

WITHDRAWAL SHEET

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Date: 4/2/04

DOCUMENT NO. & TYPE	SUBJECT/TITLE	DATE	RESTRICTION
1. Memo	From Gauldin to POTUS re: nuclear safety, 1p	4/4/93	P5
2. Memo	To the Secretary [DOE] from Dan Reicher, Peter Brush re: nuclear safety, 2p	4/30/93	P5

RESTRICTIONS

P1 National security classified information [(a)(1) of the PRA].
P2 Relating to appointment to Federal office [(a)(2) of the PRA].

P3 Release would violate a Federal statute [(a)(3) of the PRA].
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA].

P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA].

P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA].

C. Closed in accordance with restrictions contained in donor's deed of gift.

B1 National security classified information [(b) (1) of the FOIA].

B2 Release could disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA].

B3 Release would violate a Federal statute [(b)(3) of the FOIA].

B4 Release would disclose trade secrets or confidential commercial financial information [(b)(4) of the FOIA].

B6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA].

B7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA].

B8 Release would disclose information concerning the regulation of financial institutions [(b)(9) of the FOIA].

B9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA].

THE WHITE HOUSE

WASHINGTON

DPC STAFF MEMORANDUM-CLOSE HOLD

February 23, 1994

MEMORANDUM FOR CAROL RASCO

FROM:

BRIAN BURKE^{SB}

SUBJECT:

Executive Order On Energy Efficiency And Water Conservation At Federal Facilities *file*

The attached executive order was delivered to my office on Tuesday the 22nd although it is dated February 18. I anticipate you may hear about this order. In short, the executive order would require that federal agencies achieve 30 % reductions in their energy and water consumption by certain target dates. (It does have something to do with buildings using less water as they brush their teeth). As the attached memo indicates, OEP and OMB want agency-wide and White House review quickly so they can announce this "NPR order" signed around the anniversary of NPR, March 8th. I spoke with Paul and Steve about the order. A few of our concerns are the following:

- As a matter of process, it is disturbing that OEP and OMB have been working on this EO for more than 11 months yet they have not mentioned this to any of the policy offices. At yesterdays meetings I emphasized this point and further explained that it is unrealistic to now expect that all effected agencies and White House offices would rubber stamp the Order.
- Steve has been designated to review all NPR related Executive Orders, yet he was not aware of this order until early this week. This is the second time that the NPR process has been circumvented in this way.
- DOE, GSA, OEP and OMB are the only entities involved in this and therefore all other agencies may be surprised by the substance and the quick turnaround time. Additionally, no cost information was made available at yesterdays meeting.
- It is unclear why this order should be presented as the action most appropriate for celebrating the anniversary of the NPR initiative.

These are only a few of many substantive and procedural concerns raised by this order.

THE WHITE HOUSE

WASHINGTON

February 18, 1994

MEMORANDUM FOR DISTRIBUTION

FROM:

T.J. GLAUTHIER *TJG*
OFFICE OF MANAGEMENT AND BUDGET

CATHY ZOI *CZOI*
OFFICE ON ENVIRONMENTAL POLICY

The Office of Management and Budget and The Office on Environmental Policy are preparing an Executive Order for federal energy and water efficiency. The draft Executive Order is a National Performance Review recommendation. It will increase energy savings, decrease air pollution, provide leadership by example, and help reduce the deficit. A draft of the Executive Order and a fact sheet are attached.

The Energy Efficiency and Water Conservation at Federal Facilities Executive Order has been under development for several months. There has been substantial input from many agencies, including DOE, DOD, and GSA. We are preparing for the Vice President to announce this Executive Order on March 8th in conjunction with a national conference for federal energy and facility managers, on the anniversary of the launching of the Reinventing Government Initiative. As such, it is imperative that we move quickly to finalize the order.

To get your input on the draft, we are hosting a briefing on Tuesday, February 22, from 2:00 to 3:00pm in room 248. All interested staff are invited to attend.

DISTRIBUTION:

Kumiki Gibson OVP
Heather Ross NEC
Brian Burke DPC
Sally Katzen OMB
Todd Stern STAFF SECRETARY
Henry Kelly OSTP
Rosina Bierbaum OSTP
Phil Caplan CABINET AFFAIRS

cc: Elaine Kamark NPR
Steve Warnath OPD

**EXECUTIVE ORDER
ON ENERGY EFFICIENCY AND WATER CONSERVATION AT FEDERAL FACILITIES**

BENEFITS

- Demonstrate Leadership by Example
- Reduce the Deficit
- Stimulate Markets for the Environmental Technologies of the Future
- Prevent Pollution
- The National Performance Review recommends an executive order to:
 - Address barriers to implementation of the Energy Policy Act (EPAct) for energy and water efficiency in the Federal Government
 - Make government work better and cost less

What are the barriers to energy efficiency, water conservation, and the increased use of renewable energy sources in Federal facilities?

- Lack of funding.
- Slow and complex procurement process for energy efficiency projects.
- Shortage of trained staff dedicated to projects.
- Lack of incentives for staff to pursue energy, water, and renewable energy projects.
- Lack of high-level involvement and encouragement.

Without leadership to address these barriers, money-saving energy efficiency and water efficiency opportunities will be missed.

This Executive Order is intended to provide facility managers throughout the government with the tools they need to do their jobs well and save the taxpayers money.

Barrier: Financing. Lack of funding, and a slow and complex procurement process.

Solutions:

Budget:

- The President's FY95 budget request is up significantly for money-saving investments in energy and water efficiency -- supporting implementation of Executive Order.
- For the first time, the President's budget implements Energy Policy Act of 1992 provisions for agencies to retain 50% of rebates and energy savings, rather than having the entire amount to into the Treasury. This will provide a powerful incentive to agencies.

Innovative Financing:

- The Order will spur the use of innovative financing such as utility rebates and energy savings performance contracts. In energy savings performance contracts private companies make the efficiency upgrades. The money saved on energy bills is great enough to pay back the company and benefit the taxpayer through reduced costs to the Federal government. Often, the government does not need to provide money up front in order to begin the project. Actions under the Order include:
 - A national workshop on barriers to the use of innovative financing.
 - Eliminating unnecessary regulatory barriers.
 - Streamlining internal procedures.
 - GSA "schedule"-like contracts for energy savings companies.
 - Model solicitations and implementation guides for energy contracts.
 - A national list of qualified water and energy efficiency contractors.
 - Training to help agencies identify and fund projects.
- GSA will identify utilities that perform no-cost audits of energy and water efficiency opportunities.
- GSA will provide agencies with the names of utilities that have rebate programs and descriptions of their programs.
- DOE will provide agencies with model provisions on incorporating energy and water efficiency in new leases.

Barrier: Shortage of trained staff dedicated to projects.

Solutions:

- Energy Efficiency & Environmental Project Teams will be trained to implement energy, water, and renewables projects.
- DOE's Federal Energy Management Program will designate a customer service representative for each Federal project to assist with development and implementation at every stage.
- Agencies are encouraged to franchise the services of project teams to provide services to other agencies on a reimbursable basis, in accordance with the NPR recommendation.
- Agencies will receive technical assistance -- over a dozen specific actions are included in the order.

Barrier: Lack of incentives for staff.

Solutions:

- The Executive Order will direct agencies to:
 - review incentive programs to ensure that improvements in energy and water efficiency are properly rewarded.
 - provide monetary rewards for outstanding implementation of the Energy Policy Act and this executive order, including Quality Step increases, cash awards, and gainsharing programs.
 - experiment with team awards.
 - establish non-monetary and honor awards (e.g., increased authority, additional resources, time-off awards).
- Performance evaluations will provide accountability and positive incentives for:
 - energy and facility managers, building designers
 - contracting and financial team
 - the Assistant Secretary-level designee ultimately responsible for his/her agency's implementation of the Order. This person is designated to spearhead energy efficiency programs in accordance with EPA Act.
- Inspectors General will conduct annual reviews of agency efforts to meet the requirements of the Energy Policy Act and the Order.

OTHER KEY PROVISIONS OF THE EXECUTIVE ORDER

REQUIREMENTS:

- **Energy:** Increases the energy savings requirement. 30% energy use reduction by 2005--the EPA Act says 20% by 2000.
- **Renewables:** Sets a renewables requirement. 10% of new energy consumed by the federal government between now and 2010 must be produced from renewables--there is no requirement in the Act.
- **Water:** More aggressive time table. Under the executive order, all projects with 10-year payback or less must be installed by 2000--the Act says by 2005.
- **Federal Industrial Facilities:** Sets requirements. 20% energy use and cost reduction and installation of all water conservation measures with a ten year or less payback by 2005--there is no requirement in the Act.

TIME-LINE FOR IMPLEMENTATION:

- Agencies will do walk-through assessments of all their facilities to identify those opportunities with the greatest potential to save taxpayers money, designed to target high priority facilities to audit.
- Agencies shall audit 10 percent of their facilities each year.
- For any facility, agencies shall begin implementation of audit recommendations within six months of the audit.
- Facilities audits conducted in the last 3 years are considered "current", and do not have to begin again. They shall begin implementation of the recommendations from those audits within six months.

SHOWCASE FACILITIES:

- Agencies to designate buildings to showcase the best energy and water efficiency, and renewable energy technologies to the public.

PROCUREMENT OF ENERGY EFFICIENT PRODUCTS:

- Agencies will strive to purchase products in the top 25% of their class for energy efficiency, wherever such products are cost-effective and meet the agency's performance requirements.

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March X, 1994

EXECUTIVE ORDER

ENERGY EFFICIENCY AND WATER CONSERVATION AT FEDERAL FACILITIES

WHEREAS, this Administration is determined to make the Federal Government a leader in buying energy efficient and water conserving products;

WHEREAS, the Nation's interest is served when the Federal Government makes more efficient use of natural resources;

WHEREAS, the recommendations from the National Performance Review support this Administration's commitment to make the Federal Government work better and cost less by reducing unnecessary and wasteful spending;

WHEREAS, the National Energy Conservation Policy Act as amended by the Energy Policy Act of 1992 establishes requirements for Federal agencies to increase energy efficiency and water conservation and make use of solar and other renewable energy sources;

WHEREAS, the link between water consumption and energy consumption makes it important to integrate energy and water efficiency upgrades to ensure maximum cost savings;

WHEREAS, it is this Administration's policy to pursue aggressively energy efficiency, water conservation, and the use of solar and other renewable energy sources in order to prevent pollution;

NOW THEREFORE, I, WILLIAM J. CLINTON, by the authority vested in me as President by the Constitution and the laws of the United States of America, including the Energy Policy and Conservation Policy Act (Public Law 94-163, 89 Stat. 871, 42 U.S.C. 6201 et seq) as amended by the Energy Policy Act of 1992 (Public Law 102-486) and section 301 of Title 5, United States Code, hereby order as follows:

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PART 1 - DEFINITIONS

For the purposes of this order:

Sec. 101. The "Act" means the Federal energy management provisions of the National Energy Conservation Policy Act, which is amended by the Energy Policy Act of 1992.

Sec. 102. The term "comprehensive facility audit" means a survey of a building or facility that provides sufficiently detailed information to allow an agency to enter into energy savings performance contracts or to invite inspection and bids by private upgrade specialists for direct agency-funded efficiency investments. It shall include information such as the following:

(1) the type, size, energy use and performance of the major energy using systems and their interaction with the building envelope, the climate and weather influences, usage patterns, and related environmental concerns;

(2) appropriate energy and water conservation maintenance and operating procedures;

(3) recommendations for the acquisition and installation of energy conservation measures, including solar and other renewable energy and water conservation measures; and

(4) a strategy to implement the recommendations.

