



*The Competitive Enterprise Institute's*

# DIRTY DOZEN

*Soft Targets for Elimination  
at Energy, Interior, & EPA*

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## INTRODUCTION

The November 8 elections were a resounding call for smaller, less-intrusive government. The Contract with America — advertised in TV Guide and scorned by Democrats from Bill Clinton on down — nationalized the issues and clarified the alternatives to a degree not seen since the 1980 presidential election.

Republican candidates across the board ran on a platform of reduced government spending, less regulation, and more individual liberty. The result was a landslide that promises to be a realigning or “watershed” election. Dick Gephardt has suddenly discovered the virtues of tax cuts, while the Clinton Administration is reportedly considering cutbacks in agriculture subsidies, the General Services Administration, and the Office of Personnel Management, as well as the departments of Energy, Transportation, and Housing and Urban Development.

The new Republican majority is, in short, defining the direction of public policy and, hence, the ground on which political compromises will be reached. The central debate now is not about whether to expand government’s role in health care, job training, or whatever, but about how best to roll back the tax-and-spend regulatory Leviathan. Already we are seeing a new political phenomenon — the “me too” Democrat. All of this is evidence of a watershed election, though it’s too soon to know for certain.

This much is clear: Republicans have never had a better opportunity to limit the federal government, and they must deliver on their promises in order to remain on top. CEI’s advice: Be quick to kill what can be killed quickly, and leave hard targets for later. Momentum is critical; success will breed success.

The twelve cuts recommended in the following pages are by no means the only programs and regulations in the environmental and energy policy fields that should be eliminated. Indeed, there are strong arguments for dismantling the entire Department of Energy and eliminating much of the Department of Interior. These twelve recommendations should be seen as a starting point. CEI considers them “soft targets” — programs, agencies, and regulations that can and should be vaporized within the first 100 days of the 104th Congress.

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## OVERVIEW

### **DEFUND ENERGY EFFICIENCY AND RENEWABLE ENERGY RESEARCH**

- Would cut federal spending by approximately \$1.3 billion per year

### **ELIMINATE THE "CLEAN CAR INITIATIVE"**

- Would cut federal spending by approximately \$300 million per year

### **ELIMINATE THE ETHANOL PREFERENCE FOR REFORMULATED GASOLINE**

- Would save consumers as much as \$350 million per year
- Would save the Federal Highway Trust Fund as much as \$340 million per year

### **ELIMINATE FUNDING OF THE GLOBAL ENVIRONMENT FACILITY**

- Would cut federal spending by \$430 million over four years

### **ELIMINATE THE NATIONAL BIOLOGICAL SURVEY**

- Would cut federal spending by as much as \$167 million
- Would reduce federal land-use regulation of private land

### **ELIMINATE THE RADON ACTION PROGRAM**

- Would cut federal spending by \$13 million per year
- Would save homeowners as much as \$45 billion in remediation costs

### **HALT THE DISINFECTANT BY-PRODUCT RULEMAKING**

- Would save state and local governments from \$1 billion to \$2.6 billion per year

### **REPEAL THE ALASKAN OIL EXPORT BAN**

- Would create as many as 16,000 net new jobs
- Would increase federal revenues by over \$100 million per year
- Would increase Alaska and California state revenues by over \$700 million per year, combined

### **REPEAL CORPORATE AVERAGE FUEL ECONOMY STANDARDS**

- Would save as many as 3,900 highway fatalities per year
- Would save consumers as much as \$5 billion per year

### **REPEAL THE EMPLOYEE COMMUTE OPTION**

- Would save affected communities over \$1.2 billion in compliance costs per year

### **REPEAL THE PUBLIC UTILITY HOLDING COMPANY ACT**

- Would cut federal spending by over \$2 million per year
- Would reduce paper work burden on utilities

### **REPEAL THE PUBLIC UTILITY REGULATORY POLICIES ACT**

- Would remove barriers to a more competitive wholesale electricity market

## **DEFUND ENERGY EFFICIENCY AND RENEWABLE ENERGY RESEARCH**

The Department of Energy (DOE) currently spends approximately \$1.3 billion on research in energy efficiency technologies and renewable energy sources in an effort to reduce total energy demand, conserve natural resources, and improve national energy independence. This is a waste of taxpayer dollars. Private industry is fully capable of investing in energy efficiency research, and many of the technologies subsidized with federal research are not cost-effective alternatives to fossil fuel consumption.

