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A



SHORTAGE IS GROWING

- o Consumption grown dramatically since WWII
- o Now supplies about 30% total U.S. energy requirements
- o Domestic production declining
 - o 1973 - 22.6 Tcf
 - o 1974 - 21.6 Tcf (5% drop)
 - o 1975 - 20 Tcf (7% drop)
 - o Each 1 Tcf decrease is the equivalent of 500,000 bbls oil per day to be imported to offset loss.
 - o Curtailments (Annual)
 - o 1970 - 0.1 Tcf (1% of consumption)
 - o 1974 - 2.0 Tcf (10% of consumption)
 - o 1975 - 2.9 Tcf (15% of consumption) Projected before warm November and December

DEREGULATION ONLY SOLUTION

- o Economic incentive to develop new gas supplies (OCS, Alaska, deeper and tighter onshore)
- o Encourages more efficient use
- o Eliminates interstate/intrastate price disparity
- o PRODUCTION BENEFITS OF DEREGULATION
 - o FEA estimates 1985 gross marketed production
 - o 17.9 Tcf under present regulations
 - o 22.3 Tcf under deregulation (Krueger)
 - (equivalent to over 2 million bbls of oil per day)

COST OF DEREGULATION

- o In the long run, deregulation is less expensive
- o Over next 10 years, residential bills will increase somewhat:
 - o By 1985 (in 1975 dollars)
 - o \$280 annual fuel bill (for residential gas users in 1975) - present regulations
 - o \$304 - deregulation (Krueger)
- o Costs go up under present regulations because
 - o With less volume, transportation charges per unit increase
 - o With less gas, many will have to switch to more expensive alternate fuels.
- o Increased costs per capita are minor because
 - o rolled into all consumers
 - o most interstate gas is under long term contracts (10-20 years) which would not be deregulated
- o The small increased costs are more than offset by
 - o greatly increased production (previously mentioned)
 - o not increasing our dependency upon less secure foreign sources of oil but paying for domestic energy- less exporting of money and jobs.

INTERSTATE/INTRASTATE DISPARITY

- o Most critical situation (curtailments) is in interstate market
- o In 1974 of the net marketed production of 18.8 Tcf, 11.6 Tcf in interstate market.
- o In 1985, under present regulations, there would be only 6.6 Tcf in the interstate market, or a decrease of 5 Tcf, thus exacerbating an already bad situation
- o On the other hand, under deregulation, 1985 would see 12.1 Tcf in the interstate market; an increase of 500 Bcf over 1974 and an increase of 5.5 Tcf over the present regulations scenario for 1985.

KRUEGER PREFERRED OVER PEARSON-BENTSEN

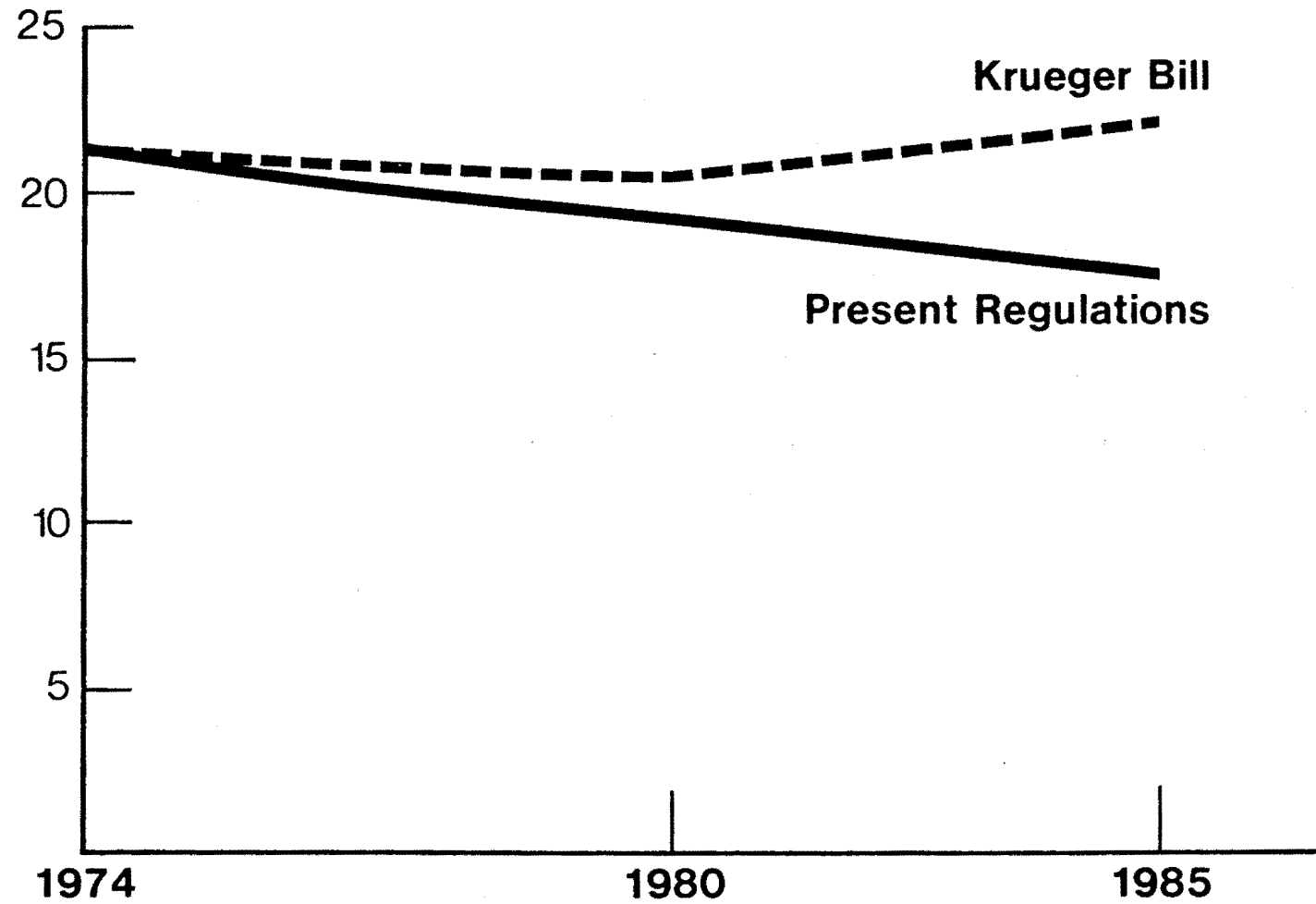
- o Both deregulate new onshore gas; offshore in 1981
- o Pearson-Bentsen was amended on Floor with objectionable provisions:
 - o Gas from expired contracts
 - o P-B treats as old gas
 - o K - new gas
 - o Minimal cost to consumers since contracts expire gradually
 - o makes more capital available for exploration, development and production.
 - o Incremental pricing
 - o Absent in Krueger
 - o P-B requires industrial users to absorb all costs of new gas
 - o inequitable - all consumers, whether gas users or not, will subsidize gas home owners.
 - o State rights - should be left to states
 - o no conservation incentive to residential
 - o could jeopardize coal gasification and SNG investments.
 - o Jurisdiction over SNG plants
 - o P-B increase FPC regulatory authority when it should be decreased
 - o Ornamental lighting
 - o P-B increased FPC regulatory authority when it should be decreased
 - o MER production authorities
 - o In P-B
 - No longer necessary with passage of EPCA
- o Amendments to Krueger
 - o For parliamentary reasons, prefer no amendments and work out problems in Conference.
 - o If there are any amendments, Administration would support:
 - o Change long-term FPC boiler fuel authorities to FEA for consistency with ESECA.
 - o Modify agricultural provisions to retain priorities but remove bureaucracy.

B

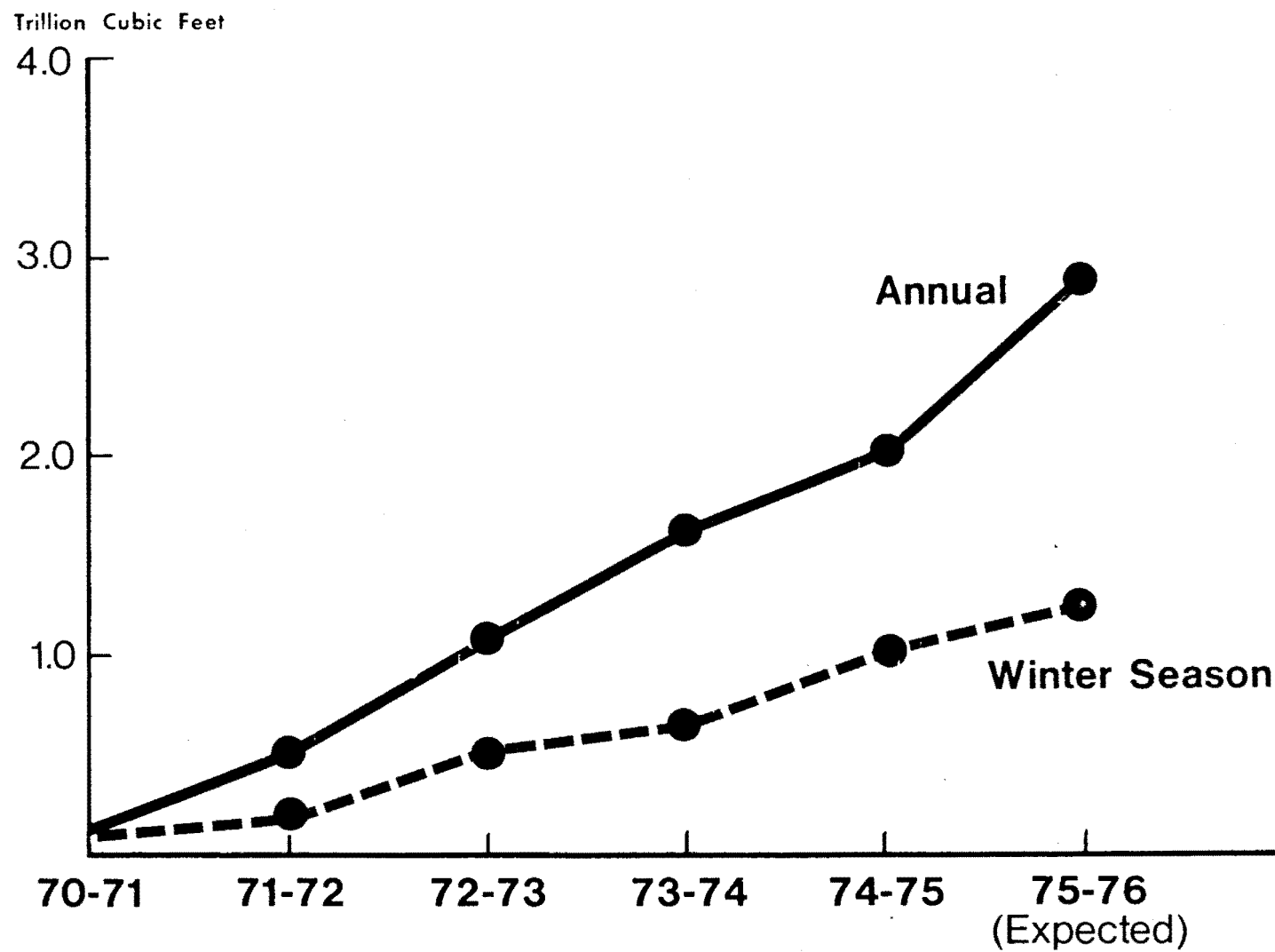


Natural Gas Gross Marketed Production (Tcf)

Trillion Cubic Feet



Annual & Winter Interstate Natural Gas Curtailments



C



STATEMENT OF FRANK G. ZARB
ADMINISTRATOR
FEDERAL ENERGY ADMINISTRATION

Before the
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE
SUBCOMMITTEE ON ENERGY AND POWER
UNITED STATES HOUSE OF REPRESENTATIVES

Friday, January 23, 1976

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, I AM PLEASED TO APPEAR BEFORE YOU TODAY TO DISCUSS THE LONG-TERM SOLUTION TO THE NATURAL GAS SUPPLY PROBLEM. SPECIFICALLY, I HAVE BEEN ASKED TO COMMENT ON FOUR LEGISLATIVE PROPOSALS WHICH ADDRESS THE ISSUES OF PRICE AND AVAILABILITY OF NATURAL GAS IN THE FUTURE -- TITLE II OF S. 2310, INTRODUCED BY SENATORS PEARSON AND BENTSEN AND PASSED BY THE SENATE IN AMENDED FORM ON OCTOBER 22 BY A 58-32 VOTE; H.R. 11265, INTRODUCED BY REPRESENTATIVE KRUEGER; H.R. 9159, INTRODUCED BY REPRESENTATIVE FRASER; AND H.R. 11047 INTRODUCED BY REPRESENTATIVE BROWN OF OHIO.

BEFORE I DISCUSS THE PROVISIONS OF THESE BILLS, I WOULD LIKE TO SAY AGAIN, AS THE ADMINISTRATION HAS SAID MANY TIMES BEFORE, THAT IT IS EXTREMELY IMPORTANT TO TAKE IMMEDIATE ACTION ON THIS VITAL ISSUE. WITH EACH DAY THAT PASSES WITHOUT CONGRESSIONAL ACTION ON THE DEREGULATION ISSUE, THIS NATION'S NATURAL GAS SUPPLY OUTLOOK WORSENS. WE BELIEVE THE CONGRESS'S DECISION ON THIS ISSUE WILL LARGELY DETERMINE WHETHER THIS NATION WILL FACE A COMING DECADE OF ADEQUATE NATURAL GAS SUPPLY OR INCREASINGLY DISRUPTIVE SHORTAGES. BECAUSE LEGISLATIVE ACTION ON NATURAL GAS WELLHEAD PRICE DEREGULATION HAS BEEN DEFERRED FAR TOO LONG, THE NATION NOW

FACES MOUNTING SHORTAGES OF NATURAL GAS.

AMERICA'S NATURAL GAS PRODUCTION PEAKED IN 1973 AND IS NOW DECLINING FASTER THAN OUR DOMESTIC OIL PRODUCTION. SINCE 1968, OUR HOMES, BUSINESSES AND INDUSTRIES HAVE BEEN CONSUMING MORE NATURAL GAS EACH YEAR THAN OUR PRODUCERS HAVE BEEN ADDING TO RESERVES. CURRENT PROVED RESERVES, EXCLUDING ALASKA, NOW STAND AT 205 TRILLION CUBIC FEET, THE LOWEST LEVEL SINCE 1952. NATURAL GAS CURTAILMENTS WHICH FIRST APPEARED ON THE NATIONAL SCENE SIX YEARS AGO, HAVE NOW GROWN INTO A SERIOUS NATIONAL ENERGY PROBLEM. IN 1970, INTERSTATE PIPELINE CURTAILMENTS WERE 0.1 Tcf, OR LESS THAN ONE PERCENT OF CONSUMPTION, AND A NORMALLY COLD WINTER THIS YEAR COULD HAVE INCREASED ANNUAL CURTAILMENTS TO AS MUCH AS 2.9 Tcf, OR 15 PERCENT OF DELIVERY TO END USERS.

AS MEMBERS OF THIS COMMITTEE ARE AWARE, INTERSTATE PIPELINE CURTAILMENTS ARE MERELY A ROUGH ESTIMATE OF THE MEASURE OF THE NATURAL GAS SUPPLY PROBLEM. TO OBTAIN A MORE ACCURATE VIEW OF THE PROBLEM, THE FEDERAL ENERGY ADMINISTRATION (FEA), IN CONJUNCTION WITH THE FEDERAL POWER COMMISSION (FPC) CONDUCTED A DETAILED SURVEY LAST SUMMER OF 1700 NATURAL GAS COMPANIES IN THE NATION WHICH DELIVER GAS TO END USE CUSTOMERS.

FEA'S LATEST UPDATE OF THIS SURVEY DATA SHOWS CURTAILMENTS BY DISTRIBUTORS IN THOSE 21 KEY STATES AT 1.03 Tcf FOR THE CURRENT HEATING SEASON. THIS IS 140 BILLION CUBIC FEET GREATER THAN LAST WINTER. NATIONWIDE, THE GAS SUPPLY OUTLOOK HAS IMPROVED FROM EARLIER PROJECTIONS, LARGELY DUE TO THE WARM, DRY WEATHER THE NATION EXPERIENCED IN NOVEMBER AND EARLY DECEMBER WHICH REDUCED DEMAND FOR NATURAL GAS, PROPANE AND FUEL OIL. EMERGENCY SALES OF NATURAL GAS PERMITTED UNDER FPC REGULATIONS HAVE ALSO HELPED BY REDISTRIBUTING GAS SUPPLIES FROM SURPLUS TO SHORTAGE AREAS.

BUT EVEN WITH THIS IMPROVEMENT, THE LONG-RANGE TREND IS TOWARD INCREASING CURTAILMENT, WITH OUR ONLY PROTECTION FROM POTENTIAL ECONOMIC DISRUPTION THIS WINTER AND NEXT BEING A CONTINUATION OF REDUCED DEMAND DUE TO WARM WEATHER. EARLIER THIS MONTH, A SEVERE COLDSPELL IN SEVERAL STATES RESULTED IN TEMPORARY INDUSTRIAL SHUT-DOWNS AND SCHOOL CLOSINGS. AND WE ARE NOT THROUGH THE WINTER YET -- FURTHER COLD WEATHER CAN STILL CAUSE THE ADVERSE DISRUPTIONS FROM WHICH WE HAVE BEEN SPARED TO DATE. SURELY, THIS NATION MUST NOT TOLERATE A SITUATION WHERE THE CONTINUED AVAILABILITY OF SO VITAL A FUEL AS NATURAL GAS MUST DEPEND ON THE VAGARIES OF THE WEATHER.

