The original documents are located in Box 35, folder "Transition Reports (1977) - Commerce Department: Legislation Issues (3)" of the John Marsh Files at the Gerald R. Ford Presidential Library.

Energy

Commercial Production of Nuclear Fuel

The 94th Congress failed to pass legislation which would have authorized ERDA to enter into cooperative agreements with private concerns in order to facilitate the development of certain privately financed uranium enrichment and production facilities. The proposal, H.R. 8401, offered by Congressmen Price and Anderson of Illinois on July 8, 1975, would have provided up to $8 billion in Federal loan guarantees for private companies.

The Senate tabled H.R. 8401 on September 29, 1976 and also tabled a companion bill offered by Senators Pastore and Baker on September 15, 1976.

An additional issue contained in the question of commercial production of nuclear fuel is the question of safeguards and security involved in commercial nuclear fuel production.

Decontrol of Petroleum Prices

The Energy Policy and Conservation Act (EPCA) established the price structure for domestically produced crude oil. The law pegged the price of crude oil per barrel through a scheme of weighting averages of different types of crude at an overall average price of $7.66 per barrel. Under the weighting method different types of oil (new, old, secondary recovery, etc.) could be priced differently as long as the average was $7.66. The price of crude oil could be escalated by as much as ten percent annually to reflect inflation and drilling incentive adjustments.

The Administration opposed the view that petroleum prices should be regulated. The Administration argued that by decontrolling the price of crude oil and allowing the market to set the price there would be a significant increase in domestic oil exploration and development. In offering this position, the Administration argued that unless the price of crude was allowed to increase there would be limited exploration for oil on the outer continental shelf because the price of crude would not be great enough for companies to warrant taking the costly risk to search for oil on the outer continental shelf.

The question of price controls both within the context of energy and economic policy is expected to be raised again in the 95th Congress.

The price of oil from the outer continental shelf and for crude from the North Slope of Alaska will be of particular interest to the Congress, especially as domestic oil production continues to decline and the Nation's consumption of OPEC oil increases.

A more detailed analysis of this issue is contained in the consolidated issue book.

Deregulation of Natural Gas

The issue of whether to deregulate the price of new natural gas at the wellhead is expected to be a major energy question in the 95th Congress.

The basic question raised in debate over the deregulation of new natural gas is whether it would result in increased exploration for and development of new supplies of the cleanest of all fuels or whether deregulation would simply raise the price of the fuel and thus be a "consumer ripoff."

The Administration's position is that the deregulation of new natural gas would provide the incentive for increased exploration which would in the end lower the price to the consumer.

Predictions for a severe natural gas shortage for the winter of 1975 were the catalyst for legislation to deregulate the price of natural gas. The Senate passed legislation to deregulate the price of new gas produced onshore and a gradual phasing out of price controls offshore. The House, however, defeated the Senate version and passed alternative legislation. No reconciliation of the two bills was achieved.

Although there were attempts to revive the issue of natural gas deregulation later in the 94th Congress, they never received action.

The issue of deregulation of the price of new natural gas at the wellhead is expected to reappear in the 95th Congress as does the prospect for a shortage of natural gas this winter.

President-elect Carter is reported to have stated that he favors the decontrol of new natural gas at the wellhead.

A more detailed analysis of this issue is contained in the consolidated issue book.

Emergency Petroleum Allocation

The Energy Policy and Conservation Act included a provision directing the Federal Energy Administration to submit to the Congress by January 1, 1977 a set of plans to allocate fuel in the event of another oil embargo.

While the Administration certainly recognizes the prudence of having an energy allocation plan that could be utilized in the event of a severe emergency such as an oil embargo, the Administration believes that energy allocation should not be viewed as a substitute for the exploration and development of new sources of energy both conventional and exotic.

Any allocation plan places hardship on certain sectors of society. As a consequence, Members of the Congress, when considering a formal adoption of an allocation scheme, will work to see that it benefits citizens of their individual states and districts.

Congressional consideration of an allocation plan is expected in the 95th Congress. The timing of consideration may depend on both OPEC pricing and political-economic plans and actions.

Energy Conservation and Conversion

A number of energy-related amendments were put forward as part of the Tax Reform Act of 1976. However, at the request of a number of Senators and Representatives, these amendments were withdrawn from the tax bill and were to be considered separately. The amendments to promote both energy conservation and production were removed from the tax bill but time was never accorded for their separate consideration under the title Energy Conservation and Conversion.

While it is not known what specific areas will be considered in future tax "reform" legislation, it could well be that amendments to the tax laws will have a significant bearing on efforts to promote energy conservation and production.

Energy Facility Siting

The 94th Congress failed to pass legislation to provide for the coordination of long-range planning and facility siting in the electric utility industry.

S. 3311, dealing with this subject, was introduced by Senator Moss (D-Utah) on April 13, 1976. It failed to receive further action beyond the hearing stage which occurred on April 27 and 28 of 1976.

