



## Testimony

Before the Subcommittee on  
Commerce, Manufacturing, and Trade,  
Committee on Energy and Commerce,  
House of Representatives

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# CHECK-OFF PROGRAMS

## Observations from the Propane and Heating Oil Programs

Statement of Frank Rusco, Director,  
Natural Resources and Environment

# GAO Highlights

Highlights of [GAO-15-769T](#), a testimony before the Subcommittee on Commerce, Manufacturing, and Trade, Committee on Energy and Commerce, House of Representatives

## Why GAO Did This Study

Congressionally authorized research and promotion programs, also known as check-off programs, may be established under federal law at the request of their industries. These programs are designed to increase the success of businesses that produce and sell certain commodities, such as milk and beef. To fund such programs, producers set aside a fraction of the wholesale cost of a product and deposit the monies into a common fund.

In June 2010, GAO reported on two such programs, PERC and NORA, for the propane and oilheat industries ([GAO-10-583](#)). Legislation is currently being considered for a check-off program for the concrete and masonry industry. For this testimony, GAO focused on (1) mandatory functions and priorities for PERC and NORA programs and projects, (2) whether PERC and NORA activities were covered by certain legal requirements, and (3) federal oversight of PERC and NORA. For the 2010 report, GAO reviewed relevant laws, financial statements, annual reports, meeting minutes, and other reports. GAO also interviewed officials from the departments of Energy and Commerce and the private sector. GAO updated legislative information in July 2015.

GAO's June 2010 report suggested that Congress consider clarifying certain requirements and specifying priority ranking, expenditures, and a DOE oversight role. When Congress reauthorized NORA in 2014, it amended the Oilheat Act by, among other things, taking actions on GAO's suggestions.

View [GAO-15-769T](#). For more information, contact Frank Rusco at (202) 512-3841 or [ruscof@gao.gov](mailto:ruscof@gao.gov).

July 12, 2015

## CHECK-OFF PROGRAMS

### Observations from the Propane and Heating Oil Programs

## What GAO Found

As GAO reported in June 2010, the Propane Education and Research Act of 1996 (the Propane Act) and the National Oilheat Research Alliance Act of 2000 (the Oilheat Act), which authorized the establishment of the Propane Education and Research Council (PERC) and National Oilheat Research Alliance (NORA), specified the following areas as mandatory functions and priorities:

- **Research and development:** The Propane Act requires PERC to develop programs for research and development of clean and efficient propane utilization equipment. The Oilheat Act directs similar oilheat-related research and development and directs NORA to fund demonstration projects.
- **Safety and training/education and training:** Both acts require development of programs to enhance consumer and employee safety and training. PERC refers to this area as “safety and training,” and NORA refers to it as “education and training.”
- **Public/consumer education:** The Propane Act directs PERC to develop projects to inform and educate the public about safety and other issues associated with the use of propane. Similarly, the Oilheat Act directs NORA to develop programs that provide information to assist consumers and other persons in making evaluations and decisions regarding oilheat. Such activities have included developing radio, television, and print advertising.

To fund their operations, the acts require PERC and NORA to assess each gallon of odorized propane gas or heating oil sold at \$0.004 and \$0.002, respectively.

GAO found that some PERC and NORA activities appeared to meet the requirements of the acts, but certain other activities raised issues. For example, activities involving Congress or politically affiliated entities raised issues about whether they were covered by the acts' specific lobbying restrictions. Even if these activities were permitted, issues remained about whether Congress anticipated that assessment funds would be used to fund them, particularly when PERC and NORA classified this spending as “consumer education”—one of the functions required by the acts. Other issues GAO identified related to whether Congress anticipated that PERC and NORA would allocate the majority of their funding to education activities over the past decade (more than half), while allocating relatively little financial support to research and development (8 percent for PERC and less than 6 percent for NORA). When the laws were debated and before they were enacted, research and development had been a key area of congressional interest and ultimately was reflected as both a mandatory “function” and a high-focus “priority” in the final version passed by Congress.

