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Congress of the United States
House of Representatives
Committee on Interstate and Foreign Commerce
Room 2125, Rayburn House Office Building
Washington, D.C. 20515

August 18, 1975

file
MEMORANDUM

TO: Chairman Staggers

FROM: Bill Phillips *Bill*

SUBJECT: VOTE ANALYSES

As you requested just before the recess, I have undertaken an analysis of House roll call votes on the veto override of S. 66 and various key votes on energy-related legislation (H. R. 4035 and amendments to H. R. 7014).

Rather than hold them until you return after the recess, I've decided to give them to Marguerite to forward to you for a more leisurely opportunity (I hope) for you to study. If you want any additional votes for comparison, or any elaboration, please let me know (225-7176).

Hope that you are having a nice recess and getting a bit of well-earned rest.

COMMERCE COMMITTEE MEMBERS' VOTESVOTE:Date: July 17, 1975Roll Call # 404H. R. 4035-- Conference Report--PETROLEUM PRICING REVIEW ACT

Adoption of conference report, extending oil price control authority to December 31, 1975, also extending to 20 days the period for Congressional review and disapproval action.

HOUSE VOTE SUMMARYYEAS-- 221 D; 18 RNAYS-- 54 D; 118 RADOPTED-- 239-172 (subsequently vetoed)Committee
DemocratsCommittee
Republicans

STAGGERS	Y	
MACDONALD	Y	
MOSS	Y	
DINGELL	Y	
ROGERS	Y	
VAN DEERLIN	Y	
ROONEY	Y	
MURPHY	Y	
SATTERFIELD		N
ADAMS	Y	
STUCKEY	Y	
ECKHARDT	Y	
PREYER	Y	
SYMINGTON	Y	
CARNEY	Y	
METCALFE	Y	
BYRON		N
SCHEUER	Y	
OTTINGER	Y	
WAXMAN	Y	
KRUEGER		N
WIRTH	Y	
SHARP	Y	
BRODHEAD	Y	
HEFNER	Y	
FLORIO	Y	
MOFFETT	Y	
SANTINI		?
MAGUIRE	Y	

Devine		N
Broyhill		N
Carter	Y	
Brown (Ohio)		N
Skubitz		N
Hastings		N
Collins		N
Frey		N
McCollister		N
Lent		N
Heinz	Y	
Madigan		N
Moorhead (Cal)		N
Rinaldo	Y	

YEAS-- 25YEAS-- 3NAYS-- 3NAYS-- 11ABSENT-- 1ABSENT-- -

H. R. 4035-- Conference Report--PETROLEUM PRICING REVIEW ACT

Roll Call # 404

Adoption of conference report, extending oil price control authority to December 31, 1975, extending to 20 days the period for Congressional review and disapproval action.

YEAS-- 221 D; 18 R

NAYS-- 54 D; 118 R

ADOPTED-- 239-172 (subsequently vetoed)

KEY

- Y Voted for (yes)
 ✓ Paired for.
 † Announced for.
 N Voted against (nay).
 X Paired against.
 - Announced against.
 P Voted "present."
 • Voted "present" to avoid possible conflict of interest.
 ? Did not vote or otherwise make a position known.

ALABAMA
 1 Edwards
 2 Dickinson
 3 Nichols
 4 Bevil
 5 Jones
 6 Buchanan
 7 Flowers
 ALASKA
 AL Young
 ARIZONA
 1 Rhodes
 2 Udall
 3 Steiger
 4 Conlan
 ARKANSAS
 1 Alexander
 2 Mills
 3 Hemmerschmidt
 4 Thornton
 CALIFORNIA
 1 Johnson
 2 Clausen
 3 Moss
 4 Leggett
 5 Burton, J.
 6 Burton, P.
 7 Miller
 8 Dellums
 9 Stark
 10 Edwards
 11 Ryan
 12 McCloskey
 13 Mineta
 14 McFall
 15 Sisk
 16 Telcott
 17 Krebs
 18 Ketchum
 19 Legomarsino
 20 Goldwater
 21 Corman
 22 Moorhead
 23 Rees
 24 Waxman
 25 Roybal
 26 Roussellot
 27 Bell
 28 Burke
 29 Hawkins
 30 Danielson
 31 Wilson
 32 Anderson
 33 Clawson
 34 Hannaford
 35 Lloyd
 36 Brown
 37 Pettie
 38 Patterson
 39 Wiggins
 40 Hinshaw
 41 Wilson
 42 Van Deertlin
 43 Burgener
 COLORADO
 1 Schroeder
 2 Wirth
 3 Evans
 4 Johnson

5 Armstrong
 CONNECTICUT
 1 Cotten
 2 Dodd
 3 Giaimo
 4 McKinney
 5 Sarasin
 6 Moffett
 DELAWARE
 AL du Pont
 FLORIDA
 1 Sikes
 2 Fuqua
 3 Bennett
 4 Chappell
 5 Kelly
 6 Young
 7 Gibbons
 8 Haley
 9 Frey
 10 Batfals
 11 Rogers
 12 Burke
 13 Lehman
 14 Pepper
 15 Fassel
 GEORGIA
 1 Ginn
 2 Mathis
 3 Brinkley
 4 Levitas
 5 Young
 6 Flynt
 7 McDonald
 8 Stuckey
 9 Landrum
 10 Stephens
 HAWAII
 1 Matsunaga
 2 Mink
 IDAHO
 1 Symms
 2 Hansen, G.
 ILLINOIS
 1 Metcalfe
 2 Murphy
 3 Russo
 4 Derwinski
 5 Fary
 6 Hyde
 7 Collins
 8 Rostenkowski
 9 Yates
 10 Mikva
 11 Annunzio
 12 Crane
 13 McClary
 14 Erlenborn
 15 Hall
 16 Anderson
 17 O'Brien
 18 Michel
 19 Rallsback
 20 Findley
 21 Madigan
 22 Shipley
 23 Price
 24 Simon
 INDIANA
 1 Madden
 2 Fithian
 3 Brademas
 4 Roush
 5 Hillis
 6 Evans
 7 Myers
 8 Hayes
 9 Hamilton
 10 Sharp
 11 Jacobs
 IOWA
 1 Mezvinsky
 2 Blouin
 3 Grassley
 4 Smith
 5 Harkin
 6 Bodell

KANSAS
 1 Sebelius
 2 Keys
 3 Winn
 4 Shriver
 5 Skubitz
 KENTUCKY
 1 Hubbard
 2 Natcher
 3 Mazzoli
 4 Snyder
 5 Carter
 6 Breckinridge
 7 Perkins
 LOUISIANA
 1 Hebert
 2 Boggs
 3 Trean
 4 Waggonner
 5 Passman
 6 Moore
 7 Breaux
 8 Long
 MAINE
 1 Emery
 2 Cohen
 MARYLAND
 1 Bauman
 2 Long
 3 Sarbanes
 4 Holt
 5 Spellman
 6 Byron
 7 Mitchell
 8 Gude
 MASSACHUSETTS
 1 Conte
 2 Boland
 3 Earty
 4 Drinan
 5 Tsongas
 6 Harrington
 7 Macdonald
 8 O'Neill
 9 Moakley
 10 Heckler
 11 Burke
 12 Studds
 MICHIGAN
 1 Conyers
 2 Esch
 3 Brown
 4 Hutchinson
 5 Vander Veen
 6 Carr
 7 Riegle
 8 Traxler
 9 Vander Jagt
 10 Cederberg
 11 Ruppe
 12 O'Hara
 13 Diggs
 14 Nedzi
 15 Ford
 16 Dingell
 17 Brodhead
 18 Blanchard
 19 Broomfield
 MINNESOTA
 1 Quile
 2 Hagadorn
 3 Frenzel
 4 Karth
 5 Fraser
 6 Nolan
 7 Bergland
 8 Oberstar
 MISSISSIPPI
 1 Sharp
 2 Bowen
 3 Montgomery
 4 Cochran
 5 Lott
 MISSOURI
 1 Clay
 2 Symington
 3 Sullivan

4 Randall
 5 Bolling
 6 Litton
 7 Taylor
 8 Ichord
 9 Hungate
 10 Burlison
 MONTANA
 1 Baucus
 2 Melcher
 NEBRASKA
 1 Thone
 2 McCollister
 3 Smith
 NEVADA
 AL Santini
 NEW HAMPSHIRE
 1 D'Amours
 2 Cleveland
 NEW JERSEY
 1 Florio
 2 Hughes
 3 Howard
 4 Thompson
 5 Fenwick
 6 Forsythe
 7 Maguire
 8 Roe
 9 Helstoski
 10 Rodino
 11 Minish
 12 Rinaldo
 13 Meyner
 14 Daniels
 15 Patten
 NEW MEXICO
 1 Lujan
 2 Rannels
 NEW YORK
 1 Pike
 2 Downey
 3 Ambro
 4 Lent
 5 Wyder
 6 Wolff
 7 Addabbo
 8 Rosenthal
 9 Delaney
 10 Biaggi
 11 Scheuer
 12 Chisholm
 13 Solarz
 14 Richmond
 15 Zelleretti
 16 Holtzman
 17 Murphy
 18 Koch
 19 Rangel
 20 Abzug
 21 Badillo
 22 Bingham
 23 Peyser
 24 Ottinger
 25 Fish
 26 Gilman
 27 McHugh
 28 Stratton
 29 Patterson
 30 McCaw
 31 Mitchell
 32 Hanley
 33 Walsh
 34 Horton
 35 Conable
 36 LaFalce
 37 Nowak
 38 Kemp
 39 Hastings
 NORTH CAROLINA
 1 Jones
 2 Fountain
 3 Henderson
 4 Andrews
 5 Neal
 6 Poyer
 7 Rose
 8 Helner