Sec. 103. The term "cost-effective" refers to life cycle cost-effective measures, which can include energy efficiency and water conservation measures and solar and other renewable energy sources and have a payback of ten years or less. Under the Act, all energy and water projects with a 10 year payback or less must be implemented.

Sec. 104. The term "demand side management" refers to utility sponsored programs to increase energy efficiency and water conservation or the management of demand and includes load management techniques.

Sec. 105. The term "energy savings performance contracts" means a contract which provides for the performance of services for the audit, design, acquisition, installation, testing, operation, and where appropriate, maintenance and repair, of an identified energy conservation measure or series of measures at one or more locations. These contracts are guaranteed and are paid only with quantifiable results from baseline energy use data with ongoing monitoring and evaluation.

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Sec. 106. The terms "executive agency" or "agency" means an Executive agency as defined in 5 U.S.C. section 105. For the purpose of this order, military departments, as defined in 5 U.S.C. section 102, are covered under the auspices of the Department of Defense.

Sec. 107. The term "Federal building" means any individual building, structure, or part thereof, including the associated energy or water consuming support systems, which is constructed, renovated, leased or purchased in whole or part for use by the Federal government and which consumes energy and/or water.

Sec. 108. The term "Federal facility" means any building or collection of buildings, grounds, or structure, as well as any fixture or part thereof which is owned by the United States or any Federal agency or which is held by the United States or any Federal agency under a lease-acquisition agreement under which the United States or a Federal agency will receive fee simple title under the terms of such agreement without further negotiation. The term also applies to facilities and/or grounds or any leased building and/or grounds in which the initial term of the lease exceeds five years.

Sec. 109. The term "franchising" means that an agency would provide the services of its teams to other agencies on a reimbursable basis.

Sec. 110. The term "gainsharing" refers to incentive systems that allocate some portion of savings resulting from gains in productivity to the workers who produce those gains.

Sec. 111. The term "industrial facilities" means any fixed equipment, building, or complex for the production of goods, using large amounts of capital equipment in connection with, or as part of, any process or system, and within such building or complex the majority of energy use is not primarily used to contribute to the heating, cooling, lighting, ventilation, or service hot water energy load requirements of the building.

Sec. 112. The term "life cycle cost" shall continue to be defined as it is at this time for energy and water efficiency projects in the Federal Government, pursuant to 10 CFR 436.

Sec. 113. The term "prioritization audit" means a rapid assessment that will be used by an agency to identify those facilities with the highest priority projects based on the relative economic merit and to schedule comprehensive facility audits prior to project implementation. The prioritization audit shall include information such as the following:

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(1) the type, size, energy and water use level and the major energy and water using systems; and

(2) the need, if any, for acquisition and installation of life cycle cost-effective energy and water conservation measures, including solar and other renewable energy resource measures.

Sec. 114. The term "shared energy savings contracts" means a method whereby the contractor incurs the cost of implementing energy savings measures including: performing the audit, designing the project; acquiring and installing equipment; training personnel; and operating and maintaining equipment. In exchange for providing these services, the contractor gains a share of any energy cost savings directly resulting from implementation of such measures during the term of the contract. These contracts may include monitoring and evaluation.

Sec. 115. The term "solar and other renewable energy sources" include, but are not limited to agriculture and urban waste, geothermal energy, solar energy, and wind energy.

Sec. 116. The term "utility" means any person, State, agency or Federal agency which is engaged in the business of producing or selling of electricity or engaged in the local distribution of natural gas or water to any ultimate consumer.

PART 2 - INTERAGENCY COORDINATION

Sec. 201. Interagency Coordination. The Department of Energy (DOE) shall take the lead in implementing this order through the Federal Energy Management Program (FEMP). The Interagency Energy Policy Committee ("656 Committee") and the Interagency Energy Management Task Force (Task Force) shall serve as forums to coordinate all the issues involved in implementing energy efficiency, water conservation, and solar and other renewable energy in the Federal sector.

PART 3 - AGENCY GOALS AND REPORTING REQUIREMENTS FOR ENERGY AND WATER EFFICIENCY IN FEDERAL FACILITIES

Sec. 301 Energy Consumption Reduction Goals.

(a) Each agency shall develop and implement a program to reduce energy consumption, based on Btu's-per-gross-square-foot, by 30 percent by 2005. The 30 percent reductions shall be measured from the agency's 1985 energy use. Each agency's implementation program shall be designed to speed the introduction of life cycle cost-effective, energy-efficient technologies into Federal facilities, and to meet or exceed the

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goals and requirements of the Act and this order.

(b) Each agency shall develop and implement a program under which its industrial facilities in the aggregate increase energy efficiency by at least 20 percent by 2005 as compared to the 1990 benchmark and implement all water conservation projects with 10 year payback or better. DOE, in coordination with the "656" Committee, shall establish definitions and appropriate indicators of energy and water efficiency and for energy and water consumption and costs in Federal industrial facilities for the purpose of utilizing a base year of 1990.

Sec. 302. Energy and Water Audits of Federal Facilities

(a) Each agency responsible for managing Federal facilities shall conduct or obtain a prioritization audit on each of the facilities the agency manages within 18 months of the effective date of this order. These shall be used to target comprehensive facility audits.

(b) Within 180 days of the effective date of this order, each agency shall develop and begin implementation of a ten year plan to conduct or obtain comprehensive audits.

(1) Implementation of the plan shall ensure that comprehensive audits on at least ten percent of the agency's facilities are completed each year. Property management agencies with less than 100 facilities will plan and execute a minimum of ten comprehensive audits per year until all facilities are audited.

(2) Comprehensive audits of facilities performed within the last three years may be considered current for the purposes of implementation and are not required to be audited again.

(3) "No-cost" audits, such as those outlined in Section 501 (c) below, shall be utilized to the maximum extent practicable.

(c) Exempt Facilities. Recognizing that the mission within exempt facilities may not allow energy efficiency and water conservation in certain operations, actions shall be taken to reduce all other energy and water waste using the procedures described in the Act and this order. Each agency shall develop and implement a plan to improve energy and water efficiency in facilities listed as exempt from the energy and water reduction requirements by an agency pursuant to the Act. The prioritization audits should allow agencies to refine their designation of facilities as "exempt" or "industrial," so that

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only individual buildings in which industrial or energy-intensive operations are conducted remain designated as "exempt" or "industrial." Within 21 months of the effective date of this Order each agency shall report to FEMP and to the Office of Management and Budget (OMB) the redesignations that the agency is making as a result of the prioritization audits.

Sec. 303. Implementation of Energy Efficiency and Water Conservation Projects.

(a) Implementation of New Audit Recommendations. Within one year of the effective date of this order, agencies shall have identified high priority facilities to audit and completed the first 10 percent of the required comprehensive facility audits, based on preliminary recommendations from the prioritization audits in Section 302. Within 180 days of the comprehensive facility audit of each facility, agencies shall begin implementing recommendations for installation of energy conservation, water efficiency and renewable energy technologies for that facility that:

- (1) are life cycle cost-effective, and
- (2) have a payback less than 10 years.

(b) Implementation of Existing Audits. Within 180 days agencies shall begin to implement recommendations from comprehensive audits performed within the last three years shall begin to be implemented within 180 days of the effective date of this order, provided they:

- (1) are life cycle cost-effective, and
- (2) have a payback less than 10 years.

Sec. 304. Solar and Other Renewable Energy

(a) The goal of the Federal Government is expressed as follows: by the year 2010, 10 percent of the additional energy supplied to the Federal sector relative to energy usage in 1993 shall be obtained from new solar and other renewable energy sources. DOE shall develop a program for achieving this goal and submit it to the "656" Committee for review within 210 days of the effective date of this order. DOE shall lead the effort to assist agencies in meeting this goal.

(b) All solar and other renewable energy projects which are cost-effective and meet the goals of this order shall be implemented. In the case of operations, such as remote site pumping or relay stations that use diesel fuel, cost calculations shall be undertaken to consider conversion to solar electric. Each agency shall seek an appropriate level of funding needed to

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achieve the solar and renewables goals of the Act and this order through appropriations and shall obtain supplemental funds through alternative funding options identified by the DOE.

Sec. 305. Minimization of Petroleum-Based Fuel Use in Federal Buildings and Facilities. All agencies shall develop and implement programs to reduce the use of petroleum in their buildings and facilities through switching to a less polluting and non-petroleum based energy source, such as natural gas or solar and other renewable energy sources. Alternatively, where alternative fuels are not practical or cost-effective, agencies shall strive to improve the efficiency with which they use the petroleum. Each agency shall survey its buildings and facilities to determine where the potential for a dual-fuel capability exists and shall provide dual-fuel capability where practicable.

Sec. 306. New Space

(a) New Federal Facility Construction. Each agency involved in the construction of a new facility, which is to be either owned by or leased to the Federal Government, shall:

(1) assure that all such facilities are designed to minimize life cycle costs, and maximize energy efficiency, water conservation and the use of solar or other renewable energy technologies, and maintain or improve occupant health and safety;

(2) assure that the design and construction of facilities meet or exceed the energy performance standards applicable to Federal residential or commercial buildings as set forth in 10 CFR 435, local building standards or a Btu-per-gross-square-foot ceiling as determined by the Task Force within 120 days of the effective date of this order, whichever will result in a lower life cycle cost over the life of the facility;

(3) within 270 days of the effective date of this order, establish and implement a facility commissioning program that will ensure that the construction of such facilities meets the requirements outlined above before the facility is accepted into the Federal facility inventory; and

(4) utilize passive solar design and adopt active solar technologies where they are cost-effective.

(b) New Leases For Existing Facilities. Agencies entering into leases, including the renegotiation or extension of existing leases, shall identify the energy and water consumption of those facilities and seek to incorporate provisions into the lease that ensure the most life cycle cost-effective energy and water use, while maintaining or improving occupant health and safety. This

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includes renovation of proposed space prior to or within the first year of the lease. Responsible agencies shall seek to negotiate the cost of the lease, taking into account the reduced energy and water costs during the term of the lease.

(c) Government-Owned Contractor-Operated Facilities. All Government-Owned Contractor-Operated (GOCO) facilities shall comply with the goals and requirements of this order. Energy and water management goals shall be incorporated into their management contracts.

Sec. 307. Showcase Facilities

(a) New Building Showcases Each agency that constructs at least five buildings annually shall designate 10 percent of its new buildings, but no less than one building, at the earliest stage of development to be exemplary showcases highlighting the most advanced technologies and practices for energy efficiency, water conservation and use of solar and other renewable energy.

(b) Demonstrations in Existing Facilities. Each agency shall designate its headquarters facility or other important Washington, D.C.-area building and at least one other major facility to become showcases to highlight energy and water efficiency and should also attempt to incorporate cogeneration, solar and other renewable energy technologies, and indoor air quality improvements. Selection shall be based on considerations such as high level of non-Federal visitors, historic significance, and/or where those using or visiting the building are likely to learn from displays and to implement similar projects. The agency shall develop and implement plans within 180 days of the effective date of this order and work in cooperation with DOE to determine the most effective strategies and ways to identify and secure funds needed to implement these demonstrations.

Sec. 308. Annual Reporting Requirements

(a) As required under the Act, the head of each agency shall report annually to the Secretary of Energy and OMB, in a format specified by the Secretary and OMB after consulting with the "656" Committee, modified to include progress in achieving the goals of this order. The Secretary of Energy shall prepare a consolidated report to the President and Congress annually on the implementation of this order.

(1) The report should provide information on energy and water use and cost data providing the greatest level of detail practical for buildings and facilities by energy source.

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(b) At least once annually, each agency head shall report progress in meeting this order at a Cabinet meeting or other forum designated by the President.

