The original documents are located in Box 53, folder "8/14/76 HR12169 Energy Conservation and Production Act (2)" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 94-1113

FEDERAL ENERGY ADMINISTRATION AUTHORIZATION AND EXTENSION

MAY 10, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

together with

MINORITY VIEWS

and including Congressional and Budget Office Cost Estimate

[To accompany H.R. 12169]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 12169) to amend the Energy Policy and Conservation Act to authorize appropriations for fiscal year 1977 to carry out the functions of the Federal Energy Administration, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

The amendment to the text of the bill strikes out all after the enacting clause and inserts in lieu thereof a substitute text which appears in italic type in the reported bill.

Amend the title so as to read:

A bill to amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such Act, and for other purposes.

PURPOSE OF THE BILL

H.R. 12169, as reported by the Committee, extends the term of the Federal Energy Administration Act, currently due to expire on June 30, 1976, until September 30, 1979, and provides specific legislative authorizations for the appropriation of monies for the Federal Energy Administration (FEA) up to the end of fiscal year 1977.

57-006—76——1

Legislative Background

H.R. 12169, by Mr. Staggers and Mr. Dingell, was introduced on February 26, 1976; it contained amendments to the Energy Policy and Conservation Act (Public Law 93–319), the Motor Vehicle Information and Cost Savings Act (Public Law 93–513) and the Federal Energy Administration Act (Public Law 93–275). The amendments to the Energy Policy and Conservation Act (EPCA) provided authorizations for the Federal Energy Administration for one year, and other technical amendments to that Act; the amendment to the Federal Energy Administration Act extended the termination date for the FEA to September 30, 1979. The other amendments contained in H.R. 12169 were technical in nature.

As approved by the Committee, H.R. 12169 amends the Federal Energy Administration Act to provide specific authorizations for that agency to the end of the coming fiscal year (September 30, 1977), and extends the termination date for that Act to September 30, 1979.

Also considered in Committee hearings on this subject were:

H.R. 12092, by Mr. Gude,

H.R. 12243, by Mr. Devine, for himself and Mr. Brown of Ohio, and

H.R. 12478, by Mr. Oberstar.

Full consideration of this matter was considerably complicated by the fact that a final budget for the Federal Energy Administration was not submitted by the Administration until April 13 of this year. This in turn resulted from the fact that, until the end of 1975, there was no certainty that the Energy Policy and Conservation Act, signed into law by the President on December 22, as Public Law 94–163, would in fact be approved. Approval of that Act, which assigned a number of important responsibilities to FEA, among others, so changed that agency's duties that its budget ceiling, which had been fixed well before this time, became manifestly inadequate to allow it to carry out its new and expanded role.

Not until quite recently, therefore, was it possible for authorities within the Administration to reach agreement upon the precise levels of funding necessary.

In hopes of an earlier agreement than was to develop, the Subcommittee on Energy and Power scheduled five days of hearings on this legislation beginning March 8. Those hearings were postponed when it became apparent that they would precede a revised budget, but the pressures of time ultimately required that hearings of an oversight nature be held before the final budget was adopted.

Accordingly, the Subcommittee held general oversight hearings on the Federal Energy Administration structure and programs, on March 15 through March 19. In the course of these hearings, the Subcommittee inquired deeply into existing operations of the FEA and into the adequacy of that agency's existing capabilities. A further day of hearings was then held, on April 14, to address the specifics of the Administration budget, which had finally been agreed upon, only after a Presidential resolution of several issues which could not be resolved at the interagency level.

The Subcommittee met to mark up this legislation on April 28, and concluded that, given the severe time constraints involved, resulting both from the May 15 deadline imposed by the Congressional Budget

Act and from the June 30 deadline contained within the FEA Act itself, it would not be desirable to include technical or substantive amendments in the legislation beyond a one-year authorization and the extension required. At the close of the session, the Subcommittee unanimously ordered the bill H.R. 12169, as amended, reported favorably to the Full Committee.

The Committee on Interstate and Foreign Commerce met to consider this legislation on May 4 and, after amending H.R. 12169 in several respects, approved the bill with amendments and ordered it reported to the House by a voice vote, a quorum being present.

Background and Need for Legislation

The Federal Energy Administration was established by Public Law 93–275, the Federal Energy Administration Act of 1974. This legislation evolved from a series of initiatives and other events during 1973. In April of that year, the President established a Special Committee on Energy by Executive Order 11712, composed of three Presidential advisors on the White House staff. On June 29, he established the Energy Policy Office by Executive Order 11726, which superseded the Special Committee and was headed by former Governor John Love of Colorado. This office was set up directly in the Office of the President and was primarily established to perform an advisory function.

On November 27, 1973, the President signed into law the Emergency Petroleum Allocation Act of 1973. In view of the new regulatory program mandated by that Act, on December 4, 1973, the President once again reorganized the White House energy staff, creating in the Executive Office of the President a Federal Energy Office under the directorship of William E. Simon (Executive Order 11748). The Federal Energy Office (FEO) was given the advisory policy role of the Energy Policy Office and was delegated authority over emergency fuel allocation and pricing, with additional duties in energy data collection and and energy conservation. Functions of several other offices within other branches of the Government were, in effect, transferred to FEO at the time, including the Office of Petroleum Allocation, the Office of Energy Conservation, the Office of Energy Data and Analysis, and the Office of Oil and Gas, all from the Department of the Interior. Also transferred to the new office were the functions of the Energy Division of the Cost of Living Council.

The next stage in the evolution of the FEA occurred upon consideration of legislation to establish an independent agency with the functions of these offices. S. 2776, a bill for this purpose, was approved by the Senate on December 19, 1973; a similar bill passed the House on March 7, 1974 (H.R. 11793). The Conference Report on this legislation, the Federal Energy Administration Act of 1974, was agreed to in the House on April 29, 1974 and in the Senate on May 2, 1974. The bill was signed into law on May 7, 1974, and on June 27, 1974, the President promulgated Executive Order 11790, which abolished the Federal Energy Office and transferred its functions to the new Federal Energy Administration.

The purpose of the Federal Energy Administration Act of 1974 was to meet an obvious and immediate need, generally referred to as the "energy crisis". At the time it was felt that the energy problem might be shortlived, and the Federal Energy Administration was therefore

given only a two year charter. The Act authorized a Federal Energy Administrator, to be compensated at Executive level II, two Deputy Administrators at Executive level III, and a General Counsel and six Assistant Administrators at Executive level IV, all to be appointed by the President with the advice and consent of the Senate.

The Administration presently has six Assistant Administrators, who have been assigned the following responsibilities:

POLICY AND ANALYSIS

Operating the National Energy Information Center which collects and disseminates data, forecasts and analyzes shortages and impacts, coordinates energy policy processes and formulates alternative energy strategies.

REGULATORY PROGRAMS

Administering mandatory petroleum price and allocation programs.

MANAGEMENT AND ADMINISTRATION

Coordinating FEA's management and administrative programs.

CONSERVATION AND ENVIRONMENT

Promoting actions to reduce demand for fuels, improving fuel efficiencies and analyzing the environmental implications of energy policies.

ENERGY RESOURCE DEVELOPMENT

Overseeing Project Independence, planning and insuring maximum freedom from dependence on imported fuels by increasing production of fuels and improving efficiencies of electrical utility systems.

INTERNATIONAL ENERGY AFFAIRS

Focusing on international and national security factors that are specifically energy-oriented, including the coordination of policies with the Department of State and Defense and other agencies.

Specific functions assigned to the FEA by the Federal Energy Administration Act of 1974 include those of advising the President and the Congress on a comprehensive national energy policy with respect to those energy matters within its jurisdiction; assessing the adequacy of energy resources in the immediate and long range future; developing effective means for the participation of State and local governments in energy decisions; developing plans and programs for dealing with energy production shortages; promoting energy price stability; developing import and export policies on energy resources; assembling and disseminating energy information and data; and administering propane pricing regulations. In addition, the Energy Supply and Environmental Coordination Act of 1974, Public Law 93–319, imposed new regulatory responsibilities on FEA to increase the use of coal by power plants and industry.

The next major event in the development of the Federal Energy Administration was the consideration and ultimate passage of the Energy Policy and Conservation Act (Public Law 94–163). This Act

provides specific additional responsibilities for FEA which apply beyond June 30, 1976. The Energy Policy and Conservation Act, however, does not reestablish the Agency's general authority or extend its statutory hold on life.

The Energy Policy and Conservation Act (EPCA) represents a major step by the Congress and the Administration in the direction of the development of a national energy policy. The principal role to be played in this Act is assigned to the Administrator of the Federal Energy Administration. Other responsibilities are given directly to the President and he in turn has delegated many of these to the Federal Energy Administration and others (Executive Order 11912, dated April 13, 1976). EPCA established a comprehensive national policy to:

1. Maximize domestic production of energy and provide for strategic storage reserves of crude oil, residual fuel oil, and refined petroleum products;
2. Minimize the impact of disruptions in energy supplies by providing for emergency standby authorities;
3. Provide for domestic crude oil prices at levels designed to encourage domestic production in a manner which is consistent with continued economic recovery and growth; and
4. Reduce domestic energy consumption through the operation of specific voluntary and mandatory energy conservation programs.

The EPCA assigned to the FEA and its Administrator certain responsibilities which extend beyond the current expiration date of the Federal Energy Administration Act of 1974. Some of these include:

1. Section 101 of the PCA grants authority to the Administrator to prohibit the burning of oil or natural gas by designated power plants and major fuel burning installations. This authority extended existing authority to January 1, 1985;
2. Sections 151–156 of the EPCA require the establishment of a Strategic Petroleum Reserve within seven years, of a size equivalent to the amount of oil imported into the United States within the three consecutive months during the two years antedating the passage of EPCA in which average monthly import levels of crude oil were highest. Steps are presently being taken by the Administration to implement this requirement, which represents an important impact of potential subsequent crude oil embargoes similar to that which occurred in the Fall of 1973.
3. Title III, Part C of the EPCA requires the development of State energy conservation plans, including mandatory lighting efficiency standards, programs to improve the efficiency of car pools and public transportation, mandatory standards relating to energy procurement practices, mandatory thermal efficiency standards and insulation requirements for new and renovated buildings, traffic laws, and others. The Act provides budgetary authority for this program ending on September 30, 1978.

As noted above, the Act also provided a number of general authorities to the President and to the Administrator of the FEA, which authorities are generally conceded to be important elements of current or future energy planning and policies. The Federal Energy Administration employs a number of authorities from other legislation as well as those of EPCA. These include:

(*a*) The Defense Production Act of 1950. This Act authorizes priority performance of defense-related contracts (including those involving energy production), and provides the President with authority to provide for standby fuels allocation capabilities in the government, but does not make this mandatory. The type and timing of any such emergency allocation program would be discretionary.

(*b*) The Emergency Petroleum Allocation Act of 1973, as amended. This Act provides authority for a mandatory oil allocation program. While this Act expired by its own terms in August 1975, allocation and standby rationing authorities were reestablished by EPCA as was price control authority, together with a system for phasing out mandatory allocation and price controls, subject to Congressional review.

(*c*) The Energy Supply and Environmental Coordination Act of 1974. This Act provides FEA with authority to implement provisions to bring about mandatory conversions of many energy facilities from oil and natural gas to coal. While this Act also expired last year, it was extended, as already noted, by EPCA.

(*d*) The Federal Energy Administration Act of 1974.

The Federal Energy Administration has been criticized in some quarters as an example of an agency which has outlived its function or as one which has expanded far beyond its original purposes and intent. The Committee believes both allegations to be unsupported by the record or the facts.

The agency was, indeed, created to meet a sudden emergency situation—to provide central direction and responsibility for handling this situation, termed by many as an energy crisis which crept upon this Nation unaware. While certainly there was no lack of warning of the potential nature and severity of an energy imbalance, the oil embargo of 1973 came as a shock to many people inside and outside of the Federal government. Long lines of automobiles, often stretching around city blocks, signaled to a nation nurtured upon the belief that energy supplies would always be there for the asking, at a relatively trivial price, that this belief was no longer valid. Few observers today believe that energy supplies can or will ever again be as free and inexpensive in the future as they have been in the past. Some kind of vehicle was therefore required within the Federal establishment to begin to engineer the changes, within and outside of the government, necessary to allow this country to adjust to a new series of physical and economic constraints.

Whether this function is more properly vested in the Federal Energy Administration or in a new cabinet-level department with the visibility and prestige that such a department would command is not a decision which is before the Congress at this time. This Congress must decide whether to continue, for a period of time, an agency which has demonstrated a considerable capacity for dealing with the highly complex, highly visible and highly controversial questions involved in the regulation of energy supply and demand. The Committee strongly believes that no useful purpose would be served at this time by dismantling the Federal Energy Administration and allowing the constituent elements of the agency to revert to the scattered and ill-coordinated agencies from which they were originally derived.

Few, if any, members of the Committee are entirely in agreement with all of the positions taken by the Federal Energy Administration

or by the Administration in general on energy matters. The Committee has been in the past and will no doubt continue to be critical of individual decisions made by this agency on energy matters. Given the nature of these decisions and of the profound implications that they have for the citizens of this country, this is probably inevitable. What cannot be gainsaid is the manifest competence and dedication of those officials of the Federal Energy Administration who have had to deal with these difficult and divisive questions. To dispose of the messenger bearing bad news has never been a rational act and is not advisable today.

Nor does the Federal Energy Administration exhibit the cancerous character attributed to it by some. It is true that the agency has grown in size as its responsibilities have been increased; it is also true that the agency will continue to grow in size if H.R. 12169 is enacted. What is rarely considered in this context is the fact that the vast bulk of its employees were and remain transferred from other agencies of the Federal government. They did not spring up in the night, sowed like dragon's teeth by a vengeful Administration, but were transferred from offices within the Interior Department, the Cost of Living Council, and others established to deal with different aspects of issues related to energy questions but lacking a central direction and purpose. To reject H.R. 12169 as a means of achieving economy in government would not, as some allege, be an effective step; it would simply result in the scattering of these personnel in these functions back to their constituent agencies, with all of the loss of direction this implies.

The problems that this Nation confronts in dealing with the energy supply and demand constraints of the future are far from evanescent: they are with us now and will remain with us in the future. The Committee has already held hearings on the nature of these problems, to the extent that these can be foreseen, and will continue to hold additional hearings on this subject as further experience is gained in responding to the array of policy issues which confront this Nation. Most of the energy-related issues that will be continually before us in future years will involve highly delicate and complex matters. They include: the price at which energy is to be available; the relationship between per capita energy consumption and per capita GNP: the way in which this Nation develops its energy strategies and alternatives; balance of trade problems created as our importation of energy supplies increases; the source and nature of the goods that this country must export in order to pay for these goods: inflationary tendencies within the economy, which may or may not be linked to the dwindling nature of energy supplies and the increased economic and energy costs of developing our energy supplies, and others.

It may well be that the Federal Energy Administration, as presently constituted, is not the ideal agency to provide a focus for dealing with these issues in the future. At present, however, there is no other agency which is in better position to handle this responsibility; and it appears that we had better set about developing such an agency before we turn to the task of dismantling the present administrative mechanisms for dealing with these issues, however imperfect these mechanisms may be. For these reasons, the Committee concluded, with virtually no debate on the question, that it would not be appropriate for the Congress to take any action which would have the effect of deauthorizing the Federal Energy Administration or allowing its charter to lapse.

At the Committee's request, the FEA has supplied a table indicating current reporting requirements to which it is subject. the dates that such reports are due, and when they were received. This table is included as an appendix to this report (Appendix A).

Analysis of the Legislation

Section 1 of H.R. 12169 provides specific budgetary authorizations for the Federal Energy Administration through the end of fiscal year 1977. The Committee settled upon a simple one-year extension of this authorization in order to permit a re-evaluation of the budgetary levels on the basis of continued careful oversight of the agency's activities and operations during the coming fiscal year, measured against the goals and objectives which it has set for itself and which the Committee has approved. Specific consideration was given in the course of this legislation to a prohibition against extensive reprogramming of the funds provided in this legislation. This prohibition was not adopted, largely because of the fear expressed by the Administration that the rigidity of any such prohibition might stand in the way of accomplishing the responsibilities which have been given to FEA by the Congress. The Committee wishes it to be clear, however, that it intends to keep this matter very much in consideration, and that any such reprogramming effort should be carefully and thoughtfully considered before being taken, to be certain that it is consistent with Congressional policies and priorities.

Six major divisions within the Federal Energy Administration are identified in the budget documents submitted to the Congress by the Administration on April 13. The Committee has allocated a specific budgetary ceiling to each of the major divisions within this budget. In its consideration of these budget authorizations, the Committee began in each case with the amounts specified in the budget submitted by the Federal Energy Administration and adjusted these upwards or downwards in response to specific concerns raised in the course of the hearings on this legislation.

Executive Direction and Administration

The offices funded under this section of the budget include the following: Offices of the Administrator, Management and Administration, General Counsel, Communication and Public Affairs, Congressional Affairs, Private Grievances and Redress, and Intergovernmental, Regional and Special Programs. The Committee has authorized funds for these offices, assuming personnel levels as identified:

[Dollar amounts in thousands]

	Number	Authorization	
		Transitional quarter	Fiscal year 1977
Administrator	72	$545	$1,594
Management and administration	565	4,168	17,856
General counsel	235	1,664	5,470
Communication and public affairs	57	607	2,274
Congressional affairs	48	397	1,080
Private grievances and redress	81	730	2,191
Intergovernmental, regional and special programs	66	544	2,759
Total	1,067	8,655	33,324

In the course of its consideration of this legislation, the Committee became convinced that the size and funding proposed by the Administration for the Office of Communication and Public Affairs was excessive in light of the role that office should appropriately serve. Accordingly, the Committee reduced these items to a lower level than that proposed by the Administration. The details of these proposed reductions have been communicated separately in a letter to the Administrator.

The Subcommittee also gave extensive consideration to the proposal of the Administration that an Office of Nuclear Affairs be created within the Office of the Administrator. This proposed office was rejected on the grounds that the proposed office was either redundant with other offices within the Office of Energy Resource Development or was intended to fulfill a function of advocacy of nuclear plants as a means of meeting this Nation's energy demands. The Committee did not feel that any such advocacy function ought to be exercised by this Agency. Accordingly, the request for funds for the Office of Nuclear Affairs was denied and deleted. To the extent that this Office performed routine analytical and coordination functions within the Federal establishment, these functions will continue to be discharged by the appropriate divisions within FEA.

Office of Energy Policy and Analysis

The legislation authorizes the sum of not to exceed $8,137,000 for this office for the transitional quarter and $34,971,000 for the fiscal year 1977. This contemplates the operation of this office with a personnel staff of 471. The amounts and personnel ceilings exceed slightly those amounts requested by the Administration; this was done because the increased levels of funding allowed for compliance and enforcement of the agency's regulatory programs will require additional support from this office. Comparable increased support, for the same reason, was approved for the Offices of Management and Administration, General Counsel, and Private Grievances and Redress noted above.

The Office of Energy Policy and Analysis has been assigned principal responsibilities for the development of the Project Independence Evaluation System (PIES) computer model. This model has played a major role in the evolution of the policies of the Federal Energy Administration and, indeed, of the Congress in dealing with the energy problems which confront us. The Committee is persuaded that such an analytical tool can indeed serve a highly useful purpose, but is concerned that the model should be given searching and independent review and that it should be made accessible to all segments of the public which desire access to it. The Committee has recently contracted for the services of a group of independent consultants to prepare an evaluation and review of the PIES model. This evaluation will be made available to the Congress, and hearings will be held on this matter after this evaluation is completed this summer.

In keeping with a perceived need for public access, the Committee wrote into the legislation a specific requirement that the Administrator provide full descriptive documentation of the computer model by September 1 of this year and operating documentation by January 1, 1977. This was required not only because such documentation is neces-

sary in order to allow independent access to the model, but also because the Committee is aware that a number of individuals involved in the construction of this model may soon leave, making it difficult for their successors to accurately understand and operate the model.

The Committee also required the Administrator to provide ready access to the PIES model to representatives of Congressional Committees. While the costs of any such access must be borne by the Administration, it is believed that open access to Members and to duly accredited employees of Congressional committees will not result in extensive additional costs or burdens. If the Committee's expectations in this regard prove ill-founded, the Committee is prepared to consider remedial legislation.

The Committee also concluded that it would be appropriate and desirable for the Administration to make its model accessible to members of the public as well, but wishes to make it clear that any such access would be conditioned upon proper terms and conditions imposed by the Administration to insure that its other official functions are not impeded. Costs of such access, including both computer time and costs of providing staff to assist members of the public using the model, would be borne entirely by those obtaining access.

Some concern was expressed that this broadened public access to the PIES model might in some manner encourage access by unauthorized persons to proprietary information. While it is true that FEA does have access to such information, the legislation requires only that the model itself be accessible to the public—not that the data base which the model was established to deal with should be accessible. The Committee intends that the confidentiality of any such information will not be endangered by this legislation.

It is the purpose of the Committee in adopting these additional constraints to insure that the model is given thorough and adequate public review. The Committee notes the intention of the Administration continually to update the model and annually to update its National Energy Outlook. We commend this activity as a useful and, indeed, essential element in the effort to maintain the utility of this model as an element in the development of a national energy policy. It is the Committee's expectation that the annual reviews and revision of the model will be conducted openly and that members of the public will be provided an opportunity to review decisions which lead to changes in the model structure, assumptions and scenarios tested. The Committee is reluctant to write specific, rigid, technical and procedural requirements since it is very much aware that excessive rigidity may inhibit efficient and timely results. The Committee does, however, expect the Administration to make every effort to insure that this process continues in an open manner.

Office of Regulatory Programs

The Committee has authorized funds and personnel levels considerably higher than those proposed in the Administration budget for the Office of Regulatory Programs. This office is the principal focus for FEA's ongoing regulatory responsibilities. The Committee has provided for staffing of this office at the level of 2120 persons and funding levels at not to exceed $13,238,000 for the transitional quarter and $62,459,000 for fiscal year 1977. In providing additional authority of $14,659,000 beyond that originally requested, the Committee believes

this should lead to a potential reduction of overcharges by energy suppliers, currently estimated by FEA to amount to $150 million dollars. This reduction would be attributable specifically to the increased regulatory effort by the Office of Regulatory Programs which could be carried out at the increased staffing level. The Committee will closely watch the development of this program in the coming months and will make every effort to see that this money is spent wisely and effectively.

The Committee is aware that this office has been criticized in the past as having been less than effective in its efforts and that this lack of effectiveness has contributed substantially to the problems which the Administration has experienced in enforcing its regulatory mandate. If this office should fail to produce results of the type demanded by the situation, the Committee is prepared to consider the additional step of transferring this office bodily to another agency of the Federal government. But it feels that this step should not be taken until the office has had a chance to operate with adequate resources.

Office of Energy Conservation and Environment

This office has been assigned principal conservation responsibilities within the Federal Energy Administration, which was specifically directed by the Energy Policy and Conservation Act to develop and implement a variety of energy conservation programs.

Until recently, there has been lacking a strong Federal program to ensure that opportunities for energy savings are realized. The enactment of the Energy Policy and Conservation Act (EPCA) signaled the first major national move toward the establishment of an effective Federal conservation effort. The EPCA directs the FEA to establish several specific conservation programs, including: (1) A program to provide technical and financial assistance to the States; (2) the establishment of energy efficiency targets for the ten most energy consumptive industries and the monitoring of progress toward the achievement of these targets; (3) the setting of efficiency targets for major home appliances and the development of procedures for the energy efficiency labeling of these appliances; and (4) the conduct of a responsible public education program.

Under Executive Order No. 11912, issued April 13, 1976, FEA has also been directed to develop the ten-year plan for conservation in Federal buildings required by the EPCA. The Office has the responsibility to implement these provisions of the EPCA, as well as to pursue vigorously the conservation of energy in other promising areas. The EPCA specifically authorizes the appropriation of $50 million in fiscal year 1977 for the conduct of the State Energy Conservation Program, and $2.2 million for FEA's Appliance Program, of which $700,000 would be transferred to the National Bureau of Standards for the development of test procedures.

The Committee notes that, except for its State conservation program, the Office was in fact allowed substantially less funds in the final Administration budget in the coming fiscal year than it has received in the past. The Committee is aware of and, to a certain extent, shares the apprehensions of many that the Office of Conservation and Environment could benefit from more effective management, but is also concerned that such increased efficiency ought not

to hamstring the central mission of the office, which the Committee perceives as being critical with respect to the future energy policy of this country.

The Committee has approved personnel levels of 424 positions for this office and a budget of not to exceed $7,386,000 for the transitional quarter and $49,961,000 for the fiscal year ending 1977 for the programs proposed by the office in the FEA budget. The Committee has also authorized, by a separate subsection, not to exceed $13,056,000 as a means of funding a specific set of initiatives begun in earlier years to assist in the development of new and innovative utility rate structures and other initiatives designed to minimize the need for construction of additional electrical generating capacity. The Committee is persuaded that these kinds of initiatives can provide significant assistance to State regulatory commissions and others concerned with spiralling electrical rates and can result in the deferral or cancellation of major generating facilities proposed by the Nation's utilities as essential to meet a mushrooming consumer demand. The legislation authorizes a maximum of $1 million as the cost which may be incurred by the FEA for the purpose of participating in state utility regulatory proceedings, as it has been doing during the current fiscal year, upon the invitation of a state regulatory body. Here again, the Committee will be carefully monitoring the activities of the agency to ensure that this money is well spent.

In the course of its consideration of this legislation, the Full Committee added the sum of $37,365,000 to the total previously selected by the Subcommittee on Energy and Power. The effect of this amount was to bring the authorizations for this Office to the level which FEA had sought from the Office of Management and Budget (OMB) upon submitting its revised budget in January 1976. The programs which should be carried out under this language would be the programs proposed to OMB.

This action represented a deliberate effort on the part of the Committee to bring to prominence the very great sense of urgency which many feel should attend a national effort to develop and implement a national energy conservation program.

One of the major obstacles to energy conservation is that energy users lack sufficient information on costs and benefits of specific conservation measures. Many of those programs initiated by FEA during fiscal year 1976 were directed at providing this type of useful information to homeowners, businessmen and other energy users. The additional funds authorized by H.R. 12169 would be used largely for the continuation and expansion of these efforts.

One program that should receive additional funding is FEA's seminar and workshop program for representatives of industrial and commercial firms. The objective of this program is twofold. First, by sponsoring seminars for chief executive officers, FEA will obtain the high level of commitment necessary for the implementation of a comprehensive energy conservation program. Second, a series of technical workshops will be held for plant and other top managers to inform them of conservation opportunities in three key areas: (1) industrial processes and equipment; (2) commercial buildings; and (3) employer-sponsored van pool programs.

Another area that should receive expanded funding is FEA's residential energy conservation program, most notably Project Conserve.

The objective of Project Conserve, and other similar FEA programs, is to provide specific information, tailored to each individual homowner, on the costs and benefits of a variety of conservation measures. By continuing the funding of this effort we hope to enable FEA to eventually provide all homeowners with this type of useful assistance.

A third program area that will require expanded funding is the development of educational materials on energy conservation for use in primary and secondary schools, and other formal education programs. The office has already initiated efforts in this area, in cooperation with the Department of Health, Education and Welfare and the Energy Research and Development Administration. Without the additional funds provided in H.R. 12169, it is conceivable that the work the FEA has already performed would merely gather dust on a shelf and remain unavailable to the educational community that requested its development.

In addition to these major programs, there are also a variety of smaller, but still extremely important, initiatives directed at encouraging and assisting energy users in the industrial, transportation and building sectors to conserve energy. Some examples of these efforts are: (1) A program to provide special assistance to institutions, such as hospitals and schools, which often face special problems in their efforts to conserve; (2) a public service advertising program to provide useful information to consumers through the media; (3) programs designed specifically for agricultural energy users; and (4) a program to encourage improvements in the fuel economy of trucks and buses.

Since its inception, a major responsibility of the Office of Energy Conservation and Environment has been the oversight of the Federal Energy Management Program. Although this program has succeeded in reducing Federal energy consumption by more than 23 percent since 1973, there remain major opportunities for increasing these savings by instituting a program to improve the energy efficiency of Federal facilities, vehicles and equipment. Under the EPCA, the President is charged with the development of a ten-year plan for energy conservation in Federal buildings and energy efficiency standards for Federal procurement. FEA has been delegated the responsibility for the development of the ten-year buildings plan and will also retain the lead role regarding the total Federal energy conservation effort. Additional funding is essential in fiscal year 1977 to enable FEA to get an early start on these long-term Federal energy conservation programs.

Finally, the EPCA directs the FEA to undertake a broad program to achieve industrial energy conservation, including the establishment of energy efficiency targets for the ten most energy consumptive industries and the monitoring of progress toward the achievement of these targets. These provisions of the EPCA require the identification and ranking of major industrial firms by their energy consumption; the setting of targets at the maximum feasible level; and the receipt and evaluation of annual reports from nearly 500 major firms. The EPCA also requires that FEA continue its efforts to encourage other industries to conserve. This complex, but vital, program requires funding at a level substantially above that in the president's budget and is thus another component of the increase in authorizations provided for in H.R. 12169.

Within the energy community there seems to be little disagreement that energy conservation needs more emphasis than it has been given in the past. The degree of such emphasis, and the importance of non-price-associated incentives to encourage conservation practices are far from agreed upon, however, and this subject is likely to remain as a focus of concern in the future. The Committee is aware of the view that some of the funds added to the FEA budget, and indeed already in that budget, might be wastefully or inefficiently spent.

It may be that a certain amount of waste is inevitable, given the evolution of this program and the "crash basis" that is implied in the direction that FEA's energy conservation efforts be effectively doubled. It is not the Committee's intention that this program be carried out in a wasteful manner. To ensure that this does not take place, the Committee will expect to receive periodic reports on the progress of this program and will assign personnel to monitor FEA's performance in this regard. Concern for possible maladministration of the conservation program should not be permitted to obscure the potential that such a program may have for easing this Nation's energy imbalances over time.

The Committee estimates that the increased authorizations provided in this Act for FEA's energy conservation programs could result in additional savings equivalent to several hundred thousand barrels per day of oil by 1978 and, if extended for three years, are likely to result in additional savings of more than one million barrels per day of oil equivalent by 1985.

In its most recent version of "A National Plan for Energy Research, Development and Demonstration: Creating Energy Choices for the Future" (ERDA–76–1), the Energy Research and Development Administration has calculated potential energy savings for applied energy conservation programs as follows:

Industrial conservation, a potential decrease equivalent to 1.8 to 2.7 million barrels per day (BPDE) by 1985;

Buildings conservation, up to 2 to 218 million BPDE by 1985;

Transportation energy conservation, up to 0.5 to 0.7 million BPDE by 1985;

Electric energy systems up to 1 to 1.5 million BPDE by 1985.

These figures may be excessive, or they may be conservative; no one can yet estimate with any assurance. They indicate, however, that energy conservation has great potential.

Office of Energy Resource Development

The Committee has approved funding and staffing of this office as follows: 317 positions and authorizations of not to exceed $3,052,000 for the transitional quarter and $16,934,000 for fiscal year 1977. This level of funding provides roughly an additional $2 million which may be spent by the office. The budgetary increase acknowledges the need to expand the office's efforts to encourage the conversion of electrical power plants from oil and gas to other fuels. This modest additional cost will be more than justified by reduced demands on our rapidly dwindling oil and gas reserves.

Office of International Energy Affairs

While the Committee has assigned to this office precisely the number of personnel and the budgetary ceilings recommended by the Administration: viz., 49 positions and not to exceed $300,000 in the transitional quarter and $1,921,000 in the coming fiscal year, the Committee wishes to state that it has reviewed the activities of this office carefully and is satisfied that it is performing a useful and important function: one that is not and could not by its nature be performed by other agencies within the Federal government.

Solar Energy Implementation Program

The Committee authorized the expenditure of not to exceed $2,945,000 for the purpose of developing a program to implement current solar energy technological capabilities. In no sense did the Committee intend or desire that these funds be used to further existing or proposed research and development of solar energy technology. It was rather the feeling of the Committee that much research has already been done and that some additional incentives were called for to get this technology off the shelf and into practical, commercial use.

The level of findings authorized in H.R. 12169 is designed to provide the necessary impetus for such an effort. This funding would allow up to 10 additional positions, and is predicated upon funding for such projects as:

Solar energy accelerated commercialization	$450, 000
Solar energy Government buildings project	200, 000
Solar energy heating and cooling commercialization	150, 000
Southwest project	350, 000
State solar energy commercialization plans	500, 000
Solar electric and fuel projects	845, 000
Education and workshops	150, 000
Economic, legal, environmental and institutional	300, 000
Total	2, 945, 000

The nature of the projects listed above is relatively nonspecific. Without wishing to spell out in detail the precise way in which these projects might be structured, the Committee nonetheless suggests the following as a general description of what each might entail:

Solar energy accelerated commercialization.—The Committee assumes that FEA would begin preparing preliminary solar energy commercialization strategies, conduct analyses of those strategies and integrate them into development of industry infrastructures. The Agency should also look to developing both dispersed and centralized markets.

Solar energy Government buildings project.—The Committee anticipates that FEA will collect data from programs now being undertaken by Federal agencies with jurisdiction over buildings, such as GSA and the Defense Department. Further, FEA should be disseminating information and move toward the implementation and operation phase of the government buildings program.

Solar energy heating and cooling commercialization.—This program should address the acceleration of the use of solar water heaters, the development of a private sector market, education programs and promotion of accelerated use.

Southwest project.—The Committee views this as a program to address the institutional arrangements for accelerating the use of wind, photovoltaic and solar thermal energy conversion technologies in the Southwestern region of the United States.

State solar energy commercialization plans.—FEA will negotiate and arrange with various states to establish state solar energy commercialization programs. The Committee expects that FEA will help states provide a focus for solar energy programs.

Solar electric and fuel projects.—This program would look to wind energy as a near-term technology, with a determination as to potential large-scale application of wind energy and exploration of methods for integration of wind technology with the nation's utility networks. Under this program the Committee expects that FEA will explore bioconversion of forestry residues and will continue to cooperate with the Defense Department's photovoltaic implementation strategies.

Education and workshops.—The Committee anticipates that under this program the FEA will develop public education programs, promote public service announcements by media on solar water heaters, prepare educational materials for classroom and vocational education uses, among other endeavors.

Economic, legal, environmental and institutional.—This program will involve FEA in work on capital formation of small, innovative companies; in studying costs and benefits of solar energy user and producer incentives; in analysis of perceived value and in an analysis of total national value of solar energy technology use. The Committee expects, too, that FEA will perform energy use priority studies.

Office of Strategic Petroleum Reserve

The Committee takes no action with respect to the funding or operation of this office since it was authorized previously in the Energy Policy and Conservation Act. The Committee wishes to note, however, that the operation of this office appears to be of critical importance to the assurance of relative independence and the insulation from energy shortages that might be created in the future by the imposition of new and even more damaging oil embargos. In this connection, the Committee notes that the dependence of this Nation on imported energy supplies is significantly greater today than it was in 1973, when the first oil embargo was imposed.

Extension of the Federal Administration Act

Section 2 of H.R. 12169 extends the Federal Energy Administration Act by a period of three and one quarter years, to September 30, 1979. This extension is not intended to act as a bar to the creation of a new Department of energy and national resources as some have proposed. At the same time, it is felt that an extension of this nature is necessary if the Administrator is to be enabled to attract and hold in Federal service the individuals of the competence and abilities necessary if the policies assigned to the Federal Energy Administration by the Congress are to be effectively discharged.

Inflationary Impact Statement

The argument can be made that no expenditure of the Federal government which is at levels in the multimillion dollar range, as this bill would authorize, is without a potential for increasing inflation. The Committee believes, however, that any potential direct inflationary impact would be relatively insignificant and might well be more than counterbalanced by the potential economic savings associated with encouraging more efficient use of available energy supplies through energy conservation. Energy conservation, properly implemented, is likely to have a deflationary effect upon the economy and it is very much the intent of the Committee that the energy conservation efforts of the Federal Energy Administration should be continued and extended to accomplish this important goal. In like measure, improvements in the regulatory functions of the Administration could have a similar effect and should more than repay the cost to the economy of the manpower required to engage in this program.

Oversight Findings and Recommendations

The Committee has received from the Honorable John E. Moss, Chairman of its Subcommittee on Oversight and Investigations, a report by that Subcommittee, entitled "Alleged Potential Pressure To Obtain Export Licenses For Crude Oil—Failure by the Department of Commerce and the Federal Energy Administration to Implement Congressional Policies."

That report concluded:

1. There was no evidence to support allegations that Congressman Carey exerted political pressure or in any way intervened to obtain export licenses for crude oil.
2. FEO's investigation of the original information was inadequate and superficial. Corporate speculation and rumor concerning Congressman Carey's involvement were elevated to fact by their incorporation in government memoranda.
3. FEO officials compounded the error by repeating allegations about Carey's involvement to the press as established fact.
4. After the allegations appeared in the press, FEA conducted only a cursory investigation of the role played by FEO officials in fostering these allegations. FEA failed to pin down the source or the validity of the allegation against Carey. Had it conducted anything approaching an adequate investigation, it would have determined that the allegation was based on rumor—not fact.
5. FEA never explored possible impropriety on the part of Charles Owens as a result of his relationship with Leon Hess whose refinery in the Virgin Islands is in direct competition with Edward Carey's Bahamas refinery.
6. This episode underscores the responsibility of the press to verify information received from sources who refuse to be identified and who may have ulterior motives in furnishing information to the press.

7. Commerce's system of export control was deficient in failing to detect and halt Chamberlain's exports of crude oil at 2½ times the controlled price and while domestic refineries were operating at 76 percent capacity.

8. Commerce was negligent in failing to develop adequate regulations to implement the provisions of the Emergency Petroleum Allocation Act relating to exports of crude oil.

9. There was a serious lack of coordination between FEO and Commerce as to what policy should be followed and what regulations should be devised to carry out the intent of Congress in enacting the Emergency Petroleum Allocation Act.

10. Commerce did not independently reform its deficient export control regulations but only acted when prodded by FEO, which may have been reacting to industry complaints.

11. Regulations reflecting the mandate of EPAA were not issued until April 18, 1974, 4 months after the date required by the Act and after 4 export licenses has been granted resulting in a windfall of about $8 million to the exporter and higher prices to American consumers.

The Committee has received no report from the Committee on Government Operations respecting oversight findings and recommendations on this agency.

Costs of the Legislation

If enacted, the costs incurred in carrying out H.R. 12169 would be $43,968,000 in the period July 1, 1976 to September 30, 1976, and $212,371,000 in fiscal year 1977. The costs estimated by the Committee are consistent with these estimated by the Federal Energy Administration.

Congressional Budget Office

COST ESTIMATE

In response to a request to the Director of the Congressional Budget Office by the Committee, that office has provided the Committee with a cost estimate for this legislation, as required by Rule XI(1)(3) of the House Rules.

This estimate follows:

Congressional Budget Office

COST ESTIMATE

May 5, 1976.

1. Bill Number: 12169.

2. Bill Title: To amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such Act, and for other purposes.

3. Purpose of Bill: This bill's major purposes include extending the authority of the Federal Energy Administration (FEA) through September 30, 1979 and authorizing appropriations to the FEA for the transition quarter and FY 1977.

4. Cost Estimate: This bill has no budget effect for fiscal year 1976. Only the authorization included in this bill is considered, and no judgment is made about the authorizations this bill implies for future fiscal periods. The overall budget impact follows.

BUDGET EFFECTS

[In millions of dollars]

	Transition quarter	Fiscal year—				
		1977	1978	1979	1980	1981
Authorization levels	44.0	212.4				
Costs	30.8	181.4	53.7			

5. Basis of Estimate: This bill provides authorization for appropriations for the Federal Energy Administration (FEA) in program level detail. The authorization levels provided are presented below.

AUTHORIZATION LEVELS

[In thousands of dollars]

	Transition quarter	Fiscal year 1977
Executive direction and administration	8,655	33,324
Energy policy and analysis	8,137	34,971
Regulatory programs	13,238	62,459
Energy conservation and environment	7,386	49,961
Electric utility demonstrations	2,611	10,445
Energy resource development	3,052	16,934
International energy affairs	300	1,921
Solar energy	589	2,356
Total	43,968	212,371

All funding authorized is assumed obligated in that fiscal period. A spend-out pattern of 70 percent in the fiscal period of authorization and of 30 percent in the following fiscal period is assumed. Since this FEA funding is solely for a "salary and expenses" account, it is reasonable to expect the pay-out distribution for transition quarter funding to be similar to that for a fiscal year.

The funding of the electric utility demonstrations and the promotion of commercial solar energy applications is assumed prorated for the transition quarter and following fiscal year. This assumption is necessary because appropriations are authorized for one period, "beginning July 1, 1976, and ending September 30, 1977," for these two activities. These spend-out assumptions lead to the cost figures presented in Section 4.

6. Estimate Comparison: None.

7. Previous CBO Estimate: None.

8. Estimate Prepared By: William F. Hederman.

9. Estimate Approved By:

James L. Blum,
Assistant Director for Budget Analysis.

Agency Reports

No agency reports on this legislation, or any of the similar bills considered in hearings on this legislation, have been received by the Committee.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

FEDERAL ENERGY ADMINISTRATION ACT OF 1974

* * * * * * *

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Energy Administration Act of 1974".

* * * * * * *

AUTHORIZATION OF APPROPRIATIONS

[SEC. 29. There are hereby authorized to be appropriated to the Administrator, to remain available until expended, $75,000,000 for fiscal year 1974, and $200,000,000 annually for each of fiscal years 1975 and 1976 to carry out the purposes of this Act.]

SEC. 29. (a) There are authorized to be appropriated to the Federal Energy Administration the following sums.

(1) subject to the restrictions specified in subsection (b), to carry out the functions identified as assigned to Executive Direction and Administration of the Federal Energy Administration as of January 1, 1976—

(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $8,655,000, and

(B) for the fiscal year ending September 30, 1977, not to exceed $33,324,000.

(2) to carry out the functions identified as assigned to the Office of the Office of Energy Policy and Analysis as of January 1, 1976—

(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $8,137,000; and

(B) for the fiscal year ending September 30, 1977, not to exceed $34,971,000.

(3) to carry out the functions identified as assigned to the Office of Regulatory Programs as of January 1, 1976—

(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $13,238,000; and

(B) for the fiscal year ending September 30, 1977, not to exceed $62,459,000.

(4) to carry out the functions identified as assigned to the Office of Conservation and the Environment as of January 1, 1976—

(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $7,386,000;

(B) for the fiscal year ending September 30, 1977, not to exceed $49,961,000; and

(C) for the period beginning July 1, 1976, and ending September 30, 1977, to carry forward demonstration projects to improve electric utility load management procedures and regulatory rate reform initiatives, not to exceed $13,056,000, of which not more than $1,000,000 may be assigned for purpose of intervention or participation in State regulatory proceedings.

(5) to carry out the functions identified as assigned to the Office of Energy Resource Development as of January 1, 1976—

(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $3,052,000; and

(B) for the fiscal year ending September 30, 1977, not to exceed $16,934,000.

(6) to carry out the functions identified as assigned to the Office of International Energy Affairs as of January 1, 1976—

(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $300,000; and

(B) for the fiscal year ending September 30, 1977, not to exceed $1,921,000.

(7) to carry out a program to encourage the use of solar energy in commercial and other applications, not to exceed $2,945,000 for the period beginning July 1, 1976 and ending September 30, 1977.

(b) The following restrictions shall apply to the authorization of appropriations specified in paragraph (1) of subsection (a)—

(1) amounts to carry out the functions identified as assigned to the Office of Communications and Public Affairs as of January 1, 1976, shall not exceed $607,000 for the period beginning July 1, 1976, and ending September 30, 1976, and shall not exceed $2,274,000 for the fiscal year ending September 30, 1977; and

(2) no amounts authorized to be appropriated in such paragraph may be used to carry out the functions identified as assigned to the Office of Nuclear Affairs as of January 1, 1976.

(c) The Administrator of the Federal Energy Administration shall—

(1) submit to the Congress, not later than September 1, 1976, full and complete structural and parametric documentation, and not later than January 1, 1977, operating documentation, of the Project Independence Evaluation System computer model;

(2) provide access to such model to representatives of committees of the Congress in an expeditious manner; and

(3) permit the use of such model on the computer system maintained by the Federal Energy Administration by any member of the public upon such reasonable terms and conditions as the Administrator shall, by rule, prescribe. Such rules shall provide that any member of the public who uses such model may not be charged more than the costs incurred by the Federal Energy Administration in using such model and assigning personnel to assist such member of the public during such member's actual use of such model.

EFFECTIVE DATE; TERMINATION DATE

SEC. 30. This Act shall become effective sixty days after the date of enactment or sooner if the President publishes notice in the Federal Register. This Act shall terminate [June 30, 1976] *September 30, 1979.*

Appendix A

FEA Congressional Reporting Requirements

The attached list indicates the Congressional report submissions required of FEA under the Emergency Petroleum Allocation Act (EPAA), the Federal Energy Administration Act (FEAA), the Energy Policy and Conservation Act (EPCA), and the Freedom of Information Act (FOIA).

Report title	Legislative authority	Frequency	Due	Sent
OFFICE OF CONSERVATION AND ENVIRONMENT				
Quarterly Appropriation Report	Appropriations for Interior and related agencies—fiscal year 1976. House Committee Report No. 94-374. Conference Report No. 94-701	Quarterly beginning with 3d quarter fiscal year 1976.	Month after end of quarter	April 1976.
Appliance Efficiency Labeling	EPCA (sec. 338)	Annually	December 1976	
State Energy Conservation Program	EPCA (sec. 365)	do	do	
Industrial Energy Conservation	EPC (sec. 375)	do	do	
Federal Energy Conservation Program	EPCA (sec. 381)	do	do	
OFFICE OF ENERGY RESOURCE DEVELOPMENT				
Early Storage Reserve Plan	EPCA (sec. 155)	1 time	Mar. 22, 1976	Apr. 22, 1976.
Report of Recommendations on Utility Reserve, Coal Reserves, Remote Crude Oil and Natural Gas Reserves.	EPCA (sec. 158)	do	June 15, 1977	
NPR-4 Report	EPCA (sec. 164)	do	June 19, 1976	
Hydroelectric Generating Facilities	FEAA (sec. 24)	do	Sept. 24, 1974	Sept. 25, 1974.
Strategic Petroleum Reserve Plan	EPCA (sec. 154)	do	Dec. 15, 1976	
Annual Report on Strategic Reserve Plan	EPCA (sec. 165)	Annually	Dec. 15, 1977	
OFFICE OF REGULATORY PROGRAMS				
Reevaluation of Allocation and Price Regulations	EPCA (sec. 454)	1 time	Apr. 19, 1976	May 15, 1976.
Gasoline and Diesel Fuel Rationing Contingency Plan	EPCA (sec. 203)	do	June 19, 1976	
Energy Conservation Contingency plan	EPCA (sec. 202)	do	do	
Report on the Effects of Alaskan Crude Oil on Domestic Production	EPCA (sec. 401g)	do	Apr. 15, 1977	
OFFICE OF PRIVATE GRIEVANCES AND REDRESS				
Quarterly Report on Grievances	FEAA (sec. 21c)	Quarterly	Not specified	All reports submitted within following quarter
Petroleum Market Shares	EPAA (sec. 4c)	Monthly	Beginning Jan. 1, 1974	
OFFICE OF POLICY AND ANALYSIS				
Historical Report on Refiners and Importers of Motor Gasoline, 1972-74.				Oct. 30, 1975.
Historical Report on Sales of Propane to Ultimate Consumers, 1972-74.				Nov. 28, 1975.
1975 Report on Sales of Propane to Ultimate Consumers				Apr. 30, 1976.
Report on Aviation Gas, Jet Fuels, Middle Distillate Fuel Oils and Motor Gas.				Do.
Monthly Report on Retail Gasoline Sales (Since November 1974) Require data on all fuel on monthly basis; FEA has only been reporting on retail gas; FEA will report on all fuels with the June 1976 report.				

Apr. 30, 1976, submission included data on all fuels over the previous 2 years, and will continue to update on a monthly basis in compliance with the requirements of the lawsuit lodged by Senator Abourezk.				
Economic Analysis of Petrochemicals	FEAA (sec. 23)	1 time	Sept. 25, 1974	Sept. 27, 1974.
Comprehensive Energy Plan	FEAA (sec. 22)	do	December 1974	Dec. 9, 1974.
Quarterly Report on Energy Information	ESECA (sec. 11(c), as amended by sec. 506 of EPCA).	Quarterly	Quarterly after end of 3d quarter of 1974.	Nov. 14, 1974, Feb. 19, 1975, June 18, 1975, Aug. 25, 1975, Dec. 10, 1975, Mar. 17, 1976.
Oil and Gas Reserves	FEAA (sec. 15)	1 time	June 27, 1975	June 1975 (initial report); October 1975 (final report).
Economic Progress Report	FEAA (sec. 18)	Semiannually	Due 6 months following close of period.	December 1974, August 1975, May 1976.
Disposition of FEA Functions	FEAA (sec. 15)	1 time	Dec. 27, 1975	Responsibilities deleted from FEA Act by ERDA Act. Requirements were met by FEA extension bill.
Economic Impact of Crude Oil Prices on Economy and Energy Supplies	EPCA (sec. 401)	do	Feb. 15, 1977	
OFFICE OF MANAGEMENT AND ADMINISTRATION				
FEA Organization Structure	FEAA (sec. 20)	do	Aug. 25, 1974	Aug. 26, 1974.
FEA Directory	FEAA (sec. 20)	do	Oct. 24, 1974	Nov. 24, 1974.
FEA Activities Annual Report	FEAA (sec. 15)	Annually	June 1975, June 1976	May 1975.
Conflicts of Interest	EPCA (sec. 522)	Annually (after February 1977)	June 1, 1977	
OFFICE OF COMMUNICATIONS AND PUBLIC AFFAIRS				
FEA Freedom of Information Annual Report	FOI Act (sec. 3)	Annually	Mar. 1, 1976	Apr. 1, 1976.
OFFICE OF INTERGOVERNMENTAL, REGIONAL, AND SPECIAL PROGRAMS				
Reimbursements to States	EPCA (sec. 462)	1 time	June 1, 1976	
OFFICE OF INTERNATIONAL ENERGY AFFAIRS				
Foreign Ownership	FEAA (sec. 26)	do	Dec. 24, 1974	January 1975.
Price Reduction Feasibility Report	EPCA (sec. 456)	do	Mar. 19, 1976	Apr. 1, 1976.

