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MARSH

CONFERENCE COMMITTEE PRINT

DECEMBER 8, 1975

**WORKING TEXT OF CONFERENCE SUBSTITUTE
ON THE BILL S. 622**

Prepared by the Staff to the Conference on the Bill S. 622

- 1 That this Act may be cited as the "Energy Policy and
- 2 Conservation Act".

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1 STATEMENT OF PURPOSES

2 SEC. 2. The purposes of this Act are—

3 (1) to grant specific standby authority to the Presi-
 4 dent, subject to congressional review, to impose rationing,
 5 to reduce demand for energy through the implementation
 6 of energy conservation plans, and to fulfill obligations
 7 of the United States under the international energy
 8 program;

9 (2) to provide for the creation of a strategic petro-
 10 leum reserve capable of reducing the impact of severe
 11 energy supply interruptions;

12 (3) to increase the supply of fossil fuels in the

1 *United States, through price incentives and production*
2 *requirements;*

3 *(4) to conserve energy supplies through energy*
4 *conservation programs, and, where necessary, the reg-*
5 *ulation of certain energy uses;*

6 *(5) to provide for improved energy efficiency of*
7 *motor vehicles, major appliances, and certain other*
8 *consumer products;*

9 *(6) to reduce the demand for petroleum products*
10 *and natural gas through programs designed to provide*
11 *greater availability and use of this Nation's abundant*
12 *coal resources; and*

13 *(7) to provide a means for verification of energy*
14 *data to obtain a reliable energy data base.*

15 **DEFINITIONS**

16 *SEC. 3. As used in this Act:*

17 *(1) The term "Administrator" means the Adminis-*
18 *trator of the Federal Energy Administration.*

19 *(2) The term "person" includes (A) any individual,*
20 *(B) any corporation, company, association, firm, partner-*
21 *ship, society, trust, joint venture, or joint stock company, and*
22 *(C) the government and any agency of the United States or*
23 *any State or political subdivision thereof.*

24 *(3) The term "petroleum product" means crude oil,*

1 *natural gas liquids, residual fuel oil, or any refined petroleum*
2 *product.*

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

6 (5) *The term "United States" when used in the geo-*
7 *graphical sense means all of the States and the Outer Conti-*
8 *mental Shelf.*

9 (6) *The term "Outer Continental Shelf" has the same*
10 *meaning as such term has under section 2 of the Outer Conti-*
11 *mental Shelf Lands Act (43 U.S.C. 1331).*

12 (7) *The term "international energy program" means*
13 *the Agreement on an International Energy Program, signed*
14 *by the United States on November 18, 1974, including (A)*
15 *the annex entitled "Emergency Reserves", (B) any amend-*
16 *ment to such Agreement which includes another nation as a*
17 *party to such Agreement, and (C) any technical or clerical*
18 *amendment to such Agreement.*

19 (8) *The term "severe energy supply interruption"*
20 *means a national energy supply shortage which the President*
21 *determines—*

22 (A) *is, or is likely to be, of significant scope and*
23 *duration, and of an emergency nature;*

1 (B) may cause major adverse impact on national
2 safety or the national economy; and

3 (C) results, or is likely to result, from an interrup-
4 tion in the supply of imported petroleum products, or
5 from sabotage or an act of God.

6 (9) The term "antitrust laws" includes—

7 (A) the Act entitled "An Act to protect trade and
8 commerce against unlawful restraints and monopolies",
9 approved July 2, 1890 (15 U.S.C. 1, et seq.);

10 (B) the Act entitled "An Act to supplement existing
11 laws against unlawful restraints and monopolies, and
12 for other purposes", approved October 15, 1914 (15
13 U.S.C. 12, et seq.);

14 (C) the Federal Trade Commission Act (15
15 U.S.C. 41, et seq.);

16 (D) sections 73 and 74 of the Act entitled "An Act
17 to reduce taxation, to provide revenue for the Govern-
18 ment, and for other purposes", approved August 27,
19 1894 (15 U.S.C. 8 and 9); and

20 (E) the Act of June 19, 1936, chapter 592 (15
21 U.S.C. 13, 13a, 13b, and 21A).

22 (10) The term "Federal land" means all lands owned
23 or controlled by the United States, including the Outer Conti-
24 nental Shelf, and any land in which the United States has
25 reserved mineral interests, except lands—

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

2 “(2) may, by order, prohibit any major fuel burn-
3 ing installation, other than a powerplant,

4 from burning natural gas or petroleum products as its pri-
5 mary energy source, if the requirements of subsection (b) are
6 met and if (A) the Federal Energy Administrator deter-
7 mines such powerplant or installation on June 22, 1974,
8 had, or thereafter acquires or is designed with, the capability
9 and necessary plant equipment to burn coal, or (B) such
10 powerplant or installation is required to meet a design or
11 construction requirement under subsection (c).”

12 (c) Section 2(c) of such Act is amended by inserting
13 “or other major fuel burning installation” after “power-
14 plant” wherever it appears and by inserting “in the case of a
15 powerplant” after “(1)” in the second sentence.

16 INCENTIVES TO DEVELOP UNDERGROUND COAL MINES

17 SEC. 102. (a)(1) The Administrator may, in accord-
18 ance with regulations prescribed under subsection (d) and
19 pursuant to subsection (e), guarantee loans made to eligible
20 persons described in subsection (c)(1) for the purpose of
21 developing new underground coal mines.

22 (2) The term “developing new underground coal mines”
23 includes expansion of existing underground coal mines and
24 the reopening of underground coal mines which had pre-
25 viously been closed.

1 **(b)(1)** *A person shall be eligible for a loan guarantee*
2 *under subsection (a) only if the Administrator determines*
3 *that—*

4 **(A)** *such person is capable of successfully develop-*
5 *ing and operating the mine with respect to which the*
6 *loan guarantee is sought;*

7 **(B)** *such person has provided adequate assur-*
8 *ance that the mine will be constructed and operated in*
9 *compliance with the provisions of the Federal Coal Mine*
10 *Health and Safety Act and that no final judgment hold-*
11 *ing such person liable for any fine or penalty under such*
12 *Act is unsatisfied;*

13 **(C)** *there is a reasonable prospect of repayment*
14 *of the guaranteed loan;*

15 **(D)** *such person has obtained a contract of at*
16 *least the duration of the period during which the loan is*
17 *required to be repaid for the sale of coal to be produced*
18 *from such mine to a person who the Administrator of*
19 *the Environmental Protection Agency certifies will be*
20 *able to burn such coal in compliance with all applicable*
21 *requirements of the Clean Air Act, and of any appli-*
22 *cable implementation plan (as defined in section 110 of*
23 *such Act);*

24 **(E)** *the loan will be adequately secured;*

1 (F) such person would be unable to obtain adequate
2 financing without such guarantee;

3 (G) the guaranteeing of a loan to such person
4 will enhance competition or encourage new market entry;
5 and

6 (H) such person has adequate coal reserves to cover
7 contractual commitments described in subparagraph
8 (D).

9 (2) The total amount of guarantees issued to any person
10 (including all persons affiliated with such person) may not
11 exceed \$30,000,000. The amount of a guarantee issued with
12 respect to any loan may not exceed 80 percent of the lesser
13 of (A) the principal balance of the loan or, (B) the cost of
14 developing such new underground coal mine.

15 (3) The aggregate outstanding principal amount of
16 loans which are guaranteed under this section may not at any
17 time exceed \$750,000,000. Not more than 20 percent of the
18 amount of guarantees issued under this section in any fiscal
19 year may be issued with respect to loans for the purpose of
20 opening new underground coal mines which produce coal
21 which is not low sulfur coal.

22 (c) For purposes of this section—

23 (1) A person shall be considered eligible for a
24 guarantee under this section if such person (together
25 with all persons affiliated with such person)—

1 (A) did not produce more than 1,000,000 tons
2 of coal in the calendar year preceding the year in
3 which he makes application for a loan guarantee un-
4 der this section;

5 (B) did not produce more than 300,000 bar-
6 rels of crude oil or own an oil refinery in such pre-
7 ceding calendar year; and

8 (C) did not have gross revenues in excess of
9 \$50,000,000 in such calendar year.

10 (2) A person is affiliated with another person if he
11 controls, is controlled by, or is under common control
12 with such other person, as determined by rule by the
13 Administrator.

14 (3) The term "low sulfur coal" means coal which,
15 in a quantity necessary to produce one million British
16 thermal units, does not contain sulfur or sulfur com-
17 pounds the elemental sulfur content of which exceeds 0.6
18 pound. Sulfur content shall be determined after the ap-
19 plication of any coal preparation process which takes
20 place before sale of the coal by the producer.

21 (d) The Administrator shall prescribe such regulations
22 as may be necessary or appropriate to carry out this section.

23 (e) The Secretary of the Treasury shall issue loan
24 guarantees to any person which the Administrator has certi-
25 fied to the Secretary as eligible to receive any such guar-

1 *antee. Such guarantees shall be issued subject to the require-*
2 *ments of paragraphs (2) and (3) of subsection (b) and*
3 *upon such terms and conditions as the Secretary, by rule,*
4 *determines necessary to administer the loan guarantee pro-*
5 *gram under this section and in order to protect the interests*
6 *of the United States.*

7 *(f) Each recipient of a guarantee under this section shall*
8 *keep such records as the Administrator or the Secretary of the*
9 *Treasury shall require, including records which fully disclose*
10 *the total cost of the project or program for which a loan is*
11 *guaranteed under this section and such other records as the*
12 *Administrator or the Secretary of the Treasury determines*
13 *necessary to facilitate an effective audit and performance*
14 *evaluation. The Administrator, the Secretary of the Treas-*
15 *ury, and the Comptroller General of the United States, or*
16 *any of their duly authorized representatives, shall have access*
17 *for the purpose of audit and examination to any pertinent*
18 *books, documents, papers, and records of any recipient of a*
19 *guarantee under this section.*

20 DOMESTIC USE OF ENERGY SUPPLIES AND RELATED
21 MATERIALS AND EQUIPMENT

22 SEC. 103. (a) *The President may, by rule, under such*
23 *terms and conditions as he determines to be appropriate and*
24 *necessary to carry out the purposes of this Act, restrict ex-*
25 *ports of—*

1 (1) coal, petroleum products, natural gas, or petro-
2 chemical feedstocks, and

3 (2) supplies of materials or equipment which he
4 determines to be necessary to maintain or further ex-
5 ploration, production, refining, or transportation of
6 energy supplies, or for the construction or maintenance of
7 energy facilities within the United States.

8 (b)(1) The President shall exercise the authority pro-
9 vided for in subsection (a) to promulgate a rule prohibiting
10 the export of crude oil and natural gas produced in the United
11 States, except that the President may, pursuant to paragraph
12 (2), exempt from such prohibition such crude oil or natural
13 gas exports which he determines to be consistent with the
14 national interest and the purposes of this Act.

15 (2) Exemptions from any rule prohibiting crude oil or
16 natural gas exports shall be included in such rule or provided
17 for in an amendment thereto and may be based on the purpose
18 for export, class of seller or purchaser, country of destination,
19 or such other reasonable classifications and bases as the Presi-
20 dent determines to be appropriate and consistent with the
21 national interest and the purposes of this Act.

22 (c) In order to implement any rule promulgated under
23 subsection (a) of this section, the President may request and,
24 if so, the Secretary of Commerce shall, pursuant to the pro-
25 cedures established by the Export Administration Act of

1 1969 (but without regard to the phrase "and to reduce the
2 serious inflationary impact of foreign demand" in section
3 3(2)(A) of such Act), impose such restrictions as specified
4 in any rule under subsection (a) on exports of coal, petroleum
5 products, natural gas, or petrochemical feedstocks, and such
6 supplies of materials and equipment.

