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95th Congress, 1st Session - - - - - - House Document No. 95–138

NATIONAL ENERGY ACT

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A DRAFT OF PROPOSED LEGISLATION TO ESTABLISH A COMPREHENSIVE NATIONAL ENERGY POLICY

APRIL 29, 1977.—Referred to the ad hoc Committee on Energy and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
88-554 Q WASHINGTON : 1977

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402

THE WHITE HOUSE,
Washington, April 29, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: On April 18, 1977, I addressed the American people to impress upon them the gravity of our national energy situation. On April 20, 1977, before a Joint Session of the Congress, I outlined a series of recommendations for dealing with our energy problem.

Today, I am transmitting to the Congress the proposed National Energy Act, which includes the legislative measures needed to implement the National Energy Plan. I am also releasing a comprehensive National Energy Plan which describes in detail the nature of our current and future energy problems, the hard facts which our national energy policy must address, and my proposals for dealing with these realities.

I recognize that the measures proposed will impose burdens on all Americans, and that many of these measures will be highly controversial. There is no doubt in my mind that during the next several months these proposals will receive intense scrutiny and attention from the Congress. I want to assure you that I and members of my Administration will work closely with the Congress toward the prompt enactment of the National Energy Act so that we can together solve the energy problems facing our country.

Sincerely,

JIMMY CARTER.

A BILL

To establish a comprehensive national energy policy.

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

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Findings

Sec. 2. The Congress finds that--

(1) the United States faces an energy shortage arising from increasing demand for energy, and for oil and natural gas in particular, and insufficient domestic supply of oil and natural gas to satisfy that demand;

(2) unless effective measures are taken to reduce the rate of growth of demand for energy, the United States will become increasingly dependent on the world oil market and increasingly vulnerable to interruptions of foreign oil supply;

(3) the United States can significantly reduce its demand for oil and its demand for natural gas for non-essential uses by carrying out an effective conservation and fuel efficiency program in all sectors of energy use, through reform of utility rate structures, and conversion by industrial firms and utilities from oil and natural gas to coal and other fuels; and

(4) the United States needs to develop renewable and essentially inexhaustible energy sources to ensure sustained long-term economic growth.

National Energy Goals

Sec. 3. The Congress hereby establishes the following national energy goals for 1985:

(1) Reduction of annual growth of United States energy demand to less than 2 percent.

(2) Reduction of the level of oil imports to less than 6 million barrels per day.

(3) Achievement of a 10 percent reduction in gasoline consumption from the 1977 level.

(4) Insulation of 90 percent of all American homes and all new buildings.

(5) An increase in annual coal production to at least 400 million tons over 1976 production.

(6) Use of solar energy in more than two and a half million homes.

References to Federal Power Commission and Federal Energy Administration

Sec. 4. If the Federal Power Commission or the Federal Energy Administration is terminated, then any reference in this Act (or any amendment made thereby) to the Federal Power Commission or the Federal Energy Administration shall be deemed by a reference to the officer, department, or agency in which the principal functions of such Commission or Administration (as the case may be) are vested after such termination.

TITLE I - PRICING, REGULATORY AND OTHER NON-TAX PROVISIONS

PART A--ENERGY CONSERVATION PROGRAMS FOR EXISTING RESIDENTIAL BUILDINGS

Subpart 1 - Utility Program

Definitions

Sec. 101. As used in this subpart:

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

(2) The term "Commission" means the Federal Power Commission.

(3) The term "natural gas" means natural gas as that term is defined in the Natural Gas Act.

(4) The term "non-regulated utility" means a public utility which is not a regulated utility.

(5) The term "public utility" means any person or State agency which is engaged in the business of selling natural gas or electric energy for purposes other than resale; except that such term shall be deemed not to include any such person or agency in any calendar year unless during the second preceding calendar year either (A) sales of natural gas by such person or agency exceeded 10 billion cubic feet, or (B) sales of electric energy by such person or agency exceeded 750 million kilowatt-hours.

(6) The term "rate" means any price, rate, charge, or classification made, demanded, observed, or received with respect to sales of electric energy or natural gas, any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale of electric energy or natural gas.

(7) The term "ratemaking authority" means authority to fix, modify, approve or disapprove rates.

(8) The term "regulated utility" means a public utility with respect to whose rates a State regulatory authority exercises ratemaking authority.

(9) The term "residential building" means any building developed for residential occupancy, the construction of which commenced prior to one year after the date of enactment of this subpart, which has a mechanical or electrical system for heating or cooling, or both, and which contains no more than two dwelling units.

(10) The term "residential customer" means any person to whom a public utility sells natural gas or electric energy for consumption in a residential building.

(11) The term "residential energy conservation measure" means --

(A) caulking and weatherstripping of all exterior doors and windows;

(B) furnace efficiency modifications limited to--

(i) replacement burners designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

(ii) devices for modifying flue openings which will increase the efficiency of the heating system, and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, and floor insulation;

(E) hot water heater insulation; and

(F) storm windows.

(12) The term "residential energy conservation plan" means a plan approved by the Administrator pursuant to section 102(c) which is developed by a State regulatory authority or by a non-regulated utility.

(13) The term "State" means a State, the District of Columbia, Puerto Rico, and, at the discretion of the Administrator, any territory or possession of the United States.

(14) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy or natural gas by any public utility (other than by such State agency).

(15) The term "suggested measures" means, with respect to a particular residential building, the residential energy conservation measures which the Administrator, in the rules prescribed pursuant to section 102(a), determines to be appropriate for the location and the category of residential buildings which includes such building.

(16) The term "utility program" means a program meeting the requirements of section 103 carried out by --

(A) a regulated utility pursuant to a residential energy conservation plan developed by a State regulatory authority;

(B) a non-regulated utility pursuant to a residential energy conservation plan developed by such utility; or

(C) a regulated or non-regulated utility pursuant to an order of the Administrator issued pursuant to section 105.

Residential Energy Conservation Plans

Sec. 102. (a) The Administrator shall, not later than 120 days after enactment of this subpart and after consultation with the Secretary of Housing and Urban Development and the heads of such other agencies as he deems appropriate, promulgate rules for the content and implementation of residential energy conservation plans.

(b) The rules prescribed pursuant to subsection (a) --

(1) shall identify the suggested measures for residential buildings, by climatic region and by categories determined by the Administrator on the basis of type of construction or any other factors which the Administrator may deem appropriate; and

(2) may include --

(A) standards for general safety and effectiveness of any suggested measure;

(B) standards for installation of any residential energy conservation measure; and

(C) such other requirements as the Administrator may determine to be necessary to carry out this subpart.

(c) Not later than 180 days after promulgation of the rules described in subsection (a), each State regulatory authority may submit, and each non-regulated utility shall submit a proposed residential energy conservation plan to the Administrator. The Administrator may, upon request of a State regulatory authority or non-regulated utility, extend the time period for submission of a plan by such authority or utility. Each such plan shall be reviewed and approved or disapproved by the Administrator not later than 90 days after submission. If the Administrator disapproves a plan, the State regulatory authority or non-regulated utility may submit a new or amended plan not later than 60 days after the date of such disapproval, or such longer period as the Administrator may, for good cause, allow. The Administrator shall review and approve or disapprove any such new or amended plan not later than 90 days after submission. After approval of a plan, a State regulatory authority or non-regulated utility may submit an amended plan with the consent of the Administrator.

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(d) No residential energy conservation plan submitted by a State regulatory authority shall be approved by the Administrator unless such plan --

(1) requires each regulated utility over which such State regulatory authority exercises ratemaking authority to implement a utility program described in section 103;

(2) contains an adequate program for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of utility programs within such State;

(3) contains adequate procedures to assure that each regulated utility will carry out a utility program;

(4) contains adequate procedures to assure that each regulated utility will charge fair and reasonable prices and rates of interest to its residential customers in connection with the installation of residential energy conservation measures; and

(5) meets such other requirements as may be prescribed in the rules promulgated pursuant to subsection (a).

(d) No residential energy conservation plan proposed by a non-regulated utility shall be approved by the Administrator unless such plan --

(1) provides for the implementation by such utility of a utility program described in section 103;

(2) contains procedures pursuant to which such utility will submit a written report to the Administrator, not later than one year after approval of such plan and biennially thereafter, regarding the implementation of such utility program and containing such information as may be prescribed by the Administrator in the rules promulgated pursuant to subsection (a); and

(3) meets such other requirements as may be prescribed in the rules promulgated pursuant to subsection (a).

Utility Programs

Sec. 103. (a) Except as provided in subsections (b) and (c), each utility program shall include --

(1) procedures designed to inform, no later than January 1, 1980, each of its residential customers who owns or occupies a residential building in which the suggested measures have not been installed, of --

(A) the suggested measures for the category of buildings which includes such residential building;

(B) the savings in costs of home heating and cooling that are likely to result from installation of the suggested measures in typical residential buildings in such category; and

(C) the availability of the arrangements described in paragraph (2) of this subsection;

(2) procedures whereby the public utility, no later than January 1, 1980, will offer each such residential customer the opportunity to enter into arrangements with the public utility under which the public utility, directly or through one or more contractors will --

(A) inspect the residential building to determine and apprise the residential customer of the estimated cost of purchasing and installing each suggested measure;

(B) offer to have the suggested measures installed;

(C) make, or arrange for another lender to make, a loan to such residential customer to finance the purchase and installation costs of suggested measures purchased from and installed by any of the following persons--

(i) the public utility, or

(ii) the public utility and one or more contractors, or

(iii) one or more contractors,

subject to such reasonable requirements as to creditworthiness as may be permitted by the applicable residential energy conservation plan and to the right of the public utility to inspect the residential building to confirm the installation of suggested measures;

(D) permit the residential customer to repay the principal of and interest on any loan made

pursuant to subparagraph (C), over a period of not less than 3 years, as a part of his periodic bill except that a lump sum payment of outstanding principal and interest may be required upon default in payment by the residential customer;

(3) procedures whereby the public utility prepares and sends to each of its residential customers a list of suppliers and contractors in its service area who sell and install residential energy conservation measures which list is designed to encourage participation by such contractors and suppliers in a non-discriminatory manner; and

(4) procedures whereby the public utility prepares and sends to each of its residential customers a list of banks, savings and loan associations, credit unions and other public and private lending institutions in its service area which offer loans for the purchase and installation of residential energy conservation measures.

(b) The Administrator may, upon petition of a public utility, supported in the case of a regulated utility by the appropriate State regulatory authority, waive in whole or in part the requirements of paragraphs (1)(C) and (2)

of subsection (a) with respect to the utility program of such utility if such utility demonstrates to the satisfaction of the Administrator that, despite good faith efforts on its part, it is unable to meet the requirements of paragraph (2) of subsection (a) because it both lacks the financial capability to extend loans in accordance with such paragraph and is unable to arrange with any other suitable financial institution for the making of such loans, except that no public utility may be granted a waiver under this section unless such utility demonstrates to the satisfaction of the Administrator that it has dedicated all capital reasonably available to it towards meeting the requirements of paragraph 2 of subsection (a).

Alternative Programs

Sec. 104.(a) A State regulatory authority or a public utility (supported in the case of a regulated utility by the appropriate State regulatory authority) may apply for an exemption from the requirements of section 103 at any time prior to one year after enactment of this Act. The Administrator shall grant such an exemption if such authority or utility demonstrates to the

satisfaction of the Administrator that it has implemented or will implement an alternative program providing for the installation of residential conservation measures in the homes of its residential customers which program meets the requirements of this subsection. No exemption shall be granted by the Administrator unless the alternative program of such authority or utility includes the following:

(1) procedures whereby the utility informs each of its residential customers who owns or occupies a residential building in which the suggested measures have not be installed, of--

(A) the suggested measures for the category of residential buildings which includes such building;

(B) the savings in costs of home heating and cooling that are likely to result from installation of the suggested measures in typical residential buildings in such category; and

(C) the availability of arrangements for purchase and installation of such measures;

(2) procedures whereby arrangements are offered for the installation of the suggested measures to such residential customers; and

(3) such other requirements as the Administrator determines.

(b) Any application for exemption pursuant to subsection (A) shall contain such information as the Administrator may by rule require.

(c) No application pursuant to subsection (a) shall be approved by the Administrator unless he determines that the alternative program is likely to result in the installation of suggested measures in as large a number of residential buildings as would have been installed had such utility submitted a program which meets the requirements of section 103.

(d) Any State regulatory authority or public utility may apply for a temporary exemption prior to the promulgation of guidelines pursuant to section 102. A temporary exemption may be granted from the requirements of section 103 for a period not to exceed two years after the date of enactment of this Act, if such authority or utility demonstrates to the satisfaction of the Administrator

that it has implemented or proposes to implement an energy conservation program for residential customers which is likely to result in the installation of suggested measures in a substantial proportion of residential buildings.

Federal Standby Authority

Sec. 105. (a) If a State regulatory authority has not had a plan approved under section 102(c) within 270 days after promulgation of rules under section 102(a), or within such additional period as the Administrator may allow pursuant to section 102(c)(1), or if the Administrator determines that such State regulatory authority has not adequately implemented an approved plan, the Administrator shall, by order, require each public utility in the State to offer to its residential customers a utility program prescribed in such order which meets the requirements specified in subsection (a) of section 103.

(b) If a non-regulated utility has not had a plan approved under section 102(c) within 270 days after promulgation of rules under section 102(a) or within such additional period as the Administrator may allow pursuant to section 102(c), or if the Administrator determines that

such non-regulated utility has not adequately implemented an approved plan, the Administrator shall, by order, require such non-regulated utility to offer its customers a utility program prescribed in such order which meets the requirements specified in subsection (a) of section 103.

(c) If the Administrator determines that any public utility to which an order has been issued pursuant to subsection (a) or (b) has failed to comply with such order, he may either order that such public utility may not increase any rate at which it sells natural gas or electric energy until such time as he determines that such utility has implemented a utility program meeting the requirements of the order issued pursuant to subsections (a) or (b), or petition the district courts of the United States to enjoin such utility from violating an order issued pursuant to this subsection.

(d) Any public utility which violates an order under subsection (b) shall be subject to a civil penalty of not more than $25,000 for each violation. Each day that such violation continues shall be considered a separate violation.

Relationship to Other Laws

Sec. 106. The Administrator may by order upon petition by a public utility and for good cause, supersede

any law or regulation of any State or political subdivision thereof, to the extent that such law or regulation prohibits a public utility from taking any action required to be taken under section 103 of this Act.

Contract Provisions

Sec. 107. No public utility shall be subject to any liability under any provision in any contract which restricts any public utility from lending, borrowing, or entering a new line of business, if such lending, borrowing, or entering a new line of business is required under section 103 of this Act.

Rules

Sec. 108. The Administrator is authorized to promulgate such rules as may be necessary to carry out this subpart.

Authorization of Appropriations

Sec. 109. There are hereby authorized to be appropriated to the Administrator such sums as may be necessary to carry out his responsibilities under this subpart.

Subpart 2 -- Financing Program

Amendments to National Housing Act

Sec. 110. Section 2(a) of the National Housing Act is amended by adding at the end of the first paragraph thereof the following sentence:

"For the purpose of this section, the terms 'financial institution' and 'lending institution' shall be deemed to include any public utility which is engaged in making loans or advancing credit for energy conserving improvements as defined in subparagraph (2) of the fourth paragraph of this section only for the purposes of such loans or advances of credit. The term 'public utility' means any person or State agency which is engaged in the business of selling natural gas or electric energy for purposes other than resale."

Sec. 111. Subparagraphs (2) and (3) of the fourth paragraph of Section 2(a) of the National Housing Act are amended to read as follows:

"(2) The term 'energy conserving improvements' means (i) energy conservation measures as defined in section 101 of the National Energy Act, or (ii) any addition, alteration, or improvement to an existing or new structure which is designed to reduce the total

energy requirements of that structure, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Administrator of the Federal Energy Administration and

"(3) the term 'solar energy system' means any addition, alteration, or improvement to an existing or new structure which is designed to utilize solar energy to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Administrator of the Federal Energy Administration."

Sec. 112. Section 2(f) of the National Housing Act is amended by adding the following at the end thereof:

"The Secretary shall conduct a study within two years after the enactment of the National Energy Act in order to determine an actuarially sound premium rate for loans for energy conserving improvements authorized under section 2(a) of this subchapter, and shall, based on

this study, no earlier than two years after date of enactment of the National Energy Act, set an actuarially sound premium rate for such loans, which rate may exceed the otherwise applicable 1 percentum limitation of this subsection."

Sec. 113. Section 302(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451(h)) is amended by adding at the end thereof a new sentence, to read as follows:

"The term 'residential mortgage' is deemed to include a loan or advance of credit insured under Title I of the National Housing Act whose original proceeds are applied for in order to finance energy conserving improvements to residential real estate. The term 'residential mortgage' is also deemed to include a loan or advance of credit for such purposes not having the benefit of such insurance and to include loans made where the lender relies for purposes of repayment primarily on the borrower's general credit standing and forecast of income, with or without other security."

Amendment to Federal National Mortgage Association Charter Act

Sec. 114. Section 302(b) of the Federal National Mortgage Association Charter Act is amended by adding at the end thereof the following new paragraph:

"(3) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in loans made for the energy conservation purposes described in section 2(a) of the National Housing Act, whether or not insured under such section. To be eligible for purchase, any such loan not so insured may be secured as required by the corporation."

Amendment to Energy Conservation and Production Act

Sec. 115. Section 422 of the Energy Conservation and Production Act is amended to read as follows:

"Authorization of Appropriations

"Sec. 422. There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, not to exceed $55,000,000 for the fiscal year ending September 30, 1977, not to exceed $130,000,000 for the fiscal year ending September 30, 1978, not to exceed $200,000,000 for the fiscal year September 30, 1979, and not to exceed $200,000,000 for the fiscal year ending September 30, 1980, such sums to remain available until expended."

Subpart 3 - New Building Performance Standards Grants

Authorization For Section 307(b) of Energy Conservation and Production Act

Sec. 131. Section 307(b) of the Energy Conservation and Production Act is amended to read as follows:

"(b) There is authorized to be appropriated for the purpose of carrying out this section, the following amounts--

"(1) for the fiscal year ending September 30, 1977, not to exceed $5,000,000;

"(2) in the fiscal year ending September 30, 1978, not to exceed $10,000,000; and

"(3) in the fiscal year ending September 30, 1979, not to exceed $10,000,000.

Any amount appropriated pursuant to this subsection shall remain available until expended."

PART B - ENERGY EFFICIENCY STANDARDS FOR CONSUMER PRODUCTS

Subpart 1 - Consumer Products other than Automobiles

Amendment to Energy Policy and Conservation Act

Sec. 201. (a) Section 325(a) of the Energy Policy and Conservation Act is amended to read as follows:

"(a)(1)(A) Except as otherwise provided in paragraph (3), the Administrator shall, by rule, prescribe an energy efficiency standard for each type or class of covered product specified in paragraphs (1), (2), (5), (6), (9), (12), and (13) of section 322(a).

"(B) The Administrator may, by rule, prescribe an energy efficiency standard for any type or class of covered products of each of the types specified in paragraphs (3), (4), (7), (8), (10), (11), and (14) of section 322(a), except that the Administrator may not prescribe an energy efficiency standard for a type or class of covered product described in paragraph (14) of section 322(a) unless he determines that--

"(A)(i) average per household energy use by products of such type exceeds 150 kilowatt-hours (or its Btu equivalent) per year;

"(ii) aggregate household energy use by products of such type exceeds 4,200,000,000 kilowatt-hours per year; and

"(iii) substantial improvement in the energy efficiency of products of such type is possible.

"(2) No standard for a type (or class) of covered product shall be prescribed pursuant to paragraph (1) unless a test procedure has been prescribed pursuant to section 323 with respect to that type (or class) of product.

"(3) The Administrator shall not prescribe an energy efficiency standard for a type or class of covered product if he determines that the establishment of such standard is not technologically feasible or not economically justified.

"(4) Energy efficiency standards established pursuant to this section shall be designed to achieve the maximum improvement in energy efficiency which the Administrator determines is technologically feasible and economically justified, and may be phased in over a period of years through the establishment of intermediate standards.

"(5) In determining whether a standard is economically justified pursuant to paragraph (3) or (4), the Administrator shall consider--

"(A) the economic impact of the standard,

"(B) the total projected amount of energy savings likely to result from the imposition of the standard,

"(C) the savings in operating costs throughout the estimated average life of covered products in the

type or class, compared to any increase in the price of or in initial charges for, or maintenance expenses of, the covered product which is likely to result from the imposition of the standard,

"(D) any lessening of the utility or the performance of the covered product likely to result from the imposition of the standard,

"(E) any negative effects on competition likely to result from the imposition of the standard

"(F) the need of the Nation to conserve energy, and

"(G) any other factors he considers relevant.

"(6) A rule prescribing an energy efficiency standard for a type or class of covered product may, for not more than two years, exempt, in whole or in part, from its requirements manufacturers of covered products whose gross revenues from all operations (including but not limited to the manufacture and sale of covered products) do not exceed $8,000,000 per annum, as determined by the Administrator, and with respect to whom the Administrator determines imposition of the standard may result in a substantial lessening of competition.

"(7) A rule prescribing an energy efficiency standard for a type or class of covered product may specify different

minimum levels of energy efficiency for covered products within such type or class based upon the kind of energy consumed by such covered products.

"(8) The Administrator shall, not later than five years after promulgation of an energy efficiency standard, conduct a reevaluation in order to determine whether such standard should be modified. In conducting such reevaluation the Administrator shall take into account such information as he deems relevant, including technological developments with respect to the manufacture of the type or class of covered product involved and the economic impact of the standard."

(b) Section 325(b) of the Energy Policy and Conservation Act is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4) respectively, and inserting a new paragraph (2) to read as follows:

"(2) With respect to covered products of each of the types specified in section 325(a)(1)(A), an advance notice of proposed rulemaking with respect to such type or class of covered product shall be promulgated by the Administrator not later than 30 days after a test procedure with respect to that type or class of covered product has been prescribed, or 30 days after enactment of the National Energy Act, whichever is later."

(c) Part B of Title III of the Energy Policy and Conservation Act is further amended as follows:

(1) Section 324(c)(5) is amended by inserting ", including instructions for the maintenance use, or repair of the covered product," after "energy consumption" in the matter following subparagraph (C).

(2) Section 325(d) is deleted.

(3) Section 326 is amended by adding a new subsection (d), to read as follows:

"(d) The Administrator may require each manufacturer of covered products to submit such information or reports with respect to energy efficiency of such covered products as the Administrator determines may be necessary to establish standards under section 325."

(4) Section 336(a)(1) is amended by (A) striking out "(1)" and (B) by striking out "325(a)(1), (2), or (3)" in the first sentence thereof and inserting in lieu thereof the following: "325(a)".

(5) Section 336(a)(1)(B) is amended by striking out "paragraph (1), (2), or (3) of" in the first sentence thereof.

(6) Section 336(a)(2) is deleted.

(7) Sections 336(b)(1) and (2) are amended by striking out "section 323 or 324" and inserting in lieu thereof "section 323, 324, or 325".

(8) Section 336(b)(5) is deleted.

(9) Section 339(a) is amended to read as follows:

"(a) There are authorized to be appropriated to the Administrator to carry out his responsibilities under this part not to exceed $1,700,000 for fiscal year 1976, not to exceed $3,056,000 for fiscal year 1977, and for each fiscal year thereafter such sums as may be necessary."

Subpart 2 - Disclosure of Automobile Fuel Inefficiency Tax and Disclosure of Automobile Fuel Efficiency Rebate

Disclosure in Labelling

Sec. 221. Section 506 (a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by redesignating subparagraph (C) as subparagraph (E) and by adding new subparagraphs (C) and (D) to read as follows:

"(C) containing, in the case of any automobile the sale of which is subject to the fuel inefficiency tax imposed pursuant to section 4064 of the Internal Revenue Code of 1954, a statement indicating that a tax was paid with respect to such sale and indicating the amount of such tax, and

"(D) containing, in the case of any automobile with respect to the sale of which an amount is paid or credited pursuant to section 6429 of the Internal Revenue Code of 1954, a statement indicating that a payment or credit was made with respect to such sale and the amount of such payment or credit."

Disclosure in Advertising

Sec. 222. (a) The Federal Trade Commission is authorized to prescribe rules requiring disclosure of any tax imposed under section 4064 of the Internal Revenue Code of 1954 or rebate payable under section 6429 of such Code with respect to any automobile advertised in any television broadcast or advertisement in writing which states the price or fuel economy of an automobile or which advertises an identifiable model type of automobile.

(b) A violation of a rule under subsection (a) shall be deemed an unfair or deceptive act or practice affecting commerce, for purposes of the Federal Trade Commission Act.

(c) Nothing in this section shall be construed as restricting any authority of the Commission under any other law.

PART C - ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS

Amendment to Energy Policy and Conservation Act

Sec. 301. Title III of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new part:

"Part F - ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS

"Definitions

"Sec. 391. For purposes of this part:

"(1) The term 'building' means any structure that includes a heating or cooling system, or both, the construction of which structure was completed on or before April 20, 1977.

"(2) The term 'energy conservation measure' means --

"(A) insulation of walls, ceilings, attics, floors, ducts, and pipes;

"(B) double glazing of windows;

"(C) automatic energy control systems;

"(D) solar heating and/or cooling systems;

"(E) solar water heating systems;

"(F) furnace modifications limited to (i) replacement burners designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency, and (ii) devices for modifying flue openings which will increase the efficiency of the heating system;

"(G) caulking and weatherstripping of exterior doors and windows;

"(H) reflective glass coatings;

"(I) lighting fixture retrofit, to the extent that such retrofit does not result in any foot candle per square foot increase in the general illumination level of the facility and conserves energy; and

"(J) electrical or mechanical furnace ignition systems which replace standing gas pilot lights, but only as part of a project which includes one or more of the energy conservation measures specified in paragraphs (A) through (I).

"(3) The term 'Governor' means the chief executive officer of a State.

"(4) The term 'hospital' means a public or nonprofit institution which is --

"(A) a general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care; and

"(B) duly authorized to provide hospital services under the laws of the State in which it is situated.

"(5) The term 'hospital facilities' means buildings housing a hospital and related facilities, including laboratories, outpatient departments, nurses' home and training facilities and central service facilities operated in connection with a hospital, and also includes buildings housing education or training facilities for health professions personnel operated as an integral part of a hospital.

"(6) The term 'public or nonprofit institution' means an institution owned and operated by --

"(A) a State, a political subdivision of a State or an agency or instrumentality of either; or

"(B) an organization exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

"(7) The term 'project' means an undertaking to acquire and/or to install one or more energy conservation measures in school facilities or in hospital facilities.

"(8) The term 'project costs' shall be limited to costs incurred in the design, acquisition, construction, and installation of energy conservation measures.

"(9) The term 'school' means a public or non-profit institution which --

"(A) provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis; or

"(B)(i) provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis;

"(ii) admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

"(iii) is accredited by a nationally recognized accrediting agency or association; and

"(iv) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit towards such a degree at any institution which meets the requirements of subparagraphs (i), (ii), and (iii) and which provides such a program.

Such term also includes any public or non-profit institution which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of subparagraphs (i), (ii) and (iii) of paragraph (B).