DOE subsidizes research and development of a variety of energy efficiency technologies and related promotional programs. Such technologies include heat-pumps (which are essentially air conditioners that work in reverse), super-glazed windows that contain heat more effectively, compact fluorescent lighting, variable-speed motors for industrial production processes, and so on. The DOE spends over \$960 million researching energy efficiency technologies and exhorting industry to adopt and sell them. The DOE spends an additional \$327 million on renewable energy.

Under the Assistant Secretary for Energy Efficiency and Renewable Energy are many offices that serve no valuable purpose, including: the Office of Renewable Energy Conversion, the Office of Alternative Fuel, the Office of Building Energy Research, and the Office of Solar Energy Conversion, among others.

Despite many years of expensive activism on the part of DOE, studies still indicate that such technologies are not cost-effective alternatives to increased energy consumption. Two recent studies have pinpointed costs at between 5 and 11 cents per kilowatt-hour saved. The marginal cost of producing a kilowatt-hour of electricity today ranges from two to four cents per kilowatt-hour. In most instances, it is still more expensive to save electricity than to produce it, by as much as a factor of five.

Government subsidies for energy efficiency have failed for the same reason that other such "investment" and research schemes fail: if the subsidized technologies were likely to succeed, they would offer the enticement of a profit, and the private sector would gladly make the investment. Government energy efficiency investments are almost tautologically absurd, diverting resources to ends that the private sector recognizes as uneconomic and wasteful. All DOE energy conservation programs should be eliminated.

## ELIMINATE THE "CLEAN CAR INITIATIVE"

The so-called "Clean Car Initiative," formally known as the Partnership for a New Generation of Vehicles, is an approximately \$300 million subsidy to the development of "environmentally-sound" cars by American automakers. It is an example of corporate welfare.

The program is managed by seven different federal agencies. Funds are distributed to Chrysler, General Motors, and Ford Motor Co. in a cooperative effort to develop an earth-friendly Super-Car that will achieve 80 miles per gallon. A design based on electric fuel cells, flywheels, hydrogen, or re-chargeable batteries is expected in the year 2000.

The project is a bureaucratic attempt to direct private businesses to make the right kinds of products. Given the federal government's track record with subsidizing potential products of the future — the Synthetic Fuels Corporation is but one example — there is little reason to believe that this program will achieve its goals. Even if such "clean cars" are truly necessary — a debatable proposition — there is little reason for federal funding of this project.

Little consideration has been given to whether Americans will want to drive electric cars or hydrogen-powered vehicles, or pay for the additional costs that are expected with such vehicles. If such vehicles are truly desired by the American public, then their development should be financed in the same manner as any other new product: The automakers should spend their own money on research and development of the new vehicles and attempt to recoup their costs by selling the resulting products on the open market. The taxpayer should not be burdened with picking up the R&D costs of private firms.

Even if the program achieves its stated objective, it is not clear that it will provide any important environmental or economic benefits. Automobiles produced today are far cleaner than their older counterparts. A new car rolling off the assembly line produces over 90 percent fewer emissions than those made twenty-five years ago. If well-maintained, most new cars will have an insignificant impact on air quality.

The federal government has consistently failed in its attempts at industrial policy. Environmental industrial policy, such as that embodied in the Partnership for a New Generation of Vehicles, will be no different.

## **ELIMINATE THE ETHANOL PREFERENCE FOR REFORMULATED GASOLINE**

The Clean Air Act Amendments of 1990 require the use of reformulated gasoline in the nation's smoggiest cities in order to reduce automobile emissions. This costly program has been made even more expensive by a requirement that 30 percent of the oxygenates used to make reformulated gasoline come from ethanol or other "renewable fuels." This proposal is a perfect example of wasteful, special-interest regulation that benefits an already subsidized industry at the expense of the American public.