PRODUCTION OF NATURAL GAS PEAKED IN 1973 AT 22.6 Tcf AND DECLINED BY APPROXIMATELY 5 PERCENT IN 1974 TO 21.6 Tcf. ACCORDING TO PRELIMINARY BUREAU OF MINES AND FEA ESTIMATES FOR 1975, PRODUCTION IS ESTIMATED TO HAVE DECLINED AT A RATE

OF CLOSE TO 7 PERCENT. THIS SITUATION COULD JEOPARDIZE OUR CONTINUED ECONOMIC RECOVERY AND FUTURE ECONOMIC VITALITY. THEREFORE, THE DECREASE IN DOMESTIC SUPPLY FROM 22.6 Tcf IN 1973 TO 21.6 Tcf IN 1974 IS EQUIVALENT TO 500,000 BARRELS OF OIL PER DAY, A TOTALLY UNACCEPTABLE INCREASED DEPENDENCE UPON NON-DOMESTIC SOURCES. AND WE SEE A WORSE DETERIORATION IN OUR 1975 PRELIMINARY FIGURES.

IN HIS STATE OF THE UNION MESSAGE ONE YEAR AGO, PRESIDENT FORD PROPOSED THE DEREGULATION OF NEW NATURAL GAS AS A LONG-RANGE SOLUTION TO OUR NATURAL GAS PROBLEM. WE BELIEVED THEN, AND WE STILL BELIEVE TODAY, THAT DEREGULATION CAN IMPROVE THE NATURAL GAS OUTLOOK IN THREE SIGNIFICANT WAYS: FIRST, BY PROVIDING THE ECONOMIC INCENTIVE FOR PRODUCERS TO DEVELOP NEW AND ADDITIONAL GAS SUPPLIES FROM THE OUTER CONTINENTAL SHELF (OCS), FROM ALASKA AND FROM TIGHTER, DEEPER ONSHORE FORMATIONS. SECONDLY, BY ENCOURAGING MORE EFFICIENT NATURAL GAS USAGE, AS THE PRICE IS ALLOWED OVER TIME TO REFLECT THE TRUE ECONOMIC VALUE OF THIS CLEAN-BURNING FUEL. AND, THIRDLY, BY GRADUALLY ELIMINATING THE CURRENT PRICE DISPARITY BETWEEN THE INTERSTATE AND INTRA-STATE GAS MARKETS WHICH NOW DISTORTS OUR NATURAL GAS DISTRIBUTION.

LET ME GIVE YOU AN EXAMPLE OF THE BENEFITS OF DEREGULATION. IN PRELIMINARY FIGURES FROM A PROJECT INDEPENDENCE UPDATE, FEA PROJECTS, FOR 1985, GROSS MARKETED PRODUCTION OF 17.9 Tcf UNDER CURRENT REGULATIONS AND 22.3 Tcf UNDER DEREGULATION, AND NET MARKETED PRODUCTION OF 15.9 AND 20.0 Tcf RESPECTIVELY. THAT DIFFERENCE IS THE EQUIVALENT OF OVER 2 MILLION BARRELS OF OIL PER DAY. ADMITTEDLY, THERE WOULD BE A SLIGHTLY HIGHER FUEL BILL TO PRESENT DAY GAS USERS UNDER DEREGULATION BUT THAT WOULD BE MORE THAN OFFSET BY THE GREATLY INCREASED DOMESTIC GAS PRODUCTION AND REDUCED NEED OF IMPORTS.

ANOTHER EXAMPLE IS THE EFFECT DEREGULATION WOULD HAVE ON THE INTERSTATE MARKET. WITHOUT DEREGULATION, WE PROJECT FOR 1985 9.3 Tcf IN THE INTRASTATE MARKET AND 6.6 Tcf IN THE INTERSTATE MARKET. HOWEVER, WITH DEREGULATION THE SHIFT IS DRAMATIC: 7.9 Tcf IN THE INTRASTATE AND 12.1 Tcf IN THE INTERSTATE MARKET; AN INCREASE OF 5.5 Tcf IN THE INTERSTATE MARKET.

WHILE A MAJOR SYNTHETIC FUELS PROGRAM CAN INCREASE LONG-TERM GAS SUPPLIES SOMEWHAT, THE DECREASE IN PRODUCTION WE HAVE SEEN SINCE 1973 IS PROJECTED TO CONTINUE UNLESS ACTION IS TAKEN BOTH FOR CONSERVATION AND TO PROVIDE NEEDED INCENTIVES FOR ADDITIONAL EXPLORATION, DEVELOPMENT AND PRODUCTION.

THE ADMINISTRATION'S CONCERN WITH GROWING NATURAL GAS CURTAILMENTS PROMPTED PRESIDENT FORD TO ORDER THE CREATION OF A SPECIAL INTERAGENCY NATURAL GAS TASK FORCE UNDER THE DIRECTION OF THE FEA. THE TASK FORCE IS RESPONSIBLE FOR COORDINATING THE FEDERAL GOVERNMENT'S ACTIVITIES RELATING TO GAS SHORTAGES. SINCE ITS INCEPTION LAST SEPTEMBER, IT HAS SUPERVISED THE COLLECTION AND PUBLICATION OF DATA ON NATURAL GAS DISTRIBUTOR CURTAILMENTS, PROVIDING DATA ASSISTANCE TO STATE ENERGY OFFICES. IT HAS ALSO PUT INTO PLACE A NETWORK OF REGIONAL REPRESENTATIVES TO MONITOR THE GAS SUPPLY OUTLOOK AT THE LOCAL LEVEL AND REPORT BACK TO WASHINGTON ANY PROBLEMS WHICH MAY DEVELOP. IN ADDITION, THE TASK FORCE HAS WORKED CLOSELY WITH THE FPC, PROVIDING INFORMATION ON ALTERNATE FUELS, AND WITH THE DEPARTMENT OF COMMERCE IN THEIR INDUSTRIAL CONSERVATION EFFORT. HOWEVER, EVEN WITH OUR EFFORTS TO ENCOURAGE CONSERVATION AND CONSUMERS' IMPROVING ATTITUDES TOWARDS DOING SO, THE PROBLEM IS FAR FROM BEING SOLVED. UNLESS CONGRESS ACTS NOW, THIS NATION CAN ANTICIPATE AN UNENDING SUCCESSION OF WINTERS MARKED BY EVER-INCREASING SHORTAGES AND POTENTIAL ECONOMIC DISLOCATION.

CLEARLY, THE SOLUTION TO THE PROBLEM IS THE IMMEDIATE DEREGULATION OF THE WELLHEAD PRICE OF NEW NATURAL GAS. THE LEGISLATION INTRODUCED BY SENATORS PEARSON AND BENTSEN AND REPRESENTATIVE KRUEGER ILLUSTRATE A VIABLE DEREGULATION PLAN WHICH WILL TURN THE TIDE OF INCREASING SHORTAGES AND ARE SUPPORTED BY THE ADMINISTRATION.

TITLE II OF S. 2310 AS PASSED BY THE SENATE WOULD DEREGULATE THE WELLHEAD PRICE OF ONSHORE NEW NATURAL GAS ON APRIL 4, 1976. NEW NATURAL GAS IS DEFINED AS GAS FIRST DEDICATED TO INTERSTATE COMMERCE ON OR AFTER JANUARY 1, 1975 OR GAS PRODUCED FROM A RESERVOIR DISCOVERED OR EXTENDED ON OR AFTER JANUARY 1, 1975. OFFSHORE GAS WOULD BE DEREGULATED ON JANUARY 1, 1981. IN THE INTERIM, ITS PRICE IS SET AT A ROYALTY CRUDE OIL EQUIVALENCY UNTIL THE FPC ESTABLISHES A NATIONAL CEILING RATE.

REGARDING GAS FROM EXPIRED INTERSTATE CONTRACTS, THE FPC WOULD ESTABLISH, AND REVISE BIENNIALY, A NATIONAL CEILING RATE. THEREFORE, WHILE SUCH GAS WOULD NOT BE DEREGULATED, IT WOULD BE TREATED IN A SPECIAL MANNER.

S. 2310 WOULD ALSO AMEND THE NATURAL GAS ACT BY ADDING EIGHT NEW SECTIONS, INCLUDING SECTION 25 WHICH WOULD ESSENTIALLY ESTABLISH A CURTAILMENT ORDER OF PRIORITIES WHICH

THE FPC MUST PUT INTO EFFECT, WITH PRIORITY ONE FOR RESIDENTIAL AND SMALL USERS AND PUBLIC HEALTH AND SAFETY USERS; PRIORITY TWO FOR ESSENTIAL AGRICULTURAL USERS, AND PRIORITY THREE FOR ESSENTIAL INDUSTRIAL USERS (I.E., PROCESS AND FEEDSTOCK USERS). THESE PRIORITIES WOULD BE ESTABLISHED WITHOUT REGARD TO WHETHER THE UNDERLYING CONTRACT IS FIRM OR INTERRUPTIBLE.

UNDER SECTION 25(A) THE SECRETARY OF AGRICULTURE WOULD DETERMINE THE AGRICULTURAL PURPOSES FOR WHICH NATURAL GAS IS ESSENTIAL, AND CERTIFY TO THE FEDERAL POWER COMMISSION THE AMOUNT OF NATURAL GAS NECESSARY TO MEET FULL FOOD AND FIBER PRODUCTION REQUIREMENTS. THE ADMINISTRATION BELIEVES THAT ESSENTIAL AGRICULTURAL NEEDS DESERVE PRIORITY, BUT WE DO NOT FEEL THAT SECTION 25(A) IS THE PROPER VEHICLE TO ASSURE THAT THESE NEEDS ARE MET. HOWEVER, WITH MINOR TECHNICAL AMENDMENTS, THIS PROVISION CAN BE MADE WORKABLE.

A NEW SECTION 26 WOULD SUBJECT SYNTHETIC NATURAL GAS (SNG) PLANTS, THE PERSONS OWNING OR OPERATING THEM, AND SNG SALES AND TRANSPORTATION TO FPC JURISDICTION. THIS REPRESENTS AN EXPANSION OF EXISTING AUTHORITIES, WHICH IS UNNECESSARY ADDED REGULATION. THEREFORE, WE WOULD PREFER TO SEE THIS SECTION REMOVED.

SECTION 27 MANDATES FPC PROHIBITION OF BOILER FUEL USE OF NATURAL GAS NOT CONTRACTED FOR PRIOR TO JANUARY 1, 1975, UNLESS ALTERNATIVE FUELS -- OTHER THAN OIL OR PROPANE -- ARE UNAVAILABLE OR CANNOT BE UTILIZED AT THAT TIME. IT REQUIRES TERMINATION OF BOILER FUEL USE OF NATURAL GAS CONTRACTED FOR BEFORE JANUARY 1, 1975, AT THE TIME OF CONTRACT EXPIRATION OR IN 12 YEARS, WHICHEVER IS EARLIER, SUBJECT TO THE SAME LIMITATIONS STATED ABOVE. THE ADMINISTRATION STRONGLY OPPOSES THESE LONG-TERM FPC PROHIBITION AUTHORITIES SINCE FEA ALREADY HAS SIMILAR AUTHORITIES UNDER THE ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT (ESECA). IT SEEMS INCONGRUOUS THAT FPC SHOULD NOW BE GIVEN AUTHORITY TO PROHIBIT BOILER FUEL USE WHEN FEA HAS ALREADY BEEN GIVEN THAT AUTHORITY IN OTHER LEGISLATION.

ANOTHER PART OF SECTION 27 WOULD REQUIRE THE ADMINISTRATOR OF FEA TO PROHIBIT RESIDENTIAL GAS USAGE WHICH HE DETERMINES TO BE SOLELY FOR ORNAMENTAL OR DECORATIVE PURPOSES. WHILE THIS TYPE OF CONSERVATION ACTIVITY SHOULD BE ENCOURAGED, WE FEEL IT IS A MATTER WHICH SHOULD ONLY BE MADE MANDATORY AT THE DISCRETION OF INDIVIDUAL STATES AND NOT BY FEDERAL

FIAT.

S. 2310 ADDS A SECTION 28 TO THE NATURAL GAS ACT WHICH WOULD REQUIRE ALL PIPELINES TO FILE SEPARATE TARIFFS WITH RESPECT TO OLD AND NEW NATURAL GAS AND REQUIRES DISTRIBUTING COMPANIES TO PROVIDE LOWER PRICED OLD GAS TO RESIDENTIAL AND SMALL USERS ON A PRIORITY BASIS. WHILE ON THE FACE OF IT, THIS INCREMENTAL PRICING PROVISION APPEARS TO BENEFIT RESIDENTIAL CONSUMERS, IN FACT, IT WILL PLACE THE BURDEN OF HIGHER COSTS FOR GOODS AND SERVICES ON ALL CONSUMERS -- WHETHER GAS USERS OR NOT -- TO SUPPLEMENT LOWER FUEL COSTS FOR HOMEOWNERS WHO DO USE GAS. WE MUST REALIZE THAT WE ARE NO LONGER IN THE ERA OF CHEAP, ABUNDANT ENERGY, AND EVERYONE MUST BE PREPARED TO PAY THE ADDITIONAL COSTS. IT WOULD BE WRONG TO SINGLE OUT ONE SECTOR -- GAS-CONSUMING HOMEOWNERS -- FOR FAVORABLE TREATMENT AND CAUSE ALL OTHER CONSUMERS TO PAY MORE THAN THEIR SHARE. FINALLY, WE ARE CONCERNED THAT SUCH A PROVISION WOULD HAVE A DELETERIOUS EFFECT UPON SNG INVESTMENTS AT THIS TIME, AND WOULD ALSO REMOVE INCENTIVES FOR FURTHER RESIDENTIAL CONSERVATION.

THE BILL WOULD ALSO REQUIRE THE DEPARTMENT OF THE INTERIOR TO SET MAXIMUM EFFICIENT RATE PRODUCTION STANDARDS

FOR ALL FIELDS ON FEDERAL LANDS OTHER THAN NAVAL PETROLEUM RESERVES. SINCE THIS PROVISION IS ALREADY COVERED BY THE ENERGY POLICY AND CONSERVATION ACT, IT SEEMS UNNECESSARY TO INCLUDE IT IN THIS BILL AS WELL.

H.R. 11265, INTRODUCED BY REPRESENTATIVE KRUEGER, IS SIMILAR TO S. 2310 IN THAT IT PROVIDES FOR IMMEDIATE DEREGULATION OF ONSHORE GAS, WITH OFFSHORE GAS TO BE DEREGULATED ON JANUARY 1, 1981. "NEW NATURAL GAS" IS DEFINED IN THE BILL AS GAS FIRST DEDICATED TO INTERSTATE COMMERCE ON OR AFTER JANUARY 1, 1975; PRODUCED FROM WELLS COMMENCED AFTER THAT DATE; OR CONTINUED IN INTERSTATE COMMERCE UPON CONTRACT EXPIRATION. IN THAT REGARD, THE KRUEGER BILL'S INCLUSION OF GAS FROM EXPIRED CONTRACTS IN THE DEFINITION OF NEW GAS IS DIFFERENT FROM S. 2310.

AS IN S. 2310, THE KRUEGER BILL WOULD REQUIRE THE FPC TO ESTABLISH A NATIONAL CEILING RATE FOR NEW OCS NATURAL GAS THROUGH DECEMBER 31, 1980. FROM ENACTMENT TO THE ESTABLISHMENT OF THAT CEILING PRICE, THE UNITED STATES GEOLOGICAL SURVEY CRUDE OIL EQUIVALENT VALUATION WOULD APPLY, AND ON JANUARY 1, 1981, THE CEILING WOULD BE LIFTED FOR ALL NEW OCS GAS.

THE KRUEGER BILL IS ALSO SIMILAR TO S. 2310 REGARDING AGRICULTURAL PRIORITIES AND BOILER FUEL PROHIBITIONS WHICH I HAVE ALREADY DISCUSSED. I BELIEVE THAT THE KRUEGER BILL WILL IMPROVE OUR NATURAL GAS SITUATION AND, WITH THE EXCEPTION OF THE BOILER FUEL SECTION, I URGE ITS ENACTMENT. I UNDERSTAND THAT YOUR STAFF HAS CERTAIN TECHNICAL PROBLEMS WITH THE BILL AND MY STAFF HAS MADE KNOWN ITS DESIRE TO MEET WITH THEM TO DISCUSS THOSE PROBLEMS.

IN REGARD TO REPRESENTATIVE BROWN'S BILL, H.R. 11047 -- WHILE WE BELIEVE THE BILL WOULD BE AN IMPROVEMENT OVER THE PRESENT SITUATION, THE ADMINISTRATION, AND I BELIEVE MR. BROWN WOULD AGREE, FEELS THAT H.R. 11265 IS THE MORE EFFECTIVE VEHICLE TO MEET THIS NATION'S NATURAL GAS NEEDS. THE BILL WOULD REQUIRE THE FPC TO DESIGNATE DISTRESSED AND CURTAILED INTERSTATE PIPELINES. FROM ENACTMENT THROUGH APRIL 15, 1976, DISTRESSED PIPELINES WOULD BE EMPOWERED TO BUY NEW GAS AT UNREGULATED PRICES. FROM APRIL 16, 1976 THROUGH APRIL 15, 1977, BOTH DISTRESSED AND CURTAILED PIPELINES WOULD BE ABLE TO PURCHASE UNREGULATED NEW NATURAL GAS; AND FROM APRIL 16, 1977 THROUGH THE END OF THE SUPPLY

PERIOD (7 YEARS TOTAL) INTERSTATE PIPELINES WITH A CURTAILMENT PLAN ON FILE WITH THE FPC WOULD BE ABLE TO PURCHASE NEW GAS AT UNREGULATED PRICES. WHILE THIS BILL WOULD BRING RELIEF TO CURTAILED AND DISTRESSED PIPELINES, AND WOULD GIVE A TEMPORARY IMPETUS TO OUR SUPPLY SITUATION, IT DOES NOT PROVIDE A PERMANENT SOLUTION TO THE PROBLEM.

