The original documents are located in Box 12, folder "Energy (2)" of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

Public Law 94-163
94th Congress, S. 622
December 22, 1975

An Act

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Policy and Conservation Act".

Energy Policy and Conservation Act.
42 USC 6201 note.

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STATEMENT OF PURPOSES

42 USC 6201. SEC. 2. The purposes of this Act are—

(1) to grant specific standby authority to the President, subject to congressional review, to impose rationing, to reduce demand for energy through the implementation of energy conservation plans, and to fulfill obligations of the United States under the international energy program;

(2) to provide for the creation of a Strategic Petroleum Reserve capable of reducing the impact of severe energy supply interruptions;

(3) to increase the supply of fossil fuels in the United States, through price incentives and production requirements;

(4) to conserve energy supplies through energy conservation programs, and, where necessary, the regulation of certain energy uses;

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

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

(7) to provide a means for verification of energy data to assure the reliability of energy data.

DEFINITIONS

42 USC 6202. SEC. 3. As used in this Act:

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

(2) The term "person" includes (A) any individual, (B) any corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company, and (C) the government and any agency of the United States or any State or political subdivision thereof.

(3) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (including any natural liquid and any natural gas liquid product).

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

(5) The term "United States" when used in the geographical sense means all of the States and the Outer Continental Shelf.

(6) The term "Outer Continental Shelf" has the same meaning as such term has under section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

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

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

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

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

(C) results, or is likely to result, from an interruption in the supply of imported petroleum products, or from sabotage or an act of God.

(9) The term "antitrust laws" includes—

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

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

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

(D) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purpose", approved August 27, 1894 (15 U.S.C. 8 and 9); and

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

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

(A) held in trust for Indians or Alaska Natives,

(B) owned by Indians or Alaska Natives with Federal restrictions on the title,

(C) within any area of the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, the National System of Trails, or the Wild and Scenic Rivers System, or

(D) within military reservations.

TITLE I—MATTERS RELATED TO DOMESTIC SUPPLY AVAILABILITY

PART A—DOMESTIC SUPPLY

COAL CONVERSION

SEC. 101. (a) Section 2(f) of the Energy Supply and Environmental Coordination Act of 1974 is amended— 15 USC 792.

(1) in paragraph (1) thereof, by striking out "June 30, 1975" and inserting in lieu thereof "June 30, 1977", and by striking out "January 1, 1979" and inserting in lieu thereof "January 1, 1985"; and

(2) in paragraph (2) thereof, by striking out "December 31, 1978" and inserting in lieu thereof "December 31, 1984", and by striking out "January 1, 1979" and inserting in lieu thereof "January 1, 1985".

(b) Section 2(a) of such Act is amended to read as follows:

"(a) The Federal Energy Administrator—

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

"(2) may, by order, prohibit any major fuel burning installation, other than a powerplant,

from burning natural gas or petroleum products as its primary energy source, if the requirements of subsection (b) are met and if (A) the Federal Energy Administrator determines such powerplant or installation on June 22, 1974, had, or thereafter acquires or is designed with, the capability and necessary plant equipment to burn coal, or (B) such powerplant or installation is required to meet a design or construction requirement under subsection (c)."

(c) Section 2(c) of such Act is amended by inserting "or other major fuel burning installation" after "powerplant" wherever it appears and by inserting "in the case of a powerplant" after "(1)" in the second sentence.

INCENTIVES TO DEVELOP UNDERGROUND COAL MINES

42 USC 6211.

SEC. 102. (a) The Administrator may, in accordance with subsection (b) and rules prescribed under subsection (d), guarantee loans made to eligible persons described in subsection (c)(1) for the purpose of developing new underground coal mines.

(b)(1) A person may receive for a loan guarantee under subsection (a) only if the Administrator determines that—

(A) such person is capable of successfully developing and operating the mine with respect to which the loan guarantee is sought;

(B) such person has provided adequate assurance that the mine will be constructed and operated in compliance with the provisions of the Federal Coal Mine Health and Safety Act and that no final judgment holding such person liable for any fine or penalty under such Act is unsatisfied;

30 USC 801 note.

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

(D) such person has obtained a contract, of at least the duration of the period during which the loan is required to be repaid, for the sale or resale of coal to be produced from such mine to a person who the Administrator of the Environmental Protection Agency certifies will be able to burn such coal in compliance with all applicable requirements of the Clean Air Act, and of any applicable implementation plan (as defined in section 110 of such Act);

42 USC 1857 note.
42 USC 1857c-5.

(E) the loan will be adequately secured;

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

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

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

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

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

(c) For purposes of this section—

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

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

(B) did not produce more than 300,000 barrels of crude oil or own an oil refinery in such preceding calendar year; and

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

(2) A person is affiliated with another person if he controls, is controlled by, or is under common control with such other person, as such term may be further defined by rule by the Administrator.

"Low sulfur coal."

(3) The term "low sulfur coal" means coal which, in a quantity necessary to produce one million British thermal units, does not contain sulfur or sulfur compounds the elemental sulfur content of which exceeds 0.6 pound. Sulfur content shall be determined after the application of any coal preparation process which takes place before sale of the coal by the producer.

Regulations.

(d) The Administrator shall prescribe such regulations as may be necessary or appropriate to carry out this section. Such rules shall require that each application for a guarantee under this section shall be made in writing to the Administrator in such form and with such content and other submissions as the Administrator shall require, in order reasonably to protect the interests of the United States. Each guarantee shall be issued in accordance with subsections (a) through (c), and—

(1) under such terms and conditions as the Administrator, in consultation with the Secretary of the Treasury, considers appropriate;

(2) with such provisions with respect to the date of issue of such guarantee as the Administrator, with the concurrence of the Secretary of the Treasury, considers appropriate, except that the required concurrence of the Secretary of the Treasury may not, without the consent of the Administrator, result in a delay in the issuance of such guarantee for more than 60 days; and

(3) in such form as the Administrator considers appropriate.

Record-keeping.

(e) Each person who receives a loan guarantee under this section shall keep such records as the Administrator or the Secretary of the Treasury shall require, including records which fully disclose the total cost of the project for which a loan is guaranteed under this section and such other records as the Administrator or the Secretary of the Treasury determines necessary to facilitate an effective audit and performance evaluation. The Administrator, the Secretary of the Treasury, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers, and records of any person who receives a loan guarantee under this section.

DOMESTIC USE OF ENERGY SUPPLIES AND RELATED MATERIALS AND EQUIPMENT

Export restrictions.
42 USC 6212.

SEC. 103. (a) The President may, by rule, under such terms and conditions as he determines to be appropriate and necessary to carry out the purposes of this Act, restrict exports of—

(1) coal, petroleum products, natural gas, or petrochemical feedstocks, and

(2) supplies of materials or equipment which he determines to be necessary (A) to maintain or further exploration, production, refining, or transportation of energy supplies, or (B) for the construction or maintenance of energy facilities within the United States.

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

(2) Exemptions from any rule prohibiting crude oil or natural gas exports shall be included in such rule or provided for in an amendment thereto and may be based on the purpose for export, class of seller or purchaser, country of destination, or any other reasonable classification or basis as the President determines to be appropriate and consistent with the national interest and the purposes of this Act.

(c) In order to implement any rule promulgated under subsection (a) of this section, the President may request and, if so, the Secretary of Commerce shall, pursuant to the procedures established by the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of foreign demand" in section 3(2)(A) of such Act), impose such restrictions as specified in any rule under subsection (a) on exports of coal, petroleum products, natural gas, or petrochemical feedstocks, and such supplies of materials and equipment.

50 USC app. 2401 note.
50 USC app. 2402.

(d) Any finding by the President pursuant to subsection (a) or (b) and any action taken by the Secretary of Commerce pursuant thereto shall take into account the national interest as related to the need to leave uninterrupted or unimpaired—

(1) exchanges in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state,

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

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

5 USC 551.

(e)(1) The provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply with respect to the promulgation of any rule pursuant to this section, except that the President may waive the requirement pertaining to the notice of proposed rulemaking or period for comment only if he finds that compliance with such requirements may seriously impair his ability to impose effective and timely prohibitions on exports.

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

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

Reports to Congress.

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

MATERIALS ALLOCATION

50 USC app. 2071.

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

"(c)(1) Notwithstanding any other provision of this Act, the President may, by rule or order, require the allocation of, or the priority performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment in order to maximize domestic energy supplies if he makes the findings required by paragraph (3) of this subsection.

Report to Congress.

"(2) The President shall report to the Congress within sixty days after the date of enactment of this subsection on the manner in which the authority contained in paragraph (1) will be administered. This report shall include the manner in which allocations will be made, the procedure for requests and appeals, the criteria for determining priorities as between competing requests, and the office or agency which will administer such authorities.

"(3) The authority granted in this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials and equipment in the marketplace, unless the President finds that—

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

"(B) maintenance or furtherance of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection.

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

50 USC app. 2071 note. 50 USC app. 2071.

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

50 USC app. 2061.

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

Ante, p. 878.

PROHIBITION OF CERTAIN LEASE BIDDING ARRANGEMENTS

42 USC 6213.

SEC. 105. (a) The Secretary of the Interior shall, not later than 30 days after the date of enactment of this Act, prescribe and make effective a rule which prohibits the bidding for any right to develop crude oil, natural gas, and natural gas liquids on any lands located on the Outer Continental Shelf by any person if more than one major oil company, more than one affiliate of a major oil company, or a major oil company and any affiliate of a major oil company, has or have a significant ownership interest in such person. Such rule shall define affiliate relationships and significant ownership interests.

(b) As used in this section:

"Major oil company."

(1) The term "major oil company" means any person who, individually or together with any other person with respect to which such person has an affiliate relationship or significant ownership interest, produced during a prior 6-month period specified by the Secretary, an average daily volume of 1,600,000

barrels of crude oil, natural gas liquids equivalents, and natural gas equivalents.

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

(3) One barrel of natural gas liquids equivalent equals 1.454 barrels of natural gas liquids at 60 degrees Fahrenheit.

(c) The Secretary may, by amendment to the rule, exempt bidding for leases for lands located in frontier or other areas determined by the Secretary to be extremely high risk lands or to present unusually high cost exploration, or development, problems.

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

Report to Congress.

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

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

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

PRODUCTION OF OIL OR GAS AT THE MAXIMUM EFFICIENT RATE AND TEMPORARY EMERGENCY PRODUCTION RATE

42 USC 6214.

SEC. 106. (a) (1) The Secretary of the Interior, by rule on the record after an opportunity for a hearing, shall, to the greatest extent practicable, determine the maximum efficient rate of production and, if any, the temporary emergency production rate for each field on Federal lands which produces, or is determined to be capable of producing, significant volumes of crude oil or natural gas, or both.

(2) Except as provided in subsection (f), the President may, by rule or order, require crude oil or natural gas, or both, to be produced from fields on Federal lands designated by him—

(A) at the maximum efficient rate of production, and

(B) during a severe energy supply interruption, at the temporary emergency production rate

as determined pursuant to paragraph (1) for such field.

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

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

(c) With respect to any field, which produces, or is determined to be capable of producing, significant volumes of crude oil, or natural gas, or both, which field is unitized and is composed of both Federal lands and lands other than Federal lands and there has been no determination of the maximum efficient rate of production or the temporary emergency production rate or both, the Secretary of the Interior may, pursuant to subsection (a) (1), determine a maximum efficient rate of production and a temporary emergency production rate, if any, for such field. The President may, during a severe energy supply interruption by rule or order, require production at the maximum efficient rate of production and the temporary emergency production rate, if any, determined for such field.

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

(e) As used in this section:

"Maximum efficient rate of production."

(1) The term "maximum efficient rate of production" means the maximum rate of production of crude oil or natural gas, or both, which may be sustained without loss of ultimate recovery of crude oil or natural gas, or both, under sound engineering and economic principles.

"Temporary emergency production rate."

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

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

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

(f) Nothing in this section shall be construed to authorize the production of crude oil, or natural gas, or both, from any Naval Petroleum Reserve subject to the provisions of chapter 641 of title 10, United States Code.

10 USC 7421 et seq.

PART B—STRATEGIC PETROLEUM RESERVE

DECLARATION OF POLICY

42 USC 6231.

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

(b) It is hereby declared to be the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products, but not less than 150 million barrels of petroleum products by the end of the 3-year period which begins on the date of enactment of this Act, for the purpose of reducing the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program. It is further declared to be the policy of the United States to provide for the creation of an Early Storage Reserve, as part of the Reserve, for the purpose of providing limited protection from the impact of near-term disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program.

DEFINITIONS

42 USC 6232. SEC. 152. As used in this part:

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

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

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

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

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

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

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

(8) The term "related facility" means any necessary appurtenance to a storage facility, including pipelines, roadways, reservoirs, and salt brine lines.

(9) The term "Reserve" means the Strategic Petroleum Reserve.

(10) The term "storage facility" means any facility or geological formation which is capable of storing significant quantities of petroleum products.

(11) The term "Strategic Petroleum Reserve" means petroleum products stored in storage facilities pursuant to this part; such term includes the Industrial Petroleum Reserve, the Early Storage Reserve, and the Regional Petroleum Reserve.

STRATEGIC PETROLEUM RESERVE OFFICE

Establishment. 42 USC 6233. SEC. 153. There is established, in the Federal Energy Administration, a Strategic Petroleum Reserve Office. The Administrator, acting through such Office and in accordance with this part, shall exercise authority over the establishment, management, and maintenance of the Reserve.

STRATEGIC PETROLEUM RESERVE

42 USC 6234. SEC. 154. (a) A Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products shall be created pursuant to this part. By the end of the 3-year period which begins on the date of enactment of this Act, the Strategic Petroleum Reserve (or the Early Storage Reserve authorized by section 155, if no Strategic Petroleum Reserve Plan has become effective pursuant to the provisions of section 159(a)) shall contain not less than 150 million barrels of petroleum products.

Plan to Congress. Post, p. 965. (b) The Administrator, not later than December 15, 1976, shall prepare and transmit to the Congress, in accordance with section 551, a

Strategic Petroleum Reserve Plan. Such Plan shall comply with the provisions of this section and shall detail the Administrator's proposals for designing, constructing, and filling the storage and related facilities of the Reserve.

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

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

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

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

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

Volumes of crude oil initially stored in the Early Storage Reserve and volumes of crude oil stored in the Industrial Petroleum Reserve, and the Regional Petroleum Reserve shall be credited toward attainment of the storage goals specified in this subsection.

(2) The base period shall be the period of the 3 consecutive months, during the 24-month period preceding the date of enactment of this Act, in which average monthly import levels were the highest.

(d) The Strategic Petroleum Reserve Plan shall be designed to assure, to the maximum extent practicable, that the Reserve will minimize the impact of any interruption or reduction in imports of refined petroleum products and residual fuel oil in any region which the Administrator determines is, or is likely to become, dependent upon such imports for a substantial portion of the total energy requirements of such region. The Strategic Petroleum Reserve Plan shall be designed to assure, to the maximum extent practicable, that each noncontiguous area of the United States which does not have overland access to domestic crude oil production has its component of the Strategic Petroleum Reserve within its respective territory.

(e) The Strategic Petroleum Reserve Plan shall include:

(1) a comprehensive environmental assessment;

(2) a description of the type and proposed location of each storage facility (other than storage facilities of the Industrial Petroleum Reserve) proposed to be included in the Reserve;

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

(4) an estimate of the volumes and types of petroleum products proposed to be stored in each such storage facility;

(5) a projection as to the aggregate size of the Reserve, including a statement as to the most economically-efficient storage levels for each such storage facility;

(6) a justification for any changes, with respect to volumes or dates, proposed in the storage schedule specified in subsection (c), and a program schedule for overall development and completion of the Reserve (taking into account all relevant factors, including cost effectiveness, the need to construct related facilities, and the ability to obtain sufficient quantities of petroleum products to fill the storage facilities to the proposed storage levels);

(7) an estimate of the direct cost of the Reserve, including—
(A) the cost of storage facilities;
(B) the cost of the petroleum products to be stored;
(C) the cost of related facilities; and
(D) management and operation costs;
(8) an evaluation of the impact of developing the Reserve, taking into account—
(A) the availability and the price of supplies and equipment and the effect, if any, upon domestic production of acquiring such supplies and equipment for the Reserve;
(B) any fluctuations in world, and domestic, market prices for petroleum products which may result from the acquisition of substantial quantities of petroleum products for the Reserve;
(C) the extent to which such acquisition may support otherwise declining market prices for such products; and
(D) the extent to which such acquisition will affect competition in the petroleum industry;
(9) an identification of the ownership of each storage and related facility proposed to be included in the Reserve (other than storage and related facilities of the Industrial Petroleum Reserve);
(10) an identification of the ownership of the petroleum products to be stored in the Reserve in any case where such products are not owned by the United States;
(11) a statement of the manner in which the provisions of this part relating to the establishment of the Industrial Petroleum Reserve and the Regional Petroleum Reserve will be implemented; and
(12) a Distribution Plan setting forth the method of drawdown and distribution of the Reserve.

EARLY STORAGE RESERVE

42 USC 6235.

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

(2) If the Strategic Petroleum Reserve Plan has not become effective under section 159(a), the Early Storage Reserve shall contain not less than 150 million barrels of petroleum products by the end of the 3-year period which begins on the date of enactment of this Act.

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

Plan, transmittal to Congress.

(c) Within 90 days after the date of enactment of this Act, the Administrator shall prepare and transmit to the Congress an Early Storage Reserve Plan which shall provide for the storage of not less than 150 million barrels of petroleum products by the end of 3 years from the date of enactment of this Act. Such plan shall detail the Administrator's proposals for implementing the Early Storage Reserve requirements of this section. The Early Storage Reserve Plan shall, to the maximum extent practicable, provide for, and set forth

the manner in which, Early Storage Reserve facilities will be incorporated into the Strategic Petroleum Reserve after the Strategic Petroleum Reserve Plan has become effective under section 159(a). The Early Storage Reserve Plan shall include, with respect to the Early Storage Reserve, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan, including a Distribution Plan for the Early Storage Reserve.

INDUSTRIAL PETROLEUM RESERVE

Establishment. 42 USC 6236.

SEC. 156. (a) The Administrator may establish an Industrial Petroleum Reserve as part of the Strategic Petroleum Reserve.

(b) To implement the Early Storage Reserve Plan or the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a), the Administrator may require each importer of petroleum products and each refiner to (1) acquire, and (2) store and maintain in readily available inventories, petroleum products in amounts determined by the Administrator, except that the Administrator may not require any such importer or refiner to store such petroleum products in an amount greater than 3 percent of the amount imported or refined by such person, as the case may be, during the previous calendar year. Petroleum products imported and stored in the Industrial Petroleum Reserve shall be exempt from any tariff or import license fee.

(c) The Administrator shall implement this section in a manner which is appropriate to the maintenance of an economically sound and competitive petroleum industry. The Administrator shall take such steps as are necessary to avoid inequitable economic impacts on refiners and importers, and he may grant relief to any refiner or importer who would otherwise incur special hardship, inequity, or unfair distribution of burdens as the result of any rule, regulation, or order promulgated under this section. Such relief may include full or partial exemption from any such rule, regulation, or order and the issuance of an order permitting such an importer or refiner to store petroleum products owned by such importer or refiner in surplus storage capacity owned by the United States.

REGIONAL PETROLEUM RESERVE

42 USC 6237.

SEC. 157. (a) The Strategic Petroleum Reserve Plan shall provide for the establishment and maintenance of a Regional Petroleum Reserve in, or readily accessible to, each Federal Energy Administration Region, as defined in title 10, Code of Federal Regulations in effect on November 1, 1975, in which imports of residual fuel oil or any refined petroleum product, during the 24-month period preceding the date of computation, equal more than 20 percent of demand for such oil or product in such regions during such period, as determined by the Administrator. Such volume shall be computed annually.

(b) To implement the Strategic Petroleum Reserve Plan, the Administrator shall accumulate and maintain in or near any such Federal Energy Administration Region described in subsection (a), a Regional Petroleum Reserve containing volumes of such oil or product, described in subsection (a), at a level adequate to provide substantial protection against an interruption or reduction in imports of such oil or product to such region, except that the level of any such Regional Petroleum Reserve shall not exceed the aggregate volume of imports of such oil or product into such region during the period of the 3 consecutive months, during the 24-month period specified in subsection

(a), in which average monthly import levels were the highest, as determined by the Administrator. Such volume shall be computed annually.

(c) The Administrator may place in storage crude oil, residual fuel oil, or any refined petroleum product in substitution for all or part of the volume of residual fuel oil or any refined petroleum product stored in any Regional Petroleum Reserve pursuant to the provisions of this section if he finds that such substitution (1) is necessary or desirable for purposes of economy, efficiency, or for other reasons, and (2) may be made without delaying or otherwise adversely affecting the fulfillment of the purpose of the Regional Petroleum Reserve.

OTHER STORAGE RESERVES

Report to Congress. 42 USC 6238.

SEC. 158. Within 6 months after the Strategic Petroleum Reserve Plan is transmitted to the Congress, pursuant to the requirements of section 154(b), the Administrator shall prepare and transmit to the Congress a report setting forth his recommendations concerning the necessity for, and feasibility of, establishing—

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

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

(3) Remote Crude Oil and Natural Gas Reserves consisting of crude oil and natural gas to be acquired and stored by the United States, in place, pursuant to a contract or other agreement or arrangement entered into between the United States and persons who discovered such oil or gas in remote areas.

REVIEW BY CONGRESS AND IMPLEMENTATION

42 USC 6239.

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

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

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

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

Post, p. 965.

(c) The Administrator may, prior to transmittal of the Strategic Petroleum Reserve Plan, prepare and transmit to the Congress proposals for designing, constructing, and filling storage or related facilities. Any such proposal shall be accompanied by a statement explaining (1) the need for action on such proposals prior to completion of such Plan, (2) the anticipated role of the proposed storage or related facilities in such Plan, and (3) to the maximum extent practicable, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan.

(d) The Administrator may prepare amendments to the Strategic Petroleum Reserve Plan or to the Early Storage Reserve Plan. He shall transmit any such amendment to the Congress together with a

statement explaining the need for such amendment and, to the maximum extent practicable, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan.

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

(1) the Administrator has transmitted such proposal or amendment to the Congress in accordance with subsection (c) or (d) (as the case may be), and

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

(f) To the extent necessary or appropriate to implement—

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

(2) the Early Storage Reserve Plan;

(3) any proposal described in subsection (c), or any amendment described in subsection (d), which such proposal or amendment has taken effect pursuant to subsection (e); and

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

the Administrator may:

(A) promulgate rules, regulations, or orders;

(B) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

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

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

(E) acquire, subject to the provisions of section 160, by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve, including the Early Storage Reserve and the Regional Petroleum Reserve;

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

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

(H) require any importer of petroleum products or any refiner to (A) acquire, and (B) store and maintain in readily available inventories, petroleum products in the Industrial Petroleum Reserve, pursuant to section 156;

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

(J) require the maintenance of the Industrial Petroleum Reserve;

(K) maintain the Reserve; and

(L) bring an action, whenever he deems it necessary to implement the Strategic Petroleum Reserve Plan, in any court having

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jurisdiction of such proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located thereon or used therewith.

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

PETROLEUM PRODUCTS FOR STORAGE IN THE RESERVE

42 USC 6240.

SEC. 160. (a) The Administrator is authorized, for purposes of implementing the Strategic Petroleum Reserve Plan or the Early Storage Reserve Plan, to place in storage, transport, or exchange—

(1) crude oil produced from Federal lands, including crude oil produced from the Naval Petroleum Reserves to the extent that such production is authorized by law;

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

(3) petroleum products acquired by purchase, exchange, or otherwise.

(b) The Administrator shall, to the greatest extent practicable, acquire petroleum products for the Reserve, including the Early Storage Reserve and the Regional Petroleum Reserve in a manner consonant with the following objectives:

(1) minimization of the cost of the Reserve;

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

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

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

(5) encouragement of competition in the petroleum industry.

DRAWDOWN AND DISTRIBUTION OF THE RESERVE

42 USC 6241.

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

(b) Except as provided in subsections (c) and (f), no drawdown and distribution of the Reserve may be made except in accordance with the provisions of the Distribution Plan contained in the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a).

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

(d) Neither the Distribution Plan contained in the Strategic Petroleum Reserve Plan nor the Distribution Plan contained in the Early Storage Reserve Plan may be implemented, and no drawdown and distribution of the Reserve or the Early Storage Reserve may be made, unless the President has found that implementation of either such Distribution Plan is required by a severe energy supply interruption or by obligations of the United States under the international energy program.

Rules.

(e) The Administrator may, by rule, provide for the allocation of any petroleum product withdrawn from the Strategic Petroleum Reserve in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such rules. Such price levels and allocation procedures shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973.

15 USC 753.

(f) The Administrator may permit any importer or refiner who owns any petroleum products stored in the Industrial Petroleum Reserve pursuant to section 156 to remove or otherwise dispose of such products upon such terms and conditions as the Administrator may prescribe.

COORDINATION WITH IMPORT QUOTA SYSTEM

42 USC 6242.

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

DISCLOSURE, INSPECTION, INVESTIGATION

Record-keeping.
42 USC 6243.

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

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

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

NAVAL PETROLEUM RESERVES STUDY

Report to Congress.
42 USC 6244.

SEC. 164. The Administrator shall, in cooperation and consultation with the Secretary of the Navy and the Secretary of the Interior, develop and submit to the Congress within 180 days after the date of enactment of this Act, a written report recommending procedures for the exploration, development, and production of Naval Petroleum Reserve Number 4. Such report shall include recommendations for protecting the economic, social, and environmental interests of Alaska Natives residing within the Naval Petroleum Reserve Number 4 and analyses of arrangements which provide for (1) participation by private industry and private capital, and (2) leasing to private industry. The Secretary of the Navy and the Secretary of the Interior shall cooperate fully with one another and with the Administrator; the Secretary of the Navy shall provide to the Administrator and Secretary of the Interior all relevant data on Naval Petroleum Reserve Number 4 in order to assist the Administrator in the preparation of such report.

ANNUAL REPORTS

Report to Congress and President.
42 USC 6245.

SEC. 165. The Administrator shall report to the President and the Congress, not later than one year after the transmittal of the Strategic Petroleum Reserve Plan to the Congress and each year thereafter, on all actions taken to implement this part. Such report shall include—

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

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

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

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

(5) any recommendations for supplemental legislation deemed necessary or appropriate by the Administrator to implement the provisions of this part.

AUTHORIZATION OF APPROPRIATIONS

42 USC 6246.

SEC. 166. There are authorized to be appropriated—

(1) such funds as are necessary to develop and implement the Early Storage Reserve Plan (including planning, administration, acquisition, and construction of storage and related facilities) and as are necessary to permit the acquisition of petroleum products for storage in the Early Storage Reserve or, if the Strategic Petroleum Reserve Plan has become effective under section 159(a), for storage in the Strategic Petroleum Reserve in the minimum volume specified in section 154(a) or 155(a)(2), whichever is applicable; and

(2) $1,100,000,000 to remain available until expended to carry out the provisions of this part to develop the Strategic Petroleum Reserve Plan and to implement such plan which has taken effect pursuant to section 159(a), including planning, administration, and acquisition and construction of storage and related facilities, but no funds are authorized to be appropriated under this paragraph for the purchase of petroleum products for storage in the Strategic Petroleum Reserve.

TITLE II—STANDBY ENERGY AUTHORITIES

PART A—GENERAL EMERGENCY AUTHORITIES

CONDITIONS OF EXERCISE OF ENERGY CONSERVATION AND RATIONING AUTHORITIES

Plans to Congress. 42 USC 6261.

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

"Contingency plan."

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

(A) an energy conservation contingency plan prescribed under section 202; or

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

(b) Except as otherwise provided in subsection (d) or (e) and subject to the requirements of subsection (c), no contingency plan may become effective, unless—

(1) the President has transmitted such contingency plan to the Congress in accordance with section 552(a); Post, p. 967.

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

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

(A) has found that putting such contingency plan into effect is required by a severe energy supply interruption or in order to fulfill obligations of the United States under the international energy program, and

(B) has transmitted such finding to the Congress, together with a statement of the effective date and manner for exercise of such plan.

(c) In addition to the requirements of subsection (b), a rationing contingency plan approved under subsection (b)(2) may not become effective unless—

(1) the President has transmitted to the Congress in accordance with section 551(b) a request to put such rationing contingency plan into effect, and Post, p. 965.

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

(d)(1) Except as provided in paragraph (2) or (3), a contingency plan may not be amended unless the President has transmitted such amendment to the Congress in accordance with section 552 and each House of Congress has approved such amendment in accordance with the procedures specified in section 552.

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

(3) The President may prescribe technical or clerical amendments to a contingency plan in accordance with section 523. Post, p. 962.

(e) Beginning at any time during the 90-day period which begins on the date of enactment of this Act, the President may put a contingency plan into effect for a period of not more than 60 days if—

(1) the President—

(A) has found that putting such contingency plan into effect is required by a severe energy supply interruption or is necessary to comply with obligations of the United States under the international energy program; and

(B) has transmitted such contingency plan to the Congress in accordance with section 551(b), together with a request to put such plan into effect; and

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

(f) Any contingency plan which the President transmits to the Congress pursuant to subsection (b)(1) or (e)(1)(B) shall contain a specific statement explaining the need for and the rationale and operation of such plan and shall be based upon a consideration of, and to the extent practicable, be accompanied by an evaluation of, the potential economic impacts of such plan, including an analysis of—

(1) any effects of such plan on—
(A) vital industrial sectors of the economy;
(B) employment (on a national and regional basis);
(C) the economic vitality of States and regional areas;
(D) the availability and price of consumer goods and services; and
(E) the gross national product; and
(2) any potential anticompetitive effects.

