FOIA Number: 2017-1094-F

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**Subseries:**

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**Folder Title:**
Interior and Treasury FY 2000

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To: Chris MANN

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

July 13, 1999
(House Floor)

# STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

## H.R. 2466 -- DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL, FY 2000

(Sponsors: Young (R) Florida; Regula (R) Ohio)

This Statement of Administration Policy provides the Administration's views on the Interior and Related Agencies Appropriations Bill, FY 2000, as reported by the House Appropriations Committee. Your consideration of the Administration's views would be appreciated.

The allocation of discretionary resources available to the House under the Congressional Budget Resolution is simply inadequate to make the necessary investments that our citizens need and expect. The President's FY 2000 Budget proposes levels of discretionary spending that meet such needs while conforming to the Bipartisan Budget Agreement by making savings proposals in mandatory and other programs available to help finance this spending. Congress has approved, and the President has signed into law, nearly $29 billion of such offsets in appropriations legislation since 1995. The Administration urges the Congress to consider such proposals and to reduce unrequested funding for programs and projects in this bill.

The Administration appreciates efforts by the Committee to accommodate certain of the President's priorities within the 302(b) allocation. However, the allocation to the Subcommittee is simply inadequate. Moreover, the Administration would strongly oppose an amendment, which it understands may be offered as a floor amendment, to reduce the already inadequate resources allocated to this bill. The amendment would reportedly require an across-the-board reduction of $138 million below the Committee-approved levels. A reduction of this magnitude would be both unjustified and unnecessary, requiring further cuts in basic services provided by the broad array of agencies funded in this bill, including education and health care for Native Americans, and national park and forest facilities used by millions of Americans annually.

The President's Lands Legacy Initiative is funded at only $219 million, 73 percent below the request. It would be short-sighted to reduce the important Lands Legacy Initiative drastically, given the growing bipartisan recognition of the need to protect and enhance open spaces and preserve America's great places.

The Administration appreciates the Committee's efforts to minimize extraneous, objectionable provisions, but we are concerned about provisions adversely affecting the environment and natural resources, which would likely be rejected by the Congress if considered on their own merits. The Administration urges the House to keep the bill free of extraneous provisions.

The following highlights our specific concerns with the Committee bill.

Environmental and Other Legislative Riders

The Administration objects to several provisions in the bill. The Administration opposes a provision that would prohibit revisions to forest plans until final planning regulations are published, thereby preventing new science and sustainable forest practices from being incorporated into expiring forest plans. Further, the Administration objects to the Committee bill's funding prohibition on certain inter-agency reimbursable programs included in the bill, such as the Department of Commerce's spectrum management and coordination program. These organizations provide necessary services and are dependent on these reimbursable arrangements. In addition, since the Administration has stated that it does not intend to implement the Kyoto Protocol on global climate change until it has been ratified by the Senate, section 331 is an unnecessary restriction.

The Administration also opposes Section 326 that would prevent funds provided in the bill from being used to support the American Heritage Rivers initiative. This rider is an unworkable infringement on the Administration's ability to implement the widely-supported American Heritage Rivers initiative.

In addition, we oppose a provision containing new reporting requirements that would further delay completion of the Interior Columbia Basin Ecosystem Management Project (WA, OR, ID, MT). Other examples of objectionable riders include a provision that would automatically extend Bureau of Land Management grazing permits, one that would provide for indefinite renewal of grazing permits at Lake Roosevelt National Recreation Area (WA), and one that would prohibit establishment of a National Wildlife Refuge in the Kankakee River (IL, IN) watershed.

Finally, the Administration appreciates and shares the Committee's commitment to ensuring adequate fresh water supplies for the Everglades, but these issues should be considered as part of the authorization of the comprehensive plan for restoring the Everglades.

Infringement on Executive Authority

There are several provisions in the Committee bill that purport to require congressional approval before Executive Branch execution of aspects of the bill. The Administration will interpret such provisions to require notification only, since any other interpretation would contradict the Supreme court ruling in INS vs. Chadha.

Lands Legacy Initiative/Land and Water Conservation Fund (LWCF)

The Administration strongly opposes the Committee's decision not to fund major portions of the President's Lands Legacy Initiative, such as the Cooperative Endangered Species Conservation Fund and the State and Private Forestry grant program. No funds are provided for State land acquisition, open space planning, or urban park grants, and funding is greatly reduced for land acquisitions in national parks, refuges, forests, and other public lands. In addition, it would be premature and inappropriate to eliminate the funding that the Congress previously approved to initiate acquisition of the majestic Baca Ranch in New Mexico while negotiations with the landowners are ongoing.

Land Management Operations

The Administration commends the Committee's actions to address the operational and maintenance needs of land management agencies in the Department of the Interior and the Forest Service in the Department of Agriculture. While the Administration appreciates the $11 million increase provided for Abandoned Mine Lands reclamation, as part of the Clean Water Action Plan, full funding of the $25 million request would allow significant progress in addressing acid mine drainage and watershed problems in the Appalachian region.

The Administration is concerned, however, with the Committee's reductions to the President's request for key conservation programs. The Fish and Wildlife Service's endangered species program is reduced by $10 million, or nine percent, below the request and the Forest Service's wildlife management, ecosystem planning, and research programs are reduced by $65 million, or 13 percent, from the request. Moreover, the bill increases funding for Forest Service timber sales management by $23 million, or 12 percent, above the request. The Administration urges the Committee to redirect these unrequested funds and to adopt the Administration's timber sale user fee and offset proposals to fund the higher priority programs.

Millennium Initiative to Save America's Treasures

The Administration objects to the lack of funding for the $30 million Presidential initiative to commemorate the Millennium by preserving the Nation's historic sites and cultural artifacts that are America's treasures, but appreciates the Committee's willingness to address the needs of this important program as the bill moves forward. Funds provided by Congress in FY 1999 have already been used with matching State, local, and private funds to preserve such important national symbols as the Star Spangled Banner, the 1905 Wright III (the world's first practical airplane), and the Louis Armstrong House and Archives.

Bureau of Indian Affairs and Office of Special Trustee for American Indians

The Administration commends the Committee's action to fully fund the request for Indian trust management improvements that are essential to enable the Department of the Interior to continue making progress in this multi-faceted reform effort. The Administration, however, opposes the decision not to fund the $30 million Bureau of Indian Affairs (BIA) School Construction Bonding Initiative for much-needed replacement or repairs of BIA-funded elementary and secondary schools. The Administration is concerned that the Committee has provided only $13 million of the $27 million increase requested to meet the needs of expanding school populations. Likewise, the Administration is concerned that the Committee has funded only one program increase, $5 million for the Indian Self-Determination Fund, of the $17 million increase requested for Tribal Priority Allocations.

Priority Construction and Maintenance Needs

In response to congressional concerns, the National Park Service (NPS) has taken steps to improve construction program management by controlling costs and setting priorities through an objective, merit-based review process. These steps would be undermined, however, by the Committee's earmarking of $22 million for 18 unrequested and unscheduled NPS projects. The Administration urges Congress to support construction management reforms by funding those projects that have been selected in the five-year construction priority lists of the NPS and other land management agencies in the Department of the Interior, as well as funds requested for maintenance management improvement.

National Endowment for the Arts/National Endowment for the Humanities/Institute for Museum and Library Services

The Administration strongly objects to the proposed funding levels for the National Endowment for the Arts (NEA), National Endowment for the Humanities (NEH), and the Institute for Museum and Library Services (IMLS), Office of Museum Services. The Committee's proposed $52 million, or 35-percent, reduction from the request would preclude NEA from moving forward with its Challenge America initiative, which emphasizes arts education and access to under-served communities across America. The $39 million, or 26-percent, reduction from the request would preclude NEH from expanding its summer seminar series to provide professional development opportunities to our Nation's teachers as well as broadening the outreach of its humanities programs. The nearly $10 million, or 29-percent, reduction from the request would preclude IMLS from moving forward on the digital library for education, expanding of after-school programs in museums, and enhancing the Museums On-line program to improve museum access to communities and schools. The Administration urges the Congress to approve funding for the Endowments and IMLS' Office of Museum Services at the requested levels.

Other Funding Issues

The Administration is concerned that the Committee has rejected the $15 million increase for science programs of the U.S. Geological Survey. This increase is intended to support the land management bureaus. Maintaining the FY 1999 enacted funding level for the Office of the Solicitor would seriously undermine this vital office, requiring personnel reductions and impairing Indian trust reform and other important activities.

The Administration also objects to the elimination of funding for digitizing collections in the Smithsonian Institution and the National Park Service as a part of the digital library for education, denying school children around the nation the opportunity to explore the unique materials available in the collections of these two agencies.

Indian Health Service – Department of Health and Human Services

The Administration appreciates the Committee's support of the increase in funding over the FY 1999 enacted level for Indian health, which is $14 million below the $170 million requested increase for the Indian Health Service. This funding increase represents a significant step towards continuing demonstration of the Federal commitment to provide quality health care to 1.5 million American Indian and Alaska Natives. The Administration is pleased that the Committee has provided the full $35 million increase requested for Contract Support costs. However, the Administration is concerned that the inclusion of language on *pro rata* is premature given that authorization hearings, authorization action, and tribal consultation have not been completed. The Administration will continue to work with Congress and the tribes to resolve this. We hope that the final mark will provide our requested levels in women's health, information systems, dental health, mental health, sanitation, maintenance, and public health nursing -- all critical areas of need for Native American communities.

Department of Energy

The Administration opposes several reductions contained in the Committee bill. The Committee funding level for the Department of Energy's Conservation program is $151 million below the President's request, on a comparable program basis, and is $5 million below the FY 1999 enacted level. In particular, this reduction would seriously hamper the progress that is being made in the Partnership for a New Generation of Vehicles (PNGV) to promote the development of 80-mpg family sedans. Such a reduction would also prevent the Partnership for Advancing Technologies in Housing (PATH) from achieving dramatic savings in the energy operating costs of new homes. The Committee's reduction of $34 million to the request for the Weatherization Assistance Program would mean that approximately 17,000 fewer low-income homes would be weatherized than requested. The Administration also opposes the 25-percent State matching requirement. The Administration appreciates the Committee's support for funding of the second-year payment to the California State Teachers' Retirement Fund, which was part of the privatization of the Elk Hills Naval Petroleum Reserve.

* * * * * * * * * *

# United States Senate

WASHINGTON, DC 20510

October 6, 1999

The President
The White House
Washington, DC 20500

Dear Mr. President:

The undersigned Senators urge you to rank energy-efficiency programs at the Department of Energy (DOE) and the Environmental Protection Agency (EPA) among your top priorities for negotiation over the final content of the Interior and VA-HUD Appropriations bills. We believe that the development and adoption of clean and efficient energy technologies are critical to the nation's economy, our air quality, and any hope that we will be able to reduce carbon emissions cost effectively in the near future.

Energy-efficiency technologies developed or assisted by the Department of Energy have paid off handsomely for the American public. According to a 1996 General Accounting Office, just five of the technologies coming out of DOE over the past 20 years had yielded $28 billion in returns for the economy as compared to an $8 billion investment in the ***entire*** DOE energy-efficiency program. These returns do not include the thousands of other technologies put forward by DOE and our national laboratories, the formidable results of our support for state energy programs and low-income weatherization assistance, or the monetary value of reduced pollution. When these are factored in, the effectiveness of energy-efficiency programs become staggering.

The EPA Energy Star program has had substantial success marketing energy-efficiency to thousands of businesses, school systems, hospitals, state and local governments and others. For very little up front investment by the taxpayer, the EPA Energy Star program has motivated savings of over $600 million per year by more than 3000 participating organizations in 50 states, while preventing the emission of over 20 million tons of carbon dioxide.

Mr. President, these programs represent crucial investments in our nation's future, potentially allowing us to maintain the highest standard of living in the world while substantially mitigating the environmental damage caused by powering our economy with conventional energy sources. We thank you for your strong past support of these programs and urge that these efforts be among your highest priorities in the Interior and VA-HUD Appropriations bills.

Respectfully,

AF&PA

**AMERICAN FOREST & PAPER ASSOCIATION**
Office of the President

Black Liquor - Gasification

July 13, 1999

The Honorable Bill Richardson
Secretary of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Mr. Secretary:

On behalf of our member companies, the American Forest & Paper Association (AF&PA) urges the Department of Energy (DOE) to continue funding the black liquor gasification demonstration projects through the Office of Industrial Technologies (OIT) in the Office of Energy Efficiency and Renewable Energy.

As you know, the House and Senate Appropriations Committees marked up differing versions of legislation authorizing funding for the gasification projects. The House funded the projects through DOE's Office of Fossil Energy, while the Senate version kept the project in the Office of Energy Efficiency and Renewable Energy.

While AF&PA members have respect for the Office of Fossil Energy, our experience causes us to believe that the gasification projects will yield their best results in the OIT, which has funded Agenda 2020 projects for the forest products industry over the last three years. OIT has also funded a number of other Agenda 2020 forest products' projects that complement the gasification effort. Moving the gasification demonstration projects out of OIT could delay solicitation efforts for next year's funding, which would, in turn, delay already tight company project planning, and implementation and hinder complementary projects.

The timing for the gasification projects is critical. If these demonstrations are significantly delayed, the U.S. forest and paper industry will miss a critical opportunity to install this promising alternative technology as part of our capital replacement cycles. Failure to capitalize on this opportunity represents both an energy efficiency and environmental setback for the industry and country.

The gasification projects illustrate the industry's efforts to provide more environmentally friendly energy sources that can play a significant role in the Department's bioenergy vision. We hope that DOE will be able to find an expeditious resolution to funding the demonstrations within the Office of Industrial Technologies.

With kindest personal regards, I remain,

Sincerely yours,

W. Henson Moore
President & Chief Executive Officer

The Secretary of Energy
Washington, DC 20585

October 13, 1999

The Honorable W. Henson Moore
President & Chief Executive Officer
American Forest & Paper Association
1111 Nineteenth Street, NW, Suite 800
Washington, DC 20036

Dear Mr. Moore:

Thank you for your July 13, 1999, letter continuing your support in the advancement of black liquor gasification technologies and the Agenda 2020 program. I appreciate your comments regarding the abilities of the Office of Fossil Energy and the Office of Energy Efficiency and Renewable Energy (EERE).

We are enthusiastic about the strong partnership between the Department of Energy and the American Forest & Paper Association that has been cultivated through the Agenda 2020 process. We recognize the concern behind industry's request to continue funding the black liquor gasification program in EERE and fully support your position. We will not overlook the progress achieved in implementing black liquor gasification technologies and the efforts underway to initiate a bio-gasification program that underscores the practicality of continuing this effort in EERE. The Department will continue to work diligently to meet the needs of the industry while adhering to congressional direction.

Thank you for your interest in this matter. We look forward to continuing our partnership with the forest products industry and making significant strides to develop and deploy energy-efficient, environmentally sound, and cost-effective technologies.

Yours sincerely,

Bill Richardson

Bill Richardson

# Recommendations for Additions to Energy-Efficiency Programs in the Interior and VA-HUD Appropriations Bills

**OVERALL RECOMMENDATION**

| | |
|---|---|
| Department of Energy – Energy Conservation | $55m |
| Environmental Protection Agency | $25m |

## Department of Energy

| PROGRAM | RECOMMENDATION |
|---|---|
| **Buildings Research and Development** | **$12 m** |
| **Industrial Programs** | **$12m** |
| **Transportation Programs** | **$12m** |
| **Grants to States:** | **$15m** |
| **Federal Energy Management Program** | **$3m** |
| **Policy and Management** | **$1m** |

**Buildings Research and Development** — **$12 m**
Priorities:
Lighting and Appliance Standards
Energy Star
Cogeneration/Fuel Cells
Community Partnerships

**Industrial Programs** — **$12m**
Priorities:
Best Practices (Financial and Technical Assistance)
Industrial Power Generation
Industries of the Future

**Transportation Programs** — **$12m**
Priorities:
Hybrid Systems R&D
Fuel Cell R&D
Technology Deployment

**Grants to States:** — **$15m**
State Energy Program
Weatherization Assistance Program

**Federal Energy Management Program** — **$3m**

**Policy and Management** — **$1m**
Priorities:
International Market Development
Information and Communications

## Environmental Protection Agency

All $25m should go to CCTI Buildings and Industry programs.

Amendment No. ______ Calendar No. 183

Purpose: To prevent expenditure of funds that may be used to circumvent or contradict existing law and policy regarding the Federal government's energy efficiency programs.

106th Congress
1st Session

# H.R. 2466

To prevent expenditure of funds that may be used to circumvent or contradict existing law and policy regarding the Federal government's energy efficiency programs.

---

Amendment intended to be offered by Mr. Murkowski (for himself and, Mr. Bingaman, and Mr. Cochran).

Viz.

Insert in the appropriate place in the bill the following new section:

"SEC. ___ . None of the funds appropriated or otherwise made available by this Act may be used to implement or enforce any provision in Presidential Executive Order 13123 regarding the Federal Energy Management Program which circumvents or contradicts any statutes relevant to Federal energy use and the measurement thereof, including, but not limited to, the existing statutory mandate that life-cycle cost effective measures be undertaken at federal facilities to save energy and reduce the operational expenditures of the government.".

- Bingaman/Byrd
-

Gorton - Rule 16
- stick w/ original language
-
-
-

Amendment No. ______ Calendar No. 183

Purpose: To retain existing law and policy regarding the Federal government's energy efficiency programs.

106th Congress
1st Session

# S. 1292

To retain existing law and policy regarding the Federal government's energy efficiency programs.

---

Amendment intended to be offered by Mr. __________ (for himself and, Mr. ____________________).

Viz.

On page 132, strike lines 11 through 15 and insert the following—

"SEC. 341. Nothing in the President's Executive Order 13123 regarding the Federal Energy Management Program may circumvent or contradict any statutes relevant to Federal energy use and the measurement thereof, including but not limited to, the existing statutory mandate that life-cycle cost effective measures be undertaken at federal facilities to save energy and reduce the operational expenditures of the government.".

# Calendar No. 169


| | | |
|---|---|---|
| 106TH CONGRESS<br>*1st Session* | SENATE | REPORT<br>106–87 |


# TREASURY AND GENERAL GOVERNMENT APPROPRIATION BILL, 2000


JUNE 24, 1999.—Ordered to be printed


Mr. CAMPBELL, from the Committee on Appropriations, submitted the following

## REPORT

[To accompany S. 1282]

The Committee on Appropriations reports the bill (S. 1282) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies for the fiscal year ending September 30, 2000, and for other purposes, reports favorably thereon and recommends that the bill do pass.

| | |
|---|---|
| Amount of bill as reported to the Senate | $27,737,971,000 |
| Amount of estimate | 27,997,054,000 |
| The bill as reported to the Senate: | |
| Below the appropriations provided in 1999 | 177,633,000 |
| Below the estimates for 2000 | 259,083,000 |


57–517 cc




Senate
Treasury

involved is in excess of $500,000 or 10 percent, whichever is greater, of the object class, budget activity, program line item, or program activity;

4. For agencies, departments, or offices receiving appropriations less than $20,000,000, a reprogramming shall be submitted if the amount to be shifted to or from any object class, budget activity, program line item, or program activity involved is in excess of $50,000, or 10 percent, whichever is greater, of the object class, budget activity, program line item, or program activity;

5. For any action where the cumulative effect of below threshold reprogramming actions, or past reprogramming and/or transfer actions added to the request, would exceed the dollar threshold mentioned above, a reprogramming shall be submitted;

6. For any action which would result in a major change to the program or item which is different than that presented to and approved by either of the Committees, or the Congress, a reprogramming shall be submitted;

7. For any action where funds earmarked by either of the Committees for a specific activity are proposed to be used for a different activity, a reprogramming shall be submitted; and,

8. For any action where funds earmarked by either of the Committees for a specific activity are in excess of the project or activity requirement, and are proposed to be used for a different activity, a reprogramming shall be submitted.

Additionally, each request shall include a declaration that, as of the date of the request, none of the funds included in the request have been obligated, and none will be obligated, until the Committees on Appropriations have approved the request.

### VEHICLE USAGE AND REPLACEMENT

The Committee is pleased with the increased oversight and management by the Department of the vehicle acquisition program in addition to the results gained from consolidated vehicle asset management. The Committee expects that all vehicle acquisitions will continue to be handled in accordance with standards established in Departmental directives and policies. The Department is requested to report to the Congress quarterly on the management of its oversight operations.

### CLIMATE CHANGE RESEARCH

On October 22, 1997, the President introduced a three-stage proposal on climate change in anticipation of an international agreement to be negotiated 2 months later in Kyoto, Japan. The President's budget for fiscal year 1999 included a $6,300,000,000 package of tax incentives and research and development programs over the 5 years of stage I of the President's proposal. With regard to programs pursued under the President's proposal, the Committee expects the administration to comply with the letter and spirit of the Government Performance and Results Act.

The Committee directs the administration to designate which office has authority to c[illegible]rdinate [illegible] direct in[illegible]agency activity with



regard to the President's proposal, which can report accountably to Congress.

None of the funds provided in this bill are to be used to implement actions called for solely under the Kyoto protocol, prior to its ratification.

The Byrd-Hagel resolution passed in 1997 (S. Res. 98) remains the clearest statement of the will of the Senate with regard to the Kyoto protocol, and the Committee is committed to ensuring that the administration not implement the Kyoto protocol without congressional consent. The Committee recognizes, however, that there are also longstanding energy research programs which have goals and objectives that, if met, could have positive effects on energy use and the environment. The Committee does not intend to preclude these programs from proceeding, provided they have been funded and approved by Congress.

To the extent future funding requests may be submitted which would increase funding for climate change activities prior to ratification of the Kyoto protocol (whether under the auspices of the climate change technology initiative or any other initiative), the administration must do a better job of explaining the components of the programs, their anticipated goals and objectives, the justification for any funding increases, a discussion of how success will be measured, and a clear definition of how these programs are justified by goals and objectives independent of implementation of the Kyoto protocol.

The Committee directs the administration to provide the Committee with a detailed plan for implementing key elements of the President's proposal, which would include performance goals for the reduction of greenhouse gases that have objective, quantifiable, and measurable target levels. The plan should provide evidence on the effectiveness of these programs in meeting the performance goals. The Committee expects these items to be included as part of the fiscal year 2001 budget submission for all affected agencies.