The reformulated gasoline program, which begins on January 1, will cost American consumers as much as \$2 billion per year. The ethanol preference will increase the cost of this program by as much as \$350 million. Moreover, because ethanol is exempt from certain gasoline taxes, the ethanol set-aside also reduces state and federal gasoline tax revenues which are primarily used to finance road construction and maintenance. The Federal Highway Trust Fund could lose as much as \$340 million per year, and state gas tax revenues could decline by an additional \$126 million.

Though costly, the ethanol preference will provide no additional environmental benefits, according to analyses prepared by Resources for the Future, the Department of Energy and other sources. It has also been opposed by environmental organizations such as the Sierra Club and the Environmental Defense Fund. There is no reason to believe that increased ethanol use will improve environmental quality. Indeed, some studies suggest that the ethanol proposal could actually increase certain environmental impacts. For example, the ethanol quota could potentially increase the emissions of certain smog-forming compounds.

The Environmental Protection Agency opted to guarantee ethanol a minimum 30 percent share of the reformulated gasoline market in order to placate the agricultural lobby. Ethanol is a corn-derived fuel, but is significantly more expensive than other oxygenates. Absent the 30 percent ethanol quota, it is unlikely that ethanol would be a significant competitor in the reformulated gasoline market. Thus, the ethanol preference represents a naked use of federal government power to placate a special interest through direct intervention in the marketplace.

## ELIMINATE FUNDING OF THE GLOBAL ENVIRONMENT FACILITY (GEF)

Congress has authorized \$90 million in spending for the Global Environment Facility (GEF). This is a needless expenditure on an international environmental bureaucracy that is bound to waste the funds on the research and promotion of pointless and ineffective environmental policies while providing no benefits to American taxpayers.

The GEF is a joint project of the World Bank, the United Nations Environment Programme, and the United Nations Development Programme. It is meant to fund projects of global benefit, such as mitigation of global warming, ozone depletion, loss of biodiversity, desertification, and pollution of international waters. The GEF is the financing arm for the U.N. Framework Convention on Climate Change and the Framework Convention on Biodiversity, both completed at the 1992 Rio Earth Summit.

The GEF was started as a three-year pilot project with \$1.3 billion. An independent evaluation sponsored by donor nations gave a scathing review of the GEF's performance, determining that the GEF was ineffective in achieving its goals. One problem was a lack of accountability; the GEF made decisions about funding without consulting the citizens that would be most affected by its projects. More than half of GEF projects have created conflicts over compensation for individuals forced to leave ecologically protected areas.

The evaluation also criticized the GEF's relationship to the World Bank, an institution notorious among conservationists for its environmental destructiveness. The report noted that the GEF has served to make the Bank's own faulty loan projects look "greener" and to "mitigate criticism alleging World Bank insensitivity to environmental concerns."

Despite these negative findings, member countries "replenished" the GEF with roughly \$2 billion in 1994, and made it a permanent international organization. Of the twenty six participating nations, the U.S. is the largest. The federal government currently plans to give the GEF \$430 million over four years.

Elimination of the funding of this program would serve many important ends, including slowing the implementation of global environmental policies that will do more to restrict economic opportunity than to promote environmental conservation. The elimination of GEF funding would also put U.S. international environmental policy on sounder scientific footing and stop wealth redistribution to corrupt and oppressive Third World governments under the name of environmental protection. Moreover, it would save hundreds of millions in taxpayer dollars.

## ELIMINATE THE NATIONAL BIOLOGICAL SURVEY

The National Biological Survey is a new Interior Department agency charged with drawing up a "road map," as it were, of the nation's biological diversity. This new agency serves no purpose other than to facilitate federal land-use control of private property.

Proposed in April 1993 by Interior Department Secretary Bruce Babbitt, the NBS is designed "to provide a national focus for research, inventorying and monitoring America's biological resources on an ecosystem basis." The NBS is designed to allow the Interior Department to carry out "ecosystem management," the central organizing principle of the Clinton Administration's new approach to wildlife and land-use control.

The NBS is up and running even though the agency has never been authorized by Congress. Secretary Babbitt testified at his confirmation hearing that the NBS "is a legislative issue. A project of that size would certainly require the approval of this body and the Congress." This has not stopped Babbitt from creating the NBS through administrative action. The current NBS budget is \$167.2 million.