ENERGY CONSERVATION CONTINGENCY PLANS

42 USC 6262. Post, p. 962. "Energy conservation contingency plan."

SEC. 202. (a)(1) The President shall prescribe, in accordance with section 523(a), one or more energy conservation contingency plans. As used in this section, the term "energy conservation contingency plan" means a plan which imposes reasonable restrictions on the public or private use of energy which are necessary to reduce energy consumption. In prescribing energy conservation contingency plans, the President shall take into consideration the mobility needs of the handicapped, as defined in section 203(a)(2)(B).

(2) An energy conservation contingency plan prescribed under this section may not—
(A) impose rationing or any tax, tariff, or user fee;
(B) contain any provision respecting the price of petroleum products; or
(C) provide for a credit or deduction in computing any tax.

(b) An energy conservation contingency plan shall apply in each State or political subdivision thereof, except such plan may provide for procedures for exempting any State or political subdivision thereof from such plan, in whole or part, during a period for which (1) the President determines a comparable program of such State or political subdivision is in effect, or (2) the President finds special circumstances exist in such State or political subdivision.

(c) Any energy conservation contingency plan shall not deal with more than one logically consistent subject matter.

RATIONING CONTINGENCY PLAN

Rules. 42 USC 6263. 15 USC 754. 15 USC 753.

SEC. 203. (a)(1) The President shall prescribe, by rule in accordance with section 523(a) of this Act, a rationing contingency plan which shall, for purposes of enforcement under section 5 of the Emergency Petroleum Allocation Act of 1973, be deemed a part of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 and which shall provide, consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of such Act—
(A) for the establishment of a program for the rationing and ordering of priorities among classes of end-users of gasoline and diesel fuel used in motor vehicles, and
(B) for the assignment of rights, and evidence of such rights, to end-users of gasoline and such diesel fuel, entitling such end-users to obtain gasoline or such diesel fuel in precedence to other classes of end-users not similarly entitled.

(2)(A) For purposes of paragraph (1), the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 shall be deemed to include consideration of the mobility needs of handicapped persons and their convenience in obtaining the end-user's rights specified in paragraph (1).

"Handicapped person."

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

(b) Any finding required to be made by the President pursuant to section 201(b)(3) and any request to put a rationing contingency plan into effect pursuant to section 201(e) shall be accompanied by a finding of the President that such plan is necessary to attain, to the maximum extent practicable, the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 and the purposes of this Act. 15 USC 753.

(c) The President shall, by order under section 4 of the Emergency Petroleum Allocation Act of 1973, for the purpose of carrying out a rationing contingency plan which is in effect, cause such adjustments to be made in the allocations made pursuant to the regulation under section 4(a) of such Act as the President determines to be necessary to carry out the purposes of this section and to be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of such Act and the purposes of this Act.

(d)(1) The President shall, to the extent practicable, provide for the use of local boards described in paragraph (2) with authority to—
(A) receive petitions from any end-user of gasoline and diesel fuel used in motor vehicles with respect to the priority and entitlement of such user under a rationing contingency plan, and
(B) order a reclassification or modification of any determination made under a rationing contingency plan with respect to such end-user's rationing priority or rights specified in paragraph (1).

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

(2) Not later than 30 days after the date of the approval of a rationing contingency plan pursuant to section 201(b)(2), the President shall, by rule, prescribe—
(A) criteria for delegation of his functions, in whole or part, under this Act with respect to such rationing contingency plan to officers or local boards (of balanced composition reflecting the community as a whole) of States or political subdivisions thereof; and
(B) procedures for petitioning for the receipt of such delegation.

(3)(A) Officers or local boards of States or political subdivisions thereof, following the establishment of criteria and procedures under paragraph (2), may petition the President to receive delegation under such paragraph.

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

(e) No rationing contingency plan under this section may—
(1) impose any tax,
(2) provide for a credit or deduction in computing any tax, or
(3) impose any user fee, except to the extent necessary to defray the cost of administering the rationing contingency plan or to provide for initial distribution of end-user rights specified in paragraph (1).

(f) Notwithstanding section 531, all authority to carry out any rationing contingency plan shall expire on the same date as authority Post, p. 965.

to issue and enforce rules and orders under the Emergency Petroleum Allocation Act of 1973.

15 USC 751 note.

PART B—AUTHORITIES WITH RESPECT TO INTERNATIONAL ENERGY PROGRAM

INTERNATIONAL OIL ALLOCATION

42 USC 6271.

SEC. 251. (a) The President may, by rule, require that persons engaged in producing, transporting, refining, distributing, or storing petroleum products, take such action as he determines to be necessary for implementation of the obligations of the United States under chapters III and IV of the international energy program insofar as such obligations relate to the international allocation of petroleum products. Allocation under such rule shall be in such amounts and at such prices as are specified in (or determined in a manner prescribed by) such rule. Such rule may apply to any petroleum product owned or controlled by any person described in the first sentence of this subsection who is subject to the jurisdiction of the United States, including any petroleum product destined, directly or indirectly, for import into the United States or any foreign country, or produced in the United States. Subject to subsection (b)(2), such a rule shall remain in effect until amended or rescinded by the President.

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

(A) has transmitted such rule to the Congress;

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

(C) has transmitted such finding to the Congress, together with a statement of the effective date and manner for exercise of such rule.

(2) No rule under subsection (b) may be put into effect or remain in effect after the expiration of 12 months after the date such rule was transmitted to Congress under paragraph (1)(A).

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

15 USC 753.

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

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

30 USC 185.

INTERNATIONAL VOLUNTARY AGREEMENTS

Effective date.
42 USC 6272.

SEC. 252. (a) Effective 90 days after the date of enactment of this Act, the requirements of this section shall be the sole procedures applicable to—

(1) the development or carrying out of voluntary agreements and plans of action to implement the allocation and information provisions of the international energy program, and

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

(b) The Administrator, with the approval of the Attorney General, after each of them has consulted with the Federal Trade Commission and the Secretary of State, shall prescribe, by rule, standards and procedures by which persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products may develop and carry out voluntary agreements, and plans of action, which are required to implement the allocation and information provisions of the international energy program.

Standards and procedures.

(c) The standards and procedures prescribed under subsection (b) shall include the following requirements:

Meetings.

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

Notice.

(ii) Meetings of bodies created by the International Energy Agency established by the international energy program need not be open to interested persons and need not be initiated and chaired by a regular full-time Federal employee.

(iii) The President, in consultation with the Administrator, the Secretary of State, and the Attorney General, may determine that a meeting held to carry out a voluntary agreement or to develop or carry out a plan of action shall not be open to interested persons or that attendance by interested persons may be limited, if the President finds that a wider disclosure would be detrimental to the foreign policy interests of the United States.

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

Comments.

(2) Interested persons permitted to attend such a meeting shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings, subject to any reasonable limitations with respect to the manner of presentation of data, views, and arguments as the Administrator may impose.

(3) A full and complete record, and where practicable a verbatim transcript, shall be kept of any meeting held, and a full and complete record shall be kept of any communication (other than in a meeting) made, between or among participants or potential participants, to develop, or carry out a voluntary agreement or a plan of action under this section. Such record or transcript shall be deposited, together with any agreement resulting therefrom, with the Administrator, and shall be available to the Attorney General and the Federal Trade Commission. Such records or transcripts shall be available for public inspection and copying in accordance with section 552 of title 5, United States Code; except that (A) matter may not be withheld from disclosure under section 552(b) of such title on grounds other than the grounds specified

5 USC 552.

in section 552 (b)(1), (b)(3), or so much of (b)(4) as relates to trade secrets; and (B) in the exercise of authority under section 552(b)(1), the President shall consult with the Secretary of State, the Administrator, and the Attorney General with respect to questions relating to the foreign policy interests of the United States.

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

(d)(1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, and when practicable, in the carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this part. A voluntary agreement or plan of action under this section may not be carried out unless approved by the Attorney General, after consultation with the Federal Trade Commission. Prior to the expiration of the period determined under paragraph (2), the Federal Trade Commission shall transmit to the Attorney General its views as to whether such an agreement or plan of action should be approved, and shall publish such views in the Federal Register. The Attorney General, in consultation with the Federal Trade Commission, the Secretary of State, and the Administrator, shall have the right to review, amend, modify, disapprove, or revoke, on his own motion or upon the request of the Federal Trade Commission or any interested person, any voluntary agreement or plan of action at any time, and, if revoked, thereby withdraw prospectively any immunity which may be conferred by subsection (f) or (g).

Publication in Federal Register.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented; except that during an international energy supply emergency, the Administrator, subject to approval of the Attorney General, may reduce such 20-day period. Any such agreement or plan of action shall be available for public inspection and copying, except that a plan of action shall be so available only to the extent to which records or transcripts are so available as provided in the last sentence of subsection (c)(3). Any action taken pursuant to such voluntary agreement or plan of action shall be reported to the Attorney General and the Federal Trade Commission pursuant to such regulations as shall be prescribed under paragraphs (3) and (4) of subsection (e).

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

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

Rules.

(2) In addition to any requirement specified under subsections (b) and (c) of this section and in order to carry out the purposes of this section, the Attorney General, in consultation with the Federal Trade Commission and the Administrator, shall promulgate rules

concerning the maintenance of necessary and appropriate records related to the development and carrying out of voluntary agreements and plans of action authorized pursuant to this section.

Record-keeping.

(3) Persons developing or carrying out voluntary agreements and plans of action authorized pursuant to this section shall maintain such records as are required by rules promulgated under paragraph (2). The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

Accessibility.

Rules.

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

15 USC 1311 note.

(f)(1) There shall be available as a defense to any civil or criminal action brought under the antitrust laws (or any similar State law) in respect to actions taken to develop or carry out a voluntary agreement or plan of action by persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products (provided that such actions were not taken for the purpose of injuring competition) that—

(A) such actions were taken—

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

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

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

(2) Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense provided in this subsection shall be available only if the person asserting the defense demonstrates that the actions were specified in, or within the reasonable contemplation of, an approved plan of action.

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

(g) No provision of this section shall be construed as granting immunity for, or as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any act or practice which occurred prior to the date of enactment of this Act or subsequent to its expiration or repeal.

(h) Upon the expiration of the 90-day period which begins on the date of enactment of this Act, the provisions of sections 708 and 708A (other than 708A(o)) of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out (1) the international energy program, or (2) any allocation, price control, or similar program with respect to petroleum products under this Act or under the Emergency Petroleum Allocation Act of 1973. For purposes of section 708(A)(o) of the Defense Production Act of 1950, the effective date of the provisions of this Act which relate to international voluntary agreements to carry out the International Energy Program shall be deemed to be 90 days after the date of enactment of this Act.

Ante, pp. 810, 815.
50 USC app. 2158, 2158a.

42 USC 751 note.

Report to President and Congress.

(i) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every 6 months, a report on the impact on competition and on small business of actions authorized by this section.

Termination date.

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

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

(l) As used in this section and section 254:

"International energy supply emergency."

(1) The term "international energy supply emergency" means any period (A) beginning on any date which the President determines allocation of petroleum products to nations participating in the international energy program is required by chapters III and IV of such program, and (B) ending on a date on which he determines that such allocation is no longer required. Such a period may not exceed 90 days, but the President may establish one or more additional 90-day periods by making anew the determination under subparagraph (A) of the preceding sentence. Any determination respecting the beginning or end of any such period shall be published in the Federal Register.

"Allocation."

(2) The term "allocation and information provisions of the international energy program" means the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in such program.

ADVISORY COMMITTEES

Establishment. 42 USC 6273.

SEC. 253. (a) To achieve the purposes of the international energy program with respect to international allocation of petroleum products and the information system provided in such program, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. In addition to the requirements specified in this section, such advisory committees shall be subject to the provisions of section 17 of the Federal Energy Administration Act of 1974 (whether or not such Act or any of its provisions expire or terminate before June 30, 1985); shall be chaired by a regular full-time Federal employee; and shall include representatives of the public. The meetings of such committees shall be open to the public. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

15 USC 776.

Notice of meetings.

Meetings, verbatim transcript.

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

(c) The President, after consultation with the Secretary of State, the Federal Trade Commission, the Attorney General, and the Administrator, may suspend the application of—

(1) sections 10 and 11 of the Federal Advisory Committee Act, 5 USC app. I.

(2) subsections (b) and (c) of section 17 of the Federal Energy Administration Act of 1974, 15 USC 776.

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

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

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

EXCHANGE OF INFORMATION

42 USC 6274.

SEC. 254. (a) (1) Except as provided in subsections (b) and (c), the Administrator, after consultation with the Attorney General, may provide to the Secretary of State, and the Secretary of State may transmit to the International Energy Agency established by the international energy program, the information and data related to the energy industry certified by the Secretary of State as required to be submitted under the international energy program.

(2) (A) Except as provided in subparagraph (B) of this paragraph, any such information or data which is geological or geophysical information or a trade secret or commercial or financial information to which section 552 (b) (9) or (b) (4) of title 5, United States Code, applies shall, prior to such transmittal, be aggregated, accumulated, or otherwise reported in such manner as to avoid, to the fullest extent feasible, identification of any person from whom the United States obtained such information or data, and in the case of geological or geophysical information, a competitive disadvantage to such person.

(B) (i) Notwithstanding subparagraph (A) of this paragraph, during an international energy supply emergency, any such information or data with respect to the international allocation of petroleum products may be made available to the International Energy Agency if otherwise authorized to be made available to such Agency by paragraph (1) of this subsection.

(ii) Subparagraph (A) shall not apply to information described in subparagraph (A) (other than geological or geophysical information) if the President certifies, after opportunity for presentation of views by interested persons, that the International Energy Agency has adopted and is implementing security measures which assure that such information will not be disclosed by such Agency or its employees to any person or foreign country without having been aggregated, accumulated, or otherwise reported in such manner as to avoid identification of any person from whom the United States obtained such information or data.

Review.

(3) (A) Within 90 days after the date of enactment of this Act, and periodically thereafter, the President shall review the operation of this section and shall determine whether other signatory nations to the international energy program are transmitting information and data to the International Energy Agency in substantial compliance with such program. If the President determines that other nations

are not so complying, paragraph (2)(B)(ii) shall not apply until he determines other nations are so complying.

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

(b) If the President determines that the transmittal of data or information pursuant to the authority of this section would prejudice competition, violate the antitrust laws, or be inconsistent with United States national security interests, he may require that such data or information not be transmitted.

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

(d) For the purposes of carrying out the obligations of the United States under the international energy program, the authority to collect data granted by sections 11 and 13 of the Energy Supply and Environmental Coordination Act and the Federal Energy Administration Act of 1974, respectively, shall continue in full force and effect without regard to the provisions of such Acts relating to their expiration.

15 USC 796.
88 Stat. 265.

(e) The authority under this section to transmit information shall be subject to any limitations on disclosure contained in other laws, except that such authority may be exercised without regard to—

(1) section 11(d) of the Energy Supply and Environmental Coordination Act of 1974;

(2) section 14(b) of the Federal Energy Administration Act of 1974;

15 USC 773.
50 USC app. 2406.

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

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

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

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

RELATIONSHIP OF THIS TITLE TO THE INTERNATIONAL ENERGY AGREEMENT

42 USC 6275.

SEC. 255. The purpose of the Congress in enacting this title is to provide standby energy emergency authority to deal with energy shortage conditions and to minimize economic dislocations and adverse impacts on employment. While the authorities contained in this title may, to the extent authorized by this title, be used to carry out obligations incurred by the United States in connection with the International Energy Program, this title shall not be construed in any way

as advice and consent, ratification, endorsement, or other form of congressional approval of the specific terms of such program.

TITLE III—IMPROVING ENERGY EFFICIENCY

PART A—AUTOMOTIVE FUEL ECONOMY

AMENDMENT TO MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

SEC. 301. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by inserting "(except part A of title V)" after "SEC. 2. For the purpose of this Act" in section 2 thereof and by adding at the end of such Act the following new title:

"TITLE V—IMPROVING AUTOMOTIVE EFFICIENCY

"PART A—AUTOMOTIVE FUEL ECONOMY

"DEFINITIONS

"SEC. 501. For purposes of this part: 15 USC 2001.

"(1) The term 'automobile' means any 4-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and

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

"(B) which—

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

"(ii) is a type of vehicle for which the Secretary determines, by rule, average fuel economy standards under this part are feasible, and

"(iii) is a type of vehicle for which the Secretary determines, by rule, average fuel economy standards will result in significant energy conservation, or is a type of vehicle which the Secretary determines is substantially used for the same purposes as vehicles described in subparagraph (A) of this paragraph.

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

"(2) The term 'passenger automobile' means any automobile (other than an automobile capable of off-highway operation) which the Secretary determines by rule is manufactured primarily for use in the transportation of not more than 10 individuals.

"(3) The term 'automobile capable of off-highway operation' means any automobile which the Secretary determines by rule—

"(A) has a significant feature (other than 4-wheel drive) which is designed to equip such automobile for off-highway operation, and

"(B) either—

"(i) is a 4-wheel drive automobile, or

"(ii) is rated at more than 6,000 pounds gross vehicle weight.

"(4) The term 'average fuel economy' means average fuel economy, as determined under section 503.

"(5) The term 'fuel' means gasoline and diesel oil. The Secretary may, by rule, include any other liquid fuel or any gaseous

fuel within the meaning of the term 'fuel' if he determines that such inclusion is consistent with the need of the Nation to conserve energy.

"(6) The term 'fuel economy' means the average number of miles traveled by an automobile per gallon of gasoline (or equivalent amount of other fuel) consumed, as determined by the EPA Administator in accordance with procedures established under section 503(d).

"(7) The term 'average fuel economy standard' means a performance standard which specifies a minimum level of average fuel economy which is applicable to a manufacturer in a model year.

"(8) The term 'manufacturer' means any person engaged in the business of manufacturing automobiles. The Secretary shall prescribe rules for determining, in cases where more than one person is the manufacturer of an automobile, which person is to be treated as the manufacturer of such automobile for purposes of this part.

"(9) The term 'manufacturer' (except for purposes of section 502(c)) means to produce or assemble in the customs territory of the United States, or to import.

"(10) The term 'import' means to import into the customs territory of the United States.

"(11) The term 'model type' means a particular class of automobile as determined, by rule, by the EPA Administrator, after consultation and coordination with the Secretary.

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

"(13) The term 'Secretary' means the Secretary of Transportation.

"(14) The term 'EPA Administrator' means the Administrator of the Environmental Protection Agency.

"AVERAGE FUEL ECONOMY STANDARDS APPLICABLE TO EACH MANUFACTURER

15 USC 2002.

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

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

Transmittal to Congress, publication in Federal Register.

"(2) Not later than January 15 of each year, beginning in 1977, the Secretary shall transmit to each House of Congress, and publish in the

Federal Register, a review of average fuel economy standards under this part. The review required to be transmitted not later than January 15, 1979, shall include a comprehensive analysis of the program required by this part. Such analysis shall include an assessment of the ability of manufacturers to meet the average fuel economy standard for model year 1985 as specified in paragraph (1) of this subsection, and any legislative recommendations the Secretary or the EPA Administrator may have for improving the program required by this part.

"(3) Not later than July 1, 1977, the Secretary shall prescribe, by rule, average fuel economy standards for passenger automobiles manufactured in each of the model years 1981 through 1984. Any such standard shall apply to each manufacturer (except as provided in subsection (c)), and shall be set for each such model year at a level which the Secretary determines (A) is the maximum feasible average fuel economy level, and (B) will result in steady progress toward meeting the average fuel economy standard established by or pursuant to this subsection for model year 1985.

"(4) The Secretary may, by rule, amend the average fuel economy standard specified in paragraph (1) for model year 1985, or for any subsequent model year, to a level which he determines is the maximum feasible average fuel economy level for such model year, except that any amendment which has the effect of increasing an average fuel economy standard to a level in excess of 27.5 miles per gallon, or of decreasing any such standard to a level below 26.0 miles per gallon, shall be submitted to the Congress in accordance with section 551 of the Energy Policy and Conservation Act, and shall not take effect if either House of the Congress disapproves such amendment in accordance with the procedures specified in such section.

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

"(b) The Secretary shall, by rule, prescribe average fuel economy standards for automobiles which are not passenger automobiles and which are manufactured by any manufacturer in each model year which begins more than 30 months after the date of enactment of this title. Such rules may provide for separate standards for different classes of such automobiles (as determined by the Secretary), and shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level which such manufacturers are able to achieve in each model year to which this subsection applies. Any standard applicable to a model year under this subsection shall be prescribed at least 18 months prior to the beginning of such model year.

Application.

"(c) On application of a manufacturer who manufactured (whether or not in the United States) fewer than 10,000 passenger automobiles in the second model year preceding the model year for which the application is made, the Secretary may, by rule, exempt such manufacturer from subsection (a). An application for such an exemption shall be submitted to the Secretary, and shall contain such information as the Secretary may require by rule. Such exemption may only be granted if the Secretary determines that the average fuel economy standard otherwise applicable under subsection (a) is more stringent than the maximum feasible average fuel economy level which such manufacturer can attain. The Secretary may not issue exemptions with respect to a model year unless he establishes, by rule, alternative average fuel economy standards for passenger automobiles manufactured by manu-

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facturers which receive exemptions under this subsection. Such standards may be established for an individual manufacturer, for all automobiles to which this subsection applies, or for such classes of such automobiles as the Secretary may define by rule. Each such standard shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level for the manufacturers to which the standard applies. An exemption under this subsection shall apply to a model year only if the manufacturer manfactures (whether or not in the United States) fewer than 10,000 passenger automobiles in such model year.

"(d)(1) Any manufacturer may apply to the Secretary for modification of an average fuel economy standard applicable under subsection (a) to such manufacturer for model year 1978, 1979, or 1980. Such application shall contain such information as the Secretary may require by rule, and shall be submitted to the Secretary within 24 months before the beginning of the model year for which such modification is requested.

"(2)(A) If a manufacturer demonstrates and the Secretary finds that—

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

"(ii) such manufacturer applied a reasonably selected technology,

the Secretary shall, by rule, reduce the average fuel economy standard applicable under subsection (a) to such manufacturer by the amount of such manufacturer's Federal standards fuel economy reduction, rounded off to the nearest one-tenth mile per gallon (in accordance with rules of the Secretary). To the maximum extent practicable, prior to making a finding under this paragraph with respect to an application, the Secretary shall request, and the EPA Administrator shall supply, test results collected pursuant to section 503(d) of this Act for all automobiles covered by such application.

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

"(ii) If the Secretary—

"(I) finds that a Federal standards fuel economy reduction is likely to exist for a manufacturer who filed an application under paragraph (1), and

"(II) does not find that such manufacturer applied a reasonably selected technology,

the average fuel economy standard applicable under subsection (a) to such manufacturer shall, by rule, be reduced by an amount equal to the Federal standards fuel economy reduction which the Secretary finds would have resulted from the application of a reasonably selected technology.

"(3) For purposes of this subsection:

Definitions.

"(A) The term 'reasonably selected technology' means a technology which the Secretary determines it was reasonable for a manufacturer to select, considering (i) the Nation's need to improve the fuel economy of its automobiles, and (ii) the energy savings, economic costs, and lead-time requirements associated with alternative technologies practicably available to such manufacturer.

"(B) The term 'Federal standards fuel economy reduction' means the sum of the applicable fuel economy reductions determined under subparagraph (C).

"(C) The term 'applicable fuel economy reduction' means a number of miles per gallon equal to—

"(i) the reduction in a manufacturer's average fuel economy in a model year which results from the application of a category of Federal standards applicable to such model year, and which would not have occurred had Federal standards of such category applicable to model year 1975 remained the only standards of such category in effect, minus

"(ii) 0.5 mile per gallon.

"(D) Each of the following is a category of Federal standards;

"(i) Emissions standards under section 202 of the Clean Air Act, and emissions standards applicable by reason of section 209(b) of such Act. 42 USC 1857f-1. 42 USC 1857f-6a.

"(ii) Motor vehicle safety standards under the National Traffic and Motor Vehicle Safety Act of 1966. 15 USC 1381 note.

"(iii) Noise emission standards under section 6 of the Noise Control Act of 1972. 42 USC 4905.

"(iv) Property loss reduction standards under title I of this Act.

"(E) In making the determination under this subparagraph, the Secretary (in accordance with such methods as he shall prescribe by rule) shall assume a production mix for such manufacturer which would have achieved the average fuel economy standard for such model year had standards described in subparagraph (D) applicable to model year 1975 remained the only standards in effect.

"(4) The Secretary may, for the purposes of conducting a proceeding under this subsection, consolidate one or more applications filed under this subsection.

"(e) For purposes of this section, in determining maximum feasible average fuel economy, the Secretary shall consider—

"(1) technological feasibility;

"(2) economic practicability;

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

"(4) the need of the Nation to conserve energy.

"(f)(1) The Secretary may, by rule, from time to time, amend any average fuel economy standard prescribed under subsection (a)(3), (b), or (c), so long as such standard, as amended, meets the requirements of subsection (a)(3), (b), or (c), as the case may be.

"(2) Any amendment prescribed under this section which has the effect of making any average fuel economy standard more stringent shall be—

"(A) promulgated, and

"(B) if required by paragraph (4) of subsection (a), submitted to the Congress,

at least 18 months prior to the beginning of the model year to which such amendment will apply.

"(g) Proceedings under subsection (a)(4) or (d) shall be conducted in accordance with section 553 of title 5, United States Code, except that interested persons shall be entitled to make oral as well as written presentations. A transcript shall be taken of any oral presentations.

"DETERMINATION OF AVERAGE FUEL ECONOMY

15 USC 2003. "SEC. 503. (a)(1) Average fuel economy for purposes of section 502 (a) and (c) shall be calculated by the EPA Administrator by dividing—

"(A) the total number of passenger automobiles manufactured in a given model year by a manufacturer, by

"(B) a sum of terms, each term of which is a fraction created by dividing—

"(i) the number of passenger automobiles of a given model type manufactured by such manufacturer in such model year, by

"(ii) the fuel economy measured for such model type.

"(2) Average fuel economy for purposes of section 502(b) shall be calculated in accordance with rules of the EPA Administrator.

"(b)(1) In calculating average fuel economy under subsection (a)(1), the EPA Administrator shall separate the total number of passenger automobiles manufactured by a manufacturer into the following two categories:

"(A) Passenger automobiles which are domestically manufactured by such manufacturer (plus, in the case of model year 1978 and model year 1979, passenger automobiles which are within the includable base import volume of such manufacturer).

"(B) Passenger automobiles which are not domestically manufactured by such manufacturer (and which, in the case of model year 1978 and model year 1979, are not within the includable base import volume of such manufacturer).

The EPA Administrator shall calculate the average fuel economy of each such separate category, and each such category shall be treated as if manufactured by a separate manufacturer for purposes of this part.

Definitions. "(2) For purposes of this subsection:

"(A) The term 'includable base import volume', with respect to any manufacturer in model year 1978 or 1979, as the case may be, is a number of passenger automobiles which is the lesser of—

"(i) the manufacturer's base import volume, or

"(ii) the number of passenger automobiles calculated by multiplying—

"(I) the quotient obtained by dividing such manufacturer's base import volume by such manufacturer's base base production volume, times

"(II) the total number of passenger automobiles manufactured by such manufacturer during such model year.

"(B) The term 'base import volume' means one-half the sum of—

"(i) the total number of passenger automobiles which were not domestically manufactured by such manufacturer during model year 1974 and which were imported by such manufacturer during such model year, plus

"(ii) 133 percent of the total number of passenger automobiles which were not domestically manufactured by such manufacturer during the first 9 months of model year 1975 and which were imported by such manufacturer during such 9-month period.

"(C) The term 'base production volume' means one-half the sum of—

"(i) the total number of passenger automobiles manufactured by such manufacturer during model year 1974, plus

"(ii) 133 percent of the total number of passenger automobiles manufactured by such manufacturer during the first 9 months of model year 1975.

"(D) For purposes of subparagraphs (B) and (C) of this paragraph any passenger automobile imported during model year 1976, but prior to July 1, 1975, shall be deemed to have been manufactured (and imported) during the first 9 months of model year 1975.

"(E) An automobile shall be considered domestically manufactured in any model year if at least 75 percent of the cost to the manufacturer of such automobile is attributable to value added in the United States or Canada, unless the assembly of such automobile is completed in Canada and such automobile is not imported into the United States prior to the expiration of 30 days following the end of such model year. The EPA Administrator may prescribe rules for purposes of carrying out this subparagraph.

"(F) The fuel economy of each passenger automobile which is imported by a manufacturer in model year 1978 or 1979, as the case may be, and which is not domestically manufactured by such manufacturer, shall be deemed to be equal to the average fuel economy of all such passenger automobiles.

"(c) Any reference in this part to automobiles manufactured by a manufacturer shall be deemed—

"(1) to include all automobiles manufactured by persons who control, are controlled by, or are under common control with, such manufacturer; and

"(2) to exclude all automobiles manufactured (within the meaning of paragraph (1)) during a model year by such manufacturer which are exported prior to the expiration of 30 days following the end of such model year.

"(d)(1) Fuel economy for any model type shall be measured, and average fuel economy of a manufacturer shall be calculated, in accordance with testing and calculation procedures established by the EPA Administrator, by rule. Procedures so established with respect to passenger automobiles (other than for purposes of section 506) shall be the procedures utilized by the EPA Administrator for model year 1975 (weighed 55 percent urban cycle, and 45 percent highway cycle), or procedures which yield comparable results. Procedures under this subsection, to the extent practicable, shall require that fuel economy tests be conducted in conjunction with emissions tests conducted under section 206 of the Clean Air Act. The EPA Administrator shall report any measurements of fuel economy and any calculations of average fuel economy to the Secretary. 42 USC 1857f-5.