GAO found limited federal oversight of PERC and NORA. As of June 2010, the Department of Energy had not used the oversight authority granted by the Propane and Oilheat acts, such as by reviewing budgets or making recommendations to PERC and NORA, as authorized by law. This lack of oversight was long-standing. For example, in a 2003 report GAO had found that DOE's oversight of PERC was lacking and recommended corrective action.

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Chairman Burgess, Ranking Member Schakowsky, and Members of the Subcommittee:

Thank you for the opportunity to discuss our prior work on congressionally authorized research and promotion programs, also known as check-off programs,<sup>1</sup> as the Subcommittee considers proposed legislation for a check-off program for the concrete and masonry industry.<sup>2</sup> As you know, check-off programs may be established by Congress under federal law at the request of their industries, with the goal of increasing the success of the businesses and farmers that produce and sell certain commodities. To fund check-off programs, a fraction of the wholesale cost of a product is set aside by the producer and deposited into a common fund to be used to benefit producers and consumers. For example, more than 20 such programs are in place for agriculture commodities, including milk, beef, pork, and cotton, and each program is administered by a board or committee. According to an October 2008 Congressional Research Service report, the Department of Agriculture's Agricultural Marketing Service (AMS) has some administrative and oversight responsibilities for those agriculture programs, but the producer-contributor boards that run them must reimburse AMS for such costs.<sup>3</sup>

My testimony focuses on the results of our June 2010 report on the Propane Education and Research Council (PERC) and National Oilheat Research Alliance (NORA)—two federally-authorized check-off programs.<sup>4</sup> Congress authorized the creation of these two national entities and provided the U.S. Department of Commerce (Commerce) and

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<sup>1</sup>The term "check-off" refers to the way that the promotion and research programs are funded: A small amount is deducted from the revenues that producers and/or other members of an industry receive from the sale of their products.

<sup>2</sup>H.R. 985, Concrete Masonry Products Research, Education, and Promotion Act of 2015.

<sup>3</sup>Congressional Research Service (CRS) Report to Congress, "Federal Farm Promotion ("Check-Off) Programs," Number 95-353, October 20, 2008. The CRS report focuses on free-standing generic promotion programs and generally does not cover the similar promotion activities that are part of the regulations issued in connection with marketing orders authorized by the Agricultural Marketing Agreement Act of 1937, as amended. For greater detail on all of these programs, see the Department of Agriculture-AMS website at <http://www.ams.usda.gov/>.

<sup>4</sup>GAO, *Propane and Heating Oil: Federal Oversight of the Propane Education and Research Council and the National Oilheat Research Alliance Should Be Strengthened*, [GAO-10-583](#) (Washington, D.C.: June 30, 2010).

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the U.S. Department of Energy (DOE) with certain related authority to implement these programs. The Propane Education and Act of 1996 (the Propane Act)<sup>5</sup> and the National Oilheat Research Alliance Act of 2000 (the Oilheat Act)<sup>6</sup> authorized the establishment of PERC and NORA, respectively. The Oilheat Act, as amended, is currently authorized until February 2018, and the Propane Act does not expire. PERC and NORA have provided the framework for propane and oilheat producers and marketers to establish self-help, nonfederal programs of research and development, training, safety, and consumer education activities. Both the Propane Act and the Oilheat Act outline key procedural, administrative, and spending requirements to administer these programs.

My testimony today focuses on (1) mandatory functions and priorities for PERC's and NORA's programs and projects,<sup>7</sup> (2) whether PERC and NORA activities were covered by certain legal requirements in the Propane and Oilheat Acts, and (3) federal oversight of PERC and NORA. In preparing this testimony, we relied on our work supporting our June 2010 report and updates from July 2015 as a result of recent legislative changes since our report was issued.<sup>8</sup> For our June 2010 report, we reviewed the Propane and Oilheat acts and PERC and NORA financial statements, annual reports, meeting minutes, and other reports. We also obtained information and views on both PERC and NORA from a wide range of officials in DOE and the Departments of Commerce and Agriculture and the private sector. More details on the scope and methodology for our work can be found in the issued report.<sup>9</sup> We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions

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<sup>5</sup>Pub. L. No. 104-284, 110 Stat. 3370 (Oct. 11, 1996), *codified at amended* at 15 U.S.C. §§ 6401-6411.