MINORITY VIEWS ON H.R. 12169: FEA AUTHORIZATION ACT

The Federal Energy Administration authorization legislation as reported out of the Subcommittee on Energy and Power represented a reasonable balance between the budgetary needs of the FEA to carry out its programs mandated by the Energy Policy and Conservation Act (EPCA) and the need to keep Federal spending at a minimum level to avoid deleterious inflationary impacts and increased deficits. Unfortunately, the full Committee adopted two amendments, not even considered by the Subcommittee, that together add $40,770,000 to the Fiscal Year 1977 authorization for FEA.

The first of the amendments authorizes $2,945,000 to be used to establish a new program authority to encourage the use of solar energy in commercial and other applications. Not only is this money unnecessary duplication of funds already being spent by the Energy Research and Development Administration in its solar energy program, but it also is an intrusion on the jurisdiction of the Science and Technology Committee, to which the rules of the House grant jurisdiction over all energy research and development except nuclear research and development.

The Science and Technology Committee has approved authorizations of $229 million for Fiscal Year 1977 for ERDA, which is an increase of $67 million over the Presidential Budget request, and has indicated that the main restraint to additional amounts is programmatic; i.e., ERDA is not in a position to use more funds for solar energy in an efficient manner.

The second amendment provides an additional authorization of $37,825,000 for the Office of Conservation and Environment. This marks a $37.8 million increase over the Presidential Budget request and will give the Office of Conservation and Environment a total authorization more than two times greater than FY 76 spending levels. Although conservation is a vital aspect of our Nation's efforts to achieve energy independence, the author of the amendment authorizing the additional funds provided no programmatic justification of the additional funding. Thus, should these funds be appropriated, they will be tied to no program and FEA will have a relatively free rein in using these funds.

These amendments not only exceed the Presidential Budget request, but also place the requested authorizations for FEA over the amount allotted for such purposes in the recently passed First Concurrent Resolution on the Budget for Fiscal Year 1977. Thus, to include these funds, there should be either a cut made in funds authorized in other areas or a method provided for raising revenues sufficient to offset this increase in funding authority. But no recommendation was made nor was any indication given as to which of these actions should be taken.

The new budget procedure is supposed to make the Congress look at the totality of its budgetary activities, but the passage of these amendments demonstrates how easily that intention can be cast aside.

SAMUEL L. DEVINE.
JAMES T. BROYHILL.
CLARENCE J. BROWN.
JAMES M. COLLINS.
JOHN Y. MCCOLLISTER.
NORMAN F. LENT.
EDWARD R. MADIGAN.
CARLOS J. MOORHEAD.

O

Calendar No. 831

94TH CONGRESS
2d Session

SENATE

REPORT
No. 94—874

FEDERAL ENERGY ADMINISTRATION EXTENSION ACT

REPORT

OF THE

COMMITTEE ON GOVERNMENT OPERATIONS
UNITED STATES SENATE

TO ACCOMPANY

S. 2872

TO AMEND THE FEDERAL ENERGY ADMINISTRATION ACT OF 1974 TO EXTEND THE EXPIRATION DATE OF SUCH LAW UNTIL SEPTEMBER 30, 1979, AND FOR OTHER PURPOSES

MAY 13, 1976.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
57-010 WASHINGTON : 1976

COMMITTEE ON GOVERNMENT OPERATIONS

ABRAHAM RIBICOFF, Connecticut, *Chairman*

JOHN L. McCLELLAN, Arkansas
HENRY M. JACKSON, Washington
EDMUND S. MUSKIE, Maine
LEE METCALF, Montana
JAMES B. ALLEN, Alabama
LAWTON CHILES, Florida
SAM NUNN, Georgia
JOHN GLENN, Ohio

CHARLES H. PERCY, Illinois
JACOB K. JAVITS, New York
WILLIAM V. ROTH, JR., Delaware
BILL BROCK, Tennessee
LOWELL P. WEICKER, JR., Connecticut

RICHARD A. WEGMAN, *Chief Counsel and Staff Director*
PAUL HOFF, *Counsel*
PAUL L. LEVENTHAL, *Counsel*
ELI E. NOBLEMAN, *Counsel*
DAVID R. SCHAEFER, *Counsel*
MATTHEW SCHNEIDER, *Counsel*
ELLEN S. MILLER, *Professional Staff Member*
JOHN B. CHILDERS, *Chief Counsel to the Minority*
BRIAN CONBOY, *Special Counsel to the Minority*
MARILYN A. HARRIS, *Chief Clerk*
ELIZABETH A. PREAST, *Assistant Chief Clerk*
HAROLD C. ANDERSON, *Staff Editor*

CONTENTS

Calendar No. 831

94TH CONGRESS, 2d Session } SENATE { REPORT No. 94-874

FEDERAL ENERGY ADMINISTRATION EXTENSION ACT

MAY 13, 1976.—Ordered to be printed

Mr. RIBICOFF, from the Committee on Government Operations, submitted the following

REPORT

[To accompany S. 2872]

The Committee on Government Operations, to which was referred the bill (S. 2872) to amend the Federal Energy Administration Act of 1974 to extend the expiration date of such law until September 30, 1979, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and an amendment to the title and recommends that the bill, as amended, do pass.

I. PURPOSE

The basic purpose of S. 2872, as amended, is to extend for 15 months (until September 30, 1977) the life of the Federal Energy Administration (FEA) which will otherwise terminate on June 30, 1976, and to authorize the appropriation of required funds for the additional 15-month period.

In addition, the legislation also achieves the following purposes: (1) streamlining and improving the operating procedures of FEA; (2) providing penalties for any violation of any of FEA's rules, regulations or orders relative to its information-gathering activities; (3) requiring the Energy Resources Council to coordinate reports now prepared by FEA and the Energy Research and Development Administration concerning the national energy outlook and the national research, development and demonstration plan; (4) requiring the President, through the Energy Resources Council, to undertake a study and provide recommendations by December 31, 1976, with respect to the reorganization and centralization of the Federal Government's responsibilities for energy and related natural resource responsibilities; (5) requiring the Energy Resources Council to prepare an annual report on national energy conservation activities;

(6) providing for the disposition of FEA's current functions upon termination of the Act; (7) strengthening the efforts to reform existing electric utility rate structures and assist the States in providing consumer input before State regulatory commissions; and (8) requiring FEA to perform an analysis of the degree to which a Btu tax might contribute to a more effective implementation of national policy objectives, including the expected impact on the economy and employment.

II. Background and Need for Legislation

The Federal Energy Administration (FEA) was established in May of 1974 by the Federal Energy Administration Act of 1974 (P.L. 93–275). Since the agency was created in a time of crisis, to handle the allocation of short supplies, possible rationing, and other probrams deemed necessary to assist in dealing with the impact of the Arab Embargo, it was established as a temporary agency. Thus, the Act provided for an early expiration date—June 30, 1976—2 years after the agency was established.

During the past 2 years, however, this temporary agency has been given additional responsibilities designed to assist this Nation in handling the long-term energy problems which we face. Initially, the agency was to advise the President and the Congress with respect to a comprehensive national energy policy; assess the adequacy of our resources in the immediate and long-range future; develop an effective means for participation of State and local governments in energy decisions; develop plans for dealing with energy production shortages; promote stability in energy prices; develop import and export policies on energy resources; assemble energy data and information; and administer propane gas pricing regulations.

The Emergency Petroleum Allocation Act (P.L. 93–159) directed the President to establish and enforce a mandatory oil allocation program. By Executive Order 11790 (June 27, 1974) the President delegated this responsibility to the Administrator of the FEA. The Energy Supply and Environmental Coordination Act (P.L. 93–319) authorized the FEA to implement mandatory conversion of energy facilities to coal from oil and gas. The Energy Policy and Conservation Act (P.L. 94–163) provided the FEA with a wide range of new authority relative to domestic fuel supplies, strategic petroleum reserves, standby emergency authority for energy conservation, allocation and rationing, improved automobile efficiency, energy conservation, petroleum pricing policies, and energy data base and information programs.

From the foregoing, it is apparent that, although the FEA was established as a temporary agency, the programs and functions with which it has been assigned since its establishment involve critical, long-range problems which are central to the Nation's energy future. In effect, the FEA has become a temporary agency with many vital, long-term functions.

The Committee recognizes that the FEA, as it was established, was not designed to handle effectively these new functions, programs and responsibilities. As a result, the agency, not always due to its own weaknesses, has not been sufficiently effective in establishing a national energy plan, implementing programs to reduce the Nation's demand on foreign supplies and increasing and improving conservation efforts.

The Federal Government's responsibilities for energy matters are presently diffused among many different departments and agencies. This lack of a central focal point for such activities, coupled with a lack of centralized responsibility and authority for national energy planning, has resulted in a situation in which various Federal agencies are moving ahead with plans and programs in an uncoordinated manner.

In order to assess the adequacy of the FEA's performance, the Committee examined its operations during the past 2 years. This examination revealed a number of problems regarding the FEA's administration of programs. One deficiency noted appears to be the result of a conflict which arises out of the agency's statutory responsibilities. More specifically, the FEA is both the promoter and the regulator of energy resources; and its role as data collector and data analyst conflicts with its role as the Nation's principal policy formulator with respect to energy. In addition it appears that the internal management of the agency for administration of its programs is not adequately developed, resulting in lack of priority setting and overlapping responsibilities.

In light of the foregoing, the Committee concluded that the Administrator of the FEA should take steps immediately to alleviate the problems referred to above. Accordingly, the Committee recommends that the Administrator examine the roles of the two Deputy Administrators and reassign their responsibilities so as to separate the regulatory activities from the promotional activities, and the data collection and analysis activities from these relating to policy formulation.

Although the Committee has concluded that the FEA is not the proper permanent organizational entity required to handle efficiently the responsibilities of the Federal Government in these matters, the functions which it is now authorized to carry out must be continued if this Nation is to achieve its immediate goals in energy conservation, increased domestic supplies consistent with environmental safeguards and lessening United States dependence upon foreign petroleum sources.

III. Hearings

The Committee held hearings on S. 2872 on April 26, 27, 28, and May 4 and 5, 1976.

Witnesses from the Federal Energy Administration, the General Accounting Office, industry, and public interest organizations were invited to testify.

The Committee heard the following witnesses: Senator Patrick Leahy (D-Vermont); Elmer B. Staats, Philip Hughes, and Monte Canfield, General Accounting Office; Hazel Rollins, FEA Director, Office of Consumer Affairs; Roger Sant, FEA Assistant Administrator, Conservation and Environment Division; Ken Bossong, Center for Science in the Public Interest; Larry Moss, Chairman, FEA Environmental Advisory Committee; Federal Energy Administration: Frank Zarb, Administrator; John Hill, Deputy Administrator; Eric Zausner, Deputy Administrator; Michael Butler, General Counsel; Gorman C. Smith, Assistant Administrator, Regulatory Programs; Clement B. Malin, Assistant Administrator, International Programs; William Rosenberg, Assistant Administrator, Energy

Resource Development; Thomas Noel, Assistant Administrator, Management and Administration; Representative Patricia Schroeder (D-Colorado); Robert DeBlois, Charles Burkhart, New England Fuel Institute; John Love, President, Colonial Oil Company; William J. Lamont, Lobel, Novins, and Lamont, attorneys; Senator Dewey Bartlett (R-Oklahoma); Representative James R. Jones (D-Oklahoma); Robert Fri, Deputy Administrator, Energy Research and Development Administration; and Julius L. Katz, Assistant Secretary for Economic and Business Affairs, U.S. Department of State.

Throughout the course of the hearings, widely different perspectives with respect to the continuation of the Federal Energy Administration were presented. The Administration witnesses testified with respect to the necessity for providing continuity to its programs by providing for an extension of the FEA's life until a reorganization of the Federal Government's responsibilities for all energy and natural resources could be effected. Other witnesses stressed the point that, since the FEA was established as a temporary agency, and as such since its function of allocation and rationing may no longer be primary, then the Administration should be allowed to expire. Still other witnesses suggested the consolidation of FEA's functions with those of other agencies as a beginning step toward reorganization. Many of the witnesses proposed interim steps, such as administrative changes within the FEA in order to provide for the more efficient implementation of programs.

Specific deficiencies in FEA's administration of its compliance and enforcement efforts were noted during the hearings. The Committee heard extensive testimony from representatives of the independent sector of the oil industry with respect to the tremendous difficulties involved in attempting to comply with the FEA's rules and procedures. The Committee is concerned that FEA's auditing procedures, its enforcement efforts, the complexity of its regulations, and its appeals procedures are working in a manner which is detrimental to the industry, as well as the public. The Committee suggests that the FEA Administrator examine the adequacy of these operations in order to provide for a more efficient enforcement and compliance effort. Such a study should include: as assessment of the problems associated with the retroactive application of regulations; a simplification of the language of price and allocation regulations; the establishment of consistent auditing procedures at the regional and State levels; and more thorough training of auditors.

A concern relating to the functions carried out by the Office of Consumer Affairs was also noted during the hearings. The testimony persuasively suggested that this office should be strengthened within the FEA and that the Administrator should consider providing research and consulting grants to conduct consumer impact analyses of its regulations to consumer and environmental groups and/or to its Consumer Affairs/Special Impacts Advisory Committee. In addition, the testimony urged the Committee establishment of an Office of Public Advocate within the FEA. The establishment of such an office could provide a direct and effective method for ensuring that consumer interests are promoted not only within the agency but also with respect to the public.

IV. Committee Action

As introduced, S. 2872 provided for minor administrative changes in the Federal Energy Administration, authorized such sums as may be necessary, and provided for an extension of the life of the agency until September 30, 1979.

The Committee amendment makes significant changes in the bill. Thus, the extension of the agency has been reduced to 15 months; specific sums have been authorized for each budget area of the FEA; a report on the reorganization of the Federal Government's responsibility for energy and natural resource matters and on the Nation's energy conservation programs is required from the Energy Resources Council; the addition of a new title on electric utility rate reform; a report on the concept of a Btu tax; and additional administrative changes have been included.

In examining the current structure of the Federal Energy Administration and in reviwing the current organization of the Federal Government for handling energy and natural resource matters, it is clear to the Committee that we must move expeditiously toward permanent reorganization of energy and natural resource matters. In providing for a relatively short-term extension of the FEA, and requiring the President, through the Energy Resources Council, to develop legislative recommendations on permanent energy organization, the Committee hopes to expedite reorganization.

The limited time period in which the Environmental Protection Agency has to comment on FEA's proposed rules and regulations concerned the Committee. It was believed that in order for the EPA to have any meaningful input and thoughtful consideration of the FEA's rules and regulations the time period for comment should be lengthened. In addition, the Committee believed that the FEA should be required to publish its reasons for invoking the emergency provisions of the Administrative Procedure Act when publishing a rule in an emergency situation. This amendment in no way restricts the FEA's right to invoke the emergency provision, but it requires that the reasons for the invocation and the nature of the emergency be explained to the public at the time the action is decided upon.

The current procedures for FEA's Office of Exceptions and Appeals were also of some concern to the Committee. A single officer is now responsible for both the exceptions proceeding and the appeal from a denial of an exception. Because of the Committee's concern for objectivity and fairness in these matters, an amendment was adopted to require different officials to conduct these separate proceedings, and to provide for an oral hearing as a matter of right at the appeals stage.

Since the original establishment of the FEA, many additional responsibilities have been assigned to it. The "Reversion Clause" in the FEA Act of 1974 is thus inadequate to provide for the transfer of these functions now carried out by the FEA. The Committee, therefore, adopted an amendment to provide for the transfer of all of the FEA's current functions to existing agencies upon its expiration date.

It was the Committee's desire to provide for a specific line-item authorization for each of FEA's budget groupings. Therefore, the Committee adopted an amendment to authorize funds for each of these groupings, subject to two restrictions: First, that amounts used for

the Office of Communications and Public Affairs shall not exceed $607,000 for the transition quarter and shall not exceed $2,274,000 for fiscal year 1977; and second, that no amounts authorized shall be used to carry out the functions of the Office of Nuclear Affairs.

The FEA is directed to study and report to the Congress no later than November 30, 1976, on the use of a Btu tax, and other energy taxes, to ensure the attainment of an acceptably low level of energy imports by 1985.

The following elements are to be included in the analysis: (1) Energy taxes based on (a) an across the board tax of at least $1.00 per million Btu on the use of non-renewable forms of energy, to be levied at the mine-mouth, wellhead, or port-of-entry; and (b) taxes designed to correct existing price distortions arising from uninternalized social costs, including, for example, costs of reliance upon insecure foreign sources of supply, and costs of adverse environmental impacts; and distortions arising from regulation of prices. "Price distortions" are defined herein to mean the departure of prices for energy from the full marginal social costs of energy production, transportation, conversion, distribution, and use. (2) Refund of taxes on the basis of a uniform payments to each adult.

The analysis will evaluate the impacts of such taxes on (1) the economy, including the general price level and energy prices, employment, government revenue, and distribution of income and relative purchasing power; (2) the supply of and demand for energy; (3) the degree of reliance on insecure foreign sources of supply; (4) reduction of adverse social costs, including environmental, health and safety costs; and (5) the degree to which the need for FEA regulatory programs would be diminished or eliminated.

The conservation function performed by the FEA has not received the priority attention and importance in accordance with Congressional mandates. The authorization level requested for the Office of Conservation and Environment was reduced in the budget request. This would have meant a drastic cutback in the conservation programs. Although the Committee recognizes that some of the governmental conservation actions will be undertaken by the States pursuant to State energy conservation plans, funded under the Energy Policy and Conservation Act, the Federal role in initiating conservation programs, setting the lead in its own conservation, marketing conservation ideas, educating the public and performing demonstrations to test new ideas is significant, must be continued.

The Committee, therefore, increased the authorization for Conservation and Environment by $28 million in fiscal year 1977.

A provision requiring that an annual energy conservation report be prepared by the Energy Resources Council, with the assistance of all agencies involved in conservation related programs, detailing all such activities at the Federal, State and local levels, in the private sector, what the potential conservation could be from such actions if widespread implementation were effected, and what further conservation activities should be undertaken, was adopted by the Committee.

The Committee has also adopted a new title to the bill (Title II) during its consideration.

Title II, the Electric Utility Rate Reform Act of 1976, is designed to strengthen efforts to reform existing electric utility rate structures and

to assist States in increasing consumer input in State utility ratemaking proceedings.

Section 204 of this title is designed to reform existing electric utility rate structures by requiring the Administrator of the Federal Energy Administration to develop voluntary guidelines to encourage electric utility companies to utilize innovative rate structures. These guidelines would provide for rate structures which are cost-based, energy conserving, equitable in their operation and effect on all classes of customers and provide incentives for maximum use of existing generating facilities.

It was expected that the FEA will pursue aggressively the development of the guidelines envisioned in Title II. Much evidence has been accumulated, especially in the past 2 years, which indicates that electric utility rate structures have much to do with how electricity is used by residential, commercial and industrial consumers. The Committee is convinced that important gains toward conservation and better utilization of existing generating facilities, as well as direct savings to consumers, can be achieved if cost-based rate structures are adopted as the norm by State utility regulatory commissions.

To further facilitate the establishment of desired rate structures, section 205 of this title would provide financial assistance to State utility commissions to enable them to initiate electric utility rate structure and loan management demonstration projects. FEA is presently funding 10 demonstration projects.

Section 205 authorizes FEA to continue the ongoing projects in electric utility rate proceedings and initiate new ones.

So that the Federal Energy Administration may participate in the development of innovative rate structures beyond the development of guidelines, section 203 of Title II also authorizes the Administrator to intervene in administrative or court proceedings involvng rate structures. It is expected that this authority would be used only to further the principles set forth in the guidelines required to be developed by Title II.

In addition to encouraging the development of innovative rate structures, section 206 of Title II would serve to increase consumer input into State utility regulatory commission decision-making by authorizing the Administrator to make grants to States to establish or operate offices of Consumer Services. In order to receive funds under this provision, an office of consumer services must be operated independently of the State utility regulatory commissions and empowered to (1) make general factual assessments of the impact of rate changes and other regulatory actions upon all affected consumers; (2) assist consumers in the presentation of their positions before utility regulatory commissions; and (3) advocate, on its own behalf, a position which it determines represents the position most advantageous to the public, taking into account developments in rate structure reform which have achieved or could achieve energy conservation, equity in operation and effects on all classes of customers and provides incentives for maximum use of existing electrical generating facilities.

In the case of the Tennessee Valley Authority, which is also covered under section 206, funds for the consumer office could only be provided to an office headed by a person appointed by the President and confirmed by the Senate.

Many States already have programs which provide consumer input into State utility regulatory commission's decision-making. The Administrator would be authorized to provide funds under section 206 to any of these existing offices if it meets the criteria for offices of consumer services detailed in the section.

Section 207 of title II contains reporting requirements for the FEA Administrator related to the authorities and responsibilities set forth in this title.

Title II authorizes $10 million for the purpose of funding the utility rate demonstration projects, technical assistance to State utility commissions, and intervention in the proceedings of utility regulatory commissions for the purpose of promoting the implementation of Federal guidelines. The authorization for financial assistance to State offices of consumer services to facilitate the presentation of consumer interests before the commissions is set at $2 million for fiscal year 1977.

V. Section-by-Section Analysis

Section 101 provides that title I of this Act may be cited as the "Federal Energy Administration Extension Act."

Section 102 amends section 7(c)(2) of the FEA Act of 1974 which provides for a five day comment period by the Environmental Protection Agency on FEA's rules, regulations, or policies which affect the quality of the environment. This section extends the comment period to 15 days in order to provide for adequate time for the EPA to assess the environmental impact of any such FEA action.

The original act authorized the Administrator to waive, for a period of not more than fourteen days, the comment period, if, in his judgment, there is an emergency situation requiring immediate action. Section 102 further amends the basic act by providing that a notice of such waiver must be published in the Federal Register on the same day as any such action is first authorized or undertaken and must include a complete explanation of the nature of the emergency which caused him to waive the comment period. This requirement was added in order to avoid the use of emergency procedures, except in extreme cases, and to provide the public with an explanation of the emergency situation.

Section 103 amends section 7(i)(1)(D) of the FEA Act of 1974 to require that all requests for reviews of denials of exceptions shall be handled by a different officer of the agency than the officer responsible for the exceptions themselves. Section 103 corrects a problem that the Committee believes exists in the procedures currently in effect for exceptions and appeals from regulations issued by the Agency. Under the current scheme, it is possible for a single officer of the Agency to be involved in the decision, both to deny an exception from an agency rule and to affirm a decision to deny an exception.

The exception process should be separate from the appeal process in all respects. No single officer of the Agency should participate in both stages of a single case.

The section is also amended to require an oral hearing as a matter of right at the appeals stage. The Committee has not required that an oral hearing be accorded as a matter of right to every party seeking an exception, but it believes that such a hearing should be accorded whenever possible and whenever an important issue exists, either as it affects the regulations or as it affects an individual party.

Section 104(a) amends Section 13(b) of the FEA Act of 1974 by providing explicit authority to the FEA to obtain information from U.S. firms with foreign affiliates or foreign firms with respect to supply and consumption activities of those foreign firms in the United States.

Subsection (b) adds two new subsections to the FEA Act. The first makes it unlawful for any person to violate the provisions of FEA's data gathering powers. The second new subsection provides that anyone who willfully violates these authorities shall be subject to a criminal fine of not more than $10,000 for each violation. This provision also permits the Administrator of FEA to request the Attorney General to bring a civil action to enjoin any such acts or practices and, upon a proper showing, to grant a temporary restraining order, preliminary or permanent injunction without bond.

It is the Committee's intent to clarify the act in order to avoid the potential of future litigation on the question of the scope of intended coverage. This clarification is consistent with the legislative intent of the FEA act under which Congress clearly intended broad information-gathering authorities in order to permit the FEA to develop comprehensive and informed policy decisions and programs. Such authority is also necessary to carry out the agreements of the United States in the international energy program.

Section 105 amends section 15 of the FEA Act of 1974 by repealing the request to the President for a report on the disposition of the FEA's functions upon expiration of the agency. It redesignates the remaining subsections.

Section 106 amends section 18(d) of the FEA Act by requiring an annual report on the impact of the energy shortage on the economy and employment rather than a semi-annual report.

Section 107 amends section 25 of the FEA Act of 1974 by requiring that only a sample file on petroleum and coal exports be kept by the FEA instead of a comprehensive file duplicative of the one currently kept by the Customs Service.

The current statute which requires the maintenance of a duplicative set of files by the FEA, involves a substantial expenditure of funds where there has been no demonstrated necessity. The sample file requirement would permit FEA to avoid the unnecessary duplication of the files maintained at Customs while permitting the FEA access to the material necessary to monitor petroleum and coal exports.

Section 108 amends section 28 of the FEA Act of 1974 to provide for the disposition of FEA's current functions upon termination of the act. It delineates the various agencies to which each of the primary activities now carried out by the FEA would be transferred.

Section 28 of the FEA Act of 1974 provides for the reversion of functions which were originally transferred to the FEA from other agencies. Most of FEA's current significant functions and activities have been vested in the agency since the passage of the FEA Act of 1974.

This section provides for the disposition of FEA's continuing functions and authorities in the event of the termination of the act, if no other action has been taken toward a permanent reorganization.

The functions are to be transferred as follows: Mandatory allocation of crude oil, residual fuel oil, and refined petroleum products—the Department of the Interior; price controls on crude oil, residual fuel oil and refined petroleum products—to the Federal Power Com-

mission; advice to the President and the Congress on energy policy development of programs and plans for energy conservation in time of shortage—to the Energy Resources Council; collection, analysis, and reporting of energy data and information—to the Department of Commerce; development and implementation of voluntary and mandatory conservation programs—to the Energy Research and Development Administration; coal conversion program—to the Environmental Protection Agency; loan guarantees for new coal mines, materials allocation, and strategic reserves—to the Department of the Interior; international energy programs—to the Department of State; applicance efficiency, labeling programs, State energy conservation plans, Federal energy conservation programs, and public education programs—to the Department of Commerce; analysis of ecnomic impact of energy actions—to the Energy Resources Council; and coordination of Federal energy programs with State governments—to the Department of Commerce.

Section 109 authorizes to be appropriated the sums requested by the FEA for the Transition Quarter and fiscal year 1977 in order to carry out its programmatic functions. Additional funds are authorized to be appropriated to the Office of Conservation and Environment.

Two restrictions are placed on these funds: first, a ceiling is set for the funds to be used for the Office of Communications and Public Affairs; second, none of the funds authorized are to be used for the Office of Nuclear Affairs.

It is the Committee's intent to provide sufficient funds to FEA's Office of Conservation and Environment in order to permit that office to take an active role in energy conservation efforts at least as fully as in the prior fiscal year.

The authorization of the amount requested severely restricts the Federal role in energy conservation efforts, and left monitoring and evaluation as the only functions for FEA.

Section 110 amends section 30 of the FEA Act of 1974 to provide for a 15-month extension of the agency. The expiration date is established as September 30, 1977.

The Committee was unanimous in its desire for a short-term extension of the FEA. It is the Committee's belief that a 15 month extension allows for ample time for the planning and implementation of the reorganization plan for the Federal Government's responsibilities for energy and natural resources. Additionally, the extension of the FEA's life permits the continued implementation of programs already established, which then can be readily transferred as we move toward a reorganization of energy and natural resource functions.

Section 111(a) amends section 108(b) of the Energy Reorganization Act to provide for the Chairman of the Energy Resources Council to coordinate the preparation of the reports required by section 15(c) of the Federal Energy Administration Act of 1974 and section 307 of the Energy Reorganization Act of 1974. It is the intent of the Committee that, to the maximum extent possible, these two separate reports be combined into a single report to the President and the Congress on national energy policy and programs. This subsection also requires that the Chairman of the ERC prepare a report on national energy conservation activities which is to be submitted to the President and the Congress annually beginning on July 1, 1977.

Subsection (b) amends the Energy Reorganization Act of 1974 by adding a new subsection which requires that the President, through the Energy Resources Council, prepare a plan for the reorganization of the Federal Government's responsibilities for energy and natural resources, including, but not limited to the study of: principal laws and directives that constitute the energy and natural resource policy of the United States; prospects of developing a consolidated national energy policy; the major issues and problems of existing energy and natural resource organizations; the options for Federal energy and natural resource organizations; an overview of available resources pertinent to energy and natural resources organizations; recent proposals for a national energy and natural resource policy for the United States; and the relationship between energy policy goals and other national objectives.

This provision requires that the report be submitted to the Congress by December 31, 1976. This provision also requires that the ERC provide interim and transitional policy planning for energy and natural resource matters in the Federal government.

Section 112 requires that the FEA perform an analysis of the degree to which a BTU tax might contribute to a more effective implementation of national policy objectives, the expected impact on the economy and employment, and the extent to which the need for FEA regulatory programs would be diminished or eliminated. The Committee believes that this information will provide the Congress with a sounder basis for legislation specifying the Federal role in the field of energy.

Section 201 provides that this title may be cited as the "Electric Utility Rate Reform Act of 1976."

Section 201 states the Findings of Facts and Declaration of Policy.

Section 203 provides for the definitions used in this title.

Section 204 requires the Administrator of the FEA to develop voluntary guidelines to encourage electric utility companies to utilize innovative rate structures. The guidelines are to provide for rate structures which are cost-based, energy consuming, equitable to all classes of customers, and provide incentives for maximum use of existing generating facilities.

Section 205 provides financial assistance to State electric utility commissions to enable them to initiate electric utility rate structure and load management demonstration projects. This section further authorizes the FEA to continue on-going projects in electric utility rate proceedings, and authorizes the Administrator to intervene in administrative or court proceedings concerning rate structures.

Section 206 authorizes the Administrator to make grants to States to establish or operate offices of Consumer Services. In order to receive funds under this provision, an office of consumer services must be operated independently of the State utility regulatory commissions.

In the case of the Tennessee Valley Authority, which is also covered under section 206, funds for the consumer office could only be provided to an office headed by a person appointed by the President and confirmed by the Senate.

Section 207 of title II contains reporting requirements for the FEA Administrator related to the authorities and responsibilities set forth in this title.

Section 208 authorizes the appropriation of $10 million for the purpose of funding the utility rate demonstration projects, technical assistance to State utility commissions, and intervention in the proceedings of utility regulatory commissions for the purpose of promoting the implementation of Federal guidelines. The authorization for financial assistance to State offices of consumer services to facilitate the presentation of consumer interests before the commission is set at $2 million for fiscal year 1977.

VI. Cost Estimates

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (P.L. 91-150, 91st Congress) the Committee provides the following estimate of cost for titles I and II:

For administration of the act $38,300,000 in the transition quarter from July 1, 1976 to September 30, 1976.

For administration of the act, $183,257,000 for the fiscal year 1977.

VII. Rollcall Vote in Committee

In compliance with section 133 of the Legislative Reorganization Act of 1946, as amended, the rollcall vote taken during committee consideration of this legislation is as follows:

Final passage: Ordered reported: 9 yeas—0 nays

Yeas: 9

Nays: 0

Metcalf
Chiles
Nunn
Glenn
Ribicoff
Percy
Javits
Roth
Weicker
(Proxy)
Jackson

VIII. Changes in Existing Law

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

FEDERAL ENERGY ADMINISTRATION ACT OF 1974

SEC. 1. * * *

* * * * * * * *

SEC. 7. (a) (1) * * *

* * * * * * * *

(c) The Administrator may promulgate such rules, regulations, and procedures as may be necessary to carry out the functions vested in him: *Provided*, That:

(1) * * *

* * * * * * * *

(2) The Administrator shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than [five] *fifteen* days from receipt of notice of the proposed action during which the Administrator of the Environmental Protection Agency may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published along with public notice of the proposed action.

The review required by paragraphs (1) and (2) of this subsection may be waived for a period of fourteen days if there is an emergency situation which, in the judgment of the Administrator, requires immediate action. *Notice of any such waiver of review shall be immediately published in the Federal Register on the same day as any such action is first authorized or undertaken, whichever is earlier in time, and shall include a full and complete explanation, together with supporting data and narrative explanation thereof, of the factual situation which, in the judgment of the Administrator, requires the invocation of such waiver and a detailed presentation of the decision of the Administrator to utilize such waiver provision.*

* * * * * * * *

(i) (1) For the purposes of this Act, section 208(b) of title 18, United States Code, relating to conflicts of interest, can be invoked and implemented only by the Administrator personally. Such subsection shall not be invoked as to any person unless and until—

(A) the Congress has received, ten days prior thereto, a written report containing notice of the Administrator's intention so to invoke such subsection, a detailed statement of the subject matter concerning which a conflict exists; and in the case of an exemption set forth in clause (1) of such subsection, the nature of an officer's or employee's financial interest; or in the case of an exemption set forth in clause (2) of such subsection, the name and statement of financial interest of each person who will come within such exemption; and

* * * * * * * *

(D) Any officer or agency authorized to issue the rules, regulations, or orders described in paragraph (A) 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 unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rules, regulations, and orders. 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 paragraph (2) of this subsection when such *a* denial becomes final. The [officer or] agency shall, by rule, establish appropriate procedures, including a [hearing] *hearing, when requested, for review of a denial and*, where deemed advis-

able by the [officer or] agency, for considering [such] *other* requests for action under this [paragraph.] *paragraph, except that no review under this subparagraph shall be conducted or in any way controlled by the same officer authorized under paragraph (A) to issue any such rule, regulations or orders.*

Sec. 13. (a) * * *

* * * * * * *

INFORMATION-GATHERING POWER

(b) All persons owning or operating facilities or business premises who are engaged in any phase of energy supply or major energy consumption *including, but not limited (1) to United States firms and their foreign affiliates and (2) foreign firms, but only with respect to any such supply or consumption activities in the United States,* shall make available to the Administrator such information and periodic reports, records, documents, and other data, relating to the purposes of this Act, including full identification of all data and projections as to source, time, and methodology of development, as the Administrator may prescribe by regulation or order as necessary or appropriate for the proper exercise of functions under this Act, *including, but not limited (1) to United States firms and their foreign affiliates and (2) foreign firms, but only with respect to any such supply or consumption activities in the United States,*

* * * * * * *

(f) It shall be unlawful for any person to violate any provision of this section or to violate any rule, regulation, or order issued pursuant to any such provision.

(g) (1) Whoever willfully violates subsection (f) shall be subject to a criminal fine of not more than $10,000 for each violation.

(2) Whenever it appears to the Administrator that any individual or organization is engaged in or is about to engage in acts or practices constituting a violation of subsection (f), the Administrator may request the Attorney General to bring a civil action 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. In such action, the court may also issue mandatory injunctions commanding any person to comply with any provision, the violation of which is prohibited by subsection (f).

[(f)] *(h)* The Administrator shall collect from departments, agencies and instrumentalities of the executitve branch of the Government (including independent agencies), and each such department, agency, and instrumentality is authorized and directed to furnish, upon his request, information concerning energy resources on lands owned by the Government of the United States. Such information shall include, but not be limited to, quantities of reserves, current or proposed leasing agreements, environmental considerations, and economic impact analyses.

REPORTS AND RECOMMENDATIONS

SEC. 15. [(a) Six months before the expiration of this Act, the President shall transmit to Congress a full report together with his recommendations for—

[(1) disposition of the functions of the Administration upon its termination;

[(2) continuation of the Administration with its present functions; or

[(3) reorganization of the Administration; and

[(4) organization of the Federal Government for the management of energy and natural resources policies and programs.]

[(b)] *(a)* Not later than one year after the effective date of this Act, the Administrator shall submit a report to the President and Congress which will provide a complete and independent analysis of actual oil and gas reserves and resources in the United States and its Outer Continental Shelf, as well as of the existing productive capacity and the extent to which such capacity could be increased for crude oil and each major petroleum product each year for the next ten years through full utilization of available technology and capacity. The report shall also contain the Administration's recommendations for improving the utilization and effectiveness of Federal energy data and its manner of collection. The data collection and analysis portion of this report shall be prepared by the Federal Trade Commission for the Administration. Unless specifically prohibited by law, all Federal agencies shall make available estimates, statistics, data and other information in their files which, in the judgment of the Commission or Administration, are necessary for the purposes of this subsection.

[(c)] *(b)* The Administrator shall prepare and submit directly to the Congress and the President every year after the date of enactment of this Act a report which shall include—

(1) a review and analysis of the major actions taken by the Administrator;

(2) an analysis of the impact these actions have had on the Nation's civilian requirements for energy supplies for materials and commodities.

(3) a projection of the energy supply for the midterm and long term for each of the major types of fuel and the potential size and impact of any anticipated shortages, including recommendations for measures to—

(A) minimize deficiencies of energy supplies in relation to needs;

(B) maintain the health and safety of citizens;

(C) maintain production and employment at the highest feasible level;

(D) equitably share the burden of shortages among individuals and firms;

(4) a summary listing of all recipients of funds and the amount thereof within the preceding period; and

(5) a summary listing of information gathering activities conducted under section 13 of this Act.

[(d)] *(c)* Not later than thirty days after the effective date of this Act, the Administrator shall issue preliminary summer guidelines for citizen fuel use.

[(e)] *(d)* The Administrator shall provide interim reports to the Congress from time to time and when requested by committees of Congress.

ECONOMIC ANALYSIS AND PROPOSED ACTIONS

SEC. 18. (a) * * *

* * * * * * *

(d) The Administrator, together with the Secretaries of Labor and Commerce, shall monitor the economic impact of any energy actions taken by the Administrator, and shall provide the Congress with [a report every six months] *an annual report* on the impact of the energy shortage and the Administrator's actions on employment and the economy. Such report shall contain recommendations as to whether additional Federal programs of employment and economic assistance should be put into effect to minimize the impact of the energy shortage and any actions taken.

* * * * * * *

INFORMATION CONCERNING TRANSACTION, SALE, EXCHANGE OR SHIPMENT INVOLVING THE EXPORT FROM THE UNITED STATES TO A FOREIGN NATION OF COAL AND ANY REFINED PETROLEUM PRODUCTS

SEC. 25. (a) The Administrator is authorized [and directed] to establish and maintain a file which [shall contain] *may contain* information concerning every transaction, sale, exchange or shipment involving the export from the United States to a foreign nation of coal, crude oil, residual oil or any refined petroleum product. Information to be included in the file shall be current, and [shall include, but shall not] *may include but need not* be limited to, the name of the exporter (including the name or names of the holders of any beneficial interests), the volume and type of product involved in the export transaction, the manner of shipment and identification of the vessel or carrier, the destination, the name of the purchaser if a sale, exchange or other transaction is involved, and a statement of reasons justifying the export. *The Administrator may also obtain representative samples of any such shipment.*

* * * * * * *

REVERSION

SEC. 28. [Upon the termination of this Act] (a) *Notwithstanding section 527 of the Energy Policy and Conservation Act,* any functions or personnel transferred by this Act shall revert to the department, agency, or office from which they were transferred. [An officer or employee of the Federal Government who is appointed, without break in service of one or more workdays, to any position for carrying out functions under this Act is entitled, upon separation from such position other than for cause, to reemployment in the position occupied at the time of appointment, or in a position of comparable grade and salary.]

(b) The following functions or activities of the Administration which have been created by the authority of this Act or by any other provision of law and the personnel associated with such functions or activities shall be transferred as follows:

(1) mandatory allocation of crude oil, residual fuel oil, and refined petroleum products—to the Department of the Interior;

(2) price controls on crude oil, residual fuel oil, and refined petroleum products—to the Federal Power Commission;

(3) advice to the President and the Congress on energy policy development of programs and plans for energy conservation in time of shortage—to the Energy Resources Council;

(4) collection, analysis, and reporting of energy data and information—to the Department of Commerce;

(5) development and implementation of voluntary and mandatory conservation programs—to the Energy Research and Development Administration;

(6) coal conversion program—to the Environmental Protection Agency;

(7) loan guarantees for new coal mines—to the Department of the Interior;

(8) materials allocation—to the Department of the Interior;

(9) strategic reserves—to the Department of the Interior;

(10) international energy programs—to the Department of State;

(11) appliance efficiency, labeling programs, State energy conservation plans, Federal energy conservation programs, and public education programs—to the Department of Commerce;

(12) analysis of economic impact of energy actions—to the Energy Resources Council; and

(13) coordination of Federal energy programs with State governments—to the Department of Commerce.

The administrative and procedural provisions of this Act shall, to the extent practicable, continue to apply to the implementation of said functions and activities. An officer or employee of the Federal Government who is appointed, without break in service of one or more workdays, to any position for carrying out functions under this Act is entitled, upon separation from such position other than for cause, to reemployment in the position occupied at the time of appointment, or in a position of comparable grade and salary.

AUTHORIZATION OF APPROPRIATIONS

SEC. 29. (a) There are [hereby] authorized to be appropriated to the [Administrator, to remain available until expended, $75,000,000 for fiscal year 1974, and $200,000,000 annually for each of fiscal years 1975 and 1976 to carry out the purposes of this Act.] *Federal Energy Administration the following sums:*

(1) Subject to the restrictions specified in subsection (b), to carry out the functions identified as assigned to Executive Direction and Administration of the Federal Energy Administration as of January 1, 1976—

(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $8,596,000; and

(B) for the fiscal year ending September 30, 1977, not to exceed $31,554,000.

(2) To carry out the functions identified as assigned to the Office of Energy Policy and Analysis as of January 1, 1976—

(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $8,000,000; and

(B) for the fiscal year ending September 30, 1977, not to exceed $34,472,000.

(3) To carry out the functions identified as assigned to the Office of Regulatory Programs as of January 1, 1976—

(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $11,600,000; and

(B) for the fiscal year ending September 30, 1977, not to exceed $47,800,000.

(4) To carry out the functions identified as assigned to the Office of Conservation and the Environment as of January 1, 1976—

(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $7,004,000; and

(B) for the fiscal year ending September 30, 1977, not to exceed $40,596,000.

(5) To carry out the functions identified as assigned to the Office of Energy Resource Development as of January 1, 1976—

(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $2,800,000; and

(B) for the fiscal year ending September 30, 1977, not to exceed $11,914,000.

(6) To carry out the functions identified as assigned to the Office of International Energy Affairs as of January 1, 1976—

(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $300,000; and

(B) for the fiscal year ending September 30, 1977, not to exceed $1,921,000.

(b) The following restrictions shall apply to the authorization of appropriations specified in paragraph (1) of subsection (a):

(1) amounts to carry out the functions identified as assigned to the Office of Communications and Public Affairs as of January 1, 1976, shall not exceed $607,000 for the period beginning July 1, 1976, and ending September 30, 1976, and shall not exceed $2,274,000 for the fiscal year ending September 30, 1977; and

(2) no amounts authorized to be appropriated in such paragraph may be used to carry out the functions identified as assigned to the Office of Nuclear Affairs as of January 1, 1976.

EFFECTIVE DATE; TERMINATION DATE

SEC. 30. This Act shall become effective sixty days after the date of enactment or sooner if the President publishes notice in the Federal Register. This Act shall terminate [June 30, 1976.] *September 30, 1977.*

ENERGY REORGANIZATION ACT OF 1974

* * * * * * *

INTERIM COORDINATION

SEC. 108 (a) * * *

* * * * * * *

(b) It shall be the duty and function of the Council to—

(1) insure communication and coordination among the agencies of the Federal Government which have responsibilities for the development and implementation of energy policy or for the management of energy resources:

(2) make recommendations to the President and to the Congress for measures to improve the implementation of Federal energy policies or the management of energy resources with particular emphasis upon policies and activities involving two or more Departments or independent agencies; [and]

(3) advise the President in the preparation of the reorganization recommendations required by section 110 of this [Act.] *Act;*

(4) coordinate the preparation of the reports required by section 15(c) of the Federal Energy Administration Act of 1974 and section 307 of the Energy Reorganization Act of 1974 and, to the maximum extent feasible, combine the two reports into a single report to the President and Congress on national energy policy and programs;

(5) prepare a report on national energy conservation activities which shall be submitted to the President and the Congress annually, beginning on July 1, 1977, and which shall include—

(A) a review of all Federal energy conservation expenditures and activities, the purpose of each such activity, the relation of the activity to national conservation targets and plans, and the success of the activity and the plans for the activity in future years;

(B) an analysis of all conservation targets established for industry, residential, transportation, and public sectors of the economy, whether the targets can be achieved or whether they can be further improved, and the progress toward their achievement in the past year;

(C) a review of the progress made pursuant to the State energy conservation plans under sections 361 through 366 of the Energy Policy and Conservation Act and other similar efforts at the State and local level, and whether further conservation can be carried on by the States or by local governments, and whether further Federal assistance is required;

(D) a review of the principal conservation efforts in the private sector, the potential for more widespread implementation of such efforts and the Federal Government's efforts to promote more widespread use of private energy conservation initiatives; and

(E) an assessment of whether existing conservation targets and goals are sufficient to bridge the gap between domestic energy production capacity and domestic energy needs, whether additional incentives or programs are necessary or useful to close that gap further, and a discussion of what mandatory measures might be useful to further bring domestic demand into harmony with domestic supply.

The Chairman of the Energy Resources Council shall carry out the coordination required under paragraph (4) and shall coordinate the preparation of the report required under paragraph (5).

(c) The President, through the Energy Resources Council, shall—

(1) prepare a plan for the reorganization of the Federal Government's activities in energy and natural resources, including, but not limited to, a study of—

(A) the principal laws and directives that constitute the energy and natural resource policy of the United States;

(B) prospects of developing a consolidated national enrgy policy;

(C) the major problems and issues of existing energy and natural resource organizations;

(D) the options for Federal energy and natural resource organizations;

(E) an overview of available resources pertinent to energy and natural resource organization;

(F) recent proposals for a national energy and natural resource policy for the United States; and

(G) the relationship between energy policy goals and other national objectives;

(2) submit to Congress—

(A) no later than December 31, 1976, the plan prepared pursuant to subsection (c)(1) and a report containing his recommendations for the reorganization of the Federal Government's responsibility for energy and natural resource matters together with such proposed legislation as he deems necessary or appropriate for the implementation of such plans or recommendations; and

(B) not later than March 1, 1977, such revised information or policy recommendations shall be submitted according to paragraph (A); and

(3) provide interim and transitional policy planning for energy and natural resource matters in the Federal Government.".

[(c)](*d*) The Chairman of the Council may not refuse to testify before the Congress or any duly authorized committee thereof regarding the duties of the Council or other matters concerning interagency coordination of energy policy and activities.

[(d)] (*e*) This section shall be effective no later than sixty days after the enactment of this Act or such earlier date as the President shall prescribe and publish in the Federal Register, and shall terminate upon enactment of a permanent department responsible for energy and natural resources or two years after such effective date, whichever shall occur first.

IX. Text of S. 2872 as Reported

A BILL To amend the Federal Energy Administration Act of 1974 to extend the expiration date of such law until September 30, 1977, and for other purposes

Be it enacted by th e Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Energy Administration Extension Act.".

Section 101. This Act may be cited as the "Federal Energy Administration Extension Act.".

Sec. 102. Section 7(c)(2) of the Federal Energy Administration Act of 1974 is amended—

(1) by striking out "five" and inserting in lieu thereof "fifteen"; and

(2) by adding at the end of the second paragraph the following new sentence: "Notice of any such waiver of review shall be immediately published in the Federal Register on the same day as any such action is first authorized or undertaken, whichever is

earlier in time, and shall include a full and complete explanation, together with supporting data and narrative explanation thereof, of the factual situation which, in the judgment of the Administrator, requires the invocation of such waiver and a detailed presentation of the decision of the Administrator to utilize such waiver provision.".

Sec. 103. The second and third sentences of section 7(i)(1)(D) of the Federal Energy Administration Act of 1974 are amended to read as follows: "If such person is aggrieved or adversely affected by the denial of a request of such action under the preceding sentence, he may request a review of such denial by the agency and may obtain judicial review in accordance with paragraph (2) of this subsection when such a denial becomes final. The agency shall, by rule, establish appropriate procedures, including a hearing, when requested, for review of a denial and, where deemed advisable by the agency, for considering other requests for action under this paragraph, except that no review of such a denial under this subparagraph shall be controlled by the same officer denying the adjustment pursuant to this subparagraph."

Sec. 104. (a) Section 13(b) of the Federal Energy Administration Act of 1974 is amended by inserting after, "who are engaged in any phase of energy supply or major energy consumption" the following: "including, but not limited (1) to United States firms and their foreign affiliates and (2) foreign firms, but only with respect to any such supply or consumption activities in the United States,".

(b) Section 13 of the Federal Energy Administration Act of 1974 is amended by redesignating subsection (f) as subsection (h) and inserting after subsection (e) the following:

"(f) It shall be unlawful for any person to violate any provision of this section or to violate any rule, regulation, or order issued pursuant to any such provision.

(g)(1) Whoever willfully violates subsection (f) shall be subject to a criminal fine of not more than $10,000 for each violation.

"(2) Whenever it appears to the Administrator that any individual or organization is engaged in or is about to engage in acts or practices constituting a violation of subsection (f), the Administrator may request the Attorney General to bring a civil action 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. In such action, the court may also issue mandatory injunctions commanding any person to comply with any provision, the violation of which is prohibited by subsection (f).".

Sec. 105. (a) Section 15 of the Federal Energy Administration Act of 1974 is amended—

(1) by striking out subsection (a); and

(2) by redesignating subsections (b), (c), (d), and (e), as subsections (a), (b), (c), and (d), respectively.

(b) Section 15(a) of the Federal Energy Administration Act of 1974 is hereby repealed.

Sec. 106. Section 18(d) of the Federal Energy Administration Act of 1974 is amended by striking out "a report every six months" and inserting in lieu thereof "an annual report".

Sec. 107. Section 25(a) of the Federal Energy Administration Act of 1974 is amended—

(1) by striking out "and directed";

(2) by striking out "shall contain" and inserting in lieu thereof "may contain";

(3) by striking out "shall include," and inserting in lieu thereof "may include,";

(4) by striking out "but shall not" and inserting in lieu thereof "but need not"; and

(5) by adding at the end thereof the following new sentence: "The Administrator may also obtain representative samples of any such shipment.".

SEC. 108. Section 28 of the Federal Energy Administration Act of 1974 is amended to read as follows:

"REVERSION

"SEC. 28. (a) Notwithstanding section 527 of the Energy Policy and Conservation Act, upon termination of this Act, any functions or personnel transferred by this Act shall revert to the department, agency, or office from which they were transferred.