"(2) The EPA Administrator shall, by rule, determine that quantity of any other fuel which is the equivalent of one gallon of gasoline.

"(3) Testing and calculation procedures applicable to a model year, and any amendment to such procedures (other than a technical or clerical amendment), shall be promulgated not less than 12 months prior to the model year to which such procedures apply.

"(e) For purposes of this part (other than section 506), any measurement of fuel economy of a model type, and any calculation of average fuel economy of a manufacturer, shall be rounded off to the nearest one-tenth mile per gallon (in accordance with rules of the EPA Administrator).

"(f) The EPA Administrator shall consult and coordinate with the Secretary in carrying out his duties under this section.

"DETERMINATION OF AVERAGE FUEL ECONOMY

15 USC 2003. "SEC. 503. (a)(1) Average fuel economy for purposes of section 502 (a) and (c) shall be calculated by the EPA Administrator by dividing—

"(A) the total number of passenger automobiles manufactured in a given model year by a manufacturer, by

"(B) a sum of terms, each term of which is a fraction created by dividing—

"(i) the number of passenger automobiles of a given model type manufactured by such manufacturer in such model year, by

"(ii) the fuel economy measured for such model type.

"(2) Average fuel economy for purposes of section 502(b) shall be calculated in accordance with rules of the EPA Administrator.

"(b)(1) In calculating average fuel economy under subsection (a)(1), the EPA Administrator shall separate the total number of passenger automobiles manufactured by a manufacturer into the following two categories:

"(A) Passenger automobiles which are domestically manufactured by such manufacturer (plus, in the case of model year 1978 and model year 1979, passenger automobiles which are within the includable base import volume of such manufacturer).

"(B) Passenger automobiles which are not domestically manufactured by such manufacturer (and which, in the case of model year 1978 and model year 1979, are not within the includable base import volume of such manufacturer).

The EPA Administrator shall calculate the average fuel economy of each such separate category, and each such category shall be treated as if manufactured by a separate manufacturer for purposes of this part.

Definitions. "(2) For purposes of this subsection:

"(A) The term 'includable base import volume', with respect to any manufacturer in model year 1978 or 1979, as the case may be, is a number of passenger automobiles which is the lesser of—

"(i) the manufacturer's base import volume, or

"(ii) the number of passenger automobiles calculated by multiplying—

"(I) the quotient obtained by dividing such manufacturer's base import volume by such manufacturer's base base production volume, times

"(II) the total number of passenger automobiles manufactured by such manufacturer during such model year.

"(B) The term 'base import volume' means one-half the sum of—

"(i) the total number of passenger automobiles which were not domestically manufactured by such manufacturer during model year 1974 and which were imported by such manufacturer during such model year, plus

"(ii) 133 percent of the total number of passenger automobiles which were not domestically manufactured by such manufacturer during the first 9 months of model year 1975 and which were imported by such manufacturer during such 9-month period.

"(C) The term 'base production volume' means one-half the sum of—

"(i) the total number of passenger automobiles manufactured by such manufacturer during model year 1974, plus

"(ii) 133 percent of the total number of passenger automobiles manufactured by such manufacturer during the first 9 months of model year 1975.

"(D) For purposes of subparagraphs (B) and (C) of this paragraph any passenger automobile imported during model year 1976, but prior to July 1, 1975, shall be deemed to have been manufactured (and imported) during the first 9 months of model year 1975.

"(E) An automobile shall be considered domestically manufactured in any model year if at least 75 percent of the cost to the manufacturer of such automobile is attributable to value added in the United States or Canada, unless the assembly of such automobile is completed in Canada and such automobile is not imported into the United States prior to the expiration of 30 days following the end of such model year. The EPA Administrator may prescribe rules for purposes of carrying out this subparagraph.

"(F) The fuel economy of each passenger automobile which is imported by a manufacturer in model year 1978 or 1979, as the case may be, and which is not domestically manufactured by such manufacturer, shall be deemed to be equal to the average fuel economy of all such passenger automobiles.

"(c) Any reference in this part to automobiles manufactured by a manufacturer shall be deemed—

"(1) to include all automobiles manufactured by persons who control, are controlled by, or are under common control with, such manufacturer; and

"(2) to exclude all automobiles manufactured (within the meaning of paragraph (1)) during a model year by such manufacturer which are exported prior to the expiration of 30 days following the end of such model year.

"(d)(1) Fuel economy for any model type shall be measured, and average fuel economy of a manufacturer shall be calculated, in accordance with testing and calculation procedures established by the EPA Administrator, by rule. Procedures so established with respect to passenger automobiles (other than for purposes of section 506) shall be the procedures utilized by the EPA Administrator for model year 1975 (weighed 55 percent urban cycle, and 45 percent highway cycle), or procedures which yield comparable results. Procedures under this subsection, to the extent practicable, shall require that fuel economy tests be conducted in conjunction with emissions tests conducted under section 206 of the Clean Air Act. The EPA Administrator shall report any measurements of fuel economy and any calculations of average fuel economy to the Secretary. 42 USC 1857f-5.

"(2) The EPA Administrator shall, by rule, determine that quantity of any other fuel which is the equivalent of one gallon of gasoline.

"(3) Testing and calculation procedures applicable to a model year, and any amendment to such procedures (other than a technical or clerical amendment), shall be promulgated not less than 12 months prior to the model year to which such procedures apply.

"(e) For purposes of this part (other than section 506), any measurement of fuel economy of a model type, and any calculation of average fuel economy of a manufacturer, shall be rounded off to the nearest one-tenth mile per gallon (in accordance with rules of the EPA Administrator).

"(f) The EPA Administrator shall consult and coordinate with the Secretary in carrying out his duties under this section.

"JUDICIAL REVIEW

15 USC 2004.

"SEC. 504. (a) Any person who may be adversely affected by any rule prescribed under section 501, 502, 503, or 506 may, at any time prior to 60 days after such rule is prescribed (or in the case of an amendment submitted to each House of the Congress under section 502(a)(4), at any time prior to 60 days after the expiration of the 60-day period specified in section 502(a)(5)), file a petition in the United States Court of Appeals for the District of Columbia, or for any circuit wherein such person resides or has his principal place of business, for judicial review of such rule. A copy of the petition shall be forthwith transmitted by the clerk of such court to the officer who prescribed the rule. Such officer shall thereupon cause to be filed in such court the written submissions and other materials in the proceeding upon which such rule was based. Upon the filing of such petition, the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. Findings of the Secretary under section 502(d) shall be set aside by the court on review unless such findings are supported by substantial evidence.

5 USC 701 et seq.

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

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

"(d) The remedies provided for in this section shall be in addition to, and not in lieu of, any other remedies provided by law.

"INFORMATION AND REPORTS

5 USC 2005.

"SEC. 505. (a)(1) Each manufacturer shall submit a report to the Secretary during the 30-day period preceding the beginning of each model year after model year 1977, and during the 30-day period beginning on the 180th day of each such model year. Each such report shall contain (A) a statement as to whether such manufacturer will comply with average fuel economy standards under section 502 applicable to the model year for which such report is made; (B) a plan which describes the steps the manufacturer has taken or intends to take in order to comply with such standards; and (C) such other information as the Secretary may require.

"(2) Whenever a manufacturer determines that a plan submitted under paragraph (1) which he stated was sufficient to insure compliance with applicable average fuel economy standards is not sufficient to insure such compliance, he shall submit a report to the Secretary containing a revised plan which specifies any additional measures which such manufacturer intends to take in order to comply

with such standards, and a statement as to whether such revised plan is sufficient to insure such compliance.

Rules.

"(3) The Secretary shall prescribe rules setting forth the form and content of the reports required under paragraphs (1) and (2).

Hearings.

"(b)(1) For the purpose of carrying out the provisions of this part, the Secretary or the EPA Administrator, or their duly designated agents, may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary, the EPA Administator, or such agents deem advisable. The Secretary or the EPA Administrator may require, by general or special orders that any person—

"(A) file, in such form as the Secretary or EPA Administrator may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary or the EPA Administrator under this part, and

"(B) provide the Secretary, the EPA Administrator, or their duly designated agents, access to (and for the purpose of examination, the right to copy) any documentary evidence of such person which is relevant to any function of the Secretary or the EPA Administrator under this part.

Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary or the EPA Administrator within such reasonable period as either may prescribe.

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

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

"(c)(1) Every manufacturer shall establish and maintain such records, make such reports, conduct such tests, and provide such items and information as the Secretary or the EPA Administrator may, by rule, reasonably require to enable the Secretary or the EPA Administrator to carry out their duties under this part and under any rules prescribed pursuant to this part. Such manufacturer shall, upon request of a duly designated agent of the Secretary or the EPA Administrator who presents appropriate credentials, permit such agent, at reasonable times and in a reasonable manner, to enter the premises of such manufacturer to inspect automobiles and appropriate books, papers, records, and documents. Such manufacturer shall make available all of such items and information in accordance with such reasonable rules as the Secretary or the EPA Administrator may prescribe.

"(2) The district courts of the United States may, if a manufacturer refuses to accede to any rule or reasonable request made under paragraph (1), issue an order requiring compliance with such requirement or request. Any failure to obey such an order of the court may be treated by such court as a contempt thereof.

"(d)(1) The Secretary and the EPA Administrator shall each disclose any information obtained under this part (other than section 503(d)) to the public in accordance with section 552 of title 5, United States Code, except that information may be withheld from disclosure

under subsection (b)(4) of such section only if the Secretary or the EPA Administrator, as the case may be, determines that such information, if disclosed, would result in significant competitive damage. Any matter described in section 552(b)(4) relevant to any administrative or judicial proceeding under this part may be disclosed in such proceeding.

"(2) Measurements and calculations under section 503(d) shall be made available to the public in accordance with section 552 of title 5, United States Code, without regard to subsection (b) of such section.

"LABELING

15 USC 2006.

"SEC. 506. (a)(1) Except as otherwise provided in paragraph (2), each manufacturer shall cause to be affixed, and each dealer shall cause to be maintained, on each automobile manufactured in any model year after model year 1976, in a prominent place, a label—

"(A) indicating—

"(i) the fuel economy of such automobile,

"(ii) the estimated annual fuel cost associated with the operation of such automobile, and

"(iii) the range of fuel economy of comparable automobiles (whether or not manufactured by such manufacturer), as determined in accordance with rules of the EPA Administrator,

"(B) containing a statement that written information (as described in subsection (b)(1)) with respect to the fuel economy of other automobiles manufactured in such model year (whether or not manufactured by such manufacturer) is available from the dealer in order to facilitate comparison among the various model types, and

"(C) containing any other information authorized or required by the EPA Administrator which relates to information described in subparagraph (A) or (B).

"(2) With respect to automobiles—

"(A) for which procedures established in the EPA and FEA Voluntary Fuel Labeling Program for Automobiles exist on the date of the enactment of this title, and

"(B) which are manufactured in model year 1976 and at least 90 days after such date of enactment,

each manufacturer shall cause to be affixed, and each dealer shall cause to be maintained, in a prominent place, a label indicating the fuel economy of such automobile, in accordance with such procedures.

"(3) The form and content of the labels required under paragraphs (1) and (2), and the manner in which such labels shall be affixed, shall be prescribed by the EPA Administrator by rule. The EPA Administrator may permit a manufacturer to comply with this paragraph by permitting such manufacturer to disclose the information required under this subsection on the label required by section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

Booklets.

"(b)(1) The EPA Administrator shall compile and prepare a simple and readily understandable booklet containing data on fuel economy of automobiles manufactured in each model year. Such booklet shall also contain information with respect to estimated annual fuel costs, and may contain information with respect to geographical or other differences in estimated annual fuel costs. The Administrator of the Federal Energy Administration shall publish and distribute such booklets.

Rules.

"(2) The EPA Administrator, not later than July 31, 1976, shall prescribe rules requiring dealers to make available to prospective

purchasers information compiled by the EPA Administrator under paragraph (1).

"(c)(1) A violation of subsection (a) shall be treated as a violation of section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232). For purposes of the Federal Trade Commission Act (other than sections 5(m) and (18), a violation of subsection (a) shall be treated as an unfair or deceptive act or practice in or affecting commerce. 15 USC 58.

"(2) As used in this section, the term 'dealer' has the same meaning as such term has in section 2(e) of the Automobile Information Disclosure Act (15 U.S.C. 1231(e)) except that in applying such term to this section, the term 'automobile' has the same meaning as such term has in section 501(1) of this part. "Dealer."

"(d) Any disclosure with respect to fuel economy or estimated annual fuel cost which is required to be made under the provisions of this section shall not create an express or implied warranty under State or Federal law that such fuel economy will be achieved, or that such cost will not be exceeded, under conditions of actual use.

"(e) In carrying out his duties under this section, the EPA Administrator shall consult with the Federal Trade Commission, the Secretary, and the Federal Energy Administrator.

"UNLAWFUL CONDUCT

"SEC. 507. The following conduct is unlawful: 15 USC 2007.

"(1) the failure of any manufacturer to comply with any average fuel economy standard applicable to such manufacturer under section 502 (other than section 502(b)),

"(2) the failure of any manufacturer to comply with any average fuel economy standard applicable to such manufacturer under section 502(b), or

"(3) the failure of any person (A) to comply with any provision of this part applicable to such person (other than section 502, 506(a), 510, or 511), or (B) to comply with any standard, rule, or order applicable to such person which is issued pursuant to such a provision.

"CIVIL PENALTY

"SEC. 508. (a)(1) If average fuel economy calculations reported under section 503(d) indicate that any manufacturer has violated section 507 (1) or (2), then (unless further measurements of fuel economy, further calculations of average fuel economy, or other information indicates there is no violation of section 507 (1) or (2)) the Secretary shall commence a proceeding under paragraph (2) of this subsection. The results of such further measurements, further calculations, and any such other information, shall be published in the Federal Register. 15 USC 2008.

"(2) If, on the record after opportunity for agency hearing, the Secretary determines that such manufacturer has violated section 507 (1) or (2), or that any person has violated section 507(3), the Secretary shall assess the penalties provided for under subsection (b). Any interested person may participate in any proceeding under this paragraph.

"(3)(A)(i) Whenever the average fuel economy of the passenger automobiles manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard established under section 502 (a) or (c) (determined without regard to any adjust-

ment under section 502(d)), such manufacturer shall be entitled to a credit, calculated under clause (ii), which shall be—

"(I) deducted from the amount of any civil penalty which has been or may be assessed against such manufacturer for a violation of section 507(1) occurring in the model year immediately prior to the model year in which such manufacturer exceeds such applicable average fuel economy standard, and

"(II) to the extent that such credit is not deducted pursuant to subclause (I), deducted from the amount of any civil penalty assessed against such manufacturer for a violation of section 507(1) occurring in the model year immediately following the model year in which such manufacturer exceeds such applicable average fuel economy standard.

"(ii) The amount of credit to which a manufacturer is entitled under clause (i) shall be equal to—

"(I) $5 for each tenth of a mile per gallon by which the average fuel economy of the passenger automobiles manufactured by such manufacturer in the model year in which the credit is earned pursuant to clause (i) exceeds the applicable average fuel economy standard established under section 502 (a) or (c), multiplied by

"(II) the total number of passenger automobiles manufactured by such manufacturer during such model year.

"(B)(i) Whenever the average fuel economy of a class of automobiles which are not passenger automobiles and which are manufactured by a manufacturer in a particular model year exceeds an average fuel economy standard applicable to automobiles of such class under section 502(b), such manufacturer shall be entitled to a credit, calculated under clause (ii), which shall be—

"(I) deducted from the amount of any civil penalty which has been or may be assessed against such manufacturer for a violation of section 507(2) occurring in the model year immediately prior to the model year in which such manufacturer exceeds such applicable average fuel economy standard, and

"(II) to the extent that such credit is not deducted pursuant to subclause (I), deducted from the amount of any such civil penalty assessed against such manufacturer for a violation of section 507(2) occurring in the model year immediately following the model year in which such manufacturer exceeds such applicable average fuel economy standard.

"(ii) The amount of credit to which a manufacturer is entitled under clause (i) shall be equal to—

"(I) $5 for each tenth of a mile per gallon by which the average fuel economy of the automobiles of such class manufactured by such manufacturer in the model year in which the credit is earned pursuant to clause (i) exceeds the applicable average fuel economy standard established under section 502(b), multiplied by

"(II) the total number of automobiles of such class manufactured by such manufacturer during such model year.

"(C) Whenever a civil penalty has been assessed and collected under this section from a manufacturer who is entitled to a credit under this paragraph with respect to such civil penalty, the Secretary of the Treasury shall refund to such manufacturer the amount of credit to which such manufacturer is so entitled, except that the amount of such refund shall not exceed the amount of the civil penalty so collected

"(D) The Secretary may prescribe rules for purposes of carrying out the provisions of this paragraph. Rules.

"(b)(1)(A) Any manufacturer whom the Secretary determines under subsection (a) to have violated a provision of section 507(1), shall be liable to the United States for a civil penalty equal to (i) $5 for each tenth of a mile per gallon by which the average fuel economy of the passenger automobiles manufactured by such manufacturer during such model year is exceeded by the applicable average fuel economy standard established under section 502 (a) and (c), multiplied by (ii) the total number of passenger automobiles manufactured by such manufacturer during such model year.

"(B) Any manufacturer whom the Secretary determines under subsection (a) to have violated section 507(2) shall be liable to the United States for a civil penalty equal to (i) $5 for each tenth of a mile per gallon by which the applicable average fuel economy standard exceeds the average fuel economy of automobiles to which such standard applies, and which are manufactured by such manufacturer during the model year in which the violation occurs, multiplied by (ii) the total number of automobiles to which such standard applies and which are manufactured by such manufacturer during such model year.

"(2) Any person whom the Secretary determines under subsection (a) to have violated a provision of section 507(3) shall be liable to the United States for a civil penalty of not more than $10,000 for each violation. Each day of a continuing violation shall constitute a separate violation for purposes of this paragraph.

"(3) The amount of such civil penalty shall be assessed by the Secretary by written notice. The Secretary shall have the discretion to compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection against any person, except that any civil penalty assessed for a violation of section 507 (1) or (2) may be so compromised, modified, or remitted only to the extent—

"(A) necessary to prevent the insolvency or bankruptcy of such manufacturer,

"(B) such manufacturer shows that the violation of section 507 (1) or (2) resulted from an act of God, a strike, or a fire, or

"(C) the Federal Trade Commission has certified that modification of such penalty is necessary to prevent a substantial lessening of competition, as determined under paragraph (4).

The Attorney General shall collect any civil penalty for which a manufacturer is liable under this subsection in a civil action under subsection (c)(2) (unless the manufacturer pays such penalty to the Secretary).

"(4) Not later than 30 days after a determination by the Secretary under subsection (a)(2) that a manufacturer has violated section 507 (1) or (2), such manufacturer may apply to the Federal Trade Commission for a certification under this paragraph. If the manufacturer shows and the Federal Trade Commission determines that modification of the civil penalty for which such manufacturer is otherwise liable is necessary to prevent a substantial lessening of competition in that segment of the automobile industry subject to the standard with respect to which such penalty was assessed, the Commission shall so certify. The certification shall specify the maximum amount that such penalty may be reduced. To the maximum extent practicable, the Commission shall render a decision with respect to an application under this paragraph not later than 90 days after the application is filed with the Commission. A proceeding under this paragraph shall not have the effect of

delaying the manufacturer's liability under this section for a civil penalty for more than 90 days after such application is filed, but any payment made before a decision of the Commission under this paragraph becomes final shall be paid to the court in which the penalty is collected, and shall (except as otherwise provided in paragraph (5)), be held by such court, until 90 days after such decision becomes final (at which time it shall be paid into the general fund of the Treasury).

"(5) Whenever a civil penalty has been assessed and collected from a manufacturer under this section, and is being held by a court in accordance with paragraph (4), and the Secretary subsequently determines to modify such civil penalty pursuant to paragraph (3)(C) the Secretary shall direct the court to remit the appropriate amount of such penalty to such manufacturer.

"(6) A claim of the United States for a civil penalty assessed against a manufacturer under subsection (b)(1) shall, in the case of the bankruptcy or insolvency of such manufacturer, be subordinate to any claim of a creditor of such manufacturer which arises from an extension of credit before the date on which the judgment in any collection action under this section becomes final (without regard to paragraph (4)).

"(c)(1) Any interested person may obtain review of a determination (A) of the Secretary pursuant to which a civil penalty has been assessed under subsection (b), or (B) of the Federal Trade Commission under subsection (b)(4), in the United States Court of Appeals for the District of Columbia, or for any circuit wherein such person resides or has his principal place of business. Such review may be obtained by filing a notice of appeal in such court within 30 days after the date of such determination, and by simultaneously sending a copy of such notice by certified mail to the Secretary or the Federal Trade Commission, as the case may be. The Secretary or the Commission, as the case may be, shall promptly file in such court a certified copy of the record upon which such determination was made. Any such determination shall be reviewed in accordance with chapter 7 of title 5, United States Code.

5 USC 701 et seq.

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

"EFFECT ON STATE LAW

15 USC 2009.

"SEC. 509. (a) Whenever an average fuel economy standard established under this part is in effect, no State or political subdivision of a State shall have authority to adopt or enforce any law or regulation relating to fuel economy standards or average fuel economy standards applicable to automobiles covered by such Federal standard.

"(b) Whenever any requirement under section 506 is in effect with respect to any automobile, no State or political subdivision of a State shall have authority to adopt or enforce any law or regulation with respect to the disclosure of fuel economy of such automobile, or of fuel cost associated with the operation of such automobile, if such law or regulation is not identical with such requirement.

"(c) Nothing in this section shall be construed to prevent any State or political subdivision thereof from establishing requirements with respect to fuel economy of automobiles procured for its own use.

"USE OF FUEL EFFICIENT PASSENGER AUTOMOBILES BY THE FEDERAL GOVERNMENT

Rules.
15 USC 2010.

"SEC. 510. (a) The President shall, within 120 days after the date of enactment of this title, promulgate rules which shall require that all passenger automobiles acquired by all executive agencies in each fiscal year which begins after such date of enactment achieve a fleet average fuel economy for such year not less than—

"(1) 18 miles per gallon, or

"(2) the average fuel economy standard applicable under section 502(a) for the model year which includes January 1 of such fiscal year,

whichever is greater.

Definitions.

"(b) As used in this section:

"(1) The term 'fleet average fuel economy' means (A) the total number of passenger automobiles acquired in a fiscal year to which this section applies by all executive agencies (excluding passenger automobiles designed to perform combat related missions for the Armed Forces or designed to be used in law enforcement work or emergency rescue work), divided by (B) a sum of terms, each term of which is a fraction created by dividing—

"(i) the number of passenger automobiles so acquired of a given model type, by

"(ii) the fuel economy of such model type.

"(2) The term 'executive agency' has the same meaning as such term has for purposes of section 105 of title 5, United States Code.

"(3) The term 'acquired' means leased for a period of 60 continuous days or more, or purchased.

"RETROFIT DEVICES

15 USC 2011.

"SEC. 511. (a) The Federal Trade Commission shall establish a program for systematically examining fuel economy representations made with respect to retrofit devices. Whenever the Commission has reason to believe that any such representation may be inaccurate, it shall request the EPA Administrator to evaluate, in accordance with subsection (b), the retrofit device with respect to which such representation was made.

"(b)(1) Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit device are accurate.

"(2) If under paragraph (1) the EPA Administrator tests, or causes to be tested, any retrofit device upon the application of a manufacturer of such device, such manufacturer shall supply, at his own expense, one or more samples of such device to the Administrator and shall be liable for the costs of testing which are incurred by the Administrator. The procedures for testing retrofit devices so supplied may include a requirement for preliminary testing by a qualified independent testing laboratory, at the expense of the manufacturer of such device.

Publication in Federal Register.

"(c) The EPA Administrator shall publish in the Federal Register a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

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"(1) the effect of any retrofit device on fuel economy;

"(2) the effect of any such device on emissions of air pollutants; and

"(3) any other information which the Administrator determines to be relevant in evaluating such device.

Such summary and conclusions shall also be submitted to the Secretary and the Federal Trade Commission.

"(d) Within 180 days after the date of enactment of this title, the EPA Administrator shall, by rule, establish—

"(1) testing and other procedures for evaluating the extent to which retrofit devices affect fuel economy and emissions of air pollutants, and

"(2) criteria for evaluating the accuracy of fuel economy representations made with respect to retrofit devices.

"Retrofit device."

"(e) For purposes of this section the term 'retrofit device' means any component, equipment, or other device—

"(1) which is designed to be installed in or on an automobile (as an addition to, as a replacement for, or through alteration or modification of, any original component, equipment, or other device); and

"(2) which any manufacturer, dealer, or distributor of such device represents will provide higher fuel economy than would have resulted with the automobile as originally equipped,

as determined under rules of the Administrator. Such term also includes a fuel additive for use in an automobile.

"REPORTS TO CONGRESS

15 USC 2012.

"SEC. 512. (a) Within 180 days after the date of enactment of this title, the Secretary shall prepare and submit to the Congress and the President a comprehensive report setting forth findings and containing conclusions and recommendations with respect to (1) a requirement that each new automobile be equipped with a fuel flow instrument reading directly in miles per gallon, and (2) the most feasible means of equipping used automobiles with such instruments. Such report shall include an examination of the effectiveness of such instruments in promoting voluntary reductions in fuel consumption, the cost of such instruments, means of encouraging automobile purchasers to voluntarily purchase automobiles equipped with such instruments, and any other factor bearing on the cost and effectiveness of such instruments and their use.

"(b)(1) Within 180 days after the date of enactment of this title, the Secretary shall prepare and submit to the Congress and the President a comprehensive report setting forth findings and containing conclusions and recommendations with respect to whether or not electric vehicles and other vehicles not consuming fuel (as defined in the first sentence of section 501(5)) should be covered by this part. Such report shall include an examination of the extent to which any such vehicle should be included under the provisions of this part, the manner in which energy requirements of such vehicles may be compared with energy requirements of fuel-consuming vehicles, the extent to which inclusion of such vehicles would stimulate their production and introduction into commerce, and any recommendations for legislative action.

"Electric vehicle."

"(2) As used in this subsection, the term 'electric vehicle' means a vehicle powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current.".

PART B—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

DEFINITIONS

SEC. 321. (a) For purposes of this part: 42 USC 6291.

(1) The term "consumer product" means any article (other than an automobile, as defined in section 501(1) of the Motor Vehicle Information and Cost Savings Act) of a type— Ante, p. 901.

(A) which in operation consumes, or is designed to consume, energy; and

(B) which, to any significant extent, is distributed in commerce for personal use or consumption by individuals;

without regard to whether such article of such type is in fact distributed in commerce for personal use or consumption by an individual.

(2) The term "covered product" means a consumer product of a type specified in section 322.

(3) The term "energy" means electricity, or fossil fuels. The Administrator may, by rule, include other fuels within the meaning of the term "energy" if he determines that such inclusion is necessary or appropriate to carry out the purposes of this Act.

(4) The term "energy use" means the quantity of energy directly consumed by a consumer product at point of use, determined in accordance with test procedures under section 323.

(5) The term "energy efficiency" means the ratio of the useful output of services from a consumer product to the energy use of such product, determined in accordance with test procedures under section 323.

(6) The term "energy efficiency standard" means a performance standard—

(A) which prescribes a minimum level of energy efficiency for a covered product, determined in accordance with test procedures prescribed under section 323, and

(B) which includes any other requirements which the Administrator may prescribe under section 325(c).

(7) The term "estimated annual operating cost" means the aggregate retail cost of the energy which is likely to be consumed annually in representative use of a consumer product, determined in accordance with section 323.

(8) The term "measure of energy consumption" means energy use, energy efficiency, estimated annual operating cost, or other measure of energy consumption.

(9) The term "class of covered products" means a group of covered products, the functions or intended uses of which are similar (as determined by the Administrator).

(10) The term "manufacture" means to manufacture, produce, assemble or import.

(11) The terms "import" and "importation" mean to import into the customs territory of the United States.

(12) The term "manufacturer" means any person who manufactures a consumer product.

(13) The term "retailer" means a person to whom a consumer product is delivered or sold, if such delivery or sale is for purposes of sale or distribution in commerce to purchasers who buy such product for purposes other than resale.

(14) The term "distributor" means a person (other than a manufacturer or retailer) to whom a consumer product is delivered or sold for purposes of distribution in commerce.

(15) (A) The term "private labeler" means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(B) A consumer product bears a private label if (i) such product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of such product, (ii) the person with whose brand or trademark such product (or container) is labeled has authorized or caused such product to be so labeled, and (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

(16) The terms "to distribute in commerce" and "distribution in commerce" mean to sell in commerce, to import, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(17) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(18) The term "Commission" means the Federal Trade Commission.

COVERAGE

42 USC 6292. SEC. 322. (a) A consumer product is a covered product if it is one of the following types (or is designed to perform a function which is the principal function of any of the following types):

(1) Refrigerators and refrigerator-freezers.
(2) Freezers.
(3) Dishwashers.
(4) Clothes dryers.
(5) Water heaters.
(6) Room air conditioners.
(7) Home heating equipment, not including furnaces.
(8) Television sets.
(9) Kitchen ranges and ovens.
(10) Clothes washers.
(11) Humidifiers and dehumidifiers.
(12) Central aid conditioners.
(13) Furnaces.
(14) Any other type of consumer product which the Administrator classifies as a covered product under subsection (b).