7 (d) Any finding by the President pursuant to subsection
8 (a) or (b) and any action taken by the Secretary of Com-
9 merce pursuant thereto shall take into account the national
10 interest as related to the need to leave uninterrupted or un-
11 impaired—

12 (1) exchanges in similar quantity for convenience
13 or increased efficiency of transportation with persons or
14 the government of an adjacent foreign state, or

15 (2) temporary exports for convenience or increased
16 efficiency of transportation across parts of an adjacent
17 foreign state which exports reenter the United States, or

18 (3) the historical trading relations of the United
19 States with Canada and Mexico.

20 (e)(1) The provisions of subchapter II of chapter 5
21 of title 5, United States Code shall apply with respect to the
22 promulgation of any rule pursuant to this section, except
23 that the President may waive the requirement pertaining to
24 the notice of proposed rulemaking or period for comment only
25 if he finds that compliance with such requirements may se-

1 riously impair his ability to impose effective and timely pro-
2 hibitions on exports.

3 (2) In the event such notice and comment period are
4 waived with respect to a rule promulgated under this section,
5 the President shall afford interested persons an opportunity
6 to comment on any such rule at the earliest practicable date
7 thereafter.

8 (3) If the President determines to request the Secretary
9 of Commerce to impose specified restrictions as provided for
10 in subsection (c), the enforcement and penalty provisions of
11 the Export Administration Act of 1969 shall apply, in lieu
12 of this Act, to any violation of such restrictions.

13 (f) The President shall submit quarterly reports to the
14 Congress concerning the administration of this section and
15 any findings made pursuant to subsection (a) or (b).

16 MATERIALS ALLOCATION

17 SEC. 104. (a) Section 101 of the Defense Production
18 Act of 1950 is amended by adding at the end thereof the
19 following new subsection:

20 "(c)(1) Notwithstanding any other provision of this
21 Act, the President may, by rule or order, require the alloca-
22 tion of, or the performance under contracts or orders (other
23 than contracts of employment) relating to, supplies of mate-
24 rials and equipment in order to maximize domestic energy

1 *supplies if he makes the findings required by paragraph (3)*
2 *of this subsection.*

3 *“(2) The President shall report to the Congress within*
4 *sixty days after the date of enactment of this subsection on*
5 *the manner in which the authority contained in paragraph*
6 *(1) will be administered. This report shall include the man-*
7 *ner in which allocations will be made, the procedure for*
8 *requests and appeals, the criteria for determining priorities as*
9 *between competing requests, and the office or agency which*
10 *will administer such authorities.*

11 *“(3) The authority granted in this subsection may not*
12 *be used to control the distribution of any supplies of materials*
13 *and equipment in the marketplace unless the President finds*
14 *that—*

15 *“(A) such supplies are scarce, critical, and essential*
16 *to maintain or further exploration, production, refining,*
17 *transportation, or the conservation of energy supplies*
18 *or for the construction and maintenance of energy fa-*
19 *cilities; and*

20 *“(B) maintenance or furtherance of exploration,*
21 *production, refining, transportation, or conservation*
22 *of energy supplies or the construction and maintenance*
23 *of energy facilities cannot reasonably be accomplished*
24 *without exercising the authority specified in paragraph*
25 *(1) of this subsection.*

1 “(4) During any period when the authority conferred
2 by this subsection is being exercised, the President shall take
3 such action as may be appropriate to assure that such author-
4 ity is being exercised in a manner which assures the
5 coordinated administration of such authority with any
6 priorities or allocations established under subsection (a) of
7 this section and in effect during the same period.”.

8 (b)(1) The authority to issue any rules or orders under
9 section 101(c) of the Defense Production Act of 1950, as
10 amended by this Act, shall expire at midnight December 31,
11 1984, but such expiration shall not affect any action or pend-
12 ing proceedings, civil or criminal, not finally determined on
13 such date, nor any action or proceeding based upon any act
14 committed prior to such date.

15 (2) The expiration of the Defense Production Act of
16 1950 or any amendment of such Act after the date of enact-
17 ment of this Act shall not affect the authority of the President
18 under section 101(c) of such Act, as amended by subsection
19 (a) of this section and in effect on the date of enactment of
20 this Act, unless Congress expressly provides to the contrary.

21 PROHIBITION OF CERTAIN LEASE BIDDING

22 ARRANGEMENTS

23 SEC. 105. (a) The Secretary of the Interior shall, not
24 later than 30 days after the date of enactment of this Act,
25 promulgate and make effective a rule which prohibits the

1 bidding for any right to develop crude oil, natural gas, and
2 natural gas liquids on any lands located on the Outer Con-
3 tinental Shelf by any person if more than one major oil
4 company, more than one affiliate of a major oil company,
5 or a major oil company and any affiliate of a major oil
6 company, has or have a significant ownership interest in such
7 person. Such rule shall define affiliate relationships and sig-
8 nificant ownership interests.

9 (b) As used in this section:

10 (1) The term "major oil company" means any
11 person who, individually or together with any other per-
12 son with respect to which such person has an affiliate re-
13 lationship or significant ownership interest, produced
14 during a prior 6-month period specified by the Sec-
15 retary, an average daily volume of 1,600,000 barrels
16 of crude oil, natural gas liquids equivalents, and nat-
17 ural gas equivalents.

18 (2) One barrel of natural gas equivalent equals
19 5,626 cubic feet of natural gas measured at 14.73 pounds
20 per square inch (MSL) and 60 degrees Fahrenheit.

21 (3) One barrel of natural gas liquids equivalent
22 equals 1.454 barrels of natural gas liquids at 60 de-
23 grees Fahrenheit.

24 (c) The Secretary may, by amendment to the rule,
25 exempt bidding for leases for lands located in frontier or other

1 areas determined by the Secretary to be extremely high risk
 2 lands or to present unusually high cost exploration, or devel-
 3 opment, problems.

4 (d) This section shall not be construed to prohibit the
 5 unitization of producing fields to increase production or
 6 maximize ultimate recovery of oil or natural gas, or both.

7 (e) The Secretary shall study and report to the Congress,
 8 not later than 6 months after the date of enactment of this
 9 Act, with respect to the feasibility and desirability of extend-
 10 ing the prohibition on joint bidding to—

11 (1) bidding for any right to develop crude oil, nat-
 12 ural gas, and natural gas liquids on Federal lands other
 13 than those located on the Outer Continental Shelf; and

14 (2) bidding for any right to develop coal and oil
 15 shale on such lands.

16 **PRODUCTION OF OIL OR GAS AT THE MAXIMUM EFFICIENT**
 17 **RATE AND TEMPORARY EMERGENCY PRODUCTION**
 18 **RATE**

19 **SEC. 106. (a)(1)** The Secretary of the Interior, by
 20 rule on the record after an opportunity for a hearing, shall,
 21 to the greatest extent practicable, determine the maximum
 22 efficient rate of production and, if any, the temporary emer-
 23 gency production rate for each field on Federal lands which
 24 produces, or is determined to be capable of producing, sig-
 25 nificant volumes of crude oil or natural gas, or both.

1 (2) *Except as provided in subsection (e), the Presi-*
2 *dent may, by rule or order, require crude oil or natural*
3 *gas, or both, to be produced from fields on Federal lands*
4 *designated by him—*

5 (A) *at the maximum efficient rate of production, and*
6 (B) *during a severe energy supply interruption, at*
7 *the temporary emergency production rate*
8 *determined pursuant to paragraph (1) for such field.*

9 (b)(1) *Each State or the appropriate agency thereof*
10 *may, for the purposes of this section, pursuant to procedures*
11 *and standards established by the State, determine the maxi-*
12 *mum efficient rate of production and, if any, the temporary*
13 *emergency production rate, for each field (other than a field*
14 *on Federal lands) within such State which produces, or*
15 *is determined to be capable of producing, significant volumes*
16 *of crude oil or natural gas, or both.*

17 (2) *If a State or the appropriate agency thereof has*
18 *determined the maximum efficient rate of production and, if*
19 *any, the temporary emergency production rate, or both, or*
20 *their equivalents (however characterized), for any field*
21 *(other than a field on Federal lands) within such State,*
22 *the President may, by rule or order, during a severe energy*
23 *supply interruption, require the production of such fields at*
24 *the rates of production established by the State.*

25 (c) *With respect to any field, which produces, or is*

1 determined to be capable of producing, significant volumes
2 of crude oil, or natural gas, or both, which field is unitized
3 and composed of both Federal lands and lands other than
4 Federal lands and there has been no determination of the
5 maximum efficient rate of production or the temporary
6 emergency production rate or both, the Secretary of the
7 Interior may, pursuant to subsection (a)(1), determine a
8 maximum efficient rate of production and a temporary emer-
9 gency production rate, if any, for such field. The President
10 may, during a severe energy supply interruption by rule or
11 order, require production at the maximum efficient rate of
12 production and the temporary emergency production rate, if
13 any, determined for such field.

14 (3) If loss of ultimate recovery of crude oil or natural
15 gas, or both, occurs or will occur as the result of a rule or
16 order under the authority of this section to produce at the
17 temporary emergency production rate, the owner of any
18 property right who considers himself damaged by such
19 order may bring an action in a United States district court
20 to recover just compensation, which shall be awarded if the
21 court finds that such loss constitutes a taking of property
22 compensable under the Constitution.

23 (d) As used in this section:

24 (1) The term "maximum efficient rate of produc-
25 tion" means the maximum rate of production of crude oil

1 or natural gas, or both, which may be sustained without
2 loss of ultimate recovery of crude oil or natural gas, or
3 both, under sound engineering and economic principles.

4 (2) The term "temporary emergency production
5 rate" means the maximum rate of production for a field—

6 (A) which rate is above the maximum efficient
7 rate of production established for such field; and

8 (B) which may be maintained for a temporary
9 period of less than 90 days without reservoir damage
10 and without significant loss of ultimate recovery of
11 crude oil or natural gas, or both, from such field.

12 (e) Nothing in this section shall be construed to au-
13 thorize the production of crude oil, or natural gas, or both,
14 from any Naval Petroleum Reserve subject to the provisions
15 of chapter 641 of title 10, United States Code.

16 PART B—STRATEGIC PETROLEUM RESERVE

17 DECLARATION OF POLICY

18 SEC. 151. (a) The Congress finds that the storage of
19 substantial quantities of petroleum products will diminish
20 the vulnerability of the United States to the effects of a severe
21 energy supply interruption, and provide limited protection
22 from the short-term consequences of interruptions in supplies
23 of petroleum products.

24 (b) It is hereby declared to be the policy of the United
25 States to provide for the creation of a Strategic Petroleum

1 Reserve for the storage of up to 1 billion barrels of petro-
2 leum products but not less than 150 million barrels, within
3 3 years after the date of enactment of this Act, for the
4 purpose of reducing the impact of disruptions in supplies
5 of petroleum products or to carry out obligations of the
6 United States under the international energy program. It is
7 further declared to be the policy of the United States to pro-
8 vide for the creation, as part of such Reserve, of an Early
9 Storage Reserve or the purpose of providing limited protec-
10 tion from the impact of near term disruptions in supplies
11 of petroleum products or to carry out obligations of the
12 United States under the international energy program.

13 DEFINITIONS

14 SEC. 152. As used in this part:

15 (1) The term "Early Storage Reserve" means that
16 portion of the Strategic Petroleum Reserve which consists
17 of petroleum products stored pursuant to section 155.

18 (2) The term "importer" means any person who
19 owns, at the first place of storage, any petroleum product
20 imported into the United States.

21 (3) The term "Industrial Petroleum Reserve"
22 means that portion of the Strategic Petroleum Reserve
23 which consists of petroleum products owned by importers
24 or refiners and acquired, stored, or maintained pursuant
25 to section 156.

1 (4) The term "interest in land" means any owner-
2 ship or possessory right with respect to real property,
3 including ownership in fee, an easement, a leasehold, and
4 any subsurface or mineral rights.