"(10) The term 'school facilities' means buildings housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school, but does not include any facility used or to be used for sectarian instruction or as a place for religious worship, or any athletic facility used primarily for athletic exhibitions, contests, games, or other events for which admission is charged to the general public.

"(11) The term 'State' means a State, the District of Columbia, and at the discretion of the Administrator, Puerto Rico, or any territory or possession of the United States.

"Grant Authorization

"Sec. 303. (a) The Administrator is authorized to make grants to the States to assist schools and hospitals in the payment of project costs incurred in connection with projects undertaken pursuant to this part.

"(b) The Federal share of the project costs incurred in connection with any project shall not exceed 40 per centum thereof. The remainder of the project costs shall be provided from sources other than Federal funds.

"State Plans

"Sec. 304. (a) The Administrator shall, by rule, not later than 120 days after the date of enactment of this part, prescribe guidelines for the development of State plans for installation of energy conservation measures in school facilities and hospital facilities, including guidelines indicating the types of measures appropriate for each region of the nation. The Administrator shall invite the Governor of each State to submit, within 90 days after the effective date of such guidelines, or such longer period as the Administrator may, for a good cause, allow, a proposed State plan for such State. Such plan shall include --

"(1) A general description of the State's proposed program for installation of energy conservation measures in school and hospital facilities in

such State over the period for which funds are authorized to be appropriated pursuant to section 308, including --

"(A) the types of energy conservation measures considered for installation in school and hospital facilities under projects undertaken pursuant to this part;

"(B) categories of school and hospital facilities for which installation of energy conservation measures are proposed (as may be required by the guidelines); and

"(C) an estimate of the energy savings anticipated for each type of proposed project.

"(2) The policies and procedures by which the State proposes to allocate funds among eligible projects within the State, including a description of how priorities will be established among competing proposals, based on relative financial needs and capabilities.

"(b) Each State plan shall be reviewed and approved or disapproved by the Administrator not later than 90 days after submission. A Governor may submit a new or amended plan at any time after submission of the original plan if the State obtains the consent of the Administrator.

"(c) Governors submitting plans pursuant to this section shall take reasonable steps to assure that such plans are appropriately coordinated with State health plans required pursuant to section 1523 of the Public Health Service Act.

"Financial Assistance

"Sec. 305. (a) The Administrator shall provide financial assistance from sums appropriated for any fiscal year under this part only upon annual application. The Administrator shall allocate the sums appropriated for that fiscal year among the several States in the following manner:

"(1) Ninety per centum among all States in accordance with a formula to be determined by the Administrator, by rule, taking into account population, climate, and such other factors as the Administrator may deem appropriate.

"(2) Ten per centum among all States as the Administrator shall determine, after taking into account the availability and cost of fuel or any other energy used in schools and hospitals in the several States and such other factors as he deems relevant.

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"(b) Any amount allocated to a State for a fiscal year under subsection (a) but not requested by a State or not disbursed pursuant to an approved State plan shall be available for reallocation to the States as the Administrator shall determine in accordance with subsection (a)(2).

"(c) The Administrator shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

"Applications

"Sec. 306. (a) Applications of States for financial assistance under this part shall be made annually to the Administrator, shall be consistent with State plans approved pursuant to section 304, and shall contain or be accompanied by such information as the Administrator may reasonably require. Such information shall include the number of projects and categories of facilities proposed to be funded within such State, and such information concerning expected expenditures as may be required by rule.

"(b) The Administrator shall not provide financial assistance under this part unless the applicant has provided reasonable assurances that it has -

"(1) established procedures to assure that funds made available under this part will be expended for project costs in compliance with the requirements of this part and rules promulgated under this part;

"(2) established procedures for allocating funds among eligible projects on the basis of relative need, taking into account appropriate financial, climatic and energy conservation factors;

"(3) established procedures for implementation of energy conserving operational and maintenance procedures in those facilities for which projects are proposed;

"(4) established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State, local or other funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out this part;

"(5) established procedures to provide reports to the Administrator in such form and containing such information (including information for evaluation purposes) as the Administrator may reasonably require and to keep such records and furnish access thereto as the Administrator may find necessary to assure the correctness and verification of such reports; and

"(6) established procedures to ensure that equitable consideration is given to all eligible public or nonprofit institutions regardless of type of ownership.

"Administration

"Sec. 307. The Administrator is authorized to prescribe such rules as may be necessary in order to carry out the provisions of this part.

"Authorization of Appropriations

"Sec. 308. (a) For purposes of making grants pursuant to this part, there is authorized to be appropriated not to exceed $300,000,000 for each fiscal year in the three consecutive fiscal year period ending September 30, 1980.

"(b) For expenses of the Administrator in administering the provisions of this part, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part for each fiscal year in the three consecutive fiscal year period ending September 30, 1980.

"Nondiscrimination

"Sec. 309. No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this part."

PART D - NATURAL GAS

Findings and Purposes

Sec. 401. (a) The Congress finds that--

(1) in the early history of this nation's petroleum industry natural gas was a by-product of the production of crude oil, was not easily marketable, and was often flared off and treated as waste or sold at very low prices;

(2) the natural gas market changed dramatically through the course of the last 40 years as a national distribution system was built to deliver natural gas to commercial and industrial consumers throughout the nation;

(3) the Congress enacted the Natural Gas Act in 1938 to provide protection for consumers and to provide a regulatory structure through which interstate pipelines could be assured a fair rate of return;

(4) in 1954, the Supreme Court held that the Natural Gas Act applied to the wellhead sale of natural gas in interstate commerce, subjecting producers selling interstate gas, but not intrastate gas, to a reasonable rate of return regulatory standard based on a determination of historic production costs;

(5) the differential between the price of natural gas and oil has widened with the continuation of cost-based regulation of natural gas, the fourfold rise in world oil prices in 1973 and 1974, and the increasing pressure to burn natural gas because of its environmentally superior qualities;

(6) as a result, the incentives to find new natural gas have declined along with the proven reserves of natural gas, while demand for this premium and relatively inexpensive fuel has increased;

(7) at the same time, increasing amounts of higher priced gas and wasteful industrial and boiler fuel uses have moved to the intrastate market, resulting in growing critical shortages in the interstate market of the fuel which provides 30 percent of the nation's energy;

(8) a new system of natural gas pricing is needed that recognizes the costs and risks associated with finding future supplies of natural gas as well as the commodity value of substitutable fuels.

(b) The purposes of this part are--

(1) to bring the natural gas market back into better balance by reducing the demand for natural gas

and increasing the supply through the establishment of an incentive based pricing approach for new natural gas, wherever it is used, that moderates producer revenues and protects consumers by moving toward a commodity value price ceiling;

(2) to deal with short-term supply shortages of natural gas through extension of the allocation provisions of the Emergency Natural Gas Act of 1977; and

(3) to provide for the conservation of natural gas by pricing natural gas to certain industrial and other users at a level which will provide incentives for conversion to other more plentiful fuels and for conservation.

Definitions

Sec. 402. (a) As used in this part--

(1) The term "Commission" means the Federal Power Commission.

(2) The term "natural gas" has the same meaning as such term has under section 2(5) of the Natural Gas Act.

(3) The term "producer" means any person who produces natural gas.

(4) The term "person" includes (without limitation) the United States and any State, and any political subdivision, agency, or instrumentality of either.

(5) The term "new natural gas" means natural gas --

(A) which is produced from a new lease on the Outer Continental Shelf; or

(B) which is produced other than on the Outer Continental Shelf from a new well --

(i) the completion location of which is 2.5 statute miles or more (surface measurement) from the completion location of any old well, or

(ii) the completion location of which is at a depth of 1,000 feet or more in excess of the depth of the completion location of any old well with a completion location that is within 2.5 statute miles (surface measurement) provided that the completion location of any such new well is not in the same producing zone as the completion location of any such old well.

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

(7) The term "new lease" means a lease, entered into on or after April 20, 1977, of an area which--

(A) was not leased before April 20, 1977; or

(B) which was leased before such date, under a lease which terminated or was abandoned before such date and was not in effect on such date.

(8) The term "new well" means a well the drilling of which was not begun on or before April 20, 1977 or with respect to which a drilling permit had not been issued on or before April 20, 1977 in the case of a well for which such permit is necessary.

(9) The term "old well" means a well that produced or was capable of producing crude oil or natural gas on or before April 20, 1977.

(10) The term "completion location" means the location at which crude oil or natural gas is withdrawn from a producing zone.

(11) The term "depth" means the depth determined by reference to the vertical distance between mean sea level and the lowermost point of the completion location of any old well or by reference to the vertical distance between mean sea level and the uppermost point of the completion location of any new well.

(12) The term "surface measurement" means the distance at mean sea level between the points at which vertical lines, drawn through the nearest points of any two completion locations, would intersect the surface of the earth at mean sea level.

(13) The term "producing zone" means a geological formation having common characteristics that contains crude oil or natural gas, whether or not there is communication between the portions thereof.

(14) The term "old natural gas" means natural gas other than new natural gas.

(15) The term "new contract" means a contract entered into after April 20, 1977 or a renewal after April 20, 1977, of a contract entered into on or before April 20, 1977 if such renewal occurs by agreement of both parties to the contract on or after the expiration of a fixed term specified by the contract.

(16) The term "existing contract" means any contract other than a new contract.

(17) The term "current Btu related price" means the most recently published Btu related price.

(18) The term "Btu related price" means the average per barrel crude oil acquisition cost (excluding any amounts attributable to the tax imposed by section 4996 of the Internal Revenue Code of 1954) for refineries in the United States (with respect to all crude oil produced within the United States) for the most recent calendar quarter for which data are available to the President, divided by a factor of 5.8.

(19) The term "United States" includes the Outer Continental Shelf.

(20) The term "inflation adjustment" means the first revision of the quarterly percent change, seasonally adjusted at annual rates, of the most recent implicit price deflator for the gross national product. Such adjustment shall be computed and published for each calendar quarter by the Department of Commerce.

(b) The President shall have the authority to define, by rule, the terms used in this part in a manner consistent with the purposes of this part.

Calculation of the Current Btu Related Price

Sec. 403. As soon as practicable after the date of enactment of this Act, and on a timely basis thereafter as new data become available, the President shall calculate and publish in the Federal Register the current Btu related price.

Sales of New Natural Gas

Sec. 404. The President shall, by rule, establish a maximum lawful price applicable to any first sale by a producer of new natural gas delivered in any calendar quarter which begins on or after the date upon which such rule is promulgated and made effective. Such maximum lawful price shall be a price equal to the current Btu related price (determined as of the date of such delivery).

Sales of Old Natural Gas Under Existing Contracts

Sec. 405. The President shall, by rule, establish a maximum lawful price applicable to any first sale by a producer of old natural gas under an existing contract. Such maximum lawful price shall be a price equal to the lesser of--

(1) the contract price; or

(2) the price for sales under such contract which was determined to be just and reasonable by the Commission and was in effect on April 20, 1977 (without regard to any appeal of such determination pending on April 20, 1977), plus the inflation adjustment as defined in section 408(c).

Sales of Old Natural Gas Under New Contracts

Sec. 406. (a) The President shall, by rule, establish the maximum lawful price applicable to any first sale by a producer of old natural gas under a new contract.

(b) In the case of old natural gas referred to in subsection (a) (1) which is committed or dedicated to interstate commerce on April 20, 1977 (other than by reason of a limited term certificate of five years or less or a temporary emergency contract under section 7(c) of the Natural Gas Act), or (2) which is produced from a new well or a new lease, the maximum lawful price under this section shall not exceed $1.45 per MCF; plus the inflation adjustment as defined in section 402(a)(20). In establishing any maximum lawful price under this subsection, the President shall take into consideration the maximum lawful price of such gas under the prior contract and the price necessary to maintain production of such gas.

(c) In the case of old natural gas referred to in subsection (a) which is not described in subsection (b), the maximum lawful price under this section shall be equal to the current Btu equivalent price (determined as of the date of delivery of such gas).

Effective Dates of Rules With Respect to Maximum Lawful Prices

Sec. 407. The President shall promulgate and make effective rules under sections 404 through 406 within 30 days after the date of enactment of this Act. Such rules shall apply to deliveries which take place after the date of enactment of this Act.

Special Pricing Provisions

Sec. 408. (a) Notwithstanding any maximum lawful price under sections 404 through 406, the President may, by rule, specify a special price under this section in excess of any such maximum lawful price, which shall be applied for purposes of such sections if the President determines that such special price is necessary to provide incentives for the production of natural gas or the manufacture of synthetic gas in categories which involve high costs, such as production--

(1) in depths of more than 500 feet of water,

(2) more than 15,000 feet below the surface of the earth, or

(3) from geopressurized brine.

The President may specify such special prices for categories of production or on a national, geographic area, or case-by-case basis in accordance with section 553 of title 5, United States Code.

(b) In the case of a first sale by a producer of any natural gas with respect to which such producer bears all or part of the cost of transportation or liquefaction of such gas, the President, by rule, may adjust the maximum lawful price determined under sections 404 through 406 or the special price under subsection (a) to reflect such cost.

(c) The Commission may not increase any price for any first sale by a producer of natural gas determined prior to April 20, 1977, by the Commission to be just and reasonable, except that the Commission shall, to the extent permitted by the terms of any contract, cause an inflation adjustment in such prices as defined in section 402(a)(20).

(d) In addition to his authority respecting first sales by a producer of natural gas, the President may, by

rule, establish maximum lawful prices applicable to any sales of natural gas by any other person if he determines that such rules are necessary to prevent circumvention of the pricing policies specified in sections 404 through 408. This subsection shall not apply to sales for resale by such other persons if such sales are subject to the Natural Gas Act.

Relationship to the Natural Gas Act

Sec. 409. (a) For purposes of sections 4 and 5 of the Natural Gas Act, any price for any natural gas which is not in excess of the maximum lawful price (or special price specified under section 408) applicable to such natural gas under the provisions of this part shall be deemed just and reasonable and the Commission may not disallow any rate which is not in excess of such maximum lawful price.

(b) The Commission may not deny a certificate of public convenience and necessity under section 7 of the Natural Gas Act solely on the basis of the price for the first sale of natural gas sought to be transported pursuant to such certificate, if such price is not in excess of the maximum lawful price (or special price) applicable to such natural gas pursuant to this part.

Enforcement and Delegation

Sec. 410. (a) Any rule promulgated by the President under this part shall be enforceable to the same extent and in the same manner as a regulation, or rule, promulgated under the Emergency Petroleum Allocation Act of 1973.

(b) The President may delegate all or any part of the authority granted to him under this part to such officers, departments, or agencies of the United States (including the Commission or any member thereof) as he determines appropriate.

(c) In order to obtain information to carry out his authority under this part, the President may--

(1) sign and issue subpoenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(2) require any person, by general or special order, to submit answers in writing to interrogatories, requests for reports or for other information, and such answers shall be made within such reasonable period, and under oath or otherwise, as the President may determine; and

(3) secure, upon request, any information from any Federal department or executive agency.

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(d) The appropriate United States District court may, upon petition of the Attorney General at the request of the President, in the case of refusal to obey a subpoena or order of the President issued under subsection (c) issue an order requiring compliance therewith, and any failure to obey an order of the court may be punished by the court as a contempt thereof.

(e) The President may not exercise authority under subsection (c)(3) with respect to information in possession of a Federal agency the disclosure of which to another Federal agency is expressly prohibited by law.

Emergency Sales

Sec. 411. Nothing in this part shall apply to any price for the sale of natural gas which is allowed under section 4 of the Emergency Natural Gas Act of 1977.

Special Rules

Sec. 412. (a) The Commission may grant abandonment under section 7(b) of the Natural Gas Act at any time prior to the committing or dedication of natural gas for interstate commerce.

(b) Any contractual provision--

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to the sale of any natural gas.

(c) The price of any natural gas determined under this Part shall not be taken into account for purposes of any contractual provision which determines the price of any natural gas (or terminates, or permits renegotiation of, a contract) on the basis of sales of other natural gas.

Coverage

Sec. 413. Sections 402 through 412 shall apply only to the sale of any natural gas produced within the United States.

Incremental Pricing of Natural Gas

Sec. 414. (a) Not later than 90 days after the date of enactment of this Act, the President shall, by rule, provide that, to the maximum extent practicable, any portion of the average cost of natural gas delivered after the date of enactment of this Act to any pipeline company which exceeds the average cost of natural gas to such company during the most recent 12 calendar month period ending

before the date of enactment of this Act (plus an inflation adjustment as defined in section 402(a)(20)), shall be fully allocated in the rates and charges of such company to low priority uses; except that such rules may not require that such portion be fully allocated for such uses if such allocation would result in rates or charges for such uses equal to an amount no greater than the reasonable price (as determined by the President) of substitute fuels.

(b) For purposes of this section:

(1) The term "low priority use" means a use other than a high priority use.

(2) The term "high priority use" means:

(A) use of natural gas in a residence; or

(B) use of natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day.

(3) The term "pipeline company" means any person (including a governmental agency) who is engaged in the business of transporting natural gas by pipeline and who sells natural gas for ultimate consumption.

(c) If any pipeline company sells natural gas in violation of rules promulgated by the President under

subsection (a), such pipeline company shall be fined not more than $10,000 for each sale made in violation of such rules.

Synthetic Gas

Sec. 415. The Natural Gas Act is amended by redesignating section 24 as section 25, and by inserting after section 23 the following new section:

"Commission Jurisdiction Over Synthetic Gas

"Sec. 24.(a)(1) Subject to the provisions of paragraph (2), the provisions of this Act shall apply to--

"(A) any facility constructed or operated by a natural-gas company or an affiliate thereof for the manufacture of pipeline-quality gas for the purposes of transportation in interstate commerce or sale in interstate commerce for resale for ultimate public consumption,

"(B) to such transportation or sale by a natural-gas company or affiliate thereof, and

"(C) to natural-gas companies or their affiliates engaged in such manufacture, transportation, or sale.

"(2) the provisions of this Act shall not apply to the mining, production, transportation, sale, delivery, or any other activity related to the furnishing of

hydrocarbon-containing material (other than natural gas) to a natural-gas company or its affiliate for the production of such pipeline-quality gas.

"(b) If, prior to the date of enactment of this section, any natural-gas company was engaged in the manufacture of pipeline-quality gas from hydrocarbon-containing material or transportation or sale for resale of such pipeline-quality gas, subject to the jurisdiction of the Commission, or if a certificate of public convenience and necessity has been issued by the Commission authorizing the transportation or sale for resale of such pipeline-quality gas by a natural-gas company, the Commission shall issue a certificate for such manufacture, transportation, or sale for resale of such pipeline-quality gas without requiring further proof that the public convenience and necessity will be served by such operation, and without further proceedings pursuant to the Natural Gas Act or any other provision of law, if application for a certificate is made to the Commission within 90 days after such date of enactment. Pending the determination of any such application, the continuance of such operation shall be lawful.

"(c) For purposes of this section, the term 'pipeline-quality gas' shall mean gas the principal ingredient of which is methane and which is interchangeable and compatible with natural gas as determined by rule by the Commission.".

Amendments to the
Emergency Natural Gas Act of 1977

Sec. 416. The Emergency Natural Gas Act of 1977 is amended--

(1) in section 2, by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'pipeline' means any person engaged in the transportation of natural gas.";

(2) in section 2, by redesignating paragraphs (5), (6), and (7) as (3), (4), and (5), respectively;

(3) in section 4(a)(1), by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) any pipeline to make emergency deliveries of, or to transport, natural gas to any other pipeline or to any local distribution company for purposes of meeting such requirements; or";

(4) in section 4(a)(1), by redesignating subparagraph (C) thereof as subparagraph (B);

(5) in section 4(a)(1), by striking out "April 30, 1977" and inserting in lieu thereof "April 30, 1979";

(6) in section 4(a)(2), strike out "interstate" wherever it appears;

(7) in section 4(d), strike out "interstate pipeline, intrastate";

(8) in section 4(f)(2)(A), strike out "by August 1, 1977, to the maximum extent practicable" and insert in lieu thereof "as expeditiously as practicable,";

(9) in section 7, strike out "interstate" wherever it appears; and

(10) in section 2(b), after "October 1, 1977,", insert "October 1, 1978, and June 1, 1979,".

PART E - PUBLIC UTILITY REGULATORY POLICIES

Subpart 1 - General Provisions

Finding and Purposes

Sec. 501. (a) The Congress hereby finds that the generation, transmission, and sale of electric energy and the transportation and sale of natural gas affect interstate commerce, and that adequate and reliable supplies of electric energy and natural gas are necessary for the general welfare and national security.

(b) The purposes of this part are--

(1) to establish national policies with respect to electric utility ratemaking which--

(A) encourage economic efficiency,

(B) ensure that electric utility rates are designed to minimize consumption of oil, gas, and other energy resources and to reduce the need for new generating capacity,

(C) provide for fair and reasonable rates to electric consumers, and

(D) assure that States which implement rate reforms are not placed at a relative economic disadvantage in attracting and retaining

industry by reason of the failure of other States to implement such reforms;

(2) to provide a mechanism to establish similar policies for gas utilities; and

(3) to increase the efficiency of energy resource use in the generation and transmission of electric power, and the reliability of electric service, through greater use of interconnection, wheeling, economic dispatch and cogeneration.

Definitions

Sec. 502. (a) As used in this part:

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

(2) The term "Commission" means the Federal Power Commission.

(3) The term "electric consumer" means any person, State agency, or Federal agency, to which electric energy is sold other than for purposes of resale.

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

(5) (A) The term "State regulated electric utility" means any electric utility other than a nonregulated utility.

(B) The term "nonregulated utility" means--

(i) an electric utility which is a State agency or Federal agency unless a State regulatory authority has the same ratemaking authority respecting the rates of such utility as such authority has with respect to other electric utilities subject to its jurisdiction, or

(ii) a private cooperatively organized electric utility unless a State regulatory authority has the same ratemaking authority respecting the rates of such utility as such authority has with respect to other electric utilities subject to its jurisdiction.

Such term does not include an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority.

(6) The term "Federal agency" means an executive agency (as defined in section 105 of Title 5, United States Code).

(7) The term "rate" means any price, rate, charge, or classification made, demanded, observed, or received with respect to the sale of electric energy, any rule, regulation, or practice respecting any such price, rate, charge, or classification, and any contract pertaining to the sale of electric energy.

(8) The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(9) The term "rate schedule" means a schedule of rates which an electric utility charges electric consumers.

(10) The term "sale" includes an exchange of, or a charge for transmission of, electric energy.

(11) The term "State" means a State, the District of Columbia, or Puerto Rico.

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

(13) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy by any electric utility (other than by such State agency); except that

with respect to an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

(14) The term "evidentiary hearing" means (A) in the case of a State agency, a proceeding (i) which includes notice to, and an opportunity for, participants to present direct and rebuttal evidence and to cross-examine witnesses and which results in a written decision based upon evidence appearing in a written record of the proceeding, and (ii) which is subject to judicial review; and (B) in the case of a Federal agency, a proceeding conducted in accordance with section 556 of title 5 of the United States Code.

(b) Section 3 of the Federal Power Act is amended by inserting "(a)" after "Sec. 3" and by adding the following at the end thereof:

"(b) For purposes of this Act, the terms 'electric utility', 'evidentiary hearing', and 'Federal agency' have the same meaning as when used in part E of title I of the National Energy Act".

Antitrust Laws

Sec. 503. Nothing in this part shall affect the

applicability of the antitrust laws (as defined in section 3 (9) of the Energy Policy and Conservation Act) to electric utilities or gas utilities.

Subpart 2 - National Electric Rate Design Policies

Coverage

Sec. 511. The requirements of this subpart (other than section 516 (d)) apply only to sales of electric energy by an electric utility for purposes other than resale, except that such requirements shall not apply to an electric utility in any calendar year unless such sales of electric energy by such utility during the second preceding calendar year (or any prior year after 1975) exceeded 750 million kilowatt-hours.

Methods for Determining Cost of Providing Electric Service

Sec. 512. (a) Each State regulatory authority shall prescribe one or more methods for determining costs associated with providing electric service to electric consumers (and classes thereof) by each electric utility over which it has ratemaking authority. If such authority fails to prescribe such methods within 2 years after the date of enactment of this Act, the Administrator shall prescribe

such methods for each such utility with respect to which such methods have not been so prescribed, which methods shall remain applicable until such time as the Administrator determines that such authority has prescribed such methods.

(b) Such methods shall, to the maximum extent practicable and consistent with section 513(c), reflect differences in cost-incurrence, for each electric consumer (or class thereof), attributable to daily and seasonal time of use of service. In prescribing such methods, there shall be taken into account the extent to which total costs to an electric utility are likely to change if such consumer (or class) causes--

(1) additional capacity to be added to meet an electric consumer's kilowatt demand during system peak periods,

(2) additional kilowatt-hours of electric energy to be delivered to electric consumers, and

(3) additional electric consumers to be connected to the electric utility.

National Electric Rate Design and Regulatory Policies

Sec. 513. (a) Each State regulatory authority which has enforcement responsibility under section 516(a)(1) shall take such action as may be necessary to assure that each State regulated electric utility will in making sales of electric energy subject to this part, comply with the following national policies:

(1) (A) Except as otherwise provided in subsections (b) and (c), rates for providing electric service to each electric consumer (or class thereof) shall be designed, to the maximum extent practicable, to reflect the costs of providing electric service to such consumer (or class).

(B) A rate shall not be considered as meeting the requirements of subparagraph (A) if the rate per kilowatt-hour, for electric energy during any period to any electric consumer (or class thereof) decreases as kilowatt-hour consumption by such consumer increases.

(2) (A) Each electric utility shall offer each electric consumer--

(i) a time-of-day rate which reflects costs of providing service to such consumer, if such consumer is willing to pay the reasonable costs of metering necessary to utilize such rate, or

(ii) opportunity to install a load management system appropriate to such consumer and to receive a rate which reflects any decrease in cost of service which is associated with the use of such system.

For purposes of this subparagraph, the term "load management system" means any system to reduce maximum kilowatt demand on the electric utility. Such systems may include ripple, radio, or other control mechanisms, or interruptible electrical services, and customer-owned energy storage or load-limiting devices.

(B) Each electric utility shall offer each electric consumer a seasonal rate which shall reflect seasonal differences in the cost of providing service to such consumer.

(C) Each electric utility shall offer each industrial or large commercial electric consumer (as

defined in rules under subparagraph (D)) an interruptible rate which reflects the cost of providing interruptible service to such customers.

(D) The Administrator may prescribe rules (i) respecting the terms and conditions of any rate offered under subparagraphs (A)(i), (B), and (C) of this paragraph, and the types of load management systems and terms and conditions of rates offered under subparagraph (A) (ii); and (ii) permitting any State regulatory authority to exempt any electric utility from any requirement of this paragraph if such authority determines in an evidentiary hearing that no significant number of electric consumers will use the rate required to be offered.

(3) For purposes of this section, costs of providing service shall be determined in accordance with methods prescribed in section 512.

(4) Except as otherwise provided by rules of the Administrator, no electric utility may provide electric service to a building which is metered by a bulk or master meter if the construction of such building commenced more than 1 year after the date of

enactment of this Act. The Administrator may define, by rule, bulk or master meter.