Last year, the Committee directed the Administration to include these items in the fiscal year 2000 budget submission. The Committee is concerned that several agencies are tardy in doing so. The Committee takes cognizance of a joint hearing on agency accountability, conducted on May 20, 1999, by subcommittees of the Senate Committee on Energy and Natural Resources and the House Committee on Government Reform. In fact, three agencies did not submit reports until April 9 or later, and one submitted its report one day before this hearing. According to the General Accounting Office, both the timing and the content of these submissions made it more difficult for Congress to assess Administration proposals.

IB

Union Calendar No. 128

106TH CONGRESS
1ST SESSION

# H. R. 2466

[Report No. 106–222]

Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JULY 2, 1999

Mr. REGULA, from the Committee on Appropriations, reported the following bill; which was committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

# A BILL

Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 2000, and for other purposes, namely:

tional Gallery of Art, if the woman and her child are otherwise permitted to be present at the location.

SEC. 331. None of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan at the Third Conference of the Parties to the United Nations Framework Convention on Climate Change, which has not been submitted to the Senate for advice and consent to ratification pursuant to article II, section 2, clause 2, of the United States Constitution, and which has not entered into force pursuant to article 25 of the Protocol.

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 2000".

106TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { 106-222

# DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL, 2000

JULY 2, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. REGULA, from the Committee on Appropriations, submitted the following

# REPORT

together with

## ADDITIONAL VIEWS

[To accompany H.R. 2466]

The Committee on Appropriations submits the following report in explanation of the accompanying bill making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 2000. The bill provides regular annual appropriations for the Department of the Interior (except the Bureau of Reclamation) and for other related agencies, including the Forest Service, the Department of Energy, the Indian Health Service, the Smithsonian Institution, and the National Foundation on the Arts and the Humanities.

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57-715

the new authority is to be retained. The Committee encourages the Forest Service to evaluate carefully fees charged to educational and public service, non-profit organizations so that these institutions which enhance public service and aided in their activities on NFS lands, consistent with the multiple-use mission of the Forest Service.

Section 329 includes language regarding reports on the feasibility and cost of implementing the Interior Columbia Basin Ecosystem Management Project. The Committee remains concerned about this expensive effort. Previously, the Congress required the Secretaries of Agriculture and Interior through Public Law 105–83 to provide a report detailing specifically how the project would be implemented and the impact implementation would have on each unit of federal land. This section directs the Secretaries to prepare the report prior to publication of the final environmental impact statement (EIS), distribute the report for public comment for a minimum of 120 days, and include detailed responses to the public comments in the final EIS.

Section 330 provides authority for breastfeeding in the National Park Service, the Smithsonian, the John F. Kennedy Center, the Holocaust Memorial Museum and the National Gallery of Art.

Section 331 prohibits the use of funds to propose or issue rules, regulations, decrees or orders for implementing the Kyoto Protocol prior to Senate ratification.

## RESCISSIONS

Pursuant to clause 3(f)(2), rule XIII of the House of Representatives, the following table is submitted describing the rescissions recommended in the accompanying bill:

RESCISSION RECOMMENDED IN THE BILL

| *Department and activity* | *Amounts recommended for rescission* |
|---|---|
| Department of the Interior: Land and Water Conservation Fund (contract authority) | $30,000,000 |

## TRANSFER OF FUNDS

Pursuant to clause 3(f)(2), rule XIII of the House of Representatives, the following table is submitted describing the transfer of funds provided in the accompanying bill.

The table shows the appropriations affected by such transfers.

APPROPRIATION TRANSFERS RECOMMENDED IN THE BILL

| Account from which transfer is to be made | Amount | Account to which transfer is to be made | Amount |
|---|---|---|---|
| Department of Energy, Biomass Energy Development. | $24,000,000 | Department of Energy, Fossil Energy Research and Development. | $24,000,000 |
| Department of Energy, Alternative Fuels Production. | 1,000,000 | General Fund of the Treasury | 1,000,000 |
| Department of Energy, Biomass Energy Development. | 25,000,000 | Department of Energy, Energy Conservation | 25,000,000 |

Calendar No. 169

| | | |
|---|---|---|
| 106TH CONGRESS<br>*1st Session* | SENATE | REPORT<br>106–87 |

# TREASURY AND GENERAL GOVERNMENT APPROPRIATION BILL, 2000

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| Below the appropriations provided in 1999 | 177,633,000 |
| Below the estimates for 2000 | 259,083,000 |

57-617 cc

involved is in excess of $500,000 or 10 percent, whichever is greater, of the object class, budget activity, program line item, or program activity;

4. For agencies, departments, or offices receiving appropriations less than $20,000,000, a reprogramming shall be submitted if the amount to be shifted to or from any object class, budget activity, program line item, or program activity involved is in excess of $50,000, or 10 percent, whichever is greater, of the object class, budget activity, program line item, or program activity;

5. For any action where the cumulative effect of below threshold reprogramming actions, or past reprogramming and/or transfer actions added to the request, would exceed the dollar threshold mentioned above, a reprogramming shall be submitted;

6. For any action which would result in a major change to the program or item which is different than that presented to and approved by either of the Committees, or the Congress, a reprogramming shall be submitted;

7. For any action where funds earmarked by either of the Committees for a specific activity are proposed to be used for a different activity, a reprogramming shall be submitted; and,

8. For any action where funds earmarked by either of the Committees for a specific activity are in excess of the project or activity requirement, and are proposed to be used for a different activity, a reprogramming shall be submitted.

Additionally, each request shall include a declaration that, as of the date of the request, none of the funds included in the request have been obligated, and none will be obligated, until the Committees on Appropriations have approved the request.

VEHICLE USAGE AND REPLACEMENT

The Committee is pleased with the increased oversight and management by the Department of the vehicle acquisition program in addition to the results gained from consolidated vehicle asset management. The Committee expects that all vehicle acquisitions will continue to be handled in accordance with standards established in Departmental directives and policies. The Department is requested to report to the Congress quarterly on the management of its oversight operations.

CLIMATE CHANGE RESEARCH

On October 22, 1997, the President introduced a three-stage proposal on climate change in anticipation of an international agreement to be negotiated 2 months later in Kyoto, Japan. The President's budget for fiscal year 1999 included a $6,300,000,000 package of tax incentives and research and development programs over the 5 years of stage I of the President's proposal. With regard to programs pursued under the President's proposal, the Committee expects the administration to comply with the letter and spirit of the Government Performance and Results Act.

The Committee directs the administration to designate which office has authority to coordinate and direct interagency activity with



regard to the President's proposal, which can report accountably to Congress.

None of the funds provided in this bill are to be used to implement actions called for solely under the Kyoto protocol, prior to its ratification.

The Byrd-Hagel resolution passed in 1997 (S. Res. 98) remains the clearest statement of the will of the Senate with regard to the Kyoto protocol, and the Committee is committed to ensuring that the administration not implement the Kyoto protocol without congressional consent. The Committee recognizes, however, that there are also longstanding energy research programs which have goals and objectives that, if met, could have positive effects on energy use and the environment. The Committee does not intend to preclude these programs from proceeding, provided they have been funded and approved by Congress.

To the extent future funding requests may be submitted which would increase funding for climate change activities prior to ratification of the Kyoto protocol (whether under the auspices of the climate change technology initiative or any other initiative), the administration must do a better job of explaining the components of the programs, their anticipated goals and objectives, the justification for any funding increases, a discussion of how success will be measured, and a clear definition of how these programs are justified by goals and objectives independent of implementation of the Kyoto protocol.

The Committee directs the administration to provide the Committee with a detailed plan for implementing key elements of the President's proposal, which would include performance goals for the reduction of greenhouse gases that have objective, quantifiable, and measurable target levels. The plan should provide evidence on the effectiveness of these programs in meeting the performance goals. The Committee expects these items to be included as part of the fiscal year 2001 budget submission for all affected agencies.

Last year, the Committee directed the Administration to include these items in the fiscal year 2000 budget submission. The Committee is concerned that several agencies are tardy in doing so. The Committee takes cognizance of a joint hearing on agency accountability, conducted on May 20, 1999, by subcommittees of the Senate Committee on Energy and Natural Resources and the House Committee on Government Reform. In fact, three agencies did not submit reports until April 9 or later, and one submitted its report one day before this hearing. According to the General Accounting Office, both the timing and the content of these submissions made it more difficult for Congress to assess Administration proposals.

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# AMENDMENT TO COMMITTEE PRINT

# OFFERED BY MR. KNOLLENBERG

**(Interior Appropriations FY2000)**

At the end of Title III insert:

"Sec. ___. None of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan at the Third Conference of the Parties to the United Nations Framework Convention on Climate Change, which has not been submitted to the Senate for advice and consent to ratification pursuant to article II, section 2, clause 2, of the United States Constitution, and which has not entered into force pursuant to article 25 of the Protocol."

# AMENDMENTS INTRODUCED

| DATE | SPONSOR | NUMBER | AMENDMENT | PG # |
|---|---|---|---|---|
| 7/27 | Levin / DeWine | 1356 | USFWS, Resource Mgt, insert - $400,000 available for grants under Great Lakes Fish and Wildlife Restoration Program, $114,280,000 for general administration. | S9398 |
| 7/27 | Gorton | 1357 | Substitute text of H.R.2466 for S.1292, except Sec. 328, 340, 341, 342. | S9398 |
| 7/27 | Reed / Kennedy | 1358 | $5,000,000 increase to NEH, with uniform reductions from travel, supplies, and printing expenses to agencies funded under act. | S9414 |
| 7/27 | Gorton | 1359 | Strategic Petroleum Reserve language | S9414 |
| 7/27 | Murray | 1360 | Strike section 336 | S9414 |
| 7/27 | Reid | 1361 | New Millsite Opinion | S9414 |
| 7/27 | Lieberman | 1362 | $1,500,000 increase to NPS Land Acquisition and State Assistance, recession from Fossil Energy R&D. | S9414 |
| 7/27 | Lieberman | 1363 | $1,500,000 increase to Historic Preservation Fund, recession from National Forest System. | S9414 |
| 7/27 | Lieberman | 1364 | $2,000,000 increase to NPS Land Acquisition and State Assistance, recessions from National Forest System | S9414 |
| 7/27 | Graham | 1366 | Add section on Prohibition on Class III Gaming Procedures | S9415 |
| 7/27 | Abraham | 1367 | Earmark $1,030,000 for Isle Royale NP, NPS Construction | S9415 |
| 7/27 | Durbin | 1371 | Add section on Shawnee National Forest, Illinois | S9416 |
| 7/28 | Crapo | 1372 | Earmark $750,000 in FWS Resource Mgt for voluntary habitat conservation plan. | S9548 |
| 7/28 | Thomas / Enzi | 1389 | $10,000,000 to PLIT, recessions from BLM and FWS Land Acquisitions. | S9613 |
| 7/29 | Burns / Craig | 1408 | Grizzly bear relocation | S9771 |
| 7/29 | Enzi | 1489 | Earmark $6,000,000 for Advanced Development Project Powder River Coal Initiative, Clean Coal Technology | S9877(8) |
| 7/29 | Mack / Graham | 1490 | Increase $500,000 to NPS construction, recession to FWS Land Acquisition | S9878 |
| 7/29 | Moynihan | 1492 | Increase $7,000,000 to NEA and NEH, $3,000,000 to OMS, recessions to most accounts in bill | S9878 |
| 7/29 | Bennett | 1493 | Increase $4,000,000 to NEA and NEH | S9878 |
| 7/29 | Jeffords | 1494 | Increase $7,000,000 ($5.6 to weatherization and $1.4 to state energy conservation grants) to energy conservation, recessions from unobligated balances in Fossil Energy R&D. | S9878 |
| 8/2 | Moynihan | 1498 | Increase of $1,000,000 to OMS, recessions to BLM mgt of land and resources, NPS operations of national park system, NPS construction, BIA operations of Indian programs, BIA construction, FS construction and maintenance, HIS Indian health services. | S10001(2) |
| 8/3 | Crapo | 1505 | Earmark $500,000 in FWS Resource mgt for voluntary habitat conservation plan. | S10128 |
| 8/5 | Burns | 1563 | Increase $700,00 to BIA tribal college account, recession from FS Land Acquisition. | N/A |
| 8/5 | Campbell | 1564 | Increase $400,000 to FWS for activities related to Preble's meadow jumping mouse, recession from FS Land Acquisition. | N/A |

| DATE | SPONSOR | NUMBER | AMENDMENT | PG # |
|---|---|---|---|---|
| 8/5 | DeWine | 1565 | Add section using unobligated balances from Howard Farm for acquisition of land in Ottawa NWR ($500,000), for Dayton Aviation Heritage Commission ($302,000), birthplace, home, and school house of Ulysses S. Grant ($198,000). | N/A |
| 8/5 | Lugar / Bayh | 1566 | $700,000 to Patoka River NWR, recession from San Juan NF acquisition. | N/A |
| 8/5 | Mack / Graham | 1567 | $500,000 for Seminole Rest facility at Canaveral National Seashore NPS construction, recession from J.N. Darling NWR FWS land acquisition. | N/A |
| 8/5 | Reid | 1568 | $150,000 FWS resource mgt, recession from USGS Surveys, investigations and research. | N/A |
| 8/5 | Smith / Ashcroft | 1569 | eliminate funding for NEA | N/A |
| 8/5 | Torricelli | 1571 | Prohibit use of funds to authorize, permit, administer, or promote use of jawed leghold traps by NWRS | N/A |
| 8/5 | Torricelli | 1572 | $4,000,000 increase to NPS national recreation and preservation, recession from Insular Affairs - Marshall Islands, but added back in advanced appropriations. | N/A |
| 8/5 | Torricelli | 1573 | $2,000,000 increase to NPS land acquisition and state assistance, earmarked for Fredericksburg and Spotsylvania NMPs, recession from BLM wildland fire mgt. | N/A |
| 8/5 | Torricelli | 1574 | $2,000,000 increase to NPS land acquisition and state assistance, earmarked for Fredericksburg and Spotsylvania NMPs, recession from Insular Affairs. | N/A |
| 8/5 | Johnson | 1575 | DOI General Provisions - $6,400,000 more to Tribally Controlled College or University Assistance Act. Recession from accounts over $20,000,000. | N/A |
| 8/5 | McCain | 1576 | Establish disabled American veterans memorial in DC | N/A |
| 8/5 | Graham | 1577 | Restrict funds to implement final rule on class III gaming. | N/A |
| 8/5 | Shelby | 1578 | Earmark $3,000,000 for pilot wildlife data system in AL. | N/A |
| 8/5 | McCain | 1579 | Study of alternative to mgt of certain federal lands in AZ | N/A |
| 8/5 | Durbin | 1580 | $500,000 increase to BLM mgt of lands and resources, recession of $900,000 in BLM wildland fire mgt. | N/A |
| 8/5 | Durbin | 1581 | Amend GP, DOI section 117 - require BLM to establish schedule for completion of processing expiring grazing permits and leases. | N/A |
| 8/5 | Inouye | 1582 | $3,500,000 increase to NPS construction, earmarked for FDR memorial, recession from BLM wildland fire mgt. | N/A |
| 8/5 | Robb | 1583 | strike section 329 | N/A |
| 8/5 | Bingaman | 1584 | General Provisions - Increase youth involved in Conservation Corps | N/A |
| 8/5 | Bingaman | 1585 | $900,000 increase to BIA operations of indian programs and $5,722,000 earmark for Southwest Indian Polytechnic Institute. BIA post secondary school funding formula language. No recessions. | N/A |
| 8/5 | Bryan | 1586 | Transfer DOI - BLM property to Carson City, NV | N/A |
| 8/5 | Bryan / Reid | 1587 | Restrictions on funds to implement sound thresholds in Grand Canyon. | N/A |
| 8/5 | Bryan | 1588 | $22,700,000 decrease to FS national forest system (includes earmarks for national programs), $9,700,000 increase to FS reconstruction and maintenance (includes earmarks for national programs). No recessions. | N/A |

| DATE | SPONSOR | NUMBER | AMENDMENT | PG # |
|---|---|---|---|---|
| 8/5 | Reid | 1589 | strike language relating to restrictions imposed on Indian Self-Determination Act. | N/A |
| 8/5 | Kohl | 1590 | BIA construction - earmark $375,000 to U.K. Development LLC | N/A |
| 8/5 | Durbin | 1591 | Amend GP, DOI section 117 - require BLM to establish schedule for completion of processing expiring grazing permits and leases. | N/A |
| 8/5 | Edwards | 1592 | $3,000,000 increase to FS land acquisition, recession from FS national forest system. | N/A |
| 8/5 | Stevens | 1593 | General Provisions - restriction on using funds for land acquisitions from Haines, AK. | N/A |
| 8/5 | Warner | 1594 | General Provisions - more $250,000 from NEA to IMLS and $250,000 from NEH to IMLS. | N/A |
| 8/5 | Campbell | 1595 | FS Administrative Provisions - pine beetle eradication in rockies | N/A |
| 8/5 | Abraham | 1596 | $20,000,000 increase to PILT, recessions from BLM mgt of lands and resources (plus restrictions), FWS resource mgt (plus restrictions), NPS operations of national park system (plus restrictions), USGS surveys, investigations, and research (plus restrictions), MMS royalty and offshore minerals mgt (plus restrictions), OSMRE regulation and technology (plus restrictions), Insular Affairs salaries and expenses, Office of the Solicitor, FS national forest system (plus restrictions), DOE fossil energy R&D, DOE energy conservation (plus restrictions). Total recessions, $25,600,000 | N/A |
| 8/5 | Cochran | 1597 | $4,000,000 increase to NEH, no recessions. | N/A |
| 8/5 | Murkowski | 1598 | $30,000,000 increase for State Side; recessions from BLM mgt of lands and resources (plus earmark of $14,130,000 for land and resources information system), USGS surveys, investigations and research, MMS royalty and offshore minerals mgt (plus earmark of $33,286,000 for general admin), FS forest and rangeland research, DOE energy conservation (plus earmark of $202,160,000 for transpiration). Total recession, $28,000,000. | N/A |
| 8/5 | Murkowski | 1599 | $1,500,000 increase to NPS construction, earmark for environmental study in Denali, recession from NPS operation of the national park system | N/A |
| 8/5 | Murkowski | 1600 | Restriction on funds to deploy TAAMS in BIA Area Offices. | N/A |
| 8/5 | Murkowski | 1601 | General Provisions - restriction on funds for inspection fees on certain animal products. | N/A |
| 8/5 | Stevens | 1602 | $2,444,400 increase to HIS, $5,000,000 increase to SI, recession of $2,940,000 to NPS construction. | N/A |
| 8/5 | Hutchison | 1603 | General Provisions - Prohibit use of funds to issue notice of rulemaking with respect to valuation of crude oil for royalty purposes. | N/A |
| 8/5 | Sessions | 1604 | Earmark $3,100,000 from NPS operations of national park system for Rosa Parks Library and Museum. | N/A |
| 8/5 | Levin | 1605 | $550,000 increase to NPS land acquisition and state assistance, earmark for acquisition of property in Sleeping Bear Dunes NL, recession from USGS surveys, investigations and research. | N/A |
| 8/5 | Levin | 1606 | ???, recession from USGS surveys, investigations and research. | N/A |
| 8/5 | Robb | 1607 | Strike section 329 | N/A |
| 8/5 | Hatch | 1610 | Restrict funds to study or implement plan to drain Lake Powell or reduce water level. | N/A |

| DATE | SPONSOR | NUMBER | AMENDMENT | PG # |
|---|---|---|---|---|
| 8/5 | Hatch | 1611 | Earmark $250,000 to Four Corners Monument Tribal Park from FWS resource mgt. | N/A |
| 8/5 | Collins | 1612 | Increase NPS national recreation and preservation $90,000 & earmark increase to Saint Croix Island Int HS, recession from NPS operations of the national park system. | N/A |
| 8/5 | Collins | 1613 | General Provisions - Express sense of Senate that NPS should begin planning for Saint Croix Island Int HS quadricentennial. | N/A |
| 8/5 | Boxer | 1614 | Increase $10,000,000 to Historic Preservation, no recessions | N/A |
| 8/5 | Feinstein | 1615 | Reimbursement to Harry Fray by FS, $143,406 | N/A |
| 8/5 | Levin | 1616 | USFWS, Resource Mgt, insert - $400,000 available for grants under Great Lakes Fish and Wildlife Restoration Program, $114,280,000 for general administration. Plus limitations on spending in BLM mgt of lands and resources, MMS royalty and offshore minerals mgt, DOE energy conservation. | N/A |

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# *Memorandum*

July 21, 1999

TO : Senate Energy and Natural Resources Committee
Attention: Shirley Neff

FROM : Fred Sissine 7-7039
Specialist in Energy, Science, Technology, and Policy
Resources, Science, and Industry Division

SUBJECT : Federal Energy Management and Executive Order 13123

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This memo responds to your request to review the context for Executive Order 13123 (E.O. 13123) to stipulate that federal agencies use "source" energy instead of "site" energy standards to assess energy cost-savings as well as progress toward energy efficiency and greenhouse gas emission reduction goals.[1] In particular, you asked:

(1) Does Executive Order 13123 constitute a dramatic departure from previous executive orders that call upon federal agencies to seek energy savings?

(2) Does Executive Order 13123 constitute a dramatic departure from the provisions of the National Energy Conservation Policy Act (NECPA, P.L. 95-619) or other public laws that call upon federal agencies to seek energy savings?

(3) Does the President have authority to order executive branch agencies to employ "source," instead of "site," energy standards for assessing the attainment of energy savings and energy-efficiency goals?

(4) What are the implications of choosing site energy or source energy as the standard for assessing energy savings?