9 Martin
 10 Broyhill
 11 Taylor
 NORTH DAKOTA
 AL Andrews
 OHIO
 1 Gredison
 2 Clancy
 3 Whalen
 4 Guyer
 5 Letta
 6 Harsha
 7 Brown
 8 Kindness
 9 Ashley
 10 Miller
 11 Stanton
 12 Devine
 13 Mosher
 14 Seiberling
 15 Wylie
 16 Regula
 17 Ashbrook
 18 Hays
 19 Carney
 20 Stanton
 21 Stokes
 22 Vanik
 23 Mott
 OKLAHOMA
 1 Jones
 2 Risenhoover
 3 Albert
 4 Steed
 5 Jarman
 6 English
 OREGON
 1 AuCoin
 2 Ullman
 3 Duncan
 4 Weaver
 PENNSYLVANIA
 1 Barrett
 2 Nix
 3 Green
 4 Eilberg
 5 Schultze
 6 Yatron
 7 Edgar
 8 Biester
 9 Shuster
 10 McDade
 11 Flood
 12 Muntz
 13 Coughlin
 14 Moorhead
 15 Rooney
 16 Eshleman
 17 Schreebelle
 18 Heinz
 19 Goodling, W.
 20 Gaydos
 21 Dent
 22 Morgan
 23 Johnson
 24 Vigorito
 25 Myers
 RHODE ISLAND
 1 St German
 2 Beard
 SOUTH CAROLINA
 1 Davis
 2 Spence
 3 Derrick
 4 Mann
 5 Holland
 6 Jenrette
 SOUTH DAKOTA
 1 Pressler
 2 Abdnor
 TENNESSEE
 1 Guillen
 2 Duncan
 3 Lloyd
 4 Ewins
 5 Fulton
 6 Beard

7 Jones
 8 Ford
 TEXAS
 1 Patman
 2 Wilson
 3 Collins
 4 Roberts
 5 Steelman
 6 Teague
 7 Archer
 8 Eckhardt
 9 Brooks
 10 Pickle
 11 Poage
 12 Wright
 13 Hightower
 14 Young
 15 de la Garza
 16 White
 17 Burleson
 18 Jordan
 19 Mahon
 20 Gonzalez
 21 Krueger
 22 Casey
 23 Kasten
 24 Milford
 UTAH
 1 McKay
 2 Howe
 VERMONT
 AL Jeffords
 VIRGINIA
 1 Downing
 2 Whitehurst
 3 Satterfield
 4 Daniel
 5 Daniel
 6 Butler
 7 Robinson
 8 Harris
 9 Wampler
 10 Fisher
 WASHINGTON
 1 Pritchard
 2 Meeds
 3 Bonker
 4 McCormack
 5 Foley
 6 Hicks
 7 Adams
 WEST VIRGINIA
 1 Molohan
 2 Staggers
 3 Slack
 4 Hechler
 WISCONSIN
 1 Aspin
 2 Kastenmeier
 3 Baldus
 4 Zablocki
 5 Reuss
 6 Steiger
 7 Obey
 8 Cornell
 9 Kasten
 WYOMING
 AL Rencallo

FOR IMMEDIATE RELEASE

file
July
~~June~~ 21, 1975

Office of the White House Press Secretary

JUL 22 1975THE WHITE HOUSE

TO THE HOUSE OF REPRESENTATIVES:

I am returning without my approval H.R. 4035, the Petroleum Price Review Act, because it would increase petroleum consumption, cut domestic production, increase reliance on insecure petroleum imports and avoid the issue of phasing out unwieldy price controls.

H.R. 4035 would go counter to the Nation's need to conserve energy and reduce dependence on imported oil. It would increase petroleum imports by about 350,000 barrels per day in 1977, compared to import levels under my phased decontrol plan. It would even increase imports by about 70,000 barrels per day over continuation of the current system of mandatory controls through 1977.

The provisions in this bill to roll back the price of domestic oil not now controlled, to repeal the "stripper well" exemption from price controls and to establish a three-tier price system which would require even more complex regulations would be counterproductive to the achievement of energy independence.

The bill does contain an Administration requested provision which would continue the coal conversion program through December 31st. Since coal conversion authorities authorized last year in the Energy Supply and Environmental Coordination Act expired June 30th, I urge rapid enactment of a simple one year extension of these authorities.

Last Wednesday, July 16, I submitted to Congress a compromise plan to phase out price controls on crude oil over a thirty-month period. Coupled with administratively imposed import fees, this plan will reduce the Nation's imports by 900,000 barrels per day by 1977. It will reduce our vulnerability to another embargo by adding slightly over one cent per gallon to the price of all petroleum products by the end of 1975 and seven cents by 1978.

If Congress acts on this compromise and on other Administration proposed energy taxes, including the "windfall profits" tax and energy tax rebates to consumers, the burden of decontrol will be shared fairly, and our economic recovery will continue.

I veto H.R. 4035, because it increases our vulnerability to unreliable sources of crude oil and does not deal with the need to phase-out rigid price and allocation controls enacted during the embargo. I urge Congress not to disapprove my administrative plan of gradual decontrol. If it is accepted, I will accept a simple extension of price and allocation authorities. If decontrol is not accepted, I will have no choice but to veto the simple six-month extension of these authorities now being considered by Congress.

For too long, the Nation has been without an energy policy, and I cannot approve a drift into greater energy dependence.

GERALD R. FORD

THE WHITE HOUSE,

July
~~June 21~~, 1975.

#

MAJOR POINTS ON H.R. 4035

1. The Allocation Act must be extended.
 - It is the only authority under existing law to control petroleum prices.
 - Termination of price controls will have disastrous effects on the economy -- causing a major increase in unemployment and setting off another inflationary spiral.
2. Congress must be given a more effective role in decisions on oil pricing policy.
 - The 5-day period for review under existing law is too short. H.R. 4035 will provide 20 days.
 - Expedited procedures are necessary to assure that the disapproval resolution reaches the floor.

- This is a question of the prerogatives of the House.

3. Price controls must be imposed on all domestic crude oil in order to keep OPEC from dictating domestic oil prices.

Committee on Interstate and Foreign Commerce

TO: The Honorable Harley O. Staggers
Chairman

FROM: Charles Curtis

DATE: July 8, 1975

Attached are materials for your use in the pending Conference with the Senate on the bill H.R. 4035. These materials include (1) a side-by-side comparison of the bill; (2) a Committee Print which identifies the alternative proposals for changing the existing law; and (3) a memorandum which identifies the major issues on which the House and Senate differ.

I. Background

On May 1, 1975 the Senate passed S. 621, the "Petroleum Price Increase Limitation Act of 1975," by a vote of 47-36. On June 5, 1975 the House passed H. R. 4035, "Congressional Review of Certain Administrative Actions under the Emergency Petroleum Allocation Act of 1973," by a vote of 230-151. The Senate substituted the text of S. 621 for H. R. 4035 on June 11, 1975, passed the latter bill and requested a conference with the House.

A two-column Committee Print comparing the bills has been prepared: the provisions of H. R. 4035 are set forth in the left column, and the relevant provisions of S. 621 in the right.

II. Issues

While not companion bills, S. 621 and H. R. 4035 correspond in large measure. One or both of the bills address the following issues: a) the time for Congressional review of amendments to petroleum price regulations; b) the extent of Congressional review of such amendments; c) the establishment of petroleum price ceilings; d) the creation or maintenance of floor prices for domestic energy; e) the price applicable to crude oil produced by enhanced recovery methods; f) extension of the Emergency Petroleum Allocation Act of 1973; g) extension of authority for the issuance of coal conversion orders pursuant to the Energy Supply and Environmental Coordination Act of 1974; and h) the exemption of certain small refiners from the purchase obligations of the FEA crude oil entitlement program. A summary comparing the treatment of these issues in the two bills follows.

III. Summary Comparison of S. 621 and H. R. 4035

A. Time for Congressional Review

Section 4(g)(2) of the Allocation Act requires the President to submit for Congressional review any amendments to the regulations exempting any category of petroleum from regulation under

the Act, and permits either House of the Congress to disapprove the proposed amendment within 5 days. S. 621 extends the period for review to 30 days; H. R. 4035 extends the review period to 15 days. Both bills, however, provide for expedited procedures to assure a floor vote on any disapproval resolution.

B. Extent of Congressional Review

Section 4(g)(2) deals only with "exemptions" from price controls or allocations and does not require that upward changes in the price ceiling (which can have the same effect as exemptions) be subject to Congressional review and right of disapproval. For this reason, both S. 621 and H. R. 4035 require that any amendment which would increase the price permitted for "old" domestic crude oil be subject to Congressional review and right of disapproval. H. R. 4035 does exempt from review certain amendments increasing the price of "old" oil. (See Section E below).

C. Price Ceilings

S. 621 establishes a ceiling price on all domestic crude oil, excluding "old" oil, which may not exceed the price prevailing for such oil as of January 31, 1975. The bill also provides for Congressional review of such a price ceiling. H. R. 4035 does not address this issue.

D. Price Floors

S. 621 also requires Congressional review and right of disapproval of any Presidential action which would create or maintain a "floor" under domestic energy prices by means of a tariff, import fee, quota or other measure restricting imports. H. R. 4035 does not address this issue.

E. Enhanced Recovery Oil

S. 621 was amended on the floor to make "enhanced recovery oil", as defined therein, eligible for the highest prevailing price of crude oil produced in a given area. H. R. 4035, on the other

hand, exempts from Congressional review any amendment to the regulations with the purpose of taking into account i) a decline in field production or ii) increases in production costs resulting from the use of secondary or tertiary recovery methods, provided that the amendment would not increase by more than 50 cents per barrel the national average price of "old" crude oil as of January 1, 1975.

While both S. 621 and H. R. 4035 permit a higher price for crude oil produced by secondary and tertiary recovery methods, H. R. 4035 limits the increase in price which may be obtained absent Congressional review. S. 621 would, in effect, exempt such oil from price controls.

F. Extension of the Emergency Petroleum Allocation Act

H. R. 4035 extends the Allocation Act to December 31, 1975. S. 621 does not extend the Allocation Act, although S. 622, a bill passed by the Senate on April 10, 1975, includes a provision extending the Allocation Act to March 1, 1976. In addition, the Senate Interior Committee has reported S. 1849, which extends the Act, without further amendment, to March 1, 1976.

G. Coal Conversion Authority

The Energy Supply and Environmental Coordination Act of 1974 gives the Federal Energy Administration authority to order some oil and gas-fired electric power plants and major industrial users to convert to coal. This authority, however, expires on June 30, 1975. H. R. 4035 extends the FEA's authority to issue such coal conversion orders, as well as the authority to gather energy data under that Act, to December 31, 1975. S. 621 does not address this issue, although the Senate in S. 622 also extended the FEA's authority to issue coal conversion orders to December 31, 1975.