(b)(1) No provisions of this subpart shall prevent an electric utility, a State regulatory authority, or other State agency from fixing, approving, or allowing to go into effect a rate for electric energy applicable to all residential electric consumers (as defined by the State regulatory authority) which is lower than otherwise required by subsection (a)(1)(A). Nothing in this subsection shall authorize a rate which does not comply with subsection (a)(1)(B).

(2) A State regulatory authority which has enforcement responsibility may, upon application of any electric consumer, prescribe a temporary exception pursuant to which an electric utility rate schedule which does not comply with the requirements of this subpart will be fixed, approved, or allowed to go into effect, with respect to such consumer. Any such exception shall comply with the following requirements:

(A) such exception may apply only to the type of use and amount of use of electric energy as does not exceed the amount the electric consumer used prior to the date of enactment of this Act;

(B) the electric consumer who applies for such exception demonstrates to such State regulatory authority in an evidentiary hearing that such exception is necessary to avoid extreme economic hardship to such consumer; and

(C) such exception does not remain in effect more than 5 years after the date of enactment of this Act.

(c) Nothing in this subpart shall be construed as authorizing or requiring the recovery by an electric utility of revenues, or of a rate of return, in excess of the amount of revenues or a rate of return determined to be lawful under otherwise applicable State or Federal law.

Information and Reports

Sec 514. (a) Each electric utility shall gather information under such rules promulgated by the Administrator as the Administrator determines necessary to allow State regulatory authorities (and other persons) to determine the costs associated with providing electric service, including information with respect to-

(1) the factors which cause changes in the daily and seasonal peak loads of such utility and of the electric consumer classes serviced by such utility; and

(2) the costs of serving each electric consumer class and of serving different consumption patterns within such class, based on voltage level, time of use, and other factors.

(b) The Administrator, by rule, within 180 days after the date of enactment of this Act, shall prescribe the methods, procedure, and format to be employed by each electric utility in gathering the information described in subsection (a). The Administrator may, by rule, exempt an electric utility from gathering all or part of such information, if the Administrator finds (and so states in such rule) that gathering such information is not likely to further the purposes of this part.

(c) Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, each electric utility shall file with the Administrator and any State regulatory authority which has ratemaking authority for such utility the information gathered pursuant to this section (if such information is not otherwise required to be filed with such authority), and publish or otherwise make such information available to the public, in such form and manner as the Administrator shall prescribe.

Nonregulated Utilities

Sec 515. (a)(1) Each nonregulated utility shall prescribe methods for determining costs associated with providing electric service to its electric consumers (and classes thereof). If such utility fails to prescribe such methods within 2 years after the date of enactment of this Act, the Administrator shall prescribe such methods for each such utility.

(2) Such methods shall be prescribed in accordance with section 512(b).

(b) Each nonregulated utility shall comply with the national policies specified in section 513 in making sales of electric energy subject to this subpart.

Implementation of National Rate
Design and Regulatory Policies

Sec. 516. (a)(1) For purposes of this subpart, a State regulatory authority shall (except as otherwise provided in paragraph (2)(A)) be considered to have enforcement responsibility for a period for which it has notified the Administrator (in such manner as the Administrator shall prescribe by rule) that it will assume responsibiity for implementing this subpart with respect to electric utilities with respect to which it has ratemaking authority.

(2) (A) Not later than 2 years after the date of enactment of this Act (and every 2 years thereafter), each State regulatory authority which has enforcement responsibility shall submit to the Administrator a report (containing such information as the Administrator by rule may require), describing the extent to which such authority has implemented the national policies specified in section 513. If the Administrator determines (after notice and opportunity for presentation of views) that such authority has not implemented such policies and if he has not granted an extension under paragraph (3), then effective 6 months after such determination, such authority shall be considered as not having enforcement responsibility until such time as he determines (after notice and opportunity for presentation of views) that such authority has implemented such policies.

(B) Not later than 2 years after the date of enactment of this Act (and every 2 years thereafter), each utility (other than a utility with respect to which a State regulatory authority which has enforcement responsibility has ratemaking authority) shall submit to the Administrator a report (containing such information as the Administrator

by rule may require), describing the extent to which such utility has implemented the national policies specified in section 513. If the Administrator determines (after notice and opportunity for presentation of views) that such utility has not implemented such policies and if he has not granted an extension under paragraph (3), then effective 6 months after such determination, he shall exercise his authority under subsection (b) with respect to such electric utility until such time as he determines (after notice and opportunity for presentation of views) that such utility has implemented such policies.

(3) Upon application in the first report submitted under paragraph (2) by a State regulatory authority or an electric utility, the Administrator may allow such authority or utility not more than 3 years after the date of enactment of this Act to implement the policies specified in section 513, if he finds that--

(A) it is not practicable to implement such policies within 2 years, and

(B) such authority or utility will make such reports and comply with such terms and conditions as he may prescribe.

The Administrator may grant one or more additional one year extensions under this paragraph if he makes the findings under subparagraphs (A) and (B) and if he finds that such authority or utility is unable to implement such policies, despite good faith efforts, solely by reason of a judicial stay of such authority's order implementing such policies.

(b)(1) During any period during which the Administrator is required by subsection (a)(2)(B) to exercise authority under this subsection with respect to any electric utility, such utility may not increase any rate at which it sells electric energy unless the Administrator determines, after such rate is proposed and before it takes effect, in an evidentiary hearing, that such rates meet the national policies specified in section 513. Such proceeding shall be initiated by the Administrator not later than 30 days after application by such utility for a determination under this paragraph. Such application may be made at any time after such utility gives notice of such proposed increase.

(2) The Administrator may prescribe rules which provide that paragraph (1) shall not apply--

(A) to a rate increase pursuant to a fuel adjustment clause,

(B) in the case of a State regulated utility, to an interim rate increase during any period that such increase is in effect subject to a requirement that it be refunded in whole or part, with interest, if the State regulatory authority subsequently determines it is unlawful, or

(C) another class of rate increase identified in such rules,

if the Administrator, under paragraph (1), has determined not earlier than two years prior to the effective date of such rate increase that such utility's rate meets the requirements of section 513.

(c) Upon request of the Administrator, the Attorney General shall seek to enjoin, in the appropriate district court of the United States, any electric utility from violating subsection (b), and in any such action, the court may enjoin such electric utility from such violation, and may issue a mandatory injunction requiring compliance with the policies under section 513.

(d) No contract between a Federal agency and an electric utility for sale of electric energy by such

Federal agency for purposes of resale may contain any provisions inconsistent with the provisions of Section 513.

Authorization of Appropriations

Sec. 517. (a) There are authorized to be appropriated to the Administrator to carry out this part such sums as may be necessary for the fiscal year ending September 30, 1978, and each of the two succeeding fiscal years.

(b) Section 207 of the Energy Conservation and Production Act is amended to read as follows:

"Authorizations of Appropriations

"Sec. 207. There are authorized to be appropriated to carry out this title such sums as may be necessary for the fiscal year ending September 30, 1977, and each of the two succeeding fiscal years."

Subpart 3 - Bulk Power Supply

Interconnection and Wheeling

Sec. 521. (a) Section 202(b) of the Federal Power Act is amended to read as follows:

"(b)(1) Whenever the Commission, on its own motion, or upon application of any State commission or of any electric

utility or any qualifying cogenerator (as defined in Section 522(b)(2) of the Public Utility Act of 1977), and after notice to each State commission and electric utility affected and after evidentiary hearing, finds such action necessary or appropriate in the public interest, it shall by order direct an electric utility-

"(A) to establish physical connection of its transmission facilities with the facilities of any other electric utility or qualifying cogenerator, or

"(B) (i) to sell or deliver energy to, (ii) exchange energy with, (iii) transmit energy for, (iv) provide pooling, wheeling, or other transmission services for, or (v) otherwise coordinate with, such utility or cogenerator.

"(3) The Commission may prescribe the terms and conditions of the arrangement to be made between the persons affected by any order under this subsection, including the apportionment of cost between them and the compensation or reimbursement reasonably due to any of them.

"(4) The Commission shall have no authority under this subsection to compel the enlargement of generating facilities for purposes of this subsection, nor to compel

an electric utility to sell or exchange energy if to do so would unreasonably impair its ability to render adequate service to its customers."

(b)(1) Section 202(a) of the Federal Power Act is amended by striking the word "voluntary" from the first sentence.

(2) The first sentence of section 201(b) is amended by inserting "(other than 202(b))" after "Part" and by adding the following at the end thereof: "The provisions of section 202(b) shall apply to the electric utilities and other persons specified therein."

(3) Section 201(e) is amended by inserting "(other than facilities subject to such jurisdiction solely by reason of section 202(b))" before the period at the end thereof.

Cogeneration

Sec. 522. (a) Not later than one year after the date of enactment of this Act, the Administrator shall, after consultation with representatives of State regulatory authorities, prescribe rules requiring electric utilities to offer to sell electric energy to any qualifying cogenerator and to offer to purchase electric energy from such

cogenerators. Such rules shall insure that rates for such sales and purchases do not discriminate against such cogenerators, and may, in order to carry out the purposes of this Act, include provisions exempting qualifying cogenerators in whole or part from the Federal Power Act, the Public Utility Holding Company Act, and from State laws and regulations respecting electric utility regulation, if the Administrator determines such exemption is necessary to carry out the purposes of this part.

(b) For purposes of this section:

(1) The term "cogeneration facility" means a facility owned by a person not primarily engaged in the generation or sale of electric power, which facility produces (A) electric energy and (B) other forms of useful energy (such as steam or heat) which is, or will be used for industrial, commercial, or space heating purposes.

(2) The term "qualifying cogeneration facility" means a cogeneration facility which the Administrator determines-

(A) meets such requirements (including requirements respecting minimum size, fuel use,

and fuel efficiency) as the Administrator, by rule, prescribes; and

(B) the owner or operator of which offered (at such time and in such manner as the Administrator may prescribe by rule) each electric utility to which such facility is, or will be, directly connected an opportunity to operate such facility on terms which are agreed upon by the parties.

(3) The term "qualifying cogenerator" means any person who is, or will be, the owner or operator of a qualifying cogeneration facility.

(c) For purposes of enforcement of this section, a rule under this section shall be treated as a rule under the Federal Power Act; except that, for such purposes, any reference in sections 309, 314, 315 and 316 of the Federal Power Act to the Commission shall be deemed to be a reference to the Administrator.

(d) The Administrator may delegate (on such terms and conditions as he determines appropriate) any part of his authority under this section respecting any electric utility (other than a Federal agency) to any State regulatory authority which he determines has the capability of

effectively exercising such authority with respect to such utility.

Subpart 4 - Natural Gas Rate Design Policies

Definitions

Sec. 541. (a) As used in this subpart:

(1) The term "gas consumer" means any person, State agency, or Federal agency, to which natural gas is sold other than for purposes of resale.

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

(3) The term "natural gas" shall have the same meaning as such term has under section 2 of the Natural Gas Act.

(4) The terms "State regulated gas utility", "nonregulated utility", "nonregulated public system", "nonregulated cooperative", "rate", "rate schedule", "sale", and "State regulatory authority" shall have the same meaning as such terms have under section 502; except that the term "gas" shall be substituted for "electric" and "electric energy" wherever those terms appear in section 502.

Coverage

Sec. 542. The requirements of this subpart apply only to sales of natural gas by a gas utility for purposes other than resale; except that such requirements shall not apply to a gas utility in any calendar year unless such sales by such utility during the second preceding calendar year (or any prior year after 1975) exceeded 10 billion cubic feet of gas.

Natural Gas Rate Design and Regulatory Policies

Sec. 543. (a) Each State regulatory authority which has enforcement responsibility shall take such action as may be necessary to assure that--

(1) no State regulated gas utility will make sales of natural gas subject to this subpart under a rate schedule under which the rate per thousand cubic feet for natural gas during any period to any gas consumer (or class thereof) decreases as natural gas consumption by such consumer increases, and

(2) each State regulated gas utility will in making sales of natural gas subject to this subpart comply with rules promulgated by the Administrator under section 545.

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Gas Utility Rate Design Proposals

Sec. 544. (a) The Administrator shall develop proposals to improve gas utility rate design. Such proposals shall be designed to encourage energy conservation, and shall include (but not be limited to) proposals with respect to:

(1) Summer-winter rate differentials.

(2) Rates for interruptible service.

(3) Master metering.

(b) The proposals prepared under subsection (a) shall be published not later than 12 months after the date of enactment of this Act. Such proposals shall be accompanied by an analysis of:

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

(2) changes (if any) in the cost of natural gas to consumers, which are likely to result from the implementation nationally of each of the proposals published under this subsection.

Promulgation of Gas Rate Design and Regulatory Rules

Sec. 545. (a)(1) The Administrator shall, within 18 months after the date of enactment of this Act, propose

rate design and regulatory rules for gas utilities. Such rules shall (subject to subsection (b)) be promulgated not later than 6 months thereafter, and may include only those rate design and regulatory proposals published in a report issued pursuant to section 544. Such rules shall take effect, for purposes of section 548, not earlier than 2 years after their promulgation.

(b) Any rule promulgated pursuant to this section shall set out those rate design and regulatory rules which the Administrator determines are necessary for each gas utility to implement in order to conserve natural gas supplies and may include such requirements, terms and conditions as the Administrator determines appropriate.

Information

Sec. 546. (a) Each gas utility shall gather information under such rules promulgated by the Administrator as the Administrator determines necessary to allow State regulatory authorities (and other persons) to determine the costs associated with providing gas.

(b) The Administrator, by rule, within 180 days after the date of enactment of this Act, shall prescribe the methods, procedure, and format to be employed by each gas utility in gathering the information described

in subsection (a). The Administrator may, by rule, exempt a utility from gathering all or part of such information, if the Administrator finds (and so states in such rule) that gathering such information is not likely to further the purposes of this subpart.

(c) Each gas utility shall, every two years, file with the Administrator and any State regulatory authority which has ratemaking authority for such utility the information gathered pursuant to this section (if such information is not otherwise required to be filed with such authority), and publish or otherwise make such information available to the public in such form and manner as the Administrator shall prescribe.

Nonregulated Utilities

Sec. 547. (a) Each nonregulated utility shall comply with the national policies specified in section 573 in making sales of gas subject to this subpart.

Implementation

Sec. 548. (a)(1) For purposes of this subpart, a State regulatory authority shall (except as otherwise provided in paragraph (2)(A)) be considered to have enforcement responsibility for a period for which it has notified the

Administrator (in such manner as the Administrator shall prescribe by rule) that it will assume responsibility for implementing this subpart with respect to gas utilities with respect to which it has ratemaking authority.

(2) (A) Not later than 2 years after the date of enactment of this Act (and every 2 years thereafter), each State regulatory authority which has enforcement responsibility shall submit to the Administrator a report (containing such information as the Administrator by rule may require), describing the extent to which such authority has implemented the national policies specified in section 543 and the requirements of the rules promulgated pursuant to section 545. If the Administrator determines (after notice and opportunity for presentation of views) that such authority has not implemented such policies and requirements and if he has not granted an extension under paragraph (3), then effective 6 months after such determination, such authority shall be considered as not having enforcement responsibility until such time as he determines (after notice and opportunity for presentation of views) that such authority has implemented such policies and requirements.

(B) Not later than 2 years after the date of enactment of this Act (and every 2 years thereafter), each gas

utility (other than a utility with respect to which a State regulatory authority which has enforcement responsibility has ratemaking authority) shall submit to the Administrator a report (containing such information as the Administrator by rule may require), describing the extent to which such utility has implemented the national policies specified in section 543 and the requirements of the rules promulgated pursuant to section 545. If the Administrator determines (after notice and opportunity for presentation of views) that such utility has not implemented such policies and requirements and if he has not granted an extension under paragraph (3), then effective 6 months after such determination, he shall exercise his authority under subsection (b) with respect to such gas utility until such time as he determines (after notice and opportunity for presentation of views) that such utility has implemented such policies and requirements.

(3) Upon application in the first report submitted under paragraph (1) by a State regulatory authority or a gas utility, the Administrator may allow such authority or utility not more than 3 years after the date of enactment of this Act to implement the policies specified in section 543 and the rules promulgated pursuant to section 545, if he finds that--

(A) it is not practicable to implement such policies and requirements within 2 years, and

(B) such authority or utility will make such reports and comply with such terms and conditions as he may prescribe.

The Administrator may grant one or more additional one year extensions under this paragraph if he makes the findings under subparagraphs (A) and (B) and if he finds that such authority or utility is unable to implement such policies and requirements, despite good faith efforts, solely by reason of a judicial stay of such authority's order implementing such policies or requirements.

(b)(1) During any period during which the Administrator is required by subsection (a)(2)(B) to exercise authority under this subsection with respect to any gas utility, such utility may not increase any rate at which it sells natural gas unless the Administrator determines, after such rate is proposed and before it takes effect, in an evidentiary hearing, that such rates meet the national policies specified in section 543 and the requirements of the rules promulgated pursuant to section 545. Such proceeding shall be initiated by the Administrator not later than 30 days after application

by such utility for a determination under this paragraph. Such application may be made at any time after such utility gives notice of such proposed increase.

(2) The Administrator may prescribe rules which provide that paragraph (1) shall not apply--

(A) to a rate increase pursuant to a fuel adjustment clause,

(B) in the case of a State regulated utility, to an interim rate increase during any period that such increase is in effect subject to a requirement that it be refunded in whole or part, with interest, if the State regulatory authority subsequently determines it is unlawful, or

(C) another class of rate increase identified in such rules,

if the Administrator, under paragraph (1), has determined not earlier than two years prior to the effective date of such rate increase that such utility's rate meet the policies under section 543 and the requirements promulgated pursuant to section 545.

(c) Upon request of the Administrator, the Attorney General shall seek to enjoin, in the appropriate district court of the United States, any gas utility from violating

subsection (b), and in any such action, the court may enjoin such gas utility from such violation, and may issue a mandatory injunction requiring compliance with the policies and rules under sections 543 and 545.

(d) No contract between a Federal agency and a gas utility for sale of natural gas by such Federal agency for purposes of resale may contain any provisions inconsistent with the policies found in section 543 and the rules promulgated pursuant to section 545.

PART F - AMENDMENTS TO THE ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Revision of Coal Conversion Program

Sec. 601. The Energy Supply and Environmental Coordination Act of 1974 is amended by striking out the table of contents and all that follows down through and including section 2, and inserting in lieu thereof the following:

"TABLE OF CONTENTS

"TITLE I - CONVERSION TO COAL AND OTHER FUELS

"TITLE II - OTHER PROVISIONS

"TITLE I - CONVERSION TO COAL AND OTHER FUELS

"Findings and Purposes

"Sec. 101. (a) Findings - The Congress finds that the protection of public welfare and the preservation of national security require --

"(1) the reduction of national reliance on insecure sources of energy consistent with applicable environmental requirements;

"(2) the capability to use indigenous energy resources of the United States in lieu of imported energy supplies by the use of coal and other fuels in lieu of natural gas and petroleum as an energy source for new electric power plants and new fuel-burning installations and for certain existing power plants and existing fuel-burning installations; and

"(3) the conservation of natural gas and petroleum for uses other than boiler fuel or the generation of electricity, and for which there are no feasible alternative fuels or raw material substitutes.

"(b) Purposes - The purposes of this title are --

"(1) to provide for a means to assist in meeting the essential needs of the United States for energy, in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect the environment;

"(2) to foster the greater use of coal and other fuels in lieu of natural gas and petroleum as energy sources for electric power plants and fuel-burning installations;

"(3) to require that any new electric power-plant and any new major fuel-burning installation which proposes to use fossil energy resources as an energy source use coal or other fuel other than natural gas or petroleum except in those circumstances provided for herein;

"(4) to reduce the United States' vulnerability to energy supply interruptions; and

"(5) to regulate interstate commerce and for other purposes.

"Definitions

"Sec. 102. For the purposes of this title --

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

"(2) The term 'person' includes (A) any individual; (B) any corporation, company, partnership, association, firm, society, trust, joint venture, or joint stock company; (C) any State or political subdivision thereof (including the District of Columbia), or any agency or instrumentality of either.

"(3) The term 'natural gas' means natural gas as defined in the Natural Gas Act, including synthetic natural gas derived from petroleum and liquid petroleum gas, but excluding natural gas produced from a well at the site of use by the user, in commercially unmarketable quantities, as determined by the Administrator, and excluding synthetic natural gas which is derived from coal and (A) which has a British thermal unit content below 500 British thermal units per thousand cubic feet, or (B)(i) which is owned by the user when it enters a pipeline for transportation to

the user, and (ii) which has been approved by the Administrator for use by an electric power plant or major fuel-burning installation.

"(4) The term 'petroleum' includes crude oil, residual fuel oil and refined petroleum products other than liquid petroleum gas and synthetic natural gas derived from petroleum; but does not include process waste gases and waste gas and liquid and solid by-products of refinery operations within the United States, which are commercially unmarketable, as determined by the Administrator.

"(5) The term 'coal or other fuel' means coal and any fuel other than natural gas or petroleum.

"(6) The term 'electric power plant' or 'power plant' means a fossil fuel fired electric generating unit, including a gas turbine unit or a combined cycle unit, that produces electric power for the purpose of sale or exchange which --

"(A) is by design capable of consuming fuel at a fuel heat input rate of one hundred million British thermal units per hour or greater, or

"(B) is a combination of more than one fossil fuel fired electric generating unit (excluding any such unit not capable by design of consuming fuel at a fuel heat input rate in excess of a level determined by rule by the Administrator for that type of unit) at the same site which in the aggregate is by design capable of consuming fuel at a fuel heat input rate of two hundred and fifty million British thermal units per hour or greater.

"(7) The term 'major fuel-burning installation' or 'installation' means an installation other than an electric power plant, consisting of a fossil fuel fired boiler or other combustor, a gas turbine unit, combined cycle unit, or internal combustion engine which --

"(A) is by design capable of consuming fuel at a fuel heat input rate of one hundred million British thermal units per hour or greater, or

"(B) is a combination of more than one such installation (excluding installations not capable by design of consuming fuel at a fuel heat input rate in excess of a level determined by rule by

the Administrator for that type of installation) at the same site which in the aggregate is by design capable of consuming fuel at a fuel heat input rate of two hundred and fifty million British thermal units per hour or greater, or

"(C) is designated by the Administrator by rule as included in such term, if he determines that such inclusion is necessary to carry out the purposes of this title.

"(8) The terms 'new electric power plant' and 'new major fuel-burning installation' mean an electric power plant or a major fuel-burning installation --

"(A) with respect to which an order was issued pursuant to section 2(c) of the Energy Supply and Environmental Coordination Act of 1974, as in effect prior to the effective date of this title, or

"(B) which is not beyond the planning process on the effective date of this title.

"(9) The term 'planning process' means that period ending when the electric power plant or major fuel-burning installation can no longer reasonably

be designed and constructed so as to be capable of using coal as its energy source without incurring significant financial or operational detriment, as determined by rule by the Administrator.

"(10) The terms 'existing electric power plant' and 'existing major fuel-burning installation' mean an electric power plant or a major fuel-burning installation which is not a new electric power plant or new major fuel-burning installation as defined in paragraph (8) of this section.

"(11) The term 'energy source' means the fuel or fuels used by an electric power plant or a major fuel-burning installation except for amounts of fuel required for start-up, testing, flame stabilization, and control uses.

"(12) The term 'applicable environmental requirement' includes any Federal, State or local government standard, limitation, or other requirement applicable to emissions of environmental pollutants (including air and water pollutants) or disposal of solid waste residues resulting from the combustion of coal or other fuels or operation of air pollution control equipment,

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and includes any standard, limitation, or other requirement established pursuant to the Clean Air Act, the Federal Water Pollution Control Act, or the Solid Waste Disposal Act.

"(13) The term 'peak load power plant' means a power plant which operates less than one thousand five hundred full-load hours per consecutive twelve-month period.

"(14) The term 'cost' means total costs (both operating and capital) incurred over the estimated useful life of a new electric power plant or new major fuel-burning installation, discounted to present value as determined by the Administrator. Useful life shall not necessarily be determined by depreciable life or other tax-related time periods. In the case of an electric power plant, cost shall take into account any change in the use of existing electric power plants in the relevant dispatching system and other economic factors that are included in planning for the production, transmission, and distribution of electric power within such system.

"(15) The term 'qualifying cogeneration facility' means qualifying cogeneration facility as defined in section 522(b)(2) of the National Energy Act.

"Territorial Application

"Sec. 103. The provisions of this Act shall apply in the contiguous 48 states, Alaska and the District of Columbia.

"New Electric Power Plants

"Sec. 104. (a) Prohibition.--Except as provided in subsection (b) of this section, no new electric power plant may use natural gas or petroleum as an energy source.

"(b) Temporary Exception and Exemption.--

(1) Temporary Exception.--The Administrator, upon application by a person owning, operating, constructing, or proposing to construct or operate a new electric power plant proposing to use petroleum as an energy source, may grant a temporary exception with respect to petroleum from the prohibitions of subsection (a) of this section for a period of up to 5 years, or as determined by the Administrator, if such person demonstrates to the satisfaction of the Administrator that during the proposed period of the temporary exception--

"(A)(i) despite diligent good faith efforts, an adequate and reliable supply of coal or other

fuel is not expected to be available; or (ii) physical or environmental factors which cannot reasonably be expected to be overcome by diligent good faith efforts by the applicant preclude compliance with the prohibitions of subsection (a) of this section because of site specific limitations, such as access to coal or coal transportation facilities; and

"(B) there is no alternative supply of power which can be obtained from another source without impairing reliability of service.

"(2) General Exemption.--The Administrator, upon application by a person owning, operating, constructing, or proposing to construct or operate a new electric power plant proposing to use petroleum as an energy source, may grant an exemption with respect to petroleum from the prohibitions of subsection (a) of this section if such person demonstrates to the satisfaction of the Administrator that there is no site at which--

"(A) despite diligent good faith efforts, an adequate and reliable supply of coal or other fuel is expected to be available for use during a majority of the useful life of the power plant and

can be used at a cost that does not substantially exceed the cost of using imported petroleum; or

"(B) physical or environmental factors which cannot reasonably be expected to be overcome by diligent good faith efforts by the applicant do not preclude compliance with the prohibitions of subsection (a) of this section because of site specific limitations, such as access to coal or coal transportation facilities; or

"(C) the use of coal or other fuel is financially feasible, and

"(D) there is an alternative supply of power which can be obtained from another source without impairing reliability of service.

"(3) Exemption for Peak Load Electric Power Plants.--The Administrator, upon notice by a person owning, operating, constructing, or proposing to construct or operate a new electric power plant proposing to use petroleum as an energy source, shall grant an exemption for such power plant from the prohibition of subsection (a) of this section with respect to petroleum if such person certifies that such

power plant is to be constructed or operated solely as a peak load power plant.

"(4) Temporary Exception or Exemption for Reliability.--The Administrator, upon application by a person owning, operating, constructing, or proposing to construct or operate a new electric power plant proposing to use petroleum as an energy source, may grant a temporary exception or an exemption with respect to petroleum from the prohibitions of subsection (a) of this section if such person demonstrates to the satisfaction of the Administrator that the temporary exception or exemption is necessary to prevent impairment of reliability of service.