(c) DOE shall develop 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 such as energy exploration, development, processing, transportation, storage, distribution, consumption and disposal, and related impacts on the environment. The report shall examine methods for conducting the life cycle analysis and implementing it in the Federal sector and make appropriate recommendations. It shall be forwarded to the Office on Environmental Policy and OMB, as well as other relevant entities.

Sec. 309. Inspector General Review and Agency Accountability. One year after the effective date of this order, and each year thereafter, the President's Council on Integrity and Efficiency shall report to the President about efforts and actions by agencies to meet the requirements of this order.

(a) The Inspector General for the Department of Energy shall develop audit criteria for use by other Inspectors General in conducting such audits, and establish time frames for the submission of agency reports.

(b) Such criteria shall include, at a minimum, an assessment of agency efforts to meet the requirements of the Act and this order, the success of those efforts, and recommendations to improve agency performance if appropriate.

(c) Each agency head shall designate a senior official, at the Assistant Secretary level or above, to be an advocate and to be responsible for achieving the requirements of this order and appoint him/her to the "656" Committee. The agency head and the "656" Committee member shall have ultimate responsibility for implementation of this order. They shall coordinate with the Federal Environmental Executive and Agency Environmental Executives established under Executive Order 12873.

PART 4 - USE OF INNOVATIVE FINANCING AND CONTRACTUAL MECHANISMS

Sec. 401. Financing Mechanisms

(a) Each agency shall seek an appropriate level of funding needed to meet or exceed the goals and requirements of the Act and this order. Use of direct appropriations for energy efficiency and water conservation projects is the preferred

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method of financing, because the Federal Government retains all of the savings. Each agency shall identify, as part of its fiscal year 1996 and future budget requests, funds to be invested in comprehensive facility audits, facility energy manager training and the costs of projects implementing the recommendations of audits. As required by the Act, the Director of OMB shall modify budget formulation instructions to include appropriation requests and the requirement for reporting.

(b) Where appropriations are not available, agencies shall utilize innovative financing and contractual mechanisms, including, but not limited to, utility demand side management programs, shared energy savings contracts, and energy savings performance contracts, to meet or exceed the goals and requirements of the Act and this order.

(c) Within 180 days of the effective date of this order, the Director of OMB, or his/her designee, with the Task Force shall host a national workshop regarding perceived barriers and problems associated with financing and retention of savings. Based on the results of that meeting, the Director shall assist the Administrator of the General Services Administration (GSA) and the Secretary of Energy in eliminating unnecessary regulatory and procedural barriers which slow the utilization of such audit, financing, and contractual mechanisms or would complicate their use. Those actions that are cost-effective shall be implemented as soon as possible, chiefly through the process required in (d) below.

(d) Agency heads shall work with their procurement officials to identify and eliminate internal regulations, procedures or other barriers to implementation of the Act and this order. DOE shall develop a model set of recommendations that will be forwarded to the Administrator of OFPP in order to assist agencies in eliminating the identified barriers.

PART 5 - TECHNICAL ASSISTANCE, INCENTIVES, AND AWARENESS

Sec. 501. Technical Assistance

(a) To assist Federal energy managers in implementing energy efficiency and water conservation projects, within 180 days, DOE shall develop and make available through the Task Force:

(1) guidance explaining the relationship between water use and energy consumption and the energy savings achieved through water conservation measures,

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(2) a model solicitation and implementation guide for innovative funding mechanisms in section 401 of this order,

(3) a national list of qualified energy and water service companies offering to finance energy efficiency and water conservation projects,

(4) the capabilities and technologies available through the national energy laboratories, and

(5) an annually updated guidance manual for Federal energy managers that includes at a minimum new sample contracts or contract provisions, position descriptions, case studies, recent guidance, and success stories.

(b) The Secretary of Energy, in coordination with the Administrator of GSA, shall make available through the Task Force:

(1) the national list required by the Act of qualified water and energy efficiency contractors for inclusion on a Federal schedule, and

(2) a model provision on energy efficiency and water conservation for inclusion in new leasing contracts.

(c) Within 120 days of the effective date of this order, the Administrator of GSA shall:

(1) contact each utility which has an area-wide contract with GSA to determine which of those companies will perform "no-cost" audits for energy efficiency and water conservation and/or potential solar and other renewable energy sources which comply with Federal life cycle costing procedures (Subpart A, 10 CFR 436),

(2) for each energy and water utility serving the Federal Government, determine which of those companies offers demand side management services and incentives and obtain a list and description of those services and incentives.

(3) prepare a list of those companies and make that list available to all Federal property management agencies through the Task Force.

(d) Within one year of the effective date of this order, the Administrator of GSA, in consultation with the Secretary of Energy, shall develop procurement techniques, methods, or contracts to speed the purchase and installation of energy, water, and renewable energy technologies in Federal facilities.

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Such techniques and methods are to be designed to utilize either direct funding by the user agency or energy savings performance contracting. The Director of OFPP shall assist the Administrator of GSA and the Secretary of Energy by eliminating unnecessary regulatory and procedural barriers which would slow the implementation of such methods, techniques, or contracts or complicate their use.

(e) Agencies are encouraged to seek technical assistance from DOE to develop and implement solar and other renewable energy projects.

(f) DOE shall conduct appropriate training for Federal agencies to assist them in identifying and funding cost-effective projects. This shall include software and other technical tools to audit facilities and identify opportunities. As resources are available, DOE shall work with utilities and the private sector to encourage their participation in Federal sector programs.

(g) DOE, in coordination with the Environmental Protection Agency (EPA), GSA, and the Department of Defense (DOD), shall develop technical assistance services for agencies to help identify and fund energy efficiency, water conservation, indoor air quality, solar and other renewable energy projects, new building design, fuel switching, and life cycle cost analysis. These services shall, at a minimum, include a help line, computer bulletin board, information and education materials, and project tracking methods. Agencies shall identify technical assistance needed to meet or exceed the goals and requirements of the Act and this order and seek such assistance from DOE.

(h) The Administrator of GSA and Secretary of Energy shall explore ways to assure the highest levels of energy efficiency, water conservation and use of solar and other renewable energy sources and shall study options such as new building performance guidelines, life cycle value engineering and designer/builder incentives such as award fees. The studies will be completed within 270 days of the effective date of this order. The OFPP will issue guidance to agencies on life cycle value engineering in the first budget following the implementation of this order.

(i) The Secretary of Energy and Administrator of GSA shall develop and distribute through the Task Force a model building commissioning program within 180 days of the effective date of this order.

Sec. 502. Retention of Savings and Rebates

(a) Within 120 days of the effective date of this order, the Director of OMB, along with the Secretary of Energy,

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Secretary of Defense, and the Administrator of GSA, shall develop guidelines and put procedures in place to allow agencies in fiscal year 1995 and after, to retain utility rebates and incentives received by the agency and savings from energy efficiency and water conservation efforts as provided in section 152 of the Energy Policy Act of 1992 and 10 U.S.C. sections 2865 and 2866.

(b) Agencies should consider ways to apply retained utility incentives and energy cost savings to additional energy and water projects at successful sites as an incentive.

Sec. 503. Performance Evaluations To recognize the responsibilities of facility managers and designers, energy managers, and others critical to implementation of this order, such as contracting officers, financial management personnel, and assigned legal staff, and to hold them accountable for results, heads of agencies shall include successful implementation of energy efficiency, water conservation, and solar and other renewable energy projects in their position descriptions and performance evaluations and those of their supervisors.

Sec. 504. Incentive Awards

(a) Agencies shall review employee incentive programs to ensure that implementation of energy and water efficiency measures are appropriately rewarded.

(b) Agencies will provide monetary incentives for staff to achieve exceptional performance in implementing the Act and this order which may include, but is not limited to, Quality Step Increases, cash awards, and productivity gainsharing. Gainsharing programs are incentive systems that allocate some portion of savings resulting from gains in productivity to the workers who produce those gains. Agencies are encouraged to experiment with organizational and team recognition awards and to nominate successful staff for the annual Federal Energy Awareness Awards. As agencies experiment with these innovative incentives they shall carefully monitor and evaluate the success of these efforts. They shall revise their efforts accordingly. These monetary incentives shall be established so that individual awards are made on a scale similar to established incentive and employee bonus programs present in each agency.

(c) Agencies will establish and provide non-monetary and honor awards to provide incentives and recognition for the achievements of the outstanding employees who contribute to reduction in energy and water use and increase the use of solar and other renewable energy sources. These awards may include increased authority, additional resources, and a series of

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options from which employees or teams of employees can choose, such as time-off awards.

Sec. 505. Project Teams/Franchising

(a) Agencies are encouraged to establish Energy Efficiency and Environmental Project Teams (Project Teams) that would be employed and empowered to implement energy efficiency, water conservation and solar and other renewable energy projects. DOE shall develop a program to train and support Project Teams, which should have particular expertise in innovative financing, including shared energy savings and energy savings performance contracting. The purpose of the program is to have agency teams able to implement projects quickly and effectively in their own agencies.

(b) Agencies are encouraged to "franchise" the services of their Project Teams. "Franchising" means that an agency would provide the services of its teams to other agencies on a reimbursable basis. The ability to access the services of other agencies' teams would foster excellence in project implementation through competition among service providers, while providing an alternative method to meet or exceed the requirements of the Act and this order for agencies that are unable to devote sufficient personnel to implement projects.

Sec. 506. FEMP Account Managers

(a) FEMP will develop a customer service program and assign account managers to agencies and/or regions so that all projects have a designated account manager. The account manager will start at the audit phase and follow a project through to commissioning, evaluation, and reporting. The account manager will provide technical assistance and will have responsibility to see that all actions possible are taken to assure success of the project.

Sec. 507. Procurement of Energy Efficient Products by Federal Agencies

(a) "Best Practice" Technologies. Agencies shall purchase energy-efficient products in accordance with the guidelines issued by the OMB, in consultation with the Defense Logistics Agency (DLA), DOE, and GSA, under section 161 of the Energy Policy Act of 1992. The guidelines shall include listings of energy-efficient products and practices used in the Federal Government. At a minimum, OMB shall update the listing annually. DLA, DOE, and GSA, shall update the portions of the listing for which they have responsibility, as new products become available and conditions change.

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(1) Agencies shall purchase products listed as energy efficient in the guidelines wherever practicable, and wherever they meet the agency's specific performance requirements and are cost-effective. Agencies shall institute mechanisms to set targets and measure progress in this regard.

(2) To further encourage a market for highly efficient products, each agency shall strive to increase purchases of products that are in the upper 25 percent of efficiency for all similar products, or products that are at least 10 percent more efficient than the minimum level that meets Federal standards. This shall apply wherever such information is available, via Federal or industry-approved testing and rating procedures.

(3) GSA and DLA, in consultation with DOE, other Federal agencies, States, and industry or other non-government organizations, shall provide all Federal agencies with information on specific products that meet these energy-efficiency criteria. Product information should be made available in both printed and electronic format.

(b) Federal Market Opportunities. DOE, after consultation with industry, utilities, and other interested parties, shall identify advanced energy-efficient and water-conserving technologies that are technically and commercially feasible but not yet available on the open market. These may include, but are not limited to, the advanced appliance technologies referenced in section 127 of the Energy Policy Act of 1992. DOE, in cooperation with GSA, DOD, NIST, and EPA, shall issue a "Federal Procurement Challenge" inviting Federal agencies to commit a specified fraction of their purchases within a given time period to advanced, high-efficiency models of products -- provided that these anticipated future products can meet the agency's energy performance and functionality requirements.