H.R. 9159, INTRODUCED BY REPRESENTATIVE FRASER, IS COMPLETELY UNACCEPTABLE TO THE ADMINISTRATION. RATHER THAN DEREGULATING NEW NATURAL GAS PRICES, THIS BILL NOT ONLY CONTINUES PRICE REGULATION IN THE INTERSTATE MARKET BUT ALSO CALLS FOR EXTENSION OF REGULATION TO THE INTRASTATE MARKET. INSTEAD OF ALLOWING THE WELLHEAD PRICE OF NEW NATURAL GAS TO BE DEREGULATED, THE BILL WOULD CAP THE PRICE FOR INTER AND INTRASTATE NEW GAS AT A BASE PRICE OF 60¢ PER MCF. AS YOU KNOW, WE STRONGLY BELIEVE THAT ANY PRICE CAP WOULD BE A DETERRENT TO PRODUCTION. HOWEVER, THIS PARTICULARLY LOW CAP WOULD STYMIE ALL EXPLORATION AND DEVELOPMENT AND CAUSE A STEADY DECLINE IN EXISTING SUPPLIES. IN ADDITION, OUR DEPENDENCE UPON FOREIGN OIL WOULD INCREASE AS WE WOULD HAVE TO IMPORT OIL TO MAKE UP FOR THE UNAVAILABLE GAS. THE COSTS OF IMPORTED OIL TO REPLACE NATURAL GAS IS QUITE EXPENSIVE

AND MANY CONSUMERS WILL BE IN A WORSE POSITION WITH SO CALLED "LOWER GAS PRICES" THAN THEY WOULD BE UNDER DEREGULATION.

THERE ARE MANY OTHER OBJECTIONABLE PORTIONS OF THIS BILL SUCH AS THE INCREMENTAL PRICING PROVISION, ADDITIONAL PRODUCTION REQUIREMENTS, MANDATORY INTERPIPELINE CONNECTIONS DURING EMERGENCY PERIODS, FPC JURISDICTION OVER SNG, AND FPC JURISDICTION OVER BOILER FUEL CONVERSIONS. I FEEL STRONGLY THAT THIS BILL WOULD BE SERIOUSLY COUNTERPRODUCTIVE TO MEETING THE NATION'S ENERGY NEEDS AND WILL PROVIDE A MORE DETAILED ANALYSIS OF ITS EFFECTS UPON THE REQUEST OF THE COMMITTEE.

LET ME SUMMARIZE THE ADMINISTRATION'S POSITION ON THE PENDING LONG-TERM LEGISLATION WHICH I HAVE DISCUSSED. THE SENATE-PASSED BILL IS CERTAINLY A STEP IN THE RIGHT DIRECTION. WITH THE CHANGES WHICH I HAVE MENTIONED, I WOULD RECOMMEND ITS ENACTMENT. THE KRUEGER BILL IS SIMILAR TO THE SENATE BILL BUT ELIMINATES MANY OF THE SENATE BILL'S OBJECTIONABLE FEATURES. I BELIEVE IT IS VERY CLOSE TO A BILL WHICH I COULD RECOMMEND TO THE PRESIDENT. THE 7-YEAR BILL IS CLEARLY A STOP-GAP EFFORT, SUPERIOR TO DOING NOTHING, BUT INFERIOR TO OTHER POSSIBILITIES WE HAVE DISCUSSED.

THAT CONCLUDES MY REMARKS. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS.

D



| SHORT-TERM PROVISIONS | S. 2310 | KRUEGER | BROWN | H.R. 9464 | FRASER (Dec. 27, '76 Bill) |
|------------------------------------|--|--|--|--|---|
| Exempt Pipeline Purchases) | by curtailing pipelines for 180 days; inter & intrastate price cap. | by curtailing pipeline for 180 days; unregulated rates (no price cap). | 7 years: 1st yr by distressed pipelines, 2nd yr by distressed and curtailing pipelines, remainder by all pipelines with curtailment plans; unregulated rates; applies only to new gas. | by distressed pipelines, for 180 days, unregulated rates; applies only to new gas. | No short-term provision / Not included |
| New Natural Gas | not applicable in short-term provisions | not applicable in short-term provisions | gas first sold or delivered in interstate commerce or continued after contract expiration, on or after 1/1/75, and gas produced from wells commenced after 1/1/75; includes OCS new gas. | gas, other than OCS, not committed to interstate commerce on 9/9/75 - excludes gas under expiring contracts. | Not included/in long-term provisions only |
| End-user Direct Purchases) | allows FPC to issue transportation certificates for end-user purchases at unregulated rates. | not included | not included | not included | Not included |

| SHORT-TERM PROVISIONS | S. 2310 | KRUEGER | BROWN | H.R. 9464 | Fraser (Dec. 27, '76 Bill) |
|--------------------------|---|---|------------------------|---|---|
| Incremental Pricing | increased gas costs not passed on by distributors to residential and small users. | not included | not included | same substance as S. 2310, with different mechanism; does not apply if unregulated gas replaces higher-priced SNG/LNG | Not included/in long-term provisions only |
| Propane Allocation | extends EPAA regulations | FEA standby allocation authority language consistent with EPAA regulations. | not included | not included | Not included |
| Pipeline Interconnection | not included | not included | not included | authorizes FPC to require interconnections. | Not included |
| Expiration Date | 4/4/76 (for short term only) | 4/15/76 (for short term only) | 7 years from enactment | 6/30/77 | Not included |

| LONG-TERM PROVISIONS | S. 2310 | KRUEGER | BROWN | H.R. 9464 | Fraser (Dec. 27, '76 Bill) |
|---------------------------|---|---|--|-----------|---|
| New Natural Gas | (A) gas first dedicated to interstate commerce on or after 1/1/75, and (B) gas produced from a reservoir discovered or extended on or after 1/1/75. | (A) gas first dedicated to interstate commerce on or after 1/1/76 or (B) continued in interstate commerce upon contract expiration, or (C) produced from wells commenced after that date. | same as short-term definition. | | natural gas dedicated to interstate or intrastate commerce on or after 1/1/76, as determined by the FPC in its discretion -- must be dedicated for 10 years or more. |
| Deregulation - New Gas | (A) onshore deregulated 4/4/76, consecutive with short-term provisions (not concurrent) (B) offshore deregulated on 1/1/81; FPC to establish new rate for OCS gas, applicable to 12/31/80, based on prospective costs, capital attraction, & conservation factors; prior to new rate, OCS new gas priced at equivalent to the average dollar valuation per bbl. of crude oil used by USGS. | (A) onshore deregulated upon enactment, concurrently with short-term provisions. (B) same as S. 2310 provision. | see section on exempt pipeline purchases | | FPC to set (then revise every 5 years) new initial national base price for all (onshore, offshore; inter-, intrastate) new gas on prospective cost/capital attraction basis -- retroactive to 1/1/76 -- subject to upward, downward inflation adjustment -- subject to other adjustments (e.g., taxes, gathering allowances) -- new price for 20-year dedications only. |

LONG-TERM
PROVISIONS

| | S. 2310 | KRUEGER | BROWN | H.R. 9464 | Fraser (Dec. 27, '76 Bill) |
|--|--|---------------------------|--------------|-----------|--|
| Old gas -- New Pricing | FPC directed to set new national rate for all old gas based on prospective cost -- capital attraction -- cost and tax reimbursement factors. | not included | not included | | FPC authority to increase restricted to increases necessary to recover production costs, to provide a reasonable return, to afford cost-based parity with other producers. |
| Agricultural and Industrial uses essential uses curtailment priority | protects essential agricultural uses from curtailment except to protect residential use; FPC to maintain service to essential industrial users to maximum extent feasible. | same as S. 2310 provision | not included | | Same as S. 2310 provision for agricul. priority, except intrastate gas affected -- industrial priority not included. |
| FPC SNG Jurisdiction | gives FPC jurisdiction over SNG plants, sales of SNG, and persons owning and operating SNG plants, but not feedstocks. | not included | not included | | Same as S. 2310 provision |
| Ornamental Lighting | requires FEA to prohibit gas used for ornamental lighting outside a residence which has electricity. | not included | not included | | not included |

| LONG-TERM PROVISIONS | S. 2310 | KRUEGER | BROWN | H.R. 9464 | Fraser (Dec. 27, '76 Bill) |
|--------------------------|--|--------------|--------------|-----------|-------------------------------|
| Incremental pricing | requires separate tariffs for old/new gas and requires priority for old gas for residential and small users. | not included | not included | | Same as S. 2310 Provision |
| Federal royalty gas) | requires DOI to sell U.S. royalty gas to the public; may limit purchases where shortages exist to those in region of the shortage. | not included | not included | | not included |
| MER | requires all DOI leases to contain a clause authorizing DOI to enforce MER production; excludes Naval Petroleum Reserves. | not included | not included | | not included |

| BOILER FUEL CONVERSION | S. 2310 | KRUEGER | BROWN | H.R. 9464 | Fraser (Dec. 27, '76 Bill) |
|------------------------|---|---|--------------|-----------|--|
| Short term | Pursuant to ESECA extension & expansion, FEA authorized to prohibit boiler fuel use of gas if coal or oil can be burned and is available; applies to power plants and MFBIs; EPA certification required; no prohibition unless gas available to curtailing pipelines; user losing gas to be compensated by those who benefit. | FEA authorized to prohibit boiler fuel use of gas if coal or oil can be burned and is available; applies to power plants and MFBIs; EPA has 15 days to stop prohibition order; no prohibition unless gas available to curtailing pipelines; user losing gas to be compensated by those who benefit; ESECA not involved. | not included | | not included -- in long-term provisions only |
| Long term | FPC directed to prohibit boiler fuel use of gas not contracted for by 1/1/75 unless user shows alternate fuels unavailable or infeasible to use; boiler use prior to 1/1/75 terminated at contract expiration or 12 years, whichever comes first, unless user demonstrates inability to obtain or use alternates. Exempt are ignition, start-up, testing & flame stabilization gas, & gas used for pollution abatement systems. | same as S. 2310 | not included | | Same as S. 2310 Provision |

E

SECTION BY SECTION ANALYSIS

NATURAL GAS LEGISLATION PASSED BY THE SENATE OCTOBER 22, 1975

Title I

Section 101. Names Title as the "Natural Gas Emergency Standby Act of 1975".

Section 102. Sets forth the Congressional findings and purposes applicable to whole Title.

Section 103. Definitions.

Section 104. Amends section 7(c) of the Natural Gas Act to require the FPC to exempt from the provisions of the Natural Gas Act any activities, operations, facilities, or services relating to the transportation, sale and delivery, transfer, or exchange of non Outer Continental Shelf natural gas by an independent producer, a natural-gas company which transports natural gas in interstate commerce, a person who transports natural gas in other than interstate commerce, or a natural-gas distributing company to or with a natural-gas company which transports natural gas in interstate commerce which does not have or which may not have, sufficient natural gas to meet the requirements of its high priority consumers and which is curtailing during the heating season from November 1975 through March 1976 pursuant to a curtailment plan on file with the FPC. Exemptions are limited to 180 consecutive days, and the price cannot exceed the highest wellhead price at which natural gas was sold from June 1 through August 1, 1975 in the state in which the sale is made.

Section 105. (a) States the purpose of the section to continue the conservation of natural gas and petroleum products by fostering the use of coal by powerplants and major fuel burning installations, and if coal cannot be utilized, to provide authority to prohibit the use of natural gas when petroleum products can be substituted.

(b) and (c) Amends section 2 of the Energy Supply and Environmental Coordination Act of 1974 ("ESECA") to extend until June 30, 1976 FEA's recently expired authority to require conversion to coal by gas and oil burning powerplants and major fuel burning installations, and to add

a new authority to require conversion from gas to oil where coal conversion is not feasible and certain other requirements are met, including a certification by the Administrator of the Environmental Protection Agency that the particular powerplant or installation will be able to comply with the Clean Air Act while burning oil.

(d) Provides for compensation of any facility (for increased fuel costs) or transporter (for loss of revenue) affected by any order issued pursuant to the subsection. Such compensation is to be paid by the high priority users who benefit.

(e) Amends section 11(g)(2) of ESECA by extending the the expiration of Section 11 from June 30, 1975 to June 30, 1976.

(f) Exempts from this section any powerplant in existence on June 30, 1975 which for the 12 proceeding months before such date did not burn petroleum products and which the Administrator determines will be operated on natural gas only for the purpose of providing electric power which would otherwise be provided by baseload powerplants of the same electric power systems, but cannot be operated because of an air pollution emergency, an unanticipated equipment outage, or act of God.

Section 106. Extends the regulations promulgated under section 4 of the Emergency Petroleum Allocation Act of 1973 and the authority of the President under such Act, with respect to propane and butane, until April 4, 1976.

Section 107. (a) States the purpose of Title to allow curtailed high priority consumers of natural gas to purchase natural gas from the intrastate market by enabling them to arrange for the transportation of such gas by regulated interstate pipeline companies.

(b) Makes clear that FPC jurisdiction shall not extend to transportation by gas distributing companies of natural gas purchased under this Title by curtailed high priority consumers.

(c) Provides explicit authority to the FPC to issue a certificate of public convenience and necessity to transport natural gas purchased under this Title, without the need to review and approve the price paid by a high priority consumer directly to the seller.

Section 108. Sets expiration date for whole Title of April 4, 1976.

Title II

Section 201. Names Title as the "Natural Gas Amendments of 1975."

Section 202. Redesignates sections and subsections.

Section 203. Removes FPC's authority, subject only to Section 24 of the Natural Gas Act, to regulate after April 4, 1976 the sale of new natural gas to a natural gas company for resale in interstate commerce but preserves the FPC's authority to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas, or (B) regulate sales for resale of natural gas by any natural-gas company which transports natural gas in interstate commerce or by an affiliate thereof which transports natural gas in interstate commerce.

Section 204. Definitions. New natural gas is defined to include gas sold or delivered in interstate commerce (a) which is first dedicated to interstate commerce on or after January 1, 1975, or (b) produced from a reservoir discovered on or after January 1, 1975, or produced from wells initiated and completed in an extension of previously discovered reservoirs on or after January 1, 1975.

Section 205. (a) Amends section 4(a) of the Natural Gas Act by deeming just and reasonable the rates and charges of any natural-gas company for or connected with a contract for the sale of Outer Continental Shelf new natural gas not exceeding the applicable national ceiling of the FPC, and permits higher rates to provide special relief to meet unanticipated extraordinary expenses.

(b) Amends section 4(e) of the Natural Gas Act by prohibiting the FPC from (1) denying any rate or charge by any natural gas company for or connected with the purchase or sale of new natural gas except (A) when such rates or charges for Outer Continental Shelf new natural gas exceed the FPC's national ceiling or (B) where a natural gas company purchases gas from an affiliate or produces it from its own properties, to the extent that the rates and charges therefor exceed the current rates and charges paid to nonaffiliates for comparable sales; or (2) ordering a decrease in any rate or charge for the sale or transfer of old natural gas by a natural gas company if previously having been determined to be just and reasonable.

Section 206. Amends Section 5(a) of the Natural Gas Act with a provision identical to Section 205(b)'s amendment of Section 4(e).

Section 207. Adds to Section 14 of the Natural Gas Act a new subsection which directs the FPC to:

(a) Conduct studies of the production gathering, storage, transportation, distribution, and sale of natural, artificial, or synthetic gas.

(b) Secure and keep current information regarding the ownership, operation, management, and control of all facilities for production, gathering, storage, transportation, distribution, and sale; the total estimated natural gas reserves of fields or reservoirs and the current utilization of natural gas and the relationship between the two; the cost of production, gathering, storage, transportation, distribution, and sale; the rates, charges, and contracts in respect to the sale of natural gas and its service to residential, rural, commercial and industrial consumers, and other purchases by private and public agencies; and the relation of any and all such facts to the development of conservation, industry, commerce, and the national defense.

(c) Make, within 90 days of enactment, an initial such study with respect to the total estimated natural gas reserves of fields and reservoirs and the current utilization of natural gas and the relationship between the two, and make annual revisions; and make reports of same to the President and Congress.

Section 208. Adds eight new sections to the Natural Gas Act, as follows:

- Sec. 24. (a) Requires the FPC by regulation to establish a national ceiling rate for the sale or transfer in interstate commerce of Outer Continental Shelf new natural gas from January 1, 1975 through December 31, 1980 and, in establishing the ceiling, to consider only the following factors: (1) the prospective costs attributable to the exploration, development, production, gathering, and sale of natural gas; (2) the rates and charges necessary to encourage the optimum levels of (A) the exploration for natural gas, (B) the development, production, and gathering of natural gas, and (C) the maintenance of proved reserves of natural gas; (3) the promotion of sound conservation practices in natural-gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to consumers;

and (4) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of the other factors.

(b) Requires the FPC to monitor the ceiling and report annually to Congress on the ceiling's effectiveness in meeting the above factors.

(c) Permits the FPC to authorize higher than ceiling rates for Outer Continental Shelf new natural gas from any high cost production area or vertical drilling depth designated by the FPC.

(d) Requires any advance payments contract for the sale of new natural gas for resale entered into after enactment to be filed with the FTC and authorizes the FTC to require a reduction or modification of the sales rate specified.

(e) Requires the FPC, pending the establishment of a national rate ceiling, to establish an interim rate ceiling equivalent to the average dollar valuation per barrel of domestic crude oil.

(f) Removes the ceiling price for Outer Continental Shelf new natural gas from and after January 1, 1981.

- Sec. 25 (a) Requires the FPC - after maintaining service to residential users, small users, hospitals and similar services vital to public health and safety, - to, by rule prohibit any interruption or curtailment of natural gas and assure the availability in interstate commerce of sufficient quantities of natural gas for use for any essential agricultural, food processing, or food packaging purpose for which natural gas is essential.

(b) Requires the FPC, after meeting the requirements of subsection (a), to assure natural gas service to users using natural gas as a raw material and uses other than boiler fuel for which there is no substitute.

- Sec. 26 Subjects SNG plants, the persons owning or operating them, and SNG sales and transportation to FPC jurisdiction, but does not include in such jurisdiction feedstock of SNG plants or facilities for the production of such feedstock.