H. Entitlements Program: Small Refiner Exemption

S. 621 exempts the first 50,000 barrels of oil for small refiners who produce 100,000 barrels a day or less from the duty of purchasing entitlements under the FEA crude oil entitlement program. S. 622 was similarly amended to exempt small refiners from the obligation of purchasing crude oil entitlements on the first 50,000 barrels of oil. H. R. 4035 does not address this issue.

MEMORANDUM

June 18, 1975

JUN 18 1975

Hand Delivered

To: Chairman Staggers

From: Charles B. Curtis

On Thursday, June 5, 1975 the House by a vote of 230-151 passed H.R. 4035, "Congressional Review of Certain Administrative Actions under the Emergency Petroleum Allocation Act of 1973." While not precisely a companion bill, H.R. 4035 corresponds to a great degree with S. 621, "The Petroleum Price Increase Limitation Act of 1975". S. 621 passed the Senate on May 1, 1975 by a vote of 47-36.

Similar and differing provisions of the two bills are:

- a) Both bills extend the period for Congressional review of amendments to FEA's pricing or allocation regulations (H.R. 4035 - 15 days; S. 621 - 30 days). Both bills contain provisions to assure a floor vote on motions of disapproval.
- b) S. 621 requires that a ceiling be placed on the price of all domestic crude oil (including new and stripper) at the January 31, 1975 level in order to prevent the impact of the Ford import fee being reflected in domestic uncontrolled oil prices. H.R. 4035 does not.
- c) H.R. 4035 exempts from Congressional review any price increase amendment that is to encourage enhanced recovery and which would not increase the national average crude price by more than 50 cents/bbl. S. 621 does not.
- d) H.R. 4035 extends the Allocation Act until December 31, 1975. S. 621 does not.
- e) H.R. 4035 extends the FEA authority to issue coal conversion orders and gather energy data under the Energy Supply and Environmental Coordination Act from June 30, 1975 to December 31, 1975. S. 621 does not.
- f) S. 621 addresses the price floor question. H.R. 4035 does not.

- g) S. 621, by a Johnston amendment, exempts certain refiners from the obligation to purchase entitlements. H.R. 4035 does not.
- h) S. 621, by a second Johnston amendment adopted 49-37, makes "enhanced recovery" oil eligible for the highest prevailing domestic oil price. H.R. 4035 does not.

I met with Bill Van Ness yesterday afternoon to discuss the conference. As you can see from the above description, the bills do not differ to any significant extent. Because of the potential veto, however, I believe it would be useful for you and Senator Jackson to meet informally prior to the conference. Perhaps this could be done tomorrow afternoon. Van Ness informs me that the Senate will not be prepared to go to conference until Tuesday of next week. They are apparently locked up in debate on the New Hampshire Senatorial election question.

Attach.
CC:mr

[COMMITTEE PRINT]

JUNE 17, 1975

[Changes in the Emergency Petroleum Allocation Act of 1973, as amended,
as amended by H.R. 4035 and S. 621]

(Existing law proposed to be omitted is enclosed in black brackets, new matter
is printed in italic, existing law in which no change is proposed is shown
in roman)

94TH CONGRESS
1ST SESSION

H. R. 4035

AN ACT

To authorize and require the President of the United States to
allocate crude oil, residual fuel oil, and refined petroleum
products to deal with existing or imminent shortages and
dislocations in the national distribution system which jeop-
ardize the public health, safety, or welfare; to provide for
the delegation of authority; and for other purposes.

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

That this Act may be cited as the "Emergency Petroleum
Allocation Act of 1973".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby determines that—

(1) shortages of crude oil, residual fuel oil, and
refined petroleum products caused by inadequate
domestic production, environmental constraints, and the

1 unavailability of imports sufficient to satisfy domestic
2 demand, now exist or are imminent;

3 (2) such shortages have created or will create
4 severe economic dislocations and hardships, including
5 loss of jobs, closing of factories and businesses, reduction
6 of crop plantings and harvesting, and curtailment of
7 vital public services, including the transportation of
8 food and other essential goods; and

9 (3) such hardships and dislocations jeopardize the
10 normal flow of commerce and constitute a national
11 energy crisis which is a threat to the public health,
12 safety, and welfare and can be averted or minimized
13 most efficiently and effectively through prompt action
14 by the Executive branch of Government.

15 (b) The purpose of this Act is to grant to the Presi-
16 dent of the United States and direct him to exercise specific
17 temporary authority to deal with shortages of crude oil,
18 residual fuel oil, and refined petroleum products or disloca-
19 tions in their national distribution system. The authority
20 granted under this Act shall be exercised for the purpose of
21 minimizing the adverse impacts of such shortages or dis-
22 locations on the American people and the domestic economy.

23 DEFINITIONS

24 SEC. 3. For purposes of this Act:

25 (1) The term "branded independent marketer"

1 means a person who is engaged in the marketing or dis-
2 tributing of refined petroleum products pursuant to—

3 (A) an agreement of contract with a refiner
4 (or a person who controls, is controlled by, or is
5 under common control with such refiner) to use a
6 trademark, trade name, service mark, or other iden-
7 tifying symbol or name owned by such refiner (or
8 any such person), or

9 (B) an agreement or contract under which any
10 such person engaged in the marketing or distributing
11 of refined petroleum products is granted authority to
12 occupy premises owned, leased, or in any way con-
13 trolled by a refiner (or person who controls, is con-
14 trolled by, or is under common control with such
15 refiner),

16 but who is not affiliated with, controlled by, or under
17 common control with any refiner (other than by means
18 of a supply contract, or an agreement or contract de-
19 scribed in subparagraph (A) or (B)), and who does
20 not control such refiner.

21 (2) The term "nonbranded independent market-
22 er" means a person who is engaged in the marketing or
23 distributing of refined petroleum products, but who (A)
24 is not a refiner, (B) is not a person who controls, is
25 controlled by, is under common control with, or is affil-

1 related with a refiner (other than by means of a supply
2 contract), and (C) is not a branded independent mar-
3 keter.

4 (3) The term "independent refiner" means a re-
5 finer who (A) obtained, directly or indirectly, in the
6 calendar quarter which ended immediately prior to the
7 date of enactment of this Act, more than 70 per centum
8 of his refinery input of domestic crude oil (or 70 per
9 centum of his refinery input of domestic and imported
10 crude oil) from producers who do not control, are not
11 controlled by, and are not under common control with,
12 such refiner, and (B) marketed or distributed in such
13 quarter and continues to market or distribute a substantial
14 volume of gasoline refined by him through branded inde-
15 pendent marketers or nonbranded independent mar-
16 keters.

17 (4) The term "small refiner" means a refiner whose
18 total refinery capacity (including the refinery capacity
19 of any person who controls, is controlled by, or is under
20 common control with such refiner) does not exceed
21 175,000 barrels per day.

22 (5) The term "refined petroleum product" means
23 gasoline, kerosene, distillates (including Number 2 fuel
24 oil), LPG, refined lubricating oils, or diesel fuel.

1 (6) The term "LPG" means propane and butane,
2 but not ethane.

3 (7) The term "United States" when used in the
4 geographic sense means the States, the District of
5 Columbia, Puerto Rico, and the territories and posses-
6 sions of the United States.

7 MANDATORY ALLOCATION

8 SEC. 4. (a) Not later than fifteen days after the date of
9 enactment of this Act, the President shall promulgate a
10 regulation providing for the mandatory allocation of crude
11 oil, residual fuel oil, and each refined petroleum product, in
12 amounts specified in (or determined in a manner prescribed
13 by) and at prices specified in (or determined in a manner
14 prescribed by) such regulation. Subject to subsection (f),
15 such regulation shall take effect not later than fifteen days
16 after its promulgation. Except as provided in subsection (e)
17 such regulation shall apply to all crude oil, residual fuel oil,
18 and refined petroleum products produced in or imported into
19 the United States.

20 (b) (1) The regulation under subsection (a), to the
21 maximum extent practicable, shall provide for—

22 (A) protection of public health, safety, and welfare
23 (including maintenance of residential heating, such as

1 individual homes, apartments, and similar occupied
2 dwelling units), and the national defense;

3 (B) maintenance of all public services (including
4 facilities and services provided by municipally, cooper-
5 atively, or investor owned utilities or by any State or
6 local government or authority, and including transporta-
7 tion facilities and services which serve the public at
8 large);

9 (C) maintenance of agricultural operations, includ-
10 ing farming, ranching, dairy, and fishing activities, and
11 services directly related thereto;

12 (D) preservation of an economically sound and
13 competitive petroleum industry; including the priority
14 needs to restore and foster competition in the producing,
15 refining, distribution, marketing, and petrochemical sec-
16 tors of such industry, and to preserve the competitive
17 viability of independent refiners, small refiners, non-
18 branded independent marketers, and branded inde-
19 pendent marketers;

20 (E) the allocation of suitable types, grades, and
21 quality of crude oil to refineries in the United States to
22 permit such refineries to operate at full capacity;

23 (F) equitable distribution of crude oil, residual fuel
24 oil, and refined petroleum products at equitable prices
25 among all regions and areas of the United States and

1 sectors of the petroleum industry, including independent
2 refiners, small refiners, nonbranded independent market-
3 ers, branded independent marketers, and among all
4 users;

5 (G) allocation of residual fuel oil and refined petro-
6 leum products in such amounts and in such manner as
7 may be necessary for the maintenance of exploration for,
8 and production or extraction of, fuels, and for required
9 transportation related thereto;

10 (H) economic efficiency; and

11 (I) minimization of economic distortion, inflexi-
12 bility, and unnecessary interference with market
13 mechanisms.

14 (2) In specifying prices (or prescribing the manner
15 for determining them), such regulation shall provide for—

16 (A) a dollar-for-dollar passthrough of net increases
17 in the cost of crude oil, residual fuel oil, and refined
18 petroleum products to all marketers or distributors at
19 the retail level; and

20 (B) the use of the same date in the computation of
21 markup, margin, and posted price for all marketers or
22 distributors of crude oil, residual fuel oil, and refined
23 petroleum products at all levels of marketing and
24 distribution.

