers may fulfill any such disclosure requirement by obtaining a written statement from the purchaser that the purchaser has read the relevant Appliance Energy Guide. FTC is also directed to issue regulations specifying the circumstances under which the estimated annual operating cost is to be included as a part of advertisements for the product which mention purchase price or energy characteristics.

The provisions of the bill dealing with automobiles are similar to the corresponding sections of the bill dealing with household appliances. Automobile Energy Guides would be attached to all new automobiles by the manufacturers. These Guides would contain all the relevant information that a consumer would need to evaluate the fuel economy characteristics of that automobile and the attendant costs of operation of that automobile. The language dealing with disclosure of estimated annual operating costs of automobiles in conjunction with disclosure of purchase price and in advertising is similar to the corresponding provisions dealing with major energy consuming household products.

The format and rules governing the Appliance Energy Guides and Automobile Energy Guides are to be developed by the Federal Trade Commission.

Background

Residential use of energy accounts for approximately 19 percent of the total energy consumption in this country. A national program of energy conservation cannot depend on a cutback of items such as the

electric can opener or electric pencil sharpener. Although the use of such devices is symbolic of a wasteful society, most studies have shown that the energy used by such small appliances is insignificant; and that the energy conservation efforts must concentrate on the larger energy users. The single largest use of energy in the residential sector is for space heating. This accounts for 11 percent of the total national energy consumption. The next most significant use of energy in homes is that required for heating of water. The energy required to heat water for showers, baths, kitchen and bathroom sinks, washing machines, and dishwashers, adds up to 3 percent of the total national energy consumption. Other major uses of energy in the home are for air conditioning, cooking, refrigeration, and clothes drying. These four uses account for another 3 percent of the Nation's energy consumption.

In recent years, there has been a rapid increase in the number of major energy consuming devices that are used in the home. For example, a study done for the Project Independence Blueprint [1] estimates that the percentage of households with dishwashers will increase from less than 20 percent in 1970 to almost 40 percent in 1975, and is expected to increase to 80 percent by 1990. Similarly, the percentage of households with automatic clothes dryers is expected to double between 1970 and 1990. These figures indicated that a major effort has to be undertaken to improve the efficiency of these energy-consuming products so that the growth in product usage can occur without placing an additional burden on the Nation's already overburdened energy supply capabilities.

There are many opportunities for conserving energy in the use of major household products. For example, an article in the June 1973 issue of Consumers Report shows that there is a 60-percent variation in the energy efficiency between various brands and models of 5000 Btu room air conditioners. Improvements in air-conditioner efficiency are achievable through more efficient compressor motors, fan motors, and bigger cooling coils and heat exchangers. Such improvements are usually associated with a moderate increase in purchase price.

For gas operated appliances, such as stoves, clothes dryers, etc., significant improvements in efficiency are possible by replacing pilot lights by electric lighters. Since pilot lights in gas appliances typically utilize 10 percent of the natural gas requirement in a residence, the elimination of this source of energy wastage, to the extent feasible, would be a very effective energy conservation measure. Improvements in other products, such as refrigerators, freezers and ranges are possible through the simple device of improved insulation. For example, efforts to increase interior space in some refrigerators has resulted in thin walls and doors with such poor insulation characteristics that electrically heated wires are imbedded in the door to prevent condensation on the outside of the refrigerator door. These heaters require between 15–20 percent of the total energy used in a refrigerator.

Considerable attention has been devoted within the past several years to the potential for improved fuel economy in automobiles.

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[1] Project Independence Blueprint Final Task Force Report, Vol. 1, Residential and Commercial Energy Use Patterns 1970–1990, November 1974.

There is no doubt that substantial improvements in fuel economy are achievable through the adoption of more efficient engines and transmissions, improved tires, improved aerodynamic drag characteristics, weight reductions, through the use of lighter, higher strength materials, or through overall reduction in vehicle size.

A joint Department of Transportation/Environmental Protection Agency report estimated that up to a 63-percent improvement in new car fuel economy could be achieved by 1980. This estimate was based upon not only technological improvements such as those mentioned above, but also a shift in sales mix to 35 percent large and intermediate cars and 65 percent compact and subcompact cars. A similar study by FEA indicated that average new car fuel economy can be increased to 21–22 miles per gallon by 1980, and experts at the Rand Corporation have indicated that 30 miles per gallon might be achievable by 1985.

Needs

In spite of the fact that most experts agree that substantial improvements in energy efficiency of appliances and automobiles are technically achievable, many improvements will not be realized unless incentives are provided to consumers to purchase those products and automobiles which are energy efficient. The Project Independance study states that "In general, consumers have displayed very little interest in more efficient appliances because: (a) the efficiency of appliances is not stated to or understood by the consumers; and (b) the higher costs of the more efficient units is a strong inhibiting factor." [2]

During his February 25, 1975, appearance before the Committee, J. Thomas Rosch, Director of the Bureau of Consumer Protection of the FTC, stated:

> . . . let me say that I fully endorse the findings and purposes of these bills, which recognize the need to take affirmative action in dealing with the energy crises now facing this country. Disclosures of energy efficiency will enable consumers to compare the relative merits of competing major energy consuming appliances. Consequently, the public will be able to take energy conservation into account as a material factor in their purchasing decisions. In so doing, consumers can choose on the basis of operating costs rather than purchase price alone, while also promoting the larger national interest in conserving scarce natural resources. In the absence of energy efficiency disclosures the consumer cannot translate a concern for economy, let alone energy conservation, into positive action when purchasing energy consuming products.

Several firms are beginning to recognize increasing consumer interest in the energy characteristics of appliances and automobiles. Manufacturers of automobiles which get good fuel economy have been emphasizing this feature in their advertisements. Sears-Roebuck now includes estimated annual operating costs for their air-conditioners in their catalog descriptions. Other appliance manufacturers and retailers are proudly proclaiming the energy-savings features of certain brands and models. It can be expected that this activity will increase in the future. However, because of the use of conflicting terminology and the confusion that exists with regard to the meaning of much of the terminology used in these promotional campaigns, there is a definite need to develop a uniform system for presenting this information to consumers in terms that are readily understandable.

[2] Ibid.

Since 1973, the Department of Commerce has been encouraging participation in a voluntary appliance labeling program. Under this program, a label for air-conditioners has been developed, and issuance of the labels for refrigerators, refrigerator-freezers, and freezers is imminent.

In addition, there are a number of State and local programs relating to appliance labeling. New York City and Massachusetts have already established labeling requirements. New Jersey, Florida, and Minnesota are actively considering the establishment of similar statutes. Clearly, if federal legislation is not enacted, manufacturers are likely to face a vast proliferation of labeling programs throughout the country. The problem has become so acute that the Association of Home Appliance Manufacturers (AHAM), in their March 12, 1975 statement to the Committee, said:

> Were it not for the fact that inconsistent regulations are being considered and promulgated by several States, AHAM would urge the Congress to delay mandatory legislation until the voluntary program of the Department of Commerce and the educational programs have been fully developed and their success determined.

The Department of Commerce cites this as one of the reasons for adopting a mandatory program. Assistant Secretary of Commerce for Science and Technology, Dr. Betsy Ancker-Johnson, stated at the Committee hearings: "There are three strong reasons for making labeling mandatory: (1) to preempt state and local conflicting actions which can only produce higher prices and confusion among consumers (2) to eliminate the potential for removal or alteration of labels along the distribution line and (3) to assure of 100 percent participation in labeling by the industry."

Meeting the Needs

The main feature of the approach taken by S. 349 is the disclosure of the estimated annual operating costs of the appliance or automobile. This approach is taken in full recognition that in a free enterprise system, consumer demand is one of the most powerful forces operating in the marketplace. As the implications of the energy crisis and the escalating cost of energy become more apparent to American consumers, they can be expected to respond by expressing their preferences for household products and automobiles which are highly energy efficient. The problem is that it takes an informed and highly skilled consumer to make the proper assessment of the energy consumption characteristics of any given product. Because of the complexity of such products, and a general lack of knowledge by the consumer of such considerations as usage patterns and cost of electricity, the most effective way for informing American consumers is to provide them with

estimates of the annual operating costs. Such a disclosure, particularly when it is simultaneous with the disclosure of purchase price, should be a very effective way of informing consumers of the real costs of the products they are contemplating purchasing.

When appliance labeling legislation (S. 1327) was first introduced in the 93d Congress it called for the labeling of appliances with comparative efficiency ratings rather than operating cost data. However, in testimony from industry and other experts it was pointed out that while efficiency labeling might be appropriate for some appliances, for others, it would be extremely difficult to perform and likely to be highly misleading. In fact, in some cases it will be nearly impossible even to define a proper measure of efficiency. In the case of dishwashers, how can you define and measure "cleanliness"? Also, the efficiency with which a dishwasher cleans dishes depends on many parameters such as the detergent used, the agitator action, and the manner in which the dishes are arranged on the racks.

Furthermore, utilizing an efficiency rating approach, the description of efficiency would have to vary from product to product. Air-conditioner efficiency could be described by Btu's per kilowatt hour, while for a gas clothes dryer it might be ounces of water evaporated per therm. As the average consumer is unfamiliar with terms such as kilowatts, therms, and Btu's a great deal of confusion could develop. Efficiency labeling would make it virtually impossible to compare a gas range to an electric range, since the units of measurement would be different. Also the efficiency labeling approach gives the consumer virtually no guide to meaningful comparative shopping in regard to purchase price. Without operating cost data, the consumer is virtually stymied in deciding whether to buy a more expensive product which is claimed to be energy efficient. Only operating cost data will tell the consumer whether such a purchase will be likely to end up saving him money over the life of the product.

The Gas Appliance Manufacturers Association, Inc., told the committee on February 25, 1975, that:

> In our judgment, the comparisons of appliances on an interfuel basis as well as a comparison of those using the same fuel or energy source can both be achieved by following the annual cost of operation approach taken in S. 349. This approach is feasible from a technical point of view and would be more meaningful to a consumer than any other possible approach. This feasibility has been demonstrated in the development of a voluntary program for water heaters. Or to express it conversely, I know of no approach other than an operating cost approach which would prove feasible. Additionally, the simplicity of this approach from the standpoint of the consumer has a very definite attractiveness.

The same day, Mr. Roger Sant, Assistant Administrator for Conservation and Environment of the Federal Energy Administration, testified that:

> S. 349 emphasizes the average annual cost of operation as the means of conveying information to consumers on energy use. While FEA strongly supports the concept of cost labeling, we believe the addition of other factors would improve the effectiveness of the labels.
>
> Other factors which we believe should be included are average fuel consumption and widely recognized fuel use ratings, such as miles per gallon for automobiles. Furthermore, we believe that all labels should contain a chart comparing the operating cost of the appliance or automobile to the operating costs of other products in the same class. This would enable the consumer to easily determine the relative efficiency of any single product, without examining the labels of a large number of other products.

In response to comments such as these, specific language was incorporated into S. 349 regarding the content of the Energy Guides. In particular, the bill as approved by the Committee contains a requirement that the Energy Guides include comparison shopping information. While it is recognized that such comparative data is extremely useful, it is extremely important that any such comparisons be presented in a manner which avoids even the appearance of Federal government endorsement of any particular model or brand.

There are extensive provisions in S. 349 to assure that the consumer is presented with reliable and useful estimates of operating costs. Regional differences in climate or in cost of energy will be accounted for in the determination of the estimated operating cost. The bill also requires that the Energy Guides which are to be attached to the product explain how the operating cost information was computed, and in addition, the Guides are to contain information indicating how the consumer can relate the estimated operating cost to his own particular situation.

It is recognized that in a period of uncertain fuel and electricity prices, any estimate of annual operating cost may be subject to inaccuracies because of potential fluctuations in the unit cost of electricity or fuel. Concern has been expressed that some products, with an estimated annual operating cost indicated on an attached Energy Guide, might still be on the shelf or in the showroom when a newer model, for which the estimated annual operating cost is based on more recent energy prices, is displayed. This concern is mitigated by the fact that automobile and appliance retailers generally have a complete turnover in stock several times a year, thus reducing the likelihood of such a problem from arising. It is also further expected that the timing of revisions to Energy Guides will, to the extent practical, coincide with typical industry practices regarding model changeovers. To further avoid the possibility of misleading comparisons, the Committee approved language which requires that the fuel or electricity prices used to develop the estimated annual operating cost are to be part of the Energy Guides, together with a notation as to the date or time period for which these prices are considered to be typical. Subsequent issues of Energy Guides, which are based on more recent energy prices can be made easily distinguishable from earlier versions by utilization of a different color scheme, much as is curretly done with license plates. Finally, the legislation provides for an extensive education program to alert consumers and retailers to the significance of this labeling program.

Operating cost labeling will not present any burden on the small retailer. The determination of annual operating costs will be based on information developed by the Federal Government and the manufacturer, and the retailer will not have to perform any calculation. In many cases, when national average values are deemed to be the most appropriate, the retailer uses the number supplied to him by the manufacturer. In other cases, where there are significant variations from national average values the retailer is provided with a range of estimated operating costs to take into account these differences, and instructions for the retailer as to how to select the relevant figures. As this labeling will only have to be done on display models, this will not be an extensive task. Also, since the coverage of the bill is limited to major home appliances, only a small number of items are involved.

The estimated annual operating costs are not to be construed by individual consumers as anything more than a guide to the amount of money that could be saved by purchase of energy efficient household products and automobiles. Accordingly, the bill specifies that the failure of any operating cost estimate to accurately predict an individual's actual costs cannot be construed to create any cause of action for rescission, reformation, or refund of a contract or sale unless the disclosure was made in a fraudulent manner. In addition, any supplier is explicitly permitted to inform his customer that the estimates for the annual operating costs are based on average patterns of usage and should not be construed as a precise calculation of annual operating costs that would be experienced by any individual purchaser.

In a March 10, 1975 letter to the Committee, the American Retail Federation said that: "S. 349 . . . proposes an appliance labeling program in a manner generally satisfactory to the retailer. A labeling program that gives consumers the annual operating costs of appliances at the point of sale is acceptable as long as the manufacturer prepares and ships the label in the manner proposed by S. 349."

A senior executive for a national chain of department stores wrote the Committee that ". . . for advertising (average annual operating cost with price) in writing such as in newspapers, catalogs, price tags, signs, etc., (there was) no problem."

The system of estimated annual operating cost disclosure proposed in S. 349 would be extremely effective in bringing about the energy saving changes discussed in the previous section. Consumer buying habits would be changed because many consumers would realize that in many cases it is cheaper to pay a few dollars more at the time of purchase in order to get a model which costs less to operate. This is particularly true in the case of automobiles and large appliances, such as refrigerators and air-conditioners, which commonly are bought on an installment plan. In those situations, a few dollars extra on the installment payments will be balanced by the savings on the utility bills. Once a system of operating cost disclosure is enacted, manufacturers will realize that consumers will become very conscious of the operating costs of such products, and competitive forces will cause many manufacturers to redesign their products with an emphasis on energy efficiency. Additionally, because consumers will have been very conscious of operating costs at the time they make their purchase decision, it is likely that their usage patterns will also reflect such consciousness. Thus, the

disclosure of estimated annual operating cost is deemed to be a very effective consumer education measure.

S. 349 contains a strong preemption clause which will give the manufacturers protection from an unmanageable situation caused by the possibility of a multitude of ordinances not only at the State level but at the city and county level as well.

Legislative History

S. 1327 was introduced by Senator Tunney on March 22, 1973. Hearings were held on July 23 and 26, 1973, by the Commerce Committee. A revised version of S. 1327 was incorporated into section 8 of S. 2176, the National Fuels and Energy Conservation Act of 1973, which was reported out by the Commerce Committee on November 16, 1973. S. 2176 passed the Senate on December 10, 1973, but no action was taken in the House of Representatives during the 93d Congress.

Subsequent to Senate passage of S. 2176, the administration proposed an appliance labeling bill which was introduced by Senator Tunney (by request) as S. 3255 on March 27, 1974. No hearings on S. 3255 were held during the 93d Congress.

S. 349 was introduced by Senator Tunney on January 23, 1975. President Ford's omnibus energy proposal, S. 594, was introduced on February 5, 1975. Title XII of S. 594 is the National Appliance and Motor Vehicle Energy Labeling Act of 1975. Hearings on both S. 349 and title XII of S. 594 were held by the Committee on Commerce on February 24 and 25, 1975.

Several working drafts of revisions to S. 349, which incorporated many of the provisions of title XII of S. 594, were distributed for comments subsequent to the hearings. The Committee considered S. 349 at executive sessions on June 10, 11, and 12, and ordered the bill reported favorably on June 12, 1975.

Section-by-Section Analysis

Section 2. Declaration of Policy. In this section, Congress declares the intention to assure, through a uniform national system, meaningful disclosure of the energy characteristics and the estimated annual operating costs of certain products and systems, so that consumers can readily compare them and avoid purchasing those which unnecessarily waste energy.

Section 3. Definitions. The term "household products" is intended to cover only those goods which are traditionally purchased as a complete unit from the store as an off-the-shelf item and then connected to a source of electricity or fuel in the residence. This is in contrast to central heating and cooling systems which consist of various components which have to be selected and coordinated with each other by the individual designing or installing the system.

The components of central air-conditioning and heating systems cannot perform their intended function until they are assembled and fully installed. Someone other than the component manufacturer must do something which makes the product fit to perform its intended function. Thus, such components are not included in the definition of "major energy consuming household products."

"Major energy consuming household product" is defined as a product which utilizes on the average, at least 200 kilowatt hours of electricity per year, or two million Btu's of energy per year in the case of a product powered by fuel. The threshold value of 200 kilowatt hours was established to limit the coverage of this bill to major household products. The correlation between the 200 kilowatt hours and two million Btu's takes into account the inefficiencies associated with generation of electricity from a primary fuel at a powerplant.

In the definition of "fuel economy" it is anticipated that EPA will promulgate testing procedures as soon as possible, so as to avoid any conflict with time requirements imposed by subsections (b), (f), and (g) of section 5. This constraint should pose no problem, since EPA already has a testing procedure which is widely used in conjunction with its voluntary labeling program.

Section 4. Major Energy Consuming Household Products. Subsection (a) requires the Administrator of FEA to identify and assign priority ranking to categories of major energy consuming household products for the purpose of developing the estimates required under this bill in a timely and systematic manner. If a given category satisfies the definition of major energy consuming household product, then each brand and model within that category will be covered by the provisions of this bill, even though particular items within that category might not meet the 200 kilowatt hour or 2,000,000 Btu criteria.

In subsection (b) the Secretary of Commerce, through the National Bureau of Standards (NBS), is required to define an average-use cycle for each such product covered by the bill. In addition, the Secretary is to devise a procedure for testing or calculating the energy utilized during each such cycle. In order to make use of the procedures developed under the Secretary of Commerce's voluntary energy labeling program prior to the date of the enactment of this bill, any testing or calculation procedure adopted for such purposes is considered to be a procedure promulgated under this legislation.

Subsection (c) requires that the test procedures be promulgated for not less than five major energy consuming household products within 9 months after the date of enactment of this bill. This time requirement is consistent with the schedule of the existing voluntary program which already has produced procedures for room air-conditioners, and is in the process of producing procedures for refrigerators, freezers, refrigerator-freezers, and water heaters.

Subsection (d) the manufacturers are required to have tests conducted on their various products in accordance with the procedures established under subsection (b).

Subsection (e) requires the Administrator to develop information on usage patterns of each product category and to compile data on the average unit cost of energy. This information can be developed on a metropolitan, regional, national or other appropriate basis as determined by the Administrator.

Subsection (f) discusses the manner in which the estimated annual operating costs are to be determined. The information accumulated by the Administrator on usage patterns and energy costs is sent by the Administrator to each manufacturer. In addition, the Administrator would furnish manufacturers with instructions for determining the estimated annual operating costs. For those products for which the usage

patterns and energy costs are maintained on a national basis, a single annual operating cost for a given product is determined. However, if the Administrator concludes that it would be best to have a range of estimates which would reflect local variations in energy costs or usage patterns, then the manufacturers would be instructed to determine a range of operating costs. In the latter case, the manufacturer would provide that range of costs to the suppliers, together with instructions to suppliers that are prepared by the Administrator and which tell the supplier how to select from among that range of costs, a single figure which is most applicable to the local conditions in which the supplier is located.

Paragraph (4) of this subsection directs the Administrator to publish, on an annual basis, a booklet which compiles the information obtained under this bill. This booklet will probably be similar to the Gas Mileage Guide for New Car Buyers currently being published by EPA. While explanatory information is expected to accompany any alphabetical listing of test results, the Committee wants to avoid the appearance of having the Federal Government endorse, or indicate a preference for, any particular model. While the Committee strongly favors the concept of disclosing estimated annual operating costs under appropriate circumstances, it recognizes that in a tabulation such as to be included in the aforementioned booklet, disclosure of operating cost estimates might not be practical especially in view of such factors as geographic price variations or market price fluctuations. Therefore, the bill would delegate to the Administrator the decision as to whether to include such disclosures in the booklet.

Subsection (g) directs the Federal Trade Commission to devise the format of an Appliance Energy Guide for each appliance to be covered by this bill. The Appliance Energy Guide is intended to provide the typical consumer with information which the consumer might want to use prior to making a purchase decision. The Appliance Energy Guide is to contain information describing the energy consumption characteristics of the product involved. It is also to elaborate on the significance of the estimated annual operating costs, particularly so as to allow the consumer to be able to refine that estimate to take account of the consumer's personal circumstances. In this regard, FTC might consider the desirability of requiring a cross reference on any display of estimated annual operating costs to direct the consumer to more detailed information to the Appliance Energy Guide. In this period of uncertainty regarding fuel prices, the Committee feels strongly that consumers be made aware of the fuel or electricity prices used to develop the estimated annual operating costs. This information will be on the Energy Guide, together with a notation as to the date or time period for which these prices are considered to be typical. Subsequent issues of Energy Guides which are based on more recent fuel or electricity prices can be made easily distinguishable from earlier versions by utilization of a different color scheme, much as is done with license plates.

In addition, the Appliance Energy Guide is to provide comparative shopping information, such as indicating the range of efficiencies or estimated annual operating costs that are available for otherwise similar models or brands of that product. However, comparison by brand name on the Energy Guide is not anticipated. It is expected that the

Appliance Energy Guide would be the primary source of consumer information regarding the energy characteristics and estimated annual operating costs of a particular product. It is therefore crucial that the Guide be prepared in a style and format that is easily readable and understandable by the typical consumer. As an example, the Committee finds the Energy Guide issued by the Secretary of Commerce under the voluntary labeling program for room air-conditioners does not provide adequate and meaningful information for the consumer. That particular Energy Guide is so complicated that it could be counterproductive. On the other hand, the proposed Energy Guide for refrigerators, to be issued under the same labeling program is, in the Committee's opinion, a far superior effort in that direction.