"(b) Upon termination of this Act the following functions or activities of the Administration which have been created by the authority of this Act or by any other provision of law and the personnel associated with such functions or activities shall be transferred as follows:

"(1) mandatory allocation of crude oil, residual fuel oil, and refined petroleum products—to the Department of the Interior;

"(2) price controls on crude oil, residual fuel oil, and refined petroleum products—to the Federal Power Commission;

"(3) advice to the President and the Congress on energy policy development of programs and plans for energy conservation in time of shortage—to the Energy Resources Council;

"(4) collection, analysis, and reporting of energy data and information—to the Department of Commerce;

"(5) development and implementation of voluntary and mandatory conservation programs—to the Energy Research and Development Administration;

"(6) coal conversion program—to the Environmental Protection Agency;

"(7) loan guarantees for new coal mines—to the Department of the Interior;

"(8) materials allocation—to the Department of the Interior;

"(9) strategic reserves—to the Department of the Interior;

"(10) international energy programs—to the Department of State;

"(11) appliance efficiency, labeling programs, State energy conservation plans, Federal energy conservation programs, and public education programs—to the Department of Commerce;

"(12) analysis of economic impact of energy actions—to the Energy Resources Council; and

"(13) coordination of Federal energy programs with State governments—to the Department of Commerce.

The administrative and procedural provisions of this Act shall, to the extent practicable, continue to apply to the implementation of said functions and activities. An officer or employee of the Federal Government who is appointed, without break in service of one or more workdays, to any position for carrying out functions under this Act is

entitled, upon separation from such position other than for cause, to reemployment in the position occupied at the time of appointment, or in a position of comparable grade and salary.".

SEC. 109. The text of section 20 of the Federal Energy Administration Act of 1974 is amended to read as follows:

"SEC. 29. (a) There are authorized to be appropriated to the Federal Energy Administration the following sums:

"(1) Subject to the restrictions specified in subsection (b), to carry out the functions identified as assigned to Executive Direction and Administration of the Federal Energy Administration as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $8,596,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $31,554,000.

"(2) To carry out the functions identified as assigned to the Office of Energy Policy and Analysis as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $8,000,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $34,472,000.

"(3) To carry out the functions identified as assigned to the Office of Regulatory Programs as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $11,600,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $47,800,000.

"(4) To carry out the functions identified as assigned to the Office of Conservation and the Environment as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $7,004,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $40,596,000.

"(5) To carry out the functions identified as assigned to the Office of Energy Resource Development as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $2,800,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $14,914,000.

"(6) To carry out the functions identified as assigned to the Office of International Energy Affairs as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $300,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $1,921,000.

"(b) The following restrictions shall apply to the authorization of appropriations specified in paragraph (1) of subsection (a):

"(1) amounts to carry out the functions identified as assigned to the Office of Communications and Public Affairs as of January 1, 1976, shall not exceed $607,000 for the period beginning July 1, 1976, and ending September 30, 1976, and shall not exceed $2,274,000 for the fiscal year ending September 30, 1077; and

"(2) no amounts authorized to be appropriated in such paragraph may be used to carry out the functions identified as assigned to the Office of Nuclear Affairs as of January 1, 1976.".

SEC. 110. Section 30 of the Federal Energy Administration Act of 1974 is amended by striking out "June 30, 1976." and inserting in lieu thereof "September 30, 1977.".

SEC. 111. (a) Section 108(b) of the Energy Reorganization Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(4) coordinate the preparation of the reports required by section 15(c) of the Federal Energy Administration Act of 1974 and section 307 of the Energy Reorganization Act of 1974 and, to the maximum extent feasible, combine the two reports into a single report to the President and Congress on national energy policy and programs;

"(5) prepare a report on national energy conservation activities which shall be submitted to the President and the Congress annually, beginning on July 1, 1977, and which shall include—

"(A) a review of all Federal energy conservation expenditures and activities, the purpose of each such activity, the relation of the activity to national conservation targets and plans, and the success of the activity and the plans for the activity in future years;

"(B) an analysis of all conservation targets established for industry, residential, transportation, and public sectors of the economy, whether the target can be achieved or whether they can be further improved, and the progress toward their achievement in the past year;

"(C) a review of the progress made pursuant to the State energy conservation plans under sections 361 through 366 of the Energy Policy and Conservation Act and other similar efforts at the State and local level, and whether further conservation can be carried on by the States or by local governments, and whether further Federal assistance is required;

"(D) a review of the principal conservation efforts in the private sector, the potential for more widespread implementation of such efforts and the Federal Government's efforts to promote more widespread use of private energy conservation initiatives; and

"(E) an assessment of whether existing conservation targets and goals are sufficient to bridge the gap between domestic energy production capacity and domestic energy needs, whether additional incentives or programs are necessary or useful to close that gap further, and a discussion of what mandatory measures might be useful to further bring domestice demand into harmony with domestic supply.

The Chairman of the Energy Resources Council shall carry out the coordination required under paragraph (4) and shall coordinate the preparation of the report required under paragraph (5).".

(b) Section 108 of the Energy Reorganization Act of 1974 as amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by adding after subsection (b) the following new subsection:

"(c) The President, through the Energy Resources Council, shall—

"(1) prepare a plan for the reorganization of the Federal Government's activities in energy and natural resources, including, but not limited to, a study of—

"(A) the principal laws and directives that constitute the energy and natural resource policy of the United States;

"(B) prospects of developing a consolidated national energy policy;

"(C) the major problems and issues of existing energy and natural resource organizations;

"(D) the options for Federal energy and natural resource organizations;

"(E) an overview of available resources pertinent to energy and natural resource organization;

"(F) recent proposals for a national energy and natural resource policy for the United States; and

"(G) the relationship between energy policy goals and other national objectives;

"(2) submit to Congress—

"(A) no later than December 31, 1976, the plan prepared pursuant to subsection (c)(1) and a report containing his recommendations for the reorganization of the Federal Government's responsibility for energy and natural resource matters together with such proposed legislation as he deems necessary or appropriate for the implementation of such plans or recommendations; and

"(B) not later than March 1, 1977, such revised information or policy recommendations shall be submitted according to paragraph (A); and

"(3) provide interim and transitional policy planning for energy and natural matters in the Federal Government.".

SEC. 112. (a) The Administrator of the Federal Energy Administration shall study and report to the Congress no later than November 30, 1976, on the use of a tax on energy, including a tax applied to the use of each British Thermal Unit (hereinafter referred to in this section as "BTU") of energy consumed, to ensure the attainment of an acceptable low level of energy imports by 1985.

(b) The study authorized by subsection (a) shall include an analysis and evaluation of:

(1) energy taxes based on (A) an across the board tax of at least $1.00 per million BTU on the use of non-renewable forms of energy, to be levied at the mine-mouth, wellhead, or port-of-entry; and (B) taxes designed to correct existing departures of prices for energy from the full marginal social costs of energy production, transportation, conversion, distribution, and use arising from uninternalized social costs, including, for example, costs of reliance upon insecure foreign sources of supply, costs of ad-

verse environmental impacts, and distortions arising from regulation of prices;

(2) refund of taxes on the basis of uniform payments to each adult; and

(3) the impacts of such taxes on—

(A) the economy, including the general price level and energy prices, employment, government revenue, and distribution of income and relative purchasing power;

(B) the supply of and demand for energy;

(C) the degree or reliance on insecure foreign sources of supply;

(D) reduction of adverse social costs, including environmental, health and safety costs; and

(E) the degree to which the need for Federal Energy Administration regulatory programs would be diminished or eliminated.

TITLE II. ELECTRIC UTILITY RATE REFORM ACT OF 1976

SEC. 201. That this title may be cited as the "Electric Utility Rate Reform Act of 1976".

FINDINGS OF FACT AND DECLARATION OF POLICY

SEC. 202. Congress hereby finds and declares that—

(1) there is great potential for reduction in the cost of electric utility services to consumers, energy conservation, better use of existing electrical generating facilities, and relief from the current and projected shortage of capital in this Nation in the development and implementation by utility regulatory commissions of innovative electric utility rate structures;

(2) as a rule, utility regulatory commissions have not taken sufficient action to realize this potential by revising the rate structures of electric utility companies subject to their jurisdiction;

(3) efforts in this regard can be promoted by requiring the Federal Energy Administration to set utility rate structure guidelines for utility regulatory commissions and to report to Congress on the progress of such commissions in adopting and using such guidelines;

(4) such efforts can be further encouraged by providing the Federal Energy Administration with funds to be used specifically for utility rate demonstration projects, technical assistance in the area of rate reform, intervention in the proceedings of utility regulatory commissions for the purpose of promoting the implementation of Federal guidelines and financial assistance to State offices of consumer services to facilitate presentation of consumer interests before such commissions; and

(5) if such measures fail to produce the desired movement of utility regulatory commissions in the direction of innovative rate structures, it will be appropriate for Congress then to consider the enactment of more stringent directives to such commissions.

DEFINITIONS

SEC. 203. As used in this title—

(1) "Administrator" means the Administrator of the Federal Energy Administration;

(2) "electric utility company" means any person who owns or operates facilities used for the generation, transmission, or distribution and sale of electric energy for use other than resale;

(3) "utility regulatory commission" means the agency, commission, or establishment which has the responsibility for establishing and administering rules and regulations relating to the operation of and rates charged by an electric utility company; and

(4) "State utility regulatory commission" means the agency, commission, or establishment of any State (or the Tennessee Valley Authority) which has the responsibility for establishing and administering rules and regulations relating to the operation of and rates charged by an electric utility company; and

(5) "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and the Trust Territories of the Pacific, and for the purposes of section 206, such term shall include the Tennessee Valley Authority.

ELECTRIC UTILITY RATE STRUCTURE GUIDELINES

SEC. 204. (a) The Administrator shall prepare voluntary guidelines establishing the parameters within which utility regulatory commissions should approve electric utility rates in order to encourage electric utility companies to utilize innovative electric utility rate structures.

(b) The guidelines established under subsection (a) shall provide for rate structures which to the extent feasible are cost-based, energy conserving, equitable in their operation and effect upon all classes of customers for electric utility service and provide incentives for maximum use of existing electrical generating facilities.

(c) The guidelines prepared under subsection (a) shall be published in the Federal Register not later than 180 days after the date of enactment of this title, and shall be reviewed, revised, and republished at least annually thereafter.

(d) Within 30 days following publication of the guidelines in the Federal Register, the Administrator shall distribute copies of all such guidelines to utility regulatory commissions together with a written request for cooperation in the use and implementation of, and voluntary compliance with, the guidelines.

ASSISTANCE TO STATE UTILITY REGULATORY COMMISSIONS

SEC. 205. (a) The Administrator is authorized in addition to assistance or authority provided or available under the Federal Energy Administration Act—

(1) to provide financial assistance to State utility regulatory commissions to enable them to develop innovative electric utility rate structure and load management demonstration projects;

(2) to provide technical assistance to State utility regulatory commissions to enable them to establish innovative electric utility

rate structures including informing, such commissions of the identification and development of load maagement techniques, the results of experiments in load management, developments and innovations in electric utility ratemaking, methods of determining cost of service, and the results of experiments in rate structure and rate reform; and

(3) to intervene in such administrative or court proceedings as the Administrator may deem to be appropriate for the purpose of developing electric utility rate structures which comply with the guidelines established under section 204(a).

(b) Assistance may only be furnished under subsections (a) (1) and (2) pursuant to an application submitted by a State utility regulatory commission and approved by the Administrator. In such application, the applicant shall—

(1) certify that it is a State utility regulatory commission within the meaning of this title;

(2) describe, in such form and detail as the Administrator may by regulation require, a plan or program for the development of an innovative electric utility rate structure or load management demonstration project, in the case of applications under subsection (a)(1), or for the establishment of innovative electric utility rate structures, in the case of applications under subsection (a) (2); and

(3) furnish such assurances as the Administrator may require that funds made available under this title will be in addition to, and not in substitution for, funds made available to such State utility regulatory commission from other sources.

GRANTS FOR OFFICES OF CONSUMER SERVICES

SEC. 206. The Administrator may make grants to States under the provisions of this title to provide for the establishment and operation of offices of consumer services to assist consumers in their presentations before utility regulatory commissions. Any assistance provided under this section shall be provided only for an office of consumer services which is operated independently of the State utility regulatory commission . . . and with respect to which, in the case of the Tennessee Valley Authority, the person or persons with final responsibility for the direction of such office are appointed by the President of the United States, by and with the advice and consent of the Senate of the United States . . . and is empowered to—

(a) make general factual assessments of the impact of rate changes and other regulatory actions upon all affected consumers;

(b) assist consumers in the presentation of their positions be fore utility regulatory commissions; and

(c) advocate, on its own behalf, a position which it determines represents the position most advantageous to the public, taking into account developments in rate structure reform which have achieved or could achieve energy conservation, equity in operation and effects on all classes of customers and provides incentives for maximum use of existing electrical generating facilities.

REPORTS

SEC. 207. Not later than the last day in December in each year following the date of enactment of this title, the Administrator shall transmit to the Congress a report containing—

(1) the guidelines published in that year pursuant to section 204;

(2) the nature and location of testimony given in interventions pursuant to section 205(a)(3);

(3) a description of the adoption and use of utility regulatory commissions of the rate structure voluntary giudelines;

(4) a list of the State offices of consumer services funded under Section 206, and a summary description of the services provided by each such office; and

(5) recommendations to the need for and types of further Federal legislation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. (a) There are authorized to be appropriated not to exceed $10,000,000 in fiscal year 1977 for the purpose of carrying out the provisions of Section 205(a).

(b) There are authorized to be appropriated not to exceed $2,000,000 in fiscal year 1977 for the purpose of carrying out the provisions of section 206.

○

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 94-1197

PROVIDING FOR THE CONSIDERATION OF H.R. 12169

MAY 26, 1976.—Referred to the House Calendar and ordered to be printed

Mr. SISK, from the Committee on Rules, submitted the following

REPORT

[To accompany H. Res. 1220]

The Committee on Rules, having had under consideration House Resolution 1220, by a record vote of 8 to 5, report the same to the House with the recommendation that the resolution do pass.

O

94TH CONGRESS } SENATE { REPORT
2d Session } { No. 94-1119

ENERGY CONSERVATION AND PRODUCTION ACT

AUGUST 5, 1976.—Ordered to be printed

Mr. RIBICOFF, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 12169]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12169) to amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

CONTENTS

57-010 O

TITLE I—FEDERAL ENERGY ADMINISTRATION ACT AMENDMENTS AND RELATED MATTERS

PART A—FEDERAL ENERGY ADMINISTRATION ACT AMENDMENTS

SHORT TITLE

SEC. 101. This title may be cited as the "Federal Energy Administration Act Amendments of 1976".

LIMITATION ON DISCRETION OF ADMINISTRATOR WITH RESPECT TO ENERGY ACTIONS

SEC. 102. Section 5 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(c)(1) The Administrator shall not exercise the discretion delegated to him by the President, pursuant to section 5(b) of the Emer-

gency Petroleum Allocation Act of 1973, to submit to the Congress as one energy action any amendment to the regulation under section 4(a) of such Act, pursuant to section 12 of such Act, which amendment exempts any oil, refined petroleum product, or refined product category from both the allocation and pricing provisions of the regulation under section 4 of such Act.

"(2) Nothing in this subsection shall prevent the Administrator from concurrently submitting an energy action relating to price together with an energy action relating to allocation of the same oil, refined petroleum product, or refined product category.".

ENVIRONMENTAL PROTECTION AGENCY COMMENT PERIOD AND NOTICE OF WAIVER

SEC. 103. Paragraphs (1) and (2) of section 7(c) of the Federal Energy Administration Act of 1974 are amended to read as follows:

"(1) The Administrator shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

"(2) The review required by paragraph (1) of this subsection may be waived for a period of fourteen days if there is an emergency situation which, in the judgment of the Administrator, requires making effective the action proposed to be taken at a date earlier than would permit the Administration of the Environmental Protection Agency the five working days opportunity for prior comment required by paragraph (1). Notice of any such waiver shall be given to the Administrator of the Environmental Protection Agency and filed with the Federal Register with the publication of notice of proposed or final agency action and shall include an explanation of the reasons for such waiver, together with supporting data and a description of the factual situation in such detail as the Administrator determines will apprise such agency and the public of the reasons for such waiver.".

GUIDELINES FOR HARDSHIP AND INEQUITY AND HEARING AT APPEALS

SEC. 104. Section 7(i)(1)(D) of the Federal Energy Administration Act of 1974 is amended to read as follows:

"(D) Any officer or agency authorized to issue the rules, regulations, or orders described in paragraph (A) 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 unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rules, regulations, and orders. Such officer or agency shall, within ninety days after the date of the enactment of the Federal Energy Administration Act Amendments of 1976, establish criteria and guidelines by which such special hardship, inequity, or unfair distribution of burdens shall be evaluated. Such officer or agency shall additionally

insure that each decision on any application or petition requesting an adjustment shall specify the standards of hardship, inequity, or unfair distribution of burden by which any disposition was made, and the specific application of such standards to the facts contained in any such application or petition. If any person is aggrieved or adversely affected by a denial of a request for adjustment under the preceding sentences, he may request a review of such denial by the agency and may obtain judicial review in accordance with paragraph (2) of this subsection when such a denial becomes final. The agency shall, by rule, establish appropriate procedures, including a hearing when requested, for review of a denial, and where deemed advisable by the agency, for considering other requests for action under this paragraph, except that no review of a denial under this subparagraph shall be controlled by the same officer denying the adjustment pursuant to this subparagraph.".

REQUIREMENTS FOR HEARING IN THE GEOGRAPHIC AREA AFFECTED BY RULES AND REGULATIONS OF THE ADMINISTRATOR

SEC. 105. Section 7(i)(1) is amended by adding after subparagraph (E) the following new subparagraph:

"(F)(i) With respect to any rule or regulation of the Administrator the effects of which, except for indirect effects of an inconsequential nature, are confined to—

"(I) a single unit of local government or the residents thereof;

"(II) a single geographic area within a State or the residents thereof; or

"(III) a single State or the residents thereof;

the Administrator shall, in any case where he is required by law, or where he determines, to afford an opportunity for a hearing or the oral presentation of views, provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in subclauses (I) through (III), as the case may be.

"(ii) For purposes of this subparagraph—

"(I) the term 'unit of local government' means a county, municipality, town, township, village, or other unit of general government below the State level; and

"(II) the term 'geographic area within a State' means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

"(iii) Nothing in this subparagraph shall be construed as requiring a hearing or an oral presentation of views where none is required by law or, in the absence of such a requirement, where the Administrator determines a hearing or oral presentation is not appropriate.".

LIMITATION ON THE ADMINISTRATOR'S AUTHORITY WITH RESPECT TO ENFORCEMENT OF REGULATIONS AND RULINGS

SEC. 106. Section 7 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(k) The Administrator or his delegate may not exercise discretion to maintain a civil action (other than an action for injunctive

relief) or issue a remedial order against any person whose sole petroleum industry operation relates to the marketing of petroleum products, for any violation of any rule or regulation if—

"(1) such civil action or order is based upon a retroactive application of such rule or regulation or is based upon a retroactive interpretation of such rule or regulation; and

"(2) such person relied in good faith upon rules, regulations, or rulings interpreting such rules or regulations, in effect on the date of the violation.".

MAINTAINING ACCOUNTS OR RECORDS FOR COMPLIANCE PURPOSES; AND ALLEVIATION OF SMALL BUSINESS REPORTING BURDENS

SEC. 107. Section 13 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(g) With respect to any person who is subject to any rule, regulation, or order promulgated by the Administrator or to any provision of law the administration of which is vested in or transferred or delegated to the Administrator, the Administrator may require, by rule, the keeping of such accounts or records as he determines are necessary or appropriate for determining compliance with such rule, regulation, order, or any applicable provision of law.

"(h) In exercising his authority under this Act and any other provision of law relating to the collection of energy information, the Administrator shall take into account the size of businesses required to submit reports with the Administrator so as to avoid, to the greatest extent practicable, overly burdensome reporting requirements on small marketers and distributors of petroleum products and other small business concerns required to submit reports to the Administrator.".

PENALTIES FOR FAILURE TO FILE INFORMATION

SEC. 108. Section 13 of the Federal Energy Administration Act of 1974 as amended by this Act is further amended by adding at the end thereof the following new subsection:

"(i) Any failure to make information available to the Administrator under subsection (b), any failure to comply with any general or special order under subsection (c), or any failure to allow the Administrator to act under subsection (d) shall be subject to the same penalties as any violation of section 11 of the Energy Supply and Environmental Coordination Act of 1974 or any rule, regulation, or order issued under such section.".

REPORTS

SEC. 109. (a) Section 15 of the Federal Energy Administration Act of 1974 is amended—

(1) by striking out subsection (a) thereof; and

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d), respectively.

(b) Section 15(b) of such Act (as redesignated by subsection (a) of this section) is amended—

(1) by striking out "and" in paragraph (4) after "period;";

(2) in paragraph (5) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by inserting at the end of such subsection the following:

(6) an analysis of the energy needs of the United States and the methods by which such needs can be met, including both tax and nontax proposals and energy conservation strategies.

In the first annual report submitted after the date of enactment of the Energy Conservation and Production Act, the Administrator shall include in such report with respect to the analysis referred to in paragraph (6) a specific discussion of the utility and related benefits of employing a Btu tax as a means for obtaining national energy goals.".

(c) Section 15 of such Act (as amended by this section) is further amended by adding at the end thereof the following:

"(e) The analysis referred to in subsection (b)(6) shall include, for each of the next five fiscal years following the year in which the annual report is submitted and for the tenth fiscal year following such year—

"(1) the effect of various conservation programs on such energy needs;

"(2) the alternate methods of meeting the energy needs identified in such annual report and of—

"(A) the relative capital and other economic costs of each such method;

"(B) the relative environmental, national security, and balance-of-trade risks of each such method;

"(C) the other relevant advantages and disadvantages of each such method; and

"(3) recommendations for the best method or methods of meeting the energy needs identified in such annual report and for legislation to meet those needs.

Notwithstanding the termination of this Act, the President shall designate an appropriate Federal agency to conduct the analysis specified in subsection (b)(6).".

(d) Section 18(d) of the Federal Energy Administration Act of 1974 is amended by striking out "a report every six months" and inserting in lieu thereof "an annual report".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 110. Section 29 of the Federal Energy Administration Act of 1974 is amended to read as follows:

"SEC. 29. (a) There are authorized to be appropriated to the Federal Energy Administration the following sums:

"(1) subject to the restrictions specified in subsection (b), to carry out the functions identified as assigned to Executive Direction and Administration of the Federal Energy Administration as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $8,655,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $33,086,000.

"(2) to carry out the functions identified as assigned to the Office of Energy Policy and Analysis as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $8,137,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $34,971,000.

"(3) to carry out the functions identified as assigned to the Office of Regulatory Programs as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $13,238,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $62,459,000.

"(4) to carry out the functions identified as assigned to the Office of Conservation and the Environment as of January 1, 1976 (other than functions described in title II of the Energy Conservation and Production Act)—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $7,386,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $37,000,000.

"(5) to carry out the functions identified as assigned to the Office of Energy Resource Development as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $3,052,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $16,934,000.

"(6) to carry out the functions identified as assigned to the Office of International Energy Affairs as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $300,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $1,921,000.

"(7) subect to the restriction specified in subsection (c), to carry out a program to develop the policies plans implementation strategies and program definition for promoting accelerated utilization and widespread commercialization of solar energy and to provide overall coordination of Federal solar energy commercialization activities—

"(A) for the peeriod beginning July 1, 1976 and ending September 30, 1976, not to exceed $500,000; and

"(B) for the fiscal year ending September 30, 1977 not to exceeed $2,500,000.

"(8) for the purpose of permitting public use of the Project Independence Evaluation System pursuant to section 31 of this Act, not to exceeed the aggregate amount of the fees estimated to be charged for such use.

"(b) The following restrictions shall apply to the authorization of appropriations specifieed in paragraph (1) of subsection (a)—

"(1) amounts to carry out the functions identified as assigned to the Office of Communications and Public Affairs as of January 1, 1976, shall not exceed $607,000 for the period beginning July 1, 1976, and ending September 30, 1976, and shall not exceed $2,036,000 for the fiscal year ending September 30, 1977; and

"(2) no amounts authorized to be appropriated in such paragraph may be used to carry out the functions identified as assigned to the Officer of Nuclear Affairs as of January 1, 1976.

"(c) No amounts authorized to be appropriated in paragraph (7) of subsection (a) may be used to carry out solar energy research devepment, or demonstration activities.".

COLLECTION OF INFORMATION CONCERNING EXPORTS OF COAL OR PETROLEUM PRODUCTS

SEC. 111. Section 25 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following new subsection:

"(d) The Administrator shall not be required to collect independently information described in subsection (a) if he can secure the information described in subsection (a) from other Federal agencies and the information secured from such agencies is available to the Congress pursuant to a request under subsection (b).".

FEDERAL ENERGY ADMINISTRATION ACT EXTENSION

SEC. 112. (a) The second sentence of section 30 of the Federal Energy Administration Act of 1974 is amended to read as follows: "This Act shall terminate December 31, 1977.".

(b) The amendment made by subsection (a) to section 30 of the Federal Energy Administration Act of 1974 shall take effect on July 30, 1976.

PROJECT INDEPENDENCE EVALUATION SYSTEM DOCUMENTATION AND ACCESS

SEC. 113. The Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following new section:

"PROJECT INDEPENDENCE EVALUATION SYSTEM DOCUMENTATION AND ACCESS

"Sec. 31. The Administrator of the Federal Energy Administration shall—

"(1) submit to the Congress, not later than September 1, 1976, full and complete structural and parametric documentation, and not later than January 1, 1977, operating documentation, of the Project Independence Evaluation System computer model;

"(2) provide access to such model to representatives of committees of the Congress in an expeditious manner; and

"(3) permit the use of such model on the computer system maintained by the Federal Energy Administration by any member of the public upon such reasonable terms and conditions as the Administrator shall, by rule, prescribe. Such rules shall provide that any member of the public who uses such model may be charged a fair and reasonable fee, as determined by the Administrator, for using such model.".

PART B—PRODUCTION ENHANCEMENT AND OTHER RELATED MATTERS

EXEMPTION OF STRIPPER WELL PRODUCTION

SEC. 121. Section 8 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(i)(1) The first sale price of stripper well crude oil shall be exempt from the regulation promulgated under section 4 of this Act as

amended pursuant to the requirements of this section. For the purpose of this section, the President shall include in the computation of the actual weighted average first sale price for crude oil produced in the United States in any month subsequent to August 1976 the actual volume of stripper well crude oil produced in the United States in such subsequent month and such actual volume shall be deemed to have been sold at a first sale price equal to $11.63 per barrel plus the difference between the actual weighted average first sale price in August 1976, for crude oil, other than stripper well crude oil, produced in the United States, and the actual average first sale price in such subsequent month of all classifications of crude oil, other than stripper well crude oil, produced in the United States, weighted as if each such classification were produced in such subsequent month in the same proportion as such classification, or most nearly comparable classification which existed on August 1, 1976, was produced in August 1976.

"(2) For purposes of this subsection, 'stripper well crude oil' means crude oil produced and sold from a property whose maximum average daily production of crude oil per well during any consecutive 12-month period beginning after December 31, 1972, does not exceed 10 barrels.

"(3) To qualify for the exemption under this subsection, a property must be producing crude oil at the maximum feasible rate throughout the 12-month qualifying period and in accordance with recognized conservation practices.

"(4) The President may define terms used in this subsection consistent with the purposes thereof.".

ENHANCEMENT OF DOMESTIC PRODUCTION

SEC. 122. Section 8 of the Emergency Petroleum Allocation Act of 1973 (as amended by section 121 of this Act) is further amended—

(1) in subsection (d)(1), by striking out "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";

(2) in subsection (d)(3)(C), by striking out ", including production from stripper wells";

(3) in subsection (e)(1), by striking out "(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)", and by striking out "such subsection, or (C) both.", and inserting in lieu thereof "subsection (d)(1).";

(4) in subsection (e)(2), by striking out "an additional adjustment as a production incentive, or", and by striking out ", or both,";

(5) in subsection (f)(1), by adding before the period at the end thereof the following: "and an analysis of the effects on price and the production of domestic crude oil resulting from the amendments made to this section by sections 121 and 122 of the Energy Conservation and Policy Act";

(6) in subsection (f)(2), by striking out "The President may" and inserting in lieu thereof "On March 15, 1977, the President may";

(7) in subsection (f)(2)(A), by striking out "or modification", and by striking out "as may have been amended pursuant to subsection (e)";

(8) in subsection (f)(5), by striking out "or modify", and by striking out "or of a modification of such adjustment"; and

(9) by adding at the end thereof the following new subsection:

"(j)(1) As soon as practicable after the date of enactment of this subsection, taking into consideration the greater flexibility provided by the amendments relating to the production incentive adjustment under section 122 of the Energy Conservation and Production Act, the President shall promulgate such amendments to the regulation under section 4(a) (relating to price) as shall (A) provide additional price incentives for bona fide tertiary enhanced recovery techniques and (B) provide for the adjustment of differentials in ceiling prices for crude oil that are the result of gravity differentials which are arbitrary, discriminatory, applied on a regional or local basis without reasonable justification, or fail substantially to reflect current relative market valuations of such differentials.

"(2) As used in this subsection, the term 'tertiary enhanced recovery techniques' means extraordinary and high cost enhancement technologies of a type associated with tertiary applications including, to the extent that such techniques would be uneconomical without additional price incentives, miscible fluid or gas injection, chemical flooding, steam flooding, microemulsion, flooding, in situ combustion, cyclic steam injection, polymer flooding, and caustic flooding and variations of the same. The President shall have authority to further define the term by rule.".

CONSTRUCTION OF REFINERIES BY SMALL AND INDEPENDENT REFINERS

SEC. 123. (a) It is the intent of the Congress that, for the purpose of fostering construction of new refineries by small and independent refiners in the United States, the Administrator of the Federal Energy Administration shall take such action, within his authority under other law consistent with the attainment, to the maximum extent practicable, of the objectives under section 4(b)(1)(D) of the Emergency Petroleum Allocation Act of 1973, as the Administrator determines necessary to insure that rules, regulations, or orders issued by him do not impose unreasonably, unnecessary, or discriminatory barriers to entry for small refiners and independent refiners.

(b) Not later than April 1, 1977, the Administrator shall report to the Congress with respect to actions taken to carry out the policies in subsection (a).

(c) For the purposes of this section the terms "small refiner" and "independent refiner" have the same meaning as such terms have under the Emergency Petroleum Allocation Act of 1973.

EFFECTIVE DATE OF EPAA AMENDMENTS

SEC. 124. The amendments made to section 8 of the Emergency Petroleum Allocation Act by sections 121 and 122 of this Act shall take effect on the date of enactment of this Act.

PART C—OFFICE OF ENERGY INFORMATION AND ANALYSIS

FINDINGS AND PURPOSE

SEC. 141. (a) The Congress finds that the public interest requires that decisionmaking, with respect to this Nation's energy requirements and the sufficiency and availability of energy resources and supplies, be based on adequate, accurate, comparable, coordinated, and credible energy information.

(b) The purpose of this title is to establish within the Federal Energy Administration an Office of Energy Information and Analysis and a National Energy Information System to assure the availability of adequate, comparable, accurate, and credible energy information to the Federal Energy Administration, to other Government agencies responsible for energy-related policy decisions, to the Congress, and to the public.

OFFICE OF ENERGY INFORMATION AND ANALYSIS

SEC. 142. The Federal Energy Administration Act of 1974 is amended by inserting "PART A—FEDERAL ENERGY ADMINISTRATION" after the enacting clause and by adding at the end thereof the following:

"PART B—OFFICE OF ENERGY INFORMATION AND ANALYSIS

"ESTABLISHMENT OF OFFICE OF ENERGY INFORMATION AND ANALYSIS

"SEC. 51. (a)(1) There is established within the Federal Energy Administration on Office of Energy Information and Analysis (hereinafter in this Act referred to as the 'Office') which shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Director shall be a person who, by reason of professional background and experience, is specially qualified to manage an energy information system.

"(b) The Administrator shall delegate (which delegation may be on a nonexclusive basis as the Administrator may determine may be necessary to assure the faithful execution of his authorities and responsibilities under law) the authority vested in him under section 11 of the Energy Supply and Environmental Coordination Act of 1974 and section 13 of this Act and the Director may act in the name of the Administrator under section 12 of the Energy Supply and Environmental Coordination Act of 1974 and section 13 of this Act for the purpose of obtaining enforcement of the authorities delegated to him.

"(c) As used in this Act the term 'energy information' shall have the meaning described in section 11 of the Energy Supply and Environmental Coordination Act of 1974.

"NATIONAL ENERGY INFORMATION SYSTEM

"SEC. 52. (a) It shall be the duty of the Director to establish a National Energy Information System (hereinafter referred to in this Act as the 'System'), which shall be operated and maintained by the

Office. The System shall contain such information as is required to provide a description of and facilitate analysis of energy supply and consumption within and affecting the United States on the basis of such geographic areas and economic sectors as may be appropriate to meet adequately the needs of—

"(1) the Federal Energy Administration in carrying out its lawful functions;

"(2) the Congress; and

"(3) other officers and employees of the United States in whom have been vested, or to whom have been delegated, energy-related policy decisionmaking responsibilities.

"(b) At a minimum, the System shall contain such energy information as is necessary to carry out the Administration's statistical and forecasting activities, and shall include, at the earliest date and to the maximum extent practical subject to the resources available and the Director's ordering of those resources to meet the responsibilities of his Office, such energy information as is required to define and permit analysis of—

"(1) the institutional structure of the energy supply system including patterns of ownership and control of mineral fuel and nonmineral energy resources and the production, distribution, and marketing of mineral fuels and electricity;

"(2) the consumption of mineral fuels, nonmineral energy resources, and electricity by such classes, sectors, and regions as may be appropriate for the purposes of this Act;

"(3) the sensitivity of energy reserves, exploration, development, production, transportation, and consumption to economic factors, environmental constraints, technological improvements, and substitutability of alternate energy sources;

"(4) the comparability of energy information and statistics that are supplied by different sources;

"(5) industrial, labor, and regional impacts of changes in patterns of energy supply and consumption;

"(6) international aspects, economic and otherwise, of the evolving energy situation; and

"(7) long-term relationship between energy supply and consumption in the United States and world communities.

"ADMINISTRATIVE PROVISIONS

"SEC. 53. (a) The Director of the Office shall receive compensation at the rate now or hereafter prescribed for offices and positions at level IV of the Executive Schedule as specified in section 5315 of title 5, United States Code.

"(b) To carry out the functions of the Office, the Director, on behalf of the Administrator, is authorized to appoint and fix the compensation of such professionally qualified employees as he deems necessary, including up to ten of the employees in grade GS–16, GS–17, or GS–18 authorized by section 7 of this Act.

"(c) The functions and powers of the Office shall be vested in or delegated to the Director, who may from time to time, and to the extent permitted by law, consistent with the purposes of this Act, delegate such of his functions as he deems appropriate. Such delega-

tion may be made, upon request, to any officer or agency of the Federal Government.

"(d)(1) The Director shall be available to the Congress to provide testimony on such subjects under his authority and responsibility as the Congress may request, including but not limited to energy information and analyses thereof.

"(2) Any request for appropriations for the Federal Energy Administration submitted to the Congress shall identify the portion of such request intended for the support of the Office, and a statement of the differences, if any, between the amounts requested and the Director's assessment of the budgetary needs of the Office.

"ANALYTICAL CAPABILITY

"SEC. 54. (a) The Director shall establish and maintain the scientific, engineering, statistical, or other technical capability to perform analysis of energy information to—

"(1) verify the accuracy of items of energy information submitted to the Director; and

"(2) insure the coordination and comparability of the energy information in possession of the Office and other Federal agencies.

"(b) The Director shall establish and maintain the professional and analytic capability to evaluate independently the adequacy and comprehensiveness of the energy information in possession of the Office and other agencies of the Federal Government in relation to the purposes of this Act and for the performance of the analyses described in section 52 of this Act. Such analytic capability shall include—

"(1) expertise in economics, finance, and accounting;

"(2) the capability to evaluate estimates of reserves of mineral fuels and nonmineral energy resources utilizing alternative methodologies;

"(3) the development and evaluation of energy flow and accounting models describing the production, distribution, and consumption of energy by the various sectors of the economy and lines of commerce in the energy industry;

"(4) the development and evaluation of alternative forecasting models describing the short- and long-term relationships between energy supply and consumption and appropriate variables; and

"(5) such other capabilities as the Director deems necessary to achieve the purposes of this Act.

"PROFESSIONAL AUDIT REVIEW OF PERFORMANCE OF OFFICE

"SEC. 55. (a) The procedures and methodology of the Office shall be subject to a thorough annual performance audit review. Such review shall be conducted by a Professional Audit Review Team which shall prepare a report describing its investigation and reporting its findings to the President and to the Congress.

"(b) The Professional Audit Review Team shall consist of at least seven professionally qualified persons who shall be officers or employees of the United States and of whom at least—

"one shall be designated by the Chairman of the Council of Economic Advisers;

"one shall be designated by the Commissioner of Labor Statistics;

"one shall be designated by the Administrator of Social and Economic Statistics;

"one shall be designated by the Chairman of the Securities and Exchange Commission;

"one shall be designated by the Chairman of the Federal Trade Commission;

"one shall be designated by the Chairman of the Federal Power Commission; and

"one who shall be the Chairman of the Professional Audit Review Team, shall be designated by the Comptroller General.

"(c) The Director and the Administrator shall cooperate fully with the Professional Audit Review Team and notwithstanding any other provision of law shall make available to the Team such data, information, documents, and services as the Team determines are necessary for successful completion of its performance audit review.

"(d) Except as authorized by law, any person who—

"(1) obtains, in the course of exercising the functions of the Professional Audit Review Team, information which constitutes a trade secret or confidential commercial information, the disclosure of which could result in significant competitive injury to the person to which such information relates; and

"(2) willfully discloses such information;

shall be fined not more than $40,000, or imprisoned not more than one year, or both.

"COORDINATION OF ENERGY INFORMATION ACTIVITIES

"SEC. 56. (a) In carrying out the purposes of this Act the Director shall, as he deems appropriate, review the energy information gathering activities of Federal agencies with a view toward avoiding duplication of effort and minimizing the compliance burden on business enterprises and other persons.

"(b) In exercising his responsibilities under subsection (a) of this section, the Director shall recommend policies which, to the greatest extent practicable—

"(1) provide adequately for the energy information needs of the various departments and agencies of the Federal Government, the Congress, and the public;

"(2) minimize the burden of reporting energy information on businesses, other persons, and especially small businesses;

"(3) reduce the cost to Government of obtaining information; and

"(4) Utilize files of information and existing facilities of established Federal agencies.

"(c)(1) At the earliest practicable date after the date of enactment of this section, each Federal agency which is engaged in the gathering of energy information as a part of an established program, function, or other activity shall promptly provide the Administrator with a report on energy information which—

"(A) identifies the statutory authority upon which the energy information collection activities of such agency is based;

"(B) lists and describes the energy information needs and requirements of such agency; and

"(C) lists and describes the categories, definitions, levels of detail, and frequency of collection of the energy information collected by such agency.

Such agencies shall cooperate with the Administrator and provide such other descriptive information with respect to energy information activities as the Administrator may request. The Administrator shall prepare a report on his activities under this subsection, which report shall include recommendations with respect to the coordination of energy information activities of the Federal Government. Such report shall be available to the Congress and shall be transmitted to the President and to the Energy Resources Council for use in preparation of the plan required under subsection (c) of section 108 of the Energy Reorganization Act of 1974.

"REPORTS

"SEC. 57. (a) The Director shall make periodic reports and may make special reports to the Congress and the public, including but not limited to—

"(1) such reports as the Director determines are necessary to provide a comprehensive picture of the quarterly, monthly, and, as appropriate, weekly supply and consumption of the various nonmineral energy resources, mineral fuels, and electricity in the United States; the information reported may be organized by company, by States, by regions, or by such other producing and consuming sectors, or combinations thereof, and shall be accompanied by an appropriate discussion of the evolution of the energy supply and consumption situation and such national and international trends and their effects as the Director may find to be significant; and

"(2) an annual report which includes, but is not limited to, a description of the activities of the Office and the National Energy Information System during the preceding year; a summary of all special reports published during the preceding year; a summary of statistical information collected during the preceding year; short-, medium-, and long-term energy consumption and supply trends and forecasts under various assumptions; and, to the maximum extent practicable, a summary or schedule of the amounts of mineral fuel resources, nonmineral energy resources, and mineral fuels that can be brought to market at various prices and technologies and their relationship to forecasted demands.

"(b)(1) The Director, on behalf of the Administrator, shall insure that adequate documentation for all statistical and forecast reports prepared by the Director is made available to the public at the time of publication of such reports. The Director shall periodically audit and validate analytical methodologies employed in the preparation of periodic statistical and forecast reports.

"(2) The Director shall, on a regular basis, make available to the public information which contains validation and audits of periodic statistical and forecast reports.

"(c) Prior to publication, the Director may not be required to obtain the approval of any other officer or employee of the United States with respect to the substance of any statistical or forecasting technical reports which he has prepared in accordance with law.

"ENERGY INFORMATION IN POSSESSION OF OTHER FEDERAL AGENCIES

"SEC. 58. (a) In furtherance and not in limitation of any other authority, the Director, on behalf of the Administrator, shall have access to energy information in the possession of any Federal agency except information—

"(1) the disclosure of which to another Federal agency is expressly prohibited by law; or

"(2) the disclosure of which the agency so requested determines would significantly impair the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

"(b) In the event that energy information in the possession of another Federal agency which is required to achieve the purposes of this Act is denied the Director or the Administrator pursuant to paragraph (1) or paragraph (2) of subsection (a) of this section, the Administrator, or the Director, on behalf of the Administrator, shall take appropriate action, pursuant to authority granted by law, to obtain said information from the original sources or a suitable alternate source. Such source shall be notified of the reason for this request for information.

"CONGRESSIONAL ACCESS TO INFORMATION IN POSSESSION OF THE OFFICE

"SEC. 59. The Director shall promptly provide upon request any energy information in the possession of the Office to any duly established committee of the Congress. Such information shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of such committee and the Rules of the House of Representatives or the Senate and as permitted by law.".

EFFECTIVE DATE

SEC. 143. The amendments made by this part C to the Federal Energy Administration Act of 1974 shall take effect 150 days after the date of enactment of this Act, except that section 56(c) of the Federal Energy Administration Act of 1974 (as added by this part) shall take effect on the date of enactment of this Act.

PART D—AMENDMENTS TO OTHER ENERGY-RELATED LAW

APPLIANCE PROGRAM

SEC. 161. (a) Section 325(a)(1)(A) of the Energy Policy and Conservation Act is amended to read as follows:

"(a)(1)(A) The Administrator shall direct the National Bureau of Standards to develop an energy efficiency improvement target for each type of covered product specified in paragraphs (1) through (10) of section 322(a). Not later than 90 days after the date of enactment of the Energy Conservation and Production Act, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each such type of covered product.".

(b) Section 325(a)(2) of such Act is amended by striking out the first sentence and inserting in lieu thereof the following:

"(2) The Administrator shall direct the National Bureau of Standards to develop an energy efficiency improvement target for each type

of covered product specified in paragraphs (11), (12), and (13) of section 322(a). 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 such type of product.".

ENERGY RESOURCES COUNCIL REPORTS

SEC. 162. (a) Section 108(b) of the Energy Reorganization Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(4) prepare a report on national energy conservation activities which shall be submitted to the President and the Congress annually, beginning on July 1, 1977, and which shall include—

"(A) a review of all Federal energy conservation expenditures and activities, the purpose of each such activity, the relation of the activity to national conservation targets and plans, and the success of the activity and the plans for the activity in future years;

"(B) an analysis of all conservation targets established for industry, residential, transportation, and public sectors of the economy, whether the targets can be achieved or whether they can be further improved, and the progress toward their achievement in the past year;

"(C) a review of the progress made pursuant to the State energy conservation plans under sections 361 through 366 of the Energy Policy and Conservation Act and other similar efforts at the State and local level, and whether further conservation can be carried on by the States or by local governments, and whether further Federal assistance is required;

"(D) a review of the principal conservation efforts in the private sector, the potential for more widespread implementation of such efforts and the Federal Government's efforts to promote more widespread use of private energy conservation initiatives; and

"(E) an assessment of whether existing conservation targets and goals are sufficient to bridge the gap between domestic energy production capacity and domestic energy needs, whether additional incentives or programs are necessary or useful to close that gap further, and a discussion of what mandatory measures might be useful to further bring domestic demand into harmony with domestic supply.

The Chairman of the Energy Resources Council shall coordinate the preparation of the report required under paragraph (5).".

(b) Section 108 of the Energy Reorganization Act of 1974 is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by adding after subsection (b) the following new subsection:

"(c) The President, through the Energy Resources Council, shall—

"(1) prepare a plan for the reorganization of the Federal Government's activities in energy and natural resources, including, but not limited to, a study of—

"(A) the principal laws and directives that constitute the energy and natural resource policy of the United States;

"(B) prospects of developing a consolidated national energy policy;

"(C) the major problems and issues of existing energy and natural resource organizations;

"(D) the options for Federal energy and natural resource organizations;

"(E) an overview of available resources pertinent to energy and natural resource organization;

"(F) recent proposals for a national energy and natural resource policy for the United States; and

"(G) the relationship between energy policy goals and other national objectives;

"(2) submit to Congress—

"(A) no later than December 31, 1976, the plan prepared pursuant to subsection (c)(1) and a report containing his recommendations for the reorganization of the Federal Government's responsibility for energy and natural resource matters together with such proposed legislation as he deems necessary or appropriate for the implementation of such plans or recommendations; and

"(B) not later than April 15, 1977, such revisions to the plan and report described in subparagraph (A) of this paragraph as he may consider appropriate; and

"(3) provide interim and transitional policy planning for energy and natural resource matters in the Federal Government.".

EXTENSION OF ENERGY RESOURCES COUNCIL

SEC. 163. Section 108(e) of the Energy Reorganization Act of 1974, as redesignated by subsection (b)(1) of this section, is amended by striking out "two years after such effective date," and inserting in lieu thereof "not later than September 30, 1977,".

DEVELOPMENT OF UNDERGROUND COAL MINES

SEC. 164. Section 102 of the Energy Policy and Conservation Act is amended by adding at the end of subsection (c) the following new paragraph:

"(4) The term 'developing new underground coal mine' includes expansion of any existing underground coal mine in a manner designed to increase the rate of production of such mine, and the reopening of any underground coal mine which had previously been closed.".

TITLE II—ELECTRIC UTILITY RATE DESIGN INITIATIVES

FINDINGS

SEC. 201. (a) The Congress finds that improvement in electric utility rate design has great potential for reducing the cost of electric utility

services to consumers and current and projected shortages of capital, and for encouraging energy conservation and better use of existing electrical generating facilities.

(b) It is the purpose of this title to require the Federal Energy Administration to develop proposals for improvement of electric utility rate design and transmit such proposals to Congress; to fund electric utility rate demonstration projects; to intervene or participate, upon request, in the proceedings of utility regulatory commissions; and to provide financial assistance to State offices of consumer services to facilitate presentation of consumer interests before such commissions.

DEFINITIONS

Sec. 202. As used in this title:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this title.

(2) The term "electric utility" means any person, State agency, or Federal agency which sells electric energy.

(3) The term "Federal agency" means any agency or instrumentality of the United States.

(4) The term "State agency" means a State, political subdivision thereof, or any agency or instrumentality of either.

(5) The term "State utility regulatory commission" means (A) any utility regulatory commission which is a State agency or (B) the Tennessee Valley Authority.

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

(7) The term "utility regulatory commission" means any State agency or Federal agency which has authority to fix, modify, approve, or disapprove rates for the sale of electric energy by any electric utility (other than by such agency).

ELECTRIC UTILITY RATE DESIGN PROPOSALS

Sec. 203. (a) The Administrator shall develop proposals to improve electric utility rate design. Such proposals shall be designed to encourage energy conservation, minimize the need for new electrical generating capacity, and minimize costs of electric energy to consumers, and shall include (but not be limited to) proposals which provide for the development and implementation of—

(1) load management techniques which are cost effective;

(2) rates which reflect marginal cost of service, or time of use of service, or both;

(3) ratemaking policies which discourage inefficient use of fuel and encourage economical purchases of fuel; and

(4) rates or other regulatory policies which encourage electric utility system reliability and reliability of major items of electric utility equipment.

(b) The proposals prepared under subsection (a) shall be transmitted to each House of Congress not later than 6 months after the

date of enactment of this Act, for review and for such further action as the Congress may direct by law. Such proposals shall be accompanied by an analysis of—

(1) the projected savings (if any) in consumption of petroleum products, natural gas, electric energy, and other energy resources,

(2) the reduction (if any) in the need for new electrical generating capacity, and of the demand for capital by the electric utility industry, and

(3) changes (if any) in the cost of electric energy to consumers, which are likely to result from the implementation nationally of each of the proposals transmitted under this subsection.

RATE DESIGN INNOVATION AND FEDERAL ENERGY ADMINISTRATION INTERVENTION

Sec. 204. The Administrator may—

(1) fund (A) demonstration projects to improve electric utility load management procedures and (B) regulatory rate reform initiatives,

(2) on request of a State, a utility regulatory commission, or of any participant in any proceeding before a State utility regulatory commission which relates to electric utility rates or rate design, intervene and participate in such proceeding, and

(3) on request of any State, utility regulatory commission, or party to any action to obtain judicial review of an administrative proceeding in which the Administrator intervened or participated under paragraph (2), intervene and participate in such action.

GRANTS FOR OFFICES OF CONSUMER SERVICES

Sec. 205. (a) The Administrator may make grants to States, or otherwise as provided in subsection (c), under this section to provide for the establishment and operation of offices of consumer services to assist consumers in their presentations before utility regulatory commissions. Any assistance provided under this section shall be provided only for an office of consumer services which is operated independently of any such utility regulatory commission and which is empowered to—

(1) make general factual assessments of the impact of proposed rate changes and other proposed regulatory actions upon all affected consumers;

(2) assist consumers in the presentation of their positions before utility regulatory commissions; and

(3) advocate, on its own behalf, a position which it determines represents the position most advantageous to consumers, taking into account developments in rate design reform.

(b) Grants pursuant to subsection (a) of this section shall be made only to States which furnish such assurances as the Administrator may require that funds made available under such section will be in addition to, and not in substitution for, funds made available to offices of consumer services from other sources.

(c) Assistance may be provided under this section to an office of consumer services established by the Tennessee Valley Authority if such office is operated independently of the Tennessee Valley Authority.