(c) Accelerated Retirement of Inefficient Equipment. DOE, in consultation with GSA and other agencies, shall establish guidelines for the early retirement of older, inefficient appliances and other energy and water using equipment in Federal facilities. Such guidelines may take into account: significant improvements in energy efficiency and/or water conservation, and subsequent reductions in operating costs; opportunities to down-size or otherwise optimize the replacement equipment as a result of associated improvements in building envelope, system, or industrial process efficiency; and reductions in pollutant emissions, use of chlorofluorocarbons (CFCs), and other environmental improvements.

(d) Review of Barriers. Each agency shall review and revise federal or military specifications, product descriptions and

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standards to eliminate barriers to and encourage Federal procurement of products that are energy-efficient or water conserving.

PART 6 - WAIVERS

Sec. 601. Waivers. Agencies may determine whether certain requirements in this order are inconsistent with the mission of the agency and seek a waiver of the provision from the Secretary of Energy. Any waivers authorized by the Secretary of Energy shall be included in the annual report on Federal energy management required under the Act.

PART 7 - REVOCATION, LIMITATION, AND IMPLEMENTATION

Sec. 701. Executive Order No. 12759, dated April 17, 1991, is hereby revoked, with the exception of sections 3, 9, and 10.

Sec. 702. This order is intended to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any other person.

Sec. 703. This order shall be effective immediately.

WILLIAM J. CLINTON

THE WHITE HOUSE
WASHINGTON

~~CONFIDENTIAL~~²⁰

Phil Lader

I wanted to make sure you
are aware of this... we may
start hearing from some
agencies.

CRasco

P.S. The sentence in ()
about brushing teeth is
an inside DPC joke -
I'll share it anytime you
wish!

EXECUTIVE OFFICE OF THE PRESIDENT

23-Feb-1994 04:36pm

TO: Brian E. Burke
TO: Paul J. Weinstein, Jr
TO: Stephen C. Warnath

FROM: Carol H. Rasco
Economic and Domestic Policy

CC: Hanna D. Curzon

SUBJECT: The Energy or toothbrush proposal!

I have now received my copy of the proposal on Energy conservation., It has been distributed to almost all the cabinet. I have been asked as have all of them to submit comment by close of business March 1. Let's come up with something by close of business Monday, Feb. 28 and take a look at it..ok? Thanks.

Hanna: document in my outbox for tickler file date listed in this email. Thanks.

EM 2/28

THE WHITE HOUSE
WASHINGTON

February 18, 1994

MEMORANDUM FOR DISTRIBUTION

FROM: T.J. GLAUTHIER *TJG*
OFFICE OF MANAGEMENT AND BUDGET

CATHY ZOI *CZOI*
OFFICE ON ENVIRONMENTAL POLICY

The Office of Management and Budget and The Office on Environmental Policy are preparing an Executive Order for federal energy and water efficiency. The draft Executive Order is a National Performance Review recommendation. It will increase energy savings, decrease air pollution, provide leadership by example, and help reduce the deficit. A draft of the Executive Order and a fact sheet are attached.

The Energy Efficiency and Water Conservation at Federal Facilities Executive Order has been under development for several months. There has been substantial input from many agencies, including DOE, DOD, and GSA. We are preparing for the Vice President to announce this Executive Order on March 8th in conjunction with a national conference for federal energy and facility managers, on the anniversary of the launching of the Reinventing Government Initiative. As such, it is imperative that we move quickly to finalize the order.

To get your input on the draft, we are hosting a briefing on Tuesday, February 22, from 2:00 to 3:00pm in room 248. All interested staff are invited to attend.

DISTRIBUTION:

Kumiki Gibson OVP
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cc: Elaine Kamark NPR
Steve Warnath OPD

**EXECUTIVE ORDER
ON ENERGY EFFICIENCY AND WATER CONSERVATION AT FEDERAL FACILITIES**

BENEFITS

- **Demonstrate Leadership by Example**
- **Reduce the Deficit**
- **Stimulate Markets for the Environmental Technologies of the Future**
- **Prevent Pollution**
- **The National Performance Review recommends an executive order to:**
 - **Address barriers to implementation of the Energy Policy Act (EPAct) for energy and water efficiency in the Federal Government**
 - **Make government work better and cost less**

What are the barriers to energy efficiency, water conservation, and the increased use of renewable energy sources in Federal facilities?

- **Lack of funding.**
- **Slow and complex procurement process for energy efficiency projects.**
- **Shortage of trained staff dedicated to projects.**
- **Lack of incentives for staff to pursue energy, water, and renewable energy projects.**
- **Lack of high-level involvement and encouragement.**

Without leadership to address these barriers, money-saving energy efficiency and water efficiency opportunities will be missed.

This Executive Order is intended to provide facility managers throughout the government with the tools they need to do their jobs well and save the taxpayers money.

Barrier: Financing. Lack of funding, and a slow and complex procurement process.

Solutions:

Budget:

- The President's FY95 budget request is up significantly for money-saving investments in energy and water efficiency -- supporting implementation of Executive Order.
- For the first time, the President's budget implements Energy Policy Act of 1992 provisions for agencies to retain 50% of rebates and energy savings, rather than having the entire amount to into the Treasury. This will provide a powerful incentive to agencies.

Innovative Financing:

- The Order will spur the use of innovative financing such as utility rebates and energy savings performance contracts. In energy savings performance contracts private companies make the efficiency upgrades. The money saved on energy bills is great enough to pay back the company and benefit the taxpayer through reduced costs to the Federal government. Often, the government does not need to provide money up front in order to begin the project. Actions under the Order include:
 - A national workshop on barriers to the use of innovative financing.
 - Eliminating unnecessary regulatory barriers.
 - Streamlining internal procedures.
 - GSA "schedule"-like contracts for energy savings companies.
 - Model solicitations and implementation guides for energy contracts.
 - A national list of qualified water and energy efficiency contractors.
 - Training to help agencies identify and fund projects.
- GSA will identify utilities that perform no-cost audits of energy and water efficiency opportunities.
- GSA will provide agencies with the names of utilities that have rebate programs and descriptions of their programs.
- DOE will provide agencies with model provisions on incorporating energy and water efficiency in new leases.

Barrier: Shortage of trained staff dedicated to projects.**Solutions:**

- Energy Efficiency & Environmental Project Teams will be trained to implement energy, water, and renewables projects.
- DOE's Federal Energy Management Program will designate a customer service representative for each Federal project to assist with development and implementation at every stage.
- Agencies are encouraged to franchise the services of project teams to provide services to other agencies on a reimbursable basis, in accordance with the NPR recommendation.
- Agencies will receive technical assistance -- over a dozen specific actions are included in the order.

Barrier: Lack of incentives for staff.**Solutions:**

- The Executive Order will direct agencies to:
 - review incentive programs to ensure that improvements in energy and water efficiency are properly rewarded.
 - provide monetary rewards for outstanding implementation of the Energy Policy Act and this executive order, including Quality Step increases, cash awards, and gainsharing programs.
 - experiment with team awards.
 - establish non-monetary and honor awards (e.g., increased authority, additional resources, time-off awards).
- Performance evaluations will provide accountability and positive incentives for:
 - energy and facility managers, building designers
 - contracting and financial team
 - the Assistant Secretary-level designee ultimately responsible for his/her agency's implementation of the Order. This person is designated to spearhead energy efficiency programs in accordance with EPCA.
- Inspectors General will conduct annual reviews of agency efforts to meet the requirements of the Energy Policy Act and the Order.

OTHER KEY PROVISIONS OF THE EXECUTIVE ORDER**REQUIREMENTS:**

- **Energy:** Increases the energy savings requirement. 30% energy use reduction by 2005—the EAct says 20% by 2000.
- **Renewables:** Sets a renewables requirement. 10% of new energy consumed by the federal government between now and 2010 must be produced from renewables—there is no requirement in the Act.
- **Water:** More aggressive time table. Under the executive order, all projects with 10-year payback or less must be installed by 2000—the Act says by 2005.
- **Federal Industrial Facilities:** Sets requirements. 20% energy use and cost reduction and installation of all water conservation measures with a ten year or less payback by 2005—there is no requirement in the Act.

TIME-LINE FOR IMPLEMENTATION:

- Agencies will do walk-through assessments of all their facilities to identify those opportunities with the greatest potential to save taxpayers money, designed to target high priority facilities to audit. *when?*
- Agencies shall audit 10 percent of their facilities each year.
- For any facility, agencies shall begin implementation of audit recommendations within six months of the audit.
- Facilities audits conducted in the last 3 years are considered "current", and do not have to begin again. They shall begin implementation of the recommendations from those audits within six months.

SHOWCASE FACILITIES:

- Agencies to designate buildings to showcase the best energy and water efficiency, and renewable energy technologies to the public.

PROCUREMENT OF ENERGY EFFICIENT PRODUCTS:

- Agencies will strive to purchase products in the top 25% of their class for energy efficiency, wherever such products are cost-effective and meet the agency's performance requirements.

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Whereas clause to be removed!

March X, 1994

EXECUTIVE ORDER

ENERGY EFFICIENCY AND WATER CONSERVATION AT FEDERAL FACILITIES

WHEREAS, this Administration is determined to make the Federal Government a leader in buying energy efficient and water conserving products;

WHEREAS, the Nation's interest is served when the Federal Government makes more efficient use of natural resources;

WHEREAS, the recommendations from the National Performance Review support this Administration's commitment to make the Federal Government work better and cost less by reducing unnecessary and wasteful spending;

WHEREAS, the National Energy Conservation Policy Act as amended by the Energy Policy Act of 1992 establishes requirements for Federal agencies to increase energy efficiency and water conservation and make use of solar and other renewable energy sources;

WHEREAS, the link between water consumption and energy consumption makes it important to integrate energy and water efficiency upgrades to ensure maximum cost savings;

WHEREAS, it is this Administration's policy to pursue aggressively energy efficiency, water conservation, and the use of solar and other renewable energy sources in order to prevent pollution;

NOW THEREFORE, I, WILLIAM J. CLINTON, by the authority vested in me as President by the Constitution and the laws of the United States of America, including the Energy Policy and Conservation Policy Act (Public Law 94-163, 89 Stat. 871, 42 U.S.C. 6201 et seq) as amended by the Energy Policy Act of 1992 (Public Law 102-486) and section 301 of Title 5, United States Code, hereby order as follows:

*Solved
Problem*

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PART 1 - DEFINITIONS

For the purposes of this order:

Sec. 101. The "Act" means the Federal energy management provisions of the National Energy Conservation Policy Act, which is amended by the Energy Policy Act of 1992.

Sec. 102. The term "comprehensive facility audit" means a survey of a building or facility that provides sufficiently detailed information to allow an agency to enter into energy savings performance contracts or to invite inspection and bids by private upgrade specialists for direct agency-funded efficiency investments. It shall include information such as the following:

(1) the type, size, energy use and performance of the major energy using systems and their interaction with the building envelope, the climate and weather influences, usage patterns, and related environmental concerns;

(2) appropriate energy and water conservation maintenance and operating procedures;

(3) recommendations for the acquisition and installation of energy conservation measures, including solar and other renewable energy and water conservation measures; and

(4) a strategy to implement the recommendations.

Sec. 103. The term "cost-effective" refers to life cycle cost-effective measures, which can include energy efficiency and water conservation measures and solar and other renewable energy sources and have a payback of ten years or less. Under the Act, all energy and water projects with a 10 year payback or less must be implemented.

Sec. 104. The term "demand side management" refers to utility sponsored programs to increase energy efficiency and water conservation or the management of demand and includes load management techniques.

Sec. 105. The term "energy savings performance contracts" means a contract which provides for the performance of services for the audit, design, acquisition, installation, testing, operation, and where appropriate, maintenance and repair, of an identified energy conservation measure or series of measures at one or more locations. These contracts are guaranteed and are paid only with quantifiable results from baseline energy use data with ongoing monitoring and evaluation.