The Appliance Energy Guide is to be attached by the manufacturer to the product, in a manner to be specified by the Federal Trade Commission.

In Subsection (h) prohibitions are set forth against manufacturers or importers shipping appliances without Appliance Energy Guides, or suppliers removing the Appliance Energy Guides. In addition, the Federal Trade Commission is directed to establish rules whereby dealers must display the estimated annual operating cost in conjunction with displays of the purchase price. The main objective of this provision is to call the consumer's attention to the estimated annual operating cost. However, any such disclosure requirement established by FTC could be satisfied by a dealer if he obtained a written statement that the purchaser has read the relevant Energy Guide. Since the estimated annual operating cost is to be included on the Energy Guide, the objective of assuring consumer awareness of the estimated annual operating cost is achieved through use of such a written waiver. Since the relevant disclosure requirement is to be established by FTC, the form of the written waiver statement will also be determined by FTC. It is, however, the clear intent of this Committee, that this waiver be printed in a clear and conspicuous manner so that it does not become part of the "fine print" or otherwise submerged in the other paperwork associated with the sale of the product.

This subsection also requires that any advertisement which displays the purchase price or energy characteristics of such a product must also include a statement of the estimated annual operating cost of the product, if the Federal Trade Commission rules that such a statement is reasonable and necessary.

Section 5. Automobiles. Subsection (a) addresses the method for determining the estimated annual operating costs for new automobiles. The calculation is to be performed by the manufacturers, on the basis of EPA fuel economy test results, and utilizing usage and fuel cost information provided to the manufacturers by the Administrator of EPA. At the discretion of the EPA Administrator, the estimated annual operating costs can be determined on a national, regional, metropolitan or any other appropriate basis. If a basis other than national is deemed to be most appropriate, then the manufacturer shall calculate a range of annual costs to reflect variations from a national figure. In that case, the manufacturer would provide that range of costs to the suppliers, together with instructions to suppliers that are prepared by the EPA Administrator and which tell the supplier how to select from among that range of costs, a single figure which is most

applicable to the local conditions in which the supplier is located. The figure selected by the supplier would be utilized by that supplier in advertisements and displays for which the estimated annual operating cost is required by FTC.

Subsection (b) requires the automobile manufacturers to attach an Automobile Energy Guide to each new automobile. It also requires dealers to make sure that the Guides remain on the vehicles.

Subsection (c) directs the Federal Trade Commission to devise the format of an Automobile Energy Guide. The Automobile Energy Guide is intended to provide the typical consumer with information which the consumer might want to use prior to making a purchase decision. The Automobile Energy Guide is to contain information describing the fuel economy characteristics of the automobile involved. It is also to elaborate on the significance of the estimated annual operating costs, particularly so as to allow the consumer to be able to refine that estimate to take account of the consumer's personal circumstances. In this regard, FTC might consider the desirability of requiring a cross reference on any display of estimated annual operating costs to direct the consumer to the more detailed information contained in the Automobile Energy Guide. In this period of uncertainty regarding fuel prices, the Committee feels strongly that consumers be made aware of the fuel or electricity prices used to develop the estimated annual operating costs. This information will be on the Energy Guide, together with a notation as to the date or time period for which these prices are considered to be typical. Subsequent issues of Energy Guides which are based on more recent fuel or electricity prices can be made easily distinguishable from earlier versions by utilization of a different color scheme, such as is done with license plates.

In addition, the Automobile Energy Guide is to provide comparative shopping information, such as indicating the range of fuel economies or estimated annual operating costs that are available for otherwise similar models of that automobile. However, comparison by model name on the Energy Guide is not anticipated. It is expected that the Automobile Energy Guide would be the primary source of consumer information. It is therefore crucial that the Guide be prepared in a style and format that is easily readable and understandable by the typical consumer.

Subsection (d) provides for advance notification to the EPA Administrator of any tests conducted by manufacturers under this legislation.

Subsection (e) directs the Commission to identify the kinds of automobile advertisements which are to contain information regarding fuel economy or estimated annual operating cost. Specifically, the Commission may issue rules requiring that certain advertisements which display the purchase price or fuel economy characteristics of a new automobile must include a statement of the estimated annual operating cost or fuel economy as determined according to the provisions of this Act.

Subsection (f) directs the EPA Administrator to publish, on an annual basis, a booklet which compiles the fuel economy information obtained under this bill. This booklet will probably be similar to the Gas Mileage Guide for New Car Buyers currently being published by EPA. While explanatory information is expected to accompany

any alphabetical listing of fuel economy test results, the Committee wants to avoid the appearance of having the Federal Government endorse, or indicate a preference for, any particular model automobile. While the Committee strongly favors the concept of disclosing estimated annual operating costs under appropriate circumstances, it recognizes that in a tabulation such as to be included in the aforementioned booklet, disclosure of operating cost estimates might not be practical especially in view of such factors as geographic price variations or market price fluctuations. Therefore the bill would delegate to EPA the decision as to whether to include such disclosures in the booklet.

In Subsection (g) the Federal Trade Commission is directed to establish rules specifying the situations under which dealers must display the estimated annual operating cost in conjunction with displays of the purchase price. The main objective of this provision is to call the consumer's attention to the estimated annual operating cost. However, any such disclosure requirement established by FTC could be satisfied by a dealer if he obtained a written statement that the purchaser has read the relevant Energy Guide. Since the estimated annual operating cost is to be included on the Energy Guide, the objective of assuring consumer awareness of the estimated annual operating cost is achieved through use of such a written waiver. Since the relevant disclosure requirement is to be established by FTC, the form of the written waiver statement will also be determined by FTC. It is, however, the clear intent of this Committee, that this waiver be printed in a clear and conspicuous manner so that it does not become part of the "fine print" or otherwise submerged in the other paperwork associated with the sale of the product.

Section 6. Consumer Education. This section directs the Federal Trade Commission and the Federal Energy Administration to carry out a program to educate consumers and suppliers relative to the significance of the estimated annual operating cost, the Appliance Energy Guides, and the Automobile Energy Guides. This educational program is considered a vital part of the intent of this bill to sensitize the American public to the economic benefits of energy conservation.

Section 7. General Provisions. Subsection (a) specifies the limitation on the liability of manufacturers and suppliers who disclose estimated annual operating costs. It is the clear intention of this Committee that the estimated annual operating costs are representative in nature, and are not to be construed by individual consumers as anything more than a guide to the amount of money that could be saved by purchase of energy efficient household products and automobiles. Accordingly, paragraph (1) of subsection (a) specifies that the failure of any operating cost estimate to accurately predict an individual's actual costs cannot be construed to create any cause of action for rescission, reformation, or refund of a contract or sale unless the disclosure was made in a fraudulent manner. The burden is upon the customer to show that the supplier fraudulently or knowingly gave the customer false information on annual operating costs and that such customers reasonably relied upon that information in entering upon any contract or agreement. In paragraph (2), any supplier is explicitly permitted to inform his customer that the estimates for the annual operating costs

are based on average patterns of usage and should not be construed as a precise calculation of annual operating costs that would be experienced by any individual purchaser.

Subsection (b) specifies that no requirement involving disclosure of estimated annual operating costs pursuant to this bill shall be applicable unless the product or automobile is manufactured on or after the date of applicability of the disclosure requirement.

Subsection (c) specifies the administrative procedure to be used in promulgating procedures, rules, and regulations pursuant to this Act.

Subsection (d) declares that violation of any disclosure provision of this bill constitutes an unfair and deceptive trade practice, within the meaning of the Federal Trade Commission Act. Persons violating certain provisions of the bill are subject to civil action under the FTC Act. This subsection also invokes the provisions of Section 1001 of Title 18, United States Code for any statement or information presented to the Federal Government.

Subsection (e) prohibits stockpiling of products or automobiles in order to avoid the labeling and disclosure requirements of this Act.

Subsection (f) provides for citizen suits.

Section 8. Preemption. This section describes the intention of Congress to supersede any and all laws of the States or political subdivisions thereof, if there is in effect an applicable Federal disclosure requirement with respect to such product or automobile. Exception to the preemption clause is permitted under certain conditions upon petition by any State or political subdivision.

Section 9. Annual Report. This section directs the Administrator to include in his annual report, a comprehensive description of the activities conducted by the Federal government under this legislation.

Section 10. Authorization for Appropriations. This section authorizes to be appropriated to the Administrator, the Commission, the Secretary, and the Administrator of the Environmental Protection Agency, funds not to exceed $3,000,000 for the fiscal year ending June 30, 1976, not to exceed $600,000 for the transitional fiscal quarter ending September 30, 1976, not to exceed $2,500,000 for the fiscal year ending September 30, 1977, and not to exceed $1,500,000 for the fiscal year ending September 30, 1978.

Changes in Existing Law

The bill as reported makes no changes in existing law.

Estimated Costs

Pursuant to the requirements of section 252 of the Legislative Reorganization Act of 1970, the Committee estimates that the cost of the proposed legislation will be as follows:

Fiscal year			
1976	Transitional quarter	1977	1978
3,000,000	600,000	2,500,000	1,500,000

TEXT OF S. 349, AS REPORTED

A BILL To regulate commerce, to protect consumers, and to conserve energy by requiring the disclosure of the energy characteristics and estimated annual operating costs of major energy-consuming household products and automobiles.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Labeling and Disclosure Act".

DECLARATION OF POLICY

SEC. 2. It is the intent of Congress in this Act to assure, through a uniform national system, meaningful disclosure of the energy characteristics and estimated annual operating costs of major energy-consuming household products and automobiles, so that consumers can readily compare them and thereby avoid purchasing those which unnecessarily waste energy.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Administrator" means the Administrator of the Federal Energy Administration or his delegate;

(2) "automobile" means a four-wheeled vehicle propelled by fuel or electricity, which is manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails, and which has as its primary intended function the transportation of not more than 10 individuals; the term includes a light truck which is rated at not more than 6,000 pounds in terms of gross vehicle weight, and which (A) is designed primarily for purposes of transportation of property including a derivative of such a vehicle, or (B) has special features modifying such vehicle for predominant offstreet or offhighway operation and use. The term does not include any vehicle manufactured for export, and exported, from the United States;

(3) "Commission" means the Federal Trade Commission;

(4) "communication medium" means any printed or electronic means of communication that reaches significant numbers of people;

(5) "dealer" means any person engaged in the business of selling new automobiles or new major energy-consuming household products to purchasers who buy for purposes other than resale;

(6) "estimated annual operating cost" means, with respect to a major energy-consuming household product or an automobile, the appropriate total retail price (as determined in accordance with this Act) of the electricity or fuel that is likely to be needed during a calendar year for the customary type and amount of use of such product or automobile;

(7) "fuel" means butane, coal, diesel oil, fuel oil, gasoline, natural gas, propane, or any other solid, liquid, or gas that is capable of being utilized, directly or indirectly, to power a major energy-consuming household product or an automobile;

(8) "fuel economy" refers to the average distance traveled by an automobile per unit of fuel or electrical energy consumed, as determined in accordance with test procedures established by rule by the Environmental Protection Agency. Where feasible, such procedures shall require that fuel economy tests be conducted in conjunction with emissions tests mandated by section 206 of the Clean Air Act, as amended (42 U.S.C. 1857f–5);

(9) "major energy-consuming household product" means a product which—

(A) is sold or intended to be sold for use in a residence;

(B) functions when connected to a readily available source of energy external to the product; and

(C) requires, based on average patterns of usage, more than 200 kilowatt-hours of electricity per year, or in the case of a product powered by fuel, more than 2,000,000 British thermal units of fuel per year;

(10) "paragraph" means a paragraph of the subsection in which the term is used;

(11) "Secretary" means the Secretary of Commerce;

(12) "subsection" means a subsection of the section in which the term is used; and

(13) "supplier" means a wholesaler, direct sale merchandiser, distributor, or dealer of a new automobile or of a new major energy-consuming household product.

MAJOR ENERGY-CONSUMING HOUSEHOLD PRODUCTS

SEC. 4. (a) IDENTIFICATION AND PRIORITY RANKING.—The Administrator, within 60 days after the date of enactment of this Act, shall—

(1) identify and list categories of major energy-consuming household products; and

(2) establish a priority ranking among such categories of products, on the basis of each listed category's contribution to residential energy consumption and the current availability of information on its energy characteristics.

(b) AVERAGE-USE CYCLE DETERMINATION.—(1) The Secretary, through the National Bureau of Standards, shall, pursuant to guidelines established by the Administrator, determine average-use cycles for the categories of major energy-consuming household products identified under subsection (a), in the priority order in which each such category of product is ranked under subsection (a). Such Bureau shall also promulgate a procedure or procedures by which the average-use of each such product may be simulated, and by which the energy utilized during any such cycle may be measured or calculated. Such a test and calculation procedure shall, to the extent appropriate, be the procedure, if any, that is prescribed for the product under nationally recognized voluntary standards or international standards.

(2) A test and calculation procedure described in a final energy conservation specification, that was promulgated by the Secretary prior to the date of enactment of this Act pursuant to the Secretary's voluntary labeling program, shall be considered a procedure promulgated under this Act.

(c) DEADLINES FOR TEST PROCEDURES.—Within 9 months after the date of enactment of this Act, test and calculation procedures shall be promulgated under subsection (b) with respect to not less than five categories of major energy-consuming household products. Within 18 months after the date of enactment of this Act, such procedures shall be promulgated for not less than nine such categories of products.

(d) TESTING.—(1) The Administrator shall direct each manufacturer and each importer of any major energy-consuming household product, for which a test and calculation procedure has been promulgated under subsection (b), to have tests and calculations made, in accordance with such procedure, with respect to all applicable models of such products that are made or imported by such manufacturer or importer. Such manufacturer or importer may, for such purpose, in accordance with guidelines established by the Administrator, retain an independent testing laboratory, or make use of a national certification program that is available to any manufacturer.

(2) Within 90 days after a test and calculation procedure is promulgated under subsection (b), and on an annual basis thereafter, each such manufacturer and importer shall submit, to the Administrator, a certified record of the results of its test and calculations.

(3) A manufacturer or an importer of such a product shall, when requested to do so by the Administrator, and at his own expense, supply a reasonable number of specified products made or imported by it to a laboratory designated by the Administrator. Such a laboratory shall seek to verify the test results furnished to the Administrator by such person. The United States shall pay all reasonable charges levied by such laboratories for such activities.

(4) Each manufacturer or importer of such a product shall notify the Administrator in advance of, and shall permit authorized agents of such Administrator to observe and inspect, any tests performed pursuant to this subsection.

(e) USAGE AND UTILITY PRICING INFORMATION.—The Administrator shall develop and maintain, on a metropolitan, regional, national, or other appropriate basis, as determined by the Administrator, information with respect to the estimated—

(1) number of average-use cycles performed annually by each category of major energy-consuming household products; and

(2) average unit cost of the electricity or fuel needed for the circumstances under which each such product is normally operated.

(f) COMPUTATION OF ESTIMATED ANNUAL OPERATING COST.—(1) The Administrator shall, not later than 30 days after the promulgation of procedures pursuant to subsection (b), and on an annual basis thereafter, disseminate to all manufacturers and importers of major energy-consuming household products the information developed under subsection (e). Such information shall be accompanied by instructions for determining the estimated annual operating cost of a particular major energy-consuming household product.

(2) Each manufacturer and importer of such a product shall determine the estimated annual operating cost of such product in accordance with instructions issued pursuant to paragraph (1). Such determinations may, at the discretion of the Administrator, include a range of

estimated annual operating costs to reflect geographical or other differences in usage patterns or energy costs. Commencing not later than 90 days after promulgation of procedures pursuant to subsection (b), the estimated annual operating cost data shall be included as part of the material shipped with each such product, by a manufacturer or importer thereof, to the suppliers who carry such product.

(3) If a range of estimated annual operating costs is provided to suppliers in accordance with paragraph (2), each dealer involved shall select the estimated annual operating cost that is applicable, in accordance with instructions that shall be prepared by the Administrator and included with the material shipped to the suppliers under paragraph (2).

(4) Within 15 months after the date of enactment of this Act, and annually thereafter, a booklet which compiles information provided to, or developed by, the Administrator under subsections (b), (d), and (e) shall be published by the Administrator, in a public document to be placed on sale at the Government Printing Office. Such booklet shall present such information in a clear, concise, and objective manner, and the Administrator shall take steps to encourage the widest possible distribution of such booklet and any revision thereof: *Provided*, That nothing in this section may be construed to require the compilation of lists which compare the estimated annual operating costs of major energy-consuming household products by model or manufacturer's name.

(g) APPLIANCE ENERGY GUIDES.—Not later than 30 days after the promulgation of procedures with respect to a category of major energy-consuming household products, pursuant to subsection (b), the Commission shall by rule specify the format of an Appliance Energy Guide for such category. An Appliance Energy Guide shall set forth, in clear and understandable language and form, information with respect to—

(1) the energy consumption characteristics of the product involved;

(2) the estimated annual operating costs for the product, as determined in accordance with this Act;

(3) the manner in which such estimated annual operating cost was computed, including the time period upon which such estimate is based, and suggestions as to how such estimate may be refined to take account of the personal circumstances of an individual consumer;

(4) comparative shopping information; and

(5) any other information deemed appropriate by the Commission.

An Appliance Energy Guide shall be issued by each manufacturer and importer of such a product, and copies thereof shall be included as part of the material shipped to the suppliers under subsection (f)(2). The manner in which Appliance Energy Guides are to be attached to such products by such manufacturers and importers shall be specified by the Commission.

(h) UNLAWFUL CONDUCT.—Commencing 150 days after the promulgation of procedures pursuant to subsection (b), it shall be unlawful for any—

(1) manufacturer or importer to ship in commerce any new major energy-consuming household product for which such a procedure has been adopted, unless the Appliance Energy Guide for such product is attached by such manufacturer or importer in accordance with the provisions of subsection (g);

(2) supplier to remove the Appliance Energy Guide from any new major energy-consuming household product;

(3) dealer to sell or offer for sale in commerce any new major-energy-consuming household product for which such a procedure has been adopted, unless the estimated annual operating cost of such product is disclosed by such dealer prior to any such sale. Such disclosure may appear on the same label, tag, direct-mail statement, or any other place on which the purchase price or acquisition cost of such product is stated, in accordance with rules established by the Commission. Any such disclosure requirement in this paragraph shall be considered to be fulfilled if the dealer obtains a written statement from the purchaser that such purchaser has read the relevant Appliance Energy Guide. If the Administrator directs, pursuant to subsection (f)(2), that the estimated annual operating costs shall be determined separately for different sections of the Nation, mail-order literature, catalogs, brochures, and other media communications that are received in more than one such section and that contain price data shall include national average values with respect to estimated annual operating costs, and they shall indicate clearly that the estimated annual operating cost of such a product for a specific section of the Nation may be obtained from a dealer who sells such product; and

(4) person to advertise or cause to be advertised in commerce, through any communications medium, any new major energy-consuming household product for which such a procedure has been adopted, if such advertisement displays the purchase price or energy characteristics of such product, unless it includes in addition a statement as to the estimated annual operating cost of such product, if the Commission determines that such statement is reasonable and necessary, in accordance with rules established by the Commission: *Provided*, That if the Administrator directs, pursuant to subsection (f)(2), that the estimated annual operating costs shall be determined separately for different sections of the Nation, advertising covering more than one such section shall include national average values with respect to estimated annual operating costs, and it shall indicate clearly that the estimated annual operating cost of such a product for a specific section of the Nation may be obtained from a dealer who sells such product.

AUTOMOBILES

SEC. 5. (a) COMPUTATION OF ESTIMATED ANNUAL OPERATING COSTS.—(1) Each manufacturer and importer of a new automobile shall determine the estimated annual operating cost of such automobile in accordance with instructions issued by the Administrator of the Environmental Protection Agency. Such determinations may, at the discretion of such Administrator, include a range of estimated

annual operating costs to reflect geographical or other differences in usage patterns or energy costs. Commencing not later than 90 days after the date of promulgation of fuel economy testing procedures in accordance with this Act, the estimated annual operating cost data shall be included as part of the material shipped with each such automobile, by a manufacturer or importer thereof, to the suppliers who carry such automobile.

(2) If a range of estimated annual operating costs is provided to suppliers in accordance with paragraph (1) each dealer involved shall select the estimated annual operating cost that is applicable in accordance with instructions that shall be prepared by the Administrator of the Environmental Protection Agency, and included with the material shipped to the suppliers under paragraph (1).

(b) LABELING.—Beginning not later than 180 days after the date of enactment of this Act, each manufacturer and importer of new automobiles shall cause to be affixed to, and each dealer shall cause to be maintained on, each new automobile, in a prominent place, an Automobile Energy Guide prepared and issued by that manufacturer or importer.

(c) AUTOMOBILE ENERGY GUIDE.—The format of each Automobile Energy Guide required by subsection (b) shall be determined by rule by the Commission after consultation with the Secretary of Transportation, the Administrator of the Environmental Protection Agency, and the Administrator. An Automobile Energy Guide shall set forth, in clear and understandable language and form, detailed information with respect to—

(1) the fuel economy for such automobile, as determined pursuant to this Act;

(2) the estimated annual operating costs associated with the operation of such automobile, as determined in accordance with this Act;

(3) the manner in which such estimated annual operating cost was determined, including the time period upon which such estimate is based, and suggestions as to how such estimate could be refined to take account of the personal circumstances of a prospective purchaser;

(4) a range of fuel economy performance of automobiles, so as to facilitate comparison shopping; and

(5) any other aspects of automobile operation deemed appropriate by the Commission.

(d) INSPECTION.—Each manufacturer or importer of new automobiles shall notify the Administrator of the Environmental Protection Agency in advance of, and shall permit authorized agents of such Administrator to observe and inspect, any tests performed pursuant to this section.

(e) ADVERTISING.—The Commission shall identify the categories and types of advertisements for new automobiles which it shall direct to contain the information required pursuant to subsection (c), to the extent prescribed by the Commission. In accordance with rules to be established by the Commission, if any such advertisement displays the purchase price or fuel economy characteristics of a new automobile, the Commission may require such advertisement to include a statement as to the estimated annual operating costs or the fuel economy of such

automobile, whichever is appropriate. If the Administrator of the Environmental Protection Agency directs that the estimated annual operating costs shall be determined separately for different geographic regions of the Nation, advertising covering more than one such region shall include national average values with respect to estimated annual operating costs.

(f) Within 180 days after the date of enactment of this Act, and annually thereafter, a booklet which compiles information provided to, or developed by, the Administrator of the Environmental Protection Agency under this section shall be published by such Administrator, in a public document to be placed on sale at the Government Printing Office. Such booklet shall present such information in a clear, concise, and objective manner, and such Administrator shall take steps to encourage the widest possible distribution of such booklet and any revision thereof: *Provided*, That nothing in this section may be construed to require the compilation of lists which compare the estimated annual operating costs of automobiles by model or manufacturer's name.