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[1] The Department of Energy's (DOE's) Energy Information Administration (EIA) defines source energy (also referred to as "primary" energy) as "the amount of energy delivered to an end user adjusted to account for the energy that is lost in the generation, transmission, or distribution of energy." In contrast, EIA defines site energy as "the amount of energy delivered to an end user that *is not* adjusted to account for the energy lost in the generation, transmission, and distribution of the energy." U.S. DOE. EIA. Measuring Energy Efficiency in the United States' Economy: A Beginning. October 1995. p. 5. [DOE/EIA-0555(95)/2] [emphasis is original, not added]

## Background

The Energy Policy and Conservation Act of 1975 (EPCA, P.L. 94-163) provided a directive for federal agency energy conservation, giving a broad blanket of authority to the President. It specified that:

> The President shall, to the extent of his authority under other law, establish or coordinate federal agency actions to develop mandatory standards with respect to energy conservation and energy efficiency to govern the procurement policies and decisions of the federal government and all federal agencies and shall take such steps as are necessary to cause such standards to be implemented. The President shall develop and, to the extent of his authority under other law, implement a 10 year plan for energy conservation....[2]

This law included no further specification about whether to employ site or source energy as a measurement basis for assessing the energy conservation and energy efficiency measures. To implement this law, President Ford issued E.O. 11912 in April 1976. In this order, the President delegated his implementation authority under EPCA to the Administrator of the General Services Administration, the Administrator of the Federal Energy Administration, and other agency and department heads and empowered them to act "without approval, ratification, or other action by the President." This order did not discuss site or source energy.

In July 1977, President Carter issued E.O. 12003, which amended E.O. 11912 to expand the program of federal energy management. For buildings, it reasserted the call for a 10-year plan for energy conservation with a goal of reducing energy use per gross square foot (GSF) in 1985 by 20% below the 1975 level.[3] Table 1, at the end of this memo, shows the evolution of goals for reducing energy use in federal buildings. Further, a new section 10(c) called for the 10-year energy conservation plan to employ to the "maximum extent practicable" cost-effective improvements that were based on a "life cycle cost" that included the cost of fuel and energy.[4] Further, it called for estimates of energy savings, energy cost savings, and implementation costs. Thus, E.O. 12003 emphasized goals, action measures, and life cycle costs. It was silent on the issue of whether site or source energy was to be used as the basis for analyzing energy savings.[5]

Title V of the National Energy Conservation Policy Act of 1978 (NECPA, P.L. 95-619) placed federal energy management responsibility primarily with the Secretary of the new Department of Energy. Also, it affirmed, revised and otherwise extended E.O. 12003. Section 545 reaffirmed and elaborated on the use of life cycle cost. Section 546 revised the thrust for building retrofits away from the 20% goal for 1985, and instead aimed to achieve "energy performance targets" by 1990. Each target was defined as "a rate of energy

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[2] Section 381 (a) (1) and (2).

[3] The 20% goal was for existing buildings; new buildings were to improve by 45%.

[4] It also required compliance with other criteria, set by the Office of Management and Budget (OMB).

[5] Weekly Compilation of Presidential Documents. Energy Policy and Conservation (Executive Order 12003). July 20, 1977.

consumption which is the minimum practically achievable, taking into account life-cycle cost."[6] NECPA did not specifically address whether site or source energy was to be used as the basis for assessing energy savings.

The Energy Policy Act of 1992 (EPAct, P.L. 102-486) amended NECPA energy reduction goals, requiring that average energy use per GSF in federal buildings must be 20% lower in 2000 than it was in 1985.[7] Also, EPAct directed the Secretary of Energy and other agencies' top management to set guidelines for each agency to use in assessing accurate energy consumption for all of its buildings.[8] The law did not specifically discuss site or source energy.

## FEMP Practice of Using Source Energy Standard

NECPA gave primary responsibility for implementing federal energy management to the Secretary of Energy. In its 1979 rule to implement NECPA provisions for federal energy management, DOE considered the issue of choosing between site energy and source energy. In the rule, DOE decided to use source energy, noting:

> DOE used this conversion factor [of] 11,600 Btu per kilowatt hour of electricity, because it appeared to be the most accurate measure of actual energy resources consumed in delivering one kilowatt hour of electricity to a user. It reflects line transmission as well as generation losses. The intent of the [accompanying] conversion table [that employed source energy measures] was to set a uniform basis for 'Energy Management,' both to calculate energy consumption and energy savings on a national basis and to calculate the comparative values of alternative energy sources at site-specific locations.[9]

In subsequent years, the Secretary of Energy exercised federal energy management authority through DOE's Federal Energy Management Program (FEMP), which reports annually to Congress. For many years, FEMP continued to employ source energy as the standard for assessing energy savings in federal energy management. For example, FEMP's report for FY1985 expressed energy costs uniformly in British Thermal Units (Btu's), using a conversion factor of 11,600 Btu's per kilowatt-hour (kwh) for electricity.[10] This is shown in appendices B and D of the report, which are attached to this memo. FEMP notes that the

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[6] U.S. Code Congressional and Administrative News. 95th Congress, 2nd Session. 1978. P.L. 95-619. p. 92 Stat. 3278.

[7] Section 152(a)-(d).

[8] Section 159.

[9] Federal Register, v. 44, no. 221, Nov. 14, 1979. (Rules and Regulations 65703) [As cited in U.S. DOE. FEMP. Annual Report on Federal Government Energy Management, Fiscal Year 1985. August 1986. Appendix D: Federal Performance Utilizing "Site" Conversion Factors. p. D-1]

[10] FEMP. Annual Report FY1985. The conversion factor for electricity appears in Appendix B: Data Collection. p. B-1.

source energy conversion factor for electricity was at that time required by the Code of Federal Regulations (10 CFR 436).[11] [12]

FEMP's practice of employing the source energy standard continued at least through 1990, as noted in its FY1989 report.[13] Further, in reviewing agency progress toward the 10% energy reduction goal in the Federal Energy Management Improvement Act (FEMIA, P.L. 100-615),[14] FEMP reported that from FY1985 through FY1989 federal agency use of non-electric fuels declined 13%, but electricity use increased 8.6%. As a result, by the end of FY1989, electricity use represented 71% of energy costs and 65% of total energy use, on a source energy basis.[15]

## Bush Administration Changes to Site Energy Standard

In 1989, the Bush Administration proposed a new executive order on federal energy management. Following a congressional hearing in 1990, debate surfaced over progress toward the 10% reduction goal and the standard for measuring energy savings.[16] Then Chairman Sharp of the House Commerce Subcommittee on Energy and Power cited FEMP figures showing wide variations in progress from FY1985 through FY1989, with several agencies actually increasing energy use — one by 58%.[17] Similarly, then Chairman Synar of the House Government Operations Subcommittee on Environment, Energy and Natural Resources complained that the federal energy use was wasteful, falling years behind the pace needed to meet reduction goals.[18] Douglas Decker of Johnson Controls testified that federal energy use had increased by 7% from 1979 to 1988.[19]

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[11] Specifically, FEMP cites 10 CFR 436 on "Federal Energy Management Planning Programs: Procedures for Preliminary Energy Audits and Guidelines for Building Plans."

[12] As a courtesy, the report's Appendix D repeats the electricity use data, employing the factor of 3,412 Btu's per kwh. This factor, FEMP notes, yields the actual number of Btu's "received at the point of use (site energy) from the original 11,600 Btu input, when efficiency losses are counted." Ibid, p. D-1.

[13] U.S. DOE. FEMP. Annual Report to Congress on Federal Government Energy Management and Conservation Programs, Fiscal Year 1989. Appendix F: Federal Performance Utilizing 'Site' Conversion Factors. October 3, 1990. p. 77.

[14] In 1988, the Federal Energy Management Improvement Act (FEMIA, P.L. 100-615) amended NECPA. Section 543 specified a building energy performance goal of a 10% reduction per GSF for FY1995 relative to FY1985.

[15] Ibid, p. 4.

[16] U.S. Congress. House. Committee on Commerce, Subcommittee on Energy and Power and Committee on Government Operations, Subcommittee on Environment, Energy and Natural Resources. Joint Hearing. July 11, 1990. 112 p. [Serial No. 101-175]

[17] Energy Daily. Agencies Are Too Energy Intensive, Charge Panels. July 13, 1990, p. 3.

[18] International Solar Energy Intelligence Report. Federal Agencies Set Poor Example in Energy Conservation, Panel Told. July 13, 1990. p. 135.

[19] Ibid.

In counterpoint, then DOE Assistant Secretary for Conservation and Renewable Energy J. Michael Davis argued that the Sharp and Synar contentions of inefficiency were unfair because they were based on a source-energy calculation. Assistant Secretary Davis reportedly acknowledged that DOE normally used the source-energy calculation.[20] However, he claimed that calculating the energy consumption as it is actually used at the site showed a 5% average energy savings from FY1985 to FY1989.[21]

In 1991, President Bush issued E.O. 12759, which defined energy use in terms of a "site energy" standard. The Order states:

> [T]he term "energy use" means the energy that is used at a building or facility and measured in terms of energy delivered to the building or facility.[22]

Further, this Order raised the federal buildings energy reduction goal from 10% to 20% and extended the deadline from 1995 to 2000. A May 1991 report by the Office of Technology Assessment stated that the Order had a considerable amount of support from the Congress.[23]

## Alliance Challenges Site Energy Standard

A 1998 report by the Alliance to Save Energy criticized the Bush-ordered change in definition from source to site energy, contending that it "effectively lowered the goalpost for the 1995 targets." The report alleged that, in 1998, electric power conversion losses were equal to the total site energy used in federal facilities, but were not counted in the FEMP reports. The Alliance concluded that:

> Changing the measure from [source] to site energy helped the federal government meet its energy consumption targets in 1995. If [source] energy were still being used as the measure of energy consumption, the federal government would not have met the EPAct goals for 1995. Using [source] energy as the measure, GSF energy use fell by only 1%, not 14.2%.[24]

The report called for Congress to impose greater accountability on federal agencies by holding hearings on progress toward energy reduction goals, setting requirements for reducing carbon emissions, and eliminating the use of the site energy measure of energy use.[25]

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[20] Energy Daily, op. cit.

[21] International Solar Energy Intelligence Report, op. cit.

[22] Weekly Compilation of Presidential Documents. Federal Energy Management (Executive Order 12759). April 17, 1991. p. 458.

[23] U.S. Office of Technology Assessment. Energy Efficiency in the Federal Government: Government by Good Example? May 1991. p. 24. (OTA-E-492)

[24] Alliance to Save Energy. Leading by Example: Improving Energy Productivity in Federal Government Facilities. November 1998. (Executive Summary) p. 2.

[25] Ibid, p. 20.

Further, the Alliance argues that the use of site energy creates a bias against on-site generation and cogeneration of power, heat, and steam.[26] These systems, it says, may consume more site energy, but they actually reduce total source energy requirements.[27]

## Clinton Administration Expands Standard to Include Source Energy

On March 8, 1994, President Clinton issued E.O. 12902. Section 701 revokes most sections of Bush E.O. 12759, including Section 14, which had specified that federal agencies should use site energy as the standard for assessing energy savings. However, E.O. 12902 did not specifically require agencies to use source energy as the standard for assessing energy savings. Instead, in Section 309, it called on DOE to study the issue, directing DOE to prepare a report on "full fuel cycle" analysis as a potential basis for life cycle costs. The report was to study:

> ...the issues involved in instituting life cycle analysis for Federal energy and product purchases that address the full fuel cycle costs, including issues concerning energy exploration, development, processing, transportation, storage, distribution, consumption, and disposal, and related impacts on the environment. The report shall examine methods for conducting life cycle analysis and implementing such analysis in the Federal sector....

Also, Section 301 set new energy efficiency goals, calling on each agency to reduce average energy use per GSF in buildings by 30% in 2005 relative to 1985. The Order also set energy efficiency goals for industrial facilities and for water use. Further, Section 103 defined cost-effective energy conservation measures to be those that provide a payback period of less than 10 years.

In June 1996, the Federal Interagency Energy Policy Committee (656 Committee) unanimously approved a policy statement that expanded the scope of Section 301 in E.O. 12902.[28] It states:

> Federal agencies are encouraged to continue ... measuring and accounting for energy use at the point of use of the facility site. However, the Executive Order also encourages agencies to facilitate the introduction and use of cost-effective, energy efficient technologies into federal facilities. To address this aspect of the Executive Order, all energy efficiency/conservation projects that result in

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[26] In 1985, the Omnibus Budget Reconciliation Act (P.L. 99-272) amended NECPA to add provisions for shared energy savings. Section 804 defined energy savings as a reduction in energy cost that could include "the increased efficient use of existing energy sources by cogeneration or heat recovery." U.S. Code Congressional and Administrative News. 99th Congress, 2nd Session. 1985. P.L. 99-272. p. 100 Stat. 143.

[27] Alliance to Save Energy, Leading by Example, p. 15.

[28] The Committee was created by Section 656 of the Department of Energy Organization Act (P.L. 95-91). Led by the designee of the Secretary of Energy, the Committee includes representatives from 11 other federal agencies. Its purposes are to strengthen energy efficiency programs, encourage interagency cooperation in energy conservation, and promote a management focus on national objectives.

> operational cost savings and reduced energy consumption, when energy is measured at the source (as opposed to the point of use), are also encouraged.

Two situations were given to support this policy recommendation. One, because most of the energy use and energy efficiency loss for electricity occurs off-site, a building that uses electricity would not have an incentive to change to a less costly -- and more source energy-efficient -- fuel such as natural gas. Also, energy-efficient technologies, such as fuel cells, were not likely to be used because they would increase site energy use.[29]

FEMP says the 656 Committee policy statement reinforces cost-effectiveness as the key criterion for selecting projects. It encourages, FEMP says, cost-effective energy projects that reduce energy use "regardless of whether that consumption is measured on a site basis or source basis." Thus, it aims to "remove any perceived bias against projects which are cost effective and save energy when measured on a source basis but may not necessarily save energy when measured on a site basis."[30]

## Clinton Returns to Source Energy Standard

On June 3, 1999, President Clinton issued E.O. 13123. Section 206 calls for a return to the use of source energy as the standard for assessing energy savings. Specifically, this provision states:

> The federal government shall strive to reduce total energy use and associated greenhouse gas and other air emissions, as measured at the source. To that end, agencies shall undertake life-cycle cost-effective projects in which source energy decreases, even if site energy use increases. In such cases, agencies will receive credit toward energy reduction goals through guidelines developed by DOE.

Further, the Order sets an energy efficiency goal for each agency of reducing average energy use per GSF in buildings by 35% in 2010 relative to 1985. Also, it calls for each agency to reduce greenhouse gas emissions arising from energy use by 30% in 2010 relative to the 1990 emissions level.

## Conclusion

**(1) Does Executive Order 13123 constitute a dramatic departure from previous executive orders that call upon federal agencies to seek energy savings?** The answer appears to be a qualified "yes." By explicitly calling for the use of source energy rather than site energy as the standard for assessing energy savings, it clearly reverses the choice that was set by President Bush in E.O. 12759. Otherwise, however, it appears to be consistent with other previous executive orders that sought to delegate federal energy management authority and to set goals for improved federal energy efficiency.

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[29] U.S. DOE. FEMP. Interagency Energy Management Task Force. Memorandum on a Rationale for a 656 Statement of Policy on Section 301 of E.O. 12902. May 29, 1996.

[30] U.S. DOE. FEMP. FEMP Focus Newsletter. Site vs. Source Measures of Energy Consumption: Both are Valid for Project Decision-Making. Jan/Feb 1998.

**(2) Does Executive Order 13123 constitute a dramatic departure from the provisions of the National Energy Conservation Policy Act (NECPA, P.L. 65-619) or other public laws that call upon federal agencies to seek energy savings?** The answer appears to be "no." In fact, as the foregoing review shows, from 1979 through 1990, FEMP implementation of NECPA clearly employed source energy as the standard for assessing energy savings. Further, E.O. 13123's aim to support national purposes other than energy costs savings, namely to improve environmental conditions by reducing greenhouse gas emissions, appears to be consistent with FEMIA's amendment to NECPA that in part aimed to benefit the nation by "reducing national dependence on foreign energy resources."[31]

**(3) Does the President have authority to order executive branch agencies to employ "source," instead of "site," energy standards for assessing the attainment of energy savings and energy-efficiency goals?** The answer appears to be "yes." NECPA empowered the President to direct federal energy management. Using this authority delegated by President Carter, DOE decided in 1979 to establish source energy as the standard for assessing energy savings. In 1991, President Bush employed this authority directly to change to the site energy standard. President Clinton exercised this authority to change the standard again, to source energy.

**(4) What are the implications of choosing site or source energy as the standard for assessing energy savings?** First, the choice can affect the selection of equipment, and possibly strategies, for achieving energy savings. If the standard is used for comparing a variety of equipment that all uses the same energy type (e.g. electricity), it doesn't matter whether site or source energy is used: energy efficiency comparisons would yield the same proportionate results. However, if used for comparing equipment that uses different energy types (e.g. electricity and natural gas), it does matter very much. Electricity-using equipment will look much better with a site energy standard than with a source energy standard, which includes large generation and transmission losses. Second, because electricity makes up such a large share of federal energy use, the choice greatly affects the perception of whether energy efficiency targets or goals are met. Third, the choice greatly affects the measurement of progress toward national energy and environmental goals. Site energy is measured at the point of use and, thus, its cost only reflects the market price of energy. In contrast, a source energy measurement may reflect fuller accounting of energy use, including public welfare aspects, such as the environmental costs or benefits of using specific energy sources.

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[31] Congressional findings in FEMIA's Section 541 noted that an increase in federal energy efficiency would not only reduce costs, but it would also benefit the nation by reducing oil import dependence. Op. cit., p. 102 Stat. 3185.

| Table 1. Federal Buildings Retrofits: Energy Efficiency Goals (average annual energy use per gross square foot [GSF]) | | | | | | |
|---|---|---|---|---|---|---|
| Year | Policy | Base Year | Target Year | Reduction Goal | Guideline (G) or Requirement (R) | Standard for Assessing Energy Savings |
| 1975 | EPCA | 1975 | 1985 | none (10-year plan) | G | ----- |
| 1976 | E.O. 11912 (Ford) | 1975 | 1985 | none (10-year plan) | G | ----- |
| 1977 | E.O. 12003 (Carter) | 1975 | 1985 | 20%, for total of all federal buildings | G | ----- |
| 1978 | NECPA §543(a) | 1985 | 1995 | 10%, for each agency | R | ----- |
| 1978 | NECPA §543(a) | 1985 | 2000 | 20%, for each agency | R | ----- |
| 1988 | FEMIA §543(a) | 1985 | 1995 | 10%, for each agency | R | source energy |
| 1991 | E.O. 12759 (Bush) §1 | 1985 | 1995 | 10%, for each agency | R | site energy |
| 1991 | E.O. 12759 (Bush) §1 | 1985 | 2000 | 20%, for each agency | R | site energy |
| 1994 | E.O. 12902 (Clinton) §301 | 1985 | 2005 | 30%, for each agency | R | ----- |
| 1999 | E.O. 13123 (Clinton) §202 | 1985 | 2005 | 30%, for each agency | R | source energy |
| 1999 | E.O. 13123 (Clinton) §202 | 1985 | 2010 | 35%, for each agency | R | source energy |

# Appendix B

# Data Collection

## Buildings and Facilities

Federal agencies that own or control buildings report the energy consumption in these buildings 45 days after the end of each fiscal quarter to FEMP. There are 19 Federal agencies that meet this criteria (see Table 2). The General Services Administration (GSA) reports the energy of buildings it owns and operates, including usage by other Federal agency occupants.

The data shown in this report does not include leased space in buildings where the energy costs are a part of the rent, and the Federal agency involved has no control over the buildings' energy management.

The 19 Federal agencies submit their quarterly reports on DOE Form 6200.2, expressed in the following units: megawatt hours of electricity; thousands of gallons of fuel oil; thousands of cubic feet of natural gas; thousands of gallons of liquid petroleum gas and propane; short tons of coal; billions of Btu's of purchased steam; and billions of Btu's of "other." DOE reviews this data for accuracy, and confers with the submitting agency to clarify any apparent anomalies. The data is then entered into a computer database management program supported by the Energy Information Administration (EIA).

The Tables shown in this Annual Report are expressed in trillions of Btu's derived from the following conversion factors (see 10 CFR 436.45):

| | |
|---|---|
| Electricity | - 11,600 Btu's/kilowatt hour |
| Fuel Oil | - 138,700 Btu's/gallon |
| Natural Gas | - 1,031 Btu's/cubic foot |
| LPG/Propane | - 95,500 Btu's/gallon |
| Coal | - 24,580 Btu's/short ton |
| Purchased Steam | - 1,390 Btu's/pound |

In addition, the 19 Federal agencies annually report to FEMP the gross square footage of their buildings and the cost of their buildings energy.

This Report excludes those agencies that have been unable to provide complete fiscal year consumption data prior to the publication date. All agency omissions, as well as any anomalies in the data, are indicated by footnotes on the Tables.

## General Operations

All Federal agencies that use more than 100 billion Btu's per year in their vehicles and equipment report their energy consumption data to FEMP within 45 days after the end of each fiscal quarter, using DOE Form 6200.2. There are 19 Federal agencies that meet this criteria (See Table 6).

The fuels used in vehicles and equipment are automotive gasoline, diesel and petroleum distillate fuels, aviation gasoline, jet fuel, Navy special, liquefied petroleum gas/propane, and "other." All the fuels in this category with the exception of "other" are reported in thousands of gallons. "Other" is reported in billions of Btu's.

The conversion factors for these fuels used are:

| | |
|---|---|
| Automotive Gasoline | - 125,000 Btu's/gallon |
| Diesel-Distillate | - 138,700 Btu's/gallon |
| Aviation Gasoline | - 125,000 Btu's/gallon |
| Jet Fuel | - 130,000 Btu's/gallon |
| Navy Special | - 138,700 Btu's/gallon |
| LPG/Propane | - 95,500 Btu's/gallon |

The general operations category also includes the process and production energy reported by the Departments of Energy and Defense, and the "cold iron" energy used to provide power to Navy ships docked in port. This operations energy is reported quarterly to FEMP on DOE Form 6200.2 expressed in units corresponding to those under under buildings and facilities.

Missing data and anomalies are addressed in the same fashion as those described in the Buildings and Facilities section of this appendix.

# Appendix D

## Federal Performance Utilizing "Site" Conversion Factors

Appendix D and the accompanying Table are included to accommodate requests from a number of Federal agencies that the FY 1985 Annual Report show performance using the conversion factor of 3,412 Btu per kilowatt hour of electricity instead of the 11,600 Btu per kilowatt hour that is required by 10 CFR 436, "Federal Energy Management Planning Programs; Procedures for Preliminary Energy Audits and Guidelines for Building Plans." Using the conversion factor of 3,412 Btu per kilowatt hour of electricity provides comparability with the measurement of energy usage in private sector buildings.