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Sec. 106. The terms "executive agency" or "agency" means an Executive agency as defined in 5 U.S.C. section 105. For the purpose of this order, military departments, as defined in 5 U.S.C. section 102, are covered under the auspices of the Department of Defense.

Sec. 107. The term "Federal building" means any individual building, structure, or part thereof, including the associated energy or water consuming support systems, which is constructed, renovated, leased or purchased in whole or part for use by the Federal government and which consumes energy and/or water.

Sec. 108. The term "Federal facility" means any building or collection of buildings, grounds, or structure, as well as any fixture or part thereof which is owned by the United States or any Federal agency or which is held by the United States or any Federal agency under a lease-acquisition agreement under which the United States or a Federal agency will receive fee simple title under the terms of such agreement without further negotiation. The term also applies to facilities and/or grounds or any leased building and/or grounds in which the initial term of the lease exceeds five years.

Sec. 109. The term "franchising" means that an agency would provide the services of its teams to other agencies on a reimbursable basis.

Sec. 110. The term "gainsharing" refers to incentive systems that allocate some portion of savings resulting from gains in productivity to the workers who produce those gains.

Sec. 111. The term "industrial facilities" means any fixed equipment, building, or complex for the production of goods, using large amounts of capital equipment in connection with, or as part of, any process or system, and within such building or complex the majority of energy use is not primarily used to contribute to the heating, cooling, lighting, ventilation, or service hot water energy load requirements of the building.

Sec. 112. The term "life cycle cost" shall continue to be defined as it is at this time for energy and water efficiency projects in the Federal Government, pursuant to 10 CFR 436.

Sec. 113. The term "prioritization audit" means a rapid assessment that will be used by an agency to identify those facilities with the highest priority projects based on the relative economic merit and to schedule comprehensive facility audits prior to project implementation. The prioritization audit shall include information such as the following:

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(1) the type, size, energy and water use level and the major energy and water using systems; and

(2) the need, if any, for acquisition and installation of life cycle cost-effective energy and water conservation measures, including solar and other renewable energy resource measures.

Sec. 114. The term "shared energy savings contracts" means a method whereby the contractor incurs the cost of implementing energy savings measures including: performing the audit, designing the project; acquiring and installing equipment; training personnel; and operating and maintaining equipment. In exchange for providing these services, the contractor gains a share of any energy cost savings directly resulting from implementation of such measures during the term of the contract. These contracts may include monitoring and evaluation.

Sec. 115. The term "solar and other renewable energy sources" include, but are not limited to agriculture and urban waste, geothermal energy, solar energy, and wind energy.

Sec. 116. The term "utility" means any person, State, agency or Federal agency which is engaged in the business of producing or selling of electricity or engaged in the local distribution of natural gas or water to any ultimate consumer.

PART 2 - INTERAGENCY COORDINATION

Sec. 201. Interagency Coordination. The Department of Energy (DOE) shall take the lead in implementing this order through the Federal Energy Management Program (FEMP). The Interagency Energy Policy Committee ("656 Committee") and the Interagency Energy Management Task Force (Task Force) shall serve as forums to coordinate all the issues involved in implementing energy efficiency, water conservation, and solar and other renewable energy in the Federal sector.

PART 3 - AGENCY GOALS AND REPORTING REQUIREMENTS FOR ENERGY AND WATER EFFICIENCY IN FEDERAL FACILITIES

Sec. 301 Energy Consumption Reduction Goals.

(a) Each agency shall develop and implement a program to reduce energy consumption, based on Btu's-per-gross-square-foot, by 30 percent by 2005. The 30 percent reductions shall be measured from the agency's 1985 energy use. Each agency's implementation program shall be designed to speed the introduction of life cycle cost-effective, energy-efficient technologies into Federal facilities, and to meet or exceed the

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goals and requirements of the Act and this order.

(b) Each agency shall develop and implement a program under which its industrial facilities in the aggregate increase energy efficiency by at least 20 percent by 2005 as compared to the 1990 benchmark and implement all water conservation projects with 10 year payback or better. DOE, in coordination with the "656" Committee, shall establish definitions and appropriate indicators of energy and water efficiency and for energy and water consumption and costs in Federal industrial facilities for the purpose of utilizing a base year of 1990.

Sec. 302. Energy and Water Audits of Federal Facilities

(a) Each agency responsible for managing Federal facilities shall conduct or obtain a prioritization audit on each of the facilities the agency manages within 18 months of the effective date of this order. These shall be used to target comprehensive facility audits.

(b) Within 180 days of the effective date of this order, each agency shall develop and begin implementation of a ten year plan to conduct or obtain comprehensive audits.

(1) Implementation of the plan shall ensure that comprehensive audits on at least ten percent of the agency's facilities are completed each year. Property management agencies with less than 100 facilities will plan and execute a minimum of ten comprehensive audits per year until all facilities are audited.

(2) Comprehensive audits of facilities performed within the last three years may be considered current for the purposes of implementation and are not required to be audited again.

(3) "No-cost" audits, such as those outlined in Section 501 (c) below, shall be utilized to the maximum extent practicable.

(c) Exempt Facilities. Recognizing that the mission within exempt facilities may not allow energy efficiency and water conservation in certain operations, actions shall be taken to reduce all other energy and water waste using the procedures described in the Act and this order. Each agency shall develop and implement a plan to improve energy and water efficiency in facilities listed as exempt from the energy and water reduction requirements by an agency pursuant to the Act. The prioritization audits should allow agencies to refine their designation of facilities as "exempt" or "industrial," so that

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only individual buildings in which industrial or energy-intensive operations are conducted remain designated as "exempt" or "industrial." Within 21 months of the effective date of this Order each agency shall report to FEMP and to the Office of Management and Budget (OMB) the redesignations that the agency is making as a result of the prioritization audits.

Sec. 303. Implementation of Energy Efficiency and Water Conservation Projects.

(a) Implementation of New Audit Recommendations. Within one year of the effective date of this order, agencies shall have identified high priority facilities to audit and completed the first 10 percent of the required comprehensive facility audits, based on preliminary recommendations from the prioritization audits in Section 302. Within 180 days of the comprehensive facility audit of each facility, agencies shall begin implementing recommendations for installation of energy conservation, water efficiency and renewable energy technologies for that facility that:

- (1) are life cycle cost-effective, and
- (2) have a payback less than 10 years.

(b) Implementation of Existing Audits. Within 180 days agencies shall begin to implement recommendations from comprehensive audits performed within the last three years shall begin to be implemented within 180 days of the effective date of this order, provided they:

- (1) are life cycle cost-effective, and
- (2) have a payback less than 10 years.

Sec. 304. Solar and Other Renewable Energy

(a) The goal of the Federal Government is expressed as follows: by the year 2010, 10 percent of the additional energy supplied to the Federal sector relative to energy usage in 1993 shall be obtained from new solar and other renewable energy sources. DOE shall develop a program for achieving this goal and submit it to the "656" Committee for review within 210 days of the effective date of this order. DOE shall lead the effort to assist agencies in meeting this goal.

(b) All solar and other renewable energy projects which are cost-effective and meet the goals of this order shall be implemented. In the case of operations, such as remote site pumping or relay stations that use diesel fuel, cost calculations shall be undertaken to consider conversion to solar electric. Each agency shall seek an appropriate level of funding needed to

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achieve the solar and renewables goals of the Act and this order through appropriations and shall obtain supplemental funds through alternative funding options identified by the DOE.

Sec. 305. Minimization of Petroleum-Based Fuel Use in Federal Buildings and Facilities. All agencies shall develop and implement programs to reduce the use of petroleum in their buildings and facilities through switching to a less polluting and non-petroleum based energy source, such as natural gas or solar and other renewable energy sources. Alternatively, where alternative fuels are not practical or cost-effective, agencies shall strive to improve the efficiency with which they use the petroleum. Each agency shall survey its buildings and facilities to determine where the potential for a dual-fuel capability exists and shall provide dual-fuel capability where practicable.

Sec. 306. New Space

(a) New Federal Facility Construction. Each agency involved in the construction of a new facility, which is to be either owned by or leased to the Federal Government, shall:

(1) assure that all such facilities are designed to minimize life cycle costs, and maximize energy efficiency, water conservation and the use of solar or other renewable energy technologies, and maintain or improve occupant health and safety;

(2) assure that the design and construction of facilities meet or exceed the energy performance standards applicable to Federal residential or commercial buildings as set forth in 10 CFR 435, local building standards or a Btu-per-gross-square-foot ceiling as determined by the Task Force within 120 days of the effective date of this order, whichever will result in a lower life cycle cost over the life of the facility;

(3) within 270 days of the effective date of this order, establish and implement a facility commissioning program that will ensure that the construction of such facilities meets the requirements outlined above before the facility is accepted into the Federal facility inventory; and

(4) utilize passive solar design and adopt active solar technologies where they are cost-effective.

(b) New Leases For Existing Facilities. Agencies entering into leases, including the renegotiation or extension of existing leases, shall identify the energy and water consumption of those facilities and seek to incorporate provisions into the lease that ensure the most life cycle cost-effective energy and water use, while maintaining or improving occupant health and safety. This

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includes renovation of proposed space prior to or within the first year of the lease. Responsible agencies shall seek to negotiate the cost of the lease, taking into account the reduced energy and water costs during the term of the lease.

(c) Government-Owned Contractor-Operated Facilities. All Government-Owned Contractor-Operated (GOCO) facilities shall comply with the goals and requirements of this order. Energy and water management goals shall be incorporated into their management contracts.

Sec. 307. Showcase Facilities

(a) New Building Showcases Each agency that constructs at least five buildings annually shall designate 10 percent of its new buildings, but no less than one building, at the earliest stage of development to be exemplary showcases highlighting the most advanced technologies and practices for energy efficiency, water conservation and use of solar and other renewable energy.

(b) Demonstrations in Existing Facilities. Each agency shall designate its headquarters facility or other important Washington, D.C.-area building and at least one other major facility to become showcases to highlight energy and water efficiency and should also attempt to incorporate cogeneration, solar and other renewable energy technologies, and indoor air quality improvements. Selection shall be based on considerations such as high level of non-Federal visitors, historic significance, and/or where those using or visiting the building are likely to learn from displays and to implement similar projects. The agency shall develop and implement plans within 180 days of the effective date of this order and work in cooperation with DOE to determine the most effective strategies and ways to identify and secure funds needed to implement these demonstrations.

Sec. 308. Annual Reporting Requirements

(a) As required under the Act, the head of each agency shall report annually to the Secretary of Energy and OMB, in a format specified by the Secretary and OMB after consulting with the "656" Committee, modified to include progress in achieving the goals of this order. The Secretary of Energy shall prepare a consolidated report to the President and Congress annually on the implementation of this order.

(1) The report should provide information on energy and water use and cost data providing the greatest level of detail practical for buildings and facilities by energy source.

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(b) At least once annually, each agency head shall report progress in meeting this order at a Cabinet meeting or other forum designated by the President.

(c) DOE shall develop 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 such as energy exploration, development, processing, transportation, storage, distribution, consumption and disposal, and related impacts on the environment. The report shall examine methods for conducting the life cycle analysis and implementing it in the Federal sector and make appropriate recommendations. It shall be forwarded to the Office on Environmental Policy and OMB, as well as other relevant entities.

Sec. 309. Inspector General Review and Agency Accountability. One year after the effective date of this order, and each year thereafter, the President's Council on Integrity and Efficiency shall report to the President about efforts and actions by agencies to meet the requirements of this order.

(a) The Inspector General for the Department of Energy shall develop audit criteria for use by other Inspectors General in conducting such audits, and establish time frames for the submission of agency reports.