"(c) Denial of Application for Temporary Exception or Exemption.--

A denial of an application for temporary exception or exemption from the prohibitions of subsection (a) of this section shall not be deemed to be a major Federal action for purposes of section 102 of the National Environmental Policy Act of 1969 except when such denial relates to a new electric power plant for which no entity other than the Federal Energy Administration is responsible for carrying out the provisions of such section.

"Existing Electric Power Plants

"Sec. 105. (a) Prohibitions--

"(1) Natural Gas Prohibition.--(A) Except as provided in subsections (d) and (e) of this section, effective January 1, 1990, no existing electric power plant may use natural gas as an energy source.

"(B) Except as provided in subsection (d) (2) of this section, no existing electric power plant using petroleum as its energy source as of April 20, 1977, may thereafter use natural gas as an energy source.

"(C) Except as provided in subsection (d) (2) of this section, no existing electric power plant may use natural gas as an energy source in greater proportions than the average yearly proportion of natural gas that it used as an energy source in calendar years 1974 through 1976, or in the case of a power plant beginning operation after January 1, 1974, than the average yearly proportion of natural gas that it used as an energy source during the first two calendar years of its operation.

"(2) Natural Gas and Petroleum Prohibitions.

"(A) Categories.--The Administrator may by rule identify categories of existing power plants, including a category consisting of electric power plants with the capability to use coal or other fuel which were issued orders pursuant to section 2(a) of the Energy Supply and Environmental Coordination Act of 1974, as in effect prior to the effective date of this title, which, except as provided in subsections (d) and (e) of this section, shall be prohibited from using natural gas prior to January 1, 1990, or petroleum, or both, as an energy source. In identifying other categories of existing electric power plants pursuant to this paragraph, the Administrator shall take into account any special circumstances or characteristics of the category of such power plants that will be subject to the prohibition.

"(B) Individual Power Plants.--Subject to the provisions of subparagraph (C) of this paragraph, and of subsections (b), (d) and (e) of this section, the Administrator, may by order, prohibit an existing electric power plant with

the capability to use coal or other fuel as an energy source from using natural gas effective prior to January 1, 1990, or petroleum, or both, as an energy source.

"(C) Criteria.--The Administrator may issue an order pursuant to subparagraph (B) if he determines that --

"(i) the existing electric power plant on June 22, 1974, had or thereafter acquired or is designed with the capability to use coal or other fuel as an energy source;

"(ii) that the use of coal or other fuel by the power plant in lieu of natural gas or petroleum is financially feasible; and

"(iii) that the prohibition under subsection (a)(2)(B) will not impair the reliability of service in the dispatching system of the power plant;

unless the person owning or operating the electric power plant can demonstrate that an adequate and reliable supply of coal or other fuel will not be available at the site of the power plant.

"(3) Natural Gas and Petroleum Prohibition: Mixtures and Combinations of Fuels.--Subject to the provisions of subsections (d) and (e) of this section, the Administrator may, by order, prohibit an existing electric power plant in which it is feasible to use a mixture of coal and petroleum as an energy source, or to use a combination of coal and natural gas or petroleum as an energy source from using natural gas or petroleum in greater amounts than is feasible unless the reliability of service in the dispatching system will thereby be impaired.

"(b) Other Provisions.--

"(1) The Administrator may rescind or modify any order issued pursuant to subsection (a)(2)(B) if he determines that any requirement described in subsection (a)(2)(C) is no longer met, and that such order, as modified, complies with such requirements.

"(2) Before issuing, modifying or rescinding an order issued under subsection (a)(2)(B) the Administrator shall give notice to the public and afford interested persons an opportunity for oral and written presentations of data, views and arguments.

"(3) An order (or modification thereof) issued under subsection (a)(2)(B) shall not be effective (A)

until the Administrator of the Environmental Protection Agency notifies the Administrator under section 119(d)(1)(B) of the Clean Air Act, or (B) if such notification is not given until the date which the Administrator of the Environmental Protection Agency certifies pursuant to section 119(d)(1)(B) of such Act is the earliest date that the power plant will be able to comply with all applicable requirements of section 119. The order (or modification) shall not be effective during any period certified by the Administrator of the Environmental Protection Agency under section 119(d)(3)(B) of such Act. Notice or certification pursuant to this paragraph shall be provided within 270 days of the date the Administrator of the Environmental Protection Agency receives notice of the issuance of an order under subsection (a)(2)(B).

"(c) Permit to Use Petroleum.--(1) The Administrator shall by rule require that no existing electric power plant which, on or after April 20, 1977, uses coal, may increase its use of petroleum as an energy source unless it first obtains a permit to authorize such increased use of petroleum. Such a permit shall be issued only if the appropriate State certifies to the Administrator that the increased use

of petroleum by the power plant is necessary to permit the power plant to comply with the applicable implementation plan, as defined in section 110(d) of the Clean Air Act, and if such person demonstrates why it cannot comply with the applicable implementation plan without the issuance of a permit and establishes the duration of its need for increased petroleum to comply with such plan.

"(2) The Administrator shall by rule provide that an existing electric power plant which, on April 20, 1977, used natural gas as an energy source, or pursuant to subsection (d) or (e) of this section, may not use petroleum unless it first obtains a permit to authorize such use of petroleum. Such a permit shall be issued only if the person owning or operating the electric power plant demonstrates why it cannot use coal or other fuel instead of petroleum, and in the case of a power plant the rates of which are regulated by a State agency, documents that its proposed use of petroleum is approved by such State agency.

"(d) Temporary Exceptions.--

"(1) Synthetic Fuels Exception.--(A) The Administrator, upon application by a person

owning or operating an existing electric power plant subject to the prohibitions of subsection (a) of this section, proposing to use natural gas as an energy source, may grant a temporary exception from such prohibition if he determines that the person has demonstrated that --

"(i) the power plant will comply with the prohibition within five years of its effective date by the use of synthetic fuels derived from coal or by innovative techniques for using coal or other fuel; and

"(ii) that the intention so to comply with the prohibition and the anticipated compliance date are evidenced by the existence of binding contracts for fuels or facilities that would enable the applicant to comply with the prohibition.

"(B) A temporary exception under this subsection may be granted for a period of up to five years beyond the effective date

of the prohibition, but not beyond the anticipated compliance date.

"(2) The Administrator, upon application by a person owning or operating an existing electric power plant subject to the prohibition of subsection (a)(1)(B) or (C) of this section proposing to use natural gas or to increase its use of natural gas as an energy source, grant a temporary exception from such prohibition if the appropriate state certifies to the Administrator that such use of natural gas is necessary to permit the power plant to comply with the applicable implementation plan, as defined in section 110(d) of the Clean Air Act, and if such person demonstrates why the power plant cannot comply with the applicable implementation plan without the temporary exception and establishes the duration of its need for such natural gas to comply with such plan.

"(3) The Administrator, upon application by a person owning or operating an existing electric power plant proposing to use petroleum as an energy source, may grant a temporary exception of up to 5 years from

the effective date of the prohibition or as determined by the Administrator, from the prohibitions of subsection (a)(2) with respect to petroleum if such person demonstrates to the satisfaction of the Administrator that --

"(A) despite diligent good faith efforts an adequate and reliable supply of coal or other fuel is not expected to be available; or

"(B) physical or environmental factors which cannot reasonably be expected to be overcome by diligent good faith efforts by the applicant preclude compliance with the prohibitions of subsection (a)(2) because of site specific limitations, such as access to coal or coal transportation facilities.

"(e) Exemptions.-(1) General Exemption.-- The Administrator, upon application by a person owning or operating an existing electric power plant subject to a prohibition of subsection (a) proposing to use natural gas or petroleum as an energy source, may grant an exemption from such prohibition if such

person demonstrates to the satisfaction of the Administrator that--

"(A) physical or environmental factors which cannot reasonably be expected to be overcome by diligent good faith efforts by the applicant preclude compliance with a prohibition of subsection (a) because of site specific limitations such as access to coal or coal transportation facilities; or

"(B) the cost of using coal or other fuel substantially exceeds the cost of using imported petroleum; and

"(C) there is no alternative supply of power which can be obtained without impairing reliability of service.

"(2) Exemption for Resale Purchasers.--The Administrator, upon application by a person owning or operating an existing electric power plant subject to the prohibition of subsection (a)(1), proposing to use natural gas as an energy source, may grant an exemption for such power plant from the prohibition if

such person demonstrates to the satisfaction of the Administrator that --

"(A) the power plant is operated solely as a peak load power plant; and

"(B) the electricity generated by the power plant is a substantial portion of the total generating capacity of the applicant; and

"(C)(i) a denial of the application for exemption is likely to result in an impairment of reliability or adequacy of service; or

"(ii) modification of the power plant to permit compliance with the prohibition is technically infeasible; or

"(iii) such modification would result in an unreasonable cost to the applicant's customers.

"New Major Fuel-Burning Installations

"Sec. 106. (a) Prohibitions.--

"(1) Boilers.--Except as provided in subsection (b), no new major fuel-burning installation boiler may use natural gas or petroleum as an energy source.

"(2) Non-Boilers - Categories.--The Administrator may by rule identify categories of new major fuel-burning installations other than boilers which, except as provided in subsection (b), shall be prohibited from using natural gas or petroleum, or both, as an energy source. In identifying categories of new major fuel-burning installations pursuant to this paragraph, the Administrator shall take into account any special circumstances or characteristics of the category of such installations that will be subject to the prohibition.

"(3) Non-Boilers - Individual Installations.--Subject to the provisions of subsection (b) of this section, the Administrator may, by order, prohibit a new major fuel-burning installation other than a boiler and not subject to paragraph (2) of this subsection, from using natural gas or petroleum, or both, as an energy source.

"(b) Temporary Exception and Exemption.--

"(1) Temporary Exception.--The Administrator, upon application by a person owning, operating, constructing, or proposing to construct or operate a new major fuel-burning installation proposing to use petroleum as an energy source, may grant a temporary exception with respect to petroleum from the prohibitions of subsection

(a) of this section for a period of up to 5 years, or as determined by the Administrator, if such person demonstrates to the satisfaction of the Administrator that during the proposed period of the temporary exemption--

"(A) despite diligent good faith efforts, an adequate and reliable supply of coal or other fuel is not expected to be available, or

"(B) physical or environmental factors which cannot reasonably be expected to be overcome by diligent good faith efforts by the applicant preclude compliance with the prohibitions of subsection (a) of this section because of site specific limitations such as access to coal or coal transportation facilities.

"(2) Exemption.--The Administrator, upon application by a person owning, operating, constructing, or proposing to construct or operate a new major fuel-burning installation subject to the prohibition of subsection (a)(1) or in a category identified by rule to be subject to the prohibition of subsection (a)(2), proposing to use natural gas or petroleum as an energy source, may grant an exemption from the prohibition if such person demonstrates to the satisfaction of the Administrator that--

"(1)(A) despite diligent good faith efforts an adequate and reliable supply of coal or other fuel is

not expected to be available for use during a majority of the useful life of the installation and cannot be used except at a cost that substantially exceeds the cost of using imported petroleum; or

"(B) physical and environmental factors which cannot reasonably be expected to be overcome by diligent good faith efforts by the applicant preclude compliance with the prohibition because of site specific limitations, such as access to coal or coal transportation facilities; or

"(2)(A) the use of an energy source other than natural gas or petroleum is technically infeasible in direct firing use due to contamination of product or inability to maintain satisfactory combustion control; and

"(B) substitution of steam for direct heat is not possible due to process requirements.

"(C) Denial of Application for Temporary Exception or Exemption.--A denial of an application for temporary exception or exemption from the prohibitions of subsection (a)(1) or (2) shall not be deemed to be a major Federal action for purposes of section 102 of the National Environmental Policy Act of 1969 except when such denial

relates to a new major fuel-burning installation for which no entity other than the Federal Energy Administration is responsible for carrying out the provisions of such section.

"Existing Major Fuel-Burning Installations

"Sec. 107. (a) Prohibitions.--

"(1) Natural Gas and Petroleum Prohibitions - Categories.--The Administrator may by rule identify categories of existing major fuel-burning installations with the capability to use coal or other fuel as an energy source including a category consisting of existing major fuel-burning installation which were issued pursuant to section 2(a) of the Energy Supply and Environmental Coordination Act of 1974 as in effect prior to the effective date of this title, which shall be prohibited from using natural gas or petroleum, or both, as their energy source. In identifying categories of existing major fuel-burning installations pursuant to this paragraph, the Administrator shall take into account any special circumstances or characteristics of the category of such installations that will be subject to the prohibition.

"(2) Natural Gas and Petroleum Prohibition - Individual Installations.--

"(A) Subject to the provisions of subparagraph (B) of this paragraph and of subsection (b) of this

section, the Administrator may, by order, prohibit an existing major fuel-burning installation not subject to paragraph (1) of this subsection with the capability to use coal or other fuel as an energy source from using natural gas or petroleum, or both, as an energy source.

"(B) The Administrator may issue an order pursuant to this paragraph if he determines that --

"(i) the existing installation on June 22, 1974, had or thereafter acquired or is designed with the capability to use coal or other fuel as an energy source; and

"(ii) that the use of coal or other fuel by the installation in lieu of natural gas or petroleum products is financially feasible;

unless the person owning or operating the installation demonstrates that an adequate and reliable supply of coal will not be available.

"(3) Natural Gas and Petroleum Prohibition - Mixtures and Combinations of Fuels.-- Subject to the provisions of subsection (b) of this section, the Administrator may, by order, prohibit an existing major fuel-burning installation in which it is feasible to use a

mixture of coal and petroleum as an energy source or to use a combination of coal and petroleum or natural gas as an energy source from using natural gas or petroleum in greater amounts than is feasible unless the reliability of service in the dispatching system will thereby be impaired.

"(4) Natural Gas Prohibition - Categories.-- The Administrator may by rule identify categories of existing major fuel-burning installations with no capability to use coal which shall be prohibited from using natural gas as an energy source. In identifying categories of existing major fuel-burning installations pursuant to this paragraph, the Administrator shall take into account any special circumstances or characteristics of the category of such installations that will be subject to the prohibition.

"(5) Natural Gas Prohibition - Individual Installations.--

"(A) Subject to the provisions of subparagraph (B) of this paragraph and of subsection (b) of this section, the Administrator may, by order, prohibit an existing major fuel-burning installation not subject to paragraph (4) of this subsection with no capability to use coal from using natural gas as an energy source.

"(B) The Administrator may issue an order pursuant to this paragraph if he determines that the use of petroleum in lieu of natural gas is financially feasible.

"(b) Other Provisions.--

"(1) The Administrator may rescind or modify any order issued pursuant to subsection (a)(2) or (5) if he determines that any requirement described in subsections (a)(2)(B) or (a)(5)(B), respectively, is no longer met, and that the order as modified complies with such requirement.

"(2) Before issuing, modifying or rescinding an order under subsection (a)(2) or (5) the Administrator shall give notice to the public and afford interested persons an opportunity for oral and written presentations of data, views and arguments.

"(3) An order (or modification or rescision thereof) under subsection (a)(2) or (5) shall not be effective--(A) until the Administrator of the Environmental Protection Agency notifies the Administrator under section 119(d)(1)(B) of the Clean Air Act, or (B) if such notification is not given until the date which the Administrator of the Environmental Protection Agency certifies pursuant to

section 119(d)(1)(B) of such Act is the earliest date that the installation will be able to comply with all applicable requirements of section 119. The order (or modification) shall not be effective during any period certified by the Administrator of the Environmental Protection Agency under section 119(d)(3)(B) of such Act. Notice or certification pursuant to this paragraph shall be provided within 270 days of the date the Administrator of the Environmental Protection Agency receives notice of the issuance of an order subsection (a)(2)(B).

"(c) Temporary Exemption.--The Administrator, upon application by a person owning or operating an existing major fuel-burning installation in a category identified by rule to be subject to the prohibition of subsection (a)(1), proposing to use natural gas or petroleum as an energy source, or to the prohibition of subsection (a)(4), proposing to use natural gas as an energy source, may grant a temporary exemption from such prohibitions for a period of up to 5 years from the effective date of the prohibition, or as determined by the Administrator, if such person demonstrates to the satisfaction of the Administrator that --

"(1) despite diligent good faith efforts an adequate and reliable supply of coal or other fuel is not expected to be available, or

"(2) physical or environmental factors which cannot reasonably be expected to be overcome by diligent good faith efforts by the applicant preclude compliance with the prohibitions of subsection (a)(1) or (a)(4) because of site specific limitations, such as access to coal or coal transportation facilities.

"(d) Exemption.--The Administrator, upon application by a person owning or operating an existing major fuel-burning installation in a category identified by rule to be subject to the prohibition of subsection (a)(1), proposing to use natural gas or petroleum as an energy source, or to the prohibition of subsection (a)(4) proposing to use natural gas as an energy source, may grant an exemption from the prohibition if such person demonstrates to the satisfaction of the Administrator that --

"(1) physical or environmental factors which cannot reasonably be expected to be overcome by diligent good faith efforts by the applicant preclude compliance with the prohibition because of site specific limitations, such as access to coal or coal transportation facilities; or

"(2) with respect to the prohibition under subsection (a)(1), the cost of using coal or other fuel substantially exceeds the cost of using imported petroleum; or

"(3)(A) the use of an energy source other than natural gas or petroleum is technically infeasible in direct firing use due to contamination of product or inability to maintain satisfactory combustion control; and

"(B) substitution of steam for direct heat is not possible due to process requirements.

"(e) The Adminisrator may, with respect to existing major fuel-burning installations subject to a prohibition of subsection (a) of this section, prescribe rules limiting or prohibiting the use by such installations of electrical resistance heating in order to comply with such prohibition.

"General Temporary Exception or Exemption Authority

"Sec. 108. The Administrator, upon application by a person owning, operating, constructing, or proposing to construct or operate an electric power plant or a major fuel-burning installation requesting a temporary exception or exemption from any prohibition of this Act, may grant a temporary exception or exemption from the prohibition if he finds that the applicant has demonstrated that compliance with the prohibition is not consistent with the purposes of this Act.

"Temporary Exception or Exemption of Qualifying Cogeneration Facilities

"Sec. 109. The Administrator, upon application by a person owning, operating, constructing, or proposing to construct or operate a qualifying cogeneration facility requesting an exemption or temporary exception from any prohibition of this title, may grant an exemption or temporary exception from the prohibition if he finds that the applicant has demonstrated that economic and other benefits of cogeneration are unobtainable unless petroleum or natural gas may be used in such facility.

"Disruption of Natural Gas Contracts

"Sec. 110. (a) Whenever the provisions of section 105 or 107 of this title, or an order issued pursuant thereto, prohibit the use by an existing electric power plant or existing major fuel-burning installation of natural gas to which, but for the operation of such section or order, the power plant or installation would be entitled by contract in effect on April 20, 1977, such power plant or installation may sell, exchange or otherwise transfer its rights under such contract, notwithstanding the provisions of the Public Utility Holding Company Act or any law of any state, or a force majeure clause or other clause of such contract. The

price charged in such sale, exchange, or other transfer shall not exceed the maximum lawful price for such natural gas pursuant to the Natural Gas Act of 1977, plus an amount to be paid under subsection (b) of this section.

"(b) A power plant or installation which sells, exchanges or otherwise transfers its rights to natural gas under a contract referred to in subsection (a), which contract provides that a pipeline or distribution company, but for the provisions of section 105 or 107 of this title, or an order issued pursuant thereto, would have transported such natural gas, such power plant or installation shall be liable to such pipeline or distribution company in accordance with any term in such contract providing a measure of damages to such pipeline or distribution company in the event of termination of the contract prior to performance, or in the absence of such provision, for reasonable losses incurred as a result of the termination.

"Coal Allocation

"Sec. 111. (a) In the event the President declares a severe energy supply interruption, as defined in section 3(8) of the Energy Policy and Conservation Act, or

determines that a situation similar to such supply interruption exists on a regional basis, the Administrator may, by rule or order, allocate coal to any person to the extent necessary.

"(b) Whenever a person owning, operating, constructing or proposing to construct or operate an electric power plant or major fuel-burning installation demonstrates in connection with an application for an exemption from any prohibition of this title that despite diligent good faith efforts an adequate and reliable supply of coal is not expected to be available, the Administrator may, by rule or order, allocate coal to such person in lieu of granting the requested exemption.

"Enforcement and Penalties

"Sec. 112. (a)(1) Any person who violates any provision of this title, or rule or order issued thereunder, shall be subject to a civil penalty of not more than $25,000 for each violation. Each day of violation shall constitute a separate violation.

"(2) Any person who willfully violates any provision of this title, or rule or order issued thereunder, shall

be subject to a fine of not more than $50,000 or by imprisonment for not more than one year, or both, for each violation. Each day of violation constitutes a separate violation.

"(3) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation described in paragraphs (1) and (2) of this subsection, shall be subject to penalties under this subsection without regard to any penalties to which the corporation may be subject under paragraphs (1) and (2) except that no such individual director, officer, or agent shall be subject to imprisonment under paragraphs (1) and (2), unless he also knows, or reasonably should have known, of noncompliance by the corporation.

"(4) Whenever it appears to the Administrator that any person has engaged, is engaged, or is about to engage in acts or practices constituting a violation of the provisions of this Act or any rule or order issued thereunder, the Administrator may request the Attorney General to bring a civil action to enjoin such acts or practices, and upon a proper showing, a temporary restraining order or a preliminary or permanent injunction shall be granted without

bond. In such action, the court may also issue mandatory injunctions commanding any person to comply with any provision of this Act or any rule or order issued thereunder.

"(b) Any person owning or operating an electric power plant granted an exemption under section 104(b)(4) or 105(e) as a peak load electric power plant which, for any consecutive twelve-month period operates in excess of one thousand five hundred hours, shall be liable for a civil penalty of up to $10 per barrel of oil or $3 per thousand cubic feet of natural gas used in excess of one thousand five hundred hours, except where such person can demonstrate that operation in excess of one thousand five hundred hours was necessary to meet peak load demand and that other peak load electric power plants within the system were unavailable for service due to unit or system outages.

"Emergency Powers

"Sec. 113. (a)(1) In the event the President declares a severe energy supply interruption, as defined in section 3(8) of the Energy Policy and Conservation Act, the Administrator may, by order, prohibit an electric power plant or major fuel-burning installation using natural gas or petroleum as an energy source from so using natural gas or petroleum for the duration of such interruption,

notwithstanding applicable implementation plans as defined in section 110(b) of the Clean Air Act or other state or local government standard, limitation, or other requirement, so long as such prohibitions are not likely to result in a violation of primary air quality standards.

"(2) In the event the President determines that such supply interruption is likely to be of sufficiently grave scope and duration that, in his judgment, it is necessary to issue orders under paragraph (1) of this subsection which are likely to result in a violation of primary air quality standards, the President may issue such orders but may not delegate the authority to do so.

"(b) The Administrator may stay or otherwise exempt for such period as the Administrator deems appropriate, the application of any provisions of this title --

"(1) in the event of national, regional, or system-wide shortages of coal or other fuel supplies or of coal transportation facilities or other necessary facilities which may affect reliability of service of electric power plants subject to such provisions; or

"(2) otherwise as necessary to alleviate or prevent any emergencies directly affecting the public health, safety, or welfare, which would result from electrical power outages.

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"(c) The Administrator may stay the application of any provisions of this title for such periods as necessary to implement enforceable air pollution requirements.

"Rules and Regulations

"Sec. 114. The Administrator shall promulgate such rules, regulations, and procedures as may be necessary to carry out the functions and powers vested in the Administrator by this title."

Conforming Amendments

Sec. 602.(a) The Energy Supply and Environmental Coordination Act of 1974 is amended -

(1) by redesignating sections 3 through 14 (and all references thereto) as sections 201 through 212, respectively, and

(2) by inserting before section 201 (as so redesignated) the following:

"Title II - Other Provisions"

(b) The Energy Supply and Environmental Coordination Act of 1974 is amended -

(1) by deleting paragraph (2) of subsection (g) of section 210 (as redesignated), and

(2) redesignating paragraph (1) of subsection (g) as subsection (g).

(c) The Energy Supply and Environmental Coordination Act of 1974 is amended in section 212 (as redesignated) by striking wherever it appears the word "Act" following the phrase "for purposes of this" and inserting in lieu thereof the word "title".

Effective Dates

Sec. 603. The amendments to the Energy Supply and Environmental Coordination Act of 1974 made by this part shall take effect 180 days after enactment, except that the Administrator is authorized to issue rules pursuant to Title I of the Energy Supply and Environmental Coordination Act of 1974 at any time after enactment of this part, which rules may take effect no earlier than 180 days after enactment of this part.

PART G - FEDERAL ENERGY INITIATIVES

Subpart 1 - Federal Van Pooling Program

Sec. 701. Section 381 of the Energy Policy and Conservation Act is hereby amended by--

(1) inserting "and subsection (c)" before the colon in subsection (b) (2);

(2) redesignating subsection (c) as subsection (d); and

(3) inserting after subsection (b) the following new subsection:

"(c)(1) The Administrator may, by rule, after consultation with the Administrator of the General Services Administration, provide for the establishment of a program or programs pursuant to which van pooling arrangements are offered and provided to officers and employees of the Federal government. Any such program may be phased over a period of years, and may be limited by the Administrator to one or more reasonable categories of officers and employees determined by the Administrator, including, without limitation, categories determined by such factors as location of residence, location of place of business or regular hours of work. The number of vans in use in van pooling arrangements authorized under this subsection shall at no time exceed 6,000.

"(2) In order to establish, maintain, and operate any program authorized to be established by the Administrator under paragraph (1) of this subsection, the Administrator of the General Services Administration, in consultation with the Administrator, shall be authorized to--

"(A) acquire vans by purchase, lease or other arrangement;

"(B) establish and operate training programs for operators of vans;

"(C) establish and maintain, or require Departments and agencies to establish and maintain, lists of officers and employees participating, or desiring to participate, in van pooling arrangements;

"(D) permit any person authorized to operate a van pursuant to a van pooling arrangement to--

"(i) operate the van for personal use (other than for use on vacation trips and trips over extended distance, as defined by the Administrator of the General Services Administration), with or without a charge for such personal use as determined by the Administrator of the General Services Administration, and subject to the provisions of paragraph (3)(C)(iv) of this subsection; and

"(ii) retain a portion of the rider charges paid by officers and employees participating in such van pooling arrangements if the Administrator of the General Services Administration determines that such retention will promote full use of van capacity; and

"(E) exercise such other powers now or hereafter vested in him as he determines to be necessary or appropriate.

"(3) Any program established pursuant to paragraph (1) of this subsection shall include--

"(A) a requirement that officers and employees participating in van pooling arrangements authorized under such program pay a rider charge, including an actuarially determined sum for government self-insurance against liability which may be imposed on the Federal government due to van pooling use, in such amount and at such intervals as the Administrator of the General Services Administration may determine, except that the Administrator of the General Services Administration may provide that a person authorized to operate a van pursuant to a van pooling arrangement may not be required to pay a rider charge;

"(B) a requirement designed to assure that van pooling arrangements authorized under such program will insure that, not later than 8 years from commencement of the program, all costs and expenses, including estimated administrative expenses, incurred by the Federal government in connection with the establishment, maintenance, and operation of such a program, will be repaid from rider charges paid by participating officers and employees; and

"(C) requirements to insure that each person operating a van pursuant to a van pooling arrangement authorized thereunder--

"(i) shall be a regular, full-time government officer or employee;

"(ii) shall maintain the van in good and safe working order;

"(iii) shall be by law entitled to operate the van in his place of residence, except that nothing in this subparagraph shall be deemed to require that such person be licensed to operate the van for hire; and

"(iv) shall, in the event that such person is authorized to operate and operates the van

for personal use, secure and maintain at such person's expense insurance against such risks as the Administrator of the General Services Administration deems necessary to assure payment of any claim that may arise other than in van pooling use.