- Sec. 27. (a) Mandates FPC prohibition by rule of boiler fuel use of natural gas not contracted for before January 1, 1975 unless alternative fuels- other than oil or propane - are unavailable or cannot timely be utilized.
 - (b) Terminates boiler fuel use of natural gas contracted for prior to January 1, 1975 at the contract expiration or 12 years after enactment, whichever is earlier, unless alternative fuels are unavailable or cannot timely be utilized.
 - (c) Except as provided in subsection (b), prohibits the FPC from tampering with contracts or certificates of public convenience and necessity.
 - (d) Requires FPC to exempt gas used for powerplant pollution abatement systems from conversion.
 - (e) Requires the Administrator, FEA, to prohibit residential gas usage which he determines to be solely for ornamental or decorative purposes and for which there is an installed electricity capability.
 - (f) Exempts boiler fuel uses for ignition, start up, testing, flame stabilization, and alleviation of air quality emergencies from the boiler fuel prohibition.
- Sec. 28. Requires all pipelines to file separate tariffs with respect to old natural gas and new natural gas and to give first priority under the old gas tariff for meeting the requirements of residential and small users.
- Sec. 29. Requires the FPC by regulation to establish, and revise biennially, a national ceiling rate for the sale in interstate commerce for resale of old natural gas the sale of which gas is continued in interstate commerce after the expiration of a contract by its own terms (and not through the exercise of any power to terminate or renegotiate contained therein) for the sale or delivery of such natural gas, and in establishing such ceiling to consider only the following factors: (1) the costs attributable to the exploration, development, production, gathering, and sale of old natural gas; (2) the prospective costs of operation, reworking, installation of additional compression, and similar expenses, which costs are necessary to prevent abandonment in place of old natural gas reserves otherwise recoverable; (3) the reimbursement to the seller of
 - (a) any severance, production, or other tax payable by

the seller and levied on the value or volume of production at the wellhead; and (b) any royalty or royalties on natural gas which a producer is required to pay to a royalty owner under applicable State law; (4) the rate of return on seller's original capital investment which is sufficient to encourage the optimum level of investment in natural gas exploration and production; and

(5) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of the other factors.

- Sec. 30. Requires that all leases or other agreements entered into by the Secretary of the Interior for the exploration or production of oil or natural gas on Federal lands provide that the Secretary may require increased production up to but not to exceed the maximum efficient rate of production under such lease for the purposes of dealing with emergency shortages of oil or natural gas or other national emergencies.

Requires the Secretary to issue regulations setting forth the maximum efficient rate of production for each field on Federal lands which the Secretary determines produces, or has the capacity to produce, significant quantities of natural gas.

- Sec. 31. (a) Requires the Secretary of the Interior to offer and sell to the public U.S. royalty gas; except that in emergency shortage situations the Secretary is required to limit participation of competitors for the sale of such gas to those serving the region where severe economic or social dislocation is threatened.

(b) Requires the Secretary to submit to Congress a systematic plan together with any necessary Federal policies, regulations, and procedures and any amendments he deems necessary to applicable Federal legislation, to facilitate and maximize the efficient and effective use of royalty natural gas ordered by the Secretary pursuant to (a) above.

Section 209. Adds a new subsection to Section 2 of the Natural Gas Act providing that nothing shall prevent the intrastate transportation of natural gas first sold after enactment in an interstate pipeline provided that service necessary to meet interstate customers' requirements is not prevented and the rates for such transportation reflect the fully distributive costs

of the interstate facilities used therein, and the provisions of the Act shall not apply to any such intrastate transportation or the facilities utilized in such service.

Section 210. Conforming amendments.

94TH CONGRESS
1ST SESSION

S. 2310

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 1975

Referred to the Committee on Interstate and Foreign Commerce

AN ACT

To provide authority to institute emergency measures to minimize the adverse effects of natural gas shortages, to provide authority to allocate propane, to regulate commerce to assure increased supplies of natural gas at reasonable prices for consumers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 TITLE I—EMERGENCY NATURAL GAS

4 AUTHORITY

5 SHORT TITLE

6 SEC. 101. This title may be cited as the “Natural Gas
7 Emergency Standby Act of 1975”.

FINDINGS AND PURPOSES

1
2 SEC. 102. (a) The Congress finds and declares that the
3 Nation will suffer severe shortages of natural gas during
4 the heating season from November 1975 through March
5 1976. The Congress further finds and declares that such
6 imminent shortages in our Nation's natural gas supply con-
7 stitute an emergency which can be alleviated by providing
8 for limited exemptions from regulation of natural gas and
9 for the prohibition of the use of natural gas as boiler fuel.
10 (b) The purpose of this title is to grant the Federal
11 Power Commission authority to allow natural-gas companies
12 which transport natural gas in interstate commerce with
13 inadequate quantities of natural gas to meet the requirements
14 of their high priority consumers of natural gas to purchase
15 natural gas from sources not in interstate commerce and
16 from other such companies on an emergency basis free from
17 the provisions of the Natural Gas Act (15 U.S.C. 717 et
18 seq.), except for the reporting requirements of such Act; to
19 grant the Federal Energy Administration authority to pro-
20 hibit the use of natural gas as boiler fuel; and to provide the
21 President with standby authority to allocate propane during
22 periods of actual or threatened severe shortages of natural
23 gas.

DEFINITIONS

1
2 SEC. 103. For the purposes of this title—
3 (1) "Natural-gas distributing company" means a per-
4 son involved in the distribution or transportation of natural
5 gas for ultimate public consumption for domestic, commer-
6 cial, industrial, or any other use, but such term does not
7 include a natural-gas company as defined in section 2 (6)
8 of the Natural Gas Act (15 U.S.C. 717a (6)).
9 (2) "High priority consumer of natural gas" means an
10 essential user whose supply requirements cannot be served by
11 an interstate pipeline which is a priority interstate purchaser
12 as determined by the Commission.
13 (3) "Independent producer" means a person, as deter-
14 mined by the Commission, (A) who is not affiliated with a
15 person engaged in the transportation of natural gas in inter-
16 state commerce, and (B) who is not a producing division of
17 such a person engaged in the transportation of natural gas
18 in interstate commerce.
19 (4) "Boiler fuel use of natural gas" means the use of
20 natural gas as the source of fuel in a generating unit of more
21 than 25 megawatts rated net generating capacity or in any
22 unit which is part of an electric utilities system with a total
23 net generating capacity of more than 150 megawatts for the

1 purpose of generating electricity for distribution.

2 (5) "Propane" means (A) the chemical C_3H_8 in its
3 commercial form whether recovered from natural-gas streams
4 or crude oil refining, (B) the C_3H_8 component of raw do-
5 mestic mixtures containing more than 10 percent of such
6 component by weight, and (C) commercial propane-butane
7 mixes containing by weight more than 10 percent of pro-
8 pane and not more than 5 percent of constituents other than
9 propane or butane.

10 (6) "United States" means the States, the District of
11 Columbia, Puerto Rico, and the territories and possessions
12 of the United States.

13 (7) "Administrator" means the Administrator of the
14 Federal Energy Administration.

15 (8) "Commission" means the Federal Power Com-
16 mission.

17 (9) "Essential user" means a user, or a class of users,
18 who satisfies criteria to be established by the Commission, by
19 rule, as indicative of a user for which no alternative fuel is
20 reasonably available and whose supply requirements must be
21 met in order to avoid substantial unemployment or impair-
22 ment of food production or the public health, safety, or
23 welfare.

24 EMERGENCY EXEMPTIONS

25 SEC. 104. Section 7(c) of the Natural Gas Act (15
26 U.S.C. 717f(c)) is amended by designating the two

1 unnumbered paragraphs thereof as paragraphs (1) and (2),
2 by deleting the period at the end of paragraph (2) as des-
3 ignated hereby, and inserting in lieu thereof the following:
4 "*Provided further*, That within 15 days after the enactment
5 of the Natural Gas Emergency Standby Act of 1975, the
6 Commission shall by regulation exempt from the provisions
7 of this Act, except for reporting requirements, any activi-
8 ties, operations, facilities, or services relating to the trans-
9 portation, sale and delivery, transfer, or exchange of natural
10 gas from any source, other than any offshore Federal lands,
11 by an independent producer, a natural-gas company which
12 transports natural gas in interstate commerce, a person who
13 transports natural gas in other than interstate commerce, or
14 a natural-gas distributing company to or with a natural-gas
15 company which transports natural gas in interstate com-
16 merce which does not have or which under reasonably
17 foreseeable circumstances may not have, a sufficient supply
18 of natural gas to meet the requirements of its high priority
19 consumers of natural gas and which is curtailing during the
20 heating season from November 1975 through March 1976
21 pursuant to a curtailment plan on file with the Commis-
22 sion. Exemptions granted pursuant to this proviso shall
23 be for periods of no more than 180 consecutive days. Per-
24 sons who are exempt under section 1 (b) or (c) of this
25 Act shall not have their exempt status affected in any way

1 by making the sales or deliveries contemplated by this sub-
 2 section: *Provided further*, That the Commission shall have
 3 no power to deny, in whole or in part, recovery by any
 4 natural-gas company in its jurisdictional rates of the amount
 5 paid by it for natural gas delivered to it pursuant to sales
 6 and contracts as described herein, except to the extent that
 7 an interstate transporter purchases natural gas from an affili-
 8 ate at a rate in excess of the price paid by the transporter to
 9 nonaffiliated sellers in comparable sales transactions: *Pro-*
 10 *vided further*, That natural gas sold and delivered or trans-
 11 ported pursuant to any exemption granted under section
 12 104 of the Natural Gas Emergency Standby Act of 1975
 13 shall not be or become subject to the jurisdiction of the Com-
 14 mission because of such sale and delivery or transportation
 15 whether or not such sale is a sale for resale in interstate
 16 commerce or such transportation is in interstate commerce:
 17 *Provided further*, That any contractual provision prohibiting
 18 sales or transportation entitled to any such exemption or
 19 terminating any other obligations of any gas supply or sales
 20 contracts as a result of such sales or transportation shall be
 21 unenforceable in respect to any such sale or transportation:
 22 *Provided further*, That it shall be a violation of the Natural
 23 Gas Act (as amended) for any natural-gas distributing
 24 company to charge residential users and small users (as
 25 defined by the Commission) rates which reflect any costs

1 incurred by an interstate transporter as a result of purchases
 2 of natural gas made pursuant to an exemption granted under
 3 this section: *And provided further*, That no first sale of nat-
 4 ural gas after enactment and prior to expiration of the Nat-
 5 ural Gas Emergency Standby Act of 1975 shall be made at a
 6 price which exceeds the highest wellhead price (as deter-
 7 mined by the Commission) at which natural gas was sold
 8 during the period of June 1, 1975, through August 1, 1975,
 9 in the State in which such first sale is made.”.

10 PROHIBITION OF USE OF NATURAL GAS AS BOILER FUEL

11 SEC. 105. (a) The purpose of this section is to continue
 12 the conservation of natural gas and petroleum products by
 13 fostering the use of coal by powerplants and major fuel burn-
 14 ing installations, and if coal cannot be utilized, to provide
 15 authority to prohibit the use of natural gas when petroleum
 16 products can be substituted.

17 (b) Section 2 of the Energy Supply and Environmental
 18 Coordination Act of 1974 is amended by—

19 (1) redesignating subsections (e) and (f) as sub-
 20 sections (f) and (g), respectively;

21 (2) amending redesignated subsection (g) (1)
 22 to read as follows:

23 “(g) (1) Authority to issue orders or rules under
 24 subsections (a), (b), (d), and (e) of this section shall
 25 expire at midnight June 30, 1976. Authority to issue orders

1 under subsection (c) shall expire at midnight June 30,
2 1976. Any rule or order issued under subsections (a)
3 through (e) may take effect at any time before January 1,
4 1979.”.

5 (c) Inserting after subsection (d) the following new
6 subsection (e) :

7 “(e) (1) The Administrator may, by order, prohibit
8 any powerplant or major fuel burning installation from
9 burning natural gas if—

10 “(A) the Administrator determines that:

11 “(i) such powerplant or installation had on
12 June 30, 1975 (or at any time thereafter) the
13 capability and necessary plant equipment to burn
14 petroleum products,

15 “(ii) an order under subsection (a) may not
16 be issued, with respect to such powerplant or
17 installation,

18 “(iii) the burning of petroleum products by
19 such powerplant or installation in lieu of natural
20 gas is practicable,

21 “(iv) petroleum products will be available
22 during the period the order is in effect,

23 “(v) with respect to powerplants, the pro-
24 hibition under this subsection will not impair the
25 reliability of service in the area served by the plant,

1 “(vi) the prohibition under this subsection will
2 result in making natural gas available for sale to
3 a natural-gas company which transports natural gas
4 in interstate commerce and which does not have
5 adequate quantities of natural gas to meet the re-
6 quirements of its high priority consumers and which
7 is curtailing pursuant to a curtailment plan on file
8 with the Commission, and

9 “(B) the Administrator of the Environmental Pro-
10 tection Agency has certified that such powerplant or
11 installation will be able to burn the petroleum prod-
12 ucts which the Administrator has determined under sub-
13 paragraph (A) (iv) will be available to it and will be
14 able to comply with the Clean Air Act (including ap-
15 plicable implementation plans).

16 “(2) An order under this subsection shall not take
17 effect until the earliest date the Administrator of the En-
18 vironmental Protection Agency has certified that the power-
19 plant or installation can burn petroleum products and can
20 comply with the Clean Air Act (including applicable im-
21 plementation plans).

22 “(3) The Administrator may specify in any order
23 issued under this subsection the periods of time during which
24 the order will be in effect and the quantity (or rate of use)

1 of natural gas that may be burned by a powerplant or major
2 fuel burning installation during such periods, including the
3 burning of natural gas by a powerplant to meet peaking load
4 requirements.

5 “(4) Conversion to petroleum products pursuant to an
6 order issued under this subsection shall not be deemed to be
7 a modification for the purposes of paragraphs (2) and (4)
8 of subsection 111 (a) of the Clean Air Act, as amended.

9 “(5) The Administrator shall exempt from any order
10 issued pursuant to this subsection the burning of natural
11 gas for the necessary processes of ignition, startup, testing,
12 and flame stabilization by a facility.

13 “(6) The Administrator shall also exempt from any rule
14 under this section the burning of natural gas by powerplants
15 for the purpose of operating pollution abatement systems.

16 “(7) The Administrator shall modify or suspend any
17 order issued pursuant to this subsection to the extent neces-
18 sary to alleviate short-term air quality emergencies or other
19 danger to the public health, safety, or welfare.”.

20 (d) (1) Any order issued pursuant to this subsection
21 shall provide for just compensation of the facility and trans-
22 porter affected by such order. Such compensation is (A) to
23 be measured by the increased costs, if any, incurred by a
24 facility and the loss of revenue, if any, incurred by a trans-
25 porter as a result of such order, and (B) to be paid ulti-

1 mately through increased rates and charges by those users,
2 in proportion to the volumes of natural gas consumed by
3 such users, who are determined by the Commission to bene-
4 fit as a result of such order: *Provided, however,* That nothing
5 contained in this subsection shall be construed to extend the
6 jurisdiction of the Commission to any rates and charges not
7 otherwise subject to the jurisdiction of the Commission under
8 section 1 of the Natural Gas Act (15 U.S.C. 717).

9 (2) For the purposes of this subsection, the term
10 “users” means high priority consumers of natural gas who
11 consume natural gas transported by that natural-gas com-
12 pany which obtains the natural gas supplies made available
13 for nonboiler fuel use by an order issued pursuant to this
14 subsection.

15 (e) Section 11 (g) (2) of the Energy Supply and
16 Environmental Coordination Act of 1974 is amended by
17 striking out “June 30, 1975”, wherever it appears and in-
18 serting in lieu thereof “June 30, 1976”.

19 (f) Notwithstanding any other provision of this section
20 the Administrator shall not issue any order under this section
21 which applies to any powerplant, which was in existence on
22 June 30, 1975, which during the 12-month period preceding
23 such date did not burn petroleum products and which the
24 Administrator determines will be operated on natural gas
25 only for the purpose of providing electric power which would

1 otherwise be provided by one or more of the base-load power-
 2 plants of the same electric power system, but cannot be
 3 operated because of an air pollution emergency, an unantici-
 4 pated equipment outage, or act of God.

5 PROPANE ALLOCATION PROGRAM

6 SEC. 106. Notwithstanding the provisions of section 4
 7 (g) or any other provision of the Emergency Petroleum Al-
 8 location Act of 1973, as amended, the regulations promul-
 9 gated by the President under section 4 of such Act and the
 10 authority of the President under such Act shall, with respect
 11 to propane and butane, remain in effect until midnight,
 12 April 4, 1976.

13 EMERGENCY PURCHASES BY CURTAILED CONSUMERS

14 SEC. 107. (a) The purpose of this section is to allow
 15 curtailed high priority consumers of natural gas to purchase
 16 natural gas from the intrastate market by enabling them
 17 to arrange for the transportation of such gas by regulated
 18 interstate pipeline companies.

19 (b) The provisions of the Natural Gas Act shall not
 20 apply to the use of the facilities of a natural gas distributing
 21 company for the transportation of natural gas produced by
 22 an independent producer from lands, other than any land or
 23 subsurface area within the Outer Continental Shelf as defined
 24 in section 2 (a) of the Outer Continental Shelf Lands Act
 25 (43 U.S.C. 1331 (a)), and sold by such a producer directly

1 to a high-priority consumer of natural gas: *Provided*, That
 2 the rates applicable to the use of such facilities for the trans-
 3 portation of natural gas described in this subsection are sub-
 4 ject to regulation by a State commission. The transporta-
 5 tion of natural gas exempted from the provisions of the
 6 Natural Gas Act by this subsection is hereby declared to
 7 be a matter primarily of local concern and subject to regula-
 8 tion by the several States. A certification from such State
 9 commission to the Commission that such State commission
 10 has regulatory jurisdiction over rates and service of such per-
 11 son and facilities and is exercising such jurisdiction shall
 12 constitute conclusive evidence of such regulatory power or
 13 jurisdiction.