The conversion factor of 11,600 Btu per kilowatt hour of electricity represents the number of Btu's required at the point of generation (source energy) to provide one kilowatt hour at the point of use. The factor of 3,412 Btu per kilowatt hour of electricity is the number of Btu's actually received at the point of use (site energy) from that original 11,600 Btu input, when efficiency losses are counted.

In its response to comments regarding conversion factors in the Final Rule, DOE noted:

"...DOE used this conversion factor 11,600 Btu per kilowatt hour of electricity, because it appeared to be the most accurate measure of actual energy resources consumed in delivering one kilowatt hour of electricity to a user. It reflects line transmission as well as generation losses.

The intent of the conversion table was to set a uniform basis for 'Energy Management,' both to calculate energy consumption and energy savings on a national basis and to calculate the comparative values of alternative energy sources at site-specific locations."*

The accompanying table shows agency performance using the conversion factor of 3,412 Btu per kilowatt hour of electricity. This is exactly the same performance reported in Table 2, but without accounting for conversion losses in electricity generation and transmission losses in its transportation to end users.

*Federal Register/Vol. 44, No. 221/Wednesday, November 14, 1979/ Rules and Regulations 65703.

# AMERICAN GAS ASSOCIATION

From: Charles H. Fritts
Vice President, Government Relations
400 North Capitol Street, NW
Washington, D.C. 20001

Phone: (202) 824-7220
Fax: (202) 824-7090
E-Mail: cfritts@aga.org

BCSD mtg setup this week

7/9/99

**Roger Ballentine White House 202 456 - 6468**

Per our conversation, the following is a list of companies and organizations that are working to oppose the Cochran amendment.

At this stage, we have been meeting with Members and staff of the Senate Appropriations and Senate Energy Committees to educate them about the Cochran amendment. We are encouraging them to call Cochran's office to let him know they are concerned. We are also asking those we meet to call Gorton and Bingaman to let them know they oppose Cochran.

There is not an expectation that there will be a motion to strike the Cochran amendment on the Senate floor. We are hoping it will be resolved in a Manager's amendment.

Companies and Organizations that oppose the Cochran Amendment.

Alliance to Save Energy
American Gas Association (natural gas utility companies)
Andersen Corporation (Andersen Windows)
Association of Home Appliance Manufacturers
Business Council for Sustainable Energy
Cardinal IG (a windows company)
CES/Way
Distributed Power Coalition of America
Honeywell
Interstate Natural Gas Association (natural gas pipelines)
Johnson Controls
National Association of State Energy Organizations
North American Insulation Manufacturers Association
Polyilsocyanurate Insulation Manufacturers Association
Sempra
Viron Energy Services
Washington Gas Light

W:DOESoCochranCompanies

**Physicians for Social Responsibility**
**Environmental Defense Fund**
**Friends of the Earth**
**Sierra Club**
**Greenpeace**
**Center for International Environmental Law**
**Coalition for Sensible Energy**
**Coalition on the Environment and Jewish Life**
**Union of American Hebrew Congregations**
**Natural Resources Council of Maine**

July 14, 1999

The Honorable Thad Cochran
United States Senate
Washington DC 20510

Dear Senator Cochran,

We strongly urge you to reconsider your amendment to the FY2000 Interior Appropriations Bill regarding federal energy efficiency policy and procedures. We understand that your intent was to block the implementation of President Clinton's recent Executive Order 13123, but the effect of your amendment, according to the Department of Energy General Counsel, would be much broader. It would cripple a whole range of successful federal energy efficiency programs that have longstanding, bipartisan support and which have saved taxpayers $6.3 billion since 1985. Your amendment amounts to an order to waste taxpayer money and needlessly pollute the environment.

Furthermore, your opposition to the Executive Order on grounds that it is an attempt to implement portions of the Kyoto Protocol is misplaced. The Executive Order explicitly directs agencies to undertake only energy efficiency improvements that are life-cycle cost effective – it is primarily about reducing the federal government's $8 billion annual energy bill, saving taxpayers money, and reducing the tremendous environmental impact of federal energy use. These are commendable goals, which deserve bipartisan acclaim and support; not riders designed to torpedo the effort.

The recent Presidential Executive Order was only the latest in a series of efforts aimed at making the federal government a national example of sound fiscal and environmental stewardship in its energy management practices. This kind of leadership, particularly when environmental gains are an added benefit of common-sense policies and practices that save money, is crucial. Once again, we strongly and respectfully urge you to reconsider your amendment.

Cc: The Honorable Slade Gorton
The Honorable Ted Stevens
The Honorable Robert Byrd

Physicians for Social Responsibility
Environmental Defense Fund
Friends of the Earth
Sierra Club
Greenpeace
Center for International Environmental Law
Coalition for Sensible Energy
Coalition on the Environment and Jewish Life
Union of American Hebrew Congregations
Natural Resources Council of Maine

July 14, 1999

The Honorable Thad Cochran
United States Senate
Washington DC 20510

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Cc: The Honorable Slade Gorton
The Honorable Ted Stevens
The Honorable Robert Byrd

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July 19, 1999

The Honorable Thad Cochran
326 Russell Senate Office Building
Washington, DC 20510

Dear Senator Cochran:

As a coalition of companies and member associations, we respectfully urge you to reconsider your amendment to the FY 2000 Interior Appropriations bill regarding federal energy programs.

Dozens of companies around the country have been working to reduce the energy consumption of federal facilities. These companies are utilizing provisions in the Energy Policy Act of 1992 and numerous other federal laws that allow companies to make energy efficiency improvements and share these guaranteed savings with the agency or department. Most estimates place potential savings in the range of $750 million to $1 billion per year.

These energy programs are unrelated to the Kyoto Protocol. They are designed to reduce the operating costs of the federal government (thereby reducing emissions of all pollutants through decreased energy consumption).

The newly issued Executive Order maintains a focus on site-based measurement of energy savings, while recognizing the value of source-based and lifecycle cost analyses (as required by existing federal statute). Further, Executive Order 13123 consolidates, simplifies and slightly expands the goals and objectives of a host of executive orders issued over the past two decades.

Reducing energy use at federal facilities saves taxpayer dollars, a goal which you have strongly supported throughout your Congressional career. We believe the executive order is worthy of your support, and that you will agree to strike Section 341.

Sincerely,

Alliance to Save Energy
American Wind Energy Association
Business Council for Sustainable Energy
Cascade Associates
Federal Performance Contracting Coalition
Geothermal Energy Association
Integrated Building and Construction Systems
The American Gas Cooling Center
Polyisocyanurate Insulation Manufacturers Association

**The Secretary of Energy**
Washington, DC 20585

July 13, 1999

The Honorable Thad Cochran
United States Senate
Washington, D.C. 20515

Dear Senator Cochran:

I am writing to address concerns you raised about Executive Order 13123 during the Senate Committee on Appropriations' mark-up of the Interior Appropriations bill. In particular, I would like to explain language in that Order concerning site and source energy use.

The Order sets a new site energy reduction goal of 35 percent by 2010 and thereby encourages Federal agencies to reduce energy at the site. The Order also acknowledges that the Federal government should strive to reduce source energy use – that is, the total amount of energy used at a site and consumed in producing and delivering energy to a site. In no way does the Order advantage or disadvantage any conventional energy source; rather, agencies are simply encouraged to implement cost-effective options.

The Order does allow agencies to get credit toward their site energy reduction goals for cost-saving projects that reduce source energy use. However, agencies will continue to measure site energy use and report their usage annually to demonstrate progress in meeting site energy reduction goals for 2000, 2005, and now 2010.

Most importantly, the Order calls for Federal agencies to implement life-cycle cost effective projects that will save taxpayer dollars and at the same time reduce energy use In fact, throughout the Order, and in the sections referring to site and source energy reductions, the Order explicitly states that agencies shall reduce energy use through life-cycle cost-effective projects. We expect that in implementing the Order, agencies will deliver $750 million annually in energy cost savings for our nation's taxpayers.

In the National Energy Conservation Policy Act (42 U.S.C. 8251) and other statutes, Congress repeatedly has insisted that the Federal government implement lifecycle cost-effective measures to reduce energy costs. The Order is entirely consistent with existing law.

On a separate concern, let me assure you that the Order does not seek to implement the Kyoto Protocol, which has not yet been ratified by Congress. Reductions in greenhouse gas emissions, like reduced air pollution and reduced dependence on foreign oil, simply result from cost-effective energy improvements in Federal buildings that save taxpayer dollars.

I certainly hope that we can continue to work together to save precious taxpayer dollars in powering the Federal government. If you have any further questions or comments, please contact me or have your staff contact John Angell, Assistant Secretary for Congressional and Intergovernmental Affairs, at (202) 586-5450.

Yours sincerely,

Bill Richardson

Bill Richardson

# OPPOSE AMENDMENT DENYING FUNDS TO MAKE GOVERNMENT USE OF ENERGY MORE EFFICIENT

The Senate Appropriations Committee approved an amendment by Senator Cochran (R-MS) to the Interior Appropriations Bill. The Cochran Amendment appears to be an attack on the recent Executive Order 13123, the Greening the Government Through Efficient Energy Management.

Please oppose any amendment that is similar to the Cochran Amendment.*

The approach of the Executive Order to energy efficiency and environmental policy should readily enjoy strong bipartisan support.

The Executive Order will:

- Reduce the government's annual energy bills by $750 million.
- Cut energy consumption at government facilities through market driven cost cutting techniques.
- Require more realistic accounting of the costs of energy and energy facilities.
- Encourage greater use of Energy-Savings Performance Contracts, which introduce private sector efficiencies into the management of the government's facilities.

*The Cochran Amendment states that:

"No funds shall be used to study, develop, or implement procedures or policies to establish energy efficiency, energy use or energy acquisition rules or guidelines other than those based upon the provisions of the Energy Conservation Policy Act (EPCA) of 1975.

The Cochran Amendment discourages the government from:

- Cutting the government's energy bills
- Implementing market driven techniques to reduce energy waste.
- Using private sector Energy Savings Performance Contracts.

Note that the Cochran Amendment may be presented as legislation to address concerns about the Kyoto Treaty. It does not address the Kyoto Treaty.

Conference HR4328
(Interior) H. Rep 105-825
Omnibuster



tries of the future program) and for the agriculture/biobased fuels vision (chemicals industries of the future program), $500,000 for the combined heat and power initiative, $2,600,000 for motor challenge, $1,000,000 to correct an error in the House report dealing with the climate-wise program, $200,000 for program direction, $19,000,000 to accelerate the advanced turbine program and $8,300,000 due to elimination of the requirement to use prior year funds, and a decrease of $43,000,000 which negates the House proposed transfer of the turbine program from the fossil energy account.

Changes to the House for transportation sector programs include increases of $1,000,000 for C–1 chemistry, $1,300,000 for fuels for advanced engines, $2,000,000 for advanced power electronics, $4,500,000 for fuel cell research and development, $1,000,000 for advanced combustion research, $1,500,000 for cooperative automotive research for advanced technologies, $3,000,000 for high efficiency engine research, $500,000 for heavy vehicle systems technologies, $4,000,000 for lightweight materials, $1,200,000 for high strength weight reduction materials, $200,000 for the clean cities voluntary deployment program, $500,000 for vehicle field testing/evaluation, $75,000 for program direction and $10,100,000 due to elimination of the requirement to use prior year funds and a decrease of $2,000,000 in hybrid propulsion systems.

Other changes to the House include an increase of $250,000 for headquarters contract services and decreases of $200,000 for headquarters salaries and related expenses and $34,000,000 in undistributed increases.

The Committees agree to the following:

1. This is the final year of funding for home energy rating systems.

2. With regard to energy measurement techniques, nothing in the House or Senate reports should be construed as an attempt to circumvent or contradict the National Appliance Efficiency Conservation Act or any other relevant statute.

3. With regard to the Federal energy management program, the Secretary may, in establishing charges for services rendered to other Federal agencies, recover such program costs as the Secretary deems appropriate including, but not limited to, start-up costs (including those incurred in fiscal year 1998), Department of Energy program operating expenses and contractor costs. The Secretary should make every effort to recover, over the life of the program, all costs associated with start-up, execution and support to other Federal agencies. To reduce the administrative burden on the program, the Secretary may establish an annual fixed pricing structure.

4. There are no specific earmarks for any entity within the industries of the future (specific) program. The Department should use the expertise at the National laboratories, the Federal Energy Technology Center and the Intermountain Center for Mining Research and Technology to the extent that such organizations are able to provide quality work, which is consistent with program and industry priorities.

5. The Department should work with Alfred University to explore how that institution's expertise in glass and ceramics engi-

The Secretary of Energy
Washington, DC 20585

June 28, 1999

The Honorable Ralph Regula
Chairman
Subcommittee on Interior and Related Agencies
Committee on Appropriations
U. S. House of Representatives
Washington, D.C. 20515

Dear Congressman Regula:

Last week, the Senate Committee on Appropriations adopted an amendment to the Interior Appropriations Bill that will severely restrict the Federal Government's ability to save taxpayer dollars by improving the energy efficiency of its buildings. I urge you to oppose any similar amendments to the House Interior Appropriations Bill.

The amendment--which prohibits any funds "to study, develop, or implement procedures or policies to establish energy efficiency, energy use, or energy acquisition rules or guidelines other than those based upon the provisions of the Energy Conservation Policy Act of 1975 could prohibit implementation of Executive Order 13123 and may jeopardize other policies related to energy efficiency. Executive Order 13123, like previous statutes and executive orders, simply extends common-sense energy efficiency policies established since 1975.

The Order calls for a 35 percent reduction in Federal building energy use per gross square foot by 2010 relative to 1985 levels. To assist agencies in meeting the new energy reduction goal, the Order directs agencies to maximize the use of:

- Energy Saving Performance Contracts and Utility Contracts, in which private companies make energy improvements on Federal facilities at their own expense and receive a portion of the resulting savings;
- Life-cycle cost analysis so agencies consider the long-term savings of energy investments; and,
- ENERGY STAR and other energy efficient products from light bulbs to boilers.

Energy efficiency policies established by statute and executive orders of Presidents Bush and Clinton have already led to a 17 percent reduction in energy use in Federal buildings. However, the Federal Government still spends $8 billion each year on energy costs ($4 billion on Federal building energy use) and the potential for additional cost-effective energy improvements and taxpayer savings is great.

By blocking implementation of Executive Order 13123, and preventing implementation of previous executive orders and other relevant statutes, the amendment could stand in the way of significant benefits to our Nation's taxpayers, our economy, and our environment. The new executive order alone will generate:

- $750 million each year in taxpayer savings from energy improvements when fully implemented;
- Significant reductions in air pollution and a 30 percent reduction in greenhouse gas emissions–both of which result from energy improvements in Federal buildings; and
- Economic opportunities for the private sector, including energy service companies, utilities, and other energy providers, to finance and undertake billions of dollars worth of energy-saving and cost-saving improvements in Federal buildings.

Again, I urge you to exclude such an amendment from the House Interior Appropriations Bill, and I urge you to support full funding for the Department's energy efficiency programs, including Federal energy management efforts.

If you or your staff have any questions about Executive Order 13123 or other policies and legislation on Federal energy efficiency, please contact Mr. John C. Angell, Assistant Secretary for Congressional and Intergovernmental Affairs, at (202)586-5450. We certainly appreciate your efforts to ensure smart energy management in the Federal Government as well as in all sectors of our economy.

Yours sincerely,

Bill Richardson

Bill Richardson

cc. The Honorable Norm Dicks
Ranking
The Honorable Jim Kolbe
The Honorable Joe Skeen
The Honorable Charles D. Taylor
The Honorable George R. Nethercutt
The Honorable Zach Wamp
The Honorable Jack Kingston
The Honorable John Peterson

O

The Honorable Bud Cramer
The Honorable Maurice Hinchey
The Honorable John Murtha
The Honorable James T. Moran

**Department of Energy**
Washington, DC 20585

July 8, 1999

NOTE FOR JOAN GLICKMAN

FROM: MARK SCHWARTZ
DEPUTY GENERAL COUNSEL
FOR ENERGY POLICY

SUBJECT: DRAFT IMPACT STATEMENT OF COCHRAN AMENDMENT ON DOE PROGRAMS

A revised Impact Statement which is inclusive of all DOE programs as they may relate to the amendment by Senator Cochran is attached. It expands on the impact statement memo provided last week which related to EE Programs.

I also want to respond to your proposal to revise and expand the Impact Statement that I provided to you last Friday, July 2, 1999. I have reviewed your draft and have the following comments.

You suggest a construction that would expand the potential applicability of the Cochran amendment to other agencies, as opposed to only those funded under the Department of the Interior and Related Agencies Appropriation. I must adhere to the construction in our earlier (and revised) document. The language as contained in section 341 of S. 1292 (the "Cochran" amendment) can be soundly construed only to apply to appropriations for the agencies covered by. S. 1292.

Section 341 is a general provision contained in S. 1292 which restricts the availability of the appropriations that are the subject of this Interior appropriations bill. In addition to making appropriations, appropriations acts frequently contain a variety of provisions either restricting the availability of the appropriations or making them available for some particular use. Such provisions come in two forms: (a) "provisos" attached directly to the appropriating language, and (b) general provisions. A general provision may apply solely to the act in which it is contained ("No part of any appropriation contained in this Act shall be used..."), or it may have general applicability during the fiscal year in question ("No part of any appropriation contained in this or any other Act shall be used...") See, G.A.O. Principles of Federal Appropriations Law, Vol. I, Ch., 2-28 (1992). The Interior Appropriations is one of thirteen appropriations bills, and usually does not restrict or limit the appropriations in the other twelve unless so specified.

Section 341 uses neither of the quoted phrases and is accordingly ambiguous. Title III of S. 1292, of which section 341 is a part, is subject, however, to the prefatory language at the beginning of the bill which states:

> Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 2000, and for other purposes, namely:

The fact that the prefatory phase ends with a colon is significant. If it had ended with a period, an argument could be made that section 341 has broader applicability. Because of the colon, however, everything that follows in the bill is subordinated to the prefatory phase.

The proper interpretation of the phrase "no funds may be used...." in section 341 is that it refers back to sums appropriated in the prefatory language. Accordingly, section 341 is considered to be a limitation on the expenditure of funds for that purpose. Thus, it would be in error to interpret section 341 to apply to any appropriations other than those in S. 1292.

Please advise me if you require additional information.

# IMPACT OF COCHRAN AMENDMENT ON DOE PROGRAMS

On June 8, 1999, the U.S. Senate passed S. 1292, the Department of the Interior and Related Agencies Appropriations, 2000, which will restrict the implementation of certain Government rules or guidelines related to energy use, energy purchases and energy efficiency, funded by appropriations under that legislation. Section 341 of S.1292 provides as follows:

> No funds shall be used to study, develop, or implement procedures or policies to establish energy efficiency, energy use or energy acquisition rules or guidelines other than those based upon the provisions of the Energy Conservation Policy Act (ECPA) of 1975.

Because of the way the limitation is worded, it would appear that the funding restriction is related to the establishment of "rules or guidelines" as opposed to direct programmatic funding. The Committee Report accompanying S. 1292, S. Rep. No. 106-99, 106th Cong., 2nd Sess. 113 (1999), provides, in reference to section 341, as follows:

> Prohibits the use of funds to study, develop, or implement procedures or policies to establish energy efficiency, energy use or energy acquisition rules or guidelines other than those based upon the provisions of the Energy Conservation Policy Act (ECPA) of 1975.

This language may bar expenditure of funds to develop or implement various policies and procedures related to energy efficiency, energy use, or energy acquisition. Affected activities may include, but may not be limited to, the study, development, and implementation of policies, procedures, and rulemaking under the following programs funded by Interior Appropriations: Weatherization Assistance Program for Low-Income Persons, State Energy Program, Federal Building Energy Efficiency Code Program, Federal Energy Management Program, Alternative Fuel Transportation Program, Consumer Appliance and Commercial Products Programs, Clean Coal Technology Program, certain Fossil Energy Research and Development Programs, certain Energy Conservation Programs, the Strategic Petroleum Reserve Program and the Energy Information Administration Program.

How's this a "rule or guideline"?

Finally, Section 341 refers to the provisions of the "Energy Conservation Policy Act (ECPA) of 1975." There is no law with that title. We are uncertain, therefore, as to the applicability of the exception.

Contact: Mark S. Schwartz
Deputy General Counsel
for Energy Policy
Department of Energy
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# IMPACT OF COCHRAN AMENDMENT ON DOE PROGRAMS

On June 8, 1999, the U.S. Senate passed S. 1292, the Department of the Interior and Related Agencies Appropriations, 2000, which will restrict the implementation of certain Government rules or guidelines related to energy use, energy purchases and energy efficiency, funded by appropriations under that legislation. Section 341 of S.1292 provides as follows:

> No funds shall be used to study, develop, or implement procedures or policies to establish energy efficiency, energy use or energy acquisition rules or guidelines other than those based upon the provisions of the Energy Conservation Policy Act (ECPA) of 1975

Because of the way the limitation is worded, it would appear that the funding restriction is related to the establishment of "rules or guidelines" as opposed to direct programmatic funding. The Committee Report accompanying S. 1292, S. Rep. No. 106-99, 106th Cong., 2nd Sess 113 (1999), provides, in reference to section 341, as follows:

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Finally, Section 341 refers to the provisions of the "Energy Conservation Policy Act (ECPA) of 1975." There is no law with that title. We are uncertain, therefore, as to the applicability of the exception.

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OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

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|---|---|
| To Jake Anders | # of pages ▸ 2 |
| Dept./Agency | From |
| Fax # | Phone # 395-2311 |
| | Fax # |

NSN 7540-01-317 7368 5099-101 GENERAL SERVICES ADMINISTRATION

Question:

Does Executive Order 13123 violate any statutory constraints or exceed Presidential authority?

Answer:

We have found no statutory provisions that contravenes Executive Order 13123. Further, E.O. 13123 does not exceed any authority vested in the President.