<sup>6</sup>Pub. L. No. 106-469, 114 Stat. 2029 (Nov. 9, 2000). NORA's authorization lapsed in 2009, but the program was reauthorized in 2014 by Pub. L. No. 113-79, 128 Stat. 649, 997 (Feb. 7, 2014), *codified at* 42 U.S.C. § 6201 note.

<sup>7</sup>In this report, we refer to both the programs and the organizations operating the programs as either PERC or NORA.

<sup>8</sup>[GAO-10-583](#). In July 2015, we updated information concerning the Propane and the Oilheat acts since the issuance of our June 2010 report.

<sup>9</sup>[GAO-10-583](#).

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based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Mandatory Functions and Priorities for PERC and NORA's Programs and Projects

As discussed in our June 2010 report, both the Propane and Oilheat Acts specify three areas as mandatory functions and priorities for PERC's and NORA's programs and projects.<sup>10</sup> The three mandatory areas are as follows:

- **Research and development:** The Propane Act requires PERC to develop programs that provide for research and development of clean and efficient propane utilization equipment. The Oilheat Act directs similar oilheat-related research and development and directs NORA to fund projects in the demonstration stage of development. According to our analysis of PERC's audited financial statements, annual reports, and other financial information that they provided to us for our June 2010 report, of the about \$350.6 million collected from assessments for 1998 to 2008, PERC and its affiliated state propane associations spent \$28.1 million for research and development (8 percent). According to our analysis of NORA's audited financial statements, annual reports, and other financial information, of the more than \$107.4 million NORA collected from assessments for 2001 to 2008, NORA and the affiliated state associations spent \$6.2 million (5.8 percent) on research and development.<sup>11</sup>
- **Safety and training/education and training:** Both the Propane Act and the Oilheat Act require development of programs to enhance consumer and employee safety and training. PERC refers to this program area as "safety and training," and NORA refers to it as "education and training." Projects that fall into this spending category include developing employee training materials and conducting training courses for industry personnel. According to our analysis of PERC's and NORA's audited financial statements, annual reports, and other financial information that they provided to us for our June 2010 report, from 1998 to 2008, PERC and its affiliated state propane associations spent \$50.7 million for safety and training (14.5 percent),

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<sup>10</sup>Both PERC and NORA also carry out additional activities.

<sup>11</sup>NORA's outside accountant informed us that, of the \$107 million total, NORA had collected approximately \$103 million and had accrued receivables of \$4 million at the end of 2008. For a complete breakdown of PERC and NORA's spending, see [GAO-10-583](#).

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and from 2001 to 2008, NORA and the affiliated state associations spent \$17.8 million (16.5 percent) on education and training.

- **Public/consumer education:** The Propane Act directs PERC to develop projects to inform and educate the public about safety and other issues associated with the use of propane. Similarly, the Oilheat Act directs NORA to develop programs that provide information to assist consumers and other persons in making evaluations and decisions regarding oilheat. Such activities have included the development of radio, television, and print advertising directed at consumers and industry professionals. According to our analysis of PERC's and NORA's audited financial statements, annual reports, and other financial information that they provided to us for our June 2010 report, from 1998 through 2008, PERC spent about \$178.6 million for consumer education (50.9 percent), and from 2001 through 2008, NORA spent \$68.4 million for consumer education (63.7 percent).