Defenders of the NBS have claimed that it would be a purely scientific organization with no regulatory agenda, similar to the U.S. Geological Survey. This defense overlooks the existence of the Endangered Species Act, which lists rare plants and animals and imposes harsh regulations on private property owners. The goal of the NBS is to identify species, endangered and otherwise, and will therefore trigger further land-use regulation under the Endangered Species Act.

The ESA has locked up millions of acres of private land already, in some cases when the endangered species in question were not even present. Given that the NBS is supposed to identify and catalogue all species living in the U.S., and that scientists believe as many as 250,000 such species have yet to be identified, an effective NBS will undoubtedly expand the scope of the ESA and create thousands of pretexts for taking private property without compensation.

The operation of the NBS will necessarily entail surveying private land. Secretary Babbitt has assured America's property owners that NBS personnel would not survey private land without prior consent. However, landowners in California's San Joaquin Valley have already received letters from the Interior Department declaring that "Lands that are not inspected by field crews will be evaluated using aerial photographs and visual border inspections. Uncultivated parcels will likely be labelled as habitat if absence of species cannot be confirmed by inspection." In other words, under current procedures private land is to be regulated as endangered species habitat if landowners refuse to allow their land to be surveyed.

The National Biological Survey is more than an example of wasteful spending without Congressional authorization. It is a program with no other purpose than to extend the regulatory power of the federal government over private property.

## ELIMINATE THE RADON ACTION PROGRAM

The Environmental Protection Agency (EPA) is running an alarmist campaign on the purported threats of radon gas to homeowners. This campaign, and related programs, have no sound scientific basis and are a waste of taxpayer dollars. The Radon Division at the EPA, which administers the \$5 million Radon Action Program, and the related Radon State Grants should be eliminated.

Radon is a colorless, odorless, naturally occurring gas, which is the by-product of the radioactive decay of minuscule traces of uranium. Trace amounts of uranium are commonly found in many types of rock (e.g. granite, shale). Radon can seep up from these types of rock into the basements of buildings and homes. Although radioactive, the amounts of radiation detected from radon are so small that numerous epidemiological studies have found no correlation between radon exposure and cancer rates.

The EPA Radon Action Program is designed to persuade American homeowners to test for radon gas. If even minuscule levels of radon are detected the EPA recommends remediation. The agency has established an "action level" of 4 picocuries per liter (pCi/l). According to an agency survey, more than eight million homes would exceed the action level. Testing and remediation for all 8 million houses not meeting the EPA's radon standard would cost an estimated \$45 billion. Due to the EPA's programs, many homeowners and potential home sellers engage in needless and expensive testing and remediation programs.

Numerous scientists are dubious about the value of the EPA's radon program. Dr. Rosalyn S. Yalow, a health physicist and winner of the 1977 Noble Prize for medicine, believes that the nation's radon policy is senseless. She has stated that there is, "no reproducible evidence of harmful effects associated with increases in background radiation up to 6 times the usual levels." Most scientists recognize this fact.

The Radon Action Program currently consumes over \$5 million per year in taxpayer funds, and the federal government administers Radon State Grants of an additional \$8 million. This funding should be zeroed out and the offices closed. For nearly eight years the EPA has been running a scare campaign on the American public at taxpayers' expense. The radon campaign has encouraged homeowners to spend hundreds and sometimes thousands of dollars to remediate for an infinitesimal, if not non-existent, risk.

## HALT THE DISINFECTANT BY-PRODUCT RULEMAKING

The Environmental Protection Agency (EPA) currently is proposing to regulate disinfection by-products in drinking water. This is the EPA's latest unfunded environmental mandate. This mandate will impose billions of dollars in costs even though there is no solid evidence that it will do anything to protect public health.

The proposed rule regulates substances that are formed when chlorine is added to the water supply in order to disinfect drinking water. The EPA has estimated the cost of the first phase of this regulation at more than \$1 billion per year. The extended second phase would cost an additional \$2.6 billion per year. The costs of this rule will be borne by the municipalities and communities that operate water treatment facilities as well as the states charged with overseeing their operations.