Executive Orders may be issued pursuant to Article II of the United States Constitution. The goals proposed by the President in E.O. 13123 apply only to the Executive Branch, and the President is authorized by 3 U.S.C. Sec. 301 to delegate functions by designating and empowering the head of any department or agency in the Executive Branch.

Further, there appear to be no statutory constraints which would bear upon the goals as contained in the Order. In particular, the National Energy Conservation Policy Act, (NECPA) 42 U.S.C. Sec. 8253 et. seq., establishes minimum standards but in no way precludes the further actions as taken by the President in E.O. 13123.

Concur: Mark Schwartz
Deputy General Counsel
For Energy Policy (GC-70)
Department of Energy

MS
7.1.99

# SITE VERSUS SOURCE MEASUREMENTS OF ENERGY USE UNDER FEDERAL LAW

## I. INTRODUCTION

On June 3, 1999, the White House issued Executive Order 13123, entitled "GREENING THE GOVERNMENT THROUGH EFFICIENT ENERGY MANAGEMENT." The Executive Order cites as authority for its issuance, among other things, the National Energy Conservation Policy Act, 42 U.S.C. §8252 et seq., as amended by the Energy Policy Act of 1992 ("EPACT"). The Preamble to Executive Order 13123 states that it "builds on work begun under EPACT and previous Executive orders." The general thrust of the Executive Order is to impose various measures by which federal agencies are to reduce energy consumption, energy costs and emissions of greenhouse gases associated with federal buildings.

Section 206 of Executive Order 13123, which bears the heading "Source Energy," states as follows:

> The Federal Government shall strive to reduce total energy use and associated greenhouse gas and other air emissions, *as measured at the source*. To that end, agencies shall undertake life-cycle cost-effective *projects in which source energy decreases, even if site energy use increases*. In such cases, agencies will receive credit toward energy reduction goals through guidelines developed by DOE.

Executive Order 13123 (emphasis added).

This Executive Order mandate raises the issue of how Congress intended for DOE to measure energy consumption for purposes of assessing federal agencies' compliance with energy reduction goals. Specifically, it raises the issue whether energy use is to be measured in terms of "site energy" or "source energy." Measurements of "site energy" account for the energy consumed directly at the point where the energy is delivered and put to use, i.e., at the site. Measurements of "source energy" purport to capture the energy resources consumed in generating, processing and transporting the energy to the site.[1] Attempts to account for source energy involve multiplying the site energy consumption by a conversion factor. One conversion factor used for electricity is approximately 3.4, meaning that an electricity *site* energy measurement is multiplied by 3.4 to derive electric *source* energy. Under Executive Order 13123, federal agencies would use this (or some other) conversion factor for electricity in determining compliance with federal energy management goals.

## II. SUMMARY

Congress, while long aware of the difference between source-based and site-based approaches to measuring energy consumption, has invariably selected the site-based method. In some cases, Congress has issued this legislative mandate expressly, in no uncertain terms, by defining "energy use" and "energy efficiency." Not once has Congress suggested, even implicitly, that a source-based approach is permitted, much less required. Examination of statutory provisions governing a host of energy-management programs reveals that the site-based approach is always implicit in the statutory language and integral to the legislated program, even when it is not expressly called for in the statutory language. Moreover, the Department of Energy ("DOE") itself has interpreted its mandate under the federal buildings energy conservation program and other energy-management programs as requiring a site-based method for measuring energy consumption. Even previous Executive Orders dealing with energy conservation in the government have accepted the site-based methodology. Executive Order 13123 directly contradicts the legislative preference, the agency interpretation of the law, and previous Executive-branch interpretations of the law.

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[1] "Source energy" is sometimes referred to as "primary energy."

The site-based approach is thus interwoven throughout the legislative framework that constitutes this country's national energy policy. Easily measurable and based on commercial reality, it has long provided the common yardstick for measurements used to compare products, facilities, and year-to-year progress in energy conservation. It has also provided the underpinning for long-term financial and contractual commitments Use of the controversial source-based approach for assessing compliance with energy reduction goals will not only raise a multitude of issues concerning how to estimate source energy, it will eliminate consistency among federal programs for measuring energy consumption and energy cost, it will prevent intelligible comparisons among energy conservation strategies, and it will completely disrupt existing strategies and commitments.

## III. STATUTORY AND REGULATORY PROVISIONS

A. 42 U.S.C. §8252 et seq. (Energy Policy and Conservation Act)

These statutory provisions, under the heading "Energy management requirements," establish energy performance requirements for federal buildings and energy management requirements for federal agencies. Included among the requirements is the use of life cycle cost methods and procedures. Life cycle cost analysis intrinsically relies on the site-based approach to measuring energy usage since that approach--by measuring electricity consumed at the site--is used to determine the *cost* of the electricity to the government. In other words, different buildings in the same area that consume the same amount of electricity will pay the same price and have the same "cost" for that electricity, regardless of whether it might require more "source" energy to deliver the electricity to some of the buildings than to others. This basic concept is reflected in the statutory term "life cycle cost," which is defined as "the total costs of owning, operating, and maintaining a building over its useful life (including such costs as fuel, energy, labor, and replacement components) determined on the basis of a systematic evaluation and comparison . . ." 42 U.S.C. §8259(7). Because the cost of energy to the federal government is strictly a function of the energy consumed at the site, a source-based approach to life-cycle costing is fundamentally incompatible with these energy management requirements, or similar ones that might be contemplated by Executive Order 13123.

The Energy Policy and Conservation Act also required reductions in "energy consumption per gross square foot" in federal buildings from a specified baseline. Although the phrase "energy consumption" is not statutorily defined,[2] DOE itself has interpreted the requirement as mandating reductions in "net Btu." According to DOE, "Net Btu reflects *the amount of energy delivered to the point of use and is used to measure agency performance toward the mandated goals*." Federal Energy Management Program, Annual Report to Congress, p. 51 (emphasis added). Moreover, in a discussion of the difference between source-based and site-based methods, DOE has defined the term "energy use" as "the energy that is used at a federal building or facility and measured in terms of the energy delivered to the building or facility" and has stated that "the rate of consumption by the end-user on site [ ] will be used for measuring performance." DOE Memorandum, "Reporting Guidance for FY 1998 Annual Report to Congress on Federal Government Energy Management and Conservation Programs," August 21, 1998. It could hardly be clearer that DOE itself interprets federal law as requiring a site-based methodology for

[2] However, as discussed in the next two subsections, Congress has defined the term "energy use," as applied to consumer products and industrial facilities, unmistakably in terms of the site-based approach. There is no indication that Congress intended "energy consumption" in one part of the law to mean something completely different from "energy use" in another part of the law.

measuring compliance with federal energy management goals and requirements. Since it is the agency charged with responsibility for administering the law, DOE's interpretation of the statutory mandate is entitled to great deference.

B. 42 U.S.C. §6291 et seq. (Energy Policy and Conservation Act)

These sections establish energy conservation standards, test procedures and labeling requirements for consumer products. Two statutory definitions are critical. First, the term "energy use" means "the quantity of energy *directly consumed by a consumer product at the point of use* . . ." 42 U.S.C. §6291(1)(emphasis added). Second, the term"energy efficiency" means "the ratio of the useful output of services from the consumer product *to the energy use* of such product . . ." 42 U.S.C. §6291(2)(emphasis added). Thus, both energy consumption and energy efficiency are statutorily mandated to be measured at the site. Recognizing this, DOE's implementing regulations define the phrase "Estimated annual operating cost" as "the aggregate *retail cost* of the energy . . ." 10 C.F.R. §430.2 (emphasis added). Reference to *retail cost* of energy simply has no meaning except in the context of site-based measurements.

C. 42 U.S.C. §6311 et seq. (National Energy Conservation Policy Act)

These are closely parallel statutory provision for industrial equipment. The term "energy use" is defined as "the quantity of energy *directly consumed by an article of industrial equipment at the point of use* . . ." 42 U.S.C. §6311(4)(emphasis added). The term "energy efficiency" is defined as "the ratio of the useful output of services from an article of industrial equipment *to the energy use* by such article . . ." 42 U.S.C. §631 (3)(emphasis added). Again, the Congressional directive to use the site-based approach for measuring energy use and energy efficiency is explicit and unmistakable.[3]

D. 42 U.S.C. §6834 et seq. (Energy Policy Act of 1992)

These provisions require DOE to establish building energy efficiency standards for new federal buildings, both residential and commercial. According to the statute, those standards must "contain energy saving and renewable energy specifications that meet or exceed the energy saving and renewable energy specifications of CABO Model Energy Code, 1992 (in the case of residential buildings) or ASHRAE Standard 90.1-1989 (in the case of commercial buildings) . . ."[4] Both CABO and ASHRAE express their standards in terms of energy consumption at the site. Incorporation of these private standards thus amounts to Congressional adoption of the site-based approach for new federal buildings.

E. 42 U.S.C. §8287 et seq. (National Energy Conservation Policy Act)

These provisions authorize the heads of federal agencies to enter into contracts for the purpose of achieving energy savings. Known as "Energy Savings Performance Contracts," these statutorily authorized agreements contemplate that the contractor will incur costs for implementing energy savings measures, including conducting energy audits, installing equipment, and training personnel, and will thereafter share in the energy savings. Such contracts inherently rely on the site-based approach, which measures the reduction in energy reflected in the agency's utility payments. As stated in §8287(a)(1)(B), "Aggregate annual payments by an agency to both

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[3] Of the various federal statutory provisions dealing with energy management, the definitions used in the legislation for consumer-product and industrial-facility standards are the clearest explicit statements of the Congressional will concerning the approach to be used in measuring energy.

[4] "CABO" is the acronym for the Council of American Building Officials. "ASHRAE" stands for American Society of Heating, Refrigerating and Air-Conditioning Engineers.

utilities and energy savings performance contractors, under an energy savings performance contract, may not exceed the amount that the agency *would have paid for utilities* without an energy savings performance contract . . ." (emphasis added). To similar effect, the term "energy savings" is defined as " a reduction in the *cost of energy*, from a base cost established through a methodology set forth in the contract . . ." 42 U.S.C.§8287c (emphasis added). Since the cost of electric energy is measured by the amount of electricity used at the site, it is clear that Congress intended for the program of energy savings performance contracts to measure electric energy usage based on the site approach. Moreover, Congress expressly permitted agencies to enter into energy savings performance contracts having terms of up to 25 years. The prospect that energy measurement would shift from site-based to source-based would make such long-term agreements virtually impossible. 42 U.S.C.§8287(a).

DOE confirmed its understanding of Congressional intent in its implementing regulations. For example, the agency added a definition of "Energy cost savings" to supplement the statutory definitions, explaining that "Energy cost savings" is "the defined term for savings measured *in dollars*." 60 Fed. Reg. 18327(April 10, 1995)(emphasis added). Only site energy is measured in dollars--indeed, only site energy has any commercial reality. DOE's definition of "Energy baseline," which refers to "historical metered data" and "submetering of buildings," also makes it clear that consumption at the site is the heart of the program. Id. at 18335. Needless to say, there is no metering for source energy. Not surprisingly, there is no mention whatsoever of the source-energy approach.[5]

[5] One of the primary objections to the use of source energy is that there is no agreement on how to measure it. In implementing the Energy Savings Performance Contract program, DOE (continued...)

F. Relationship among Congressional Programs

These various programs legislated by Congress all rely, either explicitly or implicitly, on the concept of measuring energy usage at the site. The programs do not stand alone, however, but rather are interrelated in an overall approach to energy conservation. Thus, a federal agency will examine the products it purchases, the industrial equipment it employs, and the contractors it selects in light of these various energy-management programs. It would be nonsensical to apply different measurement criteria to these different aspects of an agency's energy-reduction strategy.

For example, it would be at best exceedingly complex and unwieldy to apply the site approach to products and industrial equipment while applying a source approach to other conservation measures. In fact, the two approaches could be in direct conflict. An agency's industrial equipment will be measured by the site approach according to the express statutory language. But if a contractor under an energy savings performance contract were compelled to employ a source approach, the contractor could be driven to select different industrial equipment that fares better under that method. Worst of all is what Executive Order 13123 portends: agencies making life-cycle cost decisions and entering into energy savings performance contracts in order to effect site-energy savings under current law, and then being evaluated under a new source-energy concept of the Executive Order.

It cannot be presumed that Congress acted in such cavalier fashion, selecting the site-energy approach for some programs and the source-energy approach for others, thereby creating

[5](...continued)
declined to address "soft savings" such as increased worker productivity and extended equipment life, stating that such "soft savings" are "too subjective and difficult to measure accurately." 60 Fed. Reg. 18327.

conflicting incentives. On the contrary, it must be assumed, absent some clear indication to the contrary, that Congress acted consistently. Even where Congress has not spoken expressly on the issue of site measurements versus source measurements, the presumption must favor site measurements, *because whenever Congress has spoken, it has mandated site measurement.*

## IV. PREVIOUS EXECUTIVE ORDERS

Executive Order 13123 follows several prior executive orders addressing the issues of energy conservation and management. Consistently throughout different Administrations, and even in the current Administration, use of the site-based approach for measuring energy consumption has been taken for granted, consistent with the statutory mandates and their implementation by federal agencies.

In the Carter Administration, Executive Order 12003, issued on July 20, 1977, employed the definition of "life-cycle cost" that closely tracked the statutory definition contained in 42 U.S.C. §8259(7). As noted, the definition requires assigning the site-based retail price of energy as the cost, with no provision for measuring source energy. As DOE's own regulations state (under "Methodological assumptions"), "Each Federal agency shall assume that the price of energy . . . is the *actual price charged for energy . . . delivered to the Federal building . . .*" 10 C.F.R. §436.14 (c)(emphasis added). This was strictly a site-based approach.

President Bush issued Executive Order 12759 on April 17, 1991 in connection with the energy efficiency goals of 42 U.S.C. §8253 et seq. The Executive Order could not have been clearer in incorporating the site-based approach, as shown in the definition of "energy use":

Sec. 14. Definitions. For the purpose of this order--

(a) the term "energy use" means the energy that is used at a building or facility and measured in terms of energy delivered to the building or facility . . .

This definition comports completely with the statutory approach; indeed, it is the definition that DOE uses for its annual reports to Congress.

President Clinton issued Executive Order 12902 on March 8, 1994. Entitled "ENERGY EFFICIENCY AND WATER CONSERVATION AT FEDERAL FACILITIES," it implicitly acknowledges the use of site energy as the measurement tool in several respects, including its incorporation of the familiar life-cycle cost methodologies and its references to the *site-based* 1985 baseline calculation of federal agencies' energy use. Perhaps most significantly, however, it contains the following directive in Section 309:

> Sec. 309. Report on Full Fuel Cycle Analysis. DOE shall prepare a report on the issues involved in instituting life cycle analysis for Federal energy and product purchases that address the full fuel cycle costs, including issues concerning energy exploration, development, processing, transportation, storage, distribution, consumption, and disposal, and related impacts on the environment. The report shall examine methods for conducting life-cycle analysis and implementing such analysis in the Federal sector and shall make appropriate recommendations. The report shall be forwarded to the President for review.

What this directive to study and make recommendations demonstrates is that, prior thereto, *there had been no federal method* for conducting life-cycle analysis on the basis of a source-energy concept. This confirms that the approach selected by Congress, as implemented by DOE, has been exclusively a site-energy approach. Although President Clinton's 1994 Executive Order demonstrates executive-branch interest in source-energy measurements, it obviously cannot serve to rewrite the then-existing statutory requirements. The same must be said about the most recent Executive Order--it cannot change federal legislation, which mandates the measurement of energy according to the site approach.

## V. CONCLUSION

Executive Order 13123 moves beyond directing studies of source-energy measurement to an Executive-branch order purporting to change the basis for compliance with the law. Because Congress has legislated that compliance with energy-reduction requirements shall be based on site-energy measurements, the Executive has authority only to implement, not to change, that approach.

## Interior Rider Wastes Taxpayers' Money And Promotes Energy Inefficiency

*The FY 2000 Senate Interior Appropriations bill contains an anti-energy efficiency, anti-environment rider which states that no funds can be used to "study, develop, or implement procedures or policies to establish energy efficiency, energy use or energy acquisition rules or guidelines other than those based upon the provisions of the Energy Conservation Policy Act of 1975."*

### Blocks President's New Energy Efficiency Executive Order

On June 3, 1999, President Clinton issued a new Executive Order to dramatically improve energy efficiency in Federal buildings. The Order requires agencies to reduce their energy consumption by extending current energy efficiency goals and setting new goals for greenhouse gas reductions, renewable energy use, and water conservation.

Specifically, the Order requires Federal agencies to achieve by 2010:

- 35% greater energy efficiency in buildings relative to 1985 levels; and,
- 30% cut in greenhouse gas emissions from building-related energy use.

The Senate Interior Appropriations bill undermines Executive Order 13123 thereby:

- **Jeopardizing $750 million annually in taxpayer savings** by 2010;

- **Promoting energy inefficiency** – and preventing cost-effective actions to significantly reduce air pollution and cut greenhouse gas emissions; and

- **Eliminating opportunities for business** – particularly for energy service companies, utilities, renewable energy technology companies and others.

### Blocks Previous Energy Efficiency Orders and Statutes

Not only does the bill block implementation of the new Executive Order, it could also **overturn decades worth of policies and goals embodied in statutes and Executive Orders of Presidents Bush and Clinton**. These statutes and orders have already resulted in significant benefits to our nation's taxpayers, our economy and our environment, including:

- 17 percent reduction in energy use in Federal buildings since 1985; and

- $1 billion annually in energy cost savings.

To: Roger Ballentine/Julie Anderson 395-2342

2 pages

COCHRAN AMENDMENT AIMS TO UNPLUG CLINTON'S EFFICIENCY DECLARATION

Sen. Thad Cochran last week succeeded in attaching an amendment to the FY-2000 Interior and related agencies appropriations bill aimed at blocking DOE from implementing a recent executive order by President Clinton requiring federal agencies to cut their energy use.

According to a spokeswoman, Cochran believes the order is a "back-door attempt" to implement the Kyoto climate change treaty. He is also concerned that the measure would benefit natural gas over electricity with its directive to measure energy use at the "source," which takes into account the loss of energy in generating and transmitting electricity, for example.

The amendment, adopted by the Senate Appropriations Committee Thursday on a voice vote, states that "no funds shall be used to study, develop or implement procedures or policies to establish energy efficiency, energy use or energy acquisition rules or guidelines other than those based upon the provisions of the Energy Conservation Policy Act of 1975."

The premise of Cochran's amendment is that ECPA set a policy of measuring energy use from the "site," rather than the "source."

The June 3 executive order, which directs federal agencies to reduce energy use 30% by 2010 compared to 1990 levels, calls on the federal government to "strive to reduce total energy use and associated greenhouse gas and other emissions, as measured at the source. To that end, agencies shall undertake life-cycle cost-effective projects in which source energy decreases, even if site energy use increases" (IE/FL, 7 June, 1).

In a speech at Georgetown University Friday, President Clinton cited the amendment as an example of how "the atmosphere in Washington has become increasingly poisoned by bitter partisanship."

Clinton called the executive order "a no-brainer," that costs the government nothing and has no losers except "the people that won't be pumping electricity to us." "Unbelievably enough," he said, "just yesterday a Senate committee voted to largely block my executive action ... that would save you $750 million a year."

"It's an example of what happens when adults with responsibility fall into small-time rankling and even want to stop things that are 100% good and not controversial," Clinton said.

The amendment was also decried by energy efficiency advocates. Describing the executive order as "a war on waste," David Nemtzow, president of the Alliance to Save Energy, said "the federal government is wasting $1 billion a year in its buildings. Senator Cochran is disabling the Air Force by gutting the executive order. And that's crazy."

Michael Marvin, who heads the Federal Performance Contracting Coalition, a group of companies that have won contracts to improve efficiency in federal buildings, said "what we're looking at is saving energy and taxpayer dollars. That has got to be considered a priority over partisan issues."

Sen. Jeff Bingaman, D-N.M., is expected to attempt to strike the Cochran provision when the Interior bill comes to the Senate floor.

The Appropriations panel also adopted two amendments by Sens. Robert Byrd, D-W.Va., and Larry Craig, R-Idaho. According to Craig, one would add report language requiring DOE, the Commerce Dept. and the Environmental Protection Agency to report "on a timely basis" on their expenditures related to the Kyoto climate change treaty.

The second would require the department to work with the Idaho National Engineering and Environmental Laboratory on its Industries of the Future program with the mining industry, an aide to Craig said.

According to a committee aide, the bill includes $367 million for fossil energy, slightly higher than the $364 million the Clinton administration requested for those programs, but $17 million less than they received in FY-99.

Energy conservation r&d, meanwhile, would be funded at $658 million in the bill, the aide said, $180 million less than the administration sought and $34 million less than this year's level, not counting the use of prior year balances as offsets.

It was unclear at press time whether the Interior bill would come up on the Senate floor this week, but committee aides said it was unlikely.
House appropriators, meanwhile, last week dispelled widespread rumors that the House Interior subcommittee will not move its bill anytime soon, by announcing that a markup has been scheduled for Tuesday (June 29). The full Appropriations Committee is scheduled to take up the Interior bill Friday (July 2).
The House energy and water subcommittee is expected to mark up its bill July 15. -- Lira Behrens

RICHARDSON AIRS NEW PROGRAM FOR INCREASED RELIANCE ON WIND ENERGY

DOE last week launched a new initiative aimed at boosting the use of wind energy to the point where it supplies 5% of the nation's electricity needs by 2020. In the interim, the department wants to see 5,000 megawatts of wind energy installed by 2005 and more than 10,000 megawatts on-line by 2010.
"Wind energy has been the fastest growing source of energy in the world during the past decade and now represents a major economic opportunity for the United States," Richardson said Monday in announcing the initiative, Wind Powering America, at a conference in Burlington, Vt.
In a related matter, the secretary announced that DOE would provide nearly $1.2 million in DOE grants to design, test and install small wind turbines in 10 states.
Among the other goals of the initiative are to double the number of states that have more than 20 megawatts of wind capacity to 16 by 2005 and triple the number to 24 by 2010. The department also proposes to increase the federal government's use of wind-generated electricity to 5% by 2010.
The agency said it would achieve those goals "by building on current and future public and private sector efforts to support the development of wind power." It does not commit the federal government, however, to a specific level of funding.
Specific actions the plan says the government will take include having the Federal Energy Management Program implement programs to help federal agencies identify their most cost-effective opportunities for wind. The plan also talks about launching an educational effort to build awareness of wind's benefits, and developing information on federal policies such as a production tax credit that could help "provide a supportive investment environment."
Separately, DOE's Bonneville Power Administration announced Tuesday it would purchase 1.8 megawatts of energy produced by three wind power turbines at the Foote Creek Wind Energy Project near Arlington, Wyo. According to BPA, the purchase is enough to power 700 homes.
"The Northwest is fortunate to have an abundant source of clean, renewable power coming from our rivers. In addition, we need to invest in new technologies such as wind power to keep our world clean and green," BPA Administrator Judi Johansen said in a statement.
DOE is accepting comments on the Wind Powering America draft action plan for "the next several months." Copies of the draft plan are available on the Internet at http://www.eren.doe.gov/windpoweringamerica.