14 (c) Pursuant to the substantive and procedural provi-
 15 sions of this section the Commission may in its discretion issue
 16 a certificate of public convenience and necessity upon filing of
 17 an application by a natural-gas company to transport natural
 18 gas produced by independent producers from lands, other
 19 than any land or subsurface area within the Outer Continental
 20 Shelf as defined in section 2 (a) of the Outer Continental
 21 Shelf Lands Act (43 U.S.C. 1331 (a)), and sold by such
 22 producers directly to existing high priority consumers of
 23 natural gas whose current supply of natural gas is curtailed
 24 due to natural-gas company curtailment plans on file with
 25 the Commission: *Provided, however*, That in issuing a certif-

icate pursuant to this subsection, the Commission need not review or approve the price paid by a high priority consumer of natural gas directly to an independent producer.

EXPIRATION DATE

SEC. 108. (a) This title shall expire on midnight April 4, 1976.

(b) The expiration of this title and the authority granted under this title shall not affect any action or pending proceedings not finally determined on the date of such expiration, or any action or proceeding based upon any act committed prior to such date.

TITLE II—NATURAL GAS ACT AMENDMENTS

SEC. 201. This title may be cited as the "Natural Gas Act Amendments of 1975".

SEC. 202. The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by (1) striking out section 24 thereof (15 U.S.C. 717w); and (2) amending section 1 thereof by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and inserting therein the following new subsection:

"(a) This Act may be cited as the 'Natural Gas Act'."

SEC. 203. Section 1(c) of the Natural Gas Act, as redesignated by this title (15 U.S.C. 717(b)), is amended (1) by deleting "The" at the beginning thereof and by

inserting in lieu thereof immediately after "(c)" the following: "(1) Except as provided in paragraph (2) of this subsection, the"; and (2) by inserting at the end thereof the following new paragraph:

"(2) Subject only to the provisions of section 24 of this Act, after midnight April 4, 1976, the authority of the Commission to regulate the sale of natural gas to a natural-gas company for resale in interstate commerce pursuant to this Act shall cease to exist with respect to, and shall not apply to, new natural gas: *Provided, however,* That nothing contained in the Natural Gas Act Amendments of 1975 shall modify or affect the authority of the Commission in effect prior to the date of enactment of such amendments to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas, or (B) regulate sales for resale of natural gas by any natural-gas company which transports natural gas in interstate commerce or by an affiliate thereof which transports natural gas in interstate commerce."

SEC. 204. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by redesignating paragraphs (7) through (9) as paragraphs (12) through (14), and by inserting the following new paragraphs:

"(7) 'Boiler fuel use of natural gas' means the use of natural gas as the source of fuel in a generating

unit of more than 25 megawatts rated net generating capacity or in any unit which is part of an electric utilities system with a total net generating capacity of more than 150 megawatts for the purpose of generating electricity for distribution.

“(8) ‘New natural gas’ means natural gas sold or delivered in interstate commerce (A) which is dedicated to interstate commerce for the first time on or after January 1, 1975: *Provided*, That natural gas so sold or delivered from offshore Federal lands shall be committed for a contract term of not less than fifteen years or for the life of the reservoir if less than fifteen years: *Provided further*, That any natural gas sold by a producer in interstate commerce prior to the date of enactment hereof pursuant to limited term certificates (five years or less) or temporary emergency contracts shall not be considered, for the purpose of this provision, as having been committed to interstate commerce, or (B) natural gas produced from a reservoir discovered on or after January 1, 1975, or produced from wells initiated and completed in an extension of a previously discovered reservoir on or after January 1, 1975, regardless of whether or not the leases covering such newly discovered or extended reservoir were theretofore committed by contract or otherwise to the interstate market.

“(9) ‘Old natural gas’ means natural gas other than new natural gas.

“(10) ‘Affiliate’ means any person directly or indirectly controlling, controlled by, or under common control or ownership with any other person, as determined by the Commission pursuant to its rulemaking authority.

“(11) ‘Offshore Federal lands’ means any land or subsurface area within the Outer Continental Shelf, as defined in section 2 (a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (a)).”.

SEC. 205. (a) Section 4 (a) of the Natural Gas Act (15 U.S.C. 717c (a)) is amended by adding at the end thereof the following new sentence: “The rates and charges made, demanded, or received by any natural-gas company for, or in connection with, a contract for the sale of new natural gas produced from offshore Federal lands shall be deemed to be just and reasonable, if they do not exceed the applicable national ceiling, established by regulation of the Commission or subsequently modified by the Commission pursuant to section 24 of this Act, in effect at the time when such new natural gas is either first sold or first transferred under such contract to a natural-gas company: *Provided*, however, That rates and charges in excess of such national

1 ceiling may be authorized by the Commission to provide
 2 special relief to meet extraordinary expenses that could not
 3 be anticipated at the time the national ceiling was established
 4 or modified.”.

5 (b) Section 4(e) of the Natural Gas Act (15 U.S.C.
 6 717c(e)) is amended by adding at the end thereof the fol-
 7 lowing new sentence: “Notwithstanding the foregoing, the
 8 Commission shall have no power (1) to deny, in whole or
 9 in part, any rate or charge made, demanded, or received by
 10 any natural-gas company for, or in connection with, the pur-
 11 chase or sale of new natural gas, or that portion of the rates
 12 and charges of such company which relates to such purchase
 13 or sale, except (A) to the extent that such rates or charges,
 14 or such portion thereof, for new natural gas produced from
 15 offshore Federal lands exceed the national ceiling, established
 16 or modified by regulation of the Commission pursuant to
 17 section 24 of this Act, or (B) in any case where a natural-
 18 gas company purchases natural gas from an affiliate or pro-
 19 duces natural gas from its own properties, to the extent that
 20 the Commission determines that the rates and charges there-
 21 for exceed the current rates and charges, or portion thereof,
 22 made, demanded, or received for comparable sales by any
 23 person who is not affiliated with any natural-gas company;
 24 or (2) to order a decrease in the rate or charge made, de-
 25 manded, or received for the sale or transfer of old natural

1 gas by a natural-gas company if such rate or charge shall
 2 have been previously determined or deemed to be just and
 3 reasonable pursuant to this Act.”.

4 SEC. 206. Section 5(a) of the Natural Gas Act (15
 5 U.S.C. 717d(a)) is amended by striking the period at the
 6 end thereof and by adding the following: “: *Provided fur-*
 7 *ther,* That the Commission shall have no power (1) to deny,
 8 in whole or in part, any rate or charge made, demanded, or
 9 received by any natural-gas company for, or in connection
 10 with, the purchase or sale of new natural gas, or that portion
 11 of the rates and charges of such company which relates to
 12 such purchase or sale, except (A) to the extent that such
 13 rates or charges, or such portion thereof, for new natural gas
 14 produced from offshore Federal lands exceed the national
 15 ceiling, established or modified by regulation of the Commis-
 16 sion pursuant to section 24 of this Act, or (B) in any case
 17 where a natural-gas company purchases natural gas from
 18 an affiliate or produces natural gas from its own properties,
 19 to the extent that the Commission determines that the rates
 20 and charges therefor exceed the current rates and charges, or
 21 portion thereof, made, demanded, or received for compara-
 22 ble sales by any person who is not affiliated with any natural-
 23 gas company; or (2) to order a decrease in the rate or
 24 charge made, demanded, or received for the sale or transfer
 25 of old natural gas by a natural-gas company if such rate or

1 charge shall have been previously determined or deemed to
2 be just and reasonable pursuant to this Act.”.

3 SEC. 207. Section 14 of the Natural Gas Act (15
4 U.S.C. 717m) is amended by adding at the end thereof the
5 following new subsection:

6 “(h) RESERVE INFORMATION.—(1) The Commission
7 is further authorized and directed to conduct studies of the
8 production, gathering, storage, transportation, distribution,
9 and sale of natural, artificial, or synthetic gas, however pro-
10 duced, throughout the United States and its possessions
11 whether or not otherwise subject to the jurisdiction of the
12 Commission, including the production, gathering, storage,
13 transportation, distribution, and sale of natural, artificial, or
14 synthetic gas by any agency, authority, or instrumentality
15 of the United States, or of any State or municipality or
16 political subdivision of a State. It shall, insofar as practicable,
17 secure and keep current information regarding the owner-
18 ship, operation, management, and control of all facilities for
19 production, gathering, storage, transportation, distribution,
20 and sale; the total estimated natural gas reserves of fields
21 or reservoirs and the current utilization of natural gas and
22 the relationship between the two; the cost of production,
23 gathering, storage, transportation, distribution, and sale; the
24 rates, charges, and contracts in respect to the sale of natural

1 gas and its service to residential, rural, commercial and
2 industrial consumers, and other purchasers by private and
3 public agencies; and the relation of any and all such facts
4 to the development of conservation, industry, commerce, and
5 the national defense. The Commission shall report to the
6 Congress and may publish and make available the results
7 to the Congress and may publish and make available the
8 results of studies made under the authority of this subsection.

9 “(2) In making studies, investigations, and reports
10 under this section, the Commission shall utilize, insofar as
11 practicable, the services, studies, reports, information, and
12 programs of existing departments, bureaus, offices, agencies,
13 and other entities of the United States, of the several States,
14 and of the natural-gas industry, but such studies, investiga-
15 tions, and reports shall be based on information developed,
16 or completely reviewed for accuracy, after the date of enact-
17 ment of this subsection. Nothing in this section shall be
18 construed as modifying, reassignment, or otherwise affecting
19 the investigative and reporting activities, duties, powers,
20 and functions of any other department, bureau, office, or
21 agency in the Federal Government.

22 “(3) In order to assist in determining necessary ac-
23 tions to eliminate the national emergency which exists with
24 respect to natural gas supplies the Commission shall carry

1 out and complete, not later than ninety days after the date
 2 of enactment of this subsection, an initial such study with
 3 respect to the total estimated natural gas reserves of fields
 4 and reservoirs and the current utilization of natural gas and
 5 the relationship between the two. Such study shall include
 6 specific estimates for individual fields and reservoirs but shall
 7 not include reserves controlled by small producers. On Janu-
 8 ary 1, 1977, and at the beginning of each calendar year
 9 thereafter, the Commission shall, within the following ninety-
 10 day period, complete a review of the previous study and re-
 11 vise the results thereof to the extent necessary. A report of
 12 such initial study and each such review shall be made, within
 13 the time provided for the completion thereof, to the Presi-
 14 dent and the Congress.”.

15 SEC. 208. The Natural Gas Act, as amended by this
 16 title, is further amended by adding at the end thereof the
 17 following eight new sections:

18 “NATIONAL CEILING FOR RATES AND CHARGES

19 “SEC. 24. (a) The Commission shall, as soon as prac-
 20 ticable after the date of enactment of the Natural Gas Act
 21 Amendments of 1975, and pursuant to rulemaking proce-
 22 dures under section 553 of title 5, United States Code, estab-
 23 lish by regulation, and may from time to time modify, a
 24 national ceiling for rates and charges for the sale or transfer
 25 in interstate commerce by any person of new natural gas

1 produced from offshore Federal lands on or after January 1,
 2 1975, through December 31, 1980. In establishing such
 3 national ceiling the Commission shall consider the following
 4 factors and only these factors:

5 “(1) the prospective costs attributable to the ex-
 6 ploration, development, production, gathering, and sale
 7 of natural gas;

8 “(2) the rates and charges necessary to encour-
 9 age the optimum levels of (A) the exploration for nat-
 10 ural gas, (B) the development, production, and gather-
 11 ing of natural gas, and (C) the maintenance of proved
 12 reserves of natural gas;

13 “(3) the promotion of sound conservation prac-
 14 tices in natural-gas consumption necessary to contribute
 15 to the maintenance of a supply of energy resources at
 16 reasonable prices to consumers; and

17 “(4) the rates and charges that will protect con-
 18 sumers of natural gas from price increases that would,
 19 in the absence of a national ceiling during periods of
 20 actual or anticipated shortages, exceed the rates and
 21 charges necessary to achieve the objectives of para-
 22 graphs (1) through (3) of this subsection.

23 “(b) The Commission shall monitor the national
 24 ceiling for rates and charges for the sale or transfer in
 25 interstate commerce by any person of new natural gas, and

1 during the period such ceiling is in effect, commencing on
 2 July 1, 1976, the Commission shall report to the Congress
 3 not less than annually on the effectiveness of such national
 4 ceiling in meeting the factors set forth in subsection (a) of
 5 this section.

6 “(c) The Commission may authorize a person to
 7 charge an amount in excess of such national ceiling for new
 8 natural gas produced from offshore Federal lands from any
 9 high cost production area or vertical drilling depth as des-
 10 ignated by the Commission pursuant to its rulemaking au-
 11 thority. In establishing such amount in excess of such na-
 12 tional ceiling, the Commission shall consider the factors set
 13 forth in subsection (a) of this section and only those factors.

14 “(d) Any contract entered into after the date of
 15 enactment of the Natural Gas Act Amendments of 1975 for
 16 the sale of new natural gas for resale which involves the
 17 receipt by the seller of funds in advance of production of
 18 the natural gas covered by such contract shall be filed with
 19 the Commission at least 60 days in advance of deliveries
 20 thereunder. The Commission may thereafter require, after
 21 notice and opportunity for hearing, that the sales rate speci-
 22 fied in such contract be reduced or modified as necessary
 23 to repay in full to the advancing party the principal of the
 24 advance and any interest thereon, upon such terms and con-

1 ditions as the Commission may determine proper in the
 2 public interest.

3 “(e) Pending the establishment of a national ceiling pur-
 4 suant to section 24 (a) of this Act by a final Commission
 5 order which is no longer subject to judicial review and within
 6 30 days after the enactment of the Natural Gas Act
 7 amendments of 1975 and on January first of each year there-
 8 after until such establishment of a national ceiling, the Com-
 9 mission shall establish an interim ceiling for rates and charges
 10 for the sale or transfer in interstate commerce by a producer
 11 of new natural gas produced from offshore Federal lands
 12 which shall be effective November 1, 1975, and which shall
 13 be equivalent to the average dollar valuation per barrel of
 14 domestic crude oil used by the United States Geological
 15 Survey or its successor Federal agency or office in comput-
 16 ing the royalties due the United States on account of crude
 17 oil produced from all Federal lands during the calendar
 18 month ending 30 days prior to such determination. Such in-
 19 terim ceiling price shall be expressed in one million British
 20 thermal units and shall be determined by dividing such aver-
 21 age dollar valuation per barrel of crude oil by 5.8. After
 22 the establishment of a national ceiling pursuant to section
 23 24 (a) of this Act by final Commission order which is no
 24 longer subject to judicial review, any producer who has sold

1 new natural gas produced from offshore Federal lands during
 2 the period the interim ceiling price was in effect shall there-
 3 after have the benefit of the national ceiling: *Provided, how-*
 4 *ever,* That the Commission shall have no power to order a
 5 reduction in the rates and charges for such sale below the
 6 interim ceiling price in effect on the dates of the establish-
 7 ment of the national ceiling.

8 “(f) From and after January 1, 1981, there shall be no
 9 ceiling price applicable to the sale of new natural gas pro-
 10 duced from offshore Federal lands.

11 “(g) No price established by or pursuant to the Natural
 12 Gas Act Amendments of 1975 for new natural gas shall be
 13 retroactive so as to affect any price for any gas sold prior
 14 to November 1, 1975.

15 “NATURAL GAS FOR ESSENTIAL AGRICULTURAL PURPOSES

16 “SEC. 25. (a) Except to the extent that natural-gas sup-
 17 plies are required to maintain natural-gas service to residen-
 18 tial users, small users, hospitals, and similar services vital to
 19 public health and safety, and notwithstanding any other
 20 provision of law or of any natural-gas allocation or curtail-
 21 ment plan in effect under existing law, the Commission shall,
 22 by rule, prohibit any interruption or curtailment of natural
 23 gas and take such other steps as are necessary to assure as
 24 soon as practicable the availability in interstate commerce of
 25 sufficient quantities of natural gas for use for any essential

1 agricultural, food processing, or food packaging purpose for
 2 which natural gas is essential, including but not limited to
 3 irrigation pumping, crop drying, use as a raw material feed-
 4 stock, or process fuel in the production of fertilizer and essen-
 5 tial agricultural chemicals in existing plants (for present or
 6 expanded capacity) and in new plants. The Secretary of
 7 Agriculture shall determine by rule the agricultural, food
 8 processing, or food packaging purposes for which natural gas
 9 is essential. The Secretary of Agriculture shall also certify
 10 to the Commission the amount of natural gas which is neces-
 11 sary for such essential uses to meet requirements for full
 12 food and fiber production.

13 “(b) ESSENTIAL INDUSTRIAL PURPOSES.—Except to
 14 the extent that natural gas supplies are required to maintain
 15 natural gas service to users specified under subsection (a),
 16 the Commission shall exercise its authority under this title to
 17 assure, to the maximum extent feasible, the continuance of
 18 natural gas service to users using natural gas as a raw mate-
 19 rial and uses other than boiler fuel for which there is no sub-
 20 stitute regardless of whether such users purchase natural gas
 21 under firm or interruptible contracts.

22 “(c) PROMPT CURTAILMENT DECISIONS.—The Com-
 23 mission shall decide applications for relief under subsections
 24 (a) and (b) as soon as practicable, but in no event later
 25 than 120 days of the time such applications are filed.

1 "COMMISSION JURISDICTION OVER SYNTHETIC GAS

2 "SEC. 26. With respect to liquefied, regasified, or syn-
 3 thetic natural gas, any plant for the production or regasifica-
 4 tion of synthetic natural gas, any sales or transportation of
 5 such synthetic natural gas, and any person owning and/or
 6 operating such plant shall be subject to the jurisdiction and
 7 authority of the Commission under the Natural Gas Act of
 8 1938 to the same extent as if it were a natural gas company:
 9 *Provided*, That such jurisdiction shall not include the feed-
 10 stock of such plant or facilities for the production of such
 11 feedstock, unless the feedstock is natural or manufactured
 12 gas: *And provided further*, That such jurisdiction shall not
 13 preempt State laws, rules, and regulations regarding natural
 14 resource development, conservation, and environmental pro-
 15 tection, or any other proper exercise of State police powers.