Another bill, S. 619, introduced by Senator Jennings Randolph on February 7, 1975, would have required the FEA to prepare a National Energy Site and Facility Report. The bill died after it was referred to the Senate Interior Committee.

The Administration supported S. 619 because it felt that a framework which would allow for a timely and comprehensive consideration of energy facility siting would encourage new electric generation by resolving some of the issues presently unresolved which reduce investor confidence and discourage essential long-range planning.

Issues raised by thequestion of energy facility siting include the development of criteria for site selection, environmental implications of site selection, and the scope of public hearings on and court review of siting decisions.

Oil Import Fees

No legislation proposing oil import fees was actively considered in the 94th Congress.

The President considered the placing of fees on imported crude oil as a means to reduce the demand of crude oil and to stimulate domestic energy conservation.

It is difficult to determine what consideration will be given to the matter of oil import fees in the 95th Congress. Much will depend on both OPEC pricing and production policies as well as domestic conservation efforts.

Pricing and Distribution of Alaska Crude Oil

The procedure for determining the price of crude oil from Alaska's Prudhoe Bay is set forth in the Energy Policy and Conservation Act (P.L. 94-163).

The Federal Energy Administration is to determine what the fair price should be for the Alaska crude oil which will be shipped via the trans-Alaska pipeline. The FEA would then transmit its findings to the President. The President, after the review of the FEA recommendation, would transmit his own price determination to the Congress which can agree with or change the price. Thus Congress has the final say in determining the price of Alaskan crude oil.

The FEA is expected to submit its per barrel price determination to the President in the spring of 1977.

The matter of how Alaskan crude oil will be distributed is not clear at this point as an accurate and formal determination of the West Coast consumption rate has not been made.

Surface Mining

During the 94th Congress the President vetoed two strip mining bills. The last major surface mining (strip mining) bill introduced in the 94th Congress by Representative (now Senator-elect) John Melcher of Montana was H.R. 13950 which was similar to one of the vetoed bills, H.R. 25.

The stated purpose of H.R. 13950 was "to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines." Surface coal mining operations were to be regulated through the permit program administered by the Secretary of the Interior. Applicants would be required to meet minimum environmental standards. States would be allowed to establish surface mining control programs at least as stringent as minimum Federal standards.

The bill also included provisions to fund mineral resources research programs and to provide for reclamation of abandoned mine sites. The Secretary of Labor would have been authorized to extend unemployment assistance to individuals left jobless as a result of enforcement of surface mining requirements.

Surface mining legislation raises perhaps one of the most emotional and difficult issues facing the Congress -- the need to strike a balance between protection of the environment and the need to develop our most abundant energy source and the sectional divisions between coal rich areas and energy hungry areas.

The Administration position is that coal must be mined but not at the expense of irreparably damaging the environment, creating higher unemployment, raising coal prices and creating a decline in coal production - criticisms leveled by President Ford at the the vetoed bills.

President-elect Carter has supported strip mining legislation and a number of Democrats in the Congress have indicated that a bill which is the same as H.R. 25 will be introduced early in the first session of the 95th Congress.

Energy Fuel Resources - Nuclear, Breeder Reactor, Geothermal, Solar, Coal, Wind Power Development

The purpose of providing Federal funding for the research and development related to exotic fuels is to determine and develop their potential as energy sources.

The real issue in the debate has been the relative level of support that should be given nuclear and fossil fuel development as opposed to longer range R&D related to more exotic sources such as solar and wind power. The stakes are high and the issues are complex.

The Administration position is that the Federal government should take part in the funding of research and development into all reasonable energy sources but should share the burden with private industry.

In considering the Energy Research and Development Administration authorizing legislation, the principal vehicle for energy R&D funding proposals, the Committees generally increased Administration-backed funding levels across the board. Funding requests were increased over Administration requests or prior year funding levels for nuclear program operating funds; Federal uranium enrichment facilities; fusion power research; coal and other fossil fuel programs; solar energy; conservation; and breeder reactor development.

Efforts to restrict breeder reactor development by adding tight safety and financing restrictions were defeated.

The conference report on the bill, which would have provided $6 billion for nuclear and $2 billion for non-nuclear programs, was passed by the House but blocked on the Senate floor, where it arrived at the eleventh hour before adjournment, by Senator Gravel's request that the bill be read in its entirety. This was alledgedly prompted by Senator Gravel's anger at Senator Jackson's refusal to back Gravel's bid for a seat on the Joint AEC Committee. The bill did not pass the Senate. ERDA is functioning under a continuing resolution which authorizes its programs through March 1977.

The issue of Federal funding to assist in the development of exotic energy sources is sure to be actively considered early in the 95th Congress.

A more detailed analysis of this issue is contained in the consolidated issue book.

Science and Technology - Federal R & D Expenditure Levels

While no specific legislation has been introduced to deal with this matter, the level of Federal research and development funding has been a topic for discussion throughout government and a focal point of numerous hearings by the Subcommittee on Domestic and International Scientific Planning and Analysis of House Committee on Science and Technology.