(b) (1) The Administrator may classify a type of consumer product as a covered product if he determines that—

(A) classifying products of such type as covered products is necessary or appropriate to carry out the purposes of this Act, and

(B) average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (or its Btu equivalent) per year.

Definitions. (2) For purposes of this subsection:

(A) The term "average annual per-household energy use with respect to a type of product means the estimated aggregate annual energy use (in kilowatt-hours or the Btu equivalent) of consumer

products of such type which are used by households in the United States, divided by the number of such households which use products of such type.

(B) The Btu equivalent of one kilowatt-hour is 3,412 British thermal units.

(C) The term "household" shall be defined under rules of the Administrator.

TEST PROCEDURES

42 USC 6293. SEC. 323. (a) (1) The Administrator shall, during the 30-day period which begins on the date of enactment of this Act, afford interested persons an opportunity to present written data, views, and arguments with respect to test procedures to be developed for covered products of each of the types specified in paragraphs (1) through (13) of section 322(a).

(2) The Administrator shall direct the National Bureau of Standards to develop test procedures for the determination of (A) estimated annual operating costs of covered products of the types specified in paragraphs (1) through (13) of section 322(a), and (B) at least one other useful measure of energy consumption of such products which the Administrator determines is likely to assist consumers in making purchasing decisions.

(3) Except as provided in paragraph (6), the Administrator shall publish proposed test procedures with respect to all covered products of each of the types specified in paragraphs (1) through (13) of section 322(a), and shall afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such proposed test procedures. Such comment period shall not be less than 45 days. Such proposed test procedures shall be published not later than June 30, 1976, except that (A) in the case of covered products of the types specified in paragraphs (7) and (9) of section 322(a), such proposed test procedures shall be published not later than September 30, 1976, and (B) in the case of covered products of the types specified in paragraphs (10) and (13) of section 322(a), such proposed test procedures shall be published not later than June 30, 1977.

(4) (A) Except as provided in paragraph (6), the Administrator shall prescribe test procedures for the determination of (i) estimated annual operating costs of all covered products of each of the types specified in paragraphs (1) through (13) of section 322(a), and (ii) at least one other measure of energy consumption of such products which the Administrator determines is likely to assist consumers in making purchasing decisions.

(B) Such test procedures shall be prescribed not later than September 30, 1976, except that (i) in the case of covered products of the types specified in paragraphs (7) and (9) of section 322(a), such procedures shall be prescribed not later than December 31, 1976, and (ii) in the case of covered products of the types specified in paragraphs (10) through (13) of section 322(a), such test procedures shall be published not later than September 30, 1977.

(5) If the Administrator has classified a type of product as a covered product under section 322(b), the Administrator may, after affording interested persons an opportunity to comment, direct the National Bureau of Standards to develop, and may publish proposed test procedures for such type of covered product (or class thereof).

The Administrator shall afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such proposed test procedures. Such comment period shall not be less than 45 days. The Administrator may thereafter prescribe test procedures in accordance with subsection (b) of this section with respect to such type or class of product, if the Administrator or the Commission determines that—

(A) the application of subsection (C) to such type of covered product (or class thereof) will assist consumers in making purchasing decisions, or

(B) labeling in accordance with section 324 will assist purchasers in making purchasing decisions.

(6) The Administrator may delay the publication of proposed test procedures or the prescription of test procedures for a type of covered product (or class thereof) beyond the dates specified in paragraph (3), or (4), if he determines that he cannot, within the applicable time period, publish proposed test procedures or prescribe test procedures applicable to such type (or class thereof) which meet the requirements of subsection (b), and publishes such determination in the Federal Register. In any such case, he shall publish proposed test procedures or prescribe test procedures for covered products of such type (or class thereof) as soon as practicable, unless he determines that test procedures cannot be developed which meet the requirements of subsection (b) and publishes such determination in the Federal Register, together with the reasons therefor.

Publication in Federal Register.

Publication in Federal Register.

(b)(1) Any test procedures prescribed under this section shall be reasonably designed to produce test results which reflect energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle (as determined by the Administrator), and shall not be unduly burdensome to conduct.

(2) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Administrator), and from representative average unit costs of the energy needed to operate such product during such cycle. The Administrator shall provide information to manufacturers respecting representative average unit costs of energy.

(c) Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer, or private labeler may make any representation—

(1) in writing (including a representation on a label), or

(2) in any broadcast advertisement,

respecting the energy consumption of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

LABELING

42 USC 6294.

SEC. 324. (a)(1) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (1) through (9) of section 322(a), except to the extent that, with respect to any such type (or class thereof)—

(A) the Administrator determines under the second sentence of section 323(a)(6) that test procedures cannot be developed which meet the requirements of section 323(b); or

(B) the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible.

(2) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (10) through (13) of section 322(a), except to the extent that with respect to any such type (or class thereof)—

(A) the Administrator determines under the second sentence of section 323(a)(6) that test procedures cannot be developed which meet the requirements of section 323(b); or

(B) the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.

(3) The Commission may prescribe a labeling rule under this section applicable to covered products of a type specified in paragraph (14) of section 322(a) (or a class thereof) if—

(A) the Commission or the Administrator has made a determination with respect to such type (or a class thereof) under section 323(a)(5)(B),

(B) the Administrator has prescribed test procedures under section 323(a)(5) for such type (or class thereof), and

(C) the Commission determines with respect to such type (or class thereof) that application of labeling rules under this section to such type (or class thereof) is economically and technologically feasible.

(4) Any determination under this subsection shall be published in the Federal Register.

Publication in Federal Register.

(b)(1) Not later than 30 days after the date on which a proposed test procedure applicable to a covered product of any of the types specified in paragraphs (1) through (14) of section 322(a) (or class thereof) is published under section 323(a), the Commission shall publish a proposed labeling rule applicable to such type (or class thereof).

(2) The Commission shall afford interested persons an opportunity to present written or oral data, views, and comments with respect to the proposed labeling rules published under paragraph (1). The period for such presentations shall not be less than 45 days.

(3) Not earlier than 45 days nor later than 60 days after the date on which test procedures are prescribed under section 323 with respect to covered products of any type (or class thereof) specified in paragraphs (1) through (13) of section 322(a), the Commission shall prescribe labeling rules with respect to covered products of such type (or class thereof). Not earlier than 45 days after the date on which test procedures are prescribed under section 323 with respect to covered products of a type specified in paragraph (14) of section 322(a), the Commission may prescribe labeling rules with respect to covered products of such type (or class thereof).

(4) A labeling rule prescribed under paragraph (3) shall take effect not later than 3 months after the date of prescription of such rule, except that such rules may take effect not later than 6 months after such date of prescription if the Commission determines that such

extension is necessary to allow persons subject to such rules adequate time to come into compliance with such rules.

Publication in Federal Register.

(5) The Commission may delay the publication of a proposed labeling rule, or the prescription of a labeling rule, beyond the dates specified in paragraph (1) or (3), if it determines that it cannot publish proposed labeling rules or prescribe labeling rules which meet the requirements of this section on or prior to the date specified in the applicable paragraph and publishes such determination in the Federal Register, together with the reasons therefor. In any such case, it shall publish proposed labeling rules or prescribe labeling rules for covered products of such type (or class thereof) as soon as practicable unless it determines (A) that labeling in accordance with this section is not economically or technically feasible, or (B) in the case of a type specified in paragraphs (10) through (13) of section 322(a), that labeling in accordance with this section is not likely to assist consumers in purchasing decisions. Any such determination shall be published in the Federal Register, together with the reasons therefor. This paragraph shall not apply to the prescription of a labeling rule with respect to covered products of a type specified in paragraph (14) of section 322(a).

Publication in Federal Register.

(c)(1) Subject to paragraph (6), a rule prescribed under this section shall require that each covered product in the type or class of covered products to which the rule applies bear a label which discloses—

(A) the estimated annual operating cost of such product (determined in accordance with test procedures prescribed under section 323), except that if—

(i) the Administrator determines that disclosure of estimated annual operating cost is not technologically feasible, or

(ii) the Commission determines that such disclosure is not likely to assist consumers in making purchasing decisions or is not economically feasible,

the Commission shall require disclosure of a different useful measure of energy consumption (determined in accordance with test procedures prescribed under section 323); and

(B) information respecting the range of estimated annual operating costs for covered products to which the rule applies; except that if the Commission requires disclosure under subparagraph (A) of a measure of energy consumption different from estimated annual operating cost, then the label shall disclose the range of such measure of energy consumption of covered products to which such rule applies.

(2) A rule under this section shall include the following:

(A) A description of the type or class of covered products to which such rule applies.

(B) Subject to paragraph (6), information respecting the range of estimated annual operating costs or other useful measure of energy consumption (determined in such manner as the rule may prescribe) for such type or class of covered products.

(C) A description of the test procedures under section 323 used in determining the estimated annual operating costs or other measure of energy consumption of the type or class of covered products.

(D) A prototype label and directions for displaying such label.

(3) A rule under this section shall require that the label be displayed in a manner that the Commission determines is likely to assist consumers in making purchasing decisions and is appropriate to carry out this part. The Commission may permit a tag to be used in lieu of a label in any case in which the Commission finds that a tag will carry out the purposes for which the label was intended.

(4) A rule under this section applicable to a covered product may require disclosure, in any printed matter displayed or distributed at the point of sale of such product, of any information which may be required under this section to be disclosed on the label of such product. Requirements under this paragraph shall not apply to any broadcast advertisement or any advertisement in any newspaper, magazine, or other periodical.

(5) The Commission may require that a manufacturer of a covered product to which a rule under this section applies—

(A) include on the label,

(B) separately attach to the product, or

(C) ship with the product,

additional information relating to energy consumption, if the Commission determines that such additional information would assist consumers in making purchasing decisions or in using such product, and that such requirement would not be unduly burdensome to manufacturers.

(6) The Commission may delay the effective date of the requirement specified in paragraph (1)(B) of this subsection applicable to a type or class of covered product, insofar as it requires the disclosure on the label of information respecting range of a measure of energy consumption, for not more than 12 months after the date on which the rule under this section is first applicable to such type or class, if the Commission determines that such information will not be available within an adequate period of time before such date.

(d) A rule under this section (or an amendment thereto) shall not apply to any covered product the manufacture of which was completed prior to the effective date of such rule or amendment, as the case may be.

(e) The Administrator, in consultation with the Commission, shall study consumer products for which labeling rules under this section have not been proposed, in order to determine (1) the aggregate energy consumption of such products, and (2) whether the imposition of labeling requirements under this section would be feasible and useful to consumers in making purchasing decisions. The Administrator shall include the results of such study in the annual report under section 338.

(f) The Administrator and the Commission shall consult with each other on a continuing basis as may be necessary or appropriate to carry out their respective responsibilities under this part. Before the Commission makes any determination under subsection (a)(1) or (2), it shall obtain the views of the Administrator and shall take such views into account in making such determination.

(g) Until such time as labeling rules under this section take effect with respect to a type or class of covered product, this section shall not affect any authority of the Commission under the Federal Trade Commission Act to require labeling with respect to energy consumption of such type or class of covered product.

ENERGY EFFICIENCY STANDARDS

42 USC 6295.

SEC. 325. (a)(1)(A) Not later than 180 days after the date of enactment of this Act, the Administrator shall, by rule, prescribe an

energy efficiency improvement target for each type of covered product specified in paragraphs (1) through (10) of section 322(a).

(B) The targets prescribed under subparagraph (A) shall be designed so that, if met, the aggregate energy efficiency of covered products of all types specified in paragraphs (1) through (10) of section 322(a) which are manufactured in calendar year 1980 will exceed the aggregate energy efficiency achieved by products of all such types manufactured in calendar year 1972 by a percentage which is the maximum percentage improvement which the Administrator determines is economically and technologically feasible, but which in any case is not less than 20 percent.

(2) Not later than one year after the date of enactment of this Act, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each type of covered products specified in paragraphs (11), (12), and (13) of section 322(a). Each such target shall be designed to achieve the maximum improvement in energy efficiency which the Administrator determines is economically and technologically feasible to attain for each such type manufactured in calendar year 1980.

(3) The Administrator may, from time to time, by rule, modify any energy efficiency improvement target prescribed under paragraph (1) or (2) so long as such target, as modified, meets the applicable requirements of paragraph (1) or (2).

Reports.

(4)(A) The Administrator shall require each manufacturer of covered products of the types specified in paragraphs (1) through (13) of section 332(a) to submit such reports, with respect to improvement of energy efficiency of such products, as the Administrator determines may be necessary to establish targets under this subsection or to ascertain whether covered products of any such type will achieve the percentage improvement prescribed by the energy efficiency improvement target for such type.

(B) If, on the basis of the reports received under subparagraph (A) or other information available to the Administrator, he determines that an energy efficiency improvement target applicable to any type of covered product specified in paragraphs (1) through (13) of section 322(a) is not likely to be achieved, the Administrator shall commence a proceeding under subsection (b) to prescribe an energy efficiency standard for such type.

(C) If, in a proceeding required to be commenced under subparagraph (B), the Administrator determines with respect to the type of product to which the proceeding relates (or class thereof)—

(i) improvement of energy efficiency of covered products of such type (or class thereof) is technologically feasible and economically justified, and

(ii) the application of a labeling rule under section 324 applicable to such type (or class thereof) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class thereof) which achieve the maximum energy efficiency which it is technologically feasible to attain, and which is economically justified,

the Administrator shall prescribe an energy efficiency standard for such type (or, if the determinations are made with respect to one or more classes of such type, for such class or classes).

(D) For purposes of subparagraph (B), improvement of energy efficiency is economically justified if it is economically feasible the

benefits of reduced energy consumption, and the savings in operating costs throughout the estimated average life of the covered product, outweigh—

(i) any increase to purchasers in initial charges for, or maintenance expenses of, the covered product which is likely to result from the imposition of the standard,

(ii) any lessening of the utility or the performance of the covered product, and

(iii) any negative effects on competition.

(E) For purposes of subparagraph (D)(iii), the Administrator shall not determine that there are any negative effects on competition, unless the Attorney General (on request of the Administrator, the Commission, or any person, or on his own motion) makes such determination and submits it in writing to the Administrator, together with his analysis of the nature and extent of such negative effects. The determination of the Attorney General shall be available for public inspection.

(5) The Administrator may (without regard to paragraphs (1) through (4)(B)) commence a proceeding to prescribe an energy efficiency standard applicable to any type or class of covered product (other than a consumer product classified as a covered product under section 322(b)). In such proceeding he may prescribe such a standard if he makes the determinations specified in clauses (i) and (ii) of paragraph (4)(C) of this subsection.

(b) Any energy efficiency standard shall be prescribed in accordance with the following procedure:

Publication in Federal Register.

(1) The Administrator shall (A) publish an advance notice of proposed rulemaking which specifies (i) the type or class of covered products to which the rule will apply, and (ii) the energy efficiency level which the Administrator proposes to require by such energy efficiency standard, and (B) invite interested persons to submit, within 90 days after the date of publication of such advance notice—

(i) written or oral presentations of data, views, and argument as to the proposed level of energy efficiency, and

(ii) a proposed energy efficiency standard applicable to such type or class of covered product.

(2) A proposed rule which prescribes an energy efficiency standard for a type or class of covered products may not be prescribed earlier than 120 days after the date of publication of advance notice of proposed rulemaking for such type or class.

(3) A rule prescribing an energy efficiency standard for a class or type of covered product may not be published earlier than 60 days after the date of publication of the proposed rule under this section for such type or class. Such rule shall take effect not earlier than 180 days after the date of its publication in the Federal Register. Such rule (or any amendment thereto) shall not apply to any covered product the manufacture of which was completed prior to the effective date of the rule or amendment as the case may be.

(c) An energy efficiency standard prescribed under this section shall include test procedures prescribed in accordance with section 323, and may include any requirement which the Administrator determines is necessary to assure that each covered product to which such standard applies meets the required minimum level of energy efficiency specified in such standard.

(d) A rule with respect to any type or class of covered product prescribed under this section may not take effect unless a rule under section 324 with respect to such type or class of covered product has

been in effect at least 18 months prior to the effective date of the rule under this section.

REQUIREMENTS OF MANUFACTURERS

42 USC 6296.

SEC. 326. (a) Each manufacturer of a covered product to which a rule under section 324 applies shall provide a label which meets, and is displayed in accordance with, the requirements of such rule. If such manufacturer or any distributor, retailer, or private labeler of such product advertises such product in a catalog from which it may be purchased, such catalog shall contain all information required to be displayed on the label, except as otherwise provided by rule of the Commission. The preceding sentence shall not require that a catalog contain information respecting a covered product if the distribution of such catalog commenced before the effective date of the labeling rule under section 324 applicable to such product.

(b)(1) Each manufacturer of a covered product to which a rule under section 324 applies shall notify the Commission, not later than 60 days after the date such rule takes effect, of the models in current production (and starting serial numbers of those models) to which such rule applies.

(2) If requested by the Administrator or Commission, the manufacturer of a covered product to which a rule under section 324 applies shall provide, within 30 days of the date of the request, the data from which the information included on the label and required by the rule was derived. Data shall be kept on file by the manufacturer for a period specified in the rule.

(3) When requested by the Commission, the manufacturer of covered products to which a rule under section 324 applies shall supply at his expense a reasonable number of such covered products to any laboratory designated by the Commission for the purpose of ascertaining whether the information set out on the label, as required under section 324, is accurate. Any reasonable charge levied by the laboratory for such testing shall be borne by the United States.

(4) Each manufacturer of a covered product to which a rule under section 324 applies shall annually, at a time specified by the Commission, supply to the Commission relevant data respecting energy consumption developed in accordance with the test procedures applicable to such product under section 323.

(5) A rule under section 323, 324, or 325 may require the manufacturer or his agent to permit a representative designated by the Commission or the Administrator to observe any testing required by this part and inspect the results of such testing.

(c) Each manufacturer shall use labels reflecting the range data required to be disclosed under section 324(c)(1)(B) after the expiration of 60 days following the date of publication of any revised table of ranges unless the rule under section 324 provides for a later date. The Commission may not require labels be changed to reflect revised tables of ranges more often than annually.

EFFECT ON OTHER LAW

42 USC 6297.

SEC. 327. (a) This part supersedes any State regulation insofar as such State regulation may now or hereafter provide for—

(1) the disclosure of information with respect to any measure of energy consumption of any covered product—

(A) if there is any rule under section 323 applicable to such covered product, and such State regulation requires testing in any manner other than that prescribed in such rule under section 323, or

(B) if there is a rule under section 324 applicable to such covered product and such State regulation requires disclosure of information other than information disclosed in accordance with such rule under section 324; or

(2) any energy efficiency standard or similar requirement with respect to energy efficiency or energy use of a covered product—

(A) if there is a standard under section 325 applicable to such product, and such State regulation is not identical to such standard, or

(B) if there is a rule under section 323 or 324 applicable to such product and such State regulation requires testing in accordance with test procedures which are not identical to the test procedures specified in such rule.

(b)(1) If a State regulation provides for an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a covered product and if such State regulation is not superseded by subsection (a)(2), then any person subject to such State regulation may petition the Administrator for the prescription of a rule under this subsection which supersedes such State regulation in whole or in part. The Administrator shall, within 6 months after the date such a petition is filed, either deny such petition or prescribe a rule under this subsection superseding such State regulation. The Administrator shall issue such a rule with respect to a State regulation if and only if the petitioner demonstrates to the satisfaction of the Administrator that—

(A) there is no significant State or local interest sufficient to justify such State regulation; and

(B) such State regulation unduly burdens interstate commerce.

(2) Notwithstanding the provisions of subsection (a), any State regulation which provides for an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a covered product shall not be superseded by subsection (a) if the State prescribing such standard demonstrates and the Administrator finds, by rule, that—

(A) there is a substantial State or local need which is sufficient to justify such State regulation;

(B) such State regulation does not unduly burden interstate commerce; and

(C) if there is a Federal energy efficiency standard applicable to such product, such State regulation contains a more stringent energy efficiency standard than the corresponding Federal standard.

(c) Notwithstanding the provisions of subsection (a), any State regulation which sets forth procurement standards for a State (or political subdivision thereof) shall not be superseded by the provisions of this part if such State standards are more stringent than the corresponding Federal standards.

(d) For purposes of this section, the term "State regulation" means a law or regulation of a State or political subdivision thereof.

(e) Any disclosure with respect to energy use, energy efficiency, or estimated annual operating cost, which is required to be made under the provisions of this part, shall not create an express or implied warranty under State or Federal law that such energy efficiency will be achieved, or that such energy use or estimated annual operating cost will not be exceeded, under conditions of actual use.

RULES

42 USC 6298. SEC. 328. The Commission and the Administrator may each issue such rules as each deems necessary to carry out the provisions of this part.

AUTHORITY TO OBTAIN INFORMATION

42 USC 6299. SEC. 329. (a) For purposes of carrying out this part, the Commission and the Administrator may each sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, records, papers, and other documents, and may each administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of contumacy by, or refusal to obey a subpena served, upon any persons subject to this part, the Commission and the Administrator may each seek an order from the district court of the United States for any district in which such person is found or resides or transacts business requiring such person to appear and give testimony, or to appear and produce documents. Failure to obey any such order is punishable by such court as a contempt thereof.

(b) Any information submitted by any person to the Administrator or the Commission under this part shall not be considered energy information as defined by section 11(e)(1) of the Energy Supply and 15 USC 796. Environmental Coordination Act of 1974 for purposes of any verification examination authorized to be conducted by the Comptroller General under section 501 of this Act. Post, p. 956.

EXPORTS

42 USC 6300. SEC. 330. This part shall not apply to any covered product if (1) such covered product is manufactured, sold, or held for sale for export from the United States (or such product was imported for export), unless such product is in fact distributed in commerce for use in the United States, and (2) such covered product when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such covered product is intended for export.

IMPORTS

42 USC 6301. SEC. 331. Any covered product offered for importation in violation of section 332 shall be refused admission into the customs territory of the United States under rules issued by the Secretary of the Treasury, except that the Secretary of the Treasury may, by such rules, authorize the importation of such covered product upon such terms and conditions (including the furnishing of a bond) as may appear to him appropriate to ensure that such covered product will not violate section 332, or will be exported or abandoned to the United States. The Secretary of the Treasury shall prescribe rules under this section not later than 180 days after the date of enactment of this Act.

PROHIBITED ACTS

42 USC 6302. SEC. 332. (a) It shall be unlawful—

(1) for any manufacturer or private labeler to distribute in commerce any new covered product to which a rule under section 324 applies, unless such covered product is labeled in accordance with such rule;

(2) for any manufacturer, distributor, retailer, or private labeler to remove from any new covered product or render illegible

any label required to be provided with such product under a rule under section 324;

(3) for any manufacturer to fail to permit access to, or copying of, records required to be supplied under this part, or fail to make reports or provide other information required to be supplied under this part;

(4) for any person to fail to comply with an applicable requirement of section 326 (a), (b)(2), (b)(3), or (b)(5); or

(5) for any manufacturer or private labeler to distribute in commerce any new covered product which is not in conformity with an applicable energy efficiency standard prescribed under this part.

(b) For purposes of this section, the term "new covered product" means a covered product the title of which has not passed to a purchaser who buys such product for purposes other than (1) reselling such product, or (2) leasing such product for a period in excess of one year.

ENFORCEMENT

SEC. 333. (a) Except as provided in subsection (b), any person 42 USC 6303. who knowingly violates any provision of section 332 shall be subject to a civil penalty of not more than $100 for each violation. Such penalties shall be assessed by the Commission, except that penalties for violations of section 332(a)(3) which relate to requirements prescribed by the Administrator, violations of section 332(a)(4) which relate to requests of the Administrator under section 326(b)(2), or violations of section 332(a)(5) shall be assessed by the Administrator. Civil penalties assessed under this part may be compromised by the agency or officer authorized to assess the penalty, taking into account the nature and degree of the violation and the impact of the penalty upon a particular respondent. Each violation of paragraph (1), (2), or (5) of section 332(a) shall constitute a separate violation with respect to each covered product, and each day of violation of section 332(a)(3) or (4) shall constitute a separate violation.

(b) As used in subsection (a), the term "knowingly" means (1) "Knowingly." the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care.

(c) It shall be an unfair or deceptive act or practice in or affecting commerce (within the meaning of section 5(a)(1) of the Federal Trade Commission Act) for any person to violate section 323(d)(2). 15 USC 45.

INJUNCTIVE ENFORCEMENT

SEC. 334. The United States district courts shall have jurisdiction 42 USC 6304. to restrain (1) any violation of section 332 and (2) any person from distributing in commerce any covered product which does not comply with an applicable rule under section 324 or 325. Any such action shall be brought by the Commission, except that any such action to restrain any violation of section 332(a)(3) which relates to requirements prescribed by the Administrator, any violation of section 332(a)(4) which relates to requests of the Administrator under section 326(b)(2), or any violation of section 332(a)(5) shall be brought by the Administrator. Any such action may be brought in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action

under this section, process may be served on a defendant in any other district in which the defendant resides or may be found.

CITIZEN SUITS

42 USC 6305. SEC. 335. (a) Except as otherwise provided in subsection (b), any person may commence a civil action against—

(1) any manufacturer or private labeler who is alleged to be in violation of any provision of this part or any rule under this part (excluding sections 325 and 332(a)(5), and rules thereunder); or

(2) any Federal agency which has a responsibility under this part where there is an alleged failure of such agency to perform any act or duty under this part which is not discretionary (excluding any act or duty under section 325 or 332(a)(5)).

The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such provision or rule, as the case may be.

(b) No action may be commenced—

(1) under subsection (a)(1)—

(A) prior to 60 days after the date on which the plaintiff has given notice of the violation (i) to the Administrator, (ii) to the Commission, and (iii) to any alleged violator of such provision or rule, or

(B) if the Commission has commenced and is diligently prosecuting a civil action to require compliance with such provision or rule, but, in any such action, any person may intervene as a matter of right.

(2) under subsection (a)(2) prior to 60 days after the date on which the plaintiff has given notice of such action to the Administrator and Commission.

Notice under this subsection shall be given in such manner as the Commission shall prescribe by rule.

(c) In such action under this section, the Administrator or the Commission (or both), if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of this part or any rule thereunder, or to seek any other relief (including relief against the Administrator or the Commission).

(f) For purposes of this section, if a manufacturer or private labeler complied in good faith with a rule under this part, then he shall not be deemed to have violated any provision of this part by reason of the alleged invalidity of such rule.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

42 USC 6306. SEC. 336. (a)(1) Rules under sections 323, 324, 325(a)(1), (2), or (3), 327(b), or 328 shall be prescribed in accordance with section 553 of title 5, United States Code, except that—

(A) interested persons shall be afforded an opportunity to present written and oral data, views, and arguments with respect to any proposed rule, and

(B) in the case of a rule under paragraph (1), (2), or (3) of section 325(a), the Administrator shall, by means of conferences or other informal procedures, afford any interested person an opportunity to question—

(i) other interested persons who have made oral presentations under subparagraph (A), and

(ii) employees of the United States who have made written or oral presentations,

with respect to disputed issues of material fact. Such opportunity shall be afforded to the extent the Administrator determines that questioning pursuant to such procedures is likely to result in a more timely and effective resolution of such issues.

A transcript shall be kept of any oral presentations made under this paragraph.

(2) Subsections (c) and (d) of section 18 of the Federal Trade Commission Act shall apply to rules under section 325 (other than subsections (a)(1), (2), and (3)) to the same extent that such subsections apply to rules under section 18(a)(1)(B) of such Act. 15 USC 57a.

(b)(1) Any person who will be adversely affected by a rule prescribed under section 323 or 324 when it is effective may, at any time prior to the sixtieth day after the date such rule is prescribed, file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the agency which prescribed the rule. Such agency thereupon shall file in the court the written submissions to, and transcript of, the proceedings on which the rule was based as provided in section 2112 of title 28, United States Code.

(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. No rule under section 323 or 324 may be affirmed unless supported by substantial evidence. 5 USC 701.

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

(4) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law.

(5) Section 18(e) of the Federal Trade Commission Act shall apply to rules under section 325 (other than subsections (a)(1), (2) and (3)) to the same extent that it applies to rules under section 18(a)(1)(B) of such Act.

CONSUMER EDUCATION

42 USC 6307. SEC. 337. The Administrator shall, in close cooperation and coordination with the Commission and appropriate industry trade associations and industry members, including retailers, and interested consumer and environmental organizations, carry out a program to educate consumers and other persons with respect to—

(1) the significance of estimated annual operating costs;

(2) the way in which comparative shopping, including comparisons of estimated annual operating costs, can save energy for the Nation and money for consumers; and

(3) such other matters as the Administrator determines may encourage the conservation of energy in the use of consumer products.

Such steps to educate consumers may include publications, audiovisual presentations, demonstrations, and the sponsorship of national and regional conferences involving manufacturers, distributors, retailers, and consumers, and State, local, and Federal Government representatives. Nothing in this section may be construed to require the compilation of lists which compare the estimated annual operating costs of consumer products by model or manufacturer's name.

ANNUAL REPORT

42 USC 6308. SEC. 338. The Administrator shall report to the Congress and the President either (1) as part of his annual report, or (2) in a separate report submitted annually, on the progress of the program undertaken pursuant to this part and on the energy savings impact of this part.

AUTHORIZATION OF APPROPRIATIONS

42 USC 6309. SEC. 339. (a) There are authorized to be appropriated to the Administrator not more than the following amounts to carry out his responsibilities under this part—

(1) $1,700,000 for fiscal year 1976;
(2) $1,500,000 for fiscal year 1977; and
(3) $1,500,000 for fiscal year 1978.