"(4) For the purposes of section 5 of the Act of July 16, 1914, Chapter 141, 38 Stat. 508, as amended, (31 U.S.C. 638a), and Section 601 of Pub.L. 94-91, 89 Stat. 458 (31 U.S.C. 638c), a van obtained for the purpose of, and operated pursuant to, a van pooling arrangement established pursuant to this subsection shall not be deemed to be a passenger motor vehicle.

"(5) Neither the offering of a van pooling arrangement pursuant to this subsection nor the operation of a van pursuant to such an arrangement shall subject any person to regulation as a motor carrier under Part II of the Interstate Commerce Act (49 U.S.C. 303 et seq.), or to any similar regulation under the laws of the District of Columbia or any State or political subdivision thereof.

"(6) Sections 1346(b) and 2679 of Title 28, United States Code, shall apply to suits arising from van pooling use.

"(7) The operation of a van pursuant to a van pooling arrangement established pursuant to this subsection shall not be deemed to be operation of a motor vehicle for hire for purposes of any law of the District of Columbia or any State or political subdivision thereof relating to the licensing of operators of motor vehicles for hire.

"(8) Time spent traveling in van pooling arrangements shall not be considered Federal employment for the purpose of any law administered by the Civil Service Commission or by the Department of Labor pursuant to Chapter 81 of title 5, United States Code, and rider charges paid the operator of a van pool shall be deemed fees paid to and received by individuals in their private capacity.

"(9) The Administrator of the General Services Administration, with the approval of the Administrator, is hereby authorized to delegate to the heads of Federal Departments and agencies whose officers and employees are authorized to participate in van pooling arrangements established pursuant to this subsection such of his functions, powers and duties as he deems necessary or appropriate to establish, maintain, or operate van pooling programs authorized by this subsection.

"(10) For purposes of this subsection, the term 'van pooling use' means operation or maintenance of a van by

an officer or employee of the United States in the course of or incidental to a van pooling arrangement authorized under this subsection, excluding any personal use permitted under paragraph (2)(D)(i).

"(11) All rider charges and other receipts from the operation of vanpooling arrangements established pursuant to this subsection received by the Administrator of the General Services Administration or by the head of any Department or agency exercising authority delegated pursuant to paragraph (9) of this subsection shall be deposited in the general fund of the Treasury of the United States.

"(12) There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out all provisions of this subsection. The Administrator shall be authorized, with the approval of the Director of the Office of Management and Budget, to transfer to the Administrator of the General Services Administration such amounts from the sums so appropriated as may be necessary to carry out the functions, duties and responsibilities assigned to the Administrator of the General Services Administration by this subsection."

Subpart 2 - Amendment to Section 381 of EPCA

Sec. 721. Section 381 of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new subsections:

"(e) The plan developed by the President pursuant to subsection (a)(2) shall be applicable to Executive agencies as defined in section 105 of title 5, United States Code and to the United States Postal Service.

"(f) In addition to funds authorized in any other law, there are authorized to be appropriated to each executive agency, as defined in section 105 of title 5, United States Code, and to the United States Postal Service, for each fiscal year of the eight fiscal year period ending September 30, 1985, such sums as may be necessary to carry out the purposes of subsection (a)(2)."

Subpart 3 - Demonstration of Solar Heating and Cooling in Federal Buildings

Definitions

Sec. 741. As used in this subpart --

(1) The term "agency" means

(A) an Executive agency as defined in section 105 of title 5, United States Code; and

(B) each entity enumerated in paragraphs (B) through (H) of subsection (1) of section 5721 of title 5, United States Code.

(2) The term "building" means any structure (other than a residential dwelling) owned by the United States or any agency, including any such structure occupied by an agency under a lease-acquisition agreement under which the United States or an agency will receive fee simple title under the terms of such agreement without further negotiation.

(3) The term "solar heating" means with respect to any building, the use of solar energy to meet all or part of the heating needs of such building (including hot water), or all or part of the needs of such building for hot water (where its remaining heating needs are met by other methods).

(4) The term "solar heating and cooling" means with respect to any building, the use of solar energy to provide all or part of the heating needs of such building (including hot water) and all or part of the cooling needs of such building, or all or part of the needs of such building for hot water (where its remaining heating needs are met by other methods) and all or part of the cooling needs of such building.

(5) The term "solar energy equipment" means equipment for solar heating and solar heating and cooling.

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

Federal Solar Program

Sec. 742. The Administrator shall develop and carry out a program to demonstrate the application to buildings of solar heating and solar heating and cooling technology in Federal buildings.

Duties of Administrator

Sec. 743. (a) In exercising the authority provided by section 742, the Administrator shall --

(1) solicit and consider proposals by any agency to apply solar heating and solar heating and cooling technology to any existing or proposed building;

(2) promulgate, by rule, criteria by which such proposals will be evaluated, which criteria shall provide for the inclusion in each proposal of a complete analysis of the present value of the costs and benefits of the proposal to the agency, and for the demonstration, to the maximum extent practicable of innovative and diverse applications to a variety of type of buildings of solar heating and solar heating and cooling technology, and for location of demonstration projects in areas where a private sector market for solar energy equipment is likely to develop;

(3) evaluate each such proposal pursuant to the criteria promulgated pursuant to subsection (a)(2);

(4) provide assistance by interagency agreement for the cost of implementing a proposal (which costs shall be limited to design, acquisition, construction, and installation of solar energy equipment); and

(5) provide, by rule, that agencies report to the Administrator periodically such information as they acquire respecting maintenance and operation of solar equipment.

(b) In carrying out the responsibilities, pursuant to paragraphs (2) and (3) of subsection (a), the Administrator shall provide an opportunity for consultation to the Administrator of the General Services Administration

and the Administrator of the Energy Research and Development Administration.

Transfer of Appropriations

Sec. 744. In carrying out a proposal for which the Administrator has provided assistance, any agency may use funds transferred to it by the Administrator to enter into such contracts as may be necessary to complete the project described in that proposal.

Submission of Proposals

Sec. 745. (a) Each agency responsible for the construction of new buildings or operation of existing buildings shall, within 180 days after publication of criteria under section 743(a)(2), submit initial proposals to the Administrator for installation of solar energy systems on selected buildings under its control.

(b) Such initial proposal shall include a list of the specific buildings proposed to be provided with solar energy systems, the funds required for the system, the proposed implementation schedule, the estimated savings in fossil fuels and electricity, the estimated payback time, and such other information as may be required by the Administrator.

(c) Thereafter, each agency may submit proposals to the Administrator for additional solar energy systems for buildings under their control on a schedule established by the Administrator but not greater than two-year intervals.

Authorization

Sec. 746. There are authorized to be appropriated to the Administrator through fiscal year 1980 to carry out the purposes of this subpart not to exceed $100,000,000.

TITLE II - TAX PROVISIONS

SEC. 1001. AMENDMENT OF 1954 CODE.--Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 1002. NONAPPLICATION TO GOVERNMENTS OF AMERICAN SAMOA, GUAM, AND THE VIRGIN ISLANDS.--The provisions of this title shall not apply to American Samoa, Guam, and the Virgin Islands.

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PART A - RESIDENTIAL ENERGY TAX CREDIT

SEC. 1101. RESIDENTIAL ENERGY CREDIT

(a) General Rule.--Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"Sec. 44B. RESIDENTIAL ENERGY CREDIT.

"(a) General Rule.--In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of--

"(1) in the case of qualified energy conservation expenditures paid or incurred by the taxpayer during the taxable year with respect to the taxpayer's principal residence, the lesser of $410, or--

"(A) 25 percent of so much of such expenditures as does not exceed $800; plus

"(B) 15 percent of the amount of such expenditures as exceeds $800; and

"(2) in the case of qualified solar expenditures made by the taxpayer with respect to the taxpayer's principal residence--

"(A) during the taxable years ending in 1977, 1978, or 1979, the lesser of $2,000 or--

"(i) 40 percent of so much of such expenditures as does not exceed $1,000, plus,

"(ii) 25 percent of so much of such expenditures as exceeds $1,000;

"(B) during the taxable years ending in 1980 or 1981, the lesser of $1,580 or--

"(i) 30 percent of so much of such expenditures as does not exceed $1,000, plus

"(ii) 20 percent of so much of such expenditures as exceeds $1,000; and

"(C) during the taxable years ending in 1982, 1983, and 1984, the lesser of $1,210 or--

"(i) 25 percent of so much of such expenditures as does not exceed $1,000, plus

"(ii) 15 percent of so much of such expenditures as exceed $1,000.

"(b) Limitations.--

(1) Applications with Other Credits.--The credit allowed by subsection (a) shall not exceed the amount

of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under--

"(A) section 42 (relating to general tax credit),

"(B) section 44A (relating to household and dependent care services),

"(C) section 37 (relating to retirement income),

"(D) section 44 (relating to purchase of new principal residence),

"(E) section 33 (relating to foreign tax credit),

"(F) section 38 (relating to investment in certain depreciable property),

"(G) section 40 (relating to expenses of work incentive programs), and

"(H) section 41 (relating to contributions to candidates for public office).

"(2) Prior Expenditures Taken into Account.-

"(A) If the taxpayer made qualified energy conservation expenditures in any prior

taxable year with respect to the same principal residence which were taken into account in determining the amount of a credit under this section for such prior taxable year, then subsection (a)(1)(A) shall be applied for the taxable year by reducing the dollar amounts of expenditures specified in such subsection by the amount of expenditures for which credit was allowed in such prior taxable years. In no case shall the total amount of the credit allowed against the tax of any individual under subsection (a)(1) with respect to the same principal residence during the taxable years ending in 1977 through 1984 exceed $410.

"(B) If the taxpayer made qualified solar energy expenditures in a prior taxable year with respect to the same principal residence which were taken into account in determining the amount of a credit under this section for such prior taxable year, then--

(1) for taxable years ending in 1977, 1978 and 1979 subsection (a)(2)(A)(i), and

(2) for taxable years ending in 1980 and 1981 subsection (a)(2)(B)(i), and

(3) for taxable years ending in 1982, 1983, and 1984 subsection (a)(2)(C)(i),

shall be applied in those taxable years by reducing the dollar amounts of expenditures specified in such subsections by the total amount of expenditures for which credit was allowed in prior taxable years. In no case shall the total amount of the credit allowed against the tax of any individual under subsection (a)(2) with respect to the same principal residence during the taxable years 1977 through 1979 exceed $2000. In no case shall the total amount of the credit allowed against the tax of any individual under subsection (a)(2) with respect to the same principal residence during the taxable years 1977 through 1981 exceed $1580, unless such credits were allowed only in the taxable years 1977 through 1979, in which case the total amount allowed shall be $2000. In no case shall the total amount of the credit allowed against the tax of any individual under subsection (a)(2) with respect to the same principal

residence during the taxable years 1977 through 1984 exceed $1210, unless such credits were allowed only in the taxable years 1977 through 1981, in which case the rule in the preceding sentence applies.

"(c) Definitions and Special Rules.--For purposes of this section--

"(1) Qualified Energy Conservation Expenditures.--The term 'qualified energy conservation expenditures' means any amount paid or incurred by an individual for insulation and other energy-conserving components (including amounts for the original installation of such insulation) installed after April 20, 1977, and before January 1, 1985, in a dwelling unit located in the United States which is--

"(A) used by the taxpayer as his principal residence (within the meaning of section 1034), and

"(B) in existence on April 20, 1977.

"(2) Qualified Solar Energy Expenditures.--The term 'qualified solar energy expenditures' means any amount expended by an individual for the purchase and installation of solar energy property which occurs

after April 20, 1977, and before January 1, 1985, in any dwelling unit located in the United States which is--

"(A) used by the individual at the time of such installation as his principal residence (within the meaning of section 1034), or

"(B) part of the purchase price of a newly constructed dwelling unit purchased by an individual for use as his principal residence, but only to the extent that such expenditures are specifically for (i) materials and equipment and (ii) the labor costs associated with on-site assembly or construction of the energy storage medium (excluding swimming pools used as a storage medium), on-site glazing of solar collector units, and on-site assembly of solar collectors, if not shipped pre-assembled for the solar energy property, as determined in accordance with rules prescribed by the Secretary.

"(3) Insulation.--The term 'insulation' means any insulation identified by the Secretary by rule--

"(A) which is specifically and primarily designed to reduce, when installed in or on a

building (including installations on floors, walls, ceilings and water heaters), the heat loss or gain of such building,

"(B) the original use of which commences with the taxpayer, and

"(C) which has a useful life of at least 3 years.

"(4) Other Energy-Conserving Component.--The term 'other energy-conserving component' means--

"(A) a replacement burner for a furnace, which burner is designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(B) a device for modifying flue openings which will increase the efficiency of operation of the heating system,

"(C) an electrical or mechanical furnace ignition system which replaces a standing gas pilot light,

"(D) a storm or thermal window,

"(E) a clock thermostat, and

"(F) caulking and weatherstripping of exterior doors and windows, but only if installed in conjunction with insulation or at least one other energy-conserving component,

which has a useful life of at least 3 years, and the original use of which commences with the taxpayer.

"(5) Solar Energy Property.--The term 'solar energy property' means equipment or mechanical or electrical systems which--

"(A) are of a type identified in regulations prescribed by the Secretary after consultation with the Federal Energy Administrator;

"(B) when installed in or on, or when connected to, a building, use solar energy to heat or cool such building or to heat water for use within such buildings;

"(C) the original use of which commences with the taxpayer; and

"(D) which have a useful life of at least 5 years.

"(6) The Secretary may amend by rule the terms 'insulation', 'other energy conserving component',

and 'solar energy property', upon request of the Administrator of the Federal Energy Administration, to add devices or measures which the Secretary determines, when installed in or on a dwelling unit--

"(A) are likely to improve the energy efficiency of the heating, cooling, or water heating systems of the dwelling unit, or reduce the heat loss or gain of such dwelling unit; and

"(B) have a useful life of at least 3 years; and

"(C) are generally safe and effective.

"(7) The Secretary may amend by rule the terms 'insulation', 'other energy conserving component', and 'solar energy property', in consultation with the Administrator of the Federal Energy Administration and such other agencies as he deems appropriate, to exclude specific measures or devices if the Secretary determines that such measures are not generally safe and effective.

"(8) Tenant Stockholder in Cooperative Housing Corporation.--In the case of an individual who holds

"(F) caulking and weatherstripping of exterior doors and windows, but only if installed in conjunction with insulation or at least one other energy-conserving component,

which has a useful life of at least 3 years, and the original use of which commences with the taxpayer.

"(5) Solar Energy Property.--The term 'solar energy property' means equipment or mechanical or electrical systems which--

"(A) are of a type identified in regulations prescribed by the Secretary after consultation with the Federal Energy Administrator;

"(B) when installed in or on, or when connected to, a building, use solar energy to heat or cool such building or to heat water for use within such buildings;

"(C) the original use of which commences with the taxpayer; and

"(D) which have a useful life of at least 5 years.

"(6) The Secretary may amend by rule the terms 'insulation', 'other energy conserving component',

and 'solar energy property', upon request of the Administrator of the Federal Energy Administration, to add devices or measures which the Secretary determines, when installed in or on a dwelling unit--

"(A) are likely to improve the energy efficiency of the heating, cooling, or water heating systems of the dwelling unit, or reduce the heat loss or gain of such dwelling unit; and

"(B) have a useful life of at least 3 years; and

"(C) are generally safe and effective.

"(7) The Secretary may amend by rule the terms 'insulation', 'other energy conserving component', and 'solar energy property', in consultation with the Administrator of the Federal Energy Administration and such other agencies as he deems appropriate, to exclude specific measures or devices if the Secretary determines that such measures are not generally safe and effective.

"(8) Tenant Stockholder in Cooperative Housing Corporation.--In the case of an individual who holds

stock as a tenant stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual--

"(A) shall be treated as owning the dwelling unit which he is entitled to occupy as such stockholder; and

"(B) shall be treated as having expended his tenant stockholder's proportionate share (as defined in section 216(b)(3)) of any qualified energy conservation expenditures, or qualified solar energy expenditures, paid or incurred by such corporation.

"(C) The basis of any property shall be reduced, for purposes of this subtitle, by an amount equal to the amount of any credit allowed by this section for qualified energy conservation expenditures or qualified solar energy expenditures with respect to such property."

(b) The amendments made by this section shall apply to amounts expended after April 20, 1977, in taxable years ending after such date and before January 1, 1985.

(c) (1) The table of sections for such subpart A is amended by inserting immediately before the item relating to section 45 the following new item:

"Sec. 44B. RESIDENTIAL ENERGY PROPERTY CREDIT.

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out the period at the end of paragraph (23) and inserting in lieu thereof a semicolon and by inserting after paragraph (23) the following new paragraph:

"(24) to the extent provided in section 44A(c), in the case of property with respect to which a credit has been allowed under section 44B.".

"(3) Section 6096(b) (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44A" and inserting in lieu thereof "44A, and 44B.".

PART B - TRANSPORTATION

Subpart 1 - Fuel Efficiency Incentive Tax

SEC. 1201. FUEL INEFFICIENCY TAX.

(a) General Rule.--Part I of subchapter A of chapter 32 (relating to motor vehicle excise taxes) is amended by adding at the end thereof the following new section:

"Sec. 4064. FUEL INEFFICIENCY TAX.

"(a) Imposition of Tax.--Except as provided in subsection (b), a tax is hereby imposed on the sale by the manufacturer of each automobile, determined in accordance with the following tables:

"(1) In the case of a 1978 model year passenger automobile:

"If the fuel economy of the model type in which the passenger automobile falls is: The tax is:

At least 18	$ 0
At least 17 but less than 18	$ 52
At least 16 but less than 17	$112
At least 15 but less than 16	$179
At least 14 but less than 15	$256
At least 13 but less than 14	$345
Less than 13	$449

"(2) In the case of a 1979 model year automobile:

"If the fuel economy of the model type in which the automobile falls is: The tax is:

At least 19	$ 0
At least 18 but less than 19	$ 52
At least 17 but less than 18	$111
At least 16 but less than 17	$178
At least 15 but less than 16	$258
At least 14 but less than 15	$339
At least 13 but less than 14	$438
Less than 13	$553

"(3) In the case of a 1980 model year automobile:

"If the fuel economy of the model type in which the automobile falls is: The tax is:

At least 20	$ 0
At least 19 but less than 20	$ 52
At least 18 but less than 19	$111
At least 17 but less than 18	$176
At least 16 but less than 17	$249
At least 15 but less than 16	$333
At least 14 but less than 15	$428
At least 13 but less than 14	$538
Less than 13	$666

"(4) In the case of a 1981 model year automobile:

"If the fuel economy of the model type in which the automobile falls is: The tax is:

At least 21.5	$ 0
At least 20.5 but less than 21.5	$ 52
At least 19.5 but less than 20.5	$110
At least 18.5 but less than 19.5	$174
At least 17.5 but less than 18.5	$245
At least 16.5 but less than 17.5	$325
At least 15.5 but less than 16.5	$416
At least 14.5 but less than 15.5	$519
At least 13.5 but less than 14.5	$637
At least 12.5 but less than 13.5	$774
Less than 12.5	$935

"(5) In the case of a 1982 model year automobile:

"If the fuel economy of the model type in which the automobile falls is: The tax is:

At least 23	$ 0
At least 22 but less than 23	$ 57
At least 21 but less than 22	$ 120
At least 20 but less than 21	$ 189
At least 19 but less than 20	$ 266
At least 18 but less than 19	$ 351
At least 17 but less than 18	$ 446
At least 16 but less than 17	$ 553
At least 15 but less than 16	$ 674
At least 14 but less than 15	$ 812
At least 13 but less than 14	$ 972
Less than 13	$1159

"(6) In the case of a 1983 model year automobile:

"If the fuel economy of the model type in which the automobile falls is: The tax is:

At least 24.5	$ 0
At least 23.5 but less than 24.5	$ 57
At least 22.5 but less than 23.5	$119
At least 21.5 but less than 22.5	$188
At least 20.5 but less than 21.5	$262
At least 19.5 but less than 20.5	$345
At least 18.5 but less than 19.5	$437
At least 17.5 but less than 18.5	$539
At least 16.5 but less than 17.5	$653
At least 15.5 but less than 16.7	$782
At least 14.5 but less than 15.5	$929
At least 13.5 but less than 14.5	$1098
At least 12.5 but less than 13.5	$1294
Less than 12.5	$1524

"(7) In the case of a 1984 model year automobile:

"If the fuel economy of the model type in which the automobile falls is: The tax is:

At least 26	$ 0
At least 25 but less than 26	$ 62
At least 24 but less than 25	$ 129
At least 23 but less than 24	$ 203
At least 22 but less than 23	$ 283
At least 21 but less than 22	$ 371
At least 20 but less than 21	$ 467
At least 19 but less than 20	$ 574
At least 18 but less than 19	$ 693
At least 17 but less than 18	$ 825
At least 16 but less than 17	$ 974
At least 15 but less than 16	$1143
At least 14 but less than 15	$1336
At least 13 but less than 14	$1559
Less than 13	$1819

"(8) In the case of a 1985 or later model year automobile:

"If the fuel economy of the model type in which the automobile falls is: The tax is:

At least 27.5	$ 0
At least 26.5 but less than 27.5	$ 67
At least 25.5 but less than 26.5	$ 140
At least 24.5 but less than 25.5	$ 219
At least 23.5 but less than 24.5	$ 304
At least 22.5 but less than 23.5	$ 397
At least 21.5 but less than 22.5	$ 499
At least 20.5 but less than 21.5	$ 610
At least 19.5 but less than 20.5	$ 733
At least 18.5 but less than 19.5	$ 869
At least 17.5 but less than 18.5	$1021
At least 16.5 but less than 17.5	$1192
At least 15.5 but less than 16.5	$1384
At least 14.5 but less than 15.5	$1603
At least 13.5 but less than 14.5	$1854
At least 12.5 but less than 13.5	$2146
Less than 12.5	$2488

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"(b) Alternative tax.--If the average fuel economy standard prescribed under section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002) applicable to any class of automobiles differs from the lowest fuel economy level for which no tax is imposed under subsection (a) for the model year, then the tax imposed with respect to such class by subsection (a) for the model year shall be determined in accordance with a table prescribed for such year by the Secretary. Such table shall take the same general form as that in subsection (a) except that no tax shall be imposed at or above the level of fuel economy which is equal to the average fuel economy standard prescribed for that class of automobile for the model year. The tax for each whole mile per gallon below the level at which no tax is imposed shall be determined by multiplying the tax correction factor for the year by the difference between a fraction created by dividing 100,000 by the fuel economy for which the tax is to be imposed, and a fraction created by dividing 100,000 by the average fuel economy standard. The maximum tax prescribed by the Secretary for any class of automobiles for any model year may not exceed the maximum tax prescribed in subsection (a) for that model year. The Secretary shall prescribe such table prior to the beginning of the model year.

"(c) Definitions and Special Rules.--For purposes of this section--

"(1) Automobile, etc.--The terms 'automobile', 'passenger automobile', 'fuel economy', 'average fuel economy standard', 'model type', and 'model year' have the same meaning as such terms have under section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001).

"(2) Manufacturer.--The term 'manufacturer' includes a producer or importer.

"(3) Tax Correction Factor.--For purposes of the alternative tax of subsection (b) of this section, the tax correction factor for each model year is as follows:

1978----------16.16 cents
1979----------18.04 cents
1980----------20.00 cents
1981----------23.10 cents
1982----------29.08 cents
1983----------33.00 cents
1984----------40.55 cents
1985 and thereafter -----49.14 cents "

(b) Denial of Certain Exemptions and Refunds.--

(1) Tax-free sales.--Subsection (a) of section 4221 (relating to certain tax-free sales) is amended by adding a new sentence at the end thereof to read as follows: "Paragraphs (4) and (5) shall not apply to the tax imposed by section 4064."

(2) Denial of refunds for certain uses.--Paragraph (2) of section 6416(b) (relating to tax payments considered overpayments in the case of specified uses and resales) is amended by adding a new sentence at the end thereof to read as follows: "Subparagraphs (C) and (D) shall not apply in the case of any tax paid under section 4064."

(c) Payment of Tax in Case of Leased Automobiles.--Section 4217 (relating to leases) is amended by adding at the end thereof the following new subsection:

"(e) Leases of Certain Automobiles.--

"(1) In general.--In the case of an initial lease of an automobile by a manufacturer taxable under section 4064, there shall be paid by the manufacturer upon each lease payment that portion of the total fuel inefficiency tax which bears the same ratio to such total fuel inefficiency tax as such payment bears to the total amount to be paid under such initial lease. In any case where an automobile which has been leased is sold or otherwise disposed of before the total fuel inefficiency tax has been paid, there shall be paid by the manufacturer upon such sale or disposition the difference between the tax paid on the lease payments and the total fuel inefficiency tax.

"(2) Lease other than initial lease not considered as sale.--Any lease of an automobile by the manufacturer, producer, or importer, other than the initial lease of such automobile, shall not be considered under subsection (a) as a sale of such automobile.

"(3) Sale after total fuel inefficiency tax paid.--If an automobile taxable under section 4064 is sold after the total fuel inefficiency tax is paid, no tax shall be imposed under this chapter on such sale.

"(4) Total fuel inefficiency tax defined.--For purposes of this subsection, the term 'total fuel inefficiency tax' means the tax imposed by section 4064 computed at the rate in effect on the date of the initial lease."

(d) Clerical Amendment.--The table of sections for part I of subchapter A of Chapter 32 is amended by adding at the end thereof the following new item:

"Sec. 4064. FUEL INEFFICIENCY TAX."

SEC. 1202. FUEL EFFICIENCY REBATE.

(a) General Rule.--Subchapter B of chapter 65 (relating to rules of special application in the case of abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"Sec. 6429. FUEL EFFICIENCY REBATE. "(a) In general. -- An amount shall be paid or credited to the manufacturer with respect to the sale of --

"(1) each 1977 passenger automobile and each 1978 or later model year automobile which is domestically manufactured and which is sold by the manufacturer after May 1, 1977;

"(2) each 1977 model year passenger automobile which is not manufactured domestically, and which is sold by the manufacturer after May 1, 1977, but only to the extent provided in an executive agreement applicable to such automobile which is entered into after April 30, 1977, and before May 1, 1978, and which, pursuant to such agreement, is to be effective for the time during which such passenger automobile is sold; and

"(3) each 1978 and later model year automobile which is not manufactured domestically, and which is sold by the manufacturer after May 1, 1977, but only to the extent provided in an executive agreement applicable to such automobile which takes effect after May 1, 1977.

Such amount shall be equal to the lesser of $500 or the amount determined by multiplying the base rebate determined under subsection (b) or (c) by the rebate coefficient determined in accordance with subsection (e). Any executive agreement entered into with any country to provide for a payment or credit under this section shall be designed to assure that manufacturers of domestically manufactured automobiles are not disadvantaged by the system of taxes and rebates under section 4064 and this section.

