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Office of the White House Press Secretary

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THE WHITE HOUSE

FACT SHEET

ENERGY INDEPENDENCE AUTHORITY

The President today submitted legislation to the Congress to create the Energy Independence Authority (EIA). The EIA will be a new government corporation to help achieve energy independence for the United States by providing loans, loan guarantees, price guarantees, or other financial assistance to private sector energy projects.

It will have a limited life (ten years); its financial outlays and commitments are intended to be recovered by the government, and will be used in conjunction with private sector financing to the maximum possible extent. It will not have authority, except for very limited periods, to own operating facilities related to energy production, transportation, or transmission.

EIA will supplement and encourage private capital investment to meet the energy needs of the nation. Its scope will range across a broad spectrum of energy supply, conservation, and energy-related environmental projects.

The Authority will have financial resources of \$100 billion, consisting of \$25 billion of equity and \$75 billion of debt. The \$100 billion for energy projects could help assure that the equivalent of up to 10-15 million barrels of oil per day of new energy production is realized by 1985.

BACKGROUND

- o The Nation's energy situation continues to deteriorate:
  - Domestic crude oil production peaked in 1970 and has declined by more than one million barrels per day since then. Production is now at a nine-year low.
  - Oil imports are about 37 percent of oil consumption and are expected to rise to more than 50 percent of consumption or 12 million barrels per day by 1985 if no new actions are taken.
  - As a result of our increasing import dependence, our payments to foreign producers for imported oil has increased from less than \$3 billion in 1970 to about \$25 billion last year and will increase by another \$2 billion annually because of the OPEC price rise announced last month.
  - Natural gas production peaked in 1973, declined by six percent last year (the equivalent of over 230 million barrels of oil), and has dropped another 8.5 percent during the first half of 1975, leading to rising curtailments of service that threaten jobs in many parts of the country.

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- Electric utility financial problems and regulatory delays have in part resulted in the cancellation or postponement of about three-fourths of all planned nuclear plants and about one-third of all coal plants previously scheduled for operation between now and 1985.
- o In his State of the Union Message, the President proposed major new initiatives to explore and develop our domestic energy resources, conserve energy resources, and reduce our vulnerability through standby authorities. Since then no major new legislation to increase domestic supply or cut energy use has been passed by the Congress.
- o The Federal Energy Administration (FEA) estimates that investments for energy independence could total about \$600 billion (in 1975 dollars) over the next ten years. While most energy projects should be able to be financed in a conventional manner, some projects in selected energy sectors will find financing more difficult:
  - Some emerging technologies, such as synthetic fuels from coal, shale oil, solar, and methods to use energy more efficiently, have uncertain economics due to long lead times and technological uncertainties, and considerable risk if world oil prices drop. The Energy Resources Council (ERC) synthetic fuels task force concluded that a variety of Federal financial incentives is needed to achieve any significant synthetic fuel production by 1985.
  - Many new projects, such as uranium enrichment plants, are too large and economically risky to be financed by the private sector alone.
  - Some industries, such as electric utilities, are not able to finance needed expansion because capital requirements are too large in light of insufficient earnings and regulatory delays or inaction.
- o A Federal role in financing and otherwise supporting projects vital to the national interest is not unprecedented, or unique. For example, the Federal Government has taken an active role in such areas as the Communications Satellite Corporation (COMSAT), crash commercialization of new technologies such as synthetic rubber plants in World War II, and uranium enrichment.

#### EIA Organization

The Energy Independence Authority will be a new government corporation. A five person Board of Directors will be appointed by the President, subject to the advice and consent of the Senate. A member of the Board will be designated by the President as its chairman and will be the chief executive officer of the Authority. No more than three of the Board members may be of any one political party. At the discretion of the President, the members may serve either full-time or part-time. A limited number of the Authority's executives may be paid without regard to executive branch salary limits, but the majority of the Authority's staff will be within the Civil Service system.

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## EIA Liquidation and Accountability

The EIA will have a legislated life of ten years, with new financial commitments permitted only in the first seven years of its existence. On or before June 30, 1983, the corporation will prepare a Liquidation Plan for the corporation's investments. The Liquidation Plan will describe how each activity, project or obligation involving financial assistance, and any substantial asset or liability will be disposed of.

The EIA will terminate on or before June 30, 1986, unless the President determines that orderly liquidation requires continuation of its authorized life for up to three years after that date. Any remaining assets, obligations or required functions after its termination will be transferred to the Secretary of the Treasury.

The EIA will submit an annual report to the Congress and will be subject to independent audits by nationally recognized public accountants, as well as by the General Accounting Office at its discretion. Also, the Energy Resources Council, and other agencies designated by the President, will be provided an opportunity to evaluate all projects before commitments are made.

### Financial Structure

The EIA will have authorized capital stock of \$25 billion and the authority to issue and to have outstanding at any one time notes, debentures, bonds or other obligations of \$75 billion. The Authority's obligations will be backed by the full faith and credit of the United States of America.

The Treasury will purchase equity and the EIA will pay an annual dividend on its outstanding capital stock, but its Board could defer such dividends if it has no earned surplus or if the Board determines that other uses of its funds in support of the goal of energy independence are more desirable. The EIA's issuance of its securities, as well as loan guarantees or other similar obligations which directly impact the capital markets in a manner similar to government debt, will be subject to approval by the Secretary of the Treasury as to the timing, method, source, interest rate, and other terms and conditions. At the discretion of the Secretary of the Treasury, EIA's obligations may be purchased directly or channeled through the Federal Financing Bank.

Total loans, guarantees, and other forms of financial assistance by the Authority over its life cannot exceed \$100 billion and it can make no further investments if its expected losses, as determined by an annual independent audit, exceed its equity and earned surplus.

The \$25 billion of equity will be subject to the appropriation process and requested incrementally as needed; the \$75 billion in borrowing authority will be requested initially as a one-time Congressional authorization without any further need for Congressional appropriations. Because the Authority is to be self-liquidating and its investments repaid, its outlays will not be included in the budget of the United States. However, the Authority's losses or gains from its operations will be included in the Federal budget.

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The Energy Independence Authority could provide financing in various forms including direct loans, loan guarantees, guarantees of price, purchase and leaseback of facilities, and the purchase of convertible or equity securities. EIA financing will not be available for projects which can be financed by the private sector and to the extent practicable, will be in the form of loans and loan guarantees.

The EIA's financial assistance will provide for the maximum participation of private financial institutions in projects. Such assistance will be provided in ways that will not give recipients undue advantage over competing firms. This will be assured through minimum interest rate requirements and other terms that will be required by the Authority before financing is executed.

Financial commitments by EIA will not be for the purpose of acquiring a permanent controlling or operating interest in commercial production, transportation, or distribution of energy. Federal ownership or operation could occur only temporarily, in the event of default, or in providing financial assistance which involves construction, testing and demonstration of a facility provided to a business on a "turnkey" basis, or in providing lease-purchase and sale-leasebacks. No permanent ownership, control and operation of energy production facilities by the Federal Government will be authorized.

#### Scope of EIA Investments

The Energy Independence Authority will concentrate on energy projects deemed critical to our national energy objectives.

The Energy Independence Authority will only support projects which meet the following criteria:

- Projects that will contribute directly and significantly to energy independence.
- Projects that would not be financed without government assistance.

The specific types of projects which the EIA could finance would be limited to projects entailing commercialization of:

- New technologies not yet in widespread domestic commercial operation either to support, produce directly, transport, or conserve energy.
- Technologies essential to the production of nuclear power.
- Conventional or new technologies for production and transmission of electric power generated by sources other than oil or gas.
- Conventional energy technologies for the production or transportation of energy that are of such size or scope that they would not otherwise be financed by the private sector or represent institutional or regulatory arrangements which are not in widespread use, or individual transportation or transmission facilities related to such energy projects.

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The projects that could be supported by the EIA range across the full spectrum of energy, excluding research. These would cover such areas as synthetic fuel technology commercialization (e.g., coal gasification, liquefaction, and production of oil from shale); other emerging technologies (e.g., solar energy or geothermal energy); and conventional technologies (e.g., uranium enrichment, coal, nuclear, and geothermal power plants).

EIA could support projects that increase efficiency of energy use and production of energy that involve new technologies not yet commercially proven. Projects of unusual size or scope could include new energy parks or major new pipelines for transportation of oil and gas.