The issues raised here are twofold: where and how should R & D funding be channeled and what is the optimum level of funding? Secondary issues also arise such as how are R & D funds to be used; what guidelines should be imposed to assure maximum returns for funds spent; and finally, what should the relationship between the government and private sector be in joint R & D efforts where Federal funding is involved?

No formal Administration or Department of Commerce position exists on what the exact Federal R & D expenditure level should be.

No legislation has been introduced to set a definitive Federal research and development expenditure level.

It is not expected that legislation to peg a definitive Federal R & D expenditure level will be introduced in the 95th Congress although the subject of Federal R & D will continue to be discussed, especially within the House Committee on Science and Technology.

A more detailed analysis of this issue is contained in the consolidated issue book.

Synthetic Fuels

The 94th Congress failed to pass legislation to provide Federal assistance for the development of synthetic fuels.

Sponsored by Representative Olin Teague (D-Tex.), H.R. 12112, the so-called synthetic fuels bill, would have provided $2 billion in loan guarantees to industry for the construction of first-of-a-kind modular demonstration plants for different types of synthetic fuel production (coal gasification, biomars, etc.). The proposal also contained provisions for loans on solar, geothermal and waste disposal development.

Issues raised by synthetic fuels legislation include: should synthetic fuels be developed? should industry bear the complete financial burden of developing synthetic fuels and if not, what should the Federal role be with regard to the direction and funding of a synthetic fuels program?

The Administration supported H.R. 12112 because it felt that it is prudent to explore the possibilities of developing alternative sources of energy in light of dwindling supplies of domestic oil and increasing reliance on costly foreign oil.

Because H.R. 12112 failed by a very close margin in the House, it is expected that a similar bill will be introduced in the 95th Congress.

A more detailed analysis of this issue is contained in the consolidated issue book.

Maritime, Trade,
Tariffs

Cotton and Textile Tariffs

On September 21, 1976, Senator Talmadge introduced, and subsequently withdrew, an amendment to H.R. 2177, to change the basis for the tariff classifications of cotton and man-made fiber textiles.

Such a measure would have a significant impact on the application of U. S. tariffs, U. S. commitments under the GATT, and the implementation of the U. S. textile import program.

The Administration is studying this proposal to determine the nature and extent of its impact.

A more detailed analysis of this issue is contained in the consolidated issue book.

Most Favored Nation Treatment

The U. S. tariff laws generally provide two schedules of rates of duty for imported articles. One (referred to as Column 1) is never higher, sometimes the same, but usually lower than Column 2. Column 1 duties are for imports from nations accorded "most favored nation" treatment (MFN). The other (Column 2) applies to imports from Communist-dominated countries except Poland, Yugoslavia, and Romania, which are accorded Column 1-MFN-treatment. Proposals to extend MFN treatment to some or all of the countries to which Column 2 now applies can be expected in the 95th Congress.

North/South Commodity Issues

There has been and will continue to be broad ranging debate on the exports and imports of goods, services, technology and capital to and from less developed countries.

Economic conditions, inflation, anticipated oil price increases, food shortages and other factors, have aggravated the disparity between developed, generally northern, and less developed (Third World), generally southern, countries. The whole range of foreign policy questions, America's moral commitment, and our own economic situation in this context can be expected to be of continuing significance in the 94th Congress.

A more detailed analysis of this issue is contained in the consolidated issues book.

Nuclear Exports

As heretofore stated on page 2 of List 1 the Administration offered legislation to extend the Export Administration Act of 1969. Various amendments to these bills (S. 3084 and H.R. 7665) were offered proposing new controls on the export of nuclear fuels and facilities that could be used by foreign countries for manufacturing atomic weapons.

In the House, the International Relations Committee approved language which sought to slow the proliferation of nuclear weapons by recommending that the U.S. retain control over all nuclear material that is discharged from U.S. supplied reactors. This would guard against another country reprocessing spent fuel to extract plutonium for making nuclear bombs. The idea was that a firm definition of U.S. nuclear export policy would increase possibilities for international export agreement among nuclear supplier nations. The House bill which became H.R. 15377, containing language to implement the foregoing, passed the House by a 318 to 63 vote.

The Senate Banking, Housing and Urban Affairs Committee reported S. 3084 which passed the Senate 66 to 12.

The bill contained a sense of the Congress provision offered by Senator Stevenson urging the President to seek agreements with nuclear exporting countries to control shipments to third countries of nuclear materials and facilities that could be used to manufacture nuclear weapons.

The conferees from House and Senate never met formally but did discuss the various features of the House and Senate versions. Lacking approval for a formal conference the two bills died with the adjournment of the Congress.

Third Flag Carriers

Legislation in this area provides that any carrier engaged in trade with the U.S. must charge rates equal to or higher than "conference rates" or show just cause why such lower rates should be allowed.