5 (5) The term "readily available inventories" means
6 stocks and supplies of petroleum products which can be
7 distributed or used without affecting the ability of the
8 importer or refiner to operate at normal capacity; such
9 term does not include minimum working inventories or
10 other unavailable stocks.

11 (6) The term "refiner" means any person who
12 owns, operates, or controls the operation of any refinery.

13 (7) The term "Regional Petroleum Reserve" means
14 that portion of the Strategic Petroleum Reserve which
15 consists of petroleum products stored pursuant to section
16 157.

17 (8) The term "related facility" means any neces-
18 sary appurtenance to a storage facility, including pipe-
19 lines, roadways, reservoirs, and salt brine lines.

20 (9) The term "Reserve" means the Strategic Pe-
21 troleum Reserve.

22 (10) The term "storage facility" means any facility
23 or geological formation which is capable of storing sig-
24 nificant quantities of petroleum products.

25 (11) The term "Strategic Petroleum Reserve"

1 means petroleum products stored in storage facilities pur-
2 suant to this part; such term includes the Industrial Pe-
3 troleum Reserve, the Early Storage Reserve, and the
4 Regional Petroleum Reserve.

5 STRATEGIC PETROLEUM RESERVE OFFICE

6 SEC. 153. There is established, in the Federal Energy
7 Administration, a Strategic Petroleum Reserve Office. The
8 Administrator, acting through such Office and in accordance
9 with this part, shall exercise authority over the establishment,
10 management, and maintenance of the Reserve.

11 STRATEGIC PETROLEUM RESERVE

12 SEC. 154. (a) A Strategic Petroleum Reserve for the
13 storage of up to 1 billion barrels of petroleum products shall
14 be created pursuant to this part. Within 3 years after the
15 date of enactment of this Act, the Strategic Petroleum Re-
16 serve (or the Early Storage Reserve if no Strategic Petro-
17 leum Reserve Plan has become effective pursuant to the
18 provisions of section 159(a)) shall contain 150 million
19 barrels of petroleum products.

20 (b) The Administrator, not later than December 15,
21 1976, shall prepare and transmit to the Congress, in accord-
22 ance with section 551, a Strategic Petroleum Reserve Plan.
23 Such Plan shall comply with the provisions of this section
24 and shall detail the Administrator's proposals for designing,

1 constructing, and filing the storage and related facilities of
2 the Reserve.

3 (c)(1) To the maximum extent practicable and except
4 to the extent that any change in the storage schedule is jus-
5 tified pursuant to subsection (e)(6), the Strategic Petroleum
6 Reserve Plan shall provide that:

7 (A) within 7 years after the date of enactment of
8 this Act, the volume of crude oil stored in the Reserve
9 shall equal the total volume of crude oil which was im-
10 ported into the United States during the base period
11 specified in paragraph (2);

12 (B) within 18 months after the date of enactment
13 of this Act, the volume of crude oil stored in the Reserve
14 shall equal not less than 10 percent of the goal specified
15 in subparagraph (A);

16 (C) within 3 years after the date of enactment of
17 this Act, the volume of crude oil stored in the Reserve
18 shall equal not less than 25 percent of the goal specified
19 in subparagraph (A); and

20 (D) within 5 years after the date of enactment of
21 this Act, the volume of crude oil stored in the Reserve
22 shall equal not less than 65 percent of the goal specified in
23 subparagraph (A).

24 Volumes of crude oil initially stored in the Early Storage
25 Reserve and volumes of crude oil stored in the Industrial

1 *Petroleum Reserve, and the Regional Petroleum Reserve shall*
2 *be credited toward attainment of the storage goals specified*
3 *in this subsection.*

4 (2) *The base period shall be the period of any three*
5 *consecutive months, during the 24-month period preceding the*
6 *date of enactment of this Act, in which average monthly im-*
7 *port levels were the highest.*

8 (d) *The Strategic Petroleum Reserve Plan shall be*
9 *designed to assure, to the maximum extent practicable, that*
10 *the Reserve will minimize the impact of any interruption or*
11 *reduction in imports of refined petroleum products and resid-*
12 *ual fuel oil in any region which the Administrator deter-*
13 *mines is, or is likely to become, dependent upon such imports*
14 *for a substantial portion of the total energy requirements of*
15 *such region. The Strategic Petroleum Reserve Plan shall be*
16 *designed to assure, to the maximum extent practicable, that*
17 *each noncontiguous area of the United States which does not*
18 *have overland access to domestic crude oil production has its*
19 *component of the Strategic Petroleum Reserve within its*
20 *respective territory.*

21 (e) *The Strategic Petroleum Reserve Plan shall include:*

- 22 (1) *a comprehensive environmental assessment;*
23 (2) *a description of the type and proposed location*
24 *of each storage facility (other than storage facilities of*

1 *the Industrial Petroleum Reserve) proposed to be in-*
2 *cluded in the Reserve;*

3 *(3) a statement as to the proximity of each such*
4 *storage facility to related facilities;*

5 *(4) an estimate of the volumes and types of petro-*
6 *leum products proposed to be stored in each such storage*
7 *facility;*

8 *(5) a projection as to the aggregate size of the Re-*
9 *serve, including a statement as to the most economically-*
10 *efficient storage levels for each such storage facility;*

11 *(6) a justification for any changes, with respect to*
12 *volumes or dates, proposed in the storage schedule speci-*
13 *fied in subsection (c), and a program schedule for*
14 *overall development and completion of the Reserve (tak-*
15 *ing into account all relevant factors, including cost effec-*
16 *tiveness, the need to construct related facilities, and the*
17 *ability to obtain sufficient quantities of petroleum products*
18 *to fill the storage facilities to the proposed storage levels);*

19 *(7) an estimate of the direct cost of the Reserve,*
20 *including—*

21 *(A) the cost of storage facilities;*

22 *(B) the cost of the petroleum products to be*
23 *stored;*

24 *(C) the cost of related facilities; and*

25 *(D) management and operation costs;*

1 (8) *an evaluation of the impact of developing the*
2 *Reserve, taking into account—*

3 (A) *the availability and the price of supplies*
4 *and equipment and the effect, if any, upon domestic*
5 *production of acquiring such supplies and equip-*
6 *ment for the Reserve;*

7 (B) *any fluctuations in world, and domestic,*
8 *market prices for petroleum products which may*
9 *result from the acquisition of substantial quantities*
10 *of petroleum products for the Reserve;*

11 (C) *the extent to which such acquisition may*
12 *support otherwise declining market prices for such*
13 *products; and*

14 (D) *the extent to which such acquisition will*
15 *affect competition in the petroleum industry;*

16 (9) *an identification of the ownership of each storage*
17 *and related facility proposed to be included in the*
18 *Reserve (other than storage and related facilities of the*
19 *Industrial Petroleum Reserve);*

20 (10) *an identification of the ownership of the petro-*
21 *leum products to be stored in the Reserve in any case*
22 *where such products are not owned by the United States;*

23 (11) *a statement of the manner in which the pro-*
24 *visions of this part relating to the establishment of the*

1 *Industrial Petroleum Reserve and the Regional Petro-*
2 *leum Reserve will be implemented; and*

3 *(12) a Distribution Plan setting forth the method of*
4 *drawdown and distribution of the Reserve.*

5 *EARLY STORAGE RESERVE*

6 *SEC. 155. (a) (1) The Administrator shall establish an*
7 *Early Storage Reserve as part of the Strategic Petroleum*
8 *Reserve. The Early Storage Reserve shall be designed to*
9 *utilize, to the maximum extent practicable, existing storage*
10 *capacity. Petroleum products stored in the Early Storage*
11 *Reserve may be owned by the United States or may be owned*
12 *by others and stored pursuant to section 156(b).*

13 *(2) The Early Storage Reserve or the Strategic Petro-*
14 *leum Reserve (if the Strategic Petroleum Reserve Plan has*
15 *become effective under section 159(a)) shall contain 150*
16 *million barrels of petroleum products within 3 years after the*
17 *date of enactment of this Act.*

18 *(b) The Early Storage Reserve shall provide for meeting*
19 *regional needs for residual fuel oil and refined petroleum*
20 *products in any region which the Administrator determines*
21 *is, or is likely to become, dependent upon imports of such oil*
22 *or products for a substantial portion of the total energy*
23 *requirements of such region.*

24 *(c) Within 90 days after the date of enactment of this*
25 *Act, the Administrator shall prepare and transmit to the*

1 Congress an Early Storage Reserve Plan which shall provide
2 for the storage of not less than 150 million barrels of petroleum
3 products by the end of 3 years from the date of enactment of
4 this Act. Such plan shall detail the Administrator's proposals
5 for implementing the Early Storage Reserve requirements of
6 this section. The Early Storage Reserve Plan shall, to the
7 maximum extent practicable, provide for, and set forth the
8 manner in which, Early Storage Reserve facilities will be
9 incorporated into the Strategic Petroleum Reserve after the
10 Strategic Petroleum Reserve Plan has become effective under
11 section 159(a). The Early Storage Reserve Plan shall in-
12 clude, with respect to the Early Storage Reserve, the same
13 or similar assessments, statements, estimates, evaluations, pro-
14 jections, and other information which section 154(e) requires
15 to be included in the Strategic Petroleum Reserve Plan, in-
16 cluding a Distribution Plan for the Early Storage Reserve.

17 INDUSTRIAL PETROLEUM RESERVE

18 SEC. 156. (a) The Administrator may establish an
19 Industrial Petroleum Reserve as part of the Strategic Pe-
20 troleum Reserve.

21 (b) To implement the Early Storage Reserve Plan or
22 the Strategic Petroleum Reserve Plan which has taken effect
23 pursuant to section 159(a), the Administrator may require
24 each importer of petroleum products and each refiner to (1)
25 acquire, and (2) store and maintain in readily available in-



1 ventories, petroleum products in amounts determined by the
2 Administrator, except that the Administrator may not re-
3 quire any such importer or refiner to store such petroleum
4 products in an amount greater than 3 percent of the
5 amount imported or refined by such person, as the case
6 may be, during the previous calendar year. Petroleum prod-
7 ucts imported and stored in the Industrial Petroleum Reserve
8 shall be exempt from any tariff or import license fee.

9 (c) The Administrator shall implement this section in a
10 manner which is appropriate to the maintenance of an eco-
11 nomically sound and competitive petroleum industry. The
12 Administrator shall take such steps as are necessary to avoid
13 inequitable economic impacts on refiners and importers, and
14 he may grant relief to any refiner or importer who would
15 otherwise incur special hardship, inequity, and unfair dis-
16 tribution of costs as the result of any rule, regulation, or
17 order promulgated under this section. Such relief may in-
18 clude full or partial exemption from any such rule, regula-
19 tion, or order and the issuance of an order permitting such
20 an importer or refiner to store petroleum products owned by
21 such importer or refiner in surplus storage capacity owned
22 by the United States.

23 REGIONAL PETROLEUM RESERVE

24 SEC. 157. (a) The Strategic Petroleum Reserve Plan
25 shall provide for the establishment and maintenance of a Re-

1 regional Petroleum Reserve readily accessible to each Federal
2 Energy Administration Region, as defined in title 10, Code
3 of Federal Regulations in effect on November 1, 1975, in
4 which imports of residual fuel oil or any refined petroleum
5 product, during the 24-month period, preceding the date of
6 computation, equal more than 20 percent of demand for such
7 oil or product in such regions during such period, as deter-
8 mined by the Administrator. Such volume shall be computed
9 annually.

10 (b) To implement the Strategic Petroleum Reserve Plan,
11 the Administrator shall accumulate and maintain in or near
12 any such Federal Energy Administration Region described
13 in subsection (a), a Regional Petroleum Reserve containing
14 volumes of such oil or product, described in subsection (a),
15 at a level adequate to provide substantial protection against
16 an interruption or reduction in imports of such oil or product
17 to such region, except that the level of any such Regional
18 Petroleum Reserve shall not exceed the aggregate volume of
19 imports of such oil or product into such region during the
20 period of any three consecutive months, during the 24-month
21 period specified in subsection (a), in which average monthly
22 import levels were the highest, as determined by the Admin-
23 istrator. Such volume shall be computed annually.