The EIA will not relieve State regulatory commissions of their responsibility to assure the health of regulated industries. Thus, EIA financial assistance will require as a condition of assistance to a regulated utility, sound and expedited regulatory response from regulatory rate commissions, including the regulatory commission's agreement to a rate covenant with EIA and the regulated firm that assures adequate earnings to protect EIA's investment.

#### New Federal Energy Regulatory Procedures

Regulatory problems often make financing difficult by adding uncertainty about a project's ultimate fate and timing and by adding inflationary pressures to construction costs through delay. In addition to its financial authorities, the EIA legislation will establish an important new procedure for coordinating and expediting Federal regulatory proceedings that affect energy projects.

Although it would have no power to override regulatory decisions at any level of government or determine the ultimate fate of the project, the Federal Energy Administration may certify (if such certification is needed to assure expeditious completion) that any project which requires a Federal permit or other Federal action is of critical importance to achievement of energy independence.

Any Federal agency receiving such FEA certification of a project will commence promptly all proceedings needed to reach a final decision concerning the project and each Federal agency may give such proceedings priority over other matters before it. The legislation makes it the intent of the Congress that all proceedings on these critical projects be completed within 18 months and requires that each Federal agency promulgate regulations within 90 days to carry out the expediting actions contemplated in the legislation.

In order to coordinate, simplify, and expedite the processing of applications to construct, license or review energy projects, the FEA, in cooperation with all relevant Federal agencies, will oversee the entirety of the Federal approval process. The authority to approve or disapprove applications for energy projects will remain in those Federal agencies required by law to consider such projects. However, the FEA would be authorized to develop a single composite application that will be the sole application required for Federal approval prior to commencement of a project.

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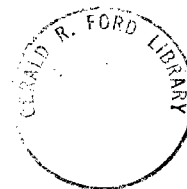


Background

- Q. Weren't some of the President's economic advisors against this proposal? If so, why did he overrule them?
- A. The President discussed this proposal with his economic and energy advisors at great length and listened carefully to all the views and arguments presented. There was general agreement that a major new energy initiative was needed to assure energy independence. There were views and concerns over the impact of this proposal on the capital markets and other issues, but that is normal and was encouraged. The President based his final decisions upon the positions and arguments enunciated, after many vigorous discussions. The final proposal strikes an appropriate balance between our energy needs and the impacts of such a program on our economy.



- Q. We understand that a number of the President's advisors and other distinguished economists have indicated that the private sector will be able to generate enough capital to support energy development over the next decade. But even assuming there is a need for additional capital for energy financing, won't EIA simply shift it from other justifiable needs -- such as housing and schools?
- A. The key thing to remember is that without adequate sources of domestic energy we will never achieve our goal of energy independence and we will remain extremely vulnerable to supply cutoffs from foreign oil producers. We must, therefore, make the necessary capital available to fulfill this critical need. But energy investments will not represent such a large share of total business investments so that other critical needs such as housing go unmet.



## EIA Organization

- Q.. Won't the new chairman and chief executive officer in EIA become the new energy czar with \$100 billion worth of clout? Will EIA replace the Federal Energy Administration?
- A. No, the EIA legislation requires coordination of EIA activities with members of the Energy Resources Council, and other agencies designated by the President. Further, EIA's principal mission is to facilitate the flow of capital into the energy sector, not determine national energy policy. Finally, EIA's chairman will report directly to the President, thereby insuring coordination with our national energy policy.



Q. What specific kinds of projects might be funded?

A. In the new technology area, one of our major efforts could be in synthetic fuels such as coal gasification and oil shale facilities.

In the nuclear power area, we may need enrichment capacity to support fuel requirements. We may also decide to support some experimental floating nuclear power plants.

In other areas of electrical power, we may intensify the commercial development of geothermal electrical power.

Finally, major infrastructure projects, such as energy parks or major pipeline systems, could be supported.



Q. Do you intend to transfer your million-barrel-a-day Syntehtic Fuels Program to EIA.

A. Yes. It is intended that EIA be the focal point of the Federal effort to achieve that goal. As soon as we have the EIA in place, I would certainly urge the Chairman and the Board to undertake such a program.

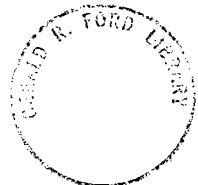


- Q. At the Hardware Convention in Chicago, the President made a very strong statement for getting off the back of private enterprise. And back in June, the President urged the Congress to encourage private enterprise to get into the uranium enrichment business. Isn't your EIA proposal a major reversal of policy in that it will displace a good part of the commercial and investment banking industry?
- A. No, EIA would only make those loans and investments that would not ordinarily be made by private industry. Hence, it would complement, not displace, activity by the private finance sector. Further, government ownership is not generally contemplated, only government financing of private energy facilities.



Q. If it were included in the budget; what would be the result?

A. Over the first seven years of its operation, commitments of funds would range between \$50-100 billion, but actual expenditures would be substantially less because construction will be stretched over many years and the expense guarantees or price supports may never be realized. However, it is important to recognize that after the first several years a very significant portion of these outlays will be recovered from investment repayments. Because the corporation is self-liquidating, outlays are not included in the U.S. budget.





## Financial Structure

- Q. The Brookings Institution has stated that adequate capital will be generated through the 1980's only if we get the Federal deficit under control. Won't EIA increase that deficit and work against capital formation?
- A. EIA's activities will require new Federal funds in its early years, but most if not all of its loans and other commitments will be repaid in later years. On balance, it should not have a significant adverse effect on capital markets and will attract needed capital to areas which can't attract it now.



Q. How does your proposal differ from the Energy Production Board proposed by Senator Jackson?

A. It differs in at least two significant ways. First, The EIA proposal preserves private enterprise, and, as I understand Senator Jackson's proposal, under his approach there is heavy emphasis on Government ownership and government production of energy. Secondly, the EIA proposal would only include financing urgently needed emerging technologies whose large-scale commercial application is probable but not proven, whereas Senator Jackson's proposal appears to have the government compete in proven technology areas where the private sector is effective now.



Q. How do we keep the EIA from disrupting the capital markets?

A. The legislation requires the concurrence of the Secretary of the Treasury in the timing, method, source, interest rate, and other terms and conditions of EIA debt, loan guarantees and other EIA commitments which could interfere with the Government's issuance of its own debt. In this way, we can be assured that the condition of the capital markets will be carefully considered.



Q. How will the EIA be financed?

A. The EIA will have equity capital of \$25 billion, and the authority to issue and to have outstanding at any one time notes, debentures, bonds or other obligations of \$75 billion. The Treasury will purchase equity and the EIA will pay a dividend on its outstanding capital stock, but its Board could defer such a dividend if it has no earned surplus, or if the funds could be more profitably used to achieve energy independence. EIA's debt may be purchased, at the discretion of the Treasury Secretary or channeled through the Federal Financing Bank.



Q. What financial mechanisms will the EIA use?

A. The Energy Independence Authority could utilize direct loans, loan guarantees, guarantees of price, purchase and leaseback of facilities, and the purchase of convertible or equity securities. To the extent practicable, financial assistance will be in the form of loan guarantees, rather than equity investment, and will provide for the maximum private involvement in financing.



- Q. How does this proposal differ from New York's Urban Development Corporation? Will this be another failure?
- A. There is a major difference between urban rental housing and energy development. The EIA legislation as proposed will contain adequate safeguards and audits to require sound financial and investment management. Moreover, the EIA obligations will be backed by the full faith and credit of the United States which will assure full investor confidence.



## Scope of EIA Investments

Q. What kind of projects will the EIA fund?

A. The EIA will concentrate on the following types of projects:

- ° New technologies not now in widespread domestic commercial operation either to support directly produce, transport, or conserve energy.
- ° Technologies essential to the production of nuclear power.
- ° Production and transmission of electric power generated by non-oil and gas sources.
- ° Conventional technologies if they are directly related to production or transportation of energy, and are of such size or scope that they would not otherwise be financed by the private sector, or represent institutional or regulatory arrangements which are not in widespread use.