"(b) Base Rebate.--(1) Except as provided in paragraphs (2) and (3), the base rebate is an amount determined as follows:

"(1) In the case of a 1977 or 1978 model year passenger automobile:

"If the fuel economy of the model type in which the automobile falls is: The base rebate is:

At least 18 but less than 19	$ 0
At least 19 but less than 20	$ 47
At least 20 but less than 21	$ 89
At least 21 but less than 22	$128
At least 22 but less than 23	$163
At least 23 but less than 24	$195
At least 24 but less than 25	$224
At least 25 but less than 26	$251
At least 26 but less than 27	$276
At least 27 but less than 28	$299
At least 28 but less than 29	$321
At least 29 but less than 30	$341
At least 30 but less than 31	$359
At least 31 but less than 32	$377
At least 32 but less than 33	$393
At least 33 but less than 34	$408
At least 34 but less than 35	$423
At least 35 but less than 36	$436
At least 36 but less than 37	$449
At least 37 but less than 38	$461
At least 38 but less than 39	$473
More than 39	$473

"(2) In the case of a 1979 model year passenger automobile:

"If the fuel economy of the model type in which the automobile falls is: The base rebate is:

At least 19 but less than 20-----	$ 0
At least 20 but less than 21-----	$ 47
At least 21 but less than 22-----	$ 90
At least 22 but less than 23-----	$129
At least 23 but less than 24-----	$165
At least 24 but less than 25-----	$197
At least 25 but less than 26-----	$227
At least 26 but less than 27-----	$255
At least 27 but less than 28-----	$281
At least 28 but less than 29-----	$305
At least 29 but less than 30-----	$327
At least 30 but less than 31-----	$348
At least 31 but less than 32-----	$367
At least 32 but less than 33-----	$385
At least 33 but less than 34-----	$402
At least 34 but less than 35-----	$416
At least 35 but less than 36-----	$433
At least 36 but less than 37-----	$448
At least 37 but less than 38-----	$461
At least 38 but less than 39-----	$474
More than 39----------	$474

"(3) In the case of a 1980 model year passenger automobile:

"If the fuel economy of the model type in which the automobile falls is: The base rebate is:

At least 20 but less than 21-----	$ 0
At least 21 but less than 22-----	$ 47
At least 22 but less than 23-----	$ 90
At least 23 but less than 24-----	$130
At least 24 but less than 25-----	$166
At least 25 but less than 26-----	$199
At least 26 but less than 27-----	$230
At least 27 but less than 28-----	$259
At least 28 but less than 29-----	$285
At least 29 but less than 30-----	$310
At least 30 but less than 31-----	$333
At least 31 but less than 32-----	$354
At least 32 but less than 33-----	$374
At least 33 but less than 34-----	$393
At least 34 but less than 35-----	$411
At least 35 but less than 36-----	$428
At least 36 but less than 37-----	$444
At least 37 but less than 38-----	$459
At least 38 but less than 39-----	$473
More than 39----------	$473

"(4) In the case of a 1981 model year passenger automobile:

"If the fuel economy of the model type in which the automobile falls is: The base rebate is:

At least 21.5 but less than 22.5--	$ 0
At least 22.5 but less than 23.5--	$ 47
At least 23.5 but less than 24.5--	$ 91
At least 24.5 but less than 25.5--	$131
At least 25.5 but less than 26.5--	$168
At least 26.5 but less than 27.5--	$202
At least 27.5 but less than 28.5--	$234
At least 28.5 but less than 29.5--	$264
At least 29.5 but less than 30.5--	$291
At least 30.5 but less than 31.5--	$317
At least 31.5 but less than 32.5--	$340
At least 32.5 but less than 33.5--	$363
At least 33.5 but less than 34.5--	$385
At least 34.5 but less than 35.5--	$405
At least 35.5 but less than 36.5--	$423
At least 36.5 but less than 37.5--	$441
At least 37.5 but less than 38.5--	$458
At least 38.5 but less than 39.5--	$474
More than 39.5----------	$474

"(5) In the case of a 1982 model year passenger automobile:

"If the fuel economy of the model type in which the automobile falls is: The base rebate is:

At least 23 but less than 24-----	$ 0
At least 24 but less than 25-----	$ 52
At least 25 but less than 26-----	$101
At least 26 but less than 27-----	$145
At least 27 but less than 28-----	$187
At least 28 but less than 29-----	$225
At least 29 but less than 30-----	$261
At least 30 but less than 31-----	$295
At least 31 but less than 32-----	$326
At least 32 but less than 33-----	$355
At least 33 but less than 34-----	$383
At least 34 but less than 35-----	$409
At least 35 but less than 36-----	$433
At least 36 but less than 37-----	$456
At least 37 but less than 38-----	$478
At least 38 but less than 39-----	$499
More than 39----------	$499

"(6) In the case of a 1983 model year passenger automobile:

"If the fuel economy of the model type in which the automobile falls is: The base rebate is:

At least 24.5 but less than 25.5----	$ 0
At least 25.5 but less than 26.5----	$ 52
At least 26.5 but less than 27.5----	$101
At least 27.5 but less than 28.5----	$147
At least 28.5 but less than 29.5----	$189
At least 29.5 but less than 30.5----	$228
At least 30.5 but less than 31.5----	$265
At least 31.5 but less than 32.5----	$299
At least 32.5 but less than 33.5----	$331
At least 33.5 but less than 34.5----	$361
At least 34.5 but less than 35.5----	$390
At least 35.5 but less than 36.5----	$417
At least 36.5 but less than 37.5----	$442
At least 37.5 but less than 38.5----	$467
More than 38.5----------	$490

"(7) In the case of a 1984 model year passenger automobile:

"If the fuel economy of the model type in which the automobile falls is: The base rebate is:

At least 26 but less than 27	$ 0
At least 27 but less than 28	$ 57
At least 28 but less than 29	$111
At least 29 but less than 30	$161
At least 30 but less than 31	$207
At least 31 but less than 32	$251
At least 32 but less than 33	$292
At least 33 but less than 34	$330
At least 34 but less than 35	$366
At least 35 but less than 36	$400
At least 36 but less than 37	$433
At least 37 but less than 38	$463
At least 38 but less than 39	$492
More than 39	$492

"(8) In the case of a 1985 or later model year passenger automobile:

"If the fuel economy of the model type in which the automobile falls is: The base rebate is:

At least 27.5 but less than 28.5	$ 0
At least 28.5 but less than 29.5	$ 62
At least 29.5 but less than 30.5	$121
At least 30.5 but less than 31.5	$176
At least 31.5 but less than 32.5	$227
At least 32.5 but less than 33.5	$275
At least 33.5 but less than 34.5	$320
At least 34.5 but less than 35.5	$362
At least 35.5 but less than 36.5	$403
At least 36.5 but less than 37.5	$440
At least 37.5 but less than 38.5	$476
At least 38.5 but less than 39.5	$493
More than 39.5	$500

"(c) In the case of an electric automobile, the payment or credit is equal to the highest payment or credit available for passenger automobiles of that model year.

"(d) Source of Payment.--The payment of credit described in subsection (a) shall be made from the General Fund of the Treasury from funds not otherwise appropriated.

"(e) Rebate coefficient.--(A) A rebate coefficient shall be determined by the Secretary, in consultation with the Administrator of the Environmental Protection Agency, for the automobiles manufactured in model years 1977 and 1978, and for each subsequent model year thereafter. The Secretary shall publish the rebate coefficient in the Federal Register no later than 30 days after date of enactment in the case of the 1977 and 1978 model years and, in the case of each subsequent model year, no later than the end of the preceding model year. Rebate coefficients for automobiles with respect to which payments are required to be paid under subsection (a) shall be determined so that the aggregate amount for the model years 1977 and 1978, or for any subsequent model year, paid or credited under this section with respect to such automobiles approximates, as closely as possible, an estimate made by the Secretary, prior to the beginning of the model year, of the amount of

tax to be collected under section 4064 with respect to sales of model year automobiles, less the expenses of administration of the requirements of this subpart.

"(B) For purposes of this section, section 503 (b)(2)(E) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003) shall apply in determining if an automobile is manufactured domestically.

"(f) If the average fuel economy standard prescribed under section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002) applicable to any class of passenger automobiles for a model year differs from the highest fuel economy for which no base rebate is prescribed under subsection (b) for the model year, then the base rebate with respect to such class for the model year shall be determined in accordance with a table prescribed for such year by the Secretary. Such a table shall take the same general form as that in subsection (b) except that no base rebate shall be prescribed at or below the level of the average fuel economy standard prescribed for passenger automobiles for the model year. The base rebate for each whole mile per gallon above the level at which no base rebate is prescribed shall be determined by multiplying the base

rebate correction factor for the year by the difference between a fraction created by dividing 100,000 by the fuel economy for which the base rebate is to be prescribed, and a fraction created by dividing 100,000 by the average fuel economy standard. No base rebate shall be prescribed which exceeds the maximum base rebate specified in the table for the model year under subsection (b). The Secretary shall prescribe the table each year prior to the beginning of the model year.

"(g) If the average fuel economy standard prescribed under section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002) applicable to any class of non-passenger automobiles for a model year is higher than the average fuel economy standard for passenger automobiles for that model year, then the base rebate with respect to such class for the model year shall be determined in accordance with a table prescribed for such year by the Secretary. Such a table shall take the same general form as that in subsection (b) except that no base rebate shall be prescribed at or below the level of the average fuel economy standard prescribed for such class of non-passenger automobiles for the model year. The base rebate for each whole mile per gallon above the level at which no base

rebate is prescribed shall be determined by multiplying the base rebate correction factor for the model year by the difference between a fraction created by dividing 100,000 by the fuel economy for which the base rebate is to be prescribed, and a fraction created by dividing 100,000 by the average fuel economy standard. No base rebate shall be prescribed which exceeds the base rebate specified in the table for the model year under subsection (b). The Secretary shall prescribe the table each year prior to the beginning of the model year.

"(h) If the average fuel economy standard prescribed under section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002) applicable to any class of automobiles is below the average fuel economy standard for passenger automobiles for the model year, then the base rebate with respect to such class for the model year shall be determined in the same manner as that for passenger automobiles for the model year.

"(i) Definitions and Special Rules. For purposes of this section--

"(1) Automobile, etc.--The terms 'automobile', 'passenger automobile', 'fuel economy', 'model type', 'average fuel economy standard' and 'model year' have

the meaning prescribed by section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001).

"(2) Electric automobile.--The term 'electric automobile' means an automobile which is powered primarily by an electric motor drawing current from rechargeable storage batteries or other portable sources of electric current.

"(3) Manufacturer.--The term 'manufacturer' has the meaning prescribed by section 4064(c)(2).

"(4) Base rebate correction factor.--The term 'base rebate correction factor' for each model year has the same meaning as the term 'tax correction factor' used in section 1201 4064(c)(3).

"(j) Lease Considered Sale.--For purposes of this section, the initial lease of an automobile by the manufacturer shall be considered a sale. Any lease other than an initial lease shall not be considered a sale.

"(k) Credit on Returns.--Any manufacturer entitled to a payment under this section may, instead of filing a claim for refund, take credit therefor against taxes imposed by chapter 31 or 32 due on any subsequent return.

"(l) Disallowance of Payment or Credit.--Notwithstanding any other provisions of this section:

"(1) No amount shall be paid or credited under this section with respect to the sale of any automobile by the manufacturer for export (by any person).

"(2) No amount shall be paid or credited under this section with respect to the sale by the manufacturer of any automobile after May 1, 1977, unless such manufacturer has paid such amount to the ultimate purchaser of such automobile and has in his possession evidence of such payment as may be required by regulations prescribed by the Secretary under this subsection."

(b) Clerical Amendment.--The table of sections for subchapter B of chapter 65 is amended by adding at the end thereof the following new item:

"Sec. 6429. FUEL EFFICIENCY REBATE."

SEC. 1203. FUEL INEFFICIENCY TAX RECEIPTS AND REBATE PAYMENTS

(a) The Treasury of the United States shall record as receipts to the General Fund amounts collected under section 4064 of the Internal Revenue Code of 1954 (relating to fuel inefficiency tax), reduced by the amounts credited or refunded as overpayments of amounts so collected.

(b) The Treasury of the United States shall record as outlays the amounts required to be paid by section 6429 of the Internal Revenue Code of 1954 (relating to fuel efficiency rebates).

(c) Appropriation Authorization.--There are authorized to be appropriated such amounts as may be necessary for payment of the fuel efficiency rebates.

SEC. 1204. EFFECTIVE DATES.

The amendments made by Sections 1201 and 1202 shall apply in the case of sales by the manufacturer after the date of enactment of this Act, except as otherwise specified therein.

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Subpart 2 - Gasoline Conservation Program

SEC. 1221. STANDBY GASOLINE TAX.

(a) General Rule.--Part III of subchapter A of chapter 32 (relating to petroleum products) is amended by redesignating subparts B and C as subparts C and D, respectively, and by inserting after subpart A the following new subpart:

"Subpart B--Standby Gasoline Tax

"Sec. 4086. IMPOSITION OF TAX.

"Sec. 4087. CROSS REFERENCE.

"Sec. 4086. IMPOSITION OF TAX.

"(a) Imposition of tax.--In addition to any tax imposed by section 4081, there is hereby imposed on gasoline sold during any gasoline tax year by the producer or importer thereof, or by any producer of gasoline, a tax of 5 cents a gallon for each full percentage point that domestic consumption of gasoline in the preceding determination year exceeded the annual national gasoline consumption target for such preceding determination year, except that--

"(1) the tax imposed under this subsection for any gasoline tax year cannot increase or decrease

more than 5 cents a gallon from the tax imposed in the preceding gasoline tax year, and

"(2) the total under this subsection shall not exceed a tax of more than 50 cents per gallon.

"(b) Determination of Domestic Consumption.--Not later than November 15 of each calendar year, the Administrator of the Federal Energy Administration shall make and publish in the Federal Register a determination of whether the domestic consumption of gasoline for the 12-month period ending on September 30 of such calendar year (referred to in this section as the 'determination year') exceeded the annual national gasoline consumption target level specified in section (c) for such determination year. If the domestic consumption of gasoline for such determination year exceeded by a full percentage point or more the annual national gasoline consumption target for that year, then on January 1 following such determination year, the rate of tax as determined in subsection (a) will be effective.

"(c) Annual National Gasoline Consumption Target Levels.--The annual national gasoline consumption target levels are--

12 Month Period Ending September 30 of Determination Year	Million Barrels Average Daily Consumption
1978	7.350
1979	7.400
1980	7.450
1981	7.400
1982	7.200
1983	7.000
1984	6.800
1985	6.600
1986	6.550
1987, and thereafter	6.500

"(d) Domestic Consumption Defined.--For purposes of this section, the term 'domestic consumption of gasoline' for any determination year means the average daily usage of gasoline for such determination year within the United States as determined by the Administrator.

"Sec. 4087. CROSS REFERENCE.

"For provisions relating to credit for standby gasoline tax, see section 6430."

(b) Floor Stocks Taxes.--Subchapter G of chapter 32 is amended by inserting after section 4225 the following new section:

"Sec. 4226. FLOOR STOCK TAXES.

"(a) In General.--

(1) Standby gasoline tax

"(A) Imposition of tax.--On gasoline (as defined in section 4082(b)) which, on a gasoline tax increase date, is held by a dealer for sale, there is hereby imposed a floor stocks tax at a rate equal to the difference between (i) the tax (if any) imposed by section 4086 on the sale of such gasoline by the producer or importer, and (ii) the tax which would have been imposed by such section on such sale if that sale had occurred on such gasoline tax increase date. The tax imposed by this subparagraph shall not apply to gasoline in retail stock held at the place where intended to be sold at retail.

"(b) Due Dates of Taxes.--Any tax imposed by subsection (a)(1) shall be paid at such time as may be prescribed by the Secretary but not sooner than 90 days after the gasoline tax increase date in respect of which such tax was imposed."

(c) Denial of Certain Exemptions and Refunds.--

(1) Tax-Free Sales.--Subsection (a) of section 4221 (relating to certain tax-free sales) is amended by adding at the end thereof the following new sentence: "Paragraphs (4) and (5) shall not apply to the tax imposed by sections 4086."

(2) Use in Further Manufacture.--Paragraph (6)(C) of section 4221(d) (relating to use in further manufacture) and paragraph (3)(f) of section 6416(b) (relating to tax-paid articles used for further manufacture, etc.) are each amended by striking out "section 4081" and inserting in lieu thereof "section 4081 or 4086."

(3) Denial of Refunds for Certain Uses.--Paragraph (2) of section 6416(b) (relating to tax payments considered overpayments in the case of specified uses and resales) is amended by adding a new sentence at the end thereof to read as follows:

"Subparagraphs (C) and (D) shall not apply in the case of any tax paid under section 4086."

(d) Technical and Conforming Amendments.--

(1) The table of subparts for part III of subchapter A of chapter 32 is amended by striking out the last two items and inserting in lieu thereof the following:

"Subpart B. Standby Gasoline Tax.

"Subpart C. Lubricating oil.

"Subpart D. Special provisions applicable to petroleum products."

(2) The subpart heading for subpart C of such part III (as redesignated by subsection (a)) is amended to read as follows:

"Subpart C -- Lubricating Oil"

(3) The subpart heading for subpart D of such part III (as redesignated by subsection (a)) is amended to read as follows:

"Subpart D -- Special Provisions Applicable to Petroleum Products"

(4) Subsections (a) and (b) of section 4082 are each amended by striking out "in this subpart" and inserting in lieu thereof "in this subpart and subpart B."

(5) Section 4083 is amended by striking out "section 4081" and inserting in lieu thereof "section 4081 or 4086".

(6) Section 4101 is amended by striking out "section 4081 or section 4091" and inserting in lieu thereof "section 4081, 4086, or 4091".

(7) Section 6412 (relating to floor stock refunds) is amended by redesignating paragraph (2) of subsection (a) as paragraph (3) and adding a new paragraph (2) to read as follows:

"(2) Standby gasoline tax.--Whenever gasoline subject to the tax imposed by section 4086 has been sold by the producer or importer thereof before a gasoline tax decrease date and on such date is held by a dealer and is intended for sale, there shall be credited or refunded (without interest) to the producer or importer an amount equal to the difference between the tax under section 4086 paid by such producer or importer on his sale of the gasoline and the amount of the tax under section 4086 made applicable to such gasoline on or after the tax decrease date, if (A) a claim for such credit or refund is filed with the Secretary on or before the

end of the 10 month period beginning with the month following the tax decrease date, such claim shall be based on a request submitted to the producer or importer before the end of the 7 month period beginning with the month following the tax decrease date, by the dealer who held the gasoline in respect of which the credit or refund is claimed, and (B) on or before the end of said 10 month period beginning with the tax decrease date, reimbursement has been made to such dealer by the producer or importer for the tax reduction on such gasoline or written consent has been obtained from such dealer to allowance of such credit or refund. No credit or refund shall be allowable under this paragraph with respect to gasoline in retail stocks held at the place where intended to be sold at retail, nor with respect to gasoline held for sale by a producer or importer of gasoline. For purposes of this paragraph, the term 'gasoline tax decrease date' means any day on which the rate imposed by section 4086 is less than the rate of such tax in effect on the preceding day."

(8) Paragraph (a)(2) of section 6420 is amended by striking out "section 4081" and inserting in lieu thereof "sections 4081 and 4086".

(9) Section 6420(d) is amended by striking out "section 4081" and inserting in lieu thereof "section 4081 or 4086."

(10) Paragraph (e)(1) of section 6420 is amended by striking out "section 4081" and inserting in lieu thereof "section 4081 or 4086".

(e) Effective Date.--The amendments made by this section shall take effect after December 31, 1977.

SEC. 1222. PER CAPITA PAYMENT OF STANDBY GASOLINE TAX RECEIPTS.

(a) In General.--Subchapter B of chapter 65 (relating to rules of special application for abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"Sec. 6430 PER CAPITA PAYMENT OF STANDBY GASOLINE TAX RECEIPTS.

"(a) General Rule.--Each individual shall be treated as having made a payment against the tax imposed by

Chapter 1 for the taxable year in which there is a tax imposed under section 4086 equal to the gasoline tax rebate, multiplied by each exemption provided by subsection (b) and (e) of section 151 for which the taxpayer is allowed a deduction for such taxable year.

"(b) Tax rebate.--The Secretary, in consultation with the Administrator of the Federal Energy Administration, shall publish in the Federal Register the amount of the per capita payment for the succeeding gasoline tax year not later than November 15 of each year. The Secretary shall determine the per capita payment based on estimated revenues to be derived from the tax imposed under section 4086 during the taxable year reduced by the anticipated revenue loss from business deductions for the tax imposed by section 4086 allowable under the Internal Revenue Code of 1954. The per capita payment shall reflect the administrative costs incurred in connection with the per capita payment.

"(c) Limitation based on amount of tax.--

"(1) In general.-- The amount treated as paid by reason of this section shall not exceed the amount

of the taxpayer's liability for tax imposed by chapter 1 (unreduced by any credits) for the taxable year.

"(2) Refund Made to Certain Taxpayers.--Paragraph (1) shall not apply to any individual who--

"(A) is entitled to a credit under section 43 (relating to credit for earned income), or

"(B)(i) has a dependent child who lived with such individual,

"(ii) has earned income, and

"(iii) if married, filed a joint return.

For purposes of subparagraph (B)(ii), the term 'earned income' has the meaning given to such term by section 43(c)(2), except that 'self-employment income (as defined in section 1402(b))' shall be substituted for 'net earnings from self-employment' in clause (ii) of section 43(c)(2)(A).

"(d) Date Payment Deemed Made.--The payment provided by this section shall be deemed made on whichever of the following dates is the later:

"(1) the date prescribed by law (determined without extensions) for filing the return of tax under chapter 1 for the taxable year, or

"(2) the date on which the taxpayer files his return of tax under chapter 1 for the taxable year.

"(e) Certain Persons Not Eligible.--This section shall not apply to any estate or trust, nor shall it apply to any nonresident alien individual."

(b) Technical Amendment.--Subpart A of Part IV of chapter 1 (relating to credits allowable) is amended by inserting after section 33 the following new section:

"Sec. 34. For credit against the tax imposed by this chapter allowed for standby gasoline tax, see section 6430."

(c) Clerical Amendment.--The table of sections for subchapter B of chapter 65 is amended by adding at the end thereof the following new item:

"Sec. 6430. Per capita payment of standby gasoline tax receipts."

(d) Effective Date.--The amendments made by this section shall take effect after December 31, 1977.

SEC. 1223. ENERGY PAYMENTS

Payments in an amount equal to the per capita payment of standby gasoline tax receipts determined under section

6430 shall be made to recipients of benefits under certain retirement and survivor benefit programs in accordance with section 1404 of the National Energy Act, recipients of aid to families with dependent children under approved State plans in accordance with section 1405 of such Act, and certain individuals in accordance with section 1406 of such Act.

Subpart 3 - Motorboat Gasoline and Fuels for General Aviation

Amendment of Motorboat and General Aviation Fuel Provisions

Sec. 1231. (a)(1) Section 4041(b) (relating to special motor fuels) is amended by inserting "a motorboat or in" before "a highway vehicle" the first time that the words appear in the second and third sentence of such subsection.

(2) Section 4041 (c) (relating to noncommercial aviation) is amended by deleting "7" in paragraph (1) and inserting "11" in lieu thereof, by substituting "7" and "9 1/2" respectively for "3" and "5 1/2" respectively in paragraph 3 and by deleting paragraph 5.

(b) Section 6421 (a) is amended by inserting "a motorboat or in" before "a highway vehicle" the first time that it appears.

Airport and Airway Trust Fund Amendments

Sec. 1232. Section 208 of the Airport and Airway Revenue Act of 1970 (49 USC 1742) is amended--

(1) by adding at the end of subsection (b) the following new sentence:

"After September 30, 1977, the amounts appropriated by paragraph (1) with respect to the taxes under

subsections (c) and (d) of section 4041 shall be based on a tax rate of 7 cents a gallon and paragraph (2) shall not apply.", and

(2) by adding at the end of subsection (f) the following new paragraph:

"(4) The amounts referred to in paragraphs (2) and (3) shall be reduced in appropriate amount to reflect the reduction in amounts transferred to the Trust Fund after September 30, 1977, as provided for by section 208 (b)."

Land and Water Conservation Fund Amendments

Sec. 1233. Section 201 (b) of the Land and Water Conservation Fund Act of 1965 is amended by deleting all that follows "equivalent to" and inserting "the amounts paid before July 1, 1978, under section 6421 of Title 26 (relating to amounts paid in respect of gasoline used for certain non-highway purposes or by local transit systems) with respect to gasoline used after December 31, 1964, in motorboats, on the basis of claims filed for the period ending before October 1, 1979."

Highway Trust Fund Amendments

Sec. 1234. Section 209 of the Highway Revenue Act

of 1956 (as amended) (23 USC 120 note) is amended by adding at the end of subsection (c)(5) the following new sentence:

"After September 30, 1977, the amounts described in paragraph (1)(A) and 3(A) (before the application of this subsection) shall be further reduced by appropriate amounts to reflect the amount of taxes under subsection (c) and (d) of section 4041 (taxes on aviation fuel) and under section 4081, with respect to gasoline used in aircraft, which are not required to be transferred to the Airport and Airway Trust Fund."

Effective Date.

Sec. 1235. The amendments made by this part shall take effect on October 1, 1977.

Subpart 4 - Removal of Excise Tax on Buses

SEC. 1241. REMOVAL OF EXCISE TAX ON BUSES

(a) General Rule.--Section 4063 (relating to exemptions from tax on trucks, etc.) is amended by revising paragraph 6 of subsection (a) to read as follows:

"(6) Buses. The tax imposed under section 4061 (a) shall not apply in the case of automobile bus chassis or automobile bus bodies."

(b) Floor Stocks Refunds.

(1) In General.--Where, before the day after the date of the enactment of this Act, any tax-repealed article (as defined in subsection (e)) has been sold by the manufacturer, producer, or importer and on such day is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article, if--.

(A) claim for such credit or refund is filed with the Secretary before the first

day of the 10th calendar month beginning after the day after the date of the enactment of this Act based upon a request submitted to the manufacturer, producer, or importer before the first day of the 7th calendar month beginning after the day after the date of the enactment of this Act by the dealer who held the article in respect of which the credit or refund is claimed; and

(B) on or before the first day of such 10th calendar month reimbursement has been made to the dealer by the manufacturer, producer, or importer in an amount equal to the tax paid on the article or written consent has been obtained from the dealer to allowance of the credit or refund.

(2) Limitation on Eligibility for Credit or Refund.--No manufacturer, producer, or importer shall be entitled to credit or refund under paragraph (1) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed by the Secretary under this subsection.

(3) Other Laws Applicable.--All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061 (a) shall, insofar as applicable and not inconsistent with paragraphs (1) and (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(c) Refunds with Respect to Certain Consumer Purchases.--

(1) In General.--Except as otherwise provided in paragraph (2), where after April 20, 1977, with respect to any article which was subject to the tax imposed by section 4061 (a) (1) (as in effect on the before the date of the enactment of this Act), and on or before such date of enactment, a tax-repealed article (as defined in subsection (e)) has been sold to an ultimate purchaser, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer of such article an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article.