H.R. 7940, Mrs. Sullivan, amended Section 18 of the Shipping Act of 1960, forbidding non-U.S. flag vessels engaged in U.S. trade from maintaining rates below those of the U.S. ships engaged in the same trade, provides that the FMC may reject rates and prohibit foreign flag rates if they do not meet the accepted criteria. The bill was introduced to correct the growing problem of the proliferation of state owned third flag carriers (carriers which do not serve their own ports) which charge rates that allegedly do not cover their fully distributed costs. These state subsidized ships have been encroaching increasingly upon liner trade routes of the U.S. and its trading partners.

A clean bill was introduced, H.R. 14565, and hearings were held by the Merchant Marine Subcommittee. Further consideration was tabled in order to allow the Soviet Union to follow up their recent agreements with the FMC.

It is likely that similar legislation will be reintroduced in the 95th Congress.

A more detailed analysis of this issue is contained in the consolidated issue book.

Taxes

While the Department of the Treasury has the lead on tax issues, their impact on economic and business concerns are of distinct interest to the Department of Commerce, and the Secretary of Commerce should play a substantial role in policy development in specific areas.

While no legislative data are provided herein, detailed analysis papers are contained in the consolidated issue book on the following areas of specific concern which are representative of the kinds of issues that came up in the last Congress and were of significant interest to the Department of Commerce:

Capital Formation
Continuation of DISC
Double Taxation of Dividends
Investment Tax Credit
Preservation of Foreign Tax Credits and Deferrals

Economic and
Employment

Common Situs Picketing

The common situs picketing legislation, which was vetoed by President Ford on January 2, 1976, would have permitted unions to picket an entire construction site in connection with a dispute with one contractor working at that site. The Supreme Court had ruled in 1951 that such picketing constituted an illegal secondary boycott. The bill would also have established a government-sponsored labor-management committee to provide more stability in collective bargaining negotiations in the construction industry.

The final vote on the conference report by the House and Senate respectively was 229 to 189, and 52 to 43.

Indications from the Hill are that common situs legislation will be acted on rather quickly in the coming session.

Federal Reserve Credit Allocation

Assurance of credit availability at reasonable interest rates will be a major legislative focus. One proposal which may be advanced is for the Federal Reserve Board and other suitable agencies to establish a mechanism to allocate credit to various segments of the economy.

The Democratic Platform views the credit allocation question as a means of addressing the pressing problems of the urban areas and calls for a greater effort to be made to bring credit institutions into play in assisting with such problems as housing.

Given the subject's inclusion in the platform and the increasing emphasis that is anticipated with respect to the cities, it would appear that some initiative on this front will be undertaken.

Humphrey-Hawkins Bill

This measure was intended to reduce unemployment to the 3 percent level by providing for coordinated economic planning at the Federal level and a jobs program including the use of the government as the employer of last resort.

As finally marked up by the House Education and Labor Committee in September 1976, the bill, H.R. 50, set forth as its goals balanced growth and a reduction within four years after enactment in unemployment levels to 3 percent of workers at least 20 years old. The measure proposed a wide variety of job programs to reach those goals, including, as mentioned earlier, last-resort federal financing of jobs, primarily in low-pay categories.

At issue were the aspects of central economic planning which the bill originally mandated, the cost of the legislation, and the need for such a measure given the continued economic recovery.

The Democratic Platform embraces the concept of the Humphrey-Hawkins bill and it can be anticipated that legislation of this nature will be given full consideration in the 95th Congress.

Minimum Wage

As a result of the 1974 Fair Labor Standards Act Amendments the minimum wage for most workers covered under the Act went to $2.30 on January 1, 1976. For limited categories a raise in the minimum of $2.30 will become effective on January 1, 1977 or January 1, 1978.

Minimum wage legislation was introduced in the 94th Congress by Congressman Dent but was given limited consideration. The purpose of last year's bill H.R. 10130, was fourfold; to increase the minimum wage rate, to provide for automatic increases in the minimum wage rate in the future, to raise the overtime premium pay rate, and to reduce and then repeal the tip credit.

The Administration was opposed to this measure generally viewing Government mandated wages to be counter-productive. Endorsement of minimum wage legislation is found in this year's Democratic Platform and it is anticipated that more detailed attention will be given to this issue in the 95th Congress than the short series of House Subcommittee hearings devoted to this subject in the 94th Congress.

National Economic Planning

Pressure can be expected to provide an improved mechanism for coordinated planning by the Executive, the Congress, the private sector and state and local governments to assure that national economic goals and problems are addressed in a coherent manner through advance planning. During the 94th Congress, identical bills were introduced in the House and Senate which would have established a three-member Economic Planning Board in the Office of the President, responsible for anticipating the Nation's economic needs, outlining economic goals and priorities, developing a proposed economic growth plan, and recommending policies to the executive and legislative branches to achieve the objectives of the plan. Each proposed plan after Presidential review would be required to be submitted to the Congress for approval or disapproval by concurrent resolution.

A more detailed analysis of this issue is contained in the consolidated issue book.

Revision of Federal Grant Formulas

Federal grant programs use a variety of formulas based on population income levels, state area and other factors to determine the proportion of total grant authority under a program to be allocated to each state or local entity. Complaints have become numerous that some of these formulas are discriminatory, not suitable to meet the needs of the country at large, based on outdated information, etc. The recently enacted proposal for a mid-decade census will help with respect to the timeliness of some of the data but legislation addressing the problem in a more general way is likely.