25 (3) The President in promulgating the regulation un-

1 der subsection (a) shall give consideration to allocating
 2 crude oil, residual fuel oil, and refined petroleum products
 3 in a manner which results in making available crude oil, resid-
 4 ual fuel oil, or refined petroleum products to any person
 5 whose use of fuels other than crude oil, residual fuel oil, and
 6 refined petroleum products has been curtailed by, or pursuant
 7 to a plan filed in compliance with, a rule or order of a Fed-
 8 eral or State agency, or where such person's supply of such
 9 other fuels is unobtainable by reason of an abandonment of
 10 service permitted or ordered by a Federal or State agency.

11 (c) (1) To the extent practicable and consistent with
 12 the objectives of subsections (b) and (d), the mandatory
 13 allocation program established under the regulation under
 14 subsection (a) shall be so structured as to result in the al-
 15 location, during each period during which the regulation
 16 applies, of each refined petroleum product to each branded
 17 independent marketer, each nonbranded independent mark-
 18 eter, each small refiner and each independent refiner, and of
 19 crude oil to each small refiner and each independent refiner,
 20 in an amount not less than the amount sold or otherwise
 21 supplied to such marketer or refiner during the corresponding
 22 period of 1972, adjusted to provide—

23 (A) in the case of refined petroleum products, a
 24 pro rata reduction in the amount allocated to each per-
 25 son engaged in the marketing or distribution of a refined

1 petroleum product if the aggregate amount of such prod-
 2 uct produced in and imported into the United States is
 3 less than the aggregate amount produced and imported
 4 in calendar year 1972; and

5 (B) in the case of crude oil, a pro rata reduction
 6 in the amount of crude oil allocated to each refiner if
 7 the aggregate amount produced in and imported into
 8 the United States is less than the aggregate amount
 9 produced and imported in calendar year 1972.

10 (2) (A) The President shall report to the Congress
 11 monthly, beginning not later than January 1, 1974, with
 12 respect to any change after calendar year 1972 in—

13 (i) the aggregate share of nonbranded independent
 14 marketers,

15 (ii) the aggregate share of branded independent
 16 marketers, and

17 (iii) the aggregate share of other persons engaged
 18 in the marketing or distributing of refined petroleum
 19 products,

20 of the national market or the regional market in any refined
 21 petroleum product (as such regional markets shall be deter-
 22 mined by the President).

23 (B) If allocation of any increase of the amount of any
 24 refined petroleum product produced in or imported into the
 25 United States in excess of the amount produced or im-

1 ported in calendar year 1972 contributes to a significant
2 increase in any market share described in clause (i), (ii),
3 or (iii) of subparagraph (A), the President shall by order
4 require an equitable adjustment in allocations of such product
5 under the regulation under subsection (a).

6 (3) The President shall, by order, require such adjust-
7 ments in the allocations of crude oil, residual fuel oil, and
8 refined petroleum products established under the regulation
9 under subsection (a) as may reasonably be necessary (A)
10 to accomplish the objectives of subsection (b), or (B) to
11 prevent any person from taking any action which would be
12 inconsistent with such objectives.

13 (4) The President may, by order, require such adjust-
14 ments in the allocations of refined petroleum products and
15 crude oil established under the regulation under subsection
16 (a) as he determines may reasonably be necessary—

17 (A) in the case of refined petroleum products (i)
18 to take into consideration market entry by branded inde-
19 pendent marketers and nonbranded independent mar-
20 keters during or subsequent to calendar year 1972, or
21 (ii) to take into consideration expansion or “education
22 of marketing or distribution facilities of such marketers
23 during or subsequent to calendar year 1972, and

24 (B) in the case of crude oil (i) to take into con-
25 sideration market entry by independent refiners and

1 small refiners during or subsequent to calendar year
2 1972, or (ii) to take into consideration expansion or
3 reduction of refining facilities of such refiners during
4 or subsequent to calendar year 1972.

5 Any adjustments made under this paragraph may be made
6 only upon a finding that, to the maximum extent practicable,
7 the objectives of subsections (b) and (d) of this section are
8 attained.

9 (5) To the extent practicable and consistent with the
10 objectives of subsections (b) and (d), the mandatory al-
11 location program established under the regulation under sub-
12 section (a) shall not provide for allocation of LPG in a
13 manner which denies LPG to any industrial user if no
14 substitute for LPG is available for use by such industrial user.

15 (d) The regulation under subsection (a) shall require
16 that crude oil, residual fuel oil, and all refined petroleum
17 products which are produced or refined within the United
18 States shall be totally allocated for use by ultimate users
19 within the United States, to the extent practicable and neces-
20 sary to accomplish the objectives of subsection (b).

21 (e) (1) The provisions of the regulation under subsec-
22 tion (a) shall specify (or prescribe a manner for determin-
23 ing) prices of crude oil at the producer level, but, upon a
24 finding by the President that to require allocation at the pro-
25 ducer level (on a national, regional, or case-by-case basis) is
26 unnecessary to attain the objectives of subsection (b) (1)

(E) or the other objectives of subsections (b), (c), and (d) of this section, such regulation need not require allocation of crude oil at such level. Any finding made pursuant to this subsection shall be transmitted to the Congress in the form of a report setting forth the basis for the President's finding that allocation at such level is not necessary to attain the objectives referred to in the preceding sentence.

(2) (A) The regulation promulgated under subsection (a) of this section shall not apply to the first sale of crude oil produced in the United States from any lease whose average daily production of crude oil for the preceding calendar year does not exceed ten barrels per well.

(B) To qualify for the exemption under this paragraph, a lease must be operating at the maximum feasible rate of production and in accord with recognized conservation practices.

(C) Any agency designated by the President under section 5 (b) for such purpose is authorized to conduct inspections to insure compliance with this paragraph and shall promulgate and cause to be published regulations implementing the provisions of this paragraph.

(f) (1) The provisions of the regulation under subsection (a) respecting allocation of gasoline need not take effect until thirty days after the promulgation of such regulation, except that the provisions of such regulation respecting price

of gasoline shall take effect not later than fifteen days after its promulgation.

(2) If—

(A) an order or regulation under section 203 (a) (3) of the Economic Stabilization Act of 1970 applies to crude oil, residual fuel oil, or a refined petroleum product and has taken effect on or before the fifteenth day after the date of enactment of this Act, and

(B) the President determines that delay in the effective date of provisions of the regulation under subsection (a) relating to such oil or product is in the public interest and is necessary to effectuate the transition from the program under such section 203 (a) (3) to the mandatory allocation program required under this Act,

he may in the regulation promulgated under subsection (a) of this section delay, until not later than thirty days after the date of the promulgation of the regulation, the effective date of the provisions of such regulation insofar as they relate to such oil or product. At the same time the President promulgates such regulation, he shall report to Congress setting forth his reasons for the action under this paragraph.

(g) (1) The regulation promulgated and made effective under subsection (a) shall remain in effect until midnight **【August 31, 1975,】** *December 31, 1975*, except that (A) the President or his delegate may amend such regulation so

1 long as such regulation, as amended, meets the requirements
 2 of this section, and (B) the President may exempt crude oil,
 3 residual fuel oil, or any refined petroleum product from such
 4 regulation in accordance with paragraph (2) of this subsec-
 5 tion. The authority to promulgate and amend the regulation
 6 and to issue any order under this section, and to enforce
 7 under section 5 such regulation and any such order, expires
 8 at midnight [August 31, 1975,] December 31, 1975, but
 9 such expiration shall not affect any action or pending pro-
 10 ceedings, civil or criminal, not finally determined on such
 11 date, nor any action or proceeding based upon any act com-
 12 mitted prior to midnight [August 31, 1975,] December 31,
 13 1975.

14 (2) If at any time after the date of enactment of this
 15 Act the President finds that application of the regulation
 16 under subsection (a) to crude oil, residual fuel oil, or a re-
 17 fined petroleum product is not necessary to carry out this
 18 Act, that there is no shortage of such oil or product, and
 19 that exempting such oil or product from such regulation will
 20 not have an adverse impact on the supply of any other oil
 21 or refined petroleum products subject to this Act, he may
 22 prescribe an amendment to the regulation under subsection
 23 (a) exempting such oil or product from such regulation for
 24 a period of not more than ninety days. The President shall
 25 submit any such amendment and any such findings to the

1 Congress. An amendment under this paragraph may not ex-
 2 empt more than one oil or one product. Such an amendment
 3 shall take effect on a date specified in the amendment, but
 4 in no case sooner than the close of the earliest period which
 5 begins after the submission of such amendment to the Con-
 6 gress and which includes at least five days during which the
 7 House was in session and at least five days during which the
 8 Senate was in session; except that such amendment shall not
 9 take effect if before the expiration of such period either House
 10 of Congress approves a resolution of that House stating in
 11 substance that such House disapproves such amendment.]

12 (2)(A) Subject to the requirements of this paragraph,
 13 the President may prescribe an amendment to the regulation
 14 under subsection (a) exempting crude oil, residual fuel oil,
 15 or any refined petroleum product from the provisions of such
 16 regulation as such provisions pertain to either (i) the alloca-
 17 tion of amounts of any such oil or product, or (ii) the spe-
 18 cification of price or the manner for determining price of any
 19 such oil or product.

20 (B) The President shall transmit (i) any amendment
 21 (bearing an identification number) to the regulation pre-
 22 scribed under subparagraph (A) of this paragraph, accom-
 23 panied by a specific statement of the President's rationale for
 24 such amendment, and (ii) the matter described in subsection
 25 (i) of this section, to both Houses of Congress on the same

1 day and to each House while it is in session. Such an amend-
 2 ment may apply only to one oil or one product with respect
 3 to either allocation or price and may provide for scheduled
 4 or phased implementation.