(b) Such criteria shall include, at a minimum, an assessment of agency efforts to meet the requirements of the Act and this order, the success of those efforts, and recommendations to improve agency performance if appropriate.

(c) Each agency head shall designate a senior official, at the Assistant Secretary level or above, to be an advocate and to be responsible for achieving the requirements of this order and appoint him/her to the "656" Committee. The agency head and the "656" Committee member shall have ultimate responsibility for implementation of this order. They shall coordinate with the Federal Environmental Executive and Agency Environmental Executives established under Executive Order 12873.

PART 4 - USE OF INNOVATIVE FINANCING AND CONTRACTUAL MECHANISMS

Sec. 401. Financing Mechanisms

(a) Each agency shall seek an appropriate level of funding needed to meet or exceed the goals and requirements of the Act and this order. Use of direct appropriations for energy efficiency and water conservation projects is the preferred

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method of financing, because the Federal Government retains all of the savings. Each agency shall identify, as part of its fiscal year 1996 and future budget requests, funds to be invested in comprehensive facility audits, facility energy manager training and the costs of projects implementing the recommendations of audits. As required by the Act, the Director of OMB shall modify budget formulation instructions to include appropriation requests and the requirement for reporting.

(b) Where appropriations are not available, agencies shall utilize innovative financing and contractual mechanisms, including, but not limited to, utility demand side management programs, shared energy savings contracts, and energy savings performance contracts, to meet or exceed the goals and requirements of the Act and this order.

(c) Within 180 days of the effective date of this order, the Director of OMB, or his/her designee, with the Task Force shall host a national workshop regarding perceived barriers and problems associated with financing and retention of savings. Based on the results of that meeting, the Director shall assist the Administrator of the General Services Administration (GSA) and the Secretary of Energy in eliminating unnecessary regulatory and procedural barriers which slow the utilization of such audit, financing, and contractual mechanisms or would complicate their use. Those actions that are cost-effective shall be implemented as soon as possible, chiefly through the process required in (d) below.

(d) Agency heads shall work with their procurement officials to identify and eliminate internal regulations, procedures or other barriers to implementation of the Act and this order. DOE shall develop a model set of recommendations that will be forwarded to the Administrator of OFPP in order to assist agencies in eliminating the identified barriers.

PART 5 - TECHNICAL ASSISTANCE, INCENTIVES, AND AWARENESS

Sec. 501. Technical Assistance

(a) To assist Federal energy managers in implementing energy efficiency and water conservation projects, within 180 days, DOE shall develop and make available through the Task Force:

(1) guidance explaining the relationship between water use and energy consumption and the energy savings achieved through water conservation measures,

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(2) a model solicitation and implementation guide for innovative funding mechanisms in section 401 of this order,

(3) a national list of qualified energy and water service companies offering to finance energy efficiency and water conservation projects,

(4) the capabilities and technologies available through the national energy laboratories, and

(5) an annually updated guidance manual for Federal energy managers that includes at a minimum new sample contracts or contract provisions, position descriptions, case studies, recent guidance, and success stories.

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(b) The Secretary of Energy, in coordination with the Administrator of GSA, shall make available through the Task Force:

(1) the national list required by the Act of qualified water and energy efficiency contractors for inclusion on a Federal schedule, and

(2) a model provision on energy efficiency and water conservation for inclusion in new leasing contracts.

(c) Within 120 days of the effective date of this order, the Administrator of GSA shall:

(1) contact each utility which has an area-wide contract with GSA to determine which of those companies will perform "no-cost" audits for energy efficiency and water conservation and/or potential solar and other renewable energy sources which comply with Federal life cycle costing procedures (Subpart A, 10 CFR 436),

(2) for each energy and water utility serving the Federal Government, determine which of those companies offers demand side management services and incentives and obtain a list and description of those services and incentives.

(3) prepare a list of those companies and make that list available to all Federal property management agencies through the Task Force.

(d) Within one year of the effective date of this order, the Administrator of GSA, in consultation with the Secretary of Energy, shall develop procurement techniques, methods, or contracts to speed the purchase and installation of energy, water, and renewable energy technologies in Federal facilities.

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Such techniques and methods are to be designed to utilize either direct funding by the user agency or energy savings performance contracting. The Director of OFPP shall assist the Administrator of GSA and the Secretary of Energy by eliminating unnecessary regulatory and procedural barriers which would slow the implementation of such methods, techniques, or contracts or complicate their use.

(e) Agencies are encouraged to seek technical assistance from DOE to develop and implement solar and other renewable energy projects.

(f) DOE shall conduct appropriate training for Federal agencies to assist them in identifying and funding cost-effective projects. This shall include software and other technical tools to audit facilities and identify opportunities. As resources are available, DOE shall work with utilities and the private sector to encourage their participation in Federal sector programs.

(g) DOE, in coordination with the Environmental Protection Agency (EPA), GSA, and the Department of Defense (DOD), shall develop technical assistance services for agencies to help identify and fund energy efficiency, water conservation, indoor air quality, solar and other renewable energy projects, new building design, fuel switching, and life cycle cost analysis. These services shall, at a minimum, include a help line, computer bulletin board, information and education materials, and project tracking methods. Agencies shall identify technical assistance needed to meet or exceed the goals and requirements of the Act and this order and seek such assistance from DOE.

(h) The Administrator of GSA and Secretary of Energy shall explore ways to assure the highest levels of energy efficiency, water conservation and use of solar and other renewable energy sources and shall study options such as new building performance guidelines, life cycle value engineering and designer/builder incentives such as award fees. The studies will be completed within 270 days of the effective date of this order. The OFPP will issue guidance to agencies on life cycle value engineering in the first budget following the implementation of this order.

(i) The Secretary of Energy and Administrator of GSA shall develop and distribute through the Task Force a model building commissioning program within 180 days of the effective date of this order.

Sec. 502. Retention of Savings and Rebates

(a) Within 120 days of the effective date of this order, the Director of OMB, along with the Secretary of Energy,

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Secretary of Defense, and the Administrator of GSA, shall develop guidelines and put procedures in place to allow agencies in fiscal year 1995 and after, to retain utility rebates and incentives received by the agency and savings from energy efficiency and water conservation efforts as provided in section 152 of the Energy Policy Act of 1992 and 10 U.S.C. sections 2865 and 2866.

(b) Agencies should consider ways to apply retained utility incentives and energy cost savings to additional energy and water projects at successful sites as an incentive.

Sec. 503. Performance Evaluations To recognize the responsibilities of facility managers and designers, energy managers, and others critical to implementation of this order, such as contracting officers, financial management personnel, and assigned legal staff, and to hold them accountable for results, heads of agencies shall include successful implementation of energy efficiency, water conservation, and solar and other renewable energy projects in their position descriptions and performance evaluations and those of their supervisors.

Sec. 504. Incentive Awards

(a) Agencies shall review employee incentive programs to ensure that implementation of energy and water efficiency measures are appropriately rewarded.

(b) Agencies will provide monetary incentives for staff to achieve exceptional performance in implementing the Act and this order which may include, but is not limited to, Quality Step Increases, cash awards, and productivity gainsharing. Gainsharing programs are incentive systems that allocate some portion of savings resulting from gains in productivity to the workers who produce those gains. Agencies are encouraged to experiment with organizational and team recognition awards and to nominate successful staff for the annual Federal Energy Awareness Awards. As agencies experiment with these innovative incentives they shall carefully monitor and evaluate the success of these efforts. They shall revise their efforts accordingly. These monetary incentives shall be established so that individual awards are made on a scale similar to established incentive and employee bonus programs present in each agency.

(c) Agencies will establish and provide non-monetary and honor awards to provide incentives and recognition for the achievements of the outstanding employees who contribute to reduction in energy and water use and increase the use of solar and other renewable energy sources. These awards may include increased authority, additional resources, and a series of

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options from which employees or teams of employees can choose, such as time-off awards.

Sec. 505. Project Teams/Franchising

(a) Agencies are encouraged to establish Energy Efficiency and Environmental Project Teams (Project Teams) that would be employed and empowered to implement energy efficiency, water conservation and solar and other renewable energy projects. DOE shall develop a program to train and support Project Teams, which should have particular expertise in innovative financing, including shared energy savings and energy savings performance contracting. The purpose of the program is to have agency teams able to implement projects quickly and effectively in their own agencies.

(b) Agencies are encouraged to "franchise" the services of their Project Teams. "Franchising" means that an agency would provide the services of its teams to other agencies on a reimbursable basis. The ability to access the services of other agencies' teams would foster excellence in project implementation through competition among service providers, while providing an alternative method to meet or exceed the requirements of the Act and this order for agencies that are unable to devote sufficient personnel to implement projects.

Sec. 506. FEMP Account Managers

(a) FEMP will develop a customer service program and assign account managers to agencies and/or regions so that all projects have a designated account manager. The account manager will start at the audit phase and follow a project through to commissioning, evaluation, and reporting. The account manager will provide technical assistance and will have responsibility to see that all actions possible are taken to assure success of the project.

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Sec. 507. Procurement of Energy Efficient Products by Federal Agencies

(a) "Best Practice" Technologies. Agencies shall purchase energy-efficient products in accordance with the guidelines issued by the OMB, in consultation with the Defense Logistics Agency (DLA), DOE, and GSA, under section 161 of the Energy Policy Act of 1992. The guidelines shall include listings of energy-efficient products and practices used in the Federal Government. At a minimum, OMB shall update the listing annually. DLA, DOE, and GSA, shall update the portions of the listing for which they have responsibility, as new products become available and conditions change.

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(1) Agencies shall purchase products listed as energy efficient in the guidelines wherever practicable, and wherever they meet the agency's specific performance requirements and are cost-effective. Agencies shall institute mechanisms to set targets and measure progress in this regard.

(2) To further encourage a market for highly efficient products, each agency shall strive to increase purchases of products that are in the upper 25 percent of efficiency for all similar products, or products that are at least 10 percent more efficient than the minimum level that meets Federal standards. This shall apply wherever such information is available, via Federal or industry-approved testing and rating procedures.

(3) GSA and DLA, in consultation with DOE, other Federal agencies, States, and industry or other non-government organizations, shall provide all Federal agencies with information on specific products that meet these energy-efficiency criteria. Product information should be made available in both printed and electronic format.

(b) Federal Market Opportunities. DOE, after consultation with industry, utilities, and other interested parties, shall identify advanced energy-efficient and water-conserving technologies that are technically and commercially feasible but not yet available on the open market. These may include, but are not limited to, the advanced appliance technologies referenced in section 127 of the Energy Policy Act of 1992. DOE, in cooperation with GSA, DOD, NIST, and EPA, shall issue a "Federal Procurement Challenge" inviting Federal agencies to commit a specified fraction of their purchases within a given time period to advanced, high-efficiency models of products -- provided that these anticipated future products can meet the agency's energy performance and functionality requirements.

(c) Accelerated Retirement of Inefficient Equipment. DOE, in consultation with GSA and other agencies, shall establish guidelines for the early retirement of older, inefficient appliances and other energy and water using equipment in Federal facilities. Such guidelines may take into account: significant improvements in energy efficiency and/or water conservation, and subsequent reductions in operating costs; opportunities to down-size or otherwise optimize the replacement equipment as a result of associated improvements in building envelope, system, or industrial process efficiency; and reductions in pollutant emissions, use of chlorofluorocarbons (CFCs), and other environmental improvements.

(d) Review of Barriers. Each agency shall review and revise federal or military specifications, product descriptions and

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standards to eliminate barriers to and encourage Federal procurement of products that are energy-efficient or water conserving.

PART 6 - WAIVERS

Sec. 601. Waivers. Agencies may determine whether certain requirements in this order are inconsistent with the mission of the agency and seek a waiver of the provision from the Secretary of Energy. Any waivers authorized by the Secretary of Energy shall be included in the annual report on Federal energy management required under the Act.