(g) DISCLOSURE.—Beginning 180 days after the date of enactment of this Act, it shall be unlawful for any dealer to sell or to offer for sale in commerce any new automobile, unless the estimated annual operating cost of such automobile is disclosed by such dealer prior to any such sale. Such disclosure may appear on the same label, tag, direct-mail statement, or any other place on which the purchase price or acquisition cost of such automobile is stated, in accordance with rules established by the Commission. Any such disclosure requirement in this subsection shall be considered to be fulfilled if the dealer obtains a written statement from the purchaser that such purchaser has read the relevant Automobile Energy Guide. Mail-order literature, catalogs, brochures, and other media communications that are received in more than one geographic region that contain automobile price or acquisition cost data may include national average values with respect to estimated annual operating costs.

CONSUMER EDUCATION

SEC. 6. The Commission and the Administrator shall, in close cooperation and coordination with appropriate industry trade associations and industry members including retailers, and interested consumer and environmental organizations, carry out a program to educate consumers and supplies with respect to—

(1) the significance of the estimated annual operating costs, the Appliance Energy Guides, and the Automobile Energy Guides;

(2) the Nation's need for energy conservation;

(3) the way in which comparative shopping, including comparisons of estimated annual operating costs, can save energy for the Nation and money for consumers; and

(4) such other matters as the Commission or the Administrator determines may encourage the conservation of energy.

Such steps to educate consumers may include, but are not limited to, publications, audiovisual presentations, demonstrations, and the sponsorship of national and regional conferences involving suppliers, consumers, and State, local, and Federal Government representatives: *Provided*, That nothing in this section may be construed to require the

compilation of lists which compare the estimated annual operating costs of automobiles or major energy-consuming household products by model or manufacturer's name.

GENERAL PROVISIONS

SEC. 7. (a) LIMITATIONS.—(1) Except as otherwise provided, no requirement in this Act regarding the disclosure of estimated annual operating costs creates, or shall be construed to create, a cause of action in any person for rescission, reformation, or refund of a contract or sale, on account of any failure to comply with any such requirement, and no such requirement makes, or shall be construed to make, any act or failure to act actionable in a civil action for damages. If a person knowingly or fraudulently gives a prospective purchaser false or misleading information, or if such person intentionally fails to give such a purchaser any information required under this Act, with respect to the estimated annual operating cost of a major energy-consuming household product or of a new automobile, a cause of action may arise and such conduct may be so actionable if such a purchaser relied reasonably on such information in entering upon such contract or purchase, and if such purchaser suffered avoidable loss as a consequence thereof or if such loss is likely to be suffered unless such rescission, reformation, or refund is ordered by an appropriate court or agreed to by the parties.

(2) Nothing in this Act prohibits, or shall be construed as authorization to prohibit, a person from representing orally or in writing that the estimated annual operating cost furnished pursuant to this Act is based on average patterns of usage and is not a precise prediction of the annual operating cost that will actually be experienced by an individual purchaser.

(b) EFFECTIVE DATE.—No requirement involving disclosure of estimated annual operating cost, pursuant to this Act, shall be applicable to any major energy-consuming household product or to any automobile, unless it is manufactured on or after the date of applicability of such requirement.

(c) ADMINISTRATIVE PROCEDURE.—Procedures, rules, and regulations established pursuant to this Act shall be promulgated, and may from time to time be amended, in accordance with the provisions of section 553 of title 5, United States Code. After publication in the Federal Register of a notice of intended rulemaking, interested persons shall be permitted 30 days in which to submit comments in writing with respect to the proposed action or with respect to a proposed amendment.

(d) ENFORCEMENT.—(1) It shall be an unfair and deceptive act or practice in or affecting commerce, within the meaning of section 5 of the Federal Trade Commission Act (15 U.S.C. 45(a)), for any person to supply, give, or furnish false or misleading information with respect to estimated annual operating cost, or to fail to supply, give, or furnish such information or an Energy Guide, as required, to any purchaser, or to otherwise fail to comply with any other provision of this Act, or any test procedure, or regulation issued pursuant to this Act.

(2) Any person who fails to comply with any labeling, advertising, or disclosure requirement mandated or authorized under this Act shall

be subject to a civil action under section 5(m)(1)(A) and section 19 of the Federal Trade Commission Act.

(3) The provisions of section 1001 of title 18, United States Code, are applicable to any statements or other information supplied, given, or furnished pursuant to this Act to the Administrator, the Secretary, the Commission, or the Administrator of the Environmental Protection Agency.

(e) STOCKPILING.—The Commission may issue regulations to prohibit any stockpiling, by manufacturers or importers, of any major energy-consuming household product or automobile that may be affected by a disclosure requirement pursuant to this Act, prior to the date of applicability of such requirement. As used in this subsection, the term "stockpiling" means shipping, during the period between the date of promulgation of a testing or calculation procedure and the date of applicability of such disclosure requirement, at a rate that is significantly greater than the rate at which such product or automobile was shipped during a prior base period determined by the Commission.

(f) Upon the failure of the offending party to pay such civil penalty, the Commission may commence an action in the appropriate district court of the United States for such relief as may be appropriate or it may request the Attorney General to commence such an action.

(g) CITIZEN SUITS.—(1) Any person may commence a civil action on his own behalf against (A) any manufacturer, importer, or supplier who is alleged to be in violation of any provision of this Act or any regulation therunder; or (B) any Federal ageney which has a responsibility under this Act where there is an alleged failure of such agency to perform any act or duty under this Act which is not discretionary. The district courts of the United States shall have jurisdiction without regard to amount in controversy or citizenship of the parties to grant mandatory or prohibitive injunctive relief or interim equitable relief to enforce such provisions with respect to any manufacturer, importer, or supplier or to order such ageney to perform any such act or duty. Such court, in issuing any final order in an action brought under this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate. No action may be commenced under this section prior to 60 days after the plaintiff has given notice of the alleged violation to the appropriate manufacturer, importer, or supplier, and to the Federal agency involved.

(2) In any action under this subsection, the Commission, if not a party, may intervene as a matter of right.

(3) Nothing in this subsection shall restrict any right which any person or class of persons may have under any other statute or at common law to seek enforcement of any provision of this Act or regulation thereunder or any other relief.

PREEMPTION

SEC. 8. (a) GENERAL.—It is hereby declared to be the express intent of Congress to supersede any and all laws of the States or political subdivisions thereof insofar as they may now or hereafter provide for the disclosure of energy characteristics, fuel economy, or estimated operating cost of any new major energy-consuming household product

or automobile, if there is in effect and applicable a Federal disclosure requirement with respect to such product or automobile.

(b) EXEMPTION.—Upon petition by any State, or political subdivision thereof, the Commission may, by rule, after notice and opportunity for presentation of views, exempt from the provisions of this subsection, under such conditions as it may impose, any State or local requirement that (1) affords protection to consumers which is substantially greater than that provided in the applicable Commission rule; and (2) does not place an undue burden upon the manufacture or distribution of major energy-consuming household products or of automobiles in interstate commerce. The Commission shall maintain continuing jurisdiction with respect to those State or political subdivisions thereof which are specifically exempted under this subsection. Any such exemption may be withdrawn or suspended by the Commission whenever it determines that the State or political subdivision involved is not enforcing its requirements sufficiently or effectively or that such exemption is no longer in the public interest.

ANNUAL REPORT

SEC. 9. The Administrator shall report to the Congress and the President, as part of his annual report, on all activities of the Federal Government relating to meaningful disclosure to consumers of the energy characteristics and estimated annual operating costs of major energy-consuming household products and automobiles; on all measures taken by the Administrator, the Secretary, the Administrator of the Environmental Protection Agency, and the Commission to implement and carry out various provisions of this Act; and on the effectiveness of such activities and measures in reducing the consumption of energy by consumers during the calendar year preceding such report. The Secretary, the Administrator of the Environmental Protection Agency, and the Commission shall assist and cooperate with the Administrator in preparing appropriate materials for each such report. Each such report shall include, but need not be limited to—

(1) a thorough appraisal of the effectiveness with which estimated annual operating cost requirements have been established and enforced;

(2) a summary and evaluation of the effectiveness of the public education programs undertaken in accordance with this Act, including, but not limited to, the Appliance Energy Guides and the Automobile Energy Guides;

(3) a summary of outstanding problems confronting the implementation of this Act and the realization of its purposes;

(4) a short- and long-term projection of plans for future activities and measures to implement this Act; and

(5) such recommendations for additional legislation as are deemed necessary or appropriate.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 10. There are authorized to be appropriated to the Administrator, the Commission, the Secretary, and the Administrator of the Environmental Protection Agency to carry out the provisions of this

Act, funds not to exceed $3,000,000 for the fiscal year ending June 30, 1976, not to exceed $600,000 for the transitional fiscal quarter ending September 30, 1976, not to exceed $2,500,000 for the fiscal year ending September 30, 1977, and not to exceed $1,500,000 for the fiscal year ending September 30, 1978.

AGENCY COMMENTS

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., June 6, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: In preparation for your Committee's mark-up of S-349, scheduled for June 10, I have reviewed all testimony that was presented to the Committee. In an effort to aid you and the Members of your Committee, I would like to advance some additional remarks.

As I stated in my testimony, I fully support the objectives of S-349 since they are consistent with the Administration's Title X and XII objectives. My concerns for the bill are still reflected in the energy labeling of residences.

As I understand the intent of the label, it is to inform the purchaser of estimated annual energy consumption and energy costs. "Cost of energy" would be more appropriate and to the point. It is also worth noting that not all energy costs are identified by the label. Lighting and miscellaneous energy use within the residence, which accounts for approximately 8% of the energy consumed, is not included.

The Administration has sought through Title X, Building Energy Conservation Standards Act, to ensure that all energy in both the residential and commercial sectors is accounted for. It is my objective to see this approach accepted and toward that end I find I could support residential energy labeling if the above points were clarified.

With satisfaction, I have noted that subsequent mark-ups of S-349 have included the USC Title V, Section 553 rulemaking procedures. It is most important that all interested parties be advised of the Government's intentions and ample opportunity provided for their review and comment. This approach is the most effective means of implementing sound rules and procedures.

One final point should be reemphasized; the display of annual energy costs on all labels. It is of the utmost importance that the value of energy and the more efficient use of energy be raised in consumers' minds for purchase decisions. Annual costs provide a substantial energy cost figure for consideration.

I hope these comments are helpful as you and the Members of your Committee continue to address solutions to our energy situation. If I can be of any future help, please do not hesitate to call.

Sincerely,

ROGER W. SANT,
Assistant Administrator,
Energy Conservation and Environment.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., June 11, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter of June 5, 1975, requesting that in view of our experience with the voluntary appliance labeling program we express an opinion as to whether rulemaking in S. 349, the Truth in Energy Act of 1975, should be done in accordance with section 553, Title V, of the United States Code, or in conformity with the procedures set out in section 8 of S. 2176 which passed the Senate in the fall of 1973. The rulemaking provisions of S. 2176 are procedurally more complex than section 553, Title V, and would require an oral hearing, cross-examination, and testimony under oath. It should also be noted that Title XII of S. 594, the Administration's National Appliance and Motor Vehicle Act of 1975, would also require rulemaking that follows section 553, Title V.

The rulemaking provisions for the Department of Commerce Voluntary Labeling Program for Household Appliances is contained in section 9.4(d) of its published procedures (Tab A). These procedures substantially follow section 553, Title V, except that if an informal oral hearing is requested within 15 days after the proposed specification is published in the Federal Register, it must be granted. Under section 553, Title V, an oral hearing is optional.

Under its voluntary program the Department of Commerce has had only one request for an informal hearing. This was on the proposed specification for refrigerators, combination refrigerator-freezers, and freezers. The hearing was held on February 25, 1975. As you will note from the enclosed notice of hearing (Tab B), the hearing was an informal, nonadversary proceeding at which there were no formal pleadings by adverse parties. Only the presiding officer and other Department representatives had the right to question witnesses. The material presented at this hearing made a useful contribution to the Department's evaluation of the proposed specification for refrigerators, combination refrigerator-freezers, and freezers.

The Administrative Conference of the United States in its recommendation 72-5 adopted in December 1972, stated, ". . . Congress ordinarily should not impose mandatory procedural requirements other than those required by 5 U.S.C. § 553, except that when it has special reason to do so, it may appropriately require opportunity for oral argument, agency consultation with an advisory committee or trial-type hearings on issues of specific fact."

Based on our experience with the voluntary labeling program, we would have no objection to Congress requiring an informal hearing when requested. However, there does not appear to be any special reason for the additional requirements of cross-examination and testimony under oath set out in section 8 of S. 2176.

Sincerely,

BERNARD V. PARRETTE,
Deputy General Counsel.

2 Enclosures.

○

Calendar No. 252

94TH CONGRESS
1st Session

SENATE

REPORT
No. 94-260

STRATEGIC ENERGY RESERVES ACT OF 1975

JUNE 26 (legislative day JUNE 6), 1975.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 677]

The Committee on Interior and Insular Affairs, to which was referred the bill (S. 677) to establish a Strategic Energy Reserve Office in the Federal Energy Administration, to create a strategic energy reserve system to minimize the impact of interruptions or reductions of energy imports, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following language:

That this Act may be cited as the "Strategic Energy Reserves Act of 1975".

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS.—(a) The Congress hereby determines that—

(1) the Nation's increasing dependence on foreign energy sources poses a significant threat to the Nation's economy, security, and well-being;

(2) there is a continuing danger that imports of energy supplies will be subject to interruption or reduction for political or economic reasons;

(3) such interruptions or reductions would have a disruptive economic effect, creating hardship for millions of Americans; and

(4) there is a clear need to minimize the impact of such interruptions or reductions through the establishment of a national system of strategic energy reserves.

SEC. 102. DECLARATION OF POLICY.—It is hereby declared to be the policy of the United States to create over a period of seven years, and to maintain thereafter, strategic energy reserves in storage capable of replacing energy imports for at

least ninety days in order to reduce the impact of interruptions or reductions in imports of energy supplies.

TITLE II—STRATEGIC ENERGY RESERVE SYSTEM

SEC. 201. GENERAL PROVISIONS.—(a) In order to protect the United States economy against interruptions in energy imports and to provide adequate energy inventories for national security purposes there is hereby created a strategic energy reserve system (hereinafter referred to as the "system") for those fuels subject to the provisions of this Act which shall be composed of—

(1) national strategic energy reserves;

(2) regional petroleum product reserves; and

(3) such other components of the system as may be authorized by Congress.

(b) There shall be established in the Federal Energy Administration a Strategic Energy Reserve Office (hereinafter referred to as the "Office"). The Administrator of the Federal Energy Administration (hereinafter referred to as the "Administrator") acting through the Office shall exercise authority over the establishment, management, and replenishment of the strategic energy reserve system provided for in this Act.

(c) As used in this Act, the term "crude oil" means a mixture of hydrocarbons that existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities.

(d) As used in this Act, the term "refined petroleum products" means gasoline, naphtha, kerosene, distillates, refined lubricating oils, and diesel fuel.

(e) As used in this Act, the term "residual fuel oil" means those fuel oils commonly known as ASTM Grades No. 5 and No. 6 fuel oils, heavy diesel, Navy Special, Bunker C and all other fuel oils which have a 50 percent boiling point over 700 degrees Fahrenheit in the ASTM D86 standard distillation test.

(f) As used in this Act, the term "importer" means any person that owns at the first place of storage any crude oil, refined petroleum product, or residual fuel oil brought into the United States.

(g) As used in this Act, the term "refiner" means any firm that owns, operates, or controls the operations of one or more refineries.

(h) As used in this Act, the term "person" means any individual, firm, estate, trust, sole proprietorship, partnership, association, company, joint-venture, corporation, governmental unit or instrumentality thereof, or of a charitable, educational, or other institution, and includes any officer, director, owner, or duly authorized representative thereof.

SEC. 202. NATIONAL STRATEGIC ENERGY RESERVES.—(a) There are hereby authorized to be created national strategic energy reserves, which shall consist of crude oil stored in tanks, natural geological formations, or otherwise.

(b) The Administrator is hereby authorized and directed to establish within seven years of the date of enactment of this Act, and maintain thereafter, national strategic energy reserves equal to not less than the volume of crude oil imports into the United States for three consecutive months.

(c) For the purpose of this section, the base period for determining the volume of crude oil imports for three consecutive months shall be those three consecutive months in the preceding twenty-four months in which import levels were the highest, which volume shall be recomputed annually.

(d) For the purpose of establishing and maintaining the reserves authorized in subsection (b) hereof, the Administrator is authorized to place in storage, transport, or exchange:

(1) crude oil produced from Federal lands, including the naval petroleum reserves to the extent authorized by law;

(2) crude oil to which the United States is entitled as royalty from future production upon Federal lands, including the Outer Continental Shelf; and

(3) crude oil acquired by purchase, exchange, or otherwise.

(e) In order to commence the establishment of the reserves authorized by subsection (b) hereof as promptly as possible, the Administrator shall give priority to the utilization of existing storage capacity for that purpose and shall place in storage:

(1) not less than 10 per centum of the oil required to be stored within eighteen months of the date of enactment of this Act;

(2) not less than 25 per centum of the oil required to be stored within three years of the date of enactment of this Act; and

(3) not less than 65 per centum of the oil required to be stored within five years of the date of enactment of this Act.

(f) If the Administrator determines that the attainment of the storage schedule, required by this section, within the times specified therein, will have substantial adverse economic impacts or if the necessary storage capacity or supplies of crude oil to be stored are temporarily unavailable, he may, after providing Congress with a justification therefor, delay the attainment of required storage levels for up to six months. Thereafter, the Administrator may further delay the attainment of required storage schedule provided that—

(1) the specific action proposed to be taken is submitted to both Houses of the Congress. Each House then shall have the opportunity to disapprove of such action within sixty days of the receipt of the proposal pursuant to the procedures provided for in sections 906 (a), (b), and (c), 908, 909, 910, 911, 912, and 913 of title 5, United States Code, except that for the purposes of this Act;

(A) any reference in such sections to "reorganization plan" shall be deemed to be a reference to "petroleum storage schedule", which for the purposes of this Act shall mean the storage schedule required by this section;

(B) such sixty day review period shall begin when such action is submitted to the Congress.

(2) The Administrator shall submit to both Houses of the Congress together with the specific action proposed a finding and report, which shall contain the following:

(A) the need for the proposed action;

(B) the prices of imported and domestic petroleum and other fuels and forms of energy that are in fact anticipated to result from the proposed action;

(C) the impact of the proposed action upon domestic production, consumption, and imports of petroleum and other fuels and forms of energy.

SEC. 203. REGIONAL PETROLEUM PRODUCT RESERVES.—(a) There are hereby authorized to be created regional petroleum product reserves which shall consist of refined petroleum products or residual fuel oil stored in tanks, natural geological formations or otherwise.

(b) The purpose of these reserves is to reduce the impact of interruptions or reductions in imports of energy supplies in any region of the United States wherein limitations in the capacity or capabilities of refineries, delivery systems, or other factors preclude the attainment of such a reduction by the storage of crude oil alone.

(c) The Administrator is hereby authorized and directed to establish within five years of the date of enactment of this Act, and maintain thereafter, regional petroleum product reserves in any Petroleum Administration for Defense District (hereinafter referred to as "PAD District") wherein more than 25 per centum of demand for residual fuel oil or any refined petroleum product has been met by imports during the preceding twenty-four-month period. The Administrator shall accumulate and thereafter maintain in storage in that PAD District in tanks, natural geological formations, or otherwise a reserve for each such commodity equivalent to not less than the highest level of imports for three consecutive months for such commodity into that PAD District during the preceding twenty-four months, which level shall be recomputed annually. Such reserves shall be available for distribution according to the terms and conditions set forth in title III of this Act.

(d) The Administrator may place in storage crude oil, residual fuel oil, or any refined petroleum product in substitution for all or part of the volume of any commodity required to be stored in the regional petroleum product reserves pursuant to the provisions of subsection (c) of this section if he finds that such substitution is necessary or desirable for purposes of economy, efficiency, or for other reasons and may be made without delaying or otherwise adversely affecting the fulfillment of the purpose of the regional petroleum product reserves as described in subsection (b) of this section. Prior to making any such substitution the Administrator shall transmit his finding to the Congress together with a description of the substitution to be made and specifying the date on which it is to commence. Such substitution may commence on the date specified by the Administrator but in no case sooner than the close of the earliest period which begins after the submission of the Administrator's finding to the Congress and which includes at least thirty days during which the House was in session and at least thirty days during which the Senate was in session.

(e) For the purpose of establishing and maintaining the reserves authorized in this section the Administrator is authorized to place in storage, transport, or exchange crude oil, residual fuel oil, or refined petroleum products acquired by purchase, exchange, or otherwise.

(f) If the Administrator determines that the attainment of the storage schedule, required by this section, within the times specified therein, will have substantial adverse economic impacts or if the necessary storage capacity or supplies of crude oil, residual fuel oil, or refined petroleum products to be stored are temporarily unavailable, he may, after providing Congress with a justification therefor, delay the attainment of required storage levels for up to six months. Thereafter, the Administrator may further delay the attainment of the required storage schedule provided that—

(1) the specific action proposed to be taken is submitted to both Houses of the Congress. Each House then shall have the opportunity to disapprove of such action within sixty days of the receipt of the proposal pursuant to the procedures provided for in sections 906 (a), (b), and (c), 908, 909, 910, 911, 912, and 913 of title 5, United States Code, except that for the purposes of this Act:

(A) any reference in such sections to "reorganization plan" shall be deemed to be a reference to "petroleum storage schedule", which for the purposes of this Act shall mean the storage schedule required by this section;

(B) such sixty-day review period shall begin when such action is submitted to the Congress.

(2) The Administrator shall submit to both Houses of the Congress together with the specific action proposed a finding and report, which shall contain the following:

(A) the need for the proposed action;

(B) the prices of imported and domestic petroleum and other fuels and forms of energy that are in fact anticipated to result from the proposed action;

(C) the impact of the proposed action upon domestic production, consumption, and imports of petroleum and other fuels and forms of energy.