24 (c) The Administrator may place in storage crude oil,
25 residual fuel oil, or any refined petroleum product in sub-

1 *stitution for all or part of the volume of residual fuel oil or*
2 *any refined petroleum product stored in any Regional Petro-*
3 *leum Reserve pursuant to the provisions of this section if he*
4 *finds that such substitution (1) is necessary or desirable for*
5 *purposes of economy, efficiency, or for other reasons, and*
6 *(2) may be made without delaying or otherwise adversely*
7 *affecting the fulfillment of the purpose of the Regional Pe-*
8 *troleum Reserve.*

9 *OTHER STORAGE RESERVES*

10 *SEC. 158. Within 6 months after the Strategic Petroleum*
11 *Reserve Plan is transmitted to the Congress, pursuant to the*
12 *requirements of section 154(b), the Administrator shall pre-*
13 *pare and transmit to the Congress a report setting forth his*
14 *recommendations concerning the necessity for, and feasibility*
15 *of, establishing—*

16 *(1) Utility Reserves containing coal, residual fuel*
17 *oil, and refined petroleum products, to be established and*
18 *maintained by major fossil-fuel-fired baseload electric*
19 *power generating stations;*

20 *(2) Coal Reserves to consist of (A) federally-owned*
21 *coal which is mined by or for the United States from*
22 *Federal lands, and (B) Federal lands from which coal*
23 *could be produced with minimum delay; and*

24 *(3) Remote Crude Oil and Natural Gas Reserves*
25 *consisting of crude oil and natural gas to be acquired and*

1 stored by the United States, in place, pursuant to a con-
2 tract or other agreement or arrangement entered into
3 between the United States and persons who discovered
4 such oil or gas in remote areas.

5 REVIEW BY CONGRESS AND IMPLEMENTATION

6 SEC. 159. (a) The Strategic Petroleum Reserve Plan
7 shall not become effective and may not be implemented,
8 unless—

9 (1) the Administrator has transmitted such Plan to
10 the Congress pursuant to section 154(b); and

11 (2) neither House of Congress has disapproved (or
12 both Houses have approved) such Plan, in accordance
13 with the procedures specified in section 551.

14 (b) For purposes of congressional review of the Stra-
15 tegic Petroleum Reserve Plan under subsection (a), the 5
16 calendar days described in section 551(f)(4)(A) shall be
17 lengthened to 15 calendar days, and the 15 calendar days
18 described in section 551 (c) and (d) shall be lengthened to
19 45 calendar days.

20 (c) The Administrator may, prior to transmittal of the
21 Strategic Petroleum Reserve Plan, prepare and transmit to
22 the Congress proposals for designating, constructing, and fill-
23 ing storage or related facilities. Any such proposal shall be
24 accompanied by a statement explaining (1) the need for
25 action on such proposals prior to completion of such Plan,

1 (2) the anticipated role of the proposed storage or related
2 facilities in such Plan, and (3) to the maximum extent
3 practicable, the same or similar assessments, statements, esti-
4 mates, evaluations, projections, and other information which
5 section 154(e) requires to be included in the Strategic
6 Petroleum Reserve Plan.

7 (d) The Administrator may prepare amendments to the
8 Strategic Petroleum Reserve Plan or to the Early Storage
9 Reserve Plan. He shall transmit any such amendment to the
10 Congress together with a statement explaining the need
11 for such amendment and, to the maximum extent practicable,
12 the same or similar assessments, statements, estimates, evalua-
13 tions, projections, and other information which section 154(e)
14 requires to be included in the Strategic Petroleum Reserve
15 Plan.

16 (e) Any proposal transmitted under subsection (c) and
17 any amendment transmitted under subsection (d), other than
18 a technical or clerical amendment or an amendment to the
19 Early Storage Reserve Plan, shall not become effective and
20 may not be implemented unless—

21 (1) the Administrator has transmitted such pro-
22 posal or amendment to the Congress in accordance with
23 subsection (c) or (d) (as the case may be), and

24 (2) neither House of Congress has disapproved (or
25 both Houses of Congress have approved) such proposal

1 or amendment, in accordance with the procedures speci-
2 fied in section 551.

3 (f) To the extent necessary or appropriate to imple-
4 ment—

5 (1) the Strategic Petroleum Reserve Plan which has
6 taken effect pursuant to subsection (a);

7 (2) the Early Storage Reserve Plan;

8 (3) any proposal described in subsection (c), or any
9 amendment described in subsection (d), which such pro-
10 posal or amendment has taken effect pursuant to subsec-
11 tion (e); and

12 (4) any technical or clerical amendment or any
13 amendment to the Early Storage Reserve Plan,

14 the Administrator may:

15 (A) promulgate rules, regulations, or orders;

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

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

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

24 (E) acquire, subject to the provisions of section 150,
25 by purchase, exchange, or otherwise, petroleum products

1 for storage in the Strategic Petroleum Reserve, including
2 the Early Storage Reserve and the Regional Petroleum
3 Reserve;

4 (F) store petroleum products in storage facilities
5 owned and controlled by the United States or in storage
6 facilities owned by others if such facilities are subject to
7 audit by the United States;

8 (G) execute any contracts necessary to carry out
9 the provisions of such Strategic Petroleum Reserve Plan,
10 Early Storage Reserve Plan, proposal or amendment;

11 (H) require any importer of petroleum products
12 or any refiner to (A) acquire, and (B) store and main-
13 tain in readily available inventories, petroleum products
14 in the Industrial Petroleum Reserve, pursuant to section
15 156;

16 (I) require the storage of petroleum products in
17 the Industrial Petroleum Reserve, pursuant to section
18 156, on such reasonable terms as the Administrator may
19 specify in storage facilities owned and controlled by the
20 United States or in storage facilities other than those
21 owned by the United States if such facilities are subject
22 to audit by the United States;

23 (J) require the maintenance of the Industrial Pe-
24 troleum Reserve;

25 (K) maintain the Reserve; and



1 (L) bring an action, whenever he deems it necessary
2 to implement the Strategic Petroleum Reserve Plan, in
3 any court having jurisdiction of such proceedings, to
4 acquire by condemnation any real or personal property,
5 including facilities, temporary use of facilities, or other
6 interests in land, together with any personal property
7 located thereon or used therewith.

8 (g) Before any condemnation proceedings are instituted,
9 an effort shall be made to acquire the property involved
10 by negotiation, unless, the effort to acquire such property
11 by negotiation would, in the judgment of the Administrator be
12 futile or so time-consuming as to unreasonably delay the
13 implementation of the Strategic Petroleum Reserve Plan,
14 because of (1) reasonable doubt as to the identity of the
15 owners, (2) the large number of persons with whom it
16 would be necessary to negotiate, or (3) other reasons.

17 PETROLEUM PRODUCTS FOR STORAGE IN THE RESERVE

18 SEC. 160. (a) The Administrator is authorized, for pur-
19 poses of implementing the Strategic Petroleum Reserve Plan
20 or the Early Storage Reserve Plan, to place in storage,
21 transport, or exchange—

22 (1) crude oil produced from Federal lands, includ-
23 ing crude oil produced from the Naval Petroleum Re-
24 serves to the extent that such production is authorized by
25 law;



1 (2) *crude oil which the United States is entitled to*
2 *receive in kind as royalties from production on Federal*
3 *lands; and*

4 (3) *petroleum products acquired by purchase, ex-*
5 *change, or otherwise.*

6 (b) *The Administrator shall, to the greatest extent practi-*
7 *cable, acquire petroleum products for the Reserve, including*
8 *the Early Storage Reserve and the Regional Petroleum*
9 *Reserve in a manner consonant with the following objectives:*

10 (1) *minimization of the cost of the Reserve;*

11 (2) *orderly development of the Naval Petroleum*
12 *Reserves to the extent authorized by law;*

13 (3) *minimization of the Nation's vulnerability to a*
14 *severe energy supply interruption;*


15 (4) *minimization of the impact of such acquisition*
16 *upon supply levels and market forces; and*

17 (5) *encouragement of competition in the petroleum*
18 *industry.*

19 DRAWDOWN AND DISTRIBUTION OF THE RESERVE

20 SEC. 161. (a) *The Administrator may drawdown and*
21 *distribute the Reserve only in accordance with the provisions*
22 *of this section.*

23 (b) *Except as provided in subsections (c) and (f), no*
24 *drawdown and distribution of the Reserve may be made ex-*
25 *cept in accordance with the provisions of the Distribution*



1 Plan contained in the Strategic Petroleum Reserve Plan
2 which has taken effect pursuant to section 159(a).

3 (c) Drawdown and distribution of the Early Storage
4 Reserve may be made in accordance with the provisions of
5 the Distribution Plan contained in the Early Storage Re-
6 serve Plan until the Strategic Petroleum Reserve Plan has
7 taken effect pursuant to section 159(a).

8 (d) Neither the Distribution Plan contained in the Stra-
9 tegic Petroleum Reserve Plan nor the Distribution Plan
10 contained in the Early Storage Reserve Plan may be imple-
11 mented, and no drawdown and distribution of the Reserve
12 or the Early Storage Reserve may be made, unless the
13 President has found that implementation of either such Dis-
14 tribution Plan is required by a severe energy supply inter-
15 ruption or by obligations of the United States under the
16 international energy program.

17 (e) The Administrator may, by rule, provide for the
18 allocation of any petroleum product withdrawn from the
19 Strategic Petroleum Reserve in amounts specified in (or
20 determined in a manner prescribed by) and at prices speci-
21 fied in (or determined in a manner prescribed by) such
22 rules. Such price levels and allocation procedures shall be
23 consistent with the attainment, to the maximum extent prac-
24 ticable, of the objectives specified in section 4(b)(1) of the
25 Emergency Petroleum Allocation Act of 1973.

1 (f) *The Administrator may permit any importer or*
2 *refiner who owns any petroleum products stored in the Indus-*
3 *trial Petroleum Reserve pursuant to section 156 to remove*
4 *or otherwise dispose of such products upon such terms and*
5 *conditions as the Administrator may prescribe.*

6 *COORDINATION WITH IMPORT QUOTA SYSTEM*

7 *SEC. 162. No quantitative restriction on the importation*
8 *of any petroleum product into the United States imposed by*
9 *law shall apply to volumes of any such petroleum product*
10 *imported into the United States for storage in the Reserve.*

11 *DISCLOSURE, INSPECTION, INVESTIGATION*

12 *SEC. 163. (a) The Administrator may require any*
13 *person to prepare and maintain such records or accounts as*
14 *the Administrator, by rule, determines necessary to carry*
15 *out the purposes of this part.*

16 *(b) The Administrator may audit the operations of any*
17 *storage facility in which any petroleum product is stored or*
18 *required to be stored pursuant to the provisions of this part.*

19 *(c) The Administrator may require access to, and the*
20 *right to inspect and examine, at reasonable times, (1) any*
21 *records or accounts required to be prepared or maintained*
22 *pursuant to subsection (a) and (2) any storage facilities*
23 *subject to audit by the United States under the authority of*
24 *this part.*

NAVAL PETROLEUM RESERVES STUDY

1
2 *SEC. 164. The Administrator shall, in cooperation and*
3 *consultation with the Secretary of the Navy and the Secretary*
4 *of the Interior, develop and submit to the Congress within 180*
5 *days after the date of enactment of this Act, a written re-*
6 *port recommending procedures for the exploration, develop-*
7 *ment, and production of Naval Petroleum Reserve Number*
8 *4. Such report shall include recommendations for protecting*
9 *the economic, social, and environmental interests of Alaska*
10 *Natives residing within the Naval Petroleum Reserve Num-*
11 *ber 4 and analyses of arrangements which provide for (1)*
12 *participation by private industry and private capital, and*
13 *(2) leasing to private industry. The Secretary of the Navy*
14 *and the Secretary of the Interior shall cooperate fully with*
15 *one another and with the Administrator; the Secretary of*
16 *the Navy shall provide to the Administrator and Secretary*
17 *of the Interior all relevant data on Naval Petroleum Reserve*
18 *Number 4 in order to assist the Administrator in the prep-*
19 *aration of such report.*

ANNUAL REPORTS

20
21 *SEC. 165. The Administrator shall report to the Presi-*
22 *dent and the Congress, not later than one year after the*
23 *transmittal of the Strategic Petroleum Reserve Plan to the*

1 Congress and each year thereafter, on all actions taken to
2 implement this part. Such report shall include—

3 (1) a detailed statement of the status of the Strategic
4 Petroleum Reserve;

5 (2) a summary of the actions taken to develop and
6 implement the Strategic Petroleum Reserve Plan and the
7 Early Storage Reserve Plan;

8 (3) an analysis of the impact and effectiveness of
9 such actions on the vulnerability of the United States to
10 interruption in supplies of petroleum products;

11 (4) a summary of existing problems with respect to
12 further implementation of the Early Storage Reserve
13 Plan and the Strategic Petroleum Reserve Plan; and

14 (5) any recommendations for supplemental legisla-
15 tion deemed necessary or appropriate by the Adminis-
16 trator to implement the provisions of this part.