The EPA cites several studies as justification for establishing the maximum contaminant level, yet the most reliable studies do not support the EPA's regulation. The largest study to date investigating the relationship between chlorinated water and bladder cancer was a National Cancer Institute study which included more than 8,000 people. The study concluded that overall there was *no association* of duration of exposure to chlorinated water with bladder cancer risk. The EPA itself cites several other studies which showed *no correlation* between cancer risk and disinfection by-products.

Despite these studies, the EPA is proceeding with setting a prohibitively expensive maximum contaminant level. In 1993, the EPA estimated the total cost of complying with current Safe Drinking Water Act regulations at \$1.4 billion annually. Although this is presumably a low estimate, the EPA's analysis gives a clear frame of reference for the costs of the disinfection by-products rule. Phase one of the rule, at \$1 billion per year, would result in a 70 percent increase in costs incurred by municipalities. Phase two of the regulation would more than double the cost of Safe Drinking Water Act compliance.

The costs of the disinfectant by-products rule will be felt most severely in small communities. For water systems serving less than 10,000 people — which represent 94 percent of all water systems — the cost per household of complying with federal drinking water mandates would more than double, while providing no measurable public health benefits.

## REPEAL THE ALASKAN OIL EXPORT BAN

Current law prohibits the export of crude oil from the North Slope of Alaska. This prohibition stifles resource development and places a severe economic burden on the states of Alaska and California, while serving no economic, environmental or national security interest.

Lifting the ban would provide significant economic benefits, primarily resulting from an increase in investment in domestic oil production. Domestic oil production could increase by as much as 500,000 barrels per day, with a hefty portion of that being exported to foreign markets, including Japan and South Korea. Government studies estimate that the increase in production would create, on net, as many as 16,000 jobs in the industry.

The export ban depresses oil development in Alaska and California by forcing Alaskan oil to be sold in glutted West Coast markets. This drives down wholesale prices, though it has a minimal impact on consumer prices. The ban inhibits the development of as much as 10 billion barrels of domestic crude. This, in turn, shortens the economically viable lifetime of the Trans-Alaskan Pipeline.

By increasing economic activity, repeal of the ban would also increase federal revenues. It is estimated that federal tax revenues and royalties would rise by over \$100 million. The states of Alaska and California would see estimated revenue increases of over \$600 million and \$150 million respectively.

The ban was initially imposed in 1973 when construction of the Trans-Alaska Pipeline was authorized by Congress. The domestic maritime industry successfully lobbied for the ban in order to seize the potentially lucrative market for shipping crude oil from Alaska to California. Though some environmentalists oppose lifting the ban, allowing the export of Alaskan oil would likely decrease the shipping of crude oil in tankers through U.S. waters, and thereby decrease the likelihood of incidents like the Exxon *Valdez* oil spill.

At a time when world leaders are seeking to liberalize trade and expand global markets, the Alaskan oil export ban stands as an anachronistic policy with little merit. Repealing the ban would create jobs, enhance federal and state revenues, and help revive the domestic oil industry.

## REPEAL CORPORATE AVERAGE FUEL ECONOMY (CAFE) STANDARDS

The federal new car-fuel economy program imposes a deadly trade-off of blood for oil. Popularly known as CAFE (for Corporate Average Fuel Economy), this program requires that the new cars sold in the U.S. by any automaker meet, on average, a specified yearly fuel economy standard. The current CAFE standard for passenger cars is 27.5 miles per gallon (mpg); the standard for light trucks is 20.6 mpg. CAFE standards for all vehicles should be repealed.

CAFE standards have imposed tremendous economic burdens on American consumers and auto manufacturers. CAFE standards cost consumers approximately \$5 billion per year and, since their enactment, have resulted in the loss of an estimated 200,000 jobs. As a fuel conservation measure, CAFE is grossly inefficient, orders of magnitude more expensive per gallon of gasoline "saved" than available alternatives. Indeed, if conserving gasoline is the goal of CAFE, it would be cheaper for the federal government to simply purchase the desired amount of fuel to keep it off the market.