REPORTS

SEC. 206. Not later than the last day in December in each year, the Administrator shall transmit to the Congress a report with respect to activities conducted under this title and recommendations as to the need for and types of further Federal legislation.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 207. (a) There are authorized to be appropriated to carry out this title (other than section 205) for the period beginning July 1, 1976, and ending September 30, 1977, not to exceed $13,056,000, of which not more than $1,000,000 may be assigned for purposes of section 204 (2) and (3).

(b) There are authorized to be appropriated to carry out section 205 for such period not to exceed $2,000,000.

TITLE III—ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

SHORT TITLE

SEC. 301. This title may be cited as the "Energy Conservation Standards for New Buildings Act of 1976".

FINDINGS AND PURPOSES

SEC. 302. (a) The Congress finds that—

(1) large amounts of fuels and energy are consumed unnecessarily each year in heating, cooling, ventilating, and providing domestic hot water for newly constructed residential and commercial buildings because such buildings lack adequate energy conservation features;

(2) Federal performance standards for newly constructed buildings can prevent such waste of energy, which the Nation can no longer afford in view of its current and anticipated energy shortage;

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

(4) State and local building codes or similar controls can provide an existing means by which to assure, in coordination with other building requirements and with a minimum of Federal interference in State and local transactions, that newly constructed buildings contain adequate energy conservation features.

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

(1) redirect Federal policies and practices to assure that reasonable energy conservation features will be incorporated into new commercial and residential buildings receiving Federal financial assistance;

(2) provide for the development and implementation, as soon as practicable, of performance standards for new residential and commercial buildings which are designed to achieve the maximum

practicable improvements in energy efficiency and increases in the use of nondepletable sources of energy; and

(3) encourage States and local governments to adopt and enforce such standards through their existing building codes and other construction control mechanisms, or to apply them through a special approval process.

DEFINITIONS

SEC. 303. As used in this title:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this title.

(2) The term "building" means any structure to be constructed which includes provision for a heating or cooling system, or both, or for a hot water system.

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

(4) The term "commercial building" means any building other than a residential building, including any building developed for industrial or public purposes.

(5) The term "Federal agency" means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, including the United States Postal Service, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

(6) The term "Federal building" means any building to be constructed by, or for the use of, any Federal agency which is not legally subject to State or local building codes or similar requirements.

(7) The term "Federal financial assistance" means (A) any form of loan, grant, guarantee, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance (other than general or special revenue sharing or formula grants made to States) approved by any Federal officer or agency; or (B) any loan made or purchased by any bank, savings and loan association, or similar institution subject to regulation by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration.

(8) The term "National Institute of Building Sciences" means the institute established by section 809 of the Housing and Community Development Act of 1974.

(9) The term "performance standards" means an energy consumption goal or goals to be met without specification of the methods, materials, and processes to be employed in achieving that goal or goals, but including statements of the requirements,

criteria and evaluation methods to be used, and any necessary commentary.

(10) The term "residential building" means any structure which is constructed and developed for residential occupancy.

(11) The term "Secretary" means the Secretary of Housing and Urban Development.

(12) The term "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory and possession of the United States.

(13) The term "unit of general purpose local government" means any city, county, town, municipality, or other political subdivision of a State (or any combination thereof), which has a building code or similar authority over a particular geographic area.

PROMULGATION OF ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS

Sec. 304. (a) (1) As soon as practicable, but in no event later than 3 years after the date of enactment of this title, the Secretary, only after consultation with the Administrator, the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, and the Administrator of the General Services Administration, shall develop and publish in the Federal Register for public comment proposed performance standards for new commercial buildings. Final performance standards shall be promulgated within 6 months after the date of publication of the proposed standards, and shall become effective within a reasonable time, not to exceed 1 year after the date of promulgation, as specified by the Secretary.

(2) As soon as practicable, but in no event later than 3 years after the date of enactment of this title, the Secretary, only after consultation with the Administrator and the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, shall develop and publish in the Federal Register for public comment proposed performance standards for new residential buildings. Final performance standards for such buildings shall be promulgated within 6 months after the date of publication of the proposed standards, and shall become effective within a reasonable time, not to exceed 1 year after the date of promulgation, as specified by the Secretary.

(3) In the development of performance standards, the Secretary shall utilize the services of the National Institute of Building Sciences, under appropriate contractual arrangements.

(b) All performance standards promulgated pursuant to subsection (a) shall take account of, and make such allowance or particular exception as the Secretary determines appropriate for, climatic variations among the different regions of the country.

(c) The Secretary, in consultation with the Administrator, the Secretary of Commerce, the Administrator of the General Services Administration, and the heads of other appropriate Federal agencies, and the National Institute of Building Sciences, shall periodically review and provide for the updating of performance standards promulgated pursuant to subsection (a).

(d) The Secretary, if he finds that the dates otherwise specified in this section for publication of proposed, or for promulgation of final, performance standards under subsection (a)(1) or (a)(2) cannot practicably be met, may extend the time for such publication or promulgatioon, but no such extension shall result in a delay of more than 6 months in promulgation.

APPLICATION OF ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS

Sec. 305. (a) Subject to the provisions of subsection (c) and after the effective date of final performance standards for new commercial and residential buildings pursuant to section 304(a), no Federal financial assistance shall be made available or approved with respect to the construction of any new commercial or residential building in any area of any State, unless—

(1) such State has certified, in accordance with regulations of the Secretary, that—

(A) the unit of general purpose local government which has jurisdiction over such area has adopted and is implementing a building code, or other construction control mechanism, which meets or exceeds the requirements of such final performance standards, or

(B) such State has adopted and is implementing, on a statewide basis or with respect to such area, a building code or other laws or regulations which provide for the effective application of such final performance standards;

(2) such new building has been determined, pursuant to any applicable approval process described in subsection (b), to be in compliance with such final performance standards; or

(3) such new building is to be located in any area in which the construction of new buildings is not of a magnitude to warrant the costs of implementing final performance standards, as determined by the Secretary after receiving a request for such a determination (and material justifying such request) from the State in which the area is located; except that the Secretary may rescind such a determination whenever the Secretary finds that the amount of construction of new buildings has increased in such area to an extent that such costs are warranted.

The Secretary shall review and conduct such investigations as are deemed necessary to determine the accuracy of such certifications and shall provide for the periodic updating thereof. The Secretary may reject, disapprove, or require the withdrawal of any such certification after notice to such State and an opportunity for a hearing.

(b)(1) The provisions of this subsection shall not apply to any area subject to the jurisdiction of a unit of general purpose local government or of a State described in subsection (a)(1), and the provisions of this subsection and the approval process applicable under this subsection shall cease to apply to any area at such time as the Secretary receives a certification under subsection (a)(1) with respect to such area.

(2) The Secretary shall have overall responsibility for the effective application of the applicable approval process described in this subsection in any area not exempted therefrom pursuant to paragraph (1).

(3) As used in this section, the term "approval process" means a mechanism and procedure for the consideration and approval of an

application to construct a new building and which involves (A) determining whether such proposed building would be in compliance with the final performance standards for new buildings promulgated under section 304, and (B) administration by the level and agency of government specified by the Secretary pursuant to paragraph (4).

(4) The level and agency of government which shall administer the approval process described in this subsection is—

(A) first, the agency which grants building permits on behalf of the unit of general purpose local government which has jurisdiction over the area in which new construction is proposed, if such agency is willing and able to administer such approval process;

(B) second, if the agency described in subparagraph (A) is not willing and able to administer such approval process, any other agency of the unit of general purpose local government described in such paragraph which has authority to administer such approval process, if such agency is willing and able to administer such approval process; and

(C) third, if no agency described in subparagraphs (A) and (B) is willing and able to administer such approval process, any agency of the State in which new construction is proposed which has authority to administer such approval process, if such agency is willing and able to administer such approval process.

(c) The President shall transmit the final performance standards for new buildings to both Houses of Congress upon the date of promulgation of such standards pursuant to section 304(a), for review by the Congress under this subsection to determine whether the sanction set forth in the introductory clause to subsection (a) is necessary and appropriate to assure that such standards are in fact applied to all new buildings. Such sanction shall be deemed approved as necessary for such purpose (and shall thereafter be enforced, directly and indirectly, by each applicable person and governmental entity) if the use of such sanction is approved by a resolution of each House of Congress in accordance with the procedures specified in section 552 of the Energy Policy and Conservation Act; except that for purposes of this section the 60 calendar days described in section 552 (b) and (c)(2) of such Act shall be lengthened to 90 calendar days.

FEDERAL BUILDINGS

SEC. 306. The head of each Federal agency responsible for the construction of any Federal building shall adopt such procedures as may be necessary to assure that any such construction meets or exceeds the applicable final performance standards promulgated pursuant to this title.

GRANTS

SEC. 307. (a) The Secretary may make grants to States and units of general purpose local government to assist them in meeting the costs of adopting and implementing performance standards or of administering State certification procedures of any applicable approval process to carry out the provisions of section 305.

(b) There is authorized to be appropriated for the purpose of carrying out this section, not to exceed $5,000,000 for the fiscal year ending

September 30, 1977. Any amount appropriated pursuant to this subsection shall remain available until expended.

TECHNICAL ASSISTANCE

SEC. 308. The Secretary (directly, by contract, or otherwise) may provide technical assistance to States and units of general purpose local government to assist them in meeting the requirements of this title.

CONSULTATION WITH INTERESTED AND AFFECTED GROUPS

SEC. 309. In developing and promulgating performance standards and carrying out other functions under this title, the Secretary shall consult with appropriate representatives of the building community (including representatives of labor and the construction industry, engineers, and architects), with appropriate public officials and organizations of public officials, and with representatives of consumer groups. For purposes of such consultation, the Secretary shall, to the extent practicable, make use of the National Institute of Building Sciences. The Secretary may also establish one or more advisory committees as may be appropriate. Any advisory committee or committees established pursuant to this section shall be subject to the provisions of the Federal Advisory Committee Act.

SUPPORT ACTIVITIES

SEC. 310. The Secretary, in cooperation with the Administrator, the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, and the heads of other appropriate Federal agencies, and the National Institute of Building Sciences, shall carry out any activities which the Secretary determines may be necessary or appropriate to assist in the development of performance standards under section 304(a) and to facilitate the implementation of such standards by State and local governments. Such activities shall be designed to assure that such standards are adequately analyzed in terms of energy efficiency, stimulation of use of nondepletable sources of energy, institutional resources, habitability, economic cost and benefit, and impact upon affected groups.

MONITORING OF STATE AND LOCAL ADOPTION OF ENERGY CONSERVATION STANDARDS FOR BUILDINGS

SEC. 311. The Secretary, with the advice and assistance of the National Institute of Building Sciences, shall—

(1) monitor the progress made by the States and their political subdivisions in adopting and enforcing energy conservation standards for new buildings;

(2) identify any procedural obstacles or technical constraints inhibiting implementation of such standards;

(3) evaluate the effectiveness of such prevailing standards; and

(4) within 12 months after the date of enactment of this title, and semiannually thereafter, report to the Congress on (A) the progress of the States and units of general purpose local government in adopting and implementing energy conservation standards for new buildings, and (B) the effectiveness of such standards.

TITLE IV—ENERGY CONSERVATION AND RENEWABLE-RESOURCE ASSISTANCE FOR EXISTING BUILDINGS

SHORT TITLE

SEC. 401. This title may be cited as the "Energy Conservation in Existing Buildings Act of 1976".

FINDINGS AND PURPOSE

SEC. 402. (a) The Congress finds that—

(1) the fastest, most cost-effective, and most environmentally sound way to prevent future energy shortages in the United States, while reducing the Nation's dependence on imported energy supplies, is to encourage and facilitate, through major programs, the implementation of energy conservation and renewable-resource energy measures with respect to dwelling units, nonresidential buildings, and industrial plants;

(2) current efforts to encourage and facilitate such measures are inadequate as a consequence of—

(A) a lack of adequate and available financing for such measures, particularly with respect to individual consumers and owners of small businesses;

(B) a shortage of reliable and impartial information and advisory services pertaining to practicable energy conservation measures and renewable-resource energy measures and the cost savings that are likely if they are implemented in such units, buildings, and plants; and

(C) the absence of organized programs which, if they existed, would enable consumers, especially individuals and owners of small businesses, to undertake such measures easily and with confidence in their economic value;

(3) major programs of financial incentives and assistance for energy conservation measures and renewable-resource energy measures in dwelling units, nonresidential buildings, and industrial plants would—

(A) significantly reduce the Nation's demand for energy and the need for petroleum imports;

(B) cushion the adverse impact of the high price of energy supplies on consumers, particularly elderly and handicapped low-income persons who cannot afford to make the modifications necessary to reduce their residential energy use; and

(C) increase, directly and indirectly, job opportunities and national economic output;

(4) the primary responsibility for the implementation of such major programs should be lodged with the governments of the States; the diversity of conditions among the various States and regions of the Nation is sufficiently great that a wholly federally administered program would not be as effective as one which is tailored to meet local requirements and to respond to local opportunities; the State should be allowed flexibility within which to fashion such programs, subject to general Federal guidelines and monitoring sufficient to protect the financial investments of consumers and the financial interest of the United States and to insure that the measures undertaken in fact result in significant energy and cost savings which would probably not otherwise occur;

(5) to the extent that direct Federal administration is more economical and efficient, direct Federal financial incentives and assistance should be extended through existing and proven Federal programs rather than through new programs that would necessitate new and separate administrative bureaucracies; and

(6) such programs should be designed and administered to supplement, and not to supplant or in any other way conflict with, State energy conservation programs under part C of title III of the Energy Policy and Conservation Act; the emergency energy conservation program carried out by community action agencies pursuant to section 222(a)(12) of the Economic Opportunity Act of 1964; and other forms of assistance and encouragement for energy conservation.

(b) It is, therefore, the purpose of this title to encourage and facilitate the implementation of energy conservation measures and renewable-resource energy measures in dwelling units, nonresidential buildings, and industrial plants, through—

(1) Supplemental State energy conservation plans; and

(2) Federal financial incentives and assistance.

PART A—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

FINDINGS AND PURPOSE

SEC. 411. (a) The Congress finds that—

(1) dwellings owned or occupied by low-income persons frequently are inadequately insulated;

(2) low-income persons, particularly elderly and handicapped low-income persons, can least afford to make the modifications necessary to provide for adequate insulation in such dwellings and to otherwise reduce residential energy use;

(3) weatherization of such dwellings would lower utility expenses for such low-income owners or occupants as well as save thousands of barrels per day of needed fuel; and

(4) States, through community action agencies established under the Economic Opportunity Act of 1964 and units of general purpose local government, should be encouraged, with Federal financial and technical assistance, to develop and support coordinated weatherization programs designed to ameliorate the adverse effects of high energy costs on such low-income persons, to supplement other Federal programs serving such persons, and to conserve energy.

(b) It is, therefore, the purpose of this part to develop and implement a supplementary weatherization assistance program to assist in achieving a prescribed level of insulation in the dwellings of low-income persons, particularly elderly and handicapped low-income persons, in order both to aid those persons least able to afford higher utility costs and to conserve needed energy.

DEFINITIONS

SEC. 412. As used in this part:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.

(2) The term "Director" means the Director of the Community Services Administration.

(3) The term "elderly" means any individual who is 60 years of age or older.

(4) The term "Governor" means the chief executive officer of a State (including the Mayor of the District of Columbia).

(5) The term "handicapped person" means any individual (A) who is a handicapped individual as defined in section 7(6) of the Rehabilitation Act of 1973, (B) who is under a disability as defined in section 1614(a)(3)(A) or 223(d)(1) of the Social Security Act or in section 102(7) of the Developmental Disabilities Services and Facilities Construction Act, or (C) who is receiving benefits under chapter 11 or 15 of title 38, United States Code.

(6) The terms "Indian", "Indian tribe", and "tribal organization" have the meanings prescribed for such terms by paragraphs (4), (5), and (6), respectively, of section 102 of the Older Americans Act of 1965.

(7) The term "low-income" means that income in relation to family size which (A) is at or below the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (B) is the basis on which cash assistance payments have been paid during the preceding 12-month period under title IV and XVI of the Social Security Act or applicable State or local law.

(8) The term "State" means each of the States and the District of Columbia.

(9) The term "weatherization materials" means items primarliy designed to improve the heating or cooling efficiency of a dwelling unit, including, but not limited to, ceiling, wall, floor, and duct insulation, storm windows and doors, and caulking and weatherstripping, but not including mechanical equipment valued in excess of $50 per dwelling unit.

WEATHERIZATION PROGRAM

SEC. 413. (a) The Administrator shall develop and conduct, in accordance with the purpose and provisions of this part, a weatherization program. In developing and conducting such program, the Administrator may, in accordance with this part and regulations promulgated under this part, make grants (1) to States, and (2) in accordance with the provisions of subsection (d), to Indian tribal organizations to serve Native Americans. Such grants shall be made for the purpose of providing financial assistance with regard to projects designed to provide for the weatherization of dwelling units, particularly those where elderly or handicapped low-income persons reside, in which the head of the household is a low-income person.

(b)(1) The Administrator, after consultation with the Director, the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Director of the ACTION Agency, and the heads of such other Federal departments and agencies as the Administrator deems appropriate, shall develop and publish in the Federal Register for public comment, not later than 60 days after the date of enactment of this part, proposed regulations to carry out the provisions of this part. The Administrator shall take into consideration comments submitted regarding such proposed regulations and shall promulgate and publish final regulations for such purpose not later than 90 days after the date of such enactment. The development of regulations under this part shall be fully coordinated with the Director.

(2) The regulations promulgated pursuant to this section shall include provisions—

(A) prescribing, in coordination with the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, and the Director of the National Bureau of Standards in the Department of Commerce, for use in various climatic, structural, and human need settings, standards for weatherization materials, energy conservation techniques, and balanced combinations thereof, which are designed to achieve a balance of a healthful dwelling environment and maximum practicable energy conservation; and

(B) designed to insure that (i) the benefits of weatherization assistance in connection with leased dwelling units will accrue primarily to low-income tenants; (ii) the rents on such dwelling units will not be raised because of any increase in the value thereof due solely to weatherization assistance provided under this part; and (iii) no undue or excessive enhancement will occur to the value of such dwelling unit.

(c) If a State does not, within 90 days after the date on which final regulations are promulgated under this section, submit an application to the Administrator which meets the requirements set forth in section 414, any unit of general purpose local government of sufficient size (as determined by the Administrator), or a community action agency carrying out programs under title II of the Economic Opportunity Act of 1964, may, in lieu of such State, submit an application (meeting such requirements and subject to all other provisions of this part) for carrying out projects under this part within the geographical area which is subject to the jurisdiction of such government or is served by such agency. If any such application submitted by a unit of general purpose local government proposes that the allocation requirement and the priority for an applicable community action agency, as set forth under section 415(b)(2)(B), be determined to be no longer applicable, the Administrator, as part of the notice and public hearing procedure carried out under section 418 with respect to such application, shall be responsible for making the necessary determination under the proviso in section 415(b)(2)(B). A State may, in accordance with regulations promulgated under this part, submit an amended application.

(d)(1) Notwithstanding any other provision of this part, in any State in which the Administrator determines (after having taken into account the amount of funds made available to the State to carry out the purposes of this part) that the low-income members of an Indian

tribe are not receiving benefits under this part that are equivalent to the assistance provided to other low-income persons in such State under this part, and if he further determines that the members of such tribe would be better served by means of a grant made directly to provide such assistance, he shall reserve from sums that would otherwise be allocated to such State under this part not less than 100 percent, nor more than 150 percent, of an amount which bears the same ratio to the State's allocation for the fiscal year involved as the population of all low-income Indians for whom a determination under this subsection has been made bears to the population of all low-income persons in such State.

(2) The sums reserved by the Administrator on the basis of his determination under this subsection shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or, where there is no tribal organization, to such other entity as he determines has the capacity to provide services pursuant to this part.

(3) In order for a tribal organization or other entity to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Administrator an application meeting the requirements set forth in section 414.

(e) Notwithstanding any other provision of law, the Administrator may transfer to the Director sums appropriated under this part to be utilized in order to carry out programs, under section 222(a)(12) of the Economic Opportunity Act of 1964, which further the purpose of this part.

FINANCIAL ASSISTANCE

SEC. 414. (a) The Administrator shall provide financial assistance from sums appropriated for any fiscal year under this part, only upon annual application. Each such application shall describe the estimated number and characteristics of the low-income persons and the number of dwelling units to be assisted and the criteria and methods to be used by the applicant in providing weatherization assistance to such persons. The application shall also contain such other information (including information needed for evaluation purposes) and assurances as may be required (1) in the regulations promulgated pursuant to section 413 and (2) to carry out this section. The Administrator shall allocate financial assistance to each State on the basis of the relative need for weatherization assistance among low-income persons throughout the States, taking into account the following factors:

(A) The number of dwelling units to be weatherized.

(B) The climatic conditions in the State respecting energy conservation, which may include consideration of annual degree days.

(C) The type of weatherization work to be done in the various settings.

(D) Such other factors as the Administrator may determine necessary in order to carry out the purpose and provisions of this part.

(b) The Administrator shall not provide financial assistance under this part unless the applicant has provided reasonable assurances that it has—

(1) established a policy advisory council which (A) has special qualifications and sensitivity with respect to solving the problems of low-income persons (including the weatherization and energy-conservation problems of such persons), (B) is broadly representative of organizations and agencies which are providing services to such persons in the State or geographical area in question, and (C) is responsible for advising the responsible official or agency administering the allocation of financial assistance in such State or area with respect to the development and implementation of such weatherization assistance program;

(2) established priorities to govern the provision of weatherization assistance to low-income persons, including methods to provide priority to elderly and handicapped low-income persons, and such priority as the applicant determines is appropriate for single-family or other high-energy-consuming dwelling units; and

(3) established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State or local funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out the purpose of this part, including plans and procedures (A) for securing, to the maximum extent practicable, the services of volunteers and training participants and public service employment workers, pursuant to the Comprehensive Employment and Training Act of 1973, to work under the supervision of qualified supervisors and foremen, and (B) for complying with the limitations set forth in section 415.

LIMITATIONS

SEC. 415. (a) Financial assistance provided under this part shall, to the maximum extent practicable as determined by the Administrator, be used for the purchase of weatherization materials, except that not to exceed 10 percent of any grant made under this part may be used for the administration of weatherization projects under this part.

(b) The Administrator shall insure that financial assistance provided under this part will—

(1) be allocated within the State or area in accordance with a published State or area plan, which is adopted by such State after notice and a public hearing, describing the proposed funding distributions and recipients;

(2) be allocated, pursuant to such State or area plan, to community action agencies carrying out programs under title II of the Economic Opportunity Act of 1964 or to other appropriate and qualified public or nonprofit entities in such State or area so that—

(A) funds will be allocated on the basis of the relative need for weatherization assistance among the low-income persons within such State or area, taking into account appropriate climatic and energy conservation factors;

(B)(i) funds to be allocated for carrying out weatherization projects under this part in the geographical area served

by the emergency energy conservation program carried out by a community action agency under section 222(a)(12) of the Economic Opportunity Act of 1964 will be allocated to such agency, and (ii) priority in the allocation of such funds for carrying out such projects under this part will be given such a community action agency in so much of the geographical area served by it as is not served by the emergency energy conservation program it is carrying out: Provided, That such allocation requirement and such priority shall no longer apply if the Governor of a State preparing an application for financial assistance under this part makes a determination, on the basis of the public hearing required by paragraph (1) of this subsection, or if the Administrator makes a determination, on the basis of a public hearing pursuant to section 413(c), that the emergency energy conservation program carried out by such agency has been ineffective in meeting the purpose of this part or is clearly not of sufficient size, and cannot in timely fashion develop the capacity, to support the scope of the project to be carried out in such area with funds under this part; and

(C) due consideration will be given to the results of periodic evaluations of the projects carried out under this part in light of available information regarding the current and anticipated energy and weatherization needs of low-income persons within the State; and

(3) be terminated or discontinued during the application period only in accordance with policies and procedures consistent with the policies and procedures set forth in section 418.

(c) The cost of the weatherization materials provided with financial assistance under this part shall not exceed $400 in the case of any dwelling unit unless the State policy advisory council, established pursuant to section 414(b)(1), provides for a greater amount with respect to specific categories of units or materials.

MONITORING, TECHNICAL ASSISTANCE, AND EVALUATION

SEC. 416. The Administrator, in coordination with the Director, shall monitor and evaluate the operation of projects receiving financial assistance under this part through methods provided for in section 417(a), through onsite inspections, or through other means, in order to assure the effective provision of weatherization assistance for the dwelling units of low-income persons. The Administrator shall also carry out periodic evaluations of the program authorized by this part and projects receiving financial assistance under this part. The Administrator may provide technical assistance to any such project, directly and through persons and entities with a demonstrated capacity in developing and implementing appropriate technology for enhancing the effectiveness of the provision of weatherization assistance to the dwelling units of low-income persons, utilizing in any fiscal year not to exceed 10 percent of the sums appropriated for such year under this part.

ADMINISTRATIVE PROVISIONS

SEC. 417. (a) The Administrator, in consultation with the Director, by general or special orders, may require any recipient of financial

assistance under this part to provide, in such form as he may prescribe, such reports or answers in writing to specific questions, surveys, or questionnaires as may be necessary to enable the Administrator and the Director to carry out their functions under this part.

(b) Each person responsible for the administration of a weatherization assistance project receiving financial assistance under this part shall keep such records as the Administrator may prescribe in order to assure an effective financial audit and performance evaluation of such project.

(c) The Administrator, the Director (with respect to community action agencies), and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, information, and records of any project receiving financial assistance under this part that are pertinent to the financial assistance received under this part.

(d) Payments under this part may be made in installments and in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

APPROVAL OF APPLICATIONS AND ADMINISTRATION OF STATE PROGRAMS

SEC. 418. (a) The Administrator shall not finally disapprove any application submitted under this part, or any amendment thereto, without first affording the State (or unit of general purpose local government or community action agency under section 413(c), as appropriate) in question, as well as other interested parties, reasonable notice and an opportunity for a public hearing. The Administrator may consolidate into a single hearing the consideration of more than one such application for a particular fiscal year to carry out projects within a particular State. Whenever the Administrator, after reasonable notice and an opportunity for a public hearing, finds that there is a failure to comply substantially with the provisions of this part or regulations promulgated under this part, he shall notify the agency or institution involved and other interested parties that such State (or unit of general purpose local government or agency, as appropriate) will no longer be eligible to participate in the program under this part until the Administrator is satisfied that there is no longer any such failure to comply.

(b) Reasonable notice under this section shall include a written notice of intention to act adversely (including a statement of the reasons therefor) and a reasonable period of time within which to submit corrective amendments to the application, or to propose corrective action.

JUDICIAL REVIEW

SEC. 419. (a) If any applicant is dissatisfied with the Administrator's final action with respect to the application submitted by it under section 414 or with a final action under section 418, such applicant may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which the State involved is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator. The Administrator thereupon shall file in the court the record of the

proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Administrator, if supported by substantial evidence, shall be conclusive. The court may, for good cause shown, remand the case to the Administrator to take further evidence, and the Administrator may thereupon make new or modified findings of fact and may modify his previous action. The Administrator shall certify to the court the record of any such further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Administrator or to set it aside, in whole or in part. The judgment of the court shall be 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.

NONDISCRIMINATION

SEC. 420. (a) No person in the United States shall, on the ground of race, color, national origin, or sex, or on the ground of any other factor specified in any Federal law prohibiting discrimination, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, project, or activity supported in whole or in part with financial assistance under this part.

(b) Whenever the Administrator determines that a recipient of financial assistance under this part has failed to comply with subsection (a) or any applicable regulation, he shall notify the recipient thereof in order to secure compliance. If, within a reasonable period of time thereafter, such recipient fails to comply, the Administrator shall—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the power and functions provided by title VI of the Civil Rights Act of 1964 and any other applicable Federal nondiscrimination law; or

(3) take such other action as may be authorized by law.

ANNUAL REPORT

Sec. 421. The Administrator and (with respect to the operation and effectiveness of activities carried out through community action agencies) the Director shall each submit, on or before March 31, 1977, and annually thereafter through 1979, a report to the Congress and the President describing the weatherization assistance program carried out under this part or any other provision of law, including the results of the periodic evaluations and monitoring activities required by section 416.

AUTHORIZATION OF APPROPRIATIONS

Sec. 422. There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, not to exceed $55,000,000 for the fiscal year ending September 30, 1977, not to exceed $65,000,000 for the fiscal year ending September 30, 1978, and not to exceed $80,000,000 for the fiscal year ending September 30, 1979, such sums to remain available until expended.

PART B—STATE ENERGY CONSERVATION PLANS

DEFINITIONS

Sec. 431. Section 366 of the Energy Policy and Conservation Act is amended by (1) redesignating paragraphs (1) and (2) as paragraphs (7) and (8), respectively; and (2) inserting after "As used in this part—" the following new paragraphs:

"(1) The term 'appliance' means any article, such as a room air-conditioner, refrigerator-freezer, or dishwasher, which the Administrator classifies as an applicance for purposes of this part.

"(2) The term 'building' means any structure which includes provision for a heating or cooling system, or both, or for a hot water system.

"(3) The term 'energy audit' means any process which identifies and specifies the energy and cost savings which are likely to be realized through the purchase and installation of particular energy conservation measures or renewable-resource energy measures and which—

"(A) is carried out in accordance with rules of the Administrator; and

"(B) imposes—

"(i) no direct costs, with respect to individuals who are occupants of dwelling units in any State having a supplemental State energy conservation plan approved under section 367, and

"(ii) only reasonable costs, as determined by the Administrator, with respect to any person not described in clause (i).

Rules referred to in subparagraph (A) may include minimum qualifications for, and provisions with respect to conflicts of interest of, persons carrying out such energy audits.

"(4) The term 'energy conservation measure' means a measure which modifies any building or industrial plant, the construction of which has been completed prior to the date of enactment of the Energy Conservation and Production Act, if such measure has been determined by means of an energy audit or by the Administrator, by rule under section 365(e)(1), to be likely to improve the efficiency of energy use and to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Administrator) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

"(A) the useful life of the modification involved, as determined by the Administrator, or

"(B) 15 years after the purchase and installations of such measure,

whichever is less. Such term does not include (i) the purchase or installation of any applicance, (ii) any conversion from one fuel or source of energy to another which is of a type which the Administrator, by rule, determines is ineligible on the basis that

such type of conversion is inconsistent with national policy with respect to energy conservation or reduction of imports of fuels, or (iii) any measure, or type of measure, which the Administrator determines does not have as its primary purpose an improvement in efficiency of energy use.

"(5) The term 'industrial plant' means any fixed equipment or facility which is used in connection with, or as part of, any process or system for industrial production or output.

"(6) The term 'renewable-resource energy measure' means a measure which modifies any building or industrial plant, the construction of which has been completed prior to the date of enactment of the Energy Conservation and Production Act, if such measure has been determined by means of an energy audit or by the Administrator, by rule under section 365(e)(1), to—

"(A) involve changing, in whole or in part, the fuel or source of the energy used to meet the requirements of such building or plant from a depletable source of energy to a nondepletable source of energy; and

"(B) be likely to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Administrator) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

"(i) the useful life of the modification involved, as determined by the Administrator, or

"(ii) 25 years after the purchase and installation of such measure,

whichever is less.

Such term does not include the purchase or installation of any appliance.".

SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS

SEC. 432. (a) Part C of title 3 of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new section:

"SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS

"SEC. 367. (a)(1) The Administrator shall, within 6 months after the date of enactment of the Energy Conservation and Production Act, prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, supplemental State energy conservation plans. Such guidelines shall include the provisions of one or more model supplemental State energy conservation plans with respect to the requirements of this section.

"(2) In prescribing such guidelines, the Administrator shall solicit and consider the recommendations of, and be available to consult with, the Governors of the States as to such guidelines. At least 60 days prior to the date of final publication of such guidelines, the Administrator

shall publish proposed guidelines in the Federal Register and invite public comments thereon.

"(3) The Administrator shall invite the Governor of each State to submit to the Administrator a proposed supplemental State energy conservation plan which meets the requirements of subsection (b) and any guidelines applicable thereto.

"(4) The Administrator may prescribe rules applicable to supplemental State energy conservation plans under this section pursuant to which—

"(A) a State may apply for and receive assistance for a supplemental State energy conservation plan under this section; and

"(B) such plan under this section may be administered;

as if such plan was a part of the State energy conservation plan program under section 362. Such rules shall not have the effect of delaying funding of the program under section 362.

"(5) Section 363(b)(2)(A), the last sentence of section 363(b)(2), section 363(b)(3), and section 363(c) shall apply to the supplemental State energy conservation plans to the same extent as such provisions apply to State energy conservation plans.

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

"(b)(1) Each proposed supplemental State energy conservation plan to be eligible for Federal financial assistance under this section shall include—

"(A) procedures for carrying out a continuing public education effort to increase significantly public awareness of—

"(i) the energy and cost savings which are likely to result from the implementation (including implementation through group efforts) of energy conservation measures and renewable-resource energy measures; and

"(ii) information and other assistance (including information as to available technical assistance) which is or may be available with respect to the planning, financing, installing, and with respect to monitoring the effectiveness of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable-resource energy measures;

"(B) procedures for insuring that effective coordination exists among various local, State, and Federal energy conservation programs within and affecting such State, including any energy extension service program administered by the Energy Research and Development Administration;

"(C) procedures for encouraging and for carrying out energy audits with respect to buildings and industrial plants within such State; and

"(D) any procedures, programs, or other actions required by the Administrator pursuant to paragraph (2).

"(2) The Administrator may promulgate guidelines under this section to provide that, in order to be eligible for Federal assistance under this section, a supplemental State energy conservation plan shall include, in addition to the requirements of paragraph (1) of this subsection, one or more of the following:

"(A) the formation of, and appointment of qualified individuals to be members of, a State energy conservation advisory committee. Such a committee shall have continuing authority to advise and assist such State and its political subdivisions, with respect to matters relating to energy conservation in such State, including the carrying out of such State's energy conservation plan, the development and formulation of any improvements or amendments to such plan, and the development and formulation of procedures which meet the requirements of subparagraphs (A), (B), and (C) of subsection (b)(1). The applicable guidelines shall be designed to assure that each such committee carefully considers the views of the various energy-consuming sectors within the State and of public and private groups concerned with energy conservation;

"(B) an adequate program within such State for the purpose of preventing any unfair or deceptive acts or practices affecting commerce which relate to the implementation of energy conservation measures and renewable-resource energy measures;

"(C) procedures for the periodic verification (by use of sampling of other techniques), at reasonable times, and under reasonable conditions, by qualified officials designated by such State of the purchase and installation and actual cost of energy conservation measures and renewable-resource energy measures for which financial assistance was obtained under section 509 of the Housing and Urban Development Act of 1970, or section 451 of the Energy Conservation and Production Act; and

"(D) assistance for individuals and other persons to undertake cooperative action to implement energy conservation measures and renewable-resource energy measures.

"(c) There are authorized to be appropriated for supplemental State energy conservation plans which are approved under this section $25,000,000 for fiscal year 1977, $40,000,000 for fiscal year 1978, and $40,000,000 for fiscal year 1979.".

(b) Section 363(b)(2) of the Energy Policy and Conservation Act is amended by adding at the end thereof the following: "No such plan shall be disapproved without notice and an opportunity to present views.".

(c) Section 363(c) of the Energy Policy and Conservation Act is amended by (1) striking out "project or program" and "projects or programs" in the first sentence and inserting in lieu thereof "plan, program, projects, measures, or systems" in each case; and (2) striking out "examination" in the second sentence and inserting in lieu thereof "examination, at reasonable times and under reasonable conditions.".

(d) Section 365 of the Energy Policy and Conservation Act is amended—

(1) by redesignating subsection (d) as subsection (f);

(2) by adding immediately after subsection (c) the following two new subsections:

"(d) The Federal Trade Commission shall (1) cooperate with and assist State agencies which have primary responsibilities for the protection of consumers in activities aimed at preventing unfair and deceptive acts or practices affecting commerce which relate to the implementation of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable-resource energy measures, and (2) undertake its own program, pursuant to the Federal Trade Commission Act, to prevent unfair or deceptive acts or practices affecting commerce which relate to the implementation of any such measures.

"(e) Within 90 days after the date of enactment of this subsection, the Administrator shall—

"(1) develop, by rule after consultation with the Secretary of Housing and Urban Development, and publish a list of energy conservation measures and renewable-resource energy measures which are eligible (on a national or regional basis) for financial assistance pursuant to section 509 of the Housing and Urban Development Act of 1970 or section 451 of the Energy Conservation and Production Act;

(2) designate, by rule, the types of, and requirements for, energy audits."; and

(3) in subsection (f), as redesignated by paragraph (1), by inserting "(other than section 367)" after "part".

PART C—NATIONAL ENERGY CONSERVATION AND RENEWABLE-RESOURCE DEMONSTRATION PROGRAM FOR EXISTING DWELLING UNITS

ENERGY CONSERVATION AND RENEWABLE-RESOURCE DEMONSTRATION

SEC. 441. Title V of the Housing and Urban Development Act of 1970 is amended by adding the following new section at the end thereof:

"ENERGY CONSERVATION AND RENEWABLE-RESOURCE DEMONSTRATION

"SEC. 509. (a) The Secretary shall undertake a national demonstration program designed to test the feasibility and effectiveness of various forms of financial assistance for encouraging the installation or implementation of approved energy conservation measures and approved renewable-resource energy measures in existing dwelling units. The Secretary shall carry out such demonstration program with a view toward recommending a national program or programs designed to reduce significantly the consumption of energy in existing dwelling units.

"(b) The Secretary is authorized to make financial assistance available pursuant to this section in the form of grants, low-interest-rate loans, interest subsidies, loan guarantees, and such other forms of assistance as the Secretary deems appropriate to carry out the purposes of this section. Assistance may be made available to both owners of dwelling units and tenants occupying such units.

"(c) In carrying out the demonstration program required by this section, the Secretary shall—

"(1) provide assistance in a wide variety of geographic areas to reflect differences in climate, types of dwelling units, and income levels of recipients in order to provide a national profile for use in designing a program which is to be operational and effective nationwide;

"(2) evaluate the appropriateness of various financial incentives for different income levels of owners and occupants of existing dwelling units;

"(3) take into account and evaluate any other financial assistance which may be available for the installation or implementation of energy conservation and renewable-resource energy measures;

"(4) make use of such State and local instrumentalities or other public or private entities as may be appropriate in carrying out the purposes of this section in coordination with the provisions of part C of title III of the Energy Policy and Conservation Act;

"(5) consider, with respect to various forms of assistance and procedures for their application, (A) the extent to which energy conservation measures and renewable-resource energy measures are encouraged which would otherwise not have been undertaken, (B) the minimum amount of Federal subsidy necessary to achieve the objectives of a national program, (C) the costs of administering the assistance, (D) the extent to which the assistance may be encumbered by delays, redtape, and uncertainty as to its availability with respect to any particular applicant, (E) the factors which may prevent the assistance from being available in certain areas or for certain classes of persons, and (F) the extent to which fraudulent practices can be prevented; and

"(6) consult with the Administrator and the heads of such other Federal agencies as may be appropriate.

"(d)(1) The amount of any grant made pursuant to this section shall not exceed the lesser of—

"(A) with respect to an approved energy conservation measure, (i) $400, or (ii) 20 per centum of the cost of installing or otherwise implementing such measure; and

"(B) with respect to an approved renewable-resource energy measure, (i) $2,000, or (ii) 25 per centum of the cost of installing or otherwise implementing such measure.

The Secretary may, by rule, increase such percentages and amounts in the case of an applicant whose annual gross family income for the preceding taxable year is less than the median family income for the housing market area in which the dwelling unit which is to be modified by such measure is located, as determined by the Secretary. The Secretary may also modify the limitations specified in this paragraph if necessary in order to achieve the purposes of this section.

"(2) No person shall be eligible for both financial assistance under this section and a credit against income tax for the same energy conservation measure or renewable-resource energy measure.

"(e) The Secretary may condition the availability of financial assistance with respect to the installation and implementation of any renewable-resource energy measure on such measure's meeting performance standards for reliability and efficiency and such certification procedures as the Secretary may, in consultation with the Administrator and other appropriate Federal agencies, prescribe for the purpose of protecting consumers.

"(f) In carrying out the demonstration program required by this section, the Secretary is authorized to delegate responsibilities to, or to contract with, other Federal agencies or with such State or local instrumentalities or other public or private bodies as the Secretary may deem desirable. Such demonstration program shall be coordinated, to the extent practicable, with the State energy conservation plans as described in, and implemented pursuant to, part C of title III of the Energy Policy and Conservation Act.

"(g) The Secretary shall submit an interim report to the Congress not later than 6 months after the date of enactment of this section (and every 6 months thereafter until the final report is made under this subsection) indicating the progress made in carrying out the demonstration program required by this section and shall submit a final report to the Congress, containing findings and legislative recommendations, not later than 2 years after the date of enactment of this section. As part of each report made under this subsection, the Secretary shall include an evaluation, based on the criteria described in subsection (h), of each demonstration project conducted under this section.

"(h) Prior to undertaking any demonstration project under this section, the Secretary shall specify and report to the Congress the criteria by which the Secretary will evaluate the effectiveness of the project and the results to be sought.

"(i) As used in this section:

"(1) The term 'Administrator' means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this section.

"(2) The term 'approved', with respect to an energy conservation measure or a renewable-resource energy measure, means any such measure which is included on a list of such measures which is published by the Administrator of the Federal Energy Administration pursuant to section 365(e)(1) of the Energy Policy and Conservation Act. The Administrator may, by rule, require that an energy audit be conducted as a condition of obtaining assistance under this section for a renewable-resource energy measure.

"(3) The terms 'energy audit', 'energy conservation measure', and 'renewable-resource energy measure' have the meanings prescribed for such terms in section 366 of the Energy Policy and Conservation Act.

"(j) There is authorized to be appropriated, for purposes of this section, not to exceed $200,000,000. Any amount appropriated pursuant to this subsection shall remain available until expended.".

PART D—ENERGY CONSERVATION AND RENEWABLE-RESOURCE OBLIGATION GUARANTEES

PROGRAM

SEC. 451. (a)(1) The Administrator may, in accordance with this section and such rules as he shall prescribe after consultation with the

Secretary of the Treasury, guarantee and issue commitments to guarantee the payment of the outstanding principal amount of any loan, note, bond, or other obligation evidencing indebtedness, if—

(A) such obligation is entered into or issued by any person or by any State, political subdivision of a State, or agency and instrumentality of either a State or political subdivision thereof; and

(B) the purpose of entering into or issuing such obligation is the financing of any energy conservation measure or renewable-resource energy measure which is to be installed or otherwise implemented in any building or industrial plant owned or operated by the person or State, political subdivision of a State, or agency or instrumentality of either a State or political subdivision thereof, (i) which enters into or issues such obligation, or (ii) to which such measure is leased.

(2) No guarantee or commitment to guarantee may be issued under this subsection with respect to any obligation—

(A) which is a general obligation of a State; or

(B) which is entered into or issued for the purpose of financing any energy conservation measure or renewable-resource energy measure which is to be installed or otherwise implemented in a residential building containing 2 or fewer dwelling units.

(3) Before prescribing rules pursuant to this subsection, the Administrator shall consult with the Administrator of the Small Business Administration in order to formulate procedures which would assist small business concerns in obtaining guarantees and commitments to guarantee under this section.

(b) No obligation may be guaranteed, and no commitment to guarantee an obligation may be issued, under subsection (a), unless the Administrator finds that the measure which is to be financed by such obligation—

(1) has been identified by an energy audit to be an energy conservation measure or a renewable-resource energy measure; or

(2) is included on a list of energy conservation measures and renewable-resource energy measures which the Administrator publishes under section 365(e)(1) of the Energy Policy and Conservation Act.

Before issuing a guarantee under subsection (a), the Administrator may require that an energy audit be conducted with respect to an energy conservation measure or a renewable-resource energy measure which is on a list described in paragraph (2) and which is to be financed by the obligation to be guaranteed under this section. The amount of any obligation which may be guaranteed under subsection (a) may include the cost of an energy audit.

(c)(1) The Administrator shall limit the availability of a guarantee otherwise authorized by subsection (a) to obligations entered into by or issued by borrowers who can demonstrate that financing is not otherwise available on reasonable terms and conditions to allow the measure to be financed.

(2) No obligation may be guaranteed by the Administrator under subsection (a) unless the Administrator finds—

(A) there is a reasonable prospect for the repayment of such obligation; and

(B) in the case of an obligation issued by a person, such obligation constitutes a general obligation of such person for such guarantee.

(3) The term of any guarantee issued under subsection (a) may not exceed 25 years.

(4) The aggregate outstanding principal amount which may be guaranteed under subsection (a) at any one time with respect to obligations entered into or issued by any borrower may not exceed $5,000,000.

(d) The original principal amount guaranteed under subsection (a) may not exceed 90 percent of the cost of the energy conservation measure or the renewable-resource energy measure financed by the obligation guaranteed under such subsection; except that such amount may not exceed 25 percent of the fair market value of the building or industrial plant being modified by such energy conservation measure or renewable-resource energy measure. No guarantee issued, and no commitment to guarantee, which is issued under subsection (a) shall be terminated, canceled, or otherwise revoked except in accordance with reasonable terms and conditions prescribed by the Administrator, after consultation with the Secretary of the Treasury and the Comptroller General, and contained in the written guarantee or commitment to guarantee. The full faith and credit of the United States is pledged to the payment of all guarantees made under subsection (a). Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation except for fraud or material misrepresentation on the part of such holder.

(e)(1) No guarantee and no commitment to guarantee may be issued under subsection (a) unless the Administrator obtains any information reasonably requested and such assurances as are in his judgment (after consultation with the Secretary of the Treasury and the Comptroller General) reasonable to protect the interests of the United States and to assure that such guarantee or commitment to guarantee is consistent with and will further the purpose of this title. The Administrator shall require that records be kept and made available to the Administrator or the Comptroller General, or any of their duly authorized representatives, such detail in and form as are determined necessary to facilitate (A) an effective financial audit of the energy conservation measure or renewable-resource energy measure investment involved, and (B) an adequate evaluation of the effectiveness of this section. The Administrator and the Comptroller General, or any of their duly authorized representatives, shall have access to pertinent books, documents, papers, and records of any recipient of Federal assistance under this section.

(2) The Administrator may collect a fee from any borrower with respect to whose obligation a guarantee or commitment to guarantee is issued under subsection (a); except that the Administrator may waive any such fee with respect to any such borrower or class of borrowers. Fees shall be designed to recover the estimated administrative expenses incurred under this part; except that the total of the fees charged any such borrower may not exceed (A) one percent of the amount of the guarantee, or (B) one-half percent of the amount of

the commitment to guarantee, whichever is greater. Any amount collected under this paragraph shall be deposited in the miscellaneous receipts of the Treasury.

(f) (1) If there is a default by the obligor in any payment of principal due under an obligation guaranteed under subsection (a), and if such default continues for 30 days, the holder of such obligation or his agent has the right to demand payment by the Administrator of the unpaid principal of such obligation, consistent with the terms of the guarantee of such obligation. Such payment may be demanded within such period as may be specified in the guarantee or related agreements, which period shall expire not later than 90 days from the date of such default. If demand occurs within such specified time, then not later than 60 days from the date of such demand, the Administrator shall pay to such holder the unpaid principal of such obligation, consistent with the terms of the guarantee of such obligation; except that (A) the Administrator shall not be required to make any such payment if he finds, prior to the expiration of the 60-day period beginning on the date on which the demand is made, that there was no default by the obligor in the payment of principal or that such default has been remedied, and (B) no such holder shall receive payment or be entitled to retain payment in a total amount which together with any other recovery (including any recovery based upon any security interest) exceeds the actual loss of principal by such holder.

(2) If the Administrator makes payment to a holder under paragraph (1), the Administrator shall thereupon—

(A) have all of the rights granted to him by law or agreement with the obligor; and

(B) be subrogated to all of the rights which were granted such holder, by law, assignment, or security agreement applicable to the guaranteed obligation.

(3) The Administrator may, in his discretion, take possession of, complete, recondition, reconstruct, renovate, repair, maintain, operate, remove, charter, rent, sell, or otherwise dispose of any property or other interests obtained by him pursuant to this subsection. The terms of any such sale or other disposition shall be as approved by the Administrator.

(4) If there is a default by the obligor in any payment due under an obligation guaranteed under subsection (a), the Administrator shall take such action against such obligor or any other person as is, in his discretion, necessary or appropriate to protect the interests of the United States. Such an action may be brought in the name of the United States or in the name of the holder of such obligation. Such holder shall make available to the Administrator all records and evidence necessary to prosecute any such suit. The Administrator may, in his discretion, accept a conveyance of property in full or partial satisfaction of any sums owed to him. If the Administrator receives, through the sale of property, an amount greater than his cost and the amount paid to the holder under paragraph (1), he shall pay such excess to the obligor.

(g) (1) The aggregate outstanding principal amount of obligations which may be guaranteed under this section may not at any one time exceed $2,000,000,000. No guarantee or commitment to guarantee may be issued under subsection (a) after the September 30, 1979.

(2) There is authorized to be appropriated for the payment of amounts to be paid under subsection (f), not to exceed $60,000,000. Any amount appropriated pursuant to this paragraph shall remain available until expended.

(h) All laborers and mechanics employed in construction, alteration, or repair which is financed by an obligation guaranteed under subsection (a) shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Administrator shall not guarantee any obligation under subsection (a) without first obtaining adequate assurance that these labor standards will be maintained during such construction, alteration, or repair. The Secretary of Labor shall, with respect to the labor standards in this subsection, have the authority and functions set forth in Reorganization Plan Number 14 of 1950 and section 276c of title 40, United States Code.

(i) As used in this part:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.

(2) The term "Comptroller General" means the Comptroller General of the United States.

(3) The terms "energy audit", "energy conservation measure", "renewable-resource energy measure", "building", and "industrial plant" have the meanings prescribed for such terms in section 366 of the Federal Energy Policy and Conservation Act.

Part E—Miscellaneous Provisions

Exchange of information

Sec. 461. The Administrator shall (through conferences, publications, and other appropriate means) encourage and facilitate the exchange of information among the States with respect to energy conservation and increased use of nondepletable energy sources.