SEC. 204. OTHER STORAGE RESERVES.—Within six months after the date of enactment of this Act, the Administrator shall prepare and submit to the Congress a report setting forth his recommendations for including in the system—

(a) utility storage reserves to consist of reserves of coal, residual fuel oil, or refined petroleum products to be established and maintained by all fossil-fueled baseload electric power generating stations fueled by coal, residual fuel oil or refined petroleum products, and with a generating capacity of one hundred million British thermal units or more in an hour and sufficient to maintain normal power generation for a period of not less than three months;

(b) coal storage reserves to consist of reserves equivalent to three months of coal consumption, such reserves to consist of (1) federally owned coal mined by or for the United States from federally owned coal lands, and (2) Federal coal lands from which coal could be mined for consumption within thirty days of an order to do so;

(c) industry storage reserves consisting of crude oil, residual fuel oil, or refined petroleum products maintained in storage by importers, refiners, or others for the purpose of reducing the adverse impact of unplanned interruptions or reductions in imports of energy supplies during the period while the reserves created pursuant to section 202 and 203 of this Act are being established and thereafter; and

(d) the study required by subsection (c) of this section shall include, but need not be limited to:

(1) analysis of alternative feasible systems for storage of industry owned petroleum products;

(2) an evaluation of the impact of each of the proposed alternative storage systems on:

(A) the retail prices of imported and domestic petroleum and other fuels and forms of energy; and

(B) domestic production, consumption, and imports of petroleum and other fuels and forms of energy.

(3) an evaluation of the economic impact including industry costs and the impact on competition of proposed alternative storage systems upon the several sectors of the petroleum industry and specific recommendations for preventing or minimizing any inequities or undue hardships arising from the imposition of such alternative storage systems; and

(4) a recommendation including proposed legislation for which of the alternatives studied would be the most desirable.

TITLE III—ADMINISTRATION

SEC. 301. AUTHORITY OF THE ADMINISTRATOR.—To implement the establishment, management, and replenishment of the strategic energy reserve system created pursuant to section 201 of this Act, the Administrator, in furtherance of and not in limitation of any other authority is authorized to—

(a) promulgate rules, regulations, or orders necessary or appropriate to implement the provisions of this Act;

(b) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

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

(d) acquire by purchase, exchange, or otherwise crude oil for storage in the national strategic energy reserves created pursuant to section 202 of this Act and refined petroleum products or residual fuel oil for storage in the regional petroleum product reserves created pursuant to section 203 of this Act;

(e) require by rule, regulation, or order that importers or refiners maintain minimum working level inventories of crude oil, refined petroleum products, and residual fuel oil equal to the average volume of such minimum working level inventories maintained for the corresponding month of the three preceding years;

(f) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired pursuant to this Act;

(g) execute any contracts necessary to carry out the provisions of this Act;

(h) cause proceedings, whenever he deems it necessary to implemnt this Act, to be instituted in any court having jurisdiction of such proceedings to acquire by condemnation, any real or personal property, including facilities, temporary use thereof, or other interests therein, together with any personal property located thereon or used therewith, that he deems necessary to achieve the objectives of this Act;

(i) order the use, sale, exchange, or disposal of all or part of the reserves established pursuant to this Act, if (1) imports of crude oil, residual fuel oil, and refined petroleum products have fallen significantly or will within thirty days in his judgment, fall significantly below existing requirements for such imports, resulting in an existing or prospective shortage of at least 10 per centum of import requirements; or (2) if required to fulfill obligations of the United States under an international agreement, to which it is a party;

(j) require that the replenishment of depleted reserves is accomplished expeditiously;

(k) use, sell, exchange, or otherwise dispose of crude oil, residual fuel oil, or refined petroleum products from the strategic energy reserve system created pursuant to section 201 of this Act which may be in excess of the volumes required to be stored by section 202 and 203 of this Act;

(l) establish price levels and allocation procedures for any crude oil, residual fuel oil or refined petroleum product withdrawn from the national strategic energy reserves created pursuant to section 202 of this Act or from the regional petroleum product reserves created pursuant to section 203 of this Act. Such price levels and allocation procedures shall be consistent with objectives enumerated in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973. In the event of the expiration of the Emergency Petroleum Allocation Act of 1973, price levels and allocation procedures established in accordance with this subsection shall, notwithstanding the expiration of that Act, be consistent with the purposes and standards and according to the procedures set out in section 4, subsections (a) through (d) of that Act; and

(m) waive application of the provisions of the Federal Property and Administrative Services Act of 1949, as amended, with respect to procurement

necessary for the purpose of this Act, if he finds it is in the national interest to do so.

SEC. 302. CONDEMNATION PROCEEDINGS.—Before any condemnation proceedings are instituted pursuant to this Act, an effort shall be made to acquire the property involved by negotiation unless, because of reasonable doubt as to the identity of the owner or owners, because of the large number of persons with whom it would be necessary to negotiate, or for other reasons, the effort to acquire by negotiation would involve, in the judgment of the Administrator, such delay in acquiring the property as to be contrary to the national interest. In any condemnation proceeding instituted pursuant to this section, the court shall not order the party in possession to surrender possession in advance of final judgment unless a declaration of taking has been filed, and a deposit of the amount estimated to be just compensation has been made, under the first section of the Act of February 26, 1931 (46 Stat. 1421), providing for such declarations. Unless title is in dispute, the court upon application, shall promptly pay to the owner at least 75 per centum of the amount so deposited, but such payments shall be made without prejudice to any party to the proceeding. Property acquired under this section may be occupied, used, and improved for the purpose of this Act prior to the approval of title by the Attorney General as required by section 355 of the Revised Statutes, as amended.

SEC. 303. PROHIBITED ACTS.—It shall be unlawful for any person to violate any provision of this Act or to violate any rule, regulation or order issued pursuant to any such provision.

SEC. 304. ENFORCEMENT.—(a) Whoever violates any provision of this Act or rule, regulations or orders promulgated pursuant thereto, shall be subject to a civil penalty of not more than $5,000 for each violation.

(b) Whoever willfully violates any provision of this Act or rules, regulations or orders promulgated pursuant thereto, shall be fined not more than $10,000 for each violation and each day that a violation continues shall constitute a separate violation.

(c) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to this Act. Any person who knowingly and willfully violates this subsection after having been subjected to a civil penalty for a prior violation of the same provision of any order or regulation issued pursuant to this Act shall be fined not more than $50,000 for each violation and each day that a violation continues shall constitute a separate violation, or imprisoned not more than six months, or both.

(d) Whenever it appears to any person authorized by the President or the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of this Act, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any provision of this section.

(e) Any person suffering legal wrong because of any act or practice arising out of any violation of this Act may bring an action in a district court of the United States without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

SEC. 305. DISCLOSURE, INSPECTION, INVESTIGATION.—(a) Every importer, refiner, or user of fuels subject to the provisions of this Act shall prepare such accounts, records of cost-accounting procedures, correspondence, memoranda, papers, books, and other records as the Administrator may by rule or regulation prescribe as necessary or appropriate for purposes of the administration of this Act.

(b) The Administrator shall at all times have access to and the right to inspect and examine all producing, transportation, storage, refining, or processing facilities, and all accounts, records, and memoranda of persons subject to the provisions of this Act; and it shall be the duty of such persons to furnish to the Administrator, within such reasonable time as the Administrator may order, any information with respect thereto which the Administrator may by order require.

SEC. 306. ANNUAL REPORTS.—The Administrator shall prepare, have printed and transmit to the President and the Congress an annual report summarizing all actions taken under authority of this Act, with an analysis of their impact, an evaluation of their effectiveness in fostering the objectives listed in section 102, and any recommendations for legislation further implementing the objectives of this Act.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Administrator such funds as are necessary for implementation of the provisions of this Act.

SEC. 308. SEVERABILITY.—If any provision of this Act or the applicability thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

I. PURPOSE OF THE MEASURE

The purpose of S. 677, the "Strategic Energy Reserves Act of 1975", is to provide for the creation, at the earliest practicable date, and for the maintenance thereafter, of strategic energy reserves that will reduce the adverse impact on the Nation of interruptions or reductions in imports of energy supplies.

II. NEED FOR THE LEGISLATION

In 1973, 35.3 percent of total U.S. petroleum consumption was met through imports of crude oil and petroleum products. In 1974, we relied on imports for 37 percent of our requirements. Forecasts for 1975 suggest that imports will contribute over 40 percent of domestic consumption.

Obviously, the degree of reliance on imports will depend on the success of efforts to restrain demand through conservation programs and on increased domestic production. But the lead times involved in securing pay-offs from either production or conservation programs assure substantial reliance on imports for the next decade.

The Federal Energy Administration concluded, in its Project Independence study, that "oil imports will remain level or rise in the next few years, no matter what long-term action we take."

As long as substantial reliance on foreign oil is inevitable, some provision must be made to protect the Nation's economy against the impact of import interruptions. The experience during the Arab embargo from mid-October 1973 to mid-March 1974 showed how serious that impact can be. During the first quarter of 1974, when the full effect of the embargo was felt, imports averaged 2.2 million barrels per day below earlier projections. The resulting cutback in petroleum consumption was accompanied by a 7-percent decrease in real GNP, rather than the increase forecast before the embargo.

Reporting on the effects of the embargo, the National Petroleum Council found that—

> While the primary effects on industry were held to a minimum, the secondary repercussions resulting from disruptions in world energy markets and from consumer reactions were significant. Gasoline shortages and rising fuel prices triggered a demand shift toward smaller cars, which slowed activity in domestic automotive and related industries. The tourist industry and vacation areas were hard hit. Repercussions in money

markets contributed to slowdowns in the housing and construction trades.

The relatively short duration of the embargo, coupled with strong energy conservation efforts, kept the impact of the embargo within manageable limits, but a prolonged embargo could have far more serious effects. Obviously, the degree of vulnerability depends on the level of imports. The Project Independence report, asserting that vulnerability to import disruption depends on world prices, concluded that—

> At $7 oil and no new domestic policy actions, imports will reach 12.3 M bbl/d in 1985, of which 6.2 m bbl/d are susceptible to disruption. A 1-year embargo could cost the economy $205 billion.
>
> At $11, imports will decline to 3.3 M bbd/d by 1985, and only 1.2 M bbl/d are susceptible to disruption, at a cost of $40 billion for a 1-year embargo.

Thus, the impact of a future embargo could be serious enough to justify comprehensive—albeit costly—measures to minimize such impacts.

The need for building stockpiles of petroleum has been increasingly discussed as the Nation's dependence on imports has grown. In 1970, the Cabinet Task Force on Oil Import Control recommended that—

> * * * further intensive study be given to the feasibility of developing safeguards for U.S. oil security by means other than import controls, with a view to possible legislative recommendations. Particular alternatives meriting continued study are underground and conventional storage, subsidization of shale oil or coal oil capacity, and the development of deliverable emergency productive capacity in Naval Petroleum Reserve No. 4.

The Department of the Interior, in a submittal for hearings on oil import issues in January 1973, agreed that a storage program "may be very desirable to help offset against short-term supply interruptions so as to provide a cushion against longer-term interruptions in imports." But the Department deferred specific proposals pending the outcome of its own studies and a study by the National Petroleum Council.

The final report of the National Petroleum Council on this subject dated September 10, 1974, concluded that the United States should develop an emergency petroleum security storage system. The report asserted that a substantial volume of such storage was needed and that "efforts to implement such a program should begin immediately because of the long construction lead times involved." The report went on to state that—

> First consideration should be given to providing crude oil security storage to protect domestic refinery runs. This study indicates that 500 million barrels of crude storage in combination with normally available inventories will provide 90 to 180 days of supply for a large percentage range of crude imports presently foreseen. Crude storage can be efficiently located in one or more Gulf Coast salt dome projects and integrated with the crude transportation system that will serve Gulf Coast deep-water terminals. Specific circumstances and specific logistical problems could require storage of fuel oil at strategic locations on the East Coast.

Other recent energy studies have reached the same conclusion as the National Petroleum Council.

The preliminary report of the Ford Foundation's Energy Policy Project in mid-1974 concluded that if the Nation chooses to increase imports—

> It is incumbent on us to undertake a positive program for dealing with future cutoffs—a strategic storage program.

The report pointed out that it had been normal practice for industry to maintain inventories of 40 to 50 days supply to deal with seasonal demands and operating requirements. This normal inventory is not adequate in the event of a sudden interruption.

An economic evaluation of the concept of energy self-sufficiency by the MIT Energy Laboratory Policy Study Group, published by the American Enterprise Institute for Public Policy Research, found that security could be provided against import disruption by the introduction of radically new import policies, one important element of which would be oil stockpiles. The study found that the maintenance of a stockpile to guard against a 1-year cutoff of 2 million barrels per day of imports would cost about $990 million a year. If industry were required to provide such a stockpile, the cost of oil delivered to consumers would rise by no more than 25 cents a barrel, or two-thirds of a cent a gallon.

The Research and Policy Committee of the Committee for Economic Development released a statement on energy policy in December 1974, which endorsed the concept of strategic reserves.

The Agreement on an International Energy Program, signed by the United States and other major oil consuming nations in September 1974, requires each participating country to maintain "emergency reserves sufficient to sustain consumption for at least 60 days with no net oil imports."

The United States currently meets the requirements of the Agreement in this respect because the Agreement defines emergency reserves to include unavailable inventories such as petroleum in tank bottoms and pipelines.

At the Interior Committee's hearing on the International Energy Agreement on November 26, 1974, the administration witnesses made clear that compliance with the requirements for emergency reserves under the Agreement was no substitution for the establishment of a genuine strategic reserve.

President Ford's state of the Union message on January 15, 1975, approved a "strategic storage program of 1 billion barrels of oil for domestic needs and 300 million barrels for defense purposes." This was the first Presidential commitment to establishing a strategic reserve.

In summary, there are three compelling reasons for the creation of a system of strategic energy reserves.

First, possession of a sufficient reserve of petroleum reduces our vulnerability and minimizes the adverse impact on the Nation of any potential curtailment of oil imports; second, because a system of strategic reserves would reduce our vulnerability to import curtailments, the

effectiveness of an embargo as a politico-economic weapon would be significantly reduced, thereby reducing the likelihood of its employment; lastly, when compared with a strategy of seeking total near-term energy self-sufficiency, one that combines enhancing energy self-sufficiency with the creation of a system of strategic reserves is significantly more cost-effective.

III. COMMITTEE AMENDMENTS

The Committee amended S. 677 by striking everything after the enacting clause and substituting a new text. The principal changes in the new text are as follows:

1. The declaration of policy has been revised to extend from five to seven years the period during which the strategic energy reserves are to be created.
2. The composition of the strategic energy reserve system has been revised to include:
   (a) National strategic energy reserves.
   (b) Regional petroleum product reserves.
   (c) Such other components of the system as may be authorized by Congress.
3. The requirements for the national strategic energy reserves have modified so as to:
   (a) Extend from five to seven years the period during which they are to be created.
   (b) Require that priority be given to the utilization of existing storage capacity and that there be placed in storage stated percentages of the oil required to be stored within 18 months, 3 years, and 5 years after the date of enactment.
4. A new type of reserves, the regional petroleum product reserves, is created to provide for the needs of areas where the storage of crude oil alone would be inadequate.
5. The Administrator is required, within six months after enactment, to submit to the Congress a report setting forth his recommendations for including in the system:
   (a) Utility storage reserves.
   (b) Coal storage reserves.
   (c) Interim industry storage reserves.
6. The authority granted to the Administrator to establish price levels or allocation procedures in the event of withdrawals from the reserve system is modified to require that such price levels or allocation procedures be consistent with the objectives set forth in the Emergency Petroleum Allocation Act of 1973.
7. New sections on "Prohibited Acts" and "Enforcement" have been added.
8. The requirement for the establishment of a petroleum storage prototype program has been deleted.

IV. LEGISLATIVE ACTION IN THE SENATE RELATED TO STRATEGIC ENERGY RESERVES

In January of 1973, the Committee on Interior and Insular Affairs, pursuant to Senate Resolution 45, which authorized the National Fuels

and Energy Policy Study, conducted hearings on oil and gas imports issues. The desirability of a storage program to help offset the impact of import interruptions became apparent in the course of those hearings.

On April 16, 1973 Senator Jackson together with Senators Magnuson, Randolph, and Ribicoff introduced S. 1586, the "Petroleum Reserves and Import Policy Act of 1973". Hearings were held by the Interior Committee on May 30 and July 26, 1973.

As the following letter indicates, S. 1586 was opposed by the Administration.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., October 26, 1973.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of May 22, 1973 for the views of the Office of Management and Budget on S. 1586, a bill to be cited as the "Petroleum Reserves and Import Policy Act of 1973."

In its report to your Committee, the Department of the Interior expresses its view that:

1. Creation of a system of reserves that could be called on to replace all oil and gas imports from insecure sources for at least 90 days would be extremely costly and is considered unnecessary;
2. Creation of new offices would be unnecessary and confusing, since the functions specified for such new offices are already being carried out by the Energy Policy Office in the White House and the Office of Oil and Gas in the Department of the Interior; and,
3. The mere act of designating certain countries as ordinary or extraordinary sources of supply will affect the security of such sources.

In addition, the Department of State, in its report on S. 1586, recommends against enactment, citing its study of the ramifications of storage programs within the framework of an OECD-wide agreement to share oil in times of emergency.

We concur in the views expressed by the Departments of Interior and State and, accordingly, recommend against enactment of S. 1586.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

Additionally, certain provisions of S. 1586 were overtaken by events in the world petroleum market which commenced with the embargo of 1973–1974. Consequently, no further action was taken on the bill.

On December 5, 1974, Senator Jackson together with Senators Mansfield, Robert C. Byrd, Magnuson, Randolph, Stevenson, Haskell, Pastore, Nelson, and Ribicoff introduced amendment 2006, an amendment in the nature of a substitute to S. 3267, the Standby Energy Authorities Act. Title III of the amendment established a National Strategic Energy Reserves System. However, the 93rd Congress adjourned without completing action on S. 3267.

In addition to S. 677, two other bills pertaining to the creation of strategic petroleum reserves have been introduced in the Senate in the

94th Congress and referred to the Committee on Interior and Insular Affairs.

Title II of S. 594, the Administration's "Energy Independence Act of 1975," was the National Strategic Petroleum Reserves (civilian) Act of 1975 (also separately introduced as S. 618). Title I of S. 594, Naval Petroleum Reserves, created a National Strategic Petroleum Reserve (military).

On March 7, 1975 Senator Hatfield introduced S. 1113 that would authorize the establishment of national petroleum reserves on public lands of the United States.

On March 11, 1975 the Interior Commerce and Armed Services Committee held joint hearings on S. 594, S. 618, S. 677, S. 1113 and on S.J. Res. 13 a joint resolution authorizing production of the Naval Petroleum Reserves. On April 7, 1975 the Interior Committee held hearings on S. 594, S. 618, S. 677, and S. 1113.

Full committee mark-up sessions on S. 677 were held on June 9 and June 17, 1975.

Naval Petroleum Reserves

Sec. 202 of S. 677 authorizes the storage in national strategic energy reserves of crude oil produced from Federal lands, "including the Naval Petroleum Reserves to the extent authorized by law."

At the present time, no authorization exists for the direct use of oil produced from Naval Petroleum Reserves or for the exchange of oil produced from Reserves with oil produced by private industry to be earmarked for this purpose. With allowance made for constraints of development and limitations of pipeline capacities, it is estimated that within seven years of authorization of production, Naval Production Reserve No. 1 (Elk Hills) alone could provide up to 387 million barrels of oil for storage or exchange for storage.

The Committee feels very strongly that production from the Naval Petroleum Reserves should be made available for storage in strategic reserves. Clearly, this is the most economical alternative for developing strategic storage. Furthermore, oil produced from the Naval Petroleum Reserves and stored in the national strategic energy reserves will be far more accessible in the event of an emergency than if it remained unproduced underground. It is equally clear that essential military needs will be given priority in the event of an oil shortage, as they were during the 1973–1974 Arab embargo.

Senator Haskell proposed an amendment to the bill which authorized and directed the exploration, development, and production of Naval Petroleum Reserves No. 1, 2, and 3 for storage in the National Strategic Energy Reserves although he realized the Act would then have to be re-referred to the Committee on Armed Services. The amendment, the text of which appears below, also authorized and directed the construction and procurement of pipelines and associated facilities for the transportation of crue oil.

The Committee considered and approved in principle the amendment proposed by Senator Haskell. However, it deferred final action on the amendment to give the Committee on Armed Services, which has jurisdiction over matters related to the Naval Petroleum Reserves, the opportunity to act on legislation dealing with this subject. The Committee agreed that it would ask the Majority Leader to defer Senate action on S. 677 until the Armed Services Committee acts, so

that the Senate can consider at the same time the question of establishing strategic reserves and the use of production from the Naval Petroleum Reserves for such reserves.

AMENDMENT INTENDED TO BE PROPOSED BY MR. HASKELL

Insert the following new Title IV:

TITLE IV. NAVAL PETROLEUM RESERVES

Findings

Sec. 401. The Congress hereby determines that—

(a) nationwide shortages of crude oil, residual fuel oil, and refined petroleum products caused by inadequate domestic production and the unavailability of imports sufficient to satisfy domestic demand, are an ever present danger;

(b) potential disruptions in the availability of imported energy supplies, particularly crude oil and petroleum products, pose a serious risk to national security, economic well-being, and the health and welfare of the American people;

(c) the result of domestic petroleum shortages and the reduced availability of petroleum to the Armed Forces of the United States from sources outside of the United States would be to deny to the Armed Forces petroleum essential to the national defense;

(d) the state of development of Naval Petroleum Reserves Numbered 1, 2, and 3 is not adequate for the production of petroleum in the volume required for national defense; and

(e) production of petroleum from Naval Petroleum Reserves Numbered 1, 2, and 3 for storage in readily available strategic energy reserves will permit the most effective and efficient use of such petroleum to minimize adverse impacts of the disruption of imported energy supplies upon the national security, economic well-being, and health and welfare of the American people.

Sec. 402. Production of the Naval Petroleum Reserves for Storage—

(a) Notwithstanding any other provision of law, the Secretary of the Navy is authorized and directed:

(1) to explore, develop, operate and produce petroleum, from Naval Petroleum Reserves Numbered 1, 2, and 3 at the maximum rate consistent with sound oil field engineering practices for a period not to exceed seven years commencing 90 days after the date of enactment of this Act, and

(2) to construct or procure pipelines and associated facilities for transporting oil, associated liquids, and gases, from Naval Petroleum Reserves Numbered 1, 2 and 3 to the points where such production will be refined or shipped.

Any such pipeline and associated facilities constructed at Naval Petroleum Reserve Numbered 1 shall have a combined delivery capability of not less than three hundred and fifty thousand barrels per day, and shall be fully operable within three years after the date of enactment of this Act.

(b) Notwithstanding any other provision of law the Administrator is authorized to place in storage, transport, or exchange petroleum produced pursuant to this section for the purpose of

establishing and maintaining the National Strategic Energy Reserves established by Section 202 of this Act.

(c) As used in this section the term "petroleum" means crude oil, associated gases, natural gasoline, and other related hydrocarbons, and the products of any of such resources.

V. COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs, by unanimous voice vote of a quorum present at an open executive session on June 17, 1975, recommended that S. 677, as amended, be enacted.