- Q. Aren't you treating the symptom of "capital need" rather than the root cause of "uneconomic rates of return" to energy companies? Isn't the real key to getting nuclear power going the assurances that utilities have reasonable earnings? How does EIA address that question?
- A. The EIA directly attacks the earnings problems of utilities by requiring that a rate covenant be signed by utilities, State regulatory commissions, and the EIA before financial assistance can be provided. This covenant provides for rate relief to ensure adequate earnings to cover EIA's investment and assure that future capital can be attracted from the private sector.



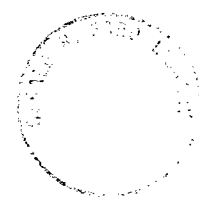


## Other Regulatory Authorities

- Q. It is our understanding that the FEA will have a significant role in administering the EIA program. Can you give us the details?
- A. FEA will not be directly involved in the financing activities of EIA. In order to coordinate, simplify, and expedite the processing of applications to construct, license or review energy projects, the FEA, in cooperation with all relevant Federal approval process. The authority to approve or disapprove applications for energy projects will remain in those Federal agencies required by the law to consider such projects. However, the FEA would be authorized to develop a single composite application that will be the sole application required for Federal approval prior to commencement of a project.



- Q. But if that is so, won't EIA be taking on bad investments because they are so risky that private enterprise won't touch them? Doesn't this insure that EIA will lose money -- and lots of it?
- A. Some investments are profitable but simply too large for the private sector to handle alone. EIA would be able to assist in financing these large investments. Moreover, many investments are inherently sound, but because of their long lead times the private sector will not participate because the risks are too great. Again, EIA would be able to minimize the risks by guaranteeing these long term investments. Finally, I think most would acknowledge that in a somewhat analogous area, Government guarantees of home mortgage loans, programs of assistance have been quite successful.



FIA Legislation

A BILL

To establish the Energy Independence Authority, a government corporation with authority to provide financing and economic assistance for those sectors of the national economy which are important to the development of domestic sources and the conservation of energy and the attainment of energy independence for the United States in a manner consistent with the protection of the environment; to improve Federal government operations so as to assist in the expediting of regulatory procedures which affect energy development; 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 Independence Authority Act of 1975".

Title I. Findings and Purposes

Section 101. Findings.

The Congress finds and declares that:

(a) The achievement of energy independence for the United States by 1985 and the long-term security of energy sources and supplies are essential to the health of the national economy, the well being of our citizens and the maintenance of national security.



(b) Attainment of energy independence by the United States in a timely manner and in a manner consistent with the protection of the environment is not likely without financial commitments beyond those likely to be forthcoming from traditional capital sources in the traditional manner.

(c) Energy independence for the United States can be accomplished by reducing imports of energy resources and increasing domestic supply of energy resources so that the political and economic vulnerability of the United States to disruptions in oil imports is reduced.

(d) Achieving the goal of energy independence in an expeditious manner which gives due regard to the need to protect the environment can be facilitated by establishing an independent entity of limited duration which will provide additional capital, where possible in conjunction with private sources of capital, to assist the development and conservation of domestic energy resources and by encouraging the prompt resolution of questions coming before federal regulatory or licensing entities.

Section 102. Purposes.

It is the purpose of this Act:

(a) To encourage and assure the flow of capital funds to those sectors of the national economy which are important to the development of domestic sources of energy or which

are otherwise important to the attainment of energy independence for the United States by 1985 or the long-term security of energy sources and supplies, and to expedite and facilitate Federal regulatory and licensing decision-making;

(b) To provide financial assistance, where possible by the making or guaranteeing of loans in conjunction with private sector financing, for those activities which show the greatest potential of contributing to the development of domestic sources or the conservation of energy in a manner which preserves economically sound and competitive industry sectors, while minimizing any economic distortion or disruption of competitive forces;

(c) To hasten the commercial operation of new energy technologies subsequent to the research and development phase;

(d) To develop domestic sources of energy in a manner which gives due regard to the need to protect the environment;

(e) To supplement and encourage, and not compete with, private capital investment and activities in the development of domestic sources of energy, recognizing that the private sector must play the primary role in such development; and

(f) To assist in carrying out the foregoing purposes through the creation of the Energy Independence Authority, a self-liquidating corporate entity of limited duration formed to provide financial assistance for projects that will

contribute significantly to the attainment of energy independence by the United States, and by providing for the timely and orderly liquidation of the Authority's investments and undertakings.

Title II. Corporate Status, General Powers,  
Subsidiaries and Tax Status

Section 201. Establishment.

(a) There is hereby created a body corporate, to be known as the Energy Independence Authority (hereafter referred to as the "Authority").

(b) The principal office of the Authority shall be located in the District of Columbia, but there may be established agencies or branch offices in such other places as may be determined by the Board of Directors of the Authority.

Section 202. General Powers.

In carrying out the purposes of this Act, the Authority shall have the power:

(a) To adopt, alter, and rescind bylaws and to adopt and alter a corporate seal, which shall be judicially noticed;

(b) To make contracts with individuals and private or governmental entities;

(c) To lease or purchase and to dispose of such real property as may be necessary for the transaction of its business;

(d) To acquire and dispose of personal and intangible property (including money);

(e) To sue and be sued, subject to the provisions of Section 707 of this Act, in its corporate name and to complain and defend in any court of competent jurisdiction, State or Federal;

(f) To represent itself or to contract for representation in all judicial and other legal proceedings notwithstanding the provisions of Title 28 of the United States Code or any other provision of law;

(g) Subject to the provisions of Section 502 of this Act, to select, employ, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary for the transaction of the business of the Authority and to define their authorities and duties, require bonds of them and fix the penalties thereof;

(h) To make provision for and designate such committees, and the functions thereof, as the Board of Directors may deem necessary or desirable;

(i) To determine and prescribe the manner in which obligations of the Authority shall be incurred and its expenses allowed and paid;

(j) To exercise all other lawful powers necessarily or reasonably related to the establishment and conduct of a

corporate entity, to the achievement of its purposes and the exercise of its powers, purposes, functions, duties and authorized activities;

(k) To use the United States mails on the same terms and conditions as the executive departments of the United States Government; and

(l) With the consent of any board, commission, independent establishment, or executive department of the executive branch to make use of services and facilities thereof, with or without reimbursement, in carrying out the provisions of this Act.

Section 203. Subsidiaries.

(a) In accordance with the procedure set forth in subsection (e) of this section, the Authority may create or cause to be created one or more wholly-owned subsidiary corporations to carry out one or more of the functions in which the Authority is authorized to engage pursuant to this Act. Each such corporation so created is hereafter referred to as a "Subsidiary".

(b) Each Subsidiary shall have and enjoy the same privileges and immunities under the laws of the United States and the several States and their political subdivisions as the Authority, and shall have such functions and powers as shall be provided in its charter, provided that no charter shall grant authority for a Subsidiary to engage in a

function or to exercise a power which would be beyond the functions or powers of the Authority under this Act.

(c) Any provision of this Act which limits or restricts the functions, powers or financial commitments of the Authority shall be deemed to apply to each Subsidiary.

(d) For the purposes of any provision of this Act which relates to the financial condition of the Authority, the Authority and the Subsidiaries shall be treated on a consolidated basis in accordance with generally accepted accounting principles. All reports, including audits, relating to the Authority which are required under this Act shall include all Subsidiaries.

(e) The functions and powers of every Subsidiary shall be set out in a charter which shall be valid only when certified copies thereof are filed with the Secretary of the Senate and the Clerk of the House of Representatives and published in the Federal Register, and all amendments to such charters shall be valid only when similarly filed and published. No Subsidiary shall have a term of existence beyond the authorized life of the Authority.

(f) The Directors of the Authority shall serve as the Directors of each Subsidiary and the Chairman of the Board of the Authority shall serve as the Chairman of the Board of each Subsidiary, and neither the Chairman nor the Directors shall be entitled to compensation for their services to a

Subsidiary except as provided in Section 501 of this Act. The provisions of subsections (b) through (f) of Section 502 of this Act shall be deemed to apply to each Subsidiary, provided that any provision of such subsections which limits the number of any category of officers or employees shall be deemed to apply to the Authority and all Subsidiaries taken collectively. Officers and employees of a Subsidiary shall have the same rights and liabilities as officers and employees of the Authority under this Act.

(g) Nothing in this section shall be deemed to prevent the Authority from investing funds of the Authority in corporations other than Subsidiaries.