Report by the Comptroller General

Sec. 462. (a) For each fiscal year ending before October 1, 1979, the Comptroller General shall report to the Congress on the activities of the Administrator and the Secretary under this title and any amendments to other statutes made by this title. The provisions of section 12 of the Federal Energy Administration Act of 1974 (relating to access by the Comptroller General to books, documents, papers statistics, data, records, and information in the possession of the Administrator or of recipients of Federal funds) shall apply to data which relate to such activities.

(b) Each report submitted by the Comptroller General under subsection (a) shall include—

(1) an accounting, by State, of expenditures of Federal funds under each program authorized by this title or by amendments made by this title;

(2) an estimate of the energy savings which have resulted thereby;

(3) a thorough evaluation of the effectiveness of the programs authorized by this title or by amendments made by this title in achieving the energy conservation or renewable resource potential available in the sectors and regions affected by such programs;

(4) a review of the extent and effectiveness of compliance monitoring of programs established by this title or by amendments made by this title and any evidence as to the occurrence of fraud with respect to such programs; and

(5) the recommendations of the Comptroller General with respect to (A) improvements in the administration of programs authorized by this title or by amendments made by this title, and (B) additional legislation, if any, which is needed to achieve the purposes of this title.

(c) As used in this part:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.

(2) The term "Comptroller General" means the Comptroller General of the United States.

(3) The term "Secretary" means the Secretary of Housing and Urban Development.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title for the House bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the title of the House bill, insert the following:

"An Act to amend the Federal Energy Administration Act of 1974 to extend the duration of authorities under such Act; to provide an incentive for domestic production; to provide for electric utility rate design initiatives; to provide for energy conservation standards for new buildings; to provide for energy conservation assistance for existing buildings and industrial plants; and for other purposes."

And the Senate agree to the same.

ABE RIBICOFF,
JOHN GLENN,
C. H. PERCY,
J. JAVITS,
BILL BROCK,
Titles III, IV, and V
WILLIAM PROXMIRE,
ALAN CRANSTON,
WARREN G. MAGNUSON,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,
JOHN TOWER,
JAMES B. PEARSON,
CLIFFORD P. HANSEN,
Managers on the Part of the Senate.

Titles I, II, IV, and V
HARLEY O. STAGGERS,
JOHN D. DINGELL,
TIMOTHY E. WIRTH,
PHILIP R. SHARP,
WILLIAM M. BRODHEAD,
BOB ECKHARDT,
RICHARD OTTINGER,
ROBERT KRUEGER,
TOBY MOFFETT,
ANDY MAGUIRE,
CLARENCE J. BROWN,
JOHN HEINZ,
Titles III and IV
HENRY REUSS,
T. L. ASHLEY,
WILLIAM S. MOORHEAD,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12169) to amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Like the Senate amendment, the conference substitute is a broad energy bill which addresses both procedural and substantive energy matters involved the regulatory responsibilities of the FEA. An overview of the more significant aspects of the conference substitute follows.

Summary of the Conference Agreement

At the outset, a general description of the House bill, the Senate amendment, and the Conference substitute may be useful. As passed by the House the bill was largely confined to a simple extension of and authorization of appropriations for the Federal Energy Administration Act of 1974 (FEA Act). The House-passed bill, in addition to an 18-month extension of the Federal Energy Administration, included amendments to the FEA Act intended to improve Congressional oversight of the agency and to make the agency more responsive to public needs.

The Senate amendment to the House bill was far broader in scope. The Senate amendment addressed several of the same issues as had the House-passed bill. In particular, the Senate amendment extended the FEA Act for a 15-month period and made other changes in the FEA Act, several of which were designed to address deficiencies in FEA procedures. In addition, the Senate amendment dealt with a variety of energy issues related to FEA regulatory programs. These included pricing of domestic crude oil produced from stripper wells or by reason of application of enhanced recovery techniques, FEA

energy information data gathering and analysis, electric utility industry rate reform, and a wide range of energy conservation measures.

Energy Conservation Measures

The conference substitute provides a broad range of energy conservation measures designed to take advantage of untapped opportunities for reducing the Nation's increasing dependence upon foreign energy sources by improving the efficiency with which we use energy. The energy appetite of the United States has been growing voraciously; at present growth rates, there is little hope that this appetite could be satisfied without increasing energy imports even if the most optimistic domestic energy production forecasts were realized. This unhappy conclusion does not mean that reduced energy import dependency is unattainable. Rather, it underscores the need for focusing greater attention and effort upon reducing the rate of growth of domestic energy demand and, ultimately, leveling off the Nation's energy consumption.

Since the embargo of 1973, great emphasis has been placed upon increasing domestically produced supplies of energy. A corresponding emphasis has not been placed upon energy conservation, however. While some programs have been enacted, such as the automotive fuel economy program contained in the Energy Policy and Conservation Act, areas of great energy conservation potential remain undeveloped by existing energy conservation programs.

The energy conservation programs included in the conference substitute are intended to place needed emphasis upon reducing wasteful consumption without detracting from the Nations continuing efforts to maximize domestic energy production. These programs represent the beginning of a long overdue process of increasing Federal incentives to use average energy conservation. The conference substitute contains: Federal energy conservation performance standards for new residential and commercial buildings; a $200 million grant program to permit low-income persons to weatherize existing homes; a program at the state level designed to provide home owners and owners of public and commercial buildings with reliable information regarding the costs, savings, and benefits of energy conservation related investments; a $2 billion loan guarantee program to encourage energy conservation related investments in public and commercial buildings; and a $200 million demonstration program to identify incentives to encourage home owners to make energy conservation related investments in home improvements.

It is estimated that the Federal energy conservation performance standards for new residential and commercial buildings, if fully implemented, will alone account for energy conservation savings of up to 6 million barrels per day by 1990. Similarly, it is estimated that the several programs designed to encourage investments in energy conservation improvements in existing buildings will reduce energy consumption by up to 500,000 barrels per day by 1980. Combined with savings achieved by other conservation programs and taken in conjunction with the results of programs designed to expand domestic production of energy, these savings make achievement of greater security of energy supply a more realistic and attainable goal.

Extension of the Federal Energy Administration Act of 1974 and Other Amendments to the FEA Act

The conference substitute provides an eighteen-month extension of the Federal Energy Administration. This period of time should provide adequate opportunity for the Congress to develop a permanent agency responsible for energy matters as a replacement for the FEA, which was originally established as an agency with a fixed and short life span.

This extension of the FEA Act is coupled with a series of amendments to that Act designed to render the agency more responsive to public needs. In particular, provision is made for improvement in FEA procedures with respect to: the standards of hardship applicable to exception and exemption requests; appeals from adverse decisions on exception and exemption requests; holding of local hearings where the effects of a rule or regulation are essentially local in character; public access to the Project Independence Evaluation System model; and the gathering of energy information from small businesses so as to alleviate unnecessary reporting burdens. The conference substitute establishes certain limitations on the Administrator's discretion. These include restraints upon retroactive application of rules and regulations under specified circumstances and upon the submission, in a single energy action, of a proposal to exempt an oil, refined petroleum product, or refined product category from both the price and the allocation provisions of the regulations under the Emergency Petroleum Allocation Act of 1973. In order to increase Congressional oversight of the agency's operations and to assure that appropriated funds are utilized consistently with Congressional intent, authorizations of appropriations are provided on a functional basis. These authorizations of appropriations are combined with prohibitions on utilization of funds appropriated pursuant to these authorizations for certain specified purposes.

Finally, as part of the FEA Act amendments, an improved system for coordinating the gathering of energy information and energy data analysis is established within the Federal Energy Administration under a newly-created Office of Energy Information and Analysis. The purpose of these latter amendments is to insulate the energy data gathering and analysis functions of the Federal Energy Administration from the policymaking responsibilities of the agency.

Enhancement of Domestic Crude Oil Production

In keeping with the need to encourage expanded domestic energy production as well as reduction in energy consumption through increased energy conservation efforts, the conference substitute amends the crude oil pricing policy established in the Energy Policy and Conservation Act (EPCA).

The Energy Policy and Conservation Act amended the Emergency Petroleum Allocation Act (EPAA) to establish a forty-month program of continued price controls on domestic crude oil. EPCA establishes as the benchmark for regulatory purposes a "weighted average" or "composite" price. The composite was initially set at $7.66

per barrel. The President was authorized, within certain limits, to increase the composite price to:

(1) account for inflation, and thereby maintain the composite price in real dollar terms; and

(2) provide an incentive to increase production

The limitations on the President's authority to increase the composite price included:

(1) a 3% limitation on the production incentive factor; and

(2) a 10% overall limitation on combined increases based upon the inflation adjustment and the production incentive factor

Neither percent limitation was absolute, however. In fact, EPCA established a procedure whereby the President, upon making certain findings, may propose to the Congress that adjustments to the composite price in excess of the 3% and/or 10% limitations be permitted. If neither House of Congress disapproves such a proposal within a 15-day Congressional review period, the President may implement the proposal.

The crude oil pricing policy established in EPCA was formed by the concerns which dominated the Congress' consideration of this issue in its first session.

The United States was then, and continues to be, confronted by a strong and effective cartel of oil-producing nations. Neither the world market, nor the domestic market in crude oil is "free". The market price of oil is not a function of consumer/producer bargaining: It is rather a matter of agreement among the OPEC nations. The fourfold increase in world crude oil prices experienced during 1973 and 1974 bear stark witness to the absence of a "free" market.

Also of concern to the Congress during its consideration of this issue, was the state of the economy at that time. During the third and fourth quarters of 1975, inflation, as measured by the GNP deflator, was eroding consumer purchasing power at the annual rate of 7.9 percent and 7.0 percent, respectively. Unemployment rates of 8.6 percent and 8.4 percent represented over 8 million unemployed workers. Moreover, the Gross National Product in the third quarter of 1975 showed an actual decline of −.7 percent as compared to the third quarter of 1974; the increase in the GNP during 4th quarter, 1975, over 4th quarter, 1974, was a mere 2.5 percent.

Thus, 1975 was a year of continuing poor economic condition. The economic well being of the Nation was simultaneously threatened by rapid inflation and widespread unemployment. In significant measure, the recession which created the Nation's serious unemployment problems had been brought on by the quadrupling of oil prices in late 1973 and 1974. Similarly, the inflationary spiral which was eroding consumer purchasing power had been given strong momentum by the initial round of OPEC price increases. Once begun, that spiral was fueled by a succession of domestic and foreign oil price increases which rippled throughout the economy.

The economy had manifestly been unable to absorb abrupt increases of great magnitude in the price of so critical a commodity as petroleum. It followed that economic health could not be restored until these past price increases had been absorbed. Moreover, because the economy had not yet adjusted to the price increases of 1973–74, it could not be expected to bear further price increases of the magnitude which would

have resulted if crude oil price controls had been abruptly terminated, without unacceptably severe inflationary and unemployment consequences.

Under these circumstances, the Congress perceived it to be the primary responsibility of government to assure that economic health was restored, that unemployment rates reversed themselves, and that inflationary pressures were diminished. During such a recessionary period, energy policy as well as other governmental programs were constrained to proceed in a manner consistent with these overriding objectives.

As a matter of general principle, the Congress would agree that the market mechanism allows the most efficient and equitable allocation of resources. Consequently, increasing energy prices through decontrol would clearly encourage consumers to use less energy and to utilize more efficiently the energy which they must consume. At the same time, increases in energy prices would encourage producers of energy to make additions to supplies which, in turn, can be expected to exert a moderating influence on further price increases. However, these effects could not and would not have been achieved in the short term. Both personal and industrial patterns of energy consumption require time during which to adjust. In a modern society, energy, like food and shelter, is a necessity of life. More efficient utilization of energy frequently requires capital investments which, paradoxically, are more difficult to make in view of the competing demands for consumer dollars created by higher prices for essential energy supplies. Moreover, the long lead times involved in developing energy resources means that higher prices for oil resulting from complete decontrol would not elicit additions to supplies of significant proportion for at least 3 to 5 years. During such an interim period, such marginal additions to supply as would be likely to occur might well not justify the burden which higher prices for all oil would have imposed upon the economy.

Given Congress' overriding concern with attainment of the objectives of economic recovery, other crude oil pricing policies were also rejected. Thus, proposals for phased 30-month and 39-month decontrol were judged inadequate to assure economic recover. Yet, the efforts made by the Congress and the President to seek resolution of this critical issue evidences recognition of the fact that a series of short extensions of the then-existing crude oil price regulatory system was not a satisfactory solution.

Similarly tested, the crude oil pricing policy established in EPCA proved responsive to the Congressional objectives of restoring economic growth, providing expanded job opportunities to the unemployed, and relieving inflationary pressures. Nonetheless, EPCA contemplates future price increases to encourage increased domestic production and discourage wasteful consumption. Most importantly, EPCA ties the magnitude and timing of GNP projected to occur under a continuation of the then-existing crude oil price regulations. Sudden decontrol would have caused consumer prices to rise by 1.5 percent by the end of 1977. Finally, these analyses forecast that sudden decontrol would cause the unemployment rate to increase by .8 percent by the end of 1977, representing nearly 800,000 additional unemployed workers. In summation, these forecasts demonstrated

that sudden decontrol and reliance upon market mechanisms would have propelled the economy into a deeper recession and delayed economic recovery.

Econometric analysis of the effects of sudden decontrol prepared during Congressional deliberation of the crude oil pricing issue confirmed the foregoing analysis and demonstrated the serious negative impacts that a large and sudden oil price increase would have had on the Nation's economy. By the end of 1977, sudden decontrol would have reduced real GNP by more than $20 billion, or more than 2 percent, relative to the level of these future price increases to the state of the economy at the time such increases occur. This is the characteristic which distinguishes EPCA: the recognition of the justification and need for future price increases tempered by a procedure which allows these increases to be absorbed by the economy without undue economic disruption. This procedure provides the necessary weaning of the Nation from a low-cost energy based economy to one based upon substantially higher-cost energy.

Enactment of EPCA resulted in imposition of stability to domestic crude oil prices. EPCA had the effect of pulling the rug from under the inflationary spiral which had beset the economy and been a contributing cause of the recession. Prices of energy and other consumer goods began to stabilize during the first quarter of 1976. The rate of inflation was halved. Other signs of economic recovery were forthcoming. The rate of unemployment plummeted by a full point, as compared to its level just 6 months earlier. Correspondingly, the Gross National Product rose at an annual rate of 7.2 percent, evidencing broad-based economic recovery.

The economic recovery experienced during the first quarter of 1976 has continued through the second quarter. GNP, unemployment, and inflation indices all indicate that the economy is responding to a number of Congressional programs, including EPCA, designed to achieve a return to economic well-being. Although unemployment continues to remain at unacceptably high levels, recovery is clearly underway.

Consistent with the concerns which led to enactment of EPCA, the conferees believe it is appropriate to assess the crude oil pricing policy of EPCA in light of present-day economic circumstances. The economy is today in far better condition than it was anticipated that it would be at the time EPCA was enacted. In short, EPCA has been more successful than expected. The conferees, by recommending modification of the EPCA crude oil pricing policy, are carrying forward the EPCA decisionmaking principle. This principle relates the timing and magnitude of future price increases to the state of the economy and reposes in the Congress primary responsibility for assessing the appropriateness of oil price increases by direct legislative initiative or Congressional veto. In the exercise of that responsibility, the conferees believe it is appropriate for the Congress at this time to consider permitting price increases in excess of those initially permitted by EPCA.

The crude oil pricing policy established in EPCA allows price increases in the composite price of domestic oil in order to maintain crude oil prices in constant real dollar terms. Thus the composite price may be increased by an adjustment related to the GNP deflator. This adjustment assures that lost purchasing power of the dollar resulting from general inflation may be restored to producers by an offsetting crude oil price increase. In addition, EPCA permits real dollar price increases in the composite through a production incentive factor.

Economic circumstances prevailing at the time EPCA's enactment lead to the imposition of limits upon the increases permitted by the production incentive factor and the combined price increases permitted by the production incentive factor plus the inflation adjustment factor. The former limitation is 3 percent while the latter limitation is 10 percent.

The 10 percent limitation was imposed as a preliminary Congressional assessment of the maximum rate of increase which could be sustained in nominal dollar terms without threatening the continuity of economic recovery. In addition, the 3 percent limitation on the production incentive adjustment was imposed as a corresponding limit on the level of real dollar increases which could be tolerated without adverse economic effect.

The operation of these limitations was synchronized to assure attainment of the Congressional objectives. Thus, if inflation occurred at a rate in excess of 7 percent, the 10 percent limitation checked the level of real dollar price increases permitted by the production incentive factor. Correspondingly, to the extent that inflation was less than 7 percent, a full 3 percent real dollar price growth could be sustained. The rationale for these twin limitations was that the ability of the economy to absorb price increases in real dollar terms was diminished if inflation was occurring at a rate in excess of 7 percent. Correspondingly, the ability of the economy to absorb the full 3 percent real dollar increase would be enhanced, if inflation were to decline below 7 percent.

At the time of the enactment of EPCA it was not anticipated that the rate of inflation would decrease as rapidly as it has to the present 3 to 4 percent level (as measured by the GNP deflator). However, this dramatic change in the inflation rate itself evidences the ability of the economy to absorb more substantial real dollar price increases than those permitted by the 3 percent limitation on the production incentive factor. Consideration of other economic factors, including the decline in the rate of unemployment and the steady strong growth in GNP, confirm this ability. The conferees therefore believe experience has demonstrated that it is appropriate to remove the 3 percent limitation on the production incentive factor. The practical effect of this removal will be to permit marginally greater real dollar price increases when the inflation rate is lowest, during periods in which the economy has the greatest ability to absorb inflationary pressures. The 10 percent limitation on combined price increases attributable to the inflation adjustment factor and the production incentive factor will continue to assure that real dollar price increases are diminished if the inflation rate increases. The conferees do not believe that there exists a need or justification for modification of the latter limitation at this time, although the President clearly retains the authority under EPCA to propose such a modification in the future if it can be justified.

Having determined that the 3 percent limitation on production incentive adjustment factor should be removed as no longer necessary,

a secondary issue arises regarding the distribution of the allowable increases and the administrative requirements of the present regulatory system. Strong arguments may be made for initially concentrating the permitted price increases in the areas of stripper well production and production achieved through application of enhanced recovery techniques.

Prior to enactment of EPCA, stripper well production was free from Federal crude oil price controls. The resulting imposition of price ceilings upon stripper well production has increased the administrative and compliance burdens associated with implementation of EPCA. Imposition of Federal price ceilings on stripper well operators—largely small and independent producers—has required them to comply with Federal regulations, adding to the costs and administrative difficulties of operating these already marginal wells. These administrative, enforcement and compliance burdens may be unnecessary because, while 70 percent of all domestic wells are strippers, stripper well production accounts for only 12–15 percent of actual production. In addition stripper well production is already priced at the upper tier. The conferees believe that exemption of stripper well production from price ceilings is desirable to reduce the burdens and costs imposed upon stripper well operators, as well as the administrative and compliance costs associated with implementation of EPCA. Equally importantly, the price increases permitted by such an exemption are likely to permit continued operation of marginally profitable stripper wells beyond the period which would be possible at current price levels.

The second form of production which the conferees believe deserve special treatment, as a result of removal of the 3 percent limitation on the production incentive factor, is production resulting from application of certain enhanced recovery techniques. A special need to encourage expanded use of high cost, enhanced recovery techniques has lead the conferees to provide that this category of production be given high priority consideration in distribution of any price increases which may be permitted by reason of the removal of the 3 percent limitation on the production incentive factor.

TITLE I

Federal Energy Act Amendments and Related Matters

LIMITATIONS ON DISCRETION RESPECTING THE SUBMISSION OF CERTAIN ENERGY ACTIONS

House bill

Under existing law, the Administrator of the Federal Energy Administration, in the exercise of authority delegated to him by the President, is permitted to submit to the Congress for review a proposal which combines in a single energy action the removal of both allocation and price controls as they apply to a single oil, refined petroleum product or product category. The House bill circumscribed this discretion so as to require that energy actions deal separately with the question of allocation and price decontrol.

Senate amendment

No provision.

Conference substitute

The conference substitute adopts the provision of the House bill with an amendment which makes clear that the limitation is not intended to preclude the concurrent submission to the Congress of separate energy actions which propose the removal of price and allocation controls related to the same oil, product or product category. Thus, the questions of price and allocation decontrol could pend before the Congress at the same time, but either House would have the opportunity to address itself specifically and selectively to either proposal.

EPA Comment and Waiver

House bill

No provision.

Senate amendment

The Senate amendment amended section 7(c)(2) of the FEA Act of 1974 which provides for a five-day comment period by the Environmental Protection Agency on FEA rules, regulations, or policies which affect the quality of the environment. The Senate amendment extended the comment period to 5 "working" days in order to provide for adequate time for the EPA to assess the environmental impact of any such FEA action.

Existing law authorizes the Administrator to waive, the comment period for not more than 14 days if, in his judgment, there is an emergency situation requiring immediate action. The Senate amendment further provided that a notice of such waiver must be published in the Federal Register on the same day as any such action is first authorized or undertaken and must include a complete explanation of the nature of the emergency which caused him to waive the comment period.

Conference substitute

The conferees adopt the Senate amendment with an amendment. The conference substitute amends paragraphs (1) and (2) of section 7(c) of the FEA Act of 1974. The conference substitute would require the Administrator, prior to promulgating proposed rules, regulations or policies affecting the quality of the environment, to provide a period of 5 working days for comment thereon by the Administrator of the Environmental Protection Agency. Such comments are to be published along with the public notice of the proposed action.

Second, the substitute would leave undisturbed the authority to waive the EPA prior comment requirement for a period of 14 days if the Administrator determines that there is an emergency situation which requires immediate action. The conference substitute would require notice of any such waiver to be given to the EPA Administrator and filed with the Federal Register with the notice of agency action. Further, the notice of waiver shall include a full and complete explanation, accompanied by such supporting data and description of the factual situation as will apprise EPA and the public of the reasons for such waiver.

Thus, while the conferees do not intend to restrict FEA's right to invoke the emergency provision, they do wish to impose as a condition precedent to the invocation of such waiver notice and procedural re-

quirements designed to assure adequate documentation of the nature of the emergency justifying such action.

Office of Exceptions and Appeals

House bill

No provision.

Senate amendment

The Senate amendment to the House bill included a requirement that the FEA establish guidelines and criteria under which special hardship, inequity, or unfair distribution of burdens shall be evaluated. Further, the Senate amendment required that the agency specify the standards of hardship, inequity, or unfair distribution of burdens by which any disposition of a case was made under the Office of Exceptions and Appeals, and the specific application of such standards to the facts contained in any such application or petition. If any person was aggrieved or adversely affected by a denial of a request for adjustment, the Senate amendment provided that he may request a review of such denial by the agency and may obtain judicial review when such denial became final. In addition, the agency was required to provide a hearing, when requested, for review of the denial. The Senate amendment also provided that no review of a denial under this provision shall be controlled by the same officer denying the adjustment pursuant to this subparagraph.

Conference substitute

The conferees accepted the Senate provisions with amendments.

The conferees intend the provisions relating to publication of criteria and guidelines to require that the FEA publish a description of standards which it has employed, in the past, in approving or denying applications for exception relief. The conferees expect that these guidelines, together with precedents contained in the published decisions and orders of the Office of Exceptions and Appeals, will assist applicants in making presentations to the agency by providing them with a statement of the grounds on which relief has been accorded in the past. It is not the intention of the conferees, however, that these provisions require the FEA to anticipate all situations in which relief may be appropriate in the future, since the exceptions process is designed in substantial measure to resolve factual situations which could not have been and were not contemplated at the time the general statutory or regulatory programs were adopted. Thus, the guidelines the FEA is required to issue will not foreclose the FEA from granting relief in the future on grounds in addition to those specified in the guidelines.

A provision adopted by the Senate, which was erroneously excluded by the Senate bill, as enrolled, would have required the FEA to establish a procedure whereby a hearing for review of a denial of relief would be held within 30 days of filing and would have provided for the making of a transcript of such a hearing, if requested. Although the conferees have not included this requirement in the legislation, they agree with its basic purpose and expect that FEA would take such action as may be necessary to see that its purposes are achieved.

Requirements For Hearings in Areas Affected by FEA Rules and Regulations

House bill

The House bill required the Federal Energy Administration to hold local hearings in circumstances where a proposed rule or regulation was to apply to a single State, geographic area or political subdivision within a State or to the residents thereof.

Senate amendment

No provision.

Conference substitute

The conference substitute incorporates the House provisions with technical changes. By incorporating provisions which provide for a local hearing where the effects of a proposed rulemaking are themselves "localized", the conferees intend to assure that the Federal Energy Administration will take into consideration the particularized concerns and needs of the areas, governmental units or residents most substatially affected. This provision can be expected to make every citizen's opportunity to participate in governmental decisionmaking more meaningful and direct and should result in a more responsive and responsible exercise of governmental authority at the Federal level. The conference substitute makes clear, as did the House provision, that these provisions do not of themselves require that a hearing be held with respect to a rule or regulation which local effect. Whether the Administrator is required to afford an opportunity for hearing would continue to be controlled by provisions of other law. The local hearing requirement would become operative in those circumstances where the Administrator is required by law to hold a hearing or where he determines in the exercise of his discretion to afford an opportunity for hearing or the oral presentation of views, provided the rule or regulation in question has only local applicability.

Limitation on the Administrator's Authority With Respect to Enforcement of Rules and Regulations

House bill

The House bill prohibited the Administrator of the FEA from using his discretion to maintain a civil action or issue a remedial order against any person whose only petroleum industry operation relates to the marketing of petroleum products, where such civil action or order is based upon FEA rules, regulations, or rulings interpreting such rules and regulations, which were being applied retroactively and where such person relied in good faith upon rulings that were in effect at the time of the alleged violation.

Senate amendment

The Senate amendment contained a similar prohibition but extended the protection of the provision to independent refiners or small refiners, as described in the Emergency Petroleum Allocation Act of 1973 for independent producers. It also prohibited the Administrator from seeking criminal penalties against such persons.

Conference substitute

The conferees agreed to the House language with technical amendments.

It is the intent of this provision to provide relief to businesses which have been subjected to seemingly endless changes in rules and regulations by the FEA and to penalties arising from those changes made after the original effective date of such rules and regulations. Many firms, especially smaller marketers, have attempted in good faith to rely on FEA rules and regulations, but have been confronted by subsequent amendments to those rules applied retroactively. This has presented a difficult situation and has frequently subjected small marketers to severe hardships. By adopting this language the conferees intend to relieve small marketers from an unnecessary burden. They do not intend to restrict the FEA from perfecting its rules and regulations, indeed, the conferees encourage this. However, they do not believe that such a periodic updating should cause unjust penalties to small businessmen.

The conferees do not mean for this subsection to provide marketers with the means to challenge all enforcement actions based upon arguably ambiguous rules, regulations or rulings or upon clarifying amendments thereto. It is intended to apply where the agency has officially taken one position then changes its mind and takes another. Further the conferees do not intend for this provision to limit argument or defense by any other person who may similarly be negatively affected with respect to a retroactive ruling or interpretation by the agency. The conferees do not intend for this provision to encourage the retroactive applications of rules and regulations to every other class or person not similarly protected.

AMENDMENTS TO INFORMATION-GATHERING AUTHORITIES

House bill

The House bill contained a direction to the Administrator of FEA, in the exercise of his authority to collect energy information, to take into account the size of businesses so as to avoid to the greatest extent practicable actions which impose overly burdensome reporting requirements on small marketers and distributors of petroleum products and other small business concerns. The House bill expressly prohibited the Administrator from engaging in surveys or polling activities or disseminating information related to public opinion, attitudes or views as determined by such surveys or polling.

Senate amendment

The Senate amendment would direct the Administrator to establish a "uniform system of standards, procedures and methods for the accounting for and measurement of" certain identified energy information. The Senate amendment also amended section 13 of the Federal Energy Administration Act to incorporate a system of penalties for failures to comply with FEA rules, regulations or orders related to its information collection functions. The scope of the energy-gathering authority was redefined to specifically include foreign activities of United States firms and activities occurring in the United States conducted by foreign entities. As in the House bill, the Senate amendment directed the Administrator to alleviate small business reporting burdens. No provision of the Senate amendment related to the use of polling information or surveys.

Conference substitute

The conferees have determined not to include the direction to the Administrator to establish a uniform system of standards, procedures and methods for the accounting for and measurement of certain energy information. Instead the conferees determined to make clear that the Administrator was to have authority to require the keeping of such records or accounts as may be necessary to determine compliance with applicable rules, regulations, orders, or other provision of law. The conferees understand this to be an authority common to regulatory agencies to assure that they may be able to faithfully execute the law. It is not intended that the FEA exercise this authority to evolve and make mandatory uniform accounting practices or standards, a task which has implications which transcend the authorities and responsibilities which current law has assigned to the Administrator.

The conferees have not included the Senate language which restates the scope of the energy information-gathering authority on a determination that the inclusion of this language was unnecessary. The conferees believe that the energy information authority already vested in the Administrator is adequate to permit him to obtain information from both United States and foreign domiciled firms and that the information-gathering power may reach to obtain relevant data wherever located. The conferees have agreed to add a system of penalties for failure to comply with the Administration's lawful demands for information, but have modified the provisions of the Senate bill so as to incorporate by reference the system of penalties already provided for in existing law relating to a failure to comply with rules, regulations or orders of the Administrator issued under authorities of the Energy Supply and Environmental Coordination Act of 1974. The conferees believe that persons required to submit information should not be placed in jeopardy of differing sanctions depending on which energy information-gathering authorities the Administrator chooses to employ (i.e., those contained in section 13 of the Federal Energy Administration Act or those provided in section 11 of the Energy Supply and Environmental Coordination Act). Accordingly the conference substitute makes parallel the enforcement mechanisms applicable to the information-gathering authorities contained in these Acts.

The conference substitute includes the provisions related to the alleviation of small business reporting burdens which were contained in identical form in both the House bill and Senate amendment. The substitute does not, however, contain the provisions of the House bill which restricted the authority of the Administrator to conduct surveys or polling activities. Instead the conferees agreed that this joint statement should admonish the Administrator against the use of any such surveys or polling information to lobby the Congress or attempt to influence Congressional policies by evidencing support of the policies of the President or a lack of support of the policy positions of any member of the Congress or positions taken by any Committee or House of the Congress.

Keeping of Data Related to the Export of Coal, Crude Oil, Residual Oil and Refined Petroleum Products to Foreign Nations

House bill

No provision.

Senate amendment

The Senate amendment proposed to change the requirement of existing law to make permissive, rather than mandatory, the keeping on file by the Administrator of specific information concerning exports of coal, crude oil, residual oil or any refined petroleum product. The Administrator was also permitted to obtain representative samples of any such shipment.

Conference substitute

The conferees understand that it was the intention of the Senate amendment to avoid the maintenance of a file of information by the Administrator which was duplicative of data already collected and in the hands of the Customs Bureau of the Department of Commerce. The conference substitute accordingly relieves the Administrator of the necessity to maintain a file of this information provided he can satisfy himself that the information was maintained by some other Federal agency in adequate detail, such information was freely and fully available to the Administrator upon request and, as provided in existing law, such information would in turn be available to the Congress.

Reports

House bill

No provision.

Senate amendment

The Senate amendment provided that the report required by section 18(d) of the FEA Act of 1974 concerning the impact of the energy shortage on the economy and employment be submitted annually, rather than semi-annually. A Senate amendment also required the Administrator to submit to Congress a comprehensive, interdisciplinary study of the energy needs of the United States and the methods by which such needs could be met. Third, a Senate amendment to the House bill required that the FEA Administrator conduct a study of the relative benefits of employing a Btu tax as a means of reaching national energy goals. Fourth, a Senate amendment required the Energy Resources Council to coordinate the preparation of reports now issued by the FEA and ERDA on a national energy policy and program.

Conference substitute

The House recedes with respect to the Senate amendment concerning the annual submission of the report on the impact of the energy shortage on the economy and employment.

The conferees agreed, with respect to the Senate amendment concerning the interdisciplinary, comprehensive study of the energy needs of the United States and the methods by which those needs could be

met, to revise this proivison so as to include such study as an analysis, within the existing FEA annual report.

The conferees agreed that the Senate amendment with respect to a Btu tax study should be included in the next FEA annual report. It is the intent of the conferees that the FEA study and report to Congress on the use of this tax and other energy taxes, as a means of attainment of an acceptably low level of energy imports by 1985. The conferees agreed that the following elements were to be included in this analysis: (1) energy taxes based on (a) an across the board tax on the use of non-renewable forms of energy to be levied at the minemouth, wellhead, or port-of-entry; and (b) taxes designed to correct existing price distortions arising from uninternalized social costs, including, for example, costs of reliance upon insecure foreign sources of supply, and costs of adverse environmental impact; and distortions arising from regulation of prices. (2) refund of taxes on the basis of a uniform payment to each adult.

The analysis should evaluate the impact of such taxes on: (1) the economy, including the general price level and energy prices, employment, government revenue, and distribution of income and relative purchasing power; (2) the supply of and demand for energy; (3) the degree of reliance on insecure foreign sources of supply; (4) reduction of adverse social costs, including environmental, health and safety costs; and (5) the degree to which the need for FEA regulatory programs would thereby be diminished or eliminated.

The Senate receded from its amendment which required the Energy Resources Council to coordinate the two reports now being prepared by the FEA and ERDA, believing that such a requirement might inhibit the free exchange of views.

Authorization of Appropriations

House bill

The House bill contained an authorization of appropriations for the FEA for the current Transitional Quarter and for the next fiscal year, as specified below. The House subjected these funds to the restrictions that no more than $607,000 for the transitional quarter and $2,036,000 for fiscal year 1977 could be used for the Office of Communications and Public Affairs, and that no funds could be used for the Office of Nuclear Affairs or the functions assigned to that office as of January 1, 1976. The total level of authorizations for the Transition Quarter was $3,379,200 and for fiscal year 1977 was $172,411,800.

Senate amendment

The Senate adopted restrictions similar to the House provision in its authorization amendment. The authorization levels were at a slightly lower budget level in almost all cases. The Senate authorization for the Office of Conservation and Environment was set at $40,596,000. The Senate also contained an authorization for Federal solar energy commercialization activities at $500,000 for the transition quarter and $2,500,000 for fiscal year 1977. The total level of authorizations for the Senate amendment was $38,193,000 for the Transition Quarter from July 1, 1976 to September 30, 1976, and for administration of the Act for fiscal year 1977, $185,757,000.

TABLE I

	Senate version		House version	
	Transition quarter [1]	Fiscal year 1977 [1]	Transition quarter [1]	Fiscal year 1977 [1]
Executive Direction and Administration	$8,596,000	$31,554,000	$8,655,000	$33,086,000
Office of Energy Policy and Analysis	8,000,00	34,472,000	8,137,000	34,971,000
Office of Regulatory Programs	11,600,000	47,800,000	13,238,000	62,459,000
Office of Conservation and the Environment	7,004,000	40,596,000	7,386,000	12,596,000
Electric utility demonstration project				13,056,000
Office of Energy Resource Development	2,800,000	14,914,000	3,052,000	16,934,000
Office of International Energy Affairs	300,000	1,921,000	300,000	1,921,000
Federal solar energy commercialization activities	500,000	2,500,000		

[1] Not to exceed.

Conference substitute

The Senate receded and accepted the House figures with two exceptions. First, the House and Senate conferees agreed to accept a compromise figure of $37,000,000 for the Office of Conservation and Environment. Second, the House receded to the Senate authorization for solar commercialization projects. The higher House figures were accepted by the Senate to cover activities in the following areas: compliance and enforcement; energy resource development; executive direction and administration; and policy and analysis. The higher House figures were accepted in order to encourage a more intensive compliance effort on the part of the FEA than has characterized their activities in the past; and in order to intensify the agency's effort to bring about conversion of oil and gas-fired electrical generation plants to coal.

The conferees agreed to a Senate amendment for FEA to continue to carry out the policy and planning functions associated with promoting accelerated utilization and widespread commercialization of solar energy, and also with providing overall coordination of Federal solar energy commercialization activities. Further, the amendment added an explicit restriction banning use of such funds authorizing FEA for conduction solar research, development, and demonstration (R,D&D). The conferees believe that the explicit language of the Senate amendment addresses House concerns that contributed to the deletion of the solar energy measure on the House floor. For example, the Senate amendment explicitly bans any use of funds by FEA for solar research, development or demonstration. Further the conferees recognize that a multi-agency approach to accelerated commercialization may be necessary.

The conferees expect that Congress shall receive, in a timely manner, the results and recommendations of FEA's solar commercialization program to "develop the policies, plans, implementation strategies, and program definitions for promoting accelerated utilization and widespread commercialization of solar energy." Of particular interest, the conferees expect that Congress will receive, in the shortest feasible period of time, results and recommendations regarding: a "national plan for the accelerated commercialization of solar energy" to include workable options for achieving on the order of 1 million barrels per day of oil equivalency in energy savings by 1985 from a combined total of all solar technology; studies and analyses addressing mitigation of economic, legal, environmental, and institutional

constraints; development of such major commercialization projects as, but not limited to, the "Southwest Project"; the "Solar Energy Government Buildings Project", among others; development of State solar energy commercialization programs (an assurance that such programs, as they relate to the on-site use of solar energy for providing electricity or thermal energy to buildings or building complexes, are closely coordinated with State energy conservation implementation programs); and the development of commercialization plans for each major solar technology.

Further the conferees expect that Congress will receive, in the shortest feasible period of time, the status and recommendations concerning FEA's efforts to encourage participation by various agencies, and to provide overall coordination of Federal solar energy commercialization activities. As the current Federal energy structure is being reorganized into a more permanent institution, the conferees also expect that Congress will be kept advised of options developed for institutional arrangements in the Federal energy structure, and of such other appropriate parts of the Executive Branch, for accelerating the commercialization of solar energy.

For the purpose of permitting public use of the Project Independence Evaluation System, pursuant to section 31 of this Act, the conferees also agreed to authorize the aggregate amount of the fees estimated to be charged for such use to the FEA, by the public.

Federal Energy Administration Act Extension

House provision

The House extended the FEA Act for 18 months, until December 31, 1977.

Senate amendment

The Senate amendment extended the FEA Act for 15 months, until September 30, 1977.

Conference substitute

The conferees accepted the House language. All the conferees were agreed on the need to provide only a short-term extension of this Agency. It was the belief of the conferees that a 17-month extension allows ample time for planning and implementation of a reorganization plan for Federal responsibilities for energy activities. Additionally, the extension of the FEA permits the continued implementation of programs already established which can then be readily transferred as this country moves toward a reorganization of its energy programs.

The Federal Energy Administration Act of 1974, as originally enacted, provided for the termination of FEA on June 30, 1976. On June 1, 1976, the House passed H.R. 12169, which extended this legislation for 18 months beyond the June 30th, 1976 expiration date. On June 16, the Senate passed S. 2782, which provided for a 15-month extension of the Agency. Because of these substantial differences between the House and Senate bills, the conferees were not able to complete their action on the legislation before the June 30, 1976 expiration date of the FEA Act. Therefore, on June 28th, the Senate acted favorably on S. 3625 which extended the Agency for an additional 30 days—until July

30, 1976. The House likewise acted favorably on this legislation and it was signed by the President on June 30, 1976.

The conferees completed their work on this legislation on July 30, 1976. Because the conference report could not be filed and acted upon by both Houses and presented to the President before the expiration of the Agency, the conferees added language to the bill to make the extension retroactive. It is the intent of the conferees that this retroactive provision have the effect of permitting the organic Act to continue uninterrupted. Further, it is the intent of the conferees that the Agency, its functions (including pending regulatory matters), appointments and other personnel matters, prior obligations and programs, shall be deemed to have continued uninterrupted despite the brief period between July 30th, 1976 and the effective date of this legislation.

The conferees are aware that, because of the necessity to continue existing energy programs, the President issued Executive Order No. 11930 on July 30th establishing a Federal Energy Office (FEO) in the Executive Office of the President. The conferees do not intend to suggest that actions taken during the hiatus period by the FEO and consonant with the procedures required by the FEA Act would be invalidated by this Act.

Construction of Small and Independent Refineries

House bill

No provision.

Senate amendment

The Senate bill contained a provision requiring the Administrator to establish a new category of entitlements for persons in the process of constructing a new oil refinery. The Administrator was directed to establish criteria for inclusion in this category so that new refineries by small or independent refiners might be fostered and encouraged.

Conference substitute

The conference accepted a substitute for the Senate amendment. The conferees agreed with the underlying purposes of the Senate provision, but were concerned with the scope and ramifications of the proposed amendment. Accordingly, the conference substitute directs the Administrator to make a careful study of the entire issue of new refinery construction by small and independent refiners and to take action, under existing law, to remove any unnecessary, unreasonable and discriminatory barriers to entry for such persons that are created by the regulatory structure. The conferees have directed that the Administrator report to the Congress in April 1977, explaining what action has been taken pursuant to this provision. The report is also to include a discussion of the problems in this area that cannot be resolved within the existing framework and recommendations for legislative change that could remedy these difficulties.

Project Independence Evaluation System Documentation and Access

House provision

The House bill required the Federal Energy Administration to provide structural, econometric and operating documentation on the

Project Independence Evaluation System Computer Model. The House required that this documentation be provided by specific date and that access to the model be made available to representatives of Congressional committees and to members of the general public, upon payment of fees covering the costs of such access.

Senate amendment

No provision.

Conference substitute

The conferees accepted the House provision with an amendment to clarify the requirements that public access to the Model would, in fact, be required, but that any member of the public requiring access to the model would be expected to reimburse FEA for the actual cost of using the model. In accordance with language in the authorization section, any funds so recevied might be later appropriated to the use of FEA, as reimbursement for the costs incurred by FEA in providing these services.

Congressional Review of Rules, Regulations, 60-Day Layover

House bill

The House bill contained a provision which require that all rules and regulations likely to have a substantial impact on the nation's economy or large numbers of individuals or businesses, must be submitted to each House of Congress prior to their effective date. Further the provision stated that such rules and regulations could not take effect if disapproved by concurrent resolution of the Congress during the 60 legislative day review period.

Senate amendment

No provision.

Conference substitute

The House receded from its provision yielding to Senate objections related to the workability and constitutionality of the provisions of the House bill.

Amendments to Crude Oil Pricing Policy

House bill

No provision.

Senate amendment

The Senate amendment changed in two respects the pricing policy embodied in the Energy Policy and Conservation Act signed into law this last December. First, the Senate amendment contained a statutory exclusion from price controls for stripper well production. Such volumes were also to be excluded from calculation of the weighted average composite price formula which serve as a restraint on the President's authority to increase domestic energy price over the 40 month period which began in February, 1976. Secondly, the Senate amendment proposed to exclude from price controls production which is attributable to certified enhanced recovery projects undertaken subsequent to Februarv 1st of this year. These volumes, also, would be excluded from calculation of the weighted average composite price.

Conference substitute

Prior to stating the agreement reached by the conferees it is useful to describe the pricing requirements of existing law. The Energy Policy and Conservation Act (EPCA) amended the Emergency Petroleum Allocation Act (EPAA) to establish a forty-month program of continued crude oil price controls.

EPCA established as the benchmark for regulatory purposes a "weighted average" or "composite" price. The composite was initially set at $7.66/bbl. The President was authorized to increase the composite price to:

(1) account for inflation, and thereby maintain the composite price in real dollar terms; and

(2) provide an incentive to increase production.

Limitations were imposed upon this authority. These limitations included:

(1) a 3% limitation on the production incentive factor; and

(2) a 10% overall limitation on combined increases based upon the inflation adjustment and the production incentive factor.

Neither percent limitation is absolute. EPCA established a procedure whereby the President, upon making certain findings, is authorized to propose to Congress that adjustments to the composite price in excess of the 3% and/or 10% limits be permitted. If neither House of Congress disapproves such a proposal within a 15-day Congressional review period, the President may implement the proposal.

The conferees have agreed to that portion of the Senate amendment which would exclude stripper well production from price controls. The substitute, however, does not remove stripper well production from the calculation of the weighted average composite price. The conferees determined that to do so would greatly amplify the effect of the exemption of stripper well production and permit unjustified price increases with respect to other classifications of domestic crude oil production. Indeed, the effect of removing stripper well production from the composite calculation would have a price impact more than three times that which would result from the simple exemption of stripper production from price controls themselves. Instead, the conferees have determined to include actual volumes of stripper well production in the composite calculation.

Stripper oil production is to be given an imputed value, however. This is done to minimize the reporting burdens which attend administration of the pricing provisions and to guard against the eventuality that future OPEC directed increases in world market prices might inexorably raise the market price of stripper well production to the point that roll backs in ceiling prices applicable to other prices of oil would be necessitated in order to stay within the composite "benchmark."

The imputed price is to be first calculated at $11.63, an approximation of today's average first sale price of stripper well production. This imputed value is to be adjusted to reflect increases in the actual average price of domestic production remaining subject to controls. It is the intent of the formula agreed upon in the conference substitute to require an upward adjustment in the imputed value to reflect increases in actual prices excluding any increase which occurs solely by

reason of a shift in the relative values of upward and lower tier oil attributable to natural field decline.

The conferees are agreed that there exists great potential for augmenting domestic crude oil production through the application of enhanced recovery techniques. There is also general agreement that current economic circumstances would permit adjustments to the pricing mechanism contained in the Energy Policy and Conservation Act to give needed additional incentives for the application of high-cost enhancement techniques which today are not economical. The conferees could not, however, agree to the provisions of the Senate amendment which would permit substantial price increases for commonplace secondary enhancement techniques such as water flooding and gas displacement. Moreover, the conferees did not believe it wise to attempt to create in rigid statutory language a special classification of domestic production which would be freed of price restraints. Unlike the case of stripper well production, for which there is both a long legislative and administrative history, there is not common agreement as to the practicality, feasibility or cost-effectiveness of the various enhancement techniques employed throughout the industry. Also, a great deal of time, money and effort is currently being expended to develop new and more effective techniques. Accordingly, any statutory classification is likely to be either so narrowly stated as to exclude important emerging technologies or so broadly stated as to create a loophole of undiscernible proportions.

For these reasons, the conference substitute seeks to obtain the objective of providing additional price incentives for high-cost enhancement techniques by equipping the Administrator with greater flexibility to provide for such incentives within the framework of the exsting price regulatory structure. In so doing, the conferees seek to maintain the integrity of the pricing policies contained in the Energy Policy and Conservation Act while at the same time providing the President with the means of targeting additional price incentives to those extraordinary and high-cost enhancement techniques commonly associated with tertiary applications which are uneconomical under today's pricing regimen. Accordingly, the conference substitute removes the 3% limitation on production incentive adjustments to afford the President a greater flexibility to respond to an improving economy by giving greater price incentives to optimize domestic production. The conferees have identified, as matter of high priority, correction of gravity differential problems in the current price regulatory mechanism and the creation of additional price incentives for the application of bona fide tertiary enhancement techniques.[1] Thus, the President is directed, taking into consideration the greater flexibility as attends the removal of the 3% limitation, to amend the regulation which pertains to the price of domestic crude oil at the earliest practicable date to provide for these Congressionally identified priorities.

As a matter of emphasis, it should be noted that the conference substitute preserves the current 10% limitation on the combined adjust-

[1] The conferees wish to emphasize that the use of the term tertiary is intended to refer to techniques of a generic class. It is not intended, in a chronological sense, to imply that traditional secondary applications must first be exhausted before use of these high cost and extraordinary enhancement techniques could qualify for additional price incentives.

ments to the domestic composite price to take into account inflation and to provide incentives for optimizing domestic production. The President must, therefore, keep within the 10 percent overall limitation in making adjustments to the price control mechanism, thereby assuring that consumers and the economy in general will not be called upon to absorb abrupt increases in basis energy prices of a dimension likely to damage national economic recovery or impose particular hardship.

It is the conferees understanding that within the 10% limitation the President has adequate flexibility to provide for correction of gravity differential problems and to give further price incentives as may be necessary to encourage the application of high-cost enhancement techniques. Removal of the 3% limitation, coupled with the exclusion of stripper well production from price controls, as proposed in the conference substitute, will obviate the need for presenting to the Congress a proposal to provide for the implementation of the so-called "third phase" of the pricing policy established in the Energy Policy and Conservation Act. In keeping with this understanding, the conferees have received and hereby incoporate as an integral part of their agreement, the following letter from John A. Hill, Deputy Administrator of the Federal Energy Administration.

FEDERAL ENERGY ADMINISTRATION

JULY 30, 1976.

Hon. HARLEY O. STAGGERS,
Chairman, Conferees on the Part of the House.

Hon. ABRAHAM RIBICOFF,
Chairman, Conferees on the Part of the Senate.

DEAR CHAIRMEN: In light of the amendments to the price control mechanism, as proposed in the Conference substitute to the bill H.R. 12169, (referred to as the Eckhardt amendments), it is the FEA's understanding that neither the President nor any delegate exercising authority under the Emergency Petroleum Allocation Act of 1973, will submit to the Congress in the period which begins on this date and ends March 15, 1977, an energy action to further increase the composite price of domestic crude oil, provided those amendments become law.

JOHN A. HILL,
Deputy Administrator.

Should the President sign this legislation or otherwise permit it to become law, he would, thereby, indicate his acceptance of the common understanding reflected in Mr. Hill's letter.

The President would be called upon, as under existing law, to submit a report to the Congress on February 15 concerning his administration of the price control authorities. The conference substitute requires that specific information be contained in that report concerning the use of greater flexibility which attends removal of the 3% limitation as well as the effects (on both production and price) resulting from the removal of price controls for stripper well production. This report would lay over a period of approximately 30 days or until March 15, 1977, before the Congress would be called upon to consider

a proposal related to the continuation of the production incentive or one which seeks adjustment at 10%.

Prior to the deletion of the three percent limitation on price adjustments as a production incentive, section 8(e)(1) of the EPAA permitted the President to submit to the Congress an amendment to the regulations which provided for: (1) a price increase in excess of the three percent limitation on adjustments as a production incentive, (2) a price increase in excess of the 10 percent limitation on the combined effect of adjustments to take into account the impact of inflation and as a production incentive, or (3) both.

Since the three percent limitation on adjustments as a production incentive has been deleted, the corresponding provision for submitting to the Congress amendments to exceed that limitation has also been deleted. The conferees wish to make clear, however, that an amendment to exceed the overall 10 percent limitation could nonetheless be submitted in a format which specified a fixed percentage adjustment for price increases as a production incentive subject to an increase in the overall 10 percent limitation. Alternatively such a submission may specify a fixed percentage adjustment for price increases as a production incentive not subject to a fixed percentage combined adjustment limitation, but with the overall limitation determined on a quarterly basis by adding the percentage rate of inflation as measured by the adjusted GNP deflator to the fixed rate of increase specified in the amendment as a production incentive.