16 "NATURAL GAS CONSERVATION

17 "SEC. 27. (a) Except as provided in subsection (d)
 18 of this section, the Commission shall by rule prohibit boiler
 19 fuel use of natural gas affecting commerce not contracted for
 20 prior to January 1, 1975, unless, upon petition by the user,
 21 the Commission determines that—

22 "(1) alternative fuels, other than crude oil or
 23 products refined therefrom and propane, are not avail-
 24 able to such user; or

25 "(2) it is not feasible or practicable to utilize such

1 alternative fuels at the time of such Commission deter-
 2 mination.

3 "(b) Except as provided in subsection (d) of this
 4 section, boiler fuel use of natural gas contracted for prior
 5 to January 1, 1975, shall be terminated by the user of such
 6 natural gas at the expiration of such contract or 12 years
 7 after the date of enactment of the Natural Gas Act Amend-
 8 ments of 1975, whichever is earlier, unless, upon petition
 9 of such user, the Commission determines that (1) alternative
 10 fuels, other than crude oil or products refined therefrom and
 11 propane, are not available to such user, or (2) it is not
 12 feasible or practicable to utilize such alternative fuels at the
 13 time of such Commission determination. The Commission
 14 shall modify or terminate certificates of public convenience
 15 and necessity relating to such contracts to the extent neces-
 16 sary to carry out the purpose of this subsection.

17 "(c) Except as expressly provided in subsection (b)
 18 of this section, the Commission shall not (1) modify, amend,
 19 or abrogate contracts entered into prior to January 1, 1975,
 20 for the sale or transportation of natural gas for boiler fuel
 21 use, (2) modify, amend, or abrogate certificates of public
 22 convenience and necessity authorizing the sale or trans-
 23 portation of natural gas under such contracts, except upon
 24 application duly made by the holder of a certificate under
 25 section 7 of this Act; or (3) prevent, impair, or limit,

1 either directly or indirectly, the performance of any such
 2 contract or certificate: *Provided, however,* That the pro-
 3 visions of this subsection shall not otherwise modify or affect
 4 the authority of the Commission under this Act.

5 “(d) The Commission shall also exempt from any rule
 6 under this section the burning of natural gas by powerplants
 7 for the purpose of operating pollution abatement systems.

8 “(e) The Administrator shall, by rule promulgated no
 9 longer than 30 days after enactment of this Act, prohibit
 10 all uses of natural gas that he determines are solely for
 11 ornamental or decorative purposes. Such gas prohibition
 12 shall be limited to uses which are outside of a residence or
 13 dwelling which has the installed capacity to use electricity.
 14 The prohibition shall take effect not later than 60 days after
 15 enactment of this title.

16 “(f) The Commission shall not prohibit the boiler fuel
 17 use of natural gas for the necessary processes of ignition,
 18 startup, testing, and flame stabilization by a facility, or for
 19 the purpose of alleviating short-term air quality emergencies
 20 or any other danger to the public health, safety, or welfare.

21 “(g) In implementing the provisions of this section,
 22 the Commission shall, to the extent necessary, apply the
 23 provisions of section 17 of this Act.

24 “(h) Nothing in this section shall impair any require-
 25 ment in any State or Federal law pertaining to safety or

1 environmental protection. The Commission, in determining
 2 feasibility or practicability where required by this section,
 3 shall not assume that there will be any lessening in any
 4 safety or environmental requirement established pursuant
 5 to State or Federal law.

6 “RESIDENTIAL AND OTHER SMALL USERS

7 “SEC. 28. GENERAL.—The Commission shall—

8 “(a) Require all pipelines to file separate tariffs with
 9 respect to (1) old natural gas and (2) new natural gas
 10 (including synthetic or liquefied natural gas) in such form
 11 and manner as to reflect the price and average annual vol-
 12 umes of each which enter each such pipeline.

13 “(b) Require all pipelines to give first priority for
 14 sales of transfers under the applicable tariff for old natural
 15 gas to natural-gas distributing companies, to the extent such
 16 old natural gas is available, to meet the requirements of each
 17 such company's residential users and small users.

18 “(c) Promulgate rules to govern sales, exchanges, or
 19 transfers among pipelines and sales, exchanges, or transfers
 20 to natural-gas distributing companies served by multiple pipe-
 21 lines, to the extent necessary to achieve the purpose of this
 22 section.

23 “(d) For purposes of this section, persons using nat-
 24 ural gas for essential agricultural purposes not to exceed 50
 25 Mcf on an average day, shall be deemed small users.

1 "RATES AND CHARGES CEILING

2 "SEC. 29. The Commission shall, as soon as practicable
3 after the date of enactment of the Natural Gas Act Amend-
4 ments of 1975, and pursuant to rulemaking procedures un-
5 der section 553 of title 5, United States Code, establish by
6 regulation, and shall every two years modify, a national
7 ceiling for rates and charges for the sale in interstate com-
8 merce for resale of old natural gas, the sale of which gas is
9 continued in interstate commerce after the expiration of a
10 contract by its own terms (and not through the exercise of
11 any power to terminate or renegotiate contained therein)
12 for the sale or delivery of such natural gas. In establishing
13 such national ceiling, the Commission shall consider the fol-
14 lowing factors and only these factors:

15 "(1) the costs attributable to the exploration, de-
16 velopment, production, gathering, and sale of old natural
17 gas;

18 "(2) the prospective costs of operation, reworking,
19 installation of additional compression, and similar ex-
20 penses, which costs are necessary to prevent abandon-
21 ment in place of old natural gas reserves otherwise
22 recoverable;

23 "(3) the reimbursement to the seller of (a) any
24 severance, production, or other tax payable by the seller

1 and levied on the value or volume of production at the
2 wellhead; and (b) any royalty or royalties on natural
3 gas which a producer is required to pay to a royalty
4 owner under applicable State law;

5 "(4) the rate of return on seller's original capital
6 investment which is sufficient to encourage the optimum
7 level of investment in natural gas exploration and pro-
8 duction; and

9 "(5) the rates and charges that will protect con-
10 sumers of natural gas from price increases that would,
11 in the absence of a national ceiling during periods of
12 actual or anticipated shortages, exceed the rates and
13 charges necessary to achieve the objectives of para-
14 graph (4) of this subsection.

15 "NATIONAL GAS PRODUCTION ON FEDERAL LANDS

16 "SEC. 30. (a) All leases or other agreements entered
17 into by the Secretary of the Interior for the exploration
18 or production of oil or natural gas on Federal lands shall
19 contain a provision that the Secretary shall have the right
20 to require increased production up to but not to exceed the
21 maximum efficient rate of production under such lease for
22 the purposes of dealing with emergency shortages of oil or
23 natural gas or other national emergencies.

24 "(b) Within ninety days after enactment of this section,

1 the Secretary shall issue regulations setting forth the maxi-
 2 mum efficient rate of production for each field on Federal
 3 lands which the Secretary determines produces, or has the
 4 capacity to produce, significant quantities of natural gas.

5 “(c) For purposes of this section the term ‘maximum
 6 efficient rate of production’ means the maximum rate of
 7 production of natural gas which may be sustained without
 8 loss of ultimate recovery of crude oil or natural gas, or both,
 9 under sound engineering principles.

10 “(d) Nothing in this section shall be construed to au-
 11 thorize the production from any Naval Petroleum Reserve
 12 subject to the provisions of chapter 641 of title 10, United
 13 States Code.

14 “DISPOSITION OF FEDERAL ROYALTY NATURAL GAS

15 “SEC. 31. (a) Upon commencement of production of
 16 natural gas from any lease on Federal lands issued under the
 17 authority of the Natural Gas Act (15 U.S.C. 717) or the
 18 Outer Continental Shelf Lands Act (43 U.S.C. 1309) en-
 19 actment of this Act, the Secretary shall, except as provided
 20 in this section, offer to the public and sell by competitive
 21 bidding for not less than its fair market value, in such
 22 amounts and for such terms as he determines, that proportion
 23 of the gas produced from said lease which is due the
 24 United States as royalty natural gas. Whenever, after con-
 25 sultation with and advice from the Administrator of the

1 Federal Energy Administration, and the Chairman of the
 2 Federal Power Commission, the Secretary determines that
 3 an emergency shortage of natural gas is threatening to
 4 cause severe economic or social dislocation in any region of
 5 the United States and that such region can be serviced in a
 6 practical, feasible, and efficient manner by royalty natural gas
 7 of the Federal Government, the Secretary shall limit partici-
 8 pation of competitors for the sale of any such royalty natural
 9 gas to those servicing such region, but he shall not make any
 10 sale for less than the fair market price.

11 “(b) Within sixty days after the date of enactment of
 12 this section, the Secretary shall submit to the Congress a
 13 systematic plan together with any necessary Federal policies,
 14 regulations, and procedures and any amendments he deems
 15 necessary to the Natural Gas Act, the Mineral Leasing Act,
 16 1920, or the Outer Continental Shelf Lands Act or any
 17 other applicable Federal legislation, to facilitate and maxi-
 18 mize the efficient and effective use of royalty natural gas
 19 ordered by the Secretary pursuant to (a) above. In prepar-
 20 ing such recommendations for use of such royalty natural gas
 21 the Secretary shall consult with the Administrator of the
 22 Federal Energy Administration, the Federal Power Com-
 23 mission, and any other appropriate Federal department or
 24 agency.”.

25 SEC. 209. Section 2 of the Natural Gas Act, as desig-

1 nated by this Act (15 U.S.C. 717), is amended by inserting
2 at the end thereof a new subsection as follows:

3 “(d) Nothing in this Act shall prevent the intrastate
4 transportation of natural gas first sold in commerce after the
5 date of enactment of this subsection in an interstate pipeline
6 as long as such intrastate transportation does not prevent
7 service necessary to meet the requirements of interstate
8 consumers and the rates for such transportation reflect the
9 fully distributive costs of the interstate facilities used therein,
10 and the provisions of this Act shall not apply to any such
11 intrastate transportation or the facilities utilized in such
12 service.”.

13 CONFORMING AMENDMENT

14 SEC. 210. Section 2 of the Natural Gas Act (15 U.S.C.
15 717) is amended (1) by inserting after “natural” and before
16 “and” the following: “synthetic” and (2) by inserting the
17 following new paragraph:

18 “(15) ‘synthetic natural gas’ means gas manufac-
19 tured from coal or hydrocarbon containing materials
20 which is sold or transported in interstate commerce.”.

Passed the Senate October 22, 1975.

Attest: FRANCIS R. VALEO,
Secretary.

94TH CONGRESS
1ST SESSION

S. 2310

AN ACT

To provide authority to institute emergency measures to minimize the adverse effects of natural gas shortages, to provide authority to allocate propane, to regulate commerce to assure increased supplies of natural gas at reasonable prices for consumers, and for other purposes.

OCTOBER 28, 1975

Referred to the Committee on Interstate and Foreign
Commerce

F

SECTION BY SECTION ANALYSIS

Krueger Substitute for H. R. 9464

Title I - Emergency Natural Gas Authority

Section 101. Short Title

- The Natural Gas Emergency Standby Act of 1975

Section 102.

- finds severe shortage of natural gas for 1975-1976 heating season constitutes an emergency which can be alleviated by limited exemptions from existing Federal Power Commission (FPC) regulation and by prohibition of boiler fuel usage (Sec. 102(a)).
- purpose of title is to grant FPC authority to allow purchases of gas from intrastate sources for high priority purposes free to the Natural Gas Act, to grant FEA authority to prohibit boiler fuel use of gas, and to grant the President standby authority to allocate propane (Sec. 102(b)).

Section 103. Definitions

- defines principally natural gas distribution company, high priority consumer (to be set by FPC), independent producer, and propane.

Section 104. Emergency Exemptions

- amends the Natural Gas Act to allow FPC to exempt (except for reporting), for 180 days, sales (and transportation and facilities associated with them) from any source (other than from the federal offshore domain) by an independent producer, a pipeline (inter-or intrastate), and a distributor to or with a natural gas company which transports gas in interstate commerce, which does not or will not have gas enough for its high priority customers, and which is in curtailment - FPC disempowered to deny rate recovery of emergency sales price - emergency sales deemed not to result in dedication of reserves to interstate commerce.

Section 105. Prohibition of the Use of Natural Gas As Boiler Fuel

- empowers FEA Administrator to prohibit use of natural gas as a boiler fuel by powerplants and major fuel burning installations if an alternate fuel can be practicably obtained and used, if the gas will become available to a curtailing pipeline which is unable to meet its high priority needs, and if EPA has not certified a Clean Air Act violation (Sec. 105(a)).
- prohibition orders not to extend beyond April 15, 1976 (Sec. 105(b)).
- ignition, startup, testing, and flame stabilization gas excluded (Sec. 105(c)) - operation of pollution abatement systems excluded (Sec. 105(f)).
- prohibition orders to provide for compensation of the boiler fuel facility and transporter (Sec. 105(f)).

Section 106. Propane Standby Allocation Authority

- upon finding a natural gas shortage which constitutes a public hazard, President authorized to establish propane priorities, to allocate propane, to lessen anticompetitive effects, and to provide incentives for propane extraction and production - all these to be consistent with the allocation provisions of the 1973 EPAA as amended.

Section 107. Expiration Date

- Title expires April 15, 1976, at midnight.

Title II - Natural Gas Act Amendments

Section 203

- amends the Natural Gas Act to eliminate FPC authority over the sale of new natural gas for resale in interstate commerce - new natural gas is defined (Sec. 204(a)) as gas sold or delivered in interstate commerce which is (A) first dedicated to interstate commerce on or after 1/1/76, (B) continued in interstate commerce upon contract expiration after 1/1/76, or (C) produced from wells commenced on or after 1/1/76 - rates for new natural gas freed from FPC regulation (Sec. 205, 206) except that rates for new natural gas from the federal offshore domain limited to applicable national ceiling.

Section 207

- authorizes the FPC to conduct comprehensive studies of all aspects of the gas industry.

Section 208

- amends the Natural Gas Act by adding a new section (24) dealing with rate setting methodology (prospective costs/capital attraction) for new natural gas from the federal offshore domain and requiring the FPC to set a national rate for such gas for the period from 1/1/76 through 12/31/80 - special exceptions authorized for high cost areas for rates in excess of national rate for gas from the federal domain offshore - interim rate for use until national rate is no longer subject to judicial review, keyed to USGS crude oil dollar valuation equivalent.
- amends the Natural Gas Act by adding a new section (25) requiring the FPC to prohibit curtailment of gas used for essential agricultural purposes, except to the extent necessary to protect residential and other human needs service - requires the FPC to maintain where feasible essential industrial service (non-boiler fuel industrial use).
- amends the Natural Gas Act by adding a new section (26) requiring the FPC to prohibit boiler fuel use of gas contracted for on or after 1/1/76 unless there is no alternative fuel capability or availability - also requires termination of pre-1/1/75 boiler fuel use at earlier of contract expiration or 12 years from enactment unless user demonstrates inability to use or obtain alternates - gas used for operation of pollution abatement systems, for ignition, startup, testing, and flame stabilization, and for alleviation of short-term air pollution emergencies is exempt from conversion.

Section 209

- amends the Natural Gas Act to allow intrastate pipelines to transport gas first transported in an interstate pipe without subjecting the intrastate line to FPC jurisdiction.

INVESTIGATION OF SUPPLY EMERGENCY

SEC. 6. (a) The President, through the Department of the Interior, shall undertake a study of natural gas supply and demand, and shall determine the total estimated natural gas reserves of the United States, and the estimated annual deliverability of natural gas from such reserves; the probable additions to such reserves and deliverability; the total estimated demand for natural gas by users; and the probable increase, or decrease, in demand by end-use purchasers.

(b) Such study shall be based on information developed, or completely verified for accuracy, after the date of enactment of this Act.

A copy of the completed study shall be transmitted, in writing, to the Congress as soon as practicable after completion.

RULEMAKING

SEC. 7. The Commission shall have authority to issue rules and orders, as the Commission determines are necessary or appropriate to the exercise of the jurisdiction granted under this Act.

Amend the title to read as follows: "A bill to assure the availability of adequate supplies of natural gas during a supply emergency period."

By Mr. KRUEGER:

(An amendment in the nature of a substitute.)

Strike all after the enacting clause and insert in lieu thereof the following:

TITLE I—EMERGENCY NATURAL GAS

AUTHORITY

SHORT TITLE

SEC. 101. This title may be cited as the "Natural Gas Emergency Standby Act of 1975".

SEC. 102. (a) The Congress finds and declares that the Nation will suffer severe shortages of natural gas during the heating season from November 1975 through March 1976. The Congress further finds and declares that such imminent shortages in our Nation's natural-gas supply constitute an emergency which can be alleviated by providing for limited exemptions from regulation of natural gas and for the prohibition of the use of natural gas as boiler fuel.

(b) The purpose of this title is to grant the Federal Power Commission authority to allow natural-gas companies which transport natural gas in interstate commerce with inadequate quantities of natural gas to meet the requirements of their high priority consumers of natural gas to purchase natural gas from sources not in interstate commerce and from other such companies on an emergency basis free from the provisions of the Natural Gas Act (15 U.S.C. 717 et seq.), except for the reporting requirements of such Act; to grant the Federal Energy Administration authority to prohibit the use of natural gas as boiler fuel; and to provide the President with standby authority to allocate propane during periods of actual or threatened severe shortages of natural gas.

DEFINITIONS

SEC. 103. For purposes of this title—

(1) "Natural-gas distributing company" means a person involved in the distribution or transportation of natural gas for ultimate public consumption for domestic, commercial, industrial, or any other use, but such term does not include a natural-gas company as defined in section 2(d) of the Natural Gas Act (15 U.S.C. 717a(6)).

(2) "High priority consumer of natural gas" means a person so defined by the Commission by rules and regulations.