5 (C)(i) Such an amendment shall take effect on the
 6 date or dates specified in such amendment; but not sooner
 7 than the end of the first period of fifteen calendar days of
 8 continuous session of Congress (within the meaning of sec-
 9 tion 906(b) of title 5, United States Code) after the date on
 10 which such amendment is transmitted to it; except that such
 11 an amendment shall not take effect if, between the date of
 12 transmittal and the end of such fifteen-day period, either
 13 House passes a resolution of that House, the matter after
 14 the resolving clause of which is as follows "That the
 15 does not favor the amendment (numbered) to the
 16 regulation under subsection (a) of the Emergency Petroleum
 17 Allocation Act of 1973, transmitted to the Congress by the
 18 President on , 19 .", the first blank space therein
 19 being filled with the name of the resolving House and the
 20 other blank space therein being appropriately filled.

21 (ii) Section 908 and sections 910 through 913 of title
 22 5, United States Code, shall apply to any resolution described
 23 in clause (i), and for purposes of the consideration of a
 24 resolution under this paragraph, the twenty calendar days
 25 specified in section 911 of title 5, United States Code, shall

1 be shortened to five calendar days, any reference to a resolu-
 2 tion under section 908 and sections 910 through 913 of title
 3 5, United States Code, shall be deemed a reference to a
 4 resolution described in clause (i), and any reference to a
 5 reorganization plan shall be deemed a reference to an amend-
 6 ment to which this paragraph applies."

7 (h)(1)(A) Beginning on the date of enactment of
 8 this subsection, except as provided in subparagraph (B) of
 9 this paragraph, no amendment to the regulation under sub-
 10 section (a) which would have the effect of permitting an
 11 increase in the national average price of old crude oil above
 12 the January 1, 1975, base price may take effect except in
 13 accordance with the provisions of subsection (g)(2) of this
 14 section.

15 (B) Subparagraph (A) of this paragraph does not
 16 apply to any amendment to the regulation under subsection
 17 (a) and such amendment may take effect without regard to
 18 the provisions of subsection (a)(2) of this section, if—

19 (i) the purpose of such amendment is to take into
 20 account decline in field production or significant in-
 21 creases in the cost of production of crude oil resulting
 22 from the use of secondary or tertiary recovery methods,
 23 and

24 (ii) such amendment would not permit increases
 25 in the price of old crude oil or any classification thereof

1 so as to result in a national average price of old crude oil
2 which exceeds by more than 50 cents per barrel the
3 January 1, 1975, base price.

4 (2) For purposes of subsection (g)(2) of this section,
5 an amendment described in paragraph (1)(A) of this sub-
6 section and to which paragraph (1)(B) does not apply shall
7 be considered an amendment described in subsection (g)(2)
8 (A)(ii) of this section.

9 (3) No amendment described in subparagraph (1)(A)
10 which takes effect after January 1, 1975, and prior to the
11 date of enactment of this subsection, may remain in effect
12 for a period of longer than thirty days after such date of
13 enactment and the President shall rescind any such amend-
14 ment within such thirty-day period, unless such amendment
15 is transmitted to the Congress within such thirty-day period
16 for review under the provisions of subsection (g)(2) of this
17 section, in which case such amendment may continue in
18 effect unless disapproved under the provisions of subsection
19 (g)(2).

20 (4) For purposes of this section—

21 (A) the term "old crude oil" means old crude petro-
22 leum as defined pursuant to the regulation under subsec-
23 tion (a) in section 212.72 of title 10, Code of Federal
24 Regulations (as in effect on January 1, 1975); and

1 (B) the term "January 1, 1975, base price" means
2 the national average price of old crude oil as measured
3 on January 1, 1975.

4 (i) (1) The President shall support any proposed amend-
5 ment to the regulation under subsection (a) which is trans-
6 mitted to the Congress under subsection (2) of this section
7 with a finding that such amendment is consistent with the
8 attainment of the objectives specified in subsection (b) and
9 in the case of—

10 (A) any proposed exemption of an oil or product
11 pursuant to subsection (g)(2)(A)(i), with a finding
12 that such oil or product is no longer in short supply and
13 that exempting such oil or product will not have an
14 adverse impact on the supply of any other oil or product
15 subject to this Act, and

16 (B) any proposed exemption of an oil or product
17 pursuant to subsection (g)(2)(A)(ii), with a finding
18 that competition and market forces are adequate to pro-
19 tect industrial and individual consumers from price
20 gouging and to assure that prices of such oil or product
21 will be just and reasonable.

22 (2) In the case of an amendment described in subsection
23 (g)(2)(A)(ii) of this subsection which would have the effect
24 of permitting an increase in the price of old crude oil, the

1 President shall, in addition to the findings required under
2 paragraph (1) of this subsection, support any such amend-
3 ment with findings that—

4 (A) such increase is a necessary factor in enabling
5 producers to meet financial needs for sustained or in-
6 creased domestic production of crude oil, and

7 (B) such sustained or increased domestic production
8 of crude oil would not otherwise occur but for such in-
9 crease in price.

10 The President shall also report to the Congress at that time
11 on the availability of materials and services necessary for
12 domestic oil exploration and production of crude oil and give
13 his assessment of the marginal increase in domestic production
14 of crude oil, by year for the succeeding five-year period, which
15 he projects as occurring as a result of such price increase.

16 (3) Any amendment which the President transmits to the
17 Congress under subsection (g)(2) of this section shall be
18 accompanied—

19 (A) by a statement of the President's views as to
20 the potential economic impacts (if any) of such amend-
21 ment, which, where practicable, shall include his views
22 as to—

23 (i) the State and regional impacts of such
24 amendment (including effects on governmental
25 units),

1 (ii) the effects of such amendment on the avail-
2 ability of consumer goods and services; the gross
3 national product; competition; small business; and
4 the supply and availability of energy resources for
5 use as fuel or as feedstock for industry; and

6 (iii) the effects on employment and consumer
7 prices; and

8 (B) in the case of an amendment described in sub-
9 section (g)(2)(A)(ii) of this section, by an analysis of
10 the effects of such amendment on the rate of unemploy-
11 ment for the United States, and the consumer price index
12 for the United States.

13 (4) In any judicial review of any provision of the reg-
14 ulation under subsection (a), the reviewing court may not
15 hold unlawful or set aside any such provision solely on the
16 basis that a grounds for holding unlawful or setting aside
17 agency action specified in subparagraph (A), (D), or (E)
18 of section 706(2) of title 5, United States Code, applies with
19 respect to one or more of the findings or views required to be
20 made by the President under this subsection and submitted to
21 the Congress pursuant to subsection (g)(2)(B) of this
22 section.

23 ADMINISTRATION AND ENFORCEMENT

24 SEC. 5. (a) (1) Except as provided in paragraph (2),
25 (A) sections 205 through 211 of the Economic Stabiliza-

tion Act of 1970 (as in effect on the date of enactment of this Act) shall apply to the regulation promulgated under section 4 (a), to any order under this Act, and to any action taken by the President (or his delegate) under this Act, as if such regulation had been promulgated, such order had been issued, or such action had been taken under the Economic Stabilization Act of 1970; and (B) section 212 (other than 212 (b)) and 213 of such Act shall apply to functions under this Act to the same extent such sections apply to functions under the Economic Stabilization Act of 1970.

(2) The expiration of authority to issue and enforce orders and regulations under section 218 of such Act shall not affect any authority to amend and enforce the regulation or to issue and enforce any order under this Act, and shall not effect any authority under sections 212 and 213 insofar as such authority is made applicable to functions under this Act.

(b) The President may delegate all or any portion of the authority granted to him under this Act to such officers, departments, or agencies of the United States, or to any State (or officer thereof), as he deems appropriate.

22 EFFECT ON OTHER LAWS AND ACTIONS TAKEN THEREUNDER

23 SEC. 6. (a) All actions duly taken pursuant to clause
24 (3) of the first sentence of section 203 (a) of the Economic
25 Stabilization Act of 1970 in effect immediately prior to the

1 effective date of the regulation promulgated under section
2 4 (a) of this Act, shall continue in effect until modified
3 pursuant to this Act.

4 (b) The regulation under section 4 and any order
5 issued thereunder shall preempt any provision of any pro-
6 gram for the allocation of crude oil, residual fuel oil, or any
7 refined petroleum product established by any State or local
8 government if such provision is in conflict with such regula-
9 tion or any such order.

10 (c) (1) Except as specifically provided in this subsec-
11 tion, no provisions of this Act shall be deemed to convey to
12 any person subject to this Act immunity from civil or criminal
13 liability, or to create defenses to actions, under the antitrust
14 laws.

15 (2) As used in this subsection, the term "antitrust
16 laws" includes—

17 (A) the Act entitled "An Act to protect trade
18 and commerce against unlawful restraints and monop-
19 olies", approved July 2, 1890 (15 U.S.C. 1 et seq.);

20 (B) the Act entitled "An Act to supplement exist-
21 ing laws against unlawful restraints and monopolies, and
22 for other purposes", approved October 15, 1914 (15
23 U.S.C. 12 et seq.);

24 (C) the Federal Trade Commission Act (15 U.S.C.
25 41 et seq.);

1 (D) sections 73 and 74 of the Act entitled "An
2 Act to reduce taxation, to provide revenue for the
3 Government, and for other purposes", approved August
4 27, 1894 (15 U.S.C. 8 and 9) ; and

5 (E) the Act of June 19, 1936, chapter 592 (15
6 U.S.C. 13, 13a, 13b, and 21a) .

7 (3) The regulation promulgated under section 4 (a)
8 of this Act shall be forwarded on or before the date of its
9 promulgation to the Attorney General and to the Federal
10 Trade Commission, who shall, at least seven days prior to
11 the effective date of such regulation, report to the President
12 with respect to whether such regulation would tend to create
13 or maintain anticompetitive practices or situations incon-
14 sistent with the antitrust laws, and propose any alternative
15 which would avoid or overcome such effects while achieving
16 the purposes of this Act.

17 (4) Whenever it is necessary, in order to comply with
18 the provisions of this Act or the regulation or any orders
19 under section 4 thereof, for owners, directors, officers, agents,
20 employees, or representatives of two or more persons en-
21 gaged in the business of producing, refining, marketing, or
22 distributing crude oil, residual fuel oil, or any refined petro-
23 leum product to meet, confer, or communicate in such a fash-
24 ion and to such ends that might otherwise be construed to
25 constitute a violation of the antitrust laws, such persons may

1 do so only upon an order of the President (or of an officer
2 or agency of the United States to whom the President has
3 delegated authority under section 5 (b) of this Act) ; which
4 order shall specify and limit the subject matter and objec-
5 tives of such meeting, conference, or communication. More-
6 over, such meeting, conference, or communication shall take
7 place only in the presence of a representative of the Antitrust
8 Division of the Department of Justice, and a verbatim
9 transcript of such meeting, conference, or communication
10 shall be taken and deposited, together with any agreement
11 resulting therefrom, with the Attorney General and the Fed-
12 eral Trade Commission, where it shall be made available for
13 public inspection.