Section 204. Tax Status.

The Authority, its franchise, capital, reserves, surplus, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality or local taxing authority; except that: (i) any real property owned in fee by the Authority shall be subject to State, territorial, county, municipal, or other local taxation to the same extent, according to its value, as other similarly situated and used real property, without discrimination in the valuation, classification or assessment thereof, and (ii) any entity acquired or established, or activity undertaken, by the Authority (except financial

assistance as that term is defined in Section 301 of this Act) which engages directly in the production, conservation, transportation, transmission, distribution or sale of energy, fuels or energy-related commodities, facilities or products, shall be subject to taxes imposed by the United States or any State or subdivision thereof in the same manner as if such entity or activity were not acquired, established or undertaken by the Authority.

Title III. Financial Assistance

Section 301. General Definitions.

As used in this Act: (i) the term "business concern" shall mean any individual, corporation, company, association, firm, partnership, joint venture, society, or other private entity which is engaged, or proposes to engage, in projects involving energy development, production, transportation, transmission, distribution or conservation, and (ii) the term "financial assistance" shall mean any form of advance, extension of credit, investment, participation or guarantee, including, without limitation, loans, guarantees of obligations, guarantees of price, purchase and leaseback of facilities, and the purchase of convertible or equity securities, but excluding grants-in-aid.



Section 302. Authorization of Financial Assistance.

Subject to the limitations set forth in this title, the Authority is authorized and empowered, in its sole discretion and upon such terms and conditions as it may determine, to provide financial assistance to any business concern which is engaged, or proposes to engage, in a project described in subsection 303(b) in order to enable such business concern to finance the ownership, construction, conversion, or expansion of productive facilities; or the acquisition of equipment, plant, machinery, supplies, or materials or the acquisition or development of land, mineral rights and services; or to provide such business concern with working capital needed to carry out the project in an efficient manner. Financial assistance, and the terms and conditions thereof, may be renewed, modified, or extended by the Board of Directors as it may determine. No provision of this Act shall be deemed or construed so as to require or obligate the Authority to provide financial assistance to any individual project or particular type of project. To the extent practicable, in the judgment of the Board of Directors, financial assistance provided under this title shall be in the form of loans and loan guarantees, rather than equity investment or guarantees of price. All contractual commitments of the Authority to provide financial assistance shall be general obligations of the United States backed by its full faith and credit.

Section 303. Projects to Which Financial Assistance may be Provided.

(a) The Authority is empowered to provide financial assistance for any project, described in subsection (b) below, if, in the judgment of the Board of Directors, such project will make a significant contribution to the achievement of energy independence by the United States or the long term security of energy supplies for the United States and would not receive sufficient financing upon commercially reasonable terms from other sources to make the project commercially feasible; provided, however, that the maximum amount of financing from sources other than the Authority, preferably private sources, shall be sought in connection with any project for which financial assistance is provided.

(b) The Authority shall provide financial assistance for only those projects which in the judgment of the Board of Directors:

(1) employ, or would stimulate the application of, technologies, processes or techniques which are essential to the development, production, transportation, transmission, or conservation of energy and which are not in widespread domestic commercial use at the time of the Authority's commitment of financial assistance; or

(2) employ, or would stimulate the application of, technologies, processes or techniques which are

essential to the production or use of nuclear power; or

(3) employ, or would stimulate the application of, technologies, processes or techniques for the generation of electricity from fuel sources other than oil or natural gas or for the transmission of such electricity; or

(4) employ technologies, processes or techniques for the development, production, transportation or transmission of energy which at the time of the Authority's commitment of financial assistance are in widespread domestic commercial use, provided that such project is

(i) either of such size or scope that it would not be undertaken without the assistance of the Authority, or

(ii) involves an institutional or regulatory arrangement not in widespread domestic commercial use the success of which would lead to improvements in the development or production of energy, or individual transportation or transmission facilities related to projects described in clauses (i) or (ii); or

(5) employ, or would stimulate the application of, technologies, processes or techniques for the protection of the environment necessary in connection with activities of a type described in paragraphs (1) through (4).

Section 304. Limitations on Provision of Financial Assistance.

(a) Financial assistance provided by the Authority shall be made upon such terms, and subject to such conditions and restrictions, as shall be deemed by the Board of Directors to be commensurate with the purposes of this Act and the needs of the recipient. Adequate provision shall be made by the Authority to insure that, when financial assistance provided by the Authority results in the profitable operation of a project, the Authority shares in such profits on a basis commensurate with the degree of risk assumed by the Authority. Financial assistance will be provided in a manner which, to the extent possible, does not enhance unduly the recipient's competitive position.

(b) The Authority shall not provide financial assistance to a project which would otherwise qualify for such financial assistance if, in the judgment of the Board of Directors:

(i) such project involves technology which is in the research and development phase; or (ii) the project applicant does not display satisfactory levels of efficiency, management capacity or similar factors which are customarily considered by private sources of financing before making an investment decision.

(c) The Authority may provide financial assistance for a project conducted by a business concern whose rates are

regulated by any state or local regulatory body only if: (i) the state or local regulatory body regulating such rates has issued a certificate of necessity for the project as prescribed by the Authority and (ii) such state or local regulatory body, the business concern so regulated and the Authority have entered into a three party agreement which shall require the state or local regulatory body to permit, without prior hearing, quarterly rate adjustments on a basis such that had such adjustment been in effect for the twelve preceding months the net earnings of the business concern would have provided a minimum level of coverage of annualized interest charges. The Authority shall establish the minimum level of coverage of annualized interest charges, to be applied uniformly until changed, which shall, in the judgment of the Board of Directors, be sufficient to assure repayment of the Authority's investment and restore the credit rating of the business concern so regulated to a level capable of obtaining conventional capital at favorable interest rates without additional financial assistance from the Authority. For the purposes of this subsection: (i) the term "net earnings" shall mean actual earnings before total interest charges and taxes on income adjusted for the annualization of any rate changes during the preceding twelve months, and (ii) the term "annualized interest charges" shall mean the

annualized amount of total interest charges, including interest components of leases and rents, but excluding any effect of future debt issues.

(d) No financial assistance may be provided unless an application therefor has been submitted to the Authority in such manner and containing such information as the Authority may require, and the Authority has reviewed such application, taking into account competitive alternatives to meet the same energy need. Nothing herein shall preclude the Authority from providing financial assistance to two or more similar projects if it determines such assistance is appropriate and consistent with the purposes of this Act.

(e) In no case shall the aggregate amount of financial assistance made or committed under this title to any one business concern or affiliated business concerns exceed at any one time 10 per centum of the sum of the original authorized capital stock of the Authority and the aggregate principal amount which the Authority is originally authorized to borrow, without regard to any reduction of such authorized capital stock or borrowing level pursuant to section 311.

Section 305. Loans Made by the Authority.

Each loan made under this title shall bear interest at such rate as the Board of Directors of the Authority may

determine, giving consideration to the needs and capacities of their recipient, the prevailing rates of interest (public and private) and the need of the Authority to sustain continuing operations out of returns on investment; provided, however, that such rate shall not be less than the greater of:

(i) the then current estimated borrowing costs of the Authority for borrowings of comparable maturity to the loan plus a reasonable amount to cover administrative expenses, or

(ii) the interest rate paid by credit worthy borrowers to private lenders for borrowings on comparable terms (other than interest rate) for projects of a similar nature, taking into account generally available indices of credit worthiness and, where applicable, the purpose and effect of any three party agreement as provided in Section 304(c);

provided, further, however, that in a case in which sufficient information is not available to make the computation described in clause (ii), such rate shall not be less than the rate specified in clause (i). Except as provided in Section 308 of this title, all loans provided by the Authority shall, in the opinion of the Board of Directors, be made upon such terms as to reasonably assure retirement or repayment, and may be made or effected either directly or in cooperation

with banks or other lending institutions. Loans may be made directly upon promissory notes or by way of discount or rediscount of obligations tendered for the purpose. Subject to the provisions of Section 312 of this Act, the Authority under such conditions as it shall prescribe, may take over or provide for the administration and liquidation of any collateral accepted by it as security for such loans.

Section 306. Loan Guarantees Made by the Authority.