The conferees wish to comment specifically on that provision of the conference substitute which directs the President to take corrective action with respect to certain gravity differential problems, particularly as they relate to crude oil produced in California and Alaska.

It appears that heavy, or low gravity crude oil produced in these states—and possibly elsewhere—was on May 15, 1973 subject to a price penalty of as much as 6 cents per barrel per API degree of gravity. As a result, the price ceiling for such crude oil, determined by reference to May 15, 1973 posted prices, perpetuates this penalty. One of the factors which led this Committee to agree upon the amendment which removes the three percent limitation on price adjustments as a production incentive was the understanding that this flexibility be used by the Administrator to adjust prices for heavy California crude oil to more equitable levels. The increase in actual old crude oil prices resulting from such adjustments would properly be regarded as a production incentive price adjustment and would, as such, meet the requirements of section 8(b)(2) of the EPAA with respect to the findings necessary to increase prices for old crude oil production.

APPLIANCE PROGRAM

House bill

No provision.

Senate amendment

The Senate amendment transferred all FEA functions under the appliance labeling and energy efficiency standards program under Part B of Title III of EPCA to the National Bureau of Standards. In addition, the deadline for prescribing energy efficiency improve-

ment targets under section 425(a)(1) of EPCA was extended for 90 days.

Conference substitute

The conferees amended the provisions of the Senate amendment to provide as follows: The Administrator of the FEA shall direct the National Bureau of Standards to develop energy efficiency improvement targets for each covered product specified in paragraph (1) through (10) of section 322(a) of the Energy Policy and Conservation Act. The Administrator would then propose and promulgate targets for these types of products. Further, the Administrator is given an additional 90-day period after enactment of the bill to prescribe by rule the targets for each of these products. The 90-day extension is necessary in order to provide NBS adequate time to develop the targets and to allow FEA an opportunity for presentation of views and informal questioning prior to promulgation of the targets. However, the conferees feel that FEA should promulgate the targets as expeditiously as possible within the constraints of the statute.

The Administrator is also required to direct the National Bureau of Standards to develop an energy efficiency improvement target for each type of covered product specified in paragraphs (11) through (13) of sections 322(a) of EPCA.

Under the substitute, FEA retains authority to propose and promulgate energy efficiency improvement targets, and in doing so, may modify any targets developed by NBS. However, it is anticipated that FEA will consider the recommendations of NBS.

In developing energy efficiency targets, NBS should observe the same constraints as are applicable to FEA in prescribing targets; namely, they should be based upon a maximum percentage improvement which it determines is economically and technologically feasible, but which in any case is not less than 20 percent.

It should be noted that section 336 of EPCA requires that the Administrator afford manufacturers and other interested persons an opportunity for an informal hearing (including an opportunity for limited informal questioning) with respect to any proposed energy efficiency improvement targets published by the Administrator. Section 336 contains no specific provision for judicial review of these targets; however, judicial review under the Administrative Procedure Act, chapter 7 of Title 5, U.S.C., is available in accordance with the terms of that chapter.

Extension of the Energy Resources Council

House bill

No provision.

Senate amendment

The Senate extended the life of the Energy Resources Council until September 30, 1977.

Conference substitute

The conferees agreed to the Senate amendment to extend the life of the Energy Resources Council until September 30, 1977. Since the House had no comparable provision extending the life of the Energy Resources Council, it was not possible within the scope of the conference to extend the termination date of that Council until December 31, 1977. However, the conferees intend that the Council should serve as a focal point for the transition planning and reorganization work until a reorganization of the Federal government's responsibilities in this area can be brought about. It was the intent of the Senate amendment to make the expiration of the Energy Resources Council coterminous with the expiration date of the Federal Energy Administration.

Energy Resource Council Reports

House bill

No provision.

Senate amendment

The Senate adopted two provisions requiring reports from the Energy Resources Council. The first of these required that an annual energy conservation report be prepared by the Energy Resources Council with the assistance of all agencies involved in conservation-related programs, detailing (1) all such activities at the Federal, state and local levels and in the private sector; (2) what the potential conservation could be from such actions if widespread implementation were effected; and (3) what further conservation activity should be undertaken.

The Senate also adopted a requirement that the President, through the Energy Resources Council, prepare a plan for the reorganization of the Federal government's responsibilities for energy and natural resources, including but not limited to, the study of principal laws and directives that constitute the energy and natural resource policy of the United States; prospects of developing a consolidated national policy; the major issues and problems of existing and natural resource organizations; the options for Federal energy and natural resource organizations; and overview of available resources pertinent to energy and natural resources organizations; recent proposals for a national energy and natural resource policy for the United States; and the relationship between energy policy goals and other national objectives. The provision required that the report be submitted to the Congress by December 31, 1976, with an update to be sent to Congress by March 1, 1977.

Conference substitute

The conferees accepted both Senate amendments with an amendment extending the update report submission to April 15, 1977, on the reorganization of the Federal government's energy and natural resource responsibilities.

Further, in light of the strong desire to include the Senate amendment with respect to the reorganization study and analysis from the Energy Resources Council, the House rejected a Senate provision which provided for the dispersion of the functions of the Federal Energy Administration upon its termination. It was the strong belief of the conferees that an effort to move towards consolidation of the functions of energy and natural resources now carried out by the Federal government is the proper course of action.

Office of Energy Information and Analysis

House bill

No provision.

Senate amendment

The Senate provisions amended the Federal Energy Administration Act of 1974 to establish within the FEA an Office of Energy Information and Analysis headed by a Director appointed by the President subject to Senate confirmation. The Director would be required to have background experience appropriate to the task of managing the National Energy Information System authorized by the amendment. This system, when complete, would contain the energy information required to permit comprehensive and detailed analysis of energy-related issues by agencies of the Executive Branch, the Congress and the public.

The Senate amendment utilized only that authority to gather energy information which is part of existing law. The existing protection in law for sensitive or confidential information was also unchanged by the Senate amendment.

It was the intent of the Senate amendment that the Office be separated from the role the FEA has assumed in formulating and communicating the Administration's energy policies. The Office would serve as an objective, professional resource for both the Congress and the public as well as the FEA. As a further check on the objectivity and professionalism of the Office, the procedures of the Office would be subject to a performance audit review on an annual basis by a team of professionally qualified employees of the leading Federal statistical agencies.

Under the Senate amendment, the FEA Administrator would be required to conduct a review of Federal energy information gathering activities and develop recommendations designed to reduce burdensome and duplicative reporting of energy information. These recommendations would become part of the President's reorganization proposal required elsewhere in the Act.

The Senate amendment contemplates that, in the operation of the Office, the Director would utilize the files of energy information already being maintained by various Federal agencies to the maximum extent practicable. No information in possession of the Office could be withheld from Congress.

The Senate amendment requires the Director of the Office to make both regular periodic and special reports to the Congress and the public providing a comprehensive picture of energy supply and consumption in the United States, including a description of important trends.

The Senate amendment further required the Director of the Office to collect on an annual basis from major energy companies energy information of a financial nature relating to the economics of the energy supply. Information permitting an analysis of costs, profits, cash flow and investments by companies engaged in exploration, development, production processing and other phases of the enrgy industry would be collected on an annual basis and published in summary form.

To assure that the Office would be established as part of the Administration taking office in January, 1976, the Senate amendment would become effective 180 days after enactment.

Conference substitute

The conference substitute generally follows the Senate amendment, although a number of changes were made by the Conference Committee. The most substantial of these changes is the deletion of a provision of the Senate bill which would have required the collection of energy information of a financial nature from companies in the energy industry.

With respect to the Director of the Office of Energy Information and Analysis established by the conference substitute it is the understanding of the conferees that the delegation of energy information authority to the Director of the Office by the Administrator may be on a non-exclusive basis. The conferees do not intend that the provisions of the conference substitute be construed to limit the exercise of authority with respect to energy information by the Administrator where such exercise is required to fulfill roles assigned the Administrator by statute or by delegation by the President. However, it is the intent of the conferees that the Director be given the lead energy information responsibility within the FEA and that the Office serve as a focal point for the processing and analysis of energy data and information relevant to energy policy decisionmaking. The conferees further intend that no internal institutional barriers or impediments with respect to the availability of energy data, information or related documents to the Director exist within the FEA.

The conference substitute adopts the major features of the Senate provision describing the National Energy Information System which would be established and maintained by the Office. The conferees recognize that the description of this system implies substantial tasks for the Office. The conferees expect that the Director of the Office will exercise prudent judgment in establishing priorities and in assigning the resources available to the Office with respect to the achievement of the goals set for the National Energy Information System by this Act. However, the conferees do not intend that the flexibility granted the Director in this regard and reflected in the statutory language be used as an excuse for failure to forcefully address gaps in our current knowledge of the systems which supply and consume energy, particularly with respect to the impacts of energy policies on the economy and employment and the relationships between the economics of energy supply and energy availability.

The conference substitute deletes the requirement of the Senate amendment that all analytic capabilities be maintained "within the Office". The conferees wish to permit the Director the flexibility to utilize contractual or other arrangements if the maintenance of the required capabilities can be achieved most efficiently thereby. However, the conferees wish to emphasize their clear intent that these capabilities be available to the Director on a real-time basis and that the flexibility granted by the Act not result in deficiencies in the Office with respect to the collection, processing or analysis of energy information.

The conferees expect that sensitive or confidential information, if any, contained in any Federal agency report to the Director be afforded the protection which such information would have received in the agency producing the report.

The conferees adopted the Senate provision describing the reports to be prepared by the Director with an amendment deleting the requirement of a detailed description of the extent of compliance or non-compliance by industry or other persons subject to the rules and regulations of the Office. The conferees do not intend, however, that the Director's reports on the activities of the Office necessarily refrain from commenting on any compliance problems. The conferees feel strongly that the Congress and the public should be made promptly aware of any problems in this area which may arise. However, it is not intended that a lengthy, item-by-item description of compliance activities related to energy information be required on a routine basis.

The conferees also deleted the entire Senate provision which would have required the Office to collect annually from major energy-producing companies energy information of a financial nature relating to the economics of the energy industry. The conferees do not intend that the deletion of this provision be construed as an indication of Congressional intent to limit the authority of the FEA to gather energy information. Rather, the conferees believe that adoption of a Senate provision which was closely contested in the Senate and has not been the subject of hearings and analysis in the House is premature at this time. The conferees recognize that the objective determination of the sensitivity of energy supply to economic factors is one of the goals of the National Energy Information System established by this part. The conferees also note that, with respect to persons engaged in whole or in part in the production of crude oil and natural gas, a detailed and rigorous process required by the Energy Policy and Conservation Act (P.L. 94–163) is currently under way to establish orderly and uniform standards and procedures with respect to the reporting of certain financial information. It is the wish of the conferees that the Director of the Office fully exercise his authority to gather the energy information, including information of a financial nature, where such information can be obtained in useable form and is relevant to, and will assist in the clarification of, energy policy issues. However, in the absence of further Congressional study and analysis the conferees are reluctant to write into law detailed and technical requirements with respect to the collection of specific categories of energy information of a financial nature.

The conferees understand and intend that the provisions of the conference substitute in no way expand or limit the authority of the FEA to gather energy information. Similarly, it is not in any way intended that these provisions result in the unauthorized disclosure of information protected under existing law. For example, in suggesting methods by which the Director of the Office may organize the energy information presented in reports, including organization of such information on a company basis, the conferees intend only that information be disclosed to the public, in such manner and to such an extent as would be consistent with requirements of existing law respecting the protection of certain information from disclosure.

Under provisions of the conference substitute, no information in possession of the Office could be withheld from Congress on request of a duly established Committee. By providing that information so acquired is the "property" of any such Committee, the substitute makes it clear that appropriate handling of sensitive information will occur under the auspices of such Committee. This provision is not, of course, intended to suggest a taking of commercially valuable information by any Committee of the Congress.

TITLE II

Electric Utility Rate Design Initiatives

RATE DESIGN PROPOSALS

House bill

No provision.

Senate amendment

The Senate amendment required that the Administrator of the FEA develop and publish in the *Federal Register* no later than 180 days after enactment, voluntary electric utility rate structure guidelines for the purpose of encouraging electric utility companies to develop innovative rate structures. Within 90 days after publication of the guidelines, copies were required to be sent to the utility regulatory commissions along with a written request for compliance. These guidelines were to be reviewed, revised and republished at least annually.

Conference substitute

The conferees agreed to a provision which directs the FEA Administrator to develop proposals to improve electric utility rate design. These proposals are to be transmitted to each House of Congress not later than six months after enactment of the bill for review and for such further action as the Congress may by law direct.

The conferees deleted all references to voluntary guidelines in order not to prejudge the result of further Congressional action. In particular, some of the conferees felt that the conference substitute should not exclude the possibility that the proposals could provide the basis for enactment of legislation establishing national minimum standards for electric utility rate design. Others felt that the proposals could result in legislation directing FEA to prescribe voluntary guidelines, or in no legislative action by Congress.

Further, the adopted provision describes the general objectives which the proposals should be designed to achieve; namely "to encourage energy conservation, minimize the need for new generating capacity, and minimize costs to consumers". The Administrator is specifically directed to submit four proposals:

(1) A proposal for implementation of load management techniques which are cost-effective. A load management technique is a technique to reduce maximum kilowatt demand on an electric utility. Such a technique may involve use of interruptible electrical services, energy storage devices, ripple or radio control mechanisms, load limiting devices, elimination of master metering or techniques to minimize inefficient end uses of electrical energy; as

well as time-of-use pricing techniques discussed under paragraph (2). A load management technique is cost-effective if such technique is likely to reduce maximum kilowatt demand on the electric utility in question and if long-run benefits of such reduction are likely to exceed the long-run costs associated with the implementation of such technique.

(2) A proposal for implementation of rates which reflect marginal cost of service, or time-of-use of service, or both. The proposal could provide for redesign of electric utility rate structures in order to reflect marginal cost pricing principles (without increasing overall utility revenues beyond the levels necessary to produce a fair rate of return). Alternatively, the proposal could provide for peakload pricing on a daily or seasonal basis in order to reflect differences in cost attributable to daily or seasonal time of use of electric utility services.

(3) A proposal for implementation of ratemaking policies which discourage inefficient use of fuel and encourage economical purchases of fuel. Among the types of proposals the Administrator could consider in this connection would be proposals to modify fuel adjustment or other automatic adjustment clauses to provide for (A) a partial (*e.g.* 90%) pass-thru of increases and decreases in fuel costs, (B) a threshold above which fuel costs must increase (and below which they must decrease) before any automatic adjustment is triggered, or (c) a requirement of audit or review by utility regulatory commissions of fuel related transactions.

(4) A proposal for rates (or other regulatory policies) which encourage greater electric utility system reliability and reliability of major items of electric utility equipment. Such a proposal could, for example, recommend that reliability standards for major generating equipment be prescribed and that in that event that such equipment failed to meet the applicable standards, adjustments would be made in the utility rates. Or, if the Administrator finds that reliability standards are feasible and in the public interest, he may want to propose mechanisms other than changes in ratemaking practices. Alternatively, he might wish to propose changes in the design of fuel adjustment clauses which would have the effect of precluding the automatic recovery of increases in fuel costs which result from a decrease in system efficiency, as opposed from those which result from an increase in fuel prices.

Finally, he may combine any of the above proposals if he deems it to be appropriate, he may submit proposals in alternative form, and he may submit additional proposals related to matters not described above.

The Administrator is also required to transmit to Congress, at the time he transmits his proposals, an analysis of the projected benefits, if any, which are likely to result from the implementation of each of the proposals which he transmits to Congress, including projected savings in energy consumption, projected reduction in the need for new generating capacity and demand for capital, and the projected changes in the cost of electric energy.

Demonstrations and FEA Intervention

House bill

The House-passed bill authorized funds for the utility demonstration project program and for rate reform initiatives.

Senate amendment

The Senate amendment authorized the Administrator of the FEA to provide financial assistance to State utility regulatory commissions so that they may continue or initiate electric utility rate structure and load management demonstration projects. The Administrator was further authorized to provide technical assistance to State utility regulatory commissions and to intervene in proceedings before those commissions for the purpose of promoting the implementation of the Federal guidelines.

Conference substitute

The conference substitute authorizes the Administrator:

(1) to fund demonstration projects to improve electric utility load management procedures and regulatory rate reform initiatives,

(2) on request of a State, a utility regulatory commission or of any participant in any proceeding before a utility regulatory commission which relates to electric utility rates or rate design, to intervene or participate in such proceeding, and

(3) on request of any State, utility regulatory commission, or party to any action to obtain judicial review of an administrative proceeding in which the Administrator intervened under paragraph (2), to intervene or participate in such proceeding as a party.

This provision is not intended to limit any authority which FEA may otherwise have in administrative or judicial proceedings.

Office of Consumer Services

House bill

No provision.

Senate amendment

The Senate bill authorized the Administrator to make grants to States to provide for the establishment and operation of offices of consumer services to facilitate the presentation of consumer interests before the utility regulatory commissions. These offices are to be operated independently of the commissions. $2 million is authorized for FY '77.

Conference substitute

The Senate provision was adopted.

Reports

House bill

No provision.

Senate amendment

The Senate bill required that the Administrator report annually to Congress with respect to this Title.

Conference substitute

The Senate amendment was adopted.

AUTHORIZATION

House bill

The House-passed bill authorized $13,056,000 for the transition quarter and FY '77 for demonstration projects and rate reform initiatives, with a limitation of not to exceed $1 million for the purpose of FEA intervention and participation in regulatory actions at the State level.

Senate amendment

The Senate authorized the appropriation of $10 million for FY '77 for the purposes of funding the demonstration projects, providing technical assistance, and intervening before regulatory commissions. $2 million is authorized (for FY '77) for offices of consumer services.

Conference substitute

The conferees accept the House authorization figures for demonstration projects, rate reform initiatives and FEA intervention and participation. The conferees also accept the $2 million Senate authorization for offices of consumer services.

III—MATTERS RELATED TO ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

MINIMUM ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS

House bill

No provision in H.R. 12169.

(For the purpose of informing members, the following describes the related provisions of H.R. 8650* as that bill passed the House.

(H.R. 8650 directed the Secretary of Housing and Urban Development (after consultation with the Administrator of the FEA, the Secretary of Commerce utilizing the services of the National Bureau of Standards, and the Administrator of the General Services Administration) to develop proposed performance standards for new commercial buildings with respect to energy conservation. The proposed standards were required to be published in the Federal Register for public comment not later than 18 months after the enactment of the legislation. That bill further directed that final performance standards for such buildings should be developed and promulgated within 6 months after the publication of the proposed standards.

(H.R. 8650 also directed the Secretary of HUD (after consultation with the same officers) to develop proposed energy conservation performance standards for new residential buildings. The proposed standards were required to be published in the Federal Register for public comment not later than 3 years after enactment. Final performance standards, with respect to energy conservation for new residential buildings, were required to be developed and promulgated within 6 months after such publication.

(The Secretary was directed to utilize the services of the National Institute of Building Sciences, under appropriate contractual arrangements, in the development of these performance standards, as soon as practicable after the activation of this Institute.

(The House bill, H.R. 8650, directed the Secretary, in developing and promulgating these energy conservation performance standards for new commercial and residential buildings, to take account of, and to make appropriate allowance for, climatic variations in various regions of the nation. The Secretary was also directed to consider (1) the probable effect of any standard promulgated on the cost of new residential or commercial buildings, and (2) the benefit to be derived from such standard. In addition, the Secretary was directed to periodically review and provide for the updating of the standards promulgated under these provisions (after consultation with the same officers and other Federal officials).

(The House bill (H.R. 8650) authorized the Secretary to extend any of the time requirements specified for proposed or final energy conservation standards so long as no such extension resulted in delaying by more than 6 months the date specified for the promulgation of any final energy conservation performance standards).

Senate amendment

The Senate amendment was the same as the provisions in H.R. 8650 as passed by the House except as follows:

(1) Proposed performance standards for new commercial buildings were required to be published for comment not later than 3 years after the enactment of the legislation, but that 3 year period could be extended by 6 months.

(2) The final and promulgated energy conservation performance standards for new commercial buildings and for new residential buildings were required to become effective within a reasonable time after the date of promulgation of the standards, as specified by the Secretary of HUD, but the effective date could not be more than 1 year after the date of promulgation.

(3) The Secretary of HUD was not required, as in the House bill, to utilize the services of the National Institute of Building Sciences.

Conference substitute

The Conferees adopted the Senate amendment with an amendment which requires the Secretary of HUD to utilize the services of the National Institute of Building Sciences as in H.R. 8650 as passed by the House.

*The House and Senate passed differing versions of H.R. 8650, the Energy Conservation in Building Act of 1975. Title III of H.R. 12169, as passed by the Senate, contained the provisions of title II of H.R. 8650, as passed by the Senate.

APPLICATION OF PERFORMANCE STANDARDS TO NEW CONSTRUCTION

House bill

No provision in H.R. 12169.

(No provision in H.R. 8650 as that bill passed the House.)

Senate amendment

The Senate amendment prohibited any Federal officer or agency from approving any financial assistance for the construction of any building in an area of a State unless that State had certified (1) that the unit of general purpose local government having jurisdiction over that area had adopted and was implementing a building code or similar requirement that met or exceeded the applicable energy conservation performance standards promulgated by the Secretary of HUD under this legislation, or (2) that a State code or requirement providing for the enforcement of these performance standards had been adopted and was being implemented on a statewide basis or in that area.

In the event that any State had not developed, by the effective date of these energy conservation performance standards, a procedure for certifying local codes or requirements and had not adopted and started to implement a State code or requirement, the Secretary of HUD could grant a temporary approval (for a period not to exceed 1 year) to a local code or other requirement which was proposed by a unit of general purpose local government.

The Senate amendment specifically directed each Federal instrumentality responsible for supervising, regulating, or insuring banks, savings and loan associations, or similar institutions to adopt certain regulations to implement the foregoing sanctions. Under these regulations, each such supervised, regulated, or insured institution was prohibited from making or purchasing loans for the construction or financing of any buildings, after the effective date of applicable energy conservation performance standards, unless such buildings were to be located in areas in which Federal officers and agencies could approve financial assistance for building construction.

As part of its certification to the Secretary of HUD, a State could recommend that specific units of general purpose local government within that State be excluded from the requirements of these standards on the basis that the amount of new construction in areas subject to such units was not sufficient to warrant the costs of implementing the standards or of providing for the inspections necessary to assure compliance. The Secretary was authorized, in his discretion, to exclude such a unit without affecting the State's certification.

The Secretary was directed to provide by regulation for the periodic updating of the certifications by the States under this provision, and was further directed to conduct reviews and investigations as necessary to determine the accuracy of such certifications. The Senate amendment authorized the Secretary to reject or disapprove any such certification or to require that it be withdrawn provided that he first afforded the State involved a reasonable opportunity for a hearing.

Conference substitute

The conference substitute modifies the Senate amendment and the conferees adopted the Senate amendment with an amendment which provides as follows:

After the final performance standards are promulgated under this legislation the President shall transmit such standards to the Congress for review to determine whether the sanction provided in the legislation shall become effective no Federal financial assistance shall be made available or approved with respect to the construction of any new commercial or residential building in any area of any State unless such new building satisfies the performance standards. This sanction will not apply until both Houses of Congress approves, pursuant to application of expedited review procedures and a resolution that this sanction is necessary and appropriate to assure that such standards are in fact applied to all new buildings.

Upon adoption of a concurrent resolution the performance standards are satisfied for a new building in any area of any State if the Secretary has received a certification from that State (in accordance with regulations to be promulgated by the Secretary of HUD) (1) that the unit of general purpose local government which has jurisdiction over that area has adopted and is implementing a building code or other code which meets or exceeds the final performance standards or (2) that the State itself has adopted and is implementing (statewide or as to that area) a building code or other laws or regulations which provide for the effective application of these final performance standards.

The sanction will also not apply to the construction of a new building if that building has been determined, pursuant to any applicable approval process, to be in compliance with the final performance standards. The term "approval process" is defined to mean a mechanism and procedure for the consideration of an application to construct a new building which involves determining compliance with such standards and which is administered by the level and agency of government specified by the Secretary in accordance with designated priorities. Priority number one would be the agency which grants building permits within the applicable unit of general purpose local government. If this agency is unable to, or will not administer such a process, the second priority is any other agency of the same local government. The third priority for administration is an agency of the applicable State's government.

APPLICATION OF PERFORMANCE STANDARDS TO FEDERAL BUILDINGS

House bill

No provision in H.R. 12169.

(No provision in H.R. 8650 as that bill passed the House.)

Senate amendment

The Senate amendment required the head of each Federal agency responsible for the construction of any Federal buildings to adopt such procedures as would be necessary to assure that any such construction was in compliance with or exceeded the applicable energy conservation performance standards promulgated by the Secretary of HUD under this legislation.

Conference substitute

The conference substitute adopted the Senate provision.

GRANTS TO STATES FOR ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

House bill

No provision in H.R. 12169.

(For the purpose of informing members, the following describes the related provisions of H.R. 8650 as that bill passed the House. H.R. 8650 authorized the Secretary of Housing and Urban Development to make grants to States and to local government units to assist them in implementing, through building codes, energy conservation standards approved by the Secretary. The House bill authorized the appropriation of not to exceed $10,000,000 for this purpose.)

Senate amendment

The Senate amendment authorized the Secretary of HUD to make grants to States to assist them to meet the costs of developing standards or State certification procedures required as part of the process for

Senate Amendment

The Senate amendment authorized the Secretary of HUD to make grants to States to assist them to meet the costs of developing standards or State certification procedures required as part of the process for application of the final energy conservation performance standards for new buildings. The Senate amendment authorized the appropriation of not to exceed $5,000,000 for this purpose in fiscal year 1977.

Conference substitute

The conferees adopted the Senate amendment with an amendment which makes units of general purpose local governments eligible for such grants.

TECHNICAL ASSISTANCE TO STATES

House bill

No provision in H.R. 12169.

(For the purpose of informing members, the following describes the relevant provisions of H.R. 8650 as that bill passed the House. H.R. 8650 authorized the Secretary of HUD to provide technical assistance to States and to local government units with respect to the implementation of energy conservation standards for new buildings.)

Senate amendment

The Senate amendment authorized the Secretary (by contract or otherwise) to provide technical assistance to State and local governments to assist them in meeting the requirements of this title.

Conference substitute

The conferees adopt the Senate provisions.

CONSULTATION IN THE DEVELOPMENT AND PROMULGATION OF PERFORMANCE STANDARDS

House bill

No provision in H.R. 12169.

(For the purpose of informing members, the following describes the provisions of H.R. 8650 as that bill passed the House. H.R. 8650 required the Secretary of HUD to consult with appropriate representatives of the building community (including labor, the construction industry, engineers, and architects) with appropriate public officials and organizations thereof, and with representatives of consumer groups in developing and in promulgating energy conservation performance standards for new buildings and in carrying out his other functions under this title. To the extent feasible, the Secretary was also directed to make use, to consult with the National Institute of Building Sciences. If the Secretary established any advisory committees for this purpose, those committees were made subject to the Federal Advisory Committee Act.)

Senate amendment

The Senate amendment was essentially the same as the provision in H.R. 8650 as passed by the House.

Conference substitute

This provision of the Senate amendment is included in the conference substitute.

RESEARCH AND DEMONSTRATION ACTIVITIES

House bill

No provision in H.R. 12169.

(For the purpose of informing members, the following describes the provisions of H.R. 8650 as that bill passed the House. H.R. 8650 directed the Secretary of Housing and Urban Development to carry out any research and demonstration activities which the Secretary finds to be necessary (1) to assist in the development of energy conservation performance standards for new commercial and residential buildings and (2) to facilitate the implementation of such standards by State and local governments. The Secretary was required to conduct such activities in cooperation with the Administrator of the Federal Energy Administration, the Administrator of the Energy Research and Development Administration, the Director of the National Bureau of Standards, and the National Institute of Biulding Sciences. The bill provided that these activities were to be designed to assure adequate analysis of such performance standards in terms of energy use, economic cost and benefit, and other specified factors.)

Senate amendment

The Senate amendment provision was the same as the corresponding provision of H.R. 8650 except that the Secretary was directed to conduct these activities as passed by the House in cooperation with the Federal Energy Administration such but not with the National Institute of Building Sciences.

Conference substitute

The conferees adopted the Senate amendment with an amendment which directs the Senate to conduct such activities in cooperation with the National Institute of Building Sciences and other appropriate Federal agencies.

IV—Matters Related to Energy Conservation Assistance for Existing Buildings

PART A—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

House bill

No provision in H.R. 12169.

(For the purpose of informing members, the following describes the relevant provisions of H.R. 8650 as that bill passed the House. H.R. 8650 provided for the development and implementation of weatherization programs to insulate the dwellings of low-income persons in order to conserve energy and to assist the persons least able to afford increased energy costs. The Administrator of the Federal Energy Administration was authorized to make grants to the Governors of the States (including the Mayor of the District of Columbia) and to transfer funds to the Commissioner of Indian Affairs to assist in the carrying out of programs designed to provide for weatherization (i.e. improvement in the thermal efficiency of a dwelling) of dwellings of low-income persons (defined as persons having income at or below the poverty level determined in accordance with criteria established by the Office of Management and Budget), particularly of such persons who are 65 or older or who are handicapped by a disability.

(Within 90 days after enactment of the legislation, and after consultation with the Secretaries of HUD, HEW, Labor, and other appropriate Federal officials the Administrator was directed to develop and publish criteria upon which to evaluate applications for such assistance; the criteria could include the amount of fuel to be conserved, the number of dwellings to be weatherized under the program, the areas to be served and their climatic conditions, the type of work to be done, the amount of non-Federal resources to be applied in the case of an application from a State, mechanisms under the program for obtaining the services of volunteers, and priorities among weatherization recipients and types of dwellings. Rents on dwelling units could not be raised because of the increased value of such units resulting solely from weatherization assistance under this provision. The Federal funds received could only be used for the purchase of weatherization materials (e.g. ceiling insulation, storm windows, caulking, and weather stripping, but not mechanical equipment), except that a State or governmental agency could use no more than 10 percent of its grant for the administrative costs of its weatherization program. The Administrator was directed to provide, by regulation, that no weatherization programs under this provision duplicated any existing effective weatherization program being carried out by the Community Services Administration through community action agency programs in the same area. The Administrator of FEA was also required to monitor the operation of these weatherization programs through reporting requirements or onsite inspections to assure effectiveness, and he was authorized to provide technical assistance to any program funded under this provision. The Administrator was authorized to obtain necessary information and grant recipients were required to keep necessary records.

(H.R. 8650 directed the Administrator to suspend additional Federal grant payments upon a finding that a weatherization program was not in substantial compliance with the provisions of its application for assistance, as approved. H.R. 8650 also provided for audit by the Comptroller General; the issuance of necessary or appropriate rules, regulations, and orders by the Administrator; notice and an opportunity for a hearing before any final disapproval of any weatherization program application; judicial review of final actions by the Administrator; a prohibition on discrimination on the ground of race, color, national origin, or sex; a plan for evaluating the effectiveness of the weatherization program; and an annual report to the President and the Congress on the results of the weatherization programs receiving Federal assistance under this provision.

(H.R. 8650 authorized appropriations for weatherization assistance in the following amounts: $55,000,000 for fiscal year 1976, $55,000,000 for fiscal year 1977, and $55,000,000 for fiscal year 1978, with such sums to remain available until expended.)

Senate amendment

The Senate amendment was in substance the same as the House bill, except for the following major items:

(1) The term "weatherization" was not used; the provision was entitled "residential insulation assistance for low-income persons" and Federal financial assistance was authorized to assist in carrying out projects designed to improve insulation and energy conservation in dwellings in which the head of household was a low-income person, particularly such dwellings in which persons who are 60 or older or who are handicapped by disability are residing.

(2) The term "low-income" was defined to mean that individual or family income which does not exceed 50 percent of the median income for individuals or families in the particular geographical area.

(3) If a State did not submit an application meeting statutory requirements within 150 days after enactment, a community action agency under the Economic Opportunity Act of 1964 could do so, in lieu of such State, with respect to residential insulation projects in the geographical area served by it.

(4) A State applying for financial assistance under the Senate amendment was required to designate or create a State agency or institution which has (or which has a policy advisory council which has) special qualifications and sensitivity with respect to solving the problems of low-income persons, and which is broadly representative of organizations and agencies providing services to low-income persons in such State. That agency or institution was required to be the sole agency for administration, coordination, and allocation of funds with respect to residential insulation programs for low income persons in such State.

(5) The Senate amendment provided for joint concurrence on regulations by FEA and the Community Services Administration (CSA). The Senate bill also provided for joint monitoring and evaluation of projects by FEA and CSA.

(6) Grant funds would be allocated to community action agencies presently conducting a residential insulation assistance program funded under section 222(a)(12) of the Economic Opportunity Act of 1964 (unless there was a finding by the State, after a public hearing, that such program was ineffective or of insufficient size to carry out the proposed program for a given area).

(7) Standards for insulation materials and conservation methods would be approved by the National Bureau of Standards.

(8) The Administrator of FEA was required to insure that not less than 50 percent of the sums appropriated for residential insulation assistance under this provision was to be allocated by him to community action agencies.

(9) The Senate amendment authorized appropriations for residential insulation assistance for low-income persons in the following amounts: $55,000,000 for fiscal year 1977; $65,000,000 for fiscal year 1978; and $80,000,000 for fiscal year 1979.

Conference substitute

The conferees adopted the Senate amendment with an amendment which provides for:

(1) The term "low-income" means that income in relation to family size which is at or below the poverty level in accordance with criteria established by the Office of Management and Budget or on the basis of which assistance payments have been paid under titles IV or XVI of the Social Security Act or applicable State or local law during the preceding 12 months.

(2) The term "weatherization" is used, as under House bill H.R. 8650, and the term "weatherization materials" is defined to mean items designed primarily to improve the heating or cooling efficiency of a dwelling (such as ceiling, wall, floor, and duct insulation; storm windows and doors; and caulking and weatherstripping; and mechanical equipment up to $50 in value per dwelling unit involved); and the cost of materials cannot exceed $400 per dwelling unit unless a higher amount is provided for by the State policy advisory council with respect to categories of dwellings or materials.

(3) If a State does not submit an application meeting requirements within 90 days after the publication of final regulations with respect to this program, a unit of general purpose local government or a community action agency may submit an application, in lieu of such State, with respect to weatherization projects in the geographical area served by such unit or agency. A State may also amend its application in accordance with regulations of the Administrator.

(4) Weatherization grants may be made directly to Indian tribal organizations or other similar qualified entities, to serve the low-income members of an Indian tribe, upon the making of certain determinations.

(5) The 50 percent requirement with respect to community action agencies is not retained because of the conferees' expectation that such agencies conducting effective emergency energy conservation programs would probably in due course receive a high proportion of the total appropriation in the fair application of the funding priorities established in the bill.

(6) The provision for CSA concurrence on regulations is deleted and CSA monitoring and reporting on programs is limited to those programs carried out by community action agencies. The substitute, however, provides for full coordination between the FEA Administrator and the Director of CSA in the development of the regulations. The conferees intend that the process of full coordination with the Director of CSA in the development and promulgation of the regulations will include full involvement of CSA staff in developing the regulations, and the submission of proposed interim and final regulations to the CSA Director, in such a way as to give the Director adequate time to submit pre-publication comments to the FEA Administrator.

(7) Each State is required to submit a State plan for allocating funds within the State based on certain general factors, and the public hearing requirement is revised by substituting a requirement for a single public hearing on that plan.

(8) Standards for insulation materials and conservation methods are to be prescribed in coordination with the National Bureau of Standards.

STATE ENERGY CONSERVATION IMPLEMENTATION PROGRAMS

House bill

No provision.

Senate amendment

The Senate amendment provided Federal financial assistance for "State energy conservation implementation programs" established by the States in accordance with statutory requirements and approved by the Administrator of FEA, in accordance with guidelines to be established by the Administrator within 120 days after enactment of the legislation. These guidelines were required to be consistent and coordinated with the guidelines prescribed by the Administrator under part C of title III of the Energy Policy and Conservation Act with respect to "State energy conservation plans".

In order for a State to be eligible for Federal financial assistance, the Senate amendment required that a State energy conservation implementation program provide for the following:

(1) a State energy conservation advisory committee with broad community representation;

(2) coordination among various Federal, State, and local energy conservation programs, with assurance that financial assistance under this legislation supplements, and does not supplant, the expenditure of other Federal, State, or local funds for the same purposes;

(3) an effective public education effort with respect to the energy and cost savings possible through conservation, and assistance available for conservation activities under this and other acts and programs;

(4) procedures for learning of energy conservation advances and for encouraging the utilization of such advances;

(5) a reliable system of energy audits to identify cost-effective energy conservation measures in housing and nonresidential buildings. Such audits are to be available at no direct cost to homeowners, and at reasonable cost to owners of nonresidential buildings;

(6) protection for consumers against unfair and deceptive acts or practices related to the implementation of energy conservation measures;

(7) procedures for periodic verification (i) of findings by lending institutions pursuant to the granting of energy conservation loans, and (ii) that energy conservation measures for which financial

assistance is made available under this legislation are fully implemented;

(8) procedures for encouraging and facilitating the participation of energy consumers in energy conservation cooperatives, established to provide to members information and technical assistance with respect to energy conservation; and

(9) appropriate enforcement provisions to facilitate a State's efforts to carry out an energy conservation implementation program.

Most of these requirements involve steps or procedures relating to the implementation of "energy conservation measures". That term was defined in the Senate amendment to mean an investment, action, or procedure which was designed to modify any existing housing, nonresidential building, or industrial plant and which was likely to improve the efficiency of energy use and reduce energy costs sufficiently to be cost-effective if it either (a) had as its primary purpose an improvement in the efficiency of energy use in such housing, building, or plant, or (b) was a renewable-resource energy measure. The term "renewable-resource energy measure" was defined to mean any such investment, action, or procedure which involves a shift from a depletable (e.g. fossil fuel) to a nondepletable (e.g. solar, wind) source of energy in housing, nonresidential buildings, or industrial plants.

The Administrator of FEA was required, in addition to the promulgation of guidelines, to describe and set forth the provisions of one or more model State energy conservation implementation programs; to prescribe rules for approving certain energy audits; to consult with the Governors of the States in developing the guidelines and model programs; to invite each Governor (at the earliest practicable date after the effective date of the guidelines) to develop and submit a proposal for an energy conservation implementation program for his State; and to promptly review each such proposal submitted. The Administrator was authorized to approve and fund any such proposed State program if he found that it met the foregoing requirements.

The FTC was required to cooperate with, and assist State agencies, as it has traditionally done, in the area of consumer protection as it relates to the implementation of energy conservation measures. In addition, where appropriate, the FTC was required to undertake its own law enforcement actions under its existing powers to prevent unfair or deceptive acts or practices affecting commerce which relate to the implementation of energy conservation measures.

The Federal share of the cost incurred by a State in carrying out an approved implementation program was not to exceed 90 percent after fiscal year 1974. The Administrator was required to establish rules for disbursing such assistance to the States: these rules had to include a provision prohibiting a denial of funding unless the State involved received notice and an opportunity for an agency hearing. No State could receive, in any fiscal year, more than 10 percent of the sums authorized to be appropriated under this provision. The Senate amendment also provided for financial auditing and for performance evaluation by the Comptroller General.

The Senate amendment authorized appropriations for State energy conservation implementation programs in the following amounts: not to exceed $25,000,000 for fiscal year 1977, not to exceed $50,000,000

for fiscal year 1978, and not to exceed $50,000,000 for fiscal year 1979, with such sums to remain available until expended.

Conference substitute

The conferees adopted the Senate amendment with an amendment. As adopted it provides for the following:

(1) The term "supplemental State energy conservation plan," is used in place of "State energy conservation implementation program."

(2) Definitions of "energy audit," "building," and "industrial plant" have been added, and the definition of "renewable-resource energy measure" has been separated from that of "energy conservation measure." Specific language has also been added to these latter two definitions to clarify the following points:

(A) the construction of any building or industrial plant modified by an energy conservation measure or a renewable-resource energy measure must have been completed as of the date of enactment;

(B) energy costs, as reasonably projected over time by the Administrator, are to be used in calculating the energy cost savings likely to result from implementation of such measures, the following energy costs shall be assumed: in the case of energy conservation measures;

(C) the Administrator is authorized to exclude from the definition of energy conservation measure, by rule, any conversion from one fuel or energy source to another if he finds that such conversion is not consistent with national policy with respect to energy conservation and reduction of fuel imports;

(D) the cost of an energy conservation or renewable-resource energy measure is to mean "total" cost, including the cost of materials, labor, and interest; however, it is to be computed without regard to any tax benefit or any other applicable Federal financial assistance, including assistance under the bill.

(E) a renewable-resource energy measure must "involve changing, in whole or in part * * * from a depletable source of energy to a nondepletable source of energy."

(3) With respect to energy audits, the conferees intend to allow the Administrator maximum flexibility in determining the manner and form of such audits. The Administrator may, by rule, require different types of audits to be used, depending on the use to be made of audits.

(4) Certain of the requirements of an implementation program under the Senate amendment are not included in the conference substitute and certain of the requirements are not required to be included in a supplemental energy conservation plan for it to be approved and funded unless the Administrator of FEA, by rule, requires such inclusion. Under the conference substitute, the following requirements are mandatory: (a) procedures for carrying out a continuing public education effort to increase public awareness of the energy and cost savings which are likely to result from the implementation of energy conservation measures and renewable-resource energy measures, and of available information and other assistance with respect to the planning, financing, installing, and effectiveness-monitoring of such meas-

ures; (b) procedures for insuring effective coordination among various local, State, and Federal energy conservation programs within and affecting the State, including any energy extension service program administered by ERDA, (c) procedures for encouraging and carrying out energy audits which meet certain standards; and (d) any programs, procedures, or actions on the list of contingent requirements which the Administrator may impose. Under the conference substitute the following are contingent requirements which may be imposed at the discretion of the Administrator: (i) establishment and maintenance of an adequately empowered State energy conservation advisory committee; (ii) an adequate program within the State for preventing unfair or deceptive acts or practices affecting commerce which relate to the implementation of energy conservation measures and renewable-resource energy measures; (iii) procedures for the periodic verification of the complete implementation, and actual cost of such measures; and (iv) assistance for individuals and other persons to undertake cooperative action to implement energy conservation measures and renewable-resource energy measures. Among the groups to be considered for membership on a State's energy conservation advisory committee are the following: political subdivisions of the State; organized labor; small businesses; commercial, banking, manufacturing, and agricultural interests; professional engineers, architects, contractors, and associations thereof; colleges and universities; the low-income community; and organizations and groups concerned with consumer protection or environmental protection, or which have significant capacity and demonstrated willingness to assist in developing and carrying out a State energy conservation plan.

(5) To assure coordination and avoid duplication of reporting and auditing requirements, the provisions are included as amendments to the appropriate provisions of part C of title III of the Energy Policy and Coordination Act.

The Administrator is also specifically authorized to prescribe rules under which (a) a State may apply for and receive assistance for a supplemental State energy conservation plan under this section, and (B) such a supplemental plan may be administered, as if such supplemental plan were part of a State energy conservation plan under section 362 of the Energy Policy and Conservation Act, except that any such rules must not have the effect of delaying funding of the program established under section 362 of EPCA. The prescription of such rules is not mandated, but the possibility of such prescription is included to provide flexibility to the FEA Administrator in order to simplify administrative procedures associated with the State energy conservation plans under EPCA and the supplemental plans under this legislation.

The conferees wish to emphasize their firm intention that the establishment of guidelines and regulations for and the implementation of, the supplemental State energy conservation program authorized under this title shall in no way impede the progress of the ongoing program of State energy conservation programs authorized under part C of Title III of the Energy Policy and Conservation Act (P.L. 94–163).

A State may under the conference substitute as under the Senate amendment, meet the requirements of this provision and receive Federal funding whether or not it has an approved State energy conservation plan under EPCA as it existed prior to these amendments. But coordination with existing State energy conservation plans is improved under the conference substitute. Under the provisions of the substitute, a State is given an option to continue solely with the existing EPCA program (in which case it is eligible for assistance from the existing authorization), to meet only the requirements of the new supplemental program (in which case it is eligible for assistance from the new authorization under this legislation) or to meet the requirements of both programs (in which case it may receive funding under both authorizations).

(6) Funds for the new supplemental State energy conservation plans are authorized as follows: not to exceed $25,000,000 for fiscal year 1977, not to exceed $40,000,000 for fiscal year 1978, and not to exceed $40,000,000 for fiscal year 1979, with such sums to remain available until expended.

ENERGY CONSERVATION ASSISTANCE FOR EXISTING DWELLING UNITS

House bill

No provision.

Senate amendment

The Senate amendment amended section 2(a) of the National Housing Act to provide that home improvement loans under that section would be authorized for energy conservation measures and renewable-resource energy measures, as defined in the provision on State energy conservation implementation programs.

The Senate amendment also amended section 2 of the National Housing Act by adding at the end thereof a new subsection which provided for the granting of Federal financial assistance by the Secretary of Housing and Urban Development with respect to the financing of energy conservation measures to be implemented in existing housing. Under this provision, the Secretary of HUD was required to make a grant to any lending institution in an amount which is the lesser of $400 or 20 percent of the principal of any loan made by that institution to finance an energy conservation measure (other than a renewable-resource energy measure) which is identified in accordance with an approved State energy conservation implementation program or which is included on a list of energy conservation measures published by the Administrator of FEA. The Secretary was required to make a similar grant with respect to a loan made by such an institution to finance a renewable-resource energy measure, but in that case the amount of the grant was the lesser of $2,000 or 25 percent of the principal of the loan. An additional payment was required to be made, on a matching basis with the State involved, if the Secretary found that the cost of implementing energy conservation measures in that particular State was so high (because of its isolated geographic location or other unique features) that substantial implementation of such measures was unlikely in the absence of additional financial incentives; the total

which the Secretary could expend in any fiscal year on such supplemental assistance could not exceed $2 million. The amount of a payment to a leading institution would be credited to the borrower through a reduced principal amount of the loan.

The Senate amendment prohibited the making of such a grant with respect to an energy conservation loan entered into by a person whose individual or family income exceeded 200 percent of the median family income in the housing market area in which such person maintained his principal place of residence. No assistance could be provided to finance a renewable-resource energy measure unless the measure was identified by an energy audit (1) carried out in accordance with an approved State energy conservation implementation program or (2) approved by rule by the Administrator.

The Senate amendment also provided that a person would not be eligible for financial assistance under this provision if he received a credit against income tax for the same energy conservation measure investment, and vice versa.

A person who received the benefit of a grant under this provision was barred from receiving any additional financial assistance under this provision for an additional energy conservation measure.

The Senate amendment authorized the following amounts to be appropriated for purposes of making these grants to lending institutions to subsidize and encourage the implementation of energy conservation measures in existing housing: not to exceed $100,000,000 for fiscal year 1977; not to exceed $200,000,000 for fiscal year 1978; and not to exceed $200,000,000 for fiscal year 1979; with no more than $10 million, $30 million, and $40 million to be used to subsidize renewable-resource energy measures.

Conference substitute

The conferees adopted the Senate amendment with an amendment which the amounts authorized, and directs the Secretary of Housing and Urban Development to carry out the program as a national energy conservation demonstration program for existing dwelling units. The program will become a new section 509 of title V of the Housing and Urban Development Act of 1970. The program consists of the following basic elements:

(1) The Secretary is directed to undertake a national demonstration program designed to test the feasibility and effectiveness of various forms of financial assistance for encouraging the installation or implementation of approved energy conservation measures and approved renewable-resource energy measures in existing dwelling units. The Secretary is to carry out such demonstration program with a view toward recommending to the Congress within 2 years of enactment a national program or programs designed to reduce significantly the consumption of energy in existing dwelling units.

(2) The Secretary is authorized to make financial assistance available in the form of grants, low interest rate loans, interest subsidies, loan guarantees, and other appropriate forms of assistance.

(3) In carrying out the demonstration program the Secretary is directed to:

(*a*) consider a wide variety of types of dwelling units and income levels,

(*b*) consider various financial incentives for different income levels,

(*c*) consider other financial assistance which may be available,

(*d*) make use of other public and private organizations in carrying out the program,

(*e*) develop procedures to make the program cost-effective and efficient and to prevent fraud,

(*f*) consult with the Administrator of FEA and the heads of other Federal agencies as may be appropriate.

The conferees expect that the Secretary will coordinate the national energy conservation demonstration program with the supplemental State energy conservation plans to be undertaken by the States pursuant to part B of this title.

(4) The amount of a grant to an individual is the same as in the Senate amendment except that the percentage of subsidy and maximum amount of each grant may be increased by the Secretary, by rule, for applicants with a gross family income below the median family income in the housing market area in which they reside.

(5) The conference substitute follows the Senate amendment by providing that no person shall be eligible for both financial assistance under this program and a credit against income tax for the same energy conservation measure or renewable-resource energy measure.

(6) The Secretary is authorized to limit financial assistance under the program to measures that meet standards for reliability and efficiency for the purpose of protecting consumers.

(7) The Secretary is authorized to delegate responsibilities under this demonstration program to other Federal, State, or local agencies or other public or private bodies.

(8) The Secretary is directed to report to the Congress on progress in carrying out the program at 6-month intervals and shall submit a final report to Congress containing findings and legislative recommendations not later than 2 years after the enactment of this section.

(9) There is authorized for purposes of this section $200,000,000 to remain available until expended.

The conferees expect the Secretary to propose a national program to reduce significantly the consumption of energy in existing dwelling units as rapidly as possible but certainly no later than the conclusion of the demonstration program 2 years after the enactment of this part.

ENERGY CONSERVATION ASSISTANCE FOR SMALL BUSINESS CONCERNS

House bill

No provision.

Senate amendment

The Senate amendment amended section 7 of the Small Business Act by adding at the end thereof a new subsection with respect to energy conservation loans for small business concerns. The Small Business Administration was required to pay to a lending institution which makes an authorized loan to a small business concern an amount not to exceed $5,000 or 20 percent of the principal amount of the loan, whichever was less. The amount paid by the Administration would be ap-

plied to reduce the principal amount of the loan. Such loans were only authorized by the Senate amendment with respect to an energy conservation measure (including a renewable-resource energy measure) which the lending institution found to be consistent with the provisions of an approved State energy conservation program or which was included on a list of measures published by the Administrator of the Federal Energy Administration, and only with respect to an energy conservation measure which was identified by an energy audit carried out in accordance with a State program or which was approved by rule by the Administrator of FEA. (The amount of the loan could include the cost of such audit.)