To fund their operations, PERC and NORA assess each gallon of propane or heating oil, respectively.<sup>12</sup> Specifically, to fund PERC operations, each gallon of odorized propane gas sold is assessed

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<sup>12</sup>Propane, also known as liquefied petroleum gas, is a by-product of both crude oil refining and natural gas processing, with approximately equal amounts of total propane produced from each process. Propane is used to power household appliances, fuel gas fireplaces and barbeque grills, and heat homes. Oilheat is a petroleum product refined from crude oil. Heating homes is the primary use for oilheat, making the demand for oilheat highly seasonal, with most of the oilheat use occurring from October through March, primarily in the Northeast.

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\$0.004.<sup>13</sup> To fund NORA operations, each gallon of heating oil sold is assessed \$0.002.<sup>14</sup>

While the Propane and Oilheat Acts contain certain restrictions on the types of activities PERC and NORA can undertake, the acts generally do not prohibit PERC and NORA from conducting programs or projects beyond these mandatory areas identified above, and both organizations have carried out additional activities. PERC, for example, has spent funds on agriculture and engine fuel programs. In addition, to coordinate its activities with other parties, as required by the Propane Act, PERC has established an industry programs area to provide support, data, and other services to the propane industry and maximize its impact. Likewise, in 2004 and 2005, NORA funded an oil tank training and education program for tank installers, inspectors, and insurers to address concerns about storage tanks, which NORA officials stated spanned all three mandatory areas in the statute.

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<sup>13</sup>As propane is naturally odorless, a chemical called an odorant is added to give it a distinct odor as a means of detecting a leak. Virtually all commercial propane is odorized.

<sup>14</sup>By statute, both PERC and NORA are to give a portion of the assessments collected to state propane and oilheat associations with similar missions. The PERC and NORA state associations are private enterprises and not state government entities. Under the Propane Act, PERC is to give 20 percent of its assessments to state propane associations. According to PERC, its oversight of these funds includes a PERC Council review of a state association's proposed use for these funds and the submission of periodic and final reports from the state associations. The Oilheat Act requires NORA to give 15 percent of its assessments each year to qualified state associations, which could then request to receive any portion of the remaining 85 percent of the assessments collected in their states. NORA's oversight of state expenditures was similar to PERC's, but state associations are required by NORA to submit quarterly reports on program spending. Both PERC and NORA are also expressly authorized by their statutes to use the assessments they collect to meet general and administrative expenses.

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## Certain Activities Raised Issues about Whether They Were Covered by Restrictions in the Acts

In our June 2010 report, we found that some PERC and NORA activities appeared to meet the requirements of the acts, but certain other activities, such as some activities involving Congress or politically affiliated entities, raised issues as to whether they were covered by the Propane and Oilheat Acts' specific lobbying restrictions. Even when we assumed that these activities were permitted, issues remained about whether Congress anticipated that assessment funds would be used for these types of activities. We also found issues concerning PERC's funding of consumer education activities after spending restrictions were triggered and NORA's monitoring of the expenditures of its funds by state associations.<sup>15</sup>

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## PERC and NORA Activities Related to Congress and Politically Affiliated Entities

The Propane Act prohibits the use of PERC assessment funds for certain "lobbying" activities, specifically for "influencing legislation or elections," except for recommending to the Secretary of Energy any changes in the act or other statutes that would further the act's purposes. At the time of our June 2010 review, the Oilheat Act contained similar provisions, some of which were amended in 2014.<sup>16</sup> However, some of PERC's and NORA's activities—particularly communications and expenditures related to Congress or to politically affiliated entities—raised issues as to whether they were covered under the acts' lobbying restrictions.

In our June 2010 report, we found, for example, that PERC paid for a grantee to attend activities associated with the Republican and Democratic national conventions, for a grantee to contribute thousands of dollars to several politically active organizations, and for a grantee to spend thousands of dollars to host Senate and House receptions. We also found that minutes of an August 2008 NORA executive committee meeting indicated that the NORA President said he was seeking state senators' support for NORA reauthorization and that a December 2008 NORA-qualified Massachusetts state association newsletter indicated that

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<sup>15</sup>For a complete listing of the areas we examined and the results of our review, see [GAO-10-583](#).