17 AUTHORIZATION OF APPROPRIATIONS

18 SEC. 166. There are authorized to be appropriated—

19 (1) such funds as are necessary to develop and
20 implement the Early Storage Reserve Plan (including
21 planning, administration, acquisition and construction of
22 storage and related facilities) and as are necessary to
23 permit the acquisition of petroleum products for storage
24 in the Early Storage Reserve or the Strategic Petroleum
25 Reserve (if the Strategic Petroleum Reserve Plan has

1 become effective under section 159(a)) in the amounts
2 specified in section 154(a) and 155(a)(2); and

3 (2) \$1,100,000,000 to remain available until ex-
4 pended to carry out the provisions of this part to develop
5 the Strategic Petroleum Reserve Plan, and to implement
6 such plan which has taken effect pursuant to section
7 159(a), including planning, administration, and ac-
8 quisition and construction of storage and related fa-
9 cilities, but no funds are authorized to be appropriated
10 under this paragraph for the purchase of petroleum
11 products for storage in the Strategic Petroleum Reserve.

12 TITLE II—STANDBY ENERGY AUTHORITIES

13 PART A—GENERAL EMERGENCY AUTHORITIES

14 CONDITIONS OF EXERCISE OF ENERGY CONSERVATION

15 AND RATIONING AUTHORITIES

16 SEC. 201. (a)(1) Within 180 days after the date of
17 enactment of this Act, the President shall transmit to the Con-
18 gress pursuant to subsection (b)(1) one or more energy
19 conservation contingency plans and a rationing contingency
20 plan. The President may at any time submit additional con-
21 tingency plans. A contingency plan may become effective
22 only as provided in this section. Such plan may remain
23 in effect for a period specified in the plan but not more than
24 9 months unless earlier rescinded by the President.

1 (2) For purposes of this section, the term "contingency
2 plan" means—

3 (A) an energy conservation contingency plan pre-
4 scribed under section 202; or

5 (B) a rationing contingency plan prescribed under
6 section 203.

7 (b) Except as otherwise provided in subsection (c),
8 (d), or (f), no contingency plan may become effective,
9 unless—

10 (1) the President has transmitted such contingency
11 plan to the Congress in accordance with section 552(a);

12 (2) such contingency plan has been approved by a
13 resolution by each House of Congress in accordance with
14 the procedures specified in section 552; and

15 (3) after approval of such contingency plan the
16 President—

17 (A) has found that putting such contingency
18 plan into effect is required by a severe energy
19 supply interruption or in order to fulfill obliga-
20 tions of the United States under the international
21 energy program, and

22 (B) has transmitted such finding to the Con-
23 gress, together with a statement of the effective date
24 and manner for exercise of such plan.

25 (c) In addition to the requirements of subsection (b),

1 a rationing contingency plan approved under subsection (b)
2 (2) may not become effective unless--

3 (1) the President has transmitted to the Congress
4 in accordance with section 551(b) a request to put such
5 rationing contingency plan into effect, and

6 (2) neither house of Congress has disapproved (or
7 both Houses have approved) such request in accordance
8 with the procedures specified in section 551.

9 (d)(1) Except as provided in paragraph (2) or (3),
10 a contingency plan may not be amended unless the President
11 has transmitted such amendment to the Congress in accord-
12 ance with section 552 and each House of Congress has ap-
13 proved such amendment in accordance with the procedures
14 specified in section 552.

15 (2) An amendment to a contingency plan which is trans-
16 mitted to the Congress during any period in which such plan
17 is in effect may take effect if the President has transmitted
18 such amendment to the Congress in accordance with section
19 551(b) and neither House of Congress has disapproved (or
20 both Houses have approved) such amendment in accordance
21 with the procedures specified in section 551.

22 (3) The President may prescribe technical or clerical
23 amendments to a contingency plan in accordance with section
24 523.

25 (e) Beginning at any time during the 90-day period

1 *which begins on the date of enactment of this Act, the Presi-*
2 *dent may put a contingency plan into effect for a period of*
3 *not more than 60 days if—*

4 *(1) the President—*

5 *(A) has found that putting such contingency*
6 *plan into effect is required by a severe energy sup-*
7 *ply interruption or is necessary to comply with*
8 *obligations of the United States under the inter-*
9 *national energy program; and*

10 *(B) has transmitted such contingency plan to*
11 *the Congress in accordance with section 551(b), to-*
12 *gether with a request to put such plan into effect; and*

13 *(2) neither House of Congress has disapproved (or*
14 *both Houses have approved) such request in accordance*
15 *with the procedures specified in section 551.*

16 *(f) Any contingency plan which the President transmits*
17 *to the Congress pursuant to subsection (b)(1) (e)(1)(B)*
18 *shall contain a specific statement explaining the need for and*
19 *the rationale and operation of such plan and shall be based*
20 *upon a consideration of, and to the extent practicable, be ac-*
21 *companied by an evaluation of, the potential economic impacts*
22 *of such plan, including an analysis of—*

23 *(1) any effects of such plan on—*

24 *(A) vital industrial sectors of the economy;*

1 (B) employment (on a national and regional
2 basis);

3 (C) the economic vitality of State and regional
4 areas;

5 (D) the availability and price of consumer
6 goods and services; and

7 (E) the gross national product; and

8 (2) any potential anticompetitive effects.

9 **ENERGY CONSERVATION CONTINGENCY PLANS**

10 SEC. 202. (a)(1) The President shall prescribe one or
11 more energy conservation contingency plans. The administra-
12 tive procedures under section 523 shall apply to any plan
13 prescribed under this section. As used in this section, the term
14 "energy conservation contingency plan" means a plan which
15 imposes reasonable restrictions on the public or private use of
16 energy which are necessary to reduce energy consumption.
17 In prescribing energy conservation contingency plans, the
18 President shall take into consideration the mobility needs of
19 the handicapped, as defined in section 203(a)(2)(B).

20 (2) An energy conservation contingency plan prescribed
21 under this section may not—

22 (A) impose gasoline rationing or any tax, tariff, or
23 user fee;

1 rationing and ordering of priorities among classes of
2 end-users of gasoline and diesel fuel used in motor vehi-
3 cles, and

4 (B) for the assignment of rights, and evidence of
5 such rights, to end-users of gasoline and such diesel fuel,
6 entitling such end-users to obtain gasoline or such diesel
7 fuel in precedence to other classes of end-users not simi-
8 larly entitled.

9 (2)(A) For purposes of paragraph (1), the objectives
10 specified in section 4(b) of the Emergency Petroleum Alloca-
11 tion Act of 1973 shall be deemed to include consideration of
12 the mobility needs of handicapped persons and their con-
13 venience in obtaining entitlements.

14 (B) For purposes of this part, the term "handicapped
15 person" means any individual who, by reason of disease,
16 injury, age, congenital malfunction, or other permanent
17 incapacity or disability, is unable without special facilities,
18 planning or design to utilize mass transportation vehicles,
19 facilities, and services and who has a substantial, permanent
20 impediment to mobility.

21 (b) Any finding required to be made by the President
22 pursuant to section 201(b)(3)(A)(i) in requesting that a
23 rationing contingency plan be put into effect shall be accom-
24 panied by, and no rationing contingency plan may take effect
25 unless, the President makes a finding that such plan is neces-

1 sary to achieve the objectives specified in section 4(b) of the
2 Emergency Petroleum Allocation Act of 1973 and the pur-
3 poses of this Act.

4 (c) The President shall, by order under section 4 of the
5 Emergency Petroleum Allocation Act of 1973, for the pur-
6 pose of carrying out a rationing contingency plan which is
7 in effect, cause such adjustments to be made in the allocations
8 made pursuant to the regulation under section 4(a) of such
9 Act as the President determines to be necessary to carry out
10 the purposes of this section and to be consistent with the
11 attainment of the objectives specified in section 4(b) of such
12 Act and the purposes of this Act.

13 (d)(1) The President shall, to the extent practicable,
14 provide for the use of local boards described in paragraph (2)
15 with authority to—

16 (A) receive petitions from any end-user of gasoline
17 and diesel fuel used in motor vehicles with respect to the
18 priority and entitlement of such user under a rationing
19 contingency plan, and

20 (B) order a reclassification or modification of any
21 determination made under a rationing contingency plan
22 with respect to such end-user's rationing priority or
23 entitlement.

24 Such boards shall operate under the procedures prescribed by
25 the President by rule.

1 (2) Not later than 30 days after the date of the approval
2 of a rationing contingency plan pursuant to section 201(b)
3 (2), the President shall, by rule, offer an opportunity for
4 interested persons to make oral presentations to assist in
5 establishing—

6 (A) criteria for delegation of his functions, in whole
7 or part, under this Act with respect to such rationing con-
8 tingency plan to officers or local boards (of balanced
9 composition reflecting the community as a whole) of
10 States or political subdivisions thereof; and

11 (B) procedures for petitioning for the receipt of
12 such delegation.

13 (3)(A) Officers or local boards of States or political
14 subdivisions thereof, following the establishment of criteria
15 and procedures under paragraph (2), may petition the Presi-
16 dent to receive delegation under such paragraph.

17 (B) The President shall, within 30 days after the date
18 of the receipt of any such petition which is properly submitted,
19 grant or deny such petition.