The objective of this legislation will be to provide what some Members of the Congress feel would be a more equitable distribution of federal grant monies. The Northeastern States are feeling particularly short changed and it is expected that their congressional delegation will push for a change. It is their contention that the sunbelt States are getting a disproportionate amount of dollars and as a result the industrial base of the N.E. is suffering irreparable erosion.

Urban Revitalization and Neighborhood Development

Urban revitalization and neighborhood development proposals will be advanced to deal with the many problems of urban life. These will include housing rehabilitation, housing subsidies for the elderly, prohibition of mortgage practices which discriminate against low-income or minority neighborhoods, strengthening the tax base of large cities affected by the flight to the suburbs, etc.

There were only a few specific bills dealing with this broad subject introduced this past Congress and they received little attention. The focus for this subject was at the executive level where a study was conducted of which the Department of Commerce was a part.

It is anticipated that considerably more legislative activity will be evidenced in this area in the 95th Congress.

The Democratic Platform in fact specifically pledges to develop what they define will be the country's first national urban policy.

A more detailed analysis of this issue is contained in the consolidated issue book.

Wage and Price Controls

If inflationary pressures continue, proposals to provide restraint on wage and price increases, whether by "jawboning" or by direct controls, will undoubtedly be introduced.

Though no specific proposal or commitment to controls has been indicated by the incoming Administration, the Democratic Platform does make mention of the subject in a voluntary context. As a means of combating inflation, the Platform foresees the possibility of direct government involvement in this area. It specifically mentions the formation of a strong domestic council on wage and price stability whose focus would be the restraint of price increases in those sectors of the economy where prices are "administered" and where price competition does not exist.

If "jawboning" is the vehicle used, strengthening of the role of the Council on Wage and Price Stability is likely to be one of the proposals advanced, particularly since the Council, established by P.L. 93-387, is presently scheduled to expire on September 30, 1977. A proposal for its extension is therefore likely to be the vehicle to determine action on wage and price controls.

A more detailed analysis of this issue is contained in the consolidated issue book.

Aircraft and other Noise Pollution

On November 8, 1976, Secretary of Transportation William Coleman announced the Administration's Aviation Noise Abatement Policy. The Secretary released an environmental impact statement which had been completed on the subject and set public hearings for December 1, 1976, in Washington.

The aviation noise abatement program, which is scheduled to go into effect on January 1, 1977, requires that certain commercial turbo jet air craft must have replaced or "retrofited" engines in a period of six or eight years. This engine replacement program is designed to fulfill Part 36 of the Federal Aviation Regulations.

The retrofit or engine replacement of the existing fleet is estimated to cost approximately $6 to $8 billion. It is questionable whether the airline industry can accomplish this without government financial assistance. The Department of Transportation is considering a number of actions which could require legislation including use of airport and airway trust funds, surcharges on tickets, and legislation to either ban or allow SST flights over the U.S. may be proposed as may production of a domestically manufactured SST.

Congress has indicated that it will hold oversight hearings on the Noise Control Act of 1972 in the 95th Congress. Major revisions of the Act and/or the OSHA statute may flow from these hearings and from the current dispute over the OSHA noise levels proposed for the workplace which many consider to be most costly.

The subject of noise pollution raises a number of issues both in the areas of policy formulation and implementation. These issues involve such questions as the definition of noise pollution, the impacts of noise on health and productivity and the cost of reducing noise levels.

Clean Air Act Amendments

In the Second Session of the 94th Congress, attempts were made to amend the Clean Air Act of 1970 (P.L. 91-604). While both Houses of Congress passed amendments to the Act, a filibuster in the Senate killed the legislation at the end of the Session.

Last Session's legislation dealt primarily with two issues. First, review of the auto emission standards because the current statutory standards cannot be met in some respects and fuel efficiency and economic consideration suggest that a new timetable for reaching achievable auto emission goals is desirable. The second major issue involved a statutory basis for the judicially imposed requirement that EPA regulate the growth of emissions in "clean air areas", or areas where the health and welfare related ambient air quality standards were not in danger of being violated. The schemes by which EPA would prevent significant deterioration in ambient air quality in these clean areas, and the extent and magnitude of any resulting adverse impacts on economic growth, caused considerable controversy.

The Administration and the Department initially supported a five-year freeze of auto standards and subsequently a compromise, two-step freeze (the Dingell-Train amendment). Such a freeze would allow for the development of promising alternative pollution control technologies, ease the emission control impacts on efforts to improve fuel efficiency, and, provide a realistic ultimate standard. Both the Senate and House rejected these approaches and drafted amendments, with more ambitious emission cleanup timetables, which were unacceptable to the Administration.