PART 7 - REVOCATION, LIMITATION, AND IMPLEMENTATION

Sec. 701. Executive Order No. 12759, dated April 17, 1991, is hereby revoked, with the exception of sections 3, 9, and 10.

Sec. 702. This order is intended to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any other person.

Sec. 703. This order shall be effective immediately.

WILLIAM J. CLINTON

THE WHITE HOUSE

WASHINGTON

February 28, 1994

DPC STAFF MEMORANDUM-CLOSE HOLD

MEMORANDUM FOR CAROL RASCO

FROM: BRIAN BURKE
STEVE WARNATH
HOPE SCHMELTZER

SUBJECT: Executive Order On Energy Efficiency And Water
Conservation At Federal Facilities

The attached Executive Order on Energy Efficiency And Water Conservation at Federal Facilities ("EO") is in OMB review and you have asked us to review it and comment. Our comments and recommendation are set forth below.

Process & General Comments

- Work on this EO has been underway by OEP and OMB for more than 11 months yet no other WH office was invited to participate. The deliberative process on an executive order designed to increase energy and water efficiency in the federal government should have included more than just OEP, OMB and several mid-level environmental managers from DOE and GSA. This is exactly the limited participation that has on numerous occasions resulted in environmental executive orders that lack economic analysis (NEC), scientific credibility (OSTP), or analysis of the broader domestic policy, agency, political and stakeholder issues (DPC). Consequently, past environmental executive orders has resulted in front-page controversy and embarrassment to the administration.

- Agencies who only recently received this EO don't know that this order does not reflect a broad WH consensus. They have to assume that it does. Consequently, the agency responses will be directed to the WH and may be angry given the unknown breadth of the EO's mandate and the short turn-around-time.

- The review schedule is rushed. The way that OEP and OMB have structured the review, there simply is not sufficient time to conduct a responsible review of all aspects of the 16 page EO, including whether it achieves the goal of energy and water efficiency at the right level, in the best way and over the proper time period.

- The EO is meant to dovetail with the National Energy Conservation Policy Act. However, it is unclear whether the goals of the Act are being met, and if they are, whether the EO

will divert agency attention away from meeting those goals. Will the people most qualified to respond to the EO have the time, given that they are probably the same people who are implementing the Act?

- Absolutely no cost information has been provided. What will this cost the federal government and what problems will it cost the agencies over an extended period of time? It was stated that the existing agency budgets will not be affected by the requirements set forth in this order because such funding has already been appropriated. This is unclear in light of the fact that the EO calls for activities to be conducted over the next ten years. It will be important to see what agency cost related comments are provided.

- It is not clear whether agencies will be able to incorporate requests for conservation technologies into their bid specifications, although the memo accompanying the EO mentions doing so. In addition, there is no discussion of procurement procedures and whether agencies will be permitted to reject the low bid on a contract in favor a bid which saves money through energy conservation. Agencies may be helpless to implement large portions of this EO without procurement flexibility (See Sections 304(b) 305, 306, 307).

Specific Comments

Generally, the EO's goal of advancing energy and water efficiency in the Federal government is perfectly reasonable and necessary. However, it will be difficult to properly assess the full implications of the EO within the short period provided for analysis, comment and approval. Specific comments follow.

- The definitions section of this EO is long and therein may lie a host of policy problems. For example it is not clear what the drafters meant by the term "cost-effective". (Agencies are required by the draft to begin implementing recommendations for installation of energy conservation water efficiency and renewable energy technologies that are "life cycle cost effective"). During the first meeting to discuss this term, there was considerable disagreement about the assumptions underlying and the meaning of this one phrase.

- Another example of a potential policy problem exists in the definition of the term "renewable energy resources", which specifically includes urban waste. Encouraging Federal agencies to view urban waste as a renewable resource could subject the administration to criticism that it is undermining the recently-signed Environmental Justice Executive Order. Urban waste-to-energy incinerators are often built in low income or minority communities.

- It is unclear who will pay the cost of requiring government-owned contractor-operated facilities to comply. Will the EO

obligate the agency to pay, regardless of who reaps the utility savings? Or will this only apply prospectively to new or renegotiated contracts?

- Although the memo accompanying the EO purports to identify all areas where the EO differs from the Act, a cursory review shows there are additional differences, for instance:

Showcase Facilities: The Act tells the Secretary of DOE and the Administrator of GSA to establish demonstration programs in federally owned facilities or federally assisted housing where DOE determines it would accelerate commercial viability. In addition, the proposals would be funded based on cost-effectiveness, energy efficiency, technical feasibility and reliability, lack of Federal market penetration and potential needs of the agency, projected over 5-10 years.

The EO, however, requires every agency to designate its headquarters or other prominent DC building as a showcase, selecting based on whether the building has a high level of non-federal visitors, historic significance, and whether those visiting the building are likely to learn from the display.

While the selection criteria are not necessarily incompatible, neither are they complimentary. The EO asks agencies to spend their resources on a prominent DC building regardless of whether larger energy savings could be realized elsewhere. Further, it does not take into account that DOE and GSA may already have designated a showcase building for an agency which does not meet the EO criteria. Finally, while it is a nice thought to keep all of the showcase technology in DC, the technology would be more accessible to the rest of the country if the showcases were located outside the Beltway.

Recommendation

OEP wants to expedite the review and signing of this EO so that the VP can announce its signing at a gathering of federal agency environmental managers on March 8th. We recommend that the EO not be rushed for this purpose since considerable concerns remain. We recommend that the target date for either the signing or announcement of this order should be in April, around Earth Day. The later date will assure adequate treatment by all affected agencies and the WH. Allowing additional time for review would permit the VP to discuss NPR recommendations and the fact that the EO is being developed.



Department of Energy
Office of Public Affairs
PA-1
Washington, D.C. 20585

file

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Date: 5/4/93

To: Carol Rasco

FAX Number: _____ Verification Number: _____

From: ~~J. Gaudin~~ Gaudin

This transmittal consists of 3 page(s) excluding this cover sheet.

REMARKS:

THIS FORM MARKS THE FILE LOCATION OF ITEM NUMBER 1-2
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'Likelihood of a Disaster Is High,' Report Says Of Nuclear Arms Plants

By Thomas W. Lippman
Washington Post Staff Writer

Deteriorating equipment, worker sabotage and inept management have undermined safety at U.S. nuclear weapons factories to the point where "the likelihood of a disaster is high," according to an internal report by the Energy Department's outgoing nuclear safety director.

The FBI is investigating "multiple incidents of intentional tampering" with wires and valves that could have led to disastrous explosions, the report said, adding that Energy Department contractors "are failing to adequately protect workers, the public and the environment."

The Energy Department has long acknowledged safety and environmental problems throughout its 12-state complex of nuclear reactors, uranium plants and plutonium manufacturing facilities that produce the nation's nuclear warheads.

But the new report indicates that almost four years after former Energy secretary James D. Watkins went public with the problems and pledged to change the "culture" of the weapons plants, the system remains out of control.

Some of the accidents and equipment failures it documents were reported when they occurred, but other incidents are disclosed for the first time. In the most recent case, two workers suffered intakes of plutonium last month at the plutonium production and refining plant in Hanford, Wash.

The report was prepared by the Energy Department's Office of Nuclear Safety, which Energy Secretary Hazel R. O'Leary has announced she intends to merge into the office of an assistant secretary for environmental safety and health. The report was written in an unsuccessful attempt by the office's director, Steven M. Blush, to persuade O'Leary to change her plans.

In page after page listing safety violations and incidents of sabotage, Blush argued that these problems were discovered by his staff, and therefore his office should be preserved as a separate department. But O'Leary has said that she wants concern for safety integrated into all the department's operations, rather than delegated to a separate, understaffed unit.

O'Leary accepted Blush's resignation earlier this month, effective June 1. But yesterday, as news of his report became public, O'Leary removed him from his job.

Energy Department public affairs director Michael Gaudin described the report as "self-serving" and in places "contradictory." He pointed out that it said "the status of nuclear safety within DOE has significantly improved" in the past three years. But it also said "further improvements in nuclear safety ... are urgently needed."

In the aggregate, the incidents in Blush's report indicate that the U.S. nuclear weapons complex is vulnerable to serious nuclear accidents, such as the recent one in Tomsk, Russia, when a tank of uranium waste exploded and spread radioactive contamination over a large area.

Among the most alarming recent incidents and problems the report listed:

- Valves in a hydrogen feed line at

the Los Alamos National Laboratory in New Mexico were deliberately loosened. The "potential consequences" of this 1992 incident included fires and explosions that would have released plutonium and other radioactive materials into the environment. Inadequate supervision of workers and a "degrading relationship" between divisions of the laboratory were cited as possible reasons for the sabotage.

In January, a similar "degrading relationship" between workers and management at the Advanced Test Reactor in Idaho led to several incidents of tampering, including cutting wires and removing cable identification tags.

Structural metal rods holding racks of highly radioactive, used nuclear fuel at the Idaho Chemical Processing plant have corroded and bent so badly that the fuel units are too close together, "increasing the potential" for what is known as a "criticality accident"—inadvertent achievement of critical mass, which could set off a nuclear chain reaction.

In August 1992, workers in a lithium processing plant at Hanford "heard pipes banging and felt the deck they were standing on move." They fled, and "seconds later the piping system broke apart." This incident did not involve radioactive material, the report said, but is a "textbook case of how institutional failures can lead to accidents."

Blush's report said the tampering incidents and at least two cases in which records of accidents and radioactive releases were falsified have been referred to the Justice Department for possible prosecution.

Experts outside the department and members of watchdog groups said yesterday they agreed with Blush about the scope of the problem but disagreed with him on how to deal with it.

"Blush is a top-notch nuclear safety professional, but he's wrong in this case," said James D. Werner, an environmental engineer at the Natural Resources Defense Council. Blush's office "had the appearance of effectiveness because he was pumping out reports, but there is no substitute for fundamental restructuring."

Daryl Kimball, a spokesman for Physicians for Social Responsibility, said his organization found the report "shocking but not surprising." He said O'Leary's planned consolidation is "a good move, because previously the separation of oversight and safety functions within the department was not serving the interest of the public and the workers."

The Energy Department's Gaudin said Blush's report "tries to make the argument that the only way this can be handled is through a separate office with Blush at the head of it, and we don't agree with that. These incidents are of great concern and we will no doubt have them in the future. We need to get a handle on them and make safety a priority. The way to do that is through the restructuring of the department."

Gaudin distributed letters from members of Congress and nuclear safety experts written in 1989, when Watkins created Blush's office, saying the move was not a good idea and arguing that it would be preferable to beef up the office of the assistant secretary. That is what O'Leary is now doing.

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THE WASHINGTON POST



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September 28, 1993
(Senate Floor)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 2445 -- ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL, FY 1994

(Sponsors: Byrd (D), West Virginia; Johnston (D), Louisiana)

This Statement of Administration Policy expresses the Administration's views on H.R. 2445, the Energy and Water Development Appropriations Bill, FY 1994, as reported by the Senate Appropriations Committee. The Administration supports Senate passage of H.R. 2445 and will work with the Congress to address the concerns described below.

Superconducting Super Collider (SSC)

The Administration commends Committee action to restore full funding for the SSC. The SSC will maintain U.S. preeminence in basic scientific research and stimulate development of new technologies in areas important to the future health of the U.S. economy.

President's Investment Program

The Committee bill supports several specific investments, including cooperative research and development agreements and most of the increase requested for solar and renewable energy programs.

The Committee bill deletes funding for construction of the Linear Accelerator B-Factory. The Administration expects the Department of Energy to select a site for the B-Factory shortly and urges the Senate to restore the \$36 million requested for this project.