20 (e) No rationing contingency plan under this section
21 may—

22 (1) impose any tax,

23 (2) provide for a credit or deduction in computing
24 any tax, or

25 (3) impose any user fee, except to the extent nec-

1 *essary to defray the cost of administering the rationing*
2 *contingency plan or to provide for initial distribution of*
3 *entitlements.*

4 *(f) Notwithstanding section 531, all authority to carry*
5 *out any rationing contingency plan shall expire on the same*
6 *date as authority to issue and enforce rules and orders under*
7 *the Emergency Petroleum Allocation Act of 1973.*

8 *PART B--AUTHORITIES WITH RESPECT TO*
9 *INTERNATIONAL ENERGY PROGRAM*

10 *INTERNATIONAL OIL ALLOCATION*

11 *SEC. 251. (a) The President may, by rule, require*
12 *that persons engaged in producing, transporting, refining,*
13 *distributing, or storing petroleum products, take such action*
14 *as he determines to be necessary for implementation of the*
15 *obligations of the United States under chapters III and IV*
16 *of the international energy program insofar as such obliga-*
17 *tions relate to the international allocation of petroleum*
18 *products. Allocation under such rule shall be in such amounts*
19 *and at such prices as are specified in (or determined in a*
20 *manner prescribed by) such rule. Such rule may apply to*
21 *any petroleum product owned or controlled by any person*
22 *described in the first sentence of this subsection who is subject*
23 *to the jurisdiction of the United States, including any petro-*
24 *leum product destined, directly or indirectly, for import into*
25 *the United States or any foreign country, or produced in*

1 *the United States. Subject to subsection (b)(2), such a rule*
2 *shall remain in effect until amended or rescinded by the*
3 *President.*

4 *(b)(1) No rule under subsection (a) may take effect*
5 *unless the President—*

6 *(A) has transmitted such rule to the Congress;*

7 *(B) has found that putting such rule into effect*
8 *is required in order to fulfill obligations of the United*
9 *States under the international energy program; and*

10 *(C) has transmitted such finding to the Congress,*
11 *together with a statement of the effective date and man-*
12 *ner for exercise of such rule.*

13 *(2) No rule under subsection (b) may be put into effect*
14 *or remain in effect after the expiration of 12 months after*
15 *the date such rule was transmitted to Congress under para-*
16 *graph (1)(A).*

17 *(c)(1) Any rule under this section shall be consistent*
18 *with the attainment, to the maximum extent practicable, of the*
19 *objectives specified in section 4(b)(1) of the Emergency*
20 *Petroleum Allocation Act of 1973.*

21 *(2) No officer or agency of the United States shall have*
22 *any authority, other than authority under this section, to*
23 *require that petroleum products be allocated to other countries*
24 *for the purpose of implementation of the obligations of the*
25 *United States under the international energy program.*

1 (d) Neither section 103 of this Act nor section 28(u)
2 of the Mineral Leasing Act of 1920 shall preclude the allo-
3 cation and export, to other countries in accordance with this
4 section, of petroleum products produced in the United States.

5 INTERNATIONAL VOLUNTARY AGREEMENTS

6 SEC. 252. (a) Effective 90 days after the date of enact-
7 ment of this Act, the requirements of this section shall be the
8 sole procedures applicable to—

9 (1) the development or carrying out of voluntary
10 agreements and plans of action to implement the allo-
11 cation and information provisions of the international
12 energy program, and

13 (2) the availability of immunity from the antitrust
14 laws with respect to the development or carrying out of
15 such voluntary agreements and plans of action.

16 (b) The Administrator, with the approval of the Attor-
17 ney General, after each of them has consulted with the Fed-
18 eral Trade Commission and the Secretary of State, shall pre-
19 scribe, by rule, standards and procedures by which persons
20 engaged in the business of producing, transporting, refining,
21 distributing, or storing petroleum products may develop and
22 carry out voluntary agreements, and plans of action, which
23 are required to implement the allocation and information pro-
24 visions of the international energy program.

1 (c) *The standards and procedures prescribed under sub-*
2 *section (b) shall include the following requirements:*

3 (1)(A)(i) *Except as provided in clause (ii) or*
4 *(iii) of this subparagraph, meetings held to develop or*
5 *carry out a voluntary agreement or plan of action under*
6 *this subsection shall permit attendance by committees of*
7 *Congress and interested persons, including all interested*
8 *segments of the petroleum industry, consumers, and the*
9 *public; shall be preceded by timely and adequate notice*
10 *with identification of the agenda of such meeting to the*
11 *Attorney General, the Federal Trade Commission, com-*
12 *mittees of Congress, and (except during an international*
13 *energy supply emergency with respect to meetings to*
14 *carry out a voluntary agreement or to develop or carry*
15 *out a plan of action) the public; and shall be initiated*
16 *and chaired by a regular full-time Federal employee.*

17 (ii) *Meetings of bodies created by the International*
18 *Energy Agency established by the international energy*
19 *program need not be open to interested persons and need*
20 *not be initiated and chaired by a regular full-time Fed-*
21 *eral employee.*

22 (iii) *The President, in consultation with the Ad-*
23 *ministrator, the Secretary of State, and the Attorney*
24 *General, may determine that a meeting held to carry out*

1 *a voluntary agreement or to develop or carry out a plan*
2 *of action shall not be open to interested persons or*
3 *that attendance by interested persons may be limited,*
4 *if the President finds that a wider disclosure would be*
5 *detrimental to the foreign policy interests of the United*
6 *States.*

7 *(B) No meetings may be held to develop or carry*
8 *out a voluntary agreement or plan of action under this*
9 *section unless a regular full-time Federal employee is*
10 *present.*

11 *(2). Interested persons permitted to attend such a*
12 *meeting shall be afforded an opportunity to present, in*
13 *writing and orally, data, views, and arguments at such*
14 *meetings, subject to any reasonable limitations with re-*
15 *spect to the manner of presentation of data, views, and*
16 *arguments as the Administrator may impose.*

17 *(3) A full and complete record, and where practi-*
18 *cable a verbatim transcript, shall be kept of any meeting*
19 *held, and a full and complete record shall be kept of any*
20 *communication (other than in a meeting) made, between*
21 *or among participants or potential participants, to de-*
22 *velop, or carry out a voluntary agreement or a plan*
23 *of action under this section. Such record or transcript*
24 *shall be deposited, together with any agreement result-*
25 *ing therefrom, with the Administrator, and shall be*

1 available to the Attorney General and the Federal Trade
2 Commission. Such records or transcripts shall be avail-
3 able for public inspection and copying in accordance
4 with section 552 of title 5, United States Code; except
5 that (A) matter may not be withheld from disclosure
6 under section 552(b) of such title on grounds other than
7 the grounds specified in section 552(b)(1), (b)(3), or
8 so much of (b)(4) as relates to trade secrets; and (B)
9 in the exercise of authority under section 552(b)(1),
10 the President shall consult with the Secretary of State,
11 the Administrator, and the Attorney General with respect
12 to questions relating to the foreign policy interests of the
13 United States.

14 (4) No provision of this section may be exercised so
15 as to prevent committees of Congress from attending
16 meetings to which this section applies, or from having
17 access to any transcripts, records, and agreements kept
18 or made under this section.

19 (d)(1) The Attorney General and the Federal Trade
20 Commission shall participate from the beginning in the de-
21 velopment, and when practicable, in the carrying out of
22 voluntary agreements and plans of action authorized under
23 this section. Each may propose any alternative which would
24 avoid or overcome, to the greatest extent practicable, possible
25 anticompetitive effects while achieving substantially the pur-

1 poses of this part. A voluntary agreement or plan of action
2 under this section may not be carried out unless approved by
3 the Attorney General, after consultation with the Federal
4 Trade Commission. Prior to the expiration of the period
5 determined under paragraph (2), the Federal Trade Com-
6 mission shall transmit to the Attorney General its views as
7 to whether such an agreement or plan of action should be
8 approved, and shall publish such views in the Federal Reg-
9 ister. The Attorney General, in consultation with the Federal
10 Trade Commission, the Secretary of State, and the Admin-
11 istrator, shall have the right to review, amend, modify, dis-
12 approve, or revoke, on his own motion or upon the request of
13 the Federal Trade Commission or any interested person, any
14 voluntary agreement or plan of action at any time, and, if
15 revoked, thereby withdraw prospectively any immunity which
16 may be conferred by subsection (f) or (k).

17 (2) Any voluntary agreement or plan of action entered
18 into pursuant to this section shall be submitted in writing to
19 the Attorney General and the Federal Trade Commission 20
20 days before being implemented: except that during an inter-
21 national energy supply emergency, the Administrator, sub-
22 ject to approval of the Attorney General, may reduce such
23 20-day period. Any such agreement shall be available for
24 public inspection and copying, except that a plan of action
25 shall be so available only to the extent to which records or

1 transcripts are so available as provided in the last sentence
2 of subsection (c)(3). Any action taken pursuant to such
3 voluntary agreement or plan of action shall be reported to
4 the Attorney General and the Federal Trade Commission
5 pursuant to such regulations as shall be prescribed under
6 paragraphs (3) and (4) of subsection (e).

7 (3) A plan of action may not be approved by the Attor-
8 ney General under this subsection unless such plan (A)
9 describes the types of substantive actions which may be taken
10 under the plan, and (B) is as specific in its description of
11 proposed substantive actions as is reasonable in light of
12 known circumstances.

13 (e)(1) The Attorney General and the Federal Trade
14 Commission shall monitor the development and carrying out
15 of voluntary agreements and plans of action authorized under
16 this section in order to promote competition and to prevent
17 anticompetitive practices and effects, while achieving substan-
18 tially the purposes of this part.

19 (2) In addition to any requirement specified under sub-
20 sections (b) and (c) of this section and in order to carry
21 out the purposes of this section, the Attorney General, in
22 consultation with the Federal Trade Commission and the
23 Administrator, shall promulgate rules concerning the main-
24 tenance of necessary and appropriate records related to the

1 *development and carrying out of voluntary agreements and*
2 *plans of action authorized pursuant to this section.*

3 (3) *Persons developing or carrying out voluntary agree-*
4 *ments and plans of action authorized pursuant to this sec-*
5 *tion shall maintain such records as are required by rules*
6 *promulgated under paragraph (2). The Attorney General*
7 *and the Federal Trade Commission shall have access to and*
8 *the right to copy such records at reasonable times and upon*
9 *reasonable notice.*

10 (4) *The Attorney General and the Federal Trade Com-*
11 *mission may each prescribe such rules as may be necessary*
12 *or appropriate to carry out their respective responsibilities*
13 *under this section. They may both utilize for such purposes*
14 *and for purposes of enforcement any powers conferred upon*
15 *the Federal Trade Commission or the Department of Justice,*
16 *or both, by the antitrust laws or the Antitrust Civil Process*
17 *Act; and wherever any such law refers to "the purposes of*
18 *this Act" or like terms, the reference shall be understood to*
19 *include this section.*

20 (f) (1) *There shall be available as a defense to any*
21 *civil or criminal action brought under the antitrust laws (or*
22 *any similar State law) in respect of actions taken to develop*
23 *or carry out a voluntary agreement or plan of action by*
24 *persons engaged in the business of producing, transporting,*
25 *refining, distributing, or storing petroleum products (provided*



1 *that such actions were not taken for the purpose of injuring*
2 *competition) that—*

3 *(A) such action was taken—*

4 *(i) in the course of developing a voluntary*
5 *agreement or plan of action pursuant to this section,*
6 *or*

7 *(ii) to carry out a voluntary agreement or plan*
8 *of action authorized and approved in accordance*
9 *with this section, and*

10 *(B) such persons complied with the requirements of*
11 *this section and the rules promulgated hereunder.*

12 *(2) Except in the case of actions taken to develop a vol-*
13 *untary agreement or plan of action, the defense provided in*
14 *this subsection shall be available only if the person asserting*
15 *the defense demonstrates that the action was specified in, or*
16 *within the reasonable contemplation of, an approved plan of*
17 *action.*

18 *(3) Persons interposing the defense provided by this*
19 *subsection shall have the burden of proof, except that the*
20 *burden shall be on the person against whom the defense is*
21 *asserted with respect to whether the actions were taken for*
22 *the purpose of injuring competition.*

23 *(g) No provision of this section shall be construed as*
24 *granting immunity for, nor as limiting or in any way af-*
25 *fecting any remedy or penalty which may result from any*


1 *legal action or proceeding arising from, any act or practice*
2 *which occurred prior to the date of enactment of this Act or*
3 *subsequent to its expiration or repeal.*

4 *(h) Upon the expiration of the 90-day period which*
5 *begins on the date of enactment of this Act, the provisions*
6 *of sections 708 and 708A (other than 708A(o)) of the*
7 *Defense Production Act of 1950 shall not apply to any*
8 *agreement or action undertaken for the purpose of develop-*
9 *ing or carrying out (1) the international energy program,*
10 *or (2) any allocation, price control, or similar program*
11 *with respect to petroleum products under this Act or under*
12 *the Emergency Petroleum Allocation Act of 1973.*