VI. SECTION-BY-SECTION ANALYSIS

Short Title

The short title of the act is the "Strategic Energy Reserves Act of 1975".

Title I—General Provisions

Section 101, Findings, sets forth the Congressional Finding that because of continued U.S. dependence on imported energy the nation is vulnerable to potential interruptions or reductions in such imports. To minimize the impact of such interruptions it is necessary to create a national system of strategic energy reserves.

Section 102, Declaration of Policy, establishes as national policy the creation over a period of seven years of strategic energy reserves equal to ninety days of imports. This policy strikes a balance between the desirability of creating the largest possible reserve at the earliest possible date and practical consideration of enonomy, availability of oil for storage, availability of storage facilities, and the impact on the petroleum industry and consumers of attempting to store great volumes of oil in a short period of time. The requirement that the reserve be created within 7 years is based upon testimony before the Committee and staff inquiry which indicate that while an earlier completion date would be preferable it is not practicable for both economic and technical reasons.

While the storage of larger volumes of oil would permit the United States to withstand a more extended supply interruption, the acquisition and storage of such quantities are not technically or economically feasible during the period when foreign political factors and domestic considerations make a strategic energy reserve the most essential. Although the volume to be stored under S. 677 is fixed at 90 days of imports, security against an embargo of greater than 90 days is actually afforded in that a total and simultaneous embargo by all producing countries is unlikely. In 1974, for example, U.S. petroleum imports averaged 6.6 million barrels per day. Thus 90 days of imports would average 594 million barrels and under the policy set forth in section 101 of S. 677 the equivalent of that volume would be placed in storage. For purposes of illustration, the embargo of 1973–74 reduced imports by 2.5 million barrels per day. Therefore, under the formula of S. 677, the oil to be stored would compensate for import reduction of that amount for a period of 237 days.

As a practical matter, the requirements for the National Strategic Energy Reserves and the Regional Petroleum Product Reserves created in Title II of S. 677 would result in the storage of less than 594 million barrels (360 million barrels of crude oil; 159 million barrels of residual fuel oil; Total: 513 million barrels). The difference of approximately 75 million barrels represents the imports of residual fuel oil and refined petroleum products in PAD's II–V and of refined petroleum products in PAD I. The disparity will diminish as anticipated enhanced refinery self-sufficiency causes an increase in the ratio of crude oil to product imports. It could be further reduced dependent upon FEA's recommendation and Congressional action on the utility storage reserves, coal storage reserves, and industry storage reserves required to be evaluated by Section 204 and by the conversion of oil and gas fired power plants to coal. Finally, should Congress in the future find that the storage of greater amounts of oil is desirable, it can, of course, revise the levels of storage.

Title II—Strategic Energy Reserve System

Section 201, General Provisions, creates a Strategic Energy Reserve system. By contrast with other proposals for the creation of separate military and civilian reserves, S. 677 creates a single system. The rationale for the establishment of a single reserve is that (1) it provides for economy and efficiency of administration and (2) in the event of war, it is assumed that the provisions of the Defense Production Act would be invoked to give priority to military requirements for petroleum as well as other commodities. The system shall be composed of:

(1) national strategic energy reserves;
(2) regional petroleum product; and reserves
(3) other components that might subsequently be authorized by Congress.

Authority for the establishment and maintenance of the Reserves is assigned to the Federal Energy Administration acting through a Strategic Energy Reserve Office created within the FEA.

The terms "crude oil", "refined petroleum product", "residual fuel oil", "importer", "refiner", and "person" are defined for purposes of this Act. The definitions are drawn from current FEA regulations except that "lease condensate" is excluded from "crude oil", as defined, and "unfinished oils" and "liquified petroleum gases" are excluded from "refined petroleum products" as defined. These exclusions are based on the fact that the volumes of such commodities that would be required to be stored under the provisions of the act do not warrant the administrative and economic burden that their storage would entail.

Section 202, National Strategic Energy Reserves, authorizes the creation of crude oil reserves owned and stored by the government. These reserves are to be established within 7 years and the volume is to be the equivalent of the highest 3 consecutive months of crude oil imports in the previous 24 months with a requirement to recompute annually the amount to be stored.

The Administrator is authorized to store crude oil produced from Federal lands including the Naval Petroleum Reserves. However, it is

recognized that Congressional authorization is required to permit production from the Naval Petroleum Reserves for this purpose. Legislation to permit such production is now pending in the Senate Armed Services Committee and related bills are pending on the House Calendar. With allowance made for constraints imposed by state of development and limitation of pipeline capacities, it is estimated that within 7 years of authorization of production, the Naval Petroleum Reserve Numbered 1 could alone provide in excess of 387 MMBBL of oil for storage or exchange for storage.

Storage of Government royalty oil from future production on federal lands including the OCS is also authorized. Royalty oil is a potential source of up to 408 MMBBL of oil for storage within 7 years after enactment of S. 677.

Authority is granted to store crude oil acquired by purchase or exchange to allow the Administrator greater flexibility.

In order that the reserves may be filled as rapidly as possible the Administrator is required to give priority to the use of existing storage capacity. For example, testimony before the Committee identified 100 million barrels of existing salt dome storage capacity. It is further required that the reserves be filled in accordance with the following schedule:

		FEA estimates of volume required (MM bbl)	
	Percent	Low	High
Time from enactment:			
18 months	10	36	58
3 years	25	90	125
5 years	65	235	425
7 years	100	360	710

Section 202(f) allows the Federal Energy Administrator flexibility in meeting the schedule for establishing the National Strategic Reserves, while ensuring that Congress has adequate information to ascertain whether or not he in fact is carrying out the purposes of this Act.

The Administrator could delay the attainment of each milestone in the schedule for up to six months after providing Congress with his justifications for such delay. Thereafter, any proposal for further delay must be submitted to both houses of Congress, along with a report detailing the reasons for the delay. Either house of Congress would then have the opportunity to disapprove the proposed schedule change within 60 days of receipt of such a report. A similar provision relating to the Regional Petroleum Product Reserve is contained in Section 203(f).

The basic criteria for any such delay would be to avoid substantial adverse economic impact or the unavailability of either the required storage capacity or the oil to be stored. To take an extreme example, if both U.S. oil imports and the price of imported oil greatly increased, it could be in the Nation's best interests to temporarily delay purchase of oil for the reserve system. Likewise, if scheduled completion of large-scale salt dome facilities should be unavoidably delayed, these provisions would allow the Administrator to temporarily delay purchasing oil for storage until adequate storage capacity became available. The Committee does not intend that this section be used by the

Administrator of FEA to unilaterally change the declared purpose of this Act, which is to obtain a workable Strategic Petroleum Reserve System within 7 years from the date of enactment.

Section 203, Regional Petroleum Product Reserves, addresses the question of petroleum product storage. For both technical and economic reasons the storage of crude oil is preferable to the storage of product. However, in an area which is both highly dependent upon product imports and deficient in refinery capacity, the storage of crude oil alone affords inadequate protection against potential supply interruptions. This will be true until regional refinery self-sufficiency is attained or until such a region is fully tied into a national pipeline grid. At the present time the reliance of the north eastern United States upon imported residual fuel oil and the limited capacity and capabilities of refineries in that region necessitate the storage of residual fuel oil if the impact of potential interruptions of energy imports is to be reduced. At such time as the area becomes refinery self-sufficient, it is anticipated that storage of crude can replace the storage of residual fuel. Under the requirements of this section, the Administrator is required to establish within five years a reserve for any fuel in any PAD District wherein 25 percent of the demand for that fuel has been met by imports. At present only residual fuel oil in PAD I would be required to be stored under this formulation. At the present rate of imports 161 million barrels would be stored by 1980.

To make the regional petroleum product reserves administratively flexible, subsection 203(d) provides that, if necessary, the Administrator may substitute one fuel for another in the reserve so long as the purpose of the reserves may be fulfilled and provided that he transmits a finding to Congress which shall have 30 days in which to review it.

Subsection 203(f) is comparable to Subsection 202(f) in that it allows the Administrator to delay the attainment of required storage levels for up to six months subject to providing the Congress with advance notification and justification for the delay. Thereafter, any further delay is conditioned upon the submission to the Congress by the Administrator of his proposal for delay after which either House shall have sixty days in which to review and disapprove the proposal.

Section 204, Other Storage Reserves, requires the Administrator to submit to the Congress a recommendation for future inclusion in the System of : (a) utility storage reserves, (b) local storage reserves and (c) industry storage reserves. The requirement for a study and recommendation concerning industry storage reserves was adopted by the Committee in lieu of an amendment, which was rejected, that would have authorized the Administrator to require that importers and refiners maintain as readily available inventories volumes of petroleum equal to up to 3 percent of their imports or through-put during the preceeding calendar year.

Title III—Administration

Section 301, Authority of the Administrator, provides authority to the administrator for the establishment, maintenance, and use of the Reserves. Significant provisions include:

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Subsection (e) which authorizes the Administrator to require that importers and refiners maintain working level inventories equivalent to such inventories in the corresponding month of previous years. The purpose of this provision is to preclude total reliance upon the reserves created by this act as a defense against supply interuptions.

Subsection (i) which authorizes use of the reserves if (1) petroleum imports have fallen or are within 30 days expected to fall by 10% or (2) if required to do so under the IEP agreement.

Subsection (l) which requires that, in the event of withdrawal from the reserves, the Administrator shall establish price levels and allocation procedures for the oil withdrawn that are consistent with the objectives enumerated in the Emergency Petroleum Allocation Act.

Section 302, Condemnation proceedings, establishes procedures and safeguards for any condemnation proceeding instituted pursuant to the Act.

Section 303, Prohibited Acts, and Sec. 304, Enforcement, make it unlawful to violate any provision of the Act and establish a schedule of civil penalties for violations. Because the potential violation of the act that can be most readily envisioned is that of the "black marketing" of petroleum withdrawn from the reserve in the event of a supply interruption, the provisions of Section 304 have been drawn from Section 115 of S. 622, the Standby Energy Authorities Act previously passed by the Senate whose enforcement provisions are also designed to dissuade "black marketing". Because a significant supply interruption might necessitate the simultaneous exercise of authorities provided for in the Standby Energy Authorities Act and the withdrawal of petroleum from the reserves created pursuant to S. 677, it was felt that comparable provisions of the two Acts should be consistent.

Section 305, Disclosure, Inspection, Investigation, requires that information needed by the Administrator for the administration of the Act be provided by importers, refiners, or users of fuels. It further authorizes the Administrator to conduct inspections and audits as necessary for implementation of the Act.

Section 306, Annual Reports, requires an annual report to Congress summarizing actions taken under the Act.

Section 307, Authorization of Appropriations, authorizes the appropriation of such funds as are necessary for the purposes of the Act.

VII. COST ESTIMATES

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–150), the Committee provides the following estimate of the cost of this measure. Because costs will vary significantly, dependent principally upon: a) the future volume of petroleum imports and b) the source of oil to be stored in the reserve system, alternative estimates are given.

Section 202

A. Cost of National Strategic Energy Reserves assuming continued imports of crude oil at current levels.

(1) Assuming that all oil for storage is purchased at a cost of $13 per barrel including transportation.

	Fiscal year (incremental)								
	1975	1976	1977	1978	1979	1980	1981	1982	1985
High 3-month imports (MM bbl)	360	360	360	360	360	360	360	360	360
Quantity required (MM bbl)[1]		18	18	54	54	90	72	54	0
Site acquisition, size of fully developed sites (MM bbl)[2]		120	120	120	0	0	0	0	0
Cost of site right-of-way acquisition and construction (millions)[3]		$216	$187	$189	$54				
Cost of oil (millions)		234	234	702	702	$1,170	$936	$702	
Total cost (millions)		450	423	891	756	1,170	936	702	

[1] Based on the 3-month import levels and the percentage requirements of the bill, the quantity that is required to be stored has been calculated.

[2] Sites must be acquired that when fully developed can accommodate the storage program. It is anticipated that the 1st year's acquisitions will be sites that can be readily converted into storage and will be available for filling within the 1st 3 years. Acquisitions in the following 2 years will be for properties that can be converted or on which new facilities can be constructed for the balance of the program.

[3] A planning estimate of $1.80 per barrel is used for the cost of construction of underground storage facilities including all terminal right-of-way pipeline and ancillary facilities. The fiscal year 1976 estimate includes the acquisition of properties and the construction of up to 150,000,000 barrels of storage. The fiscal year 1977 estimate includes the acquisition of properties and the construction of sites that will be filled in fiscal year 1979 as well as all pipeline and ancillary facilities required for those sites. Fiscal year 1978 will include the purchase of the balance of the property as well as the construction of the facilities to be filled in fiscal year 1980. Fiscal year 1979 requirements include the construction of facilities, right-of-way pipelines, and ancillary facilities that will be filled in fiscal year 1981. The fiscal year 1980 and 1981 programs will only include the construction of facilities to be filled in fiscal year 1982–85.

(2) Assuming storage of both crude oil acquired by purchase at a cost of $13 per barrel including transportation and crude oil to which the United States is entitled as royalty from future production from the Outer Continental Shelf (assuming a 1/6 share).

	Fiscal year (incremental)								
	1975	1976	1977	1978	1979	1980	1981	1982	1985
High 3-month imports (MM bbl)	360	360	360	360	360	360	360	360	360
Quantity required (MM bbl)[1]		18	18	54	54	90	72	54	0
Site acquisition, size of fully developed sites (MM bbl)[2]		120	120	120	0	0	0	0	0
Cost of site right-of-way acquisition and construction (millions)[3]		$216	$187	$189	$54				
OCS new royalty oil (MM bbl)		0	48	48	60	72	84	96	
Cost of oil—with new royalty oil storage (millions)		$234	0	$78	0	$234	0	0	0
Total cost with new royalty oil stored (millions)		$450	$189	$267	$54	$234	0	0	

See footnotes above.

(3) Assuming storage of oil produced from the Naval Petroleum Reserves and crude oil to which the United States is entitled as royalty from future production from the Outer Continental Shelf (assuming a 1/6 share).

	Fiscal year (incremental)								
	1975	1976	1977	1978	1979	1980	1891	1982	1985
High 3-month imports (MM bbl)	360	360	360	360	360	360	360	360	360
Quantity required (MM bbl) (1)		18	18	54	54	90	72	54	0
Site acquisition, size of fully developed sites (MM bbl) (2)		120	120	120	0	0	0	0	0
Cost of site right-of-way acquisition and construction (million) (2)		$216	$187	$189	$54				
NPR-1 production (MM bbl), total		49	55	72	84	84	84	84	
Government share		37	39	54	63	64	65	65	
OCS new royalty oil (MM bbl)		0	48	48	60	72	84	96	
Cost of oil with NPR and new royalty oil placed in storage (millions)		0	0	0	0	0	0	0	
Total cost with NPR and new royalty oil stored (millions)		216	189	189	54	0	0	0	

(See footnotes at p. 19.)

B. Cost of National Strategic Energy Reserves assuming greatly increased levels of imports (approximately double the current rate.)

(1) Assuming that all oil for storage is purchased at a cost of $13 per barrel including transportation.

	Fiscal year (incremental)								
	1975	1976	1977	1978	1979	1980	1981	1982	1985
High 3-month imports (MM bbl)	360	500	575	600	630	655	680	710	785
Quantity required (MM bbl)[1]		25	33	67	127	173	131	154	75
Site acquisition, size of fully developed sites (MM bbl)[2]		150	300	335	0	0	0	0	0
Cost of site right-of-way acquisition and construction (millions)[3]		$250	$315	$383	$235	$154	$75		
Cost of oil (millions)		325	429	871	1,651	2,249	1,703	2,002	975
Total cost		575	744	1,254	1,886	2,403	1,778	2,002	975

See footnotes at p. 19.

(2) Assuming storage of both crude oil acquired by purchase at a cost of $13 per barrel including transportation and crude oil to which the United States is entitled as royalty from future production from the Outer Continental Shelf (assuming a ⅙ share).

	Fiscal year (incremental)								
	1975	1976	1977	1978	1979	1980	1981	1982	1985
High 3-month imports (MM bbl)	360	500	575	600	630	655	680	710	785
Quantity required (MM bbl) [1]		25	33	67	127	173	131	154	75
Site acquisition, size of fully developed sites (MM bbl) [2]		150	300	335	0	0	0	0	0
Cost of site right-of-way acquisition and construction (millions) [3]		$250	$315	$383	$235	$154	$75		
OCS new royalth oil (MM bbl)		0	48	48	60	72	84	96	
Cost of oil—with new royalty oil storage (millions)		$325	0	$247	$871	$1,313	$611	$754	0
Total cost with new royalty oil stored (millions)	$575	$315	$630	$1,106	$1,467	$686	$754	0	

See footnotes at p. 19.

(3) Assuming storage of oil produced from the Naval Petroleum Reserves and crude oil to which the United States is entitled as royalty from future production from the Outer Continental Shelf (assuming ⅙ share).

	Fiscal year (incremental)								
	1975	1976	1977	1978	1979	1980	1981	1982	1985
High 3-month imports (MM bbl)	360	500	575	600	630	655	680	710	785
Quantity required (MM bbl) [1]		25	33	67	127	173	131	154	75
Site acquisition, size of fully developed sites (MM bbl) [2]		150	300	335	0	0	0	0	0
Cost of site right-of-way acquisition and construction (millions) [3]		$250	$315	$383	$235	$154	$75		
NPR-1 production (MM bbl), total		49	55	72	84	84	84	84	
Government share		37	39	54	63	64	65	65	
OCS new royalty oil (MM bbl)		0	48	48	60	72	84	96	
Cost of oil with NPR and new royalty oil placed in storage (millions)		0	0	0	$52	$481	0	0	0
Total cost with NPR and new royaltyoil stored (millions)		$250	$315	$383	$387	$635	$75	0	0

See footnotes at p. 19.

Section 203. Cost of the Regional Petroleum Product Reserves.

	Fiscal year (incremental)								
	1975	1976	1977	1978	1979	1980	1981	1982	1985
High 3-month imports (MM bbl)[1]	137	152	163	163	163	161	161	159	157
Percent required		0	(20)	(40)	(70)	100			
Quantity required (MM bbl)			33	32	48	48			
Cost of site, rights-of-way, etc., acquisition and construction at $10/bbl [2]		$330	$320	$480	$480	0			
Cost of residual oil at $15/bbl			495	480	720	$720			
Total regional petroleum product reserve cost [3]		330	815	960	1,200	720			

[1] The small growth in the residual imports takes into consideration the construction of new refineries and a slower growth rate for residual demand.
[2] Residual will be stored in heated tanks, or possibly, on advanced technology sites at an estimated cost of $10 per barrel.
[3] Total cost is the sum of facilities plus residual oil. It should be noted that S. 677 may permit some substitution of other products or crude for residual. The substitution would reduce the cost of the regional petroleum product reserve.

VIII. EXECUTIVE COMMUNICATIONS ON S. 677 AND S. 594 (TITLES I AND II)

No formal executive communications were received by the Committee concerning S. 677 or S. 594 (Titles I and II). However, on March 16, 1975 representatives of the Executive Branch appeared before a joint meeting of the Committees on Armed Services and Interior and Insular Affairs to discuss the question of strategic petroleum reserves. The provisions of the several pending bills pertaining to strategic petroleum reserves were addressed in the following statements made before the Committees on that date.

STATEMENT OF HON. FRANK G. ZARB, ADMINISTRATOR, FEDERAL ENERGY ADMINISTRATION, PRESENTED BY HON. ERIC R. ZAUSNER, ACTING DEPUTY ADMINISTRATOR, BEFORE A JOINT MEETING OF THE INTERIOR COMMITTEE, ARMED SERVICES COMMITTEE, U.S. SENATE, MARCH 11, 1975, ON S. 594 AND S. 677

Mr. Chairman, members of the committee, I appreciate this opportunity to appear again before you today to discuss pending legislation that would create a National Strategic Petroleum Reserve and provide for the exploration and development of the Naval Petroleum Reserves. Both Title II of S. 594, the Administration's Energy Independence Act of 1975, and S. 677 would provide for a civilian National Strategic Petroleum Reserve. I would like to state at the outset that while the Administration is in general agreement with the broad purposes of S. 677, we have serious difficulties with some of its specific provisions.

However, before considering Strategic Reserve legislation, I think it is necessary to bear in mind its relationship to the comprehensive program submitted by the President to the Congress in his State of the Union Message.

I'm sure that we all agree that the present energy situation requires broad, decisive and prompt government action to prevent continued erosion of our economic vitality and national security. The challenge we jointly face is to implement promptly a coordinated national energy policy which restores our energy independence.

A major goal of the President's program would eliminate by 1985 this country's vulnerability to economic disruption should foreign supplies of petroleum be interrupted. The President's mid-term program includes tough conservation and supply expansion measures. To cut demand, he has proposed mandatory appliance and auto efficiency labeling, and low-income conservation assistance program. To increase supply, the President proposed deregulation of new natural gas, increased offshore oil and gas development, amendments to the Energy Supply and Environmental Coordination Act, facility siting regulations, assistance to electric utilities, and a synthetic fuels program.

If the legislation required to carry out all of the President's program is enacted, by the end of the next decade our petroleum imports should amount only to 3 to 5 million barrels per day. Should those imports be curtailed, the Civilian Strategic Petroleum Reserve Program which the President has requested would provide 3 million barrels of oil per day for a period of one year. The remainder would be dealt with through imposition of various standby conservation and allocation measures that we discussed with this Committee last month.

Despite the basic similarity in concept, however, we believe that S. 677 does not address important policy, program and implementation considerations contained in the Administration's bill. First Title II is more realistic in that it does not attempt to set forth detailed, stringent requirements for implementing a reserve program, but requires that a comprehensive plan be submitted to the Congress within one year of enactment. Such a plan would include a comprehensive environmental assessment, an analysis of alternative types of storage facilities and their locations, what the stockpile should consist of and how large it should be, ownership of both the facilities and the stockpile, costs and a detailed program schedule for the development of such a system.

Let me be absolutely clear about one thing. The President is asking for specific authority to implement a Strategic Reserve Program. He does not intend that this plan be a study of the advisability of such a program. The development of the comprehensive plan will not delay implementation of the program, but will enable us to proceed at a faster pace because it will be workable. Furthermore, Title II would give the President authority to begin developing storage facilities and storing petroleum as soon as feasible. These are already considerations being analyzed by FEA.