Because CAFE standards impose a sales mandate, auto manufacturers are forced to manipulate their prices to sell vehicles that meet the prescribed standards. As a result, large-car buyers pay heavy CAFE premiums when buying their cars even if they drive very little, while small-car buyers pay artificially-lowered car prices regardless of how much they drive. By focusing on car design rather than car use, CAFE standards impose costs without regard to actual gasoline consumption.

More important than CAFE's economic impact is CAFE's impact on auto safety. These regulations have a lethal effect on auto safety. Decades of research have made it clear that large cars are more crashworthy than similarly equipped small cars in all collision modes. CAFE, however, restricts large-car availability. According to a peer-reviewed Harvard-Brookings study, CAFE is responsible for a 500 pound downsizing of new cars, which translates into 2,200 to 3,900 additional traffic deaths per model year.

The National Highway Traffic Safety Administration has attempted to deny the negative impacts of CAFE. However, these denials were found unpersuasive by the D.C. Circuit Court of Appeals. In 1992, the court ruled that the federal government relied upon "fudged analysis," "statistical legerdemain," and "bureaucratic mumbo-jumbo" in enacting current CAFE standards and ignoring their impact on highway fatalities.

The choice of what type of car to drive should be left to the consumer. Automakers currently produce a wide range of vehicles with a broad range of fuel economy levels. Those consumers who wish to drive smaller vehicles that achieve more miles per gallon are certainly free to do so. Those who choose not to drive cars with higher fuel efficiency — consumers who prefer larger family cars or vehicles with greater performance — should not have their options restricted by federal policy.

## REPEAL THE EMPLOYEE COMMUTE OPTION (ECO)

One of the more burdensome and inefficient elements of the 1990 Clean Air Act Amendments is the employee commute option (ECO) program. A so-called "trip reduction measure," ECO is designed to "reduce work-related trips and miles traveled by employees," according to the Environmental Protection Agency. It requires companies to monitor and alter the commuting habits of their employees. This program imposes significant compliance costs on companies, creates extreme nuisances and inconveniences for employees, while providing minimal, if any, air quality benefits.

ECO programs are mandatory for companies that employ more than 100 people in the nation's smoggiest metropolitan areas, including Chicago, Houston, New York and Philadelphia. Eleven states are affected by this program, and many suburban areas are included in the EPA's definition of metropolitan area and are therefore subject to the program as well.

Regulated employers in these regions must increase the average passenger occupancy for commuting vehicles by 25 percent. This can be done through subsidizing van pools or mass transit usage, economic incentives, or any other method that the employer devises. Employers are forced to play traffic cop under this program — they must survey current employees about their commuting habits, hire or appoint a "coordinator" to oversee the ECO program, and pay "administrative fees" to local agencies charged with monitoring compliance.

ECO will have a significant economic impact. The Environmental Protection Agency estimates that the annual cost of the ECO program will exceed \$1.2 billion. In addition, state agencies are required to impose fines on companies that fail to make a "good faith effort" to meet ECO's trip reduction targets. Fines for noncompliance can be as high as \$25,000 per day.

In addition to these economic costs, ECO will impose a large burden on suburban families and commuters. Nearly three-fourths of American workers choose to commute alone; a similar percentage make intermediate stops on their way to or from work, stopping at schools, day-care centers, grocery stores, gyms, and the like. These workers do not car pool or use mass transit because such options do not meet their needs. ECO seeks to coercively modify commuting habits that have been chosen voluntarily in the marketplace.

Not only is ECO highly burdensome, but it is ineffective as well. The most optimistic scenarios suggest that ECO could reduce auto emissions by 5 percent. More realistic estimates place ECO's potential reductions from less-than-1 to 3 percent. One of the reasons for ECO's limited effectiveness is that home-to-work commuting is a small and declining share of vehicle trips, so ECO only addresses a small portion of vehicle emissions.

ECO is an unfunded mandate. Affected areas have no choice but to implement this program even if less costly and more effective pollution control alternatives are available. Few, if any, of these areas would impose a program as misguided as ECO were it not mandatory under federal law.