The Authority is specifically authorized, on such terms and conditions as the Board of Directors may prescribe, to guarantee any lender against loss of principal and interest on securities, obligations, or loans (including refinancings thereof) issued to provide funds to any business concern where such funds substantially contribute to accomplishment of the purposes of this Act. All guarantees entered into by the Authority under this section shall constitute general obligations of the United States of America backed by the full faith and credit of the Government of the United States of America. Any guarantee made by the Authority under this section shall not be terminated, canceled or otherwise

revoked, except in accordance with the terms thereof; shall be conclusive evidence that such guarantee complies fully with the provisions of this Act and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee; and shall be valid and incontestable in the hands of a holder of a guaranteed security, obligation, or loan, except for fraud or material misrepresentation on the part of such holder. Prior to issuing any such guarantee or making any other type of commitment to provide financial assistance which would have substantially the same legal effect and substantially the same effect on the market for United States government obligations as a guarantee by the Authority, both as determined by the Secretary of the Treasury, the Authority shall obtain the concurrence of the Secretary of the Treasury as to the timing and substantial terms and conditions of such guarantee or commitment. The Authority shall be subrogated to the rights of any third party receiving payments of interest or principal out of funds provided by the Authority under a guarantee arrangement authorized hereunder.

Section 307. Limitation on Total Amount of Financial Assistance.

The total amount of financial assistance by the Authority outstanding at any time, computed to include the sum of: (i) the full amount of the Authority's actual and potential liability under all guarantees, (ii) reserves for all other contingent liabilities, and (iii) all loans and other forms of financial assistance authorized under this section, all as determined under generally accepted accounting principles, shall not exceed the sum of: (i) the authorized capital of the Authority and (ii) the amount the Authority is authorized to borrow under Section 402 of this Act.

Section 308. Limitation on Certain Types of Financial Assistance.

The Authority may make high-risk loans or direct investments, or provide product price guarantees or other direct financial assistance, which in the judgment of the Board of Directors will further the purposes of this Act. The Board of Directors shall create such reserves as may be necessary to meet contingent liabilities which may be created under this section; provided, however, that notwithstanding any other provision of this Act, the Authority may not provide

any financial assistance (except pursuant to previously made binding commitments) or make any further commitments for financial assistance if, after audit, the Authority is required under generally accepted accounting principles to establish a reserve or reserves for bad debts, price support commitments, contingent liabilities, or other unrealized losses, but excluding any reserve with respect to liabilities incurred pursuant to section 401 of this Act, which reserves in the aggregate exceed the sum of (i) the Authority's authorized capital stock previously paid-in (whether or not then outstanding), (ii) its earned surplus, and (iii) net gains realized upon dispositions described in Section 311 (whether or not the proceeds thereof have been previously applied to retirement of the Authority's obligations and capital stock ), all of which shall be determined in accordance with generally accepted accounting principles.

Section 309. Fees.

The Authority shall charge reasonable fees for issuing guarantees and for making commitments to provide other forms of financial assistance pursuant to this title.

Section 310. Disposition of Securities.

The Authority may sell in public or private transactions all or any part of the common or preferred stock, capital

notes, bonds or any other evidences of indebtedness or ownership acquired by the Authority pursuant to this title.

Section 311. Application of Proceeds from Retirement of Financial Assistance.

(a) Upon the sale by the Authority of any stock, bond or other evidence of ownership or indebtedness or any other asset acquired by the Authority in consideration for the extension of financial assistance or upon the repayment by any business concern of any loan or upon the cancellation of any guarantee or other contingent liability constituting financial assistance (other than cancellation of a commitment to extend financial assistance prior to the extension of such assistance), any proceeds therefrom shall, except to the extent provided in subsection (b), be immediately applied to retire all indebtedness of the Authority issued pursuant to Title IV of this Act, in accordance with the terms of such indebtedness, and thereafter to redeem all outstanding capital stock of the Authority. For the purposes of Section 307 of this Act, each such sale or other disposition shall automatically reduce the authorized borrowing or authorized capital stock of the Authority, as the case may be, by an amount equal to the amount of financial assistance liquidated by such sale or other disposition.

(b) Notwithstanding any provision of subsection (a), any gain realized by the Authority in connection with any

transaction referred to in such subsection may be retained by the Authority to the extent of any losses theretofore realized by the Authority (with respect to which losses funds have not theretofore been retained pursuant to this subsection).

Section 312. Control of Operating Assets.

(a) As used in this section: (i) the term "operating asset" shall mean any real or personal property used in the development, production, transportation, transmission, distribution or conservation of fuel or electric power, and (ii) the term "control" shall mean the power to direct the use or disposition of operating assets, through direct ownership or through ownership of a majority of voting securities of a corporation or other entity owning or leasing operating assets; provided, however, that "control" shall not be deemed to result from the ownership of operating assets which are leased to and in the possession of parties independent of the Authority.

(b) The Authority shall not acquire or retain control of operating assets, except:

(i) When control is acquired by foreclosure of a security interest or pursuant to a default under a lease, and such control is not retained for more than four years, or

(ii) When control is acquired prior to the commencement of commercial use of the operating assets and

is retained for no more than two years after commencement of commercial use.

Section 313. Access to Information.

Every applicant for financial assistance under this Act shall, as a condition precedent thereto, consent to such examinations as the Authority may require for the purposes of this Act, and shall further consent that any reports of examinations of the applicant by constituted authorities may be furnished by such authorities to the Authority upon request therefor. The Authority shall require such reports as it deems necessary from any business concern receiving financial assistance under this Act regarding activities carried out pursuant to this Act. The Authority is authorized to prescribe the keeping of records with respect to all financial assistance and shall have access to such records at all reasonable times for the purpose of insuring compliance with the terms and conditions upon which financial assistance was provided.

Section 314. Advisory Panel.

The President may appoint a panel, of such duration, organization and membership as he may deem appropriate, to study and report to the President, the Congress and the Authority concerning the effects of issuance of obligations and provision of financial assistance by the Authority on the functioning of the nation's capital markets, including effects upon the volume and distribution of capital flows to and within the energy development sector of the economy, and such other related matters as the President may specify.

Title IV. Capitalization and Finance

Section 401. Capital Stock of the Authority and Dividends.

The Authority shall have capital stock of \$25,000,000,000, subscribed by the United States of America acting by and through the Secretary of the Treasury, payment for which shall be subject to call in whole or in part by the Board of Directors of the Authority and subject to the availability of appropriations therefor. There is hereby authorized to be appropriated to the Secretary of the Treasury \$25,000,000,000 for this purpose. Not later than 180 days after the close of each fiscal year of the Authority, the Authority shall declare and shall thereafter pay a dividend on its outstanding capital stock, in an amount determined in the discretion of the Board of Directors but not less than the amount, computed by multiplying a percentage determined by the Secretary of the Treasury, taking into account the current average annual percentage yield on marketable obligations of the United States as of the close of such fiscal year, times the paid in value of such outstanding capital stock; provided, however, that the Authority may defer payment of any such dividend if the Authority has no earned surplus as of the close of such fiscal year or the Board of Directors determines that the funds otherwise available for payment of the dividend should, in furtherance of the purposes of this Act, be used to

provide financial assistance pursuant to Title III of this Act. Any dividend deferred pursuant to this section shall, until paid, bear interest at a rate, determined by the Secretary of the Treasury and adjusted at the commencement of each fiscal year, taking into consideration the then current average annual percentage yield on marketable obligations of the United States.

Section 402. Obligations of the Authority.

(a) The Authority is authorized to issue and to have outstanding at any one time notes, debentures, bonds, or other obligations in the aggregate principal amount of \$75,000,000,000; provided, however, that the Authority shall not issue any such obligation without the prior concurrence of the Secretary of the Treasury as to the method, source, interest rate, timing and other terms and conditions of such obligation. The Secretary of the Treasury may direct that any such issuance by the Authority be sold to the Department of Treasury for its own account or to the Federal Financing Bank.

(b) For purposes of purchasing the obligations of the Authority pursuant to this Section 402, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes



for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this section shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. Interest due on obligations of the Authority held by the Treasury may be deferred, at the discretion of the Secretary, but any such deferred interest shall bear interest at the rate specified in this section. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this section. All redemptions, purchases and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.

(c) All obligations of the Authority issued under this section shall be fully and unconditionally guaranteed as to principal and interest and shall constitute general obligations of the United States, backed by the full faith and credit of the Government of the United States of America. Such guarantee shall be expressed on the face of all such obligations.