Upon reflection, I think you will agree that we should not hamper the implementation of a Strategic Reserve program with legislative constraints which would perhaps be unworkable or extremely expensive, especially when the same end could be achieved through consultation with Congress on the overall program plan. For example, S. 677 specifies four separate reserves within the energy strategic reserve system: National reserve, and industry reserve, a utility reserve and a coal reserve. Without getting into specifics, I believe that there are serious questions concerning the validity of separate utility reserves, given the extra financial requirements such a program would put upon our already overburdened utility industry. Utilities would also be affected unequally, depending on their current reserves. Likewise, our main problem in the coal industry is not really adequate reserves for an emergency, but one of increasing coal production and demand for coal. Since it was the Administration's intention, and we had assumed that of the sponsors of S. 677, to protect against import disruptions rather than domestic interruptions of production, and further considering the impracticality of coal storage of such a magnitude, as envisioned by S. 677, the Administration is opposed to stockpiling.

Each of these separate systems has mandated levels which vary depending upon floating base periods and each has a specified timeframe within which they must be completed. We believe such rigid requirements are unworkable. For example, there may not be sufficient steel tankage to support the large scale industry storage reserve outlined in S. 677. Further, preliminary studies indicate that it may not be possible to prepare and fill underground storage facilities (salt domes and mines) within the five year timeframe specified. The strict timing requirements of S. 677 would also not enable the government to take advantage of price fluctuation in the foreign oil market.

The Administration's bill would authorize storage of up to one billion barrels of crude oil or petroleum products—sufficient to withstand a total interruption of three million barrels of imports for one year, or approximately double the level specified in S. 677. We believe that the final storage level should be based on the results of a comprehensive study of our needs in the 1980s. For example, if Congress does not give the President necessary legislation to implement his overall energy program, imports would be greatly increased by 1985 and a 90-day supply as proposed in S. 677 would be inadequate. In any case, we believe that any reserve level should be firmly established and not allowed to vary from month to month depending on the base periods. The latter would present serious problems in planning and administering any strategic reserve program.

Likewise, the premature setting of anticipated levels of petroleum product storage is unwise. The final level of product storage should await the results of a comprehensive study which reviews the cost of product versus crude storage, the availability of facilities for product storage (steel tankage is in short supply and could be difficult to obtain in the future), the ability of domestic refineries to meet the demand for products during an emergency, and so forth.

The President should have the discretion to choose the least expensive and the most effective method of providing strategic storage. For example, S. 677 sets extremely high levels of petroleum product storage, which are based on average import levels. If we have the refinery capacity to meet our requirements during an emergency, it would seem we should store crude oil at a much cheaper cost.

Further, S. 677 calls for a very small government-owned reserve (crude oil equivalent to about 22 days of imports) and a large amount of privately owned financed industry storage of crude and petroleum products (a 90-day supply to be accumulated by importers). The costs of implementing such a large program within a very short period of time would be very expensive, would affect different parts of the country unequally and would probably necessitate another cost equalization program and continued government regulations. Title II of the Administration's bill calls for private storage, but would await the result of a comprehensive analysis before specifying what and how much would be stored, as well as who should bear the cost.

Again, let me stress one point—we do not at this time have the definitive answers to all these questions and that is why we propose a comprehensive planning study which will be presented to Congress. We strongly believe that the approach taken in S. 677 of mandating the level of storage, what will be stored and the time to complete the program does not meet the needs of the action and could be a very expensive (and perhaps unworkable) method of providing the protection we all agree is necessary.

Secondly, I believe that it is premature at this time to designate what agency of the Federal Government should administer the Strategic Storage Program. S. 677 specified that the Federal Energy Administration should have this authority. While I agree that FEA should take the lead within the Federal Government of undertaking the comprehensive planning study called for in the Administration's bill, I think that any dicision regarding who should administer the program should await the results of the study. As you know, Title I of the Omnibus Energy Bill authorizes the development and production of the NPR-1, the Elk Hills Naval Reserves in California, and establishes a Military Strategic Petroleum Reserve of 300 million barrels. The proceeds of the Elk Hills production will go into a special fund which will be used to explore and produce NPR-4 on the North Slope of Alaska, as well as to fund both the Civilian and Military Reserve Systems. It may even be possible to actually transfer Elk Hills oil to government-owned storage facilities, although this will have to await the results of the comprehensive planning study outlined in Title II.

Since Titles I & II of the Administration's bill are closely interrelated, the President needs the flexibility and authority to determine how best to implement the program. Thus, we believe it is premature to designate which agency should be responsible for administering the program. In any case, it is essential that both the Civilian and Military Strategic Reserves Systems be completely integrated. To that end, the Department of Defense will be involved in the planning of the Civilian system and those federal agencies responsible for planning the Civilian system will be involved in the planning of the Military system.

Third, we believe that any authority to use the reserves should be fully integrated with our requirements under the International Emergency Agreement. In this respect, S. 677 only allows use of the reserves when imports fall 10 percent, while the IEP requires that member countries engage in demand restraint measures (or alternatively use their reserves) when imports are reduced by 7 percent. We believe that the authorities contained in the Administration's bill are more realistic in that they would allow use of the reserves when we are required to implement the IEP.

Finally, we believe that the Prototype storage program called for in S. 677 is unnecessary and could greatly delay the implementation of the establishment of the Strategic Petroleum Reserve System. Our initial analysis indicates that in order to implement a program of the size we are contemplating, it will be essential to construct large underground facilities for the storage of crude oil. Such facilities would either be located in salt domes or mines. There is little question of the feasibility of either type of storage. Salt dome storage or large amounts of crude oil is currently being done in France. Even in the United States large amounts of petroleum products are currently being stored in salt domes.

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Therefore, we believe that to await the results of a Prototype program would be expensive, would prove little and would unnecessarily delay the implementation of the entire strategic storage program.

It is clear that any Strategic Reserve legislation must be considered in the context of the entirety of the President's program, and its effectiveness will depend in large measure on the implementation of the balance of the program.

Both S. 594 and S. 677 recognize the importance of a Strategic Petroleum Reserve System with an overall energy program for the nation. Such a system would minimize the impact of interruptions of petroleum imports, thus significantly reducing our vulnerability to foreign economic forces. It would also dovetail with our obligations under the International Emergency Program (IEP), which specifically allows the use of reserves in excess of minimum levels (currently 60 days) instead of restraining consumption during emergency situations. Both bills authorize the purchase and construction of storage and related facilities by the Federal Government, the allocation of materials necessary to implement the system, condemnation proceedings, and the establishment of allocation procedures and price levels for the use of the reserves.

We are in basic agreement of the need for a Strategic Petroleum Reserve Program. I and my staff are willing to work with Members of both Committees to obtain a workable Strategic Petroleum Reserve program which will provide the country with the protection we all agree is necessary.

STATEMENT BY HONORABLE JACK W. CARLSON, BEFORE JOINT MEETING OF THE SENATE INTERIOR AND INSULAR AFFAIRS COMMITTEE AND THE ARMED SERVICES COMMITTEE

Mr. Chairman, I appreciate the opportunity to appear before these committees to discuss strategic petroleum reserves and Naval Petroleum Reserves. One of the subject bills, S. 677, is similar to legislation that you introduced last year, and has common objectives with Title II of the President's Energy Independence Act of 1975, S. 594, which is also introduced as S. 618. S.J. Resolution 13 has a common objective with Title I of S. 594.

First, I would like to point out the important objective that S.J. Resolution 13 would achieve—that of getting the Naval Petroleum Reserve No. 1 at Elk Hills in California into production. This would help the economy and reduce our balance of payments deficit, and it is one of the objectives of Title I of the Energy Independence Act of 1975. However, Title I goes much farther and establishes a basis for production of NPR's one, two, and three. It also provides for exploration, development, and production of NPR No. 4 in Alaska. It provides for the President to determine the extent of private participation in NPR No. 4. Title I also provides for establishment of National Petroleum Strategic Reserves (Military) of

300,000,000 barrels. This is similar to the Civilian Reserves provided in Title II, which I will discuss in a few minutes. S.J. Resolution 13 and Title I both provide a funding mechanism for the development of the Naval Petroleum Reserves and for strategic storage. Title I also provides a source of crude oil for at least part of the strategic reserves.

Thus, S.J. Resolution 13 is meritorious, as far as it goes, but it doesn't go far enough. We favor the comprehensive approach of Title I in this regard, because it is an integral and vital part of the Administration's comprehensive approach.

Next, I would like to review the strategic reserve proposals.

The establishment of a strategic reserve was one of the recommendations made by the National Petroleum Council, an advisory committee to the Secretary of Interior, at their September 1974 meeting. Such a reserve was also recommended by the Project Independence Blueprint. I have asked the National Petroleum Council to extend the study it made to cover the problems and actions needed to implement a strategic reserve system. A copy of my letter is appended to my testimony today. This study is now underway, and it will be completed by May of this year. We will want to make independent assessments of implementation problems and review the options as a first step in developing a program to implement the strategic reserves authority that is enacted by Congress. We plan to move forward without delay. However, this forward movement mut be based upon sound, thorough analysis and planning.

Title II of the Energy Independence Act of 1975 and S. 618 provide appropriate authority to proceed at this pace. It also provides all the authority and flexibility needed to develop a strategic reserve system appropriate for a changing world petroleum supply environment.

You and your staff are to be congratulated on the job you have done in writing S. 677, the Strategic Energy Reserves Act of 1975. It has many similarities with the President's bill. These include the Findings, Declaration of Policy, provision for both Federally owned and industry owned reserves, provision for use only in a supply crisis, as well as other provisions.

There are differences, which in some cases are significant differences. The most important of these are:

(1) Authority for the program should be provided to the President, rather than to the Administrator, Federal Energy Administration.

(2) Authority to acquire oil for filling the storage capacity should be pecifically provided.

(3) The need for coal storage reserves is not established in the findings or policy statements in the act. Our coal supply is not subject to foreign interruption. What is the risk that is to be protected against by these reserves? The coal reserves are established at 180-days supply and the 90-days of industry oil reserves plus 22½ days of Federal reserves. The risk of a domestic coal supply

interruption is apparently considered to be much greater than the risk of a foreign oil supply interruption. The use of coal is not interchangeable with oil during a crisis except to a limited extent. This is evidenced by the fact only 61,000 B/D of oil was replaced by coal during the Arab embargo last year. There are physical problems with coal stockpiles—there are safety hazards, and many other problems with standby coal mining capacity. I would also remind you that electric power plants, which account for two thirds of our coal consumption, usually hold large reserves.

(4) Timing is important. The need to act is real, but prudent action is required. The five year period for completion of the industry reserves would result in materials and construction constraints, and it does not allow flexibility to avoid bottlenecks. Also, the suggested Petroleum Storage Prototype Program has great potential for delay. If a prototype program is to be useful, it must be in place long enough to uncover any problems that might develop. Thus, such a program could take up the full 5-years that is specified for program completion. The prototype program is unnecessary, and should be eliminated. Salt dome storage for petroleum products has been used for twenty years. The plan would allow of a limited storage capacity which could be expanded as the need arises by means of leaching out additional salt to increase capacity. Let me emphasize that we do not need the delay nor the expense of a prototype program—not to demonstrate a technique which has already proved itself to be feasible. The technology is well established.

(5) The amounts of petroleum to be stored by the Federal government and by industry depends on how much insurance against interruption is needed. Conservation measures can handle an interruption of relatively short duration. Storage reserves are needed to counteract a longer term cutoff. The President recommends a one-year supply, or one billion barrels for domestic use and .3 billion barrels for military use. Ninety days plus appears to be inadequate.

(6) The utility Storage Reserve would place an unnecessary burden on a financially troubled industry. Coal and gas for utilities is primarily domestic and not subject to interruption by foreign sources. Also, gas, and to a certain extent coal, are impractical to store. The requirement on utilities and importers to store oil could result in a double burden on utilities that import fuel oil. Both the importer and the utility would establish reserves doubling costs. Federal and industry reserves will provide adequate coverage of needed strategic petroleum reserves, with these provisions.

Obviously, our objectives are precisely the same. We intend to make this country strategically safe from foreign interruptions of our vital energy fuels. But there are differences in the

methods we use to achieve these objectives. However, the President's proposed Energy Independence Act of 1975 is a comprehensive program which ties this objective of strategic reserves in with other energy objectives. I recommend this program to you in its entirety. Title II has much merit in comparison with other proposals, but even greater merit as part of the comprehensive program.

Mr. Chairman, I will see to it that the Committee receives a copy of the National Petroleum Council Report.

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., December 31, 1974.

Mr. John E. Swearingen,
Chairman, National Petroleum Council,
Washington, D.C.

Dear Mr. Swearingen: Thank you for your summary report of September 10, 1974, entitled *Emergency Preparedness for Interruption of Petroleum Imports into the United States.* That report clearly outlines the options available to the U.S. in the event of a future denial of imported petroleum. Of particular interest to the Department of the Interior is your recommendation for the immediate development of an emergency petroleum security storage system.

The United States is now in the position where it needs to move decisively and promptly in this most critical area of national security. It is, therefore, requested that the Council undertake as a matter of urgency a study of the major factors involved in the implementation of a security storage system similar to that recommended by you in your summary report of September 10.

Your analysis should include, but not necessarily be limited to, discussions of; the optimum size of the security storage system in terms of total volume and deliverability; the alternatives available for providing this storage as expeditiously as possible; the financing problems which could be expected to arise; the sources and types of fill for the storage; and Federal actions that could assist in expediting the development of the security storage system as well as Federal actions that might deter development. In addition your analysis should include discussions of the relative needs for crude versus product storage and any specific geographical, logistical or environmental problems which you would anticipate to be encountered where the Nation to be confronted with another energy emergency.

It would be most useful if your report would include analyses of both the 500 million barrel storage system recommended in your September 10 report and with a buildup to a one billion barrel storage system. These systems should be analyzed on two bases; (1) normal development consistent with the objective of minimizing costs and (2) rapid development based on minimizing time to completion. With respect

to the later case, critical materials problems should be identified.

Such studies should be completed as soon as practicable with a report submitted to me by May 1975.

Sincerely yours,

JACK W. CARLISON,
Acting Secretary of the Interior.

STATEMENT OF JACK L. BOWERS, ASSISTANT SECRETARY OF THE NAVY (INSTALLATIONS & LOGISTICS) BEFORE A JOINT MEETING OF THE ARMED SERVICES COMMITTEE AND THE INTERIOR AND INSULAR AFFAIRS COMMITTEE, U.S. SENATE, MARCH 11, 1975

Mr. Chairman and members of the Armed Services and Interior and Insular Affairs Committees, I am very pleased to be afforded the opportunity to discuss the Naval Petroleum and Oil Shale Reserves and plans for allowing them an increasing contribution to our energy needs.

I would first like to provide background information, starting with a brief history of the Reserves, then telling you of accelerated activity during the last two fiscal years.

The Naval Petroleum and Oil Shale Reserves were created between 1912 and 1924. Upon recommendations of United States Geological Survey, Presidents Taft, Wilson, Coolidge and Harding established the petroleum reserves by withdrawal of relatively small but selective acreage of domain to be administered by the Navy as an assured defense fuel supply. Congress placed these Reserves under authority of the Secretary of the Navy by an Act dated June 4, 1920 (41 Stat. 813).

The abbreviated table below provides pertinent statistics on the Naval Petroleum and Oil Shale Reserves system:

	Proved reserves		Estimated new reserves		
	MM/bbls oil	MM/Mcf gas	MM/bbls oil	MM/Mcf gas	Area (acres)
NPR No. 1	1,009.6	1,180	482	300	[1] 46,095
NPR No. 2	15.6	NA	0	0	[1] 30,181
NPR No. 3	43.0	8.0	0	0	9,481
NPR No. 4	100.1	160.6	10,000–33,000	60,000–192,000	23,680,000
NOSR (jointly)	0	0	16,000	0	145,333

[1] Contains both Government and private titled land. NPR–1 is under a unit plan with the Standard Oil Co. of California who participates in the amount of 20 percent. Socal also operates NPR–1 under contract to the Department of the Navy.

During the last decade significant additions to knowledge of the reserves have been obtained. However, owing to funding at the $5M–$8M per year level, no substantial progress was made toward establishing the full potential of the Naval Petroleum Reserves as a rapidly available source of emergency oil. In 1967, the Navy initiated preparation of a complete plan for the exploration and development of all reserves. The plan was completed in April of 1973 and forwarded to the President, and in the fall of 1973, when the

oil embargo created shortages, the Secretary of the Navy made a determination that NPR–1 should be produced. This action was approved by the President and sent to the Congress. A modification of the administration bill was passed in the Senate, and in the House of Representatives the Armed Services Committee held comprehensive hearings. Production from NPR–1, Elk Hills, was not recommended by the Committee at that time. The Committee concluded, however, that NPR–2 and NPR–3 were of little value as viable reserves and, therefore, the Navy should consider producing at these locations and using funds so derived to finance exploration and development of NPR–1 and NPR–4. While the original bill for production at Elk Hills was not passed in Congress, there was, however, an appropriation provided for exploration and development at NPR–1 and NPR–4 of $11.5M and $47.5M, respectively, and a substantial program was initiated. The budgetary figures appearing in the legislation were drawn from the Navy plan of 1973. Congress followed in FY 75 with $64.4 million to continue the program. DOD has now established in their planning a continuation of this effort through the Fiscal Year Defense Plan years.

As related above, the budget actions of 1974 and 1975 together with the ongoing Fiscal Year Defense Plan have been derived from the exploration and development plan submitted by the Navy in April of 1973. I would like to summarize the objectives of the plan.

The Development Plan for Naval Petroleum Reserve No. 1 calls for the creation of a 400,000 barrel of oil per day production capability and includes all projects that are typical of any major oil field development. Not only must additional wells be drilled, but the allied surface facilities must be installed within the Reserve to handle the oil, gas, and water in accordance with sound oil field engineering practices. Our five year exploration and development plan calls for the drilling of some 50 to 76 exploratory wells at a cost of about $30 million and completing the development of the field with 829 wells toegther with production facilities at a cost of $417 million. The exploratory effort is designed to more completely define the extent of the Elk Hills reserves, and the development program will establish the desired expanded production capabilities from the various oil pools. Of the development wells to be drilled, about 550 will take approximately 30 days each to drill to 8,000′–10,000′ depths (Stevens and Carneros Zones). The remaining development wells will be drilled to an average depth of about 3,500′ to penetrate the shallower oil and gas zones. The exploration wells will vary in depths from 1,500′ to 20,000′ (basement rock). Prior to this time, the deepest well at Elk Hills has been 12,856′. Thus, we will be drilling to basement rock for the first time. When completed, the wells will be connected to tanks and gauging facilities to handle the produced oil, gas, and water. Over 75 tank settings will be upgraded and 24

new settings will be constructed over the next five years. These tank settings would then stage the produced hydrocarbons through approximately 260 miles of new oil and gas lines across the Reserve to shipping facilities and gas processing plants.

Additional automated crude oil shipping facilities referred to as LACTS (leasing automatic custody transfer stations) are being installed at the perimeter of the Reserve for possible connection to the various available commercial pipelines. Produced gas will be stripped of its liquids for sale at competitive bid and the residual dry gas would be reinjected into the reservoir to maintain pressure, thereby maximizing ultimate oil recovery. Although proposed funding allows for construction of natural gas processing plants on the Reserve capable of processing 300,000 MCF per day of gas, negotiations are presently underway for the purchase or lease of existing privately owned plants located near the Reserve. Successful negotiations in this area may reduce the overall costs of the development plan. Other surface facilities to be constructed include storage facilities, cathodic protection, vapor recovery systems, electrical service extensions, new pumping units, and construction of over 120 miles of access roads.

Of the $93 million dollars provided by Congress to date, over $64 million dollars has been committed in the awarding of 25 construction contracts and multiple well drilling contracts. The remaining $29 million will be committed to additional drilling contracts as soon as the availability of casing and materials allows. The commitment rate of funds to date has been slowed by the world-wide heavy demand for oil field supplies. For example, it takes at least six months to obtain steel casing, pumping units are delivered 18 to 24 months after ordering, and compressors take 18 months to obtain.

Acceleration of materials installation could be made only if commercial orders were to be preempted, which we have tried to avoid since such action would be almost certain to impair the progress of private oil companies in the search for additional oil reserves. Only in the case of tubular goods have we resorted to priorities. To date, a total of 32 producing development wells have been drilled to 9,500′ (Stevens Zone), two 25,000 barral a day shipping facilities are under construction, 25 additional drilling sites have been constructed with an additional 100 under contract to be completed at a rate of 10 per month. We are presently drilling wells at a rate of 7 per month utilizing 5 drilling rigs. By September we should have 8 rigs working on the Reserve, completing 15 wells per month. A maximum of 12 rigs will be employed in the last three years of the program which will yield a rate of 20 well completions per month. The present natural gas processing plant on the Reserve is being increased in capacity from 50,000 MCF a day to 94,000 MCF per day, pumping units have been ordered and will arrive at a rate of 4 per month starting in March, increasing to 14 per month

in January 1976. Twenty miles of primary roads have been constructed or upgraded.

As mentioned, an exploration program is also in progress. A total of 10 exploratory wells has been drilled to date in various areas of the Reserve. The exploration and development wells have demonstrated that recoverable oil in the reserve will be increased by at least 100 million barrels, and this is a conservative estimate. Our deep test exploration well will for the first time penetrate formations which are productive in the vicinity of the Reserve. As a result, real potential exists for further increasing the total oil reserves.

Thus, the producing capability of the Reserve is actively in the process of being increased to 400,000 barrels of oil per day with a targeted completion date of 1980. With Congressional approval of Title I of the President's proposed Energy Independence Act, production of 130,000 BOPD should be possible within several months and 250,000 BOPD or more by 1977. Production at any significantly higher levels prior to completion of the on-going development plan may deny the attainment of capability to achieve the full 400,000 BOPD production level. The capability is similarly being rapidly developed to move this production to the various shipping points on the periphery of the Reserve. Movement of the crude oil beyond the Reserve shipping points is limited by the available surplus capacities in the various commercial pipelines which either are connected or could be connected to our shipping points. Currently the surplus capacity of these pipelines is about 130,000 BOPD. Within 18 months, connections could be made to accommodate the off-Reserve transport of 155,000 BOPD total Elk Hills production, and 355,000 BOPD total within 36 months. Each of these pipeline capacity levels has an attendant capital cost for additional off-Reserve pipeline connection, pumps, etc., increasing to $53 million to obtain a deliverability of 355,000 BOPD. No funds have been requested to meet any of these requirements. It appears that some private capital would be forthcoming in this regard should sustained increased production be guaranteed.

The obtainable pipeline transport capabilities recounted above have been found to accommodate the API gravity of oil produced at Elk Hills. In this regard, and in a further effort to test the prospective outlets for possible increased levels of Elk Hills oil production, we have also surveyed the current and projected crude oil feed stock deficiencies at California refineries.