(b) There are authorized to be appropriated to the Commission not more than the following amounts to carry out its responsibilities under this part—

(1) $650,000 for fiscal year 1976;
(2) $700,000 for fiscal year 1977; and
(3) $700,000 for fiscal year 1978.

(c) There are authorized to be appropriated to the Administrator to be allocated not more than the following amounts—

(1) $1,100,000 for fiscal year 1976;
(2) $700,000 for fiscal year 1977; and
(3) $700,000 for fiscal year 1978.

Such amounts shall, and any amounts authorized to be appropriated under subsection (a), may be allocated by the Administrator to the National Bureau of Standards.

PART C—STATE ENERGY CONSERVATION PLANS

FINDINGS AND PURPOSE

42 USC 6321. SEC. 361. (a) The Congress finds that—

(1) the development and implementation by States of laws, policies, programs, and procedures to conserve and to improve efficiency in the use of energy will have an immediate and substantial effect in reducing the rate of growth of energy demand and in minimizing the adverse social, economic, political, and environmental impacts of increasing energy consumption;

(2) the development and implementation of energy conservation programs by States will most efficiently and effectively minimize any adverse economic or employment impacts of changing patterns of energy use and meet local economic, climatic, geographic, and other unique conditions and requirements of each State; and

(3) the Federal Government has a responsibility to foster and promote comprehensive energy conservation programs and practices by establishing guidelines for such programs and providing

overall coordination, technical assistance, and financial support for specific State initiatives in energy conservation.

(b) It is the purpose of this part to promote the conservation of energy and reduce the rate of growth of energy demand by authorizing the Administrator to establish procedures and guidelines for the development and implementation of specific State energy conservation programs and to provide Federal financial and technical assistance to States in support of such programs.

STATE ENERGY CONSERVATION PLANS

Feasibility report. 42 USC 6322. SEC. 362. (a) The Administrator shall, by rule, within 60 days after the date of enactment of this Act, prescribe guidelines for the preparation of a State energy conservation feasibility report. The Administrator shall invite the Governor of each State to submit, within 3 months after the effective date of such guidelines, such a report. Such report shall include—

(1) an assessment of the feasibility of establishing a State energy conservation goal, which goal shall consist of a reduction, as a result of the implementation the State energy conservation plan described in this section, of 5 percent or more in the total amount of energy consumed in such State in the year 1980 from the projected energy consumption for such State in the year 1980, and

(2) a proposal by such State for the development of a State energy conservation plan to achieve such goal.

(b) The Administrator shall, by rule, within 6 months after the date of enactment of this Act, prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, State energy conservation plans. The Administrator shall invite the Governor of each State to submit, within 5 months after the effective date of such guidelines, a report. Such report shall include—

(1) a proposed State energy conservation plan designed to result in scheduled progress toward, and achievement of, the State energy conservation goal of such State; and

(2) a detailed description of the requirements, including the estimated cost of implementation and the estimated energy savings, associated with each functional category of energy conservation included in the State energy conservation plan.

(c) Each proposed State energy conservation plan to be eligible for Federal assistance under this part shall include—

(1) mandatory lighting efficiency standards for public buildings (except public buildings owned or leased by the United States);

(2) programs to promote the availability and use of carpools, vanpools, and public transportation (except that no Federal funds provided under this part shall be used for subsidizing fares for public transportation);

(3) mandatory standards and policies relating to energy efficiency to govern the procurement practices of such State and its political subdivisions;

(4) mandatory thermal efficiency standards and insulation requirements for new and renovated buildings (except buildings owned or leased by the United States); and

(5) a traffic law or regulation which, to the maximum extent practicable consistent with safety, permits the operator of a motor vehicle to turn such vehicle right at a red stop light after stopping.

(d) Each proposed State energy conservation plan may include—

(1) restrictions governing the hours and conditions of operation of public buildings (except buildings owned or leased by the United States);

(2) restrictions on the use of decorative or nonessential lighting;

(3) transportation controls;

(4) programs of public education to promote energy conservation; and

(5) any other appropriate method or programs to conserve and to improve efficiency in the use of energy.

Standby plan.

(e) The Governor of any State may submit to the Administrator a State energy conservation plan which is a standby energy conservation plan to significantly reduce energy demand by regulating the public and private consumption of energy during a severe energy supply interruption, which plan may be separately eligible for Federal assistance under this part without regard to subsections (c) and (d) of this section.

FEDERAL ASSISTANCE TO STATES

42 USC 6323.

SEC. 363. (a) Upon request of the Governor of any State, the Administrator shall provide, subject to the availability of personnel and funds, information and technical assistance, including model State laws and proposed regulations relating to energy conservation, and other assistance in—

(1) the preparation of the reports described in section 362, and

(2) the development, implementation, or modification of an energy conservation plan of such State submitted under section 362 (b) or (e).

(b)(1) The Administrator may grant Federal financial assistance pursuant to this section for the purpose of assisting such State in the development of any such energy conservation plan or in the implementation or modification of a State energy conservation plan or part thereof which has been submitted to and approved by the Administrator pursuant to this part.

(2) In determining whether to approve a State energy conservation plan submitted under section 362 (b) or (e), the Administrator—

(A) shall take into account the impact of local economic, climatic, geographic, and other unique conditions and requirements of such State on the opportunity to conserve and to improve efficiency in the use of energy in such State; and

(B) may extend the period of time during which a State energy conservation feasibility report or State energy conservation plan may be submitted if the Administrator determines that participation by the State submitting such report or plan is likely to result in significant progress toward achieving the purposes of this Act.

(3) In determining the amount of Federal financial assistance to be provided to any State under this subsection, the Administrator shall consider—

(A) the contribution to energy conservation which can reasonably be expected,

(B) the number of people affected by such plan, and

(C) the consistency of such plan with the purposes of this Act, and such other factors as the Administrator deems appropriate.

Recordkeeping.

(c) Each recipient of Federal financial assistance under subsection (b) shall keep such records as the Administrator shall require, including records which fully disclose the amount and disposition by each

recipient of the proceeds of such assistance, the total cost of the project or program for which such assistance was given or used, the source and amount of funds for such projects or programs not supplied by the Administrator, and such other records as the Administrator determines necessary to facilitate an effective audit and performance evaluation. The Administrator and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers, and records of any recipient of Federal assistance under this part.

ENERGY CONSERVATION GOALS

42 USC 6324.

SEC. 364. Upon the basis of the reports submitted pursuant to this part and such other information as is available, the Administrator shall, at the earliest practicable date, set an energy conservation goal for each State for 1980 and may set interim goals. Such goal or goals shall consist of the maximum reduction in the consumption of energy during any year as a result of the implementation of the State energy conservation plan described in section 362(b) which is consistent with technological feasibility, financial resources, and economic objectives, by comparison with the projected energy consumption for such State in such year. The Administrator shall specify the assumptions used in the determination of the projected energy consumption in each State, taking into account population trends, economic growth, and the effects of national energy conservation programs.

GENERAL PROVISIONS

Rules.
42 USC 6325.

SEC. 365. (a) The Administrator may prescribe such rules as may be necessary or appropriate to carry out his authority under this part.

(b) In carrying out the provisions of sections 362 and 364 and subsection (a) of section 363, the Administrator shall consult with appropriate departments and Federal agencies.

Report to President and Congress.

(c) The Administrator shall report annually to the President and the Congress, and shall furnish copies of such report to the Governor of each State, on the operation of the program under this part. Such report shall include an estimate of the energy conservation achieved, the degree of State participation and achievement, a description of innovative conservation programs undertaken by individual States, and the recommendations of the Administrator, if any, for additional legislation.

Appropriation authorization.

(d) There are authorized to be appropriated for carrying out the provisions of this part $50,000,000 for fiscal year 1976, $50,000,000 for fiscal year 1977, and $50,000,000 for fiscal year 1978.

DEFINITIONS

42 USC 6326.

SEC. 366. As used in this part—

(1) The term "public building" means any building which is open to the public during normal business hours.

(2) The term "transportation controls" means any plan, procedure, method, or arrangement, or any system of incentives, disincentives, restrictions, and requirements, which is designed to reduce the amount of energy consumed in transportation, except that the term does not include rationing of gasoline or diesel fuel.

Part D—Industrial Energy Conservation

DEFINITIONS

42 USC 6341.

Sec. 371. As used in this part—

(1) The term "chief executive officer" means, within a corporation, the individual whom the Administrator determines, for purposes of this part, is in charge of operations.

(2) The term "corporation" means a person as defined in section 3(2)(B) and includes any person so defined which controls, is controlled by, or is under common control with such person. If a corporation is engaged in more than one major energy-consuming industry, such corporation shall be treated as a separate corporation with respect to each such industry.

(3) The term "energy efficiency" means the amount of industrial output or activity per unit of energy consumed therein, as determined by the Administrator.

(4) The term "major energy-consuming industry" means a two-digit classification, within the manufacturing division of economic activity set forth in the Standard Industrial Classification (SIC) Manual by a code number, which the Administrator determines is suited to the purposes of this part.

42 USC 6342.

Sec. 372. The Administrator shall establish and maintain, in consultation with the Secretary of Commerce and the Administrator of the Energy Research and Development Administration, a program—

(1) to promote increased energy efficiency by American industry, and

(2) to establish voluntary energy efficiency improvement targets for at least the 10 most energy-consumptive major energy-consuming industries.

IDENTIFICATION OF MAJOR ENERGY CONSUMERS

42 USC 6343.

Sec. 373. Within 90 days after the date of enactment of this Act, the Administrator shall identify each major energy-consuming industry in the United States, and shall establish a priority ranking of such industries on the basis of their respective total annual energy consumption. Within each industry so identified, the Administrator shall identify each corporation which—

(1) consumes at least one trillion British thermal units of energy per year, and

(2) is among the corporations identified by the Administrator as the 50 most energy-consumptive corporations in such industry.

INDIVIDUAL ENERGY EFFICIENCY IMPROVEMENT TARGETS

42 USC 6344.

Sec. 374. (a) Within one year after the date of enactment of this Act, the Administrator shall set an industrial energy efficiency improvement target for each of the 10 most energy-consumtive industries identified under section 373. Each such target—

(1) shall be based upon the best available information,

(2) shall be established at the level which represents the maximum feasible improvement in energy efficiency which such industry can achieve by January 1, 1980, and

Publication in Federal Register.

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target.

(b) In determining maximum feasible improvement under subsection (a) and under subsection (c), the Administrator shall consider—

(1) the objectives of the program established under section 372,

(2) the technological feasibility and economic practicability of utilizing alternative operating procedures and more energy efficient technologies,

(3) any special circumstances or characteristics of the industry for which the target is being set, and

(4) any actions planned or implemented by each such industry to reduce consumption by such industry of petroleum products and natural gas.

(c) The Administrator may, in order to carry out section 372(1), set an industrial energy efficiency improvement target for any major energy-consuming industry to which subsection (a) does not apply. Each such target—

(1) shall be based upon the best available information,

(2) shall be established at the level which represents the maximum feasible improvement in energy efficiency which such industry can achieve by January 1, 1980, and

Publication in Federal Register.

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target.

(d) Any target established under subsection (a) or (c) may be modified at any time if the Administrator—

(1) determines that such target cannot reasonably be attained, or could reasonably be made more stringent, and

Publication in Federal Register.

(2) publishes such determination in the Federal Register, together with a statement of the basis and justification for such modification.

REPORTS

42 USC 6345.

Sec. 375. (a) The chief executive officer (or individual designated by such officer) of each corporation which is identified by the Administrator pursuant to section 373, and which is in an industry for which an industrial energy efficiency improvement target has been set under section 374(a), shall report to the Administrator not later than January 1, 1977, and annually thereafter, on the progress which such corporation has made in improving its energy efficiency. Such report shall contain such information as the Administrator determines is necessary to measure progress toward meeting the energy efficiency improvement target set for the industry of which such corporation is a part, except that the Administrator shall not require such report if such corporation is in an industry which has an adequate voluntary reporting program (as defined by section 376(g)).

Forms.

(b) The Administrator shall prepare, publish, and make available, for use in complying with the reporting requirements under subsection (a), a simple form which shall be designed in such a way as to avoid imposing an undue burden on any corporation which is required to submit reports under subsection (a).

Report to Congress and President.

(c) The Administrator shall prepare and submit to the Congress and to the President, and shall cause to be published, an annual report on the industrial energy efficiency program established under section 372. Each such report shall include—

(1) a summary of the progress made toward the achievement of the industrial energy efficiency improvement targets set by the Administrator; and

(2) a summary of the progress made toward meeting such industrial energy efficiency improvement targets since the date of publication of the previous such report, if any.

GENERAL PROVISIONS

42 USC 6346.

SEC. 376. (a) The district courts of the United States shall have jurisdiction, upon petition, to issue an order to the chief executive officer of any corporation subject to the reporting requirements of section 375(a), requiring such person to comply forthwith. Failure to obey such an order shall be treated by any such court as a contempt thereof.

(b) In addition to the exercise of authority under this part, the Administrator may exercise any authority he has under any provision of law (other than this part) to obtain such information with respect to industrial energy efficiency and industrial energy conservation as is necessary or appropriate to the attainment of the objectives of the program established under section 372.

(c) The Administrator shall afford interested persons an opportunity to submit written and oral data, views, and arguments prior to the establishment of any industrial energy efficiency improvement target under section 374 and prior to publication of any reporting requirements under section 375.

(d) Any information submitted by a corporation to the Administrator under this part shall not be considered energy information, as defined by section 11(e)(1) of the Energy Supply and Environmental Coordination Act of 1974, for purposes of any verification examination authorized to be conducted by the Comptroller General under section 501 of this Act.

15 USC 796.

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(e) The Administrator may not disclose any information obtained under this part which is a trade secret or other matter described in section 552(b)(4) of title 5, United States Code, disclosure of which may cause significant competitive damage; except to committees of Congress upon request of such committees. Prior to disclosing any information described in such section 552(b)(4), the Administrator shall afford the person who provided such information an opportunity to comment on the proposed disclosure.

(f) No liability shall attach, and no civil or criminal penalties may be imposed, for any failure to meet any industrial energy efficiency improvement target established under section 374 of this Act.

Exemption.

(g)(1) The Administrator shall exempt a corporation from the requirements of section 375(a) if such corporation is in an industry which has an adequate voluntary reporting program, as determined by the Administrator annually after notice and opportunity for interested persons to comment. An industry's voluntary reporting program shall be determined to be adequate only if—

(A) each corporation within such industry which is identified under section 373 fully participates in such program;

(B) all information deemed necessary by the Administrator for purposes of evaluating the progress made by such industry in achieving the industry energy efficiency improvement target set forth under section 374 is provided to the Administrator; and

(C) reports made to a trade association or other person, in connection with such program, are retained for a reasonable period of time and are available to the Administrator.

(2) If the Administrator determines that an industry's voluntary reporting program is not adequate solely on the basis that any corporation within such industry is not fully participating in such program, he shall exempt from the requirements of section 375(a) only those corporations which fully participate in such program.

(h) Nothing in this part shall limit the authority of the Administrator to require reports of energy information under any other law.

PART E—OTHER FEDERAL ENERGY CONSERVATION MEASURES

FEDERAL ENERGY CONSERVATION PROGRAMS

42 USC 6361.

SEC. 381. (a)(1) The President shall, to the extent of his authority under other law, establish or coordinate Federal agency actions to develop mandatory standards with respect to energy conservation and energy efficiency to govern the procurement policies and decisions of the Federal Government and all Federal agencies, and shall take such steps as are necessary to cause such standards to be implemented.

(2) The President shall develop and, to the extent of his authority under other law, implement a 10-year plan for energy conservation with respect to buildings owned or leased by an agency of the United States. Such plan shall include mandatory lighting efficiency standards, mandatory thermal efficiency standards and insulation requirements, restrictions on hours of operation, thermostat controls, and other conditions of operation, and plans for replacing or retrofitting to meet such standards.

(b)(1) The Administrator shall establish and carry out a responsible public education program—

(A) to encourage energy conservation and energy efficiency; or

(B) to promote van pooling and carpooling arrangements.

Definitions.

(2) For purposes of this subsection:

(A) The term "van" means any automobile which the Administrator determines is manufactured primarily for use in the transportation of not less than 8 individuals and not more than 15 individuals.

(B) The term "van pooling arrangement" means an arrangement for the transportation of employees between their residences or other designated locations and their place of employment on a nonprofit basis in which the operating costs of such arrangement are paid for by the employees utilizing such arrangement.

Report to Congress.

(c) The President shall submit to the Congress an annual report concerning all steps taken under subsections (a) and (b).

ENERGY CONSERVATION IN POLICIES AND PRACTICES OF CERTAIN FEDERAL AGENCIES

Study; report to Congress.
42 USC 6362.

SEC. 382. (a)(1) The Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Maritime Commission, the Federal Power Commission, and the Federal Aviation Administration shall each conduct a study and shall each report to the Congress within 60 days after the date of enactment of this Act with respect to energy conservation policies and practices which such agencies have instituted subsequent to October 1973.

Report to Congress.

(2) Each of the agencies specified in paragraph (1) shall, within 120 days after the date of enactment of this Act, report to the Congress with respect to the content and feasibility of proposed programs for additional savings in energy consumption by the persons regulated by each such agency which have as a minimum goal a 10-percent reduction, within 12 months of the institution of such programs, in energy consumption from the amount of energy consumed during calendar 1972, including any legislative recommendations each such agency finds are necessary to achieve such goal.

(3) Each of the agencies specified in paragraph (1) shall conduct a study and prepare a report with respect to any requirement of any law administered by such agency or any major regulatory action which

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the agency determines has the effect of requiring, permitting, or inducing the inefficient use of petroleum products, coal, natural gas, electricity, and other forms of energy, together with a statement of the need, purpose, or justification of any such requirement or such action. Each such report shall be submitted to the Congress within one year after the date of enactment of this Act.

Report to Congress.

Energy impact statement.

(b) Except as provided in subsection (c), each of the agencies specified in subsection (a)(1) shall, where practicable and consistent with the exercise of their authority under other law, include in any major regulatory action (as defined by rule by each such agency) taken by each such agency, a statement of the probable impact of such major regulatory action on energy efficiency and energy conservation.

(c) Subsection (b) shall not apply to any authority exercised under any provision of law designed to protect the public health or safety.

FEDERAL ACTIONS WITH RESPECT TO RECYCLED OIL

42 USC 6363.

SEC. 383. (a) The purposes of this section are—

(1) to encourage the recycling of used oil;

(2) to promote the use of recycled oil;

(3) to reduce consumption of new oil by promoting increased utilization of recycled oil; and

(4) to reduce environmental hazards and wasteful practices associated with the disposal of used oil.

Definitions.

(b) As used in this section:

(1) the term "used oil" means any oil which has been refined from crude oil, has been used, and as a result of such use has been contaminated by physical or chemical impurities.

(2) The term "recycled oil" means—

(A) used oil from which physical and chemical contaminants acquired through use have been removed by re-refining or other processing, or

(B) any blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives,

with respect to which the manufacturer has determined, pursuant to the rule prescribed under subsection (d)(1)(A)(i), is substantially equivalent to new oil for a particular end use.

(3) The term "new oil" means any oil which has been refined from crude oil and has not been used, and which may or may not contain additives. Such term does not include used oil or recycled oil.

(4) The term "manufacturer" means any person who re-refines or otherwise processes used oil to remove physical or chemical impurities acquired through use or who blends such re-refined or otherwise processed used oil with new oil or additives.

(5) The term "Commission" means the Federal Trade Commission.

(c) As soon as practicable after the date of enactment of this Act, the National Bureau of Standards shall develop test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil for a particular end use. As soon as practicable after development of such test procedures, the National Bureau of Standards shall report such procedures to the Commission.

Rules.

(d)(1)(A) Within 90 days after the date on which the Commission receives the report under subsection (c), the Commission shall, by rule, prescribe—

(i) test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil distributed for a particular end use; and

(ii) labeling standards applicable to containers of recycled oil in order to carry out the purposes of this section.

(B) Such labeling standards shall permit any container of recycled oil to bear a label indicating any particular end use for which a determination of substantial equivalency has been made pursuant to subparagraph (A)(i).

Rules.

(2) Not later than the expiration of such 90-day period, the Administrator of the Environmental Protection Agency shall, by rule, prescribe labeling standards applicable to containers of new oil, used oil, and recycled oil relating to the proper disposal of such oils after use. Such standards shall be designed to reduce, to the maximum extent practicable, environmental hazards and wasteful practices associated with the disposal of such oils after use.

(e) Beginning on the effective date of the standards prescribed pursuant to subsection (d)(1)(A)—

(1) no rule or order of the Commission, other than the rules required to be prescribed pursuant to subsection (d)(1)(A), and no law, regulation, or order of any State or political subdivision thereof may apply, or remain applicable, to any container of recycled oil, if such law, regulation, rule, or order requires any container of recycled oil, which container bears a label in accordance with the terms of the rules prescribed under subsection (d)(1)(A), to bear any label with respect to the comparative characteristics of such recycled oil with new oil which is not identical to that permitted by the rule respecting labeling standards prescribed under subsection (d)(1)(A)(ii); and

(2) no rule or order of the Commission may require any container of recycled oil to also bear a label containing any term, phrase, or description which connotes less than substantial equivalency of such recycled oil with new oil.

(f) After the effective date of the rules required to be prescribed under subsection (d)(1)(A), all Federal officials shall act within their authority to carry out the purposes of this section, including—

(1) revising procurement policies to encourage procurement of recycled oil for military and nonmilitary Federal uses whenever such recycled oil is available at prices competitive with new oil procured for the same end use; and

(2) educating persons employed by Federal and State governments and private sectors of the economy of the merits of recycled oil, the need for its use in order to reduce the drain on the Nation's oil reserves, and proper disposal of used oil to avoid waste of such oil and to minimize environmental hazards associated with improper disposal.

TITLE IV—PETROLEUM PRICING POLICY AND OTHER AMENDMENTS TO THE ALLOCATION ACT

PART A—PRICING POLICY

OIL PRICING POLICY

15 USC 751 note.

SEC. 401. (a) The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new sections:

"OIL PRICING POLICY

15 USC 757. "SEC. 8. (a) Not later than the first day of the second full calendar month following the date of enactment of this section, the President shall promulgate and make effective an amendment to the regulation
15 USC 753. under section 4(a) of this Act which regulation, as amended, shall establish ceiling prices (or the manner of determining ceiling prices) applicable to any first sale of crude oil produced in the United States, such that the resulting actual weighted average first sale price for all such crude oil during such calendar month and each of the 39 months thereafter shall not exceed a maximum of $7.66 per barrel (hereinafter in this section referred to as the "maximum weighted average first sale price"), except as may be adjusted pursuant to this section.

"(b)(1) The regulation under section 4(a), as amended pursuant to subsection (a) of this section or by any subsequent amendment thereto, may, subject to the limitations related to the maximum weighted average first sale price and other requirements of this section, provide for different ceiling prices (or manner of determining ceiling prices) for different classifications of crude oil produced in the United States. In providing for different ceiling prices (or the manner for determining such ceiling prices) and classifications for such crude oil, the President shall determine that such ceiling prices (or the manner for determining such ceiling prices) and such classifications—

"(A) are administratively feasible; and

"(B) are justified on the basis that such prices and such classifications are consistent with obtaining optimum production of crude oil in the United States.

"(2) No amendment to the regulation under section 4(a) made after the date of enactment of this section may permit, in any month which begins after such date, an increase in the price for any volume of old crude oil production from any priorities, unless the President finds that such amendment—

"(A) will give positive incentives for (i) enhanced recovery techniques, or (ii) deep horizon development, from such properties; or

"(B) is necessary to take into account declining production from such properties; and

"(C) is likely to result in a level of production from such properties beyond that which would otherwise occur if no such amendment were made.

"Old crude oil production." "(3) As used in paragraph (2), the term 'old crude oil production' means that volume of crude oil produced and sold from a property in a month which is equal to or less than the volume of old crude oil, as defined in section 212.72 of title 10, Code of Federal Regulations (as in effect on November 1, 1975), produced and sold from such property in the months of September, October, and November of 1975, divided by 3.

"(c)(1) Not later than 6 months after the effective date of the amendment promulgated under subsection (a), and not later than every 6 months thereafter, the President shall, on the basis of valid and reliable information (which may include information obtained by a valid and reliable sampling technique) of actual first sale prices of domestic crude oil, determine whether and the extent to which the actual weighted average first sale price for crude oil produced in the United States during any 6-month period or portion thereof for which data are available following the effective date of the amendment promulgated under subsection (a) of this section, exceeded or was less than the maximum weighted average first sale price of such

crude oil specified in subsection (a) as may be adjusted pursuant to this section.

"(2) If the President finds, pursuant to paragraph (1) of this subsection, that the regulation under section 4(a), as amended, resulted 15 USC 753. in an actual weighted average first sale price in excess of the maximum weighted average first sale price specified in subsection (a) as adjusted pursuant to this section, he shall amend the regulation to make such compensating adjustments as are necessary to result, in a corresponding period, in an actual weighted average first sale price for domestic crude oil sufficient to offset such excess.

"(3) If the President finds, pursuant to paragraph (1) of this subsection, that the regulation under section 4(a), as amended, resulted in an actual weighted average first sale price less than the maximum weighted average first sale price specified in subsection (a) as adjusted pursuant to this section, he may, notwithstanding the requirements of this section pertaining to such maximum weighted average first sale price, amend the regulation to make such compensating adjustments in the regulation as are necessary to offset the deficiency in a corresponding period.

"(d)(1) The amendment promulgated pursuant to subsection (a) of this section (or any subsequent amendment to the regulation under section 4(a)) may provide for an adjustment to the maximum weighted average first sale price specified in subsection (a), such adjustment to begin no earlier than in the calendar month following the first month the amendment is in effect—

"(A) to take into account the impact of inflation as measured by the adjusted GNP deflator; and

"(B) as a production incentive;

except that any adjustment as a production incentive shall not permit an increase in the maximum weighted average first sale price in excess of 3 per centum per annum (compounded annually), unless modified pursuant to this section, and the combined effect of any such adjustments referred to in subparagraphs (A) and (B) shall not result in an increase in the maximum weighted average first sale price in excess of 10 per centum per annum (compounded annually), unless modified pursuant to this section.

"Adjusted GNP deflator." "(2) As used in this subsection, the term 'adjusted GNP deflator' means the first revision of the quarterly percent change, seasonally adjusted at annual rates, of the most recent implicit price deflator for the gross national product which shall be computed and published for each calendar quarter by the Department of Commerce, subject to such additional modification as the President shall make to exclude therefrom any amount which he determines is attributable solely and directly to increases which occur after the date of enactment of this section in prices of imported crude oil, residual fuel oil, or any refined petroleum product resulting from concerted action of two or more petroleum exporting countries.

"(3) The adjustment as a production incentive referred to in paragraph (1)(B) may be made only on a finding by the President that such an adjustment is likely to provide positive incentive for—

"(A) the discovery or development of high cost and high risk properties (including new wildcat properties, and properties located on the Outer Continental Shelf, properties located north of the Arctic Circle, deep wells and deep horizons in onshore or offshore properties, and properties operated by independent producers);

"(B) the application of enhanced recovery techniques to producing properties to obtain a level of production higher than

would otherwise occur from those properties but for such adjustment; or

"(C) sustaining production from marginal wells, including production from stripper wells.

"(e)(1) Not earlier than 90 days after the effective date of the amendment promulgated under subsection (a) and not earlier than 90 days after the date of any previous submission under this subsection, the President may submit to the Congress, in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, an amendment to the regulation promulgated under section 4(a) which provides for (A) a production incentive adjustment to the maximum weighted average first sale price in excess of the 3 per centum limitation specified in subsection (d)(1), (B) a combined adjustment limitation in excess of the 10 per centum limitation specified in such subsection, or (C) both.

Post, p. 965.
15 USC 753.

"(2) Any such amendment shall be accompanied by a finding that an additional adjustment as a production incentive, or a combined adjustment limitation greater than permitted by subsection (d)(1), or both, is necessary to provide a more adequate incentive with respect to the matters referred to in subparagraphs (A), (B), or (C) of subsection (d)(3).

"(3) Any such amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

Report to Congress.

"(f)(1) On February 15, 1977, the President shall submit to the Congress a report containing an analysis of the impact of any amendment adopted pursuant to this section on the economy and on the supply of crude oil, residual fuel oil, and refined petroleum products.

"(2) The President may submit with such report to the Congress, in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, an amendment to the regulation promulgated under section 4(a) which—

"(A) provides for the continuation or modification of the adjustment as a production incentive (referred to in subsection (d) as may have been amended pursuant to subsection (e));

"(B) provides for a modification of the combined adjustment limitation (referred to in subsection (d), as may have been amended pursuant to subsection (e)); or

"(C) provides for adjustments with respect to both subparagraphs (A) and (B).

"(3) Such amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(4) If any such amendment is disapproved by either House of Congress, the President may, not later than 30 days after the date of such disapproval, submit one additional amendment in accordance with paragraph (2), which amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(5) If no amendment to continue or modify the adjustment as a production incentive takes effect, no such adjustment to the maximum weighted average first sale price thereafter may be taken into account in computing such price for any month which begins after (A) the date on which a submission could have been made under paragraph (2) but was not, or (B) the last date on which a submission was disapproved and no further submission pursuant to paragraph (4)

could be made, except that the President may, pursuant to the procedures under subsection (e), submit an amendment to the regulation to provide for a prospective reinstatement of such adjustment or of a modification of such adjustment.