**NOT FOR PUBLIC USE – DO NOT DISTRIBUTE**
Cochran Amendment:

- The amendment was most likely raised due to concerns from utilities about the new Executive Order.

- Possible utility concerns with the Executive Order:

1. Source vs. Site
The new executive order calls for a 35 percent reduction in energy use in Federal buildings by 2010. This reduction is measured at the site -- in other words at the point where the energy is used – whether it is electricity, natural gas, or some other type of energy. However, the order allows agencies to get credit toward this goal if source energy decreases, even where site energy increases.

   Source energy is also known as total energy or primary energy. It includes not only the amount of energy used at the site, but all of the energy used in producing and delivering energy to a site.

   The reason that electric utilities prefer to measure energy at the site rather than source is that energy is lost through inefficiencies in production at power plants as well as in transmission of the electricity from the plant to the electrical outlets used at a site or facility. Therefore, with inefficient utility plants, the difference between site and source energy can be significant. In fact, the amount of energy measured at the site may be as little as 30 percent the amount measured at the source. With electricity, about two-thirds of the energy is lost in production, transmission, and distribution. As utility power plants become more efficient, the discrepancy between source energy and site energy will diminish. In contrast, natural gas measured at the source is basically equivalent to natural gas measured at the site. The losses in distribution, if any, are minimal amounting to about 9 percent.

2. Reduced Greenhouse Gas Intensity of Electric Power
The new executive order calls for agencies to consider the greenhouse gas intensity of the source of the electricity they purchase. The order calls for agencies to strive to purchase electricity from cleaner sources. Therefore, to the degree that Federal agencies can choose the source of their electricity, utilities that produce electricity from less efficient, more polluting plants, would be at a disadvantage.

3. Energy Savings Performance Contracts (ESPCs) vs. Utility Energy Efficiency Service Contracts
The new executive order calls for agencies to use alternative financing, including energy savings performance contracts and utility energy efficiency

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3. Energy Savings Performance Contracts (ESPCs) vs. Utility Energy Efficiency Service Contracts
The new executive order calls for agencies to use alternative financing, including energy savings performance contracts and utility energy efficiency

service contracts to reduce energy use and costs in Federal buildings. While the order requires agencies to use both options, some utilities have interpreted the order as placing more emphasis on ESPCs – putting utilities at a disadvantage relative to energy service companies that manage contracts under ESPCs. This is certainly not the intent of the Order. If fact, every section that refers to ESPCs also refers to utility energy efficiency service contracts because Federal agencies should use both tools to reduce their energy use and saving taxpayer dollars.

- The actual language of the Cochran amendment calls for no funding to support procedures or policies on energy efficiency other than those established by the Energy Conservation Policy Act of 1975. However, according to informal Committee sources, the language may be changed to hold in effect all existing statutes.

  In either case, a number of relevant goals already exist that drive Federal agencies to greater energy efficiency and cost savings. The Energy Policy Act of 1992 (EPACT), which established an energy reduction goal of 20 percent by 2000, is the last statute to establish this type of goal. However, a subsequent executive order issued in 1994 (E.O. 12902) established a goal of 30 percent reduction by 2005. Therefore, Federal agencies are already working toward this goal to reduce the energy use and save taxpayer dollars. And, the new order calls for a 35 percent reduction by 2010. Each of these subsequent orders have simply extended the good-sense policies established by EPACT and preceding laws to reduce Federal energy costs in buildings.

- The Federal government has already reduced energy use in buildings by 17 percent and therefore is on course to meet the 2000 goal of 20 percent reduction. However, the Federal government still spends $4 billion each year on energy costs in its buildings and the potential for greater energy improvements is great. In fact, the Federal government, working with private sector companies, has established billions of dollars in contract authority to leverage private investment to reduce energy costs in these buildings. The new 35 percent goal was established based on the billions of dollars now available in private sector funds through Energy Savings Performance Contracts and Utility Energy Efficiency Service Contracts. With this private financing available to fund energy improvements and other smart energy management, the Federal government can save taxpayers over $750 million each year by 2010. However, if new goals are not established and enforced, many Federal agencies will continue to overlook opportunities for reducing energy waste, reducing associated pollution, and saving taxpayer dollars.

Don Reicher
586-9960
SEN
Chuck Nathur
226-0774

# Interior Rider Wastes Taxpayers' Money And Promotes Energy Inefficiency

*The FY 2000 Senate Interior Appropriations bill contains an anti-energy efficiency, anti-environment rider which states that no funds can be used to "study, develop, or implement procedures or policies to establish energy efficiency, energy use or energy acquisition rules or guidelines other than those based upon the provisions of the Energy Conservation Policy Act of 1975."*

## Blocks President's New Energy Efficiency Executive Order

On June 3, 1999, President Clinton issued a new Executive Order to dramatically improve energy efficiency in Federal buildings. The Order requires agencies to reduce their energy consumption by extending current energy efficiency goals and setting new goals for greenhouse gas reductions, renewable energy use, and water conservation.

Specifically, the Order requires Federal agencies to achieve by 2010:

- 35% greater energy efficiency in buildings relative to 1985 levels; and,
- 30% cut in greenhouse gas emissions from building-related energy use.

The Senate Interior Appropriations bill undermines Executive Order 13123 thereby:

- **Jeopardizing $750 million annually in taxpayer savings** by 2010;

- **Promoting energy inefficiency** – and preventing cost-effective actions to significantly reduce air pollution and cut greenhouse gas emissions; and

- **Eliminating opportunities for business** – particularly for energy service companies, utilities, renewable energy technology companies and others.

## Blocks Previous Energy Efficiency Orders and Statutes

Not only does the bill block implementation of the new Executive Order, it could also **overturn decades worth of policies and goals embodied in statutes and Executive Orders of Presidents Bush and Clinton**. These statutes and orders have already resulted in significant benefits to our nation's taxpayers, our economy and our environment, including:

- 17 percent reduction in energy use in Federal buildings since 1985; and

- $1 billion annually in energy cost savings.

Eric Washburn

Interior

228-4136

SENT

# MAJOR LEGISLATIVE LANGUAGE ITEMS

Major amendments were adopted by the full Committee on June 24:

**Continuation of Oil Valuation Rule Moratorium.** By a voice vote the Committee adopted an amendment by Senator Domenici continuing the moratorium on the royalty valuation rule. CBO scored the cost of this amendment as $11 million. It was offset by a reduction in Forest Service road construction.

**Millsites.** By a vote of 16 to 9 the Committee adopted an amendment by Senator Craig prohibiting the Departments of the Interior and Agriculture from applying the millsite limit mandated by the General Mining Law of 1872 and described in the November 1997 Solicitor's opinion. In substance the amendment provides that the number or acreage of millsites shall not be limited by the number or acreage of associated lode or placer claims. This change would be permanent law.

**BLM Grazing Permit Renewals.** The Subcommittee provided for automatic renewal of expiring grazing permits for the balance of 2000 pending BLM's completion of processing of permit renewal applications. Senator Domenici substituted a provision in full Committee that extends <u>all</u> terms and conditions of expiring permits and leases, including their duration (generally, ten years). This provision could have the effect of indefinitely extending leases without sufficient environmental review, since it is permanent. (§117)

Listed below are additional significant legislative items contained in the bill:

**Moratorium on Patenting Mining Claims.** As proposed by the President, the mark continues the moratorium on accepting and processing patent applications originally adopted in the 1995 Interior and Related Agencies Act and continued in 1996, 1997, 1998 and 1999. The continued moratorium "grandfathers" patent applications that were grandfathered under the earlier moratoria. (§ 312).

**Elwha Dams.** The mark prohibits expenditures for pre-design, design or engineering for the removal of the Elwha and Glines Canyon Dams until after both dams have been purchased by the Federal government. (§122)

**Lake Roosevelt NRA Grazing.** The mark provides for renewal of grazing permits in effect at Lake Roosevelt National Recreation Area as of March 31, 1997. Renewals are to extend for the lifetime of the permit holders or 20 years, whichever is less. (§ 124)

**Grizzly Bear Reintroduction.** The mark continues and expands a 1998 and 1999 prohibition on reintroduction of the grizzly bear in Idaho and Montana. The earlier provisions had allowed continued NEPA compliance and applied only to reintroduction in the Selway-Bitteroot Ecosystem in central Idaho and western

Montana. The new provision prohibits reintroduction in either State without the consent of the governors of both states. (§ 328).

**Wildlife Surveys/"Survey and Manage".** The Senate mark includes a provision that requires the BLM and the Forest Service to apply the ESA (4)(b) standard regarding the best available "scientific and commercial data" in conducting the "survey and manage" requirements of the President's Forest Plan. This provision is apparently intended to clarify the land managers' duties regarding non-vertebrate, non-vascular species (e.g., lichens, slugs, moss and some salamanders) in the face of lawsuits alleging non-compliance with the Forest Plan Record of Decision. (§ 329)

**ESA Tribal Treaty Rights.** The Senate mark prohibits expenditures to implement Secretarial Order No. 3206, which establishes the Department's policy on the Endangered Species Act and tribal treaty rights. (§ 127)

**Tribal Contracting and Compacting.** The mark includes language continuing the 1999 moratorium on tribes assuming additional duties through new or expanded 638 contracts, grants and self-governance compacts. The continued moratorium applies only to contracting and compacting by BIA and IHS. (§324)

**TPA Redistribution.** The mark authorizes, but does not require, the Secretary to redistribute TPA base funding among tribes "to alleviate tribal funding inequities." No tribe's base funding may be reduced more than 10 percent. (§ 125)

**Shoalwater Trust Acquisition.** The mark prohibits transfer of land into trust status for the Shoalwater Bay Indian Tribe in Clark County, Washington, unless and until the tribe and the county reach a legally enforceable agreement addressing the financial impact of new development on the county and other local government entities and the impact on zoning and development. (§ 126)

**Battle of Midway.** The Senate mark authorizes a study of designating Midway Atoll as a Battle of Midway National Memorial. The study is to include management options and is to address the relationship of the proposed Memorial to the current Midway National Wildlife Refuge. (§123)

**Interior Columbia River Basin.** Bill language included in the Senate mark requires that the Departments of Interior and Agriculture complete and make available for public comment a report on the social and economic impacts of the Interior Columbia River Basin Management Project. This report was first called for in the 1998 Interior bill. (§ 330)

**OCS Moratoria.** The mark accepts the President's proposal to continue the moratoria on Outer Continental Shelf leasing that have appeared in the Interior and Related Agencies Act for a number of years. However, the Committee did not accept the Administration's proposal to include reference in the moratoria language to the President's moratorium statement of June 12, 1998. (§§ 107-110)

Interior

**Objectionable Funding Cuts –**
**FY 2000 Senate Committee Interior and Related Agencies Appropriations Bill**

Lands Legacy Initiative - The Senate provided $179.5 million of the $579 million requested:

- Land Conservation Grants – The Senate eliminated $150 million requested for grants to assist state, local and tribal governments in increasing opportunities for recreation and conservation.

- Planning Grants – The Senate eliminated $50 million requested for state and Tribes to develop open space preservation plans and smart growth strategies.

- UPARR – The request of $4 million for matching grants to states and communities to improve urban and community forests and parks was eliminated.

- Cooperative Endangered Species Fund – The Senate provided $21.5 million; $58.5 million below the request for assistance to state and local governments to utilize collaborative strategies that protect threatened and endangered species in balance with economic development.

- Land Acquisition – Land acquisition was cut by $138 million from the request; $54 million below the 1999 enacted level. The Senate added twenty-five projects totaling approximately $29 million, redirecting funds from high priority projects. The Senate reduced funding for California desert (-$20.9 million) the Lewis & Clark trail (-$7 million), Civil War battlefields (-$12.7), Everglades (-$48.9 million) and Northern Forest (-$9.7 million).

- Livability(C/FIP) – The Senate denied the $12 million increase requested to expand the repository of geospatial data and enhance local governments' ability to use it, including $6.7 million in grants to States and local governments. This proposal responds to the enormous demand from State and local governments for tools to improve their capabilities in land use planning and resource management.

Office of Special Trustee – The Senate provided $78.8 million; $21 million below the request. The Senate mark would require the BIA to delay implementation of its replacement trust management systems for many BIA locations, increasing the total cost of implementation. Little progress would be made in eliminating Indian record backlogs across the nation, and individual Indian would continue to face excessive delays in distribution of their inherited assets.

**Man and the Biosphere.** The Senate mark continues a 1998 provision that prohibits expenditure of funds to submit nominations for designation of Biosphere Reserves pursuant to the Man and the Biosphere program unless legislation specifically authorizing U.S. participation in the program is enacted. (§ 316).

**Leasing Authority.** The mark makes permanent the Secretary's authority to lease facilities in the main Interior Department complex and deposit receipts in the Department's working capital fund. (§ 117)

**Moratorium on Hardrock Mining/Prohibition on Withdrawal of Lands in Mark Twain (MT) National Forest.** A Bond amendment was adopted in Full Committee that: prohibits issuing hardrock mining exploration permits in MT National Forest before 6/1/02; prohibits segregation or withdrawal of lands in MT National Forest before 6/1/02; directs two studies, one by the Comptroller General to conduct a economic impact study on the cessation of lead mining in the Forest and one by the Department and the Forest Service on exploratory drilling operations on MT National Forest land.

**Recreation Fee Demonstration Program.** A Gorton amendment was adopted in full Committee that restricts agencies participating in the recreation fee program (NPS, BLM, FWS, USFS) from initiating new projects under the Fee Demonstration Program if the new projects result in modification or termination of existing concession operations. The provision is retroactive to 1/1/99.

**Huron Cemetery.** The Senate bill includes a provision that continues a provision making the Secretary of the Interior responsible for ensuring that the Huron Cemetery in Kansas City, Kansas, is used only for religious and cultural uses that are compatible with the use of the land as a cemetery and burial ground. (§116)

**Chief Leschi School.** The Senate bill includes a provision that authorizes the use of collections from an anticipated settlement between the United States and the Puyallup Tribe, concerning Chief Leschi School, for BIA school construction in FY 2000 and thereafter. (BIA/OIP)

**Use of School Operations Funds for School Construction.** The Senate bill includes a provision that authorizes Tate Topa, Black Mesa, Alamo Navajo and other BIA-funded schools, subject to the Secretary's approval, to use prior year school operations funds for school construction. (BIA/Administrative Provisions)

Indian Education – School operations would be compromised at the Senate funding level. The Senate mark provides only $7.0 million (35 percent) of the $19.8 million increase requested for school operations. Without the requested increase, BIA will not have adequate funds to ensure schools maintain academic accreditation, provide safe transportation, and serve the anticipated 2.5 increase in student population. Also, the Senate provides none of the $7.1 million increase requested for Tribally Controlled Community Colleges.

In spite of the $740 million backlog, the mark reduces the Education Construction request by $26.0 million below the President's request. Funding for the $30.0 million School Construction Bonding Initiative is eliminated.

Tribal Priority Allocations - Tribes depend on Tribal Priority Allocations (TPA) funding for basic necessities and programs critical to improving the quality of life and economic potential on reservations. The Senate mark provides none of the $22.7 million program increase requested for TPA programs such as contract support, new tribes, tribal courts, and small tribes.

Endangered Species - $13.2 million below the request, the Senate did not provide increased funding for listing and minimal funding for consultation and thereby significantly impairs the Fish and Wildlife Service's ability to provide adequate protection for imperiled species. The Senate disallowed $4 million of the recovery increase, instead directing $4 million for the NFWF to conduct salmon projects.

Science - The Senate rejected a $15 million increase aimed at addressing the most pressing science needs of Interior's land management bureaus. This minimal investment in scientific capability is needed by these agencies to address the increasingly complex issues involved in day to day management of lands and natural resources. The Senate provided only 20 percent of the request to strengthen the USGS' capability to forecast natural hazards. No funding was provided for telemetry at 160 stream gaging stations which is needed for high priority river forecasting in consultation with the National Weather Service.

Coral Reefs - Activities to implement the Executive Order are reduced by $2.1 million or 32 percent reducing efforts to determine reasons for declines and protect these complex ecosystems that provide habitat for one-third of all marine fish, protect shorelines from erosion and are a source of tourism which supports the economies of many Pacific Islands.

Amphibians - The Senate rejected the requested $8 million funding increase for a comprehensive program of research, inventory and monitoring activities to determine the causes of the alarming decline of amphibian populations. This information is urgently needed not only to arrest and reverse the declines, but to also determine what other species may be at risk.

Land Management Operations - Operational programs for FWS, BLM and NPS are $84 million below the request. The Senate funded uncontrollable costs within this amount resulting in a net operational increase of 1.6 percent over 1999 levels. Disallowing the increase of 5 percent requested in the President's budget will cause considerable delays in acquiring basic data on natural resources in national parks, impede efforts to monitor the conditions of key natural resource systems over time, delay mitigation efforts in California Desert ecosystems and protection of fragile and unique geologic resources, and slow the recovery of disturbed lands and threatened and endangered species.

Safe Visits - The Senate cuts to the maintenance accounts of BLM, USGS, FWS, and NPS, are a $23 million or a 4.0 decrease from the President's request of $555.8 million. These reductions are detrimental to the efforts of the Department and Bureaus to improve the quality of the management of public assets. The Senate disallowed funding to begin implementation of new maintenance management systems and a system of condition assessments to provide estimates of costs for proper repair and rehabilitation. Both of these items have been coordinated through a Departmental initiative to establish commonalty across the bureaus in the areas of inventory and asset management.

Although the Senate funded construction commensurate with the requested level of $420 million, 47 projects totaling $77.1 million were added redirecting funds from projects determined to be the highest priorities for health and safety and to meet mission requirements.

Abandoned Mine Lands - $25 million requested for environmental restoration was eliminated by the Senate impeding efforts to reclaim lands and waters adversely impacted by past coal mining and, to cleanup streams plagued by acid mine drainage and improve the health of watersheds in the Appalachian region.

Save America's Treasures/Millennium Grants - The Senate eliminated base funding for the $30 million Save America's Treasures Program. The Program provides grants to preserve priority historic preservation projects of national scope and significance. In 1999, the Program funded over 62 projects in 24 states, including restoration of Fallingwater, Frank Lloyd Wright's home in Pennsylvania; and preserving historic silent films in the National Film Preservation Foundation.

Everglades Restoration - The Senate eliminated the $45.6 million land acquisition grant to the State of Florida which is key to increasing the areas available for water storage and improving water quality. The Restudy estimates that 220,000 acres are required as compared to the approximately 80,000 acres that have been acquired to date. The Committee report noted that funds remain unobligated for land acquisition, however, the Department expects to fully obligate the remaining $21.1 million in FY 1999 LWCF State Assistance funds and the remaining $30 million in Farm Bill funds prior to the end of this fiscal year. The Department objects to the $0.5 million reduction for the Everglades Task Force. The Task Force will not be able to respond to the Senate Committee's direction to make progress implementing GAO's recommendations concerning the integrated strategic plan and improving the decision making process to resolve conflicts.

Office of the Solicitor - At the Senate mark the Solicitor's Office faces absorbing $1.7 million in uncontrollable costs and $3 million in increases that are needed to catch up funding in nearly every part of the Office's operation.

POB/6-28-99

**DRAFT**
**Background Paper**

**Cochran Amendment: Ramifications for Executive Order 13123 and Other Federal Energy Efficiency Policies**

Last week, the Senate Committee on Appropriations, agreed to include an amendment to the Interior Appropriations bill that will severely restrict the Federal government's ability to improve the energy efficiency of its buildings and thereby save taxpayer dollars. If the amendment is passed, the Federal government will be prevented from leveraging private sector investments to pay for energy improvements that will save taxpayers over $750 million each year by 2010.

The amendment, as proposed by Senator Cochran, prohibits any funds "to study, develop, or implement procedures or policies to establish energy efficiency, energy use, or energy acquisition rules or guidelines other than those based upon the provisions of the Energy Conservation Policy Act of 1975." Depending on interpretation of the amendment's language, a number of important policies and goals that drive Federal agencies to greater energy efficiency and cost savings could be overturned. In fact, all Federal energy management programs, as well as other energy efficiency policies, may be in jeopardy.

*History of Legislative and Executive Action on Federal Energy Use*
In 1978, the National Energy Conservation Policy Act called for a 20 percent reduction in Federal building energy use by 1985 relative to 1975 levels. As a follow-up to that goal, the Federal Energy Management Improvement Act of 1988 amended the National Energy Conservation Policy Act and established an energy reduction goal for Federal buildings of 10 percent by 1995 relative to 1985 usage. During President Bush' tenure, Executive Order 12795 clarified that Federal building energy use would be measured at the site in working toward the energy reduction goal.

The Energy Policy Act of 1992 established a goal of 20 percent reduction in Federal building energy use by 2000 relative to 1985 levels. Subsequently, Executive Order 12902 established a goal of 30 percent reduction by 2005. And, on June 3, 1999, President Clinton signed Executive Order 13123 which calls for a 35 percent reduction in Federal building energy use per gross square foot by 2010, again relative to 1985 levels. As with all statutes and orders since Executive Order 12795, Federal agencies will continue to measure site energy use in working toward energy reduction goals. Given this long history of legislative and executive action on Federal energy management since 1975, Federal agencies are already working toward goals to reduce energy use and save taxpayer dollars.