14 (5) There shall be available as a defense to any action
15 brought under the antitrust laws, or for breach of contract in
16 any Federal or State court arising out of delay or failure
17 to provide, sell, or offer for sale or exchange crude oil, resid-
18 ual fuel oil, or any refined petroleum product, that such
19 delay or failure was caused solely by compliance with the
20 provisions of this Act or with the regulation or any order
21 under section 4 of this Act.

22 (6) There shall be available as a defense to any action
23 brought under the antitrust laws arising from any meeting,
24 conference, or communication or agreement resulting there-
25 from, held or made solely for the purpose of complying with

the provisions of this Act or the regulation or any order under section 4 thereof, that such meeting, conference, communication, or agreement was carried out or made in accordance with the requirements of paragraph (4) of this subsection.

MONITORING BY FEDERAL TRADE COMMISSION

SEC. 7. (a) During the forty-five day period beginning on the effective date on which the regulation under section 4 first takes effect, the Federal Trade Commission shall monitor the program established under such regulation; and, not later than sixty days after such effective date, shall report to the President and to the Congress respecting the effectiveness of this Act and actions taken pursuant thereto.

(b) For purposes of carrying out this section, the Federal Trade Commission's authority, under sections 6, 9, and 10 of the Federal Trade Commission Act to gather and compile information and to require furnishing of information, shall extend to any individual or partnership, and to any common carrier subject to the Acts to regulate commerce (as such Acts are defined in section 4 of the Federal Trade Commission Act).

94TH CONGRESS
1ST SESSION

S. 621

AN ACT

To authorize and require the President of the United States to allocate crude oil, residual fuel oil, and refined petroleum products to deal with existing or imminent shortages and dislocations in the national distribution system which jeopardize the public health, safety, or welfare; to provide for the delegation of authority; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
That this Act may be cited as the "Emergency Petroleum Allocation Act of 1973".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby determines that—

(1) shortages of crude oil, residual fuel oil, and refined petroleum products caused by inadequate domestic production, environmental constraints, and the unavail-

ability of imports sufficient to satisfy domestic demand,
now exist or are imminent;

(2) such shortages have created or will create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services, including the transportation of food and other essential goods; and

(3) such hardships and dislocations jeopardize the normal flow of commerce and constitute a national energy crisis which is a threat to the public health, safety, and welfare and can be averted or minimized most efficiently and effectively through prompt action by the Executive branch of Government.

(b) The purpose of this Act is to grant to the President of the United States and direct him to exercise specific temporary authority to deal with shortages of crude oil, residual fuel oil, and refined petroleum products or dislocations in their national distribution system. The authority granted under this Act shall be exercised for the purpose of minimizing the adverse impacts of such shortages or dislocations on the American people and the domestic economy.

DEFINITIONS

SEC. 3. For purposes of this Act:

(1) The term "branded independent marketer"

means a person who is engaged in the marketing or distributing of refined petroleum products pursuant to—

(A) an agreement or contract with a refiner

(or a person who controls, is controlled by, or is under common control with such refiner) to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner (or any such person), or

(B) an agreement or contract under which any

such person engaged in the marketing or distributing of refined petroleum products is granted authority to occupy premises owned, leased, or in any way controlled by a refiner (or person who controls, is controlled by, or is under common control with such refiner),

but who is not affiliated with, controlled by, or under common control with any refiner (other than by means of a supply contract, or an agreement or contract described in subparagraph (A) or (B)), and who does not control such refiner.

(2) The term "nonbranded independent marketer"

means a person who is engaged in the marketing or distributing of refined petroleum products, but who (A) is not a refiner, (B) is not a person who controls, is controlled by, is under common control with, or is

1 affiliated with a refiner (other than by means of a supply
2 contract), and (C) is not a branded independent
3 marketer.

4 (3) The term "independent refiner" means a re-
5 finer who (A) obtained, directly or indirectly, in the
6 calendar quarter which ended immediately prior to the
7 date of enactment of this Act, more than 70 per centum
8 of his refinery input of domestic crude oil (or 70 per
9 centum of his refinery input of domestic and imported
10 crude oil) from producers who do not control, are not
11 controlled by, and are not under common control with,
12 such refiner, and (B) marketed or distributed in such
13 quarter and continues to market or distribute a sub-
14 stantial volume of gasoline refined by him through
15 branded independent marketers or nonbranded inde-
16 pendent marketers.

17 (4) The term "small refiner" means a refiner whose
18 total refinery capacity (including the refinery capacity
19 of any person who controls, is controlled by, or is under
20 common control with such refiner) does not exceed
21 175,000 barrels per day.

22 (5) The term "refined petroleum product" means
23 gasoline, kerosene, distillates (including Number 2 fuel
24 oil), LPG, refined lubricating oils, or diesel fuel.

1 (6) The term "LPG" means propane and butane,
2 but not ethane.

3 (7) The term "United States" when used in the
4 geographic sense means the States, the District of Co-
5 lumbia, Puerto Rico, and the territories and possessions
6 of the United States.

7 MANDATORY ALLOCATION

8 SEC. 4. (a) Not later than fifteen days after the date of
9 enactment of this Act, the President shall promulgate a regu-
10 lation providing for the mandatory allocation of crude oil,
11 residual fuel oil, and each refined petroleum product, in
12 amounts specified in (or determined in a manner prescribed
13 by) and at prices specified in (or determined in a manner
14 prescribed by) such regulation. Subject to subsection (f),
15 such regulation shall take effect not later than fifteen days
16 after its promulgation. Except as provided in subsection (e)
17 such regulation shall apply to all crude oil, residual fuel oil,
18 and refined petroleum products produced in or imported
19 into the United States.

20 (b) (1) The regulation under subsection (a), to the
21 maximum extent practicable, shall provide for—

22 (A) protection of public health, safety, and wel-
23 fare (including maintenance of residential heating, such
24 as individual homes, apartments, and similar occupied
25 dwelling units), and the national defense;

1 (B) maintenance of all public services (including
2 facilities and services provided by municipally, coopera-
3 tively, or investor owned utilities or by any State or local
4 government or authority, and including transportation
5 facilities and services which serve the public at large);

6 (C) maintenance of agricultural operations, includ-
7 ing farming, ranching, dairy, and fishing activities, and
8 services directly related thereto;

9 (D) preservation of an economically sound and
10 competitive petroleum industry; including the priority
11 needs to restore and foster competition in the producing,
12 refining, distribution, marketing, and petrochemical
13 sectors of such industry, and to preserve the competitive
14 viability of independent refiners, small refiners, non-
15 branded independent marketers, and branded independ-
16 ent marketers;

17 (E) the allocation of suitable types, grades, and
18 quality of crude oil to refineries in the United States to
19 permit such refineries to operate at full capacity;

20 (F) equitable distribution of crude oil, residual fuel
21 oil, and refined petroleum products at equitable prices
22 among all regions and areas of the United States and
23 sectors of the petroleum industry, including independent
24 refiners, small refiners, nonbranded independent mar-

1 keters, branded independent marketers, and among all
2 users;

3 (G) allocation of residual fuel oil and refined petro-
4 leum products in such amounts and in such manner as
5 may be necessary for the maintenance of exploration for,
6 and production or extraction of fuels, and for required
7 transportation related thereto;

8 (H) economic efficiency; and

9 (I) minimization of economic distortion, inflexi-
10 bility, and unnecessary interference with market
11 mechanisms.

12 (2) In specifying prices (or prescribing the manner
13 for determining them), such regulation shall provide for—

14 (A) a dollar-for-dollar passthrough of net increase
15 in the cost of crude oil, residual fuel oil, and refined
16 petroleum products to all marketers or distributors at the
17 retail level; and

18 (B) the use of the same date in the computation of
19 markup, margin, and posted price for all marketers or
20 distributors of crude oil, residual fuel oil and refined
21 petroleum products at all levels of marketing and dis-
22 tribution.

23 (3) The President in promulgating the regulation under
24 subsection (a) shall give consideration to allocating crude

1 oil, residual fuel oil, and refined petroleum products in a
 2 manner which results in making available crude oil, residual
 3 fuel oil, or refined petroleum products to any person whose
 4 use of fuels other than crude oil, residual fuel oil, and refined
 5 petroleum products has been curtailed by, or pursuant to
 6 a plan filed in compliance with a rule or order of a Federal
 7 or State agency, or where such person's supply of such other
 8 fuels is unobtainable by reason of an abandonment of service
 9 permitted or ordered by a Federal or State agency.

10 (c) (1) To the extent practicable and consistent with
 11 the objectives of subsections (b) and (d), the mandatory
 12 allocation program established under the regulation under
 13 subsection (a) shall be so structured as to result in the
 14 allocation, during each period during which the regulation
 15 applies, of each refined petroleum product to each branded
 16 independent marketer, each nonbranded independent mar-
 17 keter, each small refiner and each independent refiner, and of
 18 crude oil to each small refiner and each independent refiner,
 19 in an amount not less than the amount sold or otherwise
 20 supplied to such marketer or refiner during the correspond-
 21 ing period of 1972, adjusted to provide—

22 (A) in the case of refined petroleum products, a pro
 23 rata reduction in the amount allocated to each person
 24 engaged in the marketing or distribution of a refined
 25 petroleum product if the aggregate amount of such

1 product produced in and imported into the United States
 2 is less than the aggregate amount produced and imported
 3 in calendar year 1972; and

4 (B) in the case of crude oil, a pro rata reduction in
 5 the amount of crude oil allocated to each refiner if the
 6 aggregate amount produced in and imported into the
 7 United States is less than the aggregate amount pro-
 8 duced and imported in calendar year 1972.