If the Small Business Administration made a finding in writing that the cost of implementing energy conservation measures in any specified State was so high (because of isolated geographic location or any other unique feature) that substantial energy conservation implementation was unlikely to take place in the absence of additional financial incentives, the amount required to be paid by the Administration was to be increased, by no more than 50 percent, provided that the State involved paid an amount equal to this Federal increment. No more than an aggregate amount of $2,000,000 could be used for such incremental assistance.

The Senate amendment also made conforming amendments to other provisions of the Small Business Act and granted $300,000,000 in additional loan guarantee authority to the Small Business Administration. The total amount which the Senate amendment authorized the Administration to pay to lending institutions under this provision was limited to an amount not to exceed $60,000,000.

Conference substitute

The Senate recedes. However, in the administration of the loan guarantee program under part D of the conference substitute, the Administrator is specifically directed to consider the needs of small businesses.

ENERGY CONSERVATION OBLIGATION GUARANTEES

House bill

No provision.

Senate amendment

The Senate amendment authorized the Administrator of the Federal Energy Administration to provide financial assistance, in the form of loan guarantees, to eligible borrowers for the following purposes:

(1) To advance achievement of the industrial energy efficiency targets established under part D of title III of the Energy Policy and Conservation Act.

(2) To improve energy efficiency in industries not subject to such targets but which consumed a significant amount of energy.

(3) To improve energy efficiency in publicly owned properties and in properties owned by nonprofit entities.

(4) To improve energy efficiency in other sectors of the economy, to the extent obligational authority remained.

The Administrator was authorized to guarantee, and to enter into commitments to guarantee, lenders against loss of principal or interest on loans, bonds, debentures, notes, obligations issued by a State or instrumentality or political subdivision thereof or other obligations issued by an eligible borrower. The term "eligible borrower" was defined to mean the owner of an industrial plant or a commercial building, a corporation or subsidiary, a nonprofit institution, or any other person or government entity identified by the Administrator, by rule, if such owner, corporation, institution, or other person or entity will use the funds made available by the guarantee to finance energy conservation measures (including renewable-resource energy measures).

The Senate amendment prohibited the Administrator from guaranteeing any obligation unless the energy conservation measure on which the proceeds of the guaranteed obligation would be used had been identified by an energy audit which was carried out in accordance with an approved State energy conservation implementation program or which was approved by the Administrator by rule.

The Administrator was directed to limit the availability of such a guarantee to obligations which would result in cost-effective energy conservation measure investments and to eligible borrowers demonstrating that, absent such guarantees, such investments would not be made.

The Senate amendment limited the amount of an obligation which could be guaranteed by the Administrator to 90 percent of the cost of the energy conservation measure with respect to which the loan or other obligation was made or entered into.

The Senate amendment authorized the Administrator to guarantee obligations having a face value of up to $2 billion in fiscal year 1977 or an additional $2 billion in fiscal year 1978. A total of not to exceed $60,000,000 was authorized to be appropriated for fiscal year 1977, and not to exceed $60,000,000 was authorized to be appropriated for fiscal year 1978, to pay any obligations of the United States in case of a default on a guaranteed obligation. These amounts would remain available until expended.

The Senate amendment also contained provisions with respect to the incontestability of a guaranteed obligation (except as to fraud or material misrepresentation); required record-keeping, financial audits, and performance evaluations; time and form of payment in the event that the obligor defaulted on a guaranteed obligation and the rights of the United States following payment upon such default; the taxability of interest on a guaranteed obligation; the authority of the Administrator to borrow from the Secretary of the Treasury under specified circumstances; calculation of the probability of default ratio on such obligations; and labor wage standards for construction, alteration, or repair work performed under an obligation guaranteed under this provision.

The Senate amendment required that at least 40 percent of the obligational authority authorized be used to support obligations issued by States and political subdivisions thereof and by privately owned nonprofit institutions.

Conference substitute

The conference substitute follows the Senate amendment, except as follows:

(1) Obligations can be guaranteed by the Administrator (subject to certain limitations) if they are entered into by any person, State, political subdivision of a State, or agency or instrumentality of either, for the purpose of financing any energy conservation measure or renewable-resource energy measure, and if the measures so financed are installed or otherwise implemented in buildings or industrial plants owned or operated by the person or governmental entity which enters into or issues such an obligation or to which such measure is leased.

Among those eligible to receive an obligation guarantee would be nonprofit institutions such as universities or hospitals, general purpose units of local government, persons leasing energy conservation or renewable-resource energy measures to such institutions or units of government, and other persons, particularly small businesses, that could not finance such measures in the absence of such guarantees. However, a general obligation of a State may not be guaranteed.

The Administrator is prohibited from guaranteeing obligations for energy conservation measures or renewable resource energy measures, entered into or issued for the purpose of installing such measures in residential buildings containing two or fewer dwelling units.

In addition, the rules prescribed by the Administrator pursuant to this part should be coordinated with the national demonstration program for existing dwelling units established under Part C so as to preclude any person from receiving assistance under both parts C and D for the same energy conservation measure or renewable-resource energy measure.

(2) Before prescribing rules pursuant to the issuance of obligation guarantees, the Administrator shall consult with the Small Business Administration so as to facilitate the use of loan guarantees by small businesses. In carrying out this part, he should give special consideration to the needs of small businesses.

(3) The guarantee does not include a guarantee of the payment of interest on the obligation involved.

(4) The amount of the guarantee may not exceed 25 percent of the fair market value of the building or industrial plant being modified by the energy conservation measures or renewable-resource energy measures so financed.

(5) The amount of an obligation guarantee issued with respect to any obligor may not exceed $5 million. In the case of obligors which are businesses, the Administrator's rules under this part would apply the $5 million limitation to aggregate of guarantees issued with respect to the obligor and all his affiliates. In the case of nonprofit institutions and public agencies, the Administrator's rules, or his policies in issuing guarantees, should be designed to reach a similar result.

(6) The Administrator is authorized to collect for administrative expenses under this part from the borrower a fee not to exceed 1 percent of the amount of a guarantee or $.5 percent of the amount of a commitment to guarantee, whichever is greater. The Administrator is also given discretion to waive such a fee, if in his judgment, such a fee is not consistent with the purposes of this part.

(7) The term of a guarantee may not exceed 25 years, and no guarantee or commitment to guarantee may be issued after September 30, 1979.

(8) The language on the following items is deleted:

(a) taxability of interest on a guaranteed obligation.

(b) calculation of the probability of default ratio on such obligations, and

(c) the requirement that at least 40 percent of the obligational authority be used to support obligations issued by States and political subdivisions thereof and by privately owned nonprofit institutions.

(9) The total obligational authority is $2 billion.

(10) The amount authorized to be appropriated for the payment of defaults on guaranteed obligations is $60,000,000.

The conferees did not include the provision that interest on guaranteed indebtedness should be subject to Federal income tax, even though such interest would otherwise be tax exempt, because such a provision would have involved the jurisdiction of committees not a part of the conference. The conferees anticipate that the jurisdictional committees will take early action on legislation including in gross income interest on obligations guaranteed under this part. The Administrator should not guarantee these tax-exempt obligations during the period required to enact this legislation.

EXCHANGE OF ENERGY CONSERVATION INFORMATION

House bill

No provision.

Senate amendment

The Senate amendment directed the Administrator of the Federal Energy Administration to encourage and facilitate an exchange of information and ideas with respect to energy conservation among the various States, through conferences, publications, and other appropriate means.

The Senate amendment required States with State energy conservation implementation programs to collect the information developed as a result of energy audits conducted pursuant to such programs and to make that information available to the Administrator. The Administrator was not authorized to disclose any such information which was a trade secret or other matter described in section 552(b)(4) of title 5, United States Code, if the disclosure could cause significant competitive damage, except that such information could be disclosed to committees of the Congress upon request.

The Senate amendment also directed the Administrator of FEA to make available to the States any information subject to his control which could be useful to the States in carrying out State energy conservation implementation programs. The States were prohibited from imposing any reporting requirement which would result in the receipt of information which had been or would be reported to the Administrator under regulations already in force when this legislation is enacted.

Conference substitute

The conference substitute follows the Senate amendment except that the requirement that the Administrator make all useful information available to the States and the prohibition on State reporting requirements which could result in duplication are not included in the conference substitute. In addition, the provisions of the Senate amendment respecting trade secrets and similar matter are deleted. The release of trade secrets and other information is governed by the Freedom of Information Act.

ANNUAL REPORT ON ENERGY CONSERVATION IMPLEMENTATION

House bill

No provision.

Senate amendment

The Senate amendment directed the Administrator of FEA to prepare and submit to the Congress and the President an annual report on the State energy conservation implementation programs and on the energy conservation measures for which financial assistance is provided under this statute and other statutes amended by this title. Particular items were specified for inclusion in each such report.

Conference substitute

The conference substitute joins the reporting requirement as to the supplementary State energy conservation plans with the existing requirement of an annual report on State energy conservation plans under part C of title III of the Energy Policy and Conservation Act. Annual reports on energy conservation financial assistance for dwelling units and for small business concerns will be included in the regular annual report of the lead agency involved with this program; the Department of Housing and Urban Development.

REPORT BY THE COMPTROLLER GENERAL

House bill

No provision.

Senate amendment

The Senate amendment directed the Comptroller General of the United States to report to the Congress annually on the activities of the Administrator of FEA under title IV, and authorized the Comptroller General to use the authority granted under section 12 of the FEA Act of 1974. Each such report was required to include at least each of the following: (1) an accounting of Federal expenditures; (2) an estimate of the energy savings resulting from such expenditures; (3) a thorough evaluation of the effectiveness of the various programs established by title IV of the Senate amendment in achieving the existing potential for conservation in the sectors and regions affected by the programs; (4) a review of the extent and effectiveness of compliance monitoring of such programs and the evidence of fraud with respect to such programs; and (5) recommendations for administrative improvements and additional legislation, if any.

Conference substitute

The conference substitute follows the Senate amendment, except that the report requires an evaluation of the activities of the Secretary of Housing and Urban Development under this title, as well.

ABE RIBICOFF,
JOHN GLENN,
C. H. PERCY,
J. JAVITS,
BILL BROCK,

Titles III, IV, and V

WILLIAM PROXMIRE,
ALAN CRANSTON,
WARREN G. MAGNUSON,
ERNSET F. HOLLINGS,
J. BENNETT JOHNSTON,
JOHN TOWER,
JAMES B. PEARSON,
CLIFFORD P. HANSEN,

Managers on the Part of the Senate.

Titles I, II, IV, and V

HARLEY O. STAGGERS,
JOHN D. DINGELL,
TIMOTHY E. WIRTH,
PHILIP R. SHARP,
WILLIAM M. BRODHEAD,
BOB ECKHARDT,
RICHARD OTTINGER,
ROBERT KRUEGER,
TOBY MOFFETT,
ANDY MAGUIRE,
CLARENCE J. BROWN,
JOHN HEINZ,

Titles III and IV

HENRY REUSS,
T. L. ASHLEY,
WILLIAM S. MOORHEAD,

Managers on the Part of the House.

O

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the nineteenth day of January, one thousand nine hundred and seventy-six

Concurrent Resolution

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 12169), to amend the Federal Energy Administration Act of 1974 to extend the duration of authorities under such Act; to provide an incentive for domestic production; to provide for electric utility rate design initiatives; to provide for energy conservation standards for new buildings; to provide for energy conservation assistance for existing buildings and industrial plants; and for other purposes, the Clerk of the House shall make the following corrections:

(1) In the table of contents before the items relating to title III, strike out the following:

"[TITLE IV]

"PART B—STATE ENERGY CONSERVATION PLANS

"Sec. 431. Definitions.
"Sec. 432. Supplemental State energy conservation plans."

(2) In section 124 strike out "sections 121 and" and insert in lieu thereof "section" and add at the end of section 124 the following: "The amendments made to section 8 of such Act by section 121 of this Act shall take effect on the first day of the first full month which begins after the date of enactment of this Act.".

(3) In subsection (f)(1) of section 8 of the Emergency Petroleum Allocation Act of 1973 (as amended by section 122(5) of the bill), strike out "Energy Conservation and Policy Act" and insert in lieu thereof "Energy Conservation and Production Act".

(4) In the last sentence of subsection (d) of section 451 of the bill, strike out "Secretary" and insert in lieu thereof "Administrator".

Attest:

Clerk of the House of Representatives.

Attest:

Secretary of the Senate.

H. R. 12169

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the nineteenth day of January, one thousand nine hundred and seventy-six

An Act

To amend the Federal Energy Administration Act of 1974 to extend the duration of authorities under such Act; to provide an incentive for domestic production; to provide for electric utility rate design initiatives; to provide for energy conservation standards for new buildings; to provide for energy conservation assistance for existing buildings and industrial plants; 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 Conservation and Production Act".

CONTENTS

CONTENTS—Continued

TITLE I—FEDERAL ENERGY ADMINISTRATION ACT AMENDMENTS AND RELATED MATTERS

PART A—FEDERAL ENERGY ADMINISTRATION ACT AMENDMENTS

SHORT TITLE

SEC. 101. This title may be cited as the "Federal Energy Administration Act Amendments of 1976".

LIMITATION ON DISCRETION OF ADMINISTRATOR WITH RESPECT TO ENERGY ACTIONS

SEC. 102. Section 5 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(c)(1) The Administrator shall not exercise the discretion delegated to him by the President, pursuant to section 5(b) of the Emergency Petroleum Allocation Act of 1973, to submit to the Congress as one energy action any amendment to the regulation under section 4(a) of such Act, pursuant to section 12 of such Act, which amendment exempts any oil, refined petroleum product, or refined product category from both the allocation and pricing provisions of the regulation under section 4 of such Act.

"(2) Nothing in this subsection shall prevent the Administrator from concurrently submitting an energy action relating to price together with an energy action relating to allocation of the same oil, refined petroleum product, or refined product category.".

ENVIRONMENTAL PROTECTION AGENCY COMMENT PERIOD AND NOTICE OF WAIVER

SEC. 103. Paragraphs (1) and (2) of section 7(c) of the Federal Energy Administration Act of 1974 are amended to read as follows:

"(1) The Administrator shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

"(2) The review required by paragraph (1) of this subsection may be waived for a period of fourteen days if there is an emergency situation which, in the judgment of the Administrator, requires making effective the action proposed to be taken at a date earlier than would permit the Administrator of the Environmental Protection Agency the five working days opportunity for prior comment required by paragraph (1). Notice of any such waiver shall be given to the Administrator of the Environmental Protection Agency and filed with the Federal Register with the publication of notice of proposed or final agency action and shall include an explanation of the reasons for such waiver, together with supporting data and a description of the factual situation in such detail as the Administrator determines will apprise such agency and the public of the reasons for such waiver.".

GUIDELINES FOR HARDSHIP AND INEQUITY AND HEARING AT APPEALS

SEC. 104. Section 7(i)(1)(D) of the Federal Energy Administration Act of 1974 is amended to read as follows:

"(D) Any officer or agency authorized to issue the rules, regulations, or orders described in paragraph (A) 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 unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rules, regulations, and orders. Such officer or agency shall, within ninety days after the date of the enactment of the Federal Energy Administration Act Amendments of 1976, establish criteria and guidelines by which such special hardship, inequity, or unfair distribution of burdens shall be evaluated. Such officer or agency shall additionally insure that each decision on any application or petition requesting an adjustment shall specify the standards of hardship, inequity, or unfair distribution of burden by which any disposition was made, and the specific application of such standards to the facts contained in any such application or petition. If any person is aggrieved or adversely affected by a denial of a request for adjustment under the preceding sentences, he may request a review of such denial by the agency and may obtain judicial review in accordance with paragraph (2) of this subsection when such a denial becomes final. The agency shall, by rule, establish appropriate procedures, including a hearing when requested, for review of a denial, and where deemed advisable by the agency, for considering other requests for action under this paragraph, except that no review of a denial under this subparagraph shall be controlled by the same officer denying the adjustment pursuant to this subparagraph.".

REQUIREMENTS FOR HEARING IN THE GEOGRAPHIC AREA AFFECTED BY RULES AND REGULATIONS OF THE ADMINISTRATOR

SEC. 105. Section 7(i)(1) is amended by adding after subparagraph (E) the following new subparagraph:

"(F)(i) With respect to any rule or regulation of the Administrator the effects of which, except for indirect effects of an inconsequential nature, are confined to—

"(I) a single unit of local government or the residents thereof;

"(II) a single geographic area within a State or the residents thereof; or

"(III) a single State or the residents thereof;

the Administrator shall, in any case where he is required by law, or where he determines, to afford an opportunity for a hearing or the oral presentation of views, provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in subclauses (I) through (III), as the case may be.

"(ii) For purposes of this subparagraph—

"(I) the term 'unit of local government' means a county, municipality, town, township, village, or other unit of general government below the State level; and

"(II) the term 'geographic area within a State' means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

"(iii) Nothing in this subparagraph shall be construed as requiring a hearing or an oral presentation of views where none is required by law or, in the absence of such a requirement, where the Administrator determines a hearing or oral presentation is not appropriate.".

LIMITATION ON THE ADMINISTRATOR'S AUTHORITY WITH RESPECT TO ENFORCEMENT OF REGULATIONS AND RULINGS

SEC. 106. Section 7 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(k) The Administrator or his delegate may not exercise discretion to maintain a civil action (other than an action for injunctive relief) or issue a remedial order against any person whose sole petroleum industry operation relates to the marketing of petroleum products, for any violation of any rule or regulation if—

"(1) such civil action or order is based upon a retroactive application of such rule or regulation or is based upon a retroactive interpretation of such rule or regulation; and

"(2) such person relied in good faith upon rules, regulations, or rulings interpreting such rules or regulations, in effect on the date of the violation.".

MAINTAINING ACCOUNTS OR RECORDS FOR COMPLIANCE PURPOSES; AND ALLEVIATION OF SMALL BUSINESS REPORTING BURDENS

SEC. 107. Section 13 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(g) With respect to any person who is subject to any rule, regulation, or order promulgated by the Administrator or to any provision of law the administration of which is vested in or transferred or delegated to the Administrator, the Administrator may require, by rule, the keeping of such accounts or records as he determines are necessary or appropriate for determining compliance with such rule, regulation, order, or any applicable provision of law.

"(h) In exercising his authority under this Act and any other provision of law relating to the collection of energy information, the Administrator shall take into account the size of businesses required to submit reports with the Administrator so as to avoid, to the greatest extent practicable, overly burdensome reporting requirements on small marketers and distributors of petroleum products and other small business concerns required to submit reports to the Administrator.".

PENALTIES FOR FAILURE TO FILE INFORMATION

SEC. 108. Section 13 of the Federal Energy Administration Act of 1974 as amended by this Act is further amended by adding at the end thereof the following new subsection:

"(i) Any failure to make information available to the Administrator under subsection (b), any failure to comply with any general or special order under subsection (c), or any failure to allow the Administrator to act under subsection (d) shall be subject to the same penalties as any violation of section 11 of the Energy Supply and Environmental Coordination Act of 1974 or any rule, regulation, or order issued under such section.".

REPORTS

SEC. 109. (a) Section 15 of the Federal Energy Administration Act of 1974 is amended—

(1) by striking out subsection (a) thereof; and

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d), respectively.

(b) Section 15(b) of such Act (as redesignated by subsection (a) of this section) is amended—

(1) by striking out "and" in paragraph (4) after "period;";

(2) in paragraph (5) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by inserting at the end of such subsection the following:

"(6) an analysis of the energy needs of the United States and the methods by which such needs can be met, including both tax and nontax proposals and energy conservation strategies.

In the first annual report submitted after the date of enactment of the Energy Conservation and Production Act, the Administrator shall include in such report with respect to the analysis referred to in paragraph (6) a specific discussion of the utility and relative benefits of employing a Btu tax as a means for obtaining national energy goals.".

(c) Section 15 of such Act (as amended by this section) is further amended by adding at the end thereof the following:

"(e) The analysis referred to in subsection (b)(6) shall include, for each of the next five fiscal years following the year in which the annual report is submitted and for the tenth fiscal year following such year—

"(1) the effect of various conservation programs on such energy needs;

"(2) the alternate methods of meeting the energy needs identified in such annual report and of—

"(A) the relative capital and other economic costs of each such method;

"(B) the relative environmental, national security, and balance-of-trade risks of each such method;

"(C) the other relevant advantages and disadvantages of each such method; and

"(3) recommendations for the best method or methods of meeting the energy needs identified in such annual report and for legislation needed to meet those needs.

Notwithstanding the termination of this Act, the President shall designate an appropriate Federal agency to conduct the analysis specified in subsection (b)(6).".

(d) Section 18(d) of the Federal Energy Administration Act of 1974 is amended by striking out "a report every six months" and inserting in lieu thereof "an annual report".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 110. Section 29 of the Federal Energy Administration Act of 1974 is amended to read as follows:

"SEC. 29. (a) There are authorized to be appropriated to the Federal Energy Administration the following sums:

"(1) subject to the restrictions specified in subsection (b), to carry out the functions identified as assigned to Executive Direction and Administration of the Federal Energy Administration as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $8,655,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $33,086,000.

"(2) to carry out the functions identified as assigned to the Office of Energy Policy and Analysis as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $8,137,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $34,971,000.

"(3) to carry out the functions identified as assigned to the Office of Regulatory Programs as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $13,238,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $62,459,000.

"(4) to carry out the functions identified as assigned to the Office of Conservation and the Environment as of January 1, 1976 (other than functions described in title II of the Energy Conservation and Production Act)—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $7,386,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $37,000,000.

"(5) to carry out the functions identified as assigned to the Office of Energy Resource Development as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $3,052,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $16,934,000.

"(6) to carry out the functions identified as assigned to the Office of International Energy Affairs as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $300,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $1,921,000.

"(7) subject to the restriction specified in subsection (c), to carry out a program to develop the policies, plans, implementation strategies, and program definitions for promoting accelerated utilization and widespread commercialization of solar energy and to provide overall coordination of Federal solar energy commercialization activities—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $500,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $2,500,000.

"(8) for the purpose of permitting public use of the Project Independence Evaluation System pursuant to section 31 of this Act, not to exceed the aggregate amount of the fees estimated to be charged for such use.

"(b) The following restrictions shall apply to the authorization of appropriations specified in paragraph (1) of subsection (a)—

"(1) amounts to carry out the functions identified as assigned to the Office of Communications and Public Affairs as of January 1, 1976, shall not exceed $607,000 for the period beginning July 1, 1976, and ending September 30, 1976, and shall not exceed $2,036,000 for the fiscal year ending September 30, 1977; and

"(2) no amounts authorized to be appropriated in such paragraph may be used to carry out the functions identified as assigned to the Office of Nuclear Affairs as of January 1, 1976.

"(c) No amounts authorized to be appropriated in paragraph (7) of subsection (a) may be used to carry out solar energy research, development, or demonstration activities.".

COLLECTION OF INFORMATION CONCERNING EXPORTS OF COAL OR PETROLEUM PRODUCTS

SEC. 111. Section 25 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following new subsection:

"(d) The Administrator shall not be required to collect independently information described in subsection (a) if he can secure the information described in subsection (a) from other Federal agencies and the information secured from such agencies is available to the Congress pursuant to a request under subsection (b).".

FEDERAL ENERGY ADMINISTRATION ACT EXTENSION

SEC. 112. (a) The second sentence of section 30 of the Federal Energy Administration Act of 1974 is amended to read as follows: "This Act shall terminate December 31, 1977.".

(b) The amendment made by subsection (a) to section 30 of the Federal Energy Administration Act of 1974 shall take effect on July 30, 1976.

PROJECT INDEPENDENCE EVALUATION SYSTEM DOCUMENTATION AND ACCESS

SEC. 113. The Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following new section:

"PROJECT INDEPENDENCE EVALUATION SYSTEM DOCUMENTATION AND ACCESS

"SEC. 31. The Administrator of the Federal Energy Administration shall—

"(1) submit to the Congress, not later than September 1, 1976, full and complete structural and parametric documentation, and not later than January 1, 1977, operating documentation, of the Project Independence Evaluation System computer model;

"(2) provide access to such model to representatives of committees of the Congress in an expeditious manner; and

"(3) permit the use of such model on the computer system maintained by the Federal Energy Administration by any member of the public upon such reasonable terms and conditions as the Administrator shall, by rule, prescribe. Such rules shall provide that any member of the public who uses such model may be charged a fair and reasonable fee, as determined by the Administrator, for using such model.".

PART B—PRODUCTION ENHANCEMENT AND OTHER RELATED MATTERS

EXEMPTION OF STRIPPER WELL PRODUCTION

SEC. 121. Section 8 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(i) (1) The first sale price of stripper well crude oil shall be exempt from the regulation promulgated under section 4 of this Act as amended pursuant to the requirements of this section. For the purpose of this section, the President shall include in the computation of the actual weighted average first sale price for crude oil produced in the United States in any month subsequent to August 1976 the actual volume of stripper well crude oil produced in the United States in such subsequent month and such actual volume shall be deemed to have been sold at a first sale price equal to $11.63 per barrel plus the difference between the actual weighted average first sale price in August 1976, for crude oil, other than stripper well crude oil, produced in the United States, and the actual average first sale price in such subsequent month of all classifications of crude oil, other than stripper well crude oil, produced in the United States, weighted as if each such classification were produced in such subsequent month in the same proportion as such classification, or the most nearly comparable classification which existed on August 1, 1976, was produced in August 1976.

"(2) For the purposes of this subsection, 'stripper well crude oil' means crude oil produced and sold from a property whose maximum average daily production of crude oil per well during any consecutive 12-month period beginning after December 31, 1972, does not exceed 10 barrels.

"(3) To qualify for the exemption under this subsection, a property must be producing crude oil at the maximum feasible rate throughout the 12-month qualifying period and in accordance with recognized conservation practices.

"(4) The President may define terms used in this subsection consistent with the purposes thereof.".

ENHANCEMENT OF DOMESTIC PRODUCTION

SEC. 122. Section 8 of the Emergency Petroleum Allocation Act of 1973 (as amended by section 121 of this Act) is further amended—

(1) in subsection (d) (1), by striking out "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";

(2) in subsection (d) (3) (C), by striking out ", including production from stripper wells";

(3) in subsection (e) (1), by striking out "(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)", and by striking out "such subsection, or (C) both.", and inserting in lieu thereof "subsection (d) (1).";

(4) in subsection (e) (2), by striking out "an additional adjustment as a production incentive, or", and by striking out ", or both,";

(5) in subsection (f) (1), by adding before the period at the end thereof the following: "and an analysis of the effects on price and the production of domestic crude oil resulting from the amendments made to this section by sections 121 and 122 of the Energy Conservation and Production Act";

(6) in subsection (f) (2), by striking out "The President may" and inserting in lieu thereof "On March 15, 1977, the President may";

(7) in subsection (f) (2) (A), by striking out "or modification", and by striking out "as may have been amended pursuant to subsection (e)";

(8) in subsection (f) (5), by striking out "or modify", and by striking out "or of a modification of such adjustment"; and

(9) by adding at the end thereof the following new subsection:

"(j) (1) As soon as practicable after the date of enactment of this subsection, taking into consideration the greater flexibility provided by the amendments relating to the production incentive adjustment under section 122 of the Energy Conservation and Production Act, the President shall promulgate such amendments to the regulation under section 4(a) (relating to price) as shall (A) provide additional price incentives for bona fide tertiary enhanced recovery techniques and (B) provide for the adjustment of differentials in ceiling prices for crude oil that are the result of gravity differentials which are arbitrary, discriminatory, applied on a regional or local basis without reasonable justification, or fail substantially to reflect current relative market valuations of such differentials.

"(2) As used in this subsection, the term 'tertiary enhanced recovery techniques' means extraordinary and high cost enhancement technologies of a type associated with tertiary applications including, to the extent that such techniques would be uneconomical without additional price incentives, miscible fluid or gas injection, chemical flooding, steam flooding, microemulsion flooding, in situ combustion, cyclic steam injection, polymer flooding, and caustic flooding and variations of the same. The President shall have authority to further define the term by rule.".

CONSTRUCTION OF REFINERIES BY SMALL AND INDEPENDENT REFINERS

SEC. 123. (a) It is the intent of the Congress that, for the purpose of fostering construction of new refineries by small and independent refiners in the United States, the Administrator of the Federal Energy Administration shall take such action, within his authority under other law consistent with the attainment, to the maximum extent practicable, of the objectives under section 4(b) (1) (D) of the Emergency Petroleum Allocation Act of 1973, as the Administrator determines necessary to insure that rules, regulations, or orders issued by him do not impose unreasonably, unnecessary, or discriminatory barriers to entry for small refiners and independent refiners.

(b) Not later than April 1, 1977, the Administrator shall report to the Congress with respect to actions taken to carry out the policies in subsection (a).

(c) For the purposes of this section the terms "small refiner" and "independent refiner" have the same meaning as such terms have under the Emergency Petroleum Allocation Act of 1973.

EFFECTIVE DATE OF EPAA AMENDMENTS

SEC. 124. The amendments made to section 8 of the Emergency Petroleum Allocation Act by section 122 of this Act shall take effect on the date of enactment of this Act. The amendments made to section 8 of such Act by section 121 of this Act shall take effect on the first day of the first full month which begins after the date of enactment of this Act.

PART C—OFFICE OF ENERGY INFORMATION AND ANALYSIS

FINDINGS AND PURPOSE

SEC. 141. (a) The Congress finds that the public interest requires that decisionmaking, with respect to this Nation's energy requirements and the sufficiency and availability of energy resources and supplies, be based on adequate, accurate, comparable, coordinated, and credible energy information.

(b) The purpose of this title is to establish within the Federal Energy Administration an Office of Energy Information and Analysis and a National Energy Information System to assure the availability of adequate, comparable, accurate, and credible energy information to the Federal Energy Administration, to other Government agencies responsible for energy-related policy decisions, to the Congress, and to the public.

OFFICE OF ENERGY INFORMATION AND ANALYSIS

SEC. 142. The Federal Energy Administration Act of 1974 is amended by inserting "PART A—FEDERAL ENERGY ADMINISTRATION" after the enacting clause and by adding at the end thereof the following:

"PART B—OFFICE OF ENERGY INFORMATION AND ANALYSIS

"ESTABLISHMENT OF OFFICE OF ENERGY INFORMATION AND ANALYSIS

"SEC. 51. (a)(1) There is established within the Federal Energy Administration an Office of Energy Information and Analysis (hereinafter in this Act referred to as the 'Office') which shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Director shall be a person who, by reason of professional background and experience, is specially qualified to manage an energy information system.

"(b) The Administrator shall delegate (which delegation may be on a nonexclusive basis as the Administrator may determine may be necessary to assure the faithful execution of his authorities and responsibilities under law) the authority vested in him under section 11 of the Energy Supply and Environmental Coordination Act of 1974 and section 13 of this Act and the Director may act in the name of the Administrator under section 12 of the Energy Supply and Environmental Coordination Act of 1974 and section 13 of this Act for the purpose of obtaining enforcement of the authorities delegated to him.

"(c) As used in this Act the term 'energy information' shall have the meaning described in section 11 of the Energy Supply and Environmental Coordination Act of 1974.

"NATIONAL ENERGY INFORMATION SYSTEM

"SEC. 52. (a) It shall be the duty of the Director to establish a National Energy Information System (hereinafter referred to in this Act as the 'System'), which shall be operated and maintained by the Office. The System shall contain such information as is required to provide a description of and facilitate analysis of energy supply and

consumption within and affecting the United States on the basis of such geographic areas and economic sectors as may be appropriate to meet adequately the needs of—

"(1) the Federal Energy Administration in carrying out its lawful functions;

"(2) the Congress; and

"(3) other officers and employees of the United States in whom have been vested, or to whom have been delegated, energy-related policy decisionmaking responsibilities.

"(b) At a minimum, the System shall contain such energy information as is necessary to carry out the Administration's statistical and forecasting activities, and shall include, at the earliest date and to the maximum extent practical subject to the resources available and the Director's ordering of those resources to meet the responsibilities of his Office, such energy information as is required to define and permit analysis of—

"(1) the institutional structure of the energy supply system including patterns of ownership and control of mineral fuel and nonmineral energy resources and the production, distribution, and marketing of mineral fuels and electricity;

"(2) the consumption of mineral fuels, nonmineral energy resources, and electricity by such classes, sectors, and regions as may be appropriate for the purposes of this Act;

"(3) the sensitivity of energy resource reserves, exploration, development, production, transportation, and consumption to economic factors, environmental constraints, technological improvements, and substitutability of alternate energy sources;

"(4) the comparability of energy information and statistics that are supplied by different sources;

"(5) industrial, labor, and regional impacts of changes in patterns of energy supply and consumption;

"(6) international aspects, economic and otherwise, of the evolving energy situation; and

"(7) long-term relationships between energy supply and consumption in the United States and world communities.

"ADMINISTRATIVE PROVISIONS

"SEC. 53. (a) The Director of the Office shall receive compensation at the rate now or hereafter prescribed for offices and positions at level IV of the Executive Schedule as specified in section 5315 of title 5, United States Code.

"(b) To carry out the functions of the Office, the Director, on behalf of the Administrator, is authorized to appoint and fix the compensation of such professionally qualified employees as he deems necessary, including up to ten of the employees in grade GS–16, GS–17, or GS–18 authorized by section 7 of this Act.

"(c) The functions and powers of the Office shall be vested in or delegated to the Director, who may from time to time, and to the extent permitted by law, consistent with the purposes of this Act, delegate such of his functions as he deems appropriate. Such delegation may be made, upon request, to any officer or agency of the Federal Government.

"(d)(1) The Director shall be available to the Congress to provide testimony on such subjects under his authority and responsibility as the Congress may request, including but not limited to energy information and analyses thereof.

"(2) Any request for appropriations for the Federal Energy Administration submitted to the Congress shall identify the portion of such request intended for the support of the Office, and a statement of the differences, if any, between the amounts requested and the Director's assessment of the budgetary needs of the Office.

"ANALYTICAL CAPABILITY

"SEC. 54. (a) The Director shall establish and maintain the scientific, engineering, statistical, or other technical capability to perform analysis of energy information to—

"(1) verify the accuracy of items of energy information submitted to the Director; and

"(2) insure the coordination and comparability of the energy information in possession of the Office and other Federal agencies.

"(b) The Director shall establish and maintain the professional and analytic capability to evaluate independently the adequacy and comprehensiveness of the energy information in possession of the Office and other agencies of the Federal Government in relation to the purposes of this Act and for the performance of the analyses described in section 52 of this Act. Such analytic capability shall include—

"(1) expertise in economics, finance, and accounting;

"(2) the capability to evaluate estimates of reserves of mineral fuels and nonmineral energy resources utilizing alternative methodologies;

"(3) the development and evaluation of energy flow and accounting models describing the production, distribution, and consumption of energy by the various sectors of the economy and lines of commerce in the energy industry;

"(4) the development and evaluation of alternative forecasting models describing the short- and long-term relationships between energy supply and consumption and appropriate variables; and

"(5) such other capabilities as the Director deems necessary to achieve the purposes of this Act.

"PROFESSIONAL AUDIT REVIEW OF PERFORMANCE OF OFFICE

"SEC. 55. (a) The procedures and methodology of the Office shall be subject to a thorough annual performance audit review. Such review shall be conducted by a Professional Audit Review Team which shall prepare a report describing its investigation and reporting its findings to the President and to the Congress.

"(b) The Professional Audit Review Team shall consist of at least seven professionally qualified persons who shall be officers or employees of the United States and of whom at least—

"one shall be designated by the Chairman of the Council of Economic Advisers;

"one shall be designated by the Commissioner of Labor Statistics;

"one shall be designated by the Administrator of Social and Economic Statistics;

"one shall be designated by the Chairman of the Securities and Exchange Commission;

"one shall be designated by the Chairman of the Federal Trade Commission;

"one shall be designated by the Chairman of the Federal Power Commission; and

"one, who shall be the Chairman of the Professional Audit

Review Team, shall be designated by the Comptroller General.

"(c) The Director and the Administrator shall cooperate fully with the Professional Audit Review Team and notwithstanding any other provisions of law shall make available to the Team such data, information, documents, and services as the Team determines are necessary for successful completion of its performance audit review.

"(d) Except as authorized by law, any person who—

"(1) obtains, in the course of exercising the functions of the Professional Audit Review Team, information which constitutes a trade secret or confidential commercial information, the disclosure of which could result in significant competitive injury to the person to which such information relates; and

"(2) willfully discloses such information;

shall be fined not more than $40,000, or imprisoned not more than one year, or both.

"COORDINATION OF ENERGY INFORMATION ACTIVITIES

"SEC. 56. (a) In carrying out the purposes of this Act the Director shall, as he deems appropriate, review the energy information gathering activities of Federal agencies with a view toward avoiding duplication of effort and minimizing the compliance burden on business enterprises and other persons.

"(b) In exercising his responsibilities under subsection (a) of this section, the Director shall recommend policies which, to the greatest extent practicable—

"(1) provide adequately for the energy information needs of the various departments and agencies of the Federal Government, the Congress, and the public;

"(2) minimize the burden of reporting energy information on businesses, other persons, and especially small businesses;

"(3) reduce the cost to Government of obtaining information; and

"(4) utilize files of information and existing facilities of established Federal agencies.

"(c)(1) At the earliest practicable date after the date of enactment of this section, each Federal agency which is engaged in the gathering of energy information as a part of an established program, function, or other activity shall promptly provide the Administrator with a report on energy information which—

"(A) identifies the statutory authority upon which the energy information collection activities of such agency is based;

"(B) lists and describes the energy information needs and requirements of such agency; and

"(C) lists and describes the categories, definitions, levels of detail, and frequency of collection of the energy information collected by such agency.

Such agencies shall cooperate with the Administrator and provide such other descriptive information with respect to energy information activities as the Administrator may request. The Administrator shall prepare a report on his activities under this subsection, which report shall include recommendations with respect to the coordination of energy information activities of the Federal Government. Such report shall be available to the Congress and shall be transmitted to the President and to the Energy Resources Council for use in preparation of the plan required under subsection (c) of section 108 of the Energy Reorganization Act of 1974.

"REPORTS

"SEC. 57. (a) The Director shall make periodic reports and may make special reports to the Congress and the public, including but not limited to—

"(1) such reports as the Director determines are necessary to provide a comprehensive picture of the quarterly, monthly, and, as appropriate, weekly supply and consumption of the various nonmineral energy resources, mineral fuels, and electricity in the United States; the information reported may be organized by company, by States, by regions, or by such other producing and consuming sectors, or combinations thereof, and shall be accompanied by an appropriate discussion of the evolution of the energy supply and consumption situation and such national and international trends and their effects as the Director may find to be significant; and

"(2) an annual report which includes, but is not limited to, a description of the activities of the Office and the National Energy Information System during the preceding year; a summary of all special reports published during the preceding year; a summary of statistical information collected during the preceding year; short-, medium-, and long-term energy consumption and supply trends and forecasts under various assumptions; and, to the maximum extent practicable, a summary or schedule of the amounts of mineral fuel resources, nonmineral energy resources, and mineral fuels that can be brought to market at various prices and technologies and their relationship to forecasted demands.

"(b) (1) The Director, on behalf of the Administrator, shall insure that adequate documentation for all statistical and forecast reports prepared by the Director is made available to the public at the time of publication of such reports. The Director shall periodically audit and validate analytical methodologies employed in the preparation of periodic statistical and forecast reports.

"(2) The Director shall, on a regular basis, make available to the public information which contains validation and audits of periodic statistical and forecast reports.

"(c) Prior to publication, the Director may not be required to obtain the approval of any other officer or employee of the United States with respect to the substance of any statistical or forecasting technical reports which he has prepared in accordance with law.

"ENERGY INFORMATION IN POSSESSION OF OTHER FEDERAL AGENCIES

"SEC. 58. (a) In furtherance and not in limitation of any other authority, the Director, on behalf of the Administrator, shall have access to energy information in the possession of any Federal agency except information—

"(1) the disclosure of which to another Federal agency is expressly prohibited by law; or

"(2) the disclosure of which the agency so requested determines would significantly impair the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

"(b) In the event that energy information in the possession of another Federal agency which is required to achieve the purposes of this Act is denied the Director or the Administrator pursuant to paragraph (1) or paragraph (2) of subsection (a) of this section, the

Administrator, or the Director, on behalf of the Administrator, shall take appropriate action, pursuant to authority granted by law, to obtain said information from the original sources or a suitable alternate source. Such source shall be notified of the reason for this request for information.

"CONGRESSIONAL ACCESS TO INFORMATION IN POSSESSION OF THE OFFICE

"SEC. 59. The Director shall promptly provide upon request any energy information in the possession of the Office to any duly established committee of the Congress. Such information shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of such committee and the Rules of the House of Representatives or the Senate and as permitted by law.".

EFFECTIVE DATE

SEC. 143. The amendments made by this part C to the Federal Energy Administration Act of 1974 shall take effect 150 days after the date of enactment of this Act, except that section 56(c) of the Federal Energy Administration Act of 1974 (as added by this part) shall take effect on the date of enactment of this Act.

PART D—AMENDMENTS TO OTHER ENERGY-RELATED LAW

APPLIANCE PROGRAM

SEC. 161. (a) Section 325(a)(1)(A) of the Energy Policy and Conservation Act is amended to read as follows:

"(a)(1)(A) The Administrator shall direct the National Bureau of Standards to develop an energy efficiency improvement target for each type of covered product specified in paragraphs (1) through (10) of section 322(a). Not later than 90 days after the date of enactment of the Energy Conservation and Production Act, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each such type of covered product.".

(b) Section 325(a)(2) of such Act is amended by striking out the first sentence and inserting in lieu thereof the following:

"(2) The Administrator shall direct the National Bureau of Standards to develop an energy efficiency improvement target for each type of covered product specified in paragraphs (11), (12), and (13) of section 322(a). 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 such type of product.".

ENERGY RESOURCES COUNCIL REPORTS

SEC. 162. (a) Section 108(b) of the Energy Reorganization Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(4) prepare a report on national energy conservation activities which shall be submitted to the President and the Congress annually, beginning on July 1, 1977, and which shall include—

"(A) a review of all Federal energy conservation expenditures and activities, the purpose of each such activity, the

relation of the activity to national conservation targets and plans, and the success of the activity and the plans for the activity in future years;

"(B) an analysis of all conservation targets established for industry, residential, transportation, and public sectors of the economy, whether the targets can be achieved or whether they can be further improved, and the progress toward their achievement in the past year;

"(C) a review of the progress made pursuant to the State energy conservation plans under sections 361 through 366 of the Energy Policy and Conservation Act and other similar efforts at the State and local level, and whether further conservation can be carried on by the States or by local governments, and whether further Federal assistance is required;

"(D) a review of the principal conservation efforts in the private sector, the potential for more widespread implementation of such efforts and the Federal Government's efforts to promote more widespread use of private energy conservation initiatives; and

"(E) an assessment of whether existing conservation targets and goals are sufficient to bridge the gap between domestic energy production capacity and domestic energy needs, whether additional incentives or programs are necessary or useful to close that gap further, and a discussion of what mandatory measures might be useful to further bring domestic demand into harmony with domestic supply.

The Chairman of the Energy Resources Council shall coordinate the preparation of the report required under paragraph (5).".

(b) Section 108 of the Energy Reorganization Act of 1974 is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by adding after subsection (b) the following new subsection:

"(c) The President, through the Energy Resources Council, shall—

"(1) prepare a plan for the reorganization of the Federal Government's activities in energy and natural resources, including, but not limited to, a study of—

"(A) the principal laws and directives that constitute the energy and natural resource policy of the United States;

"(B) prospects of developing a consolidated national energy policy;

"(C) the major problems and issues of existing energy and natural resource organizations;

"(D) the options for Federal energy and natural resource organizations;

"(E) an overview of available resources pertinent to energy and natural resource organization;

"(F) recent proposals for a national energy and natural resource policy for the United States; and

"(G) the relationship between energy policy goals and other national objectives;

"(2) submit to Congress—

"(A) no later than December 31, 1976, the plan prepared pursuant to subsection (c)(1) and a report containing his recommendations for the reorganization of the Federal Government's responsibility for energy and natural resource

matters together with such proposed legislation as he deems necessary or appropriate for the implementation of such plans or recommendations; and

"(B) not later than April 15, 1977, such revisions to the plan and report described in subparagraph (A) of this paragraph as he may consider appropriate; and

"(3) provide interim and transitional policy planning for energy and natural resource matters in the Federal Government.".

EXTENSION OF ENERGY RESOURCES COUNCIL

SEC. 163. Section 108(e) of the Energy Reorganization Act of 1974, as redesignated by subsection (b)(1) of this section, is amended by striking out "two years after such effective date," and inserting in lieu thereof "not later than September 30, 1977,".

DEVELOPMENT OF UNDERGROUND COAL MINES

SEC. 164. Section 102 of the Energy Policy and Conservation Act is amended by adding at the end of subsection (c) the following new paragraph:

"(4) The term 'developing new underground coal mine' includes expansion of any existing underground coal mine in a manner designed to increase the rate of production of such mine, and the reopening of any underground coal mine which had previously been closed.".

TITLE II—ELECTRIC UTILITY RATE DESIGN INITIATIVES

FINDINGS

SEC. 201. (a) The Congress finds that improvement in electric utility rate design has great potential for reducing the cost of electric utility services to consumers and current and projected shortages of capital, and for encouraging energy conservation and better use of existing electrical generating facilities.

(b) It is the purpose of this title to require the Federal Energy Administration to develop proposals for improvement of electric utility rate design and transmit such proposals to Congress; to fund electric utility rate demonstration projects; to intervene or participate, upon request, in the proceedings of utility regulatory commissions; and to provide financial assistance to State offices of consumer services to facilitate presentation of consumer interests before such commissions.

DEFINITIONS

SEC. 202. As used in this title:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this title.

(2) The term "electric utility" means any person, State agency, or Federal agency which sells electric energy.

(3) The term "Federal agency" means any agency or instrumentality of the United States.

(4) The term "State agency" means a State, political subdivision thereof, or any agency or instrumentality of either.

(5) The term "State utility regulatory commission" means (A) any utility regulatory commission which is a State agency or (B) the Tennessee Valley Authority.

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

(7) The term "utility regulatory commission" means any State agency or Federal agency which has authority to fix, modify, approve, or disapprove rates for the sale of electric energy by any electric utility (other than by such agency).

ELECTRIC UTILITY RATE DESIGN PROPOSALS

SEC. 203. (a) The Administrator shall develop proposals to improve electric utility rate design. Such proposals shall be designed to encourage energy conservation, minimize the need for new electrical generating capacity, and minimize costs of electric energy to consumers, and shall include (but not be limited to) proposals which provide for the development and implementation of—

(1) load management techniques which are cost effective;

(2) rates which reflect marginal cost of service, or time of use of service, or both;

(3) ratemaking policies which discourage inefficient use of fuel and encourage economical purchases of fuel; and

(4) rates (or other regulatory policies) which encourage electric utility system reliability and reliability of major items of electric utility equipment.

(b) The proposals prepared under subsection (a) shall be transmitted to each House of Congress not later than 6 months after the date of enactment of this Act, for review and for such further action as the Congress may direct by law. Such proposals shall be accompanied by an analysis of—

(1) the projected savings (if any) in consumption of petroleum products, natural gas, electric energy, and other energy resources,

(2) the reduction (if any) in the need for new electrical generating capacity, and of the demand for capital by the electric utility industry, and

(3) changes (if any) in the cost of electric energy to consumers, which are likely to result from the implementation nationally of each of the proposals transmitted under this subsection.

RATE DESIGN INNOVATION AND FEDERAL ENERGY ADMINISTRATION INTERVENTION

SEC. 204. The Administrator may—

(1) fund (A) demonstration projects to improve electric utility load management procedures and (B) regulatory rate reform initiatives,

(2) on request of a State, a utility regulatory commission, or of any participant in any proceeding before a State utility regulatory commission which relates to electric utility rates or rate design, intervene and participate in such proceeding, and

(3) on request of any State, utility regulatory commission, or party to any action to obtain judicial review of an administrative proceeding in which the Administrator intervened or participated under paragraph (2), intervene and participate in such action.

GRANTS FOR OFFICES OF CONSUMER SERVICES

SEC. 205. (a) The Administrator may make grants to States, or otherwise as provided in subsection (c), under this section to provide for the establishment and operation of offices of consumer services to assist consumers in their presentations before utility regulatory commissions. Any assistance provided under this section shall be provided only for an office of consumer services which is operated independently of any such utility regulatory commission and which is empowered to—

(1) make general factual assessments of the impact of proposed rate changes and other proposed regulatory actions upon all affected consumers;

(2) assist consumers in the presentation of their positions before utility regulatory commissions; and

(3) advocate, on its own behalf, a position which it determines represents the position most advantageous to consumers, taking into account developments in rate design reform.

(b) Grants pursuant to subsection (a) of this section shall be made only to States which furnish such assurances as the Administrator may require that funds made available under such section will be in addition to, and not in substitution for, funds made available to offices of consumer services from other sources.

(c) Assistance may be provided under this section to an office of consumer services established by the Tennessee Valley Authority, if such office is operated independently of the Tennessee Valley Authority.

REPORTS

SEC. 206. Not later than the last day in December in each year, the Administrator shall transmit to the Congress a report with respect to activities conducted under this title and recommendations as to the need for and types of further Federal legislation.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 207. (a) There are authorized to be appropriated to carry out this title (other than section 205) for the period beginning July 1, 1976, and ending September 30, 1977, not to exceed $13,056,000, of which not more than $1,000,000 may be assigned for purposes of section 204 (2) and (3).

(b) There are authorized to be appropriated to carry out section 205 for such period not to exceed $2,000,000.

TITLE III—ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

SHORT TITLE

SEC. 301. This title may be cited as the "Energy Conservation Standards for New Buildings Act of 1976".

FINDINGS AND PURPOSES

SEC. 302. (a) The Congress finds that—

(1) large amounts of fuel and energy are consumed unnecessarily each year in heating, cooling, ventilating, and providing domestic hot water for newly constructed residential and com-

mercial buildings because such buildings lack adequate energy conservation features;

(2) Federal performance standards for newly constructed buildings can prevent such waste of energy, which the Nation can no longer afford in view of its current and anticipated energy shortage;

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

(4) State and local building codes or similar controls can provide an existing means by which to assure, in coordination with other building requirements and with a minimum of Federal interference in State and local transactions, that newly constructed buildings contain adequate energy conservation features.