*Ramifications of the Cochran Amendment on the Executive Order 13123*

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It is unclear which specific statute is referenced by the amendment since no statute by this name exists. ~~The amendment may be referring to the Energy Policy and Conservation Act of 1975, the Energy Conservation and Production Act of 1976, or another statute.~~

1975 - En Policy + Conservation Act

1976 - En Conservation + Production Act

1978 -

1980 - Energy Security Act

Executive Order 13123, like previous legislation and executive orders, simply extends the good-sense policies established by the National Energy Conservation Policy Act to reduce Federal energy costs in buildings. The amendment severely jeopardizes implementation of the Order. Without funds to support implementation of the Order's goals and strategies, the Federal government will miss the opportunity to save taxpayers over $750 million each year by2010, significantly reduce air pollution, and reduce greenhouse gases by 30 percent by 2010 – all feasible simply through smarter, cost-effective, energy management practices.

To assist agencies in meeting the new goal of 35 percent reduction in energy use in Federal buildings by 2010, the Order directs agencies to maximize the use of:

- Energy Saving Performance Contracts and Utility Contracts, in which private companies make energy improvements on Federal facilities at their own expense and receive a portion of the resulting savings;
- Life-cycle cost analysis, so agencies see the long-term savings from energy investments;
- ENERGY STAR & other energy efficient products, everything from light bulbs to boilers; and,
- Renewable energy technologies and sources (solar, wind, geothermal, and biomass).

*Tremendous Economic and Environmental Benefits at Risk*
Common sense policies established by previous legislation and executive orders have already led to a 17 percent reduction in energy use in Federal buildings since 1985. However, the Federal government still spends $8 billion each year on energy costs ($4 billion on Federal building energy use) and the potential for greater energy improvements and taxpayer savings is great.

By blocking implementation of Executive Order 13123 -- and possibly preventing implementation of previous executive orders and other relevant statutes, the Cochran amendment could stand in the way of significant benefits to our nation's taxpayers, our economy, and our environment. Executive Order 13123 alone, if implemented, will generate --

- $750 million each year in taxpayer savings from energy improvements;
- Significant reductions in air pollution and greenhouse gas emissions that result from energy improvements in Federal buildings; and
- Economic opportunities for the private sector, including energy service companies, utilities, and other energy providers, to finance and undertake billions of dollars worth of energy-saving and cost-saving improvements in Federal buildings.

**DRAFT DRAFT DRAFT**

Congressman Regula
Congressman Dicks
House of Representatives
Washington, D.C.

Dear Congressman Regula and Congressman Dicks:

Last week, the Senate Committee on Appropriations, adopted an amendment to the Interior Appropriations bill that will severely restrict the Federal government's ability to save taxpayer dollars by improving the energy efficiency of its buildings. I urge you to oppose any similar amendments to the House Interior Appropriations bill.

The amendment -- which prohibits any funds "to study, develop, or implement procedures or policies to establish energy efficiency, energy use, or energy acquisition rules or guidelines other than those based upon the provisions of the Energy Conservation Policy Act of 1975" -- could prohibit implementation of Executive Order 13123 and may jeopardize other policies related to energy efficiency. Executive Order 13123 -- like previous statutes and executive orders -- simply extends common-sense energy efficiency policies established since 1975.

The Order calls for a 35 percent reduction in Federal building energy use per gross square foot by 2010 relative to 1985 levels. To assist agencies in meeting the new energy reduction goal, the Order directs agencies to maximize the use of:

- Energy Saving Performance Contracts and Utility Contracts, in which private companies make energy improvements on Federal facilities at their own expense and receive a portion of the resulting savings;
- Life-cycle cost analysis, so agencies consider the long-term savings of energy investments; and,
- ENERGY STAR & other energy efficient products, from light bulbs to boilers.

Energy efficiency policies established by statute and executive orders of Presidents Bush and Clinton have already led to a 17 percent reduction in energy use in Federal buildings since 1985. However, the Federal government still spends $8 billion each year on energy costs ($4 billion on Federal building energy use) and the potential for additional cost-effective energy improvements and taxpayer savings is great.

By blocking implementation of Executive Order 13123, and preventing implementation of previous executive orders and other relevant statutes, the amendment could stand in the way of significant benefits to our nation's taxpayers, our economy, and our environment. The new executive order alone will generate --

- $750 million each year in taxpayer savings from energy improvements when fully implemented;

- Significant reductions in air pollution and a 30 percent reduction in greenhouse gas emissions – both of which result from energy improvements in Federal buildings; and
- Economic opportunities for the private sector, including energy service companies, utilities, and other energy providers, to finance and undertake billions of dollars worth of energy-saving and cost-saving improvements in Federal buildings.

Again, I urge you to exclude such an amendment from the House Interior Appropriations bill. And, I urge you to support full funding for the Department's energy efficiency programs, including Federal energy management efforts.

If you or your staff have any questions about Executive Order 13123 or other policies and legislation on Federal energy efficiency, please contact John Angell, Assistant Secretary for Congressional and Intergovernmental Affairs, at 586-5450. We certainly appreciate your efforts to ensure smart energy management in the Federal government as well as in all sectors of our economy.

Sincerely,

Bill Richardson

ac.
Jim Kolbe
Joe Skeen
Charles Taylor
George Nethercutt
Zach Wamp
Jack Kingston
John Peterson
Robert Cramer
Maurice Hinchey
John Murtha
James Moran

- $750 million each year in taxpayer savings from energy improvements;
- Significant reductions in air pollution and greenhouse gas emissions that result from energy improvements in Federal buildings; and
- Economic opportunities for the private sector, including energy service companies, utilities, and other energy providers, to finance and undertake billions of dollars worth of energy-saving and cost-saving improvements in Federal buildings.

Again, we urge you to exclude such an amendment from the House Interior Appropriations bill. If you or your staff have any questions about Executive Order 13123 or other policies and legislation on Federal energy efficiency, please contact John Angell, Assistant Secretary for Congressional and Intergovernmental Affairs, at 586-5450. We certainly appreciate your efforts to ensure smart energy management in the Federal government.

Sincerely,

Bill Richardson

jean.glick N4.015.00
586-5607

DRAFT MEMORANDUM

TO:

FROM: Roger Ballentine

DATE: June 25, 1999

RE: Senator Cochran's Amendment on Federal Energy Use

Yesterday, the Senate Committee on Appropriations, agreed to include an amendment to the Interior Appropriations bill that will severely restrict the Federal government's ability to improve the energy efficiency of its buildings and thereby save taxpayer dollars. If the amendment is passed, the Federal government will be prevented from leveraging private sector investments to pay for energy improvements that will save taxpayers over $750 million each year by 2010.

The amendment, as proposed by Senator Cochran, prohibits any funds "to study, develop, or implement procedures or policies to establish energy efficiency, energy use, or energy acquisition rules or guidelines other than those based upon the provisions of the Energy Conservation Policy Act of 1975." According to informal Committee reports, the language may have been amended to include all other relevant statutes.

1975 - EP + Conservation Act
1976 - En Con + Production Act.

Depending on interpretation of the amendment's final language, a number of important policies and goals that drive Federal agencies to greater energy efficiency and cost savings could be overturned. For example, the National Energy Conservation Policy Act established an energy reduction goal of 10 percent by 1995 relative to 1985 usage. The Energy Policy Act of 1992 established a goal of 20 percent reduction in energy use by 2000. Subsequently, Executive Order 12902 established a goal of 30 percent reduction by 2005. Therefore, Federal agencies are already working toward these goals to reduce the energy use and save taxpayer dollars. In fact, depending upon which Act is specifically referred to in the amendment, all Federal energy management programs, among other energy policies, may be revoked.

<u>Ramifications for the New Executive Order 13123</u>

The amendment severely jeopardizes implementation of the new executive order which calls for a 35 percent reduction by 2010. Without funds to support implementation of the order's goals and strategies, the Federal government will miss the opportunity to save taxpayers over $750 million by 2010, reduce air pollution, and reduce greenhouse gases – all feasible simply through better energy management.

The new executive order, like E.O. 12902 and the Energy Policy Act, is simply extending the good-sense policies established initially by the National Energy Conservation Policy Act to reduce Federal energy costs in buildings.

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The Order requires Federal agencies to achieve by 2010:

- 35% greater energy efficiency in buildings relative to 1985 levels; and,
- 30% cut in greenhouse gas emissions from building-related energy use relative to 1990.

The Order directs agencies to maximize the use of:

- Energy Saving Performance Contracts and Utility Contracts, in which private companies make energy improvements on Federal facilities at their own expense and receive a portion of the resulting savings;
- Life-cycle cost analysis, so agencies see the long-term savings from energy investments;
- ENERGY STAR & other energy efficient products, everything from light bulbs to boilers; and,
- Renewable energy technologies and sources (solar, wind, geothermal, and biomass).

Since 1985, the Federal government has already reduced energy use in buildings by 17 percent; therefore, it is on course to meet the 2000 goal of 20 percent reduction. However, the Federal government still spends $4 billion each year on energy costs in its buildings and the potential for greater energy improvements is great.

The new order calls for the Federal government to work with the private sector, including energy service companies and utilities, to leverage private investment to pay for energy improvements in Federal buildings. By investing this private financing in energy efficiency and implementing smart energy management strategies, the Federal government can save taxpayers over $750 million each year by 2010.

**DRAFT – DRAFT – DRAFT – DRAFT -- DRAFT**

# THE PRESIDENT'S NEW ENERGY EFFICIENCY EXECUTIVE ORDER

**JUNE 3, 1999**

The Executive Order issued by President Clinton today helps meet the challenge of global warming by dramatically improving energy efficiency in Federal buildings. By 2010, the resulting energy savings will reduce annual greenhouse gas emissions by an amount equal to 2.4 million metric tons of carbon (MMTCE) – the equivalent of taking 1.7 million cars off the road – and save taxpayers over $750 million a year. The Order will also expand markets for renewable technologies, reduce air pollution, and serve as a powerful example to American businesses and consumers who can reap substantial benefits from energy improvements.

## Aggressive New Goals

The Federal Government is the nation's largest energy consumer with an annual energy bill of over $8 billion – more than $4 billion to heat, cool, and power its 500,000 buildings. Federal agencies have already reduced energy consumption 17% per square foot relative to 1985 levels. Today's Order builds on that progress, extending current energy efficiency goals and setting new goals for greenhouse gas reductions, renewable energy use, and water conservation.

- **New Energy Efficiency Goal for Facilities.** The Order requires each Federal agency to improve its energy efficiency in Federal buildings by 35 percent relative to 1985 levels by 2010. (Current goal is 30 percent by 2005.)

- **New Energy Efficiency Goal for Industrial and Laboratory Facilities.** The Order requires each Federal agency to improve its energy efficiency in industrial and laboratory facilities by 25 percent relative to 1990 by 2010. (Current goal is 20 percent by 2005.)

- **New Greenhouse Gas Reduction Goal.** The Order requires each Federal agency to reduce greenhouse gas emissions that result from building energy use by 30 percent relative to 1990 levels by 2010. This is the Federal Government's first-ever goal tied to greenhouse gas reductions.

- **Expanded Use of Renewable Energy.** The Order requires Federal agencies to expand their use of renewable energy technologies and electricity from renewable energy sources, such as solar, wind, geothermal, and biomass. Building on the President's commitment to install 20,000 Federal solar energy systems by 2010, the Order calls for new investments in renewable energy through applications of solar, wind, geothermal, and biomass technologies at Federal facilities and through the purchase of electricity from renewable energy sources.

- **Water Conservation.** The Order calls for Federal agencies to improve their water efficiency, not only to reduce water consumption, but also to reduce associated energy use. The Order requires the Department of Energy (DOE) to work with other Federal agencies to develop water consumption baselines and then set appropriate goals for water conservation.

- **Fewer Exempt Facilities.** Under current practice, a large number of facilities (accounting for 17% of building energy use) are exempt from meeting Federal energy goals. Under this Order, all facilities are subject to these goals and requirements unless they meet new exemption criteria to be developed by DOE. In addition, in their Annual Report to the President, each agency must report all exempt facilities and explain the rationale for excluding them from Federal energy goals.

## Cutting-Edge Tools and Strategies

The Order calls for agencies to use a wide range of energy management tools and strategies to fulfill the new energy efficiency, renewable energy, and greenhouse gas reduction goals.

- **Alternative Financing.** Financing options, like Energy Savings Performance Contracts (ESPCs) and utility energy efficiency service contracts, offer Federal agencies a powerful tool for leveraging private sector financing to fund cost-saving energy improvements at no net cost to taxpayers. Under ESPCs, private sector energy service companies finance the up-front cost of purchasing and installing new energy efficient equipment. The Federal government uses a portion of the savings it accrues through reduced energy bills to repay the energy service company over the life of the contract. Contractors then receive a predetermined share of the value of the energy savings generated by their efforts, and may be paid only if actual savings result from the reduced energy use. All additional savings accrue to the government. The government benefits from new equipment, reduced energy costs, improved energy efficiency, reduced greenhouse gas emissions, and conservation of nonrenewable fuels.

  To date, DOE and the Department of Defense have put into place over $8 billion in ESPC contract authority -- available for all Federal agencies to fund energy improvements. In addition, many of these contracts are "Super ESPCs" which rely on the same principles as regular ESPCs but offer an umbrella contract to allow expedited service. The Order calls for agencies to maximize their use of ESPCs and utility energy efficiency service contracts to realize energy and cost savings.

- **Life-Cycle Cost Analysis.** It is critical that Federal agencies consider the full cost of their investments, including energy, operation and maintenance costs, not simply the purchase cost of projects or products. To date, agencies have generally only invested in projects that pay for themselves within 10 years. But, if a piece of equipment has a general working life of 25 years, then the costs over its full life must be taken into account when making investment decisions. By taking all costs into account, agencies can save money and energy. To that end, the Order requires agencies to consider life-cycle costs – that is, investment costs, capital costs, installation costs, energy costs, operating costs, maintenance costs, and disposal costs, over the life of the project or product.

- **ENERGY STAR® and Other Energy Efficient Products.** The Order calls for agencies to purchase ENERGY STAR® and other energy efficient products. These products, ranging from compact fluorescent light bulbs to highly efficient boilers, can save Federal agencies hundreds of millions of dollars.

- **Electricity from Renewable Energy and Energy Efficient Sources.** Given that over 70 percent of the Federal government's energy costs in buildings comes from electricity, the Order requires agencies to consider the source of their electricity and opt for cleaner, more efficient electricity generation. Specifically, the Order calls for agencies to minimize the greenhouse gas intensity of purchased electricity. In addition, agencies should adopt policies to increase the use of electricity from renewable energy sources.

- **Highly Efficient Energy Systems.** This Order calls for agencies to make greater use of highly efficient energy systems, including combined heat and power systems that use "waste" heat from industrial processes to supply power to other needs. These types of systems can offer not only tremendous energy and cost savings, but also significant environmental benefits.

- **Off-Grid Electricity Generation.** This Order requires agencies to consider off-grid electricity opportunities that often provide energy and environmental benefits, while allowing agencies to avoid the costs of building new transmission lines or digging up existing lines. Off-grid options can be particularly effective in remote locations, including in our National Parks. The systems range from solar outdoor lighting to small wind turbines and fuel cells.

- **Sustainable Building Design.** In July 1998, as part of the President's radio address on Federal energy issues, a number of Federal agencies committed to constructing sustainably-designed buildings. This Order requires all Federal agencies to apply sustainable design principles to the siting, design, and construction of new facilities and thereby save energy, save taxpayer dollars, and reduce pollution.

<u>Strengthening Agency Accountability</u>

The Order provides a framework to hold agencies accountable for their progress in Federal energy management. The following new management strategies and reporting requirements will help ensure that all Federal agencies manage energy use wisely and reap great benefits for the economy and the environment for years to come.

- **Annual Reports to the President and Annual Score Cards.** Under the Order, each Federal agency must submit an Annual Report to the President describing its progress in meeting the goals of the Order. In addition, the Deputy Director for Management of the Office of Management Budget will evaluate each agency's performance and submit agency score cards to the President. The score card evaluations will consider agencies' progress toward the energy efficiency, renewable energy, and greenhouse gas goals. The score cards will also take into account how effectively agencies have used key energy management tools and strategies.

- **President's Management Council.** The President's Management Council, which generally consists of Deputy Secretaries from all agencies, will monitor agencies' progress on Federal energy management and provide a high-level forum for identifying ways to accelerate improvements.

- **Agency Energy Teams.** Each agency must form a technical energy support team within 90 days to ensure that energy management strategies are implemented across all facilities. These energy teams will bring together legal, procurement, and other essential agency representatives to overcome barriers to realizing energy and cost savings.

- **Funding for Energy Management Activities.** While smart energy management will lead to taxpayer savings in the long run, initial agency investments are needed in order to implement energy savings performance contracts and purchase energy efficient equipment among other cost-savings activities. Therefore, the Order calls for agencies to consider the full range of their energy management responsibilities and include these costs in their budget requests.

- **New Public/Private Advisory Committee.** The Order calls for DOE to organize an advisory committee to bring together private and public sector experts who can advise agencies on how to improve their energy management practices. The Committee will include representatives from energy service companies, utility companies, equipment manufacturers, and other private, non-profit, and public sector organizations that focus on energy issues.

## Concrete Steps, Concrete Savings

In conjunction with the signing of a new Executive Order to promote energy efficiency, President Clinton announced today the Pentagon's intent to award (by the end of June) **the Federal government's largest-ever Energy Saving Performance Contract (ESPC)**, under which Viron Energy Services/Pepco Energy Services (Viron/Pepco) will upgrade the energy performance of 837 Federal buildings at no up-front cost to taxpayers. The 18-year service contract, covering five military installations in the Washington, DC area, will reduce annual energy consumption by 17%, saving the Department of Defense (DOD) over $219 million in energy and related costs and reducing annual greenhouse gas emissions by 24,000 metric tons of carbon (MTC) – equivalent of taking over 19,000 cars off the road.

Other examples of energy-saving actions of the kind the President's Order is designed to promote include:

- **Energy Efficient Procurement.** The Defense Logistics Agency (DLA), which supplies almost 20% of all light bulbs purchased by the Federal government, has teamed up with DOE to offer half price compact florescent light bulbs (CFLs) (the bulbs that replace normal incandescent bulbs in fixtures such as lamps). The half price offer is open to any Federal purchaser with a maximum purchase of 400 bulbs per order.

  Last year, the DLA supplied 1.5 million bulbs to Federal purchasers. If they had all been CFL's savings would have totaled $7.5 million. Just last week the DOE added CFLs to the ENERGY STAR product rating program providing consumers with specifications for reliable, long lived, low cost CFLs. CFLs last 800% longer than an incandescent bulb and can last up to five years. Each bulbs saves $67 over its lifetime.

- **Renewable Energy Projects.** Some 18 Federal agencies – including the Departments of Agriculture, Interior, Transportation, DOD, DOE, Smithsonian Institution, the National Science Foundation, the Environmental Protection Agency (EPA), NASA, the U.S. Postal Service, and the Western Area Power Administration will soon – will soon receive a combined $1.5 million DOE funding for more than 100 cost-effective renewable energy projects at government sites. The technologies include more than 50 new or renovated solar water heating systems, large and small photovoltaic (solar electric or "PV") systems, PV-powered lights and "solar walls" which preheat outside air for building heating, and wind power.

- **Buying Renewable Power.** The Environmental Protection Agency's Richmond, California laboratory has become the first major Federal facility supplied 100% with renewable energy. Initially, 60% of the power supplied will come from geothermal sources and 40% will come from biomass. Eventually power will be supplied by a new landfill gas facility expected to begin service in the fall of 1999. The General Service Administration (GSA) and DOE provided support to EPA in this effort. This green power purchase will produce environmental benefits equivalent to reducing over 2 million passenger car miles driven in California each year.

- **Energy Star Buildings.** GSA's Foley Square Federal Office Building in New York City has been retrofitted to achieve the ENERGY STAR Building Label by EPA. The ENERGY STAR Building Label signifies that the building is in the top 25% of similar buildings with regard to energy efficiency. Opened in 1994, the building encompasses 1.2 million square feet and houses offices of the Federal Bureau of Investigation, the Internal Revenue Service and the Environmental Protection Agency. By deploying equipment and products that qualify the building for the ENERGY STAR label, the GSA saves $1.3 million annually compared to the cost of other similar buildings without the energy efficiency equipment or products.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

June 24, 1999

THE DIRECTOR

The Honorable Ted Stevens
Chairman
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on the Interior and Related Agencies Appropriation Bill, FY 2000, as reported by the Senate Subcommittee. As the Committee develops its version of the bill, your consideration of the Administration's views would be appreciated. These views are necessarily preliminary because they are based on incomplete information, since the Administration has not had the opportunity to review the draft bill and report language.

The allocation of discretionary resources available to the Senate under the Congressional Budget Resolution is simply inadequate to make the necessary investments that our citizens need and expect. The President's FY 2000 Budget proposes levels of discretionary spending that meet such needs while conforming to the Bipartisan Budget Agreement by making savings proposals in mandatory and other programs available to help finance this spending. Congress has approved, and the President has signed into law, nearly $29 billion of such offsets in appropriations legislation since 1995. The Administration urges the Congress to consider such proposals as the FY 2000 appropriations process moves forward. In addition, we urge the Committee to reduce unrequested funding for programs and projects in this bill.

The Administration appreciates efforts by the Committee to accommodate certain of the President's priorities within the 302(b) allocations. However, it is our understanding that the Committee bill makes major reductions to critical requests for the President's Lands Legacy Initiative and for key tribal programs. We also understand that the bill may include a number of environmental provisions that would be objectionable to the Administration -- and would likely not be approved by Congress, if considered on their own. We strongly urge the Committee to keep the bill free of extraneous provisions and to address the following issues:

Lands Legacy Initiative/Land and Water Conservation Fund (LWCF). The Administration strongly opposes the Subcommittee's decision not to fund major portions of the President's Lands Legacy Initiative. Overall, only $265 million (33 percent) of the $797 million requested in this bill for the Initiative would be funded. The bill would provide no funding for State conservation grants and planning assistance, and only a portion (11 percent) of the requested increase for the Cooperative Endangered Species Conservation Fund. It would also make significant cuts in State and Private Forestry grants. Federal land acquisition funding would be cut by more than half from the Lands Legacy request, from $413 million to $198 million. It would be short-sighted to gut this important environmental initiative, given the growing bipartisan recognition of the need for the federal government, the states and the private sector to protect open spaces and preserve America's great places.