9 (2) (A) The President shall report to the Congress
 10 monthly, beginning not later than January 1, 1974, with
 11 respect to any change after calendar year 1972 in—

12 (i) the aggregate share of nonbranded independent
 13 marketers,

14 (ii) the aggregate share of branded independent
 15 marketers, and

16 (iii) the aggregate share of other persons engaged
 17 in the marketing or distributing of refined petroleum
 18 products,

19 of the national market or the regional market in any refined
 20 petroleum product (as such regional markets shall be deter-
 21 mined by the President).

22 (B) If allocation of any increase of the amount of any
 23 refined petroleum product produced in or imported into the
 24 United States in excess of the amount produced or imported
 25 in calendar year 1972 contributes to a significant increase in

1 any market share described in clause (i), (ii), or (iii) of
 2 subparagraph (A), the President shall by order require an
 3 equitable adjustment in allocations of such product under the
 4 regulation under subsection (a).

5 (3) The President shall, by order, require such adjust-
 6 ments in the allocations of crude oil, residual fuel oil, and
 7 refined petroleum products established under the regulation
 8 under subsection (a) as may reasonably be necessary (A)
 9 to accomplish the objectives of subsection (b), or (B) to
 10 prevent any person from taking any action which would be
 11 inconsistent with such objectives.

12 (4) The President may, by order, require such adjust-
 13 ments in the allocations of refined petroleum products and
 14 crude oil established under the regulation under subsection
 15 (a) as he determines may reasonably be necessary—

16 (A) in the case of refined petroleum products (i)
 17 to take into consideration market entry by branded
 18 independent marketers and nonbranded independent
 19 marketers during or subsequent to calendar year 1972,
 20 or (ii) to take into consideration expansion or reduction
 21 of marketing or distribution facilities of such marketers
 22 during or subsequent to calendar year 1972, and

23 (B) in the case of crude oil (1) to take into con-
 24 sideration market entry by independent refiners and
 25 small refiners during or subsequent to calendar year

1 1972, or (2) to take into consideration expansion or re-
 2 duction of refining facilities of such refiners during or
 3 subsequent to calendar year 1972.

4 Any adjustments made under this paragraph may be made
 5 only upon a finding that, to the maximum extent practicable,
 6 the objectives of subsections (b) and (d) of this section are
 7 attained.

8 (5) To the extent practicable and consistent with the
 9 objectives of subsections (b) and (d), the mandatory alloca-
 10 tion program established under the regulation under subsec-
 11 tion (a) shall not provide for allocation of LPG in a manner
 12 which denies LPG to any industrial user if no substitute for
 13 LPG is available for use by such industrial user.

14 (d) The regulation under subsection (a) shall require
 15 that crude oil, residual fuel oil, and all refined petroleum
 16 products which are produced or refined within the United
 17 States shall be totally allocated for use by ultimate users
 18 within the United States, to the extent practicable and neces-
 19 sary to accomplish the objectives of subsection (b).

20 (e) (1) The provisions of the regulation under subsec-
 21 tion (a) shall specify (or prescribe a manner for determin-
 22 ing) prices of crude oil at the producer level, but, upon a
 23 finding by the President that to require allocation at the
 24 producer level (on a national, regional, or case-by-case basis)
 25 is unnecessary to attain the objectives of subsection (b) (1)

1 (E) or the other objectives of subsections (b), (c), and
 2 (d) of this section, such regulation need not require alloca-
 3 tion of crude oil at such level. Any finding made pursuant
 4 to this subsection shall be transmitted to the Congress in the
 5 form of a report setting forth the basis for the President's
 6 finding that allocation at such level is not necessary to attain
 7 the objectives referred to in the preceding sentence.

8 (2) (A) The regulation promulgated under subsection
 9 (a) of this section shall not apply to the first sale of crude oil
 10 produced in the United States from any lease whose average
 11 daily production of crude oil for the preceding calendar
 12 year does not exceed ten barrels per well.

13 (B) To qualify for the exemption under this paragraph,
 14 a lease must be operating at the maximum feasible rate of
 15 production and in accord with recognized conservation
 16 practices.

17 (C) Any agency designated by the President under sec-
 18 tion 5 (b) for such purpose is authorized to conduct inspec-
 19 tions to insure compliance with this paragraph and shall
 20 promulgate and cause to be published regulations implement-
 21 ing the provisions of this paragraph.

22 (3) (A) In the event that the price regulation pro-
 23 mulgated under subsection (a) of this section provides for
 24 more than one price (or manner of determining a price) for
 25 a given grade and quality of crude oil produced in a given

1 producing area, the regulation shall provide that the price
 2 applicable to "enhanced recovery oil," as defined in subpara-
 3 graph (B) of this paragraph, shall be the highest price ap-
 4 plicable to the given grade and quality of crude oil produced
 5 in the given producing area.

6 (B) For the purposes of this paragraph "enhanced re-
 7 covery oil" refers to any crude oil produced from any prop-
 8 erty in any calendar month, in excess of a percentage, spec-
 9 ified in the regulation, for each subsequent calendar year,
 10 of the volume of crude oil produced from that property in the
 11 corresponding calendar month of 1972.

12 (C) The percentage specified for each calendar year
 13 pursuant to subparagraph (B) of this paragraph shall reflect
 14 and take into account the rate of decline in production nor-
 15 mally expected from individual oil reservoirs in the absence
 16 of enhanced recovery techniques, such as measures to in-
 17 crease the permeability of the reservoir, including acidizing
 18 and fracturing, measures to restore reservoir pressure by in-
 19 jection of water, steam, or gas, and measures to reduce oil
 20 viscosity or capillarity by the introduction of injected sub-
 21 stances or heat.

22 (f) (1) The provisions of the regulation under subsec-
 23 tion (a) respecting allocation of gasoline need not take
 24 effect until thirty days after the promulgation of such regula-
 25 tion, except that the provisions of such regulation respecting

1 price of gasoline shall take effect not later than fifteen days
2 after its promulgation.

3 (2) If—

4 (A) an order or regulation under section 203 (a)
5 (3) of the Economic Stabilization Act of 1970 applies
6 to crude oil, residual fuel oil, or a refined petroleum
7 product and has taken effect on or before the fifteen day
8 after the date of enactment of this Act, and

9 (B) the President determines that delay in the
10 effective date of provisions of the regulation under sub-
11 section (a) relating to such oil or product is in the public
12 interest and is necessary to effectuate the transition from
13 the program under such section 203 (a) (3) to the man-
14 datory allocation program required under this Act.

15 he may in the regulation promulgated under subsection (a)
16 of this section delay, until not later than thirty days after the
17 date of the promulgation of the regulation, the effective date
18 of the provisions of such regulation insofar as they relate to
19 such oil or product. At the same time the President promul-
20 gates such regulation, he shall report to Congress setting
21 forth his reasons for the action under this paragraph.

22 (g) (1) The regulation promulgated and made effective
23 under subsection (a) shall remain in effect until midnight
24 August 31, 1975, except that (A) the President or his
25 delegate may amend such regulation so long as such regula-

1 tion, as amended, meets the requirements of this section,
2 and (B) the President may exempt crude oil, residual fuel
3 oil, or any refined petroleum product from such regulation
4 in accordance with paragraph (2) of this subsection. The
5 authority to promulgate and amend the regulation and to
6 issue any order under this section, and to enforce under
7 section 5 such regulation and any such order, expires at
8 midnight August 31, 1975, but such expiration shall not
9 affect any action or pending proceedings, civil or criminal,
10 not finally determined on such date, nor any action or pro-
11 ceeding based upon any act committed prior to midnight
12 August 31, 1975.

13 (2) If at any time after the date of enactment of this
14 Act the President finds that application of the regulation un-
15 der subsection (a) to crude oil, residual fuel oil, or a refined
16 petroleum product is not necessary to carry out this Act, that
17 there is no shortage of such oil or product, and that ex-
18 emption of such oil or product from such regulation will not
19 have an adverse impact on the supply of any other oil or re-
20 fined petroleum products subject to this Act, he may pre-
21 scribe an amendment to the regulation under subsection (a)
22 exempting such oil or product from such regulation for a
23 period of not more than ninety days. The President shall
24 submit any such amendment and any such findings to the
25 Congress. An amendment under this paragraph may not ex-

1 exempt more than one oil or one product. Such an amendment
 2 shall take effect on a date specified in the amendment, but
 3 in no case sooner than the close of the earliest period which
 4 begins after the submission of such amendment to the Con-
 5 gress and which includes at least five days during which the
 6 House was in session and at least five days during which the
 7 Senate was in session; except that such amendment shall
 8 not take effect if before the expiration of such period either
 9 House of Congress approves a resolution of that House
 10 stating in substance that such House disapproves such
 11 amendment.

12 (h) *Insofar as any regulation promulgated and made*
 13 *effective under subsection (a) of this section shall require*
 14 *the purchase of entitlements, or the payment of money through*
 15 *any other similar cash transfer arrangement aimed at equal-*
 16 *izing the cost of crude oil to domestic refiners, such regulation*
 17 *shall exempt the first fifty thousand barrels per day of those*
 18 *refiners whose total refining capacity (including the refining*
 19 *capacity of any person who controls, is controlled by, or is*
 20 *under common control with such refiner) did not exceed on*
 21 *January 1, 1975, one hundred thousand barrels per day*
 22 *from said requirement: Provided, That nothing herein shall*
 23 *be taken to restrict the right of any small refiner as defined*
 24 *in section 3(4) of this Act to receive payments for entitle-*
 25 *ments or through any other such cash transfer arrangement.*

1 (b) *The amendment made by subsection (a) of this sec-*
 2 *tion shall be effective for payments due, pursuant to any*
 3 *regulation referred to in such section, with respect to crude*
 4 *oil receipts and runs to still occurring on or after February 1,*
 5 *1975.*

6 ADMINISTRATION AND ENFORCEMENT

7 SEC. 5. (a) (1) Except as provided in paragraph (2),
 8 (A) sections 205 through 211 of the Economic Stabiliza-
 9 tion Act of 1970 (as in effect on the date of enactment of
 10 this Act) shall apply to the regulation promulgated under
 11 section 4(a), to any order under this Act, and to any action
 12 taken by the President (or his delegate) under this Act, as
 13 if such regulation had been promulgated, such order had
 14 been issued, or such action had been taken under the Eco-
 15 nomic Stabilization Act of 1970; and (B) section 212
 16 (other than 212(b)) and 213 of such Act shall apply to
 17 functions under this Act to the same extent such sections
 18 apply to functions under the Economic Stabilization Act of
 19 1970.