Section 403. Budgetary Treatment.

The receipts and disbursements of the Secretary of the Treasury in connection with the purchase or redemption of, and income from, capital stock of the Authority shall not be included in the totals of the budget of the United States Government. The receipts and disbursements of the Authority in the discharge of its functions shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States; provided that the totals of the budget of the United States Government shall be adjusted to include the net earnings or losses of the Authority, as reported in the annual audit required by Section 505(c) of this Act.

Section 404. Lawful Investment

Obligations of the Authority issued pursuant to this Act shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof.

Section 405. Forms of Notes, Bonds and Other Obligations.

In order that the Authority may be supplied with such forms of notes, debentures, bonds, or other such obligations as it may need for issuance under this Act, the Secretary of the Treasury is authorized to prepare such forms as shall be suitable and approved by the Authority, to be held in the Treasury subject to delivery, upon order of the Authority. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Authority shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody, and delivery of such notes, debentures, bonds, or other obligations.

Section 406. Moneys of the Authority.

All moneys of the Authority not otherwise employed may be:

(a) deposited with the Treasury of the United States subject to withdrawal by the Authority, by check drawn on the Treasury of the United States by a Treasury disbursing officer, or

(b) with the approval of the Secretary of the Treasury, deposited in any Federal Reserve bank, or

(c) with the approval of the Secretary of the Treasury, and by authorization of the Board of Directors of the Authority, used in the purchase for redemption and retirement of any notes, debentures, bonds, or other obligations issued by the Authority.

Title V. Management

Section 501. Board of Directors.

(a) The power of the Authority to act shall be vested in the Board of Directors, except as to those functions, powers and duties assigned to the Chairman of the Board as provided in this Act and such matters as may be delegated to the Chairman, directors and officers of the Authority pursuant to this title. The Board of Directors shall consist of five voting members appointed by the President by and with the advice and consent of the Senate, who shall hold office at the pleasure of the President. The President shall designate one of such members as Chairman of the Board, and shall have the power at any time and from time to time to designate a new Chairman of the Board from among the members of the Board. Of the five members of the Board, not more than three shall be members of any one political party. The Chairman shall devote his full working time to the affairs

of the Authority (and its Subsidiaries) and shall hold no other salaried position.

(b) With respect to each Director, other than the Director who shall serve as Chairman of the Board, the President shall determine whether such Director shall serve in a full-time or part-time capacity (including service as a Director of any Subsidiaries). Directors who are serving part-time may hold other positions but shall devote such time to the affairs of the Authority (and its Subsidiaries) as is necessary to discharge their duties. Directors who are serving full-time shall devote their full working time to the affairs of the Authority (and its Subsidiaries) including such responsibilities as may be assigned by the Board of Directors or the Chairman of the Board, and shall hold no other salaried position. Directors of the Authority, whether serving full-time or part-time, shall be compensated at an annual or daily rate to be determined by the President. Directors shall be reimbursed for reasonable expenses which are incurred in connection with their services as Directors of the Authority and its Subsidiaries.

(c) Before assuming office, each Director shall take an oath faithfully to discharge the duties thereof. Whenever a vacancy shall occur on the Board of Directors, the President shall, with the advice and consent of the Senate, appoint a

person to fill such vacancy. All Directors shall be citizens of the United States.

(d) The Board shall meet at any time pursuant to the call of the Chairman and as may be provided by the bylaws of the Authority. A majority of the duly appointed and serving Directors shall constitute a quorum, and any action by the Board shall be effected by majority vote of a quorum. The Board of Directors shall adopt, and from time to time amend, such bylaws as are necessary for the proper management and functioning of the Authority.

Section 502. Officers and Employees.

(a) The Chairman of the Board shall be the chief executive officer of the Authority, and as such shall be responsible for the management and direction of the Authority (including the making of expenditures associated with administration of the Authority). The President shall fix the compensation of the Chairman of the Board.

(b) The Chairman of the Board may appoint and fix the compensation of all such personnel as may be necessary for the transaction of the Authority's business in accordance, except as otherwise authorized in subsections (c) and (d), with the provisions of Title 5 of the United States Code.

Except as expressly provided in this section, Title 5 of the United States Code shall apply to such personnel in the same manner and under the same conditions required for the civil service generally.

(c) In addition to the number of positions which may be placed in GS-16, 17 and 18 under existing law, not to exceed 100 positions may be placed in GS-16, 17 and 18. The provisions of Title 5 of the United States Code governing classification and appointment in the competitive service shall not apply to twenty-five of such positions, as designated by the Chairman of the Board.

(d) In addition to personnel authorized to be employed under other provisions of this section, a reasonable number of executive officers may be employed by the Authority, on terms and conditions specified by the Chairman of the Board, under employment agreements for terms not exceeding five years and without regard to the provisions of Title 5 of the United States Code governing classification and appointments in the competitive service and without regard to the laws, including Title 5 of the United States Code, which fix compensation for officers and employees of the United States. Without prejudice to rights under any employment agreement any person appointed by the Chairman pursuant to this subsection may be removed in the discretion of the Chairman.

(e) The Chairman shall define the duties of the officers and employees of the Authority, and provide a system of organization to fix responsibility and promote efficiency.

(f) The Chairman of the Board shall have authority to obtain the services and fix the compensation of experts and consultants in accordance with the provisions of Section 3109 of Title 5 of the United States Code.

(g) Under such regulations as the President may prescribe, officers and employees of the Government who are appointed, without a break in service, to any position for carrying out functions under this Act are entitled, upon separation from such position other than for cause within three years of employment, to reemployment in the position occupied at the time of appointment or in a position of comparable grade and salary to that held with Authority.

(i) The employees of the Authority, including full-time Directors and the individuals described in subsection (d), shall be considered employees of the United States Government for purposes of eligibility for benefits related to employment.

#### Section 503. Conflicts of Interest.

The provisions of Chapter 11 of Title 18, United States Code, shall apply to the directors and all officers

and employees of the Authority, and the Board of Directors shall have authority to promulgate regulations thereunder.

Section 504. Delegation.

The Board of Directors may, by resolution, delegate to the Chairman of the Board such of its functions, powers and duties assigned to the Board under this Act as it deems appropriate. The Chairman of the Board may, by written instrument, delegate such functions, powers and duties as are assigned to the Chairman by or pursuant to the provisions of this Act to such other full-time directors, officers or employees of the Authority as the Chairman deems appropriate.

Section 505. Fiscal Year, Reviews and Audits.

(a) The fiscal year of the Authority shall coincide with the fiscal year of the United States Government.

(b) On or before June 30 in any year, the Authority shall submit to the Director of the Office of Management and Budget a financial and management plan, in such detail as the Director may prescribe, for the succeeding fiscal year.

(c) The Authority shall retain a firm or firms of nationally recognized public accountants who shall prepare and report an annual audit of the accounts of the Authority including the statements identified in 31 U.S.C. 851. The

General Accounting Office is authorized to conduct such audits of the accounts, and to report upon the same to Congress, as such Office shall deem necessary or as Congress may request. All books, accounts, financial records, reports, files, papers and property belonging to or in use by the Authority and necessary to facilitate an audit shall be made available to the person or persons conducting the audit and facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

Section 506. Reports.

(a) The Authority shall submit a quarterly report to the Congress and the President. The report will state the aggregate sums then outstanding or committed as loans, loan guarantees or other financial assistance and a listing of the business concerns so involved with the Authority. The quarterly report in which any expenditure or commitment to a business concern or project is first noted shall contain a brief description of the factors considered by the Board of Directors in making such expenditure or commitment. The report shall also show, on an unaudited basis, the assets and liabilities of the Authority as of the end of the authority's fiscal quarter preceding the date of the report

and the number, functions and compensation of persons employed or under contract by the Authority at salary rates exceeding \$2,500 per month.

(b) The Authority shall submit to the Congress and the President an annual report containing the audited financial statements and report prepared by the independent public accountants pursuant to Section 505. The annual report shall also contain, in addition to the information required in the quarterly report, a general description of the Authority's operations during the year, a specific description of each project or activity in which the Authority is involved, a status report on each such project or activity, and an evaluation of the contribution which the project or activity has made and is expected to make in fulfilling the purposes of this Act (including, where possible, a precise statement of the amount of domestic energy produced or to be produced thereby).