<sup>16</sup>In NORA's 2014 reauthorization, the Oilheat Act's lobbying restriction was amended to allow NORA's use of funds to provide information requested by a Member of Congress, or an official of any federal, state, or local agency, in the course of the official business of the Member or official but "lobbying" was specifically added as a prohibited activity. Pub. L. No. 113-79, § 12408, 128 Stat. 649, 1004 (Feb. 7, 2014) *codified at* 42 U.S.C. § 6201 note.



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the NORA President traveled to Washington to urge both Massachusetts senators to support NORA reauthorization.

We found that neither the Propane Act nor the Oilheat Act provided guidance on what constitutes “influencing legislation or elections;” there was little pertinent legislative history; no court had addressed what this language means as used in these statutes; and other federal laws containing similar language had been interpreted in different ways. As such, it was not clear whether or not the Propane Act’s or the Oilheat Act’s prohibitions covered those types of activities. Even when we assumed PERC’s and NORA’s activities were permitted, issues remained about whether Congress anticipated that the assessment funds would be used for these activities, particularly when PERC and NORA had classified this spending as “consumer education,” one of the functions that the acts require PERC and NORA to carry out. Specifically, issues remained about whether they qualified as “consumer education” under the acts. Issues also remained about whether Congress anticipated that such a high proportion of the groups’ funding would go to consumer education activities (i.e., more than half), in comparison to the relatively little support given to research and development (i.e., 8 percent for PERC and less than 6 percent for NORA), which had been a key area of congressional interest as the laws were debated prior to enactment.<sup>17</sup>

Because PERC’s and NORA’s authorizing statutes did not provide for a particular funding level for specific activities or indicate a ranking among the activities designated as priorities, they afforded PERC and NORA wide latitude in deciding how and in what amounts they spent assessments collected. Since the legislative history of both statutes indicated that a need for research and development funding was a key factor driving the legislation, PERC’s and NORA’s decisions to spend over half of their funding on consumer education raised issues about whether these funds were being used as Congress anticipated. Furthermore, while some PERC and NORA activities appeared to meet statutory requirements, the lack of specificity in the language of the statutes raised issues about what activities were covered under certain provisions of the acts. In our June 2010 report,<sup>18</sup> we suggested that as

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<sup>17</sup>In June 2010, we found that research and development was a key area of congressional interest as the laws were debated prior to enactment and that ultimately was reflected as both a mandatory “function” and a high-focus “priority” when the laws were enacted.

<sup>18</sup>[GAO-10-583](#).

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Congress considers whether to reauthorize NORA or amend PERC's authorizing statute, it consider imposing greater specificity on the requirements it has established and to establish mechanisms to enhance compliance with those requirements. Specifically, we suggested that Congress should consider

- specifying any prioritization of activities it wants to be undertaken and detailing more specifically which activities are prohibited (such as some of those involving lobbying) and
- subjecting PERC's and NORA's activities to review, interpretation and approval by an independent, designated entity and specifying a federal oversight role by requiring DOE to monitor and oversee the expenditure of PERC and NORA funds.

Consistent with our suggestions, when Congress reauthorized NORA in 2014, it amended the Oilheat Act to, among other things, specify the expected range of assessments to be spent by NORA or the state associations on certain of the activities and to add some specificity to the lobbying restriction.<sup>19</sup> With respect to PERC, although Congress made technical clarifications to the Propane Act in 2014,<sup>20</sup> it did not address the suggestions we made in 2010.

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### PERC Funding of Consumer Education Activities after Spending Restrictions Were Triggered

In our June 2010 report, we also found that PERC initially designated certain activities as "consumer education" but, when price-based restrictions on consumer education programs were triggered in 2009, it redesignated and continued the activities as "residential and commercial" matters. The Propane Act specified that if the 5-year average rolling price index of consumer grade propane exceeds a particular price threshold, PERC's activities must be restricted to research and development, training, and safety. Commerce notified PERC in August 2009 that this price composite index threshold had been exceeded. We found that, after the August notification, PERC approved three grants, including a no-cost change order to a previously approved grant. These grants initially had

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<sup>19</sup>The reauthorization amended the Oilheat Act to specify how a total of not less than 85 percent of the assessments collected were to be spent on activities such as research and development. Pub. L. No. 113-79, § 12406, 128 Stat. 649, 1000 (Feb. 7, 2014), *codified at* 42 U.S.C. § 6201 note.