Report to Congress.

"(g)(1) On April 15, 1977, the President shall submit to the Congress a report as to whether the regulation promulgated under section 4(a) and in effect on such date will provide positive price incentives for the development of the domestic crude oil production referred to in paragraph (2)(A) without lessening needed incentives for sustaining or enhancing crude oil production in the remainder of the United States.

Regulation amendment, submittal to Congress.

"(2) If the President determines that a price required to provide positive price incentives for the development of the domestic crude oil production referred to in paragraph (2)(A) would, because of the maximum weighted average first sale price specified in subsection (a) of this section, as adjusted, have the effect of reducing or limiting ceiling prices permitted for crude oil produced in the remainder of the United States to levels which would result in less production of such crude oil than would otherwise occur, the President may, together with such report, or at any time thereafter not earlier than 90 days after any previous submission under this subsection, except as provided in paragraph (4), submit to the Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act an amendment to the regulation promulgated under section 4(a) which—

Post, p. 965.

"(A) excludes up to 2 million barrels a day of crude oil production transported through the trans-Alaska pipeline from the computation of the maximum weighted average first sale price specified in subsection (a); and

"(B) establishes ceiling prices (or a manner of determining prices) for the first sale of crude oil production referred to in subparagraph (A) such that the actual weighted average first sale price for such production will not exceed the highest actual weighted average first sale price permitted under the regulation for significant volumes of any other classification of domestic crude oil.

"(3) Any such amendment shall be accompanied by such findings and supporting rationale as the President determines justify such ceiling prices (or manner for determining such prices). Any amendment submitted to the Congress pursuant to this subsection shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(4) If any such amendment is disapproved by either House of Congress, the President may not later than 30 days after the date of such disapproval submit one additional amendment in accordance with paragraphs (2) and (3), which amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(5) If any amendment submitted by the President to the Congress pursuant to this subsection becomes effective, such amendment may thereafter be further amended by the President, subject to the procedures and requirements of paragraphs (2) and (3) of this subsection, except that no such further amendment shall be submitted earlier than January 1, 1978, and thereafter no earlier than 90 days after the date of any previous submission made under this paragraph.

"(h) In any judicial review of an amendment required by this section to be submitted to the Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, the reviewing court may not hold unlawful or set aside any such amendment on the ground that any findings made by the President were not adequate to meet the requirements of this section or of subparagraph (A), (E), or (F) of section 706(2) of title 5, United States Code.

Post, p. 965.

"PASSTHROUGHS OF PRICE DECREASES

15 USC 758.

"SEC. 9. Not later than the first day of the second full calendar month following the date of enactment of this section, the regulation under section 4(a) shall provide for a dollar-for-dollar passthrough in prices at all levels of distribution from the producer through the retail level of decreases in the costs of crude oil, residual fuel oil, and refined petroleum products (including decreases in costs which result from a reduction in the price of crude oil produced in the United States because of the amendment to such regulation required under section 8(a)).".

Ante, p. 942.

(b)(1) Subsections (d), (e) and (g) of section 4 of the Emergency Petroleum Allocation Act of 1973 are repealed, and subsection (f) of such section 4 is redesignated as subsection "(d)" of such section 4.

Repeal.
15 USC 753.

(2) Section 4(a) of such Act is amended by (A) striking out "Subject to subsection (f)" and inserting in lieu thereof "Subject to subsection (d)"; and (B) striking out "Except as provided in subsection (e) such" and inserting in lieu thereof "Such".

(3) Section 4(c) of such Act is amended in paragraphs (1), (4), and (5) thereof by striking out "subsections (b) and (d)" wherever it appears and by inserting in lieu thereof in each case "subsection (b)".

Repeal.
12 USC 1904 note.

(4) Section 406 of Public Law 93-153 is repealed.

Effective date.
15 USC 753 note.

(5) The amendments made by paragraphs (1), (2), (3), and (4) of this subsection, to the Emergency Petroleum Allocation Act of 1973, shall take effect on the effective date of the amendment to the regulation under section 4(a), required by section 8(a) of such Act.

LIMITATIONS ON PRICING POLICY

15 USC 753.

SEC. 402. (a) Paragraph (2) of section 4(b) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(2) In specifying prices (or prescribing the manner for determining them), the regulation under subsection (a)—

"(A) shall provide for a dollar-for-dollar passthrough of net increases in the cost of crude oil, residual fuel oil, and refined petroleum products at all levels of distribution from the producer through the retail level;

"(B)(i) shall not permit any net crude oil cost increases—

"(I) which are incurred by a refiner during the calendar month immediately preceding the effective date of this paragraph, or in any month thereafter, and

"(II) which are not passed through in prices charged pursuant to such regulation in the 2 calendar months following the calendar month in which such crude oil cost increases were incurred,

to be passed through by such refiner in any month subsequent to the 2 calendar months following the calendar month in which such crude oil cost increases were incurred, unless the President makes the findings specified in clause (ii)(II)(aa), and such passthrough

is consistent with the requirements specified in clause (ii)(II)(bb).

"(ii) shall not permit the passthrough in any month of—

"(I) any net crude oil cost increases incurred by a refiner not later than the last day of the calendar month which begins two months prior to the effective date of this paragraph and not passed through by the end of the last calendar month prior to the effective date of this paragraph unless such passthrough is not in excess of 10 percent of the total amount of such increased crude oil costs not passed through as of the last day of the last calendar month prior to the effective date of the amendment promulgated under section 8(a); and

Ante, p. 942.

"(II) any net crude oil cost increases incurred by a refiner after the effective date of this paragraph, which net crude oil cost increases were not passed through within the 2 calendar months following the calendar month in which such crude oil cost increases were incurred, unless—

"(aa) the President finds, and reports to the Congress with respect to such finding, that a passthrough of such crude oil cost increases is necessary to alleviate the impact on refiners, marketers, or consumers of significant increases in costs, to provide for equitable cost recovery consistent with the attainment, to the maximum extent practicable, of the objectives specified in paragraph (1), or to avoid competitive disadvantage; and

"(bb) such passthrough in any month of such crude oil cost increases is not in excess of 10 percent of the total amount of such crude oil cost increases as of the end of the calendar month in which the effective date of this paragraph occurs or any month thereafter;

"(C) shall provide for the use of the same date in the computation of markup, margin, and posted price for all marketers or distributors of crude oil, residual fuel, and refined petroleum products at all levels of marketing and distribution; and

"(D) shall not permit more than a direct proportionate distribution (by volume) to Number 2 oils (Number 2 heating oil and Number 2-D diesel fuel), aviation fuel of a kerosene or naphtha type, and propane produced from crude oil, of any increased costs of crude oil incurred by a refiner; except that the President may, by amendment to the regulation under subsection (a) or by order, permit deviation from such proportionate distribution of costs, if the President finds that refinery operations justify such deviation and further finds that to permit such deviation is consistent with the attainment of the objectives in paragraph (1) and would not result in inequitable prices for any class of users of such product.

As used in this paragraph, the term 'effective date of this paragraph' means the effective date specified in section 402(b) of the Energy Policy and Conservation Act.".

Infra.

Effective date.
15 USC 753 note.
15 USC 751 note.

(b) The amendment made by this section, to the Emergency Petroleum Allocation Act of 1973, shall take effect on the effective date of the amendment to the regulation under section 4(a), required by section 8(a) of such Act.

(c) The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"LIMITATIONS ON PRICING AUTHORITY

15 USC 759. "SEC. 10. The President shall have no authority, under this Act, or under the Energy Policy and Conservation Act, to prescribe minimum prices for crude oil (or any classification thereof), residual fuel oil, or any refined petroleum product.".

Ante, p. 871.

ENTITLEMENTS

15 USC 753. SEC. 403. (a) Section 4 of the Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following:

"(e) Any provision of the regulation under subsection (a) of this section—

"(1) which requires the purchase of entitlements, or the payment of money through any other similar cash transfer arrangement, the purpose of which is to reduce disparities in the crude oil acquisition costs of domestic refiners, and

"(2) which is based upon the number of barrels of crude oil input, or receipts, or both, of any refiner,

shall not apply to the first 50,000 barrels per day of input, or receipts, or both, of any refiner whose total refining capacity (including the refining capacity of any person who controls, is controlled by, or is under common control with such refiner) did not exceed on January 1, 1975, and does not thereafter exceed 100,000 barrels per day. The preceding sentence shall not affect any provisions of the regulation under subsection (a) of this section with respect to the receipt by any small refiner as defined in section 3(4) of payments for entitlements or any other similar cash transfer arrangement.".

15 USC 752.

15 USC 753 note. (b) Subsection (a) of this section shall apply with respect to payments due on or after the last day of the month during which the date of enactment of this Act occurs.

PART B—OTHER AMENDMENTS TO THE ALLOCATION ACT

AMENDMENTS TO THE OBJECTIVES OF THE ALLOCATION ACT

SEC. 451. (a) Section 4(b)(1)(A) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(A) protection of public health (including the production of pharmaceuticals), safety and welfare (including maintenance of residential heating, such as individual homes, apartments and similar occupied dwelling units), and the national defense;".

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

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

"(i) fuels, and

"(ii) minerals essential to the requirements of the United States,

and for required transportation related thereto;".

PENALTIES UNDER THE ALLOCATION ACT

15 USC 754. SEC. 452. Section 5 of the Emergency Petroleum Allocation Act of 1973 is amended:

(1) by striking out "sections 205 through 211" in subsection (a)(1) of such section and inserting in lieu thereof "sections 205 through 207 and sections 209 through 211"; and

(2) by adding at the end of subsection (a) of such section the following:

"(3)(A) Whoever violates any provision of the regulation under section 4(a) of this Act, or any order under this Act shall be subject to a civil penalty—

"(i) with respect to activities relating to the production, distribution, or refining of crude oil, of not more than $20,000 for each violation;

"(ii) with respect to activities relating to the distribution of residual fuel oil or any refined petroleum product (other than activities entirely at the retail level), of not more than $10,000 for each violation; and

"(iii) with respect to activities—

(I) entirely relating to the distribution of residual fuel oil or any refined petroleum product at the retail level, or

(II) activities not referred to in clause (i) or (ii) of subclause (I) of this clause, of not more than $2,500 for each violation.

"(B) Whoever willfully violates any provision of such regulation, or any such order shall be imprisoned not more than 1 year, or—

"(i) with respect to activities relating to the production or refining of crude oil, shall be fined not more than $40,000 for each violation;

"(ii) with respect to activities relating to the distribution of residual fuel oil or any refined petroleum product (other than at the retail level), shall be fined not more than $20,000 for each violation;

"(iii) with respect to activities relating to the distribution of residual fuel oil or any refined petroleum product at the retail level or any other person shall be fined not more than $10,000 for each violation;

or both.

"(4) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of paragraph (3), shall be subject to penalties under this subsection without regard to any penalties to which that corporation may be subject under paragraph (3) except that no such individual director, officer, or agent shall be subject to imprisonment under paragraph (3), unless he also has knowledge, or reasonably should have known, of notice of noncompliance received by the corporation from the President.".

ANTITRUST PROVISION IN ALLOCATION ACT

SEC. 453. Section 6(c) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows: 15 USC 755.

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

EVALUATION OF REGULATION UNDER THE ALLOCATION ACT

15 USC 751 note.

SEC. 454. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"REEVALUATION OF SECTION 4(a) REGULATION

15 USC 760.

"SEC. 11. (a) Not later than 60 days after the date of enactment of this section, the President shall give appropriate notice and afford interested persons an opportunity to present written and oral data, views, and arguments respecting the appropriateness of, or the continuing need for, the application of any provision of the regulation promulgated under section 4(a) as such provision relates to the attainment of the objectives specified in section 4(b)(1) of section 4. A transcript shall be kept of any such oral presentations of data, views, and argument.

15 USC 753.

"(b) The President shall, after consideration of such written and oral presentations and such other information as may be available to him—

"(1) analyze such presentations and report thereon to the Congress within 120 days after the date of enactment of this section; and

"(2) shall promulgate, pursuant to the limitations and authority under section 12, such amendment, or amendments, to the regulation promulgated under section 4(a) as he determines are necessary or appropriate—

Infra.

"(A) to modify any provisions of such regulation in a manner which is consistent with the attainment, to the maximum extent practicable, of objectives specified in section 4(b)(1); or

"(B) to eliminate any provisions of such regulation no longer necessary to provide for the attainment of such objectives.".

CONVERSION TO STANDBY AUTHORITIES

SEC. 455. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"CONVERSION MECHANISM TO STANDBY AUTHORITIES

15 USC 760a.

"SEC. 12. (a) The President may not amend the regulation under section 4(a) in any manner which—

"(1) exempts crude oil produced in the United States from any provision of such regulation required to be made a part of such regulation by section 8; or

Ante, p. 942.

"(2) results in making such regulation, as so amended, inconsistent with any limitation or other requirement specified in section 8.

"(b) Except as provided in subsection (a), the President may amend the regulation under section 4(a) if he determines that such amendment is consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) and that the regulation, as amended, provides for the attainment, to the maximum extent practicable, of such objectives.

"(c)(1) Any such amendment which, with respect to a class of persons or class of transactions (including transactions with respect to any market level), exempts crude oil, residual fuel oil, or any refined petroleum product or refined product category from the provisions of the regulation under section 4(a) as such provisions pertain to either (A) the allocation of amounts of any such oil or product, or (B) the specification of price or the manner for determining the price of any such oil or product, or both of the matters described in subparagraphs (A) and (B), may take effect only pursuant to the provisions of this subsection.

15 USC 753.

"(2) The President shall submit any amendment referred to in paragraph (1) to the Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act. Any such amendment shall be accompanied by a specific statement of the President's rationale for such amendment and the matter described in subsection (d) of this section. Such an amendment—

Post, p. 965.

"(A) may apply only to one oil or one refined product category;

"(B) may apply to the matters specified in either subparagraph (A) or (B) of paragraph (1) of this subsection, or both; and

"(C) may provide for scheduled or phased implementation.

"(3) As used in this section the term 'refined product category' means—

"Refined product category."

"(A) motor gasoline;

"(B) Number 2 oils (Number 2 heating oil and Number 2-D diesel fuel);

"(C) propane; or

"(D) all or any portion of other refined petroleum products as a class (including natural gas liquids and natural gas liquid products, other than propane).

"(4) Such an amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(d)(1) The President shall support any amendment described in subsection (b) which is transmitted to the Congress under subsection (c) of this section with a finding that such amendment is consistent with the attainment of the objectives specified in subsection 4(b)(1) and in the case of—

"(A) any exemption described in subsection (c)(1)(A), with a finding that such oil or refined product category is no longer in short supply and that exempting such oil or refined product category will not have an adverse impact on the supply of any other oil or refined petroleum product subject to this Act; and

"(B) any exemption described in subsection (c)(1)(B), with a finding that competition and market forces are adequate to protect consumers and that exempting such oil or refined product category will not result in inequitable prices for any class of users of such oil or product.

"(2) Any amendment which the President submits to the Congress under subsection (c) of this section shall be accompanied—

"(A) by a statement of the President's views as to the potential economic impacts (if any) of such amendment which, where practicable, shall include his views as to—

"(i) the State and regional impacts of such amendment (including effects on governmental units);

"(ii) the effects of such amendment on the availability of consumer goods and services; the gross national product; competition; small business; and the supply and availability

of energy resources for use as fuel or as feedstock for industry; and

"(iii) the effects on employment and consumer prices; and

"(B) in the case of an exemption described in subsection (c)(1)(B) of this section, by an analysis of the effects of such amendment on the rate of unemployment for the United States, the Consumer Price Index for the United States, and the implicit price deflator for the gross national product.

"(e) In any judicial review of an amendment required by this section to be submitted to Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, the reviewing court may not hold unlawful or set aside any such amendment on the ground that any findings made by the President were not adequate to meet the requirements of subsection (c), (d), or (g) of this section or subparagraph (A), (E), or (F), of section 706(2) of title 5, United States Code.

Post, p. 965.

"(f) With respect to any oil or refined product category which is exempted pursuant to the provisions of this section, the President shall have authority at any time thereafter to prescribe a regulation or issue an order respecting either the allocation of amounts, or the specification of price or the manner for determining the price, of any such oil or refined product category upon a determination by him that such regulation or order is necessary to attain, and is consistent with, the objectives specified in section 4(b)(1). Any such oil or refined product category for which allocation or price requirements are reimposed under authority of this subsection may subsequently be exempted without regard to the provisions of subsection (c) of this section.

15 USC 753.

Ante, p. 948.

"(g) Notwithstanding the provisions of subsection (e) of section 4, the President may, if he determines that the exemption from payments for certain small refiners required by such subsection—

"(1) results in unfair economic or competitive advantage with respect to other small refiners; or

"(2) otherwise has the effect of seriously impairing the President's ability to provide in the regulation under section 4(a) for the attainment of the objective specified in section 4(b)(1)(D) and for the attainment of those other objectives specified in section 4(b)(1);

submit, in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, an amendment to modify the regulation under section 4(a) with respect to the provisions of such regulation as they relate to such exemption. Such amendment shall not take effect if disapproved by either House of Congress under the procedures specified in such section 551.".

TECHNICAL PURCHASE AUTHORITY

15 USC 751 note.

SEC. 456. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"TECHNICAL PURCHASE AUTHORITY

15 USC 760b.

"SEC. 13. (a) The President may, by amendment to the regulation under section 4(a) of this Act, provide for and implement a procedure pursuant to which the United States may exercise the exclusive right to import and purchase all or any part of the crude oil, residual fuel

oil, and refined petroleum products of foreign origin for resale in the United States.

"(b) The authorities granted under this section shall not be used for the purpose, or with the effect, of providing a subsidy or preference to any importer, purchaser, or user.

"(c) In exercising any authorities granted under this section, the President shall endeavor to buy and sell without profit or loss, except that the President may, in individual cases, sell, on a competitive bid basis, crude oil, residual fuel oil, or any refined petroleum product at a price above or below the cost of such oil or product if, in the judgment of the President, such sales may result in progress toward a lower price for oil sold in international commerce.

Regulation amendment, submittal to Congress.

"(d) Any amendment to the regulation proposed to be implemented under this section shall be submitted to Congress for review under section 551 of the Energy Policy and Conservation Act, together with a detailed explanation of the procedure to be employed and the need therefor and shall be supported by findings by the President that the exercise of such authority is likely to reduce prices for imported oils and products. Such amendment shall not take effect if disapproved by either House of the Congress in accordance with the procedures specified in section 551 of such Act and any authority to purchase shall be subject to appropriations Acts.

Post, p. 965.

Price reduction, feasibility report.

"(e) The President shall submit, within 90 days after the date of enactment of this section, a report which evaluates the feasibility of reducing the price of crude oil, residual fuel oil, or refined petroleum products of foreign origin for resale in the United States by providing incentives for domestic producers who also import such oils or products into the United States, to work for the reduction of the price of such oils or products. The report shall specifically discuss whether increasing aggregate old crude oil prices by an amount related to any decrease in aggregate prices for such imported oils and products would serve as an incentive for domestic producers to reduce the price of such imported oils and products.".

DIRECT CONTROLS ON REFINERY OPERATIONS

15 USC 751 note.

SEC. 457. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"DIRECT CONTROLS ON REFINERY OPERATIONS

15 USC 760c. 15 USC 753.

"SEC. 14. The President may, by amendment to the regulation under section 4(a) of this Act or by order, as may be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of this Act, require adjustments in the operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum product produced through such operations if he determines such adjustments are necessary to assure the production of residual fuel oil or any refined petroleum product in such proportions as are necessary or appropriate to provide for the attainment, to the maximum extent practicable, the objectives specified in section 4(b)(1).".

INVENTORY CONTROLS

SEC. 458. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"INVENTORY CONTROLS

15 USC 760d. "SEC. 15. (a) In addition to other authority provided for in this Act to alleviate shortages of crude oil, residual fuel oil, and refined petroleum products, the President may, if he finds an existing or impending regional or national supply shortage of any fuel, by amend-
15 USC 753. ment to the regulation under section 4(a) of this Act or by order, consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1), require adjustments in the amounts of crude oil, residual fuel oil or any refined petroleum product which are held in inventory by persons who are engaged in the business of importing, producing, refining, marketing, or distributing such oils or products.

"(b) The authority specified in subsection (a) may be exercised to require either—

"(1) a distribution from such inventories to specified persons or classes of persons at specified rates of distribution or to specified levels of inventory accumulation; or

"(2) the accumulation of inventories at specified rates of accumulation or to specified levels,

as the President determines may be necessary or appropriate to provide for the attainment, to the maximum extent practicable, of the objectives of section 4(b)(1) or as the President determines may be necessary or appropriate to carry out the obligations of the United States under the international energy program, as defined in section 3
Ante, p. 874. of the Energy Policy and Conservation Act.

"(c) The authority specified in subsection (a) may require the maintenance of inventories at levels greater or lesser than such person's normal business or operating requirements; except that such amounts shall not exceed the amount of oil or product, as the case may be, such person would use or distribute during any 90-day period of peak usage and in no case may the requirement to accumulate inventories be applied to any person in a manner which would necessitate such person making physical additions to storage facilities in order to comply with any such rule or order.".

HOARDING PROHIBITIONS

15 USC 751 note. SEC. 459. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"HOARDING PROHIBITIONS

15 USC 760e. "SEC. 16. Except as may be otherwise provided with respect to persons engaged in the business of producing, refining, distributing, or marketing crude oil, residual fuel oil, or any refined petroleum product pursuant to section 15 or pursuant to requirements under section 156 of
Supra. Ante, p. 885. the Energy Policy and Conservation Act (relating to the Industrial Strategic Petroleum Reserve), the regulation under section 4(a) shall prohibit any person, during a severe energy supply interruption (as defined in section 3 of the Energy Policy and Conservation Act) from willfully accumulating crude oil, residual fuel oil, or any refined petroleum product in inventories, or otherwise, in amounts which are in excess of such person's reasonable needs (as such term shall be defined in such regulation).".

ASPHALT ALLOCATION AUTHORITY

SEC. 460. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section: 15 USC 751 note.

"ASPHALT ALLOCATION AUTHORITY

"SEC. 17. (a) The President may amend the regulation under section 4(a) of this Act to require, in a manner which he finds is consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of this Act, the allocation of asphalt in amounts specified in (or determined in the manner prescribed by), or at prices specified in (or determined in a manner prescribed by) such amendment to the regulation, or both. 15 USC 760f. 15 USC 753.

"(b) If the President exercises the authority under this section, he may thereafter amend the regulation under section 4(a) to exempt asphalt from such regulation without regard to the provisions of section 12 of this Act.". Ante, p. 950.

EXPIRATION OF AUTHORITIES

SEC. 461. The Emergency Petroleum Allocation Act of 1973 is amended by adding to the end of such Act, as amended by this Act, the following new section:

"EXPIRATION OF AUTHORITIES

"SEC. 18. Notwithstanding any other provision of this Act, at midnight on the conclusion of the 40th month in which the amendment under section 8(a) is in effect, the President's authority to promulgate, make effective, and amend a regulation pursuant to section 4(a) of this Act shall become discretionary rather than mandatory, and the limitations on the President's authority contained in sections 4(b)(2), 8, and 9 of this Act shall terminate. The authority to promulgate and amend any regulation or to issue any order under this Act shall expire at midnight September 30, 1981, but such expiration shall not affect any action or pending proceedings, administrative, civil, or criminal, not finally determined on such date, nor any administrative, civil, or criminal action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such expiration date.". 15 USC 760g. Ante, p. 942. Ante, p. 946.

REIMBURSEMENT TO STATES

SEC. 462. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"REIMBURSEMENT TO STATES

"SEC. 19. (a) The President is authorized to reimburse any State for expenses incurred by such State in carrying out any responsibilities delegated to such State by the President under the provisions of this Act. 15 USC 760h.

"(b) Such reimbursements may be paid from any funds appropriated for the purpose of carrying out responsibilities under this Act, unless any appropriation Act specifically provides to the contrary.

"(c) Not later than June 1, 1976, the President shall submit a report to the Congress analyzing and detailing the amount and nature of any Report to Congress.

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reimbursements made to any State for expenses described in subsection (a) incurred prior to such date and specifically recommending whether authorizations of additional funds for direct grants to States are necessary or appropriate for the continued operation of the reimbursement provisions authorized by this section.".

EFFECTIVE DATE OF ALLOCATION ACT AMENDMENTS

15 USC 753 note. 15 USC 751 note.

SEC. 463. Except as otherwise provided, the amendments made by this Act to the Emergency Petroleum Allocation Act of 1973 shall take effect as of midnight, December 15, 1975.

TITLE V—GENERAL PROVISIONS

PART A—ENERGY DATA BASE AND ENERGY INFORMATION

VERIFICATION EXAMINATION

42 USC 6381.

SEC. 501. (a) The Comptroller General may conduct verification examinations with respect to the books, records, papers, or other documents of—

(1) any person who is required to submit energy information to the Federal Energy Administration, the Department of the Interior, or the Federal Power Commission pursuant to any rule, regulation, order, or other legal process of such Administration, Department or Commission;

(2) any person who is engaged in the production, processing, refining, transportation by pipeline, or distribution (at other than the retail level) of energy resources—

(A) if such person has furnished, directly or indirectly, energy information (without regard to whether such information was furnished pursuant to legal requirements) to any Federal agency (other than the Internal Revenue Service), and

(B) if the Comptroller General of the United States determines that such information has been or is being used or taken into consideration, in whole or in part, by a Federal agency in carrying out responsibilities committed to such agency; or

(3) any vertically integrated petroleum company with respect to financial information of such company related to energy resource exploration, development, and production and the transportation, refining and marketing of energy resources and energy products.

(b) The Comptroller General shall conduct verification examinations of any person or company described in subsection (a), if requested to do so by any duly established committee of the Congress having legislative or oversight responsibilities under the rules of the House of Representatives or of the Senate, with respect to energy matters or any of the laws administered by the Department of the Interior (or the Secretary thereof), the Federal Power Commission, or the Federal Energy Administration (or the Administrator).

Definitions.

(c) For the purposes of this title—

(1) The term "verification examination" means an examination of such books, records, papers, or other documents of a person or company as the Comptroller General determines necessary and appropriate to assess the accuracy, reliability, and adequacy of

the energy information, or financial information, referred to in subsection (a).

(2) The term "energy information" has the same meaning as such term has in section 11(e)(1) of the Energy Supply and Environmental Coordination Act of 1974. 15 USC 796.

(3) The term "person" has the same meaning as such term has in section 11(e)(2) of the Energy Supply and Environmental Coordination Act of 1974.

(4) The term "vertically integrated petroleum company" means any person which itself, or through a person which is controlled by, controls, or is under common control with such person, is engaged in the production, refining, and marketing of petroleum products.

POWERS OF THE COMPTROLLER GENERAL AND REPORTS

SEC. 502. (a) For the purpose of carrying out his authority under section 501— 42 USC 6382.

(1) the Comptroller General may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories, to submit books, records, papers, or other documents, or to submit any other information or reports, and such answers or other submissions shall be made within such reasonable period, and under oath or otherwise, as the Comptroller General may determine; and

(C) administer oaths.

(2) the Comptroller General, or any officer or employee duly designated by the Comptroller General, upon presenting appropriate credentials and a written notice from the Comptroller General to the owner, operator, or agent in charge, may—

(A) enter, at reasonable times, any business premise or facility; and

(B) inspect, at reasonable times and in a reasonable manner, any such premise or facility, inventory and sample any stock of energy resources therein, and examine and copy books, records, papers, or other documents, relating to any energy information, or any financial information in the case of a vertically integrated petroleum company.

(b) The Comptroller General shall have access to any energy information within the possession of any Federal agency (other than the Internal Revenue Service) as is necessary to carry out his authority under this section.

(c)(1) Except as provided in subsections (d) and (e), the Comptroller General shall transmit a copy of the results of any verification examination conducted under section 501 to the Federal agency to which energy information which was subject to such examination was furnished.

(2) Any report made pursuant to paragraph (1) shall include the Comptroller General's findings with respect to the accuracy, reliability, and adequacy of the energy information which was the subject of such examination.

(d) If the verification examination was conducted at the request of any committee of the Congress, the Comptroller General shall report his findings as to the accuracy, reliability, or adequacy of the energy Report to congressional committee.

information which was the subject of such examination, or financial information in the case of a vertically integrated petroleum company, directly to such committee of the Congress and any such information obtained and such report shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of the committee and the rules of the House of Representatives or the Senate and as permitted by law.

Geological or geophysical information, disclosure.

(e)(1) Any information obtained by the Comptroller General or any officer or employee of the General Accounting Office pursuant to the exercise of responsibilities or authorities under this section which relates to geological or geophysical information, or any estimate or interpretation thereof, the disclosure of which would result in significant competitive disadvantage or significant loss to the owner thereof shall not be disclosed except to a committee of Congress. Any such information so furnished to a committee of the Congress shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of the committee and the rules of the House of Representatives or the Senate and as permitted by law.

Penalties.

(2) Any person who knowingly discloses information in violation of paragraph (1) shall be subject to the penalties specified in section 5(a)(3)(B) and (4) of the Emergency Petroleum Allocation Act of 1973, as amended by section 452 of this Act.

Ante, p. 949.

Annual report to Congress.

(f) The Comptroller General shall prepare and submit to the Congress an annual report with respect to the exercise of its authorities under this part, which report shall specifically identify any deficiencies in energy information or financial information reviewed by the Comptroller General and include a discussion of action taken by the person or company so examined, if any, to correct any such deficiencies.