Land Management Operations. The Administration commends the action of the Subcommittee to address the operational and maintenance needs of land management agencies in Interior and USDA. The Administration is concerned, however, with cuts in key conservation programs. For example, the bill would reduce requests for the Fish and Wildlife Service's endangered species program by $13 million (12 percent) and the Forest Service forest research program by $48 million (25 percent). Increased funding for key programs within the Forest Service operating program, such as wildlife and fisheries habitat and rangeland management, could be offset with reductions in unrequested and excessive funding for timber sale preparation and management.

Environmental and Other Objectionable Riders. The Administration strongly objects to objectionable environmental and other riders. Such riders rarely receive the level of congressional and public review required of authorization language, and they often override existing environmental and natural resource protections, tribal sovereignty, or impose unjustified micro-management restrictions on agency activities. We urge the Committee to oppose such provisions. For example, the Administration would strongly oppose an amendment that may be offered that would prohibit implementation of the oil valuation rule. Such a prohibition would cost the American taxpayer about $60 million in FY2000.

Millennium Initiative to Save America's Treasures. The Administration strongly objects to the lack of funding for this $30 million Presidential initiative to commemorate the Millennium by preserving the Nation's historic sites and cultural artifacts that are America's treasures.

National Endowment for the Arts/National Endowment for the Humanities. The Administration strongly objects to the proposed funding levels for the National Endowment for the Arts and National Endowment for the Humanities. The Subcommittee's proposed $51 million (34 percent) reduction from the request would preclude NEA from moving forward with its Challenge America initiative which emphasizes arts education and access to under-served communities across America. The $38 million (25 percent) reduction from the request would preclude NEH from expanding its summer seminar series to provide professional development opportunities to our nation's teachers as well as broadening the outreach of its humanities programs. The Administration urges the Committee to approve funding for the Endowments at the requested levels.

Bureau of Indian Affairs (BIA) and Office of Special Trustee for American Indians (OST). The Administration is very concerned that the Subcommittee has not provided the requested funds to address long-standing concerns of Native Americans. Although the bill increases OST funding over the FY 1999 enacted level, it is still $21 million (21 percent) below the Administration's request, which is critical for implementing Trust management reforms and consolidating highly fractionated ownership of Indian lands. In addition, the Subcommittee bill does not fund the $30 million BIA School Construction Bonding Initiative for much-needed improvements in elementary and secondary schools.

Indian Health Service (Department of Health and Human Services). While the Administration is pleased that the Subcommittee has provided an increase over the FY 1999 enacted level for the Indian Health Service (IHS), we are disappointed that the increase is less than half of the $170 million increase the Administration has requested for IHS. The FY 2000 Budget seeks to increase the health provider staffing and infrastructure necessary to improve access to health care services, including an additional 25,000 dental services, a Women's Health Initiative to provide 34,000 additional breast cancer mammography screenings, and 100 more community-based Public Health Nurses to provide preventive outreach activities, including well-child examinations, immunizations, and prenatal care. These increases are necessary if we are to help reduce disparities and improve the health status of Native Americans and Alaska Natives. We strongly urge the Committee to fully fund the request.

Department of Energy. Based on the information we have received, it appears that the Subcommittee mark for Department of Energy programs is $131 million below the Administration's request. The Subcommittee makes a severe reduction of $155 million in high-priority Energy Conservation activities, reducing them below the FY 1999 enacted level. It also eliminates $36 million for the second Elk Hills installment payment to the State of California Retired Teachers System, which should be appropriated consistent with P.L.104-106. The Subcommittee also reduces the Clean Coal deferral and adds unrequested funds for Fossil Energy R&D.

Smithsonian Institution and Other Cultural Agencies. Although the Administration appreciates the funding levels the Subcommittee has provided for the Kennedy Center, National Gallery of Art and the U.S. Holocaust Memorial Museum, we would hope that the Committee could provide additional funds for the Smithsonian Institution.

We look forward to working with the Committee to address our mutual concerns.

Sincerely,

Jacob J. Lew
Director

Identical Letter Sent to The Honorable Ted Stevens,
The Honorable Robert C. Byrd, and The Honorable Slade Gorton

DRAFT MEMORANDUM

TO:

FROM: Roger Ballentine

DATE: June 25, 1999

RE: Senator Cochran's Amendment on Federal Energy Use

Yesterday, the Senate Committee on Appropriations, agreed to include an amendment to the Interior Appropriations bill that will severely restrict the Federal government's ability to improve the energy efficiency of its buildings and thereby save taxpayer dollars. If the amendment is passed, the Federal government will be prevented from leveraging private sector investments to pay for energy improvements that will save taxpayers over $750 million each year by 2010.

The amendment, as proposed by Senator Cochran, prohibits any funds "to study, develop, or implement procedures or policies to establish energy efficiency, energy use, or energy acquisition rules or guidelines other than those based upon the provisions of the Energy Conservation Policy Act of 1975." According to informal Committee reports, the language may have been amended to include all other relevant statutes.

Depending on interpretation of the amendment's final language, a number of important policies and goals that drive Federal agencies to greater energy efficiency and cost savings could be overturned. For example, the National Energy Conservation Policy Act established an energy reduction goal of 10 percent by 1995 relative to 1985 usage. The Energy Policy Act of 1992 established a goal of 20 percent reduction in energy use by 2000. Subsequently, Executive Order 12902 established a goal of 30 percent reduction by 2005. Therefore, Federal agencies are already working toward these goals to reduce the energy use and save taxpayer dollars. In fact, depending upon which Act is specifically referred to in the amendment, all Federal energy management programs, among other energy policies, may be revoked.

<u>Ramifications for the New Executive Order 13123</u>

The amendment severely jeopardizes implementation of the new executive order which calls for a 35 percent reduction by 2010. Without funds to support implementation of the order's goals and strategies, the Federal government will miss the opportunity to save taxpayers over $750 million by 2010, reduce air pollution, and reduce greenhouse gases – all feasible simply through better energy management.

The new executive order, like E.O. 12902 and the Energy Policy Act, is simply extending the good-sense policies established initially by the National Energy Conservation Policy Act to reduce Federal energy costs in buildings.

The Order requires Federal agencies to achieve by 2010:

- 35% greater energy efficiency in buildings relative to 1985 levels; and,
- 30% cut in greenhouse gas emissions from building-related energy use relative to 1990.

The Order directs agencies to maximize the use of:

- Energy Saving Performance Contracts and Utility Contracts, in which private companies make energy improvements on Federal facilities at their own expense and receive a portion of the resulting savings;
- Life-cycle cost analysis, so agencies see the long-term savings from energy investments;
- ENERGY STAR & other energy efficient products, everything from light bulbs to boilers; and,
- Renewable energy technologies and sources (solar, wind, geothermal, and biomass).

Since 1985, the Federal government has already reduced energy use in buildings by 17 percent; therefore, it is on course to meet the 2000 goal of 20 percent reduction. However, the Federal government still spends $4 billion each year on energy costs in its buildings and the potential for greater energy improvements is great.

The new order calls for the Federal government to work with the private sector, including energy service companies and utilities, to leverage private investment to pay for energy improvements in Federal buildings. By investing this private financing in energy efficiency and implementing smart energy management strategies, the Federal government can save taxpayers over $750 million each year by 2010.

# Amendment Offered
# by
# Senator Thad Cochran

No funds shall be used to study, develop, or implement procedures or policies to establish energy efficiency, energy use or energy acquisition rules or guidelines other than those based upon the provisions of the Energy Conservation Policy Act (ECPA) of 1975.

- $206 -

- John Newman - 508-5446

Draft

NREL material

# FEDERAL ENERGY MANAGEMENT PROGRAM

**What does the federal government spend on energy use?**

The federal government is the largest single consumer of energy in the U.S.—spending over $3.5 billion last year alone to light, heat and operate their buildings. In addition to high operation and maintenance costs, federal agencies are faced with reduced budgets, including those used to improve energy efficiency (in 1996, this was a 40% reduction in funding).

**How much will need to be spent on reducing energy consumption?**

Between now and 2005, approximately $5 billion in investment will be needed to repair or replace aging equipment in federal buildings to meet a 30% reduction in energy use.

**Where will this investment come from, if not through appropriations?**

From the private sector—utilities and energy service companies willing to enter energy savings performance contracts or utility areawide agreements, investing in projects which can be paid back through energy savings at the facility.

**What will this investment save the federal government and taxpayers?**

This $5 billion investment can in turn generate savings of up to $20 billion over the next 20 years. These cost savings allow ever-decreasing funds to be put into mission-critical work, leaving less for the taxpayer to shoulder in federal funding.

**What are the mechanisms for accomplishing these energy and cost savings?**

The Energy Policy Act of 1992 placed additional tools into the hands of federal agencies to implement cost-effective energy savings projects. Executive Orders 12902 and the recently enacted 13123 address needs raised by agencies for tools and incentives to cut costs, save energy, reduce emissions, and protect the environment.

**Who supports these Executive Orders?**

These mechanisms have received praise from utilities, federal agencies, environmental groups, and private-sector companies ready to invest in and reap the rewards of doing business with the federal government.

**Who hurts if these Orders are not implemented?**

The American taxpayer, federal agencies, the environment, utilities and the private sector can all be hurt of these orders are not allowed to be used.

***There is no downside to the federal government saving energy, dollars, and the environment!***

Draft

Cochran Amendment:

- The amendment was most likely raised due to concerns from utilities (Southern Company) about the new Executive Order.

- Possible utility concerns with the Executive Order:

  1. Source vs. Site
     The new executive order calls for a 35 percent reduction in energy use in Federal buildings by 2010. This reduction is measured at the site -- in other words at the point where the energy is used – whether it is electricity, natural gas, or some other type of energy. However, the order allows agencies to get credit toward this goal if source energy decreases, even where site energy increases.

     Source energy is also known as total energy or primary energy. It includes not only the amount of energy used at the site, but all of the energy used in producing and delivering energy to a site.

     The reason that electric utilities prefer to measure energy at the site rather than source is that energy is lost through inefficiencies in production at power plants as well as in transmission of the electricity from the plant to the electrical outlets used at a site or facility. Therefore, with inefficient utility plants, the difference between site and source energy can be significant. In fact, the amount of energy measured at the site may be as little as 30 percent the amount measured at the source. With electricity, about two-thirds of the energy is lost in production, transmission, and distribution. As utility power plants become more efficient, the discrepancy between source energy and site energy will diminish. In contrast, natural gas measured at the source is basically equivalent to natural gas measured at the site. The losses in distribution, if any, are minimal amounting to about 9 percent.

  2. Reduced Greenhouse Gas Intensity of Electric Power
     The new executive order calls for agencies to consider the greenhouse gas intensity of the source of the electricity they purchase. The order calls for agencies to strive to purchase electricity from cleaner sources. Therefore, to the degree that Federal agencies can choose the source of their electricity, utilities that produce electricity from less efficient, more polluting plants, would be at a disadvantage.

  3. Energy Savings Performance Contracts (ESPCs) vs. Utility Energy Efficiency Service Contracts
     The new executive order calls for agencies to use alternative financing, including energy savings performance contracts and utility energy efficiency service contracts to reduce energy use and costs in Federal buildings. While the order requires agencies to use both options, some utilities have interpreted

the order as placing more emphasis on ESPCs – putting utilities at a disadvantage relative to energy service companies that manage contracts under ESPCs. This is certainly not the intent of the Order. If fact, every section that refers to ESPCs also refers to utility energy efficiency service contracts because Federal agencies should use both tools to reduce their energy use and saving taxpayer dollars.

- The actual language of the Cochran amendment calls for no funding to support procedures or policies on energy efficiency other than those established by the Energy Conservation Policy Act of 1975. However, according to informal Committee reports, the language was changed to hold in effect all existing statutes.

  In either case, a number of relevant goals already exist that drive Federal agencies to greater energy efficiency and cost savings. The Energy Policy Act of 1992 (EPACT), which established an energy reduction goal of 20 percent by 2000, is the last statute to establish this type of goal. However, a subsequent executive order issued in 1994 (E.O. 12902) established a goal of 30 percent reduction by 2005. Therefore, Federal agencies are already working toward this goal to reduce the energy use and save taxpayer dollars. And, the new order calls for a 35 percent reduction by 2010. Each of these subsequent orders have simply extended the good-sense policies established by EPACT and preceding laws to reduce Federal energy costs in buildings.

- The Federal government has already reduced energy use in buildings by 17 percent and therefore is on course to meet the 2000 goal of 20 percent reduction. However, the Federal government still spends $4 billion each year on energy costs in its buildings and the potential for greater energy improvements is great. In fact, the Federal government, working with private sector companies, has established billions of dollars in contract authority to leverage private investment to reduce energy costs in these buildings. The new 35 percent goal was established based on the billions of dollars now available in private sector funds through Energy Savings Performance Contracts and Utility Energy Efficiency Service Contracts. With this private financing available to fund energy improvements and other smart energy management, the Federal government can save taxpayers over $750 million each year by 2010. However, if new goals are not established and enforced, many Federal agencies will continue to overlook opportunities for reducing energy waste, reducing associated pollution, and saving taxpayer dollars.

DRAFT MEMORANDUM

TO:

FROM: Roger Ballentine

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RE: Senator Cochran's Amendment on Federal Energy Use

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Depending on interpretation of the amendment's final language, a number of important policies and goals that drive Federal agencies to greater energy efficiency and cost savings could be overturned. For example, the National Energy Conservation Policy Act established an energy reduction goal of 10 percent by 1995 relative to 1985 usage. The Energy Policy Act of 1992 established a goal of 20 percent reduction in energy use by 2000. Subsequently, Executive Order 12902 established a goal of 30 percent reduction by 2005. Therefore, Federal agencies are already working toward these goals to reduce the energy use and save taxpayer dollars. In fact, depending upon which Act is specifically referred to in the amendment, all Federal energy management programs, among other energy policies, may be revoked.

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The amendment severely jeopardizes implementation of the new executive order which calls for a 35 percent reduction by 2010. Without funds to support implementation of the order's goals and strategies, the Federal government will miss the opportunity to save taxpayers over $750 million by 2010, reduce air pollution, and reduce greenhouse gases – all feasible simply through better energy management.

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## by
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NREL material

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- The actual language of the Cochran amendment calls for no funding to support procedures or policies on energy efficiency other than those established by the Energy Conservation Policy Act of 1975. However, according to informal Committee reports, the language was changed to hold in effect all existing statutes.

  In either case, a number of relevant goals already exist that drive Federal agencies to greater energy efficiency and cost savings. The Energy Policy Act of 1992 (EPACT), which established an energy reduction goal of 20 percent by 2000, is the last statute to establish this type of goal. However, a subsequent executive order issued in 1994 (E.O. 12902) established a goal of 30 percent reduction by 2005. Therefore, Federal agencies are already working toward this goal to reduce the energy use and save taxpayer dollars. And, the new order calls for a 35 percent reduction by 2010. Each of these subsequent orders have simply extended the good-sense policies established by EPACT and preceding laws to reduce Federal energy costs in buildings.

- The Federal government has already reduced energy use in buildings by 17 percent and therefore is on course to meet the 2000 goal of 20 percent reduction. However, the Federal government still spends $4 billion each year on energy costs in its buildings and the potential for greater energy improvements is great. In fact, the Federal government, working with private sector companies, has established billions of dollars in contract authority to leverage private investment to reduce energy costs in these buildings. The new 35 percent goal was established based on the billions of dollars now available in private sector funds through Energy Savings Performance Contracts and Utility Energy Efficiency Service Contracts. With this private financing available to fund energy improvements and other smart energy management, the Federal government can save taxpayers over $750 million each year by 2010. However, if new goals are not established and enforced, many Federal agencies will continue to overlook opportunities for reducing energy waste, reducing associated pollution, and saving taxpayer dollars.

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

June 17, 1999
(House Rules)

# STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

## H.R. 2084, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL, FY 2000

(Sponsors: Young (R), Florida; Wolf (R), Virginia)

This Statement of Administration Policy provides the Administration's views on the Transportation and Related Agencies Appropriations Bill, FY 2000, as reported by the House Appropriations Committee. Your consideration of the Administration's views would be appreciated.

The Administration appreciates the Committee's efforts to accommodate many of the Administration's priorities within its 302(b) allocation, particularly the funding provided for Amtrak. However, the Administration is concerned about some of the choices made necessary by this allocation.

The President's FY 2000 Budget proposes levels of discretionary spending that meet important national needs while conforming to the Bipartisan Budget Agreement by making savings proposals in mandatory and other programs available to help finance vital spending needs. Congress has approved and the President has signed into law nearly $29 billion of such offsets in appropriations legislation since 1995. The Administration urges the Congress to consider such proposals as the FY 2000 appropriations process moves forward.

The Administration proposes to meet important transportation safety, mobility, and environmental requirements by reallocating a portion of the increased spending permitted by higher-than-anticipated highway excise taxes. Under this proposal, every State would receive at least as much funding as was assumed when the Transportation Equity Act for the 21st Century was enacted. Last year, Congress chose to reallocate limited funding within the highway "guarantee." The House is encouraged to build upon this by enacting the Administration's proposal as a means to fund these important priorities.

The Administration is concerned that the Committee bill could compromise the Federal Aviation Administration's (FAA's) operations and modernization programs, reduce highway and motor carrier safety, and under-fund other important programs. The House could partially accommodate the funding increases recommended below by adhering more closely to the President's request for the Airport Improvement Program, High Speed Rail, Coast Guard Alteration of Bridges, Coast Guard capital improvements, and other programs.

The Committee is commended for permitting transit discretionary grants to be allocated according to the needs-based formula agreed to in the Transportation Equity Act for the 21st Century, instead of arbitrarily restricting individual States' funding. The Committee is commended for not prematurely encouraging the closure of Coast Guard training facilities without regard to the results of the ongoing Coast Guard review as to the best use of those facilities.

The following highlights our specific concerns with the Committee bill.

Aviation Safety and Modernization

The Administration strongly urges the House to fully fund the Administration's request for FAA Operations. The $114 million, or two-percent, reduction made by the Committee would force the FAA to close low-level towers, defer hiring of safety and security personnel needed to meet the demands of increased air travel, and possibly slow air travel. The Administration is concerned with the Committee's reduction of $6.6 million in FAA's request for rental payments to the General Services Administration. Since rent is a mandatory payment, FAA would have to reduce operating spending further to absorb this reduction.

The House is also urged to restore the $119 million, or five-percent, reduction to the FAA Facilities and Equipment account. The Committee's funding level could undermine our National Airspace System modernization program. Safety projects as well as critically-needed capacity enhancing projects would be delayed, increasing future air travel delays. For example, the Administration urges the House to provide the requested $17 million in critically-needed funding to ensure timely implementation of a Global Positioning System (GPS) modernization plan that will help enable transition to a more efficient, GPS-based air navigation system.

The Administration supports the Committee's decision to eliminate the General Fund subsidy for FAA Operations but urges the Congress to enact a user fee system to finance the agency. Such a system would improve the FAA's efficiency and effectiveness by creating new incentives for it to operate in a business-like manner.

Motor Carrier Safety

The Secretary of Transportation recently announced a comprehensive Motor Carrier Safety Action Plan to implement much-needed improvements in truck safety. The need for these improvements has been recognized by the Appropriations Subcommittee and Congress overall, the Department of Transportation Inspector General, and an independent assessment conducted by former Congressman Mineta. The House is urged to provide the additional $50 million for the National Motor Carrier Safety Grant program to undertake the improvements in enforcement, research, and data activities designed to increase safety on our Nation's roads and highways.

Highway Safety

The Administration is concerned that the Committee has provided $36 million less than the President has requested for the National Highway Traffic Safety Administration's Operations and Research account. This funding reduction would limit important research activities on advanced air bags, crash worthiness, and the enhanced testing proposed in the New Car Assessment program to make better car safety information available to the public.

CAFE Standards

The Administration strongly opposes, and urges the House to drop, the prohibition on work on the corporate average fuel economy (CAFE) standards. These standards have resulted in a doubling of the fuel economy of the car fleet, saving the nation billions of gallons of oil and the consumer billions of dollars. Because prohibitions such as this have been enacted in recent years, the Department of Transportation has been unable to fully analyze this important issue. These prohibitions have limited the availability of important information that directly inflluences the Nation's environment.

Amtrak

The Committee is commended for funding Amtrak at $571 million, the President's requested level and the level called for in Amtrak's "glidepath" to self-sufficiency, and providing Amtrak with the flexibility to spend capital funds wisely by adopting for Amtrak the same definition of capital as used by transit grantees. The Administration would oppose efforts to fund Amtrak below this level because lower levels would jeopardize Amtrak's ability to achieve self-sufficiency by 2003 and could delay introduction of high-speed rail service in the Northeast Corridor and force other service reductions and route closures.

Livability Programs

The Administration is disappointed that the Committee bill funds transit formula grants at $212 million below the President's request and the Transportation Community and Preservation Pilot program (TCSP) at $25 million, or 50 percent, below the request. Further, the earmarking of the TCSP program would hinder the goal of improving land use by not permitting the development and identification of innovative new approaches. Finally, the Administration is disappointed that the Committee bill does not direct additional funding to the Congestion Mitigation and Air Quality Improvement program. These livability programs are important components of an Administration effort to provide communities with the tools and resources they need to combat congestion and sprawl.

Job Access and Reverse Commute

The Administration is disappointed that the Committee has provided only $75 million – half of the amount authorized and requested – for the Job Access and Reverse Commute program. This program is a critical component of the Administration's welfare-to-work effort and is significantly over-subscribed at present. Demand is expected to increase as more communities around the country begin to see how effective the program can be in helping individuals make a successful transition from welfare to work.

Coast Guard

The Administration is concerned about the Committee's earmarks to continue operations of the Long Island, New York, and Muskegon, Michigan, air facilities and to establish an additional air facility at Waukegan, Illinois. The Coast Guard has concluded, based on careful review, that none of these facilities are necessary to meet its search and rescue coverage standards. By forcing the Coast Guard to spend nearly $9 million on these facilities, the House is effectively reducing funding for higher priority Coast Guard activities, such as improving boat station readiness nationwide.

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