<sup>20</sup>Pub. L. No. 113-269, 128 Stat. 2947 (Dec. 18, 2014).

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been proposed and approved as consumer education grants, which would be prohibited under the restriction, and PERC amended their designation to a new program area called “residential and commercial” matters. The Propane Act did not specifically define the scope of activities permitted under the price restriction or the activities that must cease.<sup>21</sup> We concluded that the resulting lack of a precise statutory line between permitted and prohibited activities created difficulty in assessing compliance with the restriction.

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## NORA Monitoring of State Associations

In our June 2010 report, we also found issues concerning NORA’s monitoring of state oilheat associations. It was unclear during our review whether NORA’s monitoring procedures were adequate to detect noncompliance among its state grantees if it occurred. The Oilheat Act required NORA to monitor the use of funds it provides to state associations and impose any terms and conditions it considers necessary to ensure compliance with the act.<sup>22</sup> The Oilheat Act also required NORA to establish policies and procedures that conform to generally accepted accounting principles (GAAP) for auditing compliance with the act. According to NORA’s President, monitoring of state associations included, among other things, policies and procedures to review state grants and disbursements and requirements in grant agreements with the state associations that specify the authorized and unauthorized use of NORA assessment funds. However, based on our review of general ledger entries, financial statements, and certain other reports and information prepared by selected state associations for our June 2010 report, we were unable to determine whether spending by state associations of NORA funds met the requirements of the Oilheat Act. For example, based on our review of the general ledger expenditures entries for 2006 to 2008, we found that hundreds of entries indicated only that a purchase was made, with no details as to the type of or reason for the purchase. We suggested that Congress consider requiring NORA funds granted to qualified state associations be segregated in separate accounts, apart from other funds collected and used by those

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<sup>21</sup>The Oilheat Act, by contrast, contained a broad definition of “consumer education”: “the provision of information to assist consumers and other persons in making evaluations and decisions regarding oilheat and other nonindustrial commercial or residential space or hot water heating fuels.”

<sup>22</sup>The Propane Act contained no similar explicit monitoring requirement for PERC.

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associations. Consistent with this suggestion, in NORA's 2014 reauthorization, the Oilheat Act was amended so that as a condition of receiving funds from NORA, each state association is to deposit the funds in an account that is separate from other funds of the qualified state association.<sup>23</sup>

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## Federal Oversight of PERC and NORA Has Been Limited, Unlike Federal Oversight of Agriculture Check-off Programs

In our June 2010 report, we found that the federal oversight of PERC and NORA was limited, which was in contrast to the routine federal oversight of agriculture check-off programs that had existed. DOE did not exercise its oversight authority for either PERC or NORA, and DOE officials told us that they believed that the department had no oversight role regarding either one. DOE, however, is empowered to review both organizations' annual budgets; to recommend activities and programs it deems appropriate; and, in PERC's case, to require submission of reports on compliance, violations, and complaints regarding implementation of the Propane Act. We found that although DOE is authorized to be reimbursed by PERC for the department's PERC-related oversight costs (up to the average salary of two DOE employees), DOE officials told us the department never requested reimbursement because it did not incur any oversight costs. This lack of oversight is part of a long-standing pattern. For example, in a June 2003 report, we found that DOE's oversight of PERC was lacking and recommended that the department take corrective action.<sup>24</sup> In its response to our June 2003 report, DOE stated that Commerce rather than DOE had oversight responsibility and, therefore, DOE did not act on our recommendation. In June 2010, we found that DOE's position regarding PERC remained unchanged.