(c) On or before June 30, 1983, the Authority shall submit to the Congress and the President a report evaluating the overall impact made by the Authority and describing the status of each then current activity or program of financial assistance. This report shall contain a Liquidation Plan. The Liquidation Plan shall describe in the greatest detail practicable how each activity, project or obligation involving financial assistance, and every substantial asset or liability

of the Authority will be liquidated, terminated, satisfied, sold, transferred or otherwise disposed of. Each annual report thereafter made by the Authority will describe what progress is being made in effecting such Liquidation Plan.

(d) On or before January 31, 1986, the Authority shall submit to the President a report setting forth the recommendation as to whether or not the existence of the Authority should be extended for the limited period and purpose described in Section 803(c).

#### Section 507. Records of Outside Contacts.

The Authority shall develop and publish procedures for recording communications received (in writing or otherwise) from persons outside the Authority, including private individuals and public officials, expressing an opinion or viewpoint on the merits or terms of any proposal that the Authority extend financial assistance pursuant to Title III of this Act. The Authority shall establish procedures for making such records available to the public upon request.

### Title VI. Federal Agency Proceedings

#### Section 601. Definitions.

As used in this title:

(a) The term "Federal agency" means an "Executive agency" as defined in 5 U.S.C. 105, including an independent regulatory commission.

(b) The term "energy project" means any activity in connection with the planning, initiation, construction or operation of facilities involving the production, distribution, transmission or transportation of energy, fuels, or energy-related commodities, facilities or products.

(c) The term "license" means "license" as defined in 5 U.S.C. 551(8) and the term "licensing" means "licensing" as defined in 5 U.S.C. 551(9).

(d) The term "proceedings" means any action taken by a Federal agency in initiating or carrying out the process leading to granting or denying a license for an energy project.

(e) The term "Administration" means the Federal Energy Administration or any successor entity thereto.

Section 602. Expediting Functions of the Federal Energy Administration.

(a) The Administration shall have the following duties and authorities in the energy project licensing process:

(1) The Administration shall keep apprised of the processing of energy project licensing proceedings at the Federal, local, state and regional levels and, where appropriate and consistent with applicable Federal, state and local law, may suggest procedures for expediting such Federal proceedings

and similar local, state or regional review and for consolidating Federal, local, state and regional applications and actions to reduce duplication of effort and expedite the overall licensing process.

(2) When a Federal agency has rendered any preliminary or final decision in the course of a proceeding, the Administration may, where the applicable law or rules and regulations of the Federal agency permit administrative appeal or reconsideration: (i) request such Federal agency to reconsider its decision, by way of appeal or otherwise, or (ii) join in any such administrative appeal or petition for reconsideration by the applicant. Any petition brought by the Administration or in which the Administration joins shall be granted or denied within 30 days of receipt by the Federal agency to which the petition is addressed.

(b) The Administration may, if it deems it desirable and in the interest of expediting proceedings, develop and promulgate a composite form of license application which shall be the sole application required by all Federal agencies with regard to the review and approval of all or a portion of, as the form may specify, the proceedings related to an energy project. In such event, the Administration may also provide that such composite license applications be filed only with the Administration, in which case the Administration shall promptly forward the license applications, or relevant

portions thereof, to the Federal agencies required by law to consider them. Such a composite license application may be composed of removable and insertable sections in order to accommodate the information necessary for different energy project licensing decisions. The Administration shall consult with Federal agencies having licensing authority over energy projects prior to promulgating any form of composite license application, and such agencies shall cooperate with the Administration in developing such an application. Nothing in this section shall preclude any Federal agency from requesting, in an individual case, such additional information relating to public health and safety or such other essential information as may be necessary to carry out its licensing functions.

Section 603. Certification by the Federal Energy Administration.

(a) The Administration may certify that an energy project, whether or not receiving financial assistance from the authority, is of critical importance to the achievement of the purposes of this Act (hereafter referred to as "certification"). In determining whether or not an energy project is critical to the achievement of such purposes, the Administration shall consider, among other factors, the contribution that the energy project itself would make to

the achievement of energy independence and the stimulative effect that its successful and expeditious completion and operation would have on additional similar projects. The Administration shall briefly state, in any certification it issues, the facts and reasoning supporting its finding that the energy project in question is of such critical importance. The Administration may suspend or cancel such certification; provided, however that prior to such suspension or cancellation the party on whose behalf the certification was given shall be allowed an opportunity to express its views on the proposed suspension or cancellation. The action of the Administration in granting, denying, suspending or cancelling such certification shall be final and conclusive for all purposes with respect to all questions of law and fact and not subject to review by a court by mandamus or otherwise.

(b) Certification shall be made by the Administration only pursuant to application therefor in form and substance satisfactory to the Administration. The application shall state the reasons why the applicant believes such certification is appropriate.

(c) The Administration, within 40 days of receiving and accepting an application for certification, shall publish in the Federal Register a notice of the requested certification, including pertinent parts of the application therefor, inviting written comments from the public on such requested



certification for a period of 20 days. The Administration shall consider such comments and act on the application within 20 days of the closing of the public comment period. In deciding whether or not to certify an energy project as critically important, the Administration shall consider the need for Federal agencies to complete all licensing decisions without undue delay and the effect which certifications (individually and cumulatively) will have on the orderly handling of licensing decisions by the affected Federal agencies.

(d) The recipient of a certification may submit it to any Federal agency which is authorized by law to license or review any part or any phase of the energy project to which the certification relates, including the initiation, development, completion or operation of the energy project.

(e) Any Federal agency which receives a certification shall forthwith commence all necessary proceedings which may be required for the licensing of any aspect of the affected energy project, and is authorized to give such proceedings preference over all other questions pending before it except other proceedings involving similar certifications. Diligent efforts shall be made to complete all such proceedings and render a decision within 18 months (or such shorter period as the Administration may for good cause specify) from the date of submission of the certification to such Federal agency.

(f) Each Federal agency which conducts proceedings related to energy projects shall, within 90 days of the enactment of this Act and in cooperation with the Administration, promulgate regulations implementing procedures to carry out the expedited treatment required by this title. Such procedures shall include reports from the Federal agency to the Administration, in such form and at such frequency as they shall agree, on the progress of proceedings.

(g) Each federal agency shall report semi-annually (commencing on the July 1 or January 1 first occurring after the enactment of this Act) to the Congress and to the President with respect to each certified matter in which the federal agency has not completed any proceeding or rendered a decision within 18 months from the date of certification, or such shorter period as the Administration may have specified pursuant to subsection (e): (i) the reasons therefor; (ii) actions being taken to complete the proceedings as expeditiously as possible; (iii) the measures being taken to prevent such delays in the future; and (iv) any recommendations for further legislation which such Federal agency deems advisable for the purposes of avoiding such delays.

(h) Certification by the Administration as contemplated by this section shall not be considered a major Federal action significantly affecting the quality of the human

environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Section 604. Judicial Review.

Any judicial review of a Federal agency's final action concerning an energy project which has been certified under Section 603 of this Act, and appeals therefrom, shall take precedence on the docket over all cases, except as to cases which the court considers of greater importance, and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

Title VII. Unlawful Acts and Penalties

Section 701. False Statements.

Whoever makes any statement, knowing it to be false, or willfully overvalues any security, for the purpose of obtaining for himself or for any applicant any loan or extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Authority or a Subsidiary, or for the purpose of obtaining money, property, contract rights or anything of value, under this Act, shall be punished by a fine of not more than

\$5,000 or by imprisonment for not more than two years, or both.

Section 702. Forgery.

Whoever (1) falsely makes, forges, or counterfeits any note, debenture, bond, or other obligation, or coupon, in imitation of or purporting to be a note, debenture, bond, or other obligation, coupon or thing of value issued by the Authority or a Subsidiary, or (2) passes, utters or publishes, or attempts to pass, utter or publish, any false, forged or counterfeited note, debenture, bond, or other obligation, coupon or thing of value purporting to have been issued by the Authority or a Subsidiary, knowing the same to be false, forged or counterfeited, or (3) falsely alters any note, debenture, bond, or other obligation, or coupon, issued or purporting to have been issued by the Authority or a Subsidiary, or (4) passes, utters or publishes, or attempts to pass, utter or publish, as true any falsely altered or spurious note, debenture, bond, or other obligation coupon or thing of value issued or purporting to have been issued by the Authority or a Subsidiary, knowing the same to be falsely altered or spurious, shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

Section 703. Misappropriation of Funds and Unauthorized Activities.