13 *(i) The Attorney General and the Federal Trade Com-*
14 *mission shall each submit to the Congress and to the Presi-*
15 *dent, at least once every 6 months, a report on the impact on*
16 *competition and on small business of actions authorized by*
17 *this section.*

18 *(j) The authority granted by this section shall terminate*
19 *June 30, 1979.*

20 *(k) In any action in any Federal or State court for*
21 *breach of contract, there shall be available as a defense that*
22 *the alleged breach of contract was caused predominantly by*
23 *action taken during an international energy supply emer-*
24 *gency to carry out a voluntary agreement or plan of action*
25 *authorized and approved in accordance with this section.*



1 *necessary. In addition to the requirements specified in this*
2 *section, such advisory committees shall be subject to the pro-*
3 *visions of section 17 of the Federal Energy Administration*
4 *Act of 1974 (whether or not such Act or any of its provisions*
5 *expire or terminate before June 30, 1985); shall be chaired*
6 *by a regular full-time Federal employee; and shall, notwith-*
7 *standing such section 17, include representatives of the public.*
8 *The meetings of such committees shall be open to the public.*
9 *The Attorney General and the Federal Trade Commission*
10 *shall have adequate advance notice of any meeting and may*
11 *have an official representative attend and participate in any*
12 *such meeting.*

13 *(b) A verbatim transcript shall be kept of such advisory*
14 *committee meetings, and shall be deposited with the Attorney*
15 *General and the Federal Trade Commission. Such transcript*
16 *shall be made available for public inspection and copying in*
17 *accordance with section 552 of title 5, United States Code,*
18 *except that matter may not be withheld from disclosure under*
19 *section 552(b) of such title on grounds other than the*
20 *grounds specified in section 552(b)(1), (b)(3), and so much*
21 *of (b)(4) as relates to trade secrets, or pursuant to a deter-*
22 *mination under subsection (c).*

23 *(c) The President, after consultation with the Secretary*
24 *of State, the Federal Trade Commission, the Attorney Gen-*

1 eral, and the Administrator, may suspend the application
2 of—

3 (1) sections 10 and 11 of the Federal Advisory
4 Committee Act,

5 (2) subsections (b) and (c) of section 17 of the
6 Federal Energy Administration Act of 1974,

7 (3) the requirement under subsection (a) of this
8 section that meetings be open to the public, and

9 (4) the second sentence of subsection (b);

10 if the President determines with respect to a particular meet-
11 ing, (A) that such suspension is essential to the developing
12 or carrying out of the international energy program, (B)
13 that such suspension relates solely to the purpose of interna-
14 tional allocation of petroleum products and the information
15 system provided in such program, and (C) that the meeting
16 deals with matters described in section 552(b)(1) of title
17 5, United States Code. Such determination by the President
18 shall be in writing, shall set forth a detailed explanation of
19 reasons justifying the granting of such suspension, and shall
20 be published in the Federal Register at a reasonable time
21 prior to the effective date of any such suspension.

22 **EXCHANGE OF INFORMATION**

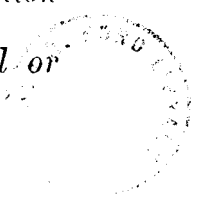
23 **SEC. 254.** (a)(1) Except as provided in subsections
24 (b) and (c), the Administrator, after consultation with the

1 *Attorney General, may provide to the Secretary of State, and*
2 *the Secretary of State may transmit to the International En-*
3 *ergy Agency established by the international energy program,*
4 *the information and data related to the energy industry cer-*
5 *tified by the Secretary of State as required to be submitted*
6 *under the international energy program.*

7 (2)(A) *Except as provided in subparagraph (B) of*
8 *this paragraph, any such information or data which is geo-*
9 *logical or geophysical information or a trade secret or com-*
10 *mercial or financial information to which section 552(b)(9)*
11 *or (b)(4) of title 5, United States Code, applies shall, prior*
12 *to such transmittal, be aggregated, accumulated, or other-*
13 *wise reported in such manner as to avoid, to the fullest extent*
14 *feasible, identification of any person who submitted such in-*
15 *formation or data, and in the case of geological or geophys-*
16 *ical information, a competitive disadvantage to such person.*

17 (B)(i) *Notwithstanding subparagraph (A) of this*
18 *paragraph, during an international energy supply emer-*
19 *gency, any such information or data with respect to the*
20 *international allocation of petroleum products may be made*
21 *available to the International Energy Agency if otherwise*
22 *authorized to be made available to such Agency by paragraph*
23 *(1) of this subsection.*

24 (ii) *Subparagraph (A) shall not apply to information*
25 *described in subparagraph (A) (other than geological or*



1 *geophysical information) if the President certifies, after*
2 *opportunity for presentation of views by interested persons,*
3 *that the International Energy Agency has adopted and is*
4 *implementing security measures which assure that such in-*
5 *formation will not be disclosed by such Agency or its em-*
6 *ployees to any person or foreign country without having been*
7 *aggregated, accumulated, or otherwise reported in such man-*
8 *ner as to avoid identification of any person who submitted*
9 *such information or data.*

10 *(3)(A) Within 90 days after the date of enactment of*
11 *this Act, and periodically thereafter, the President shall re-*
12 *view the operation of this section and shall determine whether*
13 *other signatory nations to the international energy program*
14 *are transmitting information and data to the International*
15 *Energy Agency in substantial compliance with such Program.*
16 *If the President determines that other nations are failing to*
17 *comply with such Program, paragraph (2)(B)(ii) shall*
18 *not apply until he determines other nations are complying*
19 *with the program.*

20 *(B) Any person who believes he has been or will be*
21 *damaged by the transmittal of information or data pursuant*
22 *to this section shall have the right to petition the President*
23 *and to request changes in procedures which will protect such*
24 *person from any competitive damage.*

25 *(b) If the President determines that the transmittal*

1 of data or information pursuant to the authority of this
2 section would prejudice competition, violate the antitrust
3 laws, or be inconsistent with United States national security
4 interests, he may require that such data or information not
5 be transmitted.

6 (c) Information and data the confidentiality of which
7 is protected by statute shall not be provided by the Admin-
8 istrator to the Secretary of State under subsection (a) of
9 this section for transmittal to the International Energy
10 Agency, unless the Administrator has obtained the specific
11 concurrence of the head of any department or agency which
12 has the primary statutory authority for the collection, gather-
13 ing, or obtaining of such information and data. In making a
14 determination to concur in providing such information and
15 data, the head of any department or agency which has the
16 primary statutory authority for the collection, gathering, or
17 obtaining of such information and data shall consider the
18 purposes for which such information and data were collected,
19 gathered, and obtained, the confidentiality provisions of such
20 statutory authority, and the international obligations of the
21 United States under the international energy program with
22 respect to the transmittal of such information and data to an
23 international organization or foreign country.

24 (d) For the purposes of carrying out the obligations of
25 the United States under the international energy program,

1 *the authority to collect data granted by sections 11 and 13 of*
2 *the Energy Supply and Environmental Coordination Act*
3 *and the Federal Energy Administration Act of 1974, respec-*
4 *tively, shall continue in full force and effect without regard to*
5 *the provisions of such Acts relating to their expiration.*

6 *(e) The authority under this section to transmit infor-*
7 *mation shall be subject to any limitations on disclosure con-*
8 *tained in other laws, except that such authority may be*
9 *exercised without regard to—*

10 *(1) section 11(d) of the Energy Supply and En-*
11 *vironmental Coordination Act of 1974;*

12 *(2) section 14(b) of the Federal Energy Admin-*
13 *istration Act of 1974;*

14 *(3) section 7 of the Export Administration Act of*
15 *1969;*

16 *(4) section 9 of title 13, United States Code;*

17 *(5) section 1 of the Act of January 27, 1938 (15*
18 *U.S.C. 176(a)); and*

19 *(6) section 1905 of title 18, United States Code.*

20 *RELATIONSHIP OF THIS TITLE TO THE INTERNATIONAL*

21 *ENERGY AGREEMENT*

22 *SEC. 255. The purpose of the Congress in enacting this*
23 *title is to provide standby energy emergency authority to*
24 *deal with energy shortage conditions and to minimize eco-*
25 *nomie dislocations and adverse impacts on employment.*

1 While the authorities contained in this title may, to the extent
2 authorized by this title, be used to carry out obligations
3 incurred by the United States in connection with the Inter-
4 national Energy Program, this title shall not be construed
5 in any way as advice and consent, ratification, endorsement,
6 or other form of congressional approval of the specific terms
7 of such program.

8 TITLE III—IMPROVING ENERGY EFFICIENCY

9 PART A—AUTOMOTIVE FUEL ECONOMY

10 AMENDMENT TO MOTOR VEHICLE INFORMATION AND COST 11 SAVINGS ACT

12 SEC. 301. The Motor Vehicle Information and Cost
13 Savings Act (15 U.S.C. 1901 et seq.) is amended by insert-
14 ing “(except part A of title V)” after “SEC. 2. For purposes
15 of this Act” in section 2 thereof and by adding at the end of
16 such Act the following new title:

17 “TITLE V—IMPROVING AUTOMOTIVE 18 EFFICIENCY

19 “PART A—AUTOMOTIVE FUEL ECONOMY

20 “DEFINITIONS

21 “SEC. 501. For purposes of this part:

22 “(1) The term ‘automobile’ means any 4-wheeled
23 vehicle propelled by fuel which is manufactured pri-
24 marily for use on public streets, roads, and highways
25 (except any vehicle operated exclusively on a rail or
26 rails), and

1 “(A) which is rated at 6,000 lbs. gross vehicle
2 weight or less, or

3 “(B) which—

4 “(i) is rated at more than 6,000 lbs. gross
5 vehicle weight but less than 10,000 lbs. gross
6 vehicle weight,

7 “(ii) is a type of vehicle for which the
8 Secretary determines, by rule, average fuel econ-
9 omy standards under this part are feasible, and

10 “(iii) is a type of vehicle for which the
11 Secretary determines, by rule, average fuel econ-
12 omy standards will result in significant energy
13 conservation, or is a type of vehicle which the
14 Secretary determines is substantially used for
15 the same purposes as vehicles described in sub-
16 paragraph (A) of this paragraph.

17 The Secretary may prescribe such rules as may be
18 necessary to implement this paragraph.

19 “(2) The term ‘passenger automobile’ means any
20 automobile (other than an automobile capable of off-
21 highway operation) which the Secretary determines by
22 rule is manufactured primarily for use in the trans-
23 portation of not more than 10 individuals.

24 “(3) The term ‘automobile capable of off-highway
25 operation’ means any automobile—

1 “(A) which has a significant feature (other than
2 4-wheel drive) which is designed to equip such
3 vehicle for off-highway operation, and

4 “(B) which either—

5 “(i) is a 4-wheel drive vehicle, or

6 “(ii) is rated at more than 6,000 pounds
7 gross vehicle weight,

8 as determined by the Secretary by rule.

9 “(4) The term ‘average fuel economy’ means aver-
10 age fuel economy, as determined under section 503.

11 “(5) The term ‘fuel’ means gasoline and diesel oil.
12 The Secretary may, by rule, include any other liquid
13 fuel or any gaseous fuel within the meaning of the term
14 ‘fuel’ if he determines that such inclusion is consistent
15 with the need of the Nation to conserve energy.

16 “(6) The term ‘fuel economy’ means the average
17 number of miles traveled by an automobile per gallon of
18 gasoline (or equivalent amount of other fuel) consumed,
19 as determined by the EPA Administrator in accordance
20 with procedures established under section 503(d).

21 “(7) The term ‘average fuel economy standard’
22 means a performance standard which specifies a mini-
23 mum level of average fuel economy which is applicable to
24 a manufacturer in a model year.

25 “(8) The term ‘manufacturer’ means any person

1 engaged in the business of manufacturing automobiles.
2 The Secretary shall prescribe rules for determining,
3 in cases where more than one person is the manufac-
4 turer of an automobile, which person is to be treated as
5 the manufacturer of such automobile for purposes of this
6 part.