Importantly, as neither the Propane nor the Oilheat Act contained a specific enforcement mechanism for any potential PERC or NORA violations, in June 2010 we concluded that any oversight program implemented by a federal agency would be hampered. As a result, in our June 2010 report,<sup>25</sup> we suggested that as Congress considers whether to

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<sup>23</sup>Pub. L. No. 113-79, § 12406 (b), 128 Stat. 649, 1000 (Feb. 7, 2014) *codified at* 42 U.S.C. § 6201 note.

<sup>24</sup>GAO, *Propane: Causes of Price Volatility, Potential Consumer Options, and Opportunities to Improve Consumer Information and Federal Oversight*, [GAO-03-762](#) (Washington, D.C.: June 27, 2003).

<sup>25</sup>[GAO-10-583](#).

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reauthorize NORA or amend PERC's authorizing statute, it may wish to impose greater specificity on the requirements it has established and to establish mechanisms to enhance compliance with those requirements. Specifically, we suggested that Congress should consider establishing a specific enforcement mechanism, and expressly authorizing DOE to refer any potential violations of law to appropriate enforcement authorities. Consistent with our suggestion, when Congress reauthorized NORA in 2014, it amended the Oilheat Act to, among other things, provide that in the event of a violation of the act, the Secretary of Energy is to notify Congress of the noncompliance and provide notice of the noncompliance on NORA's website.<sup>26</sup> With respect to PERC, although Congress made technical clarifications to the Propane Act in 2014 as noted above, it did not address this suggestion we made in 2010.

In contrast to DOE's limited oversight of PERC and NORA, in our June 2010 report, we found that the Department of Agriculture routinely has provided oversight of the various check-off programs authorized by Congress and for which it has mandated responsibilities.<sup>27</sup> For example, we previously reported that the Department of Agriculture's commodity divisions—such as the Livestock and Seed Division—ensure that check-off programs are in compliance with the authorizing legislation through routinely reviewing the check-off boards' budgets, financial statements, plans, projects, and contracts.<sup>28</sup> Our previous report also noted that Agriculture officials attend board meetings and advise board officials on how consistent their planned activities will be with the authorizing legislation. Likewise, a 2008 Department of Agriculture report to Congress noted that the department's AMS has day-to-day oversight responsibilities for the dairy and fluid milk promotion programs.<sup>29</sup> In addition to reviewing and approving the boards' budgets, budget amendments, contracts,

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<sup>26</sup>Pub. L. No. 113-79, § 12409, 128 Stat. 649, 1004 (Feb. 7, 2014), *codified at* 42 U.S.C. § 6201 note.

<sup>27</sup>As discussed earlier, Congress has authorized check-off programs for agriculture commodities, such as beef, blueberries, cotton, dairy products, eggs, peanuts, popcorn, pork, and potatoes, and USDA has mandated oversight activities over these programs.

<sup>28</sup>GAO, *Agricultural Marketing: Federally Authorized Commodity Research and Promotion Programs*, [GAO/RCED-94-63](#) (Washington, D.C.: Dec. 29, 1993).

<sup>29</sup>USDA Agricultural Marketing Service Dairy Programs, vol. 24, *Report to Congress on the National Dairy Promotion and Research Program and the National Fluid Milk Processor Promotion Program* (July 1, 2008).

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advertising campaigns, and investment plans, the AMS, among other things, ensures that the collection, accounting, auditing, and expenditure of promotion funds is consistent with the enabling legislation and department orders.

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Chairman Burgess, Ranking Member Schakowsky, and Members of the Committee, this completes my prepared statement. I would be pleased to answer any questions that you may have at this time.

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## GAO Contact and Staff Acknowledgments

If you or your staff members have any questions about this testimony, please contact me at (202) 512-3841 or by e-mail at [ruscof@gao.gov](mailto:ruscof@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Marya Link, Alison O'Neill, Kiki Theodoropoulos, Susan Sawtelle, and Barbara Timmerman made key contributions to this testimony.

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