(2) Limitation on Eligibility for Credit or Refund.--No manufacturer, producer, or importer shall be entitled to a credit or refund under paragraph (1) with respect to an article unless--

(A) he has in his possession such evidence of the sale of the article to an ultimate purchaser, and of the reimbursement of the tax to such purchaser, as may be required by regulation prescribed by the Secretary under this subsection;

(B) claim for such credit or refund is filed with the Secretary before the first day of the 10th calendar month beginning after the day after the date of the enactment of this Act based upon information submitted to the manufacturer, producer, or importer before the first day of the 7th calendar month beginning after the day after the date of the enactment of this Act by the person who sold the article (in respect of which the credit or refund is claimed) to the ultimate purchaser; and

(C) on or before the first day of such 10th calendar month reimbursement has been made to the ultimate purchaser in an amount equal to the tax paid on the article.

(3) Other Laws Applicable.--All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061(a) shall, insofar as applicable and not inconsistent with paragraph (1) or (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(d) Certain Uses by Manufacturer, Etc.--Any tax paid by reason of section 4218(a) (relating to use by manufacturer or importer considered sale) shall be deemed an overpayment of such tax with respect to any article which was subject to the tax imposed by section 4061(a)(1) as in effect on the day before the date of the enactment of this Act if the tax was imposed on such article by reason of such section 4218(a) after April 20, 1977.

(e) Definitions.--For purposes of this section--

(1) The term "dealer" includes a wholesaler, jobber, distributor, or retailer.

(2) An article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made) and if for purposes of consumption title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(3) The term "tax-repealed article" means an article on which a tax was imposed by section 4061(a) as in effect on the day before the date of the enactment of this Act and is exempted from such tax by section 4063 (a)(6) as in effect on the effective date of this Act.

(f) Technical and Conforming Amendments.--

(1) Section 4221(e) (relating to special rules for tax free sales) is amended by deleting paragraph 5.

(2) Section 6416(b)(2)(I) is deleted.

(g) Effective Date.--

"(1) The amendments made by this section shall apply with respect to articles sold after April 20, 1977.

(2) For purposes of paragraph (1), an article shall not be considered sold on or before April 20, 1977 unless possession or right to possession passes to the purchaser before such day.

(3) In the case of--

(A) a lease,

(B) a contract for the sale of an article where it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,

(C) a conditional sale, or

(D) a chattel mortgage arrangement wherein it is provided that the sale price shall be paid in installments,

entered into on or before April 20, 1977, payments made after such date with respect to the article leased or sold shall, for purposes

of this subsection, be considered as payments made with respect to an article sold after such date, if the lessor or vendor establishes that the amount of payments payable after such date with respect to such article has been reduced by an amount equal to that portion of the tax applicable with respect to the lease or sale of such article which is due and payable after such date. If the lessor or vendor does not establish that the payments have been so reduced, they shall be treated as payments made in respect of an article sold on or before April 20, 1977.

PART C - BUSINESS ENERGY TAX CREDIT

SEC. 1301. BUSINESS ENERGY CREDIT

(a) Allowance of Credit.--Section 46 (a) (2) (relating to amount of investment credit for the current taxable year) is amended as follows:

(1) Subparagraph (A) is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B), (E), and (F)".

(2) Subparagraph (B) is amended by striking out "the amount of the credit" and inserting in lieu thereof "except as otherwise provided in subparagraphs (E) and (F) the amount of the credit".

(3) Subparagraph (C) is amended by striking out "In the case of property" and inserting in lieu thereof "Except as otherwise provided in subparagraphs (E) and (F), in the case of property".

(4) New subparagraphs (E), (F), and (G) are added to read as follows:

"(E) Business Energy Property. - In the case of a property that is business energy property (as defined in section 48 (ℓ) (1)), other than special business energy property, the amount of credit determined under this paragraph for the taxable year shall be the amount equal to--

"(i) except as provided in clause (ii), in the case of such property described in subparagraph (D), 20 percent of the qualified investment (as determined under subsections (c) and (d));

"(ii) in the case of property described in subparagraph (D) and a corporation to which subparagraph (B) applies, the amount which would be determined under subparagraph (B) with respect to qualified investment in such property (except that the figure "21 percent" shall be substituted for "11 percent" in applying subparagraph (B)(i)); and

"(iii) in the case of property not described in subparagraph (D), an amount equal to 17 percent of the qualified investment (as determined under subsections (c) and (d)).

In the case of cogeneration property (as defined in section 48 (ℓ) (4) or alternative energy property (as defined in section 48 (ℓ) (5)) to which this subparagraph applies, the figure "20 percent" shall be substituted for "17 percent" in applying clause (iii).

"(F) Special Business Energy Property - Except as otherwise provided in this subparagraph, in the case of

property that is a special business energy property (as defined in section 48 (ℓ) (3)), the amount of the credit determined under this paragraph for the taxable year shall be an amount equal to 10 percent of the qualified investment (as determined under subsections (c) and (d)). In the case of a property described in the preceding sentence that is either cogeneration property (as defined in subsection 48 (ℓ) (4)) or alternative energy property (as defined in section 48 (ℓ) (5)) the figure "20 percent" shall be substituted for "10 percent". In the case of property to which subparagraph (D) applies and a corporation to which subparagraph (B) applies, the amount of the credit determined under this paragraph for the taxable year shall be an amount equal to the amount which would be determined under subparagraph (B) with respect to qualified investment in such property, except that if the property is cogeneration property or alternative energy property, the figure "21 percent" shall be substituted for "11 percent" in applying subparagraph (B) (i).

"(G) Limitation with respect to business energy property.--The provisions of subparagraphs (E) and (F) shall apply only to--

"(i) property to which subsection (d) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer after April 20, 1977, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after April 20, 1977, and before January 1, 1983,

"(ii) property to which subsection (d) does not apply, acquired by the taxpayer after April 20, 1977, and before January 1, 1983, and placed in service by the taxpayer before January 1, 1983, and

"(iii) property to which subsection (d) applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d)) with respect to qualified progress expenditures made after April 20, 1977, and before January 1, 1983.

In the case of property to which subsection (d) does not apply, subparagraphs (E) and (F) shall apply only with respect to new section 38 property. In the case of property to which subsection (d) applies, subparagraphs (E) and (F) shall apply only to property which, at the later of the dates specified in subsection (d)(2)(A), it is reasonable

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to believe will be, in the case of subparagraph (E), business energy property other than special business energy property, or in the case of subparagraph (F), special business energy property, when placed in service.".

(b) Definitions.--Section 48 (relating to definitions and special rules) is amended as follows:

(1) Paragraph (1) of subsection (a) is amended by striking out the period at the end of subparagraph (C) and inserting ", or" in lieu thereof, and by adding a new subparagraph (D), to read as follows:

"(D) Special business energy property, as defined in subsection (ℓ) (3) but only if the credit allowed by section 38 with respect to such property is determined under section 46 (a) (2) (F).".

(2) Paragraph (3) of subsection (a) is amended by striking out "and" at the end of subparagraph (B), by inserting a comma in lieu of the period at the end of subparagraph (C), and adding a new subparagraph (D), to read as follows:

"(D) Business energy property, as defined in subsection (ℓ) (1), but only if the credit

allowable by section 38 with respect to such property is determined under section 46 (a) (2) (E) or (F).".

(3) Subsection (ℓ) is redesignated as subsection (m) and a new subsection (ℓ) is added to read as follows:

"(ℓ) (1) Business energy property.--Except as otherwise provided in paragraph (2), the term "business energy property" means property which is an integral part of, or used in connection with, a building or other structure located in the United States that has been substantially completed on or before April 20, 1977, and which is either--

"(A) cogeneration property (as defined in paragraph (4)),

"(B) alternative energy property (as defined in paragraph (5)),

"(C) solar equipment (as defined in paragraph (6)), or

"(D) of a class identified by regulations of the Secretary as having as its principal purpose reducing the amount of energy consumed--

"(i) to heat or cool the building or other structure, or

"(ii) to carry on any manufacturing or production process in the building or structure.

In prescribing the regulations under this paragraph, the Secretary shall consult with the Federal Energy Administrator. The Secretary shall not identify any class of property under subparagraph (D) (ii) unless the property is a new identifiable property which does not significantly alter the manufacturing or production process.

"(2) Exception for certain property.--Property shall not be business energy property where--

"(A) Any portion of the cost of such property to any person is treated, by reason of section 6431(a), as being a payment against any tax imposed by Chapter 45 (relating to oil and gas conservation taxes), or

"(B) The property is used to carry on any manufacturing or production process which is first carried on in the building or other structure described in paragraph (1) after April 20, 1977.

"(3) Special business energy property.--The term 'special business energy property' means business energy property which is property other than property described in subparagraph (A), (B), or (C) of subsection (a) (1).

"(4) Cogeneration property.--The term 'cogeneration property' means property which produces steam, heat, or other forms of useful energy other than electric energy which is, or will be, used for industrial, commercial, or space heating purposes which together with such production, generates electric energy, and which property meets such

requirements respecting minimum fuel efficiency as the Secretary by regulations prescribes, after consultation with the Federal Energy Adminstrator.

"(5) Alternative energy property.--the term 'alternative energy property' means property which is

"(A) a coal fired boiler,

"(B) a coal fired combustor other than a boiler,

"(C) a facility for the conversion of coal into synthetic gas which has a heat content of 500 British thermal units or less per standard cubic foot,

"(D) a facility where coal is used as a feedstock for manufacture of chemicals or other products (other than coke),

"(E) equipment used for the unloading, transfer, storage, reclaiming from storage, or preparation (including washing, crushing, drying, and weighing at the point of use) of coal for use in, or with respect to, a boiler, combustor, or facility described in subparagraph (A), (B), (C), or (D),

"(F) a boiler (including a boiler fueled by waste materials or waste heat), the primary fuel for which is not petroleum, natural gas, or products derived from petroleum or natural gas,

"(G) equipment for the burning of coal in combustors other than boilers, but only a burner and such equipment that is used to supply coal to a burner, or

"(H) pollution control equipment required by Federal, State, or local regulations to be installed on, or with respect to, any property described in subparagraph (A), (B), (C), (D), (E), (F), or (G).

For purposes of this paragraph the terms 'facility' and 'equipment' do not include a building or other structure.

"(6) Solar Energy Equipment.--The term 'solar energy equipment' means equipment which is a type identified in regulations prescribed by the Secretary after consultation with the Federal Energy Administrator which, when installed in or on, or when

connected to a building uses solar energy to heat or cool a building of any part thereof, or to heat water or to provide process heat.

"(7) Items to be included.--In prescribing the regulations under paragraph (1), the Secretary, in consultation with the Federal Energy Administrator, shall include the following items:

"(A) Recuperators,

"(B) Heat wheels,

"(C) Regenerators,

"(D) Heat exchangers,

"(E) Waste heat boilers,

"(F) Heat pipes,

"(G) Insulation,

"(H) Double glazing,

"(I) Heat pumps,

"(J) Reflective glass coatings,

"(K) Automatic energy control systems,

"(L) Turbulators,

"(M) Pre-heaters,

"(N) Combustible gas recovery systems, and

"(O) Economizers.

However, in the event that the Secretary, after consultation with the Federal Energy Administrator, determines that any class of property described in subparagraphs (A) through (O) does not meet the criteria set forth in paragraph (1) (D), the Secretary is not required to identify such class of property in the regulations prescribed under paragraph (1).

(c) Recapture.--Subsection (a) of section 47 (relating to certain dispositions etc., of section 38 property) is amended by striking out "paragraph (2)" in paragraph (4) and inserting in lieu thereof "paragraph (2) or (8)" and by adding a new paragraph (8) at the end thereof to read as follows:

"(8) Change in business energy property.-- If during the taxable year any property taken into account as business energy property in computing the credit under section 38--

"(A) Becomes property that is not business energy property before the close of the useful life which was taken into account in computing

the credit under section 38, or before expiration of 7 years from the date the property was placed in service, whichever is less, or

"(B) With respect to property which was taken into account under section 46 (d), ceases (by reason of sale or other disposition, cancellation or abandonment of contract, or otherwise) to be property, which when placed in service, will be business energy property,

then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in credits allowed under section 38 for all prior taxable years which would have resulted solely from treating the property, for purposes of computing the credit under section 38, as property other than business energy property, after giving due regard to the period before the change in use. If this paragraph applies to a change in use to which paragraph (2) applies, or if the application of this paragraph to any property is followed by the application of paragraph (1), (2), or (3) to such property, proper adjustment shall be made in applying paragraph (1),

(2), or (3). Similar rules shall apply if business energy property which was taken into account as cogeneration property, or as alternative energy property, becomes business energy property that is not cogeneration property or alternative energy property, or ceases to be property, which, when placed in service, will be business energy property that is cogeneration property or alternative energy property. This paragraph shall not apply to a cessation to which paragraph (1) or (3) applies."

(d) Special Rule for Pollution Control Facilities. Section 46 (c) (5) (relating to applicable percentage of qualified investment in the case of certain pollution control facilities) is amended to read as follows:

"(5) Applicable percentage in the case of certain pollution control facilities.--

"(A) General rule.--Notwithstanding subsection (c)(2), in the case of property--

"(i) with respect to which an election under section 169 applies, and

"(ii) the useful life of which (determined without regard to section 169) is not less than 5 years,

50 percent shall be the applicable percentage for purposes of applying paragraph (1) with respect to so much of the adjusted basis of the property as (after the application of section 169 (f)) constitutes the amortizable basis for purposes of section 169.

"(B) Special rule for certain business energy property.-- In the case of any property described in subparagraph (A) which is--

"(i) business energy property (as defined in section 48(ℓ)), and

"(ii) any part of the cost of which is financed by the proceeds of an obligation issued by a State, a Territory, or a possession of the United States, or any political subdivision of any of the foregoing, or of the District of Columbia, the interest on which is excluded from gross income under section 103, the figure '25 percent' shall

be substituted for '50 percent' in applying subparagraph (A).".

(e) Effective date. (1) The amendments made by subsections (a), (b), and (c) shall apply to taxable years ending after April 20, 1977, and to credit carrybacks from such years.

(2) Section 46 (c)(5)(A) of the Internal Revenue Code of 1954, as added by subsection (d), shall apply to property acquired by the taxpayer after December 31, 1976, and to property the construction, reconstruction, or erection of which was completed by the taxpayer after December 31, 1976, (but only to the extent of the basis thereof attributable to construction, reconstruction, or erection after such date), in taxable years beginning after such date. Section 46 (c)(5)(B) of the Internal Revenue Code of 1954, as added by subsection (d), shall apply to property acquired by the taxpayer after April 20, 1977, and before April 1, 1983, and placed in service by the taxpayer before January 1, 1983, and to property the construction, reconstruction, or erection of which is completed by the taxpayer after April 20, 1977, but only to the extent of the basis thereof

attributable to the construction, reconstruction, or erection after April 20, 1977, and before January 1, 1983.

PART D - CRUDE OIL TAX

SEC. 1401. CRUDE OIL EQUALIZATION TAX

(a) Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 46--CRUDE OIL EQUALIZATION TAX

"Sec. 4996. CRUDE OIL EQUALIZATION TAX

"(a) Imposition of 1978 Interim Tax.--A tax is hereby imposed on the delivery to the refinery or other place of first use after December 31, 1977, and before January 1, 1979, of crude oil classified as first tier (refinery) crude oil in an amount per barrel equal to $3.50.

"(b) Imposition of 1979 Interim Tax.-- A tax is hereby imposed on the delivery to the refinery or other place of first use in each calendar month beginning after December 31, 1978 and before January 1, 1980, of crude oil classified as first tier (refinery) crude oil in an amount per barrel equal to the difference for such month (if any) between the national weighted average cost of all such crude oil and the national weighted average cost of all crude oil classified as second tier (refinery) crude oil.

"(c) Imposition of Permanent Tax.--A tax is hereby imposed on the delivery to the refinery or other place of first use in each calendar month beginning after December 31, 1979, of controlled crude oil of each classification (other than crude oil classified as uncontrolled (refinery) crude oil) in an amount per barrel equal to the difference for such month (if any) between the national weighted average cost of all crude oil of the same classification and the national weighted average cost to domestic refineries of crude oil exclusive of any tariffs or import fees.

"(d) Presidential Authority to Suspend Increase of Tax.--The President, by Executive Order, may suspend for such period as he prescribes any increase in the crude oil equalization tax if he finds such suspension is necessary to protect the domestic economy from increases in the average cost to domestic refineries of imported crude oil which significantly exceed the inflation adjustment (as defined in section 402(a)(20) of the National Energy Act).

"(e) Liability for Tax.--The tax imposed by this section shall be paid by the refiner.

"(f) Definitions.--For purposes of this section:

"(1) First tier.--The term 'first tier (refinery) crude oil' means crude oil (other than uncontrolled (refinery) crude oil) delivered to a refinery which oil is certified as having been sold pursuant to the lower tier ceiling price rule of section 212.73 of title 10, Code of Federal Regulations (as in effect on April 20, 1977 or thereafter).

"(2) Second tier.--The term 'second tier (refinery) crude oil' means crude oil (other than uncontrolled (refinery) crude oil) delivered to a refinery, which oil is certified as having been sold pursuant to the upper tier ceiling price rule of section 212.74 of title 10, Code of Federal Regulations (as in effect on April 20, 1977 or thereafter).

"(3) Uncontrolled.--The term 'uncontrolled (refinery) crude oil' means crude oil delivered to a refinery, which oil is either not subject to any first sale ceiling price rule or, if subject to such first sale ceiling price rule, such rule does not have the effect of reducing the cost of such crude oil to a refiner to less than the cost of an equivalent grade and quality of imported crude oil.

"(4) Refiner.--The term 'refiner' means a refiner of crude oil or any other first user of crude oil.

"(5) Refinery.--The term 'refinery' means a location where refining of crude oil or other first use of crude oil takes place.

"(g) Special rules.--The officer or agency to which the President delegates his authorities under the Emergency Petroleum Allocation Act of 1973 shall have authority under this section to --

"(1) prescribe by regulation such different or additional classifications of crude oil with respect to refiner acquisition costs as are deemed necessary or appropriate for purposes of subsection (c) of this section,

"(2) prescribe regulations specifying the application of the crude oil classification regulations to crude oil that is exchanged prior to its delivery to a refinery,

"(3) prescribe regulations whereby the national weighted average cost of each classification of crude oil shall be determined or prescribed, and

"(4) to further define the terms used in this section with respect to crude oil and the classifications

and costs thereof, consistent with the purposes of this section.

"(h) Transportation Outside the United States.--The transportation of crude oil outside the United States for refining or ultimate use outside the United States shall be treated as delivery to the refiner, and the person owning the crude oil at the time of such transportation shall be deemed the refiner of such crude oil."

(b) Effective Date.--The amendments made by this section apply to deliveries of crude oil to the refinery after December 31, 1977.

SEC. 1402. REFUNDS OF CRUDE OIL EQUALIZATION TAX

(a) In General.--Subchapter B of chapter 65 (relating to rules of special application for abatements, credits and refunds) is amended by adding at the end thereof the following:

"Sec. 6431. FUEL USED FOR HEATING RESIDENCES--

"(a) (1) Payments. Except as provided in subsection (f), if domestically refined distillate fuel oil has been sold and delivered into the tank of a residential structure for use in such structure, the Secretary shall pay (without interest) to the ultimate vendor of such distillate fuel oil an

amount per gallon determined as presented in subsection (c).

"(2) Proof required to qualify for payment.--Payment under paragraph (1) shall be conditional upon the ultimate vendor furnishing evidence, as required under regulations of the Secretary, that he has reduced the price of the distillate fuel oil for which payment is claimed to fully reflect the amount of payment claimed.

"(b) Time for Filing Claims; Period Covered.--

"(1) General rule. Except as provided in paragraph (2), not more than one claim may be filed under subsection (a) by any person with respect to distillate fuel oil sold during his taxable year. No claim shall be allowed under this paragraph unless filed by such person not later than the time prescribed by law for filing a claim for credit or refunds of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

"(2) Exception. If $1,000 or more is payable under this section to any person with respect to

distillate fuel oil sold during any of the first three quarters of his taxable year, a claim may be filed under this section by such person with respect to distillate fuel oil sold during such quarter. No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.

"(c) Determination of Amount to be Claimed.--

"(1) In general.--The amount per gallon of distillate fuel oil for which claim may be filed shall be determined by the Federal Energy Administrator. Such Administrator shall determine the average per barrel tax liability of refiners under section 4996 for each calendar quarter and publish such determination by the end of the second month of the following quarter. The refiner of distillate fuel oil shall include on all invoices of such oil for the quarter following the publication of the average quarterly tax liability by such Administrator a statement of such average amount (converted to a per gallon basis if pertinent). Each subsequent seller of such oil shall include a similar statement

of tax on his invoice, except that the ultimate vendor need not include such statement if the oil is not to be delivered into the tank of a residential structure. Vendors subsequent to the refiner of the crude oil shall determine the tax to be included on their invoice by using the first-in first-out inventory method.

"(2) Interim determination.--For the first two calendar quarters beginning with the quarter of imposition of the tax under section 4996, the amount of tax to be stated on invoices of distillate fuel oil sold by refiners shall be an amount as estimated and published by the Federal Energy Administrator. Such Administrator shall publish the estimate by November 30, 1977 or within 10 days after enactment of this section, whichever comes later.

"(d) Applicable Laws.--

"(1) In general.--All provisions of law, including penalties, applicable in respect of the tax imposed by section 4996 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments

constituted refunds of overpayments of the tax so imposed.

"(2) Examination of books and witnesses. For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602 (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

"(e) Regulations.--The Secretary may in the regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

"(f) Income Tax Credit in Lieu of Payment.--

"(1) Persons not subject to income tax. Payment shall be made under subsection (a) only to--

"(A) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

"(B) an organization exempt from tax under section 501(a) (other than an organization required

to make a return of the tax imposed under subtitle A for its taxable year).

"(2) Exception. Paragraph (1) shall not apply to a payment of a claim filed under subsection (b)(2).

"(3) Allowance of credit against income tax. For allowance of credit against the tax imposed by subtitle A for distillate fuel oil sold for residential use, see section 39.

"(g) Cross References.

"(1) For civil penalty for excessive claims under this section, see section 6675.

"(2) For fraud penalties etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures)."

(b) Technical Amendment.--Section 39 is amended by:

(1) Changing the heading to read:

"Certain uses of gasoline, special fuels, lubricating oil, and distillate fuel oil."

(2) By adding a new paragraph to subsection (a) to read as follows:

"(5) under section 6431 with respect to distillate fuel oil used for heating residences."

(3) By inserting "6431," after "6427," each place that it appears in subsection (b), and

(4) By deleting "and" after paragraph (3) of subsection (a), deleting the period after paragraph 4 and inserting ", and".

(c) Effective Date.--The amendments made by this section shall take effect after December 31, 1977.

SEC. 1403. PER CAPITA PAYMENT OF CRUDE OIL EQUALIZATION TAX RECEIPTS.

(a) In General.--Subchapter B of chapter 65 (relating to rules of special application for abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"Sec. 6432. PER CAPITA PAYMENT OF CRUDE OIL EQUALIZATION TAX RECEIPTS.

"(a) General Rule.--Each individual shall be treated as having made a payment against the tax imposed by chapter 1 for the taxable year in which there is a tax imposed under section 4996 equal to the crude oil per capita payment, multiplied by each exemption provided by subsection (b) and (e) of section 151 for which the taxpayer is allowed a deduction for such taxable year.

"(b) Tax Rebate.--The Secretary, in consultation with the Federal Energy Administrator, shall publish in the Federal Register the amount of the crude oil per capita payment for each year. The Secretary shall determine the per capita payment based on estimated revenues to be derived from the tax imposed under section 4996 during the taxable year reduced by (1) the anticipated revenue loss from business deductions for the tax imposed by

section 4996 allowable under this title, and (2) anticipated payments under section 6431. The per capita payment shall reflect the administrative costs incurred in connection with the per capita payment.

"(c) Limitation Based on Amount of Tax.--

"(1) In general.-- The amount treated as paid by reason of this section shall not exceed the amount of the taxpayer's liability for tax imposed by chapter 1 (unreduced by any credits) for the taxable year.

"(2) Refund made to certain taxpayers.-- Paragraph (1) shall not apply to any individual who--

"(A) is entitled to a credit under section 43 (relating to credit for earned income), or

"(B)(i) has a dependent child who lived with such individual,

"(ii) has earned income, and

"(iii) if married, filed a joint return.

For purposes of subparagraph (B)(ii), the term 'earned income' has the meaning given to such term by section 43(c)(2), except that 'self-employment income (as defined in section 1402(b))' shall be substituted for 'net earnings from self-employment' in clause (ii) of section 43(c)(2)(A).

"(d) Date Payment Deemed Made.--The payment provided by this section shall be deemed made on whichever of the following dates is the later:

"(1) the date prescribed by law (determined without extensions) for filing the return of tax under chapter 1 for the taxable year, or

"(2) the date on which the taxpayer files his return of tax under chapter 1 for the taxable year.

"(e) Certain Persons Not Eligible.--This section shall not apply to any estate or trust, nor shall it apply to any nonresident alien individual."

(b) Technical Amendment.--Subpart A of part IV of chapter 1 (relating to credits allowable) is amended by inserting after section 33 the following new section:

"Sec. 34. For credit against the tax imposed by this chapter allowed for crude oil equalization tax, see section 6432."

(c) Clerical Amendment.--The table of sections for subchapter B of chapter 65 is amended by adding at the end thereof the following new item:

"Sec. 6432. Per Capita Payment of Crude Oil Equalization Tax Receipts."

(d) Effective Date.--The amendments made by this section shall take effect on January 1, 1978.

SEC. 1404. ENERGY PAYMENT TO RECIPIENTS OF BENEFITS UNDER CERTAIN RETIREMENT AND SURVIVOR BENEFIT PROGRAMS.

(a) Payment.--In the month of September 1979, and in each successive September, the Secretary of the Treasury shall make an energy payment in an amount equal to the per capita payment of crude oil equalization tax receipts determined under section 6432 (relating to per capita payment of crude oil equalization tax receipts) and under section 6430 (relating to per capita payment of standby gasoline tax receipts) if applicable. The per capita payment is to be made to each individual who--

(1) is a resident of the United States, and for the immediately preceding June, was entitled (without regard to sections 202(j)(1) and 223(b) of the Social Security Act, and section 5(a)(ii) of the Railroad Retirement Act of 1974) to a benefit (other than a lump sum death payment) payable by the United States under title II or title XVI of the Social Security Act, the Railroad Retirement Acts of 1935, 1937 or 1974;

(2) to whom a check was issued as payment of such benefit prior to September 1, 1979 with respect to calendar year 1979, and prior to each succeeding September 1 with respect to each calendar year succeeding calendar year 1979; and

(3) who, by reason of insufficient taxable income, is unable to claim any portion of the energy payment credit (as provided by section 1222 of the National Energy Act) for his most recent taxable year ending prior to January 1 preceding such month of entitlement.