ACCOUNTING PRACTICES

42 USC 6383.

SEC. 503. (a) For purposes of developing a reliable energy data base related to the production of crude oil and natural gas, the Securities and Exchange Commission shall take such steps as may be necessary to assure the development and observance of accounting practices to be followed in the preparation of accounts by persons engaged, in whole or in part, in the production of crude oil or natural gas in the United States. Such practices shall be developed not later than 24 months after the date of enactment of this Act and shall take effect with respect to the fiscal year of each such person which begins 3 months after the date on which such practices are prescribed or made effective under authority of subsection (b)(2).

(b) In carrying out its responsibilities under subsection (a), the Securities and Exchange Commission shall—

(1) consult with the Federal Energy Administration, the General Accounting Office, and the Federal Power Commission with respect to accounting practices to be developed under subsection (a), and

(2) have authority to prescribe rules applicable to persons engaged in the production of crude oil or natural gas, or make effective by recognition, or by other appropriate means indicating a determination to rely on, accounting practices developed by the Financial Accounting Standards Board, if the Securities and Exchange Commission is assured that such practice will be observed by persons engaged in the production of crude oil or natural gas to the same extent as would result if the Securities and Exchange Commission had prescribed such practices by rule.

The Securities and Exchange Commission shall afford interested persons an opportunity to submit written comment with respect to whether it should exercise its discretion to recognize or otherwise rely on such accounting practice in lieu of prescribing such practices by rule and may extend the 24-month period referred to in subsection (a) as it determines may be necessary to allow for a meaningful comment period with repect to such determination.

(c) The Securities and Exchange Commission shall assure that accounting practices developed pursuant to this section, to the greatest extent practicable, permit the compilation, treating domestic and foreign operations as separate categories, of an energy data base consisting of:

(1) The separate calculation of capital, revenue, and operating cost information pertaining to—

(A) prospecting,
(B) acquisition,
(C) exploration,
(D) development, and
(E) production,

including geological and geophysical costs, carrying costs, unsuccessful exploratory drilling costs, intangible drilling and development costs on productive wells, the cost of unsuccessful development wells, and the cost of acquiring oil and gas reserves by means other than development. Any such calculation shall take into account disposition of capitalized costs, contractual arrangements involving special conveyance of rights and joint operations, differences between book and tax income, and prices used in the transfer of products or other assets from one person to any other person, including a person controlled by controlling or under common control with such person.

(2) The full presentation of the financial information of persons engaged in the production of crude oil or natural gas, including—

(A) disclosure of reserves and operating activities, both domestic and foreign, to facilitate evaluation of financial effort and result; and

(B) classification of financial information by function to facilitate correlation with reserve and operating statistics, both domestic and foreign.

(3) Such other information, projections, and relationships of collected data as shall be necessary to facilitate the compilation of such data base.

ENFORCEMENT

42 USC 6384

SEC. 504. (a) Any person who violates any general or special order of the Comptroller General issued under section 502(a)(1)(B) of this Act may be assessed a civil penalty not to exceed $10,000 for each violation. Each day of failure to comply with such an order shall be deemed a separate violation. Such penalty shall be assessed by the Comptroller General and collected in a civil action brought by the Comptroller General through any attorney employed by the General Accounting Office or any other attorney designated by the Comptroller General, or, upon request of the Comptroller General, the Attorney General. A person shall not be liable with respect to any period during which the effectiveness of the order with respect to such person was stayed.

(b) Any action to enjoin or set aside an order issued under section 502(a)(1)(B) may be brought only before the United States Court of Appeals for the District of Columbia. Any action to collect a civil

penalty for violation of any general or special order may be brought only in the United States District Court for the District of Columbia. In any action brought under subsection (a) to collect a civil penalty, process may be served in any judicial district of the United States.

(c) Upon petition by the Comptroller General through any attorney employed by the General Accounting Office or designated by the Comptroller General, or, upon request of the Comptroller General, the Attorney General, any United States district court within the jurisdiction of which any inquiry under this part is carried on may, in the case of refusal to obey a subpena of the Comptroller General issued under this part, issue an order requiring compliance therewith; and any failure to obey the order of the court may be treated by the court as a contempt thereof.

AMENDMENT TO ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT OF 1974

SEC. 505. (a) Section 11(c) of The Energy Supply and Environmental Coordination Act of 1974 is amended by adding at the end thereof the following: 15 USC 796.

"(3) In order to carry out his responsibilities under subsection (a) of this section, the Federal Energy Administrator shall require, pursuant to subsection (b)(1)(A) of this section, that persons engaged, in whole or in part, in the production of crude oil or natural gas—

"(A) keep energy information in accordance with the accounting practices developed pursuant to section 503 of the Energy Policy and Conservation Act, and

"(B) submit reports with respect to energy information kept in accordance with such practices.

The Administrator shall file quarterly reports with the President and the Congress compiled from accounts kept in accordance with such section 503 and submitted to the Administrator in accordance with this paragraph. Such reports shall present energy information in the categories specified in subsection (c) of such section 503 to the extent that such information may be compiled from such accounts. Such energy information shall be collected and such quarterly reports made for each calendar quarter which begins 6 months after the date on which the accounting practices developed pursuant to such section 503 are made effective.".

Effective date. 15 USC 796 note.

(b) The amendment made by subsection (a) to section 11(c) of the Energy Supply and Environmental Coordination Act of 1974 shall take effect on the first day of the first accounting quarter to which such practices apply.

EXTENSION OF ENERGY INFORMATION GATHERING AUTHORITY

SEC. 506. Section 11(g)(2) of the Energy Supply and Environmental Coordination Act of 1974 is amended by striking out "June 30, 1975" wherever it appears and inserting in lieu thereof "December 31, 1979".

PART B—GENERAL PROVISIONS

PROHIBITION ON CERTAIN ACTIONS

42 USC 6391.

SEC. 521. (a) Action taken under the authorities to which this section applies, resulting in the allocation of petroleum products or electrical energy among classes of users or resulting in restrictions on use of

petroleum products and electrical energy shall not be based upon unreasonable classifications of, or unreasonable differentiations between, classes of users. In making any such allocation the President, or any agency of the United States to which such authority is delegated, shall give consideration to the need to foster reciprocal and nondiscriminatory treatment by foreign countries of United States citizens engaged in commerce in those countries.

(b) To the maximum extent practicable, any restriction under authorities to which this section applies on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific class of industry, business, or commercial enterprise, or on any individual segment thereof. In prescribing any such restriction, due consideration shall be given to the needs of commercial, retail, and service establishments whose normal function is to supply goods or services of an essential convenience nature during times of day other than conventional daytime working hours.

(c) This section applies to actions under any of the following authorities:

(1) titles I and II of this Act (other than any provision of such titles which amends another law). Ante, pp. 875, 890.

(2) this title.

(3) the Emergency Petroleum Allocation Act of 1973. 15 USC 751 note.

CONFLICTS OF INTEREST

SEC. 522. (a) Each officer or employee of the Federal Energy Administration or of the Department of the Interior who— 42 USC 6392.

(1) performs any function or duty under this Act; and

(2) has any known financial interest—

(A) in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline, or distributing (other than at the retail level) coal, natural gas, or petroleum products, or

(B) in property from which coal, natural gas, or crude oil is commercially produced;

shall, beginning on February 1, 1977, annually file with the Administrator or the Secretary of the Interior, as the case may be, a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such statement shall be subject to examination, and available for copying, by the public upon request.

(b) The Administrator and the Secretary of the Interior shall each—

(1) act, within 90 days after the date of enactment of this Act, in accordance with section 553 of title 5, United States Code—

(A) to define the term "known financial interest" for purposes of subsection (a); and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator or the Secretary of the Interior, as the case may be, of such statements; and

Report to Congress.

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b), the Administrator and the Secretary of the Interior each may identify specific positions, or classes thereof within the Federal Energy Administration or Department of the Interior, as the case may be, which are of a nonregulatory and nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

Penalty.

(d) Any officer or employee who is subject to, and knowingly violates, subsection (a) shall be fined not more than $2,500 or imprisoned not more than one year, or both.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

42 USC 6393.

SEC. 523. (a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule, regulation, or order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued under title I (other than section 103 thereof) and title II of this Act, or this title (other than any provision of such titles which amends another law).

5 USC 551.

Ante, pp. 875, 890.

Publication in Federal Register.

(2)(A) Notice of any proposed rule, regulation, or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule, regulation, or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and prior to the effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment prior to the effective date of the rule may be—

(i) reduced to no less than 10 days if the President finds that strict compliance would seriously impair the operation of the program to which such rule, regulation, or order relates and such findings are set out in such rule, regulation, or order, or

(ii) waived entirely, if the President finds that such waiver is necessary to act expeditiously during an emergency affecting the national security of the United States.

Publication in newspapers.

(B) Public notice of any rule, regulation, or order which is substantive and of general applicability which is promulgated by officers of a State or political subdivision thereof or to State or local boards which have been delegated authority pursuant to title I or II of this Act or this title (other than any provision of such title) which amend another law shall, to the maximum extent practicable, be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of general circulation calculated to receive widest practicable notice.

Oral presentation.

(3) In addition to the requirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded and such opportunity shall be afforded prior to the effective date of such rule, regulation, or order, but in all cases such opportunity shall be afforded no later than 45 days, and no later than 10 days (in the case of a waiver of the entire comment period under paragraph (2)(ii)), after such date. A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act as

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

Judicial review.

(b) The procedures for judicial review established by section 211 of the Economic Stabilization Act of 1970 shall apply to proceedings to which subsection (a) applies, as if such proceedings took place under such Act. Such procedures for judicial review shall apply notwithstanding the expiration of the Economic Stabilization Act of 1970.

12 USC 1904 note.

(c) Any agency authorized to issue any rule, regulation, or order described in subsection (a)(1) shall, upon written request of any person, which request is filed after any grant or denial of a request for exception or exemption from any such rule, regulation, or order, furnish such person, within 30 days after the date on which such request is filed, with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial.

PROHIBITED ACTS

42 USC 6394.

SEC. 524. It shall be unlawful for any person—

Ante, pp. 875, 890.

(1) to violate any provision of title I or title II of this Act or this title (other than any provision of such titles which amend another law),

(2) to violate any rule, regulation, or order issued pursuant to any such provision or any provision of section 383 of this Act; or

(3) to fail to comply with any provision prescribed in, or pursuant to, an energy conservation contingency plan which is in effect.

ENFORCEMENT

42 USC 6395.

SEC. 525. (a) Whoever violates section 524 shall be subject to a civil penalty of not more than $5,000 for each violation.

(b) Whoever willfully violates section 524 shall be fined not more than $10,000 for each violation.

(c) Any person who knowingly and willfully violates section 524 with respect to the sale, offer of sale, or distribution in commerce of a product or commodity after having been subjected to a civil penalty for a prior violation of section 524 with respect to the sale, offer of sale, or distribution in commerce of such product or commodity shall be fined not more than $50,000 or imprisoned not more than 6 months, or both.

(d) Whenever it appears to any officer or agency of the United States in whom is vested, or to whom is delegated, authority under this Act that any person has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 524, such officer or agency may request the Attorney General to bring an action in an appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without

bond. Any such court may also issue mandatory injunctions commanding any person to comply with any rule, regulation, or order described in section 524.

(e)(1) Any person suffering legal wrong because of any act or practice arising out of any violation of any provision of this Act described in paragraph (2), may bring an action in an appropriate district court of the United States without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

(2) The provisions of this Act referred to in paragraph (1) are as follows:

(A) Section 202 (relating to energy conservation plans).
(B) Section 251 (relating to international oil allocation).
(C) Section 252 (relating to international voluntary agreements).
(D) Section 253 (relating to advisory committees).
(E) Section 254 (relating to international exchange of information).
(F) Section 521 (relating to prohibition on certain actions).

EFFECT ON OTHER LAWS

42 USC 6396.

SEC. 526. No State law or State program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of title I or II of this Act (other than any provision of such title which amends another law) or any rule, regulation, or order thereunder, except insofar as such State law or State program is in conflict with such provision, rule, regulation, or order.

Ante, pp. 875, 890.

TRANSFER OF AUTHORITY

42 USC 6397.
15 USC 774.

SEC. 527. In accordance with section 15(a) of the Federal Energy Administration Act of 1974, the President shall designate, where applicable and not otherwise provided by law, an appropriate Federal agency to carry out functions vested in the Administrator under this Act and amendments made thereby after the termination of the Federal Energy Administration.

AUTHORIZATION OF APPROPRIATIONS FOR INTERIM PERIOD

42 USC 6398.

SEC. 528. Any authorization of appropriations in this Act, or in any amendment to any other law made by this Act, for the fiscal year 1976 shall be deemed to include an additional authorization of appropriations for the period beginning July 1, 1976, and ending September 30, 1976, in amounts which equal one-fourth of any amount authorized for fiscal year 1976, unless appropriations for the same purpose are specifically authorized in a law hereinafter enacted.

INTRASTATE NATURAL GAS

42 USC 6399.

SEC. 529. No provision of this Act shall permit the imposition of any price controls on, or require any allocation of, natural gas not subject to the jurisdiction of the Federal Power Commission.

LIMITATION ON LOAN GUARANTEES

42 USC 6400.

SEC. 530. Loan guarantees and obligation guarantees under this Act or any amendment to another law made by this Act may not be

issued in violation of any limitation in appropriations or other Acts, with respect to the amounts of outstanding obligational authority.

EXPIRATION

42 USC 6401.
Ante, pp. 875, 890.

SEC. 531. Except as otherwise provided in title I or title II, all authority under any provision of title I or title II (other than a provision of either such title amending another law) and any rule, regulation, or order issued pursuant to such authority, shall expire at midnight, June 30, 1985, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, June 30, 1985.

PART C—CONGRESSIONAL REVIEW

PROCEDURE FOR CONGRESSIONAL REVIEW OF PRESIDENTIAL REQUESTS TO IMPLEMENT CERTAIN AUTHORITIES

42 USC 6421.
"Energy action."

SEC. 551. (a) For purposes of this section, the term "energy action" means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

Transmittal to Congress.

(b) The President shall transmit any energy action (bearing an identification number) to both Houses of Congress on the same day. If both Houses are not in session on the day any energy action is received by the appropriate officers of each House, for purposes of this section such energy action shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(c)(1) Except as provided in paragraph (2) of this subsection, if energy action is transmitted to the Houses of Congress, such action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such action is transmitted to such Houses, unless between the date of transmittal and the end of such 15-day period, either House passes a resolution stating in substance that such House does not favor such action.

(2) An energy action described in paragraph (1) may take effect prior to the expiration of the 15-calendar-day period after the date on which such action is transmitted, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such action.

(d) For the purpose of subsection (c) of this section—

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

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-calendar-day period.

(e) Under provisions contained in an energy action, a provision of such an action may take effect on a date later than the date on which such action otherwise takes effect pursuant to the provisions of this section.

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

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

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

"Resolution."

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

(A) A resolution the matter after the resolving clause of which is as follows: "That the _____ does not object to the energy action numbered _____ submitted to the Congress on _____, 19__.", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one energy action.

(B) A resolution the matter after the resolving clause of which is as follows: "That the _____ does not favor the energy action numbered _____ transmitted to Congress on _____ _____, 19__.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy action.

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

(4) (A) If the committee to which a resolution with respect to an energy action has been referred has not reported it at the end of 5 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such energy action which has been referred to the committee.

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

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

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

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable.

An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to; except that it shall be in order—

(i) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2) (A) of this subsection with respect to an energy action, for a resolution described in paragraph (2) (B) of this subsection with respect to the same such action, or

(ii) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2) (B) of this subsection with respect to an energy action, for a resolution described in paragraph (2) (A) of this subsection with respect to the same such action.

The amendments described in clauses (i) and (ii) of this subparagraph shall not be amendable.

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

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

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

EXPEDITED PROCEDURE FOR CONGRESSIONAL CONSIDERATION OF CERTAIN AUTHORITIES

Contingency plans.
42 USC 6422.

SEC. 552. (a) Any contingency plan transmitted to the Congress pursuant to section 201(a)(1) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

(b) No such contingency plan may be considered approved for purposes of section 201(a)(2) of this Act unless between the date of transmittal and the end of the first period of 60 calendar days of continuous session of Congress after the date on which such action is transmitted to such House, each House of Congress passes a resolution described in subsection (d)(2).

(c) For the purpose of subsection (b) of this section—

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

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-calendar-day period.

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

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

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

"Resolution."

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress the matter after the resolving clauses of which is as follows: "That the _____ approves the contingency plan numbered _____ submitted to the Congress on _____, 19__.", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one contingency plan.

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

(4)(A) If the committee to which a resolution with respect to a contingency plan has been referred has not reported it at the end of 20 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such contingency plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same contingency plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

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

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

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

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

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

Approved December 22, 1975.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-340 accompanying H.R. 7014 (Comm. on Interstate and Foreign Commerce) and No. 94-700 (Comm. of Conference).

SENATE REPORTS: No. 94-26 (Comm. on Interior and Insular Affairs) and No. 94-516 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 121 (1975):
Mar. 12, 13, Apr. 7-10, considered and passed Senate.
Sept. 23, considered and passed House, amended, in lieu of H.R. 7014.
Sept. 26, Senate concurred in House amendment with an amendment.
Dec. 15, House concurred in Senate amendment with an amendment.
Dec. 16, 17, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 11, No. 52:
Dec. 22, Presidential statement.

GPO : 1975 O—63-359

Energy

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date February 24, 1976 Time: 330pm

FOR ACTION: Jack Marsh
Robert Hartmann
Max Friedersdorf
Phil Buchen
Alan Greenspan
General Scowcroft

cc (for information): Jim Connor
James Lynn
Frank Zarb
Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: February 25 Time: noon

SUBJECT:

Energy Message to Congress

ACTION REQUESTED:

_____ For Necessary Action
_____ Prepare Agenda and Brief
x
_____ For Your Comments
_____ For Your Recommendations
_____ Draft Reply
_____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection. "Strong" should be "strongly" on page 6.

Phil Buchen by Dudley Chapman

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

DRAFT
2/24/76

ENERGY MESSAGE DRAFT

TO THE CONGRESS OF THE UNITED STATES

A little over two years ago, we learned the harsh lesson that our Nation had become excessively dependent upon others for our oil supplies. We have come to realize how critical energy is to the strength of our economy, to the quality of our lives and to the defense of our country.

We must reduce our vulnerability to economic disruption by a few foreign countries who can cut off energy supplies or impose excessive prices. We must regain our energy independence.

During the past year, we have made some important progress toward achieving our energy independence goals, but the fact remains that we have a long way to go. However, we cannot take the steps required to solve our energy problems until the Congress provides the necessary additional authority and resources that I have requested.

In my first State of the Union Address last year, I pointed out that our vulnerability would continue to grow unless a comprehensive energy policy and program was implemented. I outlined these goals for regaining our energy independence:

-- First, to halt our growing dependence on imported oil during the next few critical years.

-- Second, to attain energy independence by 1985 by achieving invulnerability to disruptions caused by oil import embargoes. Specifically, we must reduce oil imports to between 3 and 5 million barrels a day, with an accompanying ability to offset an embargo with stored petroleum reserves and emergency standby measures.

-- Third, to mobilize our technology and resources to supply a significant share of the free world's energy needs beyond 1985.

These goals were reasonable and sound a year ago and they remain so today.

Since January of 1975, we have launched the most comprehensive set of energy programs that are possible with the available authority and resources. This includes actions to conserve energy, to increase the production of domestic energy resources and to develop technology needed to capture energy from newer sources.

Since January 1975, I have also placed before the Congress the legislative proposals that would provide the additional authority that is needed to achieve our energy independence goals.

Thus far, the Congress has completed action on only one major piece of energy legislation -- the Energy Policy and Conservation Act -- which I signed into law on December 22,

1975. Fifteen other major legislative proposals await action by the Congress.

1. Natural Gas. The need for Congressional action is most critical in the area of natural gas. We must reverse the decline in natural gas production and deal effectively with the growing shortages that face us each winter.

   Deregulating the price of new natural gas remains the most important action that can be taken by the Congress to improve our future gas supply situation. If the price of natural gas remains under current regulation, total domestic production could decline by ____ percent by 1985 from _____ trillion cubic feet to less than 18 trillion cubic feet. These shortages mean higher costs for natural gas consumers who are forced to switch to more expensive alternative fuels. The shortage of natural gas means inevitably a growing dependence on imported oil. Curtailment of natural gas to industrial users in the winters ahead can well lead to unemployment and further economic hardships.

   I again urge the Congress to pass legislation removing Federal price regulation from new natural gas supplies and providing the added short-term authorities needed to deal with severe shortages likely to occur next winter.

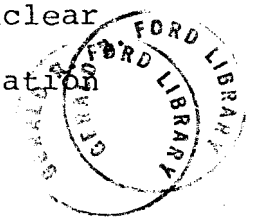
I also urge prompt action by the Congress on a bill I am today proposing -- the Alaskan Gas Transportation Act of 1976 -- which is designed to expedite the selection of a route and the construction of a pipeline to bring the vast supplies of natural gas from the north slope of Alaska to the "lower 48" markets.

The legislation would make possible production of about 1 trillion cubic feet of additional natural gas each year by the early 1980s.

Because of the critical need for natural gas, I believe the U.S. must act to permit importing some additional liquified natural gas (LNG). There have been few new contracts because of uncertain Government policy due to concern about excessive dependence on foreign sources.

Recognizing these concerns, I have directed the Energy Resources Council to establish procedures for reviewing proposed contracts within the Executive Branch, balancing the need for supplies with the need for avoiding excessive dependence, and encouraging new imports where this is appropriate. By 1985, we can import 1 trillion cubic feet of LNG to help meet our needs without becoming overly dependent upon foreign sources.

2. Nuclear Power. Greater utilization must be made of nuclear power in order to achieve energy independence and maintain a strong economy. It is likewise vital that we continue our world leadership as a stable supplier of nuclear technology in order to achieve our non-proliferation objectives.



At present 58 commercial nuclear power plants are on line, providing more than 8 percent of our electrical requirements, and a total of 238 plants are planned or committed. If the electrical power supplied by the 58 existing nuclear power plants were supplied by oil-fired plants, an additional 1 million barrels of oil per day would be consumed.

On January 19, 1975, I activated the independent Nuclear Regulatory Commission (NRC) which has the responsibility for assuring the safety, reliability, and environmental acceptability of commercial nuclear power. The NRC has reported that it has taken a number of steps to reduce regulatory delays and I understand that it is continually alert to the need to review its policies and procedures for carrying out its assigned responsibilities.

I have requested greatly increased funding in my 1977 budget to accelerate research and development efforts that will meet our near-term needs to assure further the safety of current and future commercial nuclear power plants, further develop domestic safeguards technologies to assure against the theft and misuse of nuclear materials as the use of nuclear power grows, provide for safe and secure long-term storage of radioactive wastes, and encourage industry to improve the reliability and reduce the construction time of commercial nuclear power plants.

I have also requested additional funds to identify new uranium resources and directed ERDA to work with private industry to determine what additional actions are needed to bring capacity on-line to reprocess and recycle nuclear fuels.

Internationally, agreement has been completed with other nations that supply nuclear technology on a consistent set of safeguards requirements that will be imposed on nuclear exports. I am also proposing that the U.S. make a special contribution to up to $5 million in the next five years to the International Atomic Energy Agency to strengthen its safeguards program.

Action by the Congress is, however, essential and if we are to take advantage of our nuclear energy potential. I again strongly urge the Congress to give top priority to my Nuclear Fuel Assurance Act which is necessary to provide enriched uranium needed for commercial nuclear power plants here and abroad.

This legislation submitted to Congress in June 1975 would provide the basis for beginning the transition of a private competitive uranium enrichment industry and thus prevent the heavy drain on the Federal budget which would occur if the Federal Government were to finance the additional

uranium enrichment capacity required. This would involve more than $9 billion over the next two or three years and approximately $2 billion each year thereafter for new plants. The taxpayers would eventually be repayed for these expenditures but not until sometime in the 1990s. Federal expenditures are unnecessary since industry is prepared to assume the responsibility with limited government cooperation and temporary assurances provided for by the proposed legislation.

3. Oil. We must reverse the decline in the Nation's oil production. I intend to implement the maximum production incentives that can be justified under the new Energy Policy and Conservation Act. In addition, the Department of the Interior will continue its aggressive Outer Continental Shelf development program, while giving careful attention to environmental considerations.

But these actions are not enough. We need prompt action by the Congress on my proposals to allow commercial production from the Naval Petroleum Reserves. This legislation is now awaiting action by a House-Senate Conference

Committee.

This measure alone can provide almost one million barrels of oil per day by 1985 and will assist in filling our strategic oil reserves.

I also urge the Congress to act quickly on the Clean Air Act auto emission standards that I proposed last June to achieve a balance between objectives for improving air quality, increasing gasoline mileage, and avoiding unnecessary increases in costs to consumers.

4. Coal. coal is the most abundant energy resource available in the United States, yet production is at the same level as in the 1930s and now accounts for only about 17 percent of the Nation's energy consumption. Coal must be used increasingly as an alternative to scarce, expensive or insecure oil and natural gas supplies. We must act to remove unnecessary constraints on coal so that production can grow from the 1975 level of 630 million tons to 1 billion tons by 1985 in order to achieve energy independence.

We are moving ahead where legislative authority is available.

The Secretary of the Interior has recently adopted a new coal leasing policy that would lead to the leasing and development of more coal on Federal lands. To implement this policy, regulations will be issued governing coal mining operations on Federal lands, providing for timely

development, and requiring effective surface mining controls which will minimize adverse environmental impacts and require that mined lands be restored. As an additional step to reflect the interests of areas affected by development, Interior intends to allow application of state standards of regulation on Federal lands where those standards do not prohibit coal development.

I have recently signed omnibus rail legislation which offers far-reaching implications for the conservation of petroleum and allows development of adequate systems to move coal to markets.

I have directed the Federal Energy Administration and the Environmental Protection Agency to cooperate in the implementation of the recently extended coal conservation authorities which require that utilities and other major industrial facilities convert to coal from gas or oil.

We are also stepping up research and development efforts to find better ways of producing and using coal.

Again, however, the actions we can take are not enough to meet our goals. Action by the Congress is essential.

I urge the Congress to enact the Clean Air Act amendments I proposed which will provide the balance we need between

air quality and energy goals. These amendments would permit greater use of coal without sacrificing the air quality standards necessary to protect public health.

I also urge the Congress to act on amendments to the Clean Air Act and the Energy Supply and Coordination Act which will provide the basis for converting additional industrial and utility users of oil and gas to coal.

I also urge enactment of the Nuclear Licensing Act to streamline the licensing procedures for the construction of new power plants.

5. Building Energy Facilities. In order to attain energy independence for the United States, the construction of numerous nuclear power plants, coal-fired power plants, oil refineries, synthetic fuel palnts, and other facilities will be required over the next two decades.

Again, action by the Congress is needed.

I urge Congress to approve my October 1975 proposal to create an Energy Independence Authority, a new government corporation to assist private sector financing of new energy facilities.

This legislation will help assure that capital is available for the massive investment that must be made over the next few years in energy facilities. The legislation also provides for expediting the regulatory process at the Federal level for

critical energy projects.

I also urge Congressional action on legislation needed to authorize loan guarantees to aid in the construction of commercial facilities to produce synthetic fuels so that they may make a significant contribution by 1985.

Commercial facilities eligible for funding under this program include those for synthetic gas, coal liquifaction and oil shale, which are not now economic. Management of this program would initially reside with the Energy Research and Development Administration but would be transferred to the proposed Energy Independence Authority.

My proposed Energy Facilities Siting legislation, Utility Rate Reform legislation, and the Electric Utilities Construction Incentives Act complete the legislation which would provide the incentives, assistance and new procedures needed to assure that facilities are available to provide new domestic energy supplies.

6. Energy Development Impact Assistance

Some areas of the country will experience rapid growth and change because of the development of Federally-owned energy resources. We must provide special help to heavily impacted areas.

I urge the Congress to act quickly on my proposed new, comprehensive, Federal Energy Impact Assistance Act which was submitted to the Congress on February 4, 1976.

This legislation would establish a $1 billion program of financial assistance to areas affected by new Federal energy resource development over the next 15 years. It would provide loans, loan guarantees and planning grants for energy-related public facilities. Funds would be repaid from future energy development. Loans and the cost of loan guarantees could be forgiven if development did not occur as expected.

Before deciding on this program, I considered alternative approaches reflected in other bills pending before the Congress and found that these bills would put far too much money in areas that are unlikely to experience impacts and not enough money in areas where it will be needed.

7. Energy Conservation

The Nation has made major progress in reducing energy consumption in the last two years, particularly in the transportation sector, but more savings are needed.

I have directed that all Federal agencies continue a strong energy management program. This program has already reduced energy consumption by 24 percent in the past two years, saving the equivalent of over 250,000 barrels of oil per day.

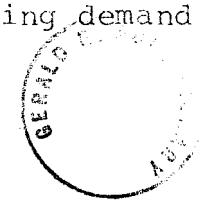
We are moving to implement the conservation authorities of the new Energy Policy and Conservation Act, including those calling for State energy conservation programs, and labeling of appliances to provide consumers with energy efficiency information.

I have asked for a 63 percent increase in funding for energy conservation research and development in my 1977 budget.

If the Congress will provide needed legislation, we can make more progress. I urge the Congress to pass legislation to provide for thermal efficiency standards for new buildings, to enact my proposed $55 million weatherization assistance program for low-income and elderly persons, and to provide 15 percent tax credit for energy conservation improvements in existing residential buildings. Together, these conservation proposals can save 450,000 barrels of oil per day by 1985.