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

(1) redirect Federal policies and practices to assure that reasonable energy conservation features will be incorporated into new commercial and residential buildings receiving Federal financial assistance;

(2) provide for the development and implementation, as soon as practicable, of performance standards for new residential and commercial buildings which are designed to achieve the maximum practicable improvements in energy efficiency and increases in the use of nondepletable sources of energy; and

(3) encourage States and local governments to adopt and enforce such standards through their existing building codes and other construction control mechanisms, or to apply them through a special approval process.

DEFINITIONS

SEC. 303. As used in this title:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this title.

(2) The term "building" means any structure to be constructed which includes provision for a heating or cooling system, or both, or for a hot water system.

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

(4) The term "commercial building" means any building other than a residential building, including any building developed for industrial or public purposes.

(5) The term "Federal agency" means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, including the United States Postal Service, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

(6) The term "Federal building" means any building to be constructed by, or for the use of, any Federal agency which is not legally subject to State or local building codes or similar requirements.

(7) The term "Federal financial assistance" means (A) any form of loan, grant, guarantee, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance (other than general or special revenue sharing or formula grants made to States) approved by any Federal officer or agency; or (B) any loan made or purchased by any bank, savings and loan association, or similar institution subject to regulation by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration.

(8) The term "National Institute of Building Sciences" means the institute established by section 809 of the Housing and Community Development Act of 1974.

(9) The term "performance standards" means an energy consumption goal or goals to be met without specification of the methods, materials, and processes to be employed in achieving that goal or goals, but including statements of the requirements, criteria and evaluation methods to be used, and any necessary commentary.

(10) The term "residential building" means any structure which is constructed and developed for residential occupancy.

(11) The term "Secretary" means the Secretary of Housing and Urban Development.

(12) The term "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory and possession of the United States.

(13) The term "unit of general purpose local government" means any city, county, town, municipality, or other political subdivision of a State (or any combination thereof), which has a building code or similar authority over a particular geographic area.

PROMULGATION OF ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS

SEC. 304. (a) (1) As soon as practicable, but in no event later than 3 years after the date of enactment of this title, the Secretary, only after consultation with the Administrator, the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, and the Administrator of the General Services Administration, shall develop and publish in the Federal Register for public comment proposed performance standards for new commercial buildings. Final performance standards shall be promulgated within 6 months after the date of publication of the proposed standards, and shall become effective within a reasonable time, not to exceed 1 year after the date of promulgation, as specified by the Secretary.

(2) As soon as practicable, but in no event later than 3 years after the date of enactment of this title, the Secretary, only after consultation with the Administrator and the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, shall develop and publish in the Federal Register for public comment proposed performance standards for new residential buildings. Final performance standards for such buildings shall be promulgated within 6 months after the date of publication of the proposed standards, and shall become effective within a reasonable time, not to exceed 1 year after the date of promulgation, as specified by the Secretary.

(3) In the development of performance standards, the Secretary shall utilize the services of the National Institute of Building Sciences, under appropriate contractual arrangements.

(b) All performance standards promulgated pursuant to subsection (a) shall take account of, and make such allowance or particular exception as the Secretary determines appropriate for, climatic variations among the different regions of the country.

(c) The Secretary, in consultation with the Administrator, the Secretary of Commerce, the Administrator of the General Services Administration, and the heads of other appropriate Federal agencies, and the National Institute of Building Sciences, shall periodically review and provide for the updating of performance standards promulgated pursuant to subsection (a).

(d) The Secretary, if he finds that the dates otherwise specified in this section for publication of proposed, or for promulgation of final, performance standards under subsection (a) (1) or (a) (2) cannot practicably be met, may extend the time for such publication or promulgation, but no such extension shall result in a delay of more than 6 months in promulgation.

APPLICATION OF ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS

SEC. 305. (a) Subject to the provisions of subsection (c) and after the effective date of final performance standards for new commercial and residential buildings pursuant to section 304(a), no Federal financial assistance shall be made available or approved with respect to the construction of any new commercial or residential building in any area of any State, unless—

(1) such State has certified, in accordance with regulations of the Secretary, that—

(A) the unit of general purpose local government which has jurisdiction over such area has adopted and is implementing a building code, or other construction control mechanism, which meets or exceeds the requirements of such final performance standards, or

(B) such State has adopted and is implementing, on a statewide basis or with respect to such area, a building code or other laws or regulations which provide for the effective application of such final performance standards;

(2) such new building has been determined, pursuant to any applicable approval process described in subsection (b), to be in compliance with such final performance standards; or

(3) such new building is to be located in any area in which the construction of new buildings is not of a magnitude to warrant the costs of implementing final performance standards, as determined by the Secretary after receiving a request for such a determination (and material justifying such request) from the State in which the area is located; except that the Secretary may rescind such a determination whenever the Secretary finds that the amount of construction of new buildings has increased in such area to an extent that such costs are warranted.

The Secretary shall review and conduct such investigations as are deemed necessary to determine the accuracy of such certifications and shall provide for the periodic updating thereof. The Secretary may reject, disapprove, or require the withdrawal of any such certification after notice to such State and an opportunity for a hearing.

(b)(1) The provisions of this subsection shall not apply to any area subject to the jurisdiction of a unit of general purpose local government or of a State described in subsection (a)(1), and the provisions of this subsection and the approval process applicable under this subsection shall cease to apply to any area at such time as the Secretary receives a certification under subsection (a)(1) with respect to such area.

(2) The Secretary shall have overall responsibility for the effective application of the applicable approval process described in this subsection in any area not exempted therefrom pursuant to paragraph (1).

(3) As used in this section, the term "approval process" means a mechanism and procedure for the consideration and approval of an application to construct a new building and which involves (A) determining whether such proposed building would be in compliance with the final performance standards for new buildings promulgated under section 304, and (B) administration by the level and agency of government specified by the Secretary pursuant to paragraph (4).

(4) The level and agency of government which shall administer the approval process described in this subsection is—

(A) first, the agency which grants building permits on behalf of the unit of general purpose local government which has jurisdiction over the area in which new construction is proposed, if such agency is willing and able to administer such approval process;

(B) second, if the agency described in subparagraph (A) is not willing and able to administer such approval process, any other agency of the unit of general purpose local government described in such paragraph which has authority to administer such approval process, if such agency is willing and able to administer such approval process; and

(C) third, if no agency described in subparagraphs (A) and (B) is willing and able to administer such approval process, any agency of the State in which new construction is proposed which has authority to administer such approval process, if such agency is willing and able to administer such approval process.

(c) The President shall transmit the final performance standards for new buildings to both Houses of Congress upon the date of promulgation of such standards pursuant to section 304(a), for review by the Congress under this subsection to determine whether the sanction set forth in the introductory clause to subsection (a) is necessary and appropriate to assure that such standards are in fact applied to all new buildings. Such sanction shall be deemed approved as necessary for such purpose (and shall thereafter be enforced, directly and indirectly, by each applicable person and governmental entity) if the use of such sanction is approved by a resolution of each House of Congress in accordance with the procedures specified in section 552 of the Energy Policy and Conservation Act; except that for purposes of this section the 60 calendar days described in section 552(b) and (c)(2) of such Act shall be lengthened to 90 calendar days.

FEDERAL BUILDINGS

SEC. 306. The head of each Federal agency responsible for the construction of any Federal building shall adopt such procedures as may be necessary to assure that any such construction meets or exceeds the applicable final performance standards promulgated pursuant to this title.

GRANTS

SEC. 307. (a) The Secretary may make grants to States and units of general purpose local government to assist them in meeting the costs of adopting and implementing performance standards or of administering State certification procedures or any applicable approval process to carry out the provisions of section 305.

(b) There is authorized to be appropriated for the purpose of carrying out this section, not to exceed $5,000,000 for the fiscal year ending September 30, 1977. Any amount appropriated pursuant to this subsection shall remain available until expended.

TECHNICAL ASSISTANCE

SEC. 308. The Secretary (directly, by contract, or otherwise) may provide technical assistance to States and units of general purpose local government to assist them in meeting the requirements of this title.

CONSULTATION WITH INTERESTED AND AFFECTED GROUPS

SEC. 309. In developing and promulgating performance standards and carrying out other functions under this title, the Secretary shall consult with appropriate representatives of the building community (including representatives of labor and the construction industry, engineers, and architects), with appropriate public officials and organizations of public officials, and with representatives of consumer groups. For purposes of such consultation, the Secretary shall, to the extent practicable, make use of the National Institute of Building Sciences. The Secretary may also establish one or more advisory committees as may be appropriate. Any advisory committee or committees established pursuant to this section shall be subject to the provisions of the Federal Advisory Committee Act.

SUPPORT ACTIVITIES

SEC. 310. The Secretary, in cooperation with the Administrator, the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, and the heads of other appropriate Federal agencies, and the National Institute of Building Sciences, shall carry out any activities which the Secretary determines may be necessary or appropriate to assist in the development of performance standards under section 304(a) and to facilitate the implementation of such standards by State and local governments. Such activities shall be designed to assure that such standards are adequately analyzed in terms of energy efficiency, stimulation of use of nondepletable sources of energy, institutional resources, habitability, economic cost and benefit, and impact upon affected groups.

MONITORING OF STATE AND LOCAL ADOPTION OF ENERGY CONSERVATION STANDARDS FOR BUILDINGS

SEC. 311. The Secretary, with the advice and assistance of the National Institute of Building Sciences, shall—

(1) monitor the progress made by the States and their political subdivisions in adopting and enforcing energy conservation standards for new buildings;

(2) identify any procedural obstacles or technical constraints inhibiting implementation of such standards;

(3) evaluate the effectiveness of such prevailing standards; and

(4) within 12 months after the date of enactment of this title, and semiannually thereafter, report to the Congress on (A) the progress of the States and units of general purpose local government in adopting and implementing energy conservation standards for new buildings, and (B) the effectivensss of such standards.

TITLE IV—ENERGY CONSERVATION AND RENEWABLE-RESOURCE ASSISTANCE FOR EXISTING BUILDINGS

SHORT TITLE

SEC. 401. This title may be cited as the "Energy Conservation in Existing Buildings Act of 1976".

FINDINGS AND PURPOSE

SEC. 402. (a) The Congress finds that—

(1) the fastest, most cost-effective, and most environmentally sound way to prevent future energy shortages in the United States, while reducing the Nation's dependence on imported energy supplies, is to encourage and facilitate, through major programs, the implementation of energy conservation and renewable-resource energy measures with respect to dwelling units, nonresidential buildings, and industrial plants;

(2) current efforts to encourage and facilitate such measures are inadequate as a consequence of—

(A) a lack of adequate and available financing for such measures, particularly with respect to individual consumers and owners of small businesses;

(B) a shortage of reliable and impartial information and advisory services pertaining to practicable energy conservation measures and renewable-resource energy measures and the cost savings that are likely if they are implemented in such units, buildings, and plants; and

(C) the absence of organized programs which, if they existed, would enable consumers, especially individuals and owners of small businesses, to undertake such measures easily and with confidence in their economic value;

(3) major programs of financial incentives and assistance for energy conservation measures and renewable-resource energy measures in dwelling units, nonresidential buildings, and industrial plants would—

(A) significantly reduce the Nation's demand for energy and the need for petroleum imports;

(B) cushion the adverse impact of the high price of energy supplies on consumers, particularly elderly and handicapped low-income persons who cannot afford to make the modifications necessary to reduce their residential energy use; and

(C) increase, directly and indirectly, job opportunities and national economic output;

(4) the primary responsibility for the implementation of such major programs should be lodged with the governments of the States; the diversity of conditions among the various States and regions of the Nation is sufficiently great that a wholly federally

administered program would not be as effective as one which is tailored to meet local requirements and to respond to local opportunities; the State should be allowed flexibility within which to fashion such programs, subject to general Federal guidelines and monitoring sufficient to protect the financial investments of consumers and the financial interest of the United States and to insure that the measures undertaken in fact result in significant energy and cost savings which would probably not otherwise occur;

(5) to the extent that direct Federal administration is more economical and efficient, direct Federal financial incentives and assistance should be extended through existing and proven Federal programs rather than through new programs that would necessitate new and separate administrative bureaucracies; and

(6) such programs should be designed and administered to supplement, and not to supplant or in any other way conflict with, State energy conservation programs under part C of title III of the Energy Policy and Conservation Act; the emergency energy conservation program carried out by community action agencies pursuant to section 222(a)(12) of the Economic Opportunity Act of 1964; and other forms of assistance and encouragement for energy conservation.

(b) It is, therefore, the purpose of this title to encourage and facilitate the implementation of energy conservation measures and renewable-resource energy measures in dwelling units, nonresidential buildings, and industrial plants, through—

(1) supplemental State energy conservation plans; and

(2) Federal financial incentives and assistance.

PART A—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

FINDINGS AND PURPOSE

SEC. 411. (a) The Congress finds that—

(1) dwellings owned or occupied by low-income persons frequently are inadequately insulated;

(2) low-income persons, particularly elderly and handicapped low-income persons, can least afford to make the modifications necessary to provide for adequate insulation in such dwellings and to otherwise reduce residential energy use;

(3) weatherization of such dwellings would lower utility expenses for such low-income owners or occupants as well as save thousands of barrels per day of needed fuel; and

(4) States, through community action agencies established under the Economic Opportunity Act of 1964 and units of general purpose local government, should be encouraged, with Federal financial and technical assistance, to develop and support coordinated weatherization programs designed to ameliorate the adverse effects of high energy costs on such low-income persons, to supplement other Federal programs serving such persons, and to conserve energy.

(b) It is, therefore, the purpose of this part to develop and implement a supplementary weatherization assistance program to assist in achieving a prescribed level of insulation in the dwellings of low-income persons, particularly elderly and handicapped low-income persons, in order both to aid those persons least able to afford higher utility costs and to conserve needed energy.

DEFINITIONS

SEC. 412. As used in this part:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.

(2) The term "Director" means the Director of the Community Services Administration.

(3) The term "elderly" means any individual who is 60 years of age or older.

(4) The term "Governor" means the chief executive officer of a State (including the Mayor of the District of Columbia).

(5) The term "handicapped person" means any individual (A) who is a handicapped individual as defined in section 7(6) of the Rehabilitation Act of 1973, (B) who is under a disability as defined in section 1614 (a)(3)(A) or 223(d)(1) of the Social Security Act or in section 102(7) of the Developmental Disabilities Services and Facilities Construction Act, or (C) who is receiving benefits under chapter 11 or 15 of title 38, United States Code.

(6) The terms "Indian", "Indian tribe", and "tribal organization" have the meanings prescribed for such terms by paragraphs (4), (5), and (6), respectively, of section 102 of the Older Americans Act of 1965.

(7) The term "low-income" means that income in relation to family size which (A) is at or below the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (B) is the basis on which cash assistance payments have been paid during the preceding 12-month period under titles IV and XVI of the Social Security Act or applicable State or local law.

(8) The term "State" means each of the States and the District of Columbia.

(9) The term "weatherization materials" means items primarily designed to improve the heating or cooling efficiency of a dwelling unit, including, but not limited to, ceiling, wall, floor, and duct insulation, storm windows and doors, and caulking and weatherstripping, but not including mechanical equipment valued in excess of $50 per dwelling unit.

WEATHERIZATION PROGRAM

SEC. 413. (a) The Administrator shall develop and conduct, in accordance with the purpose and provisions of this part, a weatherization program. In developing and conducting such program, the Administrator may, in accordance with this part and regulations promulgated under this part, make grants (1) to States, and (2) in accordance with the provisions of subsection (d), to Indian tribal organizations to serve Native Americans. Such grants shall be made for the purpose of providing financial assistance with regard to projects designed to provide for the weatherization of dwelling units, particularly those where elderly or handicapped low-income persons reside, in which the head of the household is a low-income person.

(b)(1) The Administrator, after consultation with the Director, the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Director

of the ACTION Agency, and the heads of such other Federal departments and agencies as the Administrator deems appropriate, shall develop and publish in the Federal Register for public comment, not later than 60 days after the date of enactment of this part, proposed regulations to carry out the provisions of this part. The Administrator shall take into consideration comments submitted regarding such proposed regulations and shall promulgate and publish final regulations for such purpose not later than 90 days after the date of such enactment. The development of regulations under this part shall be fully coordinated with the Director.

(2) The regulations promulgated pursuant to this section shall include provisions—

(A) prescribing, in coordination with the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, and the Director of the National Bureau of Standards in the Department of Commerce, for use in various climatic, structural, and human need settings, standards for weatherization materials, energy conservation techniques, and balanced combinations thereof, which are designed to achieve a balance of a healthful dwelling environment and maximum practicable energy conservation; and

(B) designed to insure that (i) the benefits of weatherization assistance in connection with leased dwelling units will accrue primarily to low-income tenants; (ii) the rents on such dwelling units will not be raised because of any increase in the value thereof due solely to weatherization assistance provided under this part; and (iii) no undue or excessive enhancement will occur to the value of such dwelling units.

(c) If a State does not, within 90 days after the date on which final regulations are promulgated under this section, submit an application to the Administrator which meets the requirements set forth in section 414, any unit of general purpose local government of sufficient size (as determined by the Administrator), or a community action agency carrying out programs under title II of the Economic Opportunity Act of 1964, may, in lieu of such State, submit an application (meeting such requirements and subject to all other provisions of this part) for carrying out projects under this part within the geographical area which is subject to the jurisdiction of such government or is served by such agency. If any such application submitted by a unit of general purpose local government proposes that the allocation requirement and the priority for an applicable community action agency, as set forth under section 415(b)(2)(B), be determined to be no longer applicable, the Administrator, as part of the notice and public hearing procedure carried out under section 418 with respect to such application, shall be responsible for making the necessary determination under the proviso in section 415(b)(2)(B). A State may, in accordance with regulations promulgated under this part, submit an amended application.

(d)(1) Notwithstanding any other provision of this part, in any State in which the Administrator determines (after having taken into account the amount of funds made available to the State to carry out the purposes of this part) that the low-income members of an Indian tribe are not receiving benefits under this part that are equivalent to the assistance provided to other low-income persons in such State under this part, and if he further determines that the members of such tribe would be better served by means of a grant made directly to provide such assistance, he shall reserve from sums that would otherwise be

allocated to such State under this part not less than 100 percent, nor more than 150 percent, of an amount which bears the same ratio to the State's allocation for the fiscal year involved as the population of all low-income Indians for whom a determination under this subsection has been made bears to the population of all low-income persons in such State.

(2) The sums reserved by the Administrator on the basis of his determination under this subsection shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or, where there is no tribal organization, to such other entity as he determines has the capacity to provide services pursuant to this part.

(3) In order for a tribal organization or other entity to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Administrator an application meeting the requirements set forth in section 414.

(e) Notwithstanding any other provision of law, the Administrator may transfer to the Director sums appropriated under this part to be utilized in order to carry out programs, under section 222(a)(12) of the Economic Opportunity Act of 1964, which further the purpose of this part.

FINANCIAL ASSISTANCE

SEC. 414. (a) The Administrator shall provide financial assistance, from sums appropriated for any fiscal year under this part, only upon annual application. Each such application shall describe the estimated number and characteristics of the low-income persons and the number of dwelling units to be assisted and the criteria and methods to be used by the applicant in providing weatherization assistance to such persons. The application shall also contain such other information (including information needed for evaluation purposes) and assurances as may be required (1) in the regulations promulgated pursuant to section 413 and (2) to carry out this section. The Administrator shall allocate financial assistance to each State on the basis of the relative need for weatherization assistance among low-income persons throughout the States, taking into account the following factors:

(A) The number of dwelling units to be weatherized.

(B) The climatic conditions in the State respecting energy conservation, which may include consideration of annual degree days.

(C) The type of weatherization work to be done in the various settings.

(D) Such other factors as the Administrator may determine necessary in order to carry out the purpose and provisions of this part.

(b) The Administrator shall not provide financial assistance under this part unless the applicant has provided reasonable assurances that it has—

(1) established a policy advisory council which (A) has special qualifications and sensitivity with respect to solving the problems of low-income persons (including the weatherization and energy-conservation problems of such persons), (B) is broadly representatative of organizations and agencies which are providing services to such persons in the State or geographical area in question, and (C) is responsible for advising the responsible official or agency administering the allocation of financial assistance in such State or area with respect to the development and implementation of such weatherization assistance program;

(2) established priorities to govern the provision of weatherization assistance to low-income persons, including methods to provide priority to elderly and handicapped low-income persons, and such priority as the applicant determines is appropriate for single-family or other high-energy-consuming dwelling units; and

(3) established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State or local funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out the purpose of this part, including plans and procedures (A) for securing, to the maximum extent practicable, the services of volunteers and training participants and public service employment workers, pursuant to the Comprehensive Employment and Training Act of 1973, to work under the supervision of qualified supervisors and foremen, and (B) for complying with the limitations set forth in section 415.

LIMITATIONS

SEC. 415. (a) Financial assistance provided under this part shall, to the maximum extent practicable as determined by the Administrator, be used for the purchase of weatherization materials, except that not to exceed 10 percent of any grant made under this part may be used for the administration of weatherization projects under this part.

(b) The Administrator shall insure that financial assistance provided under this part will—

(1) be allocated within the State or area in accordance with a published State or area plan, which is adopted by such State after notice and a public hearing, describing the proposed funding distributions and recipients;

(2) be allocated, pursuant to such State or area plan, to community action agencies carrying out programs under title II of the Economic Opportunity Act of 1964 or to other appropriate and qualified public or nonprofit entities in such State or area so that—

(A) funds will be allocated on the basis of the relative need for weatherization assistance among the low-income persons within such State or area, taking into account appropriate climatic and energy conservation factors;

(B) (i) funds to be allocated for carrying out weatherization projects under this part in the geographical area served by the emergency energy conservation program carried out by a community action agency under section 222(a)(12) of the Economic Opportunity Act of 1964 will be allocated to such agency, and (ii) priority in the allocation of such funds for carrying out such projects under this part will be given such a community action agency in so much of the geographical area served by it as is not served by the emergency energy conservation program it is carrying out: *Provided*, That such allocation requirement and such priority shall no longer apply if the Governor of a State preparing an application for financial assistance under this part makes a determination, on the basis of the public hearing required by paragraph (1) of this subsection, or if the Administrator makes a determination, on the basis of a public hearing pursuant to section 413

(c), that the emergency energy conservation program carried out by such agency has been ineffective in meeting the purpose of this part or is clearly not of sufficient size, and cannot in timely fashion develop the capacity, to support the scope of the project to be carried out in such area with funds under this part; and

(C) due consideration will be given to the results of periodic evaluations of the projects carried out under this part in light of available information regarding the current and anticipated energy and weatherization needs of low-income persons within the State; and

(3) be terminated or discontinued during the application period only in accordance with policies and procedures consistent with the policies and procedures set forth in section 418.

(c) The cost of the weatherization materials provided with financial assistance under this part shall not exceed $400 in the case of any dwelling unit unless the State policy advisory council, established pursuant to section 414(b)(1), provides for a greater amount with respect to specific categories of units or materials.

MONITORING, TECHNICAL ASSISTANCE, AND EVALUATION

SEC. 416. The Administrator, in coordination with the Director, shall monitor and evaluate the operation of projects receiving financial assistance under this part through methods provided for in section 417(a), through onsite inspections, or through other means, in order to assure the effective provision of weatherization assistance for the dwelling units of low-income persons. The Administrator shall also carry out periodic evaluations of the program authorized by this part and projects receiving financial assistance under this part. The Administrator may provide technical assistance to any such project, directly and through persons and entities with a demonstrated capacity in developing and implementing appropriate technology for enhancing the effectiveness of the provision of weatherization assistance to the dwelling units of low-income persons, utilizing in any fiscal year not to exceed 10 percent of the sums appropriated for such year under this part.

ADMINISTRATIVE PROVISIONS

SEC. 417. (a) The Administrator, in consultation with the Director, by general or special orders, may require any recipient of financial assistance under this part to provide, in such form as he may prescribe, such reports or answers in writing to specific questions, surveys, or questionnaires as may be necessary to enable the Administrator and the Director to carry out their functions under this part.

(b) Each person responsible for the administration of a weatherization assistance project receiving financial assistance under this part shall keep such records as the Administrator may prescribe in order to assure an effective financial audit and performance evaluation of such project.

(c) The Administrator, the Director (with respect to community action agencies), and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers,

information, and records of any project receiving financial assistance under this part that are pertinent to the financial assistance received under this part.

(d) Payments under this part may be made in installments and in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

APPROVAL OF APPLICATIONS AND ADMINISTRATION OF STATE PROGRAMS

SEC. 418. (a) The Administrator shall not finally disapprove any application submitted under this part, or any amendment thereto, without first affording the State (or unit of general purpose local government or community action agency under section 413(c), as appropriate) in question, as well as other interested parties, reasonable notice and an opportunity for a public hearing. The Administrator may consolidate into a single hearing the consideration of more than one such application for a particular fiscal year to carry out projects within a particular State. Whenever the Administrator, after reasonable notice and an opportunity for a public hearing, finds that there is a failure to comply substantially with the provisions of this part or regulations promulgated under this part, he shall notify the agency or institution involved and other interested parties that such State (or unit of general purpose local government or agency, as appropriate) will no longer be eligible to participate in the program under this part until the Administrator is satisfied that there is no longer any such failure to comply.

(b) Reasonable notice under this section shall include a written notice of intention to act adversely (including a statement of the reasons therefor) and a reasonable period of time within which to submit corrective amendments to the application, or to propose corrective action.

JUDICIAL REVIEW

SEC. 419. (a) If any applicant is dissatisfied with the Administrator's final action with respect to the application submitted by it under section 414 or with a final action under section 418, such applicant may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which the State involved is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator. The Administrator thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Administrator, if supported by substantial evidence, shall be conclusive. The court may, for good cause shown, remand the case to the Administrator to take further evidence, and the Administrator may thereupon make new or modified findings of fact and may modify his previous action. The Administrator shall certify to the court the record of any such further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Administrator or to set it aside, in whole or in part. The judgment of the court shall be 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.

NONDISCRIMINATION

SEC. 420. (a) No person in the United States shall, on the ground of race, color, national origin, or sex, or on the ground of any other factor specified in any Federal law prohibiting discrimination, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, project, or activity supported in whole or in part with financial assistance under this part.

(b) Whenever the Administrator determines that a recipient of financial assistance under this part has failed to comply with subsection (a) or any applicable regulation, he shall notify the recipient thereof in order to secure compliance. If, within a reasonable period of time thereafter, such recipient fails to comply, the Administrator shall—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the power and functions provided by title VI of the Civil Rights Act of 1964 and any other applicable Federal nondiscrimination law; or

(3) take such other action as may be authorized by law.

ANNUAL REPORT

SEC. 421. The Administrator and (with respect to the operation and effectiveness of activities carried out through community action agencies) the Director shall each submit, on or before March 31, 1977, and annually thereafter through 1979, a report to the Congress and the President describing the weatherization assistance program carried out under this part or any other provision of law, including the results of the periodic evaluations and monitoring activities required by section 416.

AUTHORIZATION OF APPROPRIATIONS

SEC. 422. There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, not to exceed $55,000,000 for the fiscal year ending September 30, 1977, not to exceed $65,000,000 for the fiscal year ending September 30, 1978, and not to exceed $80,000,000 for the fiscal year ending September 30, 1979, such sums to remain available until expended.

PART B—STATE ENERGY CONSERVATION PLANS

DEFINITIONS

SEC. 431. Section 366 of the Energy Policy and Conservation Act is amended by (1) redesignating paragraphs (1) and (2) as paragraphs (7) and (8), respectively; and (2) inserting after "As used in this part—" the following new paragraphs:

"(1) The term 'appliance' means any article, such as a room air-conditioner, refrigerator-freezer, or dishwasher, which the Administrator classifies as an appliance for purposes of this part.

"(2) The term 'building' means any structure which includes provision for a heating or cooling system, or both, or for a hot water system.

"(3) The term 'energy audit' means any process which identifies and specifies the energy and cost savings which are likely to be realized through the purchase and installation of particular energy conservation measures or renewable-resource energy measures and which—

"(A) is carried out in accordance with rules of the Administrator; and

"(B) imposes—

"(i) no direct costs, with respect to individuals who are occupants of dwelling units in any State having a supplemental State energy conservation plan approved under section 367, and

"(ii) only reasonable costs, as determined by the Administrator, with respect to any person not described in clause (i).

Rules referred to in subparagraph (A) may include minimum qualifications for, and provisions with respect to conflicts of interest of, persons carrying out such energy audits.

"(4) The term 'energy conservation measure' means a measure which modifies any building or industrial plant, the construction of which has been completed prior to the date of enactment of the Energy Conservation and Production Act, if such measure has been determined by means of an energy audit or by the Administrator, by rule under section 365(e)(1), to be likely to improve the efficiency of energy use and to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Administrator) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

"(A) the useful life of the modification involved, as determined by the Administrator, or

"(B) 15 years after the purchase and installation of such measure,

whichever is less. Such term does not include (i) the purchase or installation of any appliance, (ii) any conversion from one fuel or source of energy to another which is of a type which the Administrator, by rule, determines is ineligible on the basis that such type of conversion is inconsistent with national policy with respect to energy conservation or reduction of imports of fuels, or (iii) any measure, or type of measure, which the Administrator determines does not have as its primary purpose an improvement in efficiency of energy use.

"(5) The term 'industrial plant' means any fixed equipment or facility which is used in connection with, or as part of, any process or system for industrial production or output.

"(6) The term 'renewable-resource energy measure' means a measure which modifies any building or industrial plant, the construction of which has been completed prior to the date of enactment of the Energy Conservation and Production Act, if such measure has been determined by means of an energy audit or by the Administrator, by rule under section 365(e)(1), to—

"(A) involve changing, in whole or in part, the fuel or source of the energy used to meet the requirements of such building or plant from a depletable source of energy to a nondepletable source of energy; and

"(B) be likely to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Administrator) in an amount sufficient to enable a person to recover the total cost of purchasing and

installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

"(i) the useful life of the modification involved, as determined by the Administrator, or

"(ii) 25 years after the purchase and installation of such measure,

whichever is less.

Such term does not include the purchase or installation of any appliance.".

SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS

SEC. 432. (a) Part C of the title 3 of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new section:

"SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS

"SEC. 367. (a) (1) The Administrator shall, within 6 months after the date of enactment of the Energy Conservation and Production Act, prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, supplemental State energy conservation plans. Such guidelines shall include the provisions of one or more model supplemental State energy conservation plans with respect to the requirements of this section.

"(2) In prescribing such guidelines, the Administrator shall solicit and consider the recommendations of, and be available to consult with, the Governors of the States as to such guidelines. At least 60 days prior to the date of final publication of such guidelines, the Administrator shall publish proposed guidelines in the Federal Register and invite public comments thereon.

"(3) The Administrator shall invite the Governor of each State to submit to the Administrator a proposed supplemental State energy conservation plan which meets the requirements of subsection (b) and any guidelines applicable thereto.

"(4) The Administrator may prescribe rules applicable to supplemental State energy conservation plans under this section pursuant to which—

"(A) a State may apply for and receive assistance for a supplemental State energy conservation plan under this section; and

"(B) such plan under this section may be administered;

as if such plan was a part of the State energy conservation plan program under section 362. Such rules shall not have the effect of delaying funding of the program under section 362.

"(5) Section 363(b)(2)(A), the last sentence of section 363(b)(2), section 363(b)(3), and section 363(c) shall apply to the supplemental State energy conservation plans to the same extent as such provisions apply to State energy conservation plans.

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

"(b)(1) Each proposed supplemental State energy conservation plan to be eligible for Federal financial assistance under this section shall include—

"(A) procedures for carrying out a continuing public education effort to increase significantly public awareness of—

"(i) the energy and cost savings which are likely to result from the implementation (including implementation through group efforts) of energy conservation measures and renewable-resource energy measures; and

"(ii) information and other assistance (including information as to available technical assistance) which is or may be available with respect to the planning, financing, installing, and with respect to monitoring the effectiveness of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable-resource energy measures;

"(B) procedures for insuring that effective coordination exists among various local, State, and Federal energy conservation programs within and affecting such State, including any energy extension service program administered by the Energy Research and Development Administration;

"(C) procedures for encouraging and for carrying out energy audits with respect to buildings and industrial plants within such State; and

"(D) any procedures, programs, or other actions required by the Administrator pursuant to paragraph (2).

"(2) The Administrator may promulgate guidelines under this section to provide that, in order to be eligible for Federal assistance under this section, a supplemental State energy conservation plan shall include, in addition to the requirements of paragraph (1) of this subsection, one or more of the following:

"(A) the formation of, and appointment of qualified individuals to be members of, a State energy conservation advisory committee. Such a committee shall have continuing authority to advise and assist such State and its political subdivisions, with respect to matters relating to energy conservation in such State, including the carrying out of such State's energy conservation plan, the development and formulation of any improvements or amendments to such plan, and the development and formulation of procedures which meet the requirements of subparagraphs (A), (B), and (C) of subsection (b)(1). The applicable guidelines shall be designed to assure that each such committee carefully considers the views of the various energy-consuming sectors within the State and of public and private groups concerned with energy conservation;

"(B) an adequate program within such State for the purpose of preventing any unfair or deceptive acts or practices affecting commerce which relate to the implementation of energy conservation measures and renewable-resource energy measures;

"(C) procedures for the periodic verification (by use of sampling or other techniques), at reasonable times, and under reasonable conditions, by qualified officials designated by such State of the purchase and installation and actual cost of energy conservation measures and renewable-resource energy measures for which financial assistance was obtained under section 509 of the Housing and Urban Development Act of 1970, or section 451 of the Energy Conservation and Production Act; and

"(D) assistance for individuals and other persons to undertake cooperative action to implement energy conservation measures and renewable-resource energy measures.

"(c) There are authorized to be appropriated for supplemental State energy conservation plans which are approved under this section $25,000,000 for fiscal year 1977, $40,000,000 for fiscal year 1978, and $40,000,000 for fiscal year 1979.".

(b) Section 363(b)(2) of the Energy Policy and Conservation Act is amended by adding at the end thereof the following:

"No such plan shall be disapproved without notice and an opportunity to present views.".

(c) Section 363(c) of the Energy Policy and Conservation Act is amended by (1) striking out "project or program" and "projects or programs" in the first sentence and inserting in lieu thereof "plan, program, projects, measures, or systems" in each case; and (2) striking out "examination" in the second sentence and inserting in lieu thereof "examination, at reasonable times and under reasonable conditions.".

(d) Section 365 of the Energy Policy and Conservation Act is amended—

(1) by redesignating subsection (d) as subsection (f);

(2) by adding immediately after subsection (c) the following two new subsections:

"(d) The Federal Trade Commission shall (1) cooperate with and assist State agencies which have primary responsibilities for the protection of consumers in activities aimed at preventing unfair and deceptive acts or practices affecting commerce which relate to the implementation of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable-resource energy measures, and (2) undertake its own program, pursuant to the Federal Trade Commission Act, to prevent unfair or deceptive acts or practices affecting commerce which relate to the implementation of any such measures.

"(e) Within 90 days after the date of enactment of this subsection, the Administrator shall—

"(1) develop, by rule after consultation with the Secretary of Housing and Urban Development, and publish a list of energy conservation measures and renewable-resource energy measures which are eligible (on a national or regional basis) for financial assistance pursuant to section 509 of the Housing and Urban Development Act of 1970 or section 451 of the Energy Conservation and Production Act;

"(2) designate, by rule, the types of, and requirements for, energy audits."; and

(3) in subsection (f), as redesignated by paragraph (1), by inserting "(other than section 367)" after "part".

PART C—NATIONAL ENERGY CONSERVATION AND RENEWABLE-RESOURCE DEMONSTRATION PROGRAM FOR EXISTING DWELLING UNITS

ENERGY CONSERVATION AND RENEWABLE-RESOURCE DEMONSTRATION

SEC. 441. Title V of the Housing and Urban Development Act of 1970 is amended by adding the following new section at the end thereof:

"ENERGY CONSERVATION AND RENEWABLE-RESOURCE DEMONSTRATION

"SEC. 509. (a) The Secretary shall undertake a national demonstration program designed to test the feasibility and effectiveness of various forms of financial assistance for encouraging the installation or implementation of approved energy conservation measures and

approved renewable-resource energy measures in existing dwelling units. The Secretary shall carry out such demonstration program with a view toward recommending a national program or programs designed to reduce significantly the consumption of energy in existing dwelling units.

"(b) The Secretary is authorized to make financial assistance available pursuant to this section in the form of grants, low-interest-rate loans, interest subsidies, loan guarantees, and such other forms of assistance as the Secretary deems appropriate to carry out the purposes of this section. Assistance may be made available to both owners of dwelling units and tenants occupying such units.

"(c) In carrying out the demonstration program required by this section, the Secretary shall—

"(1) provide assistance in a wide variety of geographic areas to reflect differences in climate, types of dwelling units, and income levels of recipients in order to provide a national profile for use in designing a program which is to be operational and effective nationwide;

"(2) evaluate the appropriateness of various financial incentives for different income levels of owners and occupants of existing dwelling units;

"(3) take into account and evaluate any other financial assistance which may be available for the installation or implementation of energy conservation and renewable-resource energy measures;

"(4) make use of such State and local instrumentalities or other public or private entities as may be appropriate in carrying out the purposes of this section in coordination with the provisions of part C of title III of the Energy Policy and Conservation Act;

"(5) consider, with respect to various forms of assistance and procedures for their application, (A) the extent to which energy conservation measures and renewable-resource energy measures are encouraged which would otherwise not have been undertaken, (B) the minimum amount of Federal subsidy necessary to achieve the objectives of a national program, (C) the costs of administering the assistance, (D) the extent to which the assistance may be encumbered by delays, redtape, and uncertainty as to its availability with respect to any particular applicant, (E) the factors which may prevent the assistance from being available in certain areas or for certain classes of persons, and (F) the extent to which fraudulent practices can be prevented; and

"(6) consult with the Administrator and the heads of such other Federal agencies as may be appropriate.

"(d)(1) The amount of any grant made pursuant to this section shall not exceed the lesser of—

"(A) with respect to an approved energy conservation measure, (i) $400, or (ii) 20 per centum of the cost of installing or otherwise implementing such measure; and

"(B) with respect to an approved renewable-resource energy measure, (i) $2,000, or (ii) 25 per centum of the cost of installing or otherwise implementing such measure.

The Secretary may, by rule, increase such percentages and amounts in the case of an applicant whose annual gross family income for the preceding taxable year is less than the median family income for the housing market area in which the dwelling unit which is to be modified by such measure is located, as determined by the Secretary. The Secretary may also modify the limitations specified in this paragraph if necessary in order to achieve the purposes of this section.

"(2) No person shall be eligible for both financial assistance under this section and a credit against income tax for the same energy conservation measure or renewable-resource energy measure.

"(e) The Secretary may condition the availability of financial assistance with respect to the installation and implementation of any renewable-resource energy measure on such measure's meeting performance standards for reliability and efficiency and such certification procedures as the Secretary may, in consultation with the Administrator and other appropriate Federal agencies, prescribe for the purpose of protecting consumers.

"(f) In carrying out the demonstration program required by this section, the Secretary is authorized to delegate responsibilities to, or to contract with, other Federal agencies or with such State or local instrumentalities or other public or private bodies as the Secretary may deem desirable. Such demonstration program shall be coordinated, to the extent practicable, with the State energy conservation plans as described in, and implemented pursuant to, part C of title III of the Energy Policy and Conservation Act.

"(g) The Secretary shall submit an interim report to the Congress not later than 6 months after the date of enactment of this section (and every 6 months thereafter until the final report is made under this subsection) indicating the progress made in carrying out the demonstration program required by this section and shall submit a final report to the Congress, containing findings and legislative recommendations, not later than 2 years after the date of enactment of this section. As part of each report made under this subsection, the Secretary shall include an evaluation, based on the criteria described in subsection (h), of each demonstration project conducted under this section.

"(h) Prior to undertaking any demonstration project under this section, the Secretary shall specify and report to the Congress the criteria by which the Secretary will evaluate the effectiveness of the project and the results to be sought.

"(i) As used in this section:

"(1) The term 'Administrator' means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this section.

"(2) The term 'approved', with respect to an energy conservation measure or a renewable-resource energy measure, means any such measure which is included on a list of such measures which is published by the Administrator of the Federal Energy Administration pursuant to section 365(e)(1) of the Energy Policy and Conservation Act. The Administrator may, by rule, require that an energy audit be conducted as a condition of obtaining assistance under this section for a renewable-resource energy measure.

"(3) The terms 'energy audit', 'energy conservation measure', and 'renewable-resource energy measure' have the meanings prescribed for such terms in section 366 of the Energy Policy and Conservation Act.

"(j) There is authorized to be appropriated, for purposes of this section, not to exceed $200,000,000. Any amount appropriated pursuant to this subsection shall remain available until expended.".

PART D—ENERGY CONSERVATION AND RENEWABLE-RESOURCE OBLIGATION GUARANTEES

PROGRAM

SEC. 451. (a)(1) The Administrator may, in accordance with this section and such rules as he shall prescribe after consultation with the Secretary of the Treasury, guarantee and issue commitments to guarantee the payment of the outstanding principal amount of any loan, note, bond, or other obligation evidencing indebtedness, if—

(A) such obligation is entered into or issued by any person or by any State, political subdivision of a State, or agency and instrumentality of either a State or political subdivision thereof; and

(B) the purpose of entering into or issuing such obligation is the financing of any energy conservation measure or renewable-resource energy measure which is to be installed or otherwise implemented in any building or industrial plant owned or operated by the person or State, political subdivision of a State, or agency or instrumentality of either a State or political subdivision thereof, (i) which enters into or issues such obligation, or (ii) to which such measure is leased.

(2) No guarantee or commitment to guarantee may be issued under this subsection with respect to any obligation—

(A) which is a general obligation of a State; or

(B) which is entered into or issued for the purpose of financing any energy conservation measure or renewable-resource energy measure which is to be installed or otherwise implemented in a residential building containing 2 or fewer dwelling units.

(3) Before prescribing rules pursuant to this subsection, the Administrator shall consult with the Administrator of the Small Business Administration in order to formulate procedures which would assist small business concerns in obtaining guarantees and commitments to guarantee under this section.

(b) No obligation may be guaranteed, and no commitment to guarantee an obligation may be issued, under subsection (a), unless the Administrator finds that the measure which is to be financed by such obligation—

(1) has been identified by an energy audit to be an energy conservation measure or a renewable-resource energy measure; or

(2) is included on a list of energy conservation measures and renewable-resource energy measures which the Administrator publishes under section 365(e)(1) of the Energy Policy and Conservation Act.

Before issuing a guarantee under subsection (a), the Administrator may require that an energy audit be conducted with respect to an energy conservation measure or a renewable-resource energy measure which is on a list described in paragraph (2) and which is to be financed by the obligation to be guaranteed under this section. The amount of any obligation which may be guaranteed under subsection (a) may include the cost of an energy audit.

(c)(1) The Administrator shall limit the availability of a guarantee otherwise authorized by subsection (a) to obligations entered into by or issued by borrowers who can demonstrate that financing is not otherwise available on reasonable terms and conditions to allow the measure to be financed.

(2) No obligation may be guaranteed by the Administrator under subsection (a) unless the Administrator finds—

(A) there is a reasonable prospect for the repayment of such obligation; and

(B) in the case of an obligation issued by a person, such obligation constitutes a general obligation of such person for such guarantee.

(3) The term of any guarantee issued under subsection (a) may not exceed 25 years.

(4) The aggregate outstanding principal amount which may be guaranteed under subsection (a) at any one time with respect to obligations entered into or issued by any borrower may not exceed $5,000,000.

(d) The original principal amount guaranteed under subsection (a) may not exceed 90 percent of the cost of the energy conservation measure or the renewable-resource energy measure financed by the obligation guaranteed under such subsection; except that such amount may not exceed 25 percent of the fair market value of the building or industrial plant being modified by such energy conservation measure or renewable-resource energy measure. No guarantee issued, and no commitment to guarantee, which is issued under subsection (a) shall be terminated, canceled, or otherwise revoked except in accordance with reasonable terms and conditions prescribed by the Administrator, after consultation with the Secretary of the Treasury and the Comptroller General, and contained in the written guarantee or commitment to guarantee. The full faith and credit of the United States is pledged to the payment of all guarantees made under subsection (a). Any such guarantee made by the Administrator shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation except for fraud or material misrepresentation on the part of such holder.

(e)(1) No guarantee and no commitment to guarantee may be issued under subsection (a) unless the Administrator obtains any information reasonably requested and such assurances as are in his judgment (after consultation with the Secretary of the Treasury and the Comptroller General) reasonable to protect the interests of the United States and to assure that such guarantee or commitment to guarantee is consistent with and will further the purpose of this title. The Administrator shall require that records be kept and made available to the Administrator or the Comptroller General, or any of their duly authorized representatives, in such detail and form as are determined necessary to facilitate (A) an effective financial audit of the energy conservation measure or renewable-resource energy measure investment involved, and (B) an adequate evaluation of the effectiveness of this section. The Administrator and the Comptroller General, or any of their duly authorized representatives, shall have access to pertinent books, documents, papers, and records of any recipient of Federal assistance under this section.

(2) The Administrator may collect a fee from any borrower with respect to whose obligation a guarantee or commitment to guarantee is issued under subsection (a); except that the Administrator may waive any such fee with respect to any such borrower or class of borrowers. Fees shall be designed to recover the estimated administrative expenses incurred under this part; except that the total of the fees charged any such borrower may not exceed (A) one percent of the amount of the guarantee, or (B) one-half percent of the amount

of the commitment to guarantee, whichever is greater. Any amount collected under this paragraph shall be deposited in the miscellaneous receipts of the Treasury.

(f)(1) If there is a default by the obligor in any payment of principal due under an obligation guaranteed under subsection (a), and if such default continues for 30 days, the holder of such obligation or his agent has the right to demand payment by the Administrator of the unpaid principal of such obligation, consistent with the terms of the guarantee of such obligation. Such payment may be demanded within such period as may be specified in the guarantee or related agreements, which period shall expire not later than 90 days from the date of such default. If demand occurs within such specified period, then not later than 60 days from the date of such demand, the Administrator shall pay to such holder the unpaid principal of such obligation, consistent with the terms of the guarantee of such obligation; except that (A) the Administrator shall not be required to make any such payment if he finds, prior to the expiration of the 60-day period beginning on the date on which the demand is made, that there was no default by the obligor in the payment of principal or that such default has been remedied, and (B) no such holder shall receive payment or be entitled to retain payment in a total amount which together with any other recovery (including any recovery based upon any security interest) exceeds the actual loss of principal by such holder.

(2) If the Administrator makes payment to a holder under paragraph (1), the Administrator shall thereupon—

(A) have all of the rights granted to him by law or agreement with the obligor; and

(B) be subrogated to all of the rights which were granted such holder, by law, assignment, or security agreement applicable to the guaranteed obligation.

(3) The Administrator may, in his discretion, take possession of, complete, recondition, reconstruct, renovate, repair, maintain, operate, remove, charter, rent, sell, or otherwise dispose of any property or other interests obtained by him pursuant to this subsection. The terms of any such sale or other disposition shall be as approved by the Administrator.

(4) If there is a default by the obligor in any payment due under an obligation guaranteed under subsection (a), the Administrator shall take such action against such obligor or any other person as is, in his discretion, necessary or appropriate to protect the interests of the United States. Such an action may be brought in the name of the United States or in the name of the holder of such obligation. Such holder shall make available to the Administrator all records and evidence necessary to prosecute any such suit. The Administrator may, in his discretion, accept a conveyance of property in full or partial satisfaction of any sums owed to him. If the Administrator receives, through the sale of property, an amount greater than his cost and the amount paid to the holder under paragraph (1), he shall pay such excess to the obligor.

(g)(1) The aggregate outstanding principal amount of obligations which may be guaranteed under this section may not at any one time exceed $2,000,000,000. No guarantee or commitment to guarantee may be issued under subsection (a) after September 30, 1979.

(2) There is authorized to be appropriated for the payment of amounts to be paid under subsection (f), not to exceed $60,000,000. Any amount appropriated pursuant to this paragraph shall remain available until expended.

(h) All laborers and mechanics employed in construction, alteration, or repair which is financed by an obligation guaranteed under subsection (a) shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Administrator shall not guarantee any obligations under subsection (a) without first obtaining adequate assurance that these labor standards will be maintained during such construction, alteration, or repair. The Secretary of Labor shall, with respect to the labor standards in this subsection, have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of title 40, United States Code.

(i) As used in this part:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.

(2) The term "Comptroller General" means the Comptroller General of the United States.

(3) The terms "energy audit", "energy conservation measure", "renewable-resource energy measure", "building", and "industrial plant" have the meanings prescribed for such terms in section 366 of the Federal Energy Policy and Conservation Act.

PART E—MISCELLANEOUS PROVISIONS

EXCHANGE OF INFORMATION

SEC. 461. The Administrator shall (through conferences, publications, and other appropriate means) encourage and facilitate the exchange of information among the States with respect to energy conservation and increased use of nondepletable energy sources.

REPORT BY THE COMPTROLLER GENERAL

SEC. 462. (a) For each fiscal year ending before October 1, 1979, the Comptroller General shall report to the Congress on the activities of the Administrator and the Secretary under this title and any amendments to other statutes made by this title. The provisions of section 12 of the Federal Energy Administration Act of 1974 (relating to access by the Comptroller General to books, documents, papers, statistics, data, records, and information in the possession of the Administrator or of recipients of Federal funds) shall apply to data which relate to such activities.

(b) Each report submitted by the Comptroller General under subsection (a) shall include—

(1) an accounting, by State, of expenditures of Federal funds under each program authorized by this title or by amendments made by this title;

(2) an estimate of the energy savings which have resulted thereby;

(3) a thorough evaluation of the effectiveness of the programs authorized by this title or by amendments made by this title in achieving the energy conservation or renewable resource potential available in the sectors and regions affected by such programs;

(4) a review of the extent and effectiveness of compliance monitoring of programs established by this title or by amendments made by this title and any evidence as to the occurrence of fraud with respect to such programs; and

(5) the recommendations of the Comptroller General with respect to (A) improvements in the administration of programs authorized by this title or by amendments made by this title, and (B) additional legislation, if any, which is needed to achieve the purposes of this title.

(c) As used in this part:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.

(2) The term "Comptroller General" means the Comptroller General of the United States.

(3) The term "Secretary" means the Secretary of Housing and Urban Development.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.