Due to the common practice of oil companies to trade or exchange various grades of crude oil to obtain gravities which can be utilized at a given refinery, it is not necessary to be concerned with the gravities of Elk Hills production other than to note that a range of gravities is producible which could be utilized at various California processing centers. The present apparent combined crude oil feedstock spare capacity at California refineries is about 139,000 BOPD, out of a total statewide refining capacity of 1,755,000 BOPD. That is to say,

this additional rate could be processed with current commercial plant capabilities. Therefore, production open-up at Elk Hills beyond about 139,000 BOPD could not be accommodated by the present California refinery industry unless West Coast imports were commensurately curtailed. (Currently about 700,000 BOPD.) An alternative might be marine transport to extrastate refining centers. The current total refining spare capacity of about 139,000 BOPD is distributed among the Bakersfield/San Francisco/Los Angeles areas in 73,000/0/66,000 BOPD increments respectively, and the only major integrated company identifying any current spare capacity is the SOCAL refinery at Bakersfield (16,000 BOPD).

Projection of spare capacities one or more years ahead is extremely risky in view of the many variables involved. The impact of Alaskan oil, future of foreign imports, and uncertain plans for expanded refining capacities all serve to complicate the issue. However, no major integrated company projects any additional spare refining capacity for the next five years, and expansion plans for the independents are contingent upon numerous complex variables, including long lead time materials and equipment, which preclude the reasonable projection of future spare capacities.

In summary, attainable pipeline capacities servicing Elk Hills and spare California refining capacities are currently projected to be in the 130,000–150,000 BOPD range for the next three years. Pipeline capacities could be more than doubled by the end of these three years, but no definitive growth in spare refining capacities can be accurately forecast. To the contrary, shrinkage of the current spare capacities can be anticipated when Trans-Alaska Pipeline comes on stream during the 3rd or 4th quarter 1977. Early open-up of Elk Hills production would be constrained by attainable pipeline capacities for 2 to 2½ years, when production could increase to a field maximum efficient rate of 250,000 BOPD—less than attainable pipeline capacities, but considerably more than current California spare refining capacity.

During the recent contacts with pipeline and refining companies, the Navy was cautioned that the figures provided were accurate as of the date submitted and are subject to change without notice.

Naval Petroleum Reserve No. 2, located at Buena Vista Hills, California, was leased out in the 1920s when the Reserves were under the jurisdiction of the Secretary of the Interior, is fully developed, and produces income of about $1 million per year.

Naval Petroleum Reserve No. 3 at Teapot Dome, Wyoming, is the smallest of the reserves and has approximately 150 productive wells and has the capability of producing 2,000 BOPD without additional drilling. During the two past years, FY 74 and FY 75, this Reserve has been operating on a budget of approximately $300,000/year.

Development plans for this Reserve have been prepared which call for the drilling of 562 wells over a five year period.

During this development phase, production could take place such that at the conclusion of the five years the average production would equal 12,700 BOPD. The estimated cost of this plan, including wells and shipping facilities, is $69.8 million. Discussions with the pipeline company in the area indicated that sufficient surplus capacity exists to handle NPR No. 3 production. Similar investigation into the spare refinining capacity in the Casper, Wyoming, area resulted in the conclusion that the oil produced could be refined in the immediate area.

NPR 3 also has additional areas requiring exploration. The exploration plan identifies 16 possible locations for additional hydrocarbon accumulations which have excellent possibilities for increasing the productive potential of NPR 3. The cost of the 16 well exploration program is estimated at some $1.7 million and is planned to be accomplished over a five-year period.

Naval Petroleum Reserve No. 4 in Alaska is actively being explored to determine the extent of the Reserve's assets. As with any property determined to contain hydrocarbons, exploration must take place prior to defining and preparing development plans. Over the seven year life of the Navy's current plan for NPR 4 exploration program, some 10,000 miles of seismic exploration will be conducted, and 26 exploratory wells drilled. The total cost of the program is estimated to be $382 million. Briefly, seismic exploration consists of transmitting shock waves through the earth and recording the return signals. Processing the return signals allows the identification of structural changes in the subsurface depositions which have hydrocarbon potential. Only by drilling a well can one determine if the subsurface structures contain oil and/or gas.

For FY 74 and 75, $30 million has been provided for the exploration of NPR 4 of which $27.4 million has been expended or obligated. The remaining funds will be obligated by June of 1975. As in the fiscal obligation rate of Elk Hills development funds, the obligation of funds for NPR 4 has been slowed by the world wide shortage of oil field equipment. For example, in excess of six months are required to obtain steel for wells, well head equipment, and other equipment. The supply situation for NPR 4 is compounded due to the short 2 months shipping season on the Arctic coast. As a result, all materials required for the exploration effort must be purchased and delivered to Seattle, Washington by May of each year. Materials and supplies presently being utilized for exploration were shipped during May 1974. Because of the long lead time for materials and supplies acquisition and the short shipping season, it is extremely important that continuous funding be provided to prevent prolongation of the program. A one year funding gap will cause the program to suffer a two year setback. The funds provided in the FY 74 Supplemental appropriations and FY 75 Appropriations Acts have allowed significant progress outlined below to be made. Future funds requested for FY 76 will permit the Navy

to conduct an additional 3,100 miles of seismic exploration and drill 3 wells to find the vast hydrocarbon deposits which underlie NPR 4.

The first year of the Navy's exploration was completed during FY 74 by conducting 1,049 miles of seismic exploration and by mid-1975 we will have completed 3,500 miles. Processing this information indicates that several predominant structures exist in the area covered. The initial pattern of the seismic exploration was on an approximate 6 mile square grid. After identification of the subsurface structures, detailed seismic work was accomplished in specified areas. As a result of the detail work, locations were chosen for the first two exploratory wells. The drilling of the first of these wells, at Iko Bay near Barrow, has been completed and testing of the well is now being done. We did not find significant oil, but it appears that the testing will show it to be a commercially productive gas well. This well was drilled to a depth of about 3,000 feet. The drilling of the next exploration well will commence later this week. It is located near Cape Halkett (between Barrow and Prudhoe Bay) and it will be drilled to a depth of 10,000–12,000 feet.

Based on the data already in hand, together with the new information that we are obtaining every day, we would expect within 1½ to 3½ years to have sufficient data on which to base the development program which must precede production. Given the magnitude of this program, it can best be accomplished by entering into arrangements with private industry.

The program, as you can see, is well underway. It has been possible to accomplish this work under authorization provided by the existing statutes together with fiscal appropriations which have been increased during the last two years; with approval of the budget which has been submitted in FY 76, the program can continue. On the other hand, in order to meet our country's increasing energy challenge, it will be very important to take even more aggressive action. Some of the measures that have been introduced in the House and Senate would take such action and I would like to comment briefly on them.

Senate Joint Resolution 13, introduced by Senator Cannon, would authorize the production of petroleum from NPR 1 for national defense purposes at a rate not to exceed the maximum efficient rate in accordance with sound engineering and economic principles. The proceeds from such production would be placed in a special account in the Treasury to be used for the exploration, development, and production of all of the Naval Petroleum and Oil Shale Reserves. This Joint Resolution, which is virtually identical to S.J. Res 176, 93rd Congress, which as I noted earlier was passed by the Senate but not by the House, is based on a Determination made by the Secretary of the Navy on November 6, 1973, in accordance with our statutes (10 U.S.C. 7422), that production was needed for national defense purposes. In that

Determination it was noted that the then present supplies of petroleum were not sufficient, even through mandatory allocation, to meet both the needs of military readiness and essential civilian needs, including those vital to defense. It was also noted that certain international events, i.e., mainly the embargo, were contributing seriously to the growing deficit in source of military petroleum supply and had led to reduced availability from sources outside the United States where the Armed Services normally procure 50% of their needs. As we all know, the conditions under which that Determination was made have changed considerably and therefore the Determination could now be challenged. We do feel that production of the Reserves for the purposes of constructing, managing, and filling a national strategic petroleum reserve could be justified as a national defense requirement, but we have taken a different approach to this matter which I will discuss later in my statement.

S. 677, which was introduced by Senator Jackson, would create strategic energy reserves in storage capable of replacing energy imports for at least ninety days in order to reduce the impact of interruptions or reductions in imports of energy supplies. Included within the strategic reserve system would be (1) national strategic energy reserves; (2) industry storage reserves; (3) utility storage reserves; and (4) coal storage reserves. The national strategic energy reserve would be composed of crude oil produced from Federal lands, including the naval petroleum reserves to the extent authorized by law, and crude oil to which the United States is entitled as royalty from future production upon Federal lands, including the Outer Continental Shelf.

While we agree with the philosophy of a strategic reserve system as set forth in Senator Jackson's bill and with the concept of production in Senator Canon's resolution, we have problems with specific provisions on which I defer to the FEA for discussion. Also, we feel that more aggressive, and more comprehensive, action should be taken.

To this end, the President has submitted to the Congress for action the Energy Independence Act of 1975 (S. 594). Titles I and II of that bill are closely linked and provide the President with general authority pertaining to the subject under discussion today. I would like to provide a brief summary of these titles, highlighting some of the actions which would be taken to implement its objectives. There is provision made for a National Strategic Petroleum Reserve of up to 1 billion barrels for the civilian economy which is provided in Title II and a 300 million barrel reserve for the military which is provided in Title I. Title I also provides for production at Elk Hills and other Naval Petroleum Reserves for storage in the National Strategic Petroleum Reserve, for replenishment of Department of Defense stocks, and for sale and exchange. A special fund would be established in the Treasury derived from the funds realized from sale of this petroleum. The special fund will provide monies

for exploration and development of all of the petroleum reserves and will provide for the establishment of the National Strategic Petroleum Reserve. As you can see, Titles I and II are closely related and, when enacted, will provide the nation with a means for a viable storage "insurance policy" against interruption in transportation of petroleum. The Naval Petroleum Reserves that will be used in part to fill the 1.3 billion barrel system will simply be transferred to a form of storage that is more accessible should an emergency arise.

In addressing the issue of producing at Elk Hills we have commonly discussed an initial goal of 160,000 barrels per day. As I mentioned earlier in my statement, we are mindful of the transportation and refinery requirements and have recently been working with the owners of pipelines and refineries in the California area to determine what action needs to be taken to assure delivery. Our initial review shows in excess of 100,000 barrels per day can be accommodated rather quickly and that with additional connections to existing pipelines and assuming the requisite spare refinery capacity we would be able to approach 160,000 barrels per day in a matter of months.

The current proposal has followed the pattern of previously introduced legislation in assuring that the oil will be offered for sale in such a way that all companies, large and small alike, may be afforded a fair opportunity to participate. We have authority within current legislation and with the assistance of the Small Business Act to allocate appropriate amounts to the smaller companies.

As you know, Standard Oil Company of California is the partner of the Government at Elk Hills. They own approximately 20% of the field and we operate under an agreement which provides for sharing of production in that ratio. Much has been said about what would happen if Elk Hills were opened for other than national defense. We have initiated dissussions on that subject with Standard Oil and would plan to negotiate modifications to the existing Unit Plan Contract which would protect the partners' positions under the new legislation.

In a separate relationship, Standard Oil of California has been for the last several years our operating contractor at Elk Hills. This is a competitively awarded contract renewable approximately every five years and is separate and distinct from the Unit Plan Contract.

On January 7th of this year, Standard Oil informed us of their desire to withdraw from the operating responsibility. They cited the fact that the very large drilling program planned for Elk Hills would demand management resources which they felt were sorely needed in other areas where they are trying to increase the supply of petroleum; in addition, they stated they are mindful of the frequent congressional

and public concern regarding the potential conflict of interest which results from their several roles. While we agree with them that the parties have been able to maintain appropriately separated business relationships, we are sympathetic to both of their citations and, therefore, indicated a willingness to seek a replacement contractor. Thereupon Standard provided formal notice on February 13th. Our contract allows either party to withdraw with nine months notice and Standard Oil has asked that we accelerate that schedule if at all possible. We are moving out immediately to prepare a Request for Quotation for this job. Without this early severance of our relationship, a new competition would have been scheduled for June of 1976. Based on responses in the past and informal inquiries, we are confident that a capable contractor will be found. The Navy is proceeding to accomplish this action in as short a time as possible.

For NPR's 2 and 3, Title I provides for completion of development at NPR 3 and production from both fields. This was a recommendation from hearings conducted by the House Armed Services Committee last year.

Of the petroleum available at NPR–4 it is planned to utilize at least 20% for the National Strategic Petroleum Reserve or such other amount as determined by the President and to make the remainder available to the public economy. As was indicated earlier in the discussion, we are expecting to be ready in the near term for participation by commercial industry in the development program. Starting immediately, the Navy would plan to begin an analysis of the optimum contracting procedures for obtaining this participation. We will consider competitive leasing, competitively negotiated contracts and othher arrangements. We will seek to establish the best means by which participation can be made attractive to Industry and yet will assure for the Government receipt of full value for the petroleum in NPR–4.

In summary, I would like to establish that we have in being a planned program that is on schedule. This will provide in the next several years a much needed improved development status of the Naval Petroleum Reserves. In order to capitalize on the potential of these Reserves, the Administration has introduced a Bill providing for the National Strategic Petroleum Reserve, which instead of shut-in production capability provided in the first instance, will provide a large volume of petroleum for ready delivery at high rates. This more aggressive program requires new legislation as proposed by the Energy Independence Act of 1975, which we believe has been carefully designed to assure optimum utilization of the Naval Petroleum Reserves for the increasing energy needs of the United States. The plan preserves the concept, inherent in the existing statute, of a protected source of supply for times of emergency for military and civilian economy alike. We therefore strongly support enactment of S. 594—the President's Energy Independence Act of 1975.

RECENT EVENTS

NAVAL PETROLEUM AND OIL SHALE RESERVES

Navy plan—April 1973.
Increased congressional appropriations—1974–75.
Pike subcommittee hearings; produce NPR2 and NPR3; accelerate exploration and development of NPR1 and NPR4.
Increased DOD budget planning.

NPR–1—ELK HILLS, CALIF., STATUS AS OF JANUARY 1, 1974

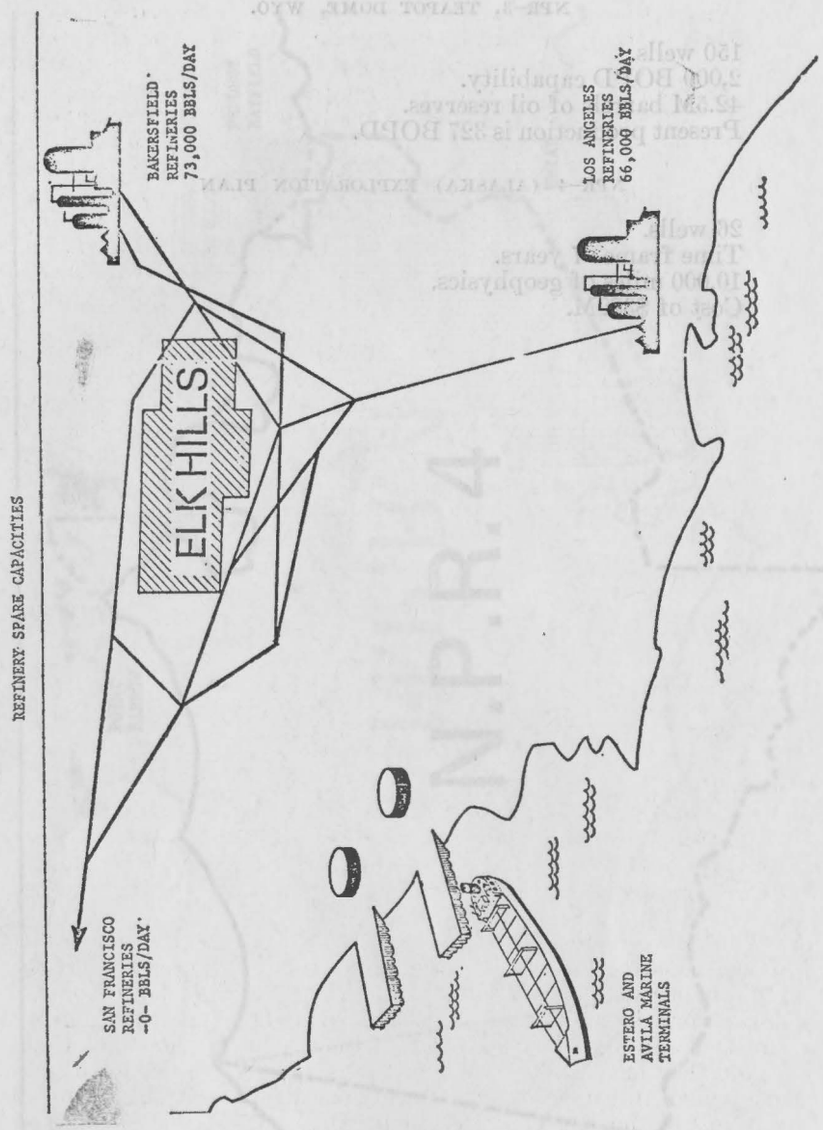
1,000 wells.
160,000 BOPD capability.
1 billion barrels of oil reserves.
1.2 billion mcf of gas reserves.

NPR–1 PLAN—OBJECTIVE: 400,000 BOPD

Exploration.—Drilling operations, 76 wells, $30 million.
Facilities required.—None.
Development.—Drilling operations, 829 wells, $302 million.
Facilities required.—Separators, oil handling, gas handling, transfer equipment, pipeline tie-ins, $115 million.

NPR–1—PROGRESS TO DATE

42 wells.
40,000 BOPD (from 100 million bbls of new reserves).
$16 million facilities construction underway.
Seeking new operator.



NPR–2, BUENA VISTA HILLS, CALIF.

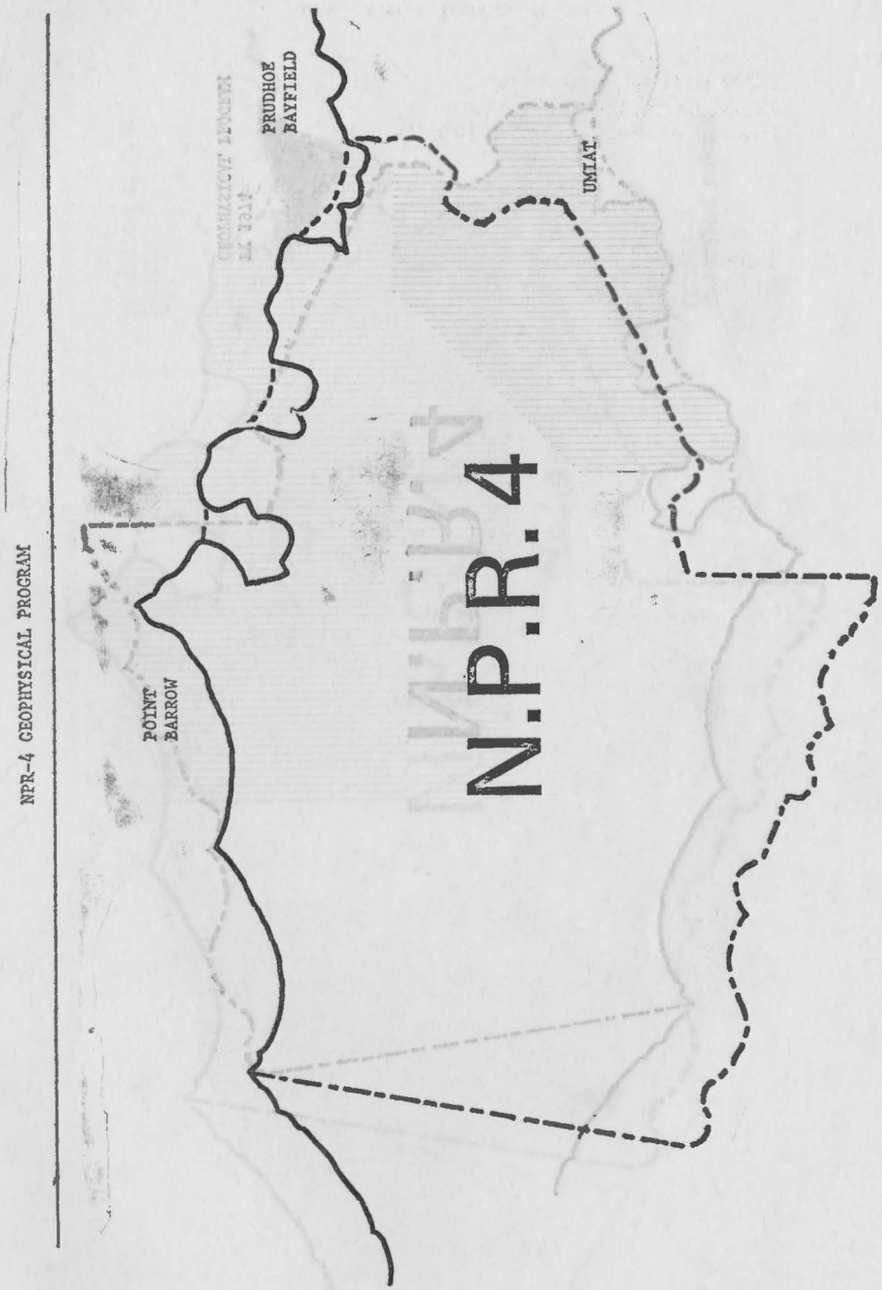
Now fully developed and producing.
Income in 1973 was $1.28M (old oil prices).
Income to decline to $0.78M by 1978.
Present production is 647 BOPD royalty.

NPR–3, TEAPOT DOME, WYO.