7 “(9) The term ‘manufacture’ (except for purposes
8 of section 502(c)) means to produce or assemble in the
9 customs territory of the United States, or to import.

10 “(10) The term ‘import’ means to import into the
11 customs territory of the United States.

12 “(11) The term ‘model type’ means a particular
13 class of automobile as determined, by rule, by the EPA
14 Administrator, after consultation and coordination with
15 the Secretary.

16 “(12) The term ‘model year’, with reference to any
17 specific calendar year, means a manufacturer’s annual
18 production period (as determined by the EPA Admin-
19 istrator) which includes January 1 of such calendar
20 year. If a manufacturer has no annual production
21 period, the term ‘model year’ means the calendar year.

22 “(13) The term ‘Secretary’ means the Secretary
23 of Transportation.

24 “(14) The term ‘EPA Administrator’ means the
25 Administrator of the Environmental Protection Agencu.

1 "AVERAGE FUEL ECONOMY STANDARDS APPLICABLE TO
2 EACH MANUFACTURER

3 "SEC. 502. (a) (1) Except as otherwise provided in
4 paragraph (4) or in subsection (c) or (d), the average fuel
5 economy for passenger automobiles manufactured by any
6 manufacturer in any model year after model year 1977 shall
7 not be less than the number of miles per gallon established for
8 such model year under the following table:

<i>"Model year:</i>	<i>Average fuel economy standard (in miles per gallon)</i>
1978 -----	18.0.
1979 -----	19.0.
1980 -----	20.0.
1981 -----	<i>Determined by Secretary under paragraph (3) of this subsection.</i>
1982 -----	<i>Determined by Secretary under paragraph (3) of this subsection.</i>
1983 -----	<i>Determined by Secretary under paragraph (3) of this subsection.</i>
1984 -----	<i>Determined by Secretary under paragraph (3) of this subsection.</i>
1985 and thereafter -----	27.5.

9 "(2) Not later than January 15 of each year, beginning
10 in 1977, the Secretary shall transmit to each House of Con-
11 gress, and publish in the Federal Register, a review of aver-
12 age fuel economy standards under this part. The review
13 required to be transmitted not later than January 15, 1979,
14 shall include a comprehensive analysis of the program
15 required by this part. Such analysis shall include an assess-
16 ment of the ability of manufacturers to meet the average fuel
17 economy standard for model year 1985 as specified in para-
18 graph (1) of this subsection, and any legislative recommenda-

1 tions the Secretary or the EPA Administrator may have for
2 improving the program required by this part.

3 “(3) Not later than July 1, 1977, the Secretary shall
4 prescribe, by rule, average fuel economy standards for pas-
5 senger automobiles manufactured in each of the model years
6 1981 through 1984. Any such standard shall apply to each
7 manufacturer (except as provided in subsection (c)), and
8 shall be set for each such model year at a level which the
9 Secretary determines (A) is the maximum feasible average
10 fuel economy level, and (B) will result in steady progress
11 toward meeting the average fuel economy standard estab-
12 lished by or pursuant to this subsection for model year 1985.

13 “(4) The Secretary may, by rule, amend the average
14 fuel economy standard specified in paragraph (1) for model
15 year 1985, or for any subsequent model year, to a level which
16 he determines is the maximum feasible average fuel economy
17 level for such model year, except that any amendment
18 which has the effect of increasing an average fuel economy
19 standard to a level in excess of 27.5 miles per gallon, or of
20 decreasing any such standard to a level below 26.0 miles
21 per gallon, shall be submitted to the Congress in accordance
22 with section 551 of the Energy Policy and Conservation
23 Act, and shall not take effect if either House of the Congress
24 disapproves such amendment in accordance with the pro-
25 cedures specified in such section.

1 “(5) For purposes of considering any modification
2 which is submitted to the Congress under paragraph (4),
3 the 5 calendar days specified in section 551(f)(4)(A) of
4 the Energy Policy and Conservation Act shall be lengthened
5 to 20 calendar days, and the 15 calendar days specified in
6 section 551 (c) and (d) of such Act shall be lengthened to
7 60 calendar days.

8 “(b) The Secretary shall, by rule, prescribe average
9 fuel economy standards for automobiles which are not pas-
10 senger automobiles and which are manufactured by any
11 manufacturer in each model year which begins more than
12 30 months after the date of enactment of this title. Such rules
13 may provide for separate standards for different classes of
14 such automobiles (as determined by the Secretary), and shall
15 be based upon the maximum feasible average fuel economy
16 which the Secretary determines such manufacturers are able
17 to achieve in each model year to which this subsection applies.
18 Any standard applicable to a model year under this sub-
19 section shall be promulgated at least 18 months prior to the
20 beginning of such model year.

21 “(c) On application of a manufacturer who manufac-
22 tured (whether or not in the United States) fewer than
23 10,000 passenger automobiles in the second model year pre-
24 ceding the model year for which the application is made, the
25 Secretary may, by rule, exempt such manufacturer from

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2 which is submitted to the Congress under paragraph (4),
3 the 5 calendar days specified in section 551(f)(4)(A) of
4 the Energy Policy and Conservation Act shall be lengthened
5 to 20 calendar days, and the 15 calendar days specified in
6 section 551 (c) and (d) of such Act shall be lengthened to
7 60 calendar days.

8 “(b) The Secretary shall, by rule, prescribe average
9 fuel economy standards for automobiles which are not pas-
10 senger automobiles and which are manufactured by any
11 manufacturer in each model year which begins more than
12 30 months after the date of enactment of this title. Such rules
13 may provide for separate standards for different classes of
14 such automobiles (as determined by the Secretary), and shall
15 be based upon the maximum feasible average fuel economy
16 which the Secretary determines such manufacturers are able
17 to achieve in each model year to which this subsection applies.
18 Any standard applicable to a model year under this sub-
19 section shall be promulgated at least 18 months prior to the
20 beginning of such model year.

21 “(c) On application of a manufacturer who manufac-
22 tured (whether or not in the United States) fewer than
23 10,000 passenger automobiles in the second model year pre-
24 ceding the model year for which the application is made, the
25 Secretary may, by rule, exempt such manufacturer from

1 subsection (a). Such application shall contain such infor-
2 mation as the Secretary may require by rule. Such exemp-
3 tion may only be granted if the Secretary determines that
4 the average fuel economy standard otherwise applicable
5 under subsection (a) is more stringent than the maximum
6 feasible average fuel economy level which such manufacturer
7 can attain. The Secretary may not issue such exemption
8 with respect to a model year unless he establishes, by rule,
9 alternative average fuel economy standards for passenger
10 automobiles manufactured by manufacturers which receive
11 exemptions under this subsection. Each such standard shall
12 be set at a level which the Secretary determines is the maxi-
13 mum feasible average fuel economy level for the manufac-
14 turers to which the standard applies. Such standards may be
15 established for such classes of such automobiles as the Secre-
16 tary may define by rule. An exemption under this subsection
17 shall apply to a model year only if the manufacturer manu-
18 factures (whether or not in the United States) fewer than
19 10,000 passenger automobiles in such model year.

20 “(d)(1) Any manufacturer may apply to the Secre-
21 tary for a modification of an average fuel economy standard
22 applicable under subsection (a) to such manufacturer for
23 model year 1978, 1979, or 1980. Such application shall con-
24 tain such information as the Secretary may require by rule,
25 and shall be submitted to the Secretary within 24 months

1 before the beginning of the model year for which such modi-
2 fication is requested.

3 “(2)(A) If a manufacturer demonstrates and the Sec-
4 retary finds that—

5 “(i) a Federal standards fuel economy reduction is
6 likely to exist for such manufacturer for the model year
7 to which the application relates, and

8 “(ii) such manufacturer applied a reasonably se-
9 lected technology,

10 the Secretary shall, by rule, reduce the average fuel economy
11 standard applicable under subsection (a) to such manufac-
12 turer by the amount of such manufacturer’s Federal stand-
13 ards fuel economy reduction. To the maximum extent practi-
14 cable, prior to making a finding under this paragraph with
15 respect to an application, the Secretary shall request, and the
16 EPA Administrator shall supply, test results collected pur-
17 suant to section 503(d) of this Act for all automobiles cov-
18 ered by such application.

19 “(B)(i) If the Secretary does not find that a Federal
20 standards fuel economy reduction is likely to exist for a manu-
21 facturer who filed an application under paragraph (1), he
22 shall deny the application of such manufacturer.

23 “(ii) If the Secretary—

24 “(I) finds that a Federal standards fuel economy re-

1 *duction is likely to exist for a manufacturer who filed an*
2 *application under paragraph (1), and*

3 *“(II) does not find that such manufacturer applied*
4 *a reasonably selected technology,*

5 *the average fuel economy standard applicable under subsection*
6 *(a) to such manufacturer shall, by rule, be reduced by*
7 *an amount equal to the Federal standards fuel economy re-*
8 *duction which the Secretary finds would have resulted from*
9 *the application of a reasonably selected technology.*

10 *“(3) For purposes of this subsection:*

11 *“(A) The term ‘reasonably selected technology’*
12 *means a technology which the Secretary determines it*
13 *was reasonable for a manufacturer to select, considering*
14 *(i) the Nation’s need to improve the fuel economy of its*
15 *automobiles, and (ii) the energy savings, economic costs,*
16 *and lead-time requirements associated with alternative*
17 *technologies practicably available to such manufacturer.*

18 *“(B) The term ‘Federal standards fuel economy*
19 *reduction’ means the sum of each of the applicable fuel*
20 *economy reductions determined under subparagraph (C).*

21 *“(C) The term ‘applicable fuel economy reduction’*
22 *means a number of miles per gallon equal to—*

23 *“(i) the reduction in a manufacturer’s average*
24 *fuel economy in a model year which results from the*

1 application of a category of Federal standards appli-
2 cable to such model year, and which would not have
3 occurred had Federal standards of such category
4 applicable to model year 1975 remained the only
5 standards of such category in effect, minus

6 “(ii) 0.5 mile per gallon.

7 In making the determination under this subparagraph,
8 the Secretary (in accordance with such methods as he
9 shall prescribe by rule) shall assume a production mix
10 for such manufacturer which would have achieved the
11 average fuel economy standard for such model year had
12 Federal standards of such category applicable to model
13 year 1975 remained the only standards of such category
14 in effect.

15 “(D) Each of the following is a category of Federal
16 standards:

17 “(i) Emissions standards under section 202 of
18 the Clean Air Act, and emissions standards appli-
19 cable by reason of section 209(b) of such Act.

20 “(ii) Motor vehicle safety standards under the
21 National Traffic and Motor Vehicle Safety Act of
22 1966.

23 “(iii) Noise emission standards under section 6
24 of the Noise Control Act of 1972.

1 “(iv) Property loss reduction standards under
2 title I of this Act.

3 “(E) Any standard promulgated under the Na-
4 tional Traffic and Motor Vehicle Safety Act of 1966
5 relating to the vulnerability of the front and rear end of
6 automobiles to damage from low-speed collisions shall be
7 treated as a property loss reduction standard under
8 title I of this Act for purposes of determining any ap-
9 plicable fuel economy reduction.

10 “(4) Proceedings under this subsection shall be conducted
11 in accordance with section 553 of title 5, United States Code,
12 except that interested persons shall be entitled to make oral as
13 well as written presentations. A transcript shall be taken of
14 any oral presentations. The Secretary may, for the purposes
15 of conducting a proceeding under this subsection, consolidate
16 one or more applications filed under this subsection.

17 “(e) For purposes of this section, in determining maxi-
18 mum feasible average fuel economy, the Secretary shall
19 consider—

20 “(1) technological feasibility;

21 “(2) economic practicability;

22 “(3) the effect of other Federal motor vehicle
23 standards on fuel economy; and

24 “(4) the need of the Nation to conserve energy.