## **REPEAL THE PUBLIC UTILITY HOLDING COMPANY ACT (PUHCA)**

The Public Utility Holding Company Act (PUHCA) of 1935 was enacted as a New Deal measure to fight ownership abuses in the electric and gas utility industries. The necessity for the act was dubious in its own day; at present, it is obsolete, and stands as a barrier to the development of competitive power markets. PUHCA should be repealed in its entirety.

At the time of passage, many utilities were owned by holding companies, which in turn were owned by holding companies, and so on, forming a pyramid of ownership. By distributing ownership at 51 percent throughout the structure, a "great grandfather" holding company at the top could own less than 15 percent of the total assets and yet have a controlling share of those assets.

PUHCA was meant to eliminate this perceived problem by abolishing all holding companies more than twice removed in ownership from electric or gas utilities. Enforcement authority for PUHCA was assigned to the Securities and Exchange Commission (SEC). The SEC was also charged with ensuring that "the corporate structure or continued existence of any company in the holding-company system does not duly or unnecessarily complicate the structure, or unfairly or inequitably distribute voting power among security holders..." From 1940 to 1962, over two thousand electric and gas utility holding companies and subsidiaries were forced to register with the SEC and submit to reorganization and/or divestiture.

With the completion of its mission in 1962, PUHCA became a bureaucratic nuisance for the electric and gas utility industries, requiring SEC oversight of industry structure. In 1982, the SEC itself recommended that Congress repeal PUHCA. This was a rare instance of a regulatory agency voluntarily requesting a reduction in its own power. Nonetheless, its request was ignored. In 1993, the SEC spent just over \$2 million on PUHCA enforcement.

The persistence of PUHCA not only maintains an obsolete law and complicates federal utility regulation, it is now beginning to be a greater nuisance by hindering the development of an independent wholesale market in electric power. During the 1980s and 1990s, power marketing began to transform long-term generation into a competitive industry at the wholesale level. Unfortunately, under PUHCA most utilities are limited in their ability to invest in this new market. The 1992 Energy Policy Act mitigated this problem somewhat by making exceptions to PUHCA, but the law continues to hinder utility investment in wholesale power.

In sum, PUHCA is a law that had become obsolete by the early 1960s, has been repudiated by the very federal agency charged with its enforcement, and is hindering the development of electric power competition at the wholesale level. It is a prime candidate for immediate and complete repeal.

## REPEAL THE PUBLIC UTILITY REGULATORY POLICIES ACT (PURPA)

The Public Utility Regulatory Policies Act of 1978 was passed during the hysteria of the government-created energy crisis of the late 1970s. PURPA was a largely unnecessary response to a misdiagnosed problem. It was ill-conceived when enacted, and is irrelevant today. It should be completely repealed.

PURPA was enacted in response to the perception that a physical shortage of resources was the cause of the problem. Instead of repealing the price controls and other regulations that had spawned gasoline shortages and rationing, PURPA mandated that public utilities invest in renewable electricity generation sources, such as wind power, photovoltaics, and cogeneration (the reuse of steam generated in industrial processes).

In essence, PURPA required state utility regulators to examine the possibility of utilities under their jurisdiction purchasing new power from small, independent generating entities using renewable resources. Then, when possible, utilities were to satisfy their additional power needs by purchasing electricity on contract from the independent generators (known as Qualifying Facilities or "QFs"), at the utilities' "avoided cost" of generation.

As a result of PURPA, many utilities were forced to purchase new power from "politically correct" sources, at rates based on estimates of utility "avoided costs." In practice, the avoided cost estimates are often much greater than the actual operating and amortization costs the utilities would face over the contract period. This is mostly due to the fact that the avoided cost estimates were made at a time when fuel prices were inflated by the OPEC crises. They fell subsequently, and electricity consumers were faced with paying high prices for uneconomic power.

Today, PURPA is more unnecessary than ever before. A new and growing industry of independent power producers using a wide variety of energy sources is now servicing utilities with over half of their new power supply requirements. Utilities often prefer to contract out for new power rather than building generators themselves, because the electricity market has proved risky for utilities over the last two decades. The repeal of PURPA would not only save billions — it would also lead to a more competitive wholesale electricity market.