Both the Administration and the Department opposed Congress' significant deterioration proposals because of their potential adverse impact on industrial growth and the lack of any meaningful analysis of such potential impact. This question was the source of considerable debate with many arguing that it would not be prudent to pass legislation until it could be accurately determined what the impact of the bill would be on the economies of individual states, especially those in the West. The Administration supported the Moss amendment which would have required a study of the

potential impacts of various significant deterioration proposals. The Senate and the House rejected this and developed dissimilar schemes for preventing significant deterioration.

Clean Air Act legislation, at least concerning auto standards, will be considered in the 95th Congress because it will be impossible for cars of the 1978 model year to meet the current legal requirements. Whether an "autos only" bill will be considered, or omnibus legislation such as considered last year will be proposed is unclear. Muskie and Rogers, perhaps because of the contention over last year's legislation, have reacted negatively to prompt amendment of the Clean Air Act next Session.

A more detailed analysis of this issue is contained in the consolidated issue book.

Land Use Planning

Land use planning legislation, to provide a framework for planning the future uses of land in the nation would directly affect a wide range of interests.

While the question of land use planning was an emotional one in the 93rd Congress, land use planning bills offered by Senator Jackson and Representative Udall failed to clear the committee level in the 94th Congress.

As the Administration does not know the substance of possible legislation to be introduced on land use planning, it has not taken a formal position on these issues.

It is unclear whether land use planning will be actively considered in the 95th Congress.

Water Pollution Control Act Extension

The purpose of the Water Pollution Control Act Amendments of 1972 (P.L. 92-500) is to "restore and maintain the chemical, physical and biological integrity of the Nation's waters." The law also sets two more specific goals: fishable and swimable waters by 1983, and, elimination of all polluted discharges into navigable waters by 1985.

The Congress will consider the extension of the Water Pollution Control Act and amendments to the Act during the 95th Congress.

In the process of amendment and extension of the Water Pollution Control Act, numerous issues may be raised concerning the methods, timing and costs of meeting the law's requirements.

On March 18, 1976, the National Commission on Water Quality chaired by Vice President Nelson Rockefeller, released its report on the implementation of the Water Pollution Control Act. The Commission made a number of recommendations which will be considered when the Congress considers the law in 1977.

The Administration has been thoroughly reviewing all aspects of the Act to develop recommendations for the 95th Congress.

Although Congressional action on the Water Pollution Control Act was overshadowed in the 94th Congress by consideration of amendments to the Clean Air Act, Senator Edmund Muskie, Chairman of the Public Works Committee's Subcommittee on Environmental Pollution, has indicated that the subject of water pollution control will definitely be given thorough consideration by the 95th Congress.

A more detailed analysis of this issue is contained in the consolidated issue book.

Wetlands Protection

The Federal Water Pollution Control Act (FWPCA) contains a provision, (Sec. 404), that allows the Corps of Engineers instead of EPA to issue water pollution control permits for the disposal of dredged or fill materials in U.S. waters. This simplifies such activities since the Corps must pass on such discharges from a navigational standpoint. The Corps originally intended to permit dredge spoil and fill activities only in the navigable waters, but, due to judicial decisions, the Corps' jurisdiction was extended to all of the waters of the U.S., including very small streams, ponds and many areas that are only periodically inundated. Since fill activities include almost any disturbance of the soil and the Corps' geographic jurisdiction is so broad, this provision of FWPCA came to be viewed as a means to evaluate and prevent even the filling of wetlands with essentially clean soil.

The potential review and permitting of any disturbance of the soil in lowland areas and where any small stream or pond is involved, has disturbed agriculture, forestry and construction interests. As a consequence, the House Public Works Committee, in the course of considering amendments to the FWPCA sewer facilities grant program this year, inserted a rider amendment which would have greatly restricted the Corps' jurisdiction. (Breaux amendment to H.R. 9560). This amendment and subsequent similar proposals could not be agreed upon by the Senate and House and were subsequently dropped. The issue of adequate protection of wetlands without unnecessary government interference with construction and agricultural-silvicultural activities may come up in the 95th Congress as part of general FWPCA amendments.

Commerce basically supported a definition of wetlands which would have granted adequate scope to protect critical wetlands, especially those important to fishery propagation, but would have excluded from the permitting process non-critical lowland areas, small streams, farm ponds, and the like.

Consumer Protection Agency

This legislation would create an independent Consumer Protection Agency (CPA) to represent consumer interests before Federal agencies and courts, to receive and transmit complaints from consumers, and to develop and disseminate information concerning consumer interests.

Opponents point out that there are already 39 consumer agencies in the Federal government, that a C.P.A. would only be an additional bureaucracy, that defining "consumer interest" is almost impossible, and that intervention by an agency with substantial authority, power and resources would discourage new products and burden business with paperwork, etc.

The Administration and the Department opposed this legislation. Because of the President's position and Congress' inability to override a veto, this measure never made it to conference. S. 200, the Senate version, had passed in May of 1975 by a vote of 61 to 28, and H.R. 7575, the House version, was passed on November 6 by a close 208 to 199 vote.

