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THE ENERGY POLICY AND CONSERVATION ACT (P.L. 94-163, 42 U.S.C. 6201)

The Energy Policy and Conservation Act, signed by President Ford on December 22, 1975, is a first step towards a comprehensive and systematic federal energy policy. As such, it begins or expands policies called for or begun in earlier legislation such as the Federal Energy Administration and the Energy Supply and Environmental Coordination Acts of 1974. It addresses itself to increasing domestic energy production and supply, to reducing demand, to effecting more efficient use of energy, and to providing for powers and plans for meeting future contingencies. While such a systematic approach has been widely recognized as essential to dealing with the energy problem, the question of what form it should take has been disputed; this Act generally reflects the price-control and allocation approach of the Democratic Congress rather than the free-market approach of the Ford administration and the energy industry. This article is a review of provisions of the Act which are of environmental or consumer interest, but which have been neglected by the news media's concentration on petroleum-pricing sections.

With regard to supply, the Act attempts to increase coal production by guaranteeing loans of up to \$30 million each for underground coal mine development. There are two environmental requirements attached. First, any operator receiving such a loan must have a contract for the duration of the loan with a consumer whom the Environmental Protection Agency certifies as being able to use the coal in compliance with the Clean Air Act. Second, at least 80% of the total sum guaranteed must finance low-sulphur development. A third requirement prohibits large coal companies or oil interests from receiving guarantees. While the effect of this section is hard to predict, the importance is that the Congress has recognized and attempted to deal with the potentially severe environmental effect which accompanies any national commitment to coal as an energy source. This position is in contrast to that expressed by the recent vetoes of surface-mining legislation, which focuses on maximum production and which many persons feared would prevail in a crisis. Also important is the attempt to stimulate competition, in recognition of the increasing concentration of coal production in a few large corporations, most of which are in turn controlled by large oil firms. In conjunction with increased coal production, the authority of the Federal Energy Administration (FEA) to order certain power plants and major consumers to burn coal rather than natural gas or petroleum products, has been extended to 1977 so as to release more of those fuels for other uses. The President is also empowered to restrict exports of energy and related materials, should such action appear necessary to protect domestic supply.

The problem of achieving efficient use of energy and reducing demand for it is approached with automobile and appliance efficiency standards and with federal, State, and industrial conservation programs. The automobile efficiency plan establishes average fuel economy standards of 15, 19, and 20 miles per gallon for the model years 1978, 1979, and 1980, and an eventual requirement of 27.5 m.p.g. for 1985. Beginning after the 1976 model year, all new automobiles will be labeled not only with their fuel economy, but also with estimated annual fuel costs and with the ranges of fuel economy in comparable automobiles. Other consumer products such as major appliances, furnaces, and televisions will be subject to similar labeling requirements. The failure to label properly, and the removal of such labels, will be grounds for a citizen's suit and a resultant award of attorneys' fees under section 335 of the Act. Many manufacturers are being required to improve, by 1980, their energy efficiencies by at least 20% over 1972.

The purpose of the State energy conservation programs is to encourage the creation of plans to reduce projected energy demands by 5%. Federal technical and financial aid in creating and, after approval, implementing such plans, is provided for. Required to be included in such plans are thermal and lighting efficiency standards for new buildings, development and use of group transportation, and regulations allowing right turns on red lights.

Under the industrial program, the FEA is directed to identify the industries consuming the most energy and to establish goals for voluntary improvement of efficiency for the ten largest of these industries. These voluntary plans will eventually become mandatory, though without penalties.

The federal program is similar to the State programs, with an additional requirement that certain federal regulatory agencies are to prepare plans proposing ways that the regulated industries can reduce energy consumption by 10% from the 1972 levels. Each such agency must also submit, for any regulation which encourages inefficient energy use, an energy impact statement to the Congress, justifying the regulation.

There are several provisions in the Act for the creation of various plans and powers for such contingencies as severe interruptions of supply. The President is empowered to order maximum possible production of domestic oil and gas. He is also directed to prepare and submit to the Congress for approval, contingent plans for energy conservation and for energy rationing. These plans would restrict demand in an energy by limiting public and private use or, under the rationing plan, by rationing gasoline and diesel fuel among various classes of final users. Neither plan may allocate by pricing or taxation. The conservation plan could go into effect by Presidential notice to the Congress, and the rationing program by approval of the Congress. The

third emergency device is the creation of various "strategic petroleum reserves." These reserves are eventually to contain a quantity of petroleum equal to that imported in a three-month period prior to the Act. The nature and location of these reserves are yet to be determined, as are the methods for securing them without causing adverse economic effects.

The most publicized section of the Act, the petroleum pricing policy, returned the price ceiling on domestic oil from \$9.75 to \$7.66 per barrel. The effect of this reduction is much disputed, with Democrats predicting a 3¢ or 4¢ per gallon decrease in consumer prices while the President and the industry expect much less of a price decrease and eventually a higher increase. The new ceiling price can be raised up to 10% per year because of inflation and the need to encourage development.