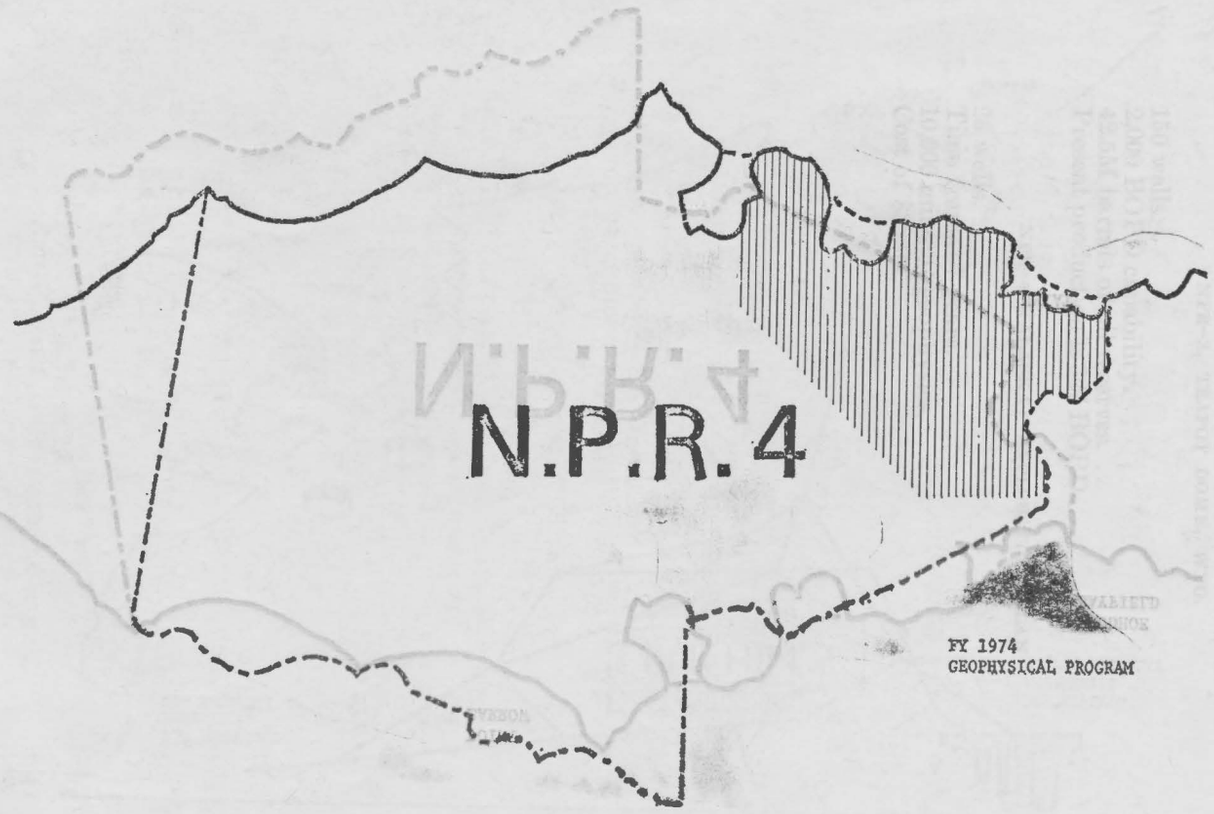
150 wells.
2,000 BOPD capability.
42.5M barrels of oil reserves.
Present production is 327 BOPD.

NPR–4 (ALASKA) EXPLORATION PLAN

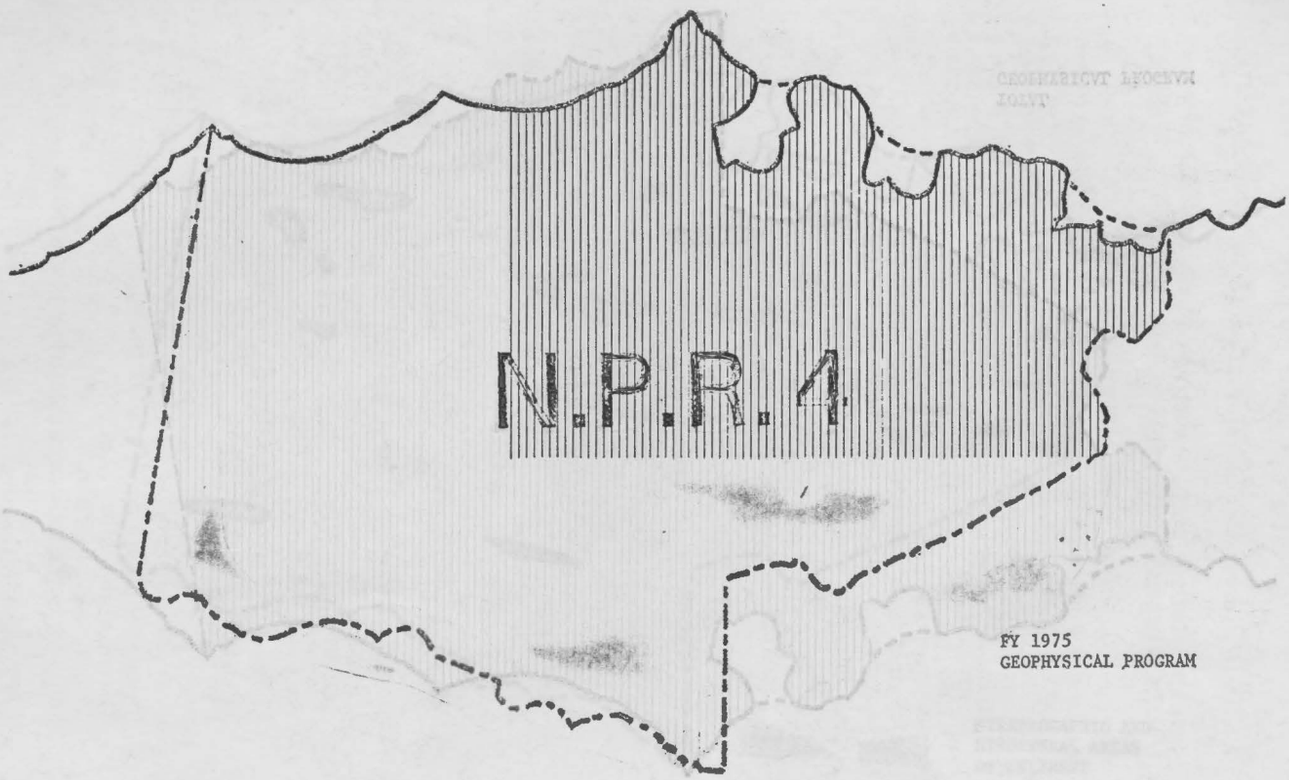
26 wells.
Time frame: 7 years.
10,000 miles of geophysics.
Cost of $382M.



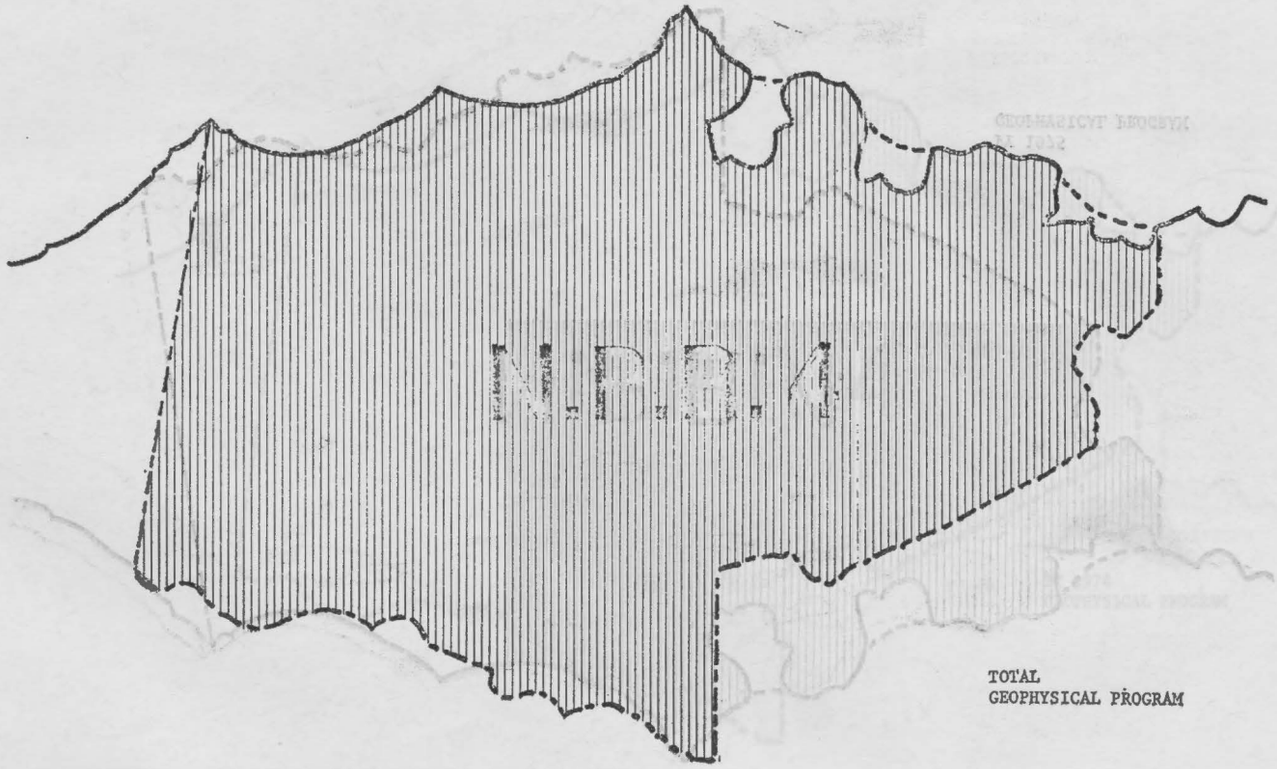
NPR–4 GEOPHYSICAL PROGRAM



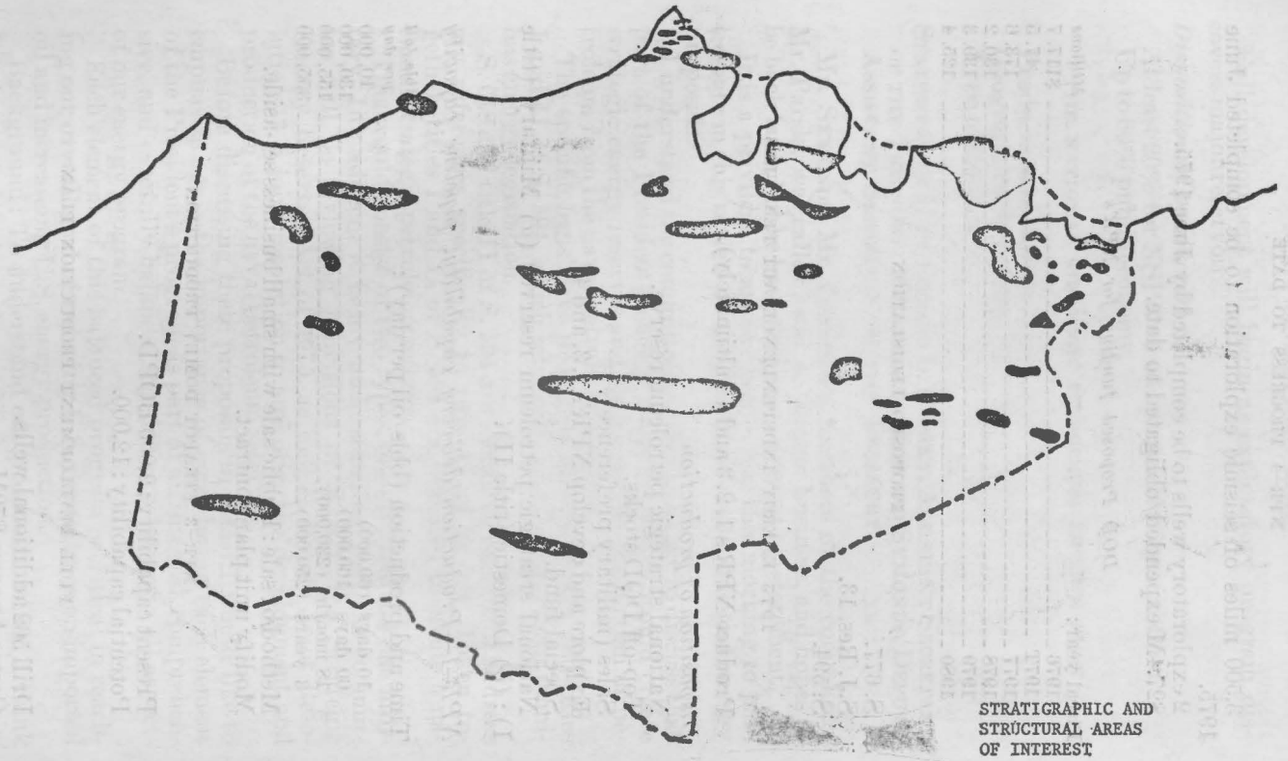
FY 1974
GEOPHYSICAL PROGRAM



FY 1975
GEOPHYSICAL PROGRAM



TOTAL
GEOPHYSICAL PROGRAM



STRATIGRAPHIC AND
STRUCTURAL AREAS
OF INTEREST

NPR–4 PROGRESS TO DATE

3,500 miles of seismic exploration to be completed June 1975.

2 exploratory wells to be completed by June 1975.

$27.4M expended/obligated to date.

DOD Proposed funding for NPR's

Fiscal year:	Millions
1976	$117.7
197T	47.5
1977	173.6
1978	130.2
1979	139.3
1980	125.4

PROPOSED LEGISLATION

S. 677.
S.J. Res. 13.
S. 594.

1975 ENERGY INDEPENDENCE ACT FEATURES

Produce NPR's 1, 2, 3 and 4 (ultimately).

Disposition of production

National strategic petroleum reserve.
Top-off DOD stocks.
Sales (military preference).
Explore and develop NPR's 1, 3, and 4.
Special fund.
National strategic petroleum reserve: (*a*) Military (title I); (*b*) Domestic (title II).

NPR–1—Production/delivery capability, pipeline capacity

Time and production (bbls/oil per day):	Bbls./oil per day
10 days (60,000)	10,000
60 days (160,000)	130,000
18 months (230,000)	155,000
3 years (250,000)	355,000

Method of sale: Public sale with small business set-aside.
Modify unit plan contract.

NPR–3 (TEAPOT DOME) PRODUCTION

Present capability: 2,000 BOPD.
Potential capability: 12,000.

FULL DEVELOPMENT PRODUCTION PLAN

Drill 562 additional wells.
Costs: Approx. $70M.
Would earn approx. $232.5M over 5 years (new oil prices).

NPR–4 DEVELOPMENT PLAN

Full development will begin as exploratory program discovers major reservoirs.

Disposition of production

At least 20% for NSPR or sale proceeds to special fund.
Up to 80% public economy.

THE NATIONAL STRATEGIC PETROLEUM RESERVE PLAN

Products to be stored.
Geographical locations.
Type of storage.

STATEMENT OF HON. GERALD L. PARSKY, ASSISTANT SECRETARY OF THE TREASURY, DELIVERED BY EDWARD SYMONDS, DEPUTY ASSISTANT SECRETARY OF THE TREASURY

Mr. SYMONDS. Mr. Chairman, members of the committee, Mr. Parsky was called away on urgent business, and hopes to be back later, but he has asked me to present his statement.

It is a privilege to appear before you this morning to participate in this review of the President's economic and energy proposals.

I understand the committee would like today to discuss that part of the President's energy program which would create strategic energy reserves and authorize the production of petroleum from the naval petroleum reserves.

The specific legislative proposals include S. 618 and titles I and II of S. 594, which sets forth all 13 titles of our omnibus energy legislation.

S. 618 and title II of S. 594 are identical, and I will address my references specifically to title II of S. 594. Taken together, titles I and II of S. 594 are intended to create a national strategic petroleum reserve.

This would consist of two types, one civilian and one military. In addition, it is my understanding that the committee will be reviewing provisions of S. 677, the Strategic Energy Reserves Act of 1975, as well as Senate Joint Resolution 13, a joint resolution to authorize the development and production of the naval petroleum reserves.

Before discussing these proposals in detail I would like to emphasize again the importance of considering each element of the President's program as part of an integral, comprehensive, and carefully balanced legislative solution to all aspects of our energy program.

Each element of this balanced program is critical in reaching our overall goal of reducing U.S. dependence on imported oil and increasing U.S. energy production.

Background: To understand our proposals better, I think it is important to begin by explaining our current energy situation.

Oil has become an increasingly essential commodity throughout our economy. However, two distressing facts have occurred. First, our dependence on oil has increased both in absolute and relative terms.

We have in recent months been dependent upon foreign sources for approximately 36 percent of our domestic demand. For instance, for the 4-week period ending January 31, 1975, out of an average daily demand of 17,425,000 barrels, we imported 6,258,000 or almost 36 percent.

By contrast, in the corresponding 4-week period 1 year ago, we imported a daily average of 5,307,000 barrels out of an average demand of 17,142,000 barrels, or nearly 31 percent.

Similar relationships have been prevalent throughout the past months. For the 4-week period ending January 17 of this year, we imported 37 percent as opposed to 30 percent for the corresponding period last year.

It is, thus, clear that our percentage dependency has not decreased as a result of a slowdown in the economy. Concurrently, our capacity to produce domestic oil has declined. For the 4-week period ending January 31, our average daily domestic production stood at 8,577,000 barrels, as against 9,184,000 barrels during the corresponding period last year.

In the fall of 1973, we saw what could happen as a result of this reliance on foreign supply. The oil embargo of October, 1973, created major disruptions throughout our economy. These disruptions have been documented in the recent finding by Secretary Simon pursuant to section 232 of the Trade Expansion Act, as amended.

This investigation also concluded that petroleum is now being imported into this country in such quantities and under such circumstances as to threaten to impair national security.

A copy of this finding and the investigation conducted by the Treasury Department in connection therewith was previously submitted to this committee, but I would be happy to make additional copies available if needed.

In addition to the above data relating to the availability of oil, it must be borne in mind that what is really at stake is not only its availability but its cost. As was also brought out in Secretary Simon's investigation, the current price of foreign oil has contributed significantly to both the inflation and the recession that the United States is now experiencing.

The fact of the matter is that we have lost the ability to allow the market to determine the price of oil, and at present we have no choice but to look to OPEC for supply.

To retain control over our political and economic destiny, we must first achieve the ability to be effectively self-sufficient with respect to supplies of energy.

The President's energy program is designed to do just that and more—he has said that by the end of this century, we should strive to be able to supply a significant share of the free world's energy needs.

In order to accomplish his goals, we will need to develop alternatives for imported oil and we will also need to reduce our total demands for energy of all kinds.

Concurrently, we must work with other consuming nations to coordinate our energy policies and also to cooperate financially as we seek to adjust to higher oil prices.

In this process, it is important to remember that we are dealing with a long-term program, but that significant progress can be made on reductions in demand in the short term.

With this background in mind, I would like to briefly address the question before the committee this morning. The question of strategic reserves is principally addressed in titles I and II of the President's program. These titles which must be read together, authorize the creation of a national strategic petroleum reserve in the total amount up to 1.3 billion barrels of oil.

Of this, 300 million barrels would be specifically earmarked and stockpiled for military use. The balance of up to 1 billion barrels would be stockpiled and held in reserve for civilian use, at the discretion of the President, and to alleviate disruptions which might occur in our future supplies of oil from foreign sources.

The sizes of these reserves have not been determined arbitrarily. The Department of Defense estimated 300 million barrels of petroleum to be that level of readily available petroleum required for emergency military contingencies.

The 1 billion barrel civilian reserve represents close to a 1-year supply of imported oil at an import level of 3 million barrels per day. This is the level which is our target for 1985, we are confident that it will be reached.

A major objection previously raised against the concept of stockpiling petroleum reserves in such quantities has been economic. Filling such reserves by the use of petroleum costing $11 or $12 per barrel on the international market would be a significant capital expenditure which in and of itself would help to sustain the current high world prices.

To accommodate this problem, the President's program provides for the use of existing but currently untapped domestic resources to finance and fill the reserves.

Title I of the Energy Independence Act of 1975 would authorize the production of petroleum from the naval petroleum reserves to top off Defense Department storage tanks, with the remainder sold at auction or exchanged for refined petroleum products to be used by the military or used to fill a national strategic petroleum reserve.

Revenues generated from the sale of oil produced from the naval petroleum reserves would be used to finance the further exploration, development and production of the reserves, including NPR 4 in Alaska, as well as to finance construction of the necessary storage and related facilities.

At least 20 percent, or such other amount as is determined by the President, of the oil eventually produced from NPR 4

is specifically earmarked for military needs and for the national strategic petroleum reserve and the remainder made available to the domestic economy.

Although the oil reserves contained in NPR 4 are largely unexplored and significant production is not expected before 1982, it is anticipated that NPR 4 will provide a minimum of two million barrels of oil per day by 1985.

Title II would authorize the establishment of a civilian national strategic petroleum reserve of up to 1 billion barrels of petroleum.

This title would authorize the Federal Government to acquire, construct, and maintain petroleum storage facilities, to purchase petroleum or require industrial set-asides for a strategic reserve, and to utilize petroleum from the reserve to offset disruptions in foreign imports.

Some of the funds required to finance this program, as well as some of the oil to be stored would come from the production of NPR 1 in Elk Hills, Calif. We recognize, Mr. Chairman, that there are speculative aspects of any proposal to create standby reserves.

The specific timetables that will be required for full implementation, the exact quantities of oil contained in the untapped reserves, and the costs, timing and to a degree the technology involved in obtaining or creating the storage facilities all require more detailed analysis.

We have made great strides in defining the dimensions of this problem but the specific aspects of the proposal requires definition. With this in mind, the President's proposal provides for preparation of a detailed implementation plan which will set forth the environmental aspects, the proposed manner of storage, the proposal location of all facilities and their proximity to transportation, the optimal mix of crude and product to be stored, the exact size and the most economically efficient levels of the stockpile, and a detailed schedule for establishing the system. This plan would take into account timetables for construction of the facilities and the obtaining of the petroleum, all relevant costs both capital and operating and the market impact upon both domestic and international petroleum markets.

This implementation plan will be submitted to the Congress within 1 year of enactment and would allow full and complete evaluation of the effectiveness of the entire program.

Once established, this strategic reserve, together with the exercise of certain standby authorities provided for in title XIII, will minimize the effects of supply disruption from future embargoes or other energy emergencies.

I would like briefly now to discuss the current status of our naval petroleum reserves. Mr. Chairman, since that has been covered in detail by previous speakers, I will omit that section, and conclude, if I may, and submit that part of the statement for the record.

I will conclude that while we defer for more specific analysis to the other agencies involved, representatives of which

have already spoken, we note that the existing statutory authority would be amended to grant executive authority over the reserves to the President.

This is intended to enable appropriate restructuring, taking into account the recommendations of the Secretary of the Navy of expenditures and budgetary and other authorities over the reserves.

With respect to the other items on the agenda today, I would only note, Mr. Chairman, that Senate Joint Resolution 13 is a proposed joint resolution by the Congress pursuant to title 10 of the United States Code, which is necessary to authorize production of the naval petroleum reserves.

We endorse the need for this production. It is an element of the President's program, and of the programs prepared by the Democratic majority of both Houses and by the House Ways and Means Committee.

It must be a part of any attempt to address in a comprehensive fashion our Nation's energy needs.

Thank you, Mr. Chairman.

IX. CHANGES IN EXISTING LAW

Subsection (4) of rule XXIX of the Standing Rules of the Senate requires a statement of any changes in existing law made by the bill ordered reported, S. 677 makes no amendment to or changes in existing laws.

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94TH CONGRESS
1st Session

SENATE

REPORT
No. 94-516

ENERGY POLICY AND CONSERVATION ACT

DECEMBER 8, 1975.—Ordered to be printed

Mr. JACKSON, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 622]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 622) to increase domestic energy supplies and availability; to restrain energy demand; to prepare for energy emergencies; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Energy Policy and Conservation Act".

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