Whoever, being connected in any capacity with the Authority or a Subsidiary, (1) embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to it or pledged or otherwise entrusted to the Authority or such Subsidiary, or (2) with intent to defraud the Authority and Subsidiary or any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the Authority or such Subsidiary, makes any false entry in any book, report, or statement of or to the Authority or such Subsidiary, or, without being duly authorized, draws any order or issues, puts forth or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof, or (3) with intent to defraud, participates, shares, or receives directly or indirectly any money, profit, property or benefit through any transaction, loan, commission, contract, or any other act of the Authority or such Subsidiary, or (4) gives any unauthorized information concerning any future action or plan of the Authority or such Subsidiary which might affect the value of securities, or, having such knowledge, invests or speculates, directly or indirectly, in the securities or property of any company, bank, or corporation

receiving loans or other assistance from the Authority or such Subsidiary shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

Section 704. Infringement on Name.

No individual, association, partnership, corporation or business entity shall use the words "Energy Independence Authority" or a combination of these words which a court of competent jurisdiction shall find reasonably likely to mislead or deceive, as the name or a part thereof under which he or it shall do business.

Section 705. Unlawful Contracts.

The provisions of Sections 431 through 433, inclusive, of Title 18, United States Code, shall apply to contracts or agreements with the Authority or Subsidiary pursuant to this Act. Such contracts or agreements include, but are not limited to loans, loan guarantees, purchase agreements, advances, discounts and rediscounts, acceptances, releases, and substitutions of security, together with extensions or renewals thereof.

Section 706. Additional Penalties.

In addition to any other penalties provided in this title, the defendant in any action brought pursuant thereto shall, on conviction, be liable to the Authority or Subsidiary for any loss by the Authority or such Subsidiary and any profit or gain acquired by him as a result of the conduct constituting the offense for which he was convicted.

Section 707. Suit by the Attorney General.

No suit shall be brought alleging that the Authority (or any director, officer, employee or agent thereof) has engaged in any action, practice or policy inconsistent with this Act; has violated any provision thereof; has obstructed or interfered with any activities authorized thereby; or has refused, failed or neglected to discharge duties or responsibilities mandated by the Act except by the Attorney General of the United States or his delegate. The Attorney General may, by petition in any federal District Court in any state where the Authority is transacting business or where any such individual resides (or in the District of Columbia) seek such equitable relief as may be necessary or appropriate to prevent or terminate such conduct. Nothing in this section shall be deemed or construed to prevent the enforcement of the other provisions of this title by appropriate

officials of the United States, nor to preclude the application of the Federal Tort Claims Act against the Authority nor to prohibit suits by private parties against the Authority based on breach of contract.

Title VIII. General Provisions

Section 801. Coordination with other Entities.

Prior to extending, or making any commitment to extend, financial assistance for any project, the Authority shall seek the advice and recommendations of the members of the Energy Resources Council, and such other Federal agencies as the President may by executive order designate, to assist in determining whether the provision of financial assistance for such project will further the purposes of this Act and how such proposed financial assistance relates to other programs and national policies. Any such advice or recommendation shall be provided to the Authority within 30 days of its request.

Section 802. Severability.

If any provision of this Act, or the application of any such provision to any person or circumstance, shall for any reason be adjudged by any court of competent jurisdiction to

be invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

Section 803. Termination and Liquidation of the Authority.

Notwithstanding any other provision of this Act:

(a) The Authority shall make no new commitments for financial assistance after June 30, 1983, and shall furnish no new financial assistance after June 30, 1986.

(b) From and after June 30, 1983, the Board of Directors of the Authority shall diligently commence all practical and reasonable steps to achieve an orderly liquidation of the Authority's affairs on or prior to June 30, 1986. Such steps may include the sale or transfer to any agency of the United States, or the sale directly to the public, including any business concern, of all or any portion of the Authority's assets.

(c) The Authority shall terminate on June 30, 1986, or at such earlier date as the President shall determine, provided, however, that if the President shall determine that the orderly liquidation of the Authority's affairs requires the continuation of the Authority beyond June 30, 1986, the President may, by executive order, extend the authorized life of the Authority for not more than three years after such date.

(d) If, on the date of termination of the Authority, its Board of Directors shall not have completed the liquidation of its assets and the winding up of its affairs, the duty of completing such liquidation and winding up of its affairs shall be transferred to the Secretary of the Treasury, who for such purposes shall succeed to all the powers and duties of the Board of Directors and Chairman of the Board of the Authority under this Act, and nothing herein shall be construed to affect any right or privilege accrued, any penalty or liability incurred, any criminal or civil proceeding commenced, or any authority conferred hereunder, except as herein provided in connection with the liquidation of the remaining assets and the winding up of the affairs of the Authority. Following such transfer, the Secretary of the Treasury may assign to any officer or officers of the United States in the Treasury Department the exercise and performance, under the Secretary's general supervision and direction, of any powers and duties so transferred until the Secretary of the Treasury shall find that such liquidation will no longer be advantageous to the United States and that all of its legal obligations have been provided for, whereupon the Secretary shall retire any capital stock then outstanding, pay into the Treasury as miscellaneous receipts the unused balance of the moneys belonging to the Authority, and make the final report of the Authority to the Congress. Thereupon the Authority shall be deemed to be dissolved.

Section 804. Relationship to Other Laws.

(a) The provision of financial assistance for a project pursuant to Title III of this Act shall be deemed to be a "major federal action significantly affecting the quality of the human environment" for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969, as amended ("NEPA") where (i) no other agency of the federal government is required to prepare an environmental impact statement pursuant to section 102(2)(C) of NEPA with respect to the project, and (ii) the provision of financial assistance does, in fact, constitute a major action significantly affecting the quality of the human environment. In any instance where another agency of the Federal government is required to prepare an environmental impact statement pursuant to section 102(2)(C) of NEPA with respect to a project to which financial assistance has been committed or extended, the Authority shall provide the agency with such information as may be reasonably requested by the agency in order to prepare such statement.

(b) Except as may be provided elsewhere in this Act, the Authority shall not for any purpose be considered an "Executive agency" as defined in 5 U.S.C. 105 or an "agency" as defined in 5 U.S.C. 551.

(c) The provisions of the United States Code relating to public contracts and public buildings and works, including the Federal Property and Administrative Services Act of 1949, shall not apply to the operations of the Authority; provided, however, that all laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair (including painting and decorating) of projects for which financial assistance is provided by the Authority or a Subsidiary shall be paid at wages 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, as amended (40 U.S.C. 276a through 276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 Fed. Reg. 3176, 64 Stat. 1267) and 40 U.S.C. 276(c). Federal labor standards and equal employment opportunity requirements and provisions shall apply to the Authority and business concerns receiving financial assistance from the Authority.

(d) The securities laws of the United States, including but not limited to the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Federal Power Act of 1935 and the Investment Company Act of 1940, all as amended, shall not apply to the Authority. Any securities issued by

the Authority (including any guarantee by the Authority, whether or not limited in scope), and any securities guaranteed by the Authority as to both principal and interest, shall be deemed to be exempted securities within the meaning of 15 U.S.C. 77c(a)(2) and 15 U.S.C. 78c(a)(12).

(e) Nothing in this Act shall be deemed or construed to make the Government Corporation Control Act, 31 U.S.C. 841, et seq., applicable to the Authority.

(f) Nothing in this Act shall be deemed to change the Mineral Lands Leasing Act of 1920, as amended, (30 U.S.C. 181 through 287), the Outer Continental Shelf Lands Act (43 U.S.C. 1331 through 1343) nor any other law governing the ownership, management, and disposition of Federal minerals or lands, provided however that the Authority may acquire Federal minerals or lands in accordance with such laws.

Section 805. Reservation of Right to Amend or Repeal.

The right to alter, amend, or repeal this Act is expressly declared and reserved, but no such amendment or repeal shall operate to impair the obligation of any contract made by the Corporation under any power conferred by this Act.