(b) For the purpose of facilitating the energy payment provided by subsection (a), the Secretary of Health, Education, and Welfare shall, prior to July 30, 1979 with respect to calendar year 1979, and prior to each succeeding July 30 with respect to each calendar year succeeding calendar year 1979, provide to the Secretary of the Treasury the name, address, and social security number of each individual who was entitled to receive, with respect to the immediately preceding month, a benefit payable by the United States described in subsection (a). The Secretary of the Treasury shall reimburse the Secretary of Health, Education and Welfare for his administrative costs under this subsection.

SEC. 1405. ENERGY PAYMENT TO RECIPIENTS OF AID TO FAMILIES WITH DEPENDENT CHILDREN UNDER APPROVED STATE PLANS.

(a) Payment.--Every State (as defined in section 1101(a) of the Social Security Act) which has in effect a plan for aid and services to needy families with children approved under section 402(a) of such Act, shall, at the earliest practicable date, beginning in 1979 and each year thereafter make an energy payment in amount equal to the per capita payment of crude oil equalization tax receipts determined under section 6432 (relating to per capita payment of crude oil equalization tax receipts) and under section 6430 (relating to per capita payment of standby gasoline tax receipts) if applicable, to each individual who is a resident of the United States and who received aid to families with dependent children as a child or relative under such plan prior to September 1, 1979 with respect to calendar year 1979, and prior to each succeeding September 1 with respect to each calendar year succeeding calendar year 1979.

(b) Full Federal Reimbursement of State Costs.--The Secretary of the Treasury shall pay to each State by way of reimbursement the full amount of all payments made by such State under subsection (a), plus an additional sum, as compensation for the administrative costs incurred in connection with such payment, equal to the product of 75 cents multiplied by the number of people receiving payments.

SEC. 1406. SPECIAL ENERGY PAYMENTS

(a) Payments.--Every State (or the District of Columbia), at the earliest practicable date, beginning in 1979 and each year thereafter make an energy payment in an amount equal to the per capita payment of crude oil equalization tax receipts determined under section 6432 (relating to per capita payment of crude oil equalization tax receipts) and under section 6430(b) (relating to per capita payment of standby gasoline tax receipts) if applicable, to each individual who is a resident of the United States and his dependents if such individual filed with the appropriate agency after September 30 of such year a form stating that such individual--

(A) did not receive a payment during the year pursuant to section 1405 of the National Energy Act,

(B) did not have taxable income in such year, and

(C) was not claimed as a dependent by another taxpayer (in the case of a student, the social security number of the parents is to be provided).

Such individual shall also indicate on such form the names of the dependents (and their social security numbers) claimed by him. The governor of each state, and the mayor in the case of the District of Columbia shall designate the agency responsible for making such payments.

(b) Full Federal Reimbursement of State Costs.--The Secretary of the Treasury shall pay to each State by way of reimbursement the full amount of all payments made by such State under subsection (a), plus an additional sum, as compensation for the administrative costs incurred in connection with such payment, equal to the product of 75 cents multiplied by the number of people receiving payments.

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SEC. 1407. PER CAPITA REBATE DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

Any payment considered to have been made by any individual by reason of section 6430 (relating to per capita payment of stand by gasoline tax receipts) and section 6432 (relating to per capita payment of crude oil equalization tax receipts), and payments made by reason of sections 1404, 1405, and 1406 of the National Energy Act shall not be regarded as income of such individual (or of the family of which he is a member) for purposes of any Federal, State or local program which undertakes to furnish aid or assistance to individuals or families, where eligibility to receive such aid or assistance (or the amount of such aid or assistance) under such program is based on the need therefor of the individual or family involved. The requirement imposed by the preceding sentence shall be treated as a condition for Federal financial participation in any such State or local program of aid or assistance.

SEC. 1408. PER CAPITA REBATE NOT TO BE CONSIDERED INCOME OR A REDUCTION IN FEDERAL INCOME TAXES UNDER STATE LAW.

Payments considered to have been made by reason of section 6430 (relating to per capita payment of standby gasoline tax receipts) and section 6432 (relating to per capita payment of crude oil equalization tax receipts) and payments made by reason of sections 1404, 1405, and 1406 of the National Energy Act shall not be considered as gross income for purposes of such Code, and shall not be considered as income or a reduction in tax imposed by subtitle A of such Code for purposes of any law of any State (or the District of Columbia) relating to the taxation of income.

SEC. 1409. WITHHOLDING TAX.

Subsection (a) of section 3401 (relating to income tax collected at source) is amended to read as follows:

"(a) Requirement of Withholding.--Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables prescribed by the Secretary. With respect to wages paid after December 31, 1978, the tables so prescribed shall be the same as the tables prescribed under this subsection which were in effect on January 1, 1976, except that such tables will be modified to the extent necessary to reflect the amendment made by section 1403 of the National Energy Act (relating to per capita payment of crude oil equalization tax receipts) and further modified if a payment under section 1222 of such Act (relating to per capita payment of standby gasoline tax receipts) is required. For purposes of applying such tables, the term 'amount of wages' means the amount by which the wages exceed the number of withholding exemptions claimed, multiplied by the amount of one such exemption as shown in the table prescribed under subsection (b)(1).

PART E - OIL AND GAS CONSUMPTION TAXES

SEC. 1501. OIL AND GAS CONSUMPTION TAXES.

(a) General Rule.--Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 45--OIL AND GAS CONSUMPTION TAXES.

Sec. 4991. OIL CONSUMPTION TAX.

"(a) Imposition of Tax on Utility Use.--A tax is hereby imposed on any taxable electric utility use of petroleum during each calendar year after calendar year 1982 of 25 cents per million British thermal units (hereafter in this section referred to as 'Btu') used, plus the inflation adjustment pursuant to subsection (c)(5) as applied by the Secretary for the last calendar quarter preceding the year in which the tax liability is incurred.

"(b) Imposition of Tax on Other Uses.--A tax is hereby imposed on any taxable use of petroleum (other than a taxable electric utility use) during each calendar year after 1978 in an amount per million Btu's used, determined in accordance with the

following table and increased by the inflation adjustment pursuant to subsection (c)(5):

"If the taxable use occurs --	Tax in dollars per million Btu's is --
In 1979	$0.15
In 1980	0.30
In 1981	0.30
In 1982	0.35
In 1983	0.40
In 1984	0.45
In 1985	0.50
After 1985	0.50

"(c) Definitions.--For purposes of this section--

"(1) Taxable use.--(A) The term 'taxable use' means any use of petroleum or petroleum and natural gas by a person in any trade or business during the calendar year determined in accordance with the following table:

If Total Petroleum and Natural Gas Use (in Billions of Btu's) is--		Taxable Use (in Billions of Btu's) is--
at least	but not more than	
0	500	0
500	600	0 + 60% of use over 500
600	700	60 + 80% of use over 600
700	800	140 + 100% of use over 700
800	900	240 + 120% of use over 800
900	1000	360 + 140% of use over 900
1000	1100	500 + 160% of use over 1000
1100	1200	660 + 180% of use over 1100
1200	1300	840 + 200% of use over 1200
1300	1400	1040 + 220% of use over 1300
1400	1500	1260 + 240% of use over 1400
1500	or more	All Use

"(B) For purposes of determining taxable use under this paragraph, a component member of a controlled group shall be treated as using the petroleum and natural gas used by all component members of such controlled group. The term 'controlled group' for purposes of this paragraph has the meaning by section 1563 except that in applying such section '50 percent' shall be used in lieu of '80 percent'.

"(C) In the case of a user of both natural gas and petroleum, only that portion of taxable use (as determined under subparagraph (A)) which bears the same ratio to taxable use as such user's total use of petroleum bears to his total petroleum and natural

gas use shall be subject to the tax imposed by this section.

"(2) Taxable electric utility use.--The term 'taxable electric utility use' means taxable use of petroleum by an electric utility for the purpose of generating electric energy.

"(3) Petroleum.--The term 'petroleum' means crude oil, residual fuel oil, refined petroleum products and natural gas liquids (other than lubricating oils, greases, waxes, petroleum coke, pitch, asphalt and related products as described in regulations prescribed by the Secretary, and natural gas as defined in section 4992(c)(2)).

"(4) Electric utility.--The term 'electric utility' means any person engaged in the business of sale or exchange of electric energy, or a qualifying cogenerator (as defined in section 522(b)(3) of the National Energy Act).

"(5) Inflation adjustment.--The term 'inflation adjustment' means the first revision of the quarterly percent change, seasonally adjusted at annual rates, of the most recent implicit price deflator for the gross national product. Such adjustment shall be computed and published for each calendar quarter by the Department of Commerce.

"(d) No Deduction.--No deduction shall be allowed under this title for any amount of tax imposed by this section which is treated as having been paid under section 6431(a).

"(e) Btu Content.--The Secretary shall by regulation establish standard Btu content per barrel for the various types and grades of petroleum.

"SEC. 4992. NATURAL GAS CONSUMPTION TAX.

"(a) Imposition of Tax.--A tax is hereby imposed on any taxable use of natural gas during each calendar year after 1982 in the case of any taxable use by an electric utility, and after 1978 in the case of any other taxable use, in an amount per million British thermal units (hereinafter in this section referred to as 'Btu') used during such year equal to the excess, if any, of--

"(1) the natural gas target price for the calendar year, over

"(2) the user acquisition cost for the calendar year.

"(b) Natural Gas Target Price.--The natural gas target price for the calendar year is an amount equal to the Btu equivalency price for the calendar year adjusted by subtracting the amount (if any) specified in the following tables less the inflation adjustment pursuant to subsection (e)(5) as applied by the Secretary for the last calendar quarter preceding the year in which the tax liability is incurred.

"Adjustments for Taxable Use by an Electric Utility (in dollars per million Btu's)

If the taxable use occurs in calendar year--	The amount subtracted is --
1983	$ .50
1984	.50
1985	.50
1986	.25
1987	.25
1988	0
After calendar year 1988	0

"Adjustments for any other Taxable Use (in dollars by million Btu's)

If the taxable use occurs --	The amount subtracted is --
In 1979	$1.05
In 1980	.40
In 1981	.35
In 1982	.25
In 1983	.20
In 1984	.15
In 1985	0
After calendar year 1985	0

"(c) User Acquisition Cost.--(1) In general - Except as provided in paragraph (2), the user acquisition cost for the calendar year is the aggregate amount paid by a person for natural gas for a taxable use during the calendar year divided by the number of Btu's so used.

"(2) Special rules for certain uses - In the case of natural gas used by the producer thereof or by any person who is a member of the same affiliated group (within the meaning of section 1504) as such producer, the user acquisition cost shall be deemed to be an amount equal to the maximum lawful price (or special price) applicable to such natural gas under Part D of title II of the National Energy Act (or which would be applicable if such natural gas were sold, in the case of natural gas which is not sold by the producer thereof) including reasonable transportation costs, if any.

"(d) Liability for Tax.--The tax imposed by this section shall be paid on or before June 30 of the succeeding calendar year by the natural gas user.

"(e) Definitions.--For purposes of this section--

"(1) Taxable use.--(A) The term 'taxable use' means any use of natural gas or natural gas and petroleum by a person in any trade or business during the preceding calendar year determined in accordance with the following table:

If Total Petroleum and Natural Gas Use (in Billions of Btu's) is--		Taxable Use (in Billions of Btu's) is--
at least	but not more than	
0	500	0
500	600	0 + 60% of use over 500
600	700	60 + 80% of use over 600
700	800	140 + 100% of use over 700
800	900	240 + 120% of use over 800
900	1000	360 + 140% of use over 900
1000	1100	500 + 160% of use over 1000
1100	1200	660 + 180% of use over 1100
1200	1300	840 + 200% of use over 1200
1300	1400	1040 + 220% of use over 1300
1400	1500	1260 + 240% of use over 1400
1500	or more	All Use

"(B) For purposes of determining taxable use under this paragraph, a component member of a controlled group shall be treated as using the natural gas and petroleum used by all component members of such controlled group. The term 'controlled group' for purposes of this paragraph has the meaning provided by section 1563 except that in applying such section '50 percent' shall be used in lieu of '80 percent'.

"(C) In the case of a user of both natural gas and petroleum, only that portion of taxable use (as determined under subparagraph (A)) which bears the same ratio to taxable use as such user's total use of natural gas bears to his total petroleum and natural

gas use shall be subject to the tax imposed by this section.

"(2) Natural gas. -- The term 'natural gas' means all petroleum or natural gas or products thereof, with API gravity of 110 or more and heat content of 500 Btu's or more per standard cubic foot.

"(3) Btu equivalency price. -- The term 'Btu equivalency price' for the calendar year means, in the case of a taxable use of natural gas, the average regional price according to Petroleum Administration for Defense Districts of all No. 2 grade distillate oil sold for all taxable use (as defined in section 4991(c)(1)) in the District in which such gas is used during the calendar year, as determined by March 31 of the succeeding calendar year by the Administrator of the Federal Energy Administration. Such price shall be determined without regard to tax paid under section 4991.

"(4) Electric utility. -- The term 'electric utility' means any person engaged in the business of sale or exchange of electric energy, or a qualifying cogenerator (as defined in section 522(b)(3) of the National Energy Act).

"(5) Inflation adjustment. -- The term 'inflation adjustment' means the first version of the quarterly percent

seasonally adjusted at annual rates, of the most recent implicit price deflator for the gross national product. Such adjustment shall be computed and published for each calendar quarter by the Department of Commerce.

"(f) No Deduction. -- No deduction shall be allowed under this title for any amount of tax imposed by this section which is treated as having been paid under section 6431(a).

"SEC. 4993. EXEMPTIONS.

"(a) Exempted Fuels. -- The taxes imposed by this chapter shall not apply--

"(1) to any petroleum taxable under chapter 31 or 32, or

"(2) to any petroleum which would be taxed under either such chapter but for section 4221(a)(3).

"(b) Exempted Uses. -- The taxes imposed by this chapter shall not apply to-

"(1) use in any aircraft,

"(2) use for purposes of rail or water transportation,

"(3) use on a farm for farming purposes (within the meaning of section 6420(c)), and any drying of grains and feed grasses or irrigation pumping,

"(4) use for production of anhydrous ammonia or ammonia liquor (except use of natural gas as fuel),

"(5) use of petroleum or natural gas (other than as a fuel) by a refinery or natural gas processing plant to produce refined petroleum products, or

"(6) natural gas reinjected for repressuring or cycling use, natural gas used at the point of consumption which is not practically marketable."

(b) Conforming amendment. -- Section 162 (relating to trade or business expenses) is amended by adding a new subparagraph (3) at the end of subsection (h), to read as follows:

"(3) For special rule relating to amounts treated as payment of a tax imposed by chapter 45, see sections 4991 and 4992."

(c) Clerical Amendment. -- The table of sections for subtitle D is amended by adding at the end thereof the following new item:

"Chapter 45. Oil and Natural Gas Consumption Taxes.

"Sec. 4991. Oil consumption tax.
"Sec. 4992. Natural gas consumption tax.
"Sec. 4993. Exemptions."

(d) Effective Date. -- The amendments made by this section apply to taxable uses after December 31, 1977.

SEC. 1502. INDUSTRIAL OIL AND GAS CONSERVATION REBATE

(a) General Rule.--Subchapter B of chapter 65 (relating to rules and special application in the case of abatements, credits and refunds) is amended by adding at the end thereof the following section:

"Sec. 6431. INDUSTRIAL OIL AND GAS CONSERVATION REBATE.

"(a) In General.-- If this section applies, any person other than an electric utility shall be treated as having made a payment against the taxes imposed by chapter 45 for the calendar year in an amount equal to its investment made after December 31, 1977, during the calendar year in alternative energy property. For purposes of this subsection, an investment in alternative energy property by a component member of a controlled group shall be treated as an investment by all of the component members of such controlled group. The term 'controlled group' for purposes of this subsection has the meaning provided by section 1563 except that in applying such section, '50 percent' shall be used in lieu of '80 percent'.

"(b) Election of Rebate.--This section shall apply if an election is made at the time the person first credits against the tax expenditures for alternative energy property under regulations prescribed by the Secretary.

"(c) Investment Carryover.--The excess, if any, of the amount of an investment during the calendar year made by a person other than an electric utility over the taxes imposed by chapter 45 on such person for the calendar year shall be carried over to the next succeeding calendar year. An amount so carried over shall be treated as an investment made by such person in alternative energy property during such succeeding calendar year.

"(d) Definitions.--For purposes of this section--

"(1) Electric utility.--The term 'electric utility' has the meaning prescribed by section 4991 (c)(4).

"(2) Alternative energy property.--The term 'alternative energy property' means the following property--

"(A) coal-fired boilers;

"(B) boilers whose primary fuels will not be petroleum or natural gas;

"(C) facilities for the conversion of coal into synthetic natural gas having a heat content of 500 Btu's per standard cubic foot or less;

"(D) equipment for the burning of coal in combustors other than boilers including only equipment used to supply coal to a burner, and the burner;

"(E) pollution control equipment required to be installed on equipment (described in subparagraph (D)) by local, State, or Federal regulations, except equipment required to be installed under regulations in effect on April 20, 1977, relating to combustors currently using coal; and

"(F) equipment used for the unloading, transfer, storage, reclaiming from storage, and preparation of coal, including washing, crushing, drying, and weighing at the point of use for use for installations described in this paragraph and at facilities where coal is used as a feedstock for manufacture of chemicals or other products except coke.

For purposes of this paragraph, costs of buildings which house such equipment, costs of preparing plans and designs for equipment and facilities except as described in sub-paragraphs (A) through (F), and costs of preparing

sites for facilities, such as demolition and grading, shall not be allowable costs under this section.

"(3) Investment.--The term 'investment' means the costs paid or incurred by a person in installing alternative energy property including the costs of engineering and designing, purchasing or manufacturing for own use, transporting, assembling, and installing such equipment.

"(e) Date Payment Deemed Made.--The payment provided by this section shall be deemed made on whichever of the following dates is the later:

"(1) the date prescribed by law (determined without extensions) for filing the return of taxes imposed by chapter 45 for the taxable year, or

"(2) the date on which such return of tax is actually filed for the taxable year."

(b) Conforming Amendments.--

(1) section 46(d)(3) (relating to the definition of qualified progress expenditures) is amended by striking out "In the case" in subparagraph (A) and (B) and inserting in lieu thereof "Except as provided in subparagraph (C), in the case" and by adding a new subparagraph (C) to read as follows:

"(C) If an amount described in subparagraph (A) or (B) is treated, by reason of section 6431(a), as being a payment of any tax imposed by chapter 45, only 50 percent of such amount shall be a qualified progress expenditure.".

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by inserting a semicolon in lieu of the period at the end of paragraph (23) and by adding a new paragraph (24) to read as follows:

"(24) to the extent provided in section 6431(f) in the case of property to which an election under subsection (b) of section 6431 (relating to oil and gas conservation rebates) applies.".

(c) Clerical Amendment.--The table of sections for subchapter B of chapter 65 is amended by adding at the end thereof the following new item:

"Sec. 6431. Industrial oil and gas conservation rebate."

(d) Effective Date.--The amendments made by this section apply for calendar years ending after December 31, 1977.

SEC. 1503. UTILITY OIL AND GAS CONSERVATION REBATE

(a) General Rule.--Subchapter B of chapter 65 (relating to rules and special application in the case of abatements, credits and refunds) is amended by adding at the end thereof the following section:

"Sec. 6432. UTILITY OIL AND GAS CONSERVATION REBATE.

"(a) In General.--There shall be credited against the tax imposed pursuant to sections 4991(a) and 4992(a) expenditures by an electric utility for qualified replacement investments made after April 20, 1977.

"(b) Election of Rebate.--This section shall apply if an election is made at the time the electric utility first credits against the tax expenditures for qualified replacement investments under regulations prescribed by the Secretary.

"(c) Definitions.--For purposes of this section--

"(1) Electric Utility.--The term 'electric utility' has the meaning provided in section 4991(c)(4).

"(2) Qualified replacement investments.--The term 'qualified replacement investment' means the costs paid or incurred by an electric utility for engineering, designing, purchasing, transporting,

assembling and installing electricial generating property with a capacity for using coal or other fuel to replace electrical generation property with a capacity for using petroleum or natural gas (other than for startup, testing and flame stabilization). In prescribing the regulations under this paragraph, the Secretary shall consult with the Administrator of the Federal Energy Administration.

"(3) Coal or other fuel.--The term 'coal or other fuel' has the meaning provided by section 102(5) of the Energy Supply and Environmental Coordination Act of 1974 as amended by the National Energy Act."

PART F - ENERGY DEVELOPMENT TAX INCENTIVES

SEC. 1601. GEOTHERMAL TAX INCENTIVE

(a) Section 263(c) (relating to deduction for intangible drilling and development costs in the case of oil and gas wells) is amended--

(1) by adding at the end thereof the following new sentence: "Such regulations shall also grant the option to deduct as expenses intangible drilling and development costs in the case of wells drilled for geothermal steam and geothermal resources, as defined in section 2(c) of the Geothermal Steam Act of 1970 (30 U.S.C. 1001), to the same extent and in the same manner as such expenses are deductible in the case of oil and gas wells.", and

(2) by amending the caption of such section to read as follows:

"(c) Intangible Drilling and Development Costs in the Case of Oil and Gas Wells and Geothermal Wells.-".

(b) The amendments made by subsection (a) shall apply with respect to wells commenced after April 20, 1977.

SEC. 1602. GAIN FROM DISPOSITION OF INTEREST IN GEOTHERMAL WELLS

(a) General Rule.--Section 1254 (relating to gain from disposition of interest in oil or gas property) is amended--

(1) by striking out the caption and inserting in lieu thereof "SEC. 1254. GAIN FROM DISPOSITION OF INTEREST IN OIL, GAS OR GEOTHERMAL PROPERTY.";

(2) by striking out the caption "General Rule.--" in subsection (a) and inserting in lieu thereof "General Rule for Oil or Gas Property.-";

(3) by redesignating subsection (b) as subsection (c); and

(4) by adding the following new subsection at the end of subsection (a):

"(b) General Rule for Geothermal Wells.--

"(1) Ordinary income.--If a geothermal well is disposed of after April 20, 1977, the lower of--

"(A) the aggregate amount of expenditures after December 31, 1976, which are allocable to such well and which have been deducted as intangible drilling and development costs under section 263(c) by the taxpayer or any other person and which (but for being so deducted) would be

reflected in the adjusted basis of such property, adjusted as provided in paragraph (4), or

"(B) the excess of--

"(i) The amount realized (in the case of a sale, exchange of involuntary conversion), or the fair market value of the interest (in the case of any other disposition), over

"(ii) The adjusted basis of such interest,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(2) Disposition of portion of well.--For purposes of paragraph (1)--

"(A) In the case of the disposition of a portion of a geothermal well (other than an undivided interest), the entire amount of the aggregate expenditures described in paragraph (1)(A) with respect to such well shall be treated as allocable to such portion to the extent of the amount of the gain to which paragraph (1) applies.

"(B) In the case of the disposition of an undivided interest in a geothermal well (or a portion thereof), a proportionate part of the

expenditures described in paragraph (1)(A) with respect to such well shall be treated as allocable to such undivided interest to the extent of the amount of the gain to which paragraph (1) applies. This paragraph shall not apply to any expenditures to the extent the taxpayer establishes to the satisfaction of the Secretary that such expenditures do not relate to the portion (or interest therein) disposed of.

"(3) Geothermal well.--The term 'geothermal well' means any well (within the meaning of section 263(c)) with respect to which any expenditures described in paragraph (1)(A) are properly chargeable.

"(4) Special rule for paragraph (1)(A).--In applying paragraph (1)(A), the amount deducted for intangible drilling and development costs and allocable to the interest disposed of shall be reduced by the amount (if any) by which the deduction, had such costs paid or incurred (after April 20, 1977) been capitalized and ratably amortized over the 120-month period beginning with the month in which production from such well begins, would have been increased had such costs been charged to capital account rather than deducted under section 263(c)."

(b) Technical Amendments.--

(1) Section 751(c) (relating to definition of unrealized receivables) is amended by striking out "and an oil or gas property (described in section 1254)" and inserting in lieu thereof "and an oil, gas a geothermal property (described in section 1254)", and by striking out "or 1254(a)" and inserting in lieu thereof "or 1254(a) or (b)".

(2) Section (c)(3) of section 205 of the Tax Reform Act of 1976 is amended by striking out "section 163(d)(3)(A)(iii)" and inserting in lieu thereof "section 163(d)(3)(B)(iii)".

(c) Clerical Amendment.--The table of sections for part IV of subchapter P of chapter 1 is amended by striking out the item relating to section 1254 and inserting in lieu thereof the following new item:

"Sec. 1254. Gain from disposition of interest in oil, gas or geothermal property."

(d) Effective Date.--The amendments made by subsections (a) and (c) shall apply with respect to taxable years ending after April 20, 1977. The amendment made by subsection (b) shall apply with respect to taxable years ending after December 31, 1975.

SEC. 1603. MINIMUM TAX TREATMENT OF INTANGIBLE DRILLING EXPENSES RELATING TO OIL AND GAS WELLS

(a) Section 57(a)(11) (relating to items of tax preference) is amended to read as follows:

"(11) Intangible Drilling Costs Relating to Oil and Gas Wells with respect to all interest of the taxpayer in oil and gas wells, the excess of --

"(A) the excess of the intangible drilling and development costs described in section 263(c) paid or incurred in conection with oil and gas wells (other than costs incurred in drilling a nonproductive well) allowable under this chapter for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (d)) had been used with respect to such costs, over

"(B) the aggregate amount of net income received or accrued by the taxpayer during such taxable year attributable to such interests. For purposes of this subparagraph, the term 'net income' means the excess of the aggregate amount of

gross income from oil and gas properties over the sum of--

"(i) the amount of any deductions (other than the amount of any excess intangible drilling and development costs, as determined under subparagraph (A), allowable for such taxable year) allocable to such properties, and

"(ii) the amount of taxes imposed under this section (determined without regard to this part) allocable to such properties."

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1976.

SEC. 1604. MINIMUM TAX TREATMENT OF INTANGIBLE DRILLING EXPENSES RELATING TO GEOTHERMAL WELLS

(a) Section 57(a) (relating to items of tax preference) is amended by striking out the matter after paragraph (11) and inserting thereof the following:

"(12) Intangible Drilling Costs Relating to Geothermal Wells.--With respect to all interest of the taxpayer in geothermal wells, the excess of --

"(A) the excess of the intangible drilling and development costs described in section 263(c) paid or incurred in connection with geothermal wells (other than costs incurred in drilling a nonproductive well) allowable under this chapter for the taxable year which exceeds the amount which would have been allowable for the taxable year if such costs had been capitalized and ratably amortized over the 120-month period beginning with the month in which production from such well begins, over

"(B) the aggregate amount of net income received or accrued by the taxpayer during such taxable year attributable to such interests. For purposes of this subparagraph, the term "net income" means the excess

of the aggregate amount of income from geothermal properties over the sum of --

"(i) the amount of any deductions (other than the amount of any excess intangible drilling and development costs, as determined under subparagraph (A), allowable for such taxable year) allocable to such properties, and

"(ii) the amount of taxes imposed under this section (determined without regard to this part) allocable to such properties.

Paragraphs (1), (3), (11) and (12) shall not apply to a corporation."

(b) The amendment made by subsection (a) shall apply to expenses paid or incurred after April 20, 1977.

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