This legislation is part of the Democratic Platform and it is expected to be given early attention in the 95th Congress. Its order of consideration, however, will be in part dictated by the priorities set by the Administration. The Government Operations Committees of the House and Senate which handle this legislation also have jurisdiction over the broad question of government reorganization, a subject to which considerable attention is expected to be given in the months ahead.

Fair Packaging and Labeling

In 1974 and again in 1976 the Senate passed comprehensive food safety and labeling legislation which would substantially revise the Food and Drug Administration's authority in this area. The proposed Consumer Food Act of 1976 would have imposed new safety requirements on food processors and increased FDA enforcement powers. It would have required more information on food labels and would have given FDA authority to regulate in the areas of nutritional, ingredient and freshness labeling. Under the Act industry would have been required to draft and adhere to safety plans approved by FDA, or to FDA guidelines, if the plans were found to be inadequate. FDA would have been authorized to inspect industry records and not just processing plants, as is presently the case. Civil and criminal penalties were provided. The House has failed to act on this legislation.

Other legislation in this area would require retailers of packaged consumer commodities to disclose the selling price of each item and the unit price either on the item or on a sign close to the point of display. It also called for the Department of Commerce to initiate a voluntary product standard for products the Federal Trade Commission determined to be in need of such standards.

The Administration opposed this legislation principally on the grounds that unit pricing should not be mandated by Federal law in the absence of data showing that voluntary adoption of the practice and state regulation have not progressed satisfactorily.

Antitrust/Franchising Legislation

In 1967 the Supreme Court held that the imposition of territorial and customer restrictions by a manufacturer-franchisor on franchised dealers is a per se violation of the antitrust laws. There are serious questions as to whether exclusive territorial arrangements in the soft drink and grocery industries hinder or foster competition.

Both the Senate and the House reported bills in the 94th Congress which would have prohibited the FTC and the courts from considering exclusive territorial arrangements in the trademarked soft drink industry as being "unlawful on a per se basis." The House bill would also apply to the trademarked private label food and grocery industry. Neither bill would have prohibited the FTC or the courts from finding exclusive territorial arrangements in either industry a violation of antitrust laws but both would have required that any such finding be based on a full economic examination of their competitive consequences rather than per se illegality.

Proponents of the legislation, as it would affect the soft drink industry, argue that elimination of the territorial system would permit larger bottlers, who are located in close physical proximity to food warehouses and who have greater capital, to capture the lucrative warehouse business and put the small, independent bottlers out of business. Further, they argue that elimination of territories would result in the major soft drink manufacturers integrating forward into bottling and large retail grocery chains integrating backwards into bottling with a resultant concentration in the industry.

Opponents of the legislation argue that exclusive territories are also restricted and, for that reason limit the ability of the small bottler to attain the size necessary to achieve economies of scale;

that the absence of intrabrand competition protects the bottler who is charging artificially high prices from competition; that the system inhibits development of innovative, less expensive distribution systems; and, that less restrictive alternatives, such as areas of primary responsibility and location clauses, are permissible under the antitrust laws and that therefore, exclusive territories are unnecessary.

Other Franchise Legislation

H.R. 12053 and H.R. 13529, franchise disclosure, to provide that certain franchising information be made available to prospective franchisees by franchisors before entering into agreements.

No Congressional action on this measure occurred. The Commerce Department supports the legislation and a Commerce version is included in the proposed legislative program for the 95th Congress.

Cable TV Regulations

An Office of Telecommunications draft bill, based on an extensive study published by them, was circulated for views in January 1976. It has never been cleared as an Administration position.

A legislative remedy is most difficult. The problems are complex. Broadcasters argue that cable TV creams the best of commercial programming and profits on the relay of programming to subscribers. Cable TV claims that the industry is being restricted, that freedom of speech is in jeopardy, and that FCC regulations favor the broadcast industry.

The arguments are heated; investment in equipment, lines, etc., is costly. Cable communications' potential growth in electronic services to subscribers could be frustrated by some regulations while the unregulated commercial production of video tape units for home viewing of rebroadcasts may lessen the demand for subscription service. Commercial broadcasters also argue that they have production costs which cable does not have, giving cable an unfair advantage if they are permitted unrestricted relay rights.

Also involved is the allocation of UHF and VHF stations, the geographical location, pay TV, educational TV, etc., with consumer interests so diverse, that proponents and opponents of cable are looking to legislation to define an appropriate role between public and cable broadcasting.

A more detailed analysis of this issue is contained in the consolidated issue book.

Competition in Telecommunications Industry

The Consumer Communications Reform Act, drafted by AT&T, is a vehicle to lessen the increasing role of competitors in the supplying of equipment hooked into the telephone system - the more profitable aspect of the nation's telephone and communications system.

Opposition comes from Bell's competitors, mostly manufacturers of business equipment and specialized long-line services, who, with FCC approval in efforts to stimulate competition, are marketing electronic equipment, recording devices, telex equipment, and computer communications equipment -- creaming off the more profitable business. Bell argues that it provides services to customers at a loss, making up for it by sales of equipment and that if competition can pick the more profitable parts of the overall communications system, Bell charges will have to go up for those who can least afford it - the average telephone user.