INTERNATIONAL ENERGY ACTIVITIES

The international energy policy I have established for this country not only supports but reinforces my domestic objective to end energy vulnerability. The U.S. and other major oil consuming nations have now established a comprehensive long-term energy program through the International Energy Agency committing ourselves to continuing cooperation to reduce dependence on imported oil. By reducing demand for



imported oil, consuming nations can, over time, regain influence over oil prices and end vulnerability to abrupt and unilateral OPEC price increases.

The International Energy Agency has established a framework for cooperative efforts to accelerate the development of alternative energy sources, and I have directed the Department of State, in cooperation with FEA and other Federal agencies, to work closely with the IEA.

In addition, I have directed the U.S. delegation to the new Energy Commission of the Conference on International Economic Cooperation to pursue actively the U.S. proposal to an International Energy Institute to mobilize the technical and financial resources of the industrialized and oil producing countries to assist developing countries in meeting their energy problems.

Finally, I welcome completion of a draft agreement with the Canadian government which would facilitate construction of hydrocarbon pipelines across each other's territory.

1985 and BEYOND

As our easily recoverable domestic fuel reserves are depleted, the need for advancing the technologies of nuclear energy, synthetic fuels, solar, and geothermal will become paramount to sustaining our energy achievements beyond 1985. I have,

therefore, proposed an increase in the Federal budget for energy research and development from $2.2 billion in 1976 to $2.9 billion in the proposed 1977 budget. This 30 percent increase represents a major expansion of activities directed at accelerating programs to achieving long-term energy independence.

These funds are slated for increased work on nuclear fusion and fission power development particularly for demonstrating the commercial viability of breeder reactors; new technology development for coal mining and coal use, enhanced recovery of oil from current reserves; advanced power conversion systems; solar and geothermal energy development; and conservation research and development.

It is only through greater research and development efforts today that we will be in a position beyond 1985 to supply a significant share of the free world's energy needs and technology.

FUTURE OUTLOOK

I envision an energy future for the United States free of the threat of embargoes and arbitrary price increases by foreign governments. I see a world in which all nations strengthen their cooperative efforts to solve critical energy problems. I envision a major expansion in the production and use of coal, a strong commitment to nuclear power, significant

technological breakthroughs in harnessing the unlimited potential of solar energy and fusion power, and a strengthened conservation ethic in our use of energy.

I am convinced that the United States has the ability to achieve energy independence.

I urge the Congress to provide the needed legislative authority without further delay.

ERDA

THE WHITE HOUSE

WASHINGTON

June 10, 1976

Dear Jim:

Many thanks for your letter which sets forth the ERDA legislation and proposed additional bills that include provisions for Congressional review of ERDA activities. This will be most helpful in developing a full-scale challenge to Congressional veto provisions.

I trust that you are still enjoying your new assignment but, speaking for myself and for many others here, we do miss you.

Sincerely,

Phil

Philip W. Buchen
Counsel to the President

Mr. James W. Wilderotter
General Counsel
Energy Research and
Development Administration
Washington, D. C. 20545

UNITED STATES
ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
WASHINGTON, D.C. 20545

June 7, 1976

Honorable Philip W. Buchen
Counsel to the President

Dear Phil:

Barry called me recently about the apparent "proliferation" of Congressional review mechanisms incorporated in existing ERDA legislation and proposed to be incorporated in our new legislation, such as the Nuclear Fuel Assurance Act and the Anderson amendment to the FY 1977 Authorization Bill.

Attached is an inventory of existing Congressional review requirements for ERDA activities together with proposed ERDA legislation now being considered by the Congress which would also incorporate requirements of a similar nature.

Best regards.

Sincerely,

James A. Wilderotter
General Counsel

Attachment:
As stated

A. The Atomic Energy Act of 1954, as amended, including fiscal year authorization legislation for nuclear programs

1. Section 51. Section 51 involves "special nuclear material." A determination by ERDA which would classify materials in addition to those which are presently defined as "special nuclear material" in the Act would be required to lie before the Joint Committee on Atomic Energy (hereafter referred to as JCAE) for 30 days before the determination may go into effect.

2. Section 54. This section relates to the distribution of special nuclear material. A decision by ERDA to distribute special nuclear material must lie before the JCAE for 60 days. Distribution of such material may be prohibited by enactment of a concurrent resolution by the Congress.

3. Section 58. Section 58 involves the establishment by ERDA of a guaranteed purchase price for plutonium and criteria for the "waiver of use charges" for special nuclear material. The purchase price and criteria must lie before the JCAE for 45 days before becoming effective.

4. Section 61. This section involves "source material." A determination by ERDA which would classify materials in addition to those which are presently defined as "source material" in the Act would be required to lie before the JCAE for 30 days before the determination may go into effect.

5. Section 123(c)(d). This section involves "cooperative agreements" to be entered into by ERDA with foreign nations. Any cooperative agreement under the provisions of (c) must lie before the JCAE for 30 days. With respect to an arrangement under (d), the arrangement must be submitted to the Congress for referral to the JCAE for 60 days. The agreement may not become effective if in the 60-day period Congress passes a concurrent resolution stating that it does not favor the agreement.

6. Section 161(v). This section relates to criteria under which ERDA provides for the enrichment of privately-owned source material. The criteria must lie before the JCAE for 45 days prior to going into effect.

7. Section 164. This section provides authority to ERDA for long-term electric power contracts in connection with its

enrichment facilities. New contracts and modifications to certain existing contracts must lie before the JCAE for 30 days.

8. Authorization legislation emanating from the Joint Committee on Atomic Energy. AEC/ERDA authorization legislation concerning its Power Demonstration Programs (including the Clinch River Breeder Reactor) contain provisions which require the "basis of arrangement" to lie before the Joint Committee for 45 days prior to putting such arrangement into effect. This requirement has been in each authorization act since FY 1968.

On the average, the foregoing requirements or their equivalent have existed for ten or more years.

B. P.L. 93-577 - Federal Nonnuclear Energy Research and Development Act of 1974

1. Section 8(f). This section concerns federal contribution to construction cost if demonstration project exceeds $25M. No funds may be expended until a report concerning the arrangement has been before Congress 60 days. Report is to be made to the "appropriate committees."

2. Section 12(b). This section deals with the matter of scarce or critical materials essential to carry out the purposes of the Act. The President may allocate such materials by rule or order. The President must transmit proposed rule to "each House." The rule may go into effect at end of 30 calendar days unless either House passes resolution of disapproval.

C. P.L. 94-187 - ERDA FY 1976 Authorization

1. Section 106(b). This section relates to development, design, construction, and operation of the Liquid Metal Fast Breeder Reactor Program (LMFBR). Before entering into arrangement for the LMFBR, the basis of the arrangement must be before the JCAE for 45 days (See Item A.8).

2. Section 305. This section concerns reprogramming of funds for nonnuclear programs. A request to reprogram funds must lie before the appropriate committee for 30 days.

3. Section 314. This section concerns the use of operating funds for construction of facilities. Before vesting title to

facilities in entity other than U.S., ERDA must transmit its decision to the appropriate committees and wait 30 days unless the requirement is waived. Funds for construction of facility at non-ERDA owned site costing over $250,000 must be noted in a report to the appropriate committees and 30 days must expire unless each committee waives the requirement.

4. Section 315. This section deals with the use of operating funds. Up to 3% of operating funds appropriated for fossil energy may be used to construct, expand, or modify laboratories or other facilities if notice is given to the appropriate committees and 30 days expire unless the committee waives the time period.

5. Section 501. This section relates to the transportation of plutonium. ERDA may not ship plutonium by air until ERDA certifies to the JCAE that safe containers have been developed and tested.

D. Proposed Legislation other than Authorization Bills

1. H.R. 8401 and S. 2035 - Nuclear Fuel Assurance Act. Adds new Section 45 to Atomic Energy Act of 1954 and provides that the Administrator of ERDA may not enter into arrangements for operation, modification, or completion of an enrichment facility until the proposed arrangement is submitted to the JCAE for 60 days and the Congress passes a concurrent resolution favoring the proposal.

2. H.R. 12112 - Loan Guarantee Program. Prior to issuing a guarantee or commitment to guarantee a loan for the construction of a facility, the Administrator of ERDA must submit to the committee a report on the proposed facility. Guarantees may not be finalized until a report thereon lies before the committees 90 days.

3. H.R. 13350. Repeats Provisions 305, 314, 315 of P.L. 94-187 (the ERDA Authorization Bill). Adds in Section 501 an amendment to Section 161 of Atomic Energy Act calling for "review and approval" of any ERDA pricing changes for enrichment service.

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: July 15, 1976 Time:

FOR ACTION: cc (for information):

Phil Buchen Jack Marsh
Jim Cannon Brent Scowcroft
Max Friedersdorf Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: Saturday, July 17 Time: 2 P.M.

SUBJECT:

Frank Zarb memorandum dated
7/14/76 re: LNG Import Policy

ACTION REQUESTED:

____ For Necessary Action
X For Your Recommendations
____ Prepare Agenda and Brief
____ Draft Reply
X For Your Comments
____ Draft Remarks

REMARKS:

No comments.

P.W.B.
Philip W. Buchen

Confidential attachment

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President

EPA
(see
Wallace,
Gov. George)

THE WHITE HOUSE

WASHINGTON

June 30, 1976

Dear Governor Wallace:

The President has asked me to thank you for your telegram of June 24 requesting a postponement in the date for closing the open hearth furnaces at U. S. Steel's Ensley Works. The June 30, 1976, shut-down date was provided in a May 1975 consent agreement between EPA and U. S. Steel and was incorporated in a July 23, 1975, judgment issued by the United States District Court for the Northern District of Alabama, Southern Division.

The decision to order closure of these open hearth furnaces involves a difficult issue. However, this is a regulatory issue which is controlled by consent decree of the Federal Court and which is subject to modification only by further judicial action. Insofar as EPA remains involved as a party to the case, it functions in the manner of an independent regulatory agency. In respect to either the judicial or regulatory aspects of this matter, it would be inappropriate for the President or a member of the White House staff to intervene in any way. I regret, therefore, that we cannot respond favorably to your request.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

The Honorable George C. Wallace
Governor of Alabama
Montgomery, Alabama 36104

Wednesday 1/12/77

Meeting
1/14/77
2:30 p.m.

4:20 Jane advises the meeting on Friday 1/14 at 2:30 p.m. will now be with the President, et al., in the Cabinet Room -- subject: energy contingency plans.

Background attached

Tuesday 1/11/77

Meeting
1/14/77
2:30 p.m.

2:30 I have advised Cheney's office that you will attend the meeting on Friday 1/14 at 2:30 p.m. in Mr. Cheney's office to discuss energy contingency plans.

Tuesday 1/11/77

Meeting
1/14/77
2:30 p.m.

2:00 Jane had a call from Cheney's office inviting Mr. Schmults to a meeting on Friday 1/14 at 2:30 p.m. -- subject: energy contingency plans. Richardson, Zarb, et al. Apparently they have had quite a time getting it set up.

Mr. Schmults will be out of the office that evening -- returning around 3 o'clock. She was asking if you might be able to attend the meeting.

Your Public Documents meeting is supposed to be last until "about 3 p.m."

?

Would you plan to attend the energy contingency meeting?

Yes ?

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: January 6, 1977 Time:

FOR ACTION: cc (for information):

Phil Buchen Brent Scowcroft
Jim Cannon (Schleede) Bill Seidman
Jack Marsh
Max Friedersdorf

FROM THE STAFF SECRETARY

DUE: Date: Friday, January 7, 1977 Time: NOON

SUBJECT: Frank Zarb memo, 1/6/77 re Energy Contingency Plans.

ACTION REQUESTED:

____ For Necessary Action ___X___ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

___X___ For Your Comments ____ Draft Remarks

REMARKS:

No objection to the attached memorandum. Also, the Counsel's Office approves of the recommendation by FEA and Justice that, in addition to the approval procedures contemplated by the EPCA, the Congress pass a Joint Resolution in substance enacting the approved plans, which would then be subject to Presidential approval in the traditional legislative manner. This would remove the suggestion that the Executive branch is acquiescing in an action of legislative encroachment by the Congress.

1/7/77

Edward C. Schmults
Deputy Counsel to the President

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President

THE WHITE HOUSE

WASHINGTON

January 7, 1977

MEMO FOR: ED SCHMULTS

FROM: BOBBIE KILBERG

SUBJECT: Zarb memo re Energy Contingency Plans

Suggested response:

No objection to the attached memorandum. Also, the Counsel's Office approves of the recommendation by FEA and Justice that, in addition to the approval procedures contemplated by the EPCA, the Congress pass a Joint Resolution in substance enacting the approved plans, which would then be subject to Presidential approval in the traditional legislative manner. This would remove the suggestion that the Executive branch is acquiescing in an action of legislative encroachment by the Congress.

OK 1/7/77

FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C. 20461
JAN 6 1977

OFFICE OF THE ADMINISTRATOR

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK G. ZARB

SUBJECT: ENERGY CONTINGENCY PLANS

Background

The Energy Policy and Conservation Act (EPCA) requires that the President transmit to Congress a Rationing Contingency Plan and one or more Energy Conservation Contingency Plans. These emergency plans, which become standby Presidential authorities if approved by Congress, are intended for use only during an energy supply interruption, such as an embargo, or to fulfill, in part, United States obligations under the International Energy Program. Procedures set forth in the EPCA require any plan, in order for it to attain standby status, to be approved by both Houses of Congress within 60 calendar days of continuous session following Presidential transmittal.*

The Federal Energy Administration (FEA), after considering and analyzing a wide range of alternatives, has developed a Rationing Contingency Plan and five Conservation Contingency Plans according to the specifications of the EPCA. These plans were published for public comment on May 28, 1976, and were the subject of public hearings held at five locations during June. FEA refined the plans based on public reaction and the results of interagency review. The final proposals were considered by the Energy Resources Council on November 23, 1976, and now await your approval for submission to the 95th Congress in early January.

* FEA attorneys have worked with the Office of Legal Counsel in the Department of Justice to develop a mechanism for inclusion in this transmittal memorandum to Congress which will remove any suggestion that the Executive Branch acquiesces in these possibly unconstitutional "reverse legislation" procedures in the EPCA. It is proposed that your memorandum include the recommendation that, in addition to the approval procedures contemplated by the EPCA, the Congress pass a Joint Resolution in substance enacting the approved plans, which would then be subject to Presidential approval in the traditional legislative manner.

The 60-day Congressional review period mandated by the EPCA will extend beyond January 20, 1977. Therefore, you may choose to leave the plans in their current state without transmitting them to the Congress. This would afford the new Administration an opportunity to review the plans and make its own decisions as to their content and the timing of their submission. Some members of the Transition Team have endorsed this alternative. Conversely, you may wish to transmit some or all of the plans in January as evidence of your sincere intentions to carry out EPCA requirements for energy contingency plans. The Executive Committee of the ERC voted in favor (seven to five) of submission in January.

PRESIDENTIAL DECISION

_____ Submit Some Plans in January

_____ Do Not Submit Any Plans in January

The remainder of this memorandum contains descriptions of these plans and the results of the ERC discussion, in the event you determine that some plans should be transmitted early in January.

A. Energy Conservation Contingency Plans

The EPCA requires that the Energy Conservation Contingency Plans impose reasonable restrictions on the public or private use of energy necessary to reduce energy consumption during a severe energy supply interruption or to fulfill international obligations. Such plans may not impose rationing, taxes, tariffs or user fees; contain any provision respecting the price of petroleum products; or provide for a credit or deduction in computing any tax. Plans can be in effect for up to nine months. Five plans meeting these requirements have been formulated by FEA:

Plan #1 - Emergency Heating, Cooling, and Hot Water Restrictions

This plan would require building operators to set thermostats no higher than 65°F (space heating), no lower than 80°F (cooling), and no higher than 105°F for hot water use.

for personal hygiene and general cleaning. Restrictions would apply to most commercial, industrial and public buildings. Reduction in demand is projected at 230,000 barrels per day of petroleum, and 444,000 barrels per day of oil equivalent for other sources (coal, hydroelectric, natural gas, etc.). The program would cost about $12.5 million, assuming a nine-month implementation period.

ERC: Unanimous endorsement by all members

Plan #2 - Emergency Commuter Parking Management and Carpooling Incentives

This measure would require that firms with at least 100 employees at a work site limit the number of employee vehicles using parking facilities to a percentage of total employees at the site, and operate carpool assistance programs. Operators of commercial and governmental parking facilities would restrict the number of vehicles parked during the hours of 6 a.m. to 10 a.m. on weekdays. The measure is projected to reduce gasoline demand by at least 100,000 barrels per day, and would cost about $17 million assuming a nine-month implementation period. The plan was developed because of the specific need to limit demand for gasoline in an emergency, coupled with the significant and still largely untapped potential for carpooling among commuters.

ERC: Endorsement by all members, except OMB and CEA, which voted not to submit the plan.

OMB and CEA POSITION

OMB opposes Plan #2 because it:

- "would willingly cause excessive Federal involvement in individual decisions made by the private sector
- "will likely cause many ridiculous situations for which the Federal Government would be blamed
- "would have a relatively high cost for the benefits received"

CEA concurs in the OMB position, and adds the following point:

> "The measure might possibly be circumvented by adjustments in hours worked, with the net result that commercial lots might replace employer-provided lots for many commuters. As a consequence, those who used commercial lots would consume additional fuel in looking for parking places."

FEA POSITION

Since any future foreign supply interruption may impose more severe negative impacts on the economy than the 1973-74 Arab oil embargo, FEA believes that all of these plans should be submitted to the Congress. With regard to Contingency Plan #2, FEA analysis shows this plan to have excellent potential to reduce demand for gasoline by reducing vehicle miles driven, at a cost of about 63¢ per barrel of oil saved. Enforcement would not require special expertise and voluntary compliance in response to this plan is expected to be high. No significant negative economic impacts have been identified. By their very nature, emergency actions require a certain amount of government involvement, but FEA feels that such involvement would be minimal in this case, and would not be unreasonable in its emergency context.

FEA believes that the expected pressure on gasoline supplies and the need for carpooling in an emergency fully justify the submission of this plan.

Plan #3 - Emergency Weekend Gasoline and Diesel Fuel Retail Distribution Restrictions

This plan would limit retail filling station operators to pumping gasoline and diesel fuel only into certain types of vehicles (which normally perform essential emergency or commercial functions) during designated weekend hours. Pleasure boats and aircraft, as well as automobiles, would fall under the restrictions. The plan is estimated to reduce demand by 160,000 barrels per day of petroleum (computed over the entire week). It would cost about $4.5 million to enforce, assuming implementation for nine months.

CEA concurs in the OMB position, and adds the following point:

> "The measure might possibly be circumvented by adjustments in hours worked, with the net result that commercial lots might replace employer-provided lots for many commuters. As a consequence, those who used commercial lots would consume additional fuel in looking for parking places."

FEA POSITION

Since any future foreign supply interruption may impose more severe negative impacts on the economy than the 1973-74 Arab oil embargo, FEA believes that all of these plans should be submitted to the Congress. With regard to Contingency Plan #2, FEA analysis shows this plan to have excellent potential to reduce demand for gasoline by reducing vehicle miles driven, at a cost of about 63¢ per barrel of oil saved. Enforcement would not require special expertise and voluntary compliance in response to this plan is expected to be high. No significant negative economic impacts have been identified. By their very nature, emergency actions require a certain amount of government involvement, but FEA feels that such involvement would be minimal in this case, and would not be unreasonable in its emergency context.

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ERC: Endorsement by all members except OMB and Domestic Council. OMB and Domestic Council expressed serious reservations, but no members voted against submitting the plan.

OMB POSITION

"The plan places a disproportionate share of the burden on the recreation industry, which is inequitable. The plan should be studied further."

DOMESTIC COUNCIL POSITION

"Domestic Council agrees with the OMB position. The Council also believes that this plan represents a further unnecessary intrusion into private decisions on how to use one's fair share of scarce supplies."

FEA POSITION

FEA believes that all of the plans should be submitted to the Congress, due to the potentially severe impacts of any future embargo. FEA's analysis shows that Plan #3, Weekend Sales Restrictions, will considerably reduce demand for scarce gasoline (1.1 million barrels per week) by discouraging discretionary weekend driving, boating and flying, at a cost of approximately 11¢ per barrel saved. While there would be some adverse economic impact on the leisure industry, much of the impact is expected to occur in any event, given the likely shortage of gasoline. In fact, the plan may remove uncertainty concerning weekend availability of fuel and may help to delay the need for rationing of gasoline and diesel fuel in a severe supply interruption. The plan is flexible and could be implemented in stages, starting with a Sunday-only ban, as shortage conditions dictate.

Plan #4 - Emergency Boiler Combustion Efficiency Requirements

This plan would require all boiler operators to optimize boiler combustion efficiency by maintaining the oxygen content of the exhaust gas at no greater than 2.5 percent when burning natural gas and no greater than 3.5 percent when burning fuel oil. Most boilers with a capacity of over five million BTU's/hour would be covered. Demand for

petroleum and natural gas is expected to decrease as a result of this plan by at least 85,000 barrels (oil equivalent) per day at a cost of about $6.5 million over a nine-month implementation period.

ERC: Unanimous endorsement by all members

Plan #5 - Emergency Restrictions on Illuminated Advertising and Certain Gas Lighting

Under this plan, (1) electricity and natural gas could not be used for the illumination of window displays or on- or off-premise advertising signs unless the sign is essential to direct customers to an open business or to inform customers of the products or services supplied by an open business, and (2) natural gas could not be used for outdoor lighting except by public agencies in providing for safety and security. The resultant demand reduction is estimated at 5,000 barrels per day of petroleum and 47,000 barrels (oil equivalent) per day of natural gas. It would cost approximately $6 million for enforcement over a nine-month period.

ERC: Endorsement by all members except OMB, Commerce and Domestic Council. OMB and Commerce expressed reservations about the plan, and Domestic Council voted not to submit the portion dealing with on-premise advertising signs. The Small Business Administration (SBA) also expressed reservations about the plan.

OMB POSITION

"The fuel savings of this measure are minimal; its principal effect is public relations. It may pose a hardship for small businesses, and should be studied further before adoption."

DOMESTIC COUNCIL POSITION

"Domestic Council has no objections to the elements of this proposal dealing with decorative gas lamps or billboards. But the Council is opposed to the portion of this plan which restricts on-premise advertising signs. The consumption of energy by these signs is relatively insignificant, but the loss in sales, employment, etc. possibly resulting from their being

turned off could adversely affect small businesses throughout the country. It is not equitable for such signs to be restricted, when other forms of advertising (TV, radio, newspapers) are unrestricted.

"The effects of this measure on establishing and maintaining public awareness of a shortage have not been demonstrated. Domestic Council feels that voluntary reductions in the use of advertising signs would probably achieve nearly the same goals at no cost. Assuming enforcement costs of $2-3 million over nine months, and savings of about 5,000 barrels per day of oil, the cost per barrel of oil saved ranges from $1.50 to $2.25 for the on-premise part of the plan. In the light of potential negative impacts on small business, the cost is not justified. This portion of the plan should be deleted, and the remaining restrictions on off-premise signs and ornamental gas lamps should be retained."

SMALL BUSINESS ADMINISTRATION POSITION

"These signs are not only necessary, but essential to the small business retailers employing them, since they not only identify the premise, but are in most cases the only form of marketing communication with the public that these firms can afford. It would appear that the necessity of such signing to these small business operators, particularly when coupled with relatively small energy savings to be attained by prohibiting such signing, should dictate that restrictions on them not be submitted to Congress."

FEA POSITION

Plan #5, Lighting Restrictions, places reasonable limits on a very visible form of energy use during an emergency. The primary purpose of the plan is to provide the President with the authority in time of emergency to restrict ostentatious illumination of signs and ornamental gas lamps. One problem which public administrators encountered during the Arab embargo was the general public perception that no emergency existed, due in part to more than essential illumination of signs. The restrictions have been expressly designed to have minimal impact on small businesses which depend on signs for advertising their goods and services, and yet still

include provisions eliminating ornamental natural gas lamps and advertising signs not directly related to an establishment open for business.

The development of a revised proposal which deletes the restrictions on on-premise advertising signs, as recommended by Domestic Council, would require FEA to rework the economic and environmental analyses which are required by Congress. Because this additional work cannot be completed in time for transmittal in January, Domestic Council's recommendation can be accommodated only by deleting the entire plan, and developing a revised plan for later submission. However, FEA feels that such revisions are not necessary, since the plan already permits the illumination of on-premise signs during the hours in which a business is open. The plan should be transmitted to Congress.

B. Rationing Contingency Plan

The EPCA requires that a rationing contingency plan be prescribed by the President by rule (i.e., regulations are required), and contain provisions:

- "for the establishment of a program for the rationing and ordering of priorities among classes of end-users of gasoline and diesel fuel used in motor vehicles, and

- "for the assignment of rights, and evidence of such rights, to end-users of gasoline and such diesel fuel, entitling such end-users to obtain gasoline or such diesel fuel in precedence to other classes of end-users not similarly entitled."

Additionally, the plan must provide for the use of local boards to:

- "receive petitions from any end-user of gasoline and diesel fuel used in motor vehicles with respect to the priority and entitlement of such user under a rationing contingency plan, and

- "order a reclassification or modification of any determination made under a rationing contingency plan with respect to such end-user's rationing priority or rights..."

The Act constrains the conceptual basis of any plan by specifying that no rationing contingency plan may:

- "impose any tax,
- "provide for a credit or deduction in computing any tax, or
- "impose any user fee, except to the extent necessary to defray the cost of administering the rationing contingency plan or to provide for initial distribution of end-user rights..."

FEA has formulated a rationing contingency plan in accordance with the specifications and constraints of EPCA. The plan would be both complex and costly to administer, due primarily to the large number of gasoline and diesel fuel end-users whose fuel will be rationed. It is estimated that about 140,000,000 licensed drivers and over 10,000,000 firms will require a "ration" of gasoline or diesel fuel in an emergency.

The plan involves the distribution of coupons to individuals, and ration bank accounts to firms (including governments). Coupons and ration bank account checks would be presented at the retail pump in order to secure fuel. These "rights" would then be channelled up through the supply system as a requirement for resupply. Priorities would be established for commerical firms and agencies in accordance with the mandatory petroleum allocation program, and rights would be transferable among end-users ("white market").

It is estimated that at least three months lead-time would be necessary to field the program, during which time about $365 million would be required to distribute coupons, establish the banking system, and set up other program functions. Annualized operating costs are projected at $1.8 billion; the program can be in place for up to eighteen months with Congressional approval.

ERC: All members agreed to submit the current plan, since some plan is required, and FEA's proposal complies with the requirements and constraints of the EPCA. Additionally, since several members might ultimately prefer a less complex system using mechanisms not permissible under

the EPCA (e.g., sales of coupons to firms, emergency taxes and rebates), all members agreed to propose an amendment to the EPCA removing prohibitions on taxes, fees, tariffs, and other price-related mechanisms for emergency use.

COMMERCE POSITION

"Commerce would prefer a less complex system which would retain the FEA proposal of giving every licensed driver a certain number of free coupons. This agency believes that, while distributing a certain number of free coupons to every licensed driver is possible (although very difficult), Commerce would prefer that all other users be expected to buy their coupons. In the current plan, businesses are given rights to coupons based on their auditable certification of historical consumption, and individuals with specified hardship needs may petition local boards for additional coupons. Commerce is concerned that, since coupons will have a market value, such free entitlements, if not properly verified, could amount to blank checks. Commerce would prefer business firms and individuals with special needs to pay the government for their coupons. Businesses could pass the cost on to their customers, and the proceeds of the sales could be refunded to low and middle income drivers through tax reductions and direct payments.

"However, Commerce realizes that these mechanisms, as well as others which could be considered by FEA (e.g., emergency gasoline taxes and rebates) are clearly not permissible for submission under the EPCA. Commerce agrees to submit the current plan, since some such plan is required by the EPCA, along with a proposal to amend the EPCA to remove restrictions on fees, taxes, coupon sales, and other price-related mechanisms for emergency use."

OMB and CEA POSITION

"While OMB and CEA have reservations about the advisability of giving exchangeable coupons to commercial firms (when such coupons would have monetary value and firms may choose to sell them

rather than redeem them for gasoline), neither agency supports without further review the Commerce proposal to sell coupons to firms. Also, because OMB and CEA have serious concerns about the workability of the FEA plan, they recommend that further work be done by FEA to eliminate potential defects in the plan, and that the appropriate members of Congress be advised of this on-going activity."

FEA POSITION

FEA strongly supports the submission of the Rationing Contingency Plan to the Congress. FEA also supports the proposal to amend the EPCA to permit potential submission of emergency measures involving taxes, tariffs, fees and other price-related mechanisms.

ENERGY RESOURCES COUNCIL COORDINATION

AGENCY	SUBMIT ALL PLANS		SUBMIT AMENDMENT	
	YES	NO	YES	NO
Department of Commerce	X		X	
Federal Energy Administration	X		X	
Council of Economic Advisors		DELETE #2	X	
Office of Management and Budget		DELETE #2	X	
Department of Treasury	X		X	
Domestic Council		DELETE #5*	X	
Department of Interior	X		X	
Department of State	X		X	
Energy Research and Development Administration	X		X	
Environmental Protection Agency	X		X	
National Security Council	X		X	
Ass't. to the President for Economic Affairs		(absent)		

* (On-Premise Portion Only)

PRESIDENTIAL DECISION

1. _____ Submit all Plans

   _____ Submit all Plans except: Plan #2 _____
   Plan #5 _____

2. _____ Submit EPCA Amendment

   _____ Do not submit EPCA Amendment