(3) "Independent producer" means a person, as determined by the Commission, (A) who is not affiliated with a person engaged in the transportation of natural gas in interstate commerce, and (B) who is not a producing division of such a person engaged in

the transportation of natural gas in interstate commerce.

(4) "Propane" means (A) the chemical C_3H_8 in its commercial form whether recovered from natural-gas streams or crude oil refining, (B) the C_3H_8 component of raw domestic mixtures containing more than 10 percent of such component by weight, and (C) commercial propane-butane mixes containing by weight more than 10 percent of propane and not more than 5 percent of constituents other than propane or butane.

(5) "United States" means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(6) "Administrator" means the Administrator of the Federal Energy Administration.

(7) "Commission" means the Federal Power Commission.

EMERGENCY EXEMPTIONS

SEC. 104. Section 7(c) of the Natural Gas Act (15 U.S.C. 717(c)) is amended by designating the two unnumbered paragraphs thereof as paragraphs (1) and (2), by deleting the period at the end of paragraph (2) as designated hereby, and inserting in lieu thereof the following: "Provided further, That, within 15 days after the enactment of the Natural Gas Emergency Standby Act of 1975, the Commission shall by regulation exempt from the provisions of this Act, except for reporting requirements, any activities, operations, facilities or services relating to the transportation, sale and delivery, transfer or exchange of natural gas from any source, other than any offshore federal lands, by an independent producer, a natural-gas company which transports natural gas in interstate commerce or a natural-gas producing affiliate of such company, a person who transports natural gas in other than interstate commerce or a natural-gas producing affiliate of such a person, or a natural-gas distributing company to or with a natural gas company which transports natural gas in interstate commerce which does not have or which under reasonably foreseeable circumstances may not have a sufficient supply of natural gas to meet the requirements of its high-priority customers of natural gas and which is curtailing during the heating season from November 1975 through March 1976 pursuant to a curtailment plan on file with the Commission. Exemptions granted pursuant to this proviso shall be for periods of no more than 180 consecutive days. Persons who are exempt under section 1 (b) or (c) of the Natural Gas Act shall not have their exempt status affected in any way by making the sales or deliveries contemplated by this subsection: *Provided further*, That the Commission shall have no power to deny, in whole or in part, recovery by any natural-gas company in its jurisdictional rates of the amount paid by it for natural gas delivered to it pursuant to sales and contracts as described herein, except to the extent that an interstate transporter purchases natural gas from an affiliate at a rate in excess of the price paid by the transporter to nonaffiliated sellers in comparable sales transactions: *Provided further*, That natural gas sold and delivered or transported pursuant to any exemption granted under section 104 of the Natural Gas Emergency Standby Act of 1975 shall not be or become subject to the jurisdiction of the Commission because of such sale or delivery or transportation whether or not such sale is a sale for resale in interstate commerce or such transportation is in interstate commerce."

PROHIBITION OF THE USE OF NATURAL GAS AS BOILER FUEL

SEC. 105. (a) The purpose of this section is to continue the conservation of natural

gas and petroleum products by fostering the use of coal by powerplants and major fuel burning installations, and if coal cannot be utilized, to provide authority to prohibit the use of natural gas when petroleum products can be substituted.

(b) The Administrator may, by order, prohibit any powerplant or major fuel burning installation from burning natural gas if—

(1) the Administrator determines that—

(A) such powerplant or installation had on June 30, 1975 (or at any time thereafter) the capability and necessary plant equipment to burn petroleum products, coal or derivatives thereof,

(B) the burning of petroleum products, coal or derivatives thereof by such powerplant or installation in lieu of natural gas is practicable,

(C) petroleum products, coal or derivatives thereof will be available during the period such order is in effect,

(D) with respect to powerplants, the prohibition under this subsection will not impair the reliability of service in the area served by the plant,

(E) the prohibition under this subsection will result in making natural gas available for sale to a natural-gas company which transports gas in interstate commerce and which does not have adequate quantities of natural gas to meet the requirements of its high-priority consumers, and which is curtailing pursuant to a curtailment plan on file with the Commission, and

(2) the Administrator of the Environmental Protection Agency has not certified to the Administrator within 15 days of the issuance of such order that its implementation will violate the Clean Air Act (42 U.S.C. 1857 et seq.) (including applicable implementation plans).

(b) The Administrator may specify in any order issued pursuant to subsection (a) of this section the periods of time during which such order will be in effect and the quantity or rate of use of natural gas that may be burned by a powerplant or major fuel burning installation during such periods, including the burning of natural gas to meet peaking load requirements: *Provided, however*, That no order issued pursuant to this section shall extend beyond April 15, 1976.

(c) The administrator shall exempt from any order issued pursuant to subsection (a) of this section the burning of natural gas for the necessary processes of ignition, startup, testing, and flame stabilization by a powerplant or major fuel burning installation.

(d) The Administrator shall also exempt from any rule under this section the burning of natural gas by powerplants for the purpose of operating pollution abatement systems.

(e) The Administrator shall modify or suspend any order issued pursuant to subsection (a) of this section to the extent necessary to alleviate short-term air quality emergencies or any other danger to the public health, safety, or welfare.

(f) Any order issued pursuant to this section shall provide for just compensation of the facility and transporter affected by such order. Such compensation is (1) to be measured by the increased costs, if any, incurred by a powerplant or major fuel burning installation and the loss of revenue, if any incurred by a transporter as a result of such order, and (2) to be paid ultimately through increased rates and charges by those users, in proportion to the volumes of natural gas consumed by such users, who are determined by the Commission to benefit as a result of such order: *Provided, however*, That nothing contained in this subsection shall be construed to extend the jurisdiction of the Commission under section 2 of the Natural Gas Act, as redesignated by the Natural Gas Act Amendments of 1975 (15 U.S.C. 717). For the purposes of this subsection, the term "users" means high priority consumers of

natural gas who consume natural gas transported by that natural-gas company which obtains the natural-gas supplies made available for nonboiler fuel use by an order issued pursuant to this section.

(g) The Administrator and the Commission shall have authority to issue such rules and orders applicable to any person as the Administrator or the Commission determines are necessary or appropriate to carry out the provisions of this section.

PROPANE STANDBY ALLOCATION AUTHORITY

Sec. 106. (a) Upon finding that shortages of natural gas exist or are imminent and upon finding that such shortages or potential shortages constitute a threat to the public health, safety, or welfare, the President is authorized to issue such orders and regulations as he deems appropriate to provide, consistent with subsection (d) of this section, for the establishment of priorities of use and for equitable allocation and distribution of propane to classes of consumers, who are historical users of propane, and where energy and feedstock needs have historically been met through the use of propane, and equitable pricing of propane, in order to meet the essential needs of various sections of the United States, to lessen anticompetitive effects resulting from shortages of natural gas and to provide sufficient incentive to maximize the extraction and production of propane. Such orders and regulations shall be consistent with the allocation provisions of section 4 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 763).

(b) (1) Whoever violates any order or regulation under this section shall be subject to civil penalty of not more than \$2500 for each violation.

(2) Whoever willfully violates any order or regulation under this section shall be fined not more than \$5000 for each violation.

(3) Any person or agency to whom the President has delegated his authority pursuant to subsection (j) of this section may issue such orders and notices as are deemed necessary to insure compliance with any order or regulation issued pursuant to subsection (a) of this section or to remedy the effects of any such orders or regulations.

(c) There shall be available as a defense to any action brought under the antitrust laws, or for breach of contract in any Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange any product covered by this section that such delay or failure was caused solely by compliance with the provisions of this section or with any regulations or any orders issued pursuant to this section.

(d) (1) Subject to paragraphs (2), (3), and (4) of this subsection, which shall apply to any rule, regulation, or order having the applicability and effect of a rule as defined in section 551 (4) of title 5, United States Code, except as to the requirements of sections 552, 553, and 555 (e) of title 5, United States Code.

(2) Notice of any proposed rule, regulation, or order described in paragraph (1) of this subsection shall be given by publication of such proposed rule, regulation, or order in the Federal Register. In each case, a minimum of 10 days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious harm or injury to the public health, safety, or welfare, and such finding is set out in detail in such rule, regulation, or order.

(3) In addition to the requirements of paragraph (2) of this subsection, if any rule, regulation, or order described in paragraph (1) of this subsection is likely to have a substantial impact on the Nation's economy or large numbers of individuals or

businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the issuance of such rule, regulation, or order, but in all cases such opportunity shall be afforded no later than 45 days after the issuance of any such rule, regulation, or order. A transcript shall be kept of any oral presentation.

(4) The President or any officer or agency authorized to issue the rules, regulations or orders described in paragraph (1) of this subsection shall provide for the making of such adjustments, consistent with the other purposes of this section, as may be necessary to prevent particular hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the President or the officer or agency to whom he has delegated his authority pursuant to subsection (j) of this section and may obtain judicial review in accordance with subsection (e) of this section when such denial becomes final. The President or such officer or agency shall, by rule, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(e) (1) The district courts of the United States shall have exclusive original jurisdiction of cases or controversies arising under this section or under regulations or orders issued thereunder, notwithstanding the amount in controversy; except that nothing in this paragraph or in paragraph (7) of this subsection shall affect the power of any court of competent jurisdiction to consider, hear, and determine any issue by way of defense (other than a defense based on the constitutionality of this section or the validity of action taken by any agency under this section) raised in any proceeding before such court. If in any such proceeding an issue by way of defense is based on the constitutionality of this section or the validity of actions taken under this section, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code.

(2) Except as otherwise provided in this section, exclusive appellate jurisdiction is vested in the Temporary Emergency Court of Appeals, a court which is currently in existence, but which is independently authorized by this section. The court, a court of the United States, shall consist of three or more judges to be designated by the Chief Justice of the United States from judges of the United States district courts and circuit courts of appeals. The Chief Justice of the United States shall designate one of such designated judges as chief judge of the Temporary Emergency Court of Appeals, and may, from time to time, designate additional judges for such court and revoke previous designations. The chief judge may, from time to time, divide the court into divisions of three or more members, and any such division may render judgment as the judgment of the court. Except as provided in subparagraph (B) of paragraph (5) of this subsection, the court shall not have power to issue any interlocutory decree staying or restraining in whole or in part any provision of this section, or the effectiveness of any regulation or order issued thereunder. In all other respects, the court shall have the powers of a circuit court of appeals with respect to the jurisdiction conferred on it by this section. The court shall exercise its powers and prescribe rules governing its pro-

cedure in such manner as to expedite the determination of cases over which it has jurisdiction under this section. The court shall have a seal, hold sessions at such places as it may specify, and appoint a clerk and such other employees as it deems necessary and proper.

(3) Appeals from the district courts of the United States in cases or controversies arising under regulations or orders issued under this section shall be taken by the filing of a notice of appeal with the Temporary Emergency Court of Appeals within 30 days of the entry of judgment by the district court.

(4) In any action commenced under this section in any district court of the United States in which the court determines that a substantial constitutional issue exists, the court shall certify such issue to the Temporary Emergency Court of Appeals. Upon such certification, the Temporary Emergency Court of Appeals shall determine the appropriate manner of disposition which may include a determination that the entire action be sent to it for consideration or it may, on the issues certified, give binding instructions and remand the action to the certifying court for further disposition.

(5) (A) Subject to subparagraph (B) of this paragraph, no regulation of any agency exercising authority under this section shall be enjoined or set aside, in whole or in part, unless a final judgment determines that the issuance of such agency was in excess of the agency's authority, was arbitrary and capricious, or was otherwise unlawful under the criteria set forth in section 706(2) of title (5), United States Code, and no order of such agency shall be enjoined or set aside, in whole or in part, unless a final judgment determines that such order is in excess of the agency's authority, or is arbitrary or capricious, or is based upon findings which are not supported by substantial evidence.

(B) A district court of the United States or the Temporary Emergency Court of Appeals may enjoin temporarily or permanently the application of a particular regulation or order issued under this section to a person who is a party to litigation before it. Except as provided in this paragraph, no interlocutory or permanent injunction restraining the enforcement, operation, or execution of this section, or any regulation or order issued thereunder, shall be granted by any district court of the United States or judge thereof. Any such court shall have jurisdiction to declare (1) that a regulation of an agency exercising authority under this section is in excess of the agency's authority, is arbitrary or capricious, or is otherwise unlawful under the criteria set forth in section 706(2) of title 5, United States Code, or (2) that an order of such agency is invalid upon a determination that the order is in excess of the agency's authority, or is arbitrary or capricious, or is based upon findings which are not supported by substantial evidence. Appeals from interlocutory decisions by a district court of the United States under this subparagraph may be taken in accordance with the provisions of section 1292 of title 28, United States Code; except that reference in such section to the courts of appeals shall be deemed to refer to the Temporary Emergency Court of Appeals.

(6) The effectiveness of a final judgment of the Temporary Emergency Court of Appeals enjoining or setting aside in whole or in part any provision of this section, or any regulation or order issued thereunder shall be postponed until the expiration of time for filing a writ of certiorari. If such petition is filed, the effectiveness of such judgment shall be postponed until an order of the Supreme Court denying such petition becomes final, or until other final disposition of the action by the Supreme Court.

(7) Within 30 days after entry of any judgment or order by the Temporary Emer-

agency Court of Appeals, a petition for a writ of certiorari may be filed in the Supreme Court of the United States, and thereupon the judgment or order shall be subject to review by the Supreme Court in the same manner as a judgment of a United States court of appeals as provided in section 1254 of title 28, United States Code. The Temporary Emergency Court of Appeals, and the Supreme Court upon review of judgments and orders of the Temporary Emergency Court of Appeals, shall have exclusive jurisdiction to determine the constitutional validity of any provisions of this section or of any regulation or order issued under this section. Except as provided in this paragraph, no Federal or State court shall have jurisdiction or power to consider the constitutional validity of any provisions of this section or of any such regulation or order, or to stay, restrain, enjoin, or set aside, in whole or in part, any provision of this section authorizing the issuance of such regulations or orders or any provision of any such regulation or order, or to restrain or enjoin the enforcement of any such provision.

(f) Whenever it appears to any person or agency authorized by the President pursuant to subsection (j) of this section that any individual or organization has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any order or regulation, under this section, such person or agency may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing, a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any such order or regulation. In addition to such injunctive relief, the court may also order restitution of moneys received in violation of any such order or regulation.

(g) (1) An agency or person exercising authority pursuant to subsection (j) of this section shall have authority, for any purpose related to this section, to sign and issue subpoenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths.

(2) Upon presenting appropriate credentials and a written notice to the owner, operator, or agency in charge, any agency or person exercising authority pursuant to subsection (j) of this section may enter any business premise or facility and inspect, at reasonable times and in a reasonable manner any such premise or facility, inventory and sample any stock of energy resources therein, and examine and copy books, records, papers, or other documents in order to obtain information as necessary or appropriate for the proper exercise of functions under this section and to verify the accuracy of any such information.

(3) Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of refusal to obey a subpoena served upon any person under the provisions of this subsection, the agency or person authorizing such subpoena may request the Attorney General to seek the aid of the district court of the United States for any district in which such person is found to compel such person, after notice, to appear and give testimony, or to appear and produce documents before the agency or person.

(h) Any person suffering legal wrong because of any act or practice arising out of this section, or any order or regulation issued pursuant thereto, may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment, writ of injunc-

tion (subject to the limitations in subsection (e) of this section), or damages.

(i) Section 5(b) of the Federal Energy Administration Act of 1974 (15 U.S.C. 763(b)) is amended by adding the word "and" after the semicolon in paragraph 10; by deleting paragraph 11; and by redesignating paragraph 12 as paragraph 11.

(j) The President may delegate the performance of any function under this section to such offices, departments, and agencies of the United States as he deems appropriate.

(k) No law, rule, regulation, order, or ordinance of any State, or municipality in effect on the date of enactment of this title, or which may become effective thereafter, shall be superseded by any provision of this section or any rule, regulation, or order issued pursuant to this section except insofar as such law, rule, regulation, order, or ordinance is inconsistent with the provisions of this section, or any rule, regulation, or order issued thereunder.

EXPIRATION DATE

SEC. 107. (a) This title shall expire on midnight, April 15, 1976.

(b) The expiration of this title and the authority granted under this title shall not affect any action or pending proceedings not finally determined on the date of such expiration, or any action or proceeding based upon any act committed prior to such date.

TITLE II—NATURAL GAS ACT AMENDMENTS

SEC. 201. This title may be cited as the "Natural Gas Act Amendments of 1975".

SEC. 202. The Natural Gas Act (15 U.S.C. 717 *et seq.*) is amended (1) by striking out section 24 thereof (15 U.S.C. 717w); and (2) amending section 1 thereof by redesignating subsections (a) (b), and (c) as subsections (b), (c), and (d), respectively, and inserting therein the following new subsection:

"(a) This act may be cited as the 'Natural Gas Act.'"

SEC. 203. Section 1(c) of the Natural Gas Act, as redesignated by this title (15 U.S.C. 717(b)), is amended (1) by deleting "The" at the beginning thereof and by inserting in lieu thereof immediately after "(c)" the following: "(1) Except as provided in paragraph (2) of this subsection, the"; and (2) by inserting at the end thereof the following new paragraph:

"(2) Subject only to the provisions of section 24 of this Act, after the effective date of the Natural Gas Act Amendments of 1975, the authority of the Commission to regulate the sale of natural gas to a natural-gas company for resale in interstate commerce pursuant to this Act shall cease to exist with respect to, and shall not apply to, new natural gas: *Provided, however,* That nothing contained in the Natural Gas Act Amendments of 1975 shall modify or affect the authority of the Commission in effect prior to the date of enactment of such amendments to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas, or (B) regulate sales for resale of natural gas by any natural gas company which transports natural gas in interstate commerce or by an affiliate thereof which transports natural gas in interstate commerce."

SEC. 204. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by redesignating paragraphs (7) through (9) as paragraphs (12) through (14), and by inserting the following new paragraphs:

"(7) 'Boiler fuel use of natural gas' means the use of natural gas as the source of fuel in a generating unit of more than 25 megawatts rated net generating capacity or in any unit which is part of an electric utilities system with a total net generating capacity of more than 150 megawatts for the purpose of generating electricity for distribution.

"(8) 'New natural gas' means natural gas sold or delivered in interstate commerce (A) which is dedicated to interstate commerce for the first time on or after January 1, 1976, or (B) which is continued in interstate commerce after the expiration of a contract by its own terms (and not through the exercise of any power to terminate or renegotiate contained therein) for the sale or delivery of such natural gas existing as of such date, or (C) which is produced from wells commenced on or after January 1, 1976.

"(9) 'Old natural gas' means natural gas other than new natural gas.

"(10) 'Affiliate' means any person directly or indirectly controlling, controlled by, or under common control or ownership with any other person, as determined by the Commission pursuant to its rulemaking authority.

"(11) 'Offshore federal lands' means any land or subsurface area within the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (a))."

SEC. 205. (a) Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "The rates and charges made, demanded, or received by any natural-gas company for, or in connection with, a contract for the sale of new natural gas produced from offshore federal lands shall be deemed to be just and reasonable, if they do not exceed the applicable national ceiling, established by regulation of the Commission or subsequently modified by the Commission pursuant to section 24 of this Act, in effect at the time when such new natural gas is either first sold, or first transferred under such contract to a natural-gas company: *Provided, however,* That rates and charges in excess of such national ceiling may be authorized by the Commission to provide special relief to meet extraordinary expenses that could not be anticipated at the time the national ceiling was established or modified."

(b) Section 4(e) of the Natural Gas Act (15 U.S.C. 717c(e)) is amended by adding at the end thereof the following new sentence: "Notwithstanding the foregoing, the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas produced from offshore Federal lands exceed the national ceiling, established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company purchases natural gas from an affiliate or produces natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by any person who is not affiliated with any natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas by a natural-gas company if such rate or charge shall have been previously determined or deemed to be just and reasonable, pursuant to this Act."

SEC. 206. Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by striking the period at the end thereof and by adding the following: *Provided further,* That the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such company which relates to such purchase or sale,

except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas produced from offshore Federal lands exceed the national ceiling, established or modified by the Commission pursuant to section 4 of this Act, or (B) in any case where a natural-gas company purchases natural gas from an affiliate or produces natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by any person who is not affiliated with any natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas by a natural-gas company if such rate or charge shall have been previously determined or deemed to be just and reasonable pursuant to this Act."

Sec. 207. Section 14 of the Natural Gas Act (15 U.S.C. 717m) is amended by adding at the end thereof the following new subsection:

(h) (1) The Commission is further authorized and directed to conduct studies of the production, gathering, storage, transportation, distribution, and sale of natural, artificial, or synthetic gas, however produced, throughout the United States and its possessions whether or not otherwise subject to the jurisdiction of the Commission, including the production, gathering, storage, transportation, distribution, and sale of natural artificial or synthetic gas by any agency, authority, or instrumentality of the United States, or of any State or municipality or political subdivision of a State. It shall, insofar as practicable, secure and keep current information regarding the ownership, operation, management, and control of all facilities for production, gathering, storage, transportation, distribution, and sale; the total estimated natural gas reserves of fields or reservoirs and the current utilization of natural gas and the relationship between the two; the cost of production, gathering, storage, transportation, distribution, and sale; the rates, charges, and contracts in respect to the sale of natural gas and its service to residential, rural, and commercial and industrial consumers, and other purchasers by private and public agencies; and the relation of any and all such facts to the development of conservation, industry, commerce, and the national defense. The Commission shall report to Congress and may publish and make available the results of studies made under the authority of this subsection.

"(2) In making studies, investigations, and reports under this section, the Commission shall utilize, insofar as practicable, the services, studies, reports, information, and programs of existing departments, bureaus, offices, agencies, and other entities of the United States, of the several States, and of the natural-gas industry, but such studies, investigations, and reports shall be based on information developed, or completely reviewed for accuracy, after the date of enactment of this subsection. Nothing in this section shall be construed as modifying, reassignment, or otherwise affecting the investigative and reporting activities, duties, powers, and functions of any other department, bureau, office, or agency in the Federal Government.

"(3) In order to assist in determining necessary actions to eliminate the national emergency which exists with respect to natural gas supplies the Commission shall carry out and complete, not later than 90 days after the date of enactment of this subsection, an initial such study with respect to the total estimated natural gas reserves of fields and reservoirs and the current utilization of natural gas and the relationship between the two. Such study shall include specific estimates for individual fields and reservoirs but shall not include reserves controlled by small producers. On January 1,

1977, and at the beginning of each calendar year thereafter until December 31, 1981, the Commission shall, within the following 90-day period, complete a review of the previous study and revise the results thereof to the extent necessary. A report of such initial study and each such review shall be made, within the time provided for completion thereof, to the President and the Congress."

Sec. 208. The Natural Gas Act, as amended by this title, is further amended by adding at the end thereof the following heading and three new sections:

"NATIONAL CEILING FOR RATES AND CHARGES

"Sec. 24. (a) The Commission shall, as soon as practicable after the date of enactment of the Natural Gas Act Amendments of 1975, and pursuant to rulemaking procedures under section 553 of title 5, United States Code, establish by regulation, and may from time to time modify, a national ceiling for rates and charges for the sale or transfer in interstate commerce by any person of new natural gas produced from offshore Federal lands on or after January 1, 1976, through December 31, 1980. In establishing such national ceiling the Commission shall consider the following factors and only these factors:

"(1) the prospective costs attributable to the exploration, development, production, gathering, and sale of natural gas;

"(2) the rates and charges necessary to encourage the optimum levels of (A) the exploration for natural gas, (B) the development, production, and gathering of natural gas, and (C) the maintenance of proved reserves of natural gas;

"(3) the promotion of sound conservation practices in natural gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to consumers; and

"(4) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of paragraphs (1) through (3) of this subsection.

"(b) The Commission shall monitor the national ceiling for rates and charges for the sale or transfer in interstate commerce by any person of new natural gas, and during the period such ceiling is in effect, commencing on July 1, 1976, the Commission shall report to the Congress not less than annually on the effectiveness of such national ceiling in meeting the factors set forth in subsection (a) of this section.

"(c) The Commission may authorize a person to charge an amount in excess of such national ceiling for new natural gas produced from offshore Federal lands from any high cost production area or vertical drilling depth as designated by the Commission pursuant to its rulemaking authority. In establishing such amount in excess of such national ceiling, the Commission shall consider the factors set forth in subsection (a) of this section and only those factors.

"(d) Any contract entered into after the date of enactment of the Natural Gas Act Amendments of 1975 for the sale of new natural gas for resale which involves the receipt by the seller of funds in advance of production of the natural gas covered by such contract shall be filed with the Commission at least 60 days in advance of deliveries thereunder. The Commission may thereafter require, after notice and opportunity for hearing, that the sales rate specified in such contract be reduced or modified as necessary to repay in full to the advancing party the principal of the advance and any interest thereon, upon such terms and conditions as the Commission may determine proper in the public interest.

"(e) Within 30 days after the enactment of the Natural Gas Act Amendments of 1975

and on January first of each year thereafter until the establishment of the national ceiling pursuant to subsection (a) of this section by a final Commission order which is no longer subject to judicial review, the Commission shall establish an interim national ceiling for rates and charges for the sale or transfer in interstate commerce by any person of new natural gas produced from offshore Federal lands which shall be equivalent to the average dollar valuation per barrel of crude oil used by the United States Geological Survey or its successor in computing the royalties due to the United States on account of crude oil produced from all Federal lands during the calendar month ending 30 days prior to such computation. Such interim national ceiling shall be expressed in one million British thermal units and shall be determined by dividing such average dollar valuation per barrel of crude oil by 5.8. Such interim national ceiling shall cease to have effect on the date of the establishment of the national ceiling pursuant to subsection (a) of this section by final Commission order which is no longer subject to judicial review, such national ceiling shall apply to the sale or transfer in interstate commerce of all new natural gas produced from offshore Federal lands whether or not contracted for prior to the date of such establishment: *Provided, however,* That the Commission shall have no power to order a reduction in the rates and charges for the sale of new natural gas produced from offshore Federal lands and contracted for prior to the date of the establishment of such national ceiling below the interim ceiling price in effect on such date.

"NATURAL GAS FOR ESSENTIAL AGRICULTURE PURPOSES

Sec. 25. (a) Except to the extent that natural-gas supplies are required to maintain natural-gas service to residential users, small users, hospitals, and similar services vital to public health and safety, and notwithstanding any other provision of law or of any natural-gas allocation or curtailment plan in effect under existing law, the Commission shall, by rule, prohibit any interruption or curtailment of natural gas and take such other steps as are necessary to assure as soon as practicable the availability in interstate commerce of sufficient quantities of natural gas for use for any essential agricultural, food processing, or food packaging purpose for which natural gas is essential, including but not limited to irrigation pumping, crop drying, use as a raw material for foodstock or process fuel in the production of fertilizer and essential agricultural chemicals in existing plants (for present or expanded capacity) and in new plants. The Secretary of Agriculture shall determine by rule the agricultural, food processing, or food packaging purposes for which natural gas is essential. The Secretary of Agriculture shall also certify to the Commission the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"ESSENTIAL INDUSTRIAL PURPOSES

"(b) Except to the extent that natural gas supplies are required to maintain natural-gas service to users specified under subsection (a), the Commission shall exercise its authority under this title to assure, to the maximum extent feasible, the continuance of natural gas service to users using natural gas as a raw material and for purposes other than boiler fuel for which there is no available substitute regardless of whether such users purchase natural gas under firm or interruptible contracts.

"NATURAL GAS CONSERVATION

"Sec. 26. (a) Except as provided in subsection (d) of this section, the Commission shall by rule prohibit boiler fuel use of natural gas affecting commerce not contracted

for prior to January 1, 1976, unless, upon petition by the user, the Commission determines that—

"(1) alternative fuels, other than crude oil or products refined therefrom and propane, are not available to such user; or

"(2) it is not feasible or practicable to utilize such alternative fuels at the time of such Commission determination.

"(b) Except as provided in subsection (d) of this section, boiler fuel use of natural gas contracted for prior to January 1, 1975, shall be terminated by the user of such natural gas at the expiration of such contract or 12 years after the date of enactment of the Natural Gas Act Amendments of 1975, whichever is earlier, unless, upon petition of such user, the Commission determines that (1) alternative fuels, other than crude oil or products therefrom and propane, are not available to such user, or (2) it is not feasible or practicable to utilize such alternative fuels at the time of such Commission determination. The Commission shall modify or terminate certificates of public convenience and necessity relating to such contracts to the extent necessary to carry out the purpose of this subsection.

"(c) Except as expressly provided in subsection (b) of this section, the Commission or other federal agency, administration or department shall not (1) modify, amend, or abrogate contracts entered into prior to January 1, 1976, for the sale or transportation of natural gas for boiler fuel use; (2) modify, amend, or abrogate certificates of public convenience and necessity authorizing the sale or transportation of natural gas under such contracts, except upon application duly made by the holder of a certificate under section 7 of this Act; or (3) prevent, impair, or limit, either directly or indirectly, the performance of any such contract or certificate: *Provided, however,* That the provisions of this subsection shall not otherwise modify or affect the authority of the Commission under this Act.

"(d) The Commission shall also exempt from any rule under this section the burning of natural gas by powerplants for the purpose of operating pollution abatement systems.

"(e) The Commission shall not prohibit the boiler fuel use of natural gas for the necessary processes of ignition, startup, testing, and flame stabilization by a facility, or for the purpose of alleviating short-term air quality emergencies or any other danger to the public health, safety, or welfare.

"(f) In implementing the provisions of this section, the Commission shall, to the extent necessary, apply the provisions of section 17 of this Act.

"(g) Nothing in this section shall impair any requirement in any State or Federal law pertaining to safety or environmental protection. The Commission, in determining feasibility or practicality where required by this section, shall not assume that there will be any lessening in any safety or environmental requirement established pursuant to State or Federal law."

Sec. 209. Section 2 of the Natural Gas Act as designated by this Act (15 U.S.C. 717), is amended by inserting at the end thereof a new subsection as follows:

"(d) Nothing in this Act shall prevent the intrastate transportation of natural gas first sold in commerce after the date of enactment of this subsection in an interstate pipeline as long as such intrastate transportation does not prevent service necessary to meet the requirements of interstate consumers and the rates for such transportation reflect the fully distributive costs of the interstate facilities used therein, and the provisions of this Act shall not apply to any such intrastate transportation or the facilities utilized in such service."

H.R. 9721

By Mr. GRASSLEY:

Page 3, strike out lines 20 through 24. Redesignate the succeeding sections accordingly.

By Mr. ROUSSELOT:

Beginning on page 5, line 19, strike all that follows through page 10, line 12.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House Rule X. Previous listing appeared in the CONGRESSIONAL RECORD of December 1, 1975 (page H11570).

H.R. 10300.—October 22, 1975. Veterans' Affairs. Stipulates that the plot and interment allowance paid by the Administrator of Veterans' Affairs, for veterans not buried in a national cemetery, shall not be reduced when such sum is paid to reimburse a State or local government for plot or interment expenses paid or assumed, if the deceased veteran is buried in a cemetery which is owned by such State or local government and solely or primarily used for the interment of veterans.

H.R. 10301.—October 22, 1975. Judiciary. Amends the Administrative Procedure Act to permit interested parties an automatic extension of time for submission of comments regarding contested matters upon request to the administrative officer involved unless other considerations outweigh the desirability of such extension. Imposes additional requirements for public notice of proposed rule-making upon Executive departments and agencies.

H.R. 10302.—October 22, 1975. Interstate and Foreign Commerce. Amends the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act to require warrantors (1) to refund or replace defective new motor vehicles not withstanding encumbrances on such vehicles; (2) to extend new motor vehicle warranties in certain instances for the period of time a consumer is deprived of the use of a new motor vehicle; and (3) to provide a substitute motor vehicle during periods in which the consumer is deprived of the use of a new motor vehicle due to defect or malfunction.

H.R. 10303.—October 22, 1975. Judiciary. Authorizes the United States to pay attorney's fees and other costs to the defendant in Federal criminal cases when the court determines that such payments are in the interest of justice.

H.R. 10304.—October 22, 1975. Judiciary. Includes bodies politic in the category of persons who may be sued for depriving any citizen of rights secured under the Constitution and laws of the United States.

H.R. 10305.—October 22, 1975. Government Operations. Prohibits Federal agencies from purchasing, hiring, leasing, operating or maintaining limousines, and from employing chauffeurs to operate such limousines, except for certain designated Federal officers.

H.R. 10306.—October 22, 1975. Public Works and Transportation. Authorizes the Administrator of General Services to acquire certain property in the District of Columbia for refurbishing and use by the Federal Government.

H.R. 10307.—October 22, 1975. Interior and Insular Affairs. Establishes the Nantucket Sound Islands Trust in Massachusetts. Creates commissions to regulate construction of any improvements on land and waters within the trust area and to provide for the preservation and conservation of the area.

Designated Noman's Land Island in Massachusetts as part of the National Wildlife Refuge System.

Directs such commissions to develop land use control plans for the trust area and to identify new employment opportunities for residents of the area.

H.R. 10308.—October 22, 1975. Ways and Means. Amends the Internal Revenue Code to repeal the authority of the Secretary of the Treasury to pay a sum for the detection and bringing to trial and punishment of persons guilty of violating the internal revenue laws.

H.R. 10309.—October 22, 1975. Veterans' Affairs. Directs the Administrator of Veterans' Affairs, when any former member of the Armed Forces dies in an Armed Forces hospital, to transport the body to the place of burial in the same or any other state.

H.R. 10310.—October 22, 1975. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to transfer certain former members of the Armed Forces, who are entitled to retired, retainer, or equivalent pay, to any public or private institution not under the jurisdiction of the Administrator which furnishes nursing home care.

H.R. 10311.—October 22, 1975. Veterans' Affairs. Extends the entitlement of veterans to educational assistance from thirty-six months to forty-five months.

H.R. 10312.—October 22, 1975. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to pay service pensions to certain World War I veterans, their widows, and their children.

H.R. 10313.—October 22, 1975. Veterans' Affairs. Requires that certain increases in monthly social security or railroad retirement benefits be disregarded by the Administrator of Veterans' Affairs when determining a person's annual income for the purpose of determining the veterans' pension payable to such person.

H.R. 10314.—October 22, 1975. Ways and Means. Amends the Social Security Act to maintain the inpatient hospital deductible under the medicare program at its 1975 level.

H.R. 10315.—October 22, 1975. Government Operations. Requires, with certain exceptions, that meetings of Government agencies be open to the public.

H.R. 10316.—October 22, 1975. Merchant Marine and Fisheries. Directs the Secretary of the Interior to regulate the trapping and capture of mammals and birds on Federal lands. Establishes an advisory commission to recommend to the Secretary acceptable methods for trapping and capture of mammals and birds.

Prohibits use of unacceptable traps in interstate or foreign commerce. Prescribes regulations to prohibit the interstate shipment of hide, skin, feathers, or resulting products of the use of unacceptable traps.

H.R. 10317.—October 22, 1975. Ways and Means. Amends the Social Security Act by requiring skilled nursing facilities participating in the Medicare program to comply with relevant provisions of the 1973 edition of the Life Safety Code of the National Fire Protection Association.

H.R. 10318.—October 22, 1975. Interstate and Foreign Commerce. Grants authority to the Administrator of the Environmental Protection Agency to (1) establish test standards for any drug that may present an unreasonable risk to health or the environment; (2) require 90 days' notice when any manufacturer is planning to manufacture or import a new drug; (3) prescribe rules for the distribution or use of a chemical substance deemed an unreasonable risk to human health or the environment; and (4) require the revision of inadequate quality control procedures. Exempts pesticides and certain other chemical substances from this Act.

H.R. 10319.—October 22, 1975. Government Operations. Amends the State and Local Fiscal Assistance Act to allow comprehensive