The Committee bill would not provide the requested \$26 million for construction of the Advanced Neutron Source (ANS), one of the President's priority investment initiatives. At the same time, the Committee has added \$19 million and earmarked an additional \$3 million for the Los Alamos National Laboratory to operate and perform neutron scattering experiments at the Los Alamos Meson Physics Facility (LAMPF). LAMPF was proposed for closure in the President's budget. There are several other facilities in the United States that can perform small scale neutron scattering experiments more cost effectively than LAMPF. The estimated long-term costs of upgrading LAMPF to a world class

neutron scattering facility are \$1.5 billion. An independent advisory committee (the Kohn Committee) has determined that a new reactor such as the ANS would be more capable and cost-effective and is a higher priority neutron source than an accelerator. The Administration urges the Senate to support the Administration's investment program and redirect funds from operation of LAMPF to the ANS project.

Bonneville Power Administration Language

Section 505 of the Committee bill would direct the Secretary of Energy "to submit to the Congress by February 1, 1994, a legislative proposal to satisfy the Bonneville Power Administration's entire repayment obligation to the United States Treasury for appropriated investment in the Federal Columbia River Power System." The language in this section would also impose additional specific requirements regarding the content of the required legislative proposal. The Constitution gives the President unqualified discretion to decide whether and when to propose legislation. The Administration objects to this provision on constitutional grounds and would consider such language only as advisory.

Atomic Energy Defense Activities

The Administration is pleased that the Committee has substantially adopted the funding levels in the amended budget request that was transmitted to the Congress on September 8th. Of particular importance is the full funding of the reduced request for operating funds for nuclear weapons research, development, and testing. Further reductions from this level would seriously impair the ability of the Department of Energy to assure the safety and reliability of existing nuclear weapons without nuclear tests and maintain the capability to resume testing of nuclear weapons, as directed by the President.

The Administration is also pleased that the Committee has restored the full \$17 million requested for the Dual-Axis Radiographic Hydrotest Facility (DARHT), which was deleted by the House. In the absence of underground nuclear weapons tests, the DARHT facility will be vital to maintaining confidence in the stockpile.

The Administration opposes the Committee's use of additional, uncosted obligational balances as a funding offset mechanism for Defense Activities. The President's request already reflects an aggressive strategy to reduce uncosted balances. The request identifies \$708 million in prior-year balances as offsets for the Weapons Activities and Materials Support accounts. The House increased that sum to \$752 million and identified the source of the extra funds as FY 1993 research and development funds that the Administration had requested be

reprogrammed to technology commercialization activities. The Senate Committee has increased the offset to \$892 million, without identifying the source of funds.

While program spending has continued to decrease from earlier expectations, there is no assurance that sufficient offsets from prior balances will be available without significantly impacting program activities. The prior-year offsets proposed by the Committee would be most difficult to achieve in the Materials Support account. The additional \$100 million offset proposed by the Committee in that account could require significant workforce reductions and result in significant delays in the stabilization and transition of facilities at the Savannah River Site from production to eventual decontamination and decommissioning.

Advanced Reactor Research & Development

The Committee has rejected the Administration's proposed termination of unnecessary reactor projects, including the liquid metal reactor and the high-temperature gas-cooled reactor. The Administration also proposed to terminate the SP-100 reactor program; Committee action on this program is unclear. Instead, the Committee has added \$63 million above the Administration's request to fund continued research and development for these projects. The Administration supports only elements of the actinide recycle program essential to demonstrate technological feasibility.

Defense Environmental Restoration and Waste Management

The Committee has reduced the President's \$5,428 million request for Defense Environmental Restoration and Waste Management by \$321 million. The Administration requests that the Senate restore \$41 million for a budget level of \$5,148 million.

Uranium Enrichment Facilities

The Committee has rejected the President's proposal to allow the U.S. Enrichment Corporation (USEC) to determine whether to operate both U.S. uranium enrichment facilities after FY 1995. Absent the President's proposal, the USEC would have no flexibility and would have to lease both facilities for at least six years. If a cost-benefit analysis determined that only one facility is necessary, this requirement would incur a significant cost over the next five years. The Administration urges the Senate to consider the President's proposal.

The Administration objects to a provision of the Committee bill that would provide \$80 million to support atomic vapor laser isotope separation (AVLIS) research and development. The Administration has proposed funding this technology only if non-Federal funding is obtained.

Office of the Inspector General

The Administration encourages the Senate to restore full funding for the Office of the Inspector General. This funding is necessary so that critical audit, oversight, and investigative activities can be sustained to complement the Administration's initiatives to improve the management and financial performance of the Department and its contractors.

Army Corps of Engineers/Bureau of Reclamation

The Committee has added over \$350 million to the President's request for programs of the Army Corps of Engineers and the Bureau of Reclamation. Most of this increase is for unrequested construction projects and studies that the Administration does not support. The Administration would support an amendment to reduce the funding level of unrequested water projects in the Army Corps of Engineers and the Bureau of Reclamation.

Funds have been included in the Department of the Interior and Related Agencies Appropriations Bill, FY 1994, to support the Administration's follow-up to the April 1993 Forest Conference. In further support of Forest Conference follow-up, the Administration would support shifting \$5.0 million originally requested for the Bureau of Reclamation's Yuma Desalting Plant to the Construction program for ecosystem restoration activities in the Klamath and Trinity River Basins.

Section 102 of the Committee bill would prohibit the use of funds to transfer any functions of any Army Corps of Engineers district office. This provision would prevent the Army Corps of Engineers from making management decisions that increase efficiency and provide cost-containment. Such provisions are contrary to the government-wide recommendations of the National Performance Review. The Administration urges the Senate to remove this provision from the bill.



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

September 28, 1993
(Senate Floor)

STATEMENT OF ADMINISTRATION POLICY

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

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The Committee bill supports several specific investments, including cooperative research and development agreements and most of the increase requested for solar and renewable energy programs.

The Committee bill deletes funding for construction of the Linear Accelerator B-Factory. The Administration expects the Department of Energy to select a site for the B-Factory shortly and urges the Senate to restore the \$36 million requested for this project.

The Committee bill would not provide the requested \$26 million for construction of the Advanced Neutron Source (ANS), one of the President's priority investment initiatives. At the same time, the Committee has added \$19 million and earmarked an additional \$3 million for the Los Alamos National Laboratory to operate and perform neutron scattering experiments at the Los Alamos Meson Physics Facility (LAMPF). LAMPF was proposed for closure in the President's budget. There are several other facilities in the United States that can perform small scale neutron scattering experiments more cost effectively than LAMPF. The estimated long-term costs of upgrading LAMPF to a world class

neutron scattering facility are \$1.5 billion. An independent advisory committee (the Kohn Committee) has determined that a new reactor such as the ANS would be more capable and cost-effective and is a higher priority neutron source than an accelerator. The Administration urges the Senate to support the Administration's investment program and redirect funds from operation of LAMPF to the ANS project.

Bonneville Power Administration Language

Section 505 of the Committee bill would direct the Secretary of Energy "to submit to the Congress by February 1, 1994, a legislative proposal to satisfy the Bonneville Power Administration's entire repayment obligation to the United States Treasury for appropriated investment in the Federal Columbia River Power System." The language in this section would also impose additional specific requirements regarding the content of the required legislative proposal. The Constitution gives the President unqualified discretion to decide whether and when to propose legislation. The Administration objects to this provision on constitutional grounds and would consider such language only as advisory.

Atomic Energy Defense Activities

The Administration is pleased that the Committee has substantially adopted the funding levels in the amended budget request that was transmitted to the Congress on September 8th. Of particular importance is the full funding of the reduced request for operating funds for nuclear weapons research, development, and testing. Further reductions from this level would seriously impair the ability of the Department of Energy to assure the safety and reliability of existing nuclear weapons without nuclear tests and maintain the capability to resume testing of nuclear weapons, as directed by the President.

The Administration is also pleased that the Committee has restored the full \$17 million requested for the Dual-Axis Radiographic Hydrotest Facility (DARHT), which was deleted by the House. In the absence of underground nuclear weapons tests, the DARHT facility will be vital to maintaining confidence in the stockpile.

The Administration opposes the Committee's use of additional, uncosted obligational balances as a funding offset mechanism for Defense Activities. The President's request already reflects an aggressive strategy to reduce uncosted balances. The request identifies \$708 million in prior-year balances as offsets for the Weapons Activities and Materials Support accounts. The House increased that sum to \$752 million and identified the source of the extra funds as FY 1993 research and development funds that the Administration had requested be

reprogrammed to technology commercialization activities. The Senate Committee has increased the offset to \$892 million, without identifying the source of funds.

While program spending has continued to decrease from earlier expectations, there is no assurance that sufficient offsets from prior balances will be available without significantly impacting program activities. The prior-year offsets proposed by the Committee would be most difficult to achieve in the Materials Support account. The additional \$100 million offset proposed by the Committee in that account could require significant workforce reductions and result in significant delays in the stabilization and transition of facilities at the Savannah River Site from production to eventual decontamination and decommissioning.

Advanced Reactor Research & Development

The Committee has rejected the Administration's proposed termination of unnecessary reactor projects, including the liquid metal reactor and the high-temperature gas-cooled reactor. The Administration also proposed to terminate the SP-100 reactor program; Committee action on this program is unclear. Instead, the Committee has added \$63 million above the Administration's request to fund continued research and development for these projects. The Administration supports only elements of the actinide recycle program essential to demonstrate technological feasibility.

Defense Environmental Restoration and Waste Management

The Committee has reduced the President's \$5,428 million request for Defense Environmental Restoration and Waste Management by \$321 million. The Administration requests that the Senate restore \$41 million for a budget level of \$5,148 million.

Uranium Enrichment Facilities

The Committee has rejected the President's proposal to allow the U.S. Enrichment Corporation (USEC) to determine whether to operate both U.S. uranium enrichment facilities after FY 1995. Absent the President's proposal, the USEC would have no flexibility and would have to lease both facilities for at least six years. If a cost-benefit analysis determined that only one facility is necessary, this requirement would incur a significant cost over the next five years. The Administration urges the Senate to consider the President's proposal.

The Administration objects to a provision of the Committee bill that would provide \$80 million to support atomic vapor laser isotope separation (AVLIS) research and development. The Administration has proposed funding this technology only if non-Federal funding is obtained.

Office of the Inspector General

The Administration encourages the Senate to restore full funding for the Office of the Inspector General. This funding is necessary so that critical audit, oversight, and investigative activities can be sustained to complement the Administration's initiatives to improve the management and financial performance of the Department and its contractors.

Army Corps of Engineers/Bureau of Reclamation

The Committee has added over \$350 million to the President's request for programs of the Army Corps of Engineers and the Bureau of Reclamation. Most of this increase is for unrequested construction projects and studies that the Administration does not support. The Administration would support an amendment to reduce the funding level of unrequested water projects in the Army Corps of Engineers and the Bureau of Reclamation.

Funds have been included in the Department of the Interior and Related Agencies Appropriations Bill, FY 1994, to support the Administration's follow-up to the April 1993 Forest Conference. In further support of Forest Conference follow-up, the Administration would support shifting \$5.0 million originally requested for the Bureau of Reclamation's Yuma Desalting Plant to the Construction program for ecosystem restoration activities in the Klamath and Trinity River Basins.

Section 102 of the Committee bill would prohibit the use of funds to transfer any functions of any Army Corps of Engineers district office. This provision would prevent the Army Corps of Engineers from making management decisions that increase efficiency and provide cost-containment. Such provisions are contrary to the government-wide recommendations of the National Performance Review. The Administration urges the Senate to remove this provision from the bill.