The telephone company, as a regulated industry, does not have the flexibility that other unregulated companies may have, and so the telephone company argues it is unable to compete with its challengers without protection of its more profitable lines.

Consumer concern over prices, criticism of the lack of competition in the telephone industry, mixed with the complex regulatory controls at the Federal and State level, complicates this conflict between Bell and its competitors.

A more detailed analysis of this issue is contained in the consolidated issue book.

Defense Production Act Extension

The Defense Production Act of 1950 which expires September 30, 1977, authorizes the President to perform certain functions relating to the administration of priorities and allocations of materials and services needed for defense. It provides authority to give priority treatment to vital defense contracts; to allocate materials and facilities for defense programs; and to expand the Nation's productive capacity to meet defense and energy needs. The Act is also the basic authority for the National Defense Executive Reserve.

By Executive Order, the President has delegated to the Secretary of Commerce the responsibility to administer the functions under the Act with respect to all materials other than (1) petroleum, gas, solid fuels and electric power, (2) food and domestic distribution of farm equipment and commercial fertilizer, and (3) domestic transportation storage and port facilities, except air transport, coastwise, intercoastal and overseas shipping.

Petroleum Industry Competition Act (oil company divestiture)

S. 2387 was reported by the Senate Judiciary Committee by a close vote of 8 for and 7 opposed. The purpose of the legislation was to break up the oil industry into production, transportation or refining components within five years.

The Administration and industry opposed such legislation, pointing out that there was no evidence that the drastic step of "breaking up" the industry would lead to lower prices for consumers.

It is anticipated that legislation concerning both vertical and horizontal divestiture of the industry will be before the 95th Congress, First Session.

The Democratic Platform states, "... we support effective restriction on the right of major companies to own all phases of the oil industry. We also support the legal prohibition against corporate ownership of competing types of energy, such as oil and coal. We believe such "horizontal" concentration of economic power to be dangerous both to the national interest and the functioning of the competitive system."

A more detailed analysis of this issue is contained in the consolidated issue book.

Petroleum Marketing Practices Act

H.R. 13000 would restrict oil companies' authority to terminate the leases of gas stations, and requires posting of octane ratings.

The legislation prohibited franchisers of motor fuels from cancelling a gas station owner's contract or failing to renew it, unless the contract termination met certain tests of "reasonableness" as detailed by the bill.

Opponents argue that such legislation interferes with traditional and legal relationships, and is discriminatory.

The Senate passed similar legislation, S. 323, as well as S. 1508 dealing with posting of octane ratings.

However, the House bill was not acted upon.

Another oil embargo would certainly bring increased pressure for similar legislation to be acted upon in the 95th Congress.

A more detailed analysis of this issue is contained in the consolidated issue book.

Renegotiation Act

The Renegotiation Act of 1951 which expired on September 30, 1976, authorizes the Government to recapture excessive profits on defense-related contracts and subcontracts of certain specifically designated Government agencies, including this Department's Maritime Administration. While proposals have been made to discontinue the Act as no longer needed because of improvements in Government procurement and pricing policies, the Executive Branch has recommended that the Act be made permanent.

Robinson-Patman Act Revisions

While the Act was designed (in 1936) to prevent discriminatory price discounts and generally prevent predatory behavior of large, powerful firms competing with small firms, it has acted in many instances to restrict competition. In particular, it has discouraged the entry of new firms and prevented buyers from breaking up oligopolistic pricing structures. President Ford indicated in 1975 that his Administration would propose legislation to permit legitimate discount pricing and thereby lower consumer prices. The Justice Department and other agencies have been considering repeal or amendment of the Robinson-Patman Act. Several alternative approaches to preventing predatory behavior without discouraging price competition were considered, but none was agreed to among the agencies.

Strategic and Critical Materials Stockpiling Act

Congressional approval is required for the disposal of materials from the national stockpile and the supplemental stockpile established by the Strategic and Critical Materials Stock Piling (sic) Act and the Agricultural Trade and Development and Assistance Act, respectively. The only exception is where the proposed disposal action is based on a determination that the material has become obsolescent for use during time of war. From time to time the Executive Branch proposed legislation authorizing the disposal of various materials from the national and supplemental stockpiles, where the quantities of materials authorized for disposal are found to be in excess of defense needs.

The Federal Preparedness Agency (FPA) is expected to resubmit bills for the disposal of quantities of antimony, industrial diamond stones, silver, and tin as disposal program for Fiscal Year 1977. Additional legislation will probably be submitted by FPA during 1977 to authorize disposals in 1978 of quantities of other commodities, not yet identified. The success or failure of this legislation will hinge on the acceptance of the Congressional Armed Services Committees of the new stockpile policy guidance as a valid basis for the determination of stockpile inventory goals.

Commerce does not participate in stockpile disposal activities, but rather compiles statistical data on commodity consumption and supply for use by FPA in stockpile goals calculations and provides other technical information to assist stockpile management by GSA.

A more detailed analysis of this issue is contained in the consolidated issue book.