20 (2) The expiration of authority to issue and enforce
 21 orders and regulations under section 218 of such Act shall
 22 not affect any authority to amend and enforce the regulation
 23 or to issue and enforce any order under this Act, and shall
 24 not affect any authority under sections 212 and 213 insofar

1 as such authority is made applicable to functions under this
2 Act.

3 (b) The President may delegate all or any portion of
4 the authority granted to him under this Act to such officers,
5 departments, or agencies of the United States, or to any
6 State (or officer thereof), as he deems appropriate.

7 EFFECT ON OTHER LAWS AND ACTIONS TAKEN
8 THEREUNDER

9 SEC. 6. (a) All actions duly taken pursuant to clause
10 (3) of the first sentence of section 203 (a) of the Economic
11 Stabilization Act of 1970 in effect immediately prior to the
12 effective date of the regulation promulgated under section
13 4 (a) of this Act, shall continue in effect until modified pur-
14 suant to this Act.

15 (b) The regulation under section 4 and any order issued
16 thereunder shall preempt any provision of any program for
17 the allocation of crude oil, residual fuel oil, or any refined
18 petroleum product established by any State or local govern-
19 ment if such provision is in conflict with such regulation or
20 any such order.

21 (c) (1) Except as specifically provided in this subsec-
22 tion, no provisions of this Act shall be deemed to convey to
23 any person subject to this Act immunity from civil or crimi-
24 nal liability, or to create defenses to actions, under the anti-
25 trust laws.

1 (2) As used in this subsection, the term "antitrust laws"
2 includes—

3 (A) the Act entitled "An Act to protect trade and
4 commerce against unlawful restraints and monopolies",
5 approved July 2, 1890 (15 U.S.C. 1 et seq.);

6 (B) the Act entitled "An Act to supplement exist-
7 ing laws against unlawful restraints and monopolies, and
8 for other purposes", approved October 15, 1914 (15
9 U.S.C. 12 et seq.);

10 (C) the Federal Trade Commission Act (15 U.S.C.
11 41 et seq.);

12 (D) sections 73 and 74 of the Act entitled "An Act
13 to reduce taxation, to provide revenue for the Govern-
14 ment, and for other purposes", approved August 27,
15 1894 (15 U.S.C. 8 and 9); and

16 (E) the Act of June 19, 1936, chapter 592 (15
17 U.S.C. 13, 13a, 13b, and 21a).

18 (3) The regulation promulgated under section 4 (a) of
19 this Act shall be forwarded on or before the date of its pro-
20 mulgation to the Attorney General and to the Federal Trade
21 Commission, who shall, at least seven days prior to the effec-
22 tive date of such regulation, report to the President with
23 respect to whether such regulation would tend to create or
24 maintain anticompetitive practices or situations inconsistent
25 with the antitrust laws, and propose any alternative which

1 would avoid or overcome such effects while achieving the
2 purposes of this Act.

3 (4) Whenever it is necessary, in order to comply with
4 the provisions of this Act or the regulation or any orders un-
5 der section 4 thereof, for owners, directors, officers, agents,
6 employees, or representatives of two or more persons en-
7 gaged in the business of producing, refining, marketing, or
8 distributing crude oil, residual fuel oil, or any refined petro-
9 leum product to meet, confer, or communicate in such a
10 fashion and to such ends that might otherwise be construed
11 to constitute a violation of the antitrust laws, such persons
12 may do so only upon an order of the President (or of an
13 officer or agency of the United States to whom the President
14 has delegated authority under section 5 (b) of this Act);
15 which order shall specify and limit the subject matter and
16 objectives of such meeting, conference, or communication.
17 Moreover, such meeting, conference, or communication shall
18 take place only in the presence of a representative of the
19 Antitrust Division of the Department of Justice, and a ver-
20 batim transcript of such meeting, conference, or communica-
21 tion shall be taken and deposited, together with any agree-
22 ment resulting therefrom, with the Attorney General and the
23 Federal Trade Commission, where it shall be made available
24 for public inspection.

25 (5) There shall be available as a defense to any action

1 brought under the antitrust laws, or for breach of contract in
2 any Federal or State court arising out of delay or failure to
3 provide, sell, or offer for sale or exchange crude oil, residual
4 fuel oil, or any refined petroleum product, that such delay or
5 failure was caused solely by compliance with the provisions
6 of this Act or with the regulation or any order under section
7 4 of this Act.

8 (6) There shall be available as a defense to any action
9 brought under the antitrust laws arising from any meeting,
10 conference, or communication or agreement resulting there-
11 from, held or made solely for the purpose of complying with
12 the provisions of this Act or the regulation or any order under
13 section 4 thereof, that such meeting, conference, communica-
14 tion, or agreement was carried out or made in accordance
15 with the requirements of paragraph (4) of this subsection.

16 MONITORING BY FEDERAL TRADE COMMISSION

17 SEC. 7. (a) During the forty-five day period beginning
18 on the effective date on which the regulation under section 4
19 first takes effect, the Federal Trade Commission shall moni-
20 tor the program established under such regulation; and, not
21 later than sixty days after such effective date, shall report
22 to the President and to the Congress respecting the effective-
23 ness of this Act and actions taken pursuant thereto.

24 (b) For purposes of carrying out this section, the Fed-
25 eral Trade Commission's authority, under sections 6, 9, and

1 10 of the Federal Trade Commission Act to gather and com-
 2 pile information and to require furnishing of information,
 3 shall extend to any individual or partnership, and to any
 4 common carrier subject to the Acts to regulate commerce
 5 (as such Acts are defined in section 4 of the Federal Trade
 6 Commission Act).

7 *SEC. 8. MAXIMUM PRICE FOR DOMESTIC CRUDE*
 8 *OIL.*—(a) Not later than thirty days after the date of enact-
 9 ment of this section, the President shall promulgate and
 10 implement an amendment or amendments to the regulation
 11 established pursuant to section 4(a) of this Act which shall
 12 establish a price or prices (or the manner of determining a
 13 price or prices) for all crude oil (including that crude oil
 14 otherwise subject to section 4(e)(2) of this Act) not classi-
 15 fied as "old" oil under regulations in effect on January 31,
 16 1975. The price or prices established by the President pur-
 17 suant to this section shall be no greater than the price gen-
 18 erally prevailing as of January 31, 1975, for the crude oil
 19 subject to such amendment or amendments. Such price or
 20 prices shall be effective immediately upon their inclusion (or
 21 the inclusion of the method for determining such price or
 22 prices) in such regulation.

23 (b) Except as provided in section 7 of the Petro-
 24 leum Price Increase Limitation Act of 1975, no exemption
 25 of any classification of petroleum, or increase in the price

1 permitted for (1) oil classified as "old" oil under regula-
 2 tions promulgated pursuant to section 4 of this Act and in
 3 effect on January 1, 1975, or (2) any other crude oil
 4 subject to the amendment or amendments required by sub-
 5 section (a) of this section may be established except in
 6 accordance with the procedures established in section 5 of
 7 the Petroleum Price Increase Limitation Act of 1975.

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1 *SEC. 5. REVIEW BY CONGRESS.—(a) No action cov-*
 2 *ered by the provisions of section 8(b) of the Emergency*
 3 *Petroleum Allocation Act of 1973, as amended by this Act, or*
 4 *section 4 of this Act may be undertaken unless—*

5 *(1) such action is specifically authorized by law*
 6 *enacted after the date of enactment of this Act, or*

7 *(2) the specific action proposed to be taken is sub-*
 8 *mitted to both Houses of the Congress. Each House then*
 9 *shall have the opportunity to disapprove of such action*
 10 *within thirty days of the receipt of the proposal pursuant*
 11 *to the procedures provided for in sections 906 (a), (b),*
 12 *and (c), 908, 909, 910, 911, 912, and 913 of title 5,*
 13 *United States Code, except that for the purposes of this*
 14 *Act:*

15 *(A) the period of congressional review and op-*
 16 *portunity for disapproval shall be thirty calendar*
 17 *days rather than sixty calendar days;*

18 *(B) any reference in such sections to “reor-*
 19 *ganization plan” shall be deemed to be a reference to*
 20 *(i) “petroleum pricing action,” which for the pur-*

1 *poses of this Act shall mean all actions referred to*
 2 *in section 8(b) of the Emergency Petroleum Alloca-*
 3 *tion Act of 1973, as amended by this Act; or (ii)*
 4 *“action to establish a petroleum price floor,” which*
 5 *for the purposes of this Act shall mean any action*
 6 *referred to in section 4 of this Act; and*

7 *(C) such thirty-day review period shall begin*
 8 *when such action is submitted to the Congress.*

9 *(b) If any action covered by the provisions of section*
 10 *8(b) of the Emergency Petroleum Allocation Act of 1973,*
 11 *as amended by this Act, or of section 4 of this Act is dis-*
 12 *approved by either House within the thirty-day review*
 13 *period, no officer or agency of the Federal Government shall*
 14 *have the authority to take any action inconsistent with the*
 15 *provisions of subsection (a) of this section.*

16 *(c) Any action required to be submitted to both Houses*
 17 *of the Congress pursuant to this section shall be accompanied*
 18 *by a finding and report, which shall contain the following:*

19 *(1) the need for the proposed action;*

20 *(2) the prices of imported and domestic petroleum*
 21 *and other fuels and forms of energy that are in fact*
 22 *anticipated to result from the proposed action;*

23 *(3) the impact of the proposed action upon domestic*
 24 *production and consumption of petroleum and other fuels*
 25 *and forms of energy;*

(4) the impact of the proposed action and of the resulting prices of petroleum and other fuels and forms of energy upon living costs, employment and unemployment, and real incomes; and differential economic impacts among regions, socioeconomic groups, and industrial sectors of the United States; and

(5) the anticipated effects, with respect to the considerations in (3) and (4) of this subsection, of reasonable